

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING NOVEMBER 2015

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during November 2015, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2015CW19 – ELIN PARKER GANSCHOW, 300 CR 125, Westcliffe, CO 81252; (719) 783-2222

Application for Simple Change in Surface Points of Diversion Pursuant to § 37-92-305(3.5), C.R.S. and Application for Correction for Established but Erroneously Described Points of Diversion Pursuant to § 37-92-305(3.6), C.R.S.

CUSTER COUNTY

APPLICATION FOR SIMPLE CHANGE IN SURFACE POINTS OF DIVERSION.

Decreed water right for which change is sought: Name of Structures: Side Hill; Fork; Bertram; John Erps #3; John Erps #5; Breshire; Ulrich Custer #3; Pasture; John Erps #6; John Erps #1. **Date of original and all relevant subsequent decrees:** 3/12/1896; **Court:** Custer County District Court. **Legal description of structure as described in most recent decree that adjudicated the location:** Side Hill: In the NE4 of the NW4 of section 21 on the west side of the creek at the point whence the NW corner of the NE4 of the NW4 of section 21 bears north 28 degrees 5 feet west 667 feet. Fork: In the NE4 of the NW4 of section 21 on the NW side of Grape Creek at the point whence the NW corner of the NE4 of the NW4 of section 21 bears N28 degrees 5 feet west. Bertram: In the NE quarter of the NW quarter of section 21 on the W side of the creek at a point where the NW corner of the NE quarter of the NW quarter of section 21 bears North 39 degrees 50 minutes West. John Erps #3: In the SE4 SW4 section 16 on the west side of the east channel of the creek at the point whence the NE corner of the SE quarter of section 16 bears north 36 degrees 30 minutes east 1075 feet. John Erps #5: In the NE4 SW4 section 16 on the east side of the east channel of the creek at a point whence the SE corner of the NE4 of section 16 bears north 85 degrees east 700 feet. Breshire: SE4 of the NW4 of section 28 on the NW side of creek at point whence NE quarter corner of section 28 bears North 2 degrees 15 minutes West 336 feet. Ulrich Custer #3: In the SW quarter of the SW quarter of section 21 on the NW side of the creek at a point where the SW corner of section 21 bears 59 degrees West 1093 feet. Pasture: In the SE4 of the SW4 of section 21 on the NW side of Grape creek at the point whence the NW corner of the SE4 of the SW4 bears north 50 degrees 20 feet west 152 feet. John Erps #6: In the SE4 NW4 section 16 on the east side of the east channel of the creek at the point whence the center of section 16 bears north 84 degrees east 750 feet. John Erps #1: Its head is located on the west side of west channel of creek at point whence the SE corner of the NW4 of the SW4 of section 16 bears E 365'. **Decreed source of water:** Side Hill, Fork, Bertram, John Erps #3, John

Erps #5, Breshire, Pasture, John Erps #6: Grape Creek. Ulrich Custer #3: Middle Grape Creek. John Erps #1: West Grape Creek. **Appropriation Date**: Side Hill: 5/25/1885; Fork: 6/2/1881; Bertram: 6/8/1881; John Erps #3: 6/3/1884; John Erps #5: 6/5/1884; Breshire: 6/13/1883; Ulrich Custer #3: 4/26/1882; Pasture: 5/14/1881; John Erps #6: 6/6/1884; John Erps #1: 5/20/1883. **Total amount decreed to structure in cfs**: Side Hill: 0.71 cfs absolute; Fork: 0.6 cfs absolute; Bertram: 0.91 cfs absolute; John Erps #3: 1.06 cfs absolute; John Erps #5: 0.4 cfs absolute; Breshire: 1.83 cfs absolute; Ulrich Custer #3: 0.5 cfs absolute; Pasture: 1.22 cfs absolute; John Erps #6: 0.4 cfs absolute; John Erps #1: 0.6 cfs absolute. **Decreed use or uses**: Side Hill: To irrigate 10 acres in the N2 of the NW4 of section 21. Fork: To irrigate 5 acres in the NE4 of the NW4 of section 21; Bertram: To irrigate 10 acres in the SE quarter of the SW quarter of section 16 and 5 acres in the NE quarter of the NW quarter of section 21; John Erps #3: To irrigate 20 acres in the N2 of the SW4 of section 16; John Erps #5: To irrigate 40 acres in the NE4 of the SW4; SE4 of the NW4 of section 16; Breshire: To irrigate 30 acres in the NE4 of the NW4 of section 28 and SE4 of the SW4 of section 21; Ulrich Custer #3: To irrigate 10 acres in North half of the SW quarter section 21; Pasture: To irrigate 8 acres in the E2 of the SW4 of section 21; John Erps #6: To irrigate 4 acres in the SE4 of the NW4 of section 16. John Erps #1: Irrigate 20 acres in the NW4 of the SW4 of section 16. **Amount of water that applicant intends to change**: Side Hill: 0.71 cfs absolute; Fork: 0.6 cfs absolute; Bertram: 0.91 cfs absolute; John Erps #3: 1.06 cfs absolute; John Erps #5: 0.4 cfs absolute; Breshire: 1.83 cfs absolute; Ulrich Custer #3: 0.5 cfs absolute; Pasture: 1.22 cfs absolute; John Erps #6: 0.4 cfs absolute; John Erps #1: 0.6 cfs absolute. **Detailed description of proposed change in a surface point of diversion**: There are no intervening water rights involved. The water for the Side Hill, Fork and Bertram will be diverted via an existing structure for the Beaver ditch and be measured via an existing weir. The water for the John Erps #3 will be diverted via an existing structure for this ditch and be measured via an existing weir. Water for the John Erps #5 will be diverted via an existing structure for this right and be measured via an existing weir. Water for the Breshire will be diverted via an existing structure in use for this ditch and be measured via an existing weir. Water for the Ulrich Custer #3 will be diverted via an existing structure for the Ulrich Custer #2 ditch and be measured via an existing weir. Water for the Pasture ditch will be diverted via an existing structure for the Harbor ditch and be measured via an existing weir. Water for the John Erps #6 will be diverted via an existing structure for John Erps #4 and be measured via an existing weir. Water for the John Erps #1 will be diverted via an existing structure for John Erps #2 and be measured via an existing weir. **Location of the new surface point of diversion**: Side Hill, Fork and Bertram: UTM coordinates (Zone 13, NAD83): Northing 4200623; Easting 460258; PLSS Description: SE ¼ of the NW ¼ Section 21, Township 24 South, Range 72 West, 6th P.M., Custer County. John Erps #3: UTM coordinates (Zone 13, NAD83): Northing 4201017; Easting 460308; PLSS Description: NE ¼ of the NW ¼ Section 21, Township 24 South, Range 72 West, 6th P.M., Custer County, 190 feet from the south line and 1812 feet from the east line. John Erps #5: UTM coordinates (Zone 13, NAD83): Northing 4201156; Easting 460351; PLSS Description: SE ¼ of the SW ¼ Section 16, Township 24 South, Range 72 West, 6th P.M., Custer County, 277 feet from the north line and 1946 feet from the east line. Breshire: UTM coordinates (Zone 13,

NAD83): Northing 4198904; Easting 460454; PLSS Description: SE ¼ of the NW ¼ Section 28, Township 24 South, Range 72 West, 6th P.M., Custer County, 1820 feet from the south line and 2852 feet from the east line. Ulrich Custer #3: UTM coordinates (Zone 13, NAD83): Northing 4199647.2; Easting 459984.1; PLSS Description: SW ¼ of the SW ¼ Section 21, Township 24 South, Range 72 West, 6th P.M., Custer County. Pasture: UTM coordinates (Zone 13, NAD83): Northing 4199814.14; Easting 460081.25; PLSS Description: SW ¼ of the SW ¼ Section 21, Township 24 South, Range 72 West, 6th P.M., Custer County. John Erps #6: UTM coordinates (Zone 13, NAD83): Northing 4201453.47; Easting 460422.4; PLSS Description: SE ¼ of the SW ¼ Section 16, Township 24 South, Range 72 West, 6th P.M., Custer County. John Erps #1: UTM coordinates (Zone 13, NAD83): Northing 4201299.72; Easting 459895.75; PLSS Description: SW ¼ of the SW ¼ Section 16, Township 24 South, Range 72 West, 6th P.M., Custer County. Source of UTMs: Garmin GPS & ArcGIS; Accuracy of location displayed on GPS device: 20 feet. Source of PLSS information: Original Decree. **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**: Side Hill and Fork: George Posavad, P. O. Box 1666, Westcliffe, CO 81252; Bertram: George Posavad, P. O. Box 1666, Westcliffe, CO 81252 and Music Meadows, LLC, 6076 CR 119, Westcliffe, CO 81252. John Erps #3, John Erps #5, Breshire, Ulrich Custer #3, Pasture, John Erps #6 and John Erps #1: Music Meadows, LLC, 6076 CR 119, Westcliffe, CO 81252. **APPLICATION FOR CORRECTION FOR ESTABLISHED BUT ERRONEOUSLY DESCRIBED POINTS OF DIVERSION. Decreed water right for which correction is sought: Names of Structures: Ulrich Custer #1; John Erps #2. Date of original and all relevant subsequent decrees: 3/12/1896; Court: Custer County District Court. Legal description of structure as described in most recent decree that adjudicated the location: Ulrich Custer #1: Its head is located in the NW quarter of the NW quarter of section 28, on the NE side of the creek at a point where the NW corner of section 28 bears North 45 degrees 20 minutes West 420 feet. John Erps #2: Its head is located on the North side of the creek at a point whence the SW corner of the NW quarter of section 16 bears North 32 degrees West 800 feet. Decreed source of water: Ulrich Custer #1: Middle Grape Creek; John Erps #2: North Grape Creek. Appropriation Date: Ulrich Custer #1: 6/5/1882; John Erps #2: 5/25/1883. Total amount decreed to structure in cfs: Ulrich Custer #1: 0.91 cfs absolute; John Erps #2: 0.6 cfs absolute. Decreed use or uses: Ulrich Custer #1: To irrigate 18 acres in the East half of the SE quarter of section 20 and the SW quarter of section 21; John Erps #2: To irrigate 10 acres in the NW quarter of the NW quarter of section 16. Amount of water Applicant intends to change: Ulrich Custer #1: 0.91 cfs absolute; John Erps #2: 0.6 cfs absolute. Detailed description of proposed correction to an established but erroneously described point of diversion: Ulrich Custer #1 was erroneously described and since the date of appropriation, the POD and active structure has shifted to the south-west and into a different PLSS description. John Erps #2 was erroneously described since the date of appropriation, the streambed has altered its course. The current POD and active structure has shifted to the south and into a different PLSS**

description. **The legal description of the corrected point of diversion:** Ulrich Custer #1: UTM coordinates (Zone 13, NAD83): Northing 4199334; Easting 459594; PLSS Description: NE ¼ of the NE ¼ Section 29, Township 24 South, Range 72 West, 6th P.M. **John Erps #2:** Northing 4201036; Easting 459829; PLSS Description: NW ¼ NW ¼ Section 21, Township 24 South, Range 72 West, 6th P.M. **Source of UTM:** Garmin GPS & ArcGIS; **Accuracy of location displayed on GPS device:** 20 feet. **Source of PLSS information:** ArcGIS & Google Earth. **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:** Music Meadows, LLC, 6076 CR 119, Westcliffe, CO 81252.

CASE NO. 2015CW20 – JIM McCARTY and LINDA McCARTY, P. O. Box 37, Rye, CO 81069; (719) 250-4632

Application for Absolute Water Storage Right and Application for Surface Water Right
CUSTER COUNTY

APPLICATION FOR ABSOLUTE WATER STORAGE RIGHT. Name of Reservoir: Four Sisters. **Legal description of location of dam centerline:** PLSS Description: Custer County, SW ¼ of the NE ¼ Section 9, Township 24 South, Range 70 West, 6th P.M., 1500 feet from the north line and 1475 feet from the east line. **Subdivision:** Aspen Mountain Ranch, Lot 321A. **Source:** Multiple springs/Sheep Creek/tributary to Grape Creek/Arkansas River. **Date of appropriation:** January 1, 1960; **How appropriation was initiated:** Built dam for water storage; **Date water applied to beneficial use:** January 1, 1960. **Amount claimed:** 4 acre feet, absolute. **Use:** Livestock, wildlife, fire protection. **Surface area of high water line:** 40000 square feet. **Vertical height of dam in feet:** 6 feet; **Length of dam in feet:** 80 feet. **Total capacity of reservoir in acre feet:** 4 acre feet; **Active capacity:** 4 acre feet; **Dead storage:** 0. **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. **Remarks or any other pertinent information:** This dam was originally constructed in the early 1960s. It has eroded away through the center of the dam, and we have since repaired the breach and installed a bypass. **APPLICATION FOR SURFACE WATER RIGHT. Name of structure:** Four Sister Springs. **Legal description of each point of diversion:** Custer County, SW ¼ of the NE ¼ Section 9, Township 24 South, Range 70 West, 6th P.M., 1500 feet from the north line and 1475 feet from the east line. **Subdivision:** Aspen Mountain Ranch, Lot 321A. **Source:** Sheep Creek/Arkansas River. **Date of initiation of appropriation:** January 1, 1960; **How appropriation was initiated:** Excavated with backhoe; **Date water applied to beneficial use:** January 1, 1960. **Amount claimed:** .033 cfs Absolute. **Use:** Stock water, wildlife, fire protection. **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. **Remarks:** There are several springs from 10 to 25 feet apart.

CASE NO. 2015CW21 – EDWARD R. and LaGURNA K. WILSON TRUST, Nikki Baumgart, Successor Trustee, 3019 Oro Blanco Drive, Colorado Springs, CO 80917

Application for Change of Water Right

CHAFFEE COUNTY

Decreed water right for which change is sought: Absolute surface water right.

Name of structure: Natural Springs. **Date of original and all relevant subsequent decrees** February 28, 1975; **Case No.:** W-3830; **Court:** District Court Water Division

2. Legal description of structure as described in most recent decree that adjudicated the location: Concrete reservoir filled by spring on Blk 25 piped to cabin on Blk 20. NE ¼ NW ¼ of Section 34, T50N, R6E, NMPM, in Chaffee County, Colorado – BLOCK 25, TOWN OF GARFIELD (Junction City) Chaffee County, Colorado.

Decreed source of water: Natural spring tributary to South Arkansas, a tributary to Arkansas River. **Appropriation Date:** Dec. 31, 1908. **Total amount decreed to structure:** 0.0067 c.f.s. or 3 g.p.m. **Decreed use:** Serves cabins located on BLK 20

Lots 11-30; Amount of water that Applicant intends to change: 0.0067 c.f.s. or 3 g.p.m. **Detailed description of proposed change:** 1. Change location of use of Natural Springs back to Block 25 where the water originates; 2. Block 25 is owned by Edward R. and LaGurna K. Wilson Trust. The adjudicated absolute surface water right is to Edward and LaGurna Wilson; 3. BLOCK 20 Lots 11-30 with 2 cabins has been sold and no water was included in the transfer of Lots 11-30. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2015CW3056 – THOMAS H. SMITH, 1701 East 147th Street, Kansas City, MO 64146 (Please send all pleadings to Applicant's attorney: John R. Hill, Jr., Law of the Rockies, 525 North Main Street, Gunnison, CO 81230; (970) 641-1903)

Application for Absolute Water Right Storage Rights

CHAFFEE COUNTY

First Claim, application for absolute water storage right. SMITH UPPER POND, UTM Zone 13 Easting 397645, Northing 4269120 NAD 83. **Source:** Weldon Gulch a tributary of the South Arkansas River. **Appropriation initiated** by construction of reservoir on Weldon Gulch and impoundment of water for fire protection by June 27, 2002. **Amount claimed** is 0.54 acre-feet absolute for fire protection with the right to maintain full. **Active capacity** 0.54 acre-feet. **The surface area** when full is 0.18 acres. **Surface area at high water line:** 0.18 acres. **Vertical height of embankment** is less than 10 feet. **Length of embankment** is 110 feet. **Total capacity of reservoir** 0.54 acre feet all of which is live storage. **Second claim, application for water storage right SMITH LOWER POND** UTM Zone 13 Easting 398266, Northing 4268409 NAD 83. **Source:** Weldon Gulch, a tributary of the South Arkansas River (see remarks below). **Appropriation initiated** by construction of reservoir on Weldon

Gulch and impoundment of water for fire protection by June 27, 2002. **Amount claimed** is 1.36 acre-feet absolute for fire protection with the right to maintain full. **Active capacity** 1.36 acre-feet. **The surface area** when full is 0.45 acres. **Surface area at high water line:** 0.45 acres. **Vertical height of embankment** is less than 10 feet. **Length of embankment** is 140 feet. **Total capacity of reservoir** 1.36 acre feet all of which is live storage. **Remarks.** While Weldon Gulch is located within the drainage basin of the South Arkansas River, it does not reach the South Arkansas River as a live stream. The water levels in the two ponds will be limited to their historical, 2002 levels by vertical pipe outlets with their top elevations set at the 2002 water levels so as to prevent water impoundments above the 2002 water levels in compliance with that certain Letter of Understanding between Applicant and Bernard A. Post and Linda L. Arnett dated July 15, 2002 and recorded in the records of the Chafee County Clerk and Recorder on July 23, 2002 at Reception No. 327660. That agreement effectively subordinates Post's and Arnett's water rights to the operation of both Smith Ponds. The ponds for which absolute rights are claimed in this application were constructed and filled in 2002, used for fire protection and subsequently breached. The ponds are being restored to their condition before breach. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new or existing 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. See above for address.

CASE NO. 2015CW3057. The filing submitted under this case number was rejected. It is listed in the resume to account for the case number in consecutive order.

CASE NO. 2015CW3058 – ELITE ENTERPRISES, LTD., P. O. Box 511, Rocky Ford, CO 81067 (Please address all pleadings to Applicant's attorneys: Petrock & Fendel, P.C., Matthew S. Poznanovic, 700 Seventeenth Street, Suite 1800, Denver, CO 80202; (303) 534-0702)

Application for Approval of Plan for Augmentation

EL PASO COUNTY

2. Description of plan for augmentation: A. Groundwater to be augmented: 2.73 acre-feet per year over a 300 year period of not nontributary Dawson aquifer groundwater decreed in Case No. 04CW042, District Court, Water Division 2. The overlying land which is the subject of the Case No. 04CW042 Decree is 28.7 acres located in the SW1/4 of Section 34, T11S, R66W of the 6th P.M., El Paso County, as shown on Attachment A to the Application (Subject Property). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant is the owner of the Subject Property and the groundwater decreed in Case No. 04CW042. **B. Water rights to be used for augmentation:** Return flows from the use of not nontributary Dawson aquifer groundwater and return flows or direct discharge of 8.2 acre-feet per year of nontributary Laramie-Fox Hills aquifer groundwater as also decreed in Case No. 04CW042. **C. Statement of plan for augmentation:** Applicant will withdraw the not nontributary Dawson aquifer groundwater described above under the plan of augmentation requested herein pursuant to Section 37-90-137(9)(c), C.R.S. 0.9 acre-feet per year for 300 years of

Dawson aquifer groundwater will be withdrawn through an individual well for inhouse use in one residence (0.35 acre-feet), irrigation of 6000 square-feet of irrigated area (0.35 acre-feet), stockwatering of up to 4 large domestic animals (0.05 acre-feet), and fire protection and storage (0.15 acre-feet). The remaining 1.83 acre-feet per year for 300 years will be withdrawn through individual wells used to serve 3 residences, and each well will withdraw Dawson aquifer groundwater for inhouse use in one residence (0.35 acre-feet), irrigation of 3600 square-feet of irrigated area (0.21 acre-feet), and stockwatering of up to 4 large domestic animals (0.05 acre-feet). Applicant reserves the right to amend these values without amending the application or republishing the same. Sewage treatment for in house use will be provided by non-evaporative septic systems. Return flows associated with inhouse and irrigation use will be approximately 90% and 15%, respectively. Water used for fire protection and storage is fully consumed. **D. During pumping** Applicant will replace actual depletions to the affected stream systems pursuant to Section 37-90-137(9)(c), C.R.S. Based on the location of the Subject Property, return flows from use of the water on the Subject Property return to the Arkansas River stream system and such return flows are sufficient to replace the total annual actual depletion. Applicant will reserve 8.2 acre-feet per year of the nontributary Laramie-Fox Hills aquifer groundwater decreed in Case No. 04CW042 to meet post pumping augmentation requirements. WHEREFORE, Applicant prays that this Court enter a Decree granting the application herein and specifically determining that vested and conditionally decreed water rights of others will not be materially injured by the plan for augmentation requested herein and for such other and further relief as may be warranted.

CASE NO. 2015CW3059; Previous Case No. 2006CW116 – CLIFFORD and MARIE PRIDEMORE, P. O. Box 246, Coaldale, CO 81222 (Please address all pleadings to Applicants' attorney: David A. Thompson, Thompson Law, LLC, P. O. Box 66, Salida, CO 81201; (720) 232-3920)

Application for Finding of Reasonable Diligence

FREMONT COUNTY

Name of structure: Pridemore Spring. **Describe conditional water right:** **Date of Original Decree:** 11/16/2009; **Case No.:** 06CW116; **Court:** District Court, Water Division 2. **Legal description:** NW ¼ SE ¼ Section 3, Township 47 North, Range 11 East, NMPM, Fremont County, Colorado, 2990 feet from the North line and 1950 feet from the East line of Section 3. **Source of Water:** Spring tributary to Big Cottonwood Creek, a tributary of the Arkansas River. **Appropriation Date:** June 1, 2006; **Amount:** .03 cfs. **Use:** Irrigation. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:** The Applicants constructed an infiltration structure used to capture the natural spring flow. The infiltration structure includes 10 tons of gravel used to filter the spring's flow to a perforated pipe. Water is then pumped through a meter before it's used for irrigation. The Applicants expended time, effort and money to develop the conditional right including \$250 for the gravel, at least six hours' use of a backhoe and \$107.61 on the meter (see exhibit 3 attached to the Application). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) In addition, the Applicants prepared the surface of

the irrigated land for agricultural and livestock purposes. Since the application was filed in 2006, the Applicants grazed six to nine head of livestock for winter grazing seasons on the irrigated land. The Applicants planted alfalfa, corn, oats and/or hay on the irrigated land consistently since applying for the appropriation. The latest step taken is the installation of a meter as required by the Ruling of the Referee.

CASE NO. 2015CW3060 – HORN CREEK CONFERENCE GROUNDS ASSOCIATION (“Horn Creek”), c/o Doug McClain, 6758 County Road 130, Westcliffe, CO 81252 and SANGRE DE CRISTO SCHOOL FOR BIBLICAL STUDIES, d/b/a SANGRE DE CRISTO SEMINARY (the “Seminary”), c/o Andrew S. Zeller, 6160 County Road 130, Westcliffe, CO 81252 (Direct all pleadings to: Michael F. Browning, Porzak Browning & Bushong LLP, Attorney for Applicants, 2120 13th Street, Boulder, Colorado 80302; (303) 443-6800)

Application to Correct Decreed Location of Wells

CUSTER COUNTY, COLORADO

2. Name of structures: Mountain Meadow Well, Seminary Well, Seminary Director's Well, Horn Creek Boys Ranch Well, Horn Creek Girls Ranch Well, Horn Creek Recreation Center Well, and Horn Creek Lodge Well. **3. Description of conditional water rights** (a map depicting the location of the structures 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): **(a) Mountain Meadows Well (SEO ID 1305062; Well Permit No. 053571-F)**. (i) Decree: Decreed by the Water Court in Case No. 04CW60 on November 12, 2009. (ii) Decreed location: In the SE1/4 NE1/4 of Section 15, T.23S., R73 W. of the 6th P.M., Custer County, Colorado, at a point approximately 1850 feet from the North line and 450 feet from the East line of said Section 15. The currently decreed GPS coordinates are: UTM Zone 13S, Easting 453804 Northing 4211805. (iii) Source: Tributary ground water. (iv) Depth: 86 feet. (v) Appropriation date: November 8, 1973. (vi) Amount: 20 gpm absolute. Per the decree entered in Case No. 04CW60, the annual allowed volumetric limit of this well and wells having SEO ID Numbers 1305063, 1305064, 1305065 and 1305066 was limited to the annual pumping volumetric limit specified in their permits. That decree stated that the then current annual volumetric limit for the five wells was 20 acre feet per year, and that the total annual volumetric limit for the five wells is limited to the lesser of 30 acre feet or the maximum amount under the well permits in any single calendar year (the "04CW60 Pumping Limits"). (vii) Use: Absolute: Domestic, recreation, and irrigation. Conditional: commercial, stock watering, and augmentation. **(b) Seminary Well (SEO ID 1305061; Well Permit No. 053570-F)** (i) Decree: Decreed by the Water Court in Case No. 04CW60 on November 12, 2009. (ii) Decreed location: In the NE1/4 NE1/4 of Section 15, T.23S., R73 W. of the 6th P.M., Custer County, Colorado, at a point approximately 4030 feet from the South line and 4430 feet from the West line of said Section 15. The currently decreed GPS coordinates are: UTM Zone 13S, Easting 453688 Northing 4211979. (iii) Source: Tributary ground water. (iv) Depth: 86 feet. (v) Appropriation date: August 15, 1974. (vi) Amount: 8 gpm absolute. The combined total volume of water pumped by this well and the Seminary Director's Well may not exceed three acre feet in any single calendar year, of which 1.97 is absolute and 1.03 is conditional. (vii) Use: Domestic and institutional water needs for a family cabin, two guest cabins, a chapel, a

library, a classroom, and a guest lodge. **(c) Seminary Director's Well (SEO ID 1305060; Well Permit No. 053569-F)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 5 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to include stock watering and irrigation as additional absolute uses and commercial, augmentation and recreation as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453851 Northing 4212066. (iii) Source: Tributary ground water. (iv) Depth: 115 feet. (v) Appropriation date: September 21, 1956 for the originally decreed domestic purpose. August 1, 2004 for the conditional use added by the decree in Case No. 04CW60. (vi) Amount: 0.033 cfs (15 gpm). The combined total volume of water pumped by this well and the Seminary Well may not exceed three acre feet in any single calendar year, of which 1.97 is absolute and 1.03 is conditional. (vii) Use: Absolute--Domestic, stock watering and irrigation. Conditional--commercial, recreation and augmentation. **(d) Horn Creek Boys Ranch Well (SEO ID 1305063; Well Permit No. 053575-F)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 2 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to add irrigation, commercial, augmentation, recreation, and stock watering as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453406 Northing 4211721. (iii) Source: Tributary ground water. (iv) Depth: 100 feet. (v) Appropriation date: September 30, 1964 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses added in Case No. 04CW60. (vi) Amount: 0.033 cfs (15 gpm), subject to the 04CW60 Pumping Limits. (vii) Uses: Absolute--Domestic. Conditional--commercial, augmentation, recreation, stock watering, and irrigation. **(e) Horn Creek Girls Ranch Well (SEO ID 1305064; Well Permit No. 053574-FR)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 1 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to add stock watering and irrigation as additional absolute uses, and augmentation, recreation, and commercial as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 435510 Northing 4211760. (iii) Source: Tributary ground water. (iv) Depth: 75 feet. (v) Appropriation date: May 31, 1954 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses in Case No. 04CW60. (vi) Amount: 0.044 cfs (20 gpm), subject to the 04CW46 Pumping Limits. (vii) Uses: Absolute--Domestic, stock watering, and irrigation. Conditional--commercial, augmentation, and recreation. **(f) Horn Creek Recreation Center Well (SEO ID 1305065; Well Permit No. 053572-FR)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 4 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to include recreation as an absolute use and commercial, augmentation, stock watering and irrigation as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone

13S, Easting 453395 Northing 4211848. (iii) Source: Tributary ground water. (iv) Depth: 70 feet. (v) Appropriation date: September 21, 1956 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses added by the decree in Case No. 04CW60. (vi) Amount: 0.033 cfs (15 gpm), subject to the 04CW60 Pumping Limits. (vii) Use: Absolute--Domestic and Recreation. Conditional--commercial, augmentation, stock watering, and irrigation. **(g) Horn Creek Lodge Well (SEO ID 1305066; Well Permit No. 053573-F)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 3 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to include commercial, augmentation, recreation, stock watering, and irrigation as conditional use. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453132 Northing 4211610. (iii) Source: Tributary ground water. (iv) Depth: 105 feet. (v) Appropriation date: July 31, 1968 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses added by the decree in Case No. 04CW60. (vi) Amount: 0.045 cfs (20 gpm), subject to the 04CW60 Pumping Limits. (vii) Uses: Absolute--Domestic. Conditional--commercial, augmentation, recreation, stock watering, and irrigation. 4. Proposed Correction of GPS Coordinates. Based on correspondence available in the well permit files for the above wells, the legal descriptions for these wells that were incorporated into the decree in Case No. 04CW60 were prepared by the Colorado State Engineer's Office. However, it has recently come to the Applicants' attention that these legal descriptions do not accurately describe the locations of these structures. Consequently, the Applicants seek to correct the legal descriptions for these structures to accurately reflect their actual and historic locations as follows: (a) Mountain Meadows Well (SEO ID 1305062; Well Permit No. 053571-F): NAD83 UTM Zone 13S, Easting 453757 Northing 4212011. (b) Seminary Well (SEO ID 1305061; Well Permit No. 053570-F): NAD 83 UTM Zone 13S, Easting 453641 Northing 4212191. (c) Seminary Director's Well (SEO ID 1305060; Well Permit No. 053569-F): NAD 83 UTM Zone 13S, Easting 453822 Northing 4212265. (d) Horn Creek Boys Ranch Well (SEO ID 1305063; Well Permit No. 053575-F): NAD 83 UTM Zone 13S, Easting 453357 Northing 4211930. (e) Horn Creek Girls Ranch Well (SEO ID 1305064; Well Permit No. 053574-FR): NAD 83 UTM Zone 13S, Easting 453465 Northing 4211974. (f) Horn Creek Recreation Center Well (SEO ID 1305065; Well Permit No. 053572-FR): NAD 83 UTM Zone 13S, Easting 453334 Northing 4212068. (g) Horn Creek Lodge Well (SEO ID 1305066; Well Permit No. 053573-F): NAD 83 UTM Zone 13S, Easting 453084 Northing 4211818.

CASE NO. 2015CW3061; Previous Case No. 2004CW60 – HORN CREEK CONFERENCE GROUNDS ASSOCIATION (“Horn Creek”), c/o Doug McClain, 6758 County Road 130, Westcliffe, CO 81252 and SANGRE DE CRISTO SCHOOL FOR BIBLICAL STUDIES, d/b/a SANGRE DE CRISTO SEMINARY (the “Seminary”), c/o Andrew S. Zeller, 6160 County Road 130, Westcliffe, CO 81252 (Direct all pleadings to: Michael F. Browning, Porzak Browning & Bushong LLP, Attorney for Applicants, 2120 13th Street, Boulder, Colorado 80302; (303) 443-6800)

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

CUSTER COUNTY, COLORADO

2. Name of structures: Horn Creek Conference Grounds Reservoir No. 2, Mountain Meadow Well, Seminary Well, Seminary Director's Well, Horn Creek Boys Ranch Well, Horn Creek Girls Ranch Well, Horn Creek Recreation Center Well, Horn Creek Lodge Well, and the Horn Creek Exchange. **3. Description of conditional water rights** (a map depicting the location of the structures 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): **(a) Horn Creek Conference Grounds Reservoir No. 2** (i) Decree: Decreed by the District Court in and for Water Division No. 2 (the "Water Court") in Case No. 04CW60 on November 12, 2009. (ii) Decreed location: The dam will be located in the SE1/4NE1/4 of Section 15, T. 23 S., R. 73 W., 6th P.M., Custer County, Colorado, approximately 2080 feet from the North line and 50 feet from the East line of said Section 15. (iii) Source: Horn Creek. (iv) Appropriation date: August 1, 2004. (v) Amount: 20 acre feet per year, fill and refill, conditional. The refill will not exceed the active capacity of the reservoir. The rate of diversion for filling the reservoir is 200 gpm conditional. (vi) Use: Augmentation, domestic, recreation, stock watering, wildlife, and piscatorial purposes. (vii) No call period. Per the decree in Case No. 04CW60, Co-Applicants will not call for the right to store water in this reservoir from the period of April 15 to June 15 in any calendar year. **(b) Mountain Meadows Well (SEO ID 1305062; Well Permit No. 053571-F)**. (i) Decree: Decreed by the Water Court in Case No. 04CW60 on November 12, 2009. (ii) Decreed location: In the SE1/4NE1/4 of Section 15, T.23S., R73W. of the 6th P.M., Custer County, Colorado, at a point approximately 1850 feet from the North line and 450 feet from the East line of said Section 15. The currently decreed GPS coordinates are: UTM Zone 13S, Easting 453804 Northing 4211805. The correct GPS coordinates are NAD 83 UTM Zone 13S, Easting 453757 Northing 4212011. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 86 feet. (v) Appropriation date: November 8, 1973. (vi) Amount: 20 gpm absolute. Per the decree entered in Case No. 06CW40, the annual allowed volumetric limit of this well and wells having SEO ID Numbers 1305063, 1305064, 1305065 and 1305066 was limited to the annual pumping volumetric limit specified in their permits. That decree stated that the then current annual volumetric limit for the five wells was 20 acre feet per year, and that the total annual volumetric limit for the five wells is limited to the lesser of 30 acre feet or the maximum amount under the well permits in any single calendar year (the "06CW40 Pumping Limits"). (vii) Use: Absolute: Domestic, recreation, and irrigation. Conditional: commercial, stock watering, and

augmentation. **(c) Seminary Well (SEO ID 1305061; Well Permit No. 053570-F)** (i) Decree: Decreed by the Water Court in Case No. 04CW60 on November 12, 2009. (ii) Decreed location: In the NE1/4 NE1/4 of Section 15, T.23S., R73 W. of the 6th P.M., Custer County, Colorado, at a point approximately 4030 feet from the South line and 4430 feet from the West line of said Section 15. The currently decreed GPS coordinates are: UTM Zone 13S, Easting 453688 Northing 4211979. The correct GPS coordinates are NAD83 UTM Zone 13S, Easting 453641 Northing 4212191. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 86 feet. (v) Appropriation date: August 15, 1974. (vi) Amount: 8 gpm absolute. The combined total volume of water pumped by this well and the Seminary Director's Well may not exceed three acre feet in any single calendar year, of which 1.97 is absolute and 1.03 is conditional. (vii) Use: Domestic and institutional water needs for a family cabin, two guest cabins, a chapel, a library, a classroom, and a guest lodge. **(d) Seminary Director's Well (SEO ID 1305060; Well Permit No. 053569-F)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 5 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to include stock watering and irrigation as additional absolute uses and commercial, augmentation and recreation as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453851 Northing 4212066. The correct GPS coordinates are NAD83 UTM Zone 13S, Easting 453822 Northing 4212265. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 115 feet. (v) Appropriation date: September 21, 1956 for the originally decreed domestic purpose. August 1, 2004 for the conditional use added by the decree in Case No. 06CW40. (vi) Amount: 0.033 cfs (15 gpm). The combined total volume of water pumped by this well and the Seminary Well may not exceed three acre feet in any single calendar year, of which 1.97 is absolute and 1.03 is conditional. (vii) Use: Absolute--Domestic, stock watering and irrigation. Conditional--commercial, recreation and augmentation. **(e) Horn Creek Boys Ranch Well (SEO ID 1305063; Well Permit No. 053575-F)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 2 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to add irrigation, commercial, augmentation, recreation, and stock watering as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453406 Northing 4211721. The correct GPS coordinates are NAD 83 UTM Zone 13S, Easting 453357 Northing 4211930. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 100 feet. (v) Appropriation date: September 30, 1964 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses added in Case No. 06CW40. (vi) Amount: 0.033 cfs (15 gpm), subject to the 06CW40 Pumping Limits. (vii) Uses: Absolute--Domestic. Conditional--commercial, augmentation, recreation, stock watering, and irrigation. **(f) Horn Creek Girls Ranch Well (SEO ID 1305064; Well Permit No. 053574-FR)** (i)

Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 1 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to add stock watering and irrigation as additional absolute uses, and augmentation, recreation, and commercial as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 435510 Northing 4211760. The correct GPS coordinates are NAD83 UTM Zone 13S, Easting 453465 Northing 4211974. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 75 feet. (v) Appropriation date: May 31, 1954 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses in Case No. 06CW40. (vi) Amount: 0.044 cfs (20 gpm), subject to the 06CW40 Pumping Limits. (vii) Uses: Absolute--Domestic, stock watering, and irrigation. Conditional--commercial, augmentation, and recreation. **(g) Horn Creek Recreation Center Well (SEO ID 1305065; Well Permit No. 053572-FR)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 4 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to include recreation as an absolute use and commercial, augmentation, stock watering and irrigation as conditional uses. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453395 Northing 4211848. The correct GPS coordinates are NAD83 UTM Zone 13S, Easting 453334 Northing 4212068. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 70 feet. (v) Appropriation date: September 21, 1956 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses added by the decree in Case No. 06CW40. (vi) Amount: 0.033 cfs (15 gpm), subject to the 06CW40 Pumping Limits. (vii) Use: Absolute--Domestic and Recreation. Conditional--commercial, augmentation, stock watering, and irrigation. **(h) Horn Creek Lodge Well (SEO ID 1305066; Well Permit No. 053573-F)** (i) Decree: Originally decreed by the Water Court in Case No. W-3276 on August 16, 1974 as Well No. 3 for domestic purposes. By decree of the Water Court in Case No. 04CW60 dated November 12, 2009, the use of the well was changed to include commercial, augmentation, recreation, stock watering, and irrigation as conditional use. (ii) Decreed location: Per the decree in Case No. 04CW60, the decreed location of the well was changed to the following GPS coordinates: UTM Zone 13S, Easting 453132 Northing 4211610. The correct GPS coordinates are NAD83 UTM Zone 13S, Easting 453084 Northing 4211818. Co-Applicants are filing a separate application simultaneously herewith to correct the decreed location. (iii) Source: Tributary ground water. (iv) Depth: 105 feet. (v) Appropriation date: July 31, 1968 for the originally decreed domestic purpose. August 1, 2004 for the conditional uses added by the decree in Case No. 06CW40. (vi) Amount: 0.045 cfs (20 gpm), subject to the 06CW40 Pumping Limits. (vii) Uses: Absolute--Domestic. Conditional--commercial, augmentation, recreation, stock watering, and irrigation. **(i) Horn Creek Exchange.** (i) Decree: Decreed by the Water Court in Case No. 04CW60 on November 12, 2009. (ii) Exchange Reach: From the point of discharge from the augmentation station located approximately 150 yards

downstream from the H. H. Tompkins Ditch headgate, which is in the NW1/4NW1/4 of Section 13, T. 23 S., R.73 W. of the 6th P.M., Custer County, Colorado, upstream to: (A) the point of diversion of the Horn Creek Conference Grounds Feeder Pipeline, located on the North side of Horn Creek in the SW1/4SE1/4 of Section 15, T. 23 S., R. 73 W., of the 6th P.M., Custer County, Colorado; or (B) the point of diversion of the Fish Pond and Spring located immediately next to the Fish Pond in the NW1/4SE1/4 of Section 15, T. 23 S., R. 73 W. of the 6th P.M., Custer County, Colorado. (iii) Maximum Rate of Exchange: 0.3 cfs, of which 0.118 cfs is absolute and 0.182 is conditional. The maximum volumetric limit on the amount of water that can be exchange per the decree in Case No. 04CW60 is 14.6 acre feet per year, of which 2.03 acre feet is absolute and 12.57 is conditional. (iv) Appropriation date: August 1, 2004. (vi) Uses: Storage, recreation, livestock watering, wildlife, replacement, augmentation and exchange at co-applicants' properties. **4. Claim to Make Portions Absolute.** Since entry of the decree in Case No. 06CW40, Co-Applicants have pumped the wells and placed the water withdrawn to their decreed conditional uses as described below and in the affidavit of Andrew S. Zeller attached to the Application as Exhibit B. Diversion records for the wells are attached to the Application as Exhibit C. (a) The Mountain Meadows Well was used for commercial and recreation uses related to Horn Creek's Christian camp, family resort and conference center. Recreation uses included filling of a swimming pool. (b) The Seminary Director's Well was used for commercial and recreation uses related to Seminary's theological and education center. The recreation uses include filling a small kid's pool, a hot tub, and children's water sports. (c) The Horn Creek Boys Ranch Well was used for commercial, irrigation, recreation and stock watering uses related to Horn Creek's Christian camp, family resort and conference center. Irrigation use included irrigation of an outdoor volleyball and tetherball courtyard. Recreation use has included use in connection with a fire pit and water games. Stock water use has been made by watering horses on the property. (d) The Horn Creek Girls Ranch Well was used for commercial and recreation uses related to Horn Creek's Christian camp, family resort and conference center. Recreation use has included use to fill a swimming pool, water slide pool, and for water slide operations. (e) The Horn Creek Lodge Well was used for commercial, irrigation and recreation uses related to Horn Creek's Christian camp, family resort and conference center. Irrigation use has included irrigation of the lawn and recreation fields around the Horn Creek Lodge and cabins. The recreation uses include use in water games. (f) The Horn Creek Recreation Center Well was used for commercial purposes related to Horn Creek's Christian camp, family resort and conference center. **5. Claims for Reasonable Diligence:** Co-applicants operate an integrated water supply system for the Christian camp, family resort, conference center and seminary located on their properties. The subject wells and pond are a part of that system. Since the entry of the decree in Case No. 04CW60, co-applicants have undertaken the following specific activities which demonstrate diligence with regard to the subject conditional rights that have not yet been put to their conditional beneficial uses: (a) Co-Applicants engaged Colorado River Engineering to prepare plans and construction estimates for the construction of Horn Creek Conference Grounds Reservoir No. 2, and met with representatives of Colorado River Engineering regarding such work. (b) Co-Applicants exercised the Horn Creek Exchange at times and in the amounts required for their current operations. Once the Horn Creek Conference Center

Reservoir No. 2 is constructed the co-applicants can and will exercise the Exchange at its full decreed rate and amount. (c) Co-Applicants have maintained measurements of the amount of water withdrawn from the subject wells and compiled and submitted the accounting required by the augmentation plan decreed in Case No. 06CW40 (d) Co-applicant Horn Creek Conference Center Grounds Association negotiated and entered into a contract with the Sky Ranch Foundation for the sale of its property and water rights. The closing on the sale is expected to occur in December of 2015. The Sky Ranch Foundation plans to construct Horn Creek Conference Grounds Reservoir No. 2 within the next several years. 6. Future Need for Water: Co-Applicants' plan on additional use of their facilities in the future which will increase the need for and use of water. This is particularly true given the pending sale of the Horn Creek property to a new owner and the planned construction of the Horn Creek Grounds Association Reservoir No. 2.

CASE NO. 2015CW3062, Water Division 2, and CASE NO. 2015CW3153, Water Division 1 – BF RANCH TRUST 2015, ERIC LEFFLER, TRUSTEE, 4510 Ford Drive, Colorado Springs, CO 80903 (Please address all pleadings to: Henry D. Worley, Worley Law Firm, LLC, Attorney for Applicant, 611 North Weber Street, Suite 104, Colorado Springs, CO 80903; (719) 634-8330)

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

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. Applicant is the contract purchaser, from Fred Gatton and Wanda Gatton, of the Gattons' 39.83 acre parcel of land in El Paso County, the legal description of which is the SE4NE4NE4 and the NE4SE4NE4 Section 23, T. 11, R. 66 W., and the S2NW4NW4 Section 24, T. 11 S., R. 66 W., 6th P.M. (The "Property"). Applicant seeks the adjudication of the water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property and approval of a plan for augmentation which will allow up to 15 wells in the Dawson aquifer. The Property is located in the East Cherry Creek drainage, tributary to the South Platte River. A map showing the approximate location of the Property is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **2. Names of wells and permit, registration, or denial numbers: There are no wells on the Property.** **3. Legal description of wells:** new wells may be constructed at any location on the Property. Applicant hereby waives the 600 foot spacing rule in regard to all Dawson aquifer wells constructed on the Property. **4. Source:** Not nontributary Dawson aquifer; nontributary Denver aquifer; nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer. **5.A. Date of appropriation:** Not applicable. **5.B. How appropriation was initiated:** Not applicable. **5.C. Date water applied to beneficial use:** Not applicable. **6. Amount claimed:** Not nontributary Dawson aquifer, 15 g.p.m. for each of up to 15 wells, 37.7 acre feet annually, absolute; nontributary Denver aquifer, 50 g.p.m., 36.9 acre feet annually, absolute; nontributary Arapahoe aquifer, 250 g.p.m., 16.2 acre feet annually, absolute; nontributary Laramie-Fox Hills aquifer, 120 gpm, 12.1 acre feet annually, absolute. The above amounts may be changed in any proposed decree submitted to the Court to conform to the State

Engineer's Determination of Facts. The Water Court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for wells in such aquifers. **7. Proposed use:** all beneficial uses except municipal. **8. Names and addresses of owners of land on which well is located:** Fred and Wanda Gatton, 20744 Nectarine Place, Land O Lakes, FL 34637-7494. **9. Remarks:** There are no liens which encumber the Property. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** **10. Name of structures to be augmented:** Up to 15 Dawson aquifer wells. No other water rights are or will be diverted from these wells. **11. Previous decrees for water rights to be used for augmentation:** None. **12. Historic use:** Not applicable. **13. Statement of plan for augmentation:** **A. Water Demand.** Applicant will subdivide the Property into up to 15 lots for single family residences which may include some commercial uses, such as a home-based business. Uses of water on such lots are expected to be, but shall not be limited to, some or all of the following uses: for indoor uses for drinking and sanitary purposes in the principal houses and in stand-alone home offices or guest cottages, for livestock watering, for landscape and garden irrigation, hot tubs, swimming pools, and decorative uses such as decorative ponds and fountains, and augmentation through septic system return flows. Total annual pumping from the Dawson aquifer will be limited to 0.8 acre foot annually per lot, regardless of the number of lots ultimately platted. This amount may be adjusted slightly in the decree, to conform with what is possible as determined from the State Engineer's Determinations of Fact regarding the amount of water available for appropriation in the Dawson and Denver aquifers. Indoor water usage for each house is expected to equal no less than 0.2 acre foot per house on a long term average. Applicants for well permits will designate the uses to which they intend to put the water on their well permit applications. **B. Water Consumption and Return Flows.** 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 lot, annually, based on average annual indoor use of 0.2 acre foot) returning to the stream system. Although there will be some return flows from other uses, Applicant will rely only on return flows from septic systems and leach fields for replacement of depletions during pumping. **C. Replacement of Stream Depletions During Pumping.** Based on computer modeling, stream depletions will occur to tributaries of the South Platte and Arkansas Rivers. Applicant proposes to aggregate and replace all stream depletions to East Cherry Creek, a tributary of the South Platte River. Computer modeling indicates that during pumping stream depletions will gradually increase to a maximum of 22.24 percent of annual pumping in the 300th year, or 2.67 acre feet based on annual pumping of 12.0 acre feet. Applicant proposes to replace those depletions with septic system return flows, which will equal 2.7 acre feet annually for 15 lots, based on assumed average annual indoor use of at least 0.2 acre foot per dwelling. If the property is subdivided into fewer lots, return flows from septic systems will still always exceed stream depletions during the 300 year pumping period. **D. Replacement of Stream Depletions After Cessation of Pumping.** Applicant agrees to replace depletions for the shortest of the following periods: the period provided by the Colorado Legislature, should it eventually specify one and if the Applicant obtains water court approval for such modification; the period

determined by the State Engineer, should the State Engineer lawfully establish such a period; the period established through rulings of the Colorado Supreme Court in relevant cases; or until Applicant petitions the water court and after notice to parties in the case proves that it has complied with all statutory requirements. Applicant will reserve 3,265 acre feet in the water 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 Applicant obtains judicial approval of another source of replacement water for post-pumping depletions. Applicant shall make post-pumping replacements annually as required to replace modeled stream depletions. Applicant proposes to aggregate all depletions and to replace them to the South Platte drainage, but will insert in the final decree a permanent period of retained jurisdiction during which the Court may be petitioned for a finding whether Applicant's failure to replace depletions to the Arkansas River drainage is causing injury to water rights owners within such river basin. **E. Miscellaneous.** (1) Applicant will establish restrictive covenants on the Property which: (a) limit annual pumping from the proposed Dawson aquifer wells to 0.8 acre foot annually, each; (b) require the use of non-evaporative septic systems 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) which inform the future homeowners 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. (2) Restrictive covenants limiting the area to be irrigated or the number of head of livestock which are allowed on the Property are unnecessary because the annual pumping limitations, and the requirement that non-evaporative septic systems be used, ensures that septic system return flows alone will equal or exceed depletions throughout the 300 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 River drainages. After the time for filing statements of opposition has expired, Applicant will seek to consolidate the two applications in Water Division 1 because that is where the Property is located. (4) A copy of this application and a letter have been sent by certified mail, return receipt requested, to Fred and Wanda Gatton; a copy of the letter is attached to the Application as Exhibit A.

CASE NO. 2015CW3063; Previous Case Nos. 1982CW210; 1989CW8(82CW210); 1995CW147(82CW210); 2002CW126(82CW210); and 2009CW98 –TOWN OF MONUMENT, 645 Beacon Lite Road, Monument, Colorado 80132 (Please direct all pleadings to Robert F.T. Krassa, Krassa & Miller, LLC, Attorney for Applicant, 2737 Mapleton Ave., Suite 103, Boulder, CO 80304, 303-442-2156)

Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

2. Name of Structures: The conditional water rights which are the subject of this Application are the following wells: Monument Well No. 4 and Monument Well No. 5. **3.**

Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree: **a. Date of Original Decree:** February 8, 1985, Case No.: 82CW210, Court: District Court, Water Division No. 2. **b. List all subsequent decrees** awarding findings of diligence (all in this Court): 89CW8 entered July 17, 1990; 95CW147 entered September 24, 1996; 02CW126 entered July 30, 2003; and 09CW98 entered November 24, 2009. **c. Location of structures:** both Wells in SW/4 NW/4, Sec. 15, T. 11S. R67 W of the 6th P.M. in El Paso County. No. 4 is 2020 feet from north line and 790 feet from west line said section; No. 5 is 2100 feet from north line and 600 feet from west line said section. See map attached to the Application as Exhibit A showing wells and Monument Water Service Area. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **d. Source:** Monument Creek Alluvium. **e. Appropriation Date:** December 8, 1982. Amount: No. 4 - 100 gpm, No. 5 - 60 gpm. **f. Use:** Municipal, including domestic, industrial, commercial, irrigation, fire protection, stock water, recreation and any other beneficial use. **g. Depth:** (if well) Each well is 28 feet deep. **4. Provide a detailed outline** of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: During the diligence period, the following work has been done on the subject wells: replaced influent, effluent, backwash supply, waste and filter to waste valves. In addition, the following work has been done on Monument's water system as a whole during the diligence period: distribution line additions of approximately 2,200 ft of 8" diameter were completed; twelve new hydrants were added, booster station motors were upgraded, the SCADA system was upgraded, the chemical system was upgraded and generator breaker installed on Well # 7, on Well #8 all valves were replaced with motor operated valves, membrane cover was installed on existing 1 million gallon Storage Tank; an automated Bulk Fill System was installed; a booster station generator breaker switch was installed, and legal and engineering expenses were incurred in protecting the Town's water rights. During the diligence period the Town has spent over \$500,000 on these and other water system projects, all of which were necessary to place the subject conditional water rights into service. The Town of Monument has in all respects diligently worked toward placing these conditional water rights to beneficial use. Monument owns and operates a single, unified and integrated municipal water supply system that contains numerous components. Those components include, but are not limited to the structures and the appropriative rights of exchange that are the subject of this application. **5. Names and addresses of owners** or reputed owners of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure necessary for the subject rights of exchange is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Monument owns or has the right to use the sites upon which all structures associated with this matter will be located.

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 2016, (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 4th day of December, 2015.



Mardell R. DiDomenico

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

(Court seal)
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