

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING OCTOBER
2010

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 October 2010, 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. 09CW142 (Consolidated with Case No. 09CW272, Water Division 1 and Case No. 09CW186, Water Division 5), BUSK-IVANHOE, INC., a Colorado Corporation, Principle Office Street Address: 15151 East Alameda Parkway, Suite 3600, c/o Utilities Administration, Aurora, Colorado 80012-1555, Telephone: 303.739.7370, Principle Office Mailing Address: 17850 Road JJ, Rocky Ford, Colorado 81067, E-Mail Address: gerryk@rural-com.com (Attorneys: John M. Dingess, Austin Hamre, T. Daniel Platt, Duncan, Ostrander & Dingess, P.C., 3600 South Yosemite Street, Suite 500, Denver, Colorado 80237, Telephone: 303.779.0200)

Amendment to Application for Change of Water Rights

ADAMS, ARAPAHOE, CHAFFEE, DOUGLAS, JEFFERSON, LAKE, PARK, PITKIN, AND WELD COUNTIES, COLORADO

2. AMENDMENTS TO APPLICATION, Applications for Change of Water Right were filed on December 30, 2009 in District Court, Water Division 1, Case No. 09CW272, District Court, Water Division 2, Case No. 09CW142, and District Court, Water Division 5, Case No. 09CW186. The Colorado Supreme Court's May 7, 2010 Order Pursuant to C.R.C.P. 42.1(i) consolidated the Applications for Change of Water Rights filed in Case No. 09CW272, Water Division 1 and Case No. 09CW186, Water Division 5, with the Application filed in Case No. 09CW142, Water Division 2. The Applications, as consolidated in this Case No. 09CW142, Water Division 2, are referred to in this Amendment as "Application." Applicant hereby amends paragraph 3.A.4 of the Application to amend or correct legal descriptions of Places of Storage in the South Platte River Basin, as follows: **2.1.** Paragraph 3.A.4.a of the Application is amended as follows: Spinney Mountain Reservoir. Spinney Mountain Reservoir is constructed on the South Platte River, with the dam forming the reservoir located in the S/2 of Section 25, T12S, R74W, 6th P.M. in Park County, Colorado, with the left abutment of the dam located at a point whence the southwest corner of Section 36, T12S, R74W, 6th P.M. bears south 23°26' west, 8,314.3 feet, which point is also described as a point in the NW/4 of the SE/4 of Section 25, T12S, R74W, 6th P.M. that lies 2,300 feet from the south line and 2,590 feet from the east line of Section 25. Water is stored in Spinney Mountain Reservoir in all or parts of Sections 14, 15, 21, 22, 23, 25, 26, 27, 35 and 36, T12S, R74W, 6th P.M. **2.2.** Paragraph 3.A.4.b of the Application is amended as follows: Strontia Springs Dam and Reservoir Complex. Strontia Springs Dam is

constructed on the South Platte River in Douglas County, with east-end of dam (right) abutment located at a point from whence the northwest corner of Section 21, T7S, R69W, 6th P.M. bears north 52° west a distance of 1,300 feet, which point is also described as a point in the NW/4 of the NW/4 of Section 21, T7S, R69W, 6th P.M. that lies 845 feet from the north line and 995 feet from the west line of Section 21. The right abutment is at approximate latitude 39°25'56" north, longitude 105°07'31" west. Water is stored in Strontia Springs Reservoir in all or parts of Sections 20, 21, 29 and 30, T7S, R69W, 6th P.M. **2.3.** Paragraph 3.A.4.c of the Application is amended as follows: Chatfield Reservoir. Chatfield Reservoir is located in Sections 1, 2, 11, 12, 14 and 23, T6S, R69W, 6th P.M. and Sections 6 and 7, T6S, R68W, 6th P.M. in Douglas and Jefferson Counties, Colorado. Chatfield Reservoir is on the main stem of the South Platte River and the main stem of Plum Creek. The southeast-end of dam (right) abutment is located at a point from whence the southeast corner of Section 7, T6S, R68W, 6th P.M. bears south 64° east a distance of 2,064 feet, which point is also described as a point in the SW/4 of the SE/4 of Section 7, T6S, R68W, 6th P.M. that lies 890 feet from the south line and 1,845 feet from the east line of Section 7. The approximate (right) abutment is latitude 39°32'20" north, and longitude 105°02'33" west. In addition to sections identified above, when the pending Chatfield Reallocation is completed water will be stored in part of Section 13, T6S, R69W, 6th P.M. and in part of Section 18, T6S, R68W, 6th P.M. **2.4.** Paragraph 3.A.4.k of the Application is amended as follows: Robert W. Walker Reservoir ("Walker South"). Walker South is located in the E/2 of Section 36, T1N, R67W of the 6th P.M., and the W/2 of Section 31, T1N, R66W, 6th P.M. in Weld County, Colorado. **2.5.** Paragraph 3.A.4.l of the Application is amended as follows: Stillwater Ranch Reservoir ("Walker North"). Walker North is located in the E/2 of Section 36, T1N, R67W of the 6th P.M., and the W/2 of Section 31, T1N, R66W, 6th P.M. in Weld County, Colorado. **2.6.** Paragraphs 3.A.4.n of the Application is amended as follows: Fort Lupton Reservoir Complex No. 1. Fort Lupton Reservoir Complex No. 1 is a group of interconnected gravel pits that will occupy Lot 3 of the NW/4 of Section 25, T2N, R67W, 6th P.M., and portions of the NW/4, and the SW/4 of the NE/4 of Section 30, T2N, R66W, 6th P.M., in Weld County, Colorado. **2.7.** The Application is amended to delete paragraph 3.A.4.o.

CASE NO. 10CW62 – DWAIN and DONNA EATON, 1004 East Maple Street, Lamar, CO 81052; (719) 336-5068

Amendment to Application for Change of Water Right
PROWERS COUNTY

Applicants filed an Application for Change of Water Rights on September 8, 2010, requesting a change in point of diversion for the Mead Seepage Ditch and the Smith Seepage Ditch. The Application for Change of Water Rights filed in this matter on September 8, 2010, is amended at paragraph 2.G. to read: "Amount of water that applicant intends to change: 6.5 c.f.s. (5 c.f.s. from the Smith Seepage Ditch and 1.5 c.f.s. from the Mead Seepage Ditch)". The remainder of the Application for Change of Water Rights filed September 8, 2010, remains unchanged.

CASE NO. 10CW66 – JOINT VENTURE 105, LLC, c/o Barbara Sutton, Manager, P. O. Box 613, Westcliffe, CO 81252

(John R. Henderson, Law Offices of John R. Henderson, P.C., Attorney for Applicant, 2960 Diagonal Hwy. Suite 207, Boulder, CO 80301 (303-449-4891). Application for Approval of Plan for Augmentation, For Underground Water Rights, and for Change of Underground Water Rights

CUSTER COUNTY.

2. Overview of Application. Joint Venture 105, LLC is currently the owner of three 35-acre parcels (totaling 105 acres) located in portions of Sections 14 and 23, Township 21 South, Range 72 West, 6th PM, Custer County, Colorado. There are two wells on the property, one each on two of the three 35-acre parcels, which wells and property are depicted on Exhibit 1, 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.) Joint Venture 105 LLC Well No. 1 (“JV Well No. 1”) Permit No. 241905 is currently permitted as a domestic exempt well on 35 acres of land in Custer County, Colorado. JV Well No. 1 is currently being used as a water source for two small fire-control and piscatorial ponds located several hundred yards from JV Well No. 1, being Joint Venture 105 LLC Pond No. 1 (“Pond No. 1”), located in an ephemeral drainage tributary to Grape Creek, Custer County, Colorado, and Joint Venture 105 LLC Pond No. 2, (“Pond No. 2”) which is not located in a natural drainage, and which Pond No. 2, other than surface precipitation, is entirely dependent on flows from the JV Well No. 1 for its supply. Pond No. 1 is designed to pass native flows when the ponds are kept full, which is the intention of the design and the augmentation plan. To satisfy a total annual augmentation need of 0.48 Acre Feet of water for JV Well No. 1, Applicant has leased 1 Acre Foot of water stored in Lake DeWeese Reservoir, and owned by the Upper Arkansas River Water Conservancy District (“District”) located upstream from the junction on the ephemeral stream from Grape Creek for release on an annual basis on a 3-year lease. (Water Lease attached to the Application as Exhibit 2). The District currently has before the Division 2 water Court an Application for Plan for Augmentation in Case No. 09 CW 086, which, when adjudicated, will be the source for permanent augmentation water. Applicant proposes to contract for 0.50 acre feet per year to satisfy the permanent augmentation need for JV 105 Well No. 1 for surface evaporation from Pond No. 1 and Pond No. 2. A decree is sought here to change the use of JV 105 Well No. 1 from exempt domestic and irrigation usage to the existing uses, now including for fire control, storage and piscatorial uses and incidental wildlife watering, specifically including storage in Ponds Nos. 1 and 2 for storage for fire control and piscatorial purposes and incidental wildlife watering, and to approve this plan for augmentation to replace out-of-priority depletions for non-exempt purposes to Grape Creek, a tributary of the Arkansas River. Joint Venture 105, LLC Well No. 2 (“Well No. 2) Permit No. 227639 is currently permitted for and used for exempt purposes on 35 acres of land owned by Joint Venture 105, LLC, including provision of indoor water needs for a single family residence and outbuildings, and the irrigation of 1 acre or less of lawns and gardens. A decree is sought here for Joint Venture 105 LLC Well No. 2. **CHANGE OF WATER RIGHT. 3. Name of Structure.** JV 105 LLC Well No. 1, Division 2, WD 13 Permit No. 241905 is located in the SE ¼ SE ¼ Section 14, Township 21 South, Range 72 West, Sixth PM at a point approximately 1275 feet from the South section line and 309 feet

from the East section line. **4. Water Rights to be Changed:** Permit No.: 241905. Rate of Withdrawal: 15 gpm. Permitted Withdrawal: Said well is permitted for fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than (1) acre of home gardens and lawns, and the watering of domestic animals. Applicant has submitted a well permit application seeking to add the non-exempt use of storage for fire protection and piscatorial purposes, and incidental wildlife watering for which exempt and non-exempt uses it seeks a decree here. The annual pumping volume for Well No. 1 shall not exceed 1.0 acre-feet per year. Depletions from JV 105 LLC Well No. 1 shall be replaced pursuant to the augmentation plan included herein. **5. WATER RIGHTS TO BE DECREED.** a. Joint Venture 105 LLC Well No. 1- a decree for fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than (1) acre of home gardens and lawns, the watering of domestic animals, and storage for fire protection and piscatorial purposes and incidental wildlife watering in Joint Venture 105 LLC Pond No. 1 and Pond No. 2. Appropriation Date for Original Uses: June 25, 2002 (Date Permit Issued). Appropriation Dates for Additional Uses: June 15, 2003. Date Water Placed to Beneficial Uses: September 18, 2002 (Original Uses) b. Joint Venture 105 LLC Pond No. 1-Storage for fire protection, piscatorial use and incidental wildlife watering. Appropriation Date: October 14, 2005. How Appropriation Initiated: Construction of 105 LLC Pond No. 1. c. Joint Venture 105 LLC Pond No. 2-Storage for fire protection, piscatorial use and incidental wildlife watering. Appropriation Date: June 15, 2003. How Appropriation Initiated: Construction of 105 LLC Pond No. 2. d. Joint Venture 105 LLC Well No. 2- (Permit 227639) a decree for fire protection, ordinary household purposes inside not more than three (3) single-family dwellings, the irrigation of not more than one (1) acre of home gardens and lawns, and the watering of domestic animals (Exempt). Appropriation Date: July 20, 2000 (Date of Application). Date Water Applied to Beneficial Use: December 11, 2000. No decree is sought for diversion from surface sources to Pond No. 2, which is wholly reliant on direct surface precipitation and flows from JV 105 Well No. 1, which shall be its sole decreed source. **6. LOCATION OF STRUCTURES.** a. Location of Joint Venture 105 LLC Well No. 1- Well no. 1 is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, Township 21 South, Range 72 West, Sixth PM at a point approximately 150 feet North from the South section line and 800 feet West from the East section line of Section 14. Depth of Well: 625 Feet in the granitic (crystalline) aquifer. b. Location of Pond No. 1-Pond No. 1 is located on an ephemeral stream in the S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, Township 21 South, Range 72 West, 6th PM, with its outlet at a point 306 feet North from the South Section Line and 2020 feet West from the East Section Line of Section 14, approximately 2400 feet upstream of the intersection of the un-named ephemeral stream with Grape Creek. The surface area of the pond is approximately 0.154 acres in size and the storage capacity of said pond is 0.79 AF. The discharge point is at the spillway of such dam located on the access road to the property, which spillway has an elevation of 7780 ft. MSL, and is located at a point 306 feet North from the South Section Line and 2020 feet West from the East Section Line of Section 14, approximately 2400 feet upstream of the intersection of the un-named ephemeral stream with Grape Creek. The dimensions of the pond are as follows: The surface of the pond was calculated by measuring the pond width at 15-foot intervals along an axial grid. Calculated along an axis of 159 feet, the pond had an average

width of 43 feet and a surface area of .154 acres. c. Location of Pond No. 2-Joint Venture 105 LLC Pond No. 2-Pond No. 2 is located in the SE ¼ SE ¼ Section 14, Township 21 South, Range 72 West, 6th PM at a point 1000 feet North of the South section line of Section 14, and 250 feet West of the East section line of Section 14. The Surface area of Pond No. 2 was calculated by passing a measuring tape across the small, ovoid pond on a North-South and East-West axis. Pond No. 2 has a surface area of 0.01 acres and a storage capacity of 0.03 acre feet. d. Location of Well No. 2-Joint Venture 105, LLC Well No. 2 is located in SE ¼ SE ¼ Section 14, Township 21 South, Range 72 West, 6th PM, at a location 1275 feet North from the South section line, and 534 feet West of the East section line of Section 14. Depth of Well: 605 Feet in the granitic (crystalline) aquifer. **7. USE OF STRUCTURES.** a. Joint Venture 105 LLC Well No. 1 is currently permitted for exempt uses for a well on 35 acres of land, including for fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than (1) acre of home gardens and lawns, and the watering of domestic animals. A decree is sought here for the permitted purposes, together with storage in Pond No. 1 and Pond No. 2 for fire protection, piscatorial and incidental wildlife watering. b. Use of Pond No. 1-Pond No 1 intercepts storm flows and snow-melt from the un-named ephemeral stream, which are passed over the spillway. Pond No. 1 is maintained as full by pumping from Joint Venture 105 LLC Well No. 1, and is used for fire protection and piscatorial purposes, and the incidental watering of wildlife. Fire protection equipment is located on the Applicant's property, and the pond is the source of fire protection water for initial fire response, and to supply pumpers from any public fire response to the site. Fire-fighting flows from the Joint Venture 105 LLC Well No. 1 are insufficient for such emergency purpose. c. Use of Pond No. 2- Pond No. 2 is used for fire protection and piscatorial uses and incidental wildlife watering. **PLAN FOR AUGMENTATION. 8. NAME OF STRUCTURES TO BE AUGMENTED** a. Joint Venture 105 LLC Well No. 1, as described above. b. Joint Venture 105 LLC Pond No. 1, as described above. c. Joint Venture LLC Pond No.2 ,as described above. Well No. 1, in addition to its current exempt uses, supplies water to Pond No. 1 and Pond No. 2 with water for storage for fire fighting, piscatorial purposes, and incidental wildlife watering. The two ponds together have a total combined surface area of 0.164 acres (0.154 acres Pond No. 1, and, 0.01 acres, Pond No. 2) Well No. 1 supplies makeup water for the ponds due to evaporation from the pond surface. The ponds are necessary to provide a source of water for firefighting in the heavily forested areas around the home and out-buildings on site, as the capacity of the well on a direct flow basis is inadequate to fill the pumper on site, or response vehicles responding to fires in the area. Due to the die-off of trees due to beetle kill in the mature Ponderosa forest surrounding the property, and due to the high incidence of lightning in this area, immediate response is necessary to all fire threats, for which purpose the ponds are necessary. Piscatorial use and wildlife watering are incidental uses of the ponds. Joint Venture 105 LLC Well No. 1, and Joint Venture 105 LLC Ponds No.1 and No. 2 must augment out of priority consumptive use depletions from water drawn for non-exempt uses from Well No. 1, principally evaporation from the pond surfaces. **9. WATER RIGHTS TO BE USED FOR AUGMENTATION.** The Lake DeWeese Reservoir owned by the DeWeese Dye Ditch Company, a mutual ditch company, is located approximately 3 miles upstream from the intersection of the ephemeral stream on which Pond No. 1 is

located with Grape Creek. Depletions from the pumping of Well No. 1 and the resultant evaporation from Pond No. 1 and Pond No. 2 accrue to Grape Creek. The Upper Arkansas River Water Conservancy District ("District") controls certain storage rights and other contractual rights within Lake DeWeese. District has the ability to release storage water to Grape Creek through an operating exchange, the appropriative rights to which are sought in Case No. 09 CW 85. Applicant has entered into a 3-year lease of 1.0 acre feet per year of water in Lake DeWeese which it proposes to release into Grape Creek on a schedule to be determined in consultation with the Division Engineer, to augment 0.48 acre feet of annual depletions. This lease is the temporary source of augmentation water. The District has filed an application and augmentation plan in Water Division No. 2, Case No. 09 CW 86, which plan is currently in the process of adjudication. The time for completing the adjudication is not certain, but is expected to take 2-3 years, or possibly longer. When its adjudication is complete, District proposes to sell units of 0.1 acre feet to those in need of augmentation water, for which the District will charge application fees, purchase fees and annual maintenance and storage fees. Applicant has proposed to purchase five (5) such units, or so many units as may be necessary to satisfy augmentation demands, or their equivalent, at the time the District has the ability to contract for such water. Such water is proposed for release to Grape Creek to augment the out-of-priority depletions caused by the pumping and surface evaporation from the Ponds, on a schedule to be determined in consultation with the Division Engineer.

10. PREVIOUS DECREE FOR WATER RIGHTS TO BE USED FOR AUGMENTATION

A. The Upper Arkansas Water Conservancy District controls certain storage rights within Lake DeWeese Reservoir pursuant to a certain Agreement and Lease dated June 6, 2005 with the Lake DeWeese Ditch and Reservoir Company and the U.S. Department of the Interior, Bureau of Land Management, and a certain letter agreement dated June 6, 2005 with the DeWeese Dye Ditch and Reservoir Company. The Upper Arkansas Water Conservancy District has operated an upstream exchange from the Pueblo Reservoir to Lake DeWeese, appropriative rights to which exchange, which has been operated, are sought in 09CW86. Such contractual and appropriative rights are the source of temporary augmentation water, and, when adjudicated, will be the permanent source of augmentation water.

B. Location of Lake DeWeese Outlet. Lake DeWeese outlet is located at 580 ft. from East section line and 2260 ft. from South section line of Section 20, Township 21 South, Range 72 West, and is at an elevation of 7630 ft. MSL.

11. STATEMENT OF PLAN FOR AUGMENTATION COVERING ALL APPLICABLE MATTERS UNDER CRS 37-92-103(9), 302(1)(2) AND 305 (8). Applicant incorporates here descriptions of Plan Components described above. The augmentation plan is directed to the replacement of out of priority depletions from Joint Venture 105 LLC Well No. 1. The use of the well is for fire protection, ordinary household purposes inside of not more than three (3) single family dwellings, the irrigation of not more than one (1) acre of home gardens and lawns, the watering of domestic animals, storage for fire protection, and replacing surface evaporation from Joint Venture 105 LLC Pond No. 1 and Pond No. 2, including 0.164 acres of surface area for Ponds No. 1 and 2, and incidental wildlife watering. The pumping depletions and all return flows were lagged to Grape Creek, tributary to the Arkansas River. The out of priority net lagged depletions will be replaced with augmentation credits pursuant to the District contract, and, ultimately by the purchase of District units when the

District's adjudication in Case No. 09 CW 86 is complete. The pumping depletions from Joint Venture 105 LLC Well No. 1 affect Grape Creek, a tributary of the Arkansas River.

11.1 Well Pumping. Joint Venture 105 LLC Well No. 1 will be used to provide makeup water to replace evaporation losses of Joint Venture 105 LLC Ponds No. 1 and No. 2, which shall be used for fire protection, piscatorial purposes, and incidental wildlife watering. The maximum surface area of Pond No. 1 is 0.154 acres, and the surface area of Pond No. 2 is 0.01 acre. Both ponds lie in the drainage of an un-named tributary of Grape Creek in Section 14, Township 21 South, Range 72 West, 6th PM.

11.2 Net Depletions. The net surface evaporation of Pond No. 1 and Pond No. 2 has been calculated to be 0.48 acre feet/yr. The net depletions have been lagged to Grape Creek using a Glover analysis at an aquifer transmissivity of 500 gpd/ft. This analysis indicates that there is a depletion effect on Grape Creek, which lies approximately 3000 feet from Well No. 1. The depletive effect will reach 0.37 acre-feet per year after 100 years of pumping.

Calculation of Depletions. The first step in applicant's evaluation of the depletive effect was to calculate the evaporative losses to the fire protection ponds. Evaporation rates (in this case, for areas above 6,500 feet mean sea level) were used for evaporation. Therefore, in accordance with the *General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits* (Guidelines) (September 30, 2009), applicant determined evaporation rates based on Paragraph 11 of the Guidelines. These monthly evaporation rates are shown in Exhibit 3, attached to the Application. As shown, it is estimated that approximately 0.48 acre-feet per year (ac-ft/yr) will need to be pumped to replace evaporative losses in the fire protection ponds. Having estimated the pumping required to provide evaporation replacement for the fire protection ponds, applicant conducted a Glover analysis related to the depletive effect associated with replacement of losses at the fire protection ponds through pumping of Joint Venture 105 LLC Well No. 1. There are no pump test data associated with this well; however, being completed in fractured granite, applicant assumed that the aquifer transmissivity is relatively low. Therefore, applicant has estimated aquifer transmissivity at 500 gallons per day per foot and has used the distance from this well to Grape Creek (3,000 feet) in the Glover analysis. Since 0.48 ac-ft/yr may be required to be pumped to fully replace evaporative losses the well was pumped in a monthly pattern in relation to the evaporation rates (Exhibit 3, Table B-1). The results of the Glover analysis are presented in Exhibit 4, while Exhibit 5 presents the depletion graph associated with the pumping of Well Permit No. 241905 for evaporative replacement at the fire protection ponds pursuant to this augmentation plan. As Exhibit 5 shows, the maximum annual depletion associated with this well for one year is 0.024 ac-ft. However, it is expected that well pumping will continue on a permanent basis once this augmentation plan is adjudicated. Therefore, applicant also simulated continuous pumping for 100 years. The results of this analysis are presented in Exhibit 6 and a graph of the results is shown in Exhibit 7 After 100 years of pumping, the annual depletion is 0.37 ac-ft/yr. Ultimately, applicant would expect the annual depletion to equal the pumping rate, estimated to be 0.48 acre-feet per year, although the Glover analysis indicates that this could take over 3,000 years.

11.3 Replacement of Depletions. The maximum annual depletion from pumping Well No. 1 to replace pond evaporation is 0.48 acre feet per year, which accrues at very slow rates to Grape Creek. Applicant has leased 1.0 acre feet/Year on a three-year lease from the Upper Arkansas River Water Conservancy District, available

for release from Lake DeWeese Reservoir in Custer County at the location described above. The water is proposed to be released on a release schedule approved by the Division Engineer, whether as a slug release, together with other scheduled releases, or any approved schedule. This leased water is a temporary source, and the lease may be extended in the event that the current augmentation plan being adjudicated by the District as Case No. 09 CW 86 is delayed beyond three years. The District has filed its own augmentation plan as Water Division 2 Case No. 09 CW 86. The District anticipates that such litigation will eventually be resolved, with a projected (but not firm) resolution date within three (3) years. Until resolution, Applicant will maintain a lease of water available for release from Lake DeWeese, either by renewal or extension on rules provided by the District. When the adjudication is final, the District anticipates marketing units of augmentation water available for release from Lake DeWeese in units of 0.10 acre feet per unit, or other measure ultimately determined by the District. Applicant proposes to purchase a permanent augmentation source in the amount of 0.5 acre feet for release from Lake DeWeese to augment net out-of-priority depletions from Joint Venture 105 LLC Well No. 1, as used in Joint Venture 105 LLC Pond Nos. 1 and 2. **12. Name and Addresses of the owner of the lands on which structures are located, upon which water is or will be stored, or will be placed to beneficial use:** Location of Well No. 1 and Ponds Nos. 1 and 2: Joint Venture 105, LLC, c/o Barbara Sutton, Manager, P.O. Box 613, Westcliffe, CO 81252. Owner of Lake DeWeese Reservoir and Works: DeWeese Dye Ditch and Reservoir Company, 1411 Walnut Street, Canon City, CO 81212. Lessee and Contractee of Lake DeWeese Storage Space And Applicant of District's augmentation Plan, Upper Arkansas Water Conservancy District, c/o Ralph Scanga, General Manager, P.O. Box 1090, Salida, CO 81201 **13. Prayer for Relief:** Applicant prays that this Court enter a judgment and decree (1) Approving the plan for augmentation as submitted upon such terms and conditions as the Court may deem appropriate for the prevention of injury in the operation of the Plan; (2) Finding and determining that applicant is able to replace net depletions to the Arkansas River and Grape Creek in amounts, at times and at places to prevent injury, and that the augmentation sources are adequate for this purpose; (3) Determining that Joint Venture 105 LLC Well No. 1 may be operated out of priority without curtailment provided that out-of-priority stream depletions are replaced as provided in the Plan; and (4) Decreeing a change for Joint Venture 105 LLC Well No. 1 to reflect a change of its current permitted uses to include the non-exempt uses of storage in Joint Venture 105 LLC Pond No 1 and Joint Venture LLC Pond No 2 for use in fire-protection, piscatorial use and incidental wildlife watering; and awarding a decree for such uses, and (5) for a decree for Joint Venture 105 LLC Pond No. 1 for storage of 0.79 acre feet of water for fire protection, piscatorial and incidental wildlife watering uses with an appropriation date of October 14, 2005; (6) For a decree for Joint Venture 105 LLC Well No. 1 for the purposes listed with an appropriation date of June 25, 2002, and a date of June 15, 2003 for the additional uses, and (7) For a decree for Joint Venture 105 LLC Well No. 2 for exempt purposes on a tract of 35 acres or more with an appropriation date of July 20, 2000; (8) For a decree for Joint Venture 105 LLC Pond No. 2 for fire protection, piscatorial use and incidental wildlife watering in the amount of 0.01 acre-feet, and an appropriation date of June 15, 2003, and for such other and further incidental relief as the court may grant. (Signed John R. Henderson, Attestation Barbara Sutton, Manager)

CASE NO. 10CW67 – COMPLAINT. This is a complaint and is being listed in the resume to account for the case number in consecutive order.

CASE NO. 10CW68 – M. ANGELA McGEHEE and MARK E. REIGLE, P. O. Box 798, La Veta, CO 81055; (719) 742-3142

Application to Make Absolute

HUERFANO COUNTY

Name of structure: McGehee/Reigle Indian Creek Diversion. **Describe conditional water right: Date of Original Decree:** Ruling entered October 26, 2004; Decree entered November 22, 2004. **Case No.:** 02CW60; **Court:** Water Div. No. 2. **Legal description:** SE ¼ of the SE ¼ Section 3, Township 30 South, Range 69 West, 6th P.M., Huerfano County, Colorado, 1000 feet from the South line and 950 feet from the East line. **GPS Coordinates (UTM format, Zone 13, NAD 83):** Points were averaged. Northing 4146158; Easting 0491974. **Source of Water:** Indian Creek. **Appropriation Date:** June 25, 1994; **Amount:** 0.5 c.f.s. **Use:** Watering livestock (horses, goats, cattle) and domestic use (washing equipment, etc. **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, including expenditures:** Water is diverted out of Indian Creek through a submersible pump and hose to fill a trough for stockwater and buckets for washing equipment. Expenditures: Pump \$82; Hose \$12; Trough \$45. **If claim to make absolute: Date water applied to beneficial use:** October 27, 2004; **Amount:** 0.5 c.f.s. **Use:** Watering livestock and domestic use (washing equipment, etc.). **Description of place of use where water is applied to beneficial use:** Water is diverted out of creek via pump and hose to flat, grassy area approximately 150 ft. wide between County Road 421 and north side of creek for washing equipment, and to trough in grassy corral on south side of creek for watering livestock. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants.

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 2010, (forms available at Clerk's office or at www.courts.state.co.us, 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 8th day of November, 2010.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo County Judicial Building
320 W. 10th Street
Pueblo, CO 81003; (719) 583-7048

(Court seal)
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