

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

-----  
RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MAY 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 May 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. 2016CW6; Previous Case No. 2009CW59 – LAINE REVOCABLE TRUST  
UTA February 22, 2008, Roger E. Laine, Trustee, 22422 N. Rebecca Burwell, Katy,  
TX 77449-2909; (281) 347-2298**  
-----

Application to Make Absolute in Whole or in Part

**LAKE COUNTY**

**Names of structures:** Laine Wells Nos. 1, 2 and 3. **Describe conditional water rights:** **Date of Original Decree:** July 7, 2010; **Case No.:** 2009CW59; **Court:** District Water, Div-2. **Legal description:** The Laine Well No. 1 is located in the NW ¼ NW ¼ of Section 8, Township 10 South, Range 80 West, 6<sup>th</sup> P.M., Lake County, at a point approximately 520 feet from the North Section line and 253 feet from the West section line of said Section 8. The Laine Well No. 2 is located in the SW ¼ SW ¼ of Section 5, Township 10 South, Range 80 West, 6<sup>th</sup> P.M., Lake County, at a point approximately 850 feet from the South section line and 100 feet from the West section line of said Section 5. The Laine Well No. 3 is located in the SE ¼ SE ¼ of Section 6, Township 10 South, Range 80 West, 6<sup>th</sup> P.M., Lake County, at a point approximately 600 feet from the South section line and 450 feet from the East section line of said Section 6. **Source of water:** The source of water for all of the wells is ground water that is tributary to Halfmoon Creek. **Appropriation Date:** The date of appropriation for the Laine Well No. 1 is October 14, 1983. The date of appropriation for each of Laine Well Nos. 2 and 3 is March 31, 2009. **Amount:** Laine Well No. 1: Total annual pumping of the Laine Well No. 1 is limited to 1.0 acre foot per year. [The decree entered in Case 2009CW59 awarded Laine Well No. 1 a pumping rate of 15 gpm.] Laine Well Nos. 2 and 3: Total annual pumping of the Laine Well Nos. 2 and 3 is limited to 0.47 of an acre foot per year, subject to a pro rata reduction of such diversions in any year that a portion of the augmentation and replacement water described herein is leased to others as described in Paragraph No. 15, Decree 2009CW59. [The decree entered in Case 2009CW59 awarded Laine Well Nos. 2 and 3 pumping rates of 30 gpm each.] **Use:** Laine Well No. 1: Applicant constructed a well on the property for the purpose of serving a residence. The well, identified as the Laine Well No. 1, was drilled in 1985, pursuant to C.R.S. §37-92-602, and is exempt from administration under the priority system. Water from the Well has historically been used for fire protection, domestic, irrigation of not more than one acre of gardens and lawns, and watering domestic animals. [The decree entered in Case No. 2009CW59 decreed absolute uses of irrigation of one acre of home lawns and gardens and fire protection purposes; domestic and ordinary household purposes inside a single-family dwelling and the watering of domestic animals were decreed as

conditional uses.] Laine Well Nos. 2 and 3: Water pumped from the Laine Well Nos. 2 and 3 is delivered directly to plants via a high efficiency irrigation system. All water that is delivered to the plants is assumed to be consumed for purposes of this augmentation plan. The Laine Well Nos. 2 and 3 are equipped with totalizing flow meters to monitor annual ground water withdrawals. Depletions are replaced in accordance with measured water deliveries. [The decree entered in Case No. 2009CW59 decreed conditional uses for irrigation and commercial purposes.] **Depth:** Laine Well No. 1: 44 feet; Laine Well No. 2: 41 feet; Laine Well No. 3: 44 feet. **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:** Laine Well No. 1: Water from the well has historically been used for fire protection, domestic, irrigation of not more than one acre of gardens and lawns and watering domestic animals starting in 1985. Laine Wells Nos. 2 and 3: the wells were drilled and pumps were installed in 2010. Two-inch PVC pipelines were installed underground to connect both wells such that irrigation water is available to the entire property. Pilot-project planting started in 2000. Commercial Treefarm planting started in 2011, continued in 2012-2015, and will continue until approximately 1,000 to 1,200 trees have been planted. Commercial Treefarm watering started in 2011, continued in 2012-2015, and will continue indefinitely. Pilot-project watering switched to Wells Nos. 2 and 3 in 2011, continued in 2012-2015 and will continue indefinitely. **If claim to make absolute in whole or in part: Date water applied to beneficial use:** Well #1: October 1985; Amount: Exempt; Use: See uses above. Wells 2 & 3: August 2010; Amount: 0.0003 ac. ft.; Use: Irrigation. **Description of place of use where water is applied to beneficial use:** Halfmoon Lakes Tract 8, Lake County, Colorado.

-----

**CASE NO. 2016CW3012 - TIMOTHY KUNAU and SANDRA KUNAU, 23945 Lucky Lane, Calhan, CO 80808** (Please address all correspondence to: Henry D. Worley, Worley Law Firm, LLC, Attorney for Applicants, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

Second Amendment to Application for Underground Water Rights

**EL PASO COUNTY**

Applicants are removing a 35 acre tract of land, 4855 Yoder Road, from the application, as well as the 10.36 acre feet of Laramie-Fox Hills water which underlies that parcel. The legal description of the land removed is: TR IN W2 SEC 22-13-61 DESC AS FOLS: COM AT SW COR OF SD SEC 22; TH N 00<16'49" W 1536.00 FT FOR POB; TH CONT N 00<16'49" W 583.99 FT, N 88<52'58" E 2611.46 FT TO N-S C/L OF SD SEC 22, S 00<11'28" E 584.00 FT, S 88<52'58" W 2610.55 FT TO POB AKA TRACT 6. The new total amount of Laramie-Fox Hills water Applicants are claiming is 69.32 acre feet annually, subject to the water banking provisions of Rule 8.A, 2 CCR 402-7. Applicants retain their claim that the three non-contiguous parcels may be operated as a well field pursuant to Rules 4.A.8), 4.8.13), and 11.B of 2 CCR 402-7. Co-Applicant Kunau's Grandview Mobile Home Park is hereby dismissed from this application.

-----

-----  
**CASE NO. 2016CW3030; Previous Case Nos. 1984CW133; 1989CW59; 1996CW31; 2003CW56; 2010CW36 – LUCKY 4 WATER ASSOCIATION, INC., and CECIL D. SMISCHNY, P. O. Box 401, Green Mountain Falls, CO 80819** (Please address all

correspondence to: Paul L. Murphy, Attorney for Applicants, 611 North Weber Street, Suite 104, Colorado Springs CO 80903; (719) 471-3389)

Application for Finding of Reasonable Diligence

**EL PASO COUNTY**

**Name of Structures:** Smischny Well No. 1 (Permit #29659-F); Smischny Well No. 2 (Permit #29662-F). **Describe conditional water right: Date of original Decree:** Referee's Ruling dated October 17, 1985, and Judgment and Decree dated November 15, 1985, in Case No. 84CW133, District Court, Water Division No. 2. **Subsequent decrees awarding findings of diligence:** March 13, 1990 in Case 89CW59; June 11, 1997 in Case 96CW31; May 17, 2004 in Case 03CW56; and December 28, 2010 in Case 10CW36. **Legal description (PLSS):** Smischny Well No. 1: El Paso County, NW ¼ NW ¼ Section 9, Township 13 South, Range 68 West, 6<sup>th</sup> P.M., 975 feet from the North section line and 1110 feet from the West section line. Street Address: 7250 Lucky 4 Rd., Green Mountain Falls, CO 80819. Smischny Well No. 2: El Paso County, SW ¼ NW ¼ Section 9, Township 13 South, Range 68 West, 6<sup>th</sup> P.M., 75 feet from the West section line and 1750 feet from the North section line. **Source:** (for both wells) Groundwater from the underground aquifer in the drainage area of Fountain Creek which is tributary to the Arkansas River. **Amount, Appropriation Date, Depth:** Smischny Well No. 1: 25 gpm/0.055 cfs; 8/15/83; 250 feet. Smischny Well No. 2: 25 gpm/0.055 cfs; 8/15/83; 200 ft. **Use:** (for both wells) municipal, domestic, irrigation, recreational, piscatorial, wildlife, stock watering (personal use only). **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:** The wells are a part of an integrated water supply system now owned and operated by Lucky 4 Water Association, Inc., a non-profit corporation, to provide a water supply and service for 16 taps for properties which are all located in Section 9, Township 13 South, Range 68 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, for municipal, domestic, irrigation, recreational, piscatorial, wildlife uses. Since the last reasonable diligence application and decree a water line was extended from the multi-family units to the ranch house. A 300 gallon holding tank with float valve and ½ hp pump was added to boost the pressure to 50 psi. An 8 ft. by 10 ft. building was constructed and 300 gallon holding tanks, 8 float valves, plumbing lines and fittings, and electrical systems were installed in the building at a cost of \$4372.00 plus applicant's personal labor in order to raise the overall water pressure from 36 psi to 50 psi to resolve low pressure outages. The chlorination process was changed, the pump house was repaired, and old plumbing lines which were leaking were replaced. A distribution system has been added to a supply line in order to allow four additional single family residences to be hooked up to the system in the South ½ of NW4 of NE4, and the SW4 of NW4 of NE4, and E2 of NE4 of NW4, and NE4 of SE4 NW4 in El Paso County, Colorado (except any part previously conveyed), in Section 9, Township 13 South, Range 68 West of the 6<sup>th</sup> P.M. in El Paso County, Colorado. **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:** Smischny Well No. 1: Cecil D. Smischny, P. O. Box 401, Green Mountain Falls, CO 80819-0401; Smischny Well No. 2: Lucky 4 BL72, LLC, P. O. Box 401, Green Mountain Falls, CO 80819-0401. **Remarks or any other pertinent information:** Smischny Well No. 1 (Permit 29659-F) was originally applied to beneficial use on December 13, 1986, at an initial sustained pumping rate of 5 gpm or 0.011 cfs, and Smischny Well No. 2 (Permit 29662-F) was applied to beneficial use on December 28, 1986, at an initial sustained pumping rate of 20 gpm or 0.045 cfs. The original decree for said wells in Case 84CW133 authorized each as an alternate point of diversion for the other and approved a plan for augmentation using transmountain water diverted by the City of Colorado Springs. At the time of the original decree and at the time of the subsequent findings of reasonable diligence, the subject wells and water rights awarded in the original Case No. 84CW133 were owned by Cecil D. Smischny. Cecil D. Smischny transferred title to said water rights and wells to Lucky 4 Enterprises, LLLP by warranty deed dated December 27, 2004 and recorded December 28, 2004 at Reception No. 204209863 of the records of the Clerk and Recorder of El Paso County, Colorado. Lucky 4 Enterprises, LLLP transferred title to the water rights and wells to Lucky 4 Water Company, LLC by warranty deed dated May 27, 2004 and recorded December 28, 2004 at Reception No. 20469862 of the records of the Clerk and Recorder of El Paso County, Colorado. Lucky 4 Water Company, LLC transferred title to the water rights and wells to Lucky 4 Water Association, Inc. by warranty deed dated May 27, 2004 and recorded December 28, 2004 at Reception No. 20469862 of the records of the Clerk and Recorder of El Paso County, Colorado. WHEREFORE, Applicant prays that the Court make a finding of reasonable diligence in the development and completion of the subject appropriation and that remaining conditionally decreed water rights which have not previously been made absolute be continued as conditional subject to the requirement for applicant to demonstrate reasonable diligence hereafter as provided by law. Applicant also prays that the Court enter such other orders be just and proper in the premises.

---

**CASE NO. 2016CW3031; Previous Case No. 2008CW73 – ANTHONY L. TIMKO and TRACY C. TIMKO, 13688 Hidden Valley Trail, Salida, CO 81201** (Please address all pleadings and correspondence to: Mark E. Hamilton, Esq. and Meghan N. Winokur, Esq., HOLLAND & HART LLP, 600 E. Main St., Suite 104, Aspen, CO 81611, (970) 925-3476, [mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com) and [mwinokur@hollandhart.com](mailto:mwinokur@hollandhart.com))  
Application for Findings of Reasonable Diligence and Claim to Make Conditional Water Rights Absolute in Part

**CHAFFEE COUNTY, COLORADO**

**2. Name of Structures:** Sebesta Pond Nos. 1 and 2. **3. Background:** In Case No. 08CW73 the Ponds were decreed absolute for fish, wildlife, stock watering, fire protection, recreational and piscatorial purposes, and conditional for irrigation and augmentation under the plan decreed in that case. Only the conditional water rights decreed to the Ponds are the subject of this case (“subject water rights”). **4. Description of Conditional Water Rights:** **A. Original Decree Information:** 08CW73, 5/11/2010 and corrected 6/03/2013, Water Division No. 2, Pueblo County, Colorado. **B. Sebesta Pond No. 1:** Legal

Description: Left abutment of dam is located 1630 feet from North section line of said Section 25; 1035 feet from West section line of Section 25, Township 50 North, Range 7 East, N.M.P.M., Chaffee County, Colorado. Source: Squaw Creek and Blank Gulch. Appropriation Date: 9/30/2008, conditional. Amount, Fill Rate, Surface Area, Capacity and Length and Height of Dam: 1. Amount: 4.0 acre-feet. 2. Fill Rate: 1.8 c.f.s. 3. Surface Area: 0.7 acres. 4. Capacity: 4.0 acre-feet. 5. Length of Dam: 227 feet. 6. Height of Dam: 9 feet. Use: Irrigation of up to 5.1 acres in Section 25 Township 50 North, Range 7 East, N.M.P.M. (less any dry up of Applicants' land as required under the decree in Case No. 08CW73) and augmentation in the plan decreed in Case No. 08CW73, conditional (as described above, the absolute uses are not at issue in this case). **C. Sebesta Pond No. 2.**

Legal Description: Left abutment of dam is located 1990 feet from North section line of said Section 25; 1307 feet from West section line of said Section 25, Township 50 North, Range 7 East, N.M.P.M., Chaffee County, Colorado. Source: Squaw Creek and Blank Gulch. Appropriation Date: 9/30/2008, conditional. Amount, Fill Rate, Surface Area, Capacity and Length and Height of Dam: 1. Amount: 1.1 acre-feet. 2. Fill Rate: 1.8 c.f.s. 3. Surface Area: 0.3 acres. 4. Capacity: 1.1 acre-feet. 5. Length of Dam: 172 feet. 6. Height of Dam: 7 feet. Use: Irrigation of up to 5.1 acres in Section 25 Township 50 North, Range 7 East, N.M.P.M. (less any dry up of Applicants' land as required under the decree in Case No. 08CW73) and augmentation in the plan decreed in Case No. 08CW73, conditional (as described above, the absolute uses are not at issue in this case). **5. Evidence in Support of Claim to Make Subject Water Rights Absolute in Part and for Findings of Reasonable Diligence with Respect to any Portion of the Subject Water Rights Not Made Absolute is outlined in the Application.** The activities described below support Applicants' claim to make the subject water rights absolute in part and to continue the subject water rights in full force and effect for another six-year diligence period with respect to any portion of such rights not made absolute. This list is not intended to be exclusive and may be supplemented by additional evidence: A. In April 2011 Applicants acquired the subject water rights as part of their acquisition of the property on which the Ponds are located. B. Applicants' predecessor-in-interest conducted significant maintenance and improvement activities in 2010, including installation of Agri-drain outlet structures on the Ponds, removal of muck from the Ponds, installation of a new division box above the Ponds and installation of a bypass pipeline around the Ponds. C. Applicants conducted improvement work on the bypass pipeline around the Ponds in 2011. D. Applicants' predecessor-in-interest worked with a surveyor to identify possible areas to be dried up in accordance with the decree in Case No. 08CW73. E. Stage capacity curves for the Ponds were prepared in 2011 and show that the volume of Pond No. 1 is 2.54 acre-feet and the volume of Pond No. 2 is 0.77 acre-feet. The stage capacity curves were submitted to the Office of the Division Engineer in May 2016. F. Applicants filled the Ponds annually, irrigated lands on their property each year and made releases from the Ponds during the winter months. G. Applicants documented filling the Ponds in May 2016 in the amounts of 2.54 acre-feet for Pond No. 1 and 0.77 acre-feet for Pond No. 2 under the plan for augmentation decreed in Case No. 08CW73. H. Applicants (in cooperation with Wail Hashimi, who also owns an interest in the Eureka Ditch and has his own ponds on the ditch) performed regular maintenance on the Ponds, Eureka Ditch and associated structures each year. I. Applicants engaged the services of attorneys and consultants to provide legal and technical advice in connection with the protection and continued

development of the subject water rights. J. Applicants expended funds in excess of \$10,000 in connection with the above activities. K. Applicants have no intention to abandon the subject water rights. **6. Claim to Make Subject Water Rights Absolute in Part:** Applicants request that the Court confirm and decree that the subject water rights be made absolute in the amounts of 2.54 acre-feet for Sebesta Pond No. 1 and 0.77 acre-feet for Sebesta Pond No. 2 for all decreed purposes based upon the verified facts described above. **7. Claim to Continue Subject Water Rights as Conditional:** Based upon the verified facts described above, Applicants request that the Court find that they have exercised reasonable diligence towards the development of any portion of the subject water rights not made absolute in this case consistent with C.R.S. § 37-92-301(4)(b). **8. Name and address of owner of land on which points of diversion and places of use are located:** Applicants.

-----  
**Case No. 2016CW3032; Previous Case Nos. 1986CW116, 1996CW126, 2003CW027, 2009CW137- WATER RESOURCE DEVELOPMENT COMPANY, c/o Mark Watson, President, 3 Widefield Boulevard, Colorado Springs, Colorado 80911.** (Please direct all communications/pleadings to: Sarah A. Klahn, and/or Courtney J. Krause, WHITE & JANKOWSKI, LLP, 511 Sixteenth Street, #500, Denver, Colorado 80202; (303) 595-9441)

Application for Diligence and to Make Partially Absolute

**EL PASO COUNTY, COLORADO**

**2. Background:** **2.1** WRDC is the successor in interest of Widefield Homes Water Company (“Widefield Homes”). Widefield Homes appropriated the rights of exchange that are the subject of this diligence application described in paragraph 3 (“Subject Water Rights”), *infra*, and WRDC now owns and maintains the Subject Water Rights for the benefit and use of the Widefield Water & Sanitation District (“WWSD”) under a Master Water Lease. WWSD maintains a municipal water and utility system not only for the benefit of its customers but also for the benefit of such extra-territorial water users that may be within its defined service area, consistent with contractual commitments and/or agency relationships. A map of Widefield’s Water Service Area is attached to the Application as Exhibit 1 (hereinafter referred to as “Widefield Service Area”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **2.1.1** The Subject Water Rights are part of WWSD’s integrated municipal water system which diverts, treats, stores, and delivers water to its municipal customers. During the diligence period, WWSD and/or WRDC engaged in activities that demonstrate a diligent effort to perfect these conditional water rights and also engaged in diligence activities in support of the further development of WWSD’s integrated municipal water system. **2.1.2** The Subject Water Rights are operated by delivering fully reusable water arising from the Fryingpan-Arkansas Project water (“Project Water”), Fryingpan-Arkansas Project return flows (“Project Return Flows”), and fully consumable transmountain return flows from Colorado Springs, as described in paragraph 3.4, *infra*, into Fountain Creek from one or more of the substitute supply delivery structures referred to in paragraph 3.3, *infra*, while simultaneously diverting or storing at any of the intake structures described in paragraph 3.2, *infra*. The maximum cumulative rate of flow of the Subject Water Rights through all structures shall not exceed 6.0 cubic feet per second (“cfs”), conditional. **2.1.3** In Case No. 86CW116, the

Subject Water Rights were made partially absolute for a 4.0 cfs exchange between certain wells and Colorado Springs fully consumable transmountain return flows (“Colorado Springs Sources”). **3. Description of exchanges, structures, and sources of water:** **3.1 Prior Decrees:** The Subject Water Rights were originally decreed on August 17, 1990 in Case No. 86CW116, Water Division 2 (“Original Decree”). The District Court, Water Division 2 (“Water Court”) has entered the following decrees finding diligent development of the Subject Water Rights: Case Nos. 96CW126, 03CW027, and 09CW137. **3.2 Intake Structures:** The following structures will divert or have diverted out-of-priority at times when substitute supplies are available to be delivered to Fountain Creek from the Las Vegas Street Waste Water Treatment Facility (“WWTF”), Fountain Sanitation District WWTF, Air Force Academy WWTF, and Lower Fountain Metropolitan Sewage Disposal District Waste Water Treatment Plant (“WWTP”): **3.2.1 Fountain Mutual Irrigation Company (“FMIC”) Facilities.** Canal No. 4: Has a capacity of 70 cfs, and the headgate of the canal is located in the SW1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M. Big Johnson Reservoir: Decreed for 10,000 acre-feet of storage, and is located in Sections 7, 8, 17, and 18, Township 15 South, Range 65 West of the 6th P.M. **3.2.2 Widefield Aquifer Wells:** In addition to the wells listed and described in the table below, the Original Decree includes Wells W-8, W-9, W-10, and W-11. These four wells are no longer included as intake structures for purposes of diligence on the Subject Water Rights because they were conveyed to the Security Water District in 2001.

<b>Well No.</b>	<b>Decreed Rate</b>	<b>Legal Description</b>	<b>Well No. Permit</b>
W-1	1.760 cfs	Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 140 feet from the North line and 225 feet West from the center line.	12987F
W-2	2.595 cfs	Located in the NW1/4 of the NE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 105 feet East from the center line and 610 feet from the North line.	12988F
W-3	9.691 cfs	Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1290 feet from the North line and 500 feet West from the center line.	2065F
W-4	4.511 cfs	Located in the NE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 795 feet West of the center line and 690 feet from the North line.	5304F
W-5	1.850 cfs	Located in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a distance of 917 feet from the East line and 25 feet from the North line.	9704F(RF46)

<b>Well No.</b>	<b>Decreed Rate</b>	<b>Legal Description</b>	<b>Well Permit No.</b>
W-6	0.623 cfs	Located in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M., at a distance of 300 feet from the East line and 25 feet from the North line.	10491F(RF96)
W-7	2.000 cfs	Located in the NE1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1290 feet from the East line and 1770 feet from the South line.	19418-1(R267)
W-13	0.220 cfs	Located in the NE1/4 of the SW1/4 of Section 19, Township 15 South, Range 65 West of the 6th P.M., at a distance of 2240 feet from the South line and 2215 feet from the West line.	19418-2
W-14	1.442 cfs	Decreed location is in the NE1/4 of the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M.	20773F
E-1	2.837 cfs	Located in the SW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 550 feet from the South line and 1700 feet from the East line.	19912(RF1038)
E-2	2.110 cfs	Located in the SE1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 150 feet from the South line and 1150 feet from the East line.	11690A(RF)
E-3	2.110 cfs	Located in the SW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1000 feet from the South line and 2050 feet from the East line.	21430A(RF)
C-1	10.390 cfs	Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1800 feet from the East line and 2346 feet from the South line.	5138F
C-2	6.450 cfs	Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1980 feet from the East line and 1576 feet from the South line.	14919(4807F)
C-3	9.460 cfs	Located in the NW1/4 of the SE1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 2569 feet from the East line and 2381 feet from the South line.	14915(4273F)
C-4	5.570 cfs	Located in the NE1/4 of the SW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 2340 feet from the West line and 2280 feet from the South line.	5218F



Well No.	Decreed Rate	Legal Description	Well No.	Permit
C-36	7.380 cfs	Located in the SE1/4 of the NW1/4 of Section 24, Township 15 South, Range 66 West of the 6th P.M., at a distance of 1924 feet from the West line and 1816 feet from the North line.	14920	

**3.2.3 Jimmy Camp Creek Wells:**

Well No.	Decreed Rate	Legal Description	Well Permit No.
JHW-1	1.114 cfs	Located in NW1/4 of the SE1/4 of Section 22 the Township 15 South, Range 65 West of the 6th P.M. in the at a distance of 2510 feet from the South line and 2510 feet from the East line.	R-12826(RF)
JHW-2	1.337 cfs	Located in the NW1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 2075 feet from the South line and 1900 feet from the East line.	R-12927(RF)
JHW-6	0.850 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 850 feet from the East line and 2610 feet from the South line.	69309F
PVW-1	0.111 cfs	Located in the NE1/4 of the NE1/4 of Section 27, Township 15 South, Range 65 West of the 6th P.M., at a distance of 170 feet from the East line and 250 feet from the North line.	RN342
PVW-2	0.089 cfs	Located in the SE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 25 feet from the South line and 130 feet from the East line.	39939
PVW-3	1.780 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 1295 feet from the East line and 2615 feet from the South line.	22322FR
PVW-4	1.110 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 1680 feet from the South line and 1150 feet from the East line.	12829R
PVW-5	1.110 cfs	Located in the NE1/4 of the SE1/4 of Section 22, Township 15 South, Range 65 West of the 6th P.M., at a distance of 2655 feet from the North line and 1062 feet from the East line.	

**3.3 Names and Locations of Substitute Supply Delivery Structures:** The following structures are the points of replacement or release for substitute supply to effectuate the decreed exchange of water out of priority at one or more of the intake structures referred to in paragraph 3.2, *supra*. **3.3.1 WWSD's Existing WWTP:** Located in the NE1/4 of Section 25, Township 15 South, Range 66 West of the 6th P.M. **3.3.2 Fountain**

Sanitation District WWTP: Located in Section 8 and 17, Township 16 South, Range 65 West of the 6th P.M. **3.3.3 Colorado Springs Outfall Structures**: **3.3.3.1 Las Vegas Street WWTF**: Located in the SW1/4 of the SW1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M. **3.3.3.2 Air Force Academy WWTF**: Located in the SW1/4 of the SW1/4 of Section 19, Township 12 South, Range 66 West of the 6th P.M. **3.3.3.3 Northern Water Reclamation Plant**: Located in Section 30, Township 13 South, Range 66 West of the 6th P.M. **3.3.3.4 Other Proposed Colorado Springs Facilities**: As described in the decrees entered in Case Nos. 84CW202, 84CW203, 86CW118, and 89CW36. **3.3.4 Lower Fountain Metropolitan Sewage Disposal District WWTP**: Located in Section 4, Township 17 South, Range 65 West of the 6th P.M. **3.4 Sources of Replacement Water to be used by Exchange**: **3.4.1 Widefield Sources**: WWSD, through its participation in the Fountain Valley Authority, is allocated Project Water and Project Return Flows consistent with the Allocation Principles of the Southeastern Colorado Water Conservancy District, and any contracts concerning the same. Approximately 900 acre-feet of fully consumable Project Return Flows will be exchanged annually, pursuant to the terms of the Subject Conditional Exchanges as decreed in the Original Decree. **3.4.2 Colorado Springs Sources**: Pursuant to the Return Flow Agreement with Colorado Springs, Applicant assigned 1,792 acre-feet of its allocation of Project Water to Colorado Springs in exchange for Colorado Springs' delivery of legally reusable transmountain water in an amount equal to the return flows attributable to Colorado Springs' initial use of 1,792 acre-feet of water. These fully consumable return flows will be exchanged pursuant to the terms decreed in the Original Decree. **3.5 Affected Stream Reach**: From a point located in the SW1/4 of Section 20, Township 14 South, Range 66 West of the 6th P.M., and downstream therefrom to and including a point located in the NW1/4 of Section 10, Township 17 South, Range 65 West of the 6th P.M. **3.6 Appropriation Date**: February 6, 1981. **3.7 Amount of Conditional Exchange**: The conditional exchange is 6.0 cfs cumulative for diversion or storage at the intake structures listed in paragraph 3.2, *supra*, and replacement for these out-of-priority diversions made with fully reusable Colorado Springs Sources or Widefield Project Water Sources identified in paragraph 3.4, *supra*. **3.8 Uses**: The water diverted or stored by Applicant under the exchange plan in the Original Decree has been and will be used, reused, and successively used to extinction for all of the following beneficial purposes: municipal, domestic, fire protection, sewage disposal, irrigation, manufacturing, industrial, commercial, augmentation, and exchange. Applicant may also use the water for recharge of the Widefield Aquifer, provided that the recharge is "effective recharge" under the stipulation entered in Case No. W-116. Fully consumable water will be reused and successively used pursuant to the exchanges described herein, and such exchanges shall continue until such water is totally consumed, to the extent that operation considerations permit such successive use. **4. Request to make a portion of the conditional water right absolute**: **4.1** On June 20, 2010, following communication with the Water Commissioner, WWSD exercised the exchange described in paragraph 7.B. of the Original Decree by diverting 3.36 cfs out-of-priority at the FMIC headgate in exchange for 1.95 cfs of fully reusable Project Return Flows and 1.41 cfs of fully reusable Colorado Springs Sources. The exchange reach for 1.95 cfs of Project Return Flows extended from the outfall of the WWSD WWTP to the FMIC headgate. The exchange reach for the 1.41 cfs of fully reusable Colorado Springs

Sources extended from the outfall of the Las Vegas Street WWTF to the FMIC headgate. 4.2 On May 24, 2016, following communication with the Water Commissioner, WWSD exercised the exchange described in paragraph 7.B. of the Original Decree at a rate of 0.49 cfs, by exchanging Project Return Flows delivered at the WWSD WWTP to the point of depletion on Fountain Creek for Well C-36, at the location described in paragraph 7.A. of the Original Decree. **5. Detailed outline of what has been done to perfect and put to beneficial use the above-named conditional water rights consistent with their decrees, including expenditures:** The Subject Water Rights are integral to WWSD's integrated municipal water supply system. Accordingly, diligence on part of the system serves as reasonable diligence on the entire system. Applicant will use the remaining conditional amounts for decreed purposes within the Widefield Service Area. WWSD and WRDC have spent approximately \$3.0 million on planning, design, site acquisitions, legal, and construction efforts related to water system facilities to meet anticipated demands from residential and commercial growth within the Widefield Service Area. Activities and expenditures that demonstrate diligence development of the Subject Water Rights: **5.1** WRDC spent \$983,000 on legal costs associated with water rights acquisition and protection for the integrated municipal water supply system. **5.2** During the diligence period, WWSD added roughly 1,300 water taps. **5.3** Approximately 640 acres of property has been finalized for addition to the Widefield Service Area. Roughly 2,400 single family equivalent homes are anticipated for this additional area of development. Efforts and expenditures include engineering to develop preliminary service plans, development of reimbursement agreements, and definition and negotiation of easements for off-site pipelines. Legal costs have included efforts in drafting inclusion, service, and reimbursement agreements. **5.4** WWSD reviewed and approved designs and inspected facilities associated with over 3 miles of new distribution lines constructed within WWSD's primary growth areas, including Glen, Mesa Ridge, and Lorson. **5.5** During the diligence period, WWSD completed upgrades to various wells in the WWSD system. These improvements included upgrading power distribution systems to increase reliability and extend pumping periods. **5.6** WWSD expanded and upgraded west to east water potable transmission lines to facilitate greater reliance on ground water rights in the Widefield Aquifer to serve the growth in the eastern areas of the Widefield Service Area. **5.7** During the diligence period, approximately \$0.5 million was spent in acquisition of easements which included acquiring and demolishing a single family home as well as all engineering necessary for completion of Phases 3 and 4 of the Lower West to East System. These costs include actual acquisition, engineering, and legal costs. **5.8** WWSD completed ongoing and annual engineering efforts related to system expansion, water rights acquisition, and facility upgrades. These engineering and construction efforts required expenditure of roughly \$1.5 million. **5.9** WWSD successfully engaged in negotiations and water planning efforts to supply water to the new National Military Cemetery to be located within the Widefield Service Area. **5.10** WWSD operated portions of the conditional exchange as described in paragraph 4, *supra*.

-----  
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 2016, (forms available at Clerk's office or at [www.courts.state.co.us](http://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 6th day of June, 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)  
Published: June \_\_\_\_\_, 2016