

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING OCTOBER 2009

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed during October 2009, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 09CW116 - WILLIAM QUARLES, 15600 County Road JJ, Las Animas, CO 81054; (719) 456-1186

Application for Change of Water Right

BENT COUNTY

Decreed water right for which change is sought: Name of structure: M. R. McCauley Irrigating Ditch. **Date of original and all relevant subsequent decrees:** 7/1/1895; **Case No.:** N/A. **Court:** Bent County. **Decreed source of water:** John Donlon Draw; **Appropriation Date:** 8/15/1891; **Total amount decreed to structure:** "110/144ths" (.76) cfs. **Decreed use:** Irrigation. **Amount of water that applicant intends to change:** Entire amount. **Detailed description of proposed change:** The applicant does not seek a change of water right per se. This application is intended to correct a clerical error in the original 7/1/1895 Bent County decree which incorrectly identified the point of beginning in a metes and bounds description for the correctly surveyed location. This error is evidenced by the sworn deposition of surveyor Green McAbee October 24, 1891, and SEO filing number 40 in former Water District 67 which formed the basis for the statement of claim in the 7/1/1895 decree, which both conform to the actual point of diversion. The applicant does not seek any change in use, change in place of use, or change in the historical point or means of diversion or application, or any change to the historically irrigated acreage. **Location as decreed:** Bent County, SE ¼ of the SE ¼ Section 29, Township 22 South, Range 51 West, 6th P.M., 206 feet from the South line and 660 feet from the East line. **Corrected location:** Bent County, SE ¼ of the SW ¼ Section 28, Township 22 South, Range 51 West, 6th P.M., 206 feet from the South line and 3300 feet from the East line.

CASE NO. 09CW117; Previous Case No. 01CW138 - LAWRENCE M. ARCHULETA, 532 County Road 574, Gardner, CO 81040; (719) 746-2965

Application to Make Absolute

HUERFANO COUNTY

2. Name of structure: Archuleta Diversion. **Describe conditional water right:** **Date of Original Decree:** Oct. 17, 2003; **Case No.:** 01CW138; **Court:** District Court. **Legal description:** Huerfano County, SW ¼ of the SW ¼ Section 12, Township 27 South, Range 71 West, 6th P.M., 405 feet from the South line and 255 feet from the West line. **Source of Water:** Martin Creek; **Appropriation Date:** December 18, 2001;

Amount: 1.0 c.f.s. **Use:** Irrigation and livestock watering. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:** Hauled materials (branches, rocks, etc.) in order to restore dam which was washed out which was mostly manual labor. Projected work to be completed prior to the beginning of the 2010 irrigation season. Participated in Mr. Fuch's cases in order to defend this water right. **Remarks:** Applicant will submit additional information when water right made absolute in early 2010 irrigation season.

CASE NO. 09CW118, Water Division 2; CASE NO. 09CW154, Water Division 1 - CHRISTOPHER LAWRENCE DAVIS and IRA VIVIAN DAVIS, 401 South Birch Avenue, Plattsburg, MO 64477

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

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

EL PASO COUNTY

Names of wells and permit, registration, or denial numbers: Well permit no. 239159 (the "existing Dawson aquifer well"). It is permitted for household uses only.

Legal description of wells: The existing Dawson aquifer well is located in the NW1/4 NE1/4 Section 16, T. 11 S., R. 66 W., 6th P.M., in El Paso County. One well in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers may be located anywhere on Applicants' 5.02 acre property, the legal description of which is Tract 108, Canterbury East subdivision, El Paso County, Colorado, the street address for which is 18410 Appaloosa Road, Monument, CO 80132. The Property is located in the West Cherry Creek drainage in the NW1/4 NE1/4 Section 16, T. 11 S., R. 66 W., 6th P.M. A general location map and a portion of the plat map for Canterbury East subdivision are attached to the application as Figures 1 and 2, respectively. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court.

Source: Not nontributary Dawson aquifer; not nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **Amount claimed:** Dawson aquifer: 15 g.p.m., 4.4 acre feet annually, absolute; Denver aquifer: 25 g.p.m., 4.8 acre feet annually, absolute; Arapahoe aquifer: 25 g.p.m., 2.1 acre feet annually, absolute; Laramie-Fox Hills aquifer: 15 g.p.m., 1.5 acre feet annually, absolute. The above amounts will take into account the State Engineer's Determination of Facts. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for such wells. The Dawson and Dawson aquifers are not nontributary in this location; the Arapahoe and Laramie-Fox Hills aquifers are nontributary.

Proposed use: all beneficial uses except municipal. **Name and address of owner of land on which well is located:** Same as Applicants. **Remarks:** There are no liens against this property, so the notice requirements of C.R.S. 37-92-302(b) do not apply.

APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. Name of structures to be augmented: The existing Dawson aquifer well, permit no. 239159. No other water rights are or will be diverted from this well. **Previous decrees for water**

rights to be used for augmentation: None. **Statement of plan for augmentation:** Applicants' existing Dawson aquifer well is currently permitted for household uses only. Applicants desire to have the ability to use water from that well for all beneficial uses except municipal uses. Water use will be limited to 2.1 acre feet annually, of which 0.3 acre foot is expected to be used for indoor residential and commercial (drinking and sanitary for home office) uses. Return flows will equal 90 percent of indoor usage, or 0.27 acre foot annually, predicated on the use of nonevaporative Individual Sewage Disposal Systems ("ISDS"), which shall be required. Change to any other type of waste water disposal except a central discharging-type of wastewater treatment plant shall require an amendment to the plan for augmentation. Replacements during pumping. Based upon computer modeling, depletions to the South Platte and Arkansas basins combined are expected to gradually increase to 8.48 percent of annual pumping in the 100th year. Pumping from the Dawson aquifer well shall be limited to pumping of 2.1 acre feet annually, which would result in annual stream depletions, in the 100th year, of 0.18 acre foot. Return flows from a single ISDS of 0.27 acre foot annually are adequate to replace all stream depletions during pumping, even if all water uses on the Property other than household uses are fully consumptive. The only restrictions necessary to ensure that replacements equal or exceed stream depletions during pumping are: (1) limitation to annual pumping of 2.1 acre feet from the existing Dawson aquifer well, and (2) use of ISDS or some other form of wastewater treatment which is no more consumptive. **Replacements after pumping.** Stream depletions will reach a maximum of 8.9 percent of prior average annual pumping in the 120th year after pumping begins (20 years after pumping is scheduled to cease), and will decline thereafter. Applicants shall replace injurious post-pumping depletions with the nontributary Arapahoe aquifer water decreed herein, all 210 acre feet of which will be reserved for that purpose. However, Applicants seek to reserve the right to replace such depletions with any judicially acceptable source of augmentation water upon application and notice as required by law. Applicant further proposes to aggregate all depletions and replace them to the West Cherry Creek drainage. Any final decree entered in this case shall provide that no more than 2.1 acre feet per year may be diverted from the existing Dawson aquifer well absent an amendment to this plan for augmentation. Upon entry of a decree in this case, Applicants shall apply for a new well permit for the existing Dawson aquifer well, consistent with the terms of the plan for augmentation and applicable statutes and rules and regulations of the State Engineer. Because stream depletions will occur in both Water Divisions 1 and 2, this application is being filed in both water divisions. Applicants will seek to consolidate the applications in Water Division 1 after the time for filing statements of opposition has expired.

CASE NO. 09CW119, Water Division 2, and CASE NO. 09CW158, Water Division 1
- PATRICIA ST. GERMAIN, 1892 Denver West Ct., #1024, Lakewood, CO 80401
(David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicant, Colorado Springs, CO 80903; (719) 471-1212)
Application for Underground Water Rights and Plan for Augmentation
EL PASO AND DOUGLAS COUNTIES

Application for Underground Water Rights. Legal Description of Wells. Property Description. All wells will be located on Applicant's property, consisting of 5 acres, more or less, located in a part of Section 4, Township 11 South, Range 65 West of the 6th P.M., El Paso County, Colorado, also known as Lot 3, Block 5 in Table Rock Ranch Filing No. 2, with the legal address of 19515 Green Sage Road, Colorado Springs, Colorado, 80908 (the "Property"). The Property is generally mapped in Exhibit A 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. **Existing Well.** State Engineer Well Permit No. 196772 is an exempt domestic well currently located on the property located in the Southwest 1/4 of the Southeast 1/4 of Section 4, Township 11 South, Range 65 West of the 6th P.M., at a distance of 50 feet from the south section line of said Section 4 and 1800 feet from the east section line of said Section 4. **Water Source. Not Nontributary.** Applicant's withdrawal of groundwater from the Dawson aquifer of the Denver Basin underlying the Property is not nontributary. Pursuant to C.R.S. 37-90-137(9)(c), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions to the extent necessary to prevent any injurious effect. **Nontributary.** The groundwater that will be withdrawn from the Denver, Arapahoe, and Laramie-Fox Hills aquifers of the Denver Basin underlying the Property is nontributary. **Estimated Rates of Withdrawal and Groundwater Available. Estimated Rates of Withdrawal.** The Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amount. The actual depth of any wells within the respective aquifers will be determined by topography and actual aquifer conditions. **Estimated Average Annual Amounts of Groundwater Available.** Applicant requests an absolute water right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Property. The estimated average annual amounts of groundwater available for withdrawal from the underlying Denver Basin aquifers are based upon the Denver Basin Rules, 2 CCR 402-6. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

<u>Aquifer</u>	<u>Property Area (Acres)</u>	<u>Saturated Thickness (Feet)</u>	<u>Depth (Feet)</u>	<u>Total Water Adjudicated (Acre Feet)</u>	<u>Annual Withdrawal (Acre Feet)</u>
Dawson	5	460	1,000	460	4.60
Denver	5	380	1,900	323	3.23
Arapahoe	5	275	2,400	234	2.34
Laramie Fox Hills	5	190	3,100	143	1.43

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. **Requested Uses.** The Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic, commercial, irrigation, stock water, greenhouse, recreation, wildlife, fire protection, central water supply for such uses, and also for exchange, augmentation, recharge and replacement purposes. 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 relinquishment of the right to consume no more than two percent of such nontributary water withdrawn. 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 not 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 not nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c). **Well Field.** Applicant requests that it be permitted to produce the full legal entitlement from the respective Denver Basin aquifers underlying the Property through any combination of wells constructed into each aquifer on the Property. Applicant requests that these wells be treated as a well field. Applicant requests that it be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed from the Denver Basin aquifers underlying Property, so long as the sum of the total withdrawals from all the wells in the aquifer 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 occurs first, multiplied by the average annual volume of water which Applicant is entitled to withdraw from the aquifer underlying the Property. **Name and Address of Owner of Land Upon Which Wells are to Be Located.** Applicant owns the land upon which the well is located in joint tenancy with Brett L. James, whose address is 16306 Ayrwood Lane, Bowie Maryland 20716. Mr. James has consented to the filing of this application. **Plan for Augmentation. Structures to be Augmented.** The structure to be augmented is one not nontributary Dawson aquifer of the Denver Basin underlying the Property, including any replacement wells. **Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows of the not nontributary Dawson aquifer wells to be pumped as set forth in this plan for augmentation, together with water rights from the nontributary Denver, Arapahoe and Laramie-Fox Hills aquifers for post pumping depletions. **Statement of Plan for Augmentation. Diversions.** One augmented well is to be used for the water supply for up to 2 single family residences and other uses as stated herein upon the Applicant's Property including irrigation of lawns, gardens, greenhouses and landscaping. The maximum annual pumping from the well for these uses shall be approximately 1.2 acre feet per year. The diversion and depletions numbers are approximate and may vary based on final water availability. **Depletions.** The Applicant's consultant has operated the State Engineer's Denver Basin Ground Water Flow Model for the determination of stream depletions from Dawson aquifer well pumping. The actual stream depletions during the plan term under such model are a maximum of approximately 14.91 percent of the Dawson aquifer well pumping, assuming 300 years of withdrawal under this plan.

The actual stream depletions associated with the Dawson Aquifer will therefore be a maximum of approximately 0.18 annual acre feet with a total stream depletion under this plan. Attached to the Application as Exhibit B are the groundwater flow model Dawson aquifer stream depletion factors. To the extent Applicant utilizes groundwater in the Denver, Arapahoe, and Laramie-Fox aquifers, no replacement is required above the 2% relinquishment. **Replacement.** Applicant's augmentation water during the plan term will consist of septic return flows from in-house use. Wastewater from the in-house residential uses will be disposed of through a non-evaporative septic systems that are determined to have return flows to the tributary stream system of 90 percent of the in-house residential pumping of 0.3 annual acre foot. Therefore, return flows total 0.27 annual acre. These return flows during the period of the plan will augment the tributary stream system in an amount greater than the maximum actual stream depletion amount from the Dawson aquifer of 0.18 annual acre feet. Therefore, Applicant's return flows will prevent material injury to other vested water rights. Applicant believes that fifteen percent of irrigation water would accrue to the stream as return flows which could be used for additional augmentation. Applicant does not at this time, claim the irrigation return flows as part of this augmentation plan, but Applicant preserves its claim to those return flows and does not waive its rights or claims thereto. **Filing in Both Water Divisions.** This Application is being filed in both Water Divisions 1 and 2 because, under the state's model, Dawson aquifer depletions will occur in both divisions. The return flows set forth above will accrue to only the South Platte River system where most depletions occur. 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. **Post-Pumping Depletions.** For the replacement of post-pumping depletions, Applicant will reserve 143 acre feet of water from the nontributary Laramie-Fox Hills aquifer and up to 217 acre feet from the nontributary Arapahoe and/or Denver aquifers underlying the Applicant's Property for a total of 360 acre feet, less the amount of actual stream depletions replaced during the plan pumping period. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Applicant claims that post pumping depletions will be noninjurious and do not need to be replaced, and under the Court's retained jurisdiction Applicant reserves the right in the future to so prove that post pumping depletions will be noninjurious. The reserved nontributary water will be used, as so necessary, to replace any injurious post pumping depletions. **REMARKS.** Additional remarks are as follows: Applicant requests a finding that it has complied with C.R.S. §37-90-137(4), and that the groundwater requested herein is legally available for withdrawal by the requested nontributary wells and 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). The term of this augmentation plan is for 300 years, however the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions will be determined as the average annual withdrawals for all wells through cessation of pumping and accrue only to the extent of actual pumping. Applicant will comply with C.R.S. §37-90-137(9)(b) requiring the relinquishment of the right to consume no more than two percent of the amount of the

nontributary groundwater withdrawn. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. Before any wells are constructed, applications for well permits will be filed with the State Engineer's office, and well permits shall be granted in accordance with the decree pursuant to this application. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. 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.

CASE NO. 09CW120 - ALAN GRIGSBY, GRIGSBY FAMILY PARTNERSHIP, LTD., a Florida limited partnership, and GRIGSBY PROPERTIES, LLC, a Florida limited liability company, c/o Alan Grigsby, P. O. Box 807, Lake Placid, FL 33862 (Chris D.

Cummins, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Surface and Underground Water Rights

PARK COUNTY, COLORADO

APPLICATION FOR SURFACE WATER RIGHTS. Name of Structure: Long Gulch Spring No. 1 Enlargement. **Legal Description of Point of Diversion:** In the SW1/4 SW1/4, Section 12, Township 15 South, Range 75 West, 6th P.M., located approximately 550 feet from the west line and 900 feet from the south line of said Section 12. (See Figure 1 Map attached to the Application). All figures and attachments mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **Source:** Natural seeps and springs, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. The source includes seeps and springs previously adjudicated as the source of "Long Gulch Spring No. 1", adjudicated as an unnamed spring for 3.5 gallons per minute with a 1922 appropriation date in Case No. W-3765 at Page 7, as recorded in the records of the Clerk and Recorder of Park County, Colorado at Reception No. 588140. **Date of Initiation of Appropriation:** May 1, 2004. **Amount Claimed:** 5 g.p.m., absolute. **Uses:** Stockwater, wildlife, wetlands, and fire protection. **Remarks:** The Long Gulch Spring No. 1 Enlargement was constructed in cooperation with the National Resources Conservation Service ("NRCS") on or about May 1, 2004, and collects natural seeps and springs extending approximately 700 feet to the east (the described point of diversion of Long Gulch Spring No. 1 in W-3765), into a small collection gallery or forebay of less than 10 feet in diameter, from which such water may be pumped to livestock tanks, both earthen and man-made, throughout Applicants' Property (as more particularly described in Attachment 1 to the Application) including Long Gulch Stockwater Pond Nos. 1-4, as requested herein. In addition, Long Gulch Spring No. 1 Enlargement drains through a french drain for the sub-irrigation of approximately 1 acre of wetlands plants adjacent to the naturally occurring wetlands from which the spring

originates, providing expanded wetlands habitat for wildlife. The Long Gulch Spring No. 1 Enlargement is located approximately 9 miles from the nearest live water course, Badger Creek. The Long Gulch Spring No. 1 Enlargement is located and the waters therefrom are used exclusively upon the lands of the Applicants. **Name of Structure:** Long Gulch Spring No. 2. **Legal Description of Point of Diversion:** In the SW1/4 SE1/4, Section 12, Township 15 South, Range 75 West, 6th P.M., located approximately 2,100 feet from the east line and 1,280 feet from the south line of said Section 12. (See Figure 1 Map attached to the Application). **Source:** Natural seeps and springs, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** May 1, 2004. **Amount Claimed:** 10 g.p.m., absolute. **Uses:** Stockwater, wildlife, and fire protection. **Remarks:** The Long Gulch Spring No. 2 was also constructed in cooperation with the "NRCS" on or about May 1, 2004, and collects natural seeps and springs extending approximately 300 feet to the east into a small impoundment of less than 10 feet in diameter, from which such water may be pumped to livestock tanks, both earthen and man-made, throughout Applicants' Property including Long Gulch Stockwater Pond Nos. 1-4, as requested herein. The Long Gulch Spring No. 2 is located approximately 9.5 miles from the nearest live water course, Badger Creek. The Long Gulch Spring No. 2 is located and the waters therefrom are used exclusively upon the lands of the Applicants. **Name of Structure:** Long Gulch Spring No. 3. **Legal Description of Point of Diversion:** In the SE1/4 SE1/4, Section 11, Township 15 South, Range 75 West, 6th P.M., located approximately 1,560 feet from the east line and 1,100 feet from the south line of said Section 11. (See Figure 1 Map attached to the Application). **Source:** Natural seeps and springs, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** October 30, 2009, with the filing of this Application. **Amount Claimed:** 10 g.p.m., conditional. **Uses:** Stockwater, wildlife, recreational, wetlands and fire protection. **Remarks:** The Long Gulch Spring No. 3 is intended to collect natural seeps and springs extending approximately 1000 feet to the north of the above described point of diversion, and utilize such collected spring water as a source of supply for Long Gulch Lake, as described below, via gravity flow and/or pumping. In addition, such water may be pumped to livestock tanks, both earthen and man-made, throughout Applicants' Property including Long Gulch Stockwater Pond Nos. 1-4, as requested herein. The Long Gulch Spring No. 3 is located approximately 7.5 miles from the nearest live water course, Badger Creek. The Long Gulch Spring No. 3 is located and the waters therefrom are used exclusively upon the lands of the Applicants. **Name of Structure:** Long Gulch Spring No. 4. **Legal Description of Point of Diversion:** In the S1/2 SW1/4, Section 10, Township 15 South, Range 75 West, 6th P.M., located approximately 1,020 feet from the west line and 360 feet from the south line of said Section 10. (See Figure 2 Map attached to the Application). **Source:** Natural seeps and springs, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** October 30, 2009, with the filing of this Application. **Amount Claimed:** 5 g.p.m., conditional. **Uses:** Stockwater. **Remarks:** The Long Gulch Spring No. 4 is intended to collect natural seeps and springs extending approximately 400 feet to the east of the above described point of diversion, and utilize such collected spring water as a source of supply for stockwater tanks located throughout the Applicants' Property, including Long Gulch Stockwater Pond Nos. 1-4,

as requested herein. The Long Gulch Spring No. 4 is located approximately 5.5 miles from the nearest live water course, Badger Creek. The Long Gulch Spring No. 4 is located and the waters therefrom are used exclusively upon the lands of the Applicants. **Name of Structure:** Long Gulch Lake. **Legal Description of Structure:** In the SW1/4 SE1/4 of Section 11, Township 15 South, Range 75 West, of the 6th P.M., located approximately 2,150 feet from the east line, and 400 feet from the south line of said Section 11 (See Figure 1 Map attached to the Application). **Date of Initiation of Appropriation:** October 30, 2009, with the filing of this Application. **Amount claimed:** 2.0 acre feet, conditional. **Uses:** Stockwater, wildlife, recreational, wetlands and fire protection. **Lake Specifications:** Long Gulch Lake will have a maximum surface area at high water mark of 0.5 acres, and a maximum depth of approximately 6 feet. It is anticipated that the dam will be approximately 150 feet in length, 5 feet high, and 10 feet wide. The lake will be constructed in such a manner to allow for releases as necessary for priority administration. It is anticipated that sub-irrigation of approximately 1/4 acre of land below the reservoir will result in enhanced wetlands, providing expanded habitat for wildlife. Long Gulch Lake is located approximately 7.0 miles from the nearest live water course, Badger Creek. **Total Capacity of Pond:** 2.0 acre feet. **Land Ownership:** Long Gulch Lake is located and the waters therefrom are used exclusively upon the lands of Applicants. **Remarks:** Long Gulch Lake will be located on-channel on the intermittent Long Gulch, and will receive its water supply from stormwater collected therefrom, and from Long Gulch Spring No. 3, as described herein. **Name of Structure:** Long Gulch Stockpond No. 1. **Legal Description of Structure:** In the SE1/4 SE1/4 of Section 11, Township 15 South, Range 75 West, of the 6th P.M., located approximately 170 feet from the east line, and 900 feet from the south line of said Section 11 (See Figure 1 Map attached to the Application). **Date of Initiation of Appropriation:** May 1, 2006. **Amount claimed:** 0.25 acre feet, absolute. **Uses:** Stockwater. **Pond Specifications:** Long Gulch Stockpond No. 1 is an excavated pond, of approximately 3 feet in depth, with a diameter of 30 feet at the high water line. Maximum surface area at high water line is less than 1/5 acre. **Total Capacity of Pond:** 0.25 acre feet. **Land Ownership:** Long Gulch Stockpond No. 1 is located and the waters therefrom are used exclusively upon the lands of Applicants. **Remarks:** Long Gulch Stockpond No. 1 is located on-channel on the intermittent Long Gulch, and receives its water supply from stormwater collected therefrom, and from Long Gulch Spring Nos. 1-4, as described herein. No groundwater was intercepted in the construction of Long Gulch Stockpond No. 1. **Name of Structure:** Long Gulch Stockpond No. 2. **Legal Description of Structure:** In the SE1/4 SW1/4 of Section 11, Township 15 South, Range 75 West, of the 6th P.M., located approximately 2,240 feet from the west line, and 240 feet from the south line of said Section 11 (See Figure 1 Map attached to the Application). **Date of Initiation of Appropriation:** May 31, 1975. **Amount claimed:** 1.0 acre feet, absolute. **Uses:** Stockwater. **Pond Specifications:** Long Gulch Stockpond No. 2 is constructed in the manner typical of many "exempt" stock tanks, with a dam of approximately 40 yards in length, 5 feet high, 10 feet wide, and a spillway of approximately 15 feet on the northern edge of the dam. The diameter of Long Gulch Stockpond No. 2 is approximately 40 feet at the high water line. Maximum surface area at high water line is less than 1/4 acre. **Total Capacity of Pond:** 1.0 acre feet. **Land Ownership:** Long Gulch Stockpond No. 2 is located and the

waters therefrom are used exclusively upon the lands of Applicants. **Remarks:** Long Gulch Stockpond No. 2 is located on-channel on the intermittent Long Gulch, and receives its water supply from stormwater collected therefrom, and from Long Gulch Spring Nos. 1-4, as described herein. Long Gulch Stockpond No. 2 is approximately 6.7 miles from the nearest live water course, Badger Creek. **Name of Structure:** Long Gulch Stockpond No. 3. **Legal Description of Structure:** In the SW1/4 SW1/4 of Section 11, Township 15 South, Range 75 West, of the 6th P.M., located approximately 365 feet from the west line, and 130 feet from the south line of said Section 11 (See Figure 1 Map attached to the Application). **Date of Initiation of Appropriation:** May 31, 1975. **Amount claimed:** 0.25 acre feet, absolute. **Uses:** Stockwater. **Pond Specifications:** Long Gulch Stockpond No. 3 is an excavated pond, of approximately 3 feet in depth, with a diameter of 25 feet at the high water line. Maximum surface area at high water line is less than 1/5 acre. **Total Capacity of Pond:** 0.25 acre feet. **Land Ownership:** Long Gulch Stockpond No. 3 is located and the waters therefrom are used exclusively upon the lands of Applicants. **Remarks:** Long Gulch Stockpond No. 3 is located off-channel and receives its water supply from stormwater flowing from surrounding terrain, and from Long Gulch Spring Nos. 1-4, as described herein. No groundwater was intercepted in the construction of Long Gulch Stockpond No. 3. **Name of Structure:** Long Gulch Stockpond No. 4. **Legal Description of Structure:** In the SW1/4 SW1/4 of Section 11, Township 15 South, Range 75 West, of the 6th P.M., located approximately 275 feet from the west line, and 275 feet from the south line of said Section 11 (See Figure 1 Map attached to the Application). **Date of Initiation of Appropriation:** May 31, 1975. **Amount claimed:** 0.5 acre feet, absolute. **Uses:** Stockwater. **Pond Specifications:** Long Gulch Stockpond No. 4 is constructed in the manner typical of many "exempt" stock tanks, with a dam of approximately 22 yards in length, 4 feet high, 10 feet wide, and a spillway of approximately 12 feet on the southern edge of the dam. The diameter of Long Gulch Stockpond No. 4 is approximately 30 feet at the high water line. Maximum surface area at high water line is less than 1/6 acre. **Total Capacity of Pond:** 0.5 acre feet. **Land Ownership:** Long Gulch Stockpond No. 4 is located and the waters therefrom are used exclusively upon the lands of Applicants. **Remarks:** Long Gulch Stockpond No. 4 is located on-channel on the intermittent Long Gulch, and receives its water supply from stormwater collected therefrom, and from Long Gulch Spring Nos. 1-4, as described herein. Long Gulch Stockpond No. 4 is approximately 6.0 miles from the nearest live water course, Badger Creek. **Name of Structure:** Aspen Park Ditch. **Legal Description:** In the SE1/4 SW1/4 of Section 23, Township 15 South, Range 75 West of the 6th P.M., with the point of diversion located approximately 2,390 feet from the west line, and approximately 1,240 feet from the south line of said Section 23 (See Figure 3 Map). **Source:** Rye Slough, tributary to Badger Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** May 31, 1975. **How Appropriation Was Initiated:** Aspen Park Ditch was appropriated by a prior owner of Applicant's Property, such appropriation being evidenced through construction of diversion infrastructures and placing the flows of Rye Slough to beneficial use through storage in Aspen Park Pond and stock watering therefrom. Applicant has undertaken restorative efforts to these historic diversion works. **Date Applied to Beneficial Use:** On or about May 31, 1975. **Amount Claimed:** 30 gpm, absolute. **Uses:** Recreation, stockwater, wildlife and fire protection.

Remarks: Based upon applicants' investigation including review of aerial photography and structures on the ground, the off-channel Aspen Park Pond was constructed in approximately 1975, and water was therefore diverted into the Aspen Park Ditch for storage therein at this same time. Applicants are in the process of rehabilitating these structures and restoring the Aspen Park Ditch, along with the Aspen Park Spring and Aspen Park Pond, as described below. The Aspen Park Ditch is located approximately 5.9 miles from the nearest live water course, Badger Creek. The Aspen Park Ditch is located and the waters therefrom are used exclusively upon the lands of the Applicants.

Name of Structure: Aspen Park Spring. **Legal Description of Point of Diversion:** In the SE1/4 SW1/4, Section 23, Township 15 South, Range 75 West, 6th P.M., located approximately 2,450 feet from the west line and 1,130 feet from the south line of said Section 23. (See Figure 3 Map attached to the Application). **Source:** Natural seeps and springs, tributary to Rye Slough, tributary to Badger Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** May 31, 1975. **Amount Claimed:** 10 gpm, absolute. **Uses:** Recreation, stockwater, wildlife, and fire protection. **Remarks:** The Aspen Park Spring collects natural seeps and springs and contributes such flows to the Aspen Park Ditch, described above, for storage in Aspen Park Pond, described below. Applicants' investigation evidences the use of these springs coincident with the construction of the Aspen Park Ditch and Aspen Park Pond. The Aspen Park Spring is located approximately 5.9 miles from the nearest live water course, Badger Creek. The Aspen Park Spring is located and the waters therefrom are used exclusively upon the lands of the Applicants.

Name of Structure: Aspen Park Pond. **Legal Description of Structure:** In the SE1/4 SW1/4 of Section 23, Township 15 South, Range 75 West, of the 6th P.M., located approximately 2,310 feet from the west line, and 1,060 feet from the south line of said Section 23 (See Figure 3 Map attached to the Application). **Date of Initiation of Appropriation:** May 31, 1975. **Amount claimed:** 2.0 acre feet, absolute. **Uses:** Stockwater, wildlife, recreational, and fire protection. **Lake Specifications:** Aspen Park Pond has a maximum surface area at high water mark of 0.5 acres, and a maximum depth of approximately 6 feet. The dam is approximately 100 feet in length, 4 feet high, and 8 feet wide, with a 10 foot spillway located on the southern edge of the dam. The Aspen Park Pond is constructed in such a manner as allow for releases as necessary for priority administration, and may be modified as required by the State or Division Engineers for such purposes. The Aspen Park Pond is located approximately 5.9 miles from the nearest live water course, Badger Creek. The Aspen Park Pond is located and the waters therefrom are used exclusively upon the lands of the Applicants.

Name of Structure: Village Ditch. **Legal Description:** In the SE1/4 SW1/4 of Section 13, Township 15 South, Range 75 West of the 6th P.M., with the point of diversion located approximately 2,350 feet from the west line, and approximately 620 feet from the south line of said Section 13 (See Figure 4 Map attached to the Application). **Source:** An unnamed gulch, tributary to Long Gulch, tributary to Badger Creek, tributary to the Arkansas River. **Date of Initiation of Appropriation:** May 31, 1962. **How Appropriation Was Initiated:** The Village Ditch was appropriated by a prior owner of Applicant's Property, such appropriation being evidenced through construction of diversion infrastructures and placing the flows of the unnamed gulch to beneficial use through storage in Village Pond, as described below, and stock watering therefrom. **Date Applied to Beneficial Use:** On or about May 31,

1962. **Amount Claimed:** 10 gpm, absolute. **Uses:** Stockwater, wildlife and fire protection. **Remarks:** Based upon applicants' investigation including review of aerial photography and structures on the ground, the off-channel Village Pond was constructed in approximately 1962, and water was therefore diverted into the Village Ditch for storage therein at this same time. Applicants are in the process of rehabilitating these structures and restoring the Village Ditch, along with the Village Pond, as described below. The Village Ditch is located approximately 7.5 miles from the nearest live water course, Badger Creek. The Village Ditch is located and the waters therefrom are used exclusively upon the lands of the Applicants. **Name of Structure:** Village Pond. **Legal Description of Structure:** In the SE1/4 SW1/4 of Section 13, Township 15 South, Range 75 West, of the 6th P.M., located approximately 1,850 feet from the west line, and 640 feet from the south line of said Section 23 (See Figure 4 Map attached to the Application). **Date of Initiation of Appropriation:** May 31, 1962. **Amount claimed:** 1 acre foot, absolute. **Uses:** Stockwater, wildlife, and fire protection. **Lake Specifications:** Village Pond has a maximum surface area at high water mark of 0.25 acres, and a maximum depth of approximately 6 feet. The dam is approximately 60 feet in length, 4 feet high, and 8 feet wide, with an 8 foot spillway located on the southern edge of the dam. The Village Pond is located approximately 7.25 miles from the nearest live water course, Badger Creek. The Village Pond is located and the waters therefrom are used exclusively upon the lands of the Applicants. **APPLICATION FOR UNDERGROUND WATER RIGHT: Name of Structure:** Grigsby Well No. 1. **Legal Description:** In the SE1/4 NE1/4 of Section 14, Township 15 South, Range 75 West of the 6th P.M., approximately 404 feet from the east line and approximately 1,396 feet from the north line of said Section 14. **Source:** All unnamed aquifers, depth 583 feet. **Date of appropriation:** March 2, 2006. **How appropriation was initiated:** Issuance of Well Permit No. 267874. **Date water applied to beneficial use:** September 14, 2006. **Amount Claimed:** 15 gpm, absolute. **Uses:** Domestic use in up to three single family residences, livestock, fire protection, irrigation of one acre of home gardens and lawns. Domestic use in three single family residences is requested to be decreed conditional. **Number of Acres proposed to be irrigated:** The well has historically irrigated one acre of home lawns and gardens. **Remarks:** This is an adjudication of State Engineer Well Permit No. 267874, issued as an exempt well pursuant to C.R.S. §37-92-602(3)(b)(II)(A), a copy of which is attached to the Application. **Land Ownership:** Grigsby Well No. 1 is located and utilized on lands owned by Applicants.

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 December 2009, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 5th day of November, 2009.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court Water Div. 2
203 Judicial Bldg., 320 W. 10th Street
Pueblo, CO 81003 Tel. 583-7048

(Court seal)

Published: November _____, 2009

NOTICE

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

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