

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING NOVEMBER 2016

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during November 2016, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2016CW18 – DOUGLAS and IRENE DREWNICKY, 3449 Vaughn View Drive, Pueblo, CO 81005; (719) 485-3880

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Well Permit 202767. **Total area of parcel on which this well is located:** 35 acres. **Legal description of well:** **PLSS Description:** NW ¼ SE ¼ Section 3, T22S, R68W, 6th P.M., Pueblo County, 2000 feet from the South line and 1800 feet from the East line. **Source of PLSS information:** Well Permit application filed by Reeves Drilling Company L#1092. **Street Address:** 3449 Vaughn View Drive, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 12. **Block:** Phase III. **Date of appropriation:** 3/24/1997. **How appropriation was initiated:** Reeves Drilling filed permit 3/21/1997. **Date water applied to beneficial use:** 6/15/98. **Source of water:** Ground water. **Depth of well:** 505 ft. **Amount claimed:** 7 gpm Absolute. **List all Existing Uses:** Fire protection, ordinary household use up to 3 single family dwellings, watering of domestic animals and garden/lawn not more than an acre. **Number of single-family dwellings served:** 2. **Area of lawns and gardens irrigated:** ¼ acre. **Legal description of irrigated acreage:** Red Creek Ranch Lot 12, Phase III. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** No. **Other uses:** 5 gallons of water are available for pets and the wildlife drink it. Fill it probably every two days. The 1000 cistern is available to the Red Creek Springs Fire and Rescue for the purpose of 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.

CASE NO. 2016CW19 – VICTOR and BARBARA VOSS, 8795 Vaughn View Drive Ext., Pueblo, CO 81005; (719) 485-3908

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Voss Well; Well Permit 211604. **Total area of parcel on which this well is located:** 41.6 acres. **Legal description of well:** UTM

coordinates (Datum – NAD83; Zone 13): Easting 501938.4; Northing 4224920.1. **Source of UTM:** Well permit search report. **PLSS Description:** SE ¼ SE ¼ Section 34, T21S, R68W, 6th P.M., Pueblo County, 100 feet from the south line and 600 feet from the East line. **Source of PLSS information:** Well Permit application filed by Reeves Drilling Company. **Street Address:** 8795 Vaughn View Drive Ext., Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 16. **Block:** 3. **Date of appropriation:** 6/03/1998. **How appropriation was initiated:** Well permit application filed with State Engineer's Office on 06/03/1998. **Date water applied to beneficial use:** 05/01/1999. **Source of water:** Groundwater tributary to the Arkansas. **Depth of well:** 520 ft. **Amount claimed:** 7.9 gpm Absolute. **List all Existing Uses:** Fire protection, ordinary household use for 1 single family dwelling, watering of domestic animals and livestock. No lawn/garden at this time. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** None. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **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. 2016CW20 – WILLIAM EDWARD BARR, 3885 Canyon Heights Road, Pueblo, CO 81005; (719) 485-5712

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Barr Well #2; Well Permit 216286. **Total area of parcel on which this well is located:** 50 acres. **Legal description of well:** UTM **coordinates (Datum – NAD83; Zone 13):** Easting 0506127; Northing 4222111. **PLSS Description:** NE ¼ SW ¼ Section 7, T22S, R67W, 6th P.M., Pueblo County, 1600 feet from the south line and 2800 feet from the East line. **Source of PLSS information:** Well Construction Report. **Street Address:** 3885 Canyon Heights Road, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 40. **Date of appropriation:** 1/10/2008. **How appropriation was initiated:** Well permit applied for. **Date water applied to beneficial use:** 1/10/2008. **Source of water:** Dakota Aquifer. **Depth of well:** 750 ft. **Amount claimed:** 15 gpm Absolute. **List all Existing Uses:** Livestock, lawn and garden, in home, wildlife. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** 1000 square feet. **Legal description of irrigated acreage:** Red Creek Ranch Lot 40, Phase 2. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **Other uses:** Wildlife – elk, deer, antelope – frequently use stock tanks; vegetable garden. **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. 2016CW21 – MARY K. MONAHAN and KRISTIN K. TONE, 2695 Canyon Heights Road, Pueblo, CO 81005; (719) 485-2695

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Well Permit 186170. **Total area of parcel on which this well is located:** 109.8 acres. **Legal description of well: UTM coordinates (Datum – NAD83; Zone 13):** Easting 506978.3; Northing 4226620.5. **PLSS Description:** SW ¼ SW ¼ Section 29, T21S, R67W, 6th P.M., Pueblo County, 400 feet from the South line and 50 feet from the West line. **Source of UTM and PLSS information:** Spotted from section lines. **Subdivision:** Red Creek Ranch. **Lot:** 58. **Date of appropriation:** 1930. **How appropriation was initiated:** Livestock watered. **Date water applied to beneficial use:** 1930. **Source of water:** All unnamed aquifers. **Depth of well:** 30 ft. **Amount claimed:** 4 gpm Absolute. **List all Existing Uses:** Livestock watering/agricultural. **Number of single-family dwellings served:** 0. **Area of lawns and gardens irrigated:** 0. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **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. 2016CW22 – MARY MONAHAN TRUST and KRISTIN TONE TRUST, 2695 Canyon Heights Road, Pueblo, CO 81005; (719) 485-2695

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Well Permit 188744. **Total area of parcel on which this well is located:** 47.19 acres. **Legal description of well: UTM coordinates (Datum – NAD83; Zone 13):** Easting 507325.8; Northing 4226956.5. **PLSS Description:** NW ¼ SW ¼ Section 29, T21S, R67W, 6th P.M., Pueblo County, 1500 feet from the South line and 1200 feet from the West line. **Street Address:** 2695 Canyon Heights Road, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 56. **Date of appropriation:** May 5, 1995. **How appropriation was initiated:** Application for well permit submitted. **Date water applied to beneficial use:** February 6, 1996. **Source of water:** Dakota Aquifer. **Depth of well:** 243 ft. **Amount claimed:** 15 gpm Absolute. **List all Existing Uses:** Domestic use. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** 1500 square feet. **Legal description of irrigated acreage:** NW ¼ of the SW ¼ Section 29, Township 21 South, Range 67 West, 6th P.M. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** No. **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. 2016CW23 – GEORGE and ELIZABETH SAMARAS, 7755 Soda Creek Road, Pueblo, CO 81005; (719) 485-3751

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Lola Well; Permit 190141. **Total area of parcel on which this well is located:** 121 acres. **Legal description of well: UTM coordinates (Datum – NAD83; Zone 13):** Easting 509206.8; Northing 4226255.0. **PLSS Description:** NE ¼ NW ¼ Section 33, T21S, R67W, 6th P.M., Pueblo County, 750 feet from the North line and 2062 feet from the West line. **Source of PLSS information:** Well Construction and Test Report dated 11-28-95, received 1-8-96. **Street Address:** 7755 Soda Creek Road, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 14. **Date of appropriation:** 6/4/1995. **How appropriation was initiated:** Well permit applied for. **Date water applied to beneficial use:** Approximately June 1996. **Source of water:** Dakota Aquifer. **Depth of well:** 471 ft. **Amount claimed:** 15 gpm Absolute. **List all Existing Uses:** Livestock, home, garden, domestic animals, wildlife, fire protection. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** Approximately 500 square feet. No irrigation system. **Legal description of irrigated acreage:** None irrigated; planned sprinkler system for front yard less than 1 acre. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **Other uses:** wildlife—birds, elk, snakes, etc.; 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.

CASE NO. 2016CW24 – RONALD and TAMA BROWN, 3421 San Isabel Drive, Pueblo, CO 81005; (719) 485-3945

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Brown Well; Permit 198153-A. **Total area of parcel on which this well is located:** 35 acres. **Legal description of well: UTM coordinates (Datum – NAD83; Zone 13):** Easting 502307.1; Northing 4224130.5. **Source of UTM:** Well permit search report. **PLSS Description:** SW ¼ NW ¼ Section 2, T22S, R68W, 6th P.M., Pueblo County, 2500 feet from the North line and 600 feet from the West line. **Source of PLSS information:** Well Permit application filed by Reeves Drilling Co. **Street Address:** 3421 San Isabel Drive, Pueblo, CO 81005. **Subdivision:** Red Creek Ranch. **Lot:** 7. **Block:** 3. **Date of appropriation:** 8/14/96. **How appropriation was initiated:** Well Permit application filed with State Engineer's office. **Date water applied to beneficial use:** August 1999. **Source of water:** Ground water tributary to the Arkansas. **Depth of well:** 585 ft. **Amount claimed:** 6.46 gpm Absolute. **List all Existing Uses:** Fire protection, ordinary household use for one single family dwelling, domestic animals and livestock. No lawn or garden at this

time. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** 0. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **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. 2016CW25 – JULIE DONOHUE and JAMES HURZELER, 2378 Bronquist Road, Pueblo, CO 81005; (719) 485-0222

Application for Absolute Underground Water Right for an Exempt Well Pursuant to § 37-92-602(4), C.R.S.

PUEBLO COUNTY

Name of well and permit number: Well Permit 190902. **Total area of parcel on which this well is located:** 40 acres. **Legal description of well: UTM coordinates (Datum – NAD83; Zone 13):** Easting 510167.0; Northing 4228871.5. **Source of UTM:** DWR website. **PLSS Description:** NE ¼ SE ¼ Section 21, T21S, R67W, 6th P.M., Pueblo County, 2380 feet from the south line and 130 feet from the East line. **Source of PLSS information:** Well Permit. **Street Address:** 2378 Bronquist Road, Pueblo, CO 81005. **Date of appropriation:** 7/25/1995. **How appropriation was initiated:** Well permit was applied for. **Date water applied to beneficial use:** 2/25/98. **Source of water:** Dakota Aquifer. **Depth of well:** 468 ft. **Amount claimed:** 15 gpm Absolute. **List all Existing Uses:** home, landscape, lawn and garden, fire protection, domestic animals. **Number of single-family dwellings served:** 1. **Area of lawns and gardens irrigated:** Less than 1 acre. **Legal description of irrigated acreage:** Well located near house in NE ¼ SE ¼ Section 21, Twp. 21S., Range 67W., 6th P.M. Lawn and garden irrigation around house. **Domestic animal watering:** Yes. **Livestock watering on farm/ranch/pasture:** Yes. **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. 2016CW3075 – COLORADO WATER CONSERVATION BOARD (“CWCB”), 1313 Sherman Street, Suite 718, Denver, CO 80203

(Please direct all future correspondence and pleadings regarding this Application to Applicant’s attorney: Jeffrey Candrian, Assistant Attorney General, Natural Resources and Environment Section, Colorado Department of Law, 1300 Broadway, 7th Floor, Denver, CO 80203; (720) 508-6288; E-mail: Jeffrey.candrian@coag.gov)

Application for Instream Flow Water Rights to Preserve The Natural Environment to a Reasonable Degree

EL PASO and TELLER COUNTIES, COLORADO

2. Name of water right: East Fork Turkey Creek Instream Flow Water Right; **3. Legal Description:** The East Fork Turkey Creek Instream Flow Water Right is located in the natural stream channel of East Fork Turkey Creek from its headwaters to the confluence of West Fork Turkey Creek, a distance of approximately 3.43 miles. A map depicting the

approximate location of the East Fork Turkey Creek Instream Flow Water Right reach is attached to the Application as Exhibit 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A. Upstream Terminus: East Fork Turkey Creek headwaters in the vicinity of: 1. UTM: Northing: 4281370.35; Easting: 503824.62 (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 38° 40' 51.33"N and longitude 104° 57' 21.70"W B. Downstream Terminus: Confluence With West Fork Turkey Creek at: 1 UTM: Northing: 4277192.32; Easting: 505655.50 (NAD 1983 Zone 13 North) 2. Lat/Long: latitude 38° 38' 35.75"N and longitude 104° 56' 6.05"W C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD). 4. **Source**: East Fork Turkey Creek, tributary to Turkey Creek, tributary to Arkansas River. 5. **A. Date of initiation of appropriation**: January 26, 2016. **B. How appropriation was initiated**: Appropriation and beneficial use occurred on January 26, 2016, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2016). C. **Date applied to beneficial use**: January 26, 2016. 6. **Amount of water claimed**: Instream flow of 1.35 cfs (5/1 - 8/31), 0.5 cfs (9/1 - 11/30), 0.3 cfs (12/1 - 3/31), and 0.6 cfs (4/1 - 4/30), absolute; 7. **Proposed Uses**: Instream flow to preserve the natural environment to a reasonable degree. 8. **Names and addresses of owners or reputed owners of the land upon which any new or existing diversion structure will be located**: The notice required by section 37-92-302(2)(b), C.R.S. (2016), to the owners or reputed owners of the land upon which any new or existing diversion or storage structure is or will be constructed is not applicable in this case. This Application is for instream flow water rights, exclusive to the CWCB under the provisions of section 37-92-102(3), C.R.S. (2016). As an instream flow water right, the CWCB's appropriation does not require diversion structures or storage. See *Colo. River Water Conservation Dist. v. Colo. Water Conservation Bd.*, 594 P.2d 570, 574 (Colo. 1979); § 37-92-103(4)(c), C.R.S. (2016). As a surface water right, the CWCB's appropriation of instream flow water rights does not involve construction of a well. 9. **Remarks**: This appropriation by the CWCB, on behalf of the people of the State of Colorado, is made pursuant to sections 37-92-102(3) & (4) and 37-92-103(3), (4) & (10), C.R.S. (2016). The purpose of the CWCB's appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 18, 2016, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S. (2016), that the natural environment of East Fork Turkey Creek will be preserved to a reasonable degree by the water available for the appropriations to be made; that there is a natural environment that can be preserved to a reasonable degree with the CWCB's water rights herein, if granted; and that such environment can exist without material injury to water rights.

CASE NO. 2016CW3076 — SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT (SOUTHEASTERN), 31717 United Avenue, Pueblo, CO 81001; (719) 948-2400; c/o Lee E. Miller, General Counsel, lee@secwcd.com

(Please send all pleadings and correspondence to: Stephen H. Leonhardt, Alix L. Joseph, and Morgan L. Figuers; Burns, Figa & Will, P.C., Attorneys for Applicant, 6400 S. Fiddlers Green Circle, Suite 1000, Greenwood Village, Colorado 80111; (303) 796-2626)

Application for Changes of Fryingpan-Arkansas Project Conditional Water Rights and to Amend Decrees to Correct Clerical Errors.

LAKE, CHAFFEE, AND PUEBLO COUNTIES.

2. Summary of Application: Southeastern seeks approval of a change of the points of diversion of several conditional water rights that are part of the Fryingpan-Arkansas Project (Project), as decreed in Chaffee County District Court, Case No. 5141, July 9, 1969, and changes from direct diversion to storage. Southeastern also seeks to amend previous decrees to correct clerical errors in legal descriptions for structure locations.

Changes of Conditional Water Rights. 3. Decreed conditional water rights for which change is sought: The water rights for which the changes are sought, shown in Table 1 below, were decreed in Chaffee County District Court, Case No. 5141, July 9, 1969. This decree has been modified and amended by the decrees in Case Nos. 80CW6 and 80CW88, Water Division No. 2, and the conditional rights continued by Case Nos. 84CW56, 88CW43, 95CW91, 02CW37, 10CW23, Water Division 2.

Table 1: Conditional Water Rights for Which Changes are Sought

Name of Structure; Priority No.	Source of Water	Total Conditional Amount	Decreed Point of Diversion
Malta Canal A96C	Arkansas River	350 c.f.s.	A point whence the West quarter corner of Section 21, Township 9 South, Range 80 West, 6th P.M., bears South 0°8' for a distance of 650 feet.
Otero Conduit A97C	Lake Creek above Twin Lakes Dam and Mt. Elbert Conduit	725 c.f.s.	A point in the Twin Lakes Dam Outlet Works whence the Southeast corner of Section 23, Township 11 South, Range 80 West of the 6th P.M., bears South 54° 21' 36" East a distance of 3,646.33 feet. (1)
Otero to Wapaco Section - Subsection A A98C	Clear Creek and Otero Power Plant tailrace	600 c.f.s.	A point whence the West (2) quarter corner of Section 17, Township 12 South, Range 79 West of the 6th P.M., bears South 29° 44' West a distance of 2,661 feet.
Otero to Wapaco Section - Subsection B A99C	Clear Creek, Otero Power Plant tailrace, and Pine Creek	600 c.f.s.	A point on the South Bank of Pine Creek whence the West (3) quarter corner of Section 17, Township 12 South, Range 79 West of the 6th P.M., bears North 48° 49' West a distance of 7,617 feet.

Wapaco Diversion Canal Section A100C	Arkansas River	600 c.f.s.	A point whence the Southwest corner of Section 2, Township 13 South, Range 79 West of the 6th P.M. bears South 73° 25' West a distance of 3,000 feet.
Chalk Creek Diversion Canal Section A104C	Chalk Creek	375 c.f.s	A point whence the North quarter corner of Section 17, Township 15 South, Range 78 West of the 6th P.M., bears North 24° 35' East a distance of 5,756 feet.

Notes: **(1)** The legal description for this structure was changed in Case No. 80CW6 (Water Div. 2). **(2)** If the Court grants Southeastern’s request in this application to correct a clerical error in this legal description, the description will begin: “A point whence the **North** quarter corner” **Bold** indicates the change to the legal description. **(3)** If the Court grants Southeastern’s request in this application to correct a clerical error in this legal description, the description will begin: “A point on the South Bank of Pine Creek whence the **North** quarter corner” (Throughout this Application, **bold** indicates the changes to the legal description.) **3.1. Map:** A map showing the general locations of the points of diversion involved in this application is attached to the Application as Exhibit 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3.2. Decreed Uses:** irrigation, manufacturing, domestic, municipal, power purposes, flood control, recreation, and wildlife conservation; all municipal purposes, including human consumption, fire protection, sewage treatments, street sprinkling, watering of parks, lawns, and grounds, and maintaining adequate storage reserves; all farming purposes, including the growing of crops of all kinds, stock water, domestic purposes, and the watering of lawns, trees and shrubs; all industrial purposes, and the generation of electric power; for a succession of such uses and to fill and refill Fryingpan-Arkansas Project reservoirs, forebays, and afterbays. **3.3 Priorities:** The priority date for these water rights under the Decree in Case No. 5141 is February 10, 1939. However, the decree states: “As to water rights heretofore adjudicated in this District, priorities for irrigation granted by this decree shall be enforceable only as of July 14, 1942, and priorities for purposes other than irrigation granted by this decree shall be enforceable only as of December 15, 1942.” **3.4 Sources of Water:** The sources of water for each structure are the sources described in Table 1, all of those sources’ tributaries, and water diverted under the District’s west slope decrees, in Garfield County District Court Case No. CA-4613 and in Division 5, Case Nos. W-829-76, 80CW267, 83CW352 and 84CW195. **4. Proposed Changes:** Southeastern seeks approval to change the points of diversion and to allow storage of all of the conditional water rights in Table 1, in accordance with C.R.S. § 37-92-103(5). These changes will better fulfill the purposes of the Project. **4.1. Change of Points of Diversion:** Southeastern seeks to change the full conditionally-decreed amounts of all of the water rights listed in Table 1 to a point of diversion at Pueblo Reservoir. For the Otero-Wapaco A conditional water right only, Southeastern seeks to retain the original point of diversion as an alternate point of diversion in addition to the new alternate point of diversion at Pueblo Reservoir. **4.2. Change of Decreed Use:** Southeastern seeks to change the use of all of the water rights listed in Table 1 to include storage in Pueblo Reservoir, including the proposed Pueblo Reservoir Enlargement. Use of the water rights may include incidental use for

decreed purposes of recreation and conservation and development of fish and wildlife as the water is delivered from the originally decreed locations to Pueblo Reservoir. For the Otero-Wapaco Section A conditional water right only, Southeastern seeks to change the right to allow storage in Clear Creek Reservoir, including any future enlargement, in addition to storage in Pueblo Reservoir. The Board of Water Works of Pueblo (Pueblo Water) owns Clear Creek Reservoir and Southeastern acknowledges that it must obtain authorization from Pueblo Water prior to use of Clear Creek Reservoir. **4.3. No injury:** The changes sought in this Application will not cause injury to other water rights because they will not enlarge the contemplated draft of the conditional rights. Rather, the changes sought in this Application will increase flows in the Arkansas River above Pueblo Reservoir, benefitting intervening rights, recreation, fish and wildlife conservation and development, and other purposes of the Project. **4.4. Legal Descriptions of Structures:** 4.4.1. Pueblo Reservoir: Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of Township 20 South, Range 66 West of the 6th P.M. and Sections 1, 2, 3, 4, 5, 9, 10 and 11 of Township 21 South, Range 66 West of the 6th P.M. and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24, and 25 of Township 20 South, Range 67 West of the 6th P.M. all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21' 20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado, as corrected in Case No. 02CW37. The UTM coordinates for Pueblo Reservoir are UTMx = 524076 and UTMy = 4235362. (Southeastern obtained all UTM coordinates described in this Application from the Hydro Base database found at <http://cdss.state.co.us/OnlineTools/StructuresDivisions.aspx>. The UTM coordinates are included in this Application at the request of the Division Engineer to facilitate administration. In the event that any UTM coordinates are inaccurate, it shall not affect the rights to be adjudicated through this Application.) 4.4.2. Clear Creek Reservoir: Clear Creek Reservoir is an on-channel reservoir located on Clear Creek. The dam is located in the NW1/4 of the SE1/4, a NE1/4 of the SE1/4, SW1/4 of the NE1/4, NW1/4 of the NE1/4, SE1/4 of the NW1/4 and NE1/4 of the NW1/4 of Section 8, Township 12 South, Range 79 West of the 6th P.M. The lands inundated by Clear Creek Reservoir and to be inundated by Clear Creek Reservoir Second Enlargement are in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West of the 6th P.M., in Chaffee County, Colorado. The UTM coordinates for the centerline of the dam above the outlet are UTMx = 392217, UTMy = 4319850 (Zone 13 NAD83). **4.5. 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 is or will be constructed, or upon which water will be stored:** (Southeastern obtained the landowner information from the County Assessor websites.) 4.5.1. Pueblo Reservoir is located on land owned by the United States Department of Interior, Bureau of Reclamation, 11056 West County Road 18E, Loveland, CO 80537-9711. 4.5.2. Clear Creek Reservoir and the Otero to Wapaco Section - Subsection A, as corrected, are located on land owned by the Board of Water Works of Pueblo, Colorado, Attn: Executive Director, PO Box 400, 319 West Fourth

Street, Pueblo, Colorado 81003, and/or on land owned by the United States Forest Service, San Isabel National Forest, 2840 Kachina Drive, Pueblo, Colorado 81008. 4.6. The following terms shall govern Southeastern's use of Fryingpan-Arkansas Project (Project) facilities: 4.6.1. Southeastern recognizes that Pueblo Reservoir is owned by the U.S. Department of Interior Bureau of Reclamation (Reclamation), in whole or in part, and operated as part of the Project. Any use of the Project facilities by Southeastern, for storage, exchange, conveyance, or other use pursuant to this decree, will occur only with the written permission of the owner of said reservoir, and will be made consistent with such policies, procedures, contracts, charges and terms as may be lawfully determined by Reclamation and, where applicable, Southeastern, or their successors in interest, in their good faith discretion. This decree does not give Southeastern any rights to ownership or use of any Project structure, does not alter Southeastern's rights and interests in Project Water or return flows from Project Water, does not alter any existing rights (including any right to renew existing contracts) Southeastern may otherwise have, and does not alter the respective rights or authority of Reclamation or Southeastern. Entry of a decree in this matter has no effect on the authority of the United States to regulate use of federal facilities of Reclamation. 4.6.2. Southeastern acknowledges that entry of a decree in this matter in and of itself does not create any right, title or interest in the use of Pueblo Reservoir. Any use of Project facilities must be pursuant to contract with Reclamation. Applicant further acknowledges that it has no right to the use of Pueblo Reservoir beyond that granted by any such contract. **5. Correction of Clerical Errors:** Southeastern requests that the Court correct clerical errors in three previously decreed legal descriptions. The current errors in legal descriptions are typographical errors so that, as written, the legal description does not reflect reality. *See Telluride Co. v. Div. Eng'r*, 575 P.2d 1297, 1297 (Colo. 1978). The errors listed in paragraphs 5.1 and 5.2, below, do not reflect locations at which water can be diverted from streams. Subsequent diligence decrees have repeated the inadvertent errors from the description. The inadvertent errors in these legal descriptions are clerical errors that should be corrected by the Court pursuant to C.R.S. §§ 37-92-304(10) and 37-92-305(3.6). 5.1. The legal description of the Otero to Wapaco Sections in the Case No. 5141 Decree contains clerical errors. For the Priority No. A-98C, the intended point of diversion is a point on Clear Creek at or near the current outlet works of Clear Creek Reservoir. For the Priority No. A-99C, the intended point of diversion is a point on Pine Creek, south of Clear Creek Reservoir. To reflect this physical reality, the legal descriptions for both of these points of diversion should begin in the North quarter corner of Section 17. However, the decree begins the description in the West quarter corner of Section 17, which is physically impossible. Thus, for both priorities, the starting point for the legal description should be corrected to read: "A point whence the **North** quarter corner of Section 17. . . ." 5.2. The legal description of Twin Lakes Reservoir in the 80CW6 Decree also contains a clerical error. The decree states that Twin Lakes Reservoir will inundate portions of sections in Range 81 West, which is physically impossible. The legal description should list Range 80 West, instead of Range 81, as follows: "The intersection of Twin Lakes Dam axis and Lake Creek, a point whence the Southeast corner of Section 23, Township 11 South, Range 80 West of the 6th P.M., bears South 54° 13' 08" East a distance of 3,803.10 feet. Said reservoir will inundate all or portions of Sections 14, 15, 16, 17, 18, 19, 20,

21, 22, 23, and 30, Township 11 South, Range 80 West of the 6th P.M.” 5.3. The correct legal descriptions for the Otero to Wapaco sections are shown in footnotes to Table 1 of this Application. No further changes are proposed to Southeastern’s rights for Twin Lakes Reservoir other than the correction of the legal description.

CASE NO. 2016CW3077 - CANDO PROPERTIES, LLC, Attn: Cary Carpenter, 398 S. Forty Road, Woodland Park, CO 80863 (Please address all pleadings and correspondence to: Chris D. Cummins or Ryan W. Farr of Monson, Cummins & Shohet, LLC, Attorneys for Applicant, 319 N. Weber St., Colorado Springs, CO 80903, (719) 471-1212).

Application for Plan for Augmentation

PUEBLO COUNTY

Background and Summary of Plan for Augmentation. Applicant desires to continue the use of a currently constructed and operational well (“CanDo Well No. 1”), a currently constructed but not completed well (CanDo Well No. 2) and an additional well (“CanDo Well No. 3”), on Applicant’s approximately 125-acre property located in Pueblo County, Colorado, in the SW1/4 NE1/4 of Section 15, Township 21 South, Range 61 West of the 6th P.M., as depicted on the map attached to the Application as Exhibit A (“Applicant’s Property”). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant intends to use up to three (3) wells to provide water for commercial and irrigation uses for agricultural operations, including, but not limited to, cannabis production on the Applicant’s Property. Therefore, Applicant seeks approval of a plan for augmentation for the use of such wells for commercial and irrigation purposes. **Application for Approval of Plan for Augmentation. Structures to be Augmented.** The structures to be augmented consist of one existing and constructed well (CanDo Well No. 1), and up to two additional wells to be completed/constructed on Applicant’s Property (CanDo Well Nos. 2 and 3). **Water Rights to be Used for Augmentation. Lease with Pueblo Board of Water Works.** Water rights to be used for augmentation consists of an annual maximum amount of 30 acre-feet of fully consumable water provided by lease (with amendments) with the Board of Water Works of Pueblo, Colorado (“Pueblo Water”)¹. The Lease, as amended, is for a term of ten years with Applicant’s option to extend for an additional ten years. The term of the Lease commenced on May 1, 2015. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water’s water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise

¹ The Lease provides for 20 acre feet of pumping during May 1, 2016 – April 30, 2017 contract year, and 30 acre feet annually thereafter.

Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. Additional Leases with Pueblo. Any additional fully consumable decreed water provided to Applicant through additional lease or leases with Pueblo Board of Water Works may be included into this plan for augmentation and shall commensurately modify or extend the available pumping that can be conducted by Applicant. **Statement of Plan for Augmentation.** Diversions and Depletions. Uses. The entirety of the diversions will be used for commercial and irrigation purposes for agricultural operations. Commercial purposes include sanitary and drinking water purposes, as well as operation of cooling systems, and irrigation purposes include indoor and outdoor irrigation of agricultural products, specifically cannabis production. Depletions. Water use for all uses will be considered to be one-hundred percent consumptive. Return Flows. As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the Wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree. Maximum Diversions. CanDo Well Nos. 1, 2 and 3, and all subsequently constructed replacement or additional wells, will pump each year no more than the annual total of the contractually allotted annual lease water from Pueblo Board of Water Works. Such total is currently 30 annual acre-feet. All wells on Applicant's Property shall be constructed to the alluvium of the Arkansas River. Timing of Depletions. Well pumping by all wells on Applicant's Property will be entitled to occur on a year-round basis, resulting in year-round lagged depletions to the Arkansas River. The timing of the lagged depletions will be based on the distance from the well to the point of impact on the Arkansas River as determined by Applicant's engineers using generally accepted engineering principles. Replacement Water. Replacement water to augment the herein depletions currently totals a maximum of 30 are-feet from the Lease. Such replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of the Wells. The amount and timing of replacement water provided by the Applicant at the point of depletion shall be determined by lagged depletion analysis by Applicant's water resource engineering consultants and shall be subject to appropriate transit loss, if applicable. **Name and Address of Owners of Land Upon Which Structures are Located.** All structures, wells, and operations covered by this Application occur on property owned by the Applicant. **Remarks.** Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits for CanDo Well Nos. 2 and 3, and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. Applicant requests that all such wells be considered a "well field", so that additional wells may be constructed as necessary in order to obtain Applicant's full augmented appropriation, if necessary, as sought herein. The Applicant requests a finding that vested water rights

of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on the Applicant's Property. The wells shall be installed and metered as required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation.

CASE NO. 2016CW3078, Water Division 2, and CASE NO. 2016CW3167, Water Division 1 – TRACY and MARK GILLILAND, 11155 Forest Edge Drive, Colorado Springs, CO 80908 (Please address all pleadings and correspondence to: James J. Petrock, Petrock & Fendel, Attorney for Applicants, 700 17th Street, #1800, Denver, CO 80202; (303) 534-0702)

Application for Underground Water Rights from Nontributary and Not Nontributary Sources and for Approval of Plan for Augmentation in the Nontributary Laramie-Fox Hills and the Not Nontributary Dawson, Denver, And Arapahoe Aquifers

EL PASO COUNTY

8 acres being Lot 3, JRLBJN Subdivision, generally located in the SW1/4SW1/4 of Section 19, T12S, R65W 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.) **Source of Water Rights:** The Dawson, Denver, and Arapahoe aquifers are not nontributary as described in Sections 37-90-103(10.7), C.R.S., and the Laramie-Fox Hills aquifer is nontributary as described in Section 37-90-103(10.5), C.R.S. **Estimated Amounts:** Dawson: 4.4 acre-feet, Denver: 10.6 acre-feet, Arapahoe: 9.3 acre-feet, Laramie-Fox Hills: 5.6 acre-feet. **Proposed Use:** Domestic, commercial, industrial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. **Groundwater to be augmented:** 1 acre-feet per year of Dawson aquifer groundwater for 300 years as requested herein. **Water rights for augmentation:** Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary ground water. **Statement of plan for augmentation:** The Dawson aquifer groundwater will be used through one well to serve 1 residence at a rate of flow not to exceed 15 gpm. The well will withdraw 1 acre-foot annually for 300 years for inhouse use (0.35 acre-feet), irrigation of 10,500 square-feet of lawn, garden, and trees (0.6 acre-feet), and stockwatering of up to 4 large domestic animals (0.05 acre-feet). Applicants reserve the right to amend these amounts and values without amending the application or republishing the same. Sewage treatment for inhouse use will be provided by non-evaporative septic systems and return flow from inhouse and irrigation use will be approximately 90% and 15% of that use, respectively. During pumping Applicants will replace actual depletions to the affected stream system pursuant to Section 37-90-137(9)(c.5), C.R.S. Because depletions may occur to stream systems in Water Divisions 1 and 2, this application is being filed in both divisions. Based on the location of the Subject Property, return flows from use of the water on the Subject Property return to the Arkansas River via Cottonwood Creek and such return

flows are sufficient to replace the total annual actual depletion. Applicants request that the total actual depletion be returned to the Arkansas River stream systems and for a finding that those replacements are sufficient to prevent injury to all affected stream systems. Applicants will reserve an equal amount of the nontributary Laramie-Fox Hills aquifer groundwater requested herein to meet post pumping augmentation requirements. Further, Applicants pray that this Court grant the application and for such other relief as seems proper in the premises.

CASE NO. 2016CW3079; Previous Case Nos. W-28; W-629; W-28(76); 80CW88; 84CW56; 88CW43; 95CW91; 02CW37; 10CW23 - SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT (SOUTHEASTERN); 31717 United Avenue, Pueblo, CO 81001; (719) 948-2400; c/o Lee E. Miller, General Counsel; lee@secwcd.com (Please send all pleadings and correspondence to: Stephen H. Leonhardt, Alix L. Joseph, and Morgan L. Figuers; Burns, Figa & Will, P.C., Attorneys for Applicant, 6400 S. Fiddlers Green Circle, Suite 1000, Greenwood Village, CO 80111; (303) 796-2626)

Application for Finding of Reasonable Diligence.

LAKE, CHAFFEE, FREMONT, PUEBLO, CROWLEY, OTERO, AND BENT COUNTIES, COLORADO.

2. Decrees. 2.1 Chaffee County District Court, Case No. 5141, July 9, 1969. 2.2. Pueblo County District Court, Case No. B-42135, June 25, 1962. 2.3. The above decrees have been modified and amended by the decrees in Case Nos. 80CW6 and 80CW88, Water Division No. 2, and the conditional rights continued by Case Nos. W-28(76), 84CW56, 88CW43, 95CW91, 02CW37, 10CW23, Water Division No. 2. **2.4. Decreed Uses:** irrigation, manufacturing, domestic, municipal, power purposes, flood control, recreation, and wildlife conservation; all municipal purposes, including human consumption, fire protection, sewage treatments, street sprinkling, watering of parks, lawns, and grounds, and maintaining adequate storage reserves; all farming purposes, including the growing of crops of all kinds, stock water, domestic purposes, and the watering of lawns, trees and shrubs; all industrial purposes, and the generation of electric power; for a succession of such uses and to fill and refill Fryingpan-Arkansas Project reservoirs and forebays described below in Tables 1 and 2. **2.5 Legal Descriptions:** The legal descriptions for each of the Fryingpan-Arkansas Project structures included in this application are shown in Appendix A below. They are also found in the decrees for Chaffee County District Court, Case No. 5141, and Pueblo County District Court, Case No. B-42135, as amended by Case No. 80CW6. A clerical error in the description of Pueblo Reservoir was corrected in Case No. 02CW37. **3. Name of Structure:** The Fryingpan-Arkansas Project, which includes the water rights decreed in Chaffee County District Court, Case No. 5141, as shown on Table 1, below, and Pueblo County District Court, Case No. B-42135, as shown on Table 2, below.

Table 1: Water Rights Dececd in Case No. 5141

Name of Structure; Priority Number	Source of Water	Amount Total	Amount Remaining Conditional
Turquoise Lake* A92C	Lake Fork of Arkansas River and drainage tributary thereto above the dam which creates the reservoir, and water diverted under the District's west slope decrees	129,432 a.f. & refill	Refill only
Twin Lakes Reservoir* A93C	Arkansas River and drainage tributary thereto through the Mt. Elbert Conduit, from Lake Creek, and water diverted under the District's west slope decrees	141,000 a.f. & refill	1,250 a.f. & refill
Mt. Elbert Forebay* A93C	Waters impounded by Twin Lakes Reservoir Enlargement, the Arkansas River and drainage tributary thereto through the Mt. Elbert Conduit, from Lake Creek, and water diverted under the District's west slope decrees	11,148 a.f. & refill	0**
Mt. Elbert Conduit* A94C	Lake Fork of Arkansas River and drainage tributary thereto, and water diverted under the District's west slope decrees	370 c.f.s.	0
Halfmoon Diversion Structure* A95C	Halfmoon Creek	150 c.f.s.	0
Malta Canal A96C	Arkansas River	350 c.f.s.	350 c.f.s.
Otero Conduit* A97C	Lake Creek above Twin Lakes Dam and Mt. Elbert Conduit	725 c.f.s.	725 c.f.s.
Otero to Wapaco Section - Subsection A*** A98C	Clear Creek and Otero Power Plant tailrace	600 c.f.s.	600 c.f.s.

Otero to Wapaco Section - Subsection B*** A99C	Clear Creek, Otero Power Plant tailrace, and Pine Creek	600 c.f.s.	600 c.f.s.
Wapaco Diversion Canal Section A100C	Arkansas River	600 c.f.s.	600 c.f.s.
Chalk Creek Diversion Canal Section A104C	Chalk Creek	375 c.f.s.	375 c.f.s.

Table 2: Water Rights Decreed in Case No. B-42135

Name of Structure; Priority Number	Source of Water	Amount Total	Amount Remaining Conditional
Pueblo Reservoir* A-22C	Arkansas River and drainage tributary thereto above the dam which creates the reservoir, and water diverted under the District's west slope decrees	357,678 a.f. & refill	62,972 a.f. & refill

*The legal descriptions for these structures were changed to conform to the structures as they were built for the Fryingpan-Arkansas Project, in Case No. 80CW6. A clerical error in the description of Pueblo Reservoir was corrected in Case No. 02CW37. In Case No. 16CW3076, Southeastern is requesting that the Court correct a clerical error in the legal description for Twin Lakes Reservoir. **The remaining conditional decreed storage capacity, 259 a.f., of the Mt. Elbert Forebay was abandoned in Case No. 10CW23. *** In Case No. 16CW3076, Southeastern is requesting that the Court correct clerical errors in the legal descriptions of these structures. **4. Priorities:** 4.1. The priority date for the east slope water rights of the Fryingpan-Arkansas Project under the Decree in Case No. 5141 is February 10, 1939. However, the decree states: "As to water rights heretofore adjudicated in this District, priorities for irrigation granted by this decree shall be enforceable only as of July 14, 1942, and priorities for purposes other than irrigation granted by this decree shall be enforceable only as of December 15, 1942." 4.2. The priority date under the Decree in Case No. B-42135 is February 10, 1939. Southeastern agreed in a 1989 stipulation in Case Nos. 88CW43 and 84CW56 to certain terms and conditions on the application of the 1939 priority date to upstream exchanges of return flows from points below Pueblo Reservoir. **5. Sources of Water:** The sources of water for each structure are the sources designated in Tables 1 and 2, all of those sources' tributaries, and water diverted under the District's west slope decrees, in Garfield County District Court Case No. CA-4613 and in Division 5, Case Nos. W-829-76, 80CW267, 83CW352 and 84CW195. Water is also stored by exchange in accord with exchange provisions in decrees of Chaffee County District Court, Case No. 5141, Pueblo County District Court, Case No. B-42135 and Division 2 Water Court Case Nos. 80CW6, 84CW56, 88CW43, 95CW91, 02CW37, and 10CW23. **6. Finding of Reasonable Diligence:** Work in connection with the Fryingpan-Arkansas

Project and all its decreed diversions, has been prosecuted with reasonable diligence. The existing East Slope structures of the Fryingpan-Arkansas Project have been used to convey and store Project water, including that diverted from the West Slope, and to deliver such water for decreed beneficial uses. Southeastern has contractual agreements for planning, construction, operation, maintenance and repayment of the Fryingpan-Arkansas Project with the United States Bureau of Reclamation. Fryingpan-Arkansas Project activities include operation, maintenance and improvement of the collection system and storage system. Operation is subject to the terms of Water Division 5 and Division 2 Decrees, the Operating Principles, and the Congressional authorizing legislation. Current diversions and recordkeeping are integral to future development of the system's conditional rights. Throughout the diligence period, the Boustead Tunnel, Turquoise Lake, Mt. Elbert Conduit, Halfmoon Diversion Structure, Mt. Elbert Forebay, Mt. Elbert Power Plant Unit No. 1, Twin Lakes Dam, and Pueblo Dam were in operation and maintenance status. From December 2010 through November 2016, the Fryingpan-Arkansas Project expended in excess of \$11 million on East Slope and West Slope Project operation and maintenance costs. During this diligence period from December 2010 through November 2016, Southeastern expended in excess of \$680,000 for engineering consultation and in excess of \$2 million for legal fees and costs, primarily to protect the District's West and East Slope water decrees and for further Project development. Southeastern has appeared as a party in various water rights proceedings involving water rights along the Arkansas River and its tributaries in order to protect the District's various decreed rights in the Fryingpan-Arkansas Project. Southeastern also has expended substantial executive time and legal and engineering expense toward protecting and administering the Winter Water Storage Program in Pueblo Reservoir pursuant to the Decree in 84CW179, which program contributes to repayment of the Fryingpan-Arkansas Project costs. Southeastern has taken part in various legislative, administrative and judicial proceedings to protect Southeastern's rights in the Fryingpan-Arkansas Project, including its absolute and conditional East Slope water rights. Southeastern has entered into and remains a part of various intergovernmental agreements regarding Fryingpan-Arkansas Project East Slope storage facilities and related exchange operations. On May 25, 2004, Southeastern, the City of Pueblo, the City of Aurora, the City of Fountain, the City of Colorado Springs, and the Board of Water Works of Pueblo, Colorado entered an agreement to settle Case No. 01CW160 (Water Div. 2), in which Pueblo filed an application for an in-channel diversion (RICD) water right. This agreement provides for an Arkansas River Flow Management Program and protection of the RICD flows provided for in the agreement, provided that the parties also devise and operate methods and facilities to mitigate adverse impacts to senior and pending water rights. On July 24, 2006, Southeastern, Chaffee County, the Colorado Department of Natural Resources, the Colorado Division of Wildlife, the Colorado Division of Parks and Outdoor Recreation, Upper Arkansas Water Conservancy District, City of Salida, Arkansas River Outfitters Association, the City of Colorado Springs acting through Colorado Springs Utilities, the Board of Water Works of Pueblo, Colorado, and Pueblo West Metropolitan District entered a memorandum of understanding to settle Case No. 04CW129 (Water Div. 2), in which Chaffee County applied for a RICD water right. This MOU protects Southeastern's and others' water rights against injury, protects operation

of the Fryingpan-Arkansas Project for its authorized purposes, and of the Upper Arkansas Voluntary Flow Management Program (VFMP) for its recreational and fishery purposes, and provides agreed levels of protection for native Arkansas River flows for Chaffee County's RICD, while preserving reasonable opportunities for future water development and exchanges in the Arkansas River basin upstream of Salida. The VFMP Agreement was renewed in 2016 for a term through June 30, 2021. Southeastern, acting through its Water Activity Enterprise, filed and diligently pursued adjudication of exchange applications in Water Division 2, including Case No. 01CW151 for exchange of certain return flows from Fryingpan-Arkansas Project water into Pueblo Reservoir for use within the Southeastern District. A final Decree in Case No. 01CW151 was entered on June 16, 2014. Southeastern also joined with four other parties to the May 2004 IGA to adjudicate "Recovery of Yield" exchange rights in Case No. 06CW120 (Water Div. 2), in which a final decree was entered August 17, 2016. This exchange allows Southeastern to recapture water for beneficial use to meet flow management program targets when it foregoes exchanges. The exchanges decreed in Case Nos. 01CW151 and 06CW120 help to "secure the greatest benefit from the use and reuse of imported project waters within project boundaries in the State of Colorado," as provided in the Operating Principles and contemplated in the decrees for Southeastern's water rights. Southeastern's activities on these matters demonstrate reasonable diligence with respect to the District's water rights for the Project. Southeastern has continued to pursue adjudication of exchange applications in Water Division 2, including Case No. 06CW08 for exchange diverting water by exchange upstream on the Arkansas River at Pueblo Reservoir (including the proposed Pueblo Reservoir Enlargement), and to deliver to the downstream calling water right an equivalent amount of substitute supply water from storage in Holbrook Reservoir No. 1 or Dye Reservoir, or from water diverted at the Catlin Canal Headgate, High Line Canal Headgate, Holbrook Canal Headgate, Oxford Farmers Ditch Headgate or Rocky Ford Ditch Headgate. Southeastern undertook a new engineering study of water availability for its remaining conditional rights in Water Division 2 during the diligence period. This water availability study and associated analysis of the remaining conditional rights cost the District in excess of \$40,000. Southeastern filed an application on November 23, 2016, in Case No. 16CW3076, for changes of points of diversion of several conditional water rights decreed in Case No. 5141, and changes from direct diversion to storage. These changes will maintain the feasibility of future development and use of those conditional rights. While the construction of certain conditionally decreed Project features has not yet been started, there is no intent to abandon these features or any of the conditional water rights listed above. As this Court has previously found, the construction, operation and maintenance of parts of the Fryingpan-Arkansas Project demonstrate reasonable diligence for other parts of the Project. The collection, transportation, storage, and power systems of the Fryingpan-Arkansas Project comprise one overall, integrated water supply project. See, e.g., Decree in Case No. 02CW37 at 8 ¶7 (April 27, 2004). **7. Notice to Abandon Other Conditional Rights:** Southeastern has elected to abandon its conditional water rights listed in Tables 3 and 4, below, for certain structures conditionally decreed in Chaffee County District Court, Case No. 5141, and Fremont County District Court, Case No. 8757 on February 16, 1968. This

Application serves as notice of Southeastern's intent to abandon the rights listed below. Southeastern does not intend to develop these facilities and associated water rights.

Table 3: Water Rights Deceid in Case No. 5141

Name of Structure; Priority Number	Source of Water	Total Conditional Amount
Princeton Forebay A102C	Arkansas River, Arkansas Power Canal System, and its intercepts	500 a.f. & refill
Pancho Forebay A105C	Arkansas River, Arkansas Power Canal System, and its intercepts	418 a.f. & refill
Salida Forebay A107C	Arkansas River, Arkansas Power Canal System, and its intercepts	1,425 a.f. & refill
Salida Afterbay A108C	Arkansas River, Arkansas Power Canal System, and its intercepts	600 a.f. & refill
Wapaco to Princeton Section A101C	Arkansas River, Wapaco Power Plant and Wapaco Diversion Canal	600 c.f.s.
Princeton to Pancho Section A103C	Arkansas River and Chalk Creek	750 or 1,000 c.f.s.
Pancho to Salida Section A106C	Arkansas River and Pancho Power Plant tailrace	1,000 c.f.s.
Canal A and Tenderfoot Tunnel A112C	Arkansas River and drainage tributary thereto including all imported waters from the Roaring Fork and Fryingpan Rivers introduced by the Fryingpan-Arkansas Project into the Arkansas River	2,000 c.f.s.

Table 4: Water Rights Deceid in Case No. 8757

Name of Structure; Priority Number	Source of Water	Total Conditional Amount
Grape Creek Dam and Reservoir B-16C	Arkansas River and Grape Creek	1,620 a.f.
Canal C B-17C	Arkansas River	2,000 c.f.s.

Appendix A: Legal Descriptions of Structures

Name of Structure and Priority	Decreed Point of Diversion Legal Description
Turquoise Lake* A92C	<p>The intersection of Sugar Loaf Dam axis and Lake Fork Creek, a point whence the Northwest corner of Section 16, Township 9 South, Range 80 West of the 6th P.M., bears North 44° 46' 18" East a distance of 10,344.35 feet. Said reservoir will inundate all or portions of Section 7, 8, 17, 18, 19, and 20, Township 9 South, Range 80 West of the 6th P.M., and Section 10, 11, 12, 13, 14, and 15, Township 9 South, Range 81 West of the 6th P.M.</p> <p>The UTM coordinates for Turquoise Lake are UTM X = 381385.2 and UTM Y = 4348865.</p>
Twin Lakes Reservoir* A93C	<p>The intersection of Twin Lakes Dam axis and Lake Creek, a point whence the Southeast corner of Section 23, Township 11 South, Range 80 West of the 6th P.M., bears South 54° 13' 08" East a distance of 3,803.10 feet. Said reservoir will inundate all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 30, Township 11 South, Range 81 West of the 6th P.M.</p> <p>The UTM coordinates for Twin Lakes Reservoir are UTM X = 387247 and UTM Y = 4326098.</p>
Mt. Elbert Forebay* A93C	<p>Mt. Elbert Forebay Dam Sta. 16+00 near the center of the dam, a point whence the quarter corner of Sections 5 and 8, Township 11 South, Range 80 West of the 6th P.M., bears North 23° 29' 57" West a distance of 1,284.13 feet. Said reservoir will inundate portions of Sections 7 and 8, Township 11 South, Range 80 West of the 6th P.M.</p> <p>The UTM coordinates for Mt. Elbert Forebay are UTM X = 382561.4 and UTM Y = 4331144.</p>
Mt. Elbert Conduit* A94C	<p>A point in the Sugar Loaf Dam Outlet Works whence the South quarter corner of Section 19, Township 9 South, Range 80 West of the 6th P.M., bears South 5° 42' 52" West a distance of 3,153.38 feet.</p> <p>The UTM coordinates for Mt. Elbert Conduit are UTM X = 381327.6 and UTM Y = 4345612.</p>
Halfmoon Structure* A95C	<p style="text-align: center;">Diversion</p> <p>A point in the centerline of Halfmoon Creek and the Halfmoon Diversion Structure whence the Southwest corner of Section 7, Township 10 South, Range 80 West of the 6th P.M., bears North 55° 37' 46" West a distance of 445.03 feet.</p> <p>The UTM coordinates for Halfmoon Diversion Structure are UTM X = 381213.9 and UTM Y = 4339154.</p>
Malta Canal A96C	<p>A point whence the West quarter corner of Section 21, Township 9 South, Range 80 West, 6th P.M., bears South 0°8' for a distance of 650 feet.</p> <p>The UTM coordinates for Malta Canal are UTM X = 384537.2 and UTM Y = 4345578.</p>

Otero Conduit* A97C	A point in the Twin Lakes Dam Outlet Works whence the Southeast corner of Section 23, Township 11 South, Range 80 West of the 6th P.M., bears South 54° 21' 36" East a distance of 3,646.33 feet. The UTM coordinates for Otero Conduit are UTM X = 387378.1 and UTM Y = 4326252.
Otero to Wapaco Section - Subsection A** A98C	A point whence the West quarter corner of Section 17, Township 12 South, Range 79 West of the 6th P.M., bears South 29° 44' West a distance of 2,661 feet. The UTM coordinates for Otero to Wapaco Section –Subsection A are UTM X = 392026.8 and UTM Y = 4318162.
Otero to Wapaco Section - Subsection B** A99C	A point on the South Bank of Pine Creek whence the West quarter corner of Section 17, Township 12 South, Range 79 West of the 6th P.M., bears North 48° 49' West a distance of 7,617 feet. The UTM coordinates for Otero to Wapaco Section-Subsection B are UTM X = 392026.8 and UTM Y = 4318162.
Wapaco Diversion Canal Section A100C	A point whence the Southwest corner of Section 2, Township 13 South, Range 79 West of the 6th P.M. bears South 73° 25' West a distance of 3,000 feet. The UTM coordinates for Wapaco Diversion Canal are UTM X = 396675.8 and UTM Y = 4310164.
Chalk Creek Diversion Canal Section A104C	A point whence the North quarter corner of Section 17, Township 15 South, Range 78 West of the 6th P.M., bears North 24° 35' East a distance of 5,756 feet. The UTM coordinates for Chalk Creek Diversion Canal Section are UTM X = 401168.9 and UTM Y = 4289086.
Pueblo Reservoir* A-22C	A point at the intersection of Pueblo Dam axis and the Arkansas River whence the Northeast corner of Section 36, Township 20 South, Range 66 West of the 6th P.M., bears North 61° 21' 20" East a distance of 2,511.05 feet. Said reservoir will inundate all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 20 South, Range 66 West of the 6th P.M., Sections 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West of the 6th P.M., and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24, and 25 Township 20 South, Range 67 West of the 6th P.M. The UTM coordinates for Pueblo Reservoir are UTM X = 524076 and UTM Y = 4235362.

The legal descriptions are from Chaffee County District Court, Case No. 5141, unless noted by *. *The legal descriptions for these structures were changed to conform to the structures as they were built for the Fryngpan-Arkansas Project, in Case No. 80CW6. A clerical error in the description of Pueblo Reservoir was corrected in Case No. 02CW37. ** In Case No. 16CW3076, Southeastern is requesting that the Court correct clerical errors in these legal descriptions. If the Court grants Southeastern's request, the description for Otero to Wapaco Subsection A will begin: "A point whence the **North....**", and the description for the Otero to Wapaco Subsection B will begin: "A point on the South Bank of Pine Creek whence the **North....**" **Bold** indicates the change to the legal description. Southeastern obtained all UTM coordinates described in this Application

from the HydroBase database found at <http://cdss.state.co.us/OnlineTools/Pages/StructuresDiversions.aspx> The UTM coordinates are included in this Application at the request of the Division Engineer to facilitate administration. In the event that any UTM coordinates are inaccurate, it shall not affect the rights to be adjudicated through this Application.

CASE NO 2016CW3080 - COLORADO WATER PROTECTIVE AND DEVELOPMENT ASSOCIATION ("CWPDA"), 1220 E. 3rd St., La Junta, CO 81050; EDISON SCHOOL DISTRICT 54JT, 14550 Edison Road, Yoder, CO 80864; and FOUNTAIN MUTUAL IRRIGATION COMPANY ("FMIC"), P.O. Box 75292, Colorado Springs, CO 80970-5292.

(Please send all pleadings and correspondence to: Julianne M. Woldridge, MacDougall & Woldridge, P.C., 1586 So. 21st St., Suite 200, Colorado Springs, CO 80904 (719) 520-9288, attorneys for CWPDA **AND** Steven T. Monson, Monson, Cummins & Shohet, LLC, 319 No. Weber St., Colorado Springs, CO 80903 (719) 471-1212, attorneys for Edison School District 54JT and FMIC)

Application for Approval of Plan for Augmentation and for Change of Water Rights
EL PASO AND PUEBLO COUNTIES

2. Purpose of Application: CWPDA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to replace out-of-priority depletions from their wells. The purpose of this application is to include an additional augmented structure in CWPDA's plan for augmentation ("07CW128 Plan") approved in Case No. 07CW128 on June 7, 2016 ("07CW128 Decree"). Pursuant to paragraph 13.210 of the 07CW128 Decree, additional structures may be added to the 07CW128 Plan by filing a new application with the Water Court. In addition, Co-Applicants request a change of water rights for an additional water right to be used for augmentation purposes to replace depletions in the 07CW128 Plan, including the new structure to be added by this case, and other administratively approved replacement and substitute water supply plans, and augmentation plans operated by CWPDA. **3. Addition of augmented structure to the 07CW128 Plan:** **a. Structure to be augmented:** a well to be owned and operated by Co-Applicant, Edison School District for school purposes to be located in the SE1/4 NE1/4 of Sec. 36, T.16S., R.61W., El Paso County, CO ("Edison Well"), as shown in Exhibit 1 and 2 attached to the Application and on file with the Court Clerk. **b. Depletions to be replaced:** The out-of-priority depletions to be replaced under the 07CW128 Plan pursuant to this Application are those resulting from the operation of the Edison Well for domestic, commercial, school, and irrigation of school property uses. **c. Water to be used for augmentation:** Those water rights and sources of water identified in paragraph 10 of the 07CW128 Decree and the water derived from one share of stock in the Fountain Mutual Irrigation Company, a change of water rights for which is included in this Application. **d. Statement of augmentation:** The amount, timing, and location of the depletions from the Edison Well to be replaced will be determined in accordance with the methodologies approved in the 07CW128 Decree. The maximum well pumping, maximum well-head depletions, presumptive depletion factor, lagged depletion, and allocation information for the Edison Well are generally estimated and described in Table 1 below. The depletions shall accrue to Reach 3 of the Arkansas River as described in Exhibit 1 ranging from the Southeast corner of Section 20, T.21S., R.62W.,

6h P.M., approximately two miles west of Boone, CO to the Nepesta Gaging Station located in the NE¼SE ¼NW ¼, Section 32, T.21S., R.60W., 6th P.M. The timing, amount, and location of the water to be used for augmentation is described in paragraph 10 of the 07CW128 Decree and in the change of water rights for the FMIC share described in this Application and Table 1. CWPDA’s interest in the FMIC water rights to be changed derives from a lease of the FMIC share described below from Co-Applicant Edison School District. Exhibit 3 filed with the application and on file with the Court Clerk provides evidence of the Co-Applicant’s right to use the water. The existing augmentation sources in the 07CW128 Decree, and the FMIC share to be added to that decree by this case, will be sufficient to replace the depletions from the Edison Well and prevent any injury to decreed water rights.

Table 1
(values in acre-feet)

Maximum Estimated Well Pumping				Maximum Estimated Consumptive Use (Well Head Depletions)				Maximum Estimated Stream Depletions			Replacement Supply		
Mo nth	Indoor Uses		Outdoor Uses		Indoor Uses		Outdoor Uses		Apr- Oct	Nov- Mar	Total	Bes- semer Ditch CU Credits – Applied to Edison School Well	FMIC Credits From Direct Flow & Winter Water Storage Program Water Rights
	2 Resi- dences	School	Land- scape Irrig	Total	2 Resi- dences	School	Land- scape Irrig	Total					
Jan	0.061	0.223	0	0.284	0.0061	0.022	0	0.028		-0.043	-0.043		0.043
Feb	0.055	0.192	0	0.247	0.0055	0.019	0	0.025		-0.043	-0.043		0.043
Mar	0.061	0.223	0	0.284	0.0061	0.022	0	0.028		-0.043	-0.043		0.043
Apr	0.059	0.213	0.01	0.286	0.0059	0.021	0.012	0.039	-0.043		-0.043	0.043	
May	0.061	0.223	0.04	0.327	0.0061	0.022	0.037	0.065	-0.043		-0.043	0.043	
Jun	0.059	0	0.06	0.116	0.0059	0.000	0.048	0.054	-0.043		-0.043	0.043	
Jul	0.061	0	0.06	0.118	0.0061	0.000	0.048	0.055	-0.043		-0.043	0.043	
Aug	0.061	0	0.06	0.118	0.0061	0.000	0.048	0.055	-0.043		-0.043	0.043	
Sept	0.059	0.213	0.04	0.315	0.0059	0.021	0.037	0.064	-0.043		-0.043	0.043	
Oct	0.061	0.223	0.01	0.298	0.0061	0.022	0.012	0.040	-0.043		-0.043	0.043	
Nov	0.059	0.213	0	0.272	0.0059	0.021	0	0.027		-0.043	-0.043		0.043
Dec	0.061	0.223	0	0.284	0.0061	0.022	0	0.028		-0.043	-0.043		0.043
Total	0.718	1.946	0.285	2.949	0.0718	0.195	0.242	0.509	-0.301	-0.215	-0.516	0.301	0.215

Notes for table: Two existing residences on the school property; assume full-time occupancy, 4 people per residence, 80 gallons per day per person.

School occupancy: 150 students, 20 faculty; full-time occupancy Sept-May, 10% occupancy Jun-Aug; 20 gallons per day per person.

Landscape irrigation based on an estimated irrigated area of 5000 square feet; water demand rate of 2.5 ft/yr/acre; irrigation season of Apr-Oct.

CU rate or **Presumptive Depletion Factor (PDF) for indoor uses is 10 percent**, based on wastewater treatment via non-evaporative type septic disposal system, as determined in CWPDA's Case No. 07CW128, Exhibit 9.A.

CU rate or **Presumptive Depletion Factor (PDF) for landscape irrigation is 85 percent**, as determined in CWPDA's Case No. 07CW128, Exhibit 9.A

Lagging Information: Based on wells located in similar geologic conditions (i.e. the Hanover School Wells in Case No. 07CW128, CWPDA Nos. 1061 - 1063), it is expected that the Edison School well will be at least 150-ft deep, drawing from the shand layers of the Pierre Shale formation. Based on such conditions, and as agreed upon for the Hanover School Wells and other deep bedrock wells in Case No. 07CW128, it is proposed the Edison School

Well be considered as a steady-state well that will be lagged using an evenly distributed monthly unit response function pattern over 72 months (6-years).

4. Change of Water Rights: **a. Water Rights to be changed:** a pro-rata share of the water rights of Fountain Mutual Irrigation Company (“FMIC”) represented by or derived from one share of FMIC owned by Edison School District and leased to CWPDA. FMIC diverts its water to the Fountain Mutual Ditch from Fountain Creek tributary to the Arkansas River, at its headgate located in the SW1/4 of Section 20, Township 14 South, Range 66 West, 6th P.M. FMIC’s water rights were originally decreed for irrigation purposes. FMIC water rights include the direct flow rights originally decreed on March 6, 1882, District Court, El Paso County as follows: 9.84 c.f.s. (5.38 c.f.s.), appropriation date of Sept. 21, 1861; 1.125 c.f.s., appropriation date of April 1, 1862; 16.69 c.f.s., appropriation date of Feb. 1, 1863; 4.25 c.f.s. (2.125 c.f.s.), appropriation date of Dec. 31, 1863; 4.65 c.f.s., appropriation date of Dec. 31, 1864; 8.48 c.f.s., appropriation date of Dec. 31, 1866; 9.68 c.f.s., appropriation date of Dec. 31, 1867; 17.05 c.f.s., appropriation date of Sept. 21, 1874; and 343.2 c.f.s., appropriation date of Jan. 31, 1903, and a storage right originally decree on June 2, 1919, District Court, El Paso County for 10,000 a.f., appropriation date of March 18, 1903. **b. Historical Use.** FMIC water rights have been decreed for use in numerous other changes of water rights and plans of augmentation. In those previous cases, this Court determined that each share of FMIC has historically yielded on the average the equivalent of 0.7 acre foot of net replacement or consumptive use water each year, which number represents a portion of the farm headgate delivery. The replacement or augmentation credit allowed to FMIC water rights, as also determined in previous cases is a percentage of the FMIC actual delivery to its shareholders computed on the basis of the following table.

FMIC REPLACEMENT CREDIT

<u>Month</u>	<u>Replacement Credit as a Percentage of Farm Headgate Delivery</u>
January	47
February	58
March	70
April	70
May	70
June	70
July	72
August	72
September	74
October	66
November	40
December	49

This historical consumptive use of FMIC shares determined in Case No. 95CW3 was affirmed by the Colorado Supreme Court, which findings are binding as a matter of res judicata. Williams v. Midway Ranches Property Owners Association, Inc., 938 P.2d 515 (Colo. 1997). This same historical consumptive use was recently affirmed in Case Nos. 09CW6, 09CW119, and 12CW99. There have been no material changed

circumstances since the last decree to modify these historical consumptive use determinations. Recent diversion records are therefore not relied upon or supplied with this Application. Co-Applicants request that the Court find that the one share of FMIC has historically yielded on the average the equivalent of 0.7 acre-foot of net replacement or consumptive use water each year, which number represents a portion of farm headgate delivery. The total amount of consumptive use pursuant to the FMIC water rights is determined based upon the amount of water available for diversion under those rights. The actual consumptive use available from that one share shall be based on actual in-priority diversions applied to the above monthly replacement credit schedule. Augmentation credits will be limited to a maximum of one acre-foot per share per year, and to an average of 0.7 acre foot per year over a 20 year running average.

c. Uses: The water rights to be changed will be used for replacement and augmentation uses in the 07CW128 Plan, including the replacement of depletions from the Edison Well, and CWPDA's administratively approved replacement plans and substitute water supply plans. Co-Applicants request that this Court enter a decree approving the addition of the Edison School Well to the 07CW128 Plan and approving a change of water rights for the one FMIC share.

CASE NO. 2016CW3081 – EDWARD M. COOKE and HOLLY A. PILBROW, 8963 Shipman Lane, Colorado Springs, CO 80908-1701 (Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber, Suite 104, Colorado Springs, CO 80903, phone 719.634.8330, email hank.worley@pcisys.net)

Application for Adjudication of Denver Basin Water Rights
EL PASO COUNTY

1. Names of wells and permit, registration, or denial numbers: none. **2. Legal description of property:** the Applicants' property consists of 53 acres described as Trails at Timberline East Parcel 3 (the "Property"). It is located adjacent to Arroya Lane but does not yet have an assigned street number. The Property is located in the SW1/4 Section 22, T. 12 S., R. 65 W., 6th P.M.; the complete legal description can be found on the deed 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.)

3. Sources: not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Dawson aquifer - 15 gpm per well, 2,533 AF (25.33 AF/yr) absolute; Denver aquifer, 50 gpm per well, 2,818 AF (28.18 AF/yr); Arapahoe aquifer, 150 gpm per well, 2,257 acre feet, (22.57 AF/yr) absolute; Laramie-Fox Hills aquifer, 150 g.p.m., 1,511 AF (15.11 AF/yr), absolute. Except for the Dawson aquifer, these figures are based on the Applicant's use of the SEO's aquifer determination tool, and will be modified as necessary to conform to the figures in the SEO's Determinations of Facts when they are issued, and ultimately will be determined pursuant to the Court's retained jurisdiction. 300 acre feet (3.0 acre feet annually) were deducted from the amount available from the Dawson aquifer to allow for one "exempt" well to pump up to 3.0 acre feet annually. **6. Proposed uses:** all except municipal. **7. Name and address of owner of land on**

which wells are/will be located: Same as Applicant. **8.** The Property does not have any liens or other encumbrances filed against it so the notification requirements of C.R.S. 37-92-302(2)(b) do not apply.

CASE NO. 2016CW3082, WATER DIVISION 2, and CASE NO. 2016CW3171, MICHAEL TURNER, 13750 Holmes Road, Colorado Springs, CO 80908 (Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: Henry D. Worley, Worley Law Firm, LLC, 611 North Weber, Suite 104, Colorado Springs, CO 80903, phone 719.634.8330, email hank.worley@pcisys.net)

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

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: Permit No. 110308-A. **2. Legal description of wells:** Permit No. 11308-A is constructed in the Dawson aquifer in the SW1/4 SE1/4 Section 1, T. 12 S., R. 66 W., 6th P.M., 380 feet from the south section line and 2050 feet from the east section line. Up to two additional wells in the Dawson aquifer, and one well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers are contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicant's 19.96 acre property at 13750 Holmes Road, Colorado Springs, CO 80908, the legal description of which is Lot B, Wecks Subdivision Waiver. The metes and bounds description is: "a tract in SW1/4 SE1/4 Section 1, T. 12 S., R. 66 W., 6th P.M. described as follows: Beginning at the SW corner of Holmes Park Subdivision, thence North 89°50'40" East 663.33 feet, thence South 00°16'55" East 1314.48 feet, thence North 89°51'20" West 661.18 feet, thence North 00°23'35" West 1311.02 feet to the point of beginning." A map showing the 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.) **3. Sources:** not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Dawson aquifer - 15 gpm per well, 1213 AF (12.13 AF/yr) absolute; Denver aquifer, 50 gpm per well, 1712 AF (17.12 AF/yr); Arapahoe aquifer, 50 gpm per well, 788 acre feet, (7.88 AF/yr) absolute; Laramie-Fox Hills aquifer - 150 g.p.m., 563 AF (5.63 AF/yr), absolute. **6. Proposed uses:** all except municipal. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicant. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 8. Name of structures to be augmented:** Well permit 110308-A, plus two additional wells in the Dawson aquifer on the Property. No other water rights are or will be diverted from permit 110308. After entry of a decree, permit 110308-A will be re-permitted consistent with the provisions of the augmentation plan. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** Applicant seeks approval of a plan for augmentation which will allow pumping of 0.85 acre feet annually (which may be modified upward if the DEO's Consultation Report indicates more may be pumped) from each of up to three wells in

the Dawson aquifer, including well permit 110308-A. Pumping will be capped at 765 acre feet over 300 years. Water will be used for indoor residential purposes, small-scale commercial purposes such as drinking and sanitary uses for home/detached offices, landscape and garden irrigation, livestock watering, dust suppression, and augmentation through use of non-evaporative wastewater systems. The SEO has established an informal guideline that at least 0.2 acre foot will be used annually for indoor residential uses in a single family dwelling. Waste water from indoor uses will be treated using a nonevaporative individual septic tank and leach fields; annual return flows from water so treated will no be less than 0.18 acre foot. Such return flows will accrue to tributaries of Monument Creek. This plan for augmentation will allow annual pumping of 0.85 AF/yr/well acre foot over a 300 year period, at which time stream depletions are anticipated to equal 21.16 % of annual pumping. By observing that pumping limitation, septic system return flows alone will equal or exceed the 0.18 acre foot of maximum stream depletions per well during the pumping period. Applicant proposes to replace depletions during pumping with return flows from the septic system, and to replace estimated post-pumping depletions of 684 acre feet with 698 acre feet of the nontributary Arapahoe aquifer water decreed herein, which amount will be reserved for that purpose. Applicant will reserve the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval. **12. Miscellaneous provisions.** (1) There are no liens against the Applicant's property so the notification requirements of C.R.S. 37-92-302(2)(b) do not apply. (2) This application is being filed in Water Divisions 1 and 2. After the period for filing statements of opposition has expired, Applicant will seek to consolidate the two cases in Division 2, where the Property is located. (3) The amounts available for appropriation and available for annual pumping under the augmentation plan may be changed upward from the amounts published herein, based on the Determinations of Facts and the Consultation Report.

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 2017, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 7th day of December, 2017.



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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