

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING NOVEMBER 2003

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 during November 2003, 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. 98CW136 – RED ROCK VALLEY WATER DISTRICT, c/o Tom Fellows, Board Chair, P. O. Box 38820, Colorado Springs, CO 80937-8820

(Paul G. Anderson, Merrill, Anderson, King & Harris, Attorneys for Applicant, 20 Boulder Crescent, Colorado Springs, CO 80903)

Second Amendment to Application

El Paso County, Colorado

Applicant, by and through its counsel, respectfully submits the following Second Amendment to the Application.

APPLICATION FOR A WATER RIGHT

Name of ditch or structure: Infiltration Gallery. **i. Appropriation date:** March 1998. **ii. Adjudication date:** n/a. **iii. Diversion rate:** 20 gpm. **iv. Use:** (1) municipal; (2) as an alternate point of diversion for Applicant's wells (Well Permit #s 20255-F, 20256-RF¹ and 20256-F-R) including any well redrill or replacement wells, and the Keeton Wells (Well Permit #s former 11117-F², 11117-F-R, 16541-F and 24835-F) in connection with Applicant's use of the Keeton Wells. **v. Location:** NW ¼ SW ¼ Section 11, Township 16 South, Range 67 West, a distance of approximately 1500 feet north from the south section line and approximately 1000 feet east from the west section line.

CHANGE OF WATER RIGHTS

1. Applicant hereby reaffirms its request to adjudicate Applicant's wells (Well Permit #20255-F aka Little Well or Well A, Well Permit #20256-RF aka New Well or Well B, and Well Permit #20256-F-R), the "Keeton Wells" (well permit #11117-F aka Keeton Well, well permit #11117-F-R, well permit #16541-F, aka Keeton #2, well permit #24835-F aka Keeton #3), and the infiltration gallery as alternate points of diversion for each other, including any future well redrill or a replacement well or gallery constructed for one or more of the above structures.

¹ This was a replacement well for permit #20256-F, which in turn was decreed in Case No. W-4255. The well permitted under 20256-RF was brought on-line in 1988. Applicant has filed a well permit application to re-permit this well since recently another replacement well was constructed and permitted (permit #20256-F-R). This second replacement well is included in this Amendment. The prior information for permit #20256-RF is included for reference, and Applicant will supplement this Amendment with the new permit number when it becomes available.

² Like permit #20256-RF, the original Keeton well was replaced by well permit #11117-F-R in 1996. Currently, a well permit application is pending to re-permit the original Keeton well. Applicant will supplement this Amendment with the new permit number for this well when it becomes available.

Attached to the Second Amendment is written permission provided to Applicant from Ms. Forest Trojanovich, widow of Jimmie A. Keeton, Sr. and owner of the Keeton Wells as decreed in Case No. W-186 and Case No. 81CW6, concerning Applicant's adjudication of these wells as alternate points of diversion in this case. **2.** Applicant hereby withdraws its request to reconfirm the previously decreed uses for the Womack Ditch water rights to include municipal for purposes of this Application.

PLAN FOR AUGMENTATION

4. Name of structures to be augmented: **A.** Well Permit #20255-F aka Little Well or Well A. **i. Appropriation date:** July 23, 1964, but junior to all priorities awarded in cases filed prior to 1975 and as otherwise provided in CRS 1973, § 37-92-306; **ii. Adjudication date:** October 10, 1975 (Case No. W-4255); **iii. Diversion rate:** 15 gpm; **iv. Historic use:** municipal and domestic; **v. Location:** SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Township 16 South, Range 67 West, Lot 10, Block 5. **B.** Well Permit #20256-RF aka New Well or Well B³. **i. Appropriation date:** March 22, 1965, but junior to all priorities awarded in cases filed prior to 1975 and as otherwise provided in CRS 1973, § 37-92-306; **ii. Adjudication date:** October 10, 1975 (Case No. W-4255); **iii. Diversion rate:** 15 gpm, up to 23.89 acre-feet annually; **iv. Historic use:** domestic and municipal; **v. Location:** NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Township 16 South, Range 67 West, Lot 6, Block 5. **C.** Well Permit #20256-F-R⁴. **i. Appropriation date:** September 30, 2003; **ii. Adjudication date:** October 10, 1975 (Case No. W-4255); **iii. Diversion rate:** 15 gpm, up to 23.89 acre-feet annually; **iv. Historic use:** domestic and municipal. **v. Location:** NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Township 16 South, Range 67 West, approximately 1160 feet south of the north section line and approximately 743 feet east of the west section line. **D.** Well Permit #11117-F aka Keeton Well⁵. **i. Appropriation date:** July 1954 (domestic and stock watering); September 20, 1966 (commercial and municipal); **ii. Adjudication date:** July 9, 1971 (Case No. W-186); **iii. Diversion rate:** 60 gpm or 0.133 cfs; **iv. Historic use:** municipal and domestic; **v. Location:** SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, Township 16 South, Range 67 West. **E.** Well Permit #11117-F-R⁶. **i. Appropriation date:** November 14, 1996; **ii. Adjudication date:** July 9, 1971 (Case No. W-186); **iii. Diversion rate:** 60 gpm or 0.133 cfs; **iv. Historic use:** municipal and domestic. **v. Location:** NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2, Township 16 South, Range 67 West, approximately 1400 feet north of the south section line and approximately 1900 feet west of the east section line. **F.**

³ See footnote 1 above. The prior information concerning this well permit is included for reference.

⁴ See footnotes 1 and 3 above. The new replacement well permit references and incorporates the decree and use information from Case No. W-4255 noted herein.

⁵ See footnote 2 above. The decree and use information for the original Keeton well is included for reference.

⁶ See footnotes 2 and 5 above. This well permit references and incorporates the decree for the original Keeton well from Case No. W-186 and subsequent Case No. 81CW6, and describes the use limitations imposed on these wells and the other Keeton wells (permit #s 16541-F and 24835-F, Keeton #2 and #3 respectively).

Well Permit #16541-F aka Keeton #2⁷. **i. Appropriation date:** 1973; **ii. Adjudication date:** June 18, 1981 (Case No. 81CW6); **iii. Diversion rate:** 60 gpm or 0.133 cfs in combination with Well Permit #11117-F and Well Permit #24835-F; **iv. Historic use:** municipal; **v. Location:** SW¼ SE¼ Section 2, Township 16 South, Range 67 West. **G. Well Permit #24835-F aka Keeton #3. i. Appropriation date:** n/a; **ii. Adjudication date:** June 18, 1981 (Case No. 81CW6); **iii. Diversion rate:** 60 gpm or 0.133 cfs in combination with Well Permit #11117-F and Well Permit #16541-F; **iv. Historic use:** municipal and domestic; **v. Location:** SW¼ SE¼ Section 2, Township 16 South, Range 67 West. **H. Infiltration Gallery. i. Appropriation date:** March 1998; **ii. Adjudication date:** n/a; **iii. Diversion rate:** 20 gpm; **iv. Requested Use:** municipal and as an alternate point of diversion for Applicant's wells (Well Permit #s 20255-F, former 20256-RF and 20256-F-R) including any well redrills or replacement wells, and the Keeton Wells (Well Permit #s former 11117-F, 11117-F-R, 16541-F and 24835-F) in connection with Applicant's use of the Keeton Wells; **v. Location:** NW¼ SW ¼ Section 11, Township 16 South, Range 67 West, a distance of approximately 1500 feet north from the south section line and approximately 1000 feet east from the west section line. **5. Describe the water rights to be used for augmentation:** Water provided to Applicant under the first priority in the Womack Ditch, described as follows: **i. Appropriation date:** 12/31/1866; **ii. Adjudication date:** 4/12/1883 (Little Fountain Creek Priority Number 1); **iii. Diversion rate:** 5 cfs; **iv. Use:** municipal and augmentation; **v. Location:** SW ¼ SE ¼ Section 2, Township 16 South, Range 67 West, on the left bank of Little Fountain Creek. **6. Statement of plan of augmentation, covering all applicable matters under C.R.S. 1973, sections 37-92-103(9), 302(1) and 305(8) (give full details of plans):** Applicant operates a water district approximately eight (8) miles south of Colorado Springs. Based on the maximum number of lots within Applicant's service area, Applicant potentially could serve up to 88 taps; currently 76 taps are connected⁸. To provide a potable water supply to its customers, Applicant uses one or more of the above wells or other water facilities that are connected to its system. All residents within Applicant's service area use non-evaporative septic systems. The water system records summary attached to the Second Amendment includes outside water use by Applicant's customers, and this plan specifically augments outside use in addition to all water consumed through in-house use associated with non-evaporative septic systems as described below. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. Based on water system records for the 1998-2001 period, the

⁷ Keeton Wells #2 and #3 are adjudicated as alternate points of diversion to the original Keeton Well (permit #11117-F; see also well permit #11117-F-R), and can divert water for domestic, stock watering, commercial and municipal purposes under the priority adjudicated to Keeton Well in Case No. W-186. By permit condition, Keeton #3 (permit #24835-F) currently is limited to supplementing production for Keeton #2 (permit #16541-F), and all wells combined are limited to 50 acre-feet of pumping per year. Permit #11117-F-R cross-references the decrees in Case No. W-186 and 81CW6 concerning the combined use of all these wells, including well permit #14321.

⁸ Applicant owns two of the 90 lots within Applicant's service area that potentially could receive taps, hence the basis for 88 taps at full build-out.

average annual water demand per tap is approximately 0.3 acre-foot per tap. This average demand was arrived at as follows: the average monthly in-house use was calculated for each year of this period by adding water use totals for the months of January, February, March, November and December in a given year and then dividing the sum by five, or the number of months involved for indoor use; the monthly indoor use amount for a given year as calculated above was then subtracted from the total reported water use for each month from April to October for that year to estimate the outdoor use amount. Based on these calculations, the average annual demand per tap is 0.2405 acre-foot for in-house use and 0.0624 acre-foot for outdoor use, resulting in a total average demand of just over 0.3 acre-foot per tap. Using the average annual demand, in-house use at full build-out will be 21.16 acre-feet annually ($0.2405 \text{ acre-foot/tap} \times 88 \text{ taps} = 21.164 \text{ acre-feet}$). All residents within Applicant's service area use non-evaporative septic systems. Although many residents use more efficient septic systems that result in water consumption of five percent (5%) or less, Applicant has calculated consumptive use based on a ten percent (10%) consumption factor that is common for older non-evaporative systems. Based on an in-house demand of 21.16 acre-feet annually at full development, the augmentation requirement for in-house purposes is 2.12 acre-feet per year ($21.16 \text{ acre-feet/year} \times 0.1 \text{ consumptive use factor} = 2.116 \text{ acre-feet/year}$, or 2.12 acre-feet/year). Using the estimated average annual demand of 0.0624 acre-foot per tap for outside use, at full build-out the average annual demand for outside use will be 5.49 acre-feet ($0.0624 \text{ acre-foot} \times 88 \text{ taps} = 5.4912 \text{ acre-feet}$, or 5.49 acre-feet). For purposes of calculating augmentation of annual outside use, 80% of all outside use water is considered fully consumed. Applying an 80% consumptive use factor results in an annual augmentation requirement of 4.4 acre-feet for outside use ($5.49 \text{ acre-feet} \times 0.8 \text{ consumptive use factor} = 4.39296 \text{ acre-feet}$, or 4.4 acre-feet). The total annual augmentation requirement at full build-out will equal 6.52 acre-feet (2.12 acre-feet in-house augmentation + 4.4 acre-feet outside use augmentation = 6.52 acre-feet total augmentation). Applicant entered into a water supply agreement in 2002 with the City of Fountain under which Applicant is entitled to 7.0 acre-feet of water per year from the City's interest in the first priority of the Womack Ditch water right. A copy of that agreement was submitted previously with the initial Amendment filed herein. For purposes of this plan for augmentation, Applicant proposes to commit as much of this water as is actually necessary, up to a total of 6.52 acre-feet, to augment annual depletions caused by Applicant's use of the wells⁹ and the infiltration gallery. The delivery point for the augmentation water on Little Fountain Creek will be at a point located near the Ripley Ditch headgate as designated by the Division Engineer or the Water Commissioner. **7. Proposed Terms and Conditions:** The infiltration gallery municipal use shall be decreed

⁹ Applicant has the right to use water from one or more of the Keeton Wells under an agreement with Rose Keeton (aka Forest Rose Trojanovich) and Jimmie Keeton. Applicant has never had to use either Keeton #2 (permit #16541-F) or Keeton #3 (permit #24835-F). While Applicant will augment its own use of such wells, Applicant does not commit itself, and it is not legally obligated, to augment any use of the Keeton Wells by any other person or entity.

conditional until Applicant physically connects the gallery to the water system and delivers water to its customers, at which time Applicant may seek to decree absolute the gallery's municipal use. Applicant shall meter all well use and infiltration gallery use and continue measuring all diversions made for reporting purposes. Applicant shall use an accounting form acceptable to the Division Engineer to record actual annual use and associated depletions, and it will show how net stream depletions will be measured and will provide a schedule of augmentation releases that correspond to the depletions. Applicant shall use the wells described above consistent with their current terms. Applicant shall require all in-service area customers to use non-evaporative septic systems. Applicant shall replace all out-of-priority depletions that occur under this plan that result in material injury to vested water rights. Applicant shall coordinate with the City of Fountain to effect augmentation releases on a schedule as the Division Engineer or the State Engineer may require, and to measure and record all such releases.

8. No Injury: Applicant submits that the above plan and proposed terms and conditions comply with the requirements of C.R.S. 1973, sections 37-92-103(9), 302(1) and 305(8), and the applicable requirements of the Arkansas River groundwater use rules. If administered as proposed, operation of the plan will not cause material injury to vested water rights on Little Fountain Creek, Fountain Creek or on the Arkansas River.

(Second Amendment to Application and attachments, 10 pages)

CASE NO. 03CW100 – GEORGE E. and CYNTHIA E. NAANES TRUST, 269 Viewcrest Way, Florissant, CO 80816

Application for Underground Water Right
Teller County

2. Name of well and permit, registration, or denial number: George E. Naanes – Permit #220537 (copy of permit is on file with the application and is available for inspection at the Office of the Clerk for Water Division 2). **3. Legal description of well:** Teller County, SW ¼ NW ¼ Section 33, Township 13 South, Range 70 West, 6th P.M., 1950 feet from the North section line and 150 feet from the West section line. Street Address: 269 Viewcrest Way. Subdivision: Colorado Mountain Estates, Lot 1387, Block 10A. **Optional Additional Description:** GPS location information in UTM format (Zone 13; Units Meters; Datum NAD27(CONUS)): Were points averaged: No. Northing 4303173.5; Easting 479823. **4. A. Source:** Office of State Engineer, Colorado Division of Water Resources. Copy of well and test report attached to Application and available for inspection at the Office of the Clerk for Water Division 2. **B. Depth.** 975. **5. A. Date of appropriation:** 5/03/00. **B. How appropriation was initiated:** Well drilled/pump installed/state permit. **C. Date water applied to beneficial use:** 5/14/00. **6. Amount claimed:** .42 gpm Conditional. **7. If well is non-tributary:** **A. Name of Aquifer:** N/A. **B. Amount claimed in acre feet annually:** N/A. **8. Proposed use:** **A. If irrigation, complete the following:** **(1) Number of acres historically irrigated:** 0. **(2) Total number of acres proposed to be irrigated:** 0. **(3) The legal description of the land irrigated:** N/A. **(4) Area of lawns and**

gardens irrigated: 0. **B. If non-irrigation, describe purpose fully:** Drinking water supply to residence and all water requirements for residential use. **9. Names and address of owners of land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** George E. Naanes, Trustee, and Cynthia E. Naanes, Trustee, 269 Viewcrest Way, Florissant, CO 80816. **10. Remarks:** This well is the deepest residential well in Teller County. Due to the depth, lack of available ground water and extensive costs of the well infrastructure, this well is unique and is the sole source of water on this 5 acre property. Protection of this resource by adjudication is required to ensure continual supply to this unique site and well.

(Application and attachments, 6 pages)

CASE NO. 03CW101 – COMPLAINT. This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.

CASE NO. 03CW102 – EDGAR J. TROMMETER and PATRICIA J. TROMMETER, P. O. Box 45, Bon Carbo, CO 81024 (Gerald B. McDaniel, Attorney for Applicants, 824 Park Street, Trinidad, CO 81082)
Application for Underground Water Right
Las Animas County

2. Name of well and permit, registration or denial: The subject well was permitted as #115582. Under the original well permit the well was identified as Weinstein #1. A copy of said well permit is attached to the application and incorporated herein by reference 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. Legal description of well:** In the original permit the legal was given as SE/4, SE/4, Sec. 20, T. 32 S., R. 66 W., 6th P.M. By application dated January 28, 2003 applicant herein corrected the original description of the well to the following: Las Animas County, SW ¼ of the SW ¼ Sec. 21, Township 32 South, Range 66 West, 6th P.M., 600 feet from the South section line and 600 feet from the West section line. Street address: 17583 C.R. 41.1, Bon Carbo, Las Animas County, Colorado. Subdivision: Not applicable; see legal description in para. 9 below. **4. A. Source:** groundwater tributary to upper Burro Canyon drainage tributary to the Purgatoire River, drawn from sand clay and sandrock between 29' and 42'; **B. Depth:** 70'. **5. A. Date of appropriation:** July 2, 1980 filing of application for well permit. **B. How appropriation was initiated:** Filing of application for well permit as noted above. **C. Date water applied to beneficial use:** Upon completion of the well as evidenced by the well completion report dated September 2, 1980. **6. Amount claimed:** 15 gpm Absolute. **7. If well is non-tributary:** N/A. **8. Proposed use:** Any uses permitted by statute for domestic exempt wells on tracts at least 35 acres in size (C.R.S. 37-92-602). **9. Name and address of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** The subject well is located upon Applicant's property consisting

of 35 acres described as: See Exhibit B attached to the Application and incorporated herein by reference, and also known as 17583 C.R. 41.1, Las Animas County, Colorado; and all beneficial use of said water will occur on the above described property. **10. Remarks:** Applicants desire to adjudicate their well, currently permitted as a domestic exempt well on 35+ acres, as a domestic exempt well consistent with Application of Turkey Canon Ranch, Ltd., 937 P.2d 739 (Colo. 1997).

(Application and attachments, 5 pages)

CASE NO. 03CW103 (Water Division 2) and CASE NO. 03CW376 (Water Division 1) – TRI LAKES CHURCH OF CHRIST, c/o Merrill Austin, 20450 Beacon Lite Road, Monument, CO 80132 (James G. Felt, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, CO 80903)

Application for Underground Water Rights, Plan for Augmentation
El Paso and Douglas Counties

II. APPLICATION FOR UNDERGROUND WATER RIGHTS **A. Well Permits.**

Well permit applications for the wells to be drilled pursuant to this application and subsequent decree will be applied for prior to drilling wells into the Denver Basin aquifers which are the subject of this application. **B. Legal Description of Wells.** All wells will be located on the Applicant's property, consisting of approximately 5.01 acres within Section 3 Township 11 South, Range 67 West 6th P.M., in El Paso County, Colorado ("Applicant's Property"). The Applicant's Property is more particularly described in Exhibit A legal description attached to the application and incorporated herein by this reference. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. No exact location is requested for the proposed wells, as that information will be provided when the well permit applications are submitted. **C.**

Water Source. **1. Not Nontributary.** The ground water that will be withdrawn from the Dawson aquifer of the Denver Basin underlying the Applicant's Property is not nontributary. Pursuant to C.R.S. 37-90-137(9)(c)(1), the augmentation requirements for wells in the Dawson aquifer will require the replacement to the effected stream systems on an annual basis, of actual stream depletions to the extent necessary to prevent any injurious effect. **2. Nontributary.** The ground water that will be withdrawn from the Denver, Arapahoe and Laramie-Fox Hills Aquifers of the Denver Basin underlying the Applicant's Property is nontributary.

D. Estimated Rates of Withdrawal and Ground Water Available. **1. Estimated Rates of Withdrawal.** The pumping rates for wells to be completed to each aquifer are estimated to be between 15 g.p.m. and 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts, which may be less than or exceed the above estimates. The actual depth of each well to be constructed within the respective aquifers will be determined by water availability and actual aquifer conditions. **2. Estimated Average Annual Amounts of Ground Water Available.** Applicant requests an absolute water

right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying Applicant's Property. Said amounts may be withdrawn over the 100-year life of the aquifers as set forth in C.R.S. §37-90-137(4). The estimated average annual amounts of ground water available for withdrawal from the underlying Denver Basin aquifers are based upon the Denver Basin Rules. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

<u>Aquifer</u>	<u>Acres</u>	<u>Saturated Thickness (Feet)</u>	<u>Annual Appropriations (Acre-feet)</u>
Dawson (NNT)	5	469	4.7
Denver (NT)	5	481	4.1
Arapahoe (NT)	5	381	3.2
Laramie-Fox Hills (NT)	5	191	1.4

Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **E. Requested Uses.** The Applicant requests the right to use the ground water for all beneficial uses including, without limitation, domestic, commercial, industrial, irrigation, stock water, recreation, fish and wildlife propagation, fire protection, central water supply for such uses, and also for exchange and augmentation purposes. The Applicant also requests that the nontributary in the Denver, Arapahoe and Laramie-Fox Hills aquifer water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the relinquishment of the right to consume no more than two percent of such nontributary water withdrawn. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. The plan for augmentation to be decreed in connection with this Application will cover the out-of-priority stream depletions from the not nontributary Dawson aquifer in accordance with C.R.S. §37-90-137(9)(c). **F. Well Field.** Applicant requests that it be permitted to produce the full legal entitlement from the respective Denver Basin aquifers underlying Applicant's Property through any combination of wells constructed into each aquifer on the Applicant's Property. Applicant requests that these wells be treated as a well field. Applicant requests that it be entitled to withdraw an amount of ground water in excess of the average annual amount decreed from the Denver Basin aquifers underlying Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifer 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 occurs first, multiplied by the average annual volume of water which Applicant is entitled to withdraw from the aquifer underlying Applicant's Property. **G. Description of Land Overlying Subject Ground Water.** The land overlying the ground water which is the subject of this

application consists of 5.01 acres within Section 3 Township 11 South Range 67 West of the 6th P.M., Douglas County, Colorado. The Applicant's Property is more particularly described in the Exhibit A legal description attached to the Application and incorporated herein by this reference. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **H. Name and Address of Owner of Land Upon Which Wells are to Be Located.** The Applicant, as set forth in Section I above, is the owner of the property on which the wells are to be located. **III. PLAN FOR AUGMENTATION.** **A. Structures to be Augmented.** The structure to be augmented consists of 1 existing well structure previously permitted as an exempt commercial well (Exempt Commercial Well Permit no. 238523 attached to the Application as Exhibit B) in the not nontributary Dawson aquifer of the Denver Basin underlying the Applicant's Property, including any replacement or additional wells. Upon approval of this plan for augmentation, the exempt well is to be re-permitted as a non-exempt well hereunder. **B. Water Rights to be Used for Augmentation.** The water rights to be used for augmentation are during pumping the return flows and the direct flow of the not nontributary Dawson aquifer well to be pumped as set forth in this plan for augmentation, together with water rights from the nontributary Arapahoe and Laramie Fox Hills aquifers for post pumping depletions hereunder. **C. Statement of Plan for Augmentation.** The augmented well is to be used for the water supply for in-house facilities consisting of, without limitation, a church and parish house upon the Applicant's Property. The maximum annual diversions from the well shall not exceed 4 acre feet per year. The Applicant's consultant has operated the State Engineer's Denver Basin Ground Water Flow Model for the determination of stream depletions from the Dawson aquifer pumping. The actual stream depletions are a maximum of 6.9 percent of the Dawson Aquifer well pumping, assuming 100 years of withdrawal under this plan. The actual stream depletions will therefore be a maximum of 0.28 annual acre feet. Attached to the Application as Exhibit C is the Geological Report showing the Dawson Aquifer stream depletion factors under the ground water flow model. Waste water from the in-facility uses will be disposed of through a non-evaporative septic system that is determined to have return flows to the tributary stream system of ninety percent of the in-facility pumping. The in-facility well diversions will be a minimum of 0.33 acre feet per year. In-facility consumptive use is ten percent of diversions and return flows for each in-facility use will therefore be ninety percent of the above 0.33 annual acre feet. Total return flows from the in-facility use from the well will be a minimum of 0.3 annual acre feet. These return flows will augment the tributary stream system equal to the maximum actual stream depletion amount of 0.28 while pumping 4 annual acre feet and will prevent material injury to other vested water rights. Direct pumping may also be used for augmentation. Applicant's use of the remaining pumping allotment will be for the irrigation of lawns, gardens and landscaping and other beneficial uses. Applicant also believes that fifteen percent of irrigation water would accrue to the stream as return flows which could be used for additional augmentation. The irrigation return flows are not to be used as part of this augmentation plan, but Applicant

preserves his claim to those return flows and does not waive its rights thereto. This Application is being filed in Water Divisions 1 and 2 because depletions may occur to both divisions. The return flows set forth above will accrue to the South Platte River system. Applicant requests that the total amount of depletions to both the Arkansas River and the South Platte River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. For the replacement of post-pumping depletions, Applicant will reserve 400 annual acre feet of water from the nontributary Laramie-Fox Hills and Arapahoe aquifers underlying the Applicant's Property, consisting of 140 acre feet of Laramie-Fox Hills and 260 acre feet of Arapahoe, less the amount of actual stream depletions replaced during the plan pumping period. Applicant claims that post pumping depletions will be noninjurious and do not need to be replaced, and under the Court's retained jurisdiction the Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved 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 file for and receive a new well permit for the subject Dawson aquifer well for the uses in accordance with this Application. **IV. REMARKS.** Additional remarks are as follows: 1. Applicant requests a finding that it has complied with C.R.S. § 37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested nontributary wells and by the requested not nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. § 37-90-137(9)(c). 2. The term of this augmentation plan is for 100 years however the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. 3. Applicant will comply with C.R.S. § 37-90-137(9)(b) requiring the relinquishment of the right to consume no more than two percent of the amount of the nontributary ground water withdrawn. 4. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. 5. Before any wells are constructed, applications for well permits will be filed with the State Engineer's office, and well permits shall be granted in accordance with the decree pursuant to this application. 6. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. 7. The wells shall be installed and metered as reasonably 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 an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. 8. There are no encumbrances of record on the property, therefore any notice provisions set forth in C.R.S. 37-90-137(4)(b.5)(1) are not applicable to this matter. WHEREFORE, the Applicant requests that its

Application for Underground Water Rights and Plan for Augmentation, as stated and set forth herein, be granted and a decree entered, and for such other and further relief as the Court deems appropriate.

(Application and attachments, 14 pages)

CASE NO. 03CW104 – UPPER ARKANSAS WATER CONSERVANCY DISTRICT, P. O. Box 1090, Salida, CO 81201

(Direct all pleadings to: Julianne M. Woldridge, MacDougall, Woldridge & Worley, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905)

Application for Approval of Plan for Augmentation
Fremont County, Colorado

2. Names of structures to be augmented: Applicant will augment depletions from wells and surface diversions, from consumption, evaporation, and initial fill and refilling of reservoirs, on-stream and off-stream, including the surface water diversion structures for reservoirs (all of which will be referred to as "authorized diversions"), located within the area described on the map attached to the Application as Exhibit A, more generally described as follows, which is within the boundaries of the Upper Arkansas Water Conservancy District (other water rights may be diverted from these structures): a. those lands in Sections 10, 11, and 15, T.48N., R.10E., NMPM, which are below the 7300 feet elevation line and which are not within the boundaries of the augmentation plan decreed in Case No. 92CW84, Water Division No. 2; b. those lands in Sec. 14, T.48N., R.10E., NMPM which are North and West of Cherry Creek and below the 7300 feet elevation line, and those lands which are South and East of Cherry Creek which are below the 7200 feet elevation line, and which are not within the boundaries of the augmentation plan decreed in Case No. 92CW84, Water Division No. 2; and c. those lands in SW $\frac{1}{4}$ of Sec. 12 and the NW $\frac{1}{4}$ of Sec. 13, T.48N., R.10E., NMPM which are not within the boundaries of the augmentation plan decreed in Case No. 92CW84, Water Division No. 2. **3. Previous decrees for water rights to be used for augmentation:** a. shares of Twin Lakes Reservoir and Canal Company currently owned by Applicant; and such other shares of Twin Lakes as Applicant may purchase from time to time. Applicant may use such water from storage in Twin Lakes Reservoir, located on Lake Creek in Sec. 23, Township 11 South, Range 80 West, 6th P.M. in Lake County, as described in that Decree in Case No. 80CW56 (District Court, Water Division No. 2) dated October 23, 1980, and by exchange into other reservoirs pursuant to other exchange decrees and administrative approvals. Twin Lakes shares consist of storage and direct flow rights for water diverted from another basin which are available for 100 percent consumptive use and reuse and are available for augmentation. The water rights producing the pro rata interest of Applicant are: 1). Colorado River Water Rights: Case No. 3802, District Court, Garfield County, August 25, 1963 and Case No. W-1901, District Court, Water Div. No. 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 Div. No. 5; use: direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all 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; 2) Arkansas River Water Rights: Case No. 2346, District Court, Chaffee County, July 14, 1913 as modified in Case No. W-3965, District Court, Water Div. No. 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 which are capable of being served by water by diversion from said Arkansas River; amount: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4. b. Such Fryingpan-Arkansas Project ("Project") water, as Applicant may obtain the right to use from time to time. Applicant is eligible to receive annual allocations of Project water, which it may purchase and use after it is allocated to Applicant by the Southeastern Colorado Water Conservancy District ("SECWCD"), based on SECWCD's principles, policies, rules, and regulations, as such may be amended. Applicant may use such water from storage in Turquoise Reservoir, located on Lake Fork Creek in Sec. 19, Township 9 South, Range 80 West, 6th P.M. in Lake County as described in that Decree in Case No. 80CW56 (District Court, Water Division No. 2) dated October 23, 1980, and Twin Lakes Reservoir and by exchange into other reservoirs pursuant to other exchange decrees and administrative approvals. The water rights of the Project consist of: 1). West Slope Decrees: The Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County, Colorado. The principal water rights were adjudicated by the decrees in Civil Action No. 4613, District Court, Garfield County on June 20, 1958 and August 3, 1959, and were modified by the Decree in Case No. W-829-76, District Court, Water Division No. 5, dated November 27, 1979, and supplemented by the Decree in Case No. 83CW352, District Court, Water Division No. 5, dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through the Boustead Tunnel and empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and applied to beneficial use within the SECWCD's boundaries. 2). East Slope Decrees: The Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141, District Court, Chaffee County, dated July 9, 1969, and Civil Action No. B-42135, District Court, Pueblo County, dated June 25, 1962, and were modified and supplemented by the Decree in Case No. 80CW6, District Court, Water Division No. 2, dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, with an appropriation date of February 10, 1939, and are expressly decreed for reuse and exchange for beneficial use within the SECWCD's boundaries. c. North Fork Reservoir, with a storage right for 595 acre feet of water, priority date of September 9, 1982, for irrigation, municipal, industrial, recreational, and augmentation purposes, decreed in Case No. 82CW204, Water

Division No. 2, including 26.08 acre feet of White Ditch, priority date of May 1, 1874, for municipal, irrigation, augmentation, and recreational purposes, decreed for storage in North Fork Reservoir in Case No. 91CW19, Water Division No. 2, and a storage right for 500 acre feet of water for the North Fork Reservoir Enlargement, priority date of October 1, 1983, for agricultural, municipal, industrial, replacement, fisheries, augmentation, exchange, and recreation purposes, decreed in Case No. 84CW141, Water Division No. 2. North Fork Reservoir is located in the SE1/4 of Section 5, Township 50 North, Range 6 East, N.M.P.M. at the headwaters of the South Arkansas River. d. O'Haver Reservoir, with a storage right for 193 acre feet of water, priority date of September 9, 1982, for irrigation, municipal, industrial, recreational, and augmentation purposes, decreed in Case No. 82CW205, Water Division No. 2. O'Haver Reservoir is located in the center of Section 12, Township 48 North, Range 7 East, N.M.P.M. Its source is Gray's Creek. e. State Reservoir, Boss Lake, with a storage right for 30,000,000 cubic feet of water, appropriation date of March 20, 1893, pursuant to C.R.S. § 37-88-108, located in the E1/2NE1/4, Section 29, Township 50 North, Range 7 East, N.M.P.M. Its source is the Lake Fork of the South Arkansas River. Applicant, together with Salco Associates, L.L.P. has a pending application for an appropriative right of exchange in Case No. 97CW31, Water Division No. 2. This exchange will operate to exchange water from the confluence of the mainstem of the Arkansas River with the South Arkansas River up to the confluence of the Middle Fork and the South Arkansas River, and from the confluence of the Middle Fork and the South Arkansas River up to the confluence of Lake Fork Creek and the Middle Fork of the South Arkansas River, and from the confluence of Lake Fork Creek with the Middle Fork of the South Arkansas River up to Boss Lake. This exchange may operate to place water in Boss Lake for use by Applicant for augmentation purposes. f. Applicant has an appropriative right of exchange for 75 acre feet of water per year, with a maximum exchange rate of 10 c.f.s. from the confluence of the Arkansas River with Cottonwood Creek up to Cottonwood Reservoir and/or Rainbow Lake, with an appropriation date of February 10, 1939, decreed in Case No. 96CW17, District Court, Water Division No. 2 on July 12, 1999. This decree authorizes the exchange of Project Water up to Cottonwood Lake and Rainbow Lake. Cottonwood Lake, with a storage right for 59.3 acre feet, appropriation date of August 7, 1936, for fish culture and livestock uses, decreed in Case No. 3604, District Court, Chaffee County on December 14, 1942, located in Section 36, Township 14 South and Section 1, Township 15 South, Range 80 West, 6th P.M. Its source is South Cottonwood Creek. (This water right is owned by another entity). Rainbow Lake, with a storage right for 106.21 acre feet, priority date of October 21, 1964, for fish culture uses, decreed in Case No. 5141, District Court, Chaffee County in September 1969 (this water right is owned by another entity), and a storage right for 23.45 acre-feet, appropriation date April 5, 1930, for augmentation uses, decreed in Case No. 95CW208, District Court, Water Division No. 2 on June 4, 1996. Rainbow Lake is located in the S1/2 of Section 19 and the N1/2 of Section 30, Township 14 South, Range 79 West, 6th P.M. Its source is Middle Cottonwood Creek. g. Such other water rights as Applicant

may acquire from time to time that legally can be used to augment depletions, provided the amounts available for such uses have been quantified in a separate Water Court action. Applicant shall notify the Division Engineer of the addition of any such water for use in this plan. **Historic use:** Since acquisition by Applicant, these water rights have been used to augment depletions by structures participating in Applicant's current augmentation plans approved in Case No. 92CW84 and Case No. 96CW17 and Applicant's yearly Rule 14 Replacement Plans. **Statement of plan for augmentation, covering all applicable matters under CRS 37-92-103 (9), 302 (1) (2) and 305 (8).** Applicant proposes to use the following replacement requirements for participating structures: a. for irrigation, the replacement requirement will be determined using the following calculation:
square feet of irrigated area x 1.9 feet = X a.f.y.

43,560

b. for horses, cows, and other types of domestic animals, the replacement requirement will be 0.010 acre-feet per year per animal; c. for full year in-house uses with a central sewer system returning water to the stream, the replacement requirement will be 0.016 acre-feet per year per single-family dwelling; d. for full year in-house uses with septic tank and leach field sewage systems, the replacement requirement will be, based 0.031 acre-feet per year per single-family dwelling; e. for evaporation from reservoirs or open structures, the replacement requirement will be the amount of evaporation in inches, as shown below, divided by twelve, times the number of square feet of surface area, divided by 43,560:

	above 10,000 ft. <u>(inches)</u>	10,000 ft. to 7,000 ft. <u>(inches)</u>	below 7,000 ft. <u>(inches)</u>
Annual net	20.86	28.99	32.32
evaporation	1.74 feet	2.42 feet	2.69 feet

No evaporation was calculated for January, February, and December, because of ice cover during those months. f. for recreational vehicles with sewer return flows, the replacement requirement will be 0.056 acre-feet per every 10 units (based on a daily use of 100 gallons per space with year-round use). For septic type of disposal, the replacement requirement will be 0.112 acre-feet per year per every 10 units; g. for bath house and laundry facilities with restrooms and showers and sewer return flows, the replacement requirement will be 0.017 acre-feet per year (based on a daily demand of 300 gallons per day with year-round use). For septic type of disposal, the replacement requirement will be 0.034 acre-feet per year. h. for office buildings, the replacement requirement will be based on a demand of 15 gallons per day per capita, with 5% consumptive use with sewer return flows and 10% consumptive use for septic type of disposal; i. for motels, the replacement requirement will be based on a demand of 50 gallons per day per patron, with 5% consumptive use with sewer return flows and 10% consumptive use for septic type of disposal; j. for all other uses, including commercial, industrial, reservoir fills and refills, and partial-year occupancy domestic, the replacement requirement will be calculated on a case-

by-case basis, subject to approval of the Division Engineer for Water Division No. 2. The replacement requirements will be met by releases of the augmentation water from the various sources described above or from other sources available to Applicant. Some of the depletions augmented pursuant to this plan shall occur on tributaries where the augmentation water cannot be physically delivered. The augmentation of such depletions will involve exchanges of water pursuant to separate Water Court or administrative approvals. **6. Name and address of owner of land on which structures are located:** a. Authorized Diversions – located on properties owned by the participants; b. Cottonwood Reservoir, North Fork Reservoir, State Reservoir, Boss Lake, and O’Haver Reservoir are located on land owned by the United States Forest Service, P.O. Box 25127, Lakewood, CO 80225; c. Rainbow Lake is located on land owned by Rainbow Lake Resort, Inc., 21509 County Road 306, Buena Vista, CO 81211; d. Turquoise Reservoir and Twin Lakes Reservoir are owned by the United States Department of the Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County Road 18-E, Loveland, CO 80537. Applicant, therefore, requests that this plan for augmentation be approved.

(Application, 10 pages)

CASE NO. 03CW105 – STEVEN E. WOLFE and SUSAN R. WOLFE, 799 Essex Drive, Loveland, CO 80538

Application for Water Rights (Surface)

Park County

2. Name of structure: Cal’s Fork Spring. **3. Legal description of each point of diversion:** Park County, Section 14, Township 15 South, Range 76 West, 6th P.M. 2220 feet from the North line and 560 feet from the East line of Section 14. Street Address: 1121 Badger Creek Ranch Road, Hartsel, CO; Subdivision: Badger Creek Ranch, Lot 14. **Optional Additional Description.** GPS location information in UTM format (Zone 13; units must be meters; Datum must be NAD27(CONUS)) Were points averaged? Yes. Northing 4288701 Easting 0425739. **4. Source:** Cal’s Fork Gulch/Badger Creek/Arkansas River. **5. A. Date of initiation of appropriation:** June 1973; **B. How appropriation was initiated:** by construction. **C. Date water applied to beneficial use:** June 1973. **6. Amount claimed:** 0.001 cfs/1.97 acre feet Absolute. **7. Use or proposed use:** recreational, livestock watering, fire protection, piscatorial, wildlife habitat. **A. If irrigation, complete the following:** N/A. **B. If non-irrigation, describe purpose fully:** This spring/pond is used for fishing and row boating, is home to a family of geese, livestock watering and in the event of fire the water could be used for fire protection. **8. Names and address of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants. **9. Remarks:** This spring/pond has been in existence for 30 years. We are not proposing to make any changes, but merely wish to bring this spring/pond into compliance with state statues and rules and regulations.

(Application and attachments, 4 pages)

CASE NO. 03CW106 – NOAH H. TAYLOR, JR. and DIANE R. TAYLOR, 0498

County Road 9A, Canon City, CO 81212 (Henry D. Worley, MacDougall, Woldridge & Worley, Attorneys for Applicants, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905)

Application for Change of Water Rights

Fremont County

1. Decreed names of structures for which change is sought, including information from previous decrees:

A. Chivvis No. 1 Ditch, on Tallahassee Creek, decreed location at a point on the North Fork thereof at a point bearing N 84° 26' W, 2375 Feet, from the E ¼ corner of Section 9, T17S, R73W of the 6th P.M., decreed for 2.0 cfs with an appropriation date of May 31, 1878, and an additional amount of unspecified flow with an appropriation date of May 31, 1881, by the District Court in and for Fremont County on February 3, 1894. B. Chivvis No. 2 Ditch, on Tallahassee Creek, decreed location at a point on the North Fork thereof bearing N 75°30' E, 1600 feet from the W ¼ corner of Section 9, T17S, R73W of the 6th P.M., decreed for 2.0 cfs with an appropriation date of May 31, 1878 by the District Court in and for Fremont County on February 3, 1894. C. Chivvis No. 3 Ditch, on Tallahassee Creek, decreed location at a point on the North Fork thereof bearing N 84°25' W, 2375 feet from the E ¼ corner of Section 9, T17S, R73W of the 6th P.M., decreed for 1.5 cfs with an appropriation date of May 15, 1875 by the District Court in and for Fremont County on February 3, 1894. D. Pioneer North Ditch, on Tallahassee Creek, decreed location (apparently), at a point on the North side of the North Fork thereof 30 rods N and 10 rods W of the SE corner of the NW ¼ SE ¼ of Section 7, T17S, R73W, of the 6th P.M., decreed for 2.0 cfs with an appropriation date of May 10, 1880, and for an additional amount of unspecified flow with an appropriation date of May 31, 1885 by the District Court in and for Fremont County on February 3, 1894. E. Pioneer South Ditch, on Tallahassee Creek, decreed location at a point on the South side of the North Fork thereof 30 rods N and 10 rods W of the SE corner of the NW ¼ SE ¼ of Section 7, T17S, R73W, of the 6th P.M., decreed for 1.0 cfs with an appropriation date of May 10, 1879 by the District Court in and for Fremont County on February 3, 1894. F. North Squaw Ditch, on Squaw Creek, decreed location at a point on the South Fork thereof 69 rods E and 9 rods S of the NW corner of the SW ¼ of Section 5, T17S, R73W of the 6th P.M., decreed for an unspecified amount of flow with an appropriation date of May 30, 1887, by the District Court in and for Fremont County on February 3, 1894. G. South Squaw Ditch, on Squaw Creek, decreed location at a point on the South Fork thereof being the NW corner of the SW ¼ of Section 5, T17S, R73W, of the 6th P.M., decreed for unspecified amounts with appropriation dates of May 30, 1887, 1888 and 1889, by the District Court in and for Fremont County on February 3, 1894. H. Black Ditch No. 1, on Squaw Creek, decreed location at a point bearing N 84° 40' E, 1200 feet from the SW corner of Section 33, T16S, R73W, of the 6th P.M., decreed for 1.0 cfs with an appropriation date of June 1, 1876, and for an additional unspecified amount of flow with an appropriation date of November 30, 1882, by the District Court in and for Fremont County on February

3, 1894. I. Black Ditch No. 2, on Squaw Creek, decreed location at a point bearing S 85°30' E, 800 feet from the SW corner of Section 33, T16S, R73W, of the 6th P.M., decreed for 0.9 cfs with an appropriation date of November 1, 1882, by the District Court in and for Fremont County on February 3, 1894. J. Hodges Ditch No. 1, on Cottonwood Creek, decreed location at a point bearing S 88°04' W, 728 feet from the quarter section corner on the E line of Section 34, T16S, R73W, of the 6th P.M., decreed for 2.0 cfs with an appropriation date of December 1, 1870, by the District Court in and for Fremont County on February 3, 1894. **2. Historic use.** Since their appropriation, all of these water rights have been used for irrigation of hay fields and pastures for a cattle raising operation. **3. Proposed change:** In Case No. W-4608, Water Division 2, entered on March 7, 1980, Cyprus Mines Corporation obtained approval of a plan for augmentation in which the water rights enumerated in ¶ 1 above, and additional water rights which are not the subject of this application, were changed from irrigation uses for augmentation uses. Cyprus Mines Corporation proposed to construct a large open-pit uranium mine and mill on the property upon which the ditches enumerated in ¶ 1 were historically used; the Applicants' ditches and other water rights were to be used in the uranium mining and milling operations. The proposed mine and mill were never constructed. During the period Cyprus owned the land and water rights, it consistently leased the land and water rights for agricultural purposes, including irrigation. The Applicants purchased all of the land and water rights involved in Case No. W-4608 in 1994. They subsequently sold some of the land and water rights, and retained the water rights enumerated in ¶ 1 above. In the ten years that they have owned those water rights, they have consistently used the water rights for irrigation of pasture and hay meadows. They request that the water rights be converted back to irrigation uses at their decreed points of diversion and in their decreed amounts. The purpose of a change of water rights case such as occurred in Case No. W-4608 is to ensure that the changed use does not result in injury to the owners of other water rights. Because the uses for the Applicants' water rights listed in ¶ 1 above were legally changed, but in fact their actual use has not changed from their originally decreed uses, there should be no need to impose additional conditions on the reversion to irrigation use at the ditches' original decreed points of diversion and for their decreed amounts.

(Application, 4 pages)

CASE NO. 03CW107 – REEVES and BETSY BROWN, 3R RANCH, 7100 3R Road, Beulah, CO 81023

Application for Water Rights (Surface)

Pueblo County

2. Names of structures: Ferris Spring; South Meadow Spring; Indian Spring; Bailey Spring; Carr Spring; Fern Spring. **3. Legal Description of each point of diversion:** **Ferris Spring** – NE ¼ of the SW ¼ Section 25, T23S, R68W, 6th P.M., 2006 feet from the North line and 2798 feet from the West line. GPS Location (UTM format; Zone 13; Units in meters; Datum NAD27(CONUS)): Points were averaged; Northing 4207547; Easting 13S504562. **South Meadow**

Spring – Pueblo County, SE ¼ of the NW ¼ Section 29, T23S, R67W, 6th P.M., 3273 feet from the South line and 3750 feet from the East line. **Indian Spring** – Pueblo County, NE ¼ of the NE ¼ Section 32, T23S, R67W, 6th P.M., 50 feet from the North line and 1100 feet from the East line. **Bailey Spring** – Pueblo County, SW ¼ of the SE ¼ Section 21, T23S, R67W, 6th P.M., 106 feet from the North line and 1900 feet from the West line. **Carr Spring** – Pueblo County, SE ¼ of the NW ¼ Section 21, T23S, R67W, 6th P.M., 3538 feet from the North line and 2693 feet from the West line. **Fern Spring** – Pueblo County, NW ¼ of the NE ¼ Section 21, T26S, R67W, 6th P.M., 4646 feet from the North line and 1637 feet from the West line. All springs are located at street address 7100 3R Road, Beulah, CO. **4. Source:** Springs. **5. A. Date of initiation of appropriation:** _____; **B. How appropriation was initiated (as to all springs):** 1868; **C. Date water applied to beneficial use (as to all springs):** 1868. **6. Amount claimed:** Ferris Spring - .5 cfs Absolute; South Meadow Spring – 3 cfs Absolute; Indian Spring – 2 cfs Absolute; Bailey Spring – 4 cfs Absolute; Carr Spring – 2 cfs Absolute; Fern Spring – 1 cfs Absolute. **7. Use or proposed use (as to all springs):** Livestock. **8. Names and address of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants.

(Application, 18 pages)

CASE NO. 03CW108 – THE MODEL LAND & IRRIGATION COMPANY (“MODEL”), c/o Russell H. Harbaugh, Jr., Vice President, Boulder Towers, 1437 South Boulder, #770, Tulsa, OK 74119 and STATE OF COLORADO, Acting by and Through the Department of Natural Resources, for the Use and Benefit of the Colorado Division of Parks and Outdoor Recreation (“State Parks”), Attention: Water Resources Program, 1313 Sherman Street, Room 618, Denver, CO 80203 (Robert V. Trout, Trout, Witwer & Freeman, P.C., Attorneys for Applicant The Model Land & Irrigation Company, 1120 Lincoln Street, Suite 1600, Denver, CO 80203; and Stephen C. Cann, Assistant Attorney General, Attorney for Applicant State of Colorado, 1525 Sherman Street, 5th Floor, Denver, CO 80203)

Application for Change of Water Rights

Las Animas County, Colorado

2. Decreed name of structure for which change is sought: Model Ditch and Model Reservoir. **3. Previous decrees:** The Model Ditch and Model Reservoir were decreed in Civil Action No. 6118 in the District Court, Las Animas County on January 12, 1925. The appropriation date for both water rights is January 22, 1908, with the Model Ditch being decreed in the amount of 200 cfs., and the Model Reservoir being decreed in the amount of 20,000 acre-feet. The Model Reservoir storage right was subsequently transferred to Trinidad Reservoir in Civil Action No. 19793 on April 15, 1965, and is further governed by the Operating Principles and Criteria of the Trinidad Dam and Reservoir Project. **A. Decreed current points of diversion:** Model Ditch: The headgate of the Model Ditch is located on the north bank of the Purgatoire River at a point which is

N53°W 5,780 feet from the SE corner of Section 33, T32S, R63W of the 6th P.M. Model Reservoir: Trinidad Reservoir Dam, located in Section 27, T33S, R64W of the 6th P.M., Las Animas County. **B. Current sources**: Model Ditch: Las Animas (Purgatoire) River, Chicosa Arroyo and Leitensdorfer Arroyo. Model Reservoir: Las Animas (Purgatoire) River. **C. Contract rights**: The Model Ditch and Model Reservoir water rights are subject to a contract between Model and the Purgatoire River Water Conservancy District (the "District") dated May 28, 1966 (the "District Contract"), under which such water rights are subject to management and operation by the District. Pursuant to the District Contract, Model is entitled to water for irrigation of 6,177 acres of land. In addition, under the Trinidad Dam and Reservoir Operating Criteria, which are incorporated into the District Contract, Model is allocated 6,000 acre-feet of storage in Trinidad Reservoir (the "Model Account"), which includes 1,200 acre-feet of storage the water in which is reserved for the exclusive use of Model after the Project Account in Trinidad Reservoir is empty (the "Exclusive Model Account"). The District Operating Criteria also define how the Model Account, including the Exclusive Model Account, are to be filled each year. **D. Historical use**: Irrigation under The Model Ditch & Reservoir System. In addition, the Model Ditch water rights are useable for winter storage as part of the rights controlled by the District and governed by the ruling in Civil Action No. 19793 in the District Court, Las Animas County, the Operating Principles and Criteria of the Trinidad Dam and Reservoir Project, House Document 325, P.L. 85-500, 85th Cong., and Purgatoire River Water Conservancy District v. Kuiper, 593 P.2d 333 (1979). A copy of a map identifying the historically irrigated lands on which irrigation will be discontinued for this change is attached to the Application as Exhibit A. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **4. Proposed changes**: The applicants seek to change the use of a portion of the Model Ditch and Model Reservoir water rights from irrigation and other historical uses to storage in Trinidad Reservoir for replacement of evaporation and seepage from the permanent fishery pool of Trinidad Reservoir, including storage of water for later release of delayed return flows. Model and State Parks are parties to an Amended Water Purchase Agreement dated May 14, 2002, under which State Parks is purchasing 14% of the Model Ditch and Model Reservoir water rights, along with 14% of the associated contract rights, after subtracting amounts owned or previously transferred to other entities. Specifically, the applicants seek to change the following portions of the Model Ditch and Model Reservoir water rights and associated contract rights: A. 14.0% of the Model Ditch water right. B. 14.0% of the Model Reservoir water right. C. The right to the water from 805.46 acres (14.0%) of the 5,753.3 acres of land that Model is currently entitled to irrigate under the District Contract (6,177 acres less 423.7 acres). D. The right to 770 acre-feet (14.0%) of the Model Account (6,000 acre-feet less 500 acre-feet), including the right to 98.0 acre-feet (14.0%) of the Exclusive Model Account (1200 acre-feet less 500 acre-feet). **5. Names and addresses of owners of the land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to**

beneficial use: A. United States Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E. Loveland, Colorado 80537-9711. B. The Model Land & Irrigation Company, c/o Russell H. Harbaugh, Jr., Vice President, Boulder Towers, 1437 South Boulder, #770, Tulsa, Oklahoma 74119. C. State of Colorado, Acting by and Through the Department of Natural Resources, for the Use and Benefit of the Colorado Division of Parks and Outdoor Recreation, Attention: Water Resources Program, 1313 Sherman Street, Room 618, Denver, Colorado 80203. **6. Remarks:** The use of water from the Model Ditch and Model Reservoir water rights is subject to the Trinidad Dam and Reservoir Project Operating Principles. The Operating Principles are adopted by the Arkansas River Compact Administration, the State of Kansas, the U.S. Bureau of Reclamation, the Purgatoire River Water Conservancy District and the U.S. Army Corps of Engineers. On May 23, 2003, the Arkansas River Compact Administration approved changes to the Operating Principles to allow the use of water from the Trinidad Project for the purposes sought in this application with the following conditions: A. Only water attributable to the historic consumptive use on acreage removed from irrigation, limited to 805.46 acres under The Model Land & Irrigation Company system, may be made available from the Trinidad Reservoir irrigation capacity for replacement of evaporation and seepage from the permanent fishery pool. Water deliveries shall be limited to the following volumes, which shall not include the volumes retained in storage for later release to maintain historic delayed return flow patterns to the Purgatoire River:

	<u>Maximum Monthly Water Deliveries (acre-feet)</u>
<u>Apr</u>	<u>135</u>
<u>May</u>	<u>210</u>
<u>Jun</u>	<u>345</u>
<u>Jul</u>	<u>420</u>
<u>Aug</u>	<u>380</u>
<u>Sep</u>	<u>210</u>
<u>Oct</u>	<u>95</u>
<u>Nov - Mar</u>	<u>0</u>
<u>Annual Total</u>	<u>1,708</u>

B. Water attributable to historic return flows associated with the exercise of the water rights used on the acreage removed from irrigation shall be released in such a manner as to maintain the historic return flow patterns to the Purgatoire River. Such return flows, which shall include non-irrigation season return flows, shall be equal to at least 35 percent of the water available to acreage removed from irrigation. C. Removal of District irrigable land from irrigation to enable water from the irrigation capacity to be used for replacement of evaporation and seepage from the permanent fishery pool shall correspondingly reduce the number of acres allowed to be irrigated from the District water supply. Prior to

April 1 each year, the Colorado Division of Parks and Outdoor Recreation shall provide notice to the District, the Arkansas River Compact Administration and the State of Kansas of the acreage to be removed each year corresponding to the amount of water for the Model Ditch to be stored in Trinidad Reservoir for that year. The report shall include a map indicating the specific acreage to be removed from irrigation. D. Any Colorado state court or administrative approval of the State of Colorado, Department of Natural Resources, Colorado Division of Parks and Outdoor Recreation water use covered by these Operating Principles shall require compliance herewith. The applicants propose that the decree entered on this application require compliance with these conditions. In addition, the applicants propose that the decree entered on this application contain terms and conditions substantially the same as the terms and conditions applicable to the change of the Model Ditch and Model Reservoir water rights contained in the decree entered in Case No. 88CW061, Water Division No. 2, dated June 22, 2001, on the application of the City of Trinidad.

(Application and attachments, 8 pages)

CASE NO. 03CW109 – DONALD E. and CATHLEEN E. COUCHMAN, 3450 Hay Creek Road, Colorado Springs, CO 80921

Application for Underground Water Right

El Paso County

2. Name of well and permit, registration, or denial number: Well Permit #206321. **3. Legal description of well:** SE ¼ of the NE ¼ Section 33, Township 11 South, Range 67 West, 6th P.M., 2300 feet from the North section line and 1200 feet from the East section line. **4. A. Source:** Dawson Aquifer. **B. Depth.** 375 feet. **5. A. Date of appropriation:** September 11, 2001. **B. How appropriation was initiated:** _____. **C. Date water applied to beneficial use:** _____. **6. Amount claimed:** 12 gpm Absolute. **7. If well is non-tributary:** **A. Name of Aquifer:** _____. **B. Amount claimed in acre feet annually:** _____. **8. Proposed use:** **A. If irrigation, complete the following:** (1) Number of acres historically irrigated: _____; (2) Total number of acres proposed to be irrigated: _____; (3) The legal description of the land irrigated: _____. **(4) Area of lawns and gardens irrigated:** _____. **B. If non-irrigation, describe purpose fully:** Ordinary household purposes inside a single family dwelling. **9. Names and address of owners of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** Applicants.

(Application, 3 pages)

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 January 2004, (forms available at Clerk's office, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$70.00). 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 _____ day of December, 2003.

Mardell R. DiDomenico, Clerk
District Court Water Div. 2
203 Judicial Bldg., 320 W. 10th Street
Pueblo, CO 81003 Tel. 583-7048

(Court seal)
Published: December _____, 2003