

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING NOVEMBER 2019

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 2019, 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. 2019CW6; TERRY J PEAVLER, PO BOX 1091, Buena Vista CO 81211, (719) 207-0626

Application for Simple Change in Surface Point of Diversion Pursuant to § 37-92-305(3.5), C.R.S.

CHAFFEE COUNTY

2. Decreed water right for which change is sought: **A. Name of Structure:** Ronk Ditch. **B. Date of original and all relevant subsequent decrees:** 06/18/1890, 07/15/1902; **Case No:** CA1127, CA1768; **Court:** Chaffee County; **C. Legal description of structure as described in most recent decree that adjudicated the location:** The North Banks of the North Cottonwood Creek in the NE ¼ of Section 10, Township 14, S. or R. 79 W. of the 6th P.M.; whence the NW Cor. Of Section 14, Township 14 S. of Range 79, West of the 6th P.M. bears South 27 degrees 49 minutes 36 seconds East 4184.3 feet, in the said County of Chaffee. **D. Decreed source of water:** North Cottonwood Creek. **E. Appropriation Date:** 12/31/1872. **F. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** Absolute: 2 cfs. **G. Decreed use or uses:** Irrigation. **H. Amount of water decreed:** Absolute: 1.0 cfs. **3. Detailed description of proposed change in a surface point of diversion:** **A. Complete statement of change:** We wish to officially change the location of diversion of 1.0cfs of the Ronk Ditch priority to the Marshall Ditch diversion point. This is moving the ditch downstream from the Silver Creek-Ronk Ditch to the Marshall Ditch. The Marshall Ditch has diverted 1.0 cfs of the Ronk Ditch priority since at least 1946. This water was likely diverted at this location prior to my parents purchasing the property, but I know it was included in the property deed when my parents purchased the property in 1946. We have always diverted this water in the Marshall Ditch with Water Commissioner knowledge without curtailment. **B. Location of the new surface point of diversion:** **UTM Coordinates:** Easting: 395147; Northing: 4300710, Zone 13. **Legal Description:** ¼ SW, ¼ NE, Section 10, Township 14S, Range 79W, of the 6th P.M.; in Chaffee County. **Distance from Section Lines:** 1940 feet from N and 1720 feet from East. **4. 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:** John Bowers III, PO Box 1349, Enid, OK 73702.

**CASE NO. 2019CW3069; COLORADO WATER CONSERVATION BOARD (“CWCB”),
1313 Sherman Street, Suite 718, Denver, CO 80203.** (Please address all pleadings and

inquiries regarding this matter to Applicants’ attorney: Andrew B. Nicewicz, Assistant Attorney General, Natural Resources and Environment Section, Colorado Department of Law, 1300 Broadway Denver, CO, 80203. Telephone: (720) 508-6259).

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

FREMONT COUNTY

2. Name of water right: Stout Creek Instream Flow Water Right. **3. Legal description:**

The Stout Creek Instream Flow Water Right is located in the natural stream channel of Stout Creek from the Bureau of Land Management (BLM)/ U.S.Forest Service (USFS) property boundary to the confluence with an unnamed tributary, a distance of approximately 0.62 miles. See **Exhibit 1** for a general location map attached to the application depicting the approximate location of the Stout Creek Instream Flow Water Right reach. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **A. Upstream Terminus:** BLM/USFS property boundary at: 1. UTM: Northing: 4248489.60; Easting: 425206.65 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 38° 22' 53.33"N; Longitude 105° 51' 22.80"W B. **Downstream Terminus:** Confluence with an unnamed tributary at: 1. UTM: Northing: 4248935.65; Easting: 426072.66 (NAD 1983 Zone 13 North) 2. Lat/Long: Latitude 38° 23' 8.06"N; Longitude 105° 50' 47.28"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: Stout Creek, tributary to the Arkansas River. **5. A. Date of initiation of appropriation:** January 29, 2019. **B. How appropriation was initiated:** Appropriation and beneficial use occurred on January 29, 2019, 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. **C. Date applied to beneficial use:** January 29, 2019. **6. Amount of water claimed:** Instream flow of 3.5 cfs (05/01 - 06/30), 1.5 cfs (07/01 - 08/31), and 0.6 cfs (09/01 - 04/30), 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., 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. 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. 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) and (4), and 37-92-103(3), (4), and (10), C.R.S. The purpose of the CWCB’s appropriation is to preserve the natural environment to a reasonable degree. At its regular meeting on May 15, 2019, the CWCB determined, pursuant to section 37-92-102(3)(c), C.R.S., that the

natural environment of Stout 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. 2019CW3070; CITY OF WALSENBURG, 525 South Albert Street, Walsenburg, CO 81089-2296 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Jennifer M. DiLalla and Gregor A. MacGregor, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 300, Boulder, Colorado 80302)

Application for Conditional Water Storage Right

HUERFANO COUNTY

2. Description of application: The City of Walsenburg ("City") supplies water to its customers both within and outside the City's boundaries. See **Exhibit A**, for a general location map depicting the City's current boundaries 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.). The City owns and operates Walsenburg Reservoir, a/k/a City Lake, which was recently rehabilitated and enlarged as part of the City Lake Dam Construction Project ("City Lake Project"). The City seeks to adjudicate a conditional storage water right to be used to fill the 275 acre-feet of additional usable capacity made available by the City Lake Project ("City Lake Enlargement"). **City Lake Enlargement Conditional Water Right**

3. Description of structure: City Lake, a/k/a Walsenburg Reservoir, a/k/a Walsenburg Water System Reservoir, is an off-channel reservoir located in Section 23, T28S, R67W of the 6th P.M., Huerfano County, Colorado, as shown on the map attached as **Exhibit B**. The dam centerline is located in the NE1/4 of the SE1/4 of Section 23, T28S, R67W of the 6th P.M., Huerfano County, Colorado, at a point 2,440 feet from the South section line and 1,083 feet from the East section line. (UTM: 512975.01465 East, 4160982.92881 North.) 3.1 Dam length and height: 3,950 feet in length and 17.6 feet in height from the lowest point of natural ground surface along the dam's longitudinal centerline to the crest of the emergency spillway. 3.2 Surface area of high-water line: 49.82 acres. 3.3 Total capacity of reservoir: 686.45 acre-feet (all active capacity; no dead storage).

4. Points of diversion for filling of City Lake Enlargement: 4.1 Walsenburg Pipeline: The Walsenburg Pipeline diverts water from the Cucharas River at a point in the SW1/4 of Section 28, T29S, R68W of the 6th P.M., Huerfano County, Colorado, as shown on **Exhibit B**. The point of diversion is located on property also known as 5540 Hwy. 12, La Veta, CO 81055. (WDID 1600637; UTM: 498634 East, 4149150 North.) 4.2 City Lake Inlet: The City Lake Inlet, which is not yet constructed, will divert water from a point on the north bank of the Cucharas River within a 1,000-foot reach located in the SE1/4 of the NW1/4 and the NE1/4 of the SW1/4 of Section 26, T28S, R67W of the 6th P.M., Huerfano County, Colorado, as shown on **Exhibit B**. The upstream terminus of the reach corresponds with the following UTM coordinates: 512222 East, 4159436 North. The downstream terminus of the reach corresponds with the following UTM coordinates: 512465 East, 4159451 North. The City Lake Inlet reach spans two properties: (a) that property located at 3255 County Road 342, Walsenburg, CO 81089, and also described as Lot 2, River Ridge Ranch, Phase 1, according to Plat Map No. 432, September 21, 2000, recorded at Reception No. 346033, in Huerfano

County, Colorado; and (b) that property described as Common Area, River Ridge Ranch Phase 1, according to Plat Map No. 432, recorded at Reception No. 346033, in Huerfano County, Colorado. (WDID 1600592.) 4.3 Lake Miriam Ditch, a/k/a Coler Inlet Ditch: The Coler Inlet Ditch diverts water from the Cucharas River at a point in the NW1/4 of the SE1/4 of Section 32, T28S, R67W of the 6th P.M., Huerfano County, Colorado, as shown on **Exhibit B**. The point of diversion is located on property also known as a portion of Tract 9 and all of Tract 10, Disert Subdivision, in Huerfano County, Colorado. (WDID 1600584; UTM: 508063 East, 4157930 North.) 5. Source: Cucharas River. 6. Date of appropriation: November 19, 2019. 7. How appropriation was initiated: By resolution of the City Council of the City of Walsenburg adopted in open session on November 19, 2019; by the City's posting of notices of appropriation at City Lake and each point of diversion on November 19, 2019; and by the filing of this Application. 8. Amount claimed: 8.1 Volume: 275 acre-feet per year with the right to one refill, CONDITIONAL. 8.2 Diversion rate: 8.2.1 Walsenburg Pipeline: 13.2 c.f.s. 8.2.2 Coler Inlet Ditch: 18.8 c.f.s. 8.2.3 City Lake Inlet: 20 c.f.s. 8.2.4 Maximum simultaneous diversion rate: 51.2 c.f.s., cumulative, at all points of diversion. 9. Beneficial use: Use, reuse, and successive use to extinction for augmentation and replacement purposes, including but not limited to within the plan for augmentation approved in Case No. 11CW56; for all municipal purposes, including but not limited to domestic, industrial, commercial, irrigation out of Walsenburg's municipal system, stock watering, recreation, fish and wildlife preservation and propagation, fire protection, aquifer recharge, sewage treatment, mechanical, manufacturing, and street sprinkling purposes; for use as a source of supply within decreed or administratively approved substitutions and exchanges; for supplying the City's established water-hauling program, through which the City sells water to customers for use both within and outside Walsenburg's boundaries, for the beneficial end-uses of those customers; and for the beneficial end-uses of the City's lessees, including but not limited to Huerfano County Water Conservancy District, Town of La Veta, and/or Cucharas Sanitation and Water District as facilitated by that Intergovernmental Agreement Concerning the Option Right to Lease Water Storage Capacity, dated May 2, 2018 ("City Lake IGA"), or related future agreements. Nothing in this Application modifies or seeks to modify any term of the City Lake IGA. All beneficial uses will be made after initial storage in City Lake. 10. Places of use: Within the City's boundaries, as they exist now and as they may be modified in the future; and outside the City's boundaries for use by the City's extra-territorial customers, contractees, and lessees, as described in paragraph 9 above. 11. City's documented need: The City will substantiate its need for the City Lake Enlargement conditional water right based solely on its own municipal demands and the documented demands of the City's established water-hauling program; the City will not substantiate need based on the demands of any other third-party end user. 12. Names and address 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 is or will be stored, including any modification to the existing storage pool: 12.1 City Lake: 12.1.1 FLC, LTD, c/o Bar Spear Bar Ranch, LLC, 223 E. Elm, Walsenburg, CO 81089. 12.1.2 Snowy River Ranches LLC, 3531 S. Logan St., Unit D #358, Englewood, CO 80113. 12.2 Walsenburg Pipeline: Grandote Golf and Country Club, LLC, P.O. Box 6, La Veta, CO 81055. 12.3 Coler Inlet Ditch: Jolene L. Noga, 23191 Song Bird Hills Way, Parker, CO 80138. 12.4 City Lake

Inlet: 12.4.1 River Ridge Ranch Landowner's Association, P.O. Box 1042, Walsenburg, CO 81089. 12.4.2 Matthew James Day Revocable Living Trust, dated June 27, 2017, and Nina Geist Day Revocable Living Trust, dated May 24, 2017, 3255 County Road 342, Walsenburg, CO 81089. WHEREFORE, the City of Walsenburg respectfully requests that the Court enter a decree confirming the City Lake Enlargement conditional storage water right and granting all such additional relief as the Court may determine necessary or desirable.

****Per Order, Resume to be published by Water Division 1****

CASE NO. 2019CW3071; Water Division 2 and CASE NO 2019CW3218 Water Division 1 – JAMES L. NELSON AND ELIZABETH A VARNEY, 698 Pebble Crest Way, Colorado Springs, CO 80921. (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212.)

Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation
DOUGLAS COUNTY

II. Summary of Application James L. Nelson and Elizabeth A. Varney ("Applicant") seeks to quantify the Denver Basin groundwater underlying their approximately 6.7-acre property in Douglas County, Colorado. **III. Application for Underground Water Rights.**

A. Legal Description of Wells. 1. **Property Description.** The Applicant's approximately 6.7-acre property ("Applicant's Property") is located at 2345 Twylby Road, Larkspur, in Douglas County, Colorado, see Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). The portion of the southwest quarter of Section 25, Township 10 South, Range 67 West of the 6th P.M., Douglas County, Colorado, described as follows: Beginning at a point which is distant S 00 degrees 03' 18" W, 877.54 feet from appoint on the Northerly line of said Southwest quarter, which last mentioned point is distant N 89 degrees 18' 13" E, 1982.55 feet from the Northwest corner thereof; running thence N 89 degrees 09' 15" E, 662.93 feet to the Easterly line of said Southwest quarter; thence S 00 degrees 03' 18" W along said Easterly line of said Southwest quarter 437.91 feet to the Northeast corner of the South half of said Southwest quarter; thence S 89 degrees 04' 46" W along the Northerly line of said Sough half of said Southwest quarter 662.94 feet; thence N 00 degrees 03' 18" E 438.77 feet to the point of beginning, also known by street and number as 0 Twylby Road, Larkspur, CO 80118. 2. **Proposed Wells.** Applicant proposes that one well will be located on the Applicant's Property at Easting 513834.12, Northing 4333282.29, approximately 2, 616.87 feet from the West Section line, and 1, 563.85 feet from the South Section line ("Nelson Well No. 1"), to be constructed to the Dawson aquifer. **B. Water Source.** 1. **Not-Nontributary.** The ground water to be withdrawn from the Dawson and Denver aquifers underlying the Applicant's Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. **Nontributary.** The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicant's Property is nontributary. **C. Estimated Rates of Withdrawal and Ground Water Available.** 1. **Estimated Rates of Withdrawal.** Pumping from the well will not exceed 100 g.p.m. The actual pumping rates

for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of any well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 100-year aquifer life pursuant to C.R.S. §37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

Groundwater Quantification			
Denver Basin Aquifer	Net Sand (ft)	Total (AF)	100 Year (AF)
Dawson (NNT)	380.30	507.32	5.07
Denver (NNT)	556.80	631.36	6.31
Arapahoe (NT)	328.30	372.26	3.72
Laramie Fox Hills (NT)	203.20	203.30	2.03

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicant requests the right to use the ground water for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, crop irrigation, greenhouse, stock water, recreation, wildlife, wetlands, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such nontributary aquifer in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicant requests that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. F. Averaging of Withdrawals. Applicant requests that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. G. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells are and will be located is owned by the Applicant. **IV. Application for Approval**

of Plan for Augmentation. A. **Structures to be Augmented.** The structure to be augmented is the Nelson Well No. 1 to be constructed to the not-nontributary Dawson aquifer underlying the Applicant's Property, as will be permitted pursuant to this plan for augmentation, as requested and described herein along with any replacement or additional wells associated therewith. B. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from Nelson Well No. 1, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. **Statement of Plan for Augmentation.** Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by one well proposed herein. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. **Use.** Nelson Well No. 1, will pump a maximum total of 2.5 acre feet of water from the Dawson aquifer annually. Such use shall be a combination of household use, irrigation of lawn, garden, greenhouse, and crops, and the watering of horses or equivalent livestock. An example breakdown of this combination of use is household use at 0.25 acre feet, plus outdoor use including the watering of up to 8 horses or equivalent livestock with a water use of 0.15 acre feet per year (10 gallons/day/head or 0.011 annual acre feet per head); and irrigation of greenhouse, lawn, garden, and crops of 1.10 acre feet per year (0.05 annual acre feet per 1000 sq. ft.). 2. **Depletions.** It is estimated that maximum stream depletions over the 100 year pumping period for the Dawson aquifer amounts to approximately 5.72% percent of pumping. Maximum annual depletions for total residential pumping are therefore 0.143 acre feet, in year 100. Should Applicant's pumping be less than the 2.5 acre feet described herein, resulting depletions will be correspondingly reduced. 3. **Augmentation of Depletions During Pumping.** Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of augmented wells to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems, and depletions from irrigation will be adequately replaced by irrigation return flows. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.25 acre feet per residence per year, 0.225 acre-feet is replaced to the stream system per year, assuming the use of a non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. 4. **Augmentation for Post Pumping Depletions.** For the replacement of any injurious post-pumping depletions which may be associated with the use of the Nelson Well No. 1, Applicant will reserve water from the nontributary Laramie-Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Abeyta Well No. 1, for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks.** A. This Application was filed in both

Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with pending Division 1 application in Water Division 1 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. B. Applicant requests a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. The term of this augmentation plan is for 100 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. F. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. G. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. H. Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2019CW3072; RON ANDERSON, 4800 Northcreek Road, Beulah, CO 81023. (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Matthew S. Poznanovic, Eric K. Trout, Petrock Fendel Poznanovic, P.C., 700 17th Street, Suite 1800, Denver, CO, 80202. (303) 534-0702.)

Application for Finding of Reasonable Diligence

PUEBLO COUNTY

2. Prior Decree Information: Originally Decreed on June 7, 2007, in Case No. 02CW115, District Court, Water Division 2. Diligence decreed on November 22, 2013, in Case No. 13CW3016, District Court, Water Division 2. **3. Name and Location of Structure:** Well No. 1 (Permit No. 54586-F), located in the SW1/4 SE1/4, Section 21, Township 22 South, Range 68 West of the 6th P.M., Pueblo County, Colorado, at a point approximately 525 feet from the south and 2095 feet from the east section lines of said Section 21. See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **4. Source of Water:** Groundwater tributary to North Creek, a tributary of the North St. Charles River. **5. Date of Appropriation:** August 6,

2002. **6. Flow Rate:** 15 gpm (conditional), up to 2.679 acre-feet annually. **7. Uses:** Domestic, commercial, stockwatering and irrigation. **8. This Application for Finding of Reasonable Diligence** is filed in a timely manner pursuant to C.R.S. § 37-92-302. During this diligence period, in continuing the development of the conditional water right, Applicant has been diligent in the development and use of the water right involved. These activities include, but are not limited to, the following: A. Well No. 1 serves a commercial retreat center and three residences, and water from the well has been put to beneficial use for the above described domestic commercial, stockwatering, and irrigation uses. B. Well No. 1 also operates under a plan for augmentation decreed in Case No. 02CW115 when not in-priority, and the well has operated under the terms and conditions of the augmentation plan, including trucking and release of augmentation water to the point of depletion. C. Applicant has continued to maintain and repair the well and pump for use of water on Applicant's land at a cost of at least \$4,183.00. D. The work and expenditures listed above are illustrative and not exhaustive. Additional work and additional or revised expenditures may be claimed in support of this application. **9. Applicant is the owner of the land on which the structure for the water right is located.** WHEREFORE, Applicant requests that this Court enter a decree finding that Applicant has exercised reasonable diligence in the development of the conditional water right, continuing the conditional water right for another diligence period, and for such other and further relief as the Court deems just and proper in the premises.

CASE NO. 2019CW3073; SPH INVESTMENTS, LLC, a Colorado Limited Liability Company, 1650 Siloam Road, Pueblo, CO 81005. (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: David M. Shohet of Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719) 471-1212).

Application to Amend Plan for Augmentation

PUEBLO COUNTY

II. Background: Applicant is the owner of approximately 55 acres located in the NE ¼ of Section 15, Township 21 South, Range 68 West of the 6th P.M., Pueblo County, Colorado ("Property"). The Property is generally located southwest of Pueblo Reservoir, see Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). Applicant's deed containing the full legal description of the Property is attached as Exhibit B. The Property's address is 1650 Siloam Road, Pueblo, CO 81005. On July 11, 2018, the Court awarded the Applicant's predecessor a plan for augmentation in Case No. 16CW3039. The decree entered in Case No. 16CW3039 is attached to this Application as Exhibit C ("16CW3039 Decree"). The 16CW3039 Decree allows the Applicant to divert (and deplete) up to 15 annual acre feet. The Applicant files this Application to allow for a total of 65 annual acre feet of depletions under the 16CW3039 Decree. **III. Plan for Augmentation:** A. **Structures to be Augmented.** The structures to be augmented consist of up to two wells completed in the Dakota Aquifer on Applicant's Property as decreed in Case No. 16CW3039, which are described as follows: Potco Well No. 1 (WDID: 1406625), located in the SE ¼ of the NE ¼ of Section 15, Township 21 South, Range 68 West of the 6th P.M., Pueblo County, Colorado, 1815 feet south from the north Section line and 494 feet west from the east Section line (UTM 501997E

4230759N); Potco Well No. 2, located in the SE ¼ of the NE ¼ of Section 15, Township 21 South, Range 68 West of the 6th P.M., Pueblo County, Colorado (UTM 501814E 4230641N). B. Water Rights to be Used for Augmentation. Water rights to be used for augmentation consist of fully consumable water leased from the Board of Water Works of Pueblo, Colorado ("Pueblo Water"). 1. Lease with Pueblo Board of Water Works. Applicant has entered into a lease for 15 acre-feet of fully consumable water with Pueblo Water. Applicant intends to enter into a new lease with Pueblo Water for additional augmentation supplies. 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 the 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 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. Applicant will also seek a term and condition requesting the Water Court to retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation to this requested plan for augmentation. Accordingly, Applicant may utilize other fully consumable water rights for augmentation purposes under this plan. C. Statement of Plan for Augmentation. 1. Diversions and Depletions: a. Uses: Indoor and outdoor cultivation and irrigation of a crop, including cannabis (hemp and marijuana), and the associated commercial, industrial, domestic, processing, and drinking and sanitary needs for the grow facility, including water treatment and storage for such uses. b. Diversions: Applicant's grow facility will operate year-round, with all uses generally increasing during the summer months. The anticipated maximum well diversion under this plan is 65 annual acre feet. c. Depletions: Water diverted for all uses will be considered to be one-hundred percent consumptive. Therefore, the anticipated maximum well depletions under this plan is 65 annual acre feet. c. 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. 2. Location and 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. As decreed in the 16CW3039 Decree, groundwater diversions from the Applicant's wells

affect the Arkansas River at the base of the Pueblo Reservoir Dam in Section 36, Township 20 South, Range 66 West of the 6th P.M. All out-of-priority stream depletions caused by the Applicant's wells will be replaced at or above Pueblo Reservoir. A Unit Response Function (URF) was generated for the Potco Wells using the Glover Method (Glover, 1954) and decreed in the 16CW3039 Decree. The transmissivity and the specific yield of the Dakota aquifer is based on the parameters determined based on advice provided by the Colorado Division of Water Resources in their Interoffice Memorandum of May 27, 2016 and their Addendum of the Interoffice Memorandum of June 2, 2016. A transmissivity (T) of 1,049 GPD/ft, storage coefficient (S) of 5×10^{-5} (dimensionless), distance to the depletion point (X) of 72,539 ft, and the distance from river to the Dakota Outcrop (W) of 93,153 ft, was used in this calculation. The 16CW3039 Decree truncates lagged depletions once total monthly depletions have reached ninety percent (90%) with the remaining ten percent (10%) included in the prior month's lagged depletion to achieve one-hundred percent (100%) replacement. The Water Court found in the 16CW3039 Decree that this method is acceptable given the extremely small monthly depletion amounts beyond ninety percent of depletions and adequately protects senior appropriations. Monthly well pumping will be metered and recorded, and the timing and amount of monthly well depletions will be determined in accordance with the attached Table 1 monthly URF table attached to the 16CW3039 Decree. D. All structures, wells, and operations covered by this Application occur on property owned by the Applicant.

CASE NO. 2019CW3074; Previous Case No. 98CW38; TOWN OF BUENA VISTA ("Buena Vista"), c/o Phillip Puckett, Town Administrator, P.O. Box 2002, Buena Vista, CO 81211, (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Cynthia F. Covell, Andrea L. Benson, and Gilbert Y. Marchand, Jr., Alperstein & Covell P.C., 1600 Broadway, Suite 1070, Denver, CO 80202.

Application to Make Partially Absolute and for Findings of Reasonable Diligence

CHAFFEE COUNTY

2. Name of Water Right: Buena Vista Well Exchange. **3. Description of conditional water rights, with required information from prior decree:** **A. Date of original decree:** November 14, 2013, Case No: 98CW38 ("Original Decree"), Court: Water Court, Water Division No. 2. **B. Subsequent decrees awarding diligence:** This is the first diligence proceeding. **C. Decreed location:** The exchange reach decreed in the Original Decree is from the confluence of the Arkansas River and Cottonwood Creek in Section 16, Township 14 South, Range 78 West of the 6th P.M. in Chaffee County upstream on Cottonwood Creek to Well No. 2. Well No. 2 is located in SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, Township 14 South, Range 79 West of the 6th Principal Meridian, Chaffee County, Colorado, 780 feet west of the east section line of Section 13, and 2100 feet south of the north section line of Section 13. See location map attached hereto as Figure 1. **D. Source of Water.** Fryingpan-Arkansas Project Water ("Project Water"), which has the following decrees: **West Slope Decrees:** The Fryingpan-Arkansas Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County, Colorado. The principal water rights were adjudicated by the decrees in C.A. 4613 (District Court, Garfield County, Colorado) dated June 20, 1958 and August 3, 1959, and were modified by the decree in Case No. W-829-76 (District Court, Water Division 5, Colorado) dated November 27, 1979, and were supplemented by the decree

in Case No. 83CW352 (District Court, Water Division No. 5), dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through Boustead Tunnel, which empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and applied to beneficial use within the boundaries of the Southeastern Colorado Water Conservancy District. Because the water is imported from another river basin, it is fully consumable in Water Division No. 2. **East Slope Decrees:** The Fryingpan-Arkansas Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141 (District Court, Chaffee County, Colorado) dated July 9, 1969, and Civil Action No. B-42135 (District Court, Pueblo County), dated June 25, 1962, and were modified and supplemented by the judgment and decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir and elsewhere, with an appropriation date of February 10, 1939, and are expressly decreed for reuse and exchange for beneficial use within Southeastern's district boundaries. Under these decrees, Turquoise Reservoir and Twin Lakes Reservoir may store native or imported water, directly or by exchange with each other or with Pueblo Reservoir. **E. Appropriation dates and amounts:** In Case No. 96CW17 (the "96CW17 Decree"), Buena Vista was awarded a conditional decree for an appropriative right of exchange for up to 75 acre-feet per year of Project Water at a maximum exchange rate of 10 cfs, from the confluence of the Arkansas River and Cottonwood Creek in Section 16, Township 14 South, Range 78 West of the 6th P.M. in Chaffee County, up Cottonwood Creek to locations including Rainbow Lake and Cottonwood Reservoir as the upstream termini. The point of diversion for Cottonwood Reservoir is located on South Cottonwood Creek, in Section 36, Township 14 South, Range 80 West of the 6th P.M. in Chaffee County, Colorado. The point of diversion for Rainbow Lake is located on Middle Cottonwood Creek, in the South ½ of Section 19 and the North ½ of Section 30, Township 14 South, Range 79 West of the 6th P.M. in Chaffee County. The locations of these two reservoirs are shown on Figure 1. Well No. 2 is within this exchange reach, and the Original Decree included Well No. 2 as an additional point of exchange of Buena Vista's allocated and purchased Project Water. As provided in the Original Decree, the Buena Vista Well Exchange is subject to and included within the exchange limits in the 96CW17 Decree. Well No. 2 may divert Project Water by exchange as provided in the 96CW17 Decree, with an appropriation date of February 10, 1939, as provided in that decree. **F. Uses.** All municipal purposes, including domestic, firefighting, commercial, industrial, and recreational uses, and irrigation of parks, open spaces, golf course, lawns and gardens within Buena Vista's service area. **4. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures:** **A.** During this diligence period, Buena Vista entered into agreements with Upper Arkansas Water Conservancy District ("Upper Arkansas") pursuant to which the parties have agreed, among other things, to work cooperatively to develop a long-term integrated plan of water management that may include a plan to increase exchange potential on Cottonwood Creek. Increased exchange potential on Cottonwood Creek will allow Buena Vista to operate the Buena Vista Well Exchange more frequently. **B.** Out of priority depletions

from Well No. 2 are augmented as provided in the Original Decree. The Original Decree provides for release of water from storage in Cottonwood Lake when needed to provide augmentation to Cottonwood Creek, and the 96CW17 Decree provides, *inter alia*, for Buena Vista to exchange Project Water to storage in Cottonwood Lake for augmentation uses. Cottonwood Lake is owned by the United States Forest Service and is used pursuant to a Special Use Permit held by Upper Arkansas. During this diligence period, Buena Vista entered into agreements with Upper Arkansas to evaluate expansion of the available operational storage capacity of Cottonwood Lake, and to work with the Forest Service to obtain a new or renewed Special Use Permit for storage space in Cottonwood Lake. **C.** Buena Vista has continued to purchase and use Project Water allocated by Southeastern. To the best of Buena Vista's knowledge, its purchase and use of Project Water has been and remains consistent with Southeastern's decrees and Allocation Principles (as they may from time to time be amended) and such policies, procedures, contracts, charges and terms as have been lawfully determined by Southeastern from time to time in its discretion. Buena Vista's current Project Water supplies total 1,137 acre-feet. **D.** During this diligence period, Buena Vista has continued to improve, operate and maintain its integrated water supply system, of which the Buena Vista Well Exchange decreed in the Original Decree is a part. To enable Buena Vista to more effectively provide water service to its existing and future customers, it has spent approximately \$221,700.00 in the construction, repair and improvement of its water system infrastructure and related infrastructure and projects that are part of the efficiency, operation and maintenance of its integrated water supply system. These efforts have allowed Buena Vista to continue to provide reliable water service to its existing customers and to plan for anticipated future demand. **E.** Buena Vista has defended its water rights, including the Buena Vista Well Exchange, against applications filed by others in cases in which Buena Vista has determined that injury to its water rights could occur in the absence of appropriate protective terms and conditions. During this diligence period, Buena Vista has expended approximately \$100,000.00 in water counsel fees, and \$250,000.00 in water engineering fees in opposition to water court applications filed by others, in order to protect and defend its water rights. **5. Claim to Make Absolute a Portion of the Conditional Exchange:** A. During Water Year 2019, Buena Vista operated the Buena Vista Well Exchange in priority by pumping 0.236 million gallons per day (MGD) or 0.366 cubic feet per second (cfs) at the Well No. 2, on June 21, 2019, when there was no call on Cottonwood Creek. Out-of-priority depletions of Well No. 2 were replaced the next month with Project Water via the exchange. A copy of the June, 2019, accounting is attached hereto as Appendix A. Buena Vista's written request for permission from the Water Commissioner to operate the exchange to the Well No. 2 on July 17, 2019, and the Water Commissioner's written consent is attached hereto as Appendix B. B. Use: The water withdrawn by exchange from Well No. 2 was used in Buena Vista's municipal water distribution to provide municipal water service to its customers. **6. Names and addresses of owners of the land upon which any new diversion structure 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:** Buena Vista has not constructed any new diversion structure or storage structure, or modification to any existing diversion or storage structure in connection with its operation of the Buena Vista Well Exchange. The land on which Well No. 2 is located is owned by Buena Vista. WHEREFORE,

Applicant Town of Buena Vista, having demonstrated that it has completed appropriation of 0.366 cfs of the Buena Vista Well Exchange and has steadily applied effort to complete the appropriation of the remaining conditional portion of the Buena Vista Well Exchange in a reasonably expedient and efficient manner under all the facts and circumstances, respectfully requests that this Court find that 0.366 cfs of the Buena Vista Well Exchange have been made absolute, and that Buena Vista has exercised reasonable diligence in putting to beneficial use the remaining portion of the conditional Buena Vista Well Exchange, which should be continued for another six years, or such period as may otherwise be permitted by law.

CASE NO. 2019CW3075; Previous Case Nos. W-143, 13CW3019 - ACADEMY WATER AND SANITATION DISTRICT, (“Applicant” and/or “District”), c/o President, 1755 Spring Valley Drive, Colorado Springs, CO 80921, (Please address all pleadings and inquiries regarding this matter to Applicant’s attorney’s: Attorneys for Applicant: Alperstein & Covell, P.C., c/o Gilbert Y. Marchand, Jr., #19870, Cynthia F. Covell, #10169, Andrea L. Benson, #33176, 1600 Broadway, Suite 1070, Denver, CO 80202-4923, phone: 303-894-8191;

Application for a Finding of Reasonable Diligence

EL PASO COUNTY

2. Names of structures: Well No. 1 (also known as Well No. 1R) (Permit No. 68062-F, formerly Permit No. 6790-F); Well No. 2 (also known as Well No. 2R) (Permit No. 10532-F-R). **3. Description of conditional water rights:** **A. Decree:** The original decree was entered in Case No. W-143 by the District Court, Water Division No. 2, on June 22, 1971. Pursuant to the decree entered by the same Court in Case No. 81CW124, the decreed location of Well No. 2 was changed to conform to its actual location. **B. Subsequent decrees finding diligence** were entered by the same Court in Case No. W-143-(73) on May 16, 1975; Case No. 79CW72 on December 23, 1981, nunc pro tunc, November 18, 1981; Case No. 85CW106 on September 5, 1986; Case No. 89CW73 on April 4, 1990; Case No. 96CW45 on October 30, 1996; Case No. 02CW152 on June 5, 2007; and most recently in Case No. 13CW3019 on November 22, 2013. **C. Legal description: (1) Well No. 1:** The presently permitted, actual location of Well No. 1 is in the southwest quarter of the northwest quarter of section 33, Township 11 South, Range 66 West, 6th P.M., El Paso County, Colorado, approximately 1,410 feet from the north section line and 950 feet from the west section line. The decreed location (per Case No. W-143) is described as being in the northwest quarter of the northwest quarter of Section 33, Township 11 South, Range 66 West, 6th Principal Meridian, El Paso County, Colorado, beginning at the southwest corner of Lot 2, Block 2, Filing No. 2 of Pleasant View Estates, El Paso County, Colorado, thence 244 feet east, thence 577 feet south. The actual location is depicted on the Well Location Map that has been filed with the Court with this application and that is incorporated herein by reference (see “1R”). **(2) Well No. 2:** The presently permitted, actual location of Well No. 2 is in the southeast quarter of the northeast quarter of section 32, Township 11 South, Range 66 West, 6th P.M., El Paso County, Colorado, approximately 1,770 feet from the north section line and 220 feet from the east section line. The decreed location (per Case No. 81CW124) is described as being in that portion of the northeast quarter of Section 32 and the northwest quarter of section 33, all in Township 11 South, Range 66 West, 6th Principal Meridian, in El Paso County, Colorado,

beginning at the northeasterly corner of Lot 1, Block 4, Filing No. 2 of Pleasant View Estates, El Paso County, Colorado, thence north 35 degrees, 28 minutes, 35 seconds, east, on Spring Valley Drive R.O.W. line 70.00 feet; thence south 54 degrees, 31 minutes, 25 seconds, east, 80.00 feet, thence south 35 degrees, 28 minutes, 35 seconds, west, 70.00 feet; thence south 71 degrees, 27 minutes, 02 seconds, west, 69.55 feet to a point on the easterly line of said Lot 1, Block 4, Pleasant View Estates, Filing No. 2; thence north 00 degrees, 39 minutes, 39 seconds, east, 68.56 feet to the point of beginning. The actual location is depicted on the Well Location Map (see "2R"). **D. Source:** The source is described in the decree in Case No. W-143 as "[g]roundwater from the underground aquifer in the drainage area of Smith Creek which is tributary to Fountain Creek, which is tributary to the Arkansas River." The source for Well No. 1 is also described as the alluvium of Smith Creek, tributary to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River. The source for Well 2 is also described as ground water from the Dawson and Denver aquifers, tributary to Smith Creek, tributary to Monument Creek, tributary to Fountain Creek, tributary to the Arkansas River. **E. Appropriation date:** Well No. 1: February 25, 1965; Well No. 2: January 31, 1966. **F. Amount:** Well No. 1: 50 gallons per minute ("gpm") / 0.11cfs; Well No. 2: 200 gpm / 0.45 cfs. Well No. 1 was re-permitted to pump at a rate of up to 100 gallons per minute under the augmentation plan decreed in Case No. 98CW110. **G. Use:** Municipal. **H. Depth:** Well No. 1: approximately 55 feet; Well No. 2: approximately 1,038 feet. **4. Detailed outline of what has been done toward completion of the appropriation, including expenditures:** During the subject diligence period (from November 23, 2013 through the time of filing this application), Applicant has undertaken the following actions toward completion of the appropriations associated with the water rights for Well No. 1 and Well No. 2. Well No. 1 and Well No. 2 - as well as Applicant's entire water system, including Well No. 3 (Permit No. 6892-F) - have been consistently operated and maintained during the entire diligence period. The operation of the wells has been in compliance with the augmentation plan decreed in Case No. 98CW110. Applicant provides accounting of such operations on a regular basis to the Division Engineer. The wells have provided a municipal water supply to Applicant's customers during the entire diligence period. During the diligence period, Applicant expended the following annual sums on well operations and its entire water system: 2014 - \$89,957; 2015 - \$98,163; 2016 - \$53,943; 2017 - \$43,012; 2018 - \$48,993; 2019 through July - \$85,777.16. Such expenditures covered costs related to, among other things, operations, maintenance, distribution system, water treatment, sampling, tank inspections, and pumps. During the diligence period, Applicant entered into an intergovernmental agreement ("IGA") with Donala Water and Sanitation District and obtained a decree from this Court amending the location of replacement water delivery in its decreed augmentation plan and confirming an appropriative right of substitution and exchange. Applicant incurred legal expenses in connection with the IGA and the water court decree. Earlier in 2019, Applicant secured an agreement regarding easements for its Well Nos. 1 and 3. Applicant incurred expenses of approximately \$35,000 during the subject diligence period related to work performed by its water resource engineering consultants. The work is described as: general water rights engineering work including augmentation plan accounting review and updates; exchange analysis; GIS mapping and figure preparation; assistance with the preparation of water court applications; water quality sampling and analysis related to State Ground Water

Under Direct Influence (“GWUDI”) requirements; and equipment and data logger installations, followed by data collection and review. **5. If claim to make absolute in whole or in part:** Not applicable. **6. 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:** Not applicable. **WHEREFORE**, Applicant requests the Court to grant this application and to enter a decree finding diligence toward the completion of the appropriations associated with the water rights for Well No. 1 and Well No. 2, and continuing them in full force and effect.

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 2020, (forms available at Clerk’s office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). 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 12th day of December 2019.

Michele Santistevan



Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8749

(Court seal)
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