

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING NOVEMBER
2014

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during November 2014, 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. 2013CW3000 – NEW ELK COAL COMPANY, LLC, c/o Ronald G. Thompson, 12250 Highway 12, Weston, CO 81091 (Direct all pleadings to

Applicant's counsel: Andrea L. Benson and Cynthia F. Covell, Alperstein & Covell P.C., 1600 Broadway, Suite 900, Denver, CO 80202; (303) 894-8191)

First Amended Application for Underground Water Right, Surface Water Right, Storage Rights, and Plan for Augmentation, Including Exchange

LAS ANIMAS COUNTY, COLORADO

Background. Applicant filed its original water court application on April 3, 2013 (“Original Water Court Application”), for purposes of adjudicating underground, surface, and storage water rights, as well as a plan for augmentation and exchange, to allow Applicant to operate the New Elk Metallurgic Coking Mine near Weston, Colorado. Since filing the Original Water Court Application, the Applicant determined that the locations for certain underground water rights were incorrect and must be amended, and a certain storage right will be withdrawn. This First Amended Application addresses these modifications. **AMENDED APPLICATION FOR UNDERGROUND WATER RIGHTS. Name of underground water right:** New Elk Mine Dewatering System. **Well Permit:** Well permit applications have been submitted for the boreholes described below and are still pending. Additional permits may be submitted as discharge points are constructed and underground water is diverted. **Legal description of New Elk Mine Dewatering Well System: Mine location:** The New Elk Mine Dewatering System will be located in all or portions of Sections 5, 6, 7, 8, 9, 17, 18, 19, 20, 27, 28, 29, 30, 31, 32, 33, and 34 in T33S, R67W, 6th PM; Sections 12, 13, 14, 23, 24, 25, 26, 33, 34, 35, and 36 of T33S, R68W, 6th P.M.; Sections 3, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 28, 29 and 30 of T34S, R67W, 6th PM; and Sections 1, 2, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 35, and 36 of T34S, R68W, 6th PM consisting of approximately 34,000 acres. A USGS map showing the location of the mine boundary is attached to the Amended Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Locations of existing or currently identified portals of the New Elk Mine are located as follows (GPS Location Information in UTM format): Allen Mine Borehole: Northing 4112395.13; Easting 503218.70, Zone 13. A Well Permit Application, Receipt #3654338, was filed for this location. Allen Mine Borehole 2: Northing 4112589.36; Easting 503451.25, Zone 13. A Well Permit Application has not yet been filed for this location. Allen Mine Well No. 1: Northing 4112745.95; Easting

503852.51; Zone 13. A Well Permit Application, Receipt #3659537A, was filed for this location. Allen Mine Well No. 2: Northing 4112480.77; Easting 503758.51; Zone 13. A Well Permit Application, Receipt #3659537C, was filed for this location. The locations of these boreholes are depicted on Exhibit B to the Amended Application. The claims for the following borehole locations identified in the original Application have been withdrawn: Apache Canyon Borehole, Allen Mine Well Alternate No. 2-A, and Allen Mine Well Alternate No. 1-A. **Source of water:** Groundwater tributary to the South Fork Purgatoire River, North Fork Purgatoire River, Middle Fork Purgatoire River and the Purgatoire River, or Apishapa River, all tributary to the Arkansas River. The anticipated depth, information regarding appropriation, amounts and uses remain the same as were identified in the Original Water Court Application. **Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure, or modification to any existing diversion structure is or will be constructed:** The Allen Mine Borehole, Allen Mine Borehole 2, Allen Mine Well No. 1, and Allen Mine Well No. 2, are located on property owned by the Applicant. **AMENDED APPLICATION FOR STORAGE RIGHT (New Elk Mine Storage Tanks).** The Original Water Court Application identified three storage tanks for which storage rights were applied. Applicant has since determined that it wishes to withdraw the claim for New Elk Storage Tank #2, and hereby confirms the same. Unless otherwise amended herein, all other remaining claims and matters set forth in the Original Water Court Application remain the same.

CASE NO. 2014CW7 – JOHN F. HOOVER, 195 S. Zephyr Street, Lakewood, CO 80226; (303) 445-9323

Application for Conditional Underground Water Right
PARK COUNTY

Name of Well: No name provided. **Legal description of well (UTM Format; Zone 13; NAD83):** Northing 4,289,866 M; Easting 446,474 M. **Subdivision:** Pike Trails Ranches, Filing 2; **Lot:** Tract 34. **Source of UTM's:** Leica survey grade equipment typically accurate to values of less than one inch; WG584 Ellipsoid, tied to the barn. **Source of water:** Ground water tributary to the Arkansas. **Depth:** Existing spring. **Date of Appropriation:** 1972. We have been hauling water from the spring since 1972 for domestic use. **How appropriation was initiated:** Started hauling water after the cabin was built in 1972. **Does the spring well withdraw tributary groundwater?** Yes. **Amount claimed:** 2 gpm Conditional. **Amount claimed in acre feet annually:** .0003 a.f. Conditional. **Uses:** Domestic use inside vacation cabin. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant. **Remarks:** There is an existing spring with an output of approximately 2 gpm. We would like to drill a shallow well at the spring location and pipe the water to the cabin for domestic interior use.

CASE NO. 2014CW19; Previous Case Nos. 2000CW120; 2007CW108(2000CW120)
– GREGORY A. SMITH and SANDRA M. SMITH, 9725 Arroya Lane, Black Forest,
CO 80908; (719) 660-8191 OR (719) 494-8171

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of Structure: James Spring #1, #2, #3, and #4. **Describe conditional water right: Date of Original Decree:** Sep. 18, 2001; **Case No.:** 00CW120; **Court:** District Court Water Div. 2. **Subsequent Decrees Awarding Finding of Diligence: Date of Decree:** Nov. 21, 2008; **Case No.:** 2007CW108; **Court:** District Court Water Div. No. 2. **Legal description:** James Spring #1: SW ¼ of the SW ¼ Section 14, T27S, R70W of the 6th P.M. in Huerfano County, Colorado, approximately 336.5 feet from the south line and 345 feet from the west line of said Section 14. James Spring #2: SW ¼ of the SW ¼ Section 14 T27S, R70W of the 6th P.M. in Huerfano County, Colorado, approximately 504.7 feet from the south line and 680 feet from the west line of said Section 14. James Spring #3: SW ¼ of the SW ¼ Section 14, T27S, R70W of the 6th P.M. in Huerfano County, Colorado, approximately 588.8 feet from the south line and 1,035 feet from the west line of said Section 14. James Spring #4: SW ¼ of the SW ¼ Section 14, T27S, R70W of the 6th P.M. in Huerfano County, Colorado, approximately 1,973 feet from the south line and 2,045 feet from the west line of said Section 14. **Source of water:** Natural Springs. **Appropriation Date:** December 4, 1998. **Amount:** James Spring #1: 0.25 gpm; James Spring #2: 0.13 gpm; James Spring #3: 0.05 gpm; and James Spring #4: 0.5 gpm. **Use:** Irrigation use upon Unit CC-2, Lot 254, which is located within the NW ¼ of the SW ¼ of Section 14, T27S, R70W, 6th P.M., Huerfano County, Colorado. **Provide a detailed outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed:** During this diligence period, the Applicants have done additional shoring up of Springs #1 and #4 with abundant use of rocks and some logs. Applicants visited the property monthly during the summer months for the past six years during the spring, summer, and fall months. Every six months thereafter to clear rocks, debris, leaves, mulch and manure from the springs. The property has been fenced on the west side with controlled access. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

CASE NO. 2014CW3050; Previous Case Nos. 2000CW151 and
2008CW41(2000CW151) – D&J RV PARK, LLC d/b/a BIGHORN RV PARK, Attn:
Douglas Dolton and Judith A. Prawdzik-Dolton, P.O. Box 284, Coaldale, CO 81222

(Please address all pleadings and correspondence to Applicant's attorney: David M. Shohet of Felt, Monson & Culichia, LLC, 319 N. Weber Street, Colorado Springs, Colorado 80903, Phone: (719) 471-1212)

Application for Finding of Reasonable Diligence

FREMONT COUNTY

Name of Structures: Bighorn Park Diversion No. 1, Bighorn Park Diversion No. 2, Bighorn Park Pond No. 1. **Description of conditional water rights from the Ruling of Referee and Decree:** **Date of Original Decree:** June 12, 2002, **Case No.:** 00CW151, **Court:** District Court, Water Division 2. **Legal Description:** **Bighorn Park Diversion No. 1:** The point of diversion is located in the Northeast 1/4 of the Southeast 1/4, Section 33, Township 48 North, Range 11 East of the N.M.P.M., Fremont County, Colorado. Exhibit A attached to the Application indicates the approximate location of Bighorn Park Diversion No. 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Bighorn Park Diversion No. 2:** The point of diversion is the outflow of a culvert which runs underneath U.S. Highway 50 in the Southeast 1/4 of the Southeast 1/4, Section 33, Township 48 North, Range 11 East, N.M.P.M., Fremont County, Colorado. Exhibit A to the Application indicates the approximate location of Bighorn Park Diversion No. 2. **Bighorn Park Pond No. 1:** To be constructed in the Northeast 1/4 of the Southeast 1/4, Section 33, Township 48 North, Range 11 East, N.M.P.M., Fremont County, Colorado. Exhibit A to the Application indicates the approximate location of Bighorn Park Pond No. 1. **Source:** **Bighorn Park Diversion No. 1:** An unnamed watercourse tributary to the Arkansas River. **Bighorn Park Diversion No. 2:** An unnamed watercourse tributary to the Arkansas River representing the outflow from a series of ponds located in that portion of the Southeast 1/4 of the Southeast 1/4, Section 33, Township 48 North, Range 11 East N.M.P.M. which lies south of the U.S. Highway 50 right of way. **Bighorn Park Pond No. 1:** Diversions from the Bighorn Park Underground Water Right, Bighorn Park Diversions No. 1 and No. 2, all waters tributary to unnamed watercourses tributary to the Arkansas River, Fremont County, Colorado. **Appropriation Date:** **Bighorn Park Diversion No. 1, Bighorn Park Diversion No. 2, Bighorn Park Pond No. 1:** October 6, 2000. **Amount:** **Bighorn Park Diversion No. 1:** 0.26 c.f.s., conditional. **Bighorn Park Diversion No. 2:** 0.25 c.f.s., conditional. **Bighorn Park Pond No. 1:** 2.0 acre feet capacity, conditional with the right to fill and refill. **Use:** **Bighorn Park Diversion No. 1 and Bighorn Park Diversion No. 2:** Domestic, recreation, commercial, swimming pool, fish propagation, storage and irrigation of up to 3 acres of lawn, garden and landscaping. **Bighorn Park Pond No. 1:** Storage, recreation, fish propagation and irrigation of up to 3 acres of lawn, garden and landscaping. **Description of work performed toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** On December 2, 2011, Applicant purchased the Bighorn RV Park, including all water rights appurtenant to the park. Bighorn RV Park is a family camping resort consisting of a campground store, swimming pool, hotel units, camper cabins, mobile homes/trailers, bath house, lawns, laundry, tent spaces and RV spaces. Bighorn RV Park has operated as a family camping resort since 1945. In Case No. 00CW151, the Court decreed to Applicant's predecessor the use of three underground water rights for domestic, recreation, commercial, swimming pool, fish propagation, storage and irrigation of up to 3 acres of lawn, garden and landscaping. Additionally, the Court granted one storage right for storage, recreation, fish propagation and irrigation of up to 3 acres of lawn, garden and landscaping. Two of the underground water rights, the Bighorn Park Diversion No. 1 and the Bighorn Park Diversion No. 2, along with the storage right, the Bighorn Park Pond No. 1, were decreed as conditional. These

conditional water rights are part of an integrated water supply system for the full development of Bighorn RV Park. Applicant's predecessor located and staked the point of diversion for Bighorn Park Diversion No. 1. Furthermore, Applicant's predecessor surveyed and staked out the pipeline to carry water from Bighorn Park Diversion No. 1 to Bighorn Park Pond No. 1. In relation to Bighorn Park Diversion No. 2, Applicant's predecessor made inquiries with the U.S. Corp of Engineers regarding necessary permits needed to use this water right on the north side of the Arkansas River. Lastly, in regards to Bighorn Park Pond No. 1, Applicant's predecessor staked the perimeter of the pond. During this diligence period, Applicant, in connection with the development of Bighorn RV Park, as part of the integrated system, has spent considerable time and money repairing and upgrading the park. Applicant has remodeled cabins and rooms, installed new landscaping and replaced the roof on the motel. Applicant has also installed and replaced road base within the park and installed new water heaters. Applicant has expended considerable amounts of money on advertising Bighorn RV Park. Therefore, during this diligence period Applicant has devoted substantial time towards the development of Bighorn RV Park, which includes the development of the conditional water rights as part of the integrated system. During this diligence period Applicant has spent the following amounts on the development of Bighorn RV Park and Bighorn Park Diversion No. 1, Bighorn Park Diversion No. 2, Bighorn Park Pond No. 1, as part of the integrated system: \$21,000.00 on remodeling cabins and rooms; \$9,250.00 on roofing the motel and bathhouse; \$2,300.00 on painting interior and exterior bullings in the park; \$5,700.00 on landscaping within the park; \$635.00 for new hot water heaters; \$6,400.00 to start up Camp Store and Gift Shop products; and, \$19,000.00 on advertising. Thus, during this diligence period, Applicant has spent over \$64,000.00 on the integrated system and development of the Applicant's property of which Bighorn Park Diversion No. 1, Bighorn Park Diversion No. 2, Bighorn Park Pond No. 1 are a part. During this diligence period Applicant has, therefore, devoted substantial efforts toward the development of the Bighorn RV Park and the integrated system, for the further application of water from Bighorn Park Diversion No. 1, Bighorn Park Diversion No. 2, and Bighorn Park Pond No. 1 to beneficial use. **Claim to Make Absolute:** No part of the conditional water rights decreed in Case No. 00CW151 are claimed to be made absolute at this time. **Name and address of the owners of land on which structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** The owner of the property upon which the point of diversion for Bighorn Park Diversion No. 2 is the Colorado Department of Transportation, whose address is Administrative Office, 4201 East Arkansas Avenue, Denver, CO 80222. The remaining structures are located on the Applicant's property.

CASE NO. 2014CW3051; Previous Case Nos. W-3205, 1979CW34, 1983CW23(W-3205), 1987CW18(W-3205), 1995CW134(W-3205), 2001CW126(W-3205), 2008CW54(W-3205) - OCHS BROTHERS, LLP. P.O. Box 603 Colorado Springs, CO

80903 (Please address all pleadings and correspondence to Applicant's Attorneys: FELT, MONSON & CULICHIA, LLC, Steven T. Monson, #11329, Ryan W. Farr, #39394, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212)

Application for Finding of Reasonable Diligence

EL PASO COUNTY

Name of Structure: Ochs Brothers Well. **Description of Conditional Water Right:**

Date of Original Decree: The original decree was entered on April 11, 1975 in Case No.

W-3205, District Court, Water Division No. 2. **Previous Diligence Findings:** There have been previous findings of diligence with the last having occurred on October 9, 2008 in

Case No. 08CW54, District Court, Water Division 2. **Decreed Location:** In the NW ¼ , NW ¼ of Section 8, Township 16 South, Range 65 West of the 6th P.M., in El Paso

County, Colorado, being at a point from whence the NW corner of said Section 8 bears N 55° 06' 18" W 1,324.92 feet. On May 19, 1989 this Court entered its judgment and

decree in Case No. 88CW67 granting a change of water right to correct the legal description for the point of diversion for the Ochs Brothers Well to this location. **Source:**

Alluvium of Jimmy Camp Creek, tributary to Fountain Creek, tributary to the Arkansas River. **Appropriation Date:** June 30, 1972. **Amount:** 1.222 cfs (550 gpm). **Uses:** This

well is conditional decreed for domestic, municipal, and industrial use. **Ownership:** Ochs Brothers, LLP is the owner of the property where all water rights are to be used.

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:

The Ochs Brothers Well is part of an integrated domestic and municipal water supply system together with the Ochs Brothers Wells 1 through 5, as originally decreed in Case No. W-1314, with diligence last maintained on

these additional water rights in Case No. 09CW63. The Ochs Brothers Well along with the Ochs Brothers Wells 1 through 5 are currently in a position to be taken over to

complete development of the wells into a condition to be utilized by the specific demands of a purchasing or other receiving entity. Previous diligence work on the wells

has involved conducting an engineering review on all of the Ochs Brothers Wells and the neighboring wells as part of the hydrology of the Fountain Aquifer system, including

reliability of the physical production of the wells and their value and significance to the municipal water supply system of the area. At other diligence times portions of this

integrated well system have been connected through a common pipeline, and easements continue in place for this pipeline, the wells, and a water treatment site that

was also previously acquired. The integrated ground water system at this point has been completed to the extent practical until incorporated into a municipal water supply

system, as the redrilling of the wells, the installation of additional pipelines, and implementation of water quality treatment will depend on the demands of the final user.

Current economic and development conditions are such that the municipal water needs that could be addressed by the Ochs Brothers Wells remain in the process of

development thereby dictating when the water rights will be put into service and be able to be made absolute. Recently, the City of Fountain has been approached for the

prospect of receiving a charitable donation the Ochs Brothers Well along with the Ochs Brothers Wells 1 through 5 to add additional municipal supply to their system. The City of Fountain has expressed interest in receiving such a donation and Applicant is pursuing this course of action. Applicant has also paid a total of \$2,968.93 in Colorado Water Protective Development Association membership dues for all six wells since 2010. **Additional Remarks:** The Ochs Brothers Well has an absolute decree for irrigation uses as originally decreed in Case No. W-3205. No part of the conditional decreed uses are requested to be made absolute in this Application.

CASE NO. 2014CW3052 (Water Division 2) and CASE NO. 2014CW3145 (Water Division 1) - MICHAEL GEHRING AND LYNDA GEHRING, 15010 Basin Drive, Colorado Springs, CO 80908 (Please address all pleadings and correspondence to: Henry D. Worley, Worley Law Firm LLC, Attorney for Applicants, 611 North Weber, Suite 104, Colorado Springs, CO 80903; (719) 634-8330.

Application for Underground (Denver Basin) Water Rights and for Approval of Plan for Augmentation

EL PASO COUNTY.

Applicants own 35.18 acres of land located mostly in the SW1/4 NE1/4 Section 32, T. 11 S., R. 65 W., 6th P.M. in El Paso County (the "Property"). A map showing the Property's approximate boundaries is attached as Figure 1. The legal description of the Property 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.)

2. Names of wells and permit, registration, or denial numbers permit no. 202466. This structure is currently permitted as an exempt well in the Dawson aquifer. A copy of that well permit is attached to the Application as Exhibit B. **3. Legal description of wells:** Permit no. 202466 is located in the SW1/4 NE1/4 Section 32, T. 11 S., R. 65 W., 6th P.M., 2000 feet from the north section line and 2000 feet from the east section line. Applicants hereby waive the 600 foot spacing rule in regard to all Dawson aquifer wells constructed on the Property. **4. Source:** Not nontributary Dawson aquifer. **5.A. Date of appropriation:** Not applicable. **5.B. How appropriation was initiated:** Not applicable. **5.C. Date water applied to beneficial use:** Not applicable. **6. Amounts claimed:** Not nontributary Dawson aquifer: 3,730 acre feet, absolute. Nontributary Denver aquifer: 2,680 acre feet, absolute. Nontributary Arapahoe aquifer: 1,480 acre feet, absolute. Nontributary Laramie-Fox Hills aquifer: 1,000 acre feet, absolute. These amounts may be adjusted upward or downward to correspond to the State Engineer's Determinations of Facts. **7. Proposed use:** all beneficial uses, including augmentation, except municipal. **8. Names and addresses of owners of land on which well is located:** Same as Applicants. **9. Remarks:** **A.** There is one lien against the Property. Applicants are giving notice of the application to the lienor pursuant to C.R.S. 37-92-302(2)(b). A copy of the letter is attached to the Application as Exhibit C. **B.** After entry of the decree adjudicating the water rights and approving the plan for augmentation described below, Applicants will apply for a new well permit for the existing well, the terms of which shall be consistent with the plan for augmentation and with applicable statutes and regulations. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** **10. Name of structures to be augmented:** Existing Dawson aquifer well 202466. No other water rights are or will be

diverted from this well. **11. Previous decrees for water rights to be used for augmentation:** not applicable. **12. Historic use:** Not applicable. **13. Statement of plan for augmentation:**

A. Water Demand. Applicants seek to pump 2.89 acre feet annually from their Dawson aquifer well for some or all of the following purposes: for indoor uses for drinking and sanitary purposes in a single family dwelling, for livestock watering, including commercial livestock, for landscape, garden and pasture irrigation, for commercial use including but not limited to a dog boarding facility, home office use, for a detached office or cottage, for a hot tub or swimming pools, fire suppression and for augmentation of depletions pursuant to the augmentation plan applied for herein.

B. Water Consumption and Return Flows. Annual indoor water usage for a single family dwelling is assumed by the State Engineer to be at least 0.2 acre foot. It is generally accepted that no more than ten percent of water used indoors in residences using non-evaporative septic systems and leach fields for wastewater disposal is consumed, with 90 percent (0.18 acre foot per home, annually) returning to the stream system. Although there will be some return flows from other uses, Applicants will rely only on return flows from septic systems and leach fields for replacement of depletions during a proposed 100 year pumping period.

C. Allowable Annual Pumping and Replacement of Stream Depletions During Pumping. Based on computer modeling, stream depletions will occur to tributaries of the South Platte and Arkansas Rivers. Applicants propose to aggregate and replace all stream depletions to East Cherry Creek, a tributary of Cherry Creek and the South Platte River. Computer modeling indicates that during pumping total stream depletions will gradually increase to a maximum of 6.227 percent of annual pumping in the 100th year. Based on that, Applicants will pump up to 2.89 acre foot annually for 100 years. This amount may be adjusted in the decree, to conform to the Division Engineer's Consultation Report regarding depletions as a percentage of pumping over the proposed 100 year pumping period.

D. Replacement of Stream Depletions After Cessation of Pumping. Applicants agree to replace depletions for the shortest of the following periods: the period provided by the Colorado Legislature, should it eventually specify one and if the Applicants obtain water court approval for such modification, the period determined by the State Engineer, should the State Engineer lawfully establish such a period; the period established through rulings of the Colorado Supreme Court in relevant cases; or until Applicants or their successors petition the water court and after notice to parties in the case prove that they have complied with all statutory requirements. Applicants will reserve approximately 285 acre feet from the Denver aquifer underlying the Property for the replacement of post-pumping depletions, unless and until such time as any of the above conditions occurs which terminates the obligation to replace post-pumping depletions, or unless Applicants obtain judicial approval of another source of replacement water for post-pumping depletions. Applicants shall make post-pumping replacements annually as required to replace modeled stream depletions.

E. Miscellaneous. (1) After entry of this decree, Applicants shall apply for a new well permit for existing permit 202466 on terms consistent with the decree in this case and with applicable regulations and statutes. (2) Applicants will include in the decree provisions which (a) limit annual pumping from the proposed Dawson aquifer well to 2.89 acre feet annually and total pumping to 289 acre feet; (b) require the use of a non-evaporative septic system for wastewater treatment; (c) reserve adequate nontributary

water for replacement of post-pumping depletions, which reservation may be voided upon the occurrence of any of the events specified above eliminating the need for such reservation; (d) inform future owners that utilization of water for indoor residential purposes is required in order to generate the necessary return flows for augmentation; and (e) indicate that the owners will be required to construct a well or wells into the Denver aquifer underlying the Property for replacement of post-pumping depletions if the source of augmentation water is unchanged. Provisions otherwise limiting the uses to which water may be used on the Property are unnecessary because the annual pumping limitations, and the requirement that non-evaporative septic systems be used, ensure that annual septic system return flows alone will equal or exceed annual depletions throughout the 100 year pumping period. **(3)** This application is being filed in both Water Divisions 1 and 2 because stream depletions will occur in both the South Platte and Arkansas drainages. After the time for filing statements of opposition has expired, Applicants will seek to consolidate the two applications in Water Division 1. **(4)** It is not uncommon in applications such as this for values for amounts of water available for appropriation, amounts which may be pumped annually pursuant to the plan for augmentation, depletion factors, and amounts required to replace post-pumping depletions to vary somewhat from the values determined by the Division of Water Resources. Applicants hereby give notice that they reserve the right to amend the figures set forth herein as necessary to conform to the State's figures regarding such issues.

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 2015, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 5th day of December, 2014.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8832

(Court seal)

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