

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MAY 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 May 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. 2015CW6 – THERESE A. MARTINI, P. O. Box 607, Rye, CO 81069; (719) 248-5994

Application for Absolute Underground Water Right for An Exempt Well Pursuant to § 37-92-602(4), C.R.S.

HUERFANO COUNTY

Name of well and permit number: Permit 229578. **Total area of parcel on which this well is located:** 35 acres. **Legal description of well:** **UTM Coordinates:** Northing 4185757.5; Easting 508351.0; Zone 13. **Street Address:** 4590 County Road 650, Walsenburg, CO 81089; **Subdivision:** Colorado Land and Livestock; Lot 65; Block D. **Source of UTM:** State Engineer well coordinates on record and DWR AquaMap. **PLSS Legal Description:** Huerfano County, NE ¼ of the NE ¼ Section 5, T26S, R67W, 6th P.M., 1060 feet from the North line and 482 feet from the East line. **Date of appropriation:** October 16, 2000. **How appropriation was initiated:** Permit applied for. **Date water applied to beneficial use:** June 17, 2010. **Source of water:** un-named aquifer tributary to the Huerfano River. **Depth of well:** 80 feet. **Amount of water claimed:** 12 gpm Absolute. **Use:** domestic, ordinary household single family dwelling, fire protection, garden no greater than 1 acre, domestic animal watering. **Legal description of irrigated acreage:** 1000 feet south of well site. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2015CW7 – TOM REX THAYER and MARY SUE THAYER, 4008 CR 650, Rye, CO 81069; 719-214-2336

Application for Absolute Underground Water Right for An Exempt Well Pursuant to § 37-92-602(4), C.R.S.

HUERFANO COUNTY

Name of well and permit number: Thayer #1; Permit 206824. **Total area of parcel on which this well is located:** 35 acres. **Legal description of well:** **UTM Coordinates:** Northing 4185916.2; Easting 508102.2; Zone 13. **Street Address:** 4008 County Road 650, Rye, CO 81069; **Subdivision:** Colorado Land and Livestock; Lot 64; Unit D. **Source of UTM:** State Engineer well coordinates on record and DWR AquaMap. **PLSS Legal Description:** Huerfano County, NE ¼ of the NE ¼ Section 5, T26S, R67W, 6th P.M. 550 feet from the North line and 1300 feet from the East line.

Date of appropriation: 09-15-1997. **How appropriation was initiated:** Well permit application filed with State Engineer's Office. **Date water applied to beneficial use:** 07-29-1999. **Source of water:** un-named aquifer tributary to the Huerfano River. **Depth of well:** 80 feet. **Amount of water claimed:** 5 gpm Absolute. **Use:** domestic, ordinary household single family dwelling, fire protection, garden no greater than 1 acre, domestic animal watering. **Legal description of irrigated acreage:** 250 feet east of well site. **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. 2015CW8 – THE CASTLE RANCH, LLC, 5801 E. 6th Avenue Parkway, Denver, CO 80220; (303) 909-2316

Application for Absolute Underground Water Right for An Exempt Well Pursuant to § 37-92-602(4), C.R.S.

HUERFANO COUNTY

Name of well and permit number: Castle Ranch; Permit 200363. **Total area of parcel on which this well is located:** 35 acres. **Legal description of well:** UTM **Coordinates:** Northing 4185582.5; Easting 507979.0; Zone 13. **Street Address:** 4602 C.R. 650, Rye, CO 81069; **Subdivision:** Colorado Land and Livestock; Lot 76; Unit D. **Source of UTMs:** State Engineer well coordinates on record and DWR AquaMap. **PLSS Legal Description:** Huerfano County, SW ¼ of the NE ¼ Section 5, T26S, R67W, 6th P.M., 1650 feet from the North line and 1700 feet from the East line. **Date of appropriation:** 11-12-1996. **How appropriation was initiated:** Well permit application filed with the State Engineer's Office. **Date water applied to beneficial use:** 8-1-1997. **Source of water:** un-named aquifer tributary to the Huerfano River. **Depth of well:** 85 feet. **Amount of water claimed:** 3 gpm Absolute. **Use:** domestic, ordinary household single family dwelling, fire protection, garden no greater than 1 acre, domestic animal watering. **Legal description of irrigated acreage:** 300 feet west of well site. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2014CW3033; Previous Case Nos. W-4788; 82CW214; 94CW30(W-4788,82CW214); 01CW11(W-4788,82CW214); 2008CW5(W-4788,82CW214); Consolidated Case No. W-4788(W-4788,82CW214) – ESCALANTE GOLF/PINE CREEK, L.P., a Colorado Limited Partnership ("Pine Creek L.P."), 9850 Divot Trail, Colorado Springs, CO 80920 (James J. Petrock and Bradford R. Benning, Petrock & Fendel, P.C., Attorneys for Applicant, 700 17th Street, Suite 1800, Denver, CO 80202; (303) 534-0702)

First Amended Application for Finding of Reasonable Diligence and to Make Absolute Conditional Water Rights

EL PASO COUNTY

Pine Creek L.P. filed the original Application in this case on July 18, 2014. Notice of the Application was published as required by C.R.S. §37-92-302. Other than the addition of the below described amendments, the Application remains as previously filed.

Amendments: Pine Creek requests the Water Court enter a decree consistent with the Water Court's April 23, 2015 Order in Consolidated Case No. W-4788 (78CW4788), which granted the following relief: The rights for Well No. 2 were decreed pursuant to C.R.S. § 37-90-137(5) and as such represent vested rights, not conditional water rights. The vested rights for Well No. 2 total 120 acre-feet per year of Denver Basin groundwater from the Denver and Arapahoe Aquifers. Well No. 2 is thus relieved of the diligence requirements set forth in ¶¶ 16 and 25 in the W-4788 Decree, which diligence requirements shall be of no further force or effect. The W-4788 Decree is modified accordingly. The rights for Well No. 3 were decreed pursuant to C.R.S. § 37-90-137(4) and as such represent vested rights, not conditional water rights. The vested rights for Well No. 3 total 226 acre-feet per year of Denver Basin groundwater from the Arapahoe Aquifer. Well No. 3 is thus relieved of the diligence requirements set forth in ¶¶ 16 and 25 in the W-4788 Decree, which diligence requirements shall be of no further force or effect. The W-4788 Decree is modified accordingly. The rights for Well No. 4 were decreed pursuant to C.R.S. § 37-90-137(4) and as such represent vested rights, not conditional water rights. The vested rights for Well No. 4 total 201 acre-feet per year of Denver Basin groundwater from the Arapahoe Aquifer. Well No. 4 is thus relieved of the diligence requirements set forth in ¶¶ 14 and 21 in the 82CW214 Decree, which diligence requirements shall be of no further force or effect. The 82CW214 Decree is modified accordingly. Alternatively, Pine Creek L.P. preserves and requests the following alternative relief in the event the Court in Case No. 14CW3033 does not grant the relief requested above as described in ¶¶1-3 p. 6 of the First Amended Application: Pine Creek L.P. requests the amounts claimed in the Application and First Amended Application as absolute and conditional be decreed as requested. Pine Creek L.P. requests that in the event additional amounts of water conditionally decreed to the Chapel Hills Well Nos. 2, 3, and 4 herein described are put to beneficial use prior to the entry of a decree herein, that without further notice, such amounts as may be proven, be made absolute by any decree granted herein. FURTHER, Pine Creek L.P. prays that this Court grant such other relief as seems proper in the premises.

Additional Information: The original Application and this Amended Application involve the rights in Chapel Hills Well Nos. 2, 3, and 4. These rights are Denver Basin ground water rights that were originally decreed in Case Nos. 78CW4788 and 82CW214. During the pendency of Case Nos. 78CW4788 and 82CW214, changes in the law occurred addressing the use of Denver Basin ground water. These changes in the law created a system for the vesting and use of Denver Basin ground water separate and distinct from the prior appropriation system. Despite these changes, the original decrees in Case Nos. 78CW4788 and 82CW214 included terms requiring future water court proceedings to make absolute or for continued diligence. In the original Application filed in this case 14CW3033, Pine Creek L.P. sought to make these rights absolute or alternatively for continued diligence. Pine Creek L.P. subsequently filed a motion for a ruling that the Chapel Wells 2, 3, and 4 are vested rights under C.R.S. § 37-90-137(4) and (5) not subject to requirements to make absolute or for continued diligence. The Water Referee in Case No. 14CW3033 entered the February 9, 2015 Order requiring that Pine

Creek L.P. seek a modification of the original decrees in Case Nos. 78CW4788 and 82CW214 for this relief. The Order also required that if the water court granted this relief Pine Creek L.P. sought in those cases, Pine Creek L.P. was required to file an amended application in Case No. 14CW3033. Consistent with that Order, Pine Creek L.P. filed motions in Case Nos. 78CW4788 and 82CW214 seeking this relief, which relief was consented to by the only objector in those original cases, the City of Colorado Springs. These cases were consolidated for this purpose. The Water Court entered an Order on April 23, 2015 granting this relief in Consolidated Case No. W-4788 (78CW4788). In that Order, the Water Court affirmed that Chapel Hills Well Nos. 2, 3, and 4 are vested rights under C.R.S. § 37-90-137(4) and (5) not subject to continued diligence and the water court modified the original decrees in Case Nos. W-4788 (78CW4788) and 82CW214 accordingly.

CASE NO. 2015CW3018. This case does not exist in Water Division 2, but is being listed to account for the case number.

CASE NO. 2015CW3019. This case does not exist in Water Division 2, but is being listed to account for the case number.

CASE NO. 2015CW3020; Previous Case Nos. 2000CW152; 2007CW79 - FOUNTAIN VALLEY POWER, LLC (“FVP”), c/o Director of Asset Management, Southwest Generation, 600 Seventeenth Street, Suite 2400S, Denver, Colorado 80202-2110.

(Please direct all correspondence to: Eugene J. Riordan, Vranesh and Raisch, LLP, Attorneys for Applicant, 1720 14th Street, Suite 200, Boulder, CO 80302, Telephone: 303.443.6151)

Application for Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute

EL PASO COUNTY

2. Names of structures: 2.1. FVP Well No. 1, Permit No. 055541-F. 2.2. FVP Well No. 2, Permit No. 055540-F. 2.3. FVP Well No. 3, Permit No. 055539-F. **3. Description of conditional water rights.** 3.1. Original decree: The water rights for FVP Well Nos. 1, 2 and 3 that are the subject of this application were originally decreed in Case No. 2000CW152, District Court, Water Division 2, on August 29, 2001. 3.2. Subsequent decree: In Case No. 2007CW79, amended decree entered April 22, 2010, nunc pro tunc May 26, 2009, the annual combined maximum of 224 annual acre feet from FVP Well Nos. 1, 2 and 3 was made absolute to the extent of 194.18 acre-feet for industrial, commercial, irrigation, fire protection and cooling purposes, including the use, reuse, successive use and disposition of the water pumped to extinction. A maximum combined pumping rate of 1,300 gpm for FVP Well Nos. 1, 2 and 3, and an additional maximum combined annual appropriation of 29.82 acre feet, were continued as conditional water rights. 3.3. Legal description of structures. 3.3.1. FVP Well No. 1 is located in the SW ¼ NE ¼ of Section 23, Township 17 South, Range 65 West, 6th P.M., approximately 3,885 feet from the south line of Section 23 and approximately 1,520 feet from the east line of Section 23. 3.3.2. FVP Well No. 2 is located in the NW ¼ NE ¼ of Section 26, Township 17 South, Range 65 West, 6th P.M., approximately 1,130 feet from the north line of Section 26 and approximately 1,540 feet from the east line of

Section 26. 3.3.3. FVP Well No. 3 is located in the SW ¼ SE ¼ of Section 23, Township 17 South, Range 65 West, 6th P.M., approximately 730 feet from the south line of Section 23 and approximately 2,070 feet from the east line of Section 23. A map showing the location of FVP Well Nos. 1, 2 and 3 is attached to the Amended 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. Source: The source for all three FVP Wells is the alluvium of Fountain Creek, a tributary to the Arkansas River. 3.5. Date of Appropriation: The appropriation date for all three FVP Wells is December 11, 2000. 3.6. Amount: The maximum combined pumping rate for FVP Well Nos. 1, 2 and 3 is 1,300 gpm and FVP Well No. 1 is limited to 430 gpm. The combined annual appropriation for the three wells is limited to 224 annual acre feet and the annual appropriation for FVP Well No. 1 is limited to 75 annual acre feet of that total. 3.7. Use: Water pumped from FVP Well Nos. 1, 2 and 3 is used as a water supply for the Fountain Valley Power Plant, and includes industrial, commercial, irrigation, fire protection and cooling purposes, and includes use, reuse, successive use and disposition to extinction. The Fountain Valley Power Plant is located in Section 20, Township 17 South, Range 65 West, 6th P.M., El Paso County, Colorado. **4. Detailed outline of what has been done toward completion of the appropriation and application of the water to beneficial use as conditionally decreed, including expenditures, during the previous diligence period.** Since the Application for a Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute, Case No. 2007CW79, was filed on August 28, 2007 the following work has been done toward completion of the appropriation of the conditional water rights for FVP Well Nos. 1, 2 and 3. 4.1. FVP has continued to pump water from FVP Well Nos. 1, 2 and 3 and has applied the water for beneficial use for industrial, commercial, irrigation, fire protection and cooling purposes, including the use, reuse, successive use of the water pumped to extinction. FVP has pumped the wells at times when there has been no call on the Arkansas River or Fountain Creek and out of priority under the augmentation plan decreed in Case Nos. 1999CW146, 2000CW152 and 2002CW63, District Court, Water Division 2. See, Call Chronologies for August 28, 2007 through December 31, 2014 attached to the Amended Application as Exhibit B; Annual Water Diversion Reports for 2007 – 2014 attached to the Amended Application as Exhibit C. 4.2. FVP Well Nos. 1, 2 and 3 have not been pumped simultaneously; however, they have been pumped individually with a maximum pumping rate of 430 gpm for FVP Well No. 1, 600 gpm for FVP Well No. 2, and 600 gpm for Well No. 3. There may be times in the future when FVP will need to pump more than one well at a time. 4.3. FVP has pumped the following combined annual amounts from FVP Well Nos. 1, 2 and 3: 2007 – 96 acre feet; 2008 – 122 acre feet; 2009 – 118 acre feet; 2010 – 111 acre feet; 2011 – 128 acre feet; 2012 – 125 acre feet; 2013 – 30 acre feet; 2014 – 104 acre feet. See Exhibit C. FVP may at times in the future need to pump up to the annual combined maximum of 224 annual acre feet from FVP Well Nos. 1, 2 and 3. 4.4. FVP has spent approximately \$1,881,445 in maintaining and perfecting the conditional water rights granted for FVP LLC Well Nos. 1, 2 and 3, which costs include operation and maintenance of FVP Well Nos. 1, 2 and 3, payments made pursuant to a Well and Easement Agreement for FVP Well Nos. 1, 2 and 3; payments made for the lease and purchase of augmentation water, and legal fees in connection with adjudication of the Application for a Finding of Reasonable

Diligence and to Make Conditional Water Rights Absolute, Case No. 2007CW79. FVP will continue to incur costs in the operation and maintenance of FVP Well Nos. 1, 2 and 3. **5. Names and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure, is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool.** 5.1. FVP Well No. 1 is located on land owned by Sam M. Guadagnoli and Kathleen M. Guadagnoli, whose address is 2775 Stratton Woods View, Colorado Springs, Colorado 80906; or Garney Colorado, LLC, 7911 Shaffer Parkway, Littleton, CO 80127. 5.2. FVP Well Nos. 2 and 3 are located on land owned by Tanweer H. Kahn and Ruth O. Kahn, whose address is 5510 Wilson Road, Colorado Springs, Colorado 80919. 5.3. FVP has an easement for FVP Well Nos. 1, 2 and 3 and the associated pipelines and other facilities in accordance with a Well and Easement Agreement dated January 25, 2001 between FVP and the Sam M. Guadagnoli and Kathleen M. Guadagnoli. Tanweer H. Kahn and Ruth O. Kahn purchased the property upon which FVP Well Nos. 2 and 3 are located subject to the Well and Easement Agreement. 5.4. FVP is the owner of the land upon which the water is placed to beneficial use at the FVP Power Plant. 6. FVP respectfully requests that the Court make the conditional water rights for FVP Well Nos. 1, 2 and 3 absolute for industrial, commercial, irrigation, fire protection and cooling purposes, including the use, reuse, successive use and disposition of water pumped to extinction at the following pumping rates: FVP Well No. 1: 430 gpm absolute; FVP Well No. 2: 600 gpm absolute; FVP Well No. 3: 600 gpm absolute. In addition, FVP respectfully requests that the Court make a finding of reasonable diligence and continue the conditional water rights for FVP Well Nos. 1, 2 and 3 for industrial, commercial, irrigation, fire protection and cooling purposes, including the use, reuse, successive use and disposition of water pumped to extinction in the following amounts: A maximum combined pumping rate of 1300 gpm for Well Nos. 1, 2 and 3, with an additional maximum combined annual appropriation of 29.82 acre feet conditional.

CASE NO. 2015CW3021; Previous Case No. 2006CW113 - JAMES G. and HEATHER L. FELT, 8585 Snowslide Trail, Rye, CO 81069 (Please address all pleadings and correspondence to: Chris D. Cummins, Felt Monson & Culichia, LLC, Attorneys for Applicants, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212)

Application to Make Water Rights Absolute
PUEBLO COUNTY

Name of Conditional Water Right: Snowslide Well, DWR Permit No. 248281.
Describe Conditional Water Right: Type of Conditional Water Right: Tributary groundwater well, exempt from administration per C.R.S. §§37-92-602(1)(b) and 37-92-602(3)(b)(II)(A). **Legal Description:** The well is located in the SE 1/4 NE 1/4, Section 7, Township 24 South, Range 68 West, 6th P.M., Pueblo County, Colorado, being 2,590 feet from the north line and 260 feet from the east line of said Section 7. The street address is 8585 Snowslide Trail, Rye, CO 81069, and the well is located on Tract 10, Pope's Snowslide Valley Ranch. 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.) **Decree No.:** 06CW113, District Court, Water Division 2. **Date**

of Original Decree: May 21, 2009. **Amount of conditional water claimed:** 15 g.p.m. for use inside additional single family dwelling(s). **Name and address or owners:** The structure and all places of use are located on lands of the Applicants. **Remarks:** Most uses of water from the Snowslide Well requested in the original application were decreed absolute for in Case No. 06CW113. However, use of such water inside additional single family dwelling(s) was decreed conditional in that matter, in light of no additional single family dwelling having yet been constructed on the subject property, and water beneficially used therein, at the time of decree in Case No. 06CW113. By this application, Applicant seeks an absolute finding for use in an additional single family dwelling since constructed. **Description of work performed toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** On September 13, 2010 Applicants obtained a building permit from the Pueblo County Building Department for a 968 square foot separate and detached freestanding structure on their property, being an addition to a barn/shop, specifically including office, food preparation, bathrooms, and living space. Construction of this separate dwelling was completed in September 2014, with water being placed to beneficial use for in-house purposes on October 1, 2014. **Claim to Make Absolute: Date water applied to beneficial use:** October 1, 2014. **Amount applied to beneficial use:** 15 g.p.m., absolute. **Type of beneficial use:** In-house domestic use inside additional single family dwelling(s).

CASE NO. 15CW3022; Previous Case No. 99CW98 – THE MOYER RANCH, LLC, 1524 Mt. Massive Drive, Leadville, CO 80461 (Please address all pleadings and correspondence to: Thomas W. Korver, Esq., Petros & White, LLC, Attorneys for Applicants, 1999 Broadway, Suite 3200, Denver, CO 80202, Telephone: (303) 825-1980)

Application for Finding of Reasonable Diligence

LAKE COUNTY

Name of Structures: a. Fairview Ditch. Type: Direct Flow. b. Brookside No. 1 Ditch, Brookside No. 2 Ditch, Brookside No. 3 Ditch, Brookside No. 4 Ditch, Brookside No. 5 Ditch. Type: Direct Flow. **Description of Conditional Water Rights: A. Date of original decree:** May 27, 2009, Case No. 99CW98, District Court, Water Division No. 2 (the “Water Court”). **B. Fairview Ditch.** (i) Legal description of the point of diversion: Fairview Ditch is located on the west bank of Iowa Gulch in the SE1/4 of the SW1/4 of Section 36, T. 9 S., R. 80 W. of the 6th P.M., at a point 168 feet from the south section line and 1620 feet from the west section line of said Section 36. (ii) Source: Iowa Gulch, tributary to the Arkansas River. (iii) Date of Appropriation: December 31, 1903, for irrigation; July 22, 1999, for stock watering and fire protection. (iv) Amount and Uses: 9.8 cubic feet per second, absolute, for irrigation purposes, and conditional for stock watering and fire protection. **C. Brookside No. 1 Ditch.** (i) Legal description of the point of diversion: Brookside No. 1 Ditch is located on the south bank of Iowa Gulch in the SW1/4 of the NW1/4 of Section 2, T. 10 S., R. 80 W. of the 6th P.M., at a point 2501 feet from the north section line and 353 feet from the west section line of said Section 2. (ii) Source: Iowa Gulch, tributary to the Arkansas River. (iii) Date of Appropriation: December 31, 1890, for irrigation; July 22, 1999, for stock watering and fire protection. (iv) Amount and Uses: 6.9 cubic feet per second, absolute, for irrigation purposes, and

conditional for stock watering and fire protection. **D. Brookside No. 2 Ditch.** (i) Legal description of the point of diversion: Brookside No. 2 Ditch is located on the north bank of Iowa Gulch in the SW1/4 of the NW1/4 of Section 2, T. 10 S., R. 80 W. of the 6th P.M., at a point 2520 feet from the north section line and 110 feet from the west section line of said Section 2. (ii) Source: Iowa Gulch, tributary to the Arkansas River. (iii) Date of Appropriation: December 31, 1890, for irrigation; July 22, 1999, for stock watering and fire protection. (iv) Amount and Uses: 5.5 cubic feet per second, absolute, for irrigation purposes, and conditional for stock watering and fire protection. **E. Brookside No. 3 Ditch.** (i) Legal description of the point of diversion: Brookside No. 3 Ditch is located on the south bank of Iowa Gulch in the NE1/4 of the SE1/4 of Section 3, T. 10 S., R. 80 W. of the 6th P.M., at a point 1959 feet from the south section line and 810 feet from the east section line of said Section 3. (ii) Source: Iowa Gulch, tributary to the Arkansas River. (iii) Date of Appropriation: December 31, 1890, for irrigation; July 22, 1999, for stock watering and fire protection. (iv) Amount and Uses: 7.5 cubic feet per second, absolute, for irrigation purposes, and conditional for stock watering and fire protection. **F. Brookside No. 4 Ditch.** (i) Legal description of the point of diversion: Brookside No. 4 Ditch is located on the south bank of Iowa Gulch in the SW1/4 of the SE1/4 of Section 3, T. 10 S., R. 80 W. of the 6th P.M., at a point 1174 feet from the south section line and 2092 feet from the east section line of said Section 3. (ii) Source: Iowa Gulch, tributary to the Arkansas River. (iii) Date of Appropriation: December 31, 1890, for irrigation; July 22, 1999, for stock watering and fire protection. (iv) Amount and Uses: 8.0 cubic feet per second, absolute, for irrigation purposes, and conditional for stock watering and fire protection. **G. Brookside No. 5 Ditch.** (i) Legal description of the point of diversion: Brookside No. 5 Ditch is located on the north bank of Iowa Gulch in the SW1/4 of the SE1/4 of Section 3, T. 10 S., R. 80 W. of the 6th P.M., at a point 1016 feet from the south section line and 2392 feet from the east section line of said Section 3. (ii) Source: Iowa Gulch, tributary to the Arkansas River. (iii) Date of Appropriation: December 31, 1890, for irrigation; July 22, 1999, for stock watering and fire protection. (iv) Amount and Uses: 6.0 cubic feet per second, absolute, for irrigation purposes, and conditional for stock watering and fire protection. **Detailed Outline of Work Done to Complete Project and Apply Water to Beneficial Use:** During the diligence period, Applicant has performed considerable work and invested resources toward maintaining the subject conditional uses and toward perfecting the conditional water rights. Applicant has conducted improvements and maintenance toward utilizing all conditional uses in the full amount of the appropriation in order to maximize agricultural opportunities on Applicant's ranch. Specific activities that demonstrate diligence toward the application of water to the decreed beneficial uses include the following: A. Applicant has conducted regular maintenance and monitoring of the subject structures and water rights in order to ensure the viability of Applicant's ranching operations. B. Applicant has regularly removed trees, brush, and debris from the subject structures toward the purpose of placing the subject water rights to the conditional uses in the full amount of the subject water rights. C. Applicant is investigating mechanisms to maximize the firm yield of its water rights, including the subject water rights, for further use in supporting the ranching operations on Applicant's property. Applicant has conducted field investigations regarding the subject conditional water rights and the development of the subject water rights to their decreed capacities and decreed uses.

D. Applicant is in the process of investigating repairs to diversion structures and other facilities caused by trails impacting Applicant's use of the facilities and structures by which the subject water rights are to be placed to the conditional uses. E. Applicant has regularly monitored the filings of other water users. Applicant has opposed applications that may threaten or cause injury to Applicant's water rights, and in particular opposed and negotiated stipulated conditions in Case No. 08CW35 involving a request for water rights from the same source as the subject water rights. Applicant's costs during the diligence period in monitoring other filings and prosecuting oppositions to applications by other water users were in excess of \$15,000. F. Applicant has invested considerable effort toward perfecting the subject conditional water rights in support of Applicant's ranching operations. Other than the examples listed above, Applicant does not have exact estimates of the amounts it has expended during the diligence period in connection with

maintaining its water rights as the majority of Applicant's expenses in this regard were performed by family members, caretakers and employees of Applicant's ranch as part of their regular duties. G. Applicant continues to rely on the subject water rights and conditional uses and has no intention to abandon them. **Ownership:** The structures described in paragraphs 3.C-G above and the land upon which they are located are owned by the Applicant. The structure described in paragraph 3.B above is on or near the boundary of the Applicant's property and land owned by Lake County, 505 Harrison Ave., Leadville, CO 80461. A map depicting the location of said structures and the general vicinity for which they will be used for the subject conditional uses 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.) WHEREFORE, Applicant respectfully requests that this Court enter a decree finding that Applicant has exercised reasonable diligence toward making the remaining uses of the conditional water rights described above absolute, and for such other relief as the Court deems just and proper.

CASE NO. 2015CW3023; Previous Case Nos. 2001CW142 and 2008CW75 - WILLIAM M. MENG, P.O. Box 890, La Veta, CO 81055 (Please address all pleadings and correspondence to: David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber St., Colorado Springs, CO 80903, 719-471-1212).

Application to Make Absolute or in the Alternative for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of Conditional Water Rights: Meng Spring No. 1 & Meng Spring No. 2.

Description of Conditional Water Rights from the Ruling of Referee and Decree:

Date of Original Decree: November 13, 2002, **Case No.:** 01CW142. **Court:** District

Court, Water Division 2. **Legal Description of Water Rights:** Meng Spring No. 1: The point of diversion is located in the Southeast 1/4 of the Southeast 1/4 of Section 11, Township 30 South, Range 68 West, 6th P.M., being 1,000 feet north of the south section line and 1,150 feet west of the east section line of said Section 11, Huerfano County, Colorado. Exhibit A to the application indicates the approximate location of Meng Spring No. 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Meng Spring No. 2: The point of diversion is the Southwest 1/4 of the Southeast 1/4 of Section 11, Township 30

South, Range 68 West, 6th P.M., being 500 feet north of the south section line and 1,550 feet west of the east section line of said Section 11, Huerfano County, Colorado. Exhibit A to the Application indicates the approximate location of Meng Spring No. 2. **Source for Meng Spring Nos. 1 & 2:** Springs tributary to an unnamed drainage in Dry Canyon, tributary to Cherry Creek, tributary to Bear Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. **Appropriation Date for Meng Spring Nos. 1 & 2:** July 2, 2001. **Amount for Meng Spring Nos. 1 & 2:** 2.0 g.p.m., conditional. **Uses of Meng Spring Nos. 1 & 2:** Domestic, irrigation, livestock and poultry watering, fire protection, and wetlands creation. The domestic use is up to three single family homes with a total of one acre of lawn and garden and for the watering of domestic animals including horses. Any use for wetlands creation shall be for man made wetlands created by Applicant. **Place of Use.** Applicant's property generally located in the SE ¼ of Section 11, Township 30 South, Range 68 West, 6th P.M. Description of work performed toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: Applicant is the owner of approximately 50 acres near the town of La Veta in Huerfano County, Colorado (Applicant's Property). Applicant's Property is depicted on the Exhibit A map and described in the Exhibit B legal description attached to the Application. In Case No. 01CW142, the Court decreed to Applicant the use of two conditional surface water rights, Meng Spring Nos. 1 & 2, for use on Applicant's Property for the uses of domestic, irrigation, livestock and poultry watering, fire protection, and wetlands creation. These conditional water rights are part of an integrated water supply system for the full development of Applicant's Property. Applicant has constructed spring boxes and all necessary diversion works for the Meng Spring Nos. 1 & 2. During this diligence period, Applicant has diverted and placed water from the Meng Spring Nos. 1 and 2 to beneficial use. Applicant has also maintained the diversion structures Meng Spring Nos. 1 & 2 during this diligence period including annual and seasonal maintenance as necessary to keep the springs flowing and free from debris and algae. **Claim to Make Absolute: Meng Spring No. 1. Point of diversion.** Southeast 1/4 of the Southeast 1/4 of Section 11, Township 30 South, Range 68 West, 6th P.M., being 1,000 feet north of the south section line and 1,150 feet west of the east section line of said Section 11, Huerfano County, Colorado. Exhibit A attached to the Application indicates the approximate location of Meng Spring No. 1. **Source.** Springs tributary to an unnamed drainage in Dry Canyon, tributary to Cherry Creek, tributary to Bear Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. **Appropriation Date.** July 2, 2001. **Amount.** 2.0 g.p.m. **Uses.** Domestic, irrigation, livestock and poultry watering, fire protection, and wetlands creation. **Place of Use.** Applicant's property generally located in the SE ¼ of Section 11, Township 30 South, Range 68 West, 6th P.M. **Meng Spring No. 2. Point of diversion** is the Southwest 1/4 of the Southeast 1/4 of Section 11, Township 30 South, Range 68 West, 6th P.M., being 500 feet north of the south section line and 1,550 feet west of the east section line of said Section 11, Huerfano County, Colorado. Exhibit A to the Application indicates the approximate location of Meng Spring No. 2. **Source.** Springs tributary to an unnamed drainage in Dry Canyon, tributary to Cherry Creek, tributary to Bear Creek, tributary to the Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. **Appropriation Date.** July 2, 2001. **Amount.** 2.0 g.p.m. **Uses.** Domestic, irrigation,

livestock and poultry watering, fire protection, and wetlands creation. Place of Use. Applicant's property generally located in the SE ¼ of Section 11, Township 30 South, Range 68 West, 6th P.M. **Name and address of the owners of land on which structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** The conditional water rights are all located upon land owned by the Applicant.

CASE NO. 2015CW3024 (Water Division 2) and CASE NO. 2015CW3060 (Water Division 1) – JT RANCH, LLC, 1795 Jet Stream Drive, Colorado Springs, CO 80921

(Please address 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)

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

EL PASO COUNTY

1. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Applicant is the contract purchaser of 35.48 acres of land in El Paso County described as follows: TR IN SE4 SEC 20 & SW4 SEC 21-11-66 DESC AS FOLS: COM AT S1/4 COR SD SEC 21, TH N 01<01'31" W 1767.06 FT, S 88<46'41" W 1729.48 FT FOR POB, TH CONT S 88<46'41" W 597.38 FT, S 01<13'19" E 462.47 FT, S 87<53'42" W 792.93 FT, N 00<45'06" W 1319.18 FT, N 88<00'41" E 472.45 FT, N 88<46'41" E 906.98 FT, S 01<13'19" E 850.77 FT TO POB AKA TR 2 (the "Property"). A map of the Property is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. Applicant seeks the adjudication of that portion of the water in the Dawson aquifer underlying the Property which was not previously decreed in Case No. 01CW140, Water Division 2, and approval of a plan for augmentation for the construction and operation of four wells in the Dawson aquifer. 3. The Property is located south of the Palmer Divide in the drainage of Jackson Creek, a tributary of Monument Creek, Fountain Creek, and the Arkansas River. 4. **Legal description of wells:** There are no wells on the Property. Future wells may be constructed at any location on the Property, but not within 50 feet of a property line nor within 200 feet of another well on the Property, except for replacement wells. Applicant hereby waives the 600 foot spacing rule as among all Dawson aquifer wells constructed on the Property. 5. **Source:** Not nontributary Dawson aquifer. 5. A. **Date of appropriation:** Not applicable. 5. B. **How appropriation was initiated:** Not applicable. 5. C. **Date water applied to beneficial use:** Not applicable. 6. **Amount claimed:** Not nontributary Dawson aquifer, 3.0 acre feet annually, 300 acre feet total, absolute. All the other water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property was decreed by the William R. Brown, Jr., Exemption Equivalent Trust for all beneficial uses on January 14, 2003 in Case No. 01CW140, Water Division 2. 7. **Proposed use:** All beneficial uses including augmentation, except municipal use. 8. **Name and address of owner of land on which wells will be located:** Same as Applicant. 9. **Remarks:** A. There are no liens or encumbrances against the property of which the Applicant is aware. II. **APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** 10. **Name of structures to be augmented:** Up to four Dawson aquifer wells. 11. **Previous decrees**

for water rights to be used for augmentation: Case No. 01CW140, Water Division 2. **12. Historic use:** Not applicable. **13. Statement of plan for augmentation:** **A. Water Demand.** Applicant will acquire 2,360 acre feet of previously-adjudicated NNT Dawson aquifer water and 1,028 acre feet of NT Laramie-Fox Hills aquifer water as a part of the real property conveyance. Applicant may subdivide the Property into as many as four lots for single family residences. Uses of water on such lots will be primarily for indoor uses for drinking and sanitary purposes, for livestock watering and for landscape irrigation, plus additional uses as desired by Applicant's successors, subject to pumping limitations of 0.78125 acre foot annually per well and 3.125 acre feet annually in total. During the contemplated 300 year pumping period, stream depletions will be replaced by septic system return flows. Post-pumping return flows will be replaced with nontributary Laramie-Fox Hills aquifer water currently owned by Applicant **B. Water Demand and Return Flows.** After subdivision, each lot owner will be allowed to construct a Dawson aquifer well, which shall be limited to pumping of 0.78125 acre foot annually. Septic system return flows are estimated to equal at least 0.18 acre foot annually. **C. Replacement of Stream Depletions During Pumping.** Stream depletions will occur to tributaries of both the Arkansas River and of the South Platte River. Applicant proposes to replace all stream depletions, including South Platte River stream depletions, to the Monument Creek drainage in Water Division 2. Computer modeling for an adjacent property indicates that stream depletions will gradually increase to a maximum of 23.04 percent of the average annual pumping in the 300th year. Applicant proposes to replace those depletions with septic system return flows. The State Engineer has adopted an informal guideline establishing that 0.18 acre foot is a safe estimate of septic system return flows from a representative single family dwelling. Applicant has determined that based on the 0.18 acre foot per year figure, septic system return flows will be sufficient to replace depletions during each year of pumping. **D. Replacement of Stream Depletions After Cessation of Pumping.** Applicant agrees to replace depletions for the shortest of the following periods: the period provided by the Colorado Legislature, should it eventually specify one and if the Applicant obtains water court approval for such modification; the period determined by the State Engineer, should the State Engineer lawfully establish such a period; the period established through rulings of the Colorado Supreme Court in relevant cases; or until Applicant petitions the water court and after notice to parties in the case proves that it has complied with all statutory requirements. Applicant will reserve sufficient water, currently estimated to be approximately 880 acre feet, in the nontributary Laramie-Fox Hills aquifer for the replacement of post-pumping depletions, unless and until such time as any of the above conditions occur which terminates the obligation to replace post-pumping depletions, or unless Applicant obtains judicial approval of another source of replacement water for post-pumping depletions. Applicant shall make replacements annually in the amount established by computer modeling performed at the commencement of such replacements. **E. Miscellaneous. (1)** any final decree in this case shall establish restrictive covenants on the Property which: (a) restrict total pumping from the Dawson aquifer to no more than 0.78125 acre foot per well and a total of 3.125 acre feet annually; (b) require the use of non-evaporative septic systems or a central wastewater disposal system for wastewater treatment; (c) reserve sufficient Laramie-Fox Hills aquifer water for replacement of post-pumping depletions, which

reservation may be voided upon the occurrence of any of the events which eliminates the need for such reservation; and (d) which inform the future homeowners of the possibility that they will be required to construct a well or wells into the nontributary Laramie-Fox Hills aquifer for replacement of post-pumping depletions. (2) A copy of this application has been sent by certified mail, return receipt requested, to the current owners of the Property, Randy and Margaret Scholl. A copy of such letter is attached to the Application as Exhibit A. (3) This application is being filed in both Water Divisions 1 and 2 because stream depletions will occur in both the South Platte and Arkansas drainages. After the time for filing statements of opposition has expired, Applicant will seek to consolidate the two applications in Water Division 2.

CASE NO. 2015CW3025 – PIONEER PRESERVE, LLC, 1864 Woodmoor Drive, Ste. 100, Monument, CO 80132 (Please address all pleadings and correspondence to: Chris D. Cummins, Ryan W. Farr, Felt, Monson & Culichia, LLC, 319 N. Weber St., Colorado Springs, Colorado 80903, (719) 471-1212)

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

EL PASO COUNTY

Summary of Application. Applicant wishes to construct a new, non-exempt well on Applicant's approximately five acre property, as more particularly described in Paragraph III.A. below, and as depicted on the Exhibit A map attached to the Application ("Applicant's Property), to provide water service to a single family dwelling thereon. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **Property Description.** The well will be located on Applicant's Property, described as the SE ¼ of the NW ¼ of Section 10, Township 11 South, Range 67 West of the 6th P.M. except that portion of the W ½ of the SE ¼ of the NW ¼ of said Section 10, lying north of the right of way of the Atchison, Topeka and Santa Fe Railway Company, and except the right of way of the Denver and Rio Grande Western Railroad Company, County of El Paso, Colorado. See Exhibit A to the Application - general location map. **Water Source.** Not-Nontributary. The groundwater withdrawn from the Dawson and Denver aquifers of the Denver Basin underlying Applicant's Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for wells in the Dawson and Denver aquifers will require the replacement of actual stream depletions. Nontributary. The groundwater withdrawn from the Arapahoe and Laramie-Fox Hills aquifers of the Denver Basin underlying the Applicant's Property is nontributary. **Estimated Rates of Withdrawal and Groundwater Available.** Estimated Rates of Withdrawal. Pumping from the well will not exceed 20 g.p.m. for the Dawson aquifer and 50 g.p.m. for the Denver aquifer. The actual pumping rate for the well will vary according to aquifer conditions and well production capabilities. The Applicant's request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of the well to be constructed within the respective aquifer will be determined by topography and actual aquifer conditions. Estimated Average Annual Amounts of Groundwater Available. Applicant requests a vested right for the withdrawal of all legally available

groundwater in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 100-year life of the aquifers as required by § 37-90-137(4), C.R.S. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

Aquifer	Sand Thickness (Feet)	Total Groundwater Storage (Acre Feet)	Annual Average Withdrawal (Acre Feet)
Dawson (NNT)	387	390	3.90
Denver (NNT 4%)	258	220	2.20
Arapahoe (NT)	417	350	3.50
Laramie Fox Hills (NT)	188	140	1.40

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses.** The Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's 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 Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's 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. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the not-nontributary Dawson or Denver 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.** Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. **Averaging of Withdrawals.** Applicant requests that they be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicant's 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 Applicant is entitled to withdraw from the aquifers underlying the Applicant's 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 Applicant. **Application for Approval of Plan for Augmentation. Structure to be Augmented.** The structure to be augmented is a well to be constructed to either of the not-nontributary Dawson or Denver aquifers as will be permitted pursuant to this plan for augmentation, along with any replacement or additional wells associated therewith, of the Denver Basin underlying the Applicant's 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 or Denver aquifers, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions.

Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson or Denver aquifers by a proposed well herein for one residential lot. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are as follows: Use. The well will pump 1.3 acre-foot of water per year from the Dawson or Denver aquifers. Household use is estimated at 0.20 to 0.30 acre-feet of water per year. Watering of up to 10 horses or similar livestock is estimated at 0.011 acre-feet per animal per year, or a total 0.11 acre-feet. The remaining 0.89 acre-feet shall be available for the irrigation of up to approximately 19,000 square feet of lawn and garden.

Depletions. Applicant's consultant has determined that maximum stream depletions over the 100 year pumping period for the Dawson aquifer amounts to approximately 12.7% of pumping. Additionally, for the Denver aquifer, the Applicant's 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 1.3 acre feet per year equals 0.16 acre feet for the Dawson aquifer and 0.05 acre feet for the Denver.

Augmentation of Depletions During Pumping. Pursuant to § 37-90-137(9)(c.5), C.R.S., Applicant is required to replace actual stream depletions attributable to the pumping of the well. Applicant's 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% or a minimum of 0.02 acre-feet per year for 0.20 acre-feet of household use, or 0.03 acre-feet per year for 0.30 acre-feet of household use. This results in a return flow of a minimum of 0.18 acre-feet per year. Thus, during pumping and regardless of to which not-nontributary aquifer the well may be constructed, 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 Dawson aquifer or Denver aquifer well, Applicant will reserve up to 1.4 acre-feet of water from the nontributary Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicant also reserves 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, Applicant reserves 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 Applicant will be entitled to apply for and receive a well permit for a Dawson or Denver aquifer well for the uses in accordance with this Application and otherwise in compliance with § 37-90-137, C.R.S.

CASE NO. 2015CW3026 - LAKE COUNTY CONCRETE & EXCAVATING, LLC, c/o Erik K. Phillips, 689 County Road 31, Leadville, CO 80461 (Please address all

pleadings and correspondence to: Steven T. Monson, Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212)

Application for Plan for Augmentation

LAKE COUNTY

II. Summary of Plan for Augmentation. Applicant desires to continue the use an existing well located on the approximately 6.41 acre property located in Lake County, Colorado, in the SW ¼ of Section 27, Township 9 South, Range 80 West of the 6th P.M., and as depicted on the Exhibit A map attached to the Application (“Applicant’s Property No. 1”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant’s Property No. 1 is the current location of the Applicant’s business operations consisting of a concrete batch plant. Applicant intends to move the business from the location of Applicant’s Property No. 1 to another location approximately 0.75 miles downstream on California Gulch and Highway 24. This new location is approximately 24.62 acres in size and is located in the N ½ of Section 33, Township 9 South, Range 80 West of the 6th P.M., and is depicted on the Exhibit B map attached to the Application (“Applicant’s Property No. 2”). Applicant intends to use a newly constructed well on Applicant’s Property No. 2 after completing the move. Therefore, Applicant seeks approval of a plan for augmentation for the use of both such wells for his existing and anticipated future commercial and industrial operations.

III. Application for Approval of Plan for Augmentation Structures to be Augmented. The structures to be augmented consist of two wells. The current well to be augmented is permitted under Well Permit No. 2011-F and is located on Applicant’s Property No. 1 as shown on Exhibit A to the Application (“Well No. 1”). Upon any relocation of the Applicant’s business operations, the second well to be augmented will be a newly constructed well located on Applicant’s Property No. 2 as shown on Exhibit B to the Application (“Well No. 2”). **Water Rights to be Used for Augmentation.** Applicant proposes to augment depletions resulting from use of Well No. 1 and Well No. 2 for its commercial and industrial operations which currently consists of concrete production and excavation by using one share of stock in the Twin Lakes Reservoir and Canal Company owned by Applicant (or Applicant’s principal) evidenced by stock certificate No. 8365 (“Twin Lakes Share”). The Twin Lakes Share represents a pro rata interest in native Arkansas River diversions and the Independence Pass transmountain diversion system, which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County for storage in Twin Lakes Reservoirs in Lake County, Colorado. Twin Lakes Shares consist of direct flow and storage rights that are available for one hundred percent consumptive use and reuse and a portion are available for augmentation. Specifically for this plan, the transmountain diversion system water will be used for augmenting depletions in this case. The native Arkansas River water will not be used for augmenting depletions in this case, however the native component is preserved by Applicant and not waived or relinquished and may be added to this plan at a future date by amendment. The water rights that produce the pro rata interest of the Applicant in the Twin Lakes Share are

described as follows: Colorado River Water Rights: Decrees: Case No. 3082, District Court, Garfield County, August 25, 1936. Case No. W-1901, District Court, Water Division 5, May 12, 1976. Priority: August 23, 1930, No. 431. Source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Division 5, as more fully set forth in the above reference Decrees. Use: Direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all other beneficial uses. Amount: Direct flow amount for diversions through transmountain tunnels of 625 c.f.s. with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet, and other limitations set forth in the decrees. Arkansas River Water Rights. Decrees: Original decree, Case No. 2346, District Court, Chaffee County, July 14, 1913. Modified decree, Case No. W-3965, District Court, Water Division 2, April 19, 1974. Priorities: December 15, 1896, No. 3, and March 25, 1897, No. 4. Source: Lake Creek and its tributaries, tributary to the Arkansas River. Use: Storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir that are capable of being served with water by diversion from said Arkansas River. Amount: 54,452 acre-feet (20,645.3 acre-feet: Priority No. 3, 33,806.7 acre-feet: Priority No. 4). **Statement of Plan for Augmentation.** Applicant's plan will provide for the augmentation of lagged stream depletions to California Gulch, tributary to the Arkansas River, caused by the pumping of Well No. 1 and Well No. 2. Groundwater diversions and their corresponding consumptive use component for replacement of out-of-priority depletions are as follows: Uses. Well No. 1 and Well No. 2 will pump no more than a total of the firm yield of the transmountain component of the Twin Lakes Share per year from the alluvial aquifer of California Gulch at a rate of up to 180 g.p.m. The entirety of the diversions will be used for commercial and industrial purposes, which at the present time is for making concrete and for the washing and maintenance of equipment. Depletions. The commercial and industrial uses, including the making of concrete and the washing and maintenance of equipment at the present time, shall be considered one hundred percent consumptive. Operation of Plan for Augmentation. Well pumping by Well No. 1 and Well No. 2 will be entitled to occur on a year-round basis, resulting in year-round depletions. Well No. 1 is approximately 1,130 feet from California Gulch and constructed into the alluvium. Well No. 2 will be approximately 440 feet from California Gulch and will also be constructed into the alluvium. Applicant will augment depletions using augmentation water represented by its Twin Lakes Share. The water from the Twin Lakes share will be made from Twin Lakes Reservoir to Lake Creek and will be thereby delivered to the Arkansas River at its confluence with Lake Creek. At current administration levels, each share of Twin Lakes stock is considered to have a firm consumptive use yield of approximately 0.75 acre-feet per year. Applicant's Twin Lake Share and its pro rata share of entitled transmountain water will be committed to this plan for augmentation and will be delivered and released at times necessary to cover those out-of-priority depletions. Release of Twin Lakes water represented by the transmountain water system portion of the Twin Lakes Share to the Arkansas River from Twin Lakes Reservoirs shall be sufficient to replace all out-of-priority stream depletions from well pumping and will prevent injury to senior water rights. Lagged depletions have occurred from prior pumping of Well No. 1 and lagged depletions will continue to occur from future pumping of Well No. 1. Additionally, post pumping lagged depletions may occur

upon the moving of locations for Applicant's business operations and the initialization of Well No. 2. Replacement timing for lagged depletions from prior pumping, future pumping, and post pumping will be based on Glover equation parameters as set forth in the table below. The timing of lagged depletions for Well No. 1 and Well No. 2 has been determined by Applicant's engineer and is set forth in Exhibit C to the Application. Aquifer parameters and timing of lagged depletions may vary from these initial determinations and will be determined in the final decree.

Well No.	Specific Yield	Transmissivity (gpd/ft)	Distance to Stream, X (ft)	Distance from No-Flow Boundary to Stream, W (ft)
Well No. 1	0.20	40,000	1,130	5,600
Well No. 2	0.20	40,000	440	6,000

IV. Name and Address of Owners of Land on which Structures will be Located.

The land referred to herein as Applicant's Property No. 1 is owned by Leadville Corporation, 96 Lakeshore Drive, Corpus Christi, Texas 78413. The well referred to herein as Well No. 1 is owned by Orin Diedrich, P.O. Box 915, Leadville, Colorado 80461. The land referred to herein as Applicant's Property No. 2 and where Well No. 2 will be located is owned by Allen K. Phillips and Barbara J. Phillips, P.O. Box 1777, Leadville, Colorado 80461. Notice will be sent to these parties in compliance with § 37-92-302(2)(b).

V. Remarks Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits for Well No. 1, if necessary, and for Well No. 2 for uses in accordance with any decree entered in this case. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of depletions under the proposed plan for augmentation. The wells shall be installed and metered as required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. Applicant shall comply with the bylaws of the Twin Lakes Reservoir and Canal Company, including, without limitation, submission of the shares of stock for legending restrictions on sale or transfer, and the 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. Additional shares of stock in the Twin Lakes Reservoir and Canal Company may be added to this plan as replacement water to meet well depletions by amendment to the decree without reopening other portions of the decree which will be entitled to the effect of res judicata.

 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 July 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 10th day of June, 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)
Published: June _____, 2015