

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING NOVEMBER 2009

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 2009, 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. 09CW87 - COLORADO WATER CONSERVATION BOARD, 1313 Sherman Street, Suite 721, Denver, CO 80203 (Beth Van Vurst, Assistant Attorney General, Attorney for Applicant, 1525 Sherman Street, 5th Floor, Denver, CO 80203; (303) 866-5054)

Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree

LAKE COUNTY, COLORADO

Note: This application was filed on June 30, 2009, and appeared in the June 2009 resume dated July 7, 2009. However, this application was not published in Lake County as required by Court Order. This application is included in the current resume to accomplish the required publication.

Name of natural stream: Rock Creek, tributary to Willow Creek tributary to Lake Fork Arkansas River tributary to Arkansas River. **Location:** Legal description of the stream segment through which an instream flow is claimed: The natural stream channel from the outlet of Native Lake at latitude 39° 13' 26.66"N and longitude 106° 27' 30.51"W as the upstream terminus and extending to the confluence with Willow Creek at latitude 39° 12' 39.72"N and longitude 106° 22' 49.14"W as the downstream terminus, being a distance of approximately 5.0 miles. This segment can be located on the Mount Massive U.S.G.S. quadrangle. For administrative purposes only: Upper Terminus = SW NW S33 T9S R81W 6th PM, 240' East of the West Section Line, 2115' South of the North Section Line UTM North: 4342655.8 UTM East: 374104.6. Lower Terminus = SW NW S6 T10S R80W 6th PM 1270' East of the West Section Line, 1587' South of the North Section Line UTM North: 4341103.3 UTM East: 380829.5. **Date of initiation of appropriation:** January 27, 2009. **Date water applied to beneficial use:** Water was first applied to beneficial use on or before January 27, 2009. The appropriation was completed on January 27, 2009 by the action of the Colorado Water Conservation Board under the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2008). **How appropriation was initiated:** At its regular meeting on January 27, 2009, the Colorado Water Conservation Board appropriated this water right pursuant to the Rules Concerning the Colorado Instream Flow and Natural Lake Program, 2 CCR 408-2. **Amount of water claimed (ABSOLUTE):** Instream flow of 11.0 cfs (May 15 – August 31), 5.0 cfs (September 1 – October 31), and 1.7 cfs

(November 1 – May 14). **Remarks:** This appropriation is made pursuant to the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2008). The purpose of this appropriation by the State of Colorado is to preserve the natural environment to a reasonable degree. At its regular meeting on May 19, 2009, the Board determined that the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made; that there is a natural environment that can be preserved to a reasonable degree with the Board's water right herein, if granted; and that such environment can exist without material injury to water rights. This Application is for an instream flow water right, exclusive to the CWCB pursuant to section 37-92-102(3) C.R.S., and as such there are no proposed diversion structures or storage involved, nor does it affect ground water described in section 37-90-137(4), C.R.S.. See City of Thornton By and Through Utilities Bd. v. City of Fort Collins, 830 P.2d 915, 931 (Colo.,1992) ("A minimum stream flow does not require removal or control of water by some structure or device. A minimum stream flow between two points on a stream or river usually signifies the complete absence of a structure or device."). Therefore, the notice provision contained in section 37-92-302(2)(b) C.R.S. is not applicable.

CASE NO. 09CW89 - COLORADO WATER CONSERVATION BOARD, 1313 Sherman Street, Suite 721, Denver, CO 80203

(Chad M. Wallace, Assistant Attorney General, Attorney for Applicant, 1525 Sherman Street, 5th Floor, Denver, CO 80203; (303) 866-5461)

Application for Water Rights to Preserve the Natural Environment to a Reasonable Degree

CHAFFEE COUNTY, COLORADO

Note: This application was filed on June 30, 2009, and appeared in the June 2009 resume dated July 7, 2009. However, this application was not published in Chaffee County as required by Court Order. This application is included in the current resume to accomplish the required publication.

Name of natural stream: Maxwell Creek. **Location:** Legal description of the stream segment through which an instream flow is claimed: The natural stream channel from the headwaters in the vicinity of latitude 38° 45' 10.62"N and longitude 106° 14' 54.52"W as the upstream terminus and extending to the headgate of the O.W. Friskey Ditch at latitude 38° 46' 25.59"N and longitude 106° 11' 2.0"W as the downstream terminus, being a distance of approximately 4.0 miles. This segment can be located on the Buena Vista West U.S.G.S. quadrangle. For administrative purposes only: Upper Terminus = SE SW S8 T15S R79W 6th PM 2230' East of the West Section Line, 210' North of the South Section Line. UTM North: 4290101.6 UTM East: 391515.3. Lower Terminus = NW SW S1 T15S R79W 6th PM 35' East of the West Section Line, 2400' North of the South Section Line UTM North: 4292338.0 UTM East: 397157.8. **Date of initiation of appropriation:** January 27, 2009. **Date water applied to beneficial use:** Water was first applied to beneficial use on or before January 27, 2009. The appropriation was completed on January 27, 2009 by the action of the Colorado Water Conservation Board under the provisions of Sections 37-92-

102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2008). **How appropriation was initiated:** At its regular meeting on January 27, 2009, the Colorado Water Conservation Board appropriated this water right pursuant to the Rules Concerning the Colorado Instream Flow and Natural Lake Program, 2 CCR 408-2. **Amount of water claimed (ABSOLUTE):** Instream flow of 3.3 cfs (June 1 – July 27), 1.5 cfs (July 28 – September 30), 1.0 cfs (October 1 – October 31), and 0.4 cfs (November 1 – May 31). **Remarks:** This appropriation is made pursuant to the provisions of Sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2008). The purpose of this appropriation by the State of Colorado is to preserve the natural environment to a reasonable degree. At its regular meeting on May 19, 2009, the Board determined that the natural environment will be preserved to a reasonable degree by the water available for the appropriation to be made; that there is a natural environment that can be preserved to a reasonable degree with the Board's water right herein, if granted; and that such environment can exist without material injury to water rights. This Application is for an instream flow water right, exclusive to the CWCB pursuant to section 37-92-102(3) C.R.S., and as such there are no proposed diversion structures or storage involved, nor does it affect ground water described in section 37-90-137(4), C.R.S.. See City of Thornton By and Through Utilities Bd. v. City of Fort Collins, 830 P.2d 915, 931 (Colo.,1992) ("A minimum stream flow does not require removal or control of water by some structure or device. A minimum stream flow between two points on a stream or river usually signifies the complete absence of a structure or device."). Therefore, the notice provision contained in section 37-92-302(2)(b) C.R.S. is not applicable.

CASE NO. 09CW121 - DUANE L. and SHIRLEY M. SPEH, 185 River Ridge Trail, Walsenburg, CO 81089; (719) 738-2825

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: 267695. **Legal description of well:** Huerfano County, NW ¼ of the SW ¼ Section 26, Township 28 South, Range 67 West, 6th P.M., 1413 feet from the South line and 1238 feet from the West line. **Street Address:** 185 River Ridge Trail. **Subdivision:** River Ridge Ranch; **Lot:** 3; **Block:** Phase I. **Optional Additional Description:** **GPS location information in UTM format: Zone 13; Units set to meters; Datum NAD83; Units set to true north).** **Were points averaged?** No. **Northing** 4159076; **Easting** 512081. **Source:** Ground water. **Depth:** 528 feet. **Date of appropriation:** 2/21/06. **How appropriation was initiated:** Application for well permit. **Date water applied to beneficial use:** 10/2/06. **Amount claimed:** 7 gpm Conditional. **If well non-tributary: Name of Aquifer:** All unnamed aquifers. **Amount claimed in acre feet annually:** 3. **Proposed use:** Ordinary household purposes inside not more than 3 single family dwellings, fire protection, irrigation of 1 acre of home lawns and gardens and watering of domestic animals and livestock. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage**

structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicants.

CASE NO. 09CW123 - KAREN RHOADS and JOHN RHOADS, 331 Settlers Creek Road, Walsenburg, CO 81089; (719) 738-2831

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: House; Permit 276994. **Legal description of well:** Huerfano County, SE ¼ of the NE ¼ Section 26, Township 28 South, Range 67 West, 6th P.M., 2490 feet from the North line and 146 feet from the East line. **Street Address:** 331 Settlers Creek Road, Walsenburg, CO 81089. **Subdivision:** River Ridge Ranch; **Lot:** 102; **Optional Additional Description:** **GPS location information in UTM format: Zone 13; Units set to meters; Datum NAD83; Units set to true north). Northing 4159465; Easting 0513285. Source:** Ground. **Depth:** 260 feet. **Date of appropriation:** 3/27/2008. **How appropriation was initiated:** Well permit/well drilled. **Date water applied to beneficial use:** 11/27/08. **Amount claimed:** 15 gpm Absolute. **Proposed use:** Household use 1 to 3 dwellings. Irrigation of 1 acre of lawns and gardens. Livestock watering and domestic animals. Fire protection. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 09CW124 - KAREN RHOADS and JOHN RHOADS, 331 Settlers Creek Road, Walsenburg, CO 81089; (719) 738-2831

Application for Underground Water Right

HUERFANO COUNTY

Name of well and permit, registration or denial number: River; Permit 276992. **Legal description of well:** Huerfano County, NE ¼ of the NE ¼ Section 26, Township 28 South, Range 67 West, 6th P.M., 767 feet from the North line and 633 feet from the East line. **Street Address:** 331 Settlers Creek Road, Walsenburg, CO 81089. **Subdivision:** River Ridge; **Lot:** 102; **Optional Additional Description:** **GPS location information in UTM format: Zone 13; Units set to meters; Datum NAD83; Units set to true north). Were points averaged?** No. **Northing 513140; Easting 4159994. Source:** Ground. **Depth:** 34 feet. **Date of appropriation:** 12/31/1950. **How appropriation was initiated:** Hand dug well. **Date water applied to beneficial use:** 12/31/1950. **Amount claimed:** 30 gpm Absolute. **Proposed use:** Irrigation of 1 acre in the NE ¼ NE ¼ Sec. 26, T28S, R67W, 6th P.M.; Ordinary household use, 2 dwellings, fire protection, water domestic animals and poultry and livestock. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon**

which water is or will be stored, including any modification to the existing storage pool: Applicants.

CASE NO 09CW125 - RIDGEGATE AT PUEBLO, LLC., c/o Roger H. Fonda, 1700 Fortino Blvd., Pueblo, CO 81008

(Henry D. Worley, MacDougall, Woldridge & Worley, PC, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905; (719) 520-9288

Application to Make Absolute and For Finding of Diligence

PUEBLO COUNTY

Names of Structure: Holloran Well, permit no. 60040-F. **Source of water:** Dakota aquifer. **Appropriation date:** June 29, 1972. **Amount:** 150 gpm. **Use:** domestic and irrigation. **Location:** SE1/4 NE1/4 Section 17, T. 21 S., R. 65 W., 6th P.M., in Pueblo County, 1588 feet from the north section line and 483 feet from the east section line. The above structure was absolutely decreed for 50 gpm for stock water and conditionally decreed for 150 gpm for domestic, municipal and irrigation uses in Case No. W-2738, Water Division 2, on April 19, 1974. The municipal water rights were subsequently declared abandoned. The domestic and irrigation uses received subsequent findings of diligence in Case Nos. W-2738-78 (July 20, 1978), 82CW41 (August 13, 1982), 86CW13 (August 6, 1986), 90CW20 (July 20, 1990), 96CW173 (October 30, 1996) and 03CW45 (November 6, 2003). **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use.** Applicant claims as its diligence the fact that it has put 39 gpm to beneficial use as described below. Applicant seeks to retain as a conditional water right 111 gpm for irrigation. The water right is gradually being put to greater beneficial use as more irrigated common area is developed in the subdivision in which the well is located. Applicant does not seek to retain the domestic conditional water right. **If claim to make absolute:** Applicant has pumped the well into a cistern and subsequently irrigated landscaping with the water. The pumping rate has been tested at 39 gpm. Applicant requests that this amount be made absolute. Wherefore, Applicant requests that the court enter an absolute decree for 39 gpm for irrigation, determine that Applicant has exercised reasonable diligence toward putting 111 gpm to beneficial use for irrigation purposes, and declare the 150 gpm for domestic purposes to be abandoned.

CASE NO. 09CW126 - GERALD A. LLOYD and LINDA K. LLOYD, 1138 Locke Mountain Road, Florence, CO 81226; (719) 784-2457

Application for Finding of Reasonable Diligence

FREMONT COUNTY

Name of structure: Lloyd spring. **Describe conditional water right:** **Date of Original Decree:** 04/2/97; **Case No.:** 96CW100; **Court:** District Court Water Division 2. **Subsequent decrees awarding findings of diligence:** 03CW36; November 18, 2003. **Legal description:** Fremont County, in the NE ¼ of Section 30, S. 35° 30' W, 2,000' feet from the NE corner of Section 30, Township 51 North, Range 11 East, N.M.P.M. **Source:** Natural spring tributary to Gribble

Creek, tributary to Badger Creek, tributary to Arkansas River. **Appropriation Date:** 7/29/96; **Amount:** 1 ½ gpm. **Use:** Domestic household use. **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:** As reported in 2003, we dug spring out and installed a 15' 36" diameter culvert. Since then, the culvert has washed out twice due to rain runoff. Our plan is now to dig down at spring origin, install a pipe set in concrete which will then run into a tank. When the tank is full, it will flow back into the creek. We had to survey the property to settle a boundary dispute with new owner at lower end. We began to fence the property this fall because of increased trespassing and trash dumping. Note: There is no plan to use water for irrigation purposes. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 09CW127; Previous Case Nos. 84CW141, 89CW38, 96CW8 and 02CW177 – UPPER ARKANSAS WATER CONSERVANCY DISTRICT, P.O. Box 1090, Salida, CO 81201 (Julianne M. Woldridge, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905 (719) 520-9288)

Application for Findings of Reasonable Diligence

CHAFFEE COUNTY

Name of storage right: North Fork Reservoir, 1984 Enlargement. **Describe conditional right:** **Date of Original Decree:** September 18, 1985, **Case No.:** 84CW141, District Court, Water Division No. 2, Colorado. **Subsequent decrees awarding findings of diligence:** Case No. 89CW38, January 8, 1990; Case No. 96CW8, December 10, 1996; Case No. 02CW177, November 25, 2003. **Legal description:** Beginning at the Northeasterly point of contact of the dam axis with the existing ground said point being situated whence the Northwest corner of Section 21, T.50N., R.7E, N.M.P.M., in Chaffee, County, Colorado bears South 68°50' East a distance of 31,920 feet; said point being further described by bearing on the Peak of Granite Mountain of North 23°28' West and by bearing on the Peak of Calico Mountain of North 37°03' East. Thence South 15°30' West a distance of 500 feet to the Southwesterly point of contact of the dam axis with existing ground. **Source of water:** North Fork of the South Arkansas River. **Appropriation Date:** October 1, 1983. **Amount:** 500 a.f. **Uses:** agricultural, municipal, industrial, replacement, fisheries, augmentation and exchange, and recreation. **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, including expenditures:** Applicant is developing this storage right as part of its integrated system. Applicant operates North Fork Reservoir, O'Haver Reservoir, Boss Lake, Rainbow Lake, and Cottonwood Lake as part of this system. It owns or has the right to use shares in Twin Lakes Reservoir and Canal Company, allocations of

Fryingpan-Arkansas Project water, and other water rights, which it uses to replace depletions to structures enrolled in augmentation plans approved in Case Nos. 06CW32, 92CW84, 94CW5, 96CW17, 94CW41, and 94CW42, and Rule 14 replacement plans. Since the entry of the decree in Case No. 02CW177, Applicant has operated augmentation and replacement plans and has worked on features of its integrated system, including the following: A. prosecuted an application for an exchange right to Boss Lake, which is currently pending in Case No. 97CW31; B. filed for and prosecuted an application to supplement its augmentation plans in Case No. 06CW32; C. filed for and prosecuted an application for appropriative rights of exchanges throughout the Upper Basin in Case No. 04CW96; D. filed for and prosecuted an application for an augmentation plan in an area known as Centerville, in Case No. 03CW55; E. filed for and prosecuted an application for an augmentation plan expansion on West and Cherry Creeks in Case No. 03CW104; F. filed for and prosecuted an application for an augmentation plan in an area known as Silver Creek Lakes in Case No. 07CW87; G. filed for and prosecuted an application for findings of diligence on its Cottonwood Creek exchange in Case No. 05CW51; H. negotiated agreements on and filed for an application for an intra-ditch exchange in the Cottonwood Creek area in Case No. 08CW106; I. negotiated and implemented agreements for storage in DeWeese Reservoir on Grape Creek and a long-term lease from the Bureau of Land Management of water rights located in Fremont County; J. assisted in the inclusion of eastern Fremont County within District boundaries; K. applied for and is working with the U.S. Forest Service on special use permits for North Fork Reservoir, O'Haver Reservoir, and Boss Reservoir, which included an extensive analysis of the hydrology and use of water rights and exchanges in the South Arkansas Basin; L. applied for and exercised excess capacity contracts in Pueblo Reservoir; M. routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, measuring reservoir capacity; N. rehabilitation work on the North Fork Dam; O. submitted and operated annual Rule 14 Replacement plans; P. pursued and completed purchases or agreements to acquire the use of water resources, including but not limited to Twin Lakes Reservoir and Canal Company water, and annual allocations of Fryingpan-Arkansas Project Water; Q. opposed applications for water rights, exchanges, changes of water rights, and augmentation plans that have the potential to injure Applicant's water rights, augmentation plans, and exchanges; R. actively engaged in replacement of depletions by wells and ponds for participants in its augmentation plans and Rule 14 plan; S. stored water in various storage structures, including North Fork Reservoir, by exchange; and T. applied for augmentation plans in the Grape Creek and Texas Creek drainages, Case Nos. 09CW85 and 09CW86. **Name and address of owner of the land upon which water is or will be stored:** North Fork Reservoir is located on land owned by the United States Forest Service, P.O. Box 25127, Lakewood, CO 80225. Applicant, therefore, requests an Order finding that Applicant has exercised reasonable diligence towards the completion of this appropriation.

CASE NO. 09CW128; Previous Case Nos. 82CW205, 88CW75; 95CW207; 02CW178 – UPPER ARKANSAS WATER CONSERVANCY DISTRICT, P.O. Box 1090, Salida, CO 81201

(Julianne M. Woldridge, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905; (719) 520-9288)

Application for Findings of Reasonable Diligence

CHAFFEE COUNTY

Name of storage right: O'Haver Reservoir. **Describe conditional right:** **Date of Original Decree:** June 28, 1985, **Case No.:** 82CW205, District Court, Water Division No. 2, Colorado. **Subsequent decrees awarding findings of diligence:** Case No. 88CW75 (the right for recreational uses was decreed absolute in this case), July 13, 1990; Case No. 95CW207, December 10, 1996; Case No. 02CW178, November 25, 2003. **Legal description:** Near the center of Section 12, T.48 N. R.7E., 6th P.M., Chaffee County, Colorado (map attached to the Application as Exhibit A. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court). **Source of water:** Gray's Creek by means of O'Haver filler Ditch. **Appropriation Date:** September 9, 1982. **Amount:** 193 a.f. **Uses:** Irrigation, municipal, industrial, augmentation, and recreational (the right for recreational uses has been made absolute). **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, including expenditures:** Applicant is developing this storage right as part of its integrated system. Applicant operates North Fork Reservoir, O'Haver Reservoir, Boss Lake, Rainbow Lake, and Cottonwood Lake as part of this system. It owns or has the right to use shares in Twin Lakes Reservoir and Canal Company, allocations of Fryingpan-Arkansas Project water, and other water rights, which it uses to replace depletions to structures enrolled in augmentation plans approved in Case Nos. 06CW32, 92CW84, 94CW5, 96CW17, 94CW41, and 94CW42, and Rule 14 replacement plans. Since the entry of the decree in Case No. 02CW178, Applicant has operated augmentation and replacement plans and has worked on features of its integrated system, including the following: A. prosecuted an application for an exchange right to Boss Lake, which is currently pending in Case No. 97CW31; B. filed for and prosecuted an application to supplement its augmentation plans in Case No. 06CW32; C. filed for and prosecuted an application for appropriative rights of exchanges throughout the Upper Basin in Case No. 04CW96; D. filed for and prosecuted an application for an augmentation plan in an area known as Centerville, in Case No. 03CW55; E. filed for and prosecuted an application for an augmentation plan expansion on West and Cherry Creeks in Case No. 03CW104; F. filed for and prosecuted an application for an augmentation plan in an area known as Silver Creek Lakes in Case No. 07CW87; G. filed for and prosecuted an application for findings of diligence on its Cottonwood Creek exchange in Case No. 05CW51; H. negotiated agreements on and filed for an application for an intra-ditch exchange in the Cottonwood Creek area in Case No. 08CW106; I. negotiated and implemented agreements for storage in DeWeese Reservoir on Grape Creek and a long-term lease from the Bureau of Land

Management of water rights located in Fremont County; J. assisted in the inclusion of eastern Fremont County within District boundaries; K. applied for and is working with the U.S. Forest Service on special use permits for North Fork Reservoir, O'Haver Reservoir, and Boss Reservoir, which included an extensive analysis of the hydrology and use of water rights and exchanges in the South Arkansas Basin; L. applied for and exercised excess capacity contracts in Pueblo Reservoir; M. routinely performed inspection, maintenance, and operation activities at its facilities, such as internal inspections, channel and spillway clearing, measuring reservoir capacity; N. rehabilitation work on the North Fork Dam; O. submitted and operated annual Rule 14 Replacement plans; P. pursued and completed purchases or agreements to acquire the use of water resources, including but not limited to Twin Lakes Reservoir and Canal Company water, and annual allocations of Fryingpan-Arkansas Project Water; Q. opposed applications for water rights, exchanges, changes of water rights, and augmentation plans that have the potential to injure Applicant's water rights, augmentation plans, and exchanges; R. actively engaged in replacement of depletions by wells and ponds for participants in its augmentation plans and Rule 14 plan; S. stored water in various storage structures, including O'Haver Reservoir, by exchange; and T. applied for augmentation plans in the Grape Creek and Texas Creek drainages, Case Nos. 09CW85 and 09CW86. **Name and address of owner of the land upon which water is or will be stored:** O'Haver Reservoir is located on land owned by the United States Forest Service, P.O. Box 25127, Lakewood, CO 80225. Applicant, therefore, requests an Order finding that Applicant has exercised reasonable diligence towards the completion of this appropriation.

CASE NO. 09CW129; Previous Case Nos. 96CW61, 03CW51 - REINALD VON MEURERS, Amrömerkastell 1, Florstadt, Germany D-61197 (Henry D. Worley, MacDougall, Woldridge & Worley, PC, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905, phone: (719) 520-9288)

Application to Make Absolute and for Additional Absolute Water Rights

HUERFANO COUNTY

Name of Structure: Silver Spring Well No. 1 **Source of water:** tributary to Huerfano River. **Appropriation date:** May 31, 1996. **Amount:** 20 gpm. **Use:** stock water, domestic and irrigation. **Location:** NE1/4 SW1/4 Section 10, T. 28 S., R. 69 W., 6th P.M., in Huerfano County, 2650 feet from the west section line and 1400 feet from the south section line. Silver Spring No. 1 was absolutely decreed for 20 gpm for stock water and conditionally decreed for 20 gpm for domestic and irrigation uses in Case No. 96CW61, Water Division 2, on May 30, 1997. The domestic and irrigation uses received subsequent findings of diligence in Case No. 03CW51 on November 7, 2003. **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use.** In September 2008, Applicant connected a pipe from the spring to the house and began using the water from the spring for indoor residential uses and for landscape irrigation. **Application**

for additional absolute water rights. In September 2008, Applicant began using a small amount of water from the spring for non-irrigation agricultural uses (apiculture, or bee-keeping). In May 2009 Applicant constructed a swimming pool which he fills from the spring. This pool can also be utilized for storage for other uses already approved, such as indoor uses, irrigation, etc., but is sought to be decreed for swimming pool purposes. Applicant seeks a decree approving such additional absolute uses. The total amount of water used from Silver Spring No. 1 for all purposes will not exceed 20 gpm. Wherefore, Applicant requests that the court enter an absolute decree for Silver Spring No. 1 for 20 gpm for domestic and irrigation uses with a May 31, 1996 appropriation date, and enter an absolute decree for 20 gpm for swimming pool uses with a May 31, 2009 appropriation date and for non-irrigation agricultural uses, with an appropriation date of September 30, 2008. The decreed use of Silver Spring No. 1 shall not exceed 20 gpm for all uses -- stock water, domestic, irrigation, swimming pool, and non-irrigation agricultural uses.

CASE NO. 09CW130 - RED CREEK RANCH OF COLORADO, INC., Attn. Joseph R. O'Brien, 131 South Main, Pueblo, Colorado 81003 (Henry D. Worley, MacDougall, Woldridge & Worley, PC, Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905; (719) 520-9288)
Application for Finding of Diligence

HUERFANO COUNTY

Information from original and subsequent decrees. The original decree was entered in Case No. 96CW61 in Water Division 2 on May 30, 1997. A finding of diligence was entered in Water Division 2 in Case No. 03CW51 on November 7, 2003. **Information regarding rights/structures for which finding of diligence is sought.** **Majors Ranch Spring No. 1.** **Legal description:** On line between SW1/4 NE1/4 and SE1/4 NW1/4 Section 11, T. 28 S., R. 69 W., 6th P.M., 2640 feet from the west section line and 2200 feet from the north section line. **Source:** Tributary to Huerfano River. **Date of appropriation:** May 31, 1996. **Amount:** 1.3 gpm conditional for irrigation and for domestic uses. The total amount decreed for all purposes does not exceed 1.3 gpm. **Horse Spring No. 2.** **Legal description:** NW1/4 NE1/4 Section 11, T. 28 S., R. 69 W., 6th P.M., 2000 feet from the east section line and 800 feet from the north section line. **Source:** Tributary to Huerfano River. **Date of appropriation:** May 31, 1996. **Amount:** 0.9 gpm conditional for irrigation and for domestic uses. The total amount decreed for all purposes does not exceed 0.9 gpm. **Mud Spring.** **Legal description:** SE1/4 NE1/4 Section 1, T. 28 S., R. 69 W., 6th P.M., 300 feet from the east section line and 2050 feet from the north section line. **Source:** Tributary to Huerfano River. **Date of appropriation:** May 31, 1996. **Amount:** 0.7 gpm conditional for domestic and irrigation uses. The total amount decreed for all purposes does not exceed 0.7 gpm. **Plum Spring.** **Legal description:** SE1/4 NE1/4 Section 7, T. 28 S., R. 68 W., 150 feet from the west section line and 1150 feet from the north section line. **Source:** Tributary to Huerfano River. **Date of appropriation:** May 31, 1996. **Amount:** 4.0 gpm conditional for irrigation. The total amount decreed for all purposes does not exceed 4.0 gpm.

Willow Spring. Legal description: SE1/4 SE1/4 Section 1, T. 28 S., R. 69 W., 6th P.M., 950 feet from the east section line and 850 feet from the south section line. **Source:** Tributary to Huerfano River. **Date of appropriation:** May 31, 1996. **Amount:** 1.9 gpm conditional for irrigation and for domestic uses. The total amount decreed for all purposes does not exceed 1.9 gpm. **Silver Spring No. 3. Legal description:** SW1/4 SW1/4 Section 3, T. 28 S., R. 69 W., 6th P.M., 750 feet from the west section line and 850 feet from the south section line. **Source:** Tributary to Huerfano River. **Date of appropriation:** May 31, 1996. **Amount:** 0.9 gpm conditional for irrigation and for domestic uses. The total amount decreed for all purposes does not exceed 0.9 gpm. **Outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed.** By way of background, these above springs were all located on a ranch called Majors Ranch. Applicant purchased the ranch a number of years ago and divided it into a number of relatively large tracts for residential purposes. During that process, Applicant leased out the land for cattle grazing. In Case No. 96CW51, all of these springs received absolute decrees for stock water purposes. Applicant has since conveyed all of the lots, but retained ownership of the springs and water rights which are listed in paragraph 3 above (others have been sold to the lot owners). It is Applicant's intention and expectation of eventually conveying the springs to the owners of the lots on which the springs are located, and that such springs will then be used for the conditionally decreed purposes. However, many of the lots have not been built on yet, and the owners of such lots therefore have no need of the springs for the conditionally decreed purposes at the present time. It is Applicant's position that under the circumstances, the above activities constitute adequate diligence to allow the Court to enter a decree extending the conditionally decreed rights for an additional six year period.

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 2010, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 7th day of December,
2009



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo County Judicial Building
320 W. 10th Street
Pueblo, CO 81003; (719) 583-7048

(Court seal)
Published: December _____, 2009

NOTICE

New Water Court Rule revisions go into effect on July 1, 2009, available at <http://www.courts.state.co.us/Courts/Water/Index.cfm>

Mandatory E-Filing required for all water case documents filed by attorneys is effective in all Water Divisions July 1, 2009, including for all existing cases. Pro se parties need file only one paper copy of each application and document with the Water Court Clerk under Rule 2 of the Revised Water Court Rules. Reference, Bill Number: HB 09-1185, Water Rights Applications Documents and Rule 2 of the Revised Water Court Rules available at <http://www.courts.state.co.us/Courts/Water/Index.cfm>