

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING SEPTEMBER 2017

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during September 2017, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2016CW3100 - GLEN and PAT BURGNER (“Applicants”), 557 Blackhawk Road, Boulder, CO 80303 (Please address all correspondence and inquiries regarding this matter to Applicants’ attorney: Kevin J. Kinnear, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, Colorado 80302, (303) 443-6800) Amended Application for Water Storage Right, Change of Water Right, and Approval of Plan for Augmentation

FREMONT COUNTY

2. Amendment and Background: The Amended Application corrects the county in which the subject land and water rights are located. The original application incorrectly identified the location in Chaffee County; the location is actually in Fremont County. The remainder of the original application is unaltered, as follows: Applicants own 80 acres southeast of Salida (Figure 1 to Amended Application. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court). There is an old beaver pond on their property which was constructed on Rock Creek, a.k.a. East Bear Creek, a tributary of Bear Creek (Figure 2 to Amended Application). The beavers are gone for now, and Applicants have reinforced the dam, installed an outlet pipe and spillway, and rehabilitated and developed the inlet works. Consequently, the Division No. 2 Engineer’s office has taken the position that the pond now falls under jurisdiction of the Division No. 2 Engineer and the local Water Commissioner (Water District No. 11), and that the evaporation depletions must be replaced. Applicants will do this by changing a portion of their senior irrigation water right, drying up a portion of irrigated acreage on the property, and using the historical consumptive use associated with that irrigation right to augment out of priority depletions. **3. Application for Water Storage Right:** **A. Name of Reservoir:** Burgener Beaver Pond **B. Legal description of location of pond:** SW 1/4 NE 1/4 sec. 34, T49N, R9E, N.M.P.M., 1,400 feet from North line, 2,000 feet from East line. **C. Source:** Rock Creek, a.k.a. East Bear Creek, a tributary of Bear Creek, a tributary of the Arkansas River. **D. Date of appropriation:** December 31, 2016. **E. How appropriation was initiated:** by completing improvements to the existing beaver dam several years ago so the pond could hold water again, and by filing this application. **F. Date water applied to beneficial use:** prior to December 31, 2016. **G. Uses:** recreational, fire-fighting, fishery, and wildlife purposes, and for storage of augmentation water to the extent necessary pursuant to this plan for augmentation. **H. Amount claimed:** 0.65 acre-feet, absolute, with flow-through and/or continuous re-fill. **I. Surface**

area of high water line: 0.109 acre. **J. Total capacity of reservoir in acre-feet:** 0.65 acre-feet. Active capacity: 0.65 acre-feet; Dead storage: 0 acre-feet. Applicants will store water in the Burgener Beaver Pond whenever water is available in priority, and they will also store water in said pond when water is out of priority and will augment the out of priority evaporative depletions associated with said storage. Total annual evaporation from the pond is estimated to equal 0.30 acre-feet per year. **4. Application for Change of Water Right:** Applicants are the owners of one-fourth (1/4) of the Smith Ditch No. 2. The Smith Ditch No. 2 was adjudicated in Case No. 05-29-1900, decreed on May 29, 1900, with a priority date of April 10, 1880, for irrigation use on 25.75 acres, and it is Priority No. 3 on the Bear Creek system. Applicants' 1/4 interest in the water right equals 0.25 cfs and was historically used to irrigate up to 7.41 acres of original 25.75 acres (Figure 3 to the Amended Application). Based on an evaluation of the historical use of this water rights, Applicants' water engineer has estimated that the historical consumptive use associated with Applicants' interest in the Smith Ditch No. 2 water rights is equal to an average of 1.8 acre-feet per acre per year. Applicants will be changing 0.0065 cfs of their 0.25 cfs, resulting in an average annual historical consumptive use of the changed amount equal to 0.30 acre-feet. Applicants will dry up 0.17 acre to make this amount available as augmentation water to replace out of priority depletions associated with the Burgener Beaver Pond. To the extent necessary, Applicants claim the historical return flows resulting from the irrigation use of the 0.0065 cfs of the Smith Ditch No. 2 being changed, so historical irrigation return flows need only be replaced at times when there is an administrable call for water senior to December 31, 2016. **5. Application for Approval of Plan for Augmentation:** **A. Names of Structures to be Augmented:** Burgener Beaver Pond. **B. Augmentation Water Rights:** Applicant's Smith Ditch No. 2 water right being changed as described in paragraph 4 above. **C. Statement of plan for augmentation:** Applicant will store water year-round in the Burgener Beaver Pond for recreational, fire-fighting, fishery, and wildlife uses, and for augmentation for evaporation to the extent necessary. All water stored out of priority, and all out of priority depletions resulting from evaporation as a result of such storage, will be replaced with a portion of Applicants' Smith Ditch No. 2 water right described in paragraph 4 above, as changed and quantified herein. Such replacement will be made by crediting to the stream the historical consumptive use resulting from the dry-up described in paragraph 4 above during the irrigation season, and a portion of the historical consumptive use water will be placed into storage for later augmentation use during the non-irrigation season. **6. Names and addresses of owners upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** Applicants are the owners of land upon which the augmented structure, the Burgener Beaver Pond, will be located.

CASE NO. 2017CW12; Previous Case No. 2011CW9 - HIGH FOREST RANCH HOME OWNERS ASSOCIATION, c/o Z&R Property Management, 6015 Lehman Drive, #205, Colorado Springs, CO 80918; (719) 594-0506

Application to Make Absolute in Whole or in Part

EL PASO COUNTY

Name of structure: Upper Pond. **Describe conditional water right:** **Date of Original Decree:** Jul 6 2011; **Case Number:** 11CW9; **Court:** Div. 2. **Legal description:** Location: NE ¼ SE ¼ Section 26, T11S, R66W, 6th P.M., northing 39 degrees 03 minutes, 43.8 seconds Easting 104 degrees, 44 minutes, 26.3 seconds. **Source of water:** Dawson Aquifer - Denver Basin. **Appropriation Date:** February 24 2011; **Amount:** Not to exceed 4.5 acre feet. **Use:** Fish and wildlife, fire protection. **Depth (if well):** per permit at appx 500 feet. **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 decree:** Reservoir was engineered and construction monitored by JDS Hydro consultants. Pond is an off-channel reservoir and does not intercept ground water. Reservoir has two aerator heads. Area dredged, lined with plastic, well drilled with flow monitor and spillway/dam constructed per permit specifications. Reservoir was constructed within approved site location. Max depth is 9 feet and max volume is 536K gallons. Surface area is less than 1 acre and disturbed area is .86 acres. In coordination with Blak Forest Fire District a turnout and a dry drafting hydrant was installed to support water removal for Fire protection/Fire Fighting. Hydrant is inspected and tested by Black Forest fire department annually with no issues noted. Reservoir is maintained and inspected by BR&D Landscaping on a regular basis to ensure the integrity of the reservoir/dam, functionality of all mechanical equipment and quality of water. Mosquito control is performed. Pond is stocked with fish on an annual basis. Total cost for reservoir was \$171,261.06 and was paid from HFR HOA reserve account. This total includes an HFR HOA special assessment of \$100,000 (\$500 per lot owner) that was collected to reduce impact on HFR HOA reserve account. Reservoir is currently filled with water and functioning per design with no noted leaks nor water loss. **If claim to make absolute in whole or in part:** **Date water applied to beneficial use:** June 14, 2013; **Amount:** Max 536,000 gal. **Use:** fish and wildlife, fire mitigation. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

CASE NO. 2017CW3052 - MERLE and SHERRI MANWEILER and JUSTIN and ATHENA MANWEILER, P.O. Box 8612, Pueblo, CO 81008 (Please direct all correspondence and inquiries to Applicants' attorney: MacDougall & Woldridge, P.C., Julianne M. Woldridge, 1586 So. 21st St., Suite 200, Colorado Springs, CO 80904, (719) 520-9288)

Application for Amendment of Plan for Augmentation

PUEBLO COUNTY

Augmentation plan to be amended: Applicants request approval of an amendment to the augmentation plan approved by Findings of Fact, Conclusions of Law, and Ruling and Decree of Water Court entered on February 3, 2015, Case No. 14CW3035. The current plan augments depletions from three off-channel ponds owned by Applicants and described as follows, whose sources are springs tributary to the Arkansas River: a. Pond No. 1: located on Lot 3, NW1/4 of Section 1, T.21S., R.64W., 6th P.M., UTM NAD83 coordinates of the center of the dam are approximately Northing 4234429, Easting 543169, Zone 13N, with a water right of 5.34 acre-feet absolute; b. Pond No. 2: located on Lot 2, NE1/4 of Section 1, T.21S, R.64W., 6th P.M., UTM NAD83 coordinates of the center the dam are approximately Northing 4234412, Easting 543362, Zone 13N, with a water right of 4.23 acre-feet absolute; and c. Pond No. 3: located on Lot 2, NE1/4 of Section 1, T.21S., R.64W., 6th P.M., UTM NAD83 coordinates of the center of the dam are approximately Northing 4234367, Easting 543430, Zone 13N, with a water right of 1.56 acre-feet absolute. The water rights for the Ponds were adjudicated in the same case for recreation, piscatorial purposes, wildlife habitat, fire protection, and aesthetic enjoyment. Applicants own the water rights for the ponds. The augmentation plan replaces 7.33 acre-feet per year of gross annual evaporative losses from the Ponds based on a monthly schedule stated in the decree in Case No. 14CW3035. Applicants request an amendment to the augmentation plan to approve an additional source of augmentation water. The source of augmentation water in the plan as approved is water leased from the Arkansas Groundwater Users Association ("AGUA"). Applicants propose to include fully consumable water leased from Colorado Water Protective and Development Association ("CWPDA") as an additional source of augmentation water, in addition to water leased from AGUA as approved under the current plan. Applicant, Merle Manweiler, has a current agreement with CWPDA to lease 7.33 acre-feet of water of fully consumable water per year that expires July 31, 2032. CWPDA will make the augmentation water available at the point of depletion or at any location above the point of depletion commensurate with the estimated monthly depletions set forth in the decree in Case No. 14CW3035. The inclusion of this new source of augmentation water will also serve to extend the term of the augmentation plan to July 31, 2032 without further notice. Applicants are not requesting any other amendments to the augmentation plan. Except as provided herein the terms and conditions of the previously approved augmentation plan will remain unchanged. The additional augmentation water will replace out-of-priority depletions in time, amount, and location to prevent injury to the owners of or users of vested water rights or decreed conditional water rights. **4. Names and addresses of owners of land upon which the ponds are located:** The ponds are on parcels owned by Applicants.

CASE NO. 2017CW3053 - RAY AND SONJA SNIFFEN LIVING TRUST, c/o Chris Sniffen, 3140 Washington Road, Calhan, CO 80808

(Please address all correspondence and inquiries to Applicant's attorney: Chris D. Cummins, Monson, Cummins & Shohet, LLC, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater

EL PASO COUNTY

II. Summary of Application. Applicant seeks to quantify all Denver Basin groundwater in each aquifer underlying the specifically described parcel of land herein for vesting of such water rights, in anticipation of future uses thereof. No plan for augmentation for the use of the not-nontributary groundwater is sought herein, but rather will be the subject of a subsequent and separate application. **III. Application for**

Underground Water Rights. **A. Legal Description of Property and Wells.** 1.

Property Description. All wells to all aquifers will be located on the Applicant's property.

Applicant's Property is approximately 160 acres in size, and is more specifically described as follows: The SE $\frac{1}{4}$ of Section 21, Township 12 South, Range 61 West of the 6th P.M., El Paso County, Colorado. 2. **Existing Wells.** There is currently one (1)

existing well constructed to the nontributary Arapahoe aquifer on the Applicant's Property: DWR Permit No. 80535, permitted pursuant to C.R.S. 37-90-137(4), also known as Sniffen Well No. 1. 3. **Additional Wells.** Applicant's anticipated additional

wells will be constructed on the Applicant's Property to some or all of the Denver Basin aquifers for which quantification is sought herein. To the extent any additional wells may be constructed to the not-nontributary Denver aquifer, such wells may be

constructed only pursuant to a subsequent decree providing an approved plan for augmentation, or as exempt well structures pursuant to C.R.S. §37-92-602. **B. Water Source.** 1. **Not-Nontributary.** The ground water to be withdrawn from the Denver

aquifer of the Denver Basin underlying Applicant's Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5)(C) the augmentation requirements for wells in the Denver aquifer will require replacement of 4% of pumping, and no such withdrawals shall be made of the not-nontributary groundwater in the Denver aquifer sought to be

quantified herein absent a decreed plan for augmentation, subject to a future application to the Water Court for the same. 2. **Nontributary.** The groundwater that will be withdrawn from the, Arapahoe and Laramie-Fox Hills aquifers of the Denver Basin underlying the Applicant's Property is nontributary. **C. Estimated Rates of Withdrawal and Ground Water Available.** 1. **Estimated Rates of Withdrawal.** Pumping from the

wells will not exceed 150 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests 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.** Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying each of the Applicant's Property. Said amounts may be withdrawn over the 100-year life of the aquifers pursuant to C.R.S. §37-90-137(4). Applicant estimates that

the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)
Denver (NNT)	103.3	2,809	24.9 ¹
Arapahoe (NT)	200.2	5,445	54.45
Laramie Fox Hills (NT)	223.7	5,369	53.69

a. Decreed amounts of quantified groundwater under the above described parcel may vary based upon the State's Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amounts of water available for appropriation and withdrawal from each aquifer under Applicant's Property. **D. Requested Uses.** The Applicant requests the right to use the ground water for beneficial uses both on and off of the Applicant's Property, consisting of domestic, commercial, industrial, irrigation, stock water, recreational, wildlife, wetlands development and maintenance, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary ground water may be used, reused, and successively used to extinction, subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant seeks to use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the not-nontributary Denver aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). **E. Well Fields.** Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. **F. Averaging of Withdrawals.** Applicant requests that it be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's 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 of water which the Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. **G. Owner of Land Upon Which Wells are to Be Located.** The land upon which the wells are and will be located is owned by Applicant, as described herein. **IV. Remarks.** A. Applicant requests a finding that they have complied with C.R.S. §37-90-137(4), and that the not-nontributary ground water

¹ This amount has been reduced by 4 annual acre feet to allow for the potential future development of up to four exempt wells on the 160 acre parcel, consistent with C.R.S. 37-92-602 *et seq.*

requested herein is legally available for withdrawal, as conditioned only upon the entry of a subsequent decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). B. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water. C. The additional well(s) shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. D. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. E. Applicant 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 14 days of the filing of this application.

CASE NO. 2017CW3054; Previous Case No. 2007CW47 - COLORADO CENTRE METROPOLITAN DISTRICT, c/o Cindy Monroe, Manager, 4770 Horizonview Drive, Colorado Springs, CO 80925 (Please direct all pleadings to Applicant's attorney: Kevin J. Kinnear, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302)

Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

2. Names of structures: 200 Series Wells 1st Enlargement. **3. Description of conditional water rights:** The 200 Series Wells 1st Enlargement was decreed by the District Court in and for Water Division No. 2 ("Water Court") in Case No. 07CW47 in the amount of 400 gpm (0.9 cfs), conditional, from any one or combination of the 200 Series Wells, with an appropriation date of May 10, 2007, for domestic, municipal (including fire protection), commercial, irrigation, industrial and recreation uses, the source of which is the Jimmy Camp Creek alluvium; **Legal Description:** Well No. 201 (Permit 19273-1): SW ¼ SE ¼ Sec. 10, T15S, R65W, whence SW corner of said Sec. 10 bears S. 69°55' W., 3265 ft. Well No. 202 (Permit 19273-2): SE ¼ NW ¼, Sec. 10, T15S, R65W, whence SW corner of said Sec. 10 bears S. 19° 55' W., 4354 ft. Well No. 203 (Permit 19273-3): NW ¼ NE ¼ Sec. 10, T15S, R65W, whence NW corner of said Sec. 10 bears N. 72°18' W., 2921 ft. Well No. 204 (Permit 19273-4): NW ¼ NE ¼ Sec. 10, T15S, R65W, whence NW corner of said Sec. 10 bears N. 73°24' W., 2958.9 ft. Well No. 205 (Permit 19273-5): NW ¼ NE ¼ Sec. 10, T15S, R65W, whence NW corner of said Sec. 10 bears N. 87°07' W., 3279.7 ft. Well No. 206 (Permit 19273-6): NW ¼ NE ¼ Sec. 10, T15S, R65W, whence NW corner of said Sec. 10 bears N. 89°51' W. 3468.9 ft. Well No. 207 (Permit 19273-7): SW ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 89°32' W., 3697.9 feet. Well No. 208 (Permit 19273-8): SW ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 88°11' W., 3867 ft. Well No. 209 (Permit 19273-9): SE ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 86°12' W., 4071.37 ft. Well No. 210 (Permit 19273-10): SE ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 76°38' W., 4894.74 ft. Well No. 211 (Permit 19273-11): SE ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 75°13' W., 4404.72 ft. Well No. 212 (Permit 19273-12): NE ¼ NE ¼ Sec. 10, T15S, R65W, whence NW corner of said Sec. 10 bears N. 85°38' West, 4051 feet. Well No. 213 (Permit 19273-13): NE ¼ NE ¼ Sec.

10, T15S, R65W, whence NW corner of said Sec. 10 bears N. 79°00' W, 3730 ft. Well No. 214 (Permit 19697-14): SE ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 72°32' W, 4688 ft. Well No. 215 (Permit 12547): SW ¼ SE ¼ Sec. 10, T15S, R65W, being 3200 ft. E of the W line and 4000 ft. S of the N line of said Sec. 10. Well No. 216 (Permit 23935-F (R-314)): NW ¼ NE ¼ Sec. 10, T15S, R65W, being 2980 ft. E of the W line and 950 ft. S of the N line of said Sec. 10. Well No. 217 (Permit 12542): SW ¼ SE ¼ Sec. 3, T15S, R65W, being 4960 ft. S of the N line and 3900 ft E of the W line of said Sec. 3. Well No. 218 (Permit 12541): SW ¼ SE ¼ Sec. 3, T15S, R65W, being 3600 ft. E of the W line and 1100 ft. N of the S line of said Sec. 3. Well No. 219 (Permit 19753): SW ¼ NW ¼ Sec 10, T15S, R65W, being 1100 ft. E of the W line and 1700 ft S of the N line of said Sec. 10. Well No. 221 (Permit No. 19273-Sump #1): SE ¼ SE ¼ Sec. 10, T15S, R65W, whence SW corner of said Sec. 10 bears S. 88°52' W., 4639.8 ft. Well No. 222 (Permit 19273 - Sump #2): SE ¼ SE ¼ Sec. 3, T15S, R65W, whence SW corner of said Sec. 3 bears S. 83°37' W., 4182.23 ft. The legal description The 200 Series Wells were decreed by the District Court in and for Water Division No. 2 ("Water Court") in Case No. W-2694, for domestic, municipal (including fire protection), commercial, irrigation, industrial and recreation uses, and which derive their source from Jimmy Camp Creek, which is tributary to Fountain Creek (collectively, the "200 Series Wells"), the descriptions of which are attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) In Case No. 96CW189, the Water Court approved the District's right to alternately divert each of the 200 Series Wells at the location of each of the other 200 Series Wells, at an individual rate of 600 gpm each, with a cumulative rate of 2,725 gpm, which is the combined decreed rate of the 200 Series Wells. The 200 Series Well 1st Enlargement water right is in addition to the 2,725 gpm originally decreed to the 200 Series Wells. **4. Detailed outline of work done to complete project and apply water to beneficial use:** The 200 Series Wells 1st Enlargement water right is part of the integrated water supply system of the Colorado Centre Metropolitan District (the "District"). The District's service area presently consists of approximately 4,100 acres located in T. 14 and 16 S., R. 65 W. of the 6th P.M., El Paso County. During the subject diligence period, the District has conducted the following diligence activities: A. the District completed its connection to the Lower Fountain Metropolitan Sewage Disposal District wastewater treatment plant at a total cost of nearly \$2,000,000 (over \$200,000 in consulting fees, \$4,400 in legal fees, and nearly \$1,600,000 in capital outlay and improvements), which connection was expressly contemplated and provided for in the original decree for this water right and which is necessary for the use of the subject water right; B. the District spent over \$2,000,000 on improvements and repairs to its water treatment plant, which is necessary for the treatment and delivery of water diverted pursuant to the subject water right; C. the District spent nearly \$1,500,000 on other system maintenance and improvement on its water delivery system; D. the District spent approximately \$90,000 on legal and engineering expenses associated with completing the adjudication of a finding of reasonable diligence with respect to certain of the Series 200 Wells water rights and opposing cases in Water Division No. 2 to protect its water rights, including the subject conditional rights, participating as an opposer to other water rights applications, and other legal and engineering matters. All of the foregoing activities are

necessary to permit the full utilization of the 200 Series Wells 1st Enlargement for its decreed purposes. WHEREFORE, the District requests that the Court enter an order finding that the District has exercised reasonable diligence with respect to the 200 Series Wells 1st Enlargement conditional water right, and to maintain said water right in full force and effect.

CASE NO. 2017CW3055, Water Division 2, and CASE NO. 2017CW3143, Water Division 1 - JAMES KREHBIEL and TAMMY KREHBIEL, P. O. BOX 2593, Monument, CO 80132

(Please direct all correspondence and inquiries regarding this matter to Applicants' attorney: Henry D. Worley, Worley Law Firm LLC, 611 North Weber, Suite 104, Colorado Springs, CO 80903, phone 719.634.8330, email hank.worley@pcisys.net)

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

EL PASO COUNTY

I. APPLICATION FOR DENVER BASIN WATER RIGHTS. 1. Names of wells and permit, registration, or denial numbers: There are no wells on Applicants' property. Applicants will construct one or two wells in the Denver aquifer and one well in each of the Arapahoe and Laramie-Fox Hills aquifers are contemplated, plus all necessary additional and/or replacement wells, to be located anywhere on Applicants' 5.79 acre property. **2. Legal description of property:** Applicants' property consists of two contiguous lots located in the NW1/4 Section 15, T. 11 S., R. 67 W., 6th P.M. in El Paso County. The addresses of the two lots are: 1) 18302 Faulkner Street, the legal description of which is "Lot 2 Fontenelle Subdivision No. 2, except parcel by order and decree CV#66671, signed October 29, 1971," and 2) an unassigned address on Peak View Boulevard, the legal description of which is "that part of Lot 2 Fontenelle Subdivision No. 2 by order and decree CV#66671, signed October 29, 1971" (the "Property") A map showing its location is attached to the Application as Figure 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Property is located within Water Division 2. **3. Sources:** not nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer. **4. A. Date of appropriation:** Not applicable. **4.B. How appropriation was initiated:** Not applicable. **4.C. Date water applied to beneficial use:** Not applicable. **5. Amount claimed:** Denver aquifer - 15 g.p.m., 270 acre feet absolute; Arapahoe aquifer - 15 g.p.m., 408 acre feet, absolute; Laramie-Fox Hills aquifer - 50 g.p.m., 162 acre feet, absolute. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for wells on the property or nearby wells. **6. Decreed uses:** All beneficial uses except municipal uses, and expressly including augmentation use. **7. Name and address of owner of land on which wells are/will be located:** Same as Applicants. **II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. 8. Name of structures to be augmented:** one or two yet-to-be constructed Denver aquifer wells. **9. Previous decrees for water rights to be used for augmentation:** None. **10. Historic use:** Not applicable. **11. Statement of plan for augmentation:** It is unclear whether El Paso County agrees that the Property consists of two lots. Applicants essentially seek

approval of two alternative plans for augmentation herein, one of which will allow pumping of 0.9 acre foot annually for 300 years from one well in the Denver aquifer if the Property is treated as one lot, and another which will allow annual pumping of 1.35 acre feet for 200 years from two Denver aquifer wells if the Property is considered to be two lots. In the latter case, 0.85 acre foot annually would be allocated to a Denver aquifer well on the Faulkner Street property, and 0.5 acre foot annually would be allocated to a Denver aquifer well on the Peak View Boulevard property. If the Property is considered to be one lot, uses will include indoor residential and commercial uses (guest lodging) in one large residential structure and an existing 975 square foot guest cottage. The larger structure will serve as the Applicants' residence and will include rooms for lodging. Uses for a one-lot scenario also include a hot tub and/or spa and landscape and garden irrigation. Under the two-lot scenario, the above uses will also exist, but one additional single family residence is contemplated, with accompanying hot tub and/or spa and landscape and garden irrigation. Though these are the anticipated uses, Applicants will be allowed to use the water for any beneficial use. **Replacement of depletions during pumping.** Indoor use for each of the two primary structures is expected to equal no less than 0.2 acre foot annually. Treatment of waste water from indoor uses will be achieved using nonevaporative individual septic tank and leach field system ("septic system"). Consumption of water so treated will not exceed 10 percent of uses, with 90 percent, or accruing to Monument Creek. With pumping limitations of 0.9 acre foot annually under the one-lot, one primary home and 1.35 acre foot annually under the two-lot, two residence home scenario, septic system return flows will always exceed depletions during the pumping period. **Replacement of post-pumping depletions.** Applicants propose to replace post-pumping depletions with a portion of the nontributary Arapahoe aquifer water decreed herein. Applicants will reserve 270 acre feet of the Arapahoe aquifer water for the replacement of post-pumping depletions. Applicants will also seek the right to replace such depletions with any other judicially acceptable source of augmentation water, upon judicial approval after appropriate notice. **12. Miscellaneous provisions.** (1) There are no liens against the Applicants' property. (2) This application is being filed in Water Divisions 1 and 2. After the period for filing statements of opposition has expired, Applicants will seek to consolidate the two cases in Division 2, where the Property is located. (3) Applicants reserve the right to make minor changes in the amounts claimed for appropriation and in the allowable amounts to be pumped annually under the augmentation plan, based on variations in the information currently available to Applicants and the information contained in the Determinations of Facts and the Consultation Report.

CASE NO.: 2017CW3056; Previous Case Nos. 2000CW124 and 11CW28 – REDWING RANCH, LLC, a Colorado Limited Liability Company, P.O. Box 928, Carmel Valley, CA 93924 (Please address all pleadings and correspondence to Applicant's attorney: David M. Shohet, Monson, Cummins & Shohet, LLC, 319 N. Weber Street, Colorado Springs, CO 80903 (719) 471-1212; dms@cowaterlaw.com)
Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Names of Structures. Fuchs Pond No. 6 Enlargement, Reservoir Ditch Enlargement, and the Aragon Ditch Enlargement. **Description of Conditional Water Rights.** **Date**

of Original Decree. April 26, 2005. Case No. 00CW124. Court. District Court, Water Division 2. **Date of Decree Awarding Diligence:** September 20, 2011. Case No. 11CW28. Court. District Court, Water Division 2. **Legal Description of Points of Diversion.** Fuchs Pond No. 6 Enlargement. In the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 320 feet from the west section line and 165 feet from the north section line. Reservoir Ditch Enlargement. At the existing point of diversion of the Reservoir Ditch on the south bank of the Huerfano River in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 2, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 2750 feet from the east section line and 2350 feet from the north section line. Aragon Ditch Enlargement. Martin Creek in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 420 feet from the west section line and 430 feet from the south section line. This point of diversion is the same point of diversion for Fuchs Pond 3 and is the decreed point of diversion of the Aragon Ditch. **Source.** Fuchs Pond No. 6 Enlargement. Fuchs Spring No. 6-1, seep, spring water and tailwater in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado at a point 695 feet from the east section line and 725 feet from the north section line. Reservoir Ditch Enlargement. Huerfano River. Aragon Ditch Enlargement. Martin Creek. **Appropriation Date.** Fuchs Pond No. 6 Enlargement. December 23, 1999. Reservoir Ditch Enlargement. October 30, 2001. Aragon Ditch Enlargement. November 28, 2001. **Amount.** Fuchs Pond No. 6 Enlargement. 5.63 a.f., conditional, with right to refill. Reservoir Ditch Enlargement. 10.0 c.f.s., conditional. Aragon Ditch Enlargement. 9.0 c.f.s., conditional. **Use.** Fuchs Pond No. 6 Enlargement. Stockwatering and storage for irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. Reservoir Ditch Enlargement. Stockwatering and storage for irrigation of 185 acres in the E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, of Section 12 and 45 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, all in Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. Aragon Ditch Enlargement. Storage in Pond Nos. 3 and 4 for irrigation of 80 acres in the SW $\frac{1}{4}$ of Section 12, Township 27 South, Range 71 West of the 6th P.M., Huerfano County, Colorado. **Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use.** The Applicant's predecessor in Case No. 00CW124 sought to adjudicate several water rights as part of an integrated system. The Water Court entered a partial decree on April 26, 2005, for a portion of the water rights subject of the application filed in Case No. 00CW124 (the "Partial Ruling"). The Water Court decreed the remaining water rights subject of Case No. 00CW124 on July 26, 2007. The Partial Ruling adjudicated four conditional water rights for stockwatering and storage for irrigation of the Applicants' property. Applicant's predecessor made one of those four conditional water rights absolute in Case No. 11CW24. Applicant's predecessor was also awarded a finding of reasonable diligence for the remaining conditional water rights in Case No. 11CW24 This Application is for a finding of reasonable diligence and to make partially absolute the remaining conditional water rights decreed in the Partial Decree. In 2011 Applicant installed a new headgate, for improved diversion efficiency, and flume on the Aragon Ditch to measure diverted water. Flow in Martin Creek never reached large enough volumes to divert irrigation

water and satisfy enlargement. Applicants spent \$1,589.00 for labor, material, and equipment to install new headgate and flume on Aragon Ditch. All associated headgates and ditches connected to the water rights and ponds in this application were cleaned and maintained each irrigation season to apply available water to beneficial use. Labor associated with these activities are approximately \$3,000 per year for labor and equipment, for a total of \$18,000 invested towards these water rights. During this diligence period, Applicants and their predecessor have spent \$19,589.00 on the direct development of the conditional water rights and their application to beneficial use. In an effort to protect the conditional water rights, Applicant participated as an opposer in Case Nos. 12CW111 and 15CW3072, District Court, Water Division 2. Applicant incurred expenses for both legal and engineering fees associated with these oppositions to protect the conditional water rights subject of this Application. Applicant has, therefore, devoted substantial efforts toward the development of their water rights, the present and further application of water from Fuchs Pond No. 6 Enlargement, Reservoir Ditch Enlargement, and the Aragon Ditch Enlargement to beneficial use. **Claims to Make Absolute.** None. **Name and address of the owners of land on which structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** Aragon Ditch Enlargement is located on the property of Lawrence M. Archuleta and Evelyn E. Archuleta, 532 CR 574, Gardner, Colorado 81040. All other structures are on lands owned by the Applicants.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of November 2017, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 4th day of October, 2017.

Mardell R. DiDomenico



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

(Court seal)

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