

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

-----  
RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING July 2024.

(This publication can be viewed in its entirety on the state court website at:

[www.coloradojudicial.gov](http://www.coloradojudicial.gov))  
-----

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 July 2024, 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. 2023CW3058; KENNETH W. TIEGS LIVING TRUST AND SHARON S. TIEGS LIVING TRUST, 10550 County Road 190 W, Salida, Colorado 81201** (Please

address all pleadings and inquiries regarding this matter to Applicants' attorney: John T. Howe, Hoskin, Farina & Kampf, P.C., 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502, Telephone: (970) 986-3400, email: [jhowe@hfak.com](mailto:jhowe@hfak.com))

Amended Application for Groundwater Right

**CHAFFEE COUNTY**

**2. General description of Application:** Applicants seek an absolute groundwater right for a pond well which has a well permit issued by the Colorado Division of Water Resources and an augmentation certificate for out of priority depletions from the Upper Arkansas Water Conservancy District. **3. Claim for groundwater right:** *Name of Groundwater Right:* Tieg's Pond Well. *Well Permit No.:* 88515-F. *Plan for Augmentation:* the Tieg's Pond Well is operated according to a plan for augmentation for out of priority depletions from the Upper Arkansas Water Conservancy District, Augmentation Certificate 2646. *Location of Pond:* NE $\frac{1}{4}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 22, Township 50 North, Range 8 East of the N.M.P.M. A map of the Tieg's Pond Well is attached as **Exhibit A** to the Amended Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) *Source:* groundwater tributary to the Arkansas River. *Appropriation Date:* May 1, 2001. *How appropriation initiated:* by stocking fish in the Tieg's Pond Well for piscatorial purposes. *Amount claimed:* 2.178 acre feet absolute for evaporation purposes, recreation, wildlife consistent with a pond, piscatorial and aesthetic purposes. Evaporation is the only consumptive use. *Dimensions of structure:* surface area of 0.964 acres and average depth of 7-9 feet depending on the season. *Uses:* evaporation, recreation, wildlife consistent with a pond, piscatorial and aesthetic purposes. **4. Additional information:** The Tieg's Pond Well has been used for piscatorial and other beneficial purposes for more than 22 years. The pond was initially constructed in 1946 or 1947 and decreed in Civil Action 5141, Chaffee County District Court, on July 9, 1969 as the Big Bend Pumping Plant No. 1 in the amount of 3.00 c.f.s. for domestic, irrigation and propagation of fish with a priority date of June 1, 1946. Unbeknownst to Applicants, the Big Bend Pumping Plant No. 1 was declared abandoned by the Division 2 Water Court on July 8, 2022 for failure of the original applicant to file a timely application for finding of reasonable diligence in 1972. The Tieg's Pond Well exposes groundwater tributary to the Arkansas River. The

original Application in Case No. 2023CW3058 sought a decree for a storage right for the Tiegs Pond Well. The Amended Application removed the claim for a water storage right and instead seeks a groundwater right for the Tiegs Pond Well. **5. Owner of land on which well and pond are located:** Applicants are the owners of the real property on which the Tiegs Pond Well is located. **6. Relief requested:** Applicants request that the Court enter a decree for the Tiegs Pond Well and grant such other relief as the court deems appropriate.

-----  
**CASE NO. 2024CW3028; Previous Case Nos. 17CW3064, 09CW113 – RATON BASIN PARTNERS. LLC c/o Ogris Operating, LLC, 6 Desta Drive, Suite 5975, Midland, TX 79705** (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: William H. Caile and Natalie P. Cristo, Holland & Hart LLP, 555 17th Street, #3200, PO Box 8749, Denver CO 80201; telephone: (303) 295-8000; email: [whcaile@hollandhart.com](mailto:whcaile@hollandhart.com), [npcristo@hollandhart.com](mailto:npcristo@hollandhart.com))

Application for Finding of Reasonable Diligence

**LAS ANIMAS COUNTY**

**2. Name of Structures:** A. Mid Fork 1 Pond. B. Lopez Canyon Pond. C. South Fork 1 Pond. **3. Prior Decrees:** A. Original Decree: The subject conditional water rights were decreed in Case No. 09CW113, Water Division 2, by decree dated November 15, 2011. B. Subsequent decree(s) finding reasonable diligence: A finding of reasonable diligence was made for the subject conditional water rights in Case No. 17CW3064, Water Division No. 2, by decree dated July 24, 2018. **4. Description of the Conditional Water Rights:** A. Name of Reservoir: Mid Fork 1 Pond (WDID 1903017). i. Legal Description: An off-channel pond located in the SW 1/4 of the SW 1/4 of Section 20, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 570 feet from the South Section Line and 1,290 feet from the West Section Line. See **Exhibit A-1** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) ii. Source: Purgatoire River: iii. Name of Pipeline (to fill reservoir): Mid Fork 1 Pipeline with a capacity of 3 c.f.s. (1) Point of Diversion: The planned point of diversion for Mid Fork 1 Pipeline is located in the NW 1/4 of the NW 1/4 of Section 29, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 300 feet from the North Section Line and 1,030 feet from the West Section Line. See Exhibit A-1. iv. Appropriation Date: September 30, 2009. v. Amount: (1) 11.3 acre-feet (conditional), with the right to fill and refill when in priority, up to three complete fills annually. (2) Rate of diversion for filling Reservoir: 3 c.f.s. (conditional). vi. Use: Commercial, mining, manufacturing, construction, augmentation pursuant to the augmentation plan decreed in Case No. 10CW02, Water Division 2, or subsequent augmentation plans approved by the Water Court, livestock watering, wildlife, fire protection, road construction and maintenance, dust suppression, and industrial uses, directly or by exchange. No appropriative right of exchange is being decreed herein, and any exchange in which the water may be used must be separately decreed or administratively approved. vii. Surface area of high water line: approximately 1.50 acres. viii. Vertical height of dam: approximately 10-15 feet. ix. Length of dam: approximately 400 feet x. Total Capacity of Reservoir in acre feet: 11.3 acre-feet (conditional) (1) Active

capacity: 11.3 acre-feet. (2) Dead storage: None. xi. Place of Use: The place of use for water stored in the Mid Fork 1 Pond is the Colorado portion of the area known as the Central Raton Basin. See area map on file with the Water Court as Exhibit B. The place of use for augmentation purposes shall be limited to those areas specifically described in Case No. 10CW02, Water Division No. 2 or subsequent augmentation plans approved by the Court and obtained by the same applicants or their successors, and for the same areas and types of uses, as identified in Case No. 10CW02. xii. Remarks: The Mid Fork 1 Pipeline is adjudicated only as a source of supply for the Mid Fork 1 Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the Mid Fork 1 Pipeline, whether native flows or other sources of supply adjudicated in Case No. 10CW02 shall be diverted to storage in Mid Fork 1 Pond, with uses therefrom, as adjudicated herein. No out of priority diversion of water to storage in Mid Fork 1 Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division 2, or subsequent augmentation plans which may be approved by the water court. B. Name of Reservoir: Lopez Canyon Pond (WDID 1903018). i. Legal Description: An off-channel pond located in the SW 1/4 of the SE 1/4 of Section 21, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 1,190 feet from the South Section Line and 1,530 feet from the East Section Line. See location map attached as Exhibit A-2. ii. Source: Lopez Canyon stream, tributary to the Purgatoire River. iii. Name of Pipeline (to fill reservoir): Lopez Canyon Pipeline with a capacity of 1 c.f.s. (1) Point of Diversion: The planned point of diversion for Lopez Canyon Pipeline is located in the SW 1/4 of the SE 1/4 of Section 21, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 1,270 feet from the South Section Line and 1,320 feet from the East Section Line. See Exhibit A-2. iv. Appropriation Date: September 30, 2009. v. Amount: (1) 7.5 acre-feet (conditional), with the right to fill and refill the pond when in priority, up to three complete fills annually. (2) Rate of diversion for filling Reservoir: 1 c.f.s. (conditional). v. Use: See above paragraph 4.A.vi. vi. Surface area of high water line: approximately 1.0 acre. viii. Vertical height of dam: approximately 10-15 feet. ix. Length of dam: approximately 300 feet. x. Total Capacity of Reservoir in acre feet : 7.5 acre-feet (conditional). (1) Active capacity: 7.5 acre-feet. (2) Dead storage: None. xi. Place of Use: See above paragraph 4.A.xi. xii. Remarks: The Lopez Canyon Pipeline is adjudicated only as a source of supply for the Lopez Canyon Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the Lopez Canyon Pipeline, whether native flows or other sources of supply adjudicated in Case No. 10CW02, shall be diverted to storage in Lopez Canyon Pond, with uses therefrom, as adjudicated herein. No out of priority diversion of water to storage in Lopez Canyon Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division 2, or subsequent augmentation plans which may be approved by the water court. C. Name of Reservoir: South Fork 1 Pond (1903019). i. Legal Description: UTM (meters) NAD83: 504177(x), 4102172(y). See location map attached as Exhibit A-3. ii. Source: South Fork 1 Pond is an on-channel pond located in an unnamed tributary that flows into the South Fork of the Purgatoire River. The pond may be filled either from the unnamed tributary or from the South Fork of the Purgatoire River. iii. Name of Pipeline (to fill reservoir): South Fork 1 Pipeline with a capacity of 3 c.f.s. (1) Point of Diversion: The point of diversion, in UTM (meters) NAD83, will be approximately

504156(x), 4102315(y). See Exhibit A-3. iv. Appropriation Date: September 30, 2009. v. Amount: (1) 11.3 acre-feet (conditional), with the right to fill and refill the pond when in priority, up to three complete fills annually. (2) Rate of diversion for filling Reservoir: 3 c.f.s. (conditional). vi. Use: See above paragraph 4.A.vi. vii. Surface area of high water line: approximately 1.50 acres. viii. Vertical height of dam: approximately 10-15 feet. ix. Length of dam: approximately 400 feet. x. Total Capacity of Reservoir in acre feet: 11.3 acre-feet (conditional). (1)Active capacity: 11.3 acre-feet. (2) Dead storage: None xi. Place of Use: See above paragraph 4.A.xi. xii. Remarks: The South Fork 1 Pipeline is adjudicated only as a source of supply for the South Fork 1 Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the South Fork 1 Pipeline, whether native flows or other sources of supply adjudicated in Case No. 10CW02, shall be diverted to storage in South Fork 1 Pond, with uses therefrom, as adjudicated herein. No out of priority diversion of water to storage in South Fork 1 Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division 2, or subsequent augmentation plans which may be approved by the water court. **5. Integrated System**: In Case No. 09CW113, by decree entered on November 15, 2011, this Court adjudicated conditional water rights for the Mid Fork 1 Pond, Lopez Canyon Pond, and the South Fork 1 Pond. The Court concluded that: The conditional water storage rights decreed herein are individual components of Applicant's integrated water supply system as described in more detail in the Application for Approval of Plan for Augmentation, Including Exchanges, filed jointly by Applicant and other parties in Case No. 10CW02, Water Division 2. Consequently, in subsequent diligence proceedings, work on any one feature of Applicant's supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicant's water supply system. See C.R.S. § 37-92-301(4)(b). **6. Detailed outline of the work and expenditures done toward or for the completion of the appropriations and application of water to beneficial use**: A. On July 24, 2018, this Court entered a decree in Case No. 17CW3064, finding that Applicant's predecessor, Timber Creek Energy, LLC ("Timber Creek"), had demonstrated reasonable diligence in the development of the subject conditional water rights. Applicant acquired the subject conditional water rights from Timber Creek effective June 1, 2020. B. Applicant operates coal bed methane ("CBM") gas wells in the Central Raton Basin, which includes the drainages of the Purgatoire River and its tributaries generally above Trinidad Reservoir and portions of the Apishapa River. As part of the CBM extraction process, CBM wells typically produce small amounts of groundwater (sometimes referred to as "produced water") from groundwater aquifers. In Case No. 10CW02, Water Division 2, by decree dated January 30, 2017, parties including Applicant's predecessor obtained approval of a plan for augmentation, including exchange, to replace out-of-priority depletions associated with the withdrawal of produced water from those CBM wells that withdraw tributary groundwater. B. During the relevant diligence period, Applicant and/or Timber Creek undertook the following activities in support of the development of the subject conditional water rights and completion of the appropriations. i. Conducted numerous technical analyses, investigations and evaluations in support of the above-described activities, including without limitation the ongoing refinement and operation of a calibrated, multi-layered numerical model of groundwater flow systems in the Central Raton Basin using

the MODFLOW computer code developed by the United States Geological Survey. ii. Participated in proceedings before the Colorado Water Quality Control Commission and the Water Quality Control Division regarding permitting of produced water discharges. iii. Met with staff of the Division of Water Resources on numerous occasions to develop and implement plans for accounting, measurement, reporting and administration of the augmentation plan decreed in Case No. 10CW02 including the subject conditional water rights. iv. Filed and prosecuted the application in Case No. 23CW3005, Water Division 2, obtaining a finding of reasonable diligence for the conditional appropriative rights of exchange decreed in Case No. 10CW02. v. Reviewed water court resumes and applications for water rights in the Purgatoire River basin and filed statements of opposition where necessary to protect the subject conditional water rights, including filing a statement of opposition and reaching a negotiated settlement in Case No. 20CW3029, Water Division 2, in order to protect Applicant's water rights including the subject conditional water rights and the interest in the augmentation plan decreed in Case No. 10CW02. vi. Engaged the services of attorneys, engineers, and technical consultants in connection with the above-described activities. D. The list of activities above is not intended to be exhaustive, and Applicant reserves the right to present additional evidence as appropriate. E. Total expenditures in connection with the above-referenced activities during the diligence period are difficult to calculate but are conservatively estimated to be in excess of \$200,000. **7. Names and addresses of owners of land upon which any new diversion and storage structures will be located or upon which water will be stored:** A. Applicant. B. Colorado Parks & Wildlife, Attn: Area Wildlife Manager, 600 Reservoir Road, Pueblo, CO 81005. Applicant requests that this Court enter a judgment and decree: Finding that all jurisdictional requirements have been met, including without limitation as required under C.R.S. § 37-92-302; Finding that Applicant has been reasonably diligent in the development of the subject conditional water rights, and continuing the conditional water rights in full force and effect; and For such other relief as the Court deems just and proper.

-----  
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 September 2024, (forms available at Clerk's office or at [www.coloradojudicial.gov](http://www.coloradojudicial.gov), after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

-----  
Witness my hand and the seal of this Court this 13<sup>th</sup> day of August 2024.





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

(Court seal)  
Published: