

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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

TO: ALL INTERESTED PARTIES

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

CASE NO. 2006CW120 – THE CITY OF AURORA, acting by and through its Utility Enterprise, Director of Utilities, 15151 East Alameda Parkway, Suite 3600, Aurora, CO 80012; THE CITY OF COLORADO SPRINGS, acting through Colorado Springs Utilities, c/o Brett C. Gracely, P. O. Box 1103, Mail Code 1328, Colorado Springs, CO 80947-1328; THE CITY OF FOUNTAIN, acting through its Electric, Water and Wastewater Utility Enterprise, 116 South Main Street, Fountain, CO 80817; THE BOARD OF WATER WORKS OF PUEBLO, COLORADO, Attn: Alan Ward, Division Manager, 319 West Fourth Street, Pueblo, CO 81003; and SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT, by and through its Water Activity Enterprise, c/o James Broderick, Executive Director, 31717 United Avenue, Pueblo, CO 81001

(Please direct all correspondence and inquiries regarding this matter to Applicants' attorneys: John M. Dingess, Hamre, Rodriguez, Ostrander & Dingess, P.C., Attorneys for City of Aurora, 3600 S. Yosemite Street, Suite 500, Denver, CO 80237-1829; (303) 779-0200; David W. Robbins and Matthew A. Montgomery, Hill & Robbins, P.C., Attorneys for City of Colorado Springs, 1660 Lincoln Street, Suite 2720, Denver, CO 80264; (303) 296-8100; Cynthia F. Covell, Alperstein & Covell, P.C., Attorneys for City of Fountain, 1600 Broadway, Suite 900, Denver, CO 80202; (303) 894-8191; William A. Paddock and Karl D. Ohlsen, Carlson, Hammond & Paddock, LLC, Attorneys for The Board of Water Works of Pueblo, Colorado, 1900 Grant Street, Suite 1200, Denver, CO 80203-4312; (303) 861-9000; and Stephen H. Leonhardt and Alix Joseph, Burns, Figa & Will, P.C., Attorneys for Southeastern Colorado Water Conservancy District, 6400 S. Fiddlers Green Circle, Suite 1000, Greenwood Village, CO 80111; (303) 796-2626

Application for Correction for an Established but Erroneously Described Location of Structure Involved in Exchange

CROWLEY, OTERO, PUEBLO, FREMONT, CHAFFEE AND LAKE COUNTIES

Introduction: Applicants, the City of Aurora, Colorado, acting by and through its Utility Enterprise, the City of Colorado Springs, acting through Colorado Springs Utilities, the City of Fountain, acting through its Electric, Water and Wastewater Utility Enterprise, the Board of Water Works of Pueblo, Colorado, and the Southeastern Colorado Water Conservancy District, by and through its Water Activity Enterprise, filed an Application for Appropriative Rights of Substitution and Exchange in 2006CW120. A final Decree was entered in that matter on August 17, 2016. Since entry of that Decree, it was brought to the Applicants' attention that an exchange structure, the Excelsior Ditch's

headgate, had a typographical error listing an incorrect legal description. The Applicants now wish to amend the 2006CW120 Decree by correcting the legal description of the Excelsior Ditch headgate only. No other exchange structures are being added, removed, or modified in any way. This Application does not seek to alter the Water Court's August 17, 2016 Findings of Fact, Conclusions of Law, Judgment, and Decree in Case No. 2006CW120, except to correct the legal description of the Excelsior Ditch headgate. **Decreed exchange structure for which correction is sought: Name of exchange structure:** Excelsior Ditch. **Date of entry for erroneous Decree:** August 17, 2016. **Case No. and Court:** 2006CW120, Water Division No. 2. **Legal description of exchange structure as erroneously described in decree that adjudicated the location of structure involved in the exchanges:** The Excelsior Ditch headgate is located in the SE¼ of the SE¼ of Section 30, Township 20 South, Range 64 West, 6th P.M. in Pueblo County, Colorado. **Description of proposed correction to an established but erroneously described location of structure involved in exchange:** The Decree entered in 2006CW120 erroneously indicated the Excelsior Ditch headgate's location is within Section 30. The correct Section is 36. **Legal Description of proposed correction to an established but erroneously described location of structure involved in exchanges:** The Excelsior Ditch headgate is located in the SE¼ of the SE¼ of Section 36, Township 20 South, Range 64 West, 6th P.M. in Pueblo County, Colorado. A map of the Excelsior Ditch headgate is depicted in Exhibit A to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **There will not be any new diversion or storage structures added, utilized, or constructed, nor will there be any modifications to existing diversion or storage structures as a result of this requested correction. Additionally, this Application does not alter where water already is or will be stored. As such, other than the Excelsior Irrigating Company, which will be notified independently, notification will occur via resume publication.** WHEREFORE, the Applicants respectfully request the Court to correct the legal description for the Excelsior Ditch headgate, and reflect such correction in a Corrected Findings of Fact, Conclusions of Law, Judgment, and Decree in Case No. 2006CW120.

CASE NO. 2015CW3014 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION ("LAWMA"), c/o Donald F. Higbee, Manager, 310 South 6th Street, P. O. Box 1161, Lamar, CO 81052 (Please address all correspondence to: Richard J. Mehren, Jennifer M. DiLalla, William D. Davidson, Moses, Wittemyer, Harrison and Woodruff, P.C., Attorneys for Applicant, 2595 Canyon Blvd., Suite 300, Boulder, CO 80302; (303) 443-8782)

First Amended Application for Plan for Augmentation

PROWERS AND BENT COUNTIES

Introduction: The changes made by this Amendment to the Application filed on April 30, 2015, are (i) to include an additional well, SEO ID No. 1705062, Permit No. 9233-F, in the structures to be augmented under the requested plan for augmentation; and (ii) to identify the status of the augmented structures described in paragraph 4 below with respect to their eligibility to receive water made available under the Fryingpan-Arkansas Project ("Project"). **3. Purpose of application:** LAWMA is a non-

profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include additional wells in LAWMA's plan for augmentation ("Augmentation Plan"), which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 ("02CW181 Decree"). Pursuant to paragraph 43 of the 02CW181 Decree, LAWMA may add wells or other structures to the Augmentation Plan by filing a new application with the Water Court.

4. Description of structures to be augmented ("Augmented Structures"): Spady Brothers (SEO ID 1705059): Permit No. 14061R; Case No. W3346; PLSS Location: SE ¼ NW ¼ Sec. 16, T23S, R52W, 6TH P.M., 2280 feet from the North line and 1240 feet from the West line; Bent County; Source: Arkansas River Valley Fill Aquifer; GPS Location (NAD83): UTM X 653694; UTM Y 4212743. Spady Brothers (SEO ID 1705061): Permit No. 14063R; Case No. W3346; PLSS Location: SE ¼ NW ¼ Sec. 16, T23S, R52W, 6TH P.M., 1225 feet from the South line and 50 feet from the West line; Bent County; Source: Arkansas River Valley Fill Aquifer; GPS Location (NAD83): UTM X 653338; UTM Y 4212188. Spady Brothers (SEO ID 1705062): Permit No. 9233F; Case No. W3346; PLSS Location: NW ¼ SW ¼ Sec. 15, T23S, R52W, 6TH P.M., 2700 feet from the North line and 160 feet from the West line; Bent County; Source: Arkansas River Valley Fill Aquifer; GPS Location (NAD83): UTM X 654975; UTM Y 4212536. A map showing the location of the Augmented Structures is attached to the Amended Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A total of three additional wells will be included in LAWMA's Augmentation Plan through this application. The Augmented Structures are located within the boundaries of the Southeastern Colorado Water Conservancy District, but as of the date of this Amended Application are not eligible to receive Project water, including return flows, as an augmentation source under the Reclamation Reform Act of 1982.

5. Water rights and other sources of water to be used for augmentation: Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree and in the decrees entered in Case Nos. 05CW52 and 10CW85, and those water rights and other sources of water that are added as sources of augmentation water to the 02CW181 Decree pursuant to the terms and conditions of paragraph 41 of the 02CW181 Decree.

6. Statement of plan for augmentation: The amount, timing and location of depletions from the wells described above will be determined in accordance with the methodologies approved in the 02CW181 Decree. LAWMA will account for and fully replace all out-of-priority stream depletions caused by pumping of the wells described above under the Augmentation Plan with fully-consumable water in accordance with the terms and conditions of the 02CW181 Decree in a manner that protects Colorado senior surface water rights from injury and assures compliance with the Arkansas River Compact. This application does not seek to modify or supersede any provision of the 02CW181 Decree, does not seek a change of water right for any of the water rights identified in paragraph 40 of the 02CW181 decree, and does not seek any change to those augmented structures or replacement water sources previously decreed to be included in the Augmentation Plan. Instead, this application seeks (i) the Court's approval of LAWMA's inclusion of the wells described above in the

Augmentation Plan in accordance with the terms and conditions of the 02CW181 Decree; and (ii) accordingly, the Court's confirmation that LAWMA will fully replace all out-of-priority depletions caused by pumping of the wells to be added to the Augmentation Plan under the Augmentation Plan in this case so as to prevent injury to Colorado senior surface water and assure compliance with the Arkansas River Compact.

CASE NO. 2016CW13; Previous Case Nos. 2004CW17; 2010CW48 – SUZANNE M. JANECEK, P. O. Box 20077, Colorado City, CO 81019; (719) 676-3058

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of Structure: Janecek Spring 2. **Date of Original Decree:** 3/18/2004; **Case No.:** 2004CW17; **Court:** District Court, Water Division 2, Colorado. **Decrees awarding findings of diligence:** Case No. 10CW48, District Court Water Division 2 entered 11/18/2010. **Legal description:** Huerfano County, NW ¼ NW ¼ Section 18, Township 29 South, Range 70 West, 6th P.M., 965 feet from the north line and 1050 feet from the west line. **Street Address:** 2801 County, Road 442; **Subdivision:** Warren's LaVeta Property; **Lot:** 9-C. **Source of water:** Fresh water spring coming out of hillside. **Appropriation Date:** 3/18/2004; **Amount:** 1.1 gpm. **Use:** Personal household and planned connection to household water system of spring #1. **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:** Backhoe excavation to 4 feet where solid rock was encountered. Drilling will be needed for future spring development. Plans to investigate cost of drilling. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2016CW14 – LARRY BROWN, 7730 CR 151, Salida, CO 81201; (719) 539-4676

Application for Absolute Surface Water Right

CHAFFEE COUNTY

Name of Structure: Brown Spring; **Legal Description of each point of diversion: UTM coordinates (NAD 83; Zone 13):** Easting 0411320; Northing 4267739. **Street Address:** 7730 CR 151, Salida, CO 81201. **Source of UTMs:** Garmin GPS. **Source:** Springs. **Date of appropriation:** May 1, 2003; **How appropriation was initiated:** Culvert under road to a pipe to be dispersed by ditches; **Date water applied to beneficial use:** May 1, 2003. **Amount claimed:** 50 gpm Absolute. **Use:** Irrigation of 1.2 acres. **Does the Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right?** Yes. **Legal description of irrigated acreage:** A map is on file with the application showing irrigated acreage on Applicant's property located at 7730 CR 151 (a tract of land within the SE ¼ SW ¼ and the NE ¼ SW ¼ Sec. 30, T50N, R9E, NMPM, Chaffee County). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Name(s) and address(es) of owner(s) or reputed**

owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant. **Remarks:** Water appeared after a gravel mining was initiated on the property where the springs are located. The springs consolidated and left the south edge of the property and into the barrow pit flowing toward the west. This flow continued until the water was intercepted by an existing culvert under County Road 151 flowing southward to the Applicant's property. This water if left undiverted would not reach any tributary or live stream.

CASE NO. 2016CW15 – THERESA FISHER, 2906 Siloam Road, Pueblo, CO 81005; (215) 915-9592

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

PUEBLO COUNTY

Name of well: Windy Well; **Permit No.:** 165798A. **Total area of parcel on which well is located:** 40 acres. **Legal description of well:** UTM coordinates (NAD83; **Zone 13**): Easting 502094.4; Northing 4226033.5. **PLSS Description:** SE ¼ NE ¼ Section 34, T21S, R68W, 6th P.M., Pueblo County, Colorado, 1500 feet from the North line and 200 feet from the East line. **Source of PLSS information:** Well Construction Report 6-26-94. **Street Address:** 2906 Siloam Road, Pueblo, CO 81005. **Date of appropriation:** 7-11-92; **How appropriation was initiated:** Well permit applied for; **Date water applied to beneficial use:** 6/1995. **Source of water:** Dakota Aquifer; **Depth of well:** 573 feet. **Amount claimed:** 15 gpm Absolute. **Use:** Livestock, 1/16 acre (1100 sq. ft.) lawn and garden; one home; wildlife; domestic animals. **Legal description of irrigated acreage:** SE ¼ NE ¼ Sec. 34, T21S, R68W, 6th P.M., Pueblo County. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2016CW16 – RODNEY and TANA WILLIAMS, 755 CR 9, Clovis, NM 88101; (575) 799-1593

Application for Conditional Water Rights (Surface)

HUERFANO COUNTY

Name of structure: Ojo Spring No. 1. **Legal description of each point of diversion:** UTM coordinates (NAD 83; **Zone 13**): Easting 0487300; Northing 4157380. **PLSS Description:** Huerfano County, SE ¼ SE ¼ Section 31, Township 28 South, Range 69 West, 6th P.M., 390 feet from the south line and 110 feet from the east line. **Source of PLSS information:** Water permit; **Street Address:** 6580 CR 442, La Veta, CO 81055; **Subdivision:** La Veta Ranch; **Lot:** 33a. **Source:** Natural spring of Cucharas River, tributary to Huerfano River, tributary to Arkansas River. **Date of appropriation:** April 5, 1973; **How appropriation was initiated:** by application and decree Case W-956. **Date water applied to beneficial use:** n/a. **Amount claimed:** 10 gpm conditional. **Use:** Domestic and livestock use. Reestablish historical water fountain. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new**

diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicants. **Remarks:** Water has been coursing through that same spring on land that we acquired in October 2011, and on which water rights were established on December 31, 1941 and on April 5, 1973 (Case #W-956). We are applying for water right to re-establish the historical drinking water fountain as well as domestic and livestock uses.

CASE NO. 2016CW17 – RANDALL L. HANCOCK and RENATE LAURIE HANCOCK, 32400 County Road 361, Buena Vista, CO 81211; (719) 395-2888

Application for Absolute Water Rights (Surface)

CHAFFEE COUNTY

Name of structure: Hancock diversion. **Legal Description:** UTM Coordinates (NAD83; Zone 13): Easting 0397473; Northing 4305122. **Source of UTM:** Hand held GPS. **PLSS Description:** Chaffee County, NW ¼ SW ¼ Sec. 25, T13S, R79W, 6th P.M., 2083 feet from the South line and 165 feet from the West line. **Source of PLSS information:** Water Commissioner. **Street Address:** 32400 County Road 361, Buena Vista, CO 81211. **Source:** Three Elk Creek, tributary to Arkansas River. **Date of appropriation:** August 14, 2011; **How appropriation was initiated:** Gated pipe drawing water from creek and irrigating trees and meadow; **Date water applied to beneficial use:** August 21, 2011. **Amount claimed:** .9 cfs Absolute. **Use:** Irrigation of native grasslands and irrigation of native trees. **Number of Acres historically irrigated:** 25; **proposed to be irrigated:** 11. **Does Applicant intend to use this water right to supplement irrigation on an area of land already irrigated under another water right:** No. **Legal description of irrigated acreage:** Approximately 11 acres in N ½ of NW ¼ of SW ¼ Section 25, T13S, R79W, Chaffee County. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicants. **Remarks:** In 2010 the owners of the Riverside-Allen ditch put a rubberized liner in the ditch through our property. This liner prevented water from seeping and reaching about ¼ mile or more of 100 year old cottonwood trees that lined the ditch, but also were a part of our property that was beneficial to the wildlife and to our property value. At that time, I contacted then Deputy Water Commissioner David Kelly who told me that Three Elk Creek was a futile creek and any water that reached our property could be used by use. We are the lowest property on the creek that could possibly benefit from diversion of water out of the creek. In 2011, we purchased 3000 feet of 8 inch gated irrigation pipe with the intent of irrigating the cottonwood trees in order to keep them alive. In addition, the overflow from that irrigation goes down into a wet meadow and keeps that wetland active and alive. The effect of that is that we were irrigating not only the trees along the ditch, but also the entire meadow below the trees. Our intent from the beginning was to file for permanent water rights for the water we were using out of the creek. Our property is entered into a Conservation Easement with the Land Trust of the Upper Arkansas, and as such, we need to keep it in as environmentally pristine condition as we possibly can. Survival of the cottonwood trees is essential to that end.

CASE NO. 2016CW3069; Previous Case No. 2008CW84 – DANIEL EDWARD WILLIAMS, P. O. Box 1886, Woodland Park, CO 80867

(Please direct all correspondence and inquiries regarding this matter to Applicant's attorney: Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2nd Avenue, Unit 11B, Durango, CO 81301; (970) 403-1770)

Application to Make Absolute and for a Finding of Reasonable Diligence

TELLER COUNTY, COLORADO

(1) Original Decree: December 27, 2010, Case # 08CW84, District Court, Water Division No. 2 **(2) Structure I:** Williams Springs **(3) Legal:** The three alternate points of diversion for the decreed for Williams Springs water right are **(a)** A point located in the SW ¼ NW ¼ S29, T14S, R69W, 6th P.M., approximately 1498' from the N Section line and 642' from the W Section line of said S29. **(b)** A point located in the SW ¼ NW ¼ S 29, T14S, R69W, 6th P.M., approximately 1900' from the S Section line and 1028' from the W Section line of said S 29. **(c)** A point located in the SW ¼ NW ¼ S 29, T14S, R69W, 6th P.M., approximately 1313' from the S Section line and 844' from the W Section line of said S29. **(4) Structure II:** Williams Pond **(5) Legal:** Williams Pond water right may consist of up to three (3) storage facilities that will be located in the SW ¼ NW ¼ S 29, T14S, R69W, 6th P.M., approximately 1900' from the S Section line and 1028' from the W Section line of said S 29. **(4) Source:** Unnamed springs arising on Applicant's property, tributary to Barnard Creek and William Springs water right for Williams Pond **(5) App Date:** Williams Springs 12/31/2002, Williams Pond 11/10/2008 **(6) Amt:** Williams Spring 0.067 cfs (30 gpm) Conditional to Absolute, Williams Pond, 10 acre-feet, conditional **(7) Use:** Williams Springs: irrigation of up to 10 acres, stock watering, domestic use of up to three homes, wildlife, augmentation, freshening flows, and filling and refilling of ponds for said use. Williams Pond: Domestic, wildlife, stock watering, aesthetics, fish propagation, and the right to store water for said uses **(8) Detailed Outline: WILLIAMS SPRINGS/TO MAKE ABSOLUTE:** During this diligence period, Williams has completed construction of his home and now resides full time at the property where the Williams Springs and Williams Pond are applied to beneficial use. The water from the spring is captured and conveyed through an underground perforated pipe to the stock tank. Williams has constructed a greenhouse that uses water from the Williams Springs. The water conditionally decreed to the Williams Springs has been lawfully applied to beneficial use for stockwater, wildlife, and domestic uses. **WILLIAMS POND/FINDING OF REASONABLE DILIGENCE:** The Williams Springs and Williams Pond are part of an integrated system and therefore work on one feature shall be considered in finding that reasonable diligence has been shown in the development of water rights for the entire system. C.R.S. § 37-92-301(4)(b). Williams intends to construct the Williams Pond, but has not yet completed that portion of his water system. The construction of a home, stock tank, and greenhouse, and the perfection of the Williams Springs water right are specific actions that demonstrate an application of steady effort to complete the appropriation for the Williams Pond in a reasonably expedient and efficient manner under all the facts and circumstances. **(9)** Applicant owns the land on which the all of the structures herein are located. **(10)** See Application

**CASE NO. 2016CW3070; Previous Case No. 2006CW121 – THOMAS H. SMITH, P.
O. Box 189, Poncha Springs, CO 81242**

(Please address all correspondence to Applicant's attorney: John J. Cyran, John J. Cyran Attorney at Law LLC, Schroeder & Griffith, LLP, 1580 Lincoln Street, Suite 1200, Denver, CO 80203; (303) 296-1400)
Application to Make Absolute and for Finding of Reasonable Diligence

CHAFFEE COUNTY

First Claim: Application for Finding of Reasonable Diligence. Water Rights for which Applicant seeks a Finding of Diligence: Name of Water Right: Droz Creek Reservoir First Enlargement. **Original decree for Water Right:** October 15, 2010, Case No. 06CW121, District Court, Water Division No. 2. **Name of Structures to which Water Right is Decreed:** Droz Creek Reservoir **Location of Structures:** Legal description of reservoir dam: The outlet works of the dam are located at a point in the SW1/4NE1/4 Section 6, Township 48 North, Range 8 East, N.M.P.M. approximately 1700 feet west of the east line and 1800 feet south of the north line of said Section 6. UTM coordinates NAD 27 402149 E 4255469 N. **Source of Water:** Droz Creek, a tributary of Poncha Creek. **Amount of Water Decreed:** 1.3 acre-feet, conditional. **Appropriation Date:** September 1, 2006. **Decreed Uses for Water:** Storage for irrigation of 1.29 acres of land shown on 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.) **Surface Area of High Water Line:** 15.1 acres. **Total Capacity of Reservoir:** 124.3 acre-feet, all active capacity. **Detailed Description of Steps Applicant Has Taken Toward Completion of Water Right:** Since Applicant obtained a finding of diligence on October 15, 2010 in Case No. 06CW121, Applicant has sought to divert water pursuant to the Droz Creek Reservoir First Enlargement Water Right, but has been unable to make such diversions, solely because of the lack of in-priority water available for diversion. Notwithstanding the lack of such in-priority water, Applicant has satisfied all of the requirements imposed by the 06CW121 Decree as a condition precedent to the diversion of water under the Droz Creek Reservoir First Enlargement Water Right. Specifically, Applicant has satisfied the following requirements: A. Applicant has installed all measuring devices required by the Division Engineer for the operation of the Droz Creek Reservoir First Enlargement Water Right. Applicant has installed a staff gage on Droz Creek Reservoir in a manner and location to be approved by the Division Engineer. Further, Applicant has installed a flow meter on the outlet of the reservoir pump which is capable of measuring instantaneous flow and total flow. B. Applicant has provided the Division Engineer with the number of the Twin Lakes share certificate as soon as it is available. Applicant also has had the certificate legended. C. Applicant has supplied accounting for Droz Creek Reservoir including: (1) the amounts exchanged into the reservoir; (2) whether the amounts exchanged were for storage or to direct irrigation use; (3) the amounts pumped from the reservoir for irrigation as a depletion to storage; and (4) a confirmation that sufficient water has been released from Twin Lakes for operation in accordance with the terms of the 06CW121 Decree. D. Applicant has prepared an accurate reservoir capacity survey for use by the Division Engineer and Water Commissioner in the administration of Droz Creek Reservoir. The stage-capacity relationship in the survey is consistent with the stage-capacity tables required for other reservoirs of the same size.

E. Applicant has retained Duane D. Helton, P.E. of D. Helton Consulting, LLC to assist with the accounting and administration of the reservoir. Mr. Helton has monitored the calls on the relevant streams for purposes of determining when and if the Droz Creek Reservoir First Enlargement Water Right may be diverted in priority. **Second Claim: Application to Make Absolute. Water Right for which Applicant seeks a Finding of Diligence: Name of Water Right:** Twin Lakes Reservoir—Droz Creek Reservoir First Enlargement Exchange. **Original decree for Water Right:** October 15, 2010, Case No. 06CW121, District Court, Water Division No. 2. **Date of Appropriation:** September 1, 2006. **Amount:** 2.31 acre-feet, conditional, at a rate of no more than 0.66 cfs. **Upstream Terminus of Exchange:** Droz Creek Reservoir, as described above. **Downstream Terminus of Exchange:** Confluence of the South Arkansas and Arkansas Rivers. **Source:** 2.46 Twin Lakes Shares are used to provide the replacement water for this exchange. **Description of Water Rights for Source:** The Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West of the 6th P.M., in Lake County, Colorado. The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the Southeast corner of Section 23, Township 11 South, Range 81 West of the 6th P.M., bears South 54° 13'08" East a distance of 3,803.10 feet, all as more particularly described in the decree in Civil Action No. 5141 (District Court, Chaffee County, Colorado). Twin Lakes shares represent proportionate interests in storage and direct flow rights for water diverted from the Colorado River drainage basin into the Arkansas River basin as well as water native to the Arkansas River drainage. The water diverted from the Colorado River drainage is available for 100 percent consumptive use and reuse. The water rights producing the pro rata interest of Applicant are: Colorado River Water Rights: Case No. 3802, District Court, Garfield County, August 25, 1963 and Case No. W-1901, District Court, Water Div. No. 5, May 12, 1976; priority: August 23, 1930, No. 431; source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Div. No. 5; use: direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all beneficial uses; amount: direct flow amount for diversions through transmountain tunnels of 625 c.f.s., with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet. Arkansas River Water Rights: Case No. 2346, District Court, Chaffee County, July 14, 1913 as modified in Case No. W-3965, District Court, Water Div. No. 2, April 19, 1974; priorities: December 15, 1896, No. 3 and March 25, 1897, No. 4; source: Lake Creek and its tributaries, tributary to the Arkansas River; use: storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served by water by diversion from said Arkansas River; amount: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4. **Detailed Description of Steps by which Applicant made the Water Right Absolute:** Accounting prepared by Duane D. Helton, P.E. of D. Helton Consulting, LLC, attached to the Application as Exhibit B, demonstrates that the Twin Lakes Reservoir—Droz Creek Reservoir First Enlargement Exchange was operated during the 2012 and 2013 water years. **Name and Address of Owner of Land Other than Applicant upon which Any New or Existing Diversion Structures, or Modification to Existing Diversion Structure is or will be Constructed:** Applicant owns the

property upon which Droz Creek Reservoir is located and upon which the water will be stored and placed to beneficial use.

CASE NO. 2016CW3071; Previous Case Nos. 1994CW6, 1997CW171, 2002CW11, and 2009CW16 – TURKEY CANON RANCH WATER DISTRICT, 15580 Cala Rojo Drive, Colorado Springs, CO 80907

(Please address all pleadings and correspondence to Applicant's attorney: Chris D. Cummins, Monson Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)
Application for Finding of Reasonable Diligence and To Make Partially Absolute Conditional Water Rights

EL PASO COUNTY

Name of structures: TCR Well No. 1 and TCR Well No. 2. **Describe conditional water right giving the following from the Referee's Ruling and Judgment and Decree:**

Date of initial decree: January 18, 1996, Case No. 94CW6, District Court, Water Division 2; **Date of final decree:** December 17, 1997, Case No. 94CW6, District Court, Water Division 2; **Date of amended decree:** November 6, 1998, Case No. 97CW171, District Court, Water Division 2; **Date of first diligence decree:** January 14, 2003, Case No. 02CW11, District Court, Water Division 2; **Date of second diligence decree:** October 15, 2010, Case No. 09CW16, District Court, Water Division 2. **TCR Well No. 1. Legal Description:**

NE ¼ NE ¼, Section 5, Township 17 South, Range 67 West, 6th P.M., being 1,100 feet from the North Section line, and 20 feet from the East Section line. **Source:** Manitou Formation. **Date of Appropriation:** May 24, 1994.

Amount Claimed: 100 gpm, conditional, not to exceed 20.65 acre feet limited to a maximum annual combined diversion with TCR Well No. 2 of 27.26 acre feet. **Use:** Domestic/in-house use, commercial, fire protection, and replacement. **Depth:** 617 feet.

TCR Well No. 2. Legal Description: NW¼ SE¼, Section 5, Township 17 South, Range 67 West, 6th P.M., being 2,452 feet from the South section line and 1,566 feet from the East section line. **Source:** Manitou Formation. **Date of Appropriation:**

August 31, 1994. **Amount Claimed:** 100 gpm, conditional, limited to a maximum annual combined diversion with TCR Well No. 1 of 27.26 acre feet. **Use:** Domestic/in-house use, commercial, fire protection, and replacement. **Depth:** 617 feet. **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:**

Summary of Previous Decrees (94CW6, 97CW171, 02CW11, and 09CW16): 94CW6 and 97CW171. These original decrees adjudicated conditional water rights for two wells to serve a 59 lot subdivision known as the Pinons of Turkey Canon Ranch on a 323 acre parcel of land and three additional residences and a restaurant located adjacent to the applicant's land in southwestern El Paso County. Those wells were adjudicated to serve a central water system connected to each of the subdivision lots and the additional uses on the 4 lots adjacent to the subdivision for in-house domestic use, commercial use (for a fire station) and replacement purposes. An augmentation plan was approved utilizing 19 shares of Twin Lakes Reservoir and Canal Company shares of stock to replace depletions to Turkey Creek and Red Creek. **02CW11.** This prior diligence decree for TCR Well No.1 and TCR Well No. 2, awarded TCR Well No. 1 an absolute water right for domestic use, commercial use (for a fire station), and replacement in the amount of 3.06 annual acre

feet, at a flow rate of 100 gpm. The decree in Case No. 02CW11 awarded a finding of reasonable diligence and a continuation of the remaining 17.59 acre feet (23.4 acre feet in combination with TCR Well No. 2) at a flow rate of 100 gpm for TCR Well No. 1 and a finding of reasonable diligence and a continuation of the conditional water right originally awarded to TCR Well No. 2 for a maximum of 27.26 acre feet in combination with TCR Well No. 1 at a rate of 100 gpm. 09CW16. This diligence decree for TCR Well No. 1 and TCR Well No. 2 awarded a finding of reasonable diligence for both structures, continuing the 17.59 conditional acre feet (23.4 acre feet in combination with TCR Well No. 2) remaining for TCR Well No. 1 at a flow rate of 100 gpm, and continuation of the conditional water rights for TCR Well No. 2 for a maximum of 27.26 acre feet in combination with TCR Well No. 1 at a rate of 100 gpm. **Statement of Diligence:** During this diligence period TCR Well No. 1 and TCR Well No. 2, in combination, have been used to pump water to 42 constructed homes in the subdivision and to provide fire protection supplies to neighboring water users. Applicant is a quasi-municipal special district operating an integrated water system for its residents, and diligence as to any part of the Applicant's water rights shall be diligence as to all aspects of the Applicant's water rights pursuant to C.R.S. §37-92-301(4)(b). TCR well No. 1 pumped no additional conditional appropriations during the diligence period, with a maximum annual pumping of 0.310 acre feet during 2014. As such, Applicant seeks only a finding of reasonable diligence on the remaining conditional water rights for TCR Well No. 1. TCR Well No. 2 was permitted, drilled and tested during the prior diligence period, and pumped a maximum amount of 23.314 acre feet during the instant diligence period, during 2010. Expenditures for the work completed on TCR Well No. 1 and TCR Well No. 2, including improvements, maintenance, engineering, and attorney's fees directly related to implementation of the water rights decree, including the conditional water rights subject of this diligence application, have been in the amount of at least \$150,000 for the period of diligence set forth in 09CW16 to be from November 2010 to October 2016. **Claim to make absolute for TCR Well No. 1:** No additional absolute claim for TCR Well No. 1 is made at this time. **Claim to make absolute for TCR Well No. 2: Date water first placed to beneficial use:** January 1, 2010. **Amount of 2010 usage:** 23.314 acre feet (3.95 acre feet to remain conditional). **Use:** Domestic, commercial (for a fire station), and replacement. **Description of place of beneficial use:** The 353 acre parcel known as the Pinons at Turkey Canon Ranch the legal description of which is set forth within the decree in 94CW6, and is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Names of the owners of land on which structure is located, is or will be stored, and upon which water is or will be placed to beneficial use:** TCR Well No. 1, TCR Well No. 2, water storage facilities, and water mains are all located upon lands served by the Applicant and/or within easements owned by the Applicant, Turkey Canon Ranch Water District, a quasi-municipal special district, for operation of its central water system. The place of beneficial uses are the subdivision known as the Pinons at Turkey Canon Ranch and three additional properties adjacent to the subdivision belonging to Matt Shirola III, James F. Dickey, and Ramona F. Smith, successors to those property owners as set forth in the decree in 97CW171.

CASE NO. 2016CW3072; Original Case Nos. 1984CW202, 1984CW203, 1986CW118(B), 1989CW36; Diligence Case Nos. 1997CW69 and 2006CW23 – CITY OF COLORADO SPRINGS, Colorado Springs Utilities, c/o M. Patrick Wells, Managing Engineer, P. O. Box 1103, MC 930, Colorado Springs, CO 80947-0930

(Please address all pleadings and correspondence to Applicant's attorney: Michael J. Gustafson, Senior Attorney, City Attorney's Office – Utilities Division, 30 South Nevada Avenue, MC 510, Colorado Springs, CO 80901-1575; (719) 385-5909)

Application to Make Conditional Water Rights Absolute and for a Sexennial Finding of Reasonable Diligence

LAKE, CHAFFEE, FREMONT, PUEBLO, TELLER AND EL PASO COUNTIES, COLORADO

This is an Application to Make Conditional Water Rights Absolute and for a Sexennial Finding of Reasonable Diligence for the conditional appropriative rights of exchange of the City of Colorado Springs, decreed on July 17, 1991, in Consolidated Cases No. 84CW202, 84CW203, 86CW118(B) and 89CW36, and an amended decree was entered by this Court on January 8, 1998 (the "Decree"). By Orders of the Court in Case Nos. 84CW202 and 84CW203, dated July 2, 1986, and in Case No. 86CW118 dated November 8, 1989, the issues and claims in those cases were separated at trial to reflect two categories of return flows from Applicant's water system; sewerable reusable return flows and non-sewerable reusable return flows. The Court entered separate decrees in Case Nos. 84CW202, 84CW203 and 86CW118(A) approving existing and conditional exchanges utilizing Applicant's sewerable reusable return flows. This Application only applies to the appropriative rights of exchange of Applicant's non-sewerable reusable return flows as provided for in the Decree ("Subject Exchanges"). A decree making the Subject Exchanges absolute in part and finding diligence in the development of the remaining conditional portions of the Subject Exchanges was entered by this Court nunc pro tunc in Case No. 06CW23 on October 19, 2010. The source of water for the Subject Exchanges is derived from transmountain water, nontributary groundwater, and other reusable water accruing to Fountain Creek and/or its tributaries from the irrigation of lawns, gardens, parks, landscaping, and all other outside non-sewerable uses within the areas served by Applicant ("Reusable Non-Sewered Return Flows").

II. Name of Structures (Utilized for Subject Exchanges):
A. Ruxton Creek System. 1. Sheep Creek Intake: A point on the South bank of Sheep Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 21° West a distance of 600 feet. PLSS: In the SW 1/4 of the SW 1/4 of Section 11, T. 14 S, R. 68 W of the 6th P.M. at a point 205 feet from the West Section line and 573 feet from the South Section line. 2. South Ruxton Creek Intake No. 1: A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 49° West a distance of 2,555 feet. PLSS: In the SE 1/4 of the NW 1/4 of Section 14, T. 14 S, R. 68 W of the 6th P.M. at a point 1,938 feet from the West Section line and 1,557 feet from the North Section line. 3. South Ruxton Creek Intake No. 2: A point on the West bank of South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 51°40' West a distance of 2,385 feet. PLSS: In the SE 1/4 of the

NW 1/4 of Section 14, T.14 S, R. 68 W of the 6th P.M. at a point 1,880 feet from the West Section line and 1,363 feet from the North Section line. 4. Cabin Creek Intake: A point on the North bank of Cabin Creek whence the Southwest corner of Section 11, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 7° 55' West a distance of 3,020 feet. PLSS: In the SW 1/4 of the NW 1/4 of Section 11, T. 14 S, R. 68 W of the 6th P.M. at a point 421 feet from the West Section line and 1,919 feet from the North Section line. 5. Ruxton Creek Intake at Lake Moraine: A point on the East bank of Ruxton Creek at Lake Moraine Reservoir whence the Southwest corner of Section 22, Township 14 South, Range 68 West of the 6th Principal Meridian bears South 27°10' West a distance of 1,070 feet. PLSS: In the SW 1/4 of the SW 1/4 of Section 22, T. 14 S, R. 68 W of the 6th P.M. at a point 954 feet from the South Section line and 495 feet from the West Section line. 6. Dark Canyon Intake: A point on South Ruxton Creek whence the Northwest corner of Section 14, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 23°50' West a distance of 4,330 feet. PLSS: In the SE 1/4 of the SW 1/4 of Section 14, T. 14 S, R. 68 W of the 6th P.M. at a point 1,776 feet from the West Section line and 1,214 feet from the South Section line. 7. Lion Creek Intake: A point at the junction of Ruxton and Lion Creeks whence the Northeast corner of Section 15, Township 14 South, Range 68 West of the 6th Principal Meridian bears North 9°50' East a distance of 1,600 feet. PLSS: In the SE 1/4 of the NE 1/4 of Section 15, T. 14 S, R. 68 W of the 6th P.M. at a point 264 feet from the East Section line and 1,595 feet from the North Section line. 8. Lake Moraine Reservoir: An on-channel reservoir located in the SE 1/4 of Section 21 and the SW 1/4 of Section 22, the NW 1/4 of Section 27, and the NE 1/4 of Section 28, T. 14 S, R. 68 W of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the southwest corner of Section 22 is South 27 degrees 10 minutes West 1,070 feet. 9. Big Tooth Reservoir: An on-channel reservoir located in the South Ruxton Creek channel in the SW 1/4 of Section 14 and the NW 1/4 of Section 23, T. 14 S, R. 68 W of the 6th P.M., in El Paso County, CO, with the outlet at a point whence the southwest corner of Section 18, T. 14 S, R. 67 W of the 6th P.M. bears East 11 degrees South a distance of 8,975 feet. **B. The North Slope System (Fountain Creek)**. 1. French Creek Intake: A point on French Creek whence the Southeast corner of Section 26, Township 13 South, Range 68 West of the 6th Principal Meridian bears South 80°43' East a distance of 1,953 feet. PLSS: In the SE 1/4 of the SE 1/4 of Section 26, T. 13 S, R. 68 W of the 6th P.M. at a point 140 feet from the South Section line and 1,948 feet from the East Section line. 2. Cascade Creek Intake: A point on Cascade Creek whence the Northwest corner of Section 27, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 70°11' West a distance of 1,322 feet. PLSS: In the NE 1/4 of the NW 1/4 of Section 27, T. 13 S, R. 68 W of the 6th P.M. at a point 412 feet from the North Section line and 1,279 feet from the West Section line. 3. Crystal Creek Intake: A point on Crystal Creek whence the Northwest corner of Section 17, Township 13 South, Range 68 West of the 6th Principal Meridian bears North 23°12' West a distance of 2,735 feet. PLSS: In the SW 1/4 of the NW 1/4 of Section 17, T. 13 S, R. 68 W of the 6th P.M. at a point 2,549 feet from the North Section line and 1,148 feet from the West Section line. 4. South Catamount Creek Intake: A point on South Catamount Creek whence the Southeast corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 37° East a distance of 645 feet. PLSS: In the SE 1/4 of the SE

1/4 of Section 12, T. 13 S, R. 68 W of the 6th P.M. at a point 387 feet from the East Section line and 480 feet from the South Section line. 5. North Catamount Creek Intake: A point on North Catamount Creek whence the South quarter corner of Section 12, Township 13 South, Range 69 West of the 6th Principal Meridian bears South 47°45' West a distance of 1,535 feet. PLSS: In the SW 1/4 of the SE 1/4 of Section 12, T. 13 S, R. 68 W of the 6th P.M. at a point 1,524 feet from the East Section line and 1,135 feet from the South Section line. 6. Crystal Reservoir: An on-channel reservoir located in Crystal Creek channel in the SW 1/4 of Section 17, the SE 1/4 of Section 18 and the NW 1/4 of Section 19, T. 13 S, R. 68 W of the 6th P.M., in El Paso County, CO. The outlet is located at a point whence the Northwest corner of Section 17 is North 23 degrees 12 minutes West a distance of 2,735 feet. 7. South Catamount Reservoir: An on-channel reservoir located in the South Catamount Creek channel in the NW 1/4 of Section 18, T. 13 S, R. 68 W of the 6th P.M. and the SE 1/4 of Section 12 and the N 1/2 of Section 13, T. 13 S, R. 69 W of the 6th P.M., in Teller County, CO. The east end of the dam is located at a point from which the Southeast corner of Section 12 lies South 33 degrees 23 minutes East a distance of 380 feet. 8. North Catamount Reservoir: An on-channel reservoir located in the North Catamount Creek channel in Sections 11, 12, 13, and 14, T. 13 S, R. 69 W of the 6th P.M., in Teller County, CO. The outlet is located at a point whence the Southeast corner of Section 12 lies South 61 degrees 33 minutes East a distance of 2,613 feet. **C. Northfield Collection System (West Monument Creek)**. 1. Intake No. 1: A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 80°23' East a distance of 2,060 feet. PLSS: In the SW 1/4 of the SW 1/4 of Section 28, T. 12 S, R. 67 W of the 6th P.M. at a point 234 feet from the West Section line and 418 feet from the South Section line. 2. Intake No. 2: A point on West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 49°50' East a distance of 1,255 feet. PLSS: In the SE 1/4 of the SW 1/4 of Section 28, T. 12 S, R. 68 W of the 6th P.M. at a point 1,351 feet from the West Section line and 844 feet from the South Section line. 3. Intake No. 3: A point on the North Fork of West Monument Creek whence the South quarter corner of Section 28, Township 12 South, Range 67 West of the 6th Principal Meridian bears South 9°10' West a distance of 4,288 feet. PLSS: In the NW 1/4 of the NE 1/4 of Section 28, T. 12 S, R. 68 W of the 6th P.M. at a point 1,036 feet from the North Section line and 1,914 feet from the East Section line. 4. Northfield Reservoir: An on-channel reservoir located in the West Monument Creek channel in the SE 1/4 of Section 25, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO, from whence the common corner of Sections 22, 26, 35 and 36 of Township 12 South bears South 67 degrees 9 minutes West 3,480.1 feet. 5. Stanley Canyon Reservoir: Located in Section 19, T. 12 S, R. 67 W of the 6th P.M. 6. Nichols Reservoir: An on-channel reservoir located in the West Monument Creek channel in the SW 1/4 of Section 25 and the SE 1/4 of Section 26 and the NW 1/4 of Section 36, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1,380 feet from the South line and 1,630 feet from the East line of said Section 25. 7. Rampart Reservoir: An on-channel reservoir located in the West Monument Creek channel in Sections 22, 23, 26 and 27, T. 12 S, R. 68 W of the 6th P.M., in El Paso County, CO. The center of the dam is located at a point approximately 1,925 feet from

the South line and 2,325 feet from the East line of said Section 26. **D. Pikeview System (Monument Creek)**. 1. **Pikeview Intake (also known as Monument Creek Pipeline)**: A point on Monument Creek just upstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, whence the North quarter corner of Section 19, Township 13 South, Range 66 West of the 6th Principal Meridian bears North 8°15' East a distance of 3,189.8 feet. This intake delivers water to Pikeview Reservoir. PLSS: In the NE 1/4 of the SW 1/4 of Section 19, T. 13 S, R. 66 W of the 6th P.M. at a point 2,208 feet from the West Section line and 2,124 feet from the South Section line. 2. **Pikeview Reservoir**: An off-channel reservoir located adjacent to and on the west side of Monument Creek, at a point just downstream from the point where the Garden of the Gods Road crosses Monument Creek, in north Colorado Springs, in the NE 1/4 of the NW 1/4 and in the NW 1/4 of the NE 1/4 of Section 30, T. 13 S, R. 66 W of the 6th P.M., in El Paso County, CO. Station "0" of the dam being at a point where the North quarter corner of Section 30 bears North 20 degrees 40 minutes East, 987.4 feet. The capacity of Pikeview Reservoir is 151.7 acre-feet. **E. 33rd Street Diversion Intake (Fountain Creek)**. 1. The 33rd Street Intake is located on Fountain Creek at 33rd Street in west Colorado Springs, whence the South quarter corner of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian bears South 12° East¹ a distance of 535 feet. PLSS: In the SW 1/4 of the SE 1/4 of Section 3, T. 14 S, R. 67 W of the 6th P.M. at a point 523 feet from the South Section line and 2,535 feet from the East Section line. 2. An alternate point of diversion for the 33rd Street Intake is located at a point on the North bank of Fountain Creek in the Southwest quarter of Section 3, Township 14 South, Range 67 West of the 6th Principal Meridian, approximately 153 feet upstream of the original point of diversion. The alternate point of diversion was adjudicated on February 21, 1991, in Case No. 90CW29, Water Division No. 2. PLSS: In the SE 1/4 of the SW 1/4 of Section 3, T. 14 S, R. 67 W of the 6th P.M. at a point 570 feet from the South Section line and 2,612 feet from the West Section line. **F. Bear Creek System (Bear Creek)**. The Bear Creek Intake was originally located on Bear Creek just south of the intersection of Gold Camp Road and Bear Creek Canyon Road, in El Paso County, at a point whence the Southwest corner of Section 15, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 43°14' East a distance of 2,280 feet. PLSS: In the SW 1/4 of the NE 1/4 of Section 21, T. 14 S, R. 67 W of the 6th P.M. at a point 1,484 feet from the East Section line and 1,656 feet from the North Section line. In Case No. 15CW3008, District Court, Water Division 2, the point of diversion for the Bear Creek System was changed to the NE 1/4 of the NE 1/4 of Section 23, T. 14 S, R. 67 W of the 6th P.M., 1,019 feet from the North section line and 694 feet from the East section line. The GPS location in UTM coordinates of the new point of diversion for the Bear Creek Rights is 512832E, 4297009N. **G. South Suburban System (Cheyenne Creek)**. 1. **South Cheyenne Creek Intake**: Located on South Cheyenne Creek at a point just west of the intersection of Mesa Avenue and South Cheyenne Canyon Road, in southwest Colorado Springs, whence the quarter corner common to Sections 34 and 35, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 35°16' East a

¹ Prior legal descriptions for the 33rd Street Diversion contained an error in stating that the bearing is 12° West, when it is actually 12° East. Applicant obtained a decree in District Court, Water Division No. 2, Case No. 11CW62, that corrected the error in the legal description.

distance of 1,329.7 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. PLSS: In the NE 1/4 of the SE 1/4 of Section 34, T. 14 S, R. 67 W of the 6th P.M. at a point 795 feet from the East Section line and 1,537 feet from the South Section line. 2. North Cheyenne Creek Intake: Located on North Cheyenne Creek at a point approximately one mile west of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, whence the Northeast corner of Section 34, Township 14 South, Range 67 West of the 6th Principal Meridian bears North 70°29' East a distance of 4,419.2 feet. This intake delivers water to South Suburban Reservoir and Gold Camp Reservoir. PLSS: In the SW 1/4 of the NW 1/4 of Section 34, T. 14 S, R. 67 W of the 6th P.M. at a point 910 feet from the West Section line and 1,460 feet from the North Section line. 3. South Suburban Reservoir: An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 26 and 35, T. 14 S, R. 67 W of the 6th P.M. 4. Gold Camp Reservoir: An off-channel reservoir located just north of the intersection of North and South Cheyenne Canyon Roads, in southwest Colorado Springs, in Sections 27 and 34, T. 14 S, R. 67 W of the 6th P.M. **H. Pueblo Reservoir**. The point of diversion of Pueblo Reservoir is at a point at the intersection of Pueblo Dam axis and the Arkansas River whence the Northeast corner of Section 36, Township 20 South, Range 66 West of the 6th P.M., bears North 61°21'20" East a distance of 2,511.05 feet. Said reservoir inundates all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 20 South, Range 66 West of the 6th P.M., Sections 1, 2, 3, 4, 5, 9, 10 and 11, Township 21 South, Range 66 West of the 6th P.M., and Sections, 5, 8, 9, 13, 14, 15, 16, 22, 23 and 25, Township 20 South, Range 66 West of the 6th P.M. **I. Twin Lakes Reservoir**. Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th Principal Meridian, as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. **J. Turquoise Reservoir**. Turquoise Reservoir is formed by a dam across Lake Fork Creek in Lake County in Section 19, Township 9 South, Range 80 West of the 6th Principal Meridian as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. **K. Clear Creek Reservoir**. Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West of the 6th Principal Meridian, Chaffee County, Colorado. **L. Fountain Valley Conduit**. The Fountain Valley Conduit consists of a series of pipelines, pumping stations and other water-conveyance facilities in Pueblo and El Paso Counties that together convey water from the outlet works of Pueblo Reservoir to the Fountain Valley Authority's water users, including the City of Colorado Springs. The Fountain Valley Conduit is a part of the Fryingpan-Arkansas Project which is described in more detail in Paragraphs 3 and 5, and Exhibit 2, of Contract Number 9-07-70-W0315, dated July 10, 1979 between the United States and the Southeastern Colorado Water Conservancy District. Colorado Springs is authorized to utilize a portion of the capacity of the Fountain Valley Conduit to transport water, pursuant to a Subcontract dated July 10, 1979 between the Southeastern Colorado Water Conservancy District, the Fountain Valley Authority, the City of Colorado Springs, and various other parties. **M. Otero Pump Station**. The Otero Pump Station diverts water from the Arkansas River in Chaffee County, approximately at the point that bears North

30° West a distance of 6,180 feet to the Northeast corner of Section 6, Township 12 South, Range 79 West of the 6th Principal Meridian. PLSS: In the SW¼ of the SE¼ of Section 5, T. 12 S., R. 79 W. of the 6th P. M. at a point 35 feet from the South Section line and 2256 feet from the East Section line. **N. Pikes Peak Collection System – South Slope.** The Pikes Peak Collection System-South Slope is a system of five reservoirs and connected diversion structures, pipelines and tunnels in Teller and El Paso Counties consisting of the following: 1. **Big Horn Reservoir (Reservoir Number 7).** Located on a branch of the East Fork of West Beaver Creek in the Southeast quarter of Section 13 and the Northeast quarter of Section 24, Township 14 South, Range 69 West of the 6th Principal Meridian. A point located at the intersection of the creek and the dam axis bears South 19 West 2,896 feet to a point, thence South 66° West 1,598 feet to the Northwest corner of Section 26, Township 14 South, Range 69 West of the 6th Principal Meridian. 2. **Wilson Reservoir (Reservoir Number 8).** Located on the East Fork of West Beaver Creek in the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 23, the West half of the Southwest quarter and the Southwest quarter of the Northwest quarter of Section 24, Township 14 South, Range 69 West of the 6th Principal Meridian. Station 65 near the dam bears South 53° East a distance of 19,280 feet to the Southeast corner of Section 32, Township 14 South, Range 68 West of the 6th Principal Meridian. 3. **Boehmer Reservoir (Reservoir Number 2).** Located on the Main Fork of Middle Beaver (Boehmer) Creek in the South half of Section 19 and the North half of Section 30, Township 14 South, Range 68 West of the 6th Principal Meridian. 4. **Mason Reservoir (Reservoir Number 4).** Located on Middle Beaver Creek in Sections 32 and 33 of Township 14 South, Range 68 West of the 6th Principal Meridian, and Sections 4 and 5 of Township 15 South, Range 68 West of the 6th Principal Meridian in Teller County. Station “0” of the dam bears North 6° 49' West a distance of 950.62 feet to the Southeast Corner of Section 32, Township 14 South, Range 68 West of the 6th Principal Meridian. 5. **McReynolds Reservoir (Reservoir Number 5).** Located on a tributary of Middle Beaver Creek in Section 4, Township 15 South, Range 68 West of the 6th Principal Meridian in Teller County. Station “0” of the dam bears North 34° 35' West a distance of 2,166.2 feet to the Southeast corner of Section 32, Township 14 South, Range 69 West of the 6th Principal Meridian. These reservoirs are more fully described in the decree in Case No. 2673 (District Court, Fremont County), dated February 8, 1918. **O. Rosemont Collection System.** The Rosemont Collection System consists of Rosemont Reservoir and connected diversion structures, pipelines and tunnels in Teller and El Paso Counties. The reservoir is located on East Beaver Creek in the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 23, Township 15 South, Range 68 West of the 6th Principal Meridian, and the system diverts waters from East Beaver Creek and its tributaries, as described in the decree in Case No. 6193, District Court of Fremont County. **P. Brush Hollow Reservoir.** Brush Hollow Reservoir is located on Brush Hollow Creek in Sections 24, 25, Township 18 South, Range 69 West of the 6th Principal Meridian and Sections 19, 30, Township 18 South, Range 68 West of the 6th Principal Meridian. The dam is located in the Northeast quarter of Section 25, Township 18 South, Range 69 West of the 6th Principal Meridian, and the Northwest quarter of Section 30, Township 18 South, Range 68 West of the 6th Principal Meridian. **Q. Any other terminal effluent storage facilities** constructed and located within the

drainages of Fountain Creek or the Arkansas River above its confluence with Fountain Creek and hereafter utilized by Applicant. This Application does not seek any right of use of the Fryingpan-Arkansas Project structures. However, this Application does not alter any existing rights Applicant may otherwise possess described herein, and does not impair the right of Applicant to contract for the use of such facilities in the future. **III. Describe Conditional Water Rights from the Judgment and Decree: A. Information Applicable to Subject Exchanges. 1. Date of Original Decree:** July 17, 1991, Consolidated Cases Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36, District Court, Water Division No. 2 (the "Decree"). **2. List of subsequent decrees awarding findings of diligence:** October 19, 2010, Case No. 06CW23, District Court, Water Division No. 2; and April 28, 2000, Case No. 97CW69, District Court, Water Division No. 2. **3. Use:** All beneficial uses for which the waters to be exchanged and reused are decreed, including those uses set forth in the Decree. **4. Source of Water for Subject Exchanges.** The sources of water that are utilized in the Subject Exchanges are Reusable Non-Sewered Return Flows and the reuse and successive use of such return flows derived from the Reusable Waters identified in Appendix A to the Decree, including: a. The Blue River Project diverts water from the headwaters of the Blue River and its tributaries in Summit County. The 1929 water rights associated with this project were adjudicated by the decree in Civil Action No. 1710 (District Court, Summit County) dated October 26, 1937, and were modified by the decree in Civil Action No. 1883 (District Court, Summit County) dated June 15, 1953. These water rights have an appropriation date of August 5, 1929. The 1948 water rights associated with this project were adjudicated by the decree in Civil Action No. 1806 (District Court, Summit County) dated May 10, 1952, the Final Decree in Consolidated Cases No. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated October 15, 1955, and were made absolute by the decree in Consolidated Cases No. 2782, 5016, and 5017 (U.S. District Court, District of Colorado) dated February 26, 1968. These water rights have an appropriation date of May 13, 1948. An additional component of the Blue River Project is water diverted from the Middle Fork of the South Platte River in Park County. Water from the Middle Fork of the South Platte is stored in Montgomery Reservoir pursuant to Priority No. A-207 of appropriation dated September 5, 1930, by absolute decree dated May 16, 1966, in Civil Action No. 3286, District Court of Park County. b. The Homestake Project diverts water from the headwaters of tributaries of the Eagle River in Eagle County. The water rights were conditionally adjudicated by the decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962. These water rights have an appropriation date of September 22, 1952. Applicant has the right to utilize one-half of the waters produced by the Homestake Project by virtue of the agreement dated June 18, 1962, between the City of Aurora and the City of Colorado Springs. c. The Fryingpan-Arkansas Project diverts water from the headwaters of Hunter Creek and the Fryingpan River and its tributaries in Pitkin County. The water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958 and August 3, 1959, and were modified by the decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979. These water rights have an appropriation date of July 29, 1957. Return flows from the Fryingpan-Arkansas Project will be utilized in the Subject Exchanges after they are purchased from the Southeastern Colorado Water Conservancy District. d. The

Independence Pass Transmountain Diversion System diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. The water rights were adjudicated by a decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936 and were modified by a decree in Case No. W-1901 (District Court, Water Division No. 5), dated May 12, 1976. These water rights have an appropriation date of August 23, 1930. Applicant has the right to take and use its pro rata share of the water diverted and stored by the Twin Lakes Reservoir and Canal Company under this water right. e. The Colorado Canal Waters. (1) The Colorado Canal. The Colorado Canal water rights are decreed to divert 756.28 cubic feet of water per second of time from the Arkansas River for direct flow irrigation use with a priority date of June 9, 1890. By decree dated October 21, 1985, in Case No. 84CW62, District Court, Water Division No. 2, the use of the Colorado Canal water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Colorado Canal Company, pursuant to the decree in Case No. 84CW62, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. (2) Lake Meredith Reservoir. Lake Meredith Reservoir's decreed water rights authorize the storage of 26,028.4 acre-feet with diversions from the Arkansas River through the Colorado Canal at a rate of 756.28 c.f.s. under priority of March 9, 1898, and authorize the release of waters stored in Lake Meredith Reservoir and the exchange of such released waters for waters diverted at the Colorado Canal headgate for irrigation purposes with an exchange priority of March 9, 1898. The active storage capacity of Lake Meredith Reservoir is 41,413 acre-feet. Each stockholder in the Lake Meredith Reservoir Company is entitled to a pro rata portion of the waters realized from the operation of Lake Meredith Reservoir and the use of a pro rata portion of Lake Meredith Reservoir storage space. By decree dated October 21, 1985, Case No. 84CW63, District Court, Water Division No. 2, the use of Lake Meredith water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Applicant has the right to take its pro rata share of the water diverted and stored by The Lake Meredith Reservoir Company, pursuant to the decree in Case No. 84CW63, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. (3) Lake Henry Reservoir. Lake Henry Reservoir has decreed water storage rights of 11,916 acre-feet and a decreed rate of diversion of 756 c.f.s. through the Colorado Canal. By decree dated October 21, 1985, in Case No. 84CW64, District Court, Water Division No. 2, the use of Lake Henry water rights was changed to include use and total consumption for municipal, commercial, industrial, and all other beneficial uses at any location. Application has the right to take its pro rata share of the water diverted and stored by The Lake Henry Reservoir Company, pursuant to the decree in Case No. 84CW64, by exchange or by pipeline for use and total consumption in Applicant's municipal water system or elsewhere. f. The Fryingpan-Arkansas Project. The Fryingpan-Arkansas Project also diverts water from tributaries of the Arkansas River that is decreed for use, reuse, and successive use to extinction. These water rights were adjudicated by the following decrees: Civil Action No. 5141 regarding the adjudication of priorities of rights to use water for irrigation and non-irrigation purposes in former Water District No. 11, Water Division No. 2, dated July 9, 1969; and Case No.

B-42135 regarding the adjudication of priorities to the right to use water for irrigation purposes in former Water District No. 14, Water Division No. 2, dated June 21, 1962. These water rights were modified by the Judgment and Decree in Case No. 80CW06, dated October 23, 1980, which conformed conditionally-decreed features to the same features as actually contracted or “as built.” g. Sugarloaf Water Rights. The waters to be used for augmentation also include certain water rights diverted from Lake Fork Creek, a tributary of the Arkansas River, and decreed for the use of CF&I Steel Corporation. By decree dated June 16, 1994, in Case No. 86CW117, District Court, Water Division No. 2, the use and place of use of the Sugarloaf water rights were changed to include municipal use and all other beneficial uses, including use, reuse, and successive use to extinction. h. Exchange Water. The waters to be used for the Subject Exchanges also include waters derived from the Reusable Waters, described above and in Appendix A to the decree entered July 17, 1991, in Consolidated Cases Nos. 84CW202, 84CW203, 86CW118(B), and 89CW36, and made available for subsequent use under the Decree after exchange pursuant to the terms of the decrees which have been entered in Cases Nos. 84CW202 (both Sewered and Non-Sewered), 84CW203 (both Sewered and Non-Sewered), and 86CW118(A) and (B), Water Division No. 2. i. Additional Sources. (1) Additional amounts of the specific water rights listed in this Paragraph III.A.3 acquired by Applicant; (2) Denver Basin groundwater; and (3) tributary groundwater that is fully replaced under the augmentation plan. The description of or reference to structures and water rights herein is not intended in any way to amend or limit the decrees for those structures and water rights, and omissions in such descriptions and references shall in no way prejudice the owners of those structures and water rights. **4. Structures Involved**. The structures utilized in the Subject Exchanges are described in Paragraph II above. **5. Subject Exchanges**. Water derived from the Reusable Waters described in Paragraph III.A.3 are transported to Applicant’s water system via natural stream channels, ditches, canals, pipelines, tunnels, and other facilities, and distributed through Applicant’s distribution system. Pursuant to the conditions of the Decree, Applicant may exchange, in priority, the Reusable Non-Sewered Return Flows that accrue to Fountain Creek, upstream within the Fountain Creek Basin. In addition, Applicant may exchange, in priority, the Reusable Non-Sewered Return Flows, after transport to the Arkansas River, upstream to diversion or storage facilities in the Arkansas River Basin and between those facilities. Applicant may also choose to reuse its Reusable Non-Sewered Return Flows directly in its municipal water system for all municipal purposes, including irrigation and industrial uses, in plans for augmentation, by sale to other water users, or in such other ways as may be allowed by law. Schematic diagrams depicting the general location of the Subject Exchanges are attached to the Application as Exhibits A-1 and A-2. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) a. Local Exchange. Subject to the conditions of the Decree, Applicant may divert or store an amount of water equivalent to the amount of Reusable Non-Sewered Return Flows then reaching Fountain Creek in excess of its augmentation requirements at one or more of the structures described in Subparagraphs II.A-G, above. b. Arkansas River Exchange. Subject to the conditions of the Decree, Applicant may divert or store an amount of water equivalent to the Reusable Non-Sewered Return Flows then reaching the Arkansas River at one of the

structures, described in more detail in Subparagraphs II.H-Q. c. Inter-Facility Exchanges. Applicant may also release water from one of the above-described reservoirs and an equivalent amount may be stored or diverted by exchange in one or more of the structures described in Paragraph II. d. Reaches of Subject Exchanges. The facilities described in Paragraph II define reaches within which Applicant may conduct exchanges. Pursuant to the Decree, Applicant may operate these exchanges to other existing or yet-to-be-constructed facilities within these defined stream reaches.

6. River Flow Exchanges and Contract Exchanges Compared. Pursuant to the Decree, the Subject Exchanges may be accomplished in several ways. An actual upstream flow may be diverted while Reusable Non-Sewered Return Flows are discharged or Reusable Non-Sewered Return Flows already reduced to storage in another reservoir are released (“River Flow Exchange”). Alternatively, a volume of water already in storage in an upstream reservoir that would otherwise be conveyed downstream, may be traded, with the consent of the owners of that stored water, for Applicant’s Reusable Non-Sewered Return Flows then returning to the stream or already reduced to storage in another reservoir (“Contract Exchange”). In Contract Exchanges, where either the upstream or downstream supply of water in the exchange is not Reusable Water, the amount of upstream or downstream water shall be equivalent.

7. Rates of Flow. The original conditional amounts of the exchanges, the amounts Applicant has made absolute during the period from April 28, 2006 (date of prior diligence application) through September 30, 2016 (the “Diligence Period”), and previous diligence periods and the remaining conditional rates of flow for the appropriative rights of exchange Subject Exchanges are as follows:

**ABSOLUTE AND CONDITIONAL EXCHANGE OF REUSABLE
NON-SEWERED RETURN FLOWS**

Point of Delivery	For Exchange To	Original Conditional Amount (C.F.S.)	Amount Previously Made Absolute (C.F.S.)	Additional Amount Claimed Absolute During this Period (C.F.S.)	Total Amount Claimed Absolute (C.F.S.)	Remaining Conditional Amount (C.F.S.)
Fountain Creek (Return Flows)	Ruxton Creek System	17.04	3.69	0.01	3.70	13.34
	North Slope System	17.04	3.84	0.00	3.84	13.20
	Northfield System	17.04	3.57	0.00	3.57	13.47
	Pikeview System	17.04	3.77	0.04	3.81	13.23
	33 rd Street System	17.04	0.00	0.00	0.00	17.04
	Bear Creek System	17.04	0.00	0.00	0.00	17.04
	South Suburban System	17.04	4.10	0.00	4.10	12.94
Fountain Creek (From Storage in Terminal Storage Facilities)	Ruxton Creek System	1000.00	0.00	0.00	0.00	1000.00
	North Slope System	1000.00	0.00	0.00	0.00	1000.00
	Northfield System	1000.00	0.00	0.00	0.00	1000.00
	Pikeview System	1000.00	0.00	0.00	0.00	1000.00
	33 rd Street System	1000.00	0.00	0.00	0.00	1000.00
	Bear Creek System	1000.00	0.00	0.00	0.00	1000.00
	South Suburban System	1000.00	0.00	0.00	0.00	1000.00

Point of Delivery	For Exchange To	Original Conditional Amount (C.F.S.)	Amount Previously Made Absolute (C.F.S.)	Additional Amount Claimed Absolute During this Period (C.F.S.)	Total Amount Claimed Absolute (C.F.S.)	Remaining Conditional Amount (C.F.S.)
Fountain Creek (Return Flows at Arkansas River)	Pueblo Reservoir	17.04	4.17	0.00	4.17	12.87
	Twin Lakes Reservoir	17.04	0.00	0.00	0.00	17.04
	Fountain Valley Conduit	17.04	0.00	0.00	0.00	17.04
	Otero Pump Station	17.04	0.00	0.00	0.00	17.04
	South Slope System	17.04	0.00	0.00	0.00	17.04
	Brush Hollow Reservoir	17.04	0.00	0.00	0.00	17.04
	Turquoise Reservoir	17.04	0.00	0.00	0.00	17.04
	Clear Creek Reservoir	17.04	0.00	0.00	0.00	17.04
Rosemont System	17.04	0.00	0.00	0.00	17.04	
Fountain Creek (From Storage in Terminal Storage Reservoir)	Pueblo Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Twin Lakes Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Fountain Valley Conduit	1000.00	0.00	0.00	0.00	1000.00
	Otero Pump Station	1000.00	0.00	0.00	0.00	1000.00
	South Slope System	1000.00	0.00	0.00	0.00	1000.00
	Brush Hollow Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Turquoise Reservoir	1000.00	0.00	0.00	0.00	1000.00
	Clear Creek Reservoir	1000.00	0.00	0.00	0.00	1000.00
Rosemont System	1000.00	0.00	0.00	0.00	1000.00	
Pueblo Reservoir	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	Brush Hollow Reservoir	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
Rosemont System	Flow**	0.00	0.00	0.00	Flow**	
Rosemont System	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
Brush Hollow Reservoir	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**	
South Slope System	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
Turquoise Reservoir	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**

Point of Delivery	For Exchange To	Original Conditional Amount (C.F.S.)	Amount Previously Made Absolute (C.F.S.)	Additional Amount Claimed Absolute During this Period (C.F.S.)	Total Amount Claimed Absolute (C.F.S.)	Remaining Conditional Amount (C.F.S.)
Twin Lakes Reservoir	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Clear Creek Reservoir	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**
Clear Creek Reservoir	Turquoise Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Twin Lakes Reservoir	Flow**	0.00	0.00	0.00	Flow**
	Otero Pump Station	Flow**	0.00	0.00	0.00	Flow**
	South Slope System	Flow**	0.00	0.00	0.00	Flow**
	Rosemont System	Flow**	0.00	0.00	0.00	Flow**

** The maximum rate of flow that would have been released from the receiving storage reservoir had no exchange been made (including inadvertent storage) and had no storage right junior to the exchange been exercised to store water in the receiving reservoir, except that Contract Exchanges shall have no rate of flow limitation and direct flow exchanges shall be limited to the physical capacity of the existing or future diversion system. When the substitute supply for exchange is Reusable Non-Sewered Return Flows returning to the stream after use in Applicant's Water Service Area, the rate of exchange shall not exceed 17.04 c.f.s. When the substitute supply for exchange is provided from terminal effluent storage facilities, the rate of exchange shall not exceed 1,000 c.f.s.

8. Dates of Priority. The date of priority for the appropriate rights of exchange for Reusable Non-Sewered Return Flows in the Fountain Creek Basin under Case No. 84CW202 is April 30, 1975. The date of priority for the appropriate rights of exchange for the Reusable Non-Sewered Return Flows outside of the Fountain Creek Basin under Case No. 84CW203 is November 24, 1981. The priority date for the appropriate rights of exchange for Colorado Canal Reusable Non-Sewered Return Flows under Case No. 86CW118(b) is March 20, 1985. **IV. Provide a 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. Applicant owns and operates an integrated municipal water supply system consisting of numerous individual components. Those components include, but are not limited to, the individual water rights, sources of supply, and points of diversion described in this Application, and the Subject Exchanges that are the subject of this Application. The infrastructure necessary to carry out the Subject Exchanges have been constructed, are in place, and are available for use in the exchanges. During the Diligence Period, Applicant has carried out portions of such exchanges. B. During the Diligence Period, Applicant has also spent substantial sums of money and devoted many thousands of man hours to the operation, maintenance, improvement, and development of its water resources and its municipal water supply, distribution, and wastewater treatment systems, including work related to collection system facilities, storage reservoirs, water transmission pipelines, water treatment plants, and distribution system mains, meters, and reservoirs. The water delivered through the Applicant's municipal water systems includes the water made available to Applicant by the Subject Exchanges. These expenditures on Applicant's municipal water supply system are necessary for further development of the Subject Exchanges. As part of this overall effort, Applicant retained engineering consultants and attorneys to assist it in the acquisition, operation,

maintenance, improvement, and protection of its water resources and its municipal water supply, distribution, and wastewater treatment systems. C. The principal engineering and construction activities undertaken by Applicant during the Diligence Period include, but are not limited to: 1) rehabilitation/maintenance of the dam face of the Upper Blue Reservoir (Continental-Hoosier Diversion System); 2) rehabilitation of the dam face and outlet works of Montgomery Reservoir (Continental-Hoosier Diversion System); 3) participation in negotiations regarding proposed administration of Green Mountain Reservoir pursuant to the Blue River Decree; 4) design, environmental permitting, and reconstruction of the dam face and outlet works rehabilitation/maintenance of Homestake Reservoir (Homestake Project); 5) hydrologic and engineering investigations to support the development of the Homestake II project water rights under the Eagle River MOU joint use project; 6) environmental permitting, design, and completion of the Southern Delivery System project; 7) development and operation of the exchanges of sewerable reusable return flows decreed in Case Nos. 84CW202, 84CW203, and 86CW118(A). In addition, the Applicant has operated the Subject Exchanges to divert and beneficially use additional amounts of water so as to make absolute additional incremental amounts of the exchanges. D. During the Diligence Period, Applicant also filed applications for, and completed a number of adjudications of water rights that comprise portions of Applicant's integrated municipal water supply system. These activities include, but are not limited to: 1) obtaining a decree in Case No. 11CW62 (Water Division 2) that made a portion of the conditional water rights originally decreed in Case No. 86CW118(A) absolute and found the Applicant had been reasonably diligent in its development of the remaining conditional water rights decreed in that case; 2) obtaining a decree in Case No. 13CW20 (Water Division 2) that made a portion of the conditional exchanges of reusable sewerable return flows decreed in Case No. 84CW202 absolute and found the Applicant had been reasonably diligent in its development of the remaining conditional water rights decreed in that case; 3) obtaining a decree in Case No. 13CW9 (Water Division 2) that made a portion of the conditional exchanges of reusable sewerable return flows decreed in Case No. 84CW203 absolute and found the Applicant had been reasonably diligent in its development of the remaining conditional water rights decreed in that case; 4) obtaining a decree in Case No. 01CW144 (Water Division 2) regarding the adjudication of Applicant's Woodmen Denver Basin groundwater; 5) obtaining a decree in Case No. 04CW132 (Water Division 2) that adjudicated the exchange of reusable return flows derived from Applicant's Denver Basin groundwater; 6) obtaining a decree in Case No. 03CW320 (Water Division 5) for substitution operations under the Blue River decrees; 7) obtaining a decree in Case No. 12CW31 (Water Division 2) that adjudicated a conditional water right for Upper Williams Creek Reservoir and the exchange of waters into Williams Creek and Upper Williams Creek Reservoirs; 8) obtaining a decree in Case No. 03CW314 (Water Division 5) to adjudicate additional exchanges to the Blue River Project; 9) obtaining a decree in Case No. 05CW96 (Water Division 2) that adjudicated conditional exchanges of temporary use waters into Pueblo Reservoir; 10) obtaining a decree, with other parties, in Case No. 06CW120 (Water Division 2) related to the Recovery of Yield Program; 11) filing a water court application in Case No. 15CW3002 (Water Division 2) to adjudicate a change of water rights for shares it purchased in the Fountain Mutual Irrigation Company; 12) filing a water court application in Case No.

15CW3001 (Water Division 2) to adjudicate a change of water rights for shares it purchased in the Chilcott Ditch Company; 13) filing a water court application in Case No. 15CW3056 (Water Division 2) to adjudicate an augmentation plan and exchanges utilizing the consumptive use associated with the shares it purchased in the Fountain Mutual Irrigation Company and the Chilcott Ditch Company; 14) obtaining a decree Case No. 15CW3008 (Water Division 2) to adjudicate a change in point of diversion for its Bear Creek System water rights; and 15) making numerous smaller diligence filings. E. During the Diligence Period, Applicant has also acted to preserve and protect all of its water rights by filing statements of opposition to, and participating in, many judicial and administrative proceedings. For example, Applicant has consistently opposed water court applications that seek approval of plans for augmentation that operate on Fountain Creek. Applicant has participated in these cases to ensure that the out-of-priority depletions are replaced in time, amount, and location, and that the Division Engineer assesses transit losses on the replacement water supply. Applicant has undertaken these endeavors to improve the accuracy of the Fountain Creek Transit Loss Model, which directly affects the exchanges at issue in this Application. F. The total amount Applicant spent on all of the efforts described in subparagraphs IV.B-E exceeded \$964,000,000. G. The work performed and actions taken by Applicant during the Diligence Period demonstrate Applicant's continuing intent to develop the Subject Exchanges, coupled with concrete actions amounting to diligent efforts to develop and place to beneficial use within a reasonable period of time the conditional portions of the Subject Exchanges. **V. If Claim to Make Absolute, Water Applied to Beneficial Use:** The table in Paragraph III.A.7 of this Application sets forth the stream reaches (points of delivery to the stream and point of diversion from the stream by exchange) and the amounts Applicant has exchanged, placed to beneficial use, and seeks to have made absolute herein. The table attached to the Application as Exhibit B shows the particular structure, date, exchange priority, and rate of exchange forming the basis for the additional amounts of the absolute water rights sought herein. Except to the extent that the Subject Exchanges are determined to be absolute in this proceeding, Applicant seeks a finding of reasonable diligence for the full amount of all conditional portions of the Subject Exchanges as set forth in the Decree. **VI. Names and Addresses of Owners of the Land on Which the Structures are Located:** A. Applicant (Ruxton Creek System; North Slope System; Intake No. 1, Intake No. 2, Northfield Reservoir, Stanley Canyon Reservoir, Nichols Reservoir, and Rampart Reservoir, of the Northfield Collection System; Pikeview Reservoir of the Pikeview System; 33rd Street Diversion Intake and Alternate Point of Diversion; Bear Creek System Intake; North Cheyenne Creek Intake, South Suburban Reservoir, and Gold Camp Reservoir of the South Suburban System; Pikes Peak Collection System; and the Rosemont Collection System). B. Air Force Academy, Attn: Real Estate Office, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840 (Intake No. 3 of the Northfield Collection System) C. Pike National Forest, 2840 Kachina Drive, Pueblo, CO 81008 (Crystal Reservoir, South Catamount Reservoir, and North Catamount Reservoir of the North Slope System (with Applicant); Nichols Reservoir, Rampart Reservoir of the Northfield Collection System (with Applicant). D. Crestline MHC LLC, c/o Continental Communities, 2015 Spring Road, Suite 600, Oak Brook, IL 60523 (Pikeview Intake (also known as Monument Creek Pipeline)); E. PF, LLC, One Lake Circle Avenue, Colorado Springs, CO 80906

(South Cheyenne Creek Intake). F. United States of America, Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 W. County 18-E, Loveland, CO 80537 (Pueblo Reservoir; Twin Lakes Reservoir; Turquoise Reservoir; Fountain Valley Conduit). G. Board of Water Works of Pueblo, c/o Alan Hamel, P.O. Box 400, Pueblo, CO 81002-0400 (Clear Creek Reservoir). H. Homestake Partners (Cities of Colorado Springs and Aurora, acting through the Homestake Steering Committee), c/o Tom Vidmar, Superintendent, Otero Pump Station, 37200 North Highway 24, P.O. Box 1821, Buena Vista, CO 81211 (Otero Pump Station).

VII. Remarks or other pertinent information: A. PLSS Descriptions. PLSS descriptions are included herein in compliance with Water Court forms. In the event of a discrepancy between the decreed location and the PLSS descriptions herein, the decreed location is controlling. B. Any person reading this Application should rely on the terms of the Decree. **RELIEF REQUESTED.** Applicant requests the Court to enter a decree: 1. Finding that Applicant has shown reasonable diligence on all the conditional portions of the Subject Exchanges awarded in the Decree. 2. Making absolute the Subject Exchanges to the extent requested in this Application. 3. Confirming that Applicant maintains an integrated water system and that diligence on any feature of that system shall be considered in finding reasonable diligence for the conditional Subject Exchanges that are the subject of this Application. 4. Continuing in good standing all remaining conditional portions of the Subject Exchanges, and fixing a date when the next application for a finding of reasonable diligence is required.

CASE NO. 2016CW3073 – HEALING HOUSE LAKEWOOD, LLC, a Colorado limited liability company, 10712 W. Alameda Avenue, Lakewood, CO 80226 (Please direct all pleadings and correspondence to Applicant’s attorneys: David M. Shohet and Ryan W. Farr, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs CO 80903; (719) 471-1212)

Application for Plan for Augmentation

PUEBLO COUNTY

Background and Summary of Plan for Augmentation. Applicant is the owner of approximately 39.17 acres located in the SE ¼ Section 34, Township 20 South, Range 67 West of the 6th P.M., Pueblo County, Colorado (“Property”). The Property is shown on the map attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Property’s address is 7420 Rex Road, Pueblo Colorado 81005 (also known as Lot 4 of Lakeview Prairie). The Applicant seeks a plan to augment up to two wells on its property for both indoor and outdoor cultivation and irrigation of crop including cannabis (hemp and marijuana), and the associated commercial, industrial, domestic, drinking and sanitary needs for the grow facility. **Application for Approval of Plan for Augmentation. Structures to be Augmented.** The structures to be augmented consist of up to two wells completed to the Dakota Aquifer to be constructed on Applicant’s Property. One well, Well Permit Nos. 79092-F is currently located on the Property. Applicant may use this well structure for use as one of the two wells under this plan for augmentation. **Water Rights to be Used for Augmentation.** Water rights to be used for augmentation consists of fully consumable water leased from the Board of Water Works of Pueblo, Colorado (“Pueblo Water”). Applicant may seek to transfer

this plan for augmentation to a well users group in the future. Applicant may 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. 1. *Lease with Pueblo Board of Water Works*. Applicant has entered into a lease for 10 acre-feet of fully consumable water with Pueblo Water. Applicant's lease with Pueblo Water is attached to the Application as Exhibit B ("Lease"). The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is unspecified in the lease, but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise 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. **Statement of Plan for Augmentation.** Diversions and Depletions. Uses. Indoor and outdoor cultivation and irrigation of a crop, including cannabis (hemp and marijuana), and the associated commercial, industrial, domestic, drinking and sanitary needs for the grow facility, including water treatment. Diversions. Applicant's grow facility will operate year-round, with all uses generally increasing during the summer months. The anticipated maximum well diversions under this plan is 10 annual acre feet. Depletions. Water diverted for all uses will be considered to be one-hundred percent consumptive. Return Flows. As all uses are being considered one hundred percent consumptive Applicant is not claiming any return flows from diversions from the wells. However, Applicant reserves the right to claim such return flows in the future through amendment of the decree. 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. Applicant's water resource engineer will generate a Unit Response Function (URF) for the wells using the Glover Method (Glover, 1954), and the location of the point of depletion from pumping the wells located on the Property, which will occur to the Arkansas River between the inlet and just below the dam of Pueblo Reservoir. Replacement Water. Replacement water to augment the Applicant's well depletions currently totals 10 are-feet from the Lease, less any transit losses, or any such augmentation water applicant may acquire in the future. Applicant estimates that

replacement water less transit losses will be approximately 9.03 annual acre feet. Accordingly, total annual depletions, including lagged depletions, shall not exceed 9.03 annual acre feet. Current replacement water provided by Pueblo Board of Water Works is fully consumable and is available to the Applicant at the point of depletion on the Arkansas River caused by the pumping of any well under this plan. **Name and Address of Owners of Land Upon Which Structures are Located:** All structures, wells, and operations covered by this Application occur on property owned by the Applicant. **Remarks:** A. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive well permits and all subsequent replacement or additional wells for use in accordance with any decree entered in this case. B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. C. Applicant intends to waive the 600 foot well spacing requirement for the wells to be located on the Applicant's Property. D. The wells shall be installed and metered as required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. The Applicant shall also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. WHEREFORE, the Applicant requests this Application for Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2016CW3074 – NOVELL and DEBORAH PERRINO, 2714 CR 616, Walsenburg, CO 81089 and SPANISH PEAKS JV, LLC, a Colorado Limited Liability Company, 303 South Broadway, Suite #200-384, Denver, CO 80209

(Please direct all correspondence or inquiries regarding this matter to the attorney for Applicants, Steven L. Janssen, 410 Main Street, Longmont, CO 80501; (303) 717-7667) Application for Change of Water Rights, Conditional Underground Water Right and Approval of Plan of Augmentation

HUERFANO COUNTY, COLORADO

Background and Summary of Application: The Applicants, Novell and Deborah Perrino ("Perrinos") are the owners of 3/10th pro rata interest in the Martin Ditch, Priorities #4 & #11, and 1/2 pro rata interest in the Martin Ditch No. 2, Priority #143, ("Subject Water Rights") on the Huerfano River, which Subject Water Rights have historically been used to irrigate alfalfa and grass hay on the 234 acre Perrino Ranch located in the South one-half of Section 35, Township 26 South, Range 68 West and the Northeast one-quarter of Section 2, Township 27 South, Range 68 West of the 6th P.M. in Huerfano County, Colorado. Pursuant to this Application, the Perrinos seek to quantify their historic consumptive use of the Subject Water Rights and change the use thereof solely from direct flow for irrigation use to direct flow for continued irrigation use and all beneficial uses, including irrigation, commercial, industrial, storage, fire protection and suppression, recharge and augmentation. Applicants shall propose terms and conditions upon such change of use required to prevent injurious effects to other vested water rights or decreed conditional water rights. The Perrinos have entered into a Water Lease Agreement ("Lease"), with Applicant, Spanish Peaks JV, LLC

(“Spanish Peaks”), for the Perrinos’ annual delivery of a portion of the Subject Water Rights, as changed by this Application, in the form of fully consumable water (“Leased Allocation”) to Spanish Peaks for all beneficial uses, including irrigation, commercial, industrial, storage, fire protection and suppression, recharge and augmentation. Spanish Peaks will beneficially use the Leased Allocation upon and adjacent to a 53.43 acre parcel owned by Spanish Peaks, which is entirely located within the Perrino Ranch. Pursuant to this Application, Spanish Peaks also seeks a conditional underground water right to divert tributary water from the alluvium of the Huerfano River for domestic, sanitation, irrigation, commercial, industrial, storage, fire protection and suppression and recharge uses and further seeks this Court’s approval of a plan of augmentation using the Leased Allocation to fully replace all out of priority depletions resulting to the stream from diversions of such conditional underground water right by direct replacement, infiltration and accrual of recharge credits or releases from storage.

Application for Change of Water Rights: Name of Structures. The name of the structures for which the change of water rights is sought is the Martin Ditch and Martin Ditch No. 2 (collectively: “Martin Ditch”). **Information from Previous Decree. Date Entered.** The Martin Ditch was decreed on June 12, 1889 by the original adjudication of the District Court of Huerfano County (“Read Decree”) and the Martin Ditch No. 2 was decreed on February 23, 1898 by the original adjudication of the District Court of Huerfano County (“Killian Decree”). **Decreed Point of Diversion.** The Read Decree and the Killian Decree both state that the headgate (WDID 7900538) for the Martin Ditch and Martin Ditch No. 2 is located in the Northwest one-quarter of the Southeast one-quarter of Section 4, Township 27 South, Range 68 West of the 6th P.M. The UTM Coordinates (NAD 83) of the headgate are: Northing (UTM y): 4175651; Easting (UTM x): 499483.6; and the actual location of the headgate is generally shown upon the map attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source.** The source of water for the Martin Ditch is the Huerfano River, tributary to the Arkansas River. **Appropriation Dates and Amounts.** The appropriation dates and decreed amounts of the Martin Ditch, three-tenths of which is owned by the Perrinos and of the Martin Ditch No. 2, one-half of which is owned by the Perrinos, and which together are the subject of this Application (“Subject Water Rights”), are as follows:

<u>Water Right Name</u>	<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Priority No.</u>	<u>Full Water Right (cfs)</u>	<u>Subject Water Right (cfs)</u>
Martin Ditch	June 12, 1889	July 15, 1862	4	1.4 cfs	0.42 cfs
Martin Ditch	June 12, 1889	April 1, 1866	11	1.6 cfs	0.48 cfs
Martin No. 2	Feb. 23, 1889	July 15, 1889	143	1.0 cfs	0.5 cfs

Historical Use. The Subject Water Rights have historically been used for irrigation of an average of 87 acres of property upon the Perrino Ranch, located in the South one-half of Section 35, Township 26 South, Range 68 West of the 6th P.M. and the Northeast one-quarter of Section 2, Township 27 South, Range 68 West in Huerfano County, Colorado. The Perrino Ranch is generally shown upon the map attached to the Application as Exhibit B. **Summary of Actual Diversions.** Records of actual monthly diversions of the Subject Water Rights for the annual periods of 1941 through 2014 are shown upon the table attached to the Application as Exhibit C. **Historical Depletions.** Historic irrigation use of the Subject Water Rights on the Perrino Ranch have resulted in an average consumptive use, or historical stream depletions, of 81 acre-feet per year

during the period of 1941 through 2014, and are summarized as monthly lagged historical stream depletions on the table attached to the Application as Exhibit D. **Uses Sought.** Applicants seek to change the type and place of use of the Subject Water Rights to all beneficial uses as claimed below. **Type of Use.** The Subject Water Rights may continue to be used for agricultural irrigation upon the Perrino Ranch or, as changed by this Application, for all beneficial uses, including irrigation, commercial, industrial, storage, fire protection and suppression, recharge and augmentation. **Place of Use.** The Subject Water Rights may continue to be used for agricultural irrigation upon the Perrino Ranch or, as changed by this Application, may be delivered to Spanish Peaks as the Leased Allocation to be used upon or adjacent to the Spanish Peaks parcel, which is entirely located within the Perrino Ranch. The Subject Water Rights will continue to be delivered to the Perrino Ranch farm headgate prior to measurement and division between continued agricultural irrigation or delivery to Spanish Peaks as the Leased Allocation. **Return Flow Obligations.** To the extent the Subject Water Rights are used for continued irrigation upon the Perrino Ranch, such continued irrigation will meet any return flow obligations from such continued use. The Applicants will replace all return flow obligations attributable to any portion of the Subject Water Rights delivered to any use that has been requested herein other than such continued irrigation by 1) direct release from an augmentation station to be constructed upon the Spanish Peaks parcel and/or the Perrino Parcel, 2) recharge accruals from a Recharge Facility or 3) releases from a Storage Facility. Return flow obligations will be made within the same general location as any such return flow obligations are required. Return flows attributable to any portion of the Subject Water Rights delivered to Spanish Peaks as the Leased Allocation will be appropriated by the Applicants and shall only need be replaced when the call below the Martin Ditch headgate is senior to the date of filing of this Application. **Recharge Facility.** Applicants will construct a recharge facility on the Perrino Ranch to receive historical stream depletions and return flows attributable to the Subject Water Rights for infiltration in the recharge pond to generate lagged recharge accretions. Generated recharge accretions will be used for the replacement of return flows and for augmentation of out of priority well depletions. The amount of generated recharge credits shall be adjusted for evaporation and lagged to the Huerfano River in accordance with acceptable engineering standards. **Storage Facility.** Applicants may also construct a new lined Storage Facility to receive historical stream depletions and return flows attributable to the Subject Water Rights for storage, replacement of return flows, fire protection and suppression, and augmentation of out of priority well depletions. The amount of stored water will be adjusted for evaporation and/or out of priority precipitation that is captured within the storage facility, in accordance with acceptable engineering standards. **Enclosed Storage Tanks.** Applicants may also construct enclosed storage tanks to receive the consumptive use portion of the Subject Water Rights delivered to Spanish Peaks as the Leased Allocation for irrigation, commercial, industrial, storage, fire protection and suppression, recharge and augmentation uses. **Names and Addresses of Owners of Land Upon Which Structures are Located.** Novell and Deborah Perrino, 2714 CR 616, Walsenburg, CO 80189; Spanish Peaks JV, LLC, 303 South Broadway, Suite #200-384, Denver, CO 80209. **Application for Conditional Underground Water Right: Name of Well, Permit or Registration No.** Spanish Peaks Well #1, Applicants intend to file for a well

permit after the filing of this Application, thus permit or registration number is currently unavailable. **Location of Well.** To be located within approximately 100 feet of the Huerfano River in the Northeast one-quarter of Section 2, Township 27 South, Range 68 West of the 6th P.M., and approximately 1,200 feet West of the Eastern Section Line and 1,150 feet South of the Northern Section line, in Huerfano County, Colorado. **Source of Water.** Huerfano River alluvium, tributary to the Arkansas River. **Date of Appropriation.** Date of Filing of this Application. **How Appropriation Initiated.** By the filing of this Application. **Amount Claimed.** 40 gallons per minute, 40 acre-feet per year, CONDITIONAL. **Proposed Uses.** Domestic, sanitation, irrigation, commercial, industrial, storage, fire protection and suppression and recharge. **Names and Addresses of Owners Upon Which Structures are Located.** Novell and Deborah Perrino, 2714 CR 616, Walsenburg, CO 80189. **Application for Plan of Augmentation: Structure to be Augmented.** Spanish Peaks Well #1. **Water Right to be Used for Augmentation.** That portion of the Subject Water Rights delivered to Spanish Peaks as the Leased Allocation. **Statement of Plan of Augmentation. Operation of Augmentation Plan.** Applicants intend to provide Spanish Peaks with a year-round supply of fully consumable water from their operation and withdrawal of tributary groundwater through Spanish Peaks Well #1 and augmentation of out-of-priority depletions resulting from such diversions, in time, location and amount, by either delivering the consumptive use portion of the Leased Allocation, less the monthly deliveries required to replace any well depletions and return flows, to a Recharge Facility and using the resulting lagged recharge credits as a source of replacement, or delivering all or some of consumptive use portion of the Leased Allocation to a lined Storage Facility and making deliveries of stored water as a source of replacement throughout the non-irrigation season. **Diversions and Depletions.** Spanish Peaks Well #1 will be located approximately 100 feet away from the Huerfano River. Specific aquifer parameters of such location will be used to calculate a unit response function (URF) for diversions from Spanish Peaks Well #1. The amount and timing of all out of priority depletions from such diversions will be modeled by Applicants using the calculated URF and replaced to prevent injurious effects to other vested water rights or decreed conditional water rights. **Timing of Depletions.** The calculated URF will define timing of out of priority depletions resulting from pumping of Spanish Peaks Well #1. **Replacement Water.** Out of priority depletions from Spanish Peaks Well #1 and any return flow obligations attributable to the Subject Water Rights delivered to any use other than continued irrigation affect the Huerfano River within the Northeast one-quarter of Section 2, Township 27 South, Range 68 West of the 6th P.M. Replacement of out of priority depletions and return flow obligations will be made by direct delivery of the consumptive use portion of the Subject Water Rights, releases of stored water, and by claiming lagged stream accretions from recharge activities in the Recharge Facility. All released stored water, recharge credits or augmentation releases will affect the Huerfano River within the Northeast one-Quarter of Section 2, Township 27 South, Range 68 West of the 6th P.M. Monthly accounting for all return flow replacements, storage operations, recharge credits or augmentation releases will be provided to the Division 2 Engineer and District 79 Water Commissioner. **Recharge Facility.** The Recharge Facility may be constructed at any suitable location upon the Spanish Peaks parcel and/or the Perrino Ranch. Specific aquifer parameters will be developed based

on the location of the Recharge Facility and will be used to calculate a unit response function (URF). The amount and timing of all infiltrated return flow replacements and/or recharge credits generated from deliveries to the Recharge Facility will be modeled by Applicants using the calculated URF for the Recharge Facility to define the monthly amount of lagged recharge credits as made to the Huerfano River. **Storage Facility.** The Storage Facility may be constructed at any suitable location upon the Spanish Peaks parcel and/or the Perrino Ranch. The amount of all direct return flow replacements or augmentation releases from such Storage Facility shall be measured as made to the Huerfano River. **Names and Address of Owners Upon Which Structures are Located.** Novell and Deborah Perrino, 2714 CR 616, Walsenburg, CO 80189; Spanish Peaks JV, LLC, 303 South Broadway, Suite #200-384, Denver, CO 80209. **Proposed Terms and Conditions:** The Perrinos shall divert and deliver the Subject Water Rights only during times when the Martin Ditch or Martin Ditch #2 are in priority; Deliveries of the Subject Water Rights shall be limited to a season of use of March 1st through October 31st; Applicants shall install and maintain, meters, gages, or other measuring devices, as are reasonably required by the Water Commissioner or Division 2 Engineer, including, but not limited, to a totalizing flow meter on Spanish Peaks Well #1 and staff gages in the Recharge Facility and Storage Facility; Applicants will obtain approval of all delivery and measurement structures from the Water Commissioner, prior to use; Spanish Peaks Well #1 will be considered in or out of priority based upon the date of filing of this Application; All diversions under Spanish Peaks Well #1 will be measured. Monthly accounting for all diversions from Spanish Peaks Well #1 will provided to the Division 2 Engineer and District 79 Water Commissioner; Monthly accounting based on monthly recorded measurements for all delivery and measurement structures will be completed on an April 1 to March 31 accounting year and be submitted to the Division 2 Engineer and District 79 Water Commissioner no later than the end of the following month; Irrigated acreage on the Perrino Ranch will be dried-up and no longer irrigated in proportion to the amount of the Subject Water Rights that are delivered to uses other than continued irrigation; Out of priority pumping by SP-Well #1 will be limited to the amount of available depletion replacements and releases calculated according to acceptable engineering practices; All evaporation from, or out of priority precipitation captured by, the Storage Facility shall be accounted for on a monthly basis; Replacements of precipitation captured out of priority may be made, by releasing the same same quantity of water directly from Storage Facility and/or by delivering water to the Huerfano River from the consumptive use portion of the Subject Water Rights; All evaporation from the Recharge Facility shall be accounted for on a monthly basis; Timing and amount of replacement/release for precipitation captured out of priority by the Storage Facility shall be calculated by using a water balance which accounts for inflows, outflows, evaporation from, precipitation captured, and in the event that water is stored under different priorities, storage volumes will be tracked by source. The water budget will be completed no less than once per month and will be used to determine the amount of precipitation owed to the Huerfano River. In the event that the Storage Facility is frozen, and measurements cannot be accurately taken, the water balance shall be performed upon thaw and replacements made for the period the Storage Facility was frozen. WHEREFORE, Applicants request that this Application for Change of Water Rights, Conditional Underground Water Right

and Approval of Plan of Augmentation be granted as requested herein and for such other and further relief as the Court may deem appropriate.

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 2016, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 2nd day of November, 2016.



Mardell R. DiDomenico

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

(Court seal)
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