

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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RESUME OF CASES FILED DURING SEPTEMBER 2009  
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TO: ALL INTERESTED PARTIES

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

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**CASE NO. 09CW107 – COMPLAINT.** This is a complaint and is simply being listed in the resume to account for the case number in consecutive order.  
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**CASE NO. 09CW108 – JEROME L. MERRICK, P. O. Box 206, Palmer Lake, CO 80133** (Robert E. Schween, Robert E. Schween, P.C., Attorney for Applicant, 3854 S. Dayton Way, No. 204, Aurora, CO 80014; (303) 995-7870)

Application for Underground Water Right

**DOUGLAS COUNTY**

Applicant's well (Well Permit No. 136624) is located in the SW ¼ of the SE ¼ of Section 32, Township 10 South, Range 67 West of the 6<sup>th</sup> P.M., at a point 200 feet from the South section line and 2630 feet from the East section line. Well is located on a 0.65-acre parcel owned by Applicant. **Source:** Dawson aquifer. **Well Depth:** 440 feet. **Appropriation Date:** July 17, 1984. **Amount Claimed:** One (1) acre-foot per year, 15 gpm, Absolute. **Uses:** Household use. **Date put to beneficial use:** February 17, 1986. Copy of Well Permit attached to the Application as **Exhibit A**; Location Map attached to the Application as **Exhibit B**; Site Location Map attached to the Application as **Exhibit C**. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court.

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**CASE NO. 09CW109 – DAVID LOWRANCE and ROOPAL PATEL, c/o Patels, 2950 Snowberry Lane, Pepper Pike, OH 44124** (Michael J. Gustafson, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Finding of Reasonable Diligence

**LAKE COUNTY**

**2. Name of Structures:** Peros Well A. **3. Description of Conditional Water Right.** **A. Date of Original Decree:** August 7, 2003, **Case No.:** 02CW134, **Court:** District Court, Water Division No. 2. **B. Decreed Location:** Pursuant to the decree in Case No. 02CW134, Peros Well A is to be located 2,350 feet from the North section line and 1,260 from the East section line in a tract of land being in the Southeasterly quarter of the SW 1/4 NE 1/4, Section 21, Township 8 South, Range 80 West of the 6<sup>th</sup> P.M. in Lake County, Colorado. **C. Source:** The source of water to be pumped from Peros Well A is the alluvium of West Tennessee Creek, tributary to the Arkansas River. **D. Appropriation Dates and Amounts:** The appropriation date for Peros Well A is August 12, 2002 for 0.033

cfs and 0.424 acre feet annually from the well. **E. Use:** Peros Well A was decreed conditional for domestic use in one single family dwelling and the irrigation of approximately 653 square feet of trees and shrubs. **F. Depth:** Peros Well A has not been drilled. **4. Description of Diligence for Completion of Appropriation.** Peros Well A was originally decreed in Case No. 02CW134 along with Peros Well B by Applicants' predecessors in interest, Ante and Virginia Peros ("Peros"). In Case No. 02CW134, the Peros also adjudicated a plan for augmentation for Peros Well A and Peros Well B utilizing one share of stock in the Twin Lakes Reservoir and Canal Company represented by Stock Certificate No. 8441. The Applicants purchased Peros Well A, a one half interest in the augmentation plan, one half of a share in Twin Lakes Reservoir and Canal Company under Stock Certificate No. 8441, along with the four acre parcel of land upon which Peros Well A was to be drilled from the Peros with the intent to build a home that will be supplied with water from Peros Well A. Applicants purchased the four acre parcel in large part due to the conditional water right for Peros Well A and the plan for augmentation which had been adjudicated. In April of 2007, Twin Lakes Reservoir and Canal Company issued Stock Certificate No. 8545 in the Applicants' names representing their one half interest in a share of Twin Lakes Reservoir and Canal Company stock, which is dedicated to the augmentation plan for Peros Well A adjudicated in Case No. 02CW134. In 2008, Applicants consented to the Peros' amendment of Case No. 02CW134 to remove one quarter of Applicants' one half share in Twin Lakes Reservoir and Canal Company represented by Stock Certificate No. 8545 from dedication to the augmentation plan and conveyed one quarter of a share of stock to the Peros. Applicants retained the other one quarter of a share in Twin Lakes Reservoir and Canal Company to cover the anticipated depletions from Peros Well A once it is drilled. Applicants' one quarter share in Twin Lakes Reservoir and Canal Company that is dedicated to the augmentation plan in Case No. 02CW134 is now represented by Stock Certificate No. 8605. Applicants intend to begin construction of the house and drill Peros Well A sometime within the next 6 years. Applicants spent approximately \$215,000 on the purchase of the four acre parcel, Peros Well A, and their interest in the augmentation plan during this diligence period without inclusion of their time and administrative expenses. **5. Additional Remarks.** No part of the conditional decreed uses are requested to be made absolute in this Application.

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**CASE NO. 09CW110 - DICK WOLFE, State Engineer and Director of Colorado Division of Water Resources, 1313 Sherman Street, 8<sup>th</sup> Floor, Denver, CO 80203** (Eve W. McDonald, Assistant Attorney General, Attorney for Colorado Division of Water Resources, 1525 Sherman Street, 5<sup>th</sup> Floor, Denver, CO 80203; (303) 866-5072)

Application to Approve Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado  
**BACA, BENT, CHAFFEE, CHEYENNE, COSTILLA, CROWLEY, CUSTER, DOUGLAS, EL PASO, ELBERT, FREMONT, HUERFANO, KIOWA, LAKE,**

**LAS ANIMAS, LINCOLN, OTERO, PARK, PROWERS, PUEBLO, SAGUACHE AND TELLER COUNTIES**

The State Engineer respectfully requests that the Water Judge order the publication of the following proposed Rules, in all counties in which the proposed Rules apply, during the month of October 2009, and include notice of the proposed Rules in the resume of all applications filed with the Water Clerk for Water Division No. 2 during the month of September. In addition, the State Engineer respectfully requests that the Water Judge approve the adoption of the Rules if no protests are filed within 60 days of the publication of the Rules in the counties in which the Rules apply or, in the alternative, if any protests are timely filed, hear and dispose of such protests as promptly as possible. **Text of the Rules: COMPACT RULES GOVERNING IMPROVEMENTS TO SURFACE WATER IRRIGATION SYSTEMS IN THE ARKANSAS RIVER BASIN IN COLORADO; ORDER OF THE STATE ENGINEER:** BY THIS ORDER the State Engineer adopts the following rules and regulations to govern improvements to surface water irrigation systems in the Arkansas River Basin in Colorado to comply with Article IV-D of the Arkansas River Compact. **Rule 1. Title.** The title of these Rules is "Compact Rules Governing Improvements to Surface Water Irrigation Systems in Arkansas River Basin in Colorado." The short title for these Rules is "Irrigation Improvement Rules," and they may be referred to herein collectively as the "Rules" or individually as a "Rule." **Rule 2. Authority.** These Rules are promulgated pursuant to the authority granted the State Engineer in § 37-80-102(1)(a), § 37-80-104, and § 37-92-501, C.R.S., to ensure compliance with the terms of the Arkansas River Compact, 63 Stat. 145; § 37-69-101, *et seq.*, C.R.S. (Compact). **Rule 3. Purpose.** A. The purpose of these Rules is to ensure that improvements to surface water irrigation systems in the Arkansas River Basin in Colorado comply with Article IV-D of the Compact. B. These Rules have as their objective the optimum use of waters of the Arkansas River in a manner consistent with preservation of the priority system of water rights while ensuring that the State of Colorado complies with the terms of the Compact. **Rule 4. Scope and Exceptions.** A. On or after the effective date of these Rules, water users must file an application and obtain approval from the Division Engineer before making an improvement to a surface water irrigation system. In addition, water users with a surface water sprinkler or surface water drip system installed on or after October 1, 1999, within the H-I Model Domain must file an application and obtain approval from the Division Engineer in order to continue using that sprinkler or drip system. B. These Rules apply throughout the drainage basin of the Arkansas River in Colorado. C. These Rules apply to any person or entity using, claiming, or in any manner asserting any right to use waters of the Arkansas River, as defined in Article III of the Compact, which includes its tributaries, under the authority of the State of Colorado in whole or in part for irrigation or for the replacement of depletions caused by ground water diversions, except as provided in paragraph D, E and F of this Rule. D. These Rules do not apply to diversions of ground water or to structures, facilities, equipment, or works used exclusively for the diversion, conveyance, or application of ground water. E. These Rules do not apply to surface water

irrigation systems that serve less than one acre. F. These Rules apply to improvements to surface water irrigation systems within the Trinidad Dam and Reservoir Project, except that they do not apply to: (1) increases in off-farm transportation efficiency derived from improved facilities that are considered in the allocation of District Water Supply under the Operating Principles - Trinidad Dam and Reservoir Project (“Operating Principles”) and the Purgatoire River Water Conservancy District Operating Criteria (“Operating Criteria”) or (2) any improvement that becomes expressly approved after the effective date of these Rules by duly-authorized amendment of the Operating Principles. **Rule 5. Definitions.** A. As used in these Rules: 1. “Designated Agent” means a person or entity who is authorized by the owner or user of a surface water irrigation system to file an application or otherwise comply with these Rules. 2. “Division Engineer” means the Division Engineer for Water Division 2. 3. “H-I Model” means the Hydrologic-Institutional Model that is used to determine Compact compliance in accordance with the judgment and decree in *Kansas v. Colorado*, No. 105, Original, United States Supreme Court (Decree), as described in Appendix C.1 to the Decree, which includes the model documentation. The term “H-I Model” also includes any future updates and revisions to said model under the terms of the Decree. 4. “H-I Model Domain” means the geographic area in which the hydrologic and institutional processes simulated in the H-I Model occur, as shown on the attached map.\* 5. “Historical seepage losses or return flows” means the seepage losses and return flows that would occur from use of a surface water irrigation system in the absence of an improvement to the surface water irrigation system. 6. “Improvement to a surface water irrigation system” or “Improvement” means the following man-made changes to a surface water irrigation system: lining of canals and off-farm laterals; installation of pipelines to replace off-farm earthen ditches or laterals; application of chemicals to reduce canal or off-farm lateral losses; installation of head stabilization ponds and tailwater recovery pits, including those that facilitate reuse of surface water; installation of sprinkler systems, drip systems, or other irrigation technologies to replace flood and furrow irrigation methods; replacement of side-roll irrigation systems with center-pivot irrigation systems; replacement of impact sprinklers with spray nozzles; and adding surface water as an additional or exclusive source of supply to a sprinkler or drip system that only applied ground water prior to the effective date of these Rules, including to a sprinkler or drip system that was installed prior to October 1, 1999. Other man-made changes, including but not limited to the following, are not considered an “improvement to a surface water irrigation system” under these Rules: lining of on-farm ditches and laterals, installation of on-farm underground pipe or gated pipe; crop selection; crop rotation; changes to plant population; irrigation scheduling; cultivation; application of fertilizers; and general maintenance activities, such as the control or eradication of vegetation; dredging of canals, ditches, laterals and reservoirs; repair or replacement of deteriorated pipe; repair or replacement of existing lining of canals or laterals; sluicing operations to remove sediment from canals; and similar practices. 7. “Irrigation” means the application of waters of the State in excess of natural precipitation to grow crops or other plant life for production of

food, forage, or other uses, including revegetation and sod production but not including lawn irrigation. 8. "Irrigation System Analysis Model (ISAM)" means the peer-reviewed computer programs developed by the Division Engineer's Office to compare monthly water budgets of surface water irrigation systems with and without an improvement in order to evaluate the impacts of an improvement to a surface water irrigation system located within the H-I Model Domain. For surface water irrigation systems that are represented in the H-I Model, the ISAM incorporates the assumptions on canal and lateral losses, tailwater runoff, secondary evapotranspiration losses, soil moisture accounting, and irrigation efficiencies and the data on irrigated acreage, potential crop evapotranspiration, and effective precipitation used for those systems in the H-I Model. For surface water irrigation systems within the H-I Model Domain that are not represented in the H-I Model, the ISAM uses assumptions and data for similar systems that are represented in the H-I Model. The ISAM may incorporate or be used in conjunction with the unit response functions that were developed by the State and Division Engineers under Rule 8 of the Amended Rules and Regulations Governing the Diversion of Tributary Ground Water in the Arkansas River Basin, Colorado ("Use Rules"), to determine the timing and location of seepage losses and return flows. The ISAM may also incorporate or be used in conjunction with other peer-reviewed models or methods to determine the timing and location of seepage losses and return flows that are based upon sufficient and reliable engineering and/or scientific information, including the Ground Water Accounting Model used by the State and Division Engineers under the Use Rules and the Analytical Stream Depletion Model as described in the Ground Water Software Publication No. 1, Office of the State Engineer, Colorado Division of Water Resources, dated September, 1987 authored by Dewayne R. Schroeder. In these Rules, the term "ISAM" includes such unit response functions and such other peer-reviewed models or methods. 9. "Notification List" means the electronic contact information submitted by those persons who request notification of decisions or proceedings under these Rules. 10. "Off-farm" means those ditches, laterals, and pipelines that are not "on-farm." 11. "On-farm" means those ditches, laterals, and pipelines that are used to transport irrigation water within or along the borders of irrigated fields. On-farm ditches and laterals do not include the main canal that conveys water from the decreed source to farm turnouts on the main canal or ditches and laterals that serve more than one water user. 12. "Subject water right" means the water right or rights, including shares in a mutual ditch or reservoir company, used with a surface water irrigation system to which an improvement has been made or is proposed. "Subject water right" includes the portion of a water right or water rights that a water user is entitled to use by contract or as the beneficial owner. 13. "Surface water irrigation system" means any and all structures, facilities, equipment, or works used to receive, deliver, control, apply, or return surface water for irrigation, including, but not limited to: dams; diversion works; canals; off-farm laterals; reservoirs; and farm-scale irrigation application facilities, such as sprinkler systems, drip systems, and head stabilization ponds. "Surface water irrigation system" includes systems that also receive ground water in addition to

surface water and systems that receive, deliver, control, or return surface water for the purpose of replacing depletions caused by diversions of tributary ground water. B. Any term used in these Rules that is defined in Articles 69, 80, and 92 of Title 37, C.R.S., shall have the same meaning given therein unless the context requires otherwise. **Rule 6. Principles and Findings.** A. Article IV-D of the Compact states as follows: “This Compact is not intended to impede or prevent future beneficial development of the Arkansas River basin in Colorado and Kansas by Federal or State agencies, by private enterprise, or by combinations thereof, which may involve construction of dams, reservoirs and other works for the purposes of water utilization and control, as well as the improved or prolonged functioning of existing works: Provided, that the waters of the Arkansas River, as defined in Article III, shall not be materially depleted in usable quantity or availability for use to the water users in Colorado and Kansas under this Compact by such future development or construction.” B. Article VII-A of the Compact states as follows: “Each State shall be subject to the terms of this Compact. Where the name of the State or the term ‘State’ is used in this Compact these shall be construed to include any person or entity of any nature whatsoever using, claiming or in any manner asserting any right to the use of the waters of the Arkansas River under the authority of that State.” C. The State Engineer is responsible for discharging the obligations of the State of Colorado imposed by the Compact. D. Future beneficial development of the Arkansas River basin within the meaning of Article IV-D of the Compact includes improvements to surface water irrigation systems within the scope of these Rules. In making this finding, the State Engineer has been guided by the terms of the Compact and the decisions of the United States Supreme Court and its Special Master interpreting the Compact. See, e.g., *Kansas v. Colorado* (No. 105 Original), 514 U.S. 673 (1995); 533 U.S. 1 (2001); 543 U.S. 86 (2004); First Report (1994); Second Report (1997); Third Report (2000); Fourth Report (2003); and Fifth and Final Report (2008). E. Improvements to surface water irrigation systems within the scope of these Rules can materially deplete the waters of the Arkansas River in usable quantity or availability for use to the water users in Colorado and Kansas in violation of Article IV-D of the Compact by increasing beneficial consumptive use and reducing historical seepage losses or return flows to the Arkansas River. F. The Compact is deficient in establishing standards for administration within Colorado to provide for meeting its terms with respect to improvements to surface water irrigation systems and these Rules are necessary to ensure that the State of Colorado meets its Compact obligations. G. Compact Compliance Plans under these Rules do not authorize out-of-priority use of water and do not authorize replacement of depletions caused by out-of-priority use of water. See *Simpson v. Bijou*, 69 P.3d 50 (2003); § 37-92-308, C.R.S. H. In adopting these Rules, the State Engineer has been guided by the recognition that the Arkansas River Basin is a separate entity (§ 37-92-501(2)(a), C.R.S.); that the purpose of the Compact was to equitably divide and apportion between the States of Colorado and Kansas the waters of the Arkansas River and their control, conservation, and utilization for irrigation and other beneficial purposes (Article I-A); that the Compact deals only with the waters of the

Arkansas River as defined in Article III of the Compact (Article IV-A); and that the Compact establishes no general principle or precedent with respect to any other interstate stream (Article VII-B). **Rule 7. Requirement for Division Engineer Approval of Improvements to Surface Water Irrigation Systems.** A. On or after the effective date of these Rules, no improvement to a surface water irrigation system within the scope of these Rules shall be made unless the user makes an application in writing to the Division Engineer in accordance with Rule 8 or Rule 10 of these Rules for approval of the improvement and receives written approval from the Division Engineer allowing the improvement, except that improvements authorized by a general permit under Rule 11 only require written notice pursuant to the terms of the general permit, rather than an application. B. On or after the effective date of these Rules, any person who wants to continue using a sprinkler or drip irrigation system to apply surface water within the H-I Model Domain that was installed on or after October 1, 1999, but before the effective date of these Rules, must file an application in writing to the Division Engineer in accordance with Rule 8 or Rule 10 of these Rules for approval of the sprinkler or drip irrigation system and must receive written approval from the Division Engineer allowing the use of the sprinkler or drip irrigation system in accordance with these Rules. Ninety days after the effective date of these Rules, no sprinkler or drip irrigation system that is used to apply surface water within the H-I Model Domain and was installed on or after October 1, 1999, but before the effective date of these Rules, shall be used unless the owner or user has received written approval from the Division Engineer allowing the use of the sprinkler or drip irrigation system in accordance with these Rules. C. In the event written approval of an improvement to a surface water irrigation system has not been given by the Division Engineer in accordance with a Rule 8 application or a Rule 10 Compact Compliance Plan and is not permitted under a general permit as provided in Rule 11 below, or if the Applicant is out of compliance with the terms and conditions of a written approval, the State or Division Engineer shall order the total or partial discontinuance of any diversion or use of the subject water right (but only to the extent that the water being diverted is used in connection with such improvement) or take other appropriate action authorized by law to prevent a violation of Article IV-D of the Compact. If the subject water right is based on contract or shares in a ditch or reservoir company, any such order will be issued to the person or entity responsible for the improvement.

**Rule 8. Application Contents, Notice and Comment Period, and Timeline for Review.** A. An application for approval of an improvement shall be in a form to be prescribed by the State Engineer. The application shall describe the surface water irrigation system and the improvement in sufficient detail to allow the Division Engineer to evaluate the effect of the improvement and shall be signed by the owner or user of the surface water irrigation system or his or her Designated Agent. The Division Engineer prefers that the applicant submit the form and any exhibits electronically. An applicant is not required to submit an engineering report with an application, but the applicant may submit any relevant information, including a report from a licensed professional engineer or other qualified expert, information pertinent to the leaching requirement to prevent soil

salinity from reaching harmful levels for land irrigated by the improvement, or information from the manufacturer, distributor, or installer describing the improvement and its effect on consumptive use of water or seepage losses and return flows. The application may also propose terms and conditions to be imposed on the use of the improvement or the use of the subject water right that will prevent a violation of Article IV-D of the Compact. B. As soon as practicable after the application is filed, the Division Engineer shall send a copy of the application and any exhibits, or information on where they are available to be reviewed, to all persons on the Notification List. Anyone may join the Notification List by submitting an email address to the Division Engineer's Office. The Division Engineer will consider comments on pending applications if they are received within 30 days after the application is sent to persons on the Notification List. The Division Engineer will also inform those on the Notification List of any hearing on an application and of any decision approving or denying an application or Compact Compliance Plan. C. Within ninety (90) calendar days of the receipt of an application, the Division Engineer will provide the applicant or his or her designated agent with a written decision that may be in the form of approval, denial, or approval with terms and conditions. If the Division Engineer requires additional information from the applicant to evaluate the improvement, the Division Engineer shall notify the applicant, and the applicant shall have up to 90 calendar days from the date of the notification to provide the additional information and the time for the Division Engineer to provide the applicant with a written decision shall be extended for 90 calendar days from the date of the receipt of the additional information. D. In making the determinations necessary to approve or deny an application, the Division Engineer shall not be required to hold or conduct a hearing, but the Division Engineer may hold or conduct a hearing if he determines a hearing is necessary or useful to make any such determination. All hearing procedures will be guided by the State Engineer's Procedural Regulations for adjudicatory procedures (2 CCR 402-5, Section 1.1.4), where applicable. **Rule 9. Standards for Division Engineer Review of Applications.** A. If the Division Engineer determines that an improvement will not materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact, he shall approve the application and allow the improvement. If the Division Engineer determines that an improvement will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact, he shall deny the application and disallow the improvement unless terms and conditions can be imposed under Rule 9(C) below that will prevent such material depletion or the improvement is included in a Compact Compliance Plan approved by the Division Engineer in accordance with Rule 10 below. Once an improvement has been approved, no further application shall be required unless the Division Engineer revokes the approval for violation of a term and condition of the approval. B. To determine whether an improvement will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact, the Division Engineer shall determine whether the improvement will increase consumptive use or will reduce the amount or change the timing or location of historical seepage losses and return flows from waters of the Arkansas River



diverted, conveyed, stored, applied, or returned by the surface water irrigation system. The Division Engineer shall consider any relevant data or information submitted with the application, and may consider any change in non-beneficial consumptive use that would result from the improvement to the surface water irrigation system, to the extent permitted by law. i. For surface water irrigation systems located within the H-I Model Domain, the Division Engineer shall use the ISAM for these determinations. a. There shall be a rebuttable presumption that the version of the ISAM in use at the time an application is filed accurately determines whether an improvement will increase consumptive use or will reduce the amount of historical seepage losses and return flows. However, the Division Engineer shall consider any farm-specific data or engineering analysis submitted by the applicant that varies from assumptions or data used in the ISAM and shall incorporate such data or engineering analysis if appropriate. b. The initial version of ISAM and its documentation shall be filed in the water court action concerning promulgation of these Rules. The Division Engineer shall update or revise the ISAM as appropriate to incorporate applicable changes to the H-I Model that have been approved in accordance with Section V of Appendix B to the Decree in *Kansas v. Colorado* and to incorporate new or updated data and/or engineering information for assumptions and data that are not derived from the H-I Model. Such update or revision shall be based on sufficient and reliable engineering and/or scientific information. The Division Engineer shall notify interested parties of any significant proposed changes to the ISAM through the Notification List and the DWR website. The Division Engineer shall make available electronic copies of the ISAM and associated data upon request, and shall allow reasonable time for peer review and responsive comments before using the updated or revised ISAM, unless it would be unreasonable not to use the updated or revised ISAM, e.g., where the updated or revised ISAM corrects an arithmetic error. ii. For surface water irrigation systems located outside the H-I Model Domain, the Division Engineer shall develop appropriate models or methods for these determinations. Said model or method shall be similar to the ISAM, but shall use data and information appropriate to the hydrologic and institutional circumstances of the surface water irrigation systems to be evaluated, based upon sufficient and reliable engineering and/or scientific information. a. For surface water irrigation systems located outside the H-I Model Domain, there shall not be a rebuttable presumption that the version of the model or method in use at the time an application is filed accurately determines whether an improvement will increase consumptive use or will reduce the amount or change the timing or location of historical seepage losses and return flows unless the State Engineer files a request with the district court for Water Division 2 to establish such a rebuttable presumption, notice is given to interested persons, and the rebuttable presumption is established by order of the Court. b. The Division Engineer shall update or revise such model or method as appropriate to incorporate new or updated data and/or information. Such update or revision shall be based on sufficient and reliable engineering and/or scientific information. The Division Engineer shall notify interested persons of any significant update or revision to such model or method through the Notification

List and the DWR website. The Division Engineer shall make available electronic copies and associated data upon request, and shall allow reasonable time for peer review and responsive comments before using a new, updated or revised model or method, unless it would be unreasonable not to use the new, updated or revised model or method, e.g., where the updated or revised model or method corrects an arithmetic error. C. The Division Engineer may approve an application and allow an improvement that would otherwise violate Article IV-D of the Compact if the Division Engineer determines that terms and conditions can be imposed on the use of the improvement or the use of the subject water right that will prevent a violation of Article IV-D of the Compact. Such terms and conditions may include a limitation on the use of the subject water right, including a limitation on the time, place, or method of use of the subject water right or the surface water irrigation system; a requirement to install, maintain and verify appropriate measuring devices; a requirement to periodically record and report measurements to the Division Engineer; a requirement for a periodic accounting; or such other terms and conditions as may be necessary to maintain historical seepage losses and return flows, such as discontinuing the irrigation of historically irrigated land. If delayed effects on historical seepage losses or return flows from an improvement are projected, the Division Engineer's approval shall specify the time period for which such terms and conditions must remain in effect to offset such effects in the event the applicant discontinues use of the improvement. The Division Engineer may adjust the terms and conditions of a Rule 8 approval within the first three years after approval, after which time the terms and conditions on applications approved without a Compact Compliance Plan may be modified only as necessary to comply with a final court order. D. In determining whether an improvement will cause a material depletion of Stateline flow under Article IV-D of the Compact, no reduction for usability shall be applied; provided, that no person or entity subject to these Rules shall be required to maintain historical seepage losses or return flows at the Stateline if John Martin Reservoir is spilling and Stateline water is passing Garden City, Kansas. See 2 Fifth and Final Report of the Special Master, *Kansas v. Colorado*, No. 105, Orig., U.S. Sup. Ct., Appendix J.2, at J.26. **Rule 10. Compact Compliance Plans.** A. In lieu of filing an application under Rule 8, any person subject to these Rules or an entity acting on behalf of such person or a group of such persons may submit a proposed Compact Compliance Plan (Plan) for review by the Division Engineer to prevent a violation of Article IV-D of the Compact from an improvement or group of improvements subject to Rule 7(A) or 7(B). The proposed Plan must specifically describe all improvements it is intended to cover. A copy of the form required by Rule 8.A, signed by the owner or user of the surface water irrigation system or his or her Designated Agent, must be maintained on file by the filing entity for each improvement to be covered under a proposed Plan and shall be available for inspection by the Division Engineer. The proposed Plan shall be in an electronic form. The Division Engineer shall send a copy of the proposed Plan and exhibits, or information on where they are available to be reviewed, to all persons on the Notification List. B. A Compact Compliance Plan may include use of water other than the subject water right to prevent a violation of

Article IV-D of the Compact if the other water is imported water or other fully consumable water pursuant to the decree controlling the use of said water. However, if a proposed Compact Compliance Plan requires a change of water right or plan for augmentation, the Division Engineer will deny the application and direct the applicant to file an application for approval of a change of water right or plan for augmentation in accordance with § 37-92-302, C.R.S. If this occurs, the applicant must cease use of the improvement to the surface water irrigation system until an application has been approved under Rule 8 above, a substitute water supply plan has been duly approved under section 37-92-308, C.R.S., or the water judge has entered a decree approving a change of water right or plan for augmentation allowing the use of the surface water improvement. C. Within ninety (90) calendar days of the receipt of a proposed Compact Compliance Plan, the Division Engineer will provide the Plan applicant with a written decision that may be in the form of approval, denial, or approval with terms and conditions. If the Division Engineer requires additional information from the Plan applicant to evaluate the Compact Compliance Plan, the Division Engineer shall notify the applicant, and the applicant shall have up to 90 calendar days from the date of the notification to provide the additional information and the time for the Division Engineer to provide the Plan applicant with a written decision shall be extended for 90 calendar days from the date of the receipt of the additional information. D. If the Division Engineer determines that a proposed Compact Compliance Plan will prevent a violation of Article IV-D of the Compact from the improvement(s), he shall approve the Plan and allow the improvement(s). If the Division Engineer determines that a proposed Compact Compliance Plan will not prevent a violation of Article IV-D of the Compact from the improvement(s), he shall deny the Plan and disallow the improvement(s) unless terms and conditions, including but not limited to those described in Rule 9(C), can be imposed that will prevent such violation. E. Compact Compliance Plans shall require annual review and approval unless the Division Engineer determines that a longer period of approval is warranted, such as where the applicant owns or has a long-term right to use the source of water and controls or has a long-term right to use any storage space necessary to prevent a violation of Article IV-D of the Compact. F. Compact Compliance Plans approved by the Division Engineer shall require an annual accounting to the Division Engineer of the actual operations under the Plan during the prior year, including the change in historical seepage losses and return flows by month from each improvement covered under the Plan and the amount, time, and location of all water provided under the Plan to maintain historical seepage losses and return flows, as well as the projected monthly operations under the Plan for the upcoming year. The Division Engineer shall determine an appropriate "plan year" or 12 month period for operation under each approved Plan, and may grant temporary approval at the beginning of the plan year to allow verification of projected water availability or other assumptions in the plan. Improvements may be added and deleted from the Plan at any time by submitting a request for amendment of the Plan and receiving Division Engineer approval of the amendment. **Rule 11. General Permits.** A. The State Engineer may issue general permits to approve any type

or category of improvements, including improvements in specific locations of the Arkansas River Basin, that the State Engineer determines will not materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact. The State Engineer has determined that the general permits attached to these Rules will be issued with the adoption of these Rules.\* B. The State Engineer may modify or revoke a general permit, in whole or in part, if the State Engineer determines, based upon sufficient and reliable engineering and/or scientific information, that the continued use of improvements authorized under the general permit will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact without compliance with these Rules. However, no person or entity that made an improvement in reliance on a general permit shall be required to submit an application pursuant to these Rules for that improvement unless these Rules are amended to require such an application or as necessary to comply with an order of the United States Supreme Court. C. The State Engineer shall provide advance notice and opportunity to comment on any proposed issuance, revocation, or modification of any general permit via the Notification List, and shall provide notice of any new, revoked or modified general permit to the water clerk for Water Division 2 so that such notice shall be included in the resume prepared by the water clerk and shall be included in the copy of the resume posted on the water court's web site prior to its effective date.

**Rule 12. Effect Of An Evaluation Under The Rules On A Determination Of The Historical Consumptive Use Of The Subject Water Right.**

A. An evaluation of an improvement to a surface water irrigation system under these Rules to determine whether an improvement will materially deplete the waters of the Arkansas River in violation of Article IV-D of the Compact is not intended to be an evaluation of the historical consumptive use or return flows of the subject water right for the purpose of changing the subject water right. B. The Division Engineer's evaluation of an improvement to a surface water system pursuant to these Rules shall have no precedential effect in any proceeding to change the subject water right, including use of the subject water right in an exchange or plan for augmentation.

**Rule 13. Process to Appeal a Decision Under These Rules.**

A. Administrative review of decisions by the State and Division Engineers under these Rules shall be available if timely requested as provided below. Such review shall be guided by the adjudicatory procedures and reconsideration procedures set out in Rule 1.1.4 and 1.1.6 (A) of the State Engineer's Procedural Regulations (2 CCR 402-5) ("Procedural Regulations").

B. If the Division Engineer denies an application or approves the application with terms and conditions, the applicant or any person adversely affected or aggrieved by the decision may appeal the Division Engineer's decision to the State Engineer within 30 days after the Division Engineer issues the decision. If the Division Engineer has not held a hearing on the application, the applicant or any person adversely affected or aggrieved by the decision may file a request for an adjudicatory hearing under the Procedural Regulations. The State Engineer may refer the matter to a Hearing Officer. If the Division Engineer has already held a hearing on the Application, the applicant or any person adversely affected or aggrieved by the decision may file a request for rehearing or reconsideration

under the Procedural Regulations. C. If the State Engineer issues, revokes or modifies a general permit, any person adversely affected or aggrieved by the decision may file a request for an adjudicatory hearing under the State Engineer's Procedural Regulations, provided the request is filed by the end of the month following the month in which the notice of the issuance, revocation or modification of the general permit is included in the copy of the resume posted on the water court's web site. The State Engineer may refer the matter to a Hearing Officer. D. If the Division Engineer updates or revises a model or method as provided in Rule 9.B.i.b. or 9.b.ii.b., any person adversely affected or aggrieved by the update or revision may appeal to the State Engineer by filing a request for an adjudicatory hearing under the State Engineer's Procedural Regulations within 90 days after the update or revision is provided to those on the Notification List. The State Engineer may refer the matter to a Hearing Officer. E. The intent of Rule 13 is to provide a timelier and less expensive alternative to an applicant or person adversely affected or aggrieved by a decision of the Division Engineer or the State Engineer. Nothing herein is intended to preclude de novo review by the water judge of a decision by the Division Engineer or the State Engineer under these Rules. **Rule 14. Effect of Rules.** Improvements to a surface water irrigation system subject to these Rules are not exempt from the requirements of any other lawful Rules or statutes governing the use of waters of the State in Water Division 2, whether now existing or hereafter adopted. **Rule 15. Variance.** When the strict application of any provisions of these Rules would cause unusual hardship, the Division Engineer may grant a variance. No variance shall waive the requirement for Division Engineer substantive evaluation and approval of an improvement to a surface water irrigation system according to the standards set by these Rules. Any request for a variance shall be made in writing and shall state the basis for the requested variance. If the Division Engineer finds that the request is justifiable, the Division Engineer may issue a written order granting the variance and setting forth the terms and conditions on which the variance is granted. **Rule 16. Severability.** If any Rule or part thereof is found to be invalid by a court of law, the remaining Rules shall remain in full force and effect, including any part thereof not found to be invalid. **Rule 17. Effective Date.** These Rules shall take effect January 1, 2011, or sixty calendar days after publication in accordance with § 37-92-501(2)(g), C.R.S., whichever is later, and shall thereafter remain in effect until amended as provided by law. In the event that protests are filed with respect to these Rules in the time frame set by § 37-92-501(3), C.R.S., the effective date of such Rules shall be stayed until such protests are judicially resolved pursuant to the procedures set forth in § 37-92-304, C.R.S. In the event such protests are resolved prior to January 1, 2011, applications required by these Rules may be submitted prior to the effective date of the Rules. IT IS FURTHER ORDERED that any person who wishes to protest these proposed Rules may do so by filing a protest in writing with the Division 2 Water Clerk in Pueblo, Colorado, in the same manner as for the protest of a ruling of the referee. Any such protest must be filed by the end of the month following the month in which these Rules are published.

\*Attachment 1: Map of H-I Model Domain referenced in Rule 5.A.4.

Attachment 2: General Permits referenced in Rule 11.A.

The attachments and other related documents are available on the Division of Water Resources website at:

<http://water.state.co.us/wateradmin/ArkansasRiver.asp>. These documents are also available at the office of the Water Clerk, Water Division 2, and at the Office of the Division Engineer, Water Division No. 2, 310 E. Abriendo Ave., Suite B, Pueblo, CO 81004, ph: (719)542-3368.

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**CASE NO. 09CW111 – PAUL J. HOWARD and KIMBERLY M. HOWARD, 13480 Holmes Road, Colorado Springs, CO 80908** (Chris D. Cummins, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater, Surface Water Rights, and for Approval of Plan for Augmentation

**EL PASO COUNTY**

**II. Application for Underground Water Rights A. Legal Description of**

**Wells.** 1. **Property Description.** All wells will be located on Applicants' Property, generally described as the W1/2 NW1/4 NE1/4 of Section 12, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M., El Paso county, Colorado, which contains approximately 20 acres, more or less ("Applicants' Property"). Applicants' Property is generally shown on the Exhibit A map attached to the application, and more particularly described in the legal description attached to the 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. In addition to the existing well described below, two additional wells will be constructed into the Dawson or Denver aquifers following completion of Applicants' subdivision process. 2. **Existing Wells.** State Engineer Well Permit No. 237527 is an exempt domestic well to the Denver aquifer located in the Applicant's Property, permitted pursuant to C.R.S. §37-92-602(3)(b)(I) in the NW1/4 NE1/4 of Section 12, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M., approximately 600 feet from the north section line and 2300 feet from the east section line of said Section 12 ("Howard Well"). The Howard Well will be re-permitted pursuant to the Plan for Augmentation requested herein once approved. B. **Water Source.** 1. **Not Nontributary.** The ground water withdrawn from the Dawson and Denver aquifers of the Denver Basin underlying Applicants' Property is not-nontributary. Pursuant to C.R.S. 37-90-137(9)(c), the augmentation requirements for wells in the Dawson and Denver aquifers will require the replacement of actual stream depletions to the extent necessary to prevent any injurious effect. 2. **Nontributary.** The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers of the Denver Basin underlying the Applicants' Property is nontributary. C. **Estimated Rates of**

**Withdrawal and Ground Water Available.** 1. **Estimated Rates of Withdrawal.** Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The

actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. **2. Estimated Average Annual Amounts of Ground Water Available.** Applicants request an absolute water right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year life of the aquifers as set forth in C.R.S. §37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

<u>Aquifer</u>	<u>Saturated Thickness (Feet)</u>	<u>Total Water Adjudicated (Acre Feet)</u>	<u>Annual Average Withdrawal (Acre Feet)<sup>1</sup></u>
Dawson	285	1148	3.82
Denver	505	1729	5.76
Arapahoe	235	805	2.68
Laramie Fox Hills	188	568	1.89

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

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<sup>1</sup> Annual Average Withdrawals are based upon a 300-year aquifer life, as required by the El Paso County Land Development Code.

of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. **F. Name and Address of Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by Applicants. **III. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION** **A. Structures to be Augmented.** The structures to be augmented are the Howard Well, along with two additional wells to be constructed into the not-nontributary Dawson or Denver aquifers of the Denver Basin underlying the Applicants' Property, as requested and described herein. There are to be no other water rights diverted from these structures. **B. Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the pumping and return flows of the not-nontributary Dawson and Denver aquifers from the Howard Well and the up to two additional wells to be constructed, as set forth above and in this plan for augmentation, together with water rights from the nontributary Arapahoe aquifer for post pumping depletions. **C. Statement of Plan for Augmentation.** Applicants wish to provide for the augmentation of stream depletions caused by pumping the not-nontributary Dawson and Denver aquifer wells proposed herein for three residential lots. Water use criteria and their consumptive use components for replacement of actual depletions for the residential lots are as follows: **1. Household Use Only:** 0.30 acre feet annually within each single family dwelling with a ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each residence is therefore 0.030 acre feet, with resulting return flows of 0.27 annual acre feet. The total consumptive use for all three residential lots is therefore 0.090 acre feet, with total resulting return flows of 0.81 annual acre feet. Any other type of waste water disposal shall require an amendment to this plan of augmentation. **2. Landscape Irrigation:** 0.046 acre feet annually per 1,000 square feet (2.0 acre feet per acre) per year, with a 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.039 acre feet. **3. Horses (or equivalent livestock):** 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Should the each of the two additional wells to-be-constructed pump 0.6 acre feet per year, such quantities pumped would be divided as follows: 0.3 acre feet for in-house use, 0.022 acre feet for watering of up to 2 head of livestock, with the remaining 0.28 acre feet utilized for the irrigation of up to 5,500 square feet of lawn and garden on each of the two new lots. Similarly, the re-permitted Howard Well will may pump up to 1.3 acre feet annually, with such quantities divided as follows: 0.3 acre feet for in-house use, 0.044 acre feet for watering of up to 4 head of livestock, with the remaining 0.956 acre feet utilized for the irrigation of up to 16,000 square feet of lawn and garden. Septic return flows are calculated to be 0.27 acre feet annually per lot. Applicants' consultant has calculated that these return flows are sufficient to replace depletions occurring during the pumping life of the three Dawson and Denver aquifer wells. Applicants propose to reserve a quantity of water from the nontributary Arapahoe aquifer for replacement of post-pumping depletions. This Application is being filed in Water Divisions 1 and 2 because



depletions may occur to both divisions. The return flows set forth above will accrue to the Arkansas River system where the majority of depletions occur. Applicants requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. **D. Augmentation of Depletions During Pumping.** Pursuant to C.R.S. §37-90-137(9)(c) Applicants are required to replace actual stream depletions attributable to pumping of the two Dawson aquifer wells to the extent necessary to prevent injurious effect. Applicants' consultant has calculated maximum depletions resulting from the 300 year pumping life of the Dawson wells to be 24% of pumping. Based upon annual pumping of a combined 1.2 acre feet per year from the two Dawson Wells and the requested uses therefrom, Applicants are therefore required to replace 0.29 acre feet annually. Applicants have determined that during pumping, septic system return flows from the two lots utilizing the Dawson Wells should account for approximately 0.54 acre feet per year. Thus, there are sufficient return flows through the septic system and irrigation return flows to replace the estimated stream depletions during the pumping life of the two Dawson aquifer wells. Similarly, pursuant to C.R.S. §37-90-137(9)(c), Applicants' consultant has determined that Applicants are required to replace an amount of water equal to four percent (4%) of withdrawals during the pumping life of the Howard Well, constructed into the not-nontributary Denver aquifer, which based upon pumping of 1.3 acre feet annually, amounts to 0.05 acre feet of required replacement per year. Septic system return flows of 0.27 acre feet annually will substantially exceed this replacement obligation. **E. Augmentation for Post Pumping Depletions.** For the replacement of post-pumping depletions, Applicants will reserve up to 805 acre feet of water from the nontributary Arapahoe aquifer underlying the Applicants' Property, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, Applicants claim that post pumping depletions will be noninjurious and do not need to be replaced. Under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary water will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to file for and receive an amended well permit for the Howard Well and for the two new wells to be constructed, for the uses in accordance with this Application. **F. Remarks.** Additional remarks are as follows: 1. Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary well upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c). 2. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a

particular well or wells only to the extent related to that well's actual pumping. 3. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. 4. Pursuant to C.R.S. §37-90-137, upon approval of the plan for augmentation requested herein, Applicants will file an application with the State Engineer's office to re-permit the existing well on Applicants' approximately 20.0 acre property (Permit No. 237527 - Howard Well) for operation under the plan for augmentation. 5. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. 6. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. 7. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. 8. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 10 days of the filing of this application.

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**CASE NO. 09CW112 – DARIN R. LARSON, 160 Morning Sun Drive, Leadville, CO 80461; (719) 486-2650**

Application To Make Absolute

**LAKE COUNTY**

**2. Name of structure:** House (Court records in Case No. 02CW134 reflect Peros Well B was transferred to this Applicant). **Describe conditional water right including the following information from the Referee's Ruling and Judgment and Decree: Date of Original Decree:** July 11, 2003; **Case No.** 02CW134; **Court:** Division 2. **Legal description:** Lake County, SE ¼ of the NE ¼ Section 21, Township 8 South, Range 80 West, 6<sup>th</sup> P.M., 2400 feet from the North line and 610 feet from the East line. **Street Address:** 160 Morning Sun Drive; **Subdivision:** Rancho Domovina; **Lot:** Parcel III. **Source of water:** West Tennessee Creek. **Appropriation Date:** August 12, 2002; **Amount:** 0.033 cfs. **Use:** Well will be used for domestic water supply in one single family dwelling and irrigation of 0.015 acres of shrubbery and trees. **Depth:** Approximately 160. **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:** Well is in service. Well will be used for domestic water supply in one single family dwelling and irrigation of 0.015 acres of shrubbery and trees. **If claim to make absolute--Date water applied to beneficial use:** July 2005; **Amount:** 15 gpm. **Use:** Domestic water supply in one single family dwelling and irrigation of 0.015 acres. **Description of place of use where water is applied to beneficial use:** Lot III, Lake County;

SE ¼ of the NE ¼ Section 21, Township 8 South, Range 80 W., P.M. 6<sup>th</sup>.  
**Name(s) and address(es) of owner(s) or reputed owner(s) 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.

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**CASE NO. 09CW113- XTO Energy Inc., Attn: Taylor L. Pope, Esq., 810 Houston Street, Fort Worth, TX 76102** (Christopher L. Thorne and William H. Caile, Holland & Hart, LLP, Attorneys for Applicant, 555 Seventeenth Street, Suite 3200, Denver, CO 80202; (303) 295-8488)

Application for Conditional Water Storage Rights

**LAS ANIMAS COUNTY**

**2. Name of Reservoir:** Mid Fork 1 Pond **a. 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 location map attached to the Application as Exhibit A-1. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **b. Source:** Water flowing in the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Mid Fork 1 Pipeline with a capacity of 3 c.f.s. **c. 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 location map attached to the Application as Exhibit A-1. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** **i.** 11.3 acre-feet (conditional) **ii. Rate of diversion for filling Reservoir:** 3 c.f.s. (conditional) **iii.** Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** Commercial, mining, manufacturing, irrigation, domestic, construction, recreation, evaporation, augmentation, livestock watering, wildlife, piscatorial, fire protection, road construction and maintenance, dust suppression, and industrial uses, directly or by or exchange. **g. Surface area of high water line:** approximately 1.50 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 400 feet **h. Total Capacity of Reservoir in acre feet:** 11.3 acre-feet (conditional) **Active capacity:** 11.3 acre-feet **Dead storage:** None **3. Name of Reservoir:** Lopez Canyon Pond **a. 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 to the Application as Exhibit A-2. **b. Source:** Water flowing in Lopez Canyon streambed, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Lopez Canyon Pipeline with a capacity of 1 c.f.s. **c. 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 location map attached to the Application as Exhibit A-2. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** i. 7.5 acre-feet (conditional) **ii. Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) **iii. Applicant claims the right to fill and refill the pond without limitation when in priority.** **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 1.0 acre **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 300 feet **h. Total Capacity of Reservoir in acre feet:** 7.5 acre-feet (conditional) **Active capacity:** 7.5 acre-feet **Dead storage:** None **4. Name of Reservoir:** South Fork 1 Pond **a. Legal Description:** UTM (meters) NAD83: 504177(x), 4102172(y). See location map attached to the Application as Exhibit A-3. **b. 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 water flowing in the streambed of the unnamed tributary or water diverted from the South Fork of the Purgatoire River through the pipeline identified below. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** South Fork 1 Pipeline with a capacity of 3 c.f.s. **c. Point of Diversion:** The point of diversion, in UTM (meters) NAD83, will be approximately 504156(x), 4102315(y). See location map attached to the Application as Exhibit A-3. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** i. 11.3 acre-feet (conditional) **ii. Rate of diversion for filling Reservoir:** 3 c.f.s. (conditional) **iii. Applicant claims the right to fill and refill the pond without limitation when in**

priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 1.50 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 400 feet **h. Total Capacity of Reservoir in acre feet:** 11.3 acre-feet (conditional) **Active capacity:** 11.3 acre-feet **Dead storage:** None **5. Names and addresses of owners of land upon which any new diversion or storage structures will be located or upon which water will be stored:** a. Applicant. b. Colorado Division of Wildlife, Attn: Michael Trujillo, Area Wildlife Manager, 600 Reservoir Road, Pueblo, Colorado 81005, (719) 561-5300 **6. General Remarks:** a. The subject water rights can and will be diverted, stored, or otherwise captured, possessed and controlled and will be beneficially used and the project can and will be completed with diligence and within a reasonable time. The subject water rights sought herein are being developed as an integrated water supply project, and diligent application of efforts on one aspect of the project should be considered as diligence on the project as a whole. b. Applicant will install and maintain all necessary measuring devices for administration of the subject water rights.

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**CASE NO. 09CW114 – PIONEER NATURAL RESOURCES USA, INC.,**  
**Attention: Ronald Schindler, Esq., 1401 Seventeenth Street, Suite 1200,**  
**Denver, CO 80202** (Christopher L. Thorne and William H. Caile, Holland & Hart,  
LLP, Attorneys for Applicant, 555 Seventeenth Street, Suite 3200, Denver, CO  
80202; (303) 295-8488)

Application for Conditional Water Storage Right

**LAS ANIMAS COUNTY**

**2. Name of Reservoir: Tamburelli Pond. a. Legal Description:** An off-channel pond located in the SW 1/4 of the SE 1/4 of Section 3, Township 33 South, Range 65 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 1,035 feet from the South Section Line and 1,640 feet from the East Section Line. See location map attached to the Application as Exhibit A-1. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. **b. Source:** Flows in Reilly Canyon, tributary to the Purgatoire River, diverted through the pipeline described below. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Tamburelli Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion:** The planned point of diversion for the Tamburelli Pipeline is located in the NE 1/4 of the NW 1/4 of Section 10, Township 33 South, Range 65 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 1,840 feet from the West Section Line. See location map attached to the Application as Exhibit A-1. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts**

**claimed:** i. 15.7 acre-feet (conditional) ii. Rate of diversion for filling Reservoir: 1 c.f.s. (conditional) iii. Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** Commercial, mining, manufacturing, irrigation, domestic, construction, recreation, evaporation, augmentation, livestock watering, wildlife, piscatorial, fire protection, road construction and maintenance, dust suppression, and industrial uses, directly or by exchange. **g. Surface area of high water line:** approximately 2.0 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 200 feet **h. Total Capacity of Reservoir in acre feet:** 15.7 acre-feet (conditional) **Active capacity:** 15.7 acre-feet **Dead storage:** None

**3. Name of Reservoir:** Gregg Canyon Pond **a. Legal Description:** An on-channel pond located in the SW 1/4 of the NE 1/4 of Section 13, Township 32 South, Range 66 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 1,840 feet from the North Section Line and 2,130 feet from the East Section Line. See location map attached to the Application as Exhibit A-2. **b. Source:** Gregg Canyon Pond is an on-channel pond located in Gregg Canyon. The pond may be filled either from water flowing in the Gregg Canyon streambed or water diverted from Reilly Canyon, tributary to the Purgatoire River, through the pipeline described below. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Gregg Canyon Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion:** The planned point of diversion for Gregg Canyon Pipeline is located in the NW 1/4 of the SE 1/4 of Section 13, Township 32 South, Range 66 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 2,380 feet from the South Section Line and 2,160 feet from the East Section Line. See location map attached to the Application as Exhibit A-2. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** i. 4.4 acre-feet (conditional) ii. Rate of diversion for filling Reservoir: 1 c.f.s. (conditional) iii. Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 1.13 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 200 feet **h. Total Capacity of Reservoir in acre feet:** 4.4 acre-feet (conditional) **Active capacity:** 4.4 acre-feet **Dead storage:** None

**4. Name of Reservoir:** King Pond **a. Legal Description:** An on-channel pond located in the SW 1/4 of the NW 1/4 of Section 13, Township 32 South, Range 66 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,340 feet from the North Section Line and 540 feet from the West Section Line. See location map attached to the Application as Exhibit A-3. **b. Source:** King Pond is an on-channel pond located in an small unnamed tributary that flows into Reilly

Canyon. The pond may be filled either from water flowing in the streambed of the unnamed tributary or water diverted from Reilly Canyon, tributary to the Purgatoire River, through the pipeline described below. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** King Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion:** The planned point of diversion for King Pipeline is located in the SW 1/4 of the NW 1/4 of Section 13, Township 32 South, Range 66 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 1,640 feet from the North Section Line and 1,240 feet from the West Section Line. See location map attached to the Application as Exhibit A-3. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** i. 7.0 acre-feet (conditional) ii. **Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) iii. Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 1.05 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 250 feet **h. Total Capacity of Reservoir in acre feet:** 7.0 acre-feet (conditional) **Active capacity:** 7.0 acre-feet **Dead storage:** None **5. Name of Reservoir:** Burro Canyon Pond **a. Legal Description:** An on-channel pond located in the SW 1/4 of the SE 1/4 of Section 28, Township 32 South, Range 66 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 560 feet from the South Section Line and 1,970 feet from the East Section Line. See location map attached to the Application as Exhibit A-4. **b. Source:** Water flowing in a small unnamed tributary to Burro Canyon, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **c. Point of Diversion:** Not applicable. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** i. 4.4 acre-feet (conditional) ii. **Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) iii. Applicant claims the right to fill and refill the Reservoir without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 0.69 acres. **i. Vertical height of dam:** approximately 10-15 feet. **ii. Length of dam:** approximately 200 feet **h. Total Capacity of Reservoir in acre feet:** 4.4 acre-feet (conditional) **Active capacity:** 4.4 acre-feet **Dead storage:** None **6. Name of Reservoir:** Warren McDonald

Pond **a. Legal Description**: An on-channel located in the NE 1/4 of the SE 1/4 of Section 36, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,320 feet from the South Section Line and 1,360 feet from the East Section Line. See location map attached to the Application as Exhibit A-5. **b. Source**: Water flowing in the Sarcillo Canyon streambed, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **c. Point of Diversion**: Not applicable. **d. Appropriation**: **i. Date of appropriation**: September 30, 2009 **ii. How appropriation was initiated**: By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use**: Not applicable. **e. Amounts claimed**: **i. 20.0 acre-feet (conditional)** **ii. Rate of diversion for filling Reservoir**: 1 c.f.s. (conditional) **iii. Applicant claims the right to fill and refill the pond without limitation when in priority.** **f. Proposed Uses**: See above paragraph 2(f). **g. Surface area of high water line**: approximately 7.49 acres **i. Vertical height of dam**: approximately 10-15 feet **ii. Length of dam**: approximately 400 feet **h. Total Capacity of Reservoir in acre feet**: 20.0 acre-feet (conditional) **Active capacity**: 20.0 acre-feet **Dead storage**: None **7. Name of Reservoir**: Marjorie Pond **a. Legal Description**: An off-channel pond located in the SW 1/4 of the SE 1/4 of Section 14, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 190 feet from the South Section Line and 1,665 feet from the East Section Line. See location map attached to the Application as Exhibit A-6. **b. Source**: Water flowing in Sarcillo Canyon, tributary to the Purgatoire River, diverted through the pipeline described below. The pond may be filled either from water flowing in the streambed of the unnamed tributary or water diverted from Reilly Canyon, tributary to Purgatoire River, through the pipeline described below Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline**: Marjorie Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion**: The planned point of diversion for Marjorie Pipeline is located in the SW 1/4 of the SE 1/4 of Section 14, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 850 feet from the South Section Line and 1,650 feet from the East Section Line. See location map attached to the Application as Exhibit A-6. **d. Appropriation**: **i. Date of appropriation**: September 30, 2009 **ii. How appropriation was initiated**: By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use**: Not applicable. **e. Amounts claimed**: **i. 14.5 acre-feet (conditional)** **ii. Rate of diversion for filling Reservoir**: 1 c.f.s. (conditional)



iii. Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 2.48 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 500 feet **h. Total Capacity of Reservoir in acre feet:** 14.5 acre-feet (conditional) **Active capacity:** 14.5 acre-feet **Dead storage:** None **8. Name of Reservoir:** Vermejo-Monaco Pond **a. Legal Description:** An on-channel pond located in the NW 1/4 of the NW 1/4 of Section 2, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 120 feet from the North Section Line and 1,410 feet from the West Section Line. See location map attached to the Application as Exhibit A-7. **b. Source:** Water flowing in a small unnamed tributary to Sarcillo Canyon, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **c. Point of Diversion:** Not applicable. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** **i.** 18.8 acre-feet (conditional) **ii. Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional)

iii. Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 2.0 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 400 feet **h. Total Capacity of Reservoir in acre feet:** 18.8 acre-feet (conditional) **Active capacity:** 18.8 acre-feet **Dead storage:** None **9. Name of Reservoir:** Stage Coach Pond **a. Legal Description:** An on-channel pond located in the SE 1/4 of the NE 1/4 of Section 26, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,350 feet from the North Section Line and 530 feet from the East Section Line. See location map attached to the Application as Exhibit A-8. **b. Source:** Stage Coach Pond is an on-channel pond located in an unnamed tributary that flows into the Purgatoire River. The pond may be filled either from water flowing in the streambed of the unnamed tributary or water diverted from Wet Canyon, tributary to the Purgatoire River. Applicant also anticipates that the pond may be filled via exchange using more senior water rights owned or controlled by Applicant, or may be filled with groundwater produced from wells owned or controlled by Applicant, to the extent permitted by law. **Name of Pipeline:** Stage Coach Pipeline with a capacity of 1 c.f.s. **c. Point of Diversion:** The point of diversion for Stage Coach Pipeline is located in the SE 1/4 of the NW 1/4 of Section 26, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 2,020 feet from the North Section Line and 1,940 feet from the West Section Line. See location map attached to the Application as Exhibit A-8. **d. Appropriation:** **i. Date of appropriation:** September 30, 2009 **ii. How**

**appropriation was initiated:** By field inspection, selection of point of diversion, the formation of intent to appropriate water and acts sufficient to put other parties on notice, including, without limitation, the filing of this application. **iii. Date water was applied to beneficial use:** Not applicable. **e. Amounts claimed:** i. 47.5 acre-feet (conditional) ii. **Rate of diversion for filling Reservoir:** 1 c.f.s. (conditional) iii. Applicant claims the right to fill and refill the pond without limitation when in priority. **f. Proposed Uses:** See above paragraph 2(f). **g. Surface area of high water line:** approximately 4.77 acres **i. Vertical height of dam:** approximately 10-15 feet **ii. Length of dam:** approximately 600 feet **iii. Total Capacity of Reservoir in acre feet:** 47.5 acre-feet (conditional) **Active capacity:** 47.5 acre-feet **Dead storage:** None **10. Names and addresses of owners of land upon which any new diversion or storage structures will be located or upon which water will be stored:** a. Applicant. b. Others: i. Brent and Patricia Tamburelli, 137 E. Plum, Trinidad, CO 81082 ii. Charlie Hagen, 2425 E. Main, Trinidad, CO 81082 iii. Warren McDonald, 16403 County Road 41.7, Weston, CO 81091 **11. General Remarks:** a. The subject water rights can and will be diverted, stored, or otherwise captured, possessed and controlled and will be beneficially used and the project can and will be completed with diligence and within a reasonable time. The subject water rights sought herein are being developed as an integrated water supply project, and diligent application of efforts on one aspect of the project should be considered as diligence on the Project as a whole. b. Applicant will install and maintain all necessary measuring devices for administration of the subject water rights.

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**CASE NO. 09CW115 – CHEROKEE METROPOLITAN DISTRICT, c/o Kevin I. Petersen, Manager, 6250 Palmer Park Blvd., Colorado Springs, CO 80905 and FOUNTAIN MUTUAL IRRIGATION COMPANY (Co-Applicant) c/o Gary Steen, Manager, 487 Anaconda Drive, Colorado Springs, CO 80919** (James W. Culichia and David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Change of Water Rights and Plan for Augmentation

**EL PASO COUNTY**

**II. GENERAL STATEMENT OF APPLICANT'S PLAN.** Cherokee seeks a water supply from seven Sand Creek alluvial wells for the uses of municipal, commercial, industrial, and irrigation of two golf courses located within its service area as mapped in Exhibit A ("Service Area") attached to the Application. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. The wells will withdraw groundwater tributary to Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River. Four of the seven wells have been operating under the exchange decree entered in Case No. 85CW127, District Court, Water Division 2. A copy of that decree is attached to the Application as Exhibit B. This Application seeks an augmentation plan for all seven Sand Creek Wells. Cherokee will replace the out-of-priority depletions associated with the pumping from the seven Sand Creek Wells under an augmentation plan using consumptive use credits from

lawn, park and golf course irrigation return flows generated from non-native water to the Fountain Creek system, as adjudicated for such augmentation purposes in Case No. 05CW45, District Court, Water Division 2. A copy of that decree is attached to the Application as Exhibit C. Cherokee will also replace the out-of-priority depletions with hydrant flushing of non-native water to Fountain Creek. Cherokee's hydrant flushing of non-native water to Fountain Creek water is already decreed as a source of augmentation water under Case No. 05CW45. Cherokee will also replace the out-of-priority depletions associated with the pumping from the seven Sand Creek wells with non-tributary Laramie-Fox Hills aquifer water along with the not non-tributary Laramie-Fox Hills and Arapahoe aquifers underlying Cherokee's Service Area as adjudicated in Case No. 05CW45. The augmentation plan lastly includes the use of Fountain Mutual Irrigation Company ("FMIC") shares as a replacement source utilizing the existing Sand Creek augmentation station or a new augmentation station to be constructed on Sand Creek. FMIC is a Co-Applicant in this case only for purposes of protecting the company's interests under the proposed use of the FMIC shares.

**III. PLAN FOR AUGMENTATION.**

**A. Need for Augmentation.** Fountain Creek and the Arkansas River system are generally over appropriated. As such, the water supply for the river system is generally insufficient to satisfy all of the decreed water rights senior to the appropriation of the Applicant, and therefore out-of-priority depletions caused to the Arkansas River by pumping Cherokee's Sand Creek Wells must be replaced to the river in a manner so as not to cause material injury to any vested water rights or decreed conditional water rights.

**B. Structures to be Augmented.** Cherokee seeks to augment the depletions from pumping Cherokee's Sand Creek Well Nos. 1, 2, 3, 4, 5, 6 and 7. Well permits are to be approved in accordance with the terms of this plan for augmentation. The structures to be augmented are described as follows:

**1. Name of Structure.** Cherokee Sand Creek Well No. 1.

**i. Legal Description.** Cherokee Sand Creek Well No. 1 is located in the Northeast 1/4 of the Northeast 1/4 of Section 18, Township 14 South, Range 65 West, of the 6th P.M.

**ii. Source.** The source of water for the Cherokee Sand Creek Well No. 1 is the alluvium of the East Fork of Sand Creek, tributary to Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River.

**iii. Amount.** 125 annual acre-feet, at a pumping rate of 100 g.p.m.

**iv. Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange.

**v. Previous Decree Information.** Case No. 85CW127, decree entered into on September 5, 1986.

**vi. Well Permit No.** 31777-F.

**vii. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No. 1 is located upon land owned by Cherokee.

**2. Name of Structure.** Cherokee Sand Creek Well No. 2.

**i. Legal Description.** Cherokee Sand Creek Well No. 2 is located in the Northwest 1/4 of the Northeast 1/4 of Section 18, Township 14 South, Range 65 West, of the 6th P.M.

**ii. Source.** The source of water for the Cherokee Sand Creek Well No. 2 is the alluvium of the East Fork of Sand Creek, tributary to Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River.

**iii. Amount.** 125 annual acre-feet, at a pumping rate of 80 g.p.m.

**iv.**

**Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, livestock, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange. **v. Previous Decree Information.** Case No. 85CW127, decree entered into on September 5, 1986. **vi. Well Permit No. 30957-F.** **vii. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No. 2 is located upon land owned by Cherokee. **3. Name of Structure.** Cherokee Sand Creek Well No. 3. **i. Legal Description.** Cherokee Sand Creek Well No. 3 is located in the Northwest 1/4 of the Northeast 1/4 of Section 18, Township 14 South, Range 65 West, of the 6th P.M. **ii. Source.** The source of water for the Cherokee Sand Creek Well No. 3 is the alluvium of the East Fork of Sand Creek, tributary to Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River. **iii. Amount.** 125 annual acre-feet, at a pumping rate of 100 g.p.m. **iv. Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, livestock, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange. **v. Previous Decree Information.** Case No. 85CW127, decree entered into on September 5, 1986. **vi. Well Permit No. 30956-F.** **vii. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No. 3 is located upon land owned by Cherokee. **4. Name of Structure.** Cherokee Sand Creek Well No. 4. **i. Legal Description.** The decreed location of the Cherokee Sand Creek Well No. 4 is in the Northeast 1/4 of the Northeast 1/4 of Section 18, Township 14 South, Range 65 West, of the 6th P.M. **ii. Source.** The source of water for the Cherokee Sand Creek Well No. 4 is the alluvium of the East Fork of Sand Creek, tributary to Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River. **iii. Amount.** 125 annual acre-feet, at a pumping rate of 100 g.p.m. **iv. Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, livestock, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange. **v. Previous Decree Information.** Case No. 85CW127, decree entered into on September 5, 1986. **vi. Well Permit No. 30955-F.** **vii. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No. 4 is located upon land owned by the United States Air Force, Air Space Command, 150 Vandenberg St., Ste 1105 Peterson AFB, Colorado 80914-4500. **5. Name of Structure.** Cherokee Sand Creek Well No. 5. **i. Legal Description.** The permitted location of the Cherokee Sand Creek Well No. 5 is in the Northwest 1/4 of the Northwest 1/4 of Section 6, Township 14 South, Range 65 West, of the 6<sup>th</sup> P.M. **ii. Source.** The source of water for the Cherokee Sand Creek Well No. 5 is the alluvium of the Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River. **iii. Amount.** 400 annual acre-feet, at a pumping rate of 300 g.p.m. **iv. Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, livestock, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange. **v. Well Permit No. 67221-F.** **vi. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No. 5 is located upon land owned by PMA Holdings, LLC, 1110 Langness Circle, Calhan, CO 80808. **6. Name of Structure.** Cherokee Sand Creek Well No. 6. **i.**

**Legal Description.** Cherokee Sand Creek Well No. 6 will be located in the Southwest 1/4 of the Northwest 1/4 of Section 6, Township 14 South, Range 65 West, of the 6<sup>th</sup> P.M. **ii. Source.** The source of water for the Cherokee Sand Creek Well No. 6 is the alluvium of Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River. **iii. Amount.** 300 annual acre-feet, at a pumping rate of 250 g.p.m. **iv. Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, livestock, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange. **v. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No. 6 is located upon land owned by PMA Holdings, LLC, 1110 Langness Circle, Calhan, CO 80808. **7. Name of Structure.** Cherokee Sand Creek Well No. 7. **i. Legal Description.** Cherokee Sand Creek Well No. 7 will be located in the Southeast 1/4 of the Southeast 1/4 of Section 7, Township 14 South, Range 65 West of the 6<sup>th</sup> PM. **ii. Source.** The source of water for the Cherokee Sand Creek Well No. 7 is the alluvium of the East Fork of Sand Creek, tributary to Sand Creek, tributary to Fountain Creek, tributary to the Arkansas River. **iii. Amount.** 300 annual acre-feet, at a pumping rate of 250 g.p.m. **iv. Uses to be Augmented.** All beneficial uses, including without limitation, municipal, domestic, livestock, irrigation, industrial, fire protection, recreation, commercial, augmentation, recharge, and exchange. **v. Name and Address of Owner of Land Upon Which Well is Located.** Cherokee Sand Creek Well No.7 is located upon land owned by Fontana Enterprises, Inc., 6865 Galley Rd., Colorado Springs, Colorado 80915. **C. Water Rights to be Used for Augmentation.** **1. Fountain Mutual. (a) FMIC Shares.** The water rights to be used for augmentation are 98 shares of Fountain Mutual Irrigation Company (“FMIC”) which Cherokee owns or leases. Any FMIC shares leased by Cherokee will only be used to replace depletions for interruptible uses, such as golf course irrigation. FMIC diverts its water to the Fountain Mutual Ditch from Fountain Creek tributary to the Arkansas River, at its headgate located in the SW1/4 of Section 20, Township 14 South, Range 66 West, 6<sup>th</sup> P.M. FMIC’s water rights were originally decreed for irrigation purposes. Those water rights have been the subject of numerous change actions and plans of augmentation. FMIC water rights are decreed as follows:

**DIRECT FLOW**

Fountain Creek <u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (cfs)</u>
4	9/21/1861	3/6/1882	9.84 (5.38) <sup>1</sup>
7	4/1/1862	3/6/1882	1.125
11	2/1/1863	3/6/1882	16.69
17	12/31/1863	3/6/1882	4.25 (2.125) <sup>2</sup>

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<sup>1</sup> FMIC’s interest in Priority No. 4 is 5.38 cfs. The amount of 1.73 cfs was changed on application of Security Water District in Case No. 90CW28. In addition to the 5.38 cfs, FMIC claims the right to divert any of the remaining 2.73 cfs decreed to this priority which is not used by the other owners thereof.

21	12/31/1864	3/6/1882	4.65
28	12/31/1866	3/6/1882	8.48
29	12/31/1867	3/6/1882	9.68
41	9/21/1874	3/6/1882	17.05
168	1/31/1903	6/2/1919	343.2

**STORAGE**

Fountain Creek

<u>Priority No.</u>	<u>Priority Date</u>	<u>Decree Date</u>	<u>Total Decree (AF)</u>
Fountain	3/18/1903	6/2/1919	10,000

**(b) Historic Use.** FMIC water rights have been decreed for use in numerous other changes of water rights and plans of augmentation. In those previous cases, this Court has determined that each share of FMIC has historically yielded on the average the equivalent of 0.7 acre foot of net replacement or consumptive use water each year, which number represents a portion of the farm headgate delivery. These findings have been previously established by this Court, without limitation, in the decrees in Case Nos. 90CW28, 95CW3, 90CW7, 99CW146, 00CW152, 02CW63, 02CW112, 04CW55 and 05CW33, District Court for Water Division 2. The replacement or augmentation credit allowed to FMIC water rights, as also determined in prior cases, is a percentage of the FMIC actual delivery to its shareholders computed on the basis of the following table.

**FMIC REPLACEMENT CREDIT**

<u>Month</u>	<u>Replacement Credit as a Percentage of Farm Headgate Delivery</u>
January	47
February	58
March	70
April	70
May	70
June	70
July	72
August	72
September	74
October	66
November	40
December	49

This historic consumptive use of FMIC shares determined in Case No. 95CW3 was affirmed by the Colorado Supreme Court, which findings are binding as a matter of res judicata. Williams v. Midway Ranches Property Owners Association, Inc., 938 P.2d 515 (Colo. 1997). This same historic consumptive use was most recently affirmed in Case Nos. 02CW63, 02CW112, 04CW55 and

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<sup>2</sup> Priority No. 17 is referred to as the Janitell's right and FMIC has used one-half of the water, or 2.125 cfs, in return for the carriage of the other 2.125 cfs to its owner through the FMIC ditch. By Decree Authorizing Change in Point of Diversion in Civil Action No. 38180, entered July 29, 1959, the point of diversion for this 4.25 cfs of Priority No. 17 of the Laughlin Ditch was changed to the headgate of the Fountain Mutual Ditch.

05CW33. There have been no material changed circumstances since this last decrees to modify these historical consumptive use determinations. Applicant requests that the Court find that each FMIC share has historically yielded on the average the equivalent of 0.7 acre foot of net replacement or consumptive use water each year, which number represents a portion of farm headgate delivery. The total amount of consumptive use pursuant to the FMIC water rights varies from year to year based upon the amount of water available for diversion under those rights. Therefore, the actual consumptive use available from such shares shall be based on actual in-priority diversions applied to the above monthly replacement credit schedule. Augmentation credit will be limited to a maximum of one acre foot per share per year. As Cherokee relies upon these prior determinations, diversion records and a map are not submitted. **2. Denver Basin Groundwater underlying Cherokee's Service Area.** Applicant, by the decree entered into in Case No. 05CW45, on November 21, 2008, quantified the Denver Basin groundwater underlying Cherokee's Service Area pursuant to C.R.S. § 37-90-137(8). Pursuant to that decree, Cherokee has the right to withdraw 28.8 acre feet annually from the not nontributary Arapahoe aquifer (4% augmentation requirement), 504.0 acre feet from the not nontributary Laramie-Fox Hills aquifer (4% augmentation requirement), and 14.8 acre feet annually from the nontributary Laramie-Fox Hills aquifer, for all beneficial purposes including the replacement of depletions resulting Cherokee's Sand Creek wells. This includes the right to use, reuse, and successively use the nontributary Laramie-Fox Hills aquifer to extinction after relinquishment of 2% of such water. Any and all use of the Denver Basin groundwater to be used under this augmentation plan will be pursuant to and subject to the decree entered in Case No. 05CW45. **3. Lawn, Park and Golf Course Irrigation Return Flows.** Applicant, by the decree entered into in Case No. 05CW45, quantify the irrigation return flows within Cherokee's Service Area generated from the application of non-native water to the Fountain Creek system for lawns, parks and golf courses within Cherokee's Service Area. All such return flows from non-native water within Cherokee's Service Area returns to Sand Creek. Under Case No. 05CW45, Cherokee can claim credit for its irrigation return flows for augmentation purposes. Any and all use of such irrigation return flows will be pursuant to and subject to Case No. 05CW45. **4. Hydrant Flushing.** Cherokee currently flushes all of its hydrants within its service area. The water in the hydrants comes from non-native sources to the Fountain Creek system. All of the water flushed from the system accrues to Sand Creek. Cherokee will meter the releases of the District's potable water from the hydrants. Cherokee's hydrant flushing of non-native water is already decreed as an augmentation source for depletions to Sand Creek under Case No. 05CW45 and any and all use of such water will be pursuant to and subject to that decree. **C. Statement of Plan for Augmentation.** All of Cherokee's Sand Creek Wells except for Sand Creek Well No. 4 are within 100 feet of the stream alluvium. Therefore, all of Cherokee's Sand Creek wells, except for Sand Creek Well No. 4, are considered headgate wells and such depletions from those wells occur instantaneously to Sand Creek. Cherokee's water resource engineer will calculate the lagged

depletions from Cherokee's Sand Creek Well No. 4 using the Glover method. Cherokee's Denver Basin groundwater, lawn, park and golf course return flows from non-native water, hydrant flushing of non-native water along with the consumptive use attributable to FMIC shares shall be committed to this plan for augmentation to replace the out-of-priority depletions associated with the diversions from all of Cherokee Sand Creek Wells. All irrigation return flow credits from residential, commercial, parks, and golf course sources as described in 05CW45 are assumed to be credited to the stream in the month in which the irrigation was applied. Water available under Cherokee's FMIC shares will be diverted at the headgate of the Fountain Mutual Ditch and released back to Fountain Creek at the Spring Creek Augmentation Station or a new augmentation station located at a point where the canal for FMIC intersects with Sand Creek above the Chilcott Ditch headgate. Cherokee intends to use the Sand Creek augmentation station for the direct replacement of its depletions to Sand Creek when failure to make such replacements directly to Sand Creek could adversely impact the recharge of the Widefield Aquifer if those depletions were only replaced at the Spring Creek augmentation station. Cherokee will contract with FMIC or other parties for the use of such augmentation stations. The replacement credits under this plan for FMIC shares will be computed as a percentage of actual FMIC in-priority diversions applied to the above monthly replacement credit schedule. Cherokee's pro rata share of water attributable to its FMIC shares may be placed into storage in FMIC's 10,000 acre feet of decreed storage in Big Johnson Reservoir, together with any excess consumptive use credits from FMIC shares put through the augmentation station. Such storage and use shall be in accordance with FMIC rules and regulations. The water so stored in Big Johnson Reservoir is to be used as augmentation and may be delivered to the Spring Creek augmentation station by means of an intraditch exchange during any month in which Applicant's deliveries of water under its direct flow rights to the Spring Creek augmentation station may be inadequate. The intraditch exchange from Big Johnson Reservoir to the Spring Creek and Sand Creek augmentation stations will operate at any time FMIC is diverting water, except when both (a) Big Johnson Reservoir is full, and (b) the date is between November 15 and March 15. This intraditch exchange will operate from Big Johnson Reservoir, which is located in Sections 8, 17 and 18, Township 15 South, Range 65 West, 6<sup>th</sup> P.M., up the Fountain Mutual Ditch to the location of the Spring Creek augmentation station in the NE1/4 of Section 29, Township 14 South, Range 66 West, 6<sup>th</sup> P.M., or the Sand Creek augmentation station to be located in the N1/2 of Section 34, Township 14 South, Range 66 West, 6<sup>th</sup> P.M. As an alternative to the delivery of water to the Spring Creek augmentation station, if FMIC constructs a new augmentation station on the Fountain Mutual Ditch down gradient from Big Johnson Reservoir, Applicant's replacements may also be made by releasing water from Big Johnson Reservoir and returning it to Fountain Creek via the Crews Gulch augmentation station or through the new augmentation station to be constructed above the headgate of the Chilcott Ditch, in addition to the intraditch exchange. Storage releases can be made at any time to the extent that Applicant owns a pro rata portion of the



water stored in big Johnson Reservoir. Cherokee's FMIC water rights are to be changed herein for augmentation purposes and will be permanently removed from their historical use for irrigation at such time as these shares are committed to meet depletions under this plan of augmentation. Until so used in existing or pending plans of augmentation, such FMIC shares may be continued to be used through the Fountain Mutual Ditch in accordance with the terms of its decrees. Once shares have been dedicated to existing or pending augmentation plans for replacement purposes, those shares will not be used for other purposes absent a new water court application. The Fountain Mutual system is a water short system, and the withdrawal of water deliveries under the Fountain Mutual Ditch to lands under the FMIC system results in naturally reduced irrigation and the dry up of property. No dry up covenant for Fountain Mutual lands is therefore required for shares committed to this plan of augmentation. Williams v. Midway Ranches Property Owners Association, Inc., 938 P.2d 515 (Colo. 1997); and Case Nos. 97CW7, 90CW28, 95CW3, 99CW146, and 99CW152. **IV. Cherokee's Other Augmentation Obligations.** Cherokee currently provides augmentation water for depletions to Sand Creek from well pumping under several augmentation plans. Those augmentation plans, without limitation, are Case Nos. 93CW11, 97CW36, 93CW77, 94CW40, 94CW68 (consolidated with 94CW69 and 94CW75), 95CW135, 95CW189, 96CW60, 97CW37, 92CW03, 97CW148, 87CW08, 92CW78. Cherokee's total augmentation obligation for all of these augmentation plans is approximately 10 annual acre feet. Cherokee currently meets these obligations with the effluent discharged from its current wastewater treatment facility to Sand Creek. Beginning approximately March 1, 2010, Cherokee will no longer discharge its sewer effluent to Sand Creek. To the extent such obligations exist under the above decrees, Cherokee will meet such obligations through the delivery of nontributary Laramie-Fox Hills groundwater, lawn, park and irrigation return flows, hydrant flushing all discharged by Cherokee to Sand Creek. Cherokee may also meet such augmentation obligations from the consumptive use attributable to the FMIC shares changed by this Application. **V. Terms and Conditions.** Cherokee proposes the following additional terms and conditions to prevent injury to other vested water rights by this plan for augmentation and change of water right: A. Totalizing flow meters will be maintained on all of Sand Creek Wells to allow accurate monitoring and administration of this augmentation plan. B. Monthly accountings shall be made to the Division Engineer demonstrating compliance with this plan for each well, including diversions for each well, total stream depletions, available augmentation water credit and also any intraditch exchange and release of storage water under Cherokee's FMIC shares. C. Cherokee shall measure and account for its entitlement under its FMIC shares through use of an augmentation station. D. Cherokee will curtail its well diversions if the augmentation water available under this augmentation plan is not sufficient to fully augment the depletions from its Sand Creek Wells.

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

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Witness my hand and the seal of this Court this 2nd day of October, 2009.



*Mardell R. DiDomenico*

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

(Court seal)  
Published: October \_\_\_\_\_, 2009

## NOTICE

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

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