

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING SEPTEMBER
2019

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 2019, 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:

****Resume for below case was included in June Resume however the resume was never published in Bent County.**

CASE NO. 2017CW3069; LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION, c/o Donald F. Higbee, Manager, 310 South 6th Street, PO Box 1161, Lamar, CO, 81052 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Richard J. Mehren, Jennifer M. DiLalla, William D. Davidson, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302, 303-443-8782)

First Amended Application for Plan for Augmentation

BENT AND PROWERS COUNTIES

2. Purpose of application: LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make ground water diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include additional structures in LAWMA's plan for augmentation ("Augmentation Plan"), which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 ("02CW181 Decree"). Pursuant to paragraph 43 of the 02CW181 Decree, LAWMA may add wells or other structures to the Augmentation Plan by filing a new application with the Water Court. 3.

3. Purpose of amendment: LAWMA files this First Amended Application to do the following: (i) clarify that certain of the Additional LAWMA Structures described in paragraph 4 below operate within LAWMA's Arkansas River Replacement Plan pursuant to Rule 14 of the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin ("Rule 14 Plan"), as annually approved by the Colorado State Engineer, and will continue to operate under the administratively approved Rule 14 Plan in addition to operating under LAWMA's Augmentation Plan under any decree to be entered in this case; and (ii) reduce, from 28 to 24, the number of the Additional LAWMA Structures described in paragraph 4 below.

4. Description of structures to be augmented: See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). A total of twenty-four additional structures will be included in LAWMA's Augmentation Plan through this application: twenty wells owned by Arkansas River Farms, LLC ("ARF Wells"), and four wells owned by Colorado Dairy Partners, LLC ("Bent Dairy Wells"). The Additional

LAWMA Structures are generally located north of the Arkansas River in Bent County and Prowers County, between Adobe Creek on the west and the Town of Wiley on the east.

5. Water rights and other sources of water to be used for augmentation: Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree and in the decrees entered in Case Nos. 05CW52 and 10CW85, and those water rights and other sources of water that are added to the 02CW181 Decree pursuant to the terms and conditions of paragraph 41 of that decree. **5.1 Use of Fryingpan-Arkansas Project water and return flows as augmentation source:** Water pumped by the Bent Dairy Wells will be used outside of the boundaries of the Southeastern Colorado Water Conservancy District ("Southeastern"). Accordingly, LAWMA will not use Fryingpan-Arkansas Project water to replace depletions caused by the Bent Dairy Wells. The ARF Wells are located within Southeastern's boundaries, and water pumped by the ARF Wells will be used within such boundaries. Accordingly, LAWMA will use Fryingpan-Arkansas Project water to replace depletions caused by the ARF Wells. **6. Statement of plan for augmentation:** The amount, timing, and location of depletions from pumping of the Additional LAWMA Structures under the Augmentation Plan will be determined in accordance with the methodologies approved in the 02CW181 Decree, and LAWMA shall account for and fully replace all such depletions that are out of priority. LAWMA shall replace such out-of-priority depletions under the Augmentation Plan with fully consumable water in accordance with the terms and conditions of the 02CW181 Decree and the decree to be entered in this case, in a manner that protects Colorado senior surface water rights from injury and ensures compliance with the Arkansas River Compact. **6.1 Integration into Case No. 02CW181 accounting and projection:** The accounting for operation of the Additional LAWMA Structures under the Augmentation Plan will be incorporated into the accounting and projection required by paragraphs 47.E and 47.I. of the 02CW181 Decree. Such accounting will include, without limitation, monthly diversions, monthly unlagged depletions, and monthly lagged depletions for each Additional LAWMA Structure, as well as the fully consumable water sources available for replacement of such depletions. Additionally, in accounting for operation of the Additional LAWMA Structures, LAWMA shall use the integrated accounting forms approved in the decree entered in Case No. 14CW3004 on August 1, 2017. **6.2 No modification of 02CW181 Decree:** This First Amended Application does not seek to change any provision of the 02CW181 Decree other than the inclusion of the Additional LAWMA Structures in the Augmentation Plan, does not seek a change of water right for any of the water rights identified in paragraph 40 of the 02CW181 Decree, and does not seek any change to those augmented structures or replacement water sources previously decreed to be included in the Augmentation Plan. Instead, this application seeks (i) the Court's approval of LAWMA's inclusion of the structures described in **Exhibit A** in the Augmentation Plan in accordance with the terms and conditions of the 02CW181 Decree; and (ii) accordingly, the Court's confirmation that LAWMA will fully replace, so as to prevent injury to Colorado senior surface water rights and ensure compliance with the Arkansas River Compact, all out-of-priority depletions caused by pumping of the Additional LAWMA Structures under the Augmentation Plan. **6.3 Operation of ARF Wells under LAWMA's Rule 14 Plan.** The ARF Wells also operate under LAWMA's Rule 14 Plan as annually approved by the Colorado State Engineer. Depletions resulting from pumping of the ARF Wells under the Rule 14 Plan will be determined and replaced under the terms and conditions of the Rule

14 Plan as annually approved by the Colorado State Engineer. Depletions resulting from pumping of the ARF Wells under the Augmentation Plan will be determined and replaced under the terms and conditions of the 02CW181 Decree and any decree to be entered in this case. Pumping of the ARF Wells under the Augmentation Plan will be all pumping of the ARF Wells that is not authorized by the Colorado State Engineer under LAWMA's Rule 14 Plan. **7. Name and address of owner of land upon which new diversion structures will be constructed:**

Owner	Structures	Address	City	State	ZIP
	Bent Dairy Well Nos. 1, 2, 3, & 4	34515 Road 15	Las Animas	CO	81054

WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this plan for augmentation and determining that such plan for augmentation will not cause injury to the vested or decreed conditional water rights of others and will not violate the Arkansas River Compact.

CASE NO. 2018CW2 – RP ON TC LLC, DOING BUSINESS AS EDEN RANCH WEST (EWR), LLC, C/O NEIL HARTMAN, 505 Woodglen, Benbrook, TX 76126. (Please address all pleadings and inquiries regarding this matter to Applicants' attorney: Hoskin Farina & Kampf, John Justus, Professional Corporation, 200 Grand Avenue, Suite 400, PO Box 40, Grand Junction, CO 81502-0040, 970-986-3400)

**SECOND AMENDED APPLICATION FOR CHANGE OF WATER RIGHTS AND FOR CANCELLATION OF PLAN FOR AUGMENTATION.
 FREMONT COUNTY**

2. Purpose of Application: Applicant filed an Application in this matter on February 22, 2018, an Amended Application on March 5, 2018, and now seeks to further clarify its claims in this Second Amended Application (collectively the "Application"). The Application herein seeks to amend the Children of the Son decree entered by the Division 2 Water Court on July 13, 2006 in Case No. 98CW82 ("COTS "Decree") to obtain a change of water rights and to eliminate the plan for augmentation approved by the COTS Decree. **AMENDMENTS TO COTS DECREE CANCELLING PLAN FOR AUGMENTATION** **3. COTS Pond and Flow Through Rights Abandoned:** The conditional water rights adjudicated in ¶ 5 of the COTS Decree for the COTS Ranch Pond No. 1 and the COTS Ranch Pond No. 1 Flow Through Right have been abandoned, and Applicant confessed the same in Case No. 18CW10, the diligence proceeding with respect to those conditional water rights. **4. COTS Livestock Well Uses Discontinued:** The COTS Livestock Well, Well Permit # 88831, as described in ¶ 8.a of the COTS Decree, is not augmented under the COTS Decree for stock water uses and was never re-permitted as a non-exempt well for such use in compliance with the COTS Decree. Well Permit # 88831 has been cancelled. The structure is now permitted under Well Permit # 296696 as an exempt well pursuant to C.R.S. § 37-92-602(3)(B)(II)(A) and does not operate under the COTS Decree. **5. Cancellation of the COTS Plan for Augmentation:** Applicant seeks to abandon and discontinue all augmented uses by the augmented structures described at ¶¶ 7-8 of the COTS Decree. All stream depletions from the COTS Ranch Pond No. 1 Flow Through Right, if any, were previously replaced. There have been no operations of the COTS Livestock Well for stock watering under the plan for augmentation and there are no ongoing delayed depletions from that well from operation under that plan. As such, Applicant seeks cancelation of the plan for

augmentation adjudicated in ¶¶ 7-8 of the COTS Decree. **CHANGES OF WATER RIGHTS_ 6. Hill No. 1 Ditch Water Rights:** The water available pursuant to the 0.7799 cfs portion of the Hill No. 1 Ditch water rights described below is no longer required for augmentation under the COTS Decree. Applicant seeks to change that portion of the Hill No. 1 Ditch water rights to make them available to serve or better serve the irrigation requirements of Applicant's property, in addition to the previously decreed uses, by diversion at the approximate location of the originally decreed point of diversion for the Hill No. 1 Ditch. **a. Source:** Texas Creek **b. Appropriation date:** August 31, 1869 and April 14, 1876; Arkansas River priority numbers 47 and 167, Texas Creek priority numbers 1 and 34, respectively **c. Adjudication date:** February 3, 1894 **d. Decreed Amount:** 1.0521 cfs **e. Originally Decreed Point of Diversion:** SW¼ NW¼ Section 12, Township 47 North, Range 12 East, N.M.P.M., Fremont County, Colorado (the "Hill No. 1 Headgate"). **f. Current Decreed Point of Diversion:** The COTS Decree approved a change in point of diversion of the entire 1.0521 cfs of the Hill No. 1 Ditch water rights to the McCormick Headgate located in the NW1/4 of the NW1/4 of Section 13, Township 47 North, Range 12 East, N.M.P.M. a distance of approximately 100 feet from the West section line and approximately 1400 feet from the North section line. **g. Current Decreed Uses:** **i.** 0.2722 cfs is decreed for irrigation of 3.7 acres as shown in Exhibit B of the COTS Decree. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **ii.** 0.7799 cfs is currently decreed for recreation, piscatorial, and fire protection by way of storage in the COTS Pond No. 1, stock watering, and augmentation under the COTS Decree. **h. Proposed Changes:** **i.** Change in Point of Diversion: To change the point of diversion of 0.7799 cfs of the Hill No. 1 Ditch water rights back to within 250' feet of the Hill No. 1 Headgate (the "Re-Established Hill No. 1 Diversion"), the approximate location of which is illustrated in Exhibit A to the Application. **ii.** Storage of Historical Consumptive Use Credits Adjudicated in the COTS Decree. Paragraph 9.b of the COTS Decree determined, based on the dry up of 10.6 acres historically irrigated by 0.7799 cfs of the Hill No. 1 Ditch water rights, that the historical consumptive use attributable to that portion of the water rights was 17.91 acre-feet per year, and that 17.91 acre-feet per year could be made available for fully consumptive changed uses ("Hill No.1 Consumptive Use Water"). That determination is not subject to reconsideration or requantification. C.R.S. § 37-92-305(3)(e). Applicant will store the Hill No.1 Consumptive Use Water, and an additional 2.0 acre-feet diverted pursuant to the 0.7799 cfs of the Hill No. 1 Ditch water rights for replacement of non-irrigation season return flows, in a storage structure to be located in the SE ¼ of Section 12, Township 47 North, Range 12 East, N.M.P.M., with an estimated surface area of 1.25 acres and a capacity of 10 acre-feet (the "RP ON TC Storage Vessel"), the approximate location shown in Exhibit A of the Application. Applicant does not seek to adjudicate a junior independent storage right to this storage structure, but rather the right to divert to and store water in the structure pursuant to the 0.7799 cfs portion of the Hill No. 1 Ditch water right. Total diversion and storage under 0.7799 cfs of the Hill No. 1 Ditch water rights will not exceed 19.91 acre-feet per year. Applicant will pump its measured diversions at the Re-Established Hill No. 1 Diversion pursuant to the 0.7799 cfs of the Hill Ditch No. 1 water right to the RP ON TC Storage Vessel. **iii. Change Type of Use:** To change the type of use of the 0.7799 cfs portion of the Hill No. 1 Ditch water rights to recreation, piscatorial, stock watering, and fire protection on Applicant's property by way

of storage in the RP ON TC Storage Vessel and for irrigation of the lands described in paragraph 6.h.iv. of this Application using water pumped or released from the RP ON TC Storage Vessel. **iv. Change in Place of Use:** Applicant proposes to change the decreed place of use of the Hill No.1 Consumptive Use Water attributable to the 0.7799 cfs portion of the Hill No. 1 Ditch water rights to irrigation of any part the land owned by Applicant lying East of Texas Creek and South of Highway 69 as shown in Exhibit A to the Application. **7. Proposed Terms and Conditions for Changes of Water Rights:** **a. Incorporation of Terms from COTS Decree:** Except as proposed below, Applicant seeks to maintain all other terms and conditions regarding the Changed Water Rights in the COTS Decree. **b. Proposed Terms and Conditions for Change of the Hill No. 1 Ditch Water Rights:** **i. Diversion Limitations of the 0.7799 cfs portion of the Hill No. 1 Ditch:** Diversions under the 0.7799 cfs portion of the Hill No. 1 Ditch for the changed uses described in this Application will occur only from April 1 through September 30 annually. Monthly volumetric limits on stream diversions by the 0.7799 cfs portion of the Hill No. 1 Ditch water right, as set forth in ¶9.b of the COTS Decree, will continue to apply to Applicant's diversions under that portion of the Hill No. 1 Ditch water right. **ii. Return Flow Replacements** Required: Paragraphs 9.b and 9.d of the COTS Decree required replacement of historical return flows associated with the Hill No.1 Consumptive Use Water to prevent injury to other water right holders, and Applicant proposes to continue those requirements as follows: **(1)** The Court determined in the COTS Decree that the historical irrigation season return flows from the changed 0.7799 cfs portion of the Hill No. 1 Ditch water rights would be duplicated by regulation of the rate and volume of diversions under the COTS Decree and by abandonment of a portion of the flow rate originally decreed to the Hill No. 1 Ditch water rights. Applicant will continue to observe those obligations. **(2)** To maintain historical non-irrigation season return flows from the changed 0.7799 cfs portion of the Hill Ditch No. 1 water rights, the COTS Decree requires the Applicant to divert and store 2.0 acre-feet of water under that right for subsequent non-irrigation season releases to replace non-irrigation season return flow obligation amounts in the amounts set forth in ¶ 9.b of the COTS Decree. The COTS Decree permits diversions to storage of 19.91 acre-feet per year under the 0.7799 cfs portion of the Hill No. 1 Ditch water rights. Consistent with those requirements, Applicant will continue to annually store 2.0 acre-feet of water under the 0.7799 cfs portion of the Hill Ditch No. 1 water rights in the RP ON TC Storage Vessel and comply with all other terms and conditions regarding replacement of historical return flows in the COTS Decree. To account for potential evaporation losses while water is stored in the RP ON TC Storage Vessel and to ensure that the 2.0 acre-feet per year of historical return flow replacement water will be available throughout the non-irrigation season, Applicant will demonstrate that it has not less than 5 acre-feet is in storage pursuant to the 0.7799 cfs portion of the Hill Ditch No. 1 water rights as of October 1st of each year. The RP ON TC Storage Vessel will be constructed so that it does not intercept groundwater and will be approved by the Division Engineer prior to any use of the 0.7799 cfs portion of the Hill No. 1 Ditch water rights for the changed uses. **c. Elimination of COTS Decree Term and Condition:** With the termination of the COTS Decree plan for augmentation the requirements of ¶ 9.b of the COTS Decree to make releases of Hill No.1 Consumptive Use Water to replace livestock use depletions from the COTS Livestock Well Permit #88831 and pond evaporation depletions amounts attributable to the Flow Through Right is no longer required and will

be discontinued. d. Proposed Elimination of Paragraph 12 Restrictions of the COTS Decree as to the 0.7799 cfs Portion of the Hill No. 1 Ditch Water Rights: Paragraph 12 of the COTS Decree imposed certain diversion restrictions on the exercise of the Hill No. 1 Ditch water rights at the McCormick Headgate when the stream flow of Texas Creek reached defined threshold levels for the purpose of protecting the Colorado Water Conservation Board's ("CWCB") instream flow right on Texas Creek decreed in Case No. 98CW149, Water Division 2. So long as the Hill No. 1 Ditch water rights were diverted at the changed point of diversion at the McCormick McCormick Headgate, this limitation was appropriate for protection of the CWCB's instream flow water right, as it, along with other terms and conditions of the COTS Decree, maintained stream conditions existing at the time of the CWCB's instream flow appropriation. *See Concerning Application for Water Rights of Midway Ranches Prop. Owners' Ass'n, Inc. in El Paso and Pueblo Ctys.*, 938 P.2d 515, 522 (Colo. 1997) (Holding that junior rights are entitled to maintenance of stream conditions existing at the time of their appropriations). Applicant's proposed change of the point of diversion of the 0.7799 cfs portion of the Hill No. 1 Ditch water rights in this case back to within 250 feet of the original Hill No. 1 Headgate, under the terms and conditions proposed by the Applicant, eliminates the need for protections imposed by paragraph 12 of the COTS Decree with respect to the exercise of the 0.7799 cfs portion of the Hill No. 1 Ditch water rights. The 0.2722 cfs portion of the Hill No. 1 Ditch water rights that will continue to be diverted at the McCormick Headgate will remain subject to the limitations of paragraph 12 of the COTS Decree. **8.** Applicant is the owner of the land on which the Re-Established Hill No. 1 Diversion and the RP ON TC Storage Vessel will be located.

CASE NO. 2019CW3036 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION ("LAWMA") (c/o Donald Higbee, Manager), 310 South 6th Street, P.O. Box 1161, Lamar, CO 81052, (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Richard J. Mehren, Jennifer M. DiLalla, William D. Davidson, John E. Peckler, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302, 303-443-8782)
Amended Application for Change of Water Rights and Addition of Augmentation and Replacement Supplies to Plan for Augmentation
BENT, CHAFFEE, CROWLEY, EL PASO, FREMONT, KIOWA, LAKE, OTERO, PROWERS, PUEBLO, AND TELLER COUNTIES

2. Overview of application: LAWMA is a non-profit corporation organized for the purposes of replacing depletions caused by the pumping of its members' wells, as required by law, and providing water to its members directly or by means of augmentation and replacement for all manner and types of uses. In 2017, LAWMA acquired 6,080 shares of stock ("Phase I Shares") in the Fort Lyon Canal Company ("FLCC") from Arkansas River Farms, LLC ("ARF"). As described in the letter of intent, see Exhibit A attached to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) ("LOI"), LAWMA intends to acquire 1,429 additional shares of FLCC stock ("Phase II Shares") from ARF in 2019. The Phase I Shares and Phase II Shares are referred to collectively in this Application as the "FLCC Shares." In 2018, the City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities ("CS-U"), acquired 2,500 shares of LAWMA common stock

from ARF (“CS-U LAWMA Shares”), and LAWMA and CS-U entered into a Water Sharing Agreement under which, as part of an alternative transfer method (“ATM”), LAWMA will use water available to 3,303 of the Phase I Shares (“ATM Shares”) to make an allocation to the CS-U LAWMA Shares that will be shared by LAWMA and CS-U consistent with the Water Sharing Agreement. The ATM Shares are a subset of the Phase I Shares. The purposes of this Application are as follows: (i) to change the decreed type and place of use of the water rights associated with the FLCC Shares so that water available to those water rights may be used, both directly and after storage, for augmentation and replacement purposes within LAWMA’s various augmentation and replacement plans (“Comprehensive Change”); (ii) to add the water rights changed by the Comprehensive Change to LAWMA’s plan for augmentation decreed on March 8, 2007, in Division 2 Case No. 02CW181 (“02CW181 Decree”) as a permanent source of augmentation and replacement supply; and (iii) to further change the decreed type and place of use of the water rights associated with the ATM Shares, so that in addition to the changed uses under the Comprehensive Change, water available to those water rights may be used directly, by exchange, and after storage for all beneficial uses within CS-U’s existing and future service area (“ATM-Limited Change”). In years that CS-U takes delivery of water available under the CS-U LAWMA Shares, CS-U will seek to exchange the fully consumable water upstream into CS-U’s municipal system, including without limitation into the storage components of that system. This Application does not seek confirmation of appropriative rights of exchange. **3. Purpose of amendment:** The purposes of this amendment to the original application are as follows: (i) to correct the PLSS legal description and the UTM coordinates for the Farm 63 Recharge Site, as required by the Court’s Order to File Amended Application entered on August 29, 2019; and (ii) to supplement and correct the original application’s descriptions of the water rights owned or controlled by FLCC, as requested by FLCC. **4. Water rights to be changed:** The water rights associated with the FLCC Shares are a pro-rata portion of those water rights owned or controlled by FLCC, including without limitation the water rights described in paragraphs 4.1 through 4.6 below (“FLCC Water Rights”). Under the Comprehensive Change, LAWMA seeks to change the water rights associated with the 7,509 FLCC Shares, which amount to 7.99% of the 93,989.4166 shares outstanding of the capital stock of the FLCC. Under the ATM-Limited Change, LAWMA seeks an additional change in the water rights associated with the 3,303 ATM Shares, which amount to 3.51% of the outstanding capital stock of the FLCC. The 3.51% interest represented by the ATM Shares is included within and is not in addition to the 7.99% interest represented by the FLCC Shares. Ownership of the Phase I Shares (LAWMA) and Phase II Shares (ARF) is evidenced by the FLCC certificates identified on **Exhibit B**, which certificates represent LAWMA’s and ARF’s pro-rata interest in the water rights, ditches, canals, and other facilities for the delivery and use of water, and all other assets of the FLCC. The ARF LOI attached as **Exhibit A** authorizes LAWMA to change the Phase II Shares. CS-U does not own any of the FLCC Shares that are the subject of this Application. The decreed locations of the structures associated with the FLCC Water Rights are described in paragraph 5 below and shown on **Exhibits C-1, C-2, and G**. In accordance with § 37-92-302(2)(a), C.R.S., **Exhibits C-1 and C-2** show the approximate location of the lands historically irrigated with the FLCC Shares (“Historically Irrigated Lands”), and **Exhibits D-1 through D-5** summarize records of actual diversions of each water right

described in paragraphs 4.1 through 4.6 below, to the extent such records exist. For all water rights described in paragraphs 4.1 through 4.6 below, the pro-rata interest represented by the ATM Shares is part of and not in addition to the pro-rata interest represented by the FLCC Shares. 4.1 Direct-flow water rights: The direct-flow water rights decreed to the Fort Lyon Canal in the Adjudication of Priorities of Right to the Use of Water for Irrigation in Water District Number 17, dated April 8, 1905, in the District Court for Bent County (“District 17 General Adjudication”) and the pro-rata interest in those water rights being changed in this case are summarized in paragraphs 4.1.1 through 4.1.3 below. **4.1.1** 164.64 cubic feet per second (“cfs”) from the Arkansas River with an appropriation date of April 15, 1884. Pro-rata interest being changed in this case: 13.15 cfs (FLCC Shares); 5.79 cfs (ATM Shares). **4.1.2** 597.16 cfs from the Arkansas River with an appropriation date of March 1, 1887. Pro-rata interest being changed in this case: 47.71 cfs (FLCC Shares); 20.99 cfs (ATM Shares). **4.1.3** 171.20 cfs from the Arkansas River with an appropriation date of August 31, 1893. Pro-rata interest being changed in this case: 13.68 cfs (FLCC Shares); 6.02 cfs (ATM Shares). 4.2 Horse Creek Reservoir and Adobe Creek Reservoir: Storage water rights were decreed to Horse Creek Reservoir and Adobe Creek Reservoir by the decree entered by the Bent County District Court in the Adjudication of Priorities of Right to the Use of Water for Domestic and Irrigation Purposes in Water District Number 17, Colorado, on February 3, 1927, as modified on November 8, 1928, and allow FLCC to divert from the Arkansas River (via the Fort Lyon Storage Canal) and Horse Creek (via the Horse Creek Feeder Ditch or Supply Canal) for storage in Horse Creek Reservoir, and to divert from the Arkansas River (via the Fort Lyon Storage Canal) and Adobe Creek (via the Adobe Creek Feeder Ditch or Supply Canal) for storage in Adobe Creek Reservoir. The Horse Creek Reservoir and Adobe Creek Reservoir water rights and the pro-rata interest being changed in this case are summarized in Table 1 below.

Table 1
Storage Rights – Horse Creek Reservoir and Adobe Creek Reservoir

Water right	Amount, source, and appropriation date	Pro-rata interest being changed – FLCC Shares	Pro-rata interest being changed – ATM Shares
Horse Creek Reservoir – Original Construction	2,000 cfs – Horse Creek (Aug. 15, 1900)	159.78 cfs	70.28 cfs
	840 cfs – Arkansas River (Jan. 25, 1906)	67.11 cfs	29.52 cfs
	1,466 cfs – Arkansas River (Mar. 1, 1910)	117.12 cfs	51.52 cfs
	Total volume: 11,400 acre-feet (“af”)	910.77 af	400.62 af
Horse Creek Reservoir 1st Enlargement	840 cfs – Arkansas River (Jan. 25, 1906)	67.11 cfs	29.52 cfs
	5,000 cfs – Horse Creek (Dec. 20, 1907)	399.46 cfs	175.71 cfs
	1,466 cfs – Arkansas River (Mar. 1, 1910)	117.12 cfs	51.52 cfs
	Total volume: 15,487 af	1,237.29 af	544.25 af
Horse Creek Reservoir 2nd Enlargement	5,000 cfs – Horse Creek (June 12, 1908)	399.46 cfs	175.71 cfs
		67.11 cfs	29.52 cfs

	840 cfs – Arkansas River (June 12, 1908) 1,466 cfs – Arkansas River (Mar. 1, 1910) Total volume: 1,113 af	117.12 cfs 88.92 af	51.52 cfs 39.11 af
Adobe Creek Reservoir Original Construction	8,631 cfs - Adobe Creek (Jan. 25, 1906) 840 cfs – Arkansas River (Jan. 25, 1906) 1,466 cfs - Arkansas River (Mar. 1, 1910) Total volume: 61,575 af	689.55 cfs 67.11 cfs 117.12 cfs 4,919.35 af	303.31 cfs 29.52 cfs 51.52 cfs 2,163.88 af
Adobe Creek Reservoir Enlargement	8,631 cfs – Adobe Creek (Dec. 29, 1908) 840 cfs – Arkansas River (Dec. 29, 1908) 1,466 cfs – Arkansas River (Mar. 1, 1910) Total volume: 25,425 af	689.55 cfs 67.11 cfs 117.12 cfs 2,031.25 af	303.31 cfs 29.52 cfs 51.52 cfs 893.49 af

4.3 Thurston Reservoir, a/k/a Thurston Lake: The storage water right decreed to Prince Reservoir in the District 17 Original Adjudication, with an appropriation date of August 12, 1889, was conditionally transferred to Thurston Reservoir by the decree entered on November 20, 1972, in Division 2 Case No. W-27 (“W-27 Decree”) and made absolute by the decree entered on January 11, 1980, in Division 2 Case No. 79CW085. This water right is decreed for diversion from the Arkansas River via the Fort Lyon Canal at a rate of 355.2 cfs, for storage of up to 1,515 af. Pro-rata interest being changed in this case: 28.38 cfs and 121.04 af (FLCC Shares); 12.48 cfs and 53.24 af (ATM Shares). 4.4 Thurston Pipeline: A direct-flow water right was conditionally decreed to the Thurston Pipeline by the W-27 Decree, made partially absolute by the decree entered on March 4, 1986, in Case No. 83CW119, and made fully absolute by the decree entered on November 15, 2011, in Case No. 10CW069, all in Water Division No. 2. Thurston Pipeline is decreed for diversion of 25 cfs from Thurston Reservoir into the Fort Lyon Canal, with an appropriation date of July 15, 1969. The source of water is Thurston Lake, a/k/a Thurston Reservoir, with such water accumulated from springs in said lake, seepage flowing into the lake from all sides thereof, waste water from a canal of the FLCC, rainfall, and waste water flowing in the lake from land of owners adjoining the lake; said water is not tributary to any natural stream of the State of Colorado. Pro-rata interest being changed in this case: 2.0 cfs (FLCC Shares); 0.88 cfs (ATM Shares). 4.5 Subsequent decrees: The water rights described in paragraphs 4.1 through 4.4 are the subject of the following subsequent decrees entered by this Court:

Table 2
Subsequent Decrees Affecting FLCC Water Rights

Case number and decree date	Effect	Amount	Source	Pro-rata interest being changed – FLCC Shares	Pro-rata interest being changed – ATM Shares
79CW160 (5/8/1987)	Allow use of John Martin Res. (“JMR”) as alternate place of	5,000 af cumulative under	Arkansas River	399.46 af	175.71 af

79CW161 (5/8/1987)	storage for Horse Creek Res. and Adobe Creek Res. water rights and use of those rights in JMR for recreation and a permanent pool for fishery and wildlife	79CW160, 79CW161, and 80CW51 decrees			
79CW178 (9/1/1987)	Allows diversion of direct-flow water rights at Fort Lyon Storage Canal and storage of same in Horse Creek, Adobe Creek, and Neeskah (Queens) reservoirs	933 cfs	Arkansas River	74.54 cfs	32.79 cfs
84CW179 (11/10/1987)	Winter Water Storage Program	38,160 af of first 100,000 af; 38.16% of all over 103,106 af	Arkansas River	3,048.68 af of first 100,000 af; 3.05% of all over 103,106 af	1,341.03 af of first 100,000 af; 1.34% of all over 103,106 af

4.6 Additional water rights: In addition to its direct-flow and storage water rights described in paragraphs 4.1 through 4.5 above, FLCC owns, controls, and/or operates the water rights and water supply agreements summarized in Table 3 below. LAWMA does not seek to change the water rights associated with water FLCC purchases on the spot market or obtains under the Fryingpan-Arkansas Project; however, LAWMA will use its pro-rata share of such water for all lawful purposes.

Table 3
FLCC - Other Water Rights and Water Supply Agreements

Water right	Case number (Water Div. 2 unless otherwise specified) and decree date	Amount and appropriation date (if applicable)	Source	Use	Pro-rata interest being changed – FLCC Shares	Pro-rata interest being changed – ATM Shares
FLCC's interest in Great Plains Res. storage water right	Decree of Feb. 3, 1927, Bent County Dist. Ct.; 80CW019 (8/16/1983; amended 1/20/1984 and 6/15/1987); 80CW51 (5/8/1987); 89CW076 (9/5/2000)	1,150 cfs (Aug. 1, 1896). Total volume: 5,483 af	Arkansas River	Agricultural irrigation, either directly or after storage; when stored in JMR, use for recreation and a permanent pool for a fishery and wildlife	91.88 cfs 438.05 af	40.41 cfs 192.68 af
JMR Exchange	90CW047 (9/5/2000; amended 10/18/2000)	Abs.: 544 cfs, 15,288.95 af; cond.: 606 cfs, 4,711.05 af (Apr. 24, 1980)	Arkansas River	Agricultural irrigation	Abs. 43.46 cfs, 1,221.46 af; cond. 48.41 cfs, 376.38 af	None
FLCC JMR. Storage Account	JMR Operating Plan (adopted 4/24/1980; revised	20,000 af	Arkansas River	Agricultural purposes	1,597.84 af	None

	5/10/1984, 12/11/1984, 2/11/2010)					
Fryingpan- Arkansas Project		Varies			None	None
Water purchased on spot market		Varies			None	None

5. Decreed locations and UTM coordinates of points of diversion and locations of storage of FLCC Water Rights: All UTM coordinates are NAD 83, Zone 13. LAWMA does not seek any change in the points of diversion for the water rights represented by the FLCC Shares. 5.1 Fort Lyon Canal (WDID 1700553): On the north bank of the Arkansas River in the NE1/4 of Section 32, T23S, R55W of the 6th P.M., in Otero County, Colorado. UTM 623873.7 E, 4207975.0 N. 5.2 Fort Lyon Storage Canal (WDID 1700648): A point in the county of Crowley, state of Colorado, on the north bank of the Arkansas River, in the NW1/4 SE1/4 of Section 20, T22S, R57W of the 6th P.M., whence the northeast corner of said Section 20 bears north 34° 10' east 3,770 feet. UTM 604443.0 E, 4219543.8 N. 5.3 Horse Creek Supply Canal (WDID 1700673): A point on the east bank of Horse Creek, on the line between Sections 6 and 7, T22S, R54W of the 6th P.M., whence the southeast corner of said Section 6 bears south 87° 4' east 1,972 feet. UTM 631616.9 E, 4224394.0 N. 5.4 Horse Creek Reservoir (WDID 1703545): In T21S and T22S, R53W and R54W of the 6th P.M. UTM coordinates for dam: 640267.0 E, 4224384.0 N. 5.5 Adobe Creek Supply Canal (WDID 1700674): On Adobe Creek, at a point in the NW1/4 of Section 26, T20S, R53W of the 6th P.M., in Kiowa County, Colorado, whence the southeast corner of said Section 26 bears south 54° 52' east 5,013 feet. UTM 647655.0 E, 4238959.0 N. 5.6 Adobe Creek Reservoir (WDID 1703546): In T20S and T21S, R52W of the 6th P.M. UTM coordinates for dam: 650655.6 E, 4233245.9 N. 5.7 Thurston Reservoir (WDID 6703882): In Section 13, T21S, R47, and Section 18, T21S, R46, all west of the 6th P.M., Prowers County, Colorado. UTM 707708.0 E, 4233253.0 N. 5.8 Thurston Pipeline (WDID 6702500): A point whence the section corner common to Sections 7 and 18, T21S, R46 and Sections 12 and 13, T21S, R47, all west of the 6th P.M., Prowers County, Colorado, bears north 0°41' west a distance of 1,680 feet. UTM 707247.6 E, 4234032.7 N. 5.9 Neeskah Reservoir (a/k/a Queens Reservoir) (WDID 6703513): In T20S, R46W and R47W of the 6th P.M., Kiowa County, Colorado. UTM 706860.0 E, 4238570.0 N. 5.10 John Martin Reservoir (WDID 6703512): The reservoir is located in all or portions of Sections 24, 25, 26, 27, 33, 34, 35, and 36, T22S, R51W; Sections 28, 29, 30, 31, 32, 33, 34, and 35, T22S, R50W; Sections 5, 6, 7, 8, 17, and 18, T23S, R49W; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, and 30, T23S, R50W; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, and 18, T23S, R51W; and Sections 1, 12, and 13, T23S, R52W; all of the 6th P.M., in Bent County, Colorado. The dam is located in Sections 5, 8, and 17 of T23S, R49W of the 6th P.M., in Bent County, Colorado. UTM coordinates for dam: 680795.0 E, 4215646.0 N. 5.11 Winter Water Storage Program ("WWSP") structures. FLCC uses the following structures solely for operation of FLCC's interest in the WWSP: **5.11.1 Colorado Canal** (WDID 1700540): On the north bank of the Arkansas River in the NE1/4 NE1/4 of Section 10, T21S, R62W, bearing S. 0° 58' W. 426 feet from the S.W. corner of Section 2, T21S, R62W, in Pueblo County, Colorado. UTM 560241.3 E, 4233243.3 N. **5.11.2**

Lake Meredith Reservoir (WDID 1403525): In Sections 15, 16, 20, 21, 22, 27, 28, 30, 31, 32, 33, in T21S, R57W of the 6th P.M., Sections 25, 36, T21S, R57W of the 6th P.M., Section 6 T22S, R57W of the 6th P.M., Section 1 T21S, R57W of the 6th P.M., in Crowley County, Colorado. UTM 609899.2 E, 4222978.1 N. **5.11.3** Lake Henry Reservoir (WDID 1403524): In Sections 31 and 32, T20S, R56W, and Sections 5 and 6, T21S, R56W. UTM 612088.0 E, 4234275.1 N. **5.11.4** Holbrook Canal (WDID 1700554): On the north bank of the Arkansas River in the NE1/4 of Section 24, T22S, R58W of the 6th P.M. in Otero County, Colorado. UTM 601202.8 E, 4220086.1 N. **5.11.5** Holbrook Reservoir No. 1 (WDID 1703511): In Sections 5, 6, 7, and 8, T23S, R55W of the 6th P.M. And in Section 1 and 12, T23S, R56W of the 6th P.M., Otero County, Colorado. UTM 622616.2 E, 4213416.8 N. **5.11.6** Dye Lake Reservoir (WDID 1703510): In Sections 4 and 5, T23S, R56W of the 6th P.M. And Sections 32 and 33, T22S, R56W of the 6th P.M., in Otero County, Colorado. UTM 614523.9 E, 4215331.6 N. **5.11.7** Pueblo Reservoir (WDID 1403526): A point at the intersection of Pueblo Dam axis and the Arkansas River whence the NE corner of Section 36, T20S, R66W of the 6th P.M. bears north 61°21'20" east a distance of 2,511.05 feet. Said reservoir inundates all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T20S, R66W; Sections 1, 2, 3, 4, 5, 9, 10, and 11, T21S, R66W; and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24, and 25, T20S, R67W; all of the 6th P.M. UTM coordinates for dam: 524076.0 E, 4235362.0 N. The locations of the above-described structures are shown on **Exhibits C-1, C-2, and G.**

6. Detailed description of Comprehensive Change: LAWMA will quantify the historical consumptive use of the water rights associated with the FLCC Shares and will determine the amount, timing, and location of return flows resulting from the historical use of those water rights.

6.1 Comprehensive Change in type of use: LAWMA seeks to change the water rights associated with the FLCC Shares such that they may be used both directly and after storage for the new purposes described in paragraphs 6.1.1 through 6.1.5 below in addition to their currently decreed uses.

6.1.1 Augmentation or replacement of out-of-priority depletions to the Arkansas River or its tributaries caused by the "LAWMA Structures" included in LAWMA's plan for augmentation decreed on March 8, 2007, in Case No. 02CW181, Water Division No. 2, as that plan for augmentation has been expanded and modified by the decrees entered in Case Nos. 05CW52, 08CW18, 10CW85, 10CW91, 12CW37, 13CW3004, 13CW3065, 14CW3004, 15CW3014, 15CW3067, 16CW3018, 17CW3000, 17CW3001, and 17CW3035, and as it may be expanded or modified in pending Case Nos. 17CW3068, 17CW3069, and 18CW3072 and in other future cases ("Augmentation Plan");

6.1.2 Augmentation or replacement of out-of-priority depletions caused by the wells included in LAWMA's annual Arkansas River Replacement Plan pursuant to Rule 14 of the Amended Rules and Regulations Governing the Diversion and Use of Tributary Ground Water in the Arkansas River Basin ("Rule 14 Plan");

6.1.3 Replacement of historical seepage losses and/or return flows under any LAWMA-operated Compact Compliance Plan pursuant to Rule 10 of the Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado ("Rule 10 Plan");

6.1.4 Replacement of historical return flows under the decree to be entered in this case, the decrees entered in Case Nos. 02CW181, 05CW52, 10CW85, and 15CW3067 ("Previous LAWMA Change Decrees"), and any future change of water rights decree that LAWMA obtains in this Court.

6.1.5 Provided that LAWMA replaces historical return flows associated with the FLCC Shares

as described in paragraph 8 below, LAWMA will fully consume and use to extinction all water available to the FLCC Shares. **6.1.6** The new uses described in paragraphs 6.1.1 through 6.1.5 above are referred to collectively in this Application as “LAWMA’s New Uses.” Any use of the FLCC Shares for continuing agricultural irrigation purposes will be for the purpose of revegetating the Historically Irrigated Lands. The LAWMA Structures included the Augmentation Plan and the wells included in the Rule 14 Plan generally are used for irrigation; domestic and household purposes; commercial, municipal, and industrial purposes; generation of electric power and power generally; and fire protection, recreation, fish and wildlife preservation and propagation, agricultural uses, livestock watering, aquaculture, replacement of evaporation, maintenance of wetlands, and groundwater recharge. **6.2 Comprehensive Change in place of use:** LAWMA seeks to change the water rights associated with the FLCC Shares such that in addition to potential revegetation use on the Historically Irrigated Lands, they may be put to LAWMA’s New Uses at the locations at which LAWMA delivers augmentation or replacement water to the Arkansas River or its tributaries as required by the Augmentation Plan, Rule 14 Plan, any LAWMA-operated Rule 10 Plan, or the Previous LAWMA Change Decrees. **6.3 Comprehensive Change in places of storage:** LAWMA seeks to change the water rights associated with the FLCC Shares such that they may be put to LAWMA’s New Uses both directly and after storage in the locations described in paragraphs 6.3.1 through 6.3.4 below. All UTM coordinates are NAD 83, Zone 13. **6.3.1 West Farm Gravel Pit** (WDID TBD), located in the S1/2 of the SE1/4 of Section 28 and in the NE1/4 and the NE1/4 of the NW1/4 of Section 33, T22S, R46W of the 6th P.M., in Prowers, County, Colorado, as shown on **Exhibit E**. UTM 711697.4 E, 4219729.0 N. **6.3.2 Farm 110 Recharge Site** (WDID TBD), located in the NE1/4 SE1/4 of Section 11, T21S, R48W of the 6th P.M. in Bent County, Colorado, as shown on **Exhibit E**. UTM 695662.5 E, 4234446.6 N. The Farm 110 Recharge Site will be operated both as a recharge pond augmentation station and as a storage vessel under this Application. **6.3.3 Farm 114 Recharge Site** (WDID TBD), located in the NE1/4 NW1/4 of Section 11, T21S, R48W of the 6th P.M. in Bent County, Colorado, as shown on **Exhibit E**. UTM 695084.4 E, 4235009.6 N. The Farm 114 Recharge Site will be operated both as a recharge pond augmentation station and as a storage vessel under this Application. **6.3.4** The following recharge sites, which will operate as storage vessels solely to the extent that the infiltration rate may result in water residing in the ponds for more than 72 hours before it is recharged, and the locations of which are shown on **Exhibit E**: (1) **Farm 60 Recharge Site** (WDID 1701001), located in the NW1/4 NW1/4 of Section 14, T23S, R54W of the 6th P.M., in Otero County, Colorado. UTM 637628.5 E, 4212801.7 N. (2) **Farm 63 Recharge Site** (WDID TBD), located in the NE1/4 SE1/4 of Section 10, T22S, R47W of the 6th P.M., in Prowers County, Colorado. UTM 704013.5 E, 4224976.0 N. (3) **Farm 65 Recharge Site** (WDID 6701009), located in the SW1/4 SE1/4 of Section 25, T22S, R49W of the 6th P.M., in Bent County, Colorado. UTM 687650.9 E, 4219293.4 N. (4) **Farm 132/133 Recharge Site** (WDID 6701005), located in the NW1/4 NW1/4 of Section 36, T22S, R50W of the 6th P.M., in Bent County, Colorado. UTM 678319.1 E, 4217322.9 N. **6.3.5** Accounts available in John Martin Reservoir for storage of the FLCC Shares, including without limitation the Offset Account. The location of John Martin Reservoir is described in paragraph 5.10 above and shown on **Exhibit E**. **7. Detailed Description of ATM-Limited Change:** **7.1 ATM-Limited Change in type of use:** LAWMA seeks to change

the water rights associated with the ATM Shares such that they may be used, reused, successively used, and used to extinction by CS-U directly, after storage, and/or by exchange, using any structure now existing or hereafter constructed that is lawfully available for use by CS-U, for all beneficial uses, including without limitation municipal, industrial, domestic, agricultural, commercial, irrigation, stock watering, fire protection, recreation, in-reservoir fish and wildlife preservation and propagation, recharge of aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to § 37-90-137(9)(b), C.R.S., and all augmentation purposes (“CS-U’s New Uses”). CS-U’s New Uses under the ATM-Limited Change are in addition to and not in place of the New Uses under the Comprehensive Change. In addition to the structures identified in paragraphs 5.5, 5.11, and 5.16 above, CS-U may store water attributable to the ATM Shares in or exchange such water to the structures identified in **Exhibit H**, and any other point of storage or diversion now existing or hereafter constructed and available for use by CS-U. Any such exchange will be made pursuant to the decrees entered in Division 2 Case Nos. 05CW96 and 07CW122, the decree pending in Division 2 Case No. 16CW3056, or future administratively or judicially approved plans for substitution and exchange.

7.2 ATM-Limited Change in place of use: LAWMA seeks to change the water rights associated with the ATM Shares such that they may be used for CS-U’s New Uses within CS-U’s service area as it exists now and as it may exist in the future, including any areas served by CS-U by extraterritorial agreement or other contract; for replacement of depletions on Fountain Creek accruing between the City of Colorado Springs and the confluence of Fountain Creek and the Arkansas River; and in any location within the Arkansas River Basin for which water may be delivered by CS-U for augmentation, sale, or lease, and for such other uses as may be allowed by law. CS-U’s current service area is located as shown on **Exhibit F**. The new place of use under the ATM-Limited Change is in addition to and not in place of the new places of use under the Comprehensive Change, as described in paragraph 6.2 above.

8. Replacement of historical return flows: LAWMA will replace to the Arkansas River system, in the amounts, times, and locations necessary to prevent injury to Colorado water rights and violation of the Arkansas River Compact, the historical return flows associated with the FLCC Shares. LAWMA will replace the historical return flows with water available to the FLCC Shares or with any other fully consumable water legally available to LAWMA for that purpose.

9. FLCC approvals: As required by the FLCC’s Bylaws, LAWMA applied to the FLCC Board of Directors (“FLCC Board”) for approval of LAWMA’s proposed changes of use of the FLCC Shares and additional changes of use of the ATM Shares. With respect to the Comprehensive Change, the FLCC Board issued its Amended Decision on December 20, 2016 (“2016 FLCC Approval”), approving the proposed changes of use and authorizing LAWMA’s filing of this Application on the terms and conditions given in that decision. With respect to the ATM-Limited Change, the FLCC Board issued its Decision on November 14, 2018 (“2018 FLCC Approval”), approving the additional proposed changes of use and authorizing LAWMA’s filing of this Application on the terms and conditions given in that decision. A copy of the 2016 FLCC Approval is attached as **Exhibit I**, and a copy of the 2018 FLCC Approval is attached as **Exhibit J**. In both FLCC approvals, the FLCC Board reserved the right to participate in this case as an objector, consistent with the approvals.

10. Revegetation terms and conditions of Bent County 1041 Permit: In compliance

with the Bent County 1041 Permit issued to LAWMA and ARF on April 11, 2018, nunc pro tunc April 3, 2018, LAWMA requests that the revegetation terms and conditions included in Exhibit C to that permit be incorporated into any decree entered in this case. Exhibit C to the Bent County 1041 Permit is attached as **Exhibit K. 11. Addition of FLCC Shares to Augmentation Plan**: Paragraph 41.A of the 02CW181 Decree provides that LAWMA may add permanent sources of augmentation and replacement water to the Augmentation Plan by filing an application with this Court. By this Application, LAWMA seeks to add the FLCC Shares to the Augmentation Plan as a permanent source of augmentation and replacement water. **12. Augmentation stations**: The maps attached as **Exhibits L-1** and **L-2** show the locations of the augmentation stations that LAWMA will use to measure water delivered to the FLCC Shares for return to the river. LAWMA may develop other augmentation stations for that purpose and seeks the court's approval to add such new augmentation stations under the decree to be entered in this case. **13. Names and addresses of owners or reputed owners of 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**: 13.1 West Farm Gravel Pit: GP Aggregates, LLC, c/o Karl Nyquist, 7991 Shaffer Pkwy., Ste. 200, Littleton, CO 80127. 13.2 Horse Creek Reservoir: U.S. Department of Interior, Bureau of Land Management, Colorado State Office, 2850 Youngfield St., Lakewood, CO 80215; Colorado State Land Board, 1127 Sherman St., Ste. 300, Denver, CO 80203; Timberlake Grazing Association, P.O. Box 151 Cheraw, CO 81030; FLCC, 750 Bent Ave., Las Animas, CO 81054; Minnie Glasnapp et al, c/o John F. Knipp, 709 St. Andrews, Wichita, KS 67230. 13.3 Adobe Creek Reservoir: U.S. Department of Interior, Bureau of Land Management, Colorado State Office, 2850 Youngfield St., Lakewood, CO 80215; Colorado State Land Board, 1127 Sherman St., Ste. 300, Denver, CO 80203; Wyckoff Land & Cattle, 9990 Hwy. 96, Arlington, CO 81021; Beverly D. Spady, 517 Belleview, La Junta, CO 81050; CW Loveridge, 710 Vandehei Ave., Cheyenne, WY 82009; Elda E. Stavely, 200 Main St., Haswell, CO 81045, VB Ballard / Southern Family LLC, 2001 North Madison, Hutchinson, KS 67502; Leonard Ballard Schiff Trust & Ellen M. Schiff, P.O. Box 913, Hutchinson, KS 67504; Jeris A. Danielson, 517 Belleview Ave., La Junta, CO 81050; Michael Spady, 14265 Hwy. 50, Las Animas, CO 81054; William R. Dunlap, 1002 N Lyon, Santa Ana, CA 92701; J. B. Dean et al, c/o Mary Dean, 2 Westwood Rd., Santa Cruz, CA 95060; Bryan Borgus, 5659 S Scarlet Oak Ter., Homosassa Springs, FL 34446; Eldon Borgus, 203 Portageville Rd., Hunt, NY 14846; Mark R. Borgus, 970 Savage Rd., Churchville, NY 14428; Craig R. Borgus, 337 6th Way, Interlachen, FL 32148; Todd Borgus, 67 Stone Hill Ln., North Ferrisburgh, VT 05473; Glenda Chemelli, P.O. Box 418, Homosassa Springs, FL 34447; Charlotte Terrell et al, c/o Cheryl A. Griffith, 3506 Cardinal Dr. SW, Warren, OH 44481. 13.4 Thurston Reservoir: FLCC, 750 Bent Ave., Las Animas, CO 81054. 13.5 Neeskah (Queens) Reservoir: U.S. Department of Interior, Bureau of Land Management, Colorado State Office, 2850 Youngfield St., Lakewood, CO 80215; Colorado Parks and Wildlife, 1313 Sherman St., 6th Floor, Denver, CO 80203; Colorado State Land Board, 1127 Sherman St., Ste. 300, Denver, CO 80203; Ellenberger Limited Partnership LLLP, 36106 CR 11.5, Lamar, CO 81052; Gagnon Family Limited Partnership, 325 Ivanhoe St., Denver, CO 80220; Greg S. Spitzer, P.O. Box 246, Wiley, CO 81092; Wootten Investments LTD, P.O. Box 1258, Lamar, CO 81052. 13.6 Pueblo

Reservoir: U.S. Department of Interior, Bureau of Reclamation, Great Plains Region, P.O. Box 36900, Billings, MT 59107-6900. 13.7 John Martin Reservoir: U.S. Army Corps of Engineers, Reservoir Manager, 29955 County Road 25.75, Hasty, CO 81044; Caddoa Sands LLC, 2010 Fox Mountain Point, Colorado Springs, CO 80906. 13.8 Recharge Sites described in paragraphs 6.3.2, 6.3.3, and 6.3.4: ARF, 1530 16th St., Suite 300, Denver, CO 80202. 13.9 Structures identified in Exhibit H: 13.9.1 Structures identified in Exhibit H paragraphs A-K: The City of Colorado Springs, 30 S. Nevada Ave., Colorado Springs, CO 80903. 13.9.2 Structures identified in Exhibit H paragraphs L-N: U.S. Department of Interior, Bureau of Reclamation, Great Plains Region, P.O. Box 36900, Billings, MT 59107-6900. 13.9.3 Structures identified in Exhibit H paragraphs O and P: The City of Colorado Springs, 30 S. Nevada Ave., Colorado Springs, CO 80903; and the City of Aurora, 15151 E. Alameda Pkwy., Aurora, CO 80012. 13.9.4 Structure identified in Exhibit H paragraph Q: Lake Meredith Reservoir Company, P.O. Box 8, Ordway, CO 81063. 13.9.5 Structure identified in Exhibit H paragraph R: City of Pueblo, 1 City Hall Place, Pueblo, CO 81003; U.S. Bureau of Land Management, Royal Gorge Field Office, 3028 East Main St., Canon City, CO 81212; United States Forest Service, Pike and San Isabel National Forest, 2849 Kachina Dr., Pueblo, CO 81008; and Circle A of Colorado, LLC, 33 N. Central Ave., Phoenix, AZ 85004. 13.9.6 Structures identified in Exhibit H paragraphs S, Y, and CC: Holbrook Mutual Irrigating Company, P.O. Box 34, Cheraw, CO 81030; William Stewart Carle, 3 Mirada Rd., Colorado Springs, CO 80906; State of Colorado, Colorado Attorney General, Colorado Department of Law, Ralph L. Carr Judicial Building, 1300 Broadway, 10th Floor, Denver, CO 80203; Holbrook Drainage District, P.O. Box 228, La Junta, CO 81050; Colorado Water Protective and Development Association, 1220 E. 3rd St., La Junta, CO 81050; Dale L. and Muriel M. McClelland, 14102 E. Linvale Pl., Apt. 112, Aurora, CO 80014-3710; Larry N. and Nancy A. McElroy, P.O. Box 471, Swink, CO 81077. 13.9.7 Structures identified in Exhibit H paragraphs T and X: Holbrook Mutual Irrigating Company, P.O. Box 34, Cheraw, CO 81030; Quarter Circle LT, Inc., 2475 Ln. 16, Ordway, CO 81063; Raymond E. and Frances A. Carter, 17248 County Rd. HH.50, Rocky Ford, CO 81067; Frank Minor Blackford, P.O. Box 293, La Junta, CO 81050. 13.9.8 Structure identified in Exhibit H paragraph U: Steven L. Fossil, 708 Soda Creek Dr., Evergreen, CO 80439; Glenda L. Wright, 1521 State Hwy. 209, Boone, CO 81025-9735; Timothy J. Sigler and Vestal V. Sigler, 2660 Nepesta Rd, Fowler, CO 81039-9619. 13.9.9 Structure identified in Exhibit H paragraph V: Martin Marietta Materials, Inc., P.O. Box 8040, Ft. Wayne, IN 46898-8040. 13.9.10 Structure identified in Exhibit H paragraph W: Colorado Canal Company, 331 Main St, Ordway, CO 81063. 13.9.11 Structure identified in Exhibit H paragraph Z: James H. and Mary E. Kirkland, P. O. Box 354, Rye, CO 81069. 13.9.12 Structure identified in Exhibit H paragraph AA: Lake Henry Reservoir Company, 331 Main St., Ordway, CO 81063. 13.9.13 Structure identified in Exhibit H paragraph BB: Lake Meredith Reservoir Company, 331 Main St., Ordway, CO 81063. 13.9.14 Structure identified in Exhibit H paragraph DD: Stonewall Springs Quarry, LLC, 3707 Parkmoor Village Dr., Ste 103, Colorado Springs, CO 80917. WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this Amended Application for Change of Water Rights and Addition of Augmentation and Replacement Supplies to Plan for Augmentation, and granting all such other and further relief, whether legal or equitable, as the Court may determine necessary or desirable.

**CASE NO 2019CW2, J. MICHAEL CARTER, 32911 Daniel Road, Pueblo CO 81006,
(719) 250-4110**

Amended Application for Simple Change in Surface Point of Diversion Pursuant to § 37-92-305(3.5), C.R.S.

PUEBLO COUNTY

2. Decreed Water Right for which Simple Change is Sought: A. Name of Water Right:

An undivided 0.5 cubic feet per second (“cfs”) decreed to Blunt ditch No. 2, Priority No. 33.

B. Original and All Subsequent Decrees: The Blunt Ditch No. 2 was adjudicated on June 26, 1893 in Case No. 2756. The point of diversion and place of use for 0.5 cfs of the Blunt Ditch No. 2, including 0.25 cfs of the Blunt ditch No. 2 now owned by Applicant, was changed by Decree entered in Case No. 01CW47, Water Division 2. Furthermore, the point of diversion and place of use for 1.0 cfs of the Blunt Ditch No. 2, including 0.25 cfs of the Blunt Ditch No. 2 now owned by applicant, was changed by Decree entered in Case No. 01CW33, Water Division 2. C. Legal description of Point of Diversion for Water Rights as described in most recent decrees that Adjudicated the Locations:

A point of diversion located in the Section 6, Townships 21 South, Range 63 West of the 6th P.M. at a point 1790 feet west of the east line and 4380 feet north of the south line of said Section 6, in Pueblo County, Colorado, approximately 4,165 feet north of the South section line and 175 feet west of the East section line of said Section 6. Referred to as Blunt Chambers on Division of Water Resources, map attached as Exhibit A and a point of diversion located in the NE ¼ of the NE ¼ of Section 6, Township 21 South, Range 63 West of the 6th P.M., Pueblo County, Colorado, approximately 4,165 feet north of the South section line and 175 feet west of the East section line of said Section 6. Referred to as Blunt Chambers on Division of Water Resources See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

D. Decreed Source of water: St. Charles River. E. Appropriation Date: January 8, 1867. F. Amount of Water for which

Change is Sought: 0.25 cfs of the 1.5 cfs of the Blunt Ditch No. 2 changed in Case No. 01CW47 and 0.25 cfs of the 3.0 cfs of the Blunt Ditch No 2 changed in Case No. 01CW33. G. Decreed Use: Irrigation. **3. Detailed Description of Proposed Change in a Surface**

Point of Diversion: A. Complete Statement of Proposed Change, including a Description of how the Change Meets the Definition of a Simple Change in a Surface

Point of Diversion: Case No. 01CW47 locates the diversion point for 1.5 cfs of the Blunt Ditch No. 2 to the current diversion point for that water right. In order to simplify his operations, Applicant seeks to move the diversion point for his undivided 0.25 cfs of the Blunt Ditch to a new diversion point at a pump located approximately 650 ft downstream of the diversion point described in Case No. 01CW47 and 1000 ft upstream from the diversion point described in Case No. 01CW33. There is no more water physically and legally available at proposed as compared to the decreed diversion point. Further, Applicant will comply with all flow restrictions upon the Blunt No. 2 Ditch Right imposed by the Decree in Case No. 01CW47 and 01CW33. Accordingly, this change in the location of the diversion point of Applicant’s portion of the Blunt Ditch No. 2 right will not result in diversion of a greater flow rate or amount of water than has been decreed to the water right or is physically and legally available at the diversion point from which the change is being made. There are no intervening water rights, including any Colorado

Water Conservation Instream Flow Rights, located between the decreed and proposed diversion points. Accordingly, the requested change in the location of the Charles Jarvis Ditch Water Rights will not result in an increase in beneficial use of the rights, or otherwise cause injury to any water right. **B. Legal Description of the New Point of Diversion:** **UTM Coordinates Northing:** 4234043.7976 **Easting:** 545317.0751, **Street Address:** 32911 Daniel Road Pueblo, CO 81006, **Subdivision:** Par B lot line rearrangement no 2001-003 Formerly #13-060-14-004 + #13-060-18-001, **Source of UTM:** Division 2 Engineer's office maps. Applicant is the owner of the land on which the new diversion structure will be located.

CASE NO. 2019CW6, TERRY J PEAVLER, PO BOX 1091, Buena Vista CO 81211, (719) 207-0626. The Water Referee ordered that this Application not be published until an amended application is filed.

CASE NO. 2019CW7, WILFRED W. JR, RHONDA IRENE KINCADE, PO BOX 1105, Idaho Springs, CO 80452, 303-567-2705

Application for Correction for an Established But Erroneously Described Point of Diversion Pursuant To Pursuant to § 37-92-305(3.6), C.R.S.

LAKE COUNTY

2. Decreed water right for which correction is sought: **A. Name of Structure:** Spring Creek Ditch (WDID 1100697), **B. Date of original and all relevant subsequent decrees:** 06/19/80 **Case No.** CA1127, **D. Legal Description:** Section 10, Township 18 South, Range 79 West. See Exchange Maps filed with the application. (General Map location or Exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **E. Decreed source of water:** Spring Creek. **F. Appropriation Date:** 04/12/1883 for 1cfs and 08/13/1889 for .05 cfs. **G. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** Absolute: 1.05 cfs. **H. Decreed use or uses:** Irrigation. **H. Amount of water decreed:** Absolute: 1.05 cfs. **3. Detailed description of proposed change in a surface point of diversion:** **B. Location of the new surface point of diversion:** **UTM Coordinates:** Easting: 0388712; Northing: 4333297, Zone 13.

CASE NO. 2019CW8, WILLIAMS AND HAMM DITCH COMPANY c/o MARK BOYLE, 8875 County Road 150, Salida, CO 81201, 303-503-8506

Application for Simple Change in Surface Point of diversion Pursuant to § 37-92-305(3.5), C.R.S.

CHAFFEE COUNTY

2. Decreed water right for which correction is sought: **A. Name of Structure:** Williams Ditch, **B. Date of original and all relevant subsequent decrees:** June 19, 1980 **Case No.** CA1127, **C. Legal Description:** The head-gate is located on the east bank of the Arkansas River, at a point where section line between sections 30 and 31 crosses the river, Chaffee County, CO. See Exchange Maps filed with the application. (General Map location or Exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **D. Decreed source of water:** Arkansas River, **E. Appropriation Date:** April 13, 1877, **F. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** Absolute: 1 cfs. **G. Decreed**

use or uses: Irrigation. **H. Amount of water decreed:** Absolute: 1 cfs. **3. Detailed description of proposed change in a surface point of diversion:** **A. Complete statement of change:** We believe the Williams Ditch priority (1.0 cfs) has been diverted into the Williams and Hamm Ditch for over 100 years. This application is to make the official diversion point of the Williams Ditch to the Williams and Hamm Ditch. Diversion records, confirmed by the District 11 Water Commissioner, show that the last time a diversion record was recorded by the Williams Ditch individually was in 1914. It is our belief that in 1915 the Williams Ditch was diverted by the Williams and Hamm Ditch. The first time the diversion record shows the Williams Ditch combined with the Williams and Hamm was in 1927. The diversion record goes on to show that the Williams priority has been recorded as diverted by the Williams and Hamm most every year since 1955. We believe this long history of diversion record proves that the Williams Ditch priority has a right to be diverted into the Williams and Hamm Ditch. **A. Location of the new surface point of diversion:** **UTM coordinates:** Northing: 4272690N Easting: 406336E, Zone 13. **4. 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:** Steve Tait, 12250 County Road 195, Salida, CO 81201

****Per Order, Resume to be published by Water Division 1****

CASE NO. 2019CW3057 Water Division 2 and CASE NO. 2019CW3175 Water Division 1 - TERESA KOLB, 15980 Park Ave., Colorado Springs, CO 80921, (Please address all correspondence and inquiries regarding this matter to Applicant's attorney: Steve T. Monson, #11329, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Summary of Application: Applicant seeks to re-permit an existing exempt domestic in-house well to a non-exempt augmented well, constructed to the not-nontributary Dawson aquifer to provide water service to Applicant's residential property consisting of 3.78 acres. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and to obtain approval of a plan for augmentation to replace groundwater depletions from the uses set forth herein. **III. Application for Underground Water Rights.** **A. Legal Description of Wells.** 1. **Property Description:** The well will be located on Applicant's approximately 3.78 acre residential property ("Applicant's Property") located in El Paso County, Colorado. Applicant's Property is El Paso County Assessor's Parcel No. 6128403018, See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), and more particularly described as follows: Lots 22, 23, and 26 in Block 1 of Black Forest Park subdivision as amended by Res at Book 3238 Page 810. Also known as 15980 Park Ave, Colorado Springs, CO 80921. 2. **Existing Well.** There is an existing exempt domestic in-house use well on the Property, being Permit No. 186509 ("Kolb Well"), attached as

Exhibit B. The Kolb Well is located on the Applicant’s property as described in Paragraph III.A.1, and is 2400 feet South and 1200 feet East from the Section Line and is constructed to the not-nontributary Dawson aquifer to a total depth of 300 feet, tested on June 21, 1995 and completed June 27, 1995 for 10 gallons per minute. The UTM coordinates are: Northing 4323788.6 Easting 5190505.7, Zone 13, spotted from section lines, based on the Division of Water Resources CDSS tools. Applicant proposes that the Kolb Well be re-permitted for non-exempt uses upon entry of a decree approving the plan for augmentation requested herein. B. Water Source. 1. Not-Nontributary. The groundwater to be withdrawn from the Dawson, Denver, and Arapahoe aquifers underlying the Applicant’s Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer 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 100 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 groundwater in the Denver Basin aquifers underlying the Applicant’s Property. Said amounts may be withdrawn over the 100-year life requirement 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	NET SAND (Feet)	Avg. Specific Yield	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)
Dawson (NNT)	354.70	20%	268.15	2.68
Denver (NNT)	542.00	17%	348.29	3.48
Arapahoe (NNT)	231.40	17%	148.70	1.49
Laramie Fox Hills (NT)	191.20	15%	108.41	1.08

Decreed amounts may vary from the above to conform with 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 amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicant requests the right to use the ground water for beneficial uses upon the Applicant’s Property consisting of domestic, irrigation of lawn, landscaping, greenhouse, and garden, stock water, watering of poultry, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant’s Property 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 may 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 wells or use water from the not-nontributary Dawson 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). Use of water from the not-nontributary Denver and Arapahoe aquifers will also require a plan for augmentation to be approved by this Court. E. Well Fields. Applicant requests that she be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying 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 she 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 entry of a decree herein, 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 and underlying groundwater upon which the wells are and will be located is owned by the Applicant. **IV. APPLICATION FOR PLAN FOR AUGMENTATION:** A. Structures to be Augmented: The structure to be augmented is the Kolb Well, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Kolb Well, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer Kolb Well. 1. Uses. Potential water use criteria and their consumptive use component for replacement of actual depletions for the Applicant's Property are estimated as follows: i. Household Use Only: The amount of 0.27 acre feet annually will be used within a single family dwelling, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use will therefore be 0.027 acre feet, with return flows of 0.243 acre feet. ii. Landscape, Garden, and Greenhouse Irrigation: The diversion of 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85 percent assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. iii. Horses, stock, and poultry (or equivalent livestock): 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component for horses, chickens, and equivalent livestock. 2. The well will pump a maximum of 0.50 acre feet of water from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn, green house, and garden, and the watering of horses or equivalent livestock and poultry. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.27 acre feet of water per year per residence with the

additional 0.37 acre feet per year available for irrigation of approximately 3500 square feet of lawn, garden, and greenhouse and the watering of up to five horses or equivalent livestock and the watering of up to 20 chickens or equivalent livestock on the residential lot. 3. Depletions. Applicant's consultant has determined that maximum stream depletions over the 100 year pumping period for the Dawson aquifer amounts to approximately 5.89% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 0.029 acre feet in year 100, being 5.89 percent times the 0.5 annual diversions. Should Applicant's pumping be less than the 0.50 acre feet per year described herein, resulting depletions and required replacements will be correspondingly reduced. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of the residential well. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10 percent per year for the residence. At a household use rate of 0.27 acre feet per residence per year, 0.243 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Applicant does not at this time claim return flows from irrigation uses, as a source of augmentation supply, but retains the right to amend this plan in the future to make such claims. Thus, during pumping, annual stream depletions will be more than adequately augmented by the residential return flows of 0.243 acre feet. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Kolb Well, Applicant will reserve up to the total amount of plan pumping in the nontributary Laramie Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicant also reserves 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, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the Kolb Well for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **V. Remarks:** A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is the Applicant's intent to consolidate the Division 2 application in Water Division 1 upon completion of publication and the period for filing statements of opposition. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. B. Applicant requests a finding that she has 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 wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. Subject to the following section, the term of this augmentation plan is for 100 years, however the length of the plan for the 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. D. Applicant may extend the plan for augmentation for beyond 100 years provided that adequate return flows are available to meet depletions during pumping and adequate nontributary water in the Arapahoe and Laramie Fox Hill aquifers are available and committed to the post pumping replacement of depletions. E. 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. F. The Applicant requests 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. G. The Kolb Well shall be installed and metered as reasonably required by the State Engineer. The Kolb Well will 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. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. H. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. I. All record owners of the Subject Property not listed as Applicants herein, and every person who has a lien or mortgage on, or deed of trust to the Applicant's Property will be notified of the filing of this Application by certified or registered mail, return receipt requested, no later than 14 days after the filing of this Application. The Applicant will complete and file with the Court a Certificate of Notice as evidence that the required notices were given, in accordance with the notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I).

CASE NO. 2019CW3058; Previous Case No. 2011CW081 - THE CITY OF AURORA, COLORADO, acting by and through its Utility Enterprise, 15151 East Alameda Parkway, Suite 3600, Aurora, Colorado 80012-1555,

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: John M. Dingess, Austin Hamre and Teri L. Petitt (Special Counsel), Hamre, Rodriguez, Ostrander & Dingess, P.C., 3600 S. Yosemite Street, Suite 500, Denver, Colorado 80237, phone (303) 779-0200.)

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

LAKE AND CHAFFEE COUNTIES.

2. NAMES AND LOCATIONS OF POINTS / STRUCTURES DEFINING EXCHANGE

REACHES: (See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

2.1. **Confluence of Lake Fork Creek and the Arkansas River ("LF/AR Confluence")**. This confluence is located in the SW ¼ of the SE ¼, Section 5, Township 10 South, Range 80 West, of the 6th P.M., in Lake County, Colorado, at a point that lies approximately 340 feet from the south line and 1810 feet from the east line of said Section 5. 2.2. **Turquoise Reservoir**. Turquoise Reservoir, including the proposed Turquoise Lake Enlargement, is located in all or portions of Sections 7, 8, 17, 18, 19 and 20, Township 9 South, Range 80 West, and Sections 10, 11, 12, 13, 14 and 15, Township 9 South, Range 81 West, all from the 6th P.M., in Lake County, Colorado.

The Turquoise Reservoir Dam axis and the centerline of Lake Fork Creek intersect at a point whence the northwest corner of Section 16, Township 9 South, Range 80 West, 6th P.M., bears north 44° 46' 18" east a distance of 10344.35 feet which point is also described as a point in the SW ¼ of the NE ¼ of Section 19, Township 9 South, Range 80 West, 6th P.M. that lies 2110 feet from the north line and 1890 feet from the east line of Section 19.

2.3. **Arkansas River Intake for Box Creek Reservoir.** The Intake is to be located in Sections 22, 27 and 34, Township 10 South, Range 80 West and Section 3, Township 11 South, Range 80 West, of the 6th P.M., in Lake County, Colorado.

2.4. **Derry Ditch No. 1 (diversion point for Box Creek Reservoir).** The headgate for the Derry No. 1 Ditch is on the right (west) bank of the Arkansas River at a point whence the ¼ corner of Section 16, Township 10 South, Range 80 West, of the 6th P.M. bears south 22° 1' east 3753 feet, in Lake County, Colorado, which point is believed to lie approximately 790 feet from the south line and 1190 feet from the west line of Section 9, Township 10 South, Range 80 West.

2.5. **Upper River Ditch (diversion point for Box Creek Reservoir).** The point of diversion for the Upper River Ditch is on the west bank of the Arkansas River at point whence the Southeast corner of Section 16, Township 10 South., Range 80 West., of the 6th P.M. bears south 23° 28' east, 2008.5 feet, in Lake County, Colorado, which point is believed to lie approximately 1830 feet from the south line and 820 feet from the east line of said Section 16.

2.6. **Confluence of Lake Creek and the Arkansas River ("LC/AR Confluence").** This confluence is located in the NW ¼ of the SE ¼, Section 24, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado, at a point that lies approximately 2560 feet from the south line and 1880 feet from the east line of said Section 24.

2.7. **Twin Lakes Reservoir.** Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 Township 11 South, Range 80 West, and Sections 24 and 25, Township 11 South, Range 81 West, all from the 6th P.M., in Lake County, Colorado. The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the Southeast corner of Section 23, Township 11 South, Range 80 West of the 6th P.M. bears South 54° 13' 8" east, a distance of 3803.10 feet, which point is also described as a point in the NE ¼ of the SW ¼ of Section 23, Township 11 South, Range 80 West, 6th P.M. that lies 2160 feet from the south line and 2325 feet from the west line of Section 23.

2.8. **Confluence of Clear Creek and the Arkansas River ("CC/AR Confluence").** This confluence is located in the SE ¼ of the NE ¼, Section 8, Township 12 South, Range 79 West, 6th P.M. in Chaffee County, Colorado, at a point that lies approximately 1620 feet from the north line and 1200 feet from the east line of said Section 8.

2.9. **Clear Creek Reservoir.** Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West, all of the 6th P.M. in Chaffee County, Colorado.

3. DESCRIPTION OF CONDITIONAL WATER RIGHTS:

3.1. **Date of Original Decree.** September 20, 2013, Case No. 11CW081, District Court, Water Division 2, Colorado ("Original Decree").

3.2. **Date of Subsequent Diligence Decree.** None.

3.3. **Legal Descriptions.** See paragraph 2 above.

3.4. **Sources of Substitute Supply.** Water imported into Water Division 2 via the Columbine Ditch. The water rights diverted through the Columbine Ditch are the following:

3.4.1. Senior appropriation. Initially decreed in Civil Action No. 963, District Court for Eagle County, subsequently changed in Case No. 90CW340, Water Division 5 (consolidated with Case No. 90CW052, Water Division 2), and further changed in Case No. 09CW187, Water

Division 5 (consolidated with Case No. 09CW143, Water Division 2 and Case No. 09CW278, Water Division 1). 3.4.2. Junior appropriation. Case No. 09CW188, Water Division 5. 3.5. **Exchange Reaches and Amounts.** Aurora operates or will operate the appropriative rights of exchange from each of the following Exchange-From Points to each of the following Exchange-To Points, the locations of which are more specifically described above. 3.5.1. From the LF/AR Confluence to Turquoise Reservoir. 3.5.1.1. Rate of Exchange: 3.5.1.1.1. 10 cfs, absolute. 3.5.1.1.2. 30 cfs, conditional. 3.5.1.1.3. 40 cfs, total. 3.5.2. From the LC/AR Confluence to Twin Lakes Reservoir. 3.5.2.1. Rate of Exchange: 3.5.2.1.1. 18 cfs, absolute. 3.5.2.1.2. 82 cfs, conditional. 3.5.2.1.3. 100 cfs, total. 3.5.3. From the CC/AR Confluence to Clear Creek Reservoir. 3.5.3.1. Rate of Exchange: 50 cfs, conditional. 3.5.4. From the LC/AR Confluence to the Box Creek Reservoir points of diversion (Arkansas River Intake, Derry Ditch No. 1, and Upper River Ditch). 3.5.4.1. Rate of Exchange: 100 cfs, conditional. 3.5.5. From the CC/AR Confluence to the Box Creek Reservoir points of diversion (Arkansas River Intake, Derry Ditch No. 1, and Upper River Ditch). 3.5.5.1. Rate of Exchange: 100 cfs, conditional. 3.5.6. From the CC/AR Confluence to Twin Lakes Reservoir. 3.5.6.1. Rate of Exchange: 100 cfs, conditional. 3.6. **Dates of Appropriation.** 3.6.1. For the LC/AR Confluence to Twin Lakes Reservoir exchange, the date of appropriation is May 25, 2010. 3.6.2. For the LF/AR Confluence to Turquoise Reservoir exchange, the date of appropriation is June 14, 2010. 3.6.3. For all other exchanges described above, the date of appropriation is December 15, 2011. 3.7. **Uses.** The water diverted by exchange may be used for any purposes for which the water given as a substitute supply is decreed, which may include the following: Municipal, domestic and industrial purposes including, but not limited to: fire protection; drought protection; irrigation of lawns, gardens, parks, private and municipal facilities; sanitary; commercial; manufacturing; mechanical use; recreational purposes; creation and maintenance of wetlands; stock watering; fish and wildlife propagation; reclamation; revegetation; dust suppression; storage for such uses; reservoir evaporation replacement; augmentation; exchange; and replacement purposes, for use, reuse for successive uses, disposition following initial use, and reuse until extinction. Nothing in this application expands or limits any of the decreed uses of the sources of substitute supply described in Paragraph 3.4. 3.8. **Place of Use.** The water rights that are the subject of this Application are to be used in or for the benefit of Aurora's current and future service areas served by its municipal water supply and water reuse systems and any areas within the South Platte River Basin capable of being served by the Aurora municipal water supply system, including areas served by its connections with other systems, for any water supply contracts or obligations of Aurora. Currently, Aurora is located in Township 3 South, Ranges 64, 65, 66 and 67 West, 6th P.M. in Adams County; Township 4 South, Ranges 64, 65, 66 and 67 West and Township 5 South, Ranges 65, 66 and 67 West, 6th P.M. in Arapahoe County; and Township 6 South, Ranges 65 and 66 West, 6th P.M. in Douglas County. Aurora's service area has changed from time to time and will continue to do so. Aurora may also use the water to meet replacement or delivery obligations in Water Division 2. Nothing in this application expands or limits any of the decreed places of use of the sources of substitute supply described in Paragraph 3.4. **4. DETAILED OUTLINE OF WHAT HAS BEEN DONE TOWARD COMPLETION OR FOR COMPLETION OF THE APPROPRIATIONS AND APPLICATION OF WATER TO A BENEFICIAL USE AS CONDITIONALLY DECREED:**

During the diligence period of September 2013 through September 2019, Aurora performed the following work and made the following expenditures toward completion of the appropriations and application of the water rights decreed in the Original Decree to beneficial use (expenditure numbers are rounded to the nearest \$1,000):

4.1. Project Specific Efforts. Aurora has done at least the following project specific work toward completion of the appropriations and application of the conditional water rights decreed in Case No. 11CW081 to beneficial use:

4.1.1. Columbine Ditch. On August 28, 2019, the Fremont Pass Ditch Company (Aurora is a majority shareholder) filed an application in Water Division 5, Case No. 19CW3098 seeking a finding of reasonable diligence on direct flow and storage rights for the Columbine Ditch junior appropriation originally decreed in Water Division 2, Case No. 09CW188, described in paragraph 3.4.2 above. These rights provide the substitute supplies necessary to operate the subject exchanges.

4.1.2. Development of Box Creek Reservoir. During this diligence period Aurora has performed the following work toward the development of Box Creek Reservoir:

4.1.2.1. Preliminary Design. During the diligence period, Aurora spent \$2,949,000 on engineering design work for the Box Creek Reservoir and dam, which was performed by Jacobs, formerly CH2M. The engineering design work has included engineering early designs of the dam, river diversion, conveyance pipeline to the reservoir, outlet structure and conveyance out of the reservoir, groundwater modeling and analysis, and dam break analysis and inundation mapping. In addition, Aurora spent \$327,000 during the diligence period on a preliminary engineering design conducted by URS Corporation which included analysis of alternatives for the diversion structure, forebay structures, dam, and outlet, as well as geotechnical and geophysical investigations of the site. Preliminary design work totaling \$18,000 was also conducted by Hydrogeo for work related to design alternatives and feasibility for a diversion structure to supply the proposed Box Creek Reservoir.

4.1.2.2. Land Acquisition. During the diligence period, Aurora conducted negotiations with local property owners, as well as State and Federal Agencies, and spent \$2,806,000 on land acquisitions, easements, and related activities to support the development of Box Creek Reservoir.

4.1.2.3. Mining Leases. In 2018 Aurora and the Colorado State Land Board entered into a 10-year mining lease with Titan Au to explore minerals around the proposed Box Creek Reservoir site. In 2015 Aurora entered into a 2-year mining lease with Cathedral Mining to explore minerals at the site.

4.1.2.4. Land Exchange. Aurora entered into a Cooperative Agreement with the U.S. Forest Service in September 2018 and spent \$48,000 to pursue a land exchange for lands located within the Box Creek Reservoir site.

4.1.2.5. Jurisdictional Wetlands Determination. Aurora has spent \$294,000 during the diligence period to obtain a jurisdictional determination of whether potential waters of the U.S. and wetlands are located within the proposed Box Creek Reservoir site, which is a necessary step toward initiating permitting for the project. This work has included outside legal consultation and wetlands investigations conducted by GEOSUAS and ERO that included wetland delineations and vegetative surveys. In 2016 Aurora requested the U.S. Army Corps of Engineers (USACE) make a jurisdictional determination regarding potential waters of the U.S. located at the proposed Box Creek Reservoir site, but supplemental investigations by GEOSUAS were deemed necessary.

4.1.2.6. Wetlands Banking. In 2015 Aurora completed construction of the Hayden River Parcel wetlands bank located in Lake County and has conducted ongoing wetlands monitoring. Aurora has spent at least \$276,000 thereon during the diligence period.

4.1.2.7. Historic

American Building Survey. During this diligence period, Aurora paid Colorado Mountain College for a Historic American Building Survey explaining the cultural resources at the proposed reservoir site. 4.1.2.8. Rocky Mountain Fen Research Project. Aurora has spent \$179,000 during the diligence period as a partner in the Rocky Mountain Fen Research Project to study mitigation of potentially impacted fen wetlands. The funds were used to construct a fen wetland test site and to pay for monitoring activities. 4.1.2.9. PILT Payments. Aurora paid approximately \$22,000 to Lake County during the diligence period for Payment in Lieu of Taxes (PILT) for properties Aurora owns in Lake County that are related to the Box Creek Reservoir project. 4.1.2.10. Lake County Open Space Initiative. Aurora participated as a member of the Lake County Open Space Initiative (LCOSI) and spent \$24,000 on LCOSI membership and other related activities during the diligence period. Aurora participated by providing assistance in the development of LCOSI's Ecosystem Management Plan report. 4.1.2.11. Community Relations. Aurora expended sums during the diligence period on Lake County community relations related work and activities associated with the Box Creek Reservoir project. 4.1.2.12. Diligence Application for Box Creek Reservoir exchanges. On October 30, 2012, Aurora obtained a decree in Case No. 01CW145, Water Division 2, decreeing appropriate rights of exchange on the Arkansas River that include Box Creek Reservoir, the Arkansas River Intake and the Upper River Ditch as exchange point structures. On October 31, 2018, Aurora filed an application in WD-2, Case No. 18CW3063 seeking a finding of reasonable diligence on these exchanges. This is diligence work related to the water rights at issue herein because it integrates these structures more fully into Aurora's interconnected Arkansas Basin water supply network. 4.1.3. Assessments Paid for Use of Twin Lakes Reservoir. During this diligence period, Aurora paid \$391,000 in annual assessments to the Twin Lakes Company, which payments were necessary for the operation of the exchanges involved herein. 4.1.4. Intergovernmental Agreement with SECWCD. On October 3, 2003, Aurora entered into an Intergovernmental Agreement with the Southeastern Colorado Water Conservancy District ("SECWCD"), replacing an agreement between the parties dated December 7, 2001. Under this new IGA, Aurora and SECWCD agreed to support proposed federal legislation relating to the Fryingpan-Arkansas Project to include, among other things, re-operations of the existing water storage facilities, studies for enlargements to Pueblo and Turquoise Reservoirs, and confirming the authority of the Bureau of Reclamation to enter into contracts with Aurora for use of the facilities including long-term contracts. Aurora's ability to use Fryingpan-Arkansas facilities is expanded under this IGA and Aurora is obligated to make certain payments to SECWCD in consideration for the expanded use. Under this IGA, SECWCD also agreed not to oppose Aurora's attempts to contract with the Bureau of Reclamation for use of the Fryingpan-Arkansas Project facilities, to facilitate delivery of Aurora's water, and to settle opposition to each other's water court applications, including this case. During this diligence period, Aurora made payments of more than \$950,000 to SECWCD under this IGA which were necessary for the operation of the exchanges involved herein. 4.1.5. Legal Activities. During the subject diligence period, Aurora spent in excess of \$69,000 on legal activities connected to the development of the subject water rights. 4.2. **System-wide Efforts.** Pursuant to the Original Decree, these exchanges are part of a unified extensive system for the collection, treatment and distribution of water operated by Aurora. For the purposes of showing diligence as to completion of the appropriate rights of exchange

originally decreed in Case No. 11CW081, diligence as to any part of the Aurora water rights system used to operate or benefiting from these exchanges shall be diligence as to the completion of the exchanges. During this diligence period, Aurora has done at least the following system-wide work that will be used to operate or benefit the conditional exchanges:

4.2.1. Metro Wastewater Reclamation District Charges. Aurora expended at least \$159,625,000 during this diligence period for fees for wastewater treatment of its water at the Metro Wastewater Reclamation facility. Such treatment is necessary for release of this water into the South Platte River Basin and is necessary for reuse of the water that is the subject of the exchanges herein within the South Platte River Basin and to comply with water reuse requirements.

4.2.2. Sand Creek Water Reuse Plant Improvements. Aurora operates the Sand Creek Water Reuse Plant, a 5-million-gallon per day facility, which provides treated water used for irrigation throughout the City and for discharge into Sand Creek for use as a replacement source for the exchanges herein. Improvements to this facility completed during this diligence period cost at least \$278,000. Aurora also expended an additional \$466,000 in operating costs for the Sand Creek plant. This work is necessary for reuse within the South Platte River Basin of the water that is the subject of the exchanges herein and also to comply with water reuse requirements.

4.2.3. Griswold Water Treatment Plant Renovations. This facility treats a portion of the raw water exchanged under the Original Decree and then transported to the South Platte Basin and to Aurora before it is delivered to Aurora's customers. Approximately \$7,366,000 was spent by Aurora during this diligence period for improvements to this facility necessary to accommodate the water that is the subject of the exchanges herein. This includes expenditures directly by Aurora for renovation of the facility.

4.2.4. Wemlinger Water Treatment Plant Expansion. During this diligence period, Aurora spent more than \$39,824,000 for improvements to the Wemlinger Water Treatment Plant. This facility treats a portion of the raw water exchanged under the Original Decree and then transported to the South Platte Basin and to Aurora before it is delivered to Aurora's customers.

4.2.5. Prairie Waters Project. The Prairie Waters Project is a large comprehensive water supply, storage and treatment project in which return flows to the South Platte River from Aurora's water sources, including the water that is the subject of the exchanges herein, may be rediverted for subsequent reuse. To facilitate this project Aurora obtained various decrees in Case Nos. 06CW104, 03CW414, and 03CW415, Water Division 1. This project allows further reuse of much of the water decreed to Aurora. During the diligence period, Aurora obtained decrees in Case No. 13CW3088, WD-1, finding reasonable diligence for the water rights decreed conditionally in 03CW414 (decreed April 22, 2014); in Case No. 14CW3065, WD-1, finding reasonable diligence for the water rights decreed conditionally in 03CW415 (decreed March 2, 2015); and in Case No. 15CW3064, WD-1, making absolute portions of the rights decreed conditionally in Case No. 06CW104 and obtaining a finding of reasonable diligence on the remainder (decreed December 1, 2017). Aurora has expended \$42,071,000 on several elements of the Prairie Waters Project during this diligence period.

4.2.6. Lawn Irrigation Return Flows (LIRFs) Credits. Aurora obtained a decree in WD-1, Case No. 02CW341, Water Division 1, on September 25, 2008, quantifying LIRFs from its municipal system (and subsequent requantifications as required by the Decree in 02CW341), generated as a result of use of transmountain water rights, fully consumable in-basin water rights, decreed and permitted non-tributary sources and any other fully consumable water

available to Aurora. Aurora also installed seventeen new monitoring wells and expends manpower to monitor these wells every three months. Water that is transported under the exchanges herein and used in Aurora's service area can be reused under the decree in Case No. 02CW341. During this diligence period, Aurora has expended significant sums for engineering and legal costs required to requantify the LIRFs adjudicated in Case No. 02CW341 available for reuse.

4.2.7. Rampart Reservoir and Delivery System. More than \$17,571,000 was spent by Aurora during this diligence period for improvements to the Rampart Reservoir delivery system. This reservoir is used to store the water that has been exchanged from the Arkansas River Basin and transported to the South Platte River before it is transported through parallel 54" and 40" pipelines to Aurora. Rampart Reservoir is important for regulation of the flow through these parallel pipelines.

4.2.8. Improvements to Extend and Improve Water Service in and to Aurora. More than \$26,735,000 was spent by Aurora during this diligence period for extension and upgrade of its water transmission system necessary to deliver the water that is the subject of the exchanges herein to Aurora's customers.

4.2.9. Improvements to Sanitary Sewer System. More than \$47,705,000 was spent by Aurora during this diligence period for extension and upgrade of its sanitary sewer system necessary for wastewater treatment and reuse within the South Platte River Basin of the water that is the subject of the exchanges herein.

4.2.10. Automated Meter Reading System. Aurora spent more than \$1,409,000 during this diligence period for updates to its automated utility reading system. This is needed for efficient operation of Aurora's water supply and delivery system, including use of the water that is the subject of the exchanges herein.

4.2.11. Binney Water Purification Facility. This state-of-the-art water purification and recycling plant owned and operated by Aurora treats water for use throughout the City. Over \$16,225,000 was spent by Aurora during the diligence period for improvements to this facility. An additional \$666,000 was spent on the Binney Water Purification Facility filters addition.

4.2.12. Aurora Know Your Flow Program. During the diligence period, Aurora Water Conservation developed its voluntary *Know Your Flow Program* designed to help customers understand how efficiently they are using water. Through the program, Aurora Water Conservation estimates what a customer's water use could be for a given billing cycle if the customer were using water efficiently. The customer receives a monthly e-mail from Aurora Water Conservation showing the property's actual water use versus the customized recommended indoor and outdoor water use. Customers also receive weekly watering recommendations and tips during the irrigation season. The *Know Your Flow Program* was designed by Aurora to encourage more efficient use of the water that is the subject of this application.

4.3. **Non-Basin Specific Efforts**

4.3.1. Study of Aurora's Water Needs. During this diligence period, Aurora spent more than \$4,315,000 toward engineering and planning studies to assist in determining the City's future water needs and a plan to meet those needs, including treatment and distribution studies, various conservation studies, and on developing its Non-Potable System Master Plan.

4.3.2. Aurora Raw Water System Model. During this diligence period, Aurora spent more than \$607,000 for consultant fees to develop and support a computer model of Aurora's raw water system. These costs are in addition to the modeling efforts included in the engineering and planning studies identified in paragraph 4.3.1., above.

4.3.3. Protection Efforts. During this diligence period, Aurora spent in excess of \$1,094,000 participating in water cases in Water Divisions 1 and 2 to protect the rights and interests of Aurora with

regard to its water supply system, including the subject exchanges. 4.3.4. Aurora reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Aurora has an extensive water rights portfolio, an extensive and complex water supply, collection, treatment and reuse system, and an extensive number of agreements, contracts, leases, etc. related to its facilities and the use, reuse and storage of its water rights. It is involved in many legal actions related to the collection, treatment, reuse and protection of its water rights. Further, the management, protection, and operation of the water rights and the facilities system involve numerous City of Aurora departments and staff members throughout the state. Aurora made diligent efforts with regard to this application to determine and quantify all efforts made by the City toward completion of the appropriations and application of the water rights decreed in the Original Decree to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. **5. CLAIMS TO MAKE ABSOLUTE:** During this diligence period, Applicant made absolute the following appropriative rights of exchange (**see Exhibit B attached hereto**): 5.1. **Exchange Reach.** From LF/AR Confluence to Turquoise Reservoir. 5.1.1. Date. June 17, 2015. 5.1.2. Additional Amount Claimed Absolute. 30.0 cfs. 5.1.3. Uses. As described in paragraph 3.7, above. 5.2. **Exchange Reach.** From LC/AR Confluence to Twin Lakes Reservoir. 5.2.1. Date. June 10, 2014. 5.2.2. Additional Amount Claimed Absolute. 4.12 cfs. 5.2.3. Uses. As described in paragraph 3.7, above. **6. NAMES AND ADDRESSES OF OWNERS OF THE LAND UPON WHICH ANY NEW DIVERSION OR STORAGE STRUCTURE OR MODIFICATION TO ANY EXISTING DIVERSION OR STORAGE STRUCTURE OR EXISTING STORAGE POOL IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED:** 6.1. To the best of Aurora's knowledge, the owners of the underlying land on which the structures listed above are located are as set forth below. No modification of existing structures is contemplated in connection with this appropriation. Box Creek Reservoir and its Arkansas River Intake are the only structures associated with this application that have not yet been constructed. Pursuant to C.R.S. § 37-92-302(2)(b), Aurora shall supplement this Application with evidence that Aurora has, within fourteen days of filing this Application, given notice of the Application by registered or certified mail, return receipt requested, to the following owners of land. 6.1.1. Turquoise Reservoir and Twin Lakes Reservoir are located on land owned by the U.S. Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road, 18E, Loveland, CO 80537-9711. 6.1.2. Clear Creek Reservoir is located on land owned by the Board of Water Works of Pueblo, CO, Attn: Executive Director, 319 West Fourth Street, Pueblo, CO 81003, and the U.S. Forest Service, San Isabel National Forest, 2840 Kachina Drive, Pueblo, CO 81008. 6.1.3. Box Creek Reservoir is proposed to be built on Hallenbeck Ranch lands, owned by the City of Aurora, c/o Director of Utilities, 15151 East Alameda Parkway, Suite 3600, Aurora, Colorado 80012. Depending on the final reservoir configuration and location, it may also inundate lands owned by: Bureau of Land Management, U.S. Dept. of Interior, 3028 East Main St., Canon City, CO 81212; U.S. Forest Service, P.O. Box 970, Leadville, CO 80461; State of Colorado, 1313 Sherman St, Rm 618, Denver, CO 80203; Dennis Smith, 4961 South Boston Street, Greenwood Village, CO 80111; Bobby and Jolene Wood, P.O. Box 1351, Leadville, CO 80461; Mt Elbert Mining Co. LLC, 32460 Inverness Drive, Evergreen,

CO 80439. State Land Board of the State of Colorado, 1127 Sherman Street, Room 300, Denver, CO 80203. 6.1.4. The Arkansas River Intake to Box Creek Reservoir is located on land owned by the City of Aurora, 15151 East Alameda Street, Suite 3600, Aurora, CO 80012-1555 and the State of Colorado, Division of Parks, 1313 Sherman Street, Denver, CO 80203. 6.1.5. The Derry Ditch No. 1 headgate are located on land owned by the Overmyer-Smith Family Limited Partnership, Attn: Padraic Smith, 134 County Road 44, Leadville, CO 80461. 6.1.6. The Upper River Ditch headgate are located on land owned by the State of Colorado, 1313 Sherman Street, Denver, CO 80203. Wherefore, Applicant respectfully requests that the Court make absolute the appropriative rights of exchange described herein, find diligence in the development of those portions of the appropriative rights not made absolute and continue the conditional decree for said structures and remaining conditional amounts for the statutory period, and provide any other relief it finds just and appropriate in these circumstances.

CASE NO. 2019CW3059; Previous Case Nos. 13CW3003; 06CW95; 99CW146 - COMANCHE RESOURCES, LLC, Gary Smith, Manager, PO Box 569, Fountain, CO 80817, (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Jeff Kahn, Carey Smith, Lyons Gaddis, PO Box 978, Longmont, CO 80502-0978; (303) 776-9900)

Application for a Finding of Reasonable Diligence

EL PASO COUNTY

2. Summary of the Application: On November 15, 2000, Comanche Resources, LLC ("Comanche") obtained a decree for a conditional underground water right, change of water right, and a plan of augmentation in Case No. 99CW146, District Court for Water Division 2 ("Original Augmentation Plan"). That case granted a decree for Midway Ranches Well No. 1 (fka "POA Well No. 1") as part of a central water system for Comanche to supply water to its service area generally located in Sections 7-9, 17-22, and 26-35, Township 17 South, Range 65 West, 6th P.M. in El Paso County (the "Service Area"), for domestic, livestock, commercial, industrial, fire protection, irrigation, use, reuse, and successive use to extinction. Under the decree entered in Case No. 99CW146, diversions from Midway Ranches Well No. 1 are considered to be one hundred percent depletive and those depletions are replaced in quantity, timing and location with consumptive use credits. The conditional water right decreed to the Midway Ranches Well No. 1 for 220 annual acre feet is the subject of this application. Though the well is currently ready to divert in priority, it was not in priority during this diligence period, and therefore no part of the conditional water right for Midway Ranches Well No. 1 is claimed to be made absolute at this time. Applicant sold taps to developers for raw water for the use of water within the Service Area. Applicant created Wigwam Mutual Water Company ("Wigwam"), a Colorado nonprofit corporation, to distribute treated water to Wigwam's shareholders within the Service Area through the water distribution system installed by Comanche and the developers. Comanche assigned an interest in the augmentation plan to Wigwam. Wigwam operates the integrated water system that Midway Ranches Well No. 1 is a part of. **3. Previous decrees:** The District Court, Water Division No. 2 originally decreed this water right in 99CW146. The District Court, Water Division No. 2 subsequently entered the following diligence decrees related to this water right: Case No. 06CW95 entered on April 5, 2007, and Case No. 13CW3003 entered on September 20,

2013. **4. Descriptions of Conditional Water Right:** 4.1. Midway Ranches Well No. 1: 4.1.1. Legal Description: This well is located in the NW ¼, SE ¼, Section 9, Township 17 South, Range 65 West of the 6th P.M., at approximately 2,000 feet from the south line of said Section 9 and approximately 2,000 feet from the east line of said Section 9. 4.1.2 Source: The source of this well is the alluvium of Fountain Creek, which is tributary to the Arkansas River. 4.1.3. Depth: 30 feet. 4.1.4. Appropriation date: April 28, 1999. 4.1.5. Amount: 220 annual acre-feet at a pumping rate of 150 g.p.m., conditional. 4.1.6. Uses: Central Water supply system including the use for domestic, livestock, commercial, industrial, irrigation, fire protection, and for use, reuse and successive use to extinction.

5. Detailed outline of what has been done toward completion of the appropriations, including expenditures: When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water right for all features of the entire project or system. C.R.S. 37-92-301(4)(b). During this diligence period, Applicant has devoted substantial efforts toward the development of the Service Area, the present and further application of groundwater from Midway Ranches Well No. 1 to beneficial use, and the integrated water supply system of which the subject well is a part. In connection therewith, \$407,414.00 has been expended during this diligence period, as described below: 5.1 Over the course of the diligence period, Wigwam spent \$304,586.00 on labor and materials costs associated with maintaining Midway Ranches Well No. 1; 5.2 In 2018, Wigwam completed Phase V of one chlorine analyzer station for water treatment purposes at a cost of \$20,000.00; 5.3 In 2018, Wigwam installed and calibrated a new master meter at a cost of \$2,800.00; 5.4 In 2018, Wigwam installed a new radio skate on the skater system at a cost of \$15,283.00; 5.5 In 2018, Wigwam performed general maintenance on the transmission line that runs from Midway Ranches Well No. 1 at a cost of \$28,720.00; 5.6 Between September 30, 2018 and July 31, 2019, Applicant spent \$5,484.43 in obtaining a continuation of the conditional water rights decreed to Comanche Resources Well 1 (“CR-1 Well”), which is a second well owned by the Applicant and integrated into the potable water system owned by Wigwam and Applicant. 5.7 Between December 31, 2018 and April 30, 2019, Applicant spent \$21,126.50 in legal fees on a transaction, which in part transferred the responsibility to augment Midway Ranches Well No. 1 and CR-1 Well to the Triview Metropolitan District. 6. Applicant will continue to attempt to operate the well in priority if the water right comes into priority. **7. Owner of land upon which the structures are located:** Midway Ranches Well No. 1 is located on land owned by South 750, LLC, whose principal office street address is 16650 Midway Ranch Road, Fountain, CO 80817. WHEREFORE, Applicant requests the Court enter a decree finding that Applicant has exercised reasonable diligence in respect to the conditional water right identified above and as a result to continue the conditional water right for another diligence period.

CASE NO. 2019CW3060; Previous Case No. 13CW05 – THE CITY OF FLORENCE, C/O Mike Patterson, 600 West 3rd Street, Florence, CO 81226; THE TOWN OF COAL CREEK, c/o Mayor John Bechtelheimer, a Colorado Statutory Town, 615 Main Street, Coal Creek, CO 81221 and THE TOWN OF WILLIAMSBURG, c/o Mayor Forrest Borre, a Colorado Statutory Town, 1 John Street, Williamsburg, Florence, CO 81226, (Please address all pleadings and inquiries regarding this matter to Applicant’s

attorney: Robert F.T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd. Ste 2, Boulder CO 80302, 303-442-2156)

Application for Finding of Reasonable Diligence and to Make Absolute In Part

FREMONT COUNTY

Name of structure: Florence-Treatment Plant Diversion Works. **3. Describe conditional water right** giving the following from the Referee's Ruling and Judgment and Decree: **a. Date of Original Decree:** November 8, 1982, as amended February 11, 1985, Case No. 80CW91, District Court, Water Division No. 2. **b. List all subsequent decrees** awarding findings of diligence (all in this Court): 1986CW76 entered February 20, 1987, 1993CW10 entered January 11, 1994, 2000CW7 entered November 15, 2000, 2006CW99 entered April 16, 2007 and 2013CW05 entered Sep 20, 2013. **c. Location:** Originally decreed at NE 1/4 NW 1/4, Section 16, Township 19 South, Range 69 West of the 6th P.M. in Fremont County, Colorado; location of point of diversion changed to the diversion facilities of the Minnequa Canal in the NW 1/4 NW 1/4 Section 7, same range and township, by Decree entered by this Court on December 31, 1987, in Case 86CW120. See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **d. Source:** Arkansas River. **e. Date of Appropriation:** August 26, 1980. **f. Amount:** 7.6 cfs, conditional. **g. Use:** Irrigation, domestic, municipal and all other beneficial uses. **4. Provide a detailed outline** of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: Subsequent to the previous diligence determination by this Court on September 20, 2013 in Case No. 13CW05, the following projects and improvements on Applicants' water system have been accomplished: 2013-2014 South Pikes Peak to Union St Water Line; Main St./Hwy 115 Water main replacement from McCandless to Florence Ave.; North Reservoir #2 Rehab 2013-2014; 2014 West Tank rehab and West booster Pump Station; 2014 East Tank Rehab; 2015 South Reservoir Phase 1 – Crossover pipes and Vault; 2016, 2017, and 2018 South Reservoir Phase 2 – South Reservoir #2 Repair, Intake tower, Drain line, Bypass line, and over flow spillway. These projects and expenditures were necessary in order to continue to be prepared to place the full conditional right to beneficial use. In addition, Applicants have defended their water rights by participating as Opposers in a number of Water Court cases using the services of engineers and water counsel. Applicants' expenditures on these capital improvements and services during the diligence period exceed \$5 million. Applicants have in all respects diligently worked toward placing the conditional water right to the decreed beneficial uses. All structures and systems have for quite some time been ready to receive the subject water when it is in priority. **5. Claim to make absolute in part:** **a. Date water applied to beneficial use:** May 29, 1987. Amount: 5.4 c.f.s. **b. Supporting evidence** showing that applicants diverted water in-priority and applied such water to beneficial uses: a summary of the water system in-priority diversion records is attached as Exhibit B. **c. The water was applied to beneficial use** in the service areas of Florence, Coal Creek and Williamsburg. Those service areas are shown on map attached as Exhibit C. **6. Names and addresses of owners** or reputed owners of the land upon which existing structures or modification to any existing diversion or storage structures is or will be constructed: **a. Applicant City of Florence, b. CF&I Steel, L.P., 1612 East**

Abriendo Ave., P.O. Box 316, Pueblo, CO 81002, **c. Union Ditch and Water Company,**
P.O. Box 71, Florence, CO 81226

CASE NO. 2019CW3061; THOMAS H SMITH, P.O. Box 940, Paonia, CO 81428,

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys:
David Hallford, Erika Gibson, Balcomb & Green, P.C., 818 Colorado Ave, Glenwood
Springs, CO 81601, 970-945-6546)

Application for Change of Water Right

CHAFFEE COUNTY

2. Decreed water right for which change is sought: **A. Structure:** Hoosier Ditch. **B. Original and all relevant subsequent decrees:** CA1127, 6/19/1890. CA1530, 7/13/1887. **C. Legal description of structure:** SW SW, Sec. 16, T. 50 N., R. 7 E., NMPM; UTM Zone 13 (NAD 83), Easting 394675, Northing 4270830. The decree in CA 1127 states: "the headgate is located at a point on the SW ¼ of the SE ¼ Sec. 17, Tp. 50N. R. 7 E. whence the SE Cor. Sec. 17 bears S. 71° E. 1630 ft." **D. Source:** N. Fork of the S. Arkansas River. **E. Approp. date:** Priority No. 107C, 4/1//1882. Priority No. 132, 5/31/1883. Priority No. 183D, 11/13/1888. Priority No. 175, 11/ 30/1888. Priority No 183, 9/7/1889. **F. Total Amt. decreed to structure:** 19.8 c.f.s. total from the following decreed rights Priority No. 107C 2.5 c.f.s.; Priority No. 132 3.48 c.f.s.; Priority No. 183D 4.5 c.f.s.; Priority No. 175 1.0 c.f.s.; Priority No. 183 8.32 c.f.s. **G. Decreed use:** Irr. **H. Amt. to be changed:** The Hoosier Ditch water rights are divided and owned in one-sixth interests among Applicant and other users. Applicant owns a 2/6th interest in the Hoosier Ditch water rights and requests to change such Amt. of his interest as is needed for the changed uses described in Sec. 3 below. Applicant's ownership interest totals 6.6 c.f.s. of the 19.8 c.f.s. decreed to the Hoosier Ditch. The Amt. to be changed to the new uses is estimated to be one-quarter of a one-sixth interest, totaling 0.826 c.f.s. and distributed by priority as follows: Priority No. 107C 0.104 c.f.s.; Priority No. 132 0.145 c.f.s.; Priority No. 183D 0.188 c.f.s.; Priority No. 175 0.042 c.f.s.; Priority No. 183 0.347 c.f.s. Applicant requests that the final Amt. changed will be adjusted to increase or decrease the total and individual priority amts. of the water rights changed based upon the Court's adjudication of Hist. use and the Amt. needed for the changed use. **3. Description of proposed change:** **A. Changes of type and place of use:** Applicant requests to change a portion of his Hoosier Ditch water rights, as described in Subsection. 2 above, for diversion into and storage in the Smith Upper Pond for fire prot. and suppression within the Weldon Gulch Subdivision and replacement of pond evap. to assure availability of the Pond's capacity for fire prot. and suppression. That Pond is pending adjudication of a conditional storage right in Case No. 15CW3056. Smith Upper Pond is an existing structure described as follows: **1. Location:** The dam is located in UTM Zone 13 (NAD 83), Easting 397645, Northing 4269120. **2. Capacity:** 0.54 acre-ft., all active capacity. **3. Surface area:** 0.18 acres. **4. Sources:** N. Fork of S. Arkansas River via Hoosier Ditch for delivery of Hoosier Ditch changed water rights; and Weldon Gulch, tributary of the S. Arkansas River for the right claimed in 15CW3056. **B. Hist. use:** See Application for details. Prior to 1999, Smith's interest in the Hoosier Ditch water rights irrigated approx. 40 acres in the NE¼ Sec. 27, T. 50 N., R. 7 E. NMPM on property that is now part of the Weldon Creek Subdivision. An average of 457.4 acre-ft. were diverted annually into the Hoosier Ditch during water years 1950 through 2018. The water delivered to the Smith Upper Pond

under Smith's 2/6th interest in the Hoosier Ditch water rights averaged 122.2 acre-ft. annually during water years 1950 through 2018. The Hist. consumptive use ("HCU") under Smith's Hoosier Ditch rights was estimated for 1999 through 2018, the period of his ownership. The HCU during this period included the use by other owners of Hoosier Ditch water rights and the evap. from the Smith Upper and Lower Ponds. During 1999 through 2018, the water delivered to Weldon Gulch for irr. and pond operation under the Smith interest averaged 102.2 acre-ft. annually. The HCU before 1999 when the 40 acres were irrigated was undoubtedly significantly larger. Applicant's engineer has estimated that not more than 0.54 acre-ft. will be required to fill the Smith Upper Pond and that the evap. from the Upper Pond will be 0.35 acre-ft. annually, for a total max. annual requirement for changed use at the Pond of 0.89 acre-ft. Thus, HCU from 1/4th of a 1/6th interest will be adequate to fill Smith Upper Pond and replace the pond's evap. **4. Owner or reputed owner of the land upon which water is or will be stored:** Applicant. **5. Remarks:** A map showing the locations of the Hoosier Ditch diversion, Smith Upper Pond and Hist. irr. with Applicant's Hoosier Ditch rights is attached as Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Diversion records relied upon by Applicant's consultant for analysis of Hist. use of the water rights to be changed are attached as Exhs. B and C.

CASE NO. 19CW3062; RANCH LAND DEVELOPMENT LLC, ARKANSAS RIVER OR ITS TRIBUTARIES. c/o William Perez, 3925 Hill Circle Drive, Colorado Springs CO 80904;

(Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Paul L. Noto, Esq. and Jason M. Groves, Esq., Patrick, Miller & Noto, P.C., 197 Prospector Road, Ste. 2104A, Aspen, CO 81611 (970) 920-1030).

Application for a Surface Water Right, Underground water right, appropriative Right of exchange, and for approval of a Plan for augmentation

PUEBLO AND FREMONT COUNTIES

2. First Claim: Clevenger Red Creek Spring, First Enlargement. **3. Legal Description:** SE ¼, NE ¼ of Section 34, Township 20 South, Range 68 West of the Sixth P.M., whence the northeast corner of said Section 34 bears North 16°32' East a distance of 2,648 feet. UTM (NAD Zone 13 North of the 6th P.M.) coordinates are approximately 501790.6 meters (X-coordinate), and 4235456.6 meters (Y-coordinate). **4. Source:** Clevenger Red Creek Spring, tributary to Red Creek, tributary to the Arkansas River. **5. Date of Appropriation:** November 30, 2015 by forming intent to appropriate and taking the first step towards completing the appropriation, completing fieldwork at the point of diversion, requesting a substitute water supply plan and providing notice of the requested plan. **Date of beneficial use:** September 20, 2019. Evidence of beneficial use on file with the court, See Exhibit B filed with the application. (General Map location or Exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

6. Amount: 0.024 c.f.s. (11.11 g.p.m.), 10 acre-feet annually, absolute. **7. Uses:** Domestic, industrial, commercial, storage, fire protection (for up to 8 greenhouses and 2 support buildings, drinking and sanitary uses for up to 12 employees), and irrigation (historically irrigated 11 acres; proposed irrigation of 50 acres; indoor irrigation of 8 greenhouses and 2 support buildings). See Exhibit A showing the place of use. **8. Name and address of landowner:** Applicant. **9. Remark:** Clevenger Red Creek Spring

originally decreed on October 13, 1970 in Case No. W-59. **10. Second Claim:** Clevenger Well Field. **11. Legal Description:** Located within a 1-mile radius of the approximate location of the grow facility. The UTM X-coordinate for the center of this radius (and grow facility) is 504600.7 meters, and the UTM Y-coordinate is 4234070.9 meters. The southern boundary of the well field corresponds with the Ranch Land Development property boundary, while the northern boundary of the well field results from the 1-mile radial distance extending from the grow facility. The well field is approximately 1010 acres. Map is on file with the court as Exhibit D. **12. Source:** Ground water tributary to Red Creek, tributary to the Arkansas River. **13. Date of Appropriation:** September 30, 2019 by forming the intent to appropriate and taking the first step towards completing the appropriation, completing fieldwork at the well field, and by filing the application in this case. **14. Amount:** 0.11 c.f.s. (50 g.p.m.), 10 acre-feet annually combined with First Claim, conditional. **15. Uses:** Domestic, industrial, commercial, storage, fire protection (8 greenhouses and 2 support buildings, drinking and sanitary uses for up to 12 employees), and irrigation (50 acres outdoor drip irrigation and indoor irrigation in up to 8 greenhouses and 2 support buildings). **16. Name and address of landowner:** Applicant. **Third Claim:** **17. Name of Exchange:** Ranch Land Exchange. **18. Location:** Lower terminus: confluence of the Arkansas River and Red Creek located in Sections 8 and 9, Township 20 South, Range 67 West of the Sixth P.M., Pueblo County, Colorado. Upper terminus: point of diversion for the Clevenger Red Creek Spring described in the First Claim. **19. Source:** Contract with Board of Water Works, Pueblo, Colorado ("Pueblo Contract"), described in Fourth Claim. **20. Appropriation date:** November 30, 2015 by forming the intent to appropriate and taking the first step towards completing the appropriation, completing fieldwork at the point of diversion, requesting a substitute water supply plan and providing notice of the requested plan. **21. Amount:** 10 acre-feet, conditional; 0.024 c.f.s. (11.11 g.p.m.), conditional. **22. Use:** Augmentation by exchange. **23. Name and address of landowner:** Applicant. **24. Remarks:** The applicant's plan for augmentation described below includes an appropriative right of exchange of the augmentation water released under applicant's water supply contract with Pueblo water, extending from the confluence of Red Creek and the Arkansas river to the point of diversion for the Clevenger Red Creek Spring. Applicant will operate the exchange when it is in priority. **Fourth Claim (Plan for Augmentation):** **25. Structures to be augmented:** Clevenger Red Creek Spring, First Enlargement (described in First Claim) and Clevenger Well Field (described in Second Claim). **26. Water rights used for augmentation:** Pueblo Contract for 10 acre-feet of augmentation water by contract dated November 24, 2015. The Contract term: November 24, 2015 to November 24, 2035. **Source:** unspecified but may include Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P. M. in Chaffee County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P. M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P. M., in Lake County), Twin Lakes Reservoir (located in all or portions of Sec. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T. 11S., R.81W., 6th P. M., in Lake County), direct flow trans-mountain water or any other reservoir or place from which Pueblo Water may deliver water, as long as they are legally available for augmentation purposes. Sources of such water may include water rights decreed in Case Nos. 84CW177, Div. 2; 84CW177(B), Div. 2; 90CW370, Div. 5; W-1901, Div. 5; 95CW321, Div. 5; 90CW55, Div. 2; 04CW130, Div. 2. **27. Statement of plan for**

augmentation: Applicant owns property shown on Exhibit A and operates a licensed cannabis growing facility on property in in Section 1, Township 21 South, Range 68 West of the 6th P.M. in Pueblo County, Colorado. Applicant requests an augmentation plan to replace out-of-priority depletions from Clevenger Red Creek Spring, First Enlargement structure for indoor and outdoor water uses, using the augmentation sources described in the Application. Demands: Estimated to be 9.46 acre-feet (for 735 plants per greenhouse, 835 plants per support building, 50 acres outside irrigation for 3,200 plants, drinking and sanitary uses for up to 12 employees) as shown on Exhibit B. Spring depletions and return flows: All diversions considered 100 percent consumptive. Depletions will impact the stream within the same month depletions occur. Applicant will replace out-of-priority depletions within the same month depletions occur. Well depletions and replacement: When there is a call affecting the depletion point on the Arkansas River, daily net out-of-priority depletions shall be replaced at or above depletion point at Dakota Formation outcrop downstream of Pueblo Reservoir. See Exhibit D on file with the court. See Exhibit B for URF calculations. Replacement and Accounting: No downstream water rights on Red Creek between Clevenger Red Creek Spring and Confluence with Arkansas River, except for a spring right owned by Applicant. During a downstream call on Arkansas River below the confluence with Red Creek, **D.** Applicant will use Pueblo Contract water to replace out-of-priority depletions. Replacement water will be delivered to a point on the Arkansas River upstream of the confluence with Red Creek in Section 8, Township 20 South, Range 67 West of the 6th P.M. Applicant will account for transit losses from the point of release to the point of delivery as required by the Division Engineer. A map of water rights and place of use is on file with the court as Exhibit A. A copy of the Pueblo Contract is on file with the court as Exhibit C. Applicants own the land where water rights are located and where water is or will be put to beneficial use.

CASE NO. 2019CW3063; Previous Case No. 2017CW3009 – SILOAM WELL ASSOCIATION, PO Box 3458, Pueblo, CO 81005, (Please address all pleadings and inquiries regarding this matter to Applicant’s attorney: Steven L. Janssen, Esq., 410 Main St., Longmont, CO 80501, 303-717-7667)

Application to Amend Plan for Augmentation to Add Covered Well
PUEBLO COUNTY.

1) Paragraph 12.10 of the Final Decree provides, inter alia, as follows: “12.10. Addition of Covered Wells: If Applicant seeks to add a SWA member’s well as a Covered Well under this plan for augmentation, either as a new well, supplemental well or an alternate point of diversion for an existing well, Applicant or the well owner shall file an Application with the Water Court to add said well to this plan for augmentation. A SWA Member’s well may be added to this plan under such appropriation date and priority as the Court may determine, so long as the well is operated and used, and out-of-priority depletions are replaced, pursuant to terms and conditions at least as restrictive as those decreed herein. If said added well is located within Zones 1, 2 or 3 of the SWA Inclusion Area. See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.), and withdraws water from the Dakota aquifer, the lagged depletions to the Arkansas River shall be calculated based on the parameters set forth in Table 1 above. If said added well is outside Zones 1, 2 or 3 of the SWA Inclusion Area. as shown on

Exhibit A, attached hereto, or withdraws water from other than the Dakota aquifer, the Applicant shall submit its calculation of lagged depletions to the Arkansas River along with the Application to add said well to this plan of augmentation.” **2)** Applicant has a new member whose name is K & S, LLC, the owner of Lot 15, Pope Valley Ranch, and the owner of the well located thereon. **3)** This well is located within Zone 1 of the SWA Inclusion Area as shown on Exhibit A, attached to the Final Decree, withdraws water from the Dakota aquifer and the lagged depletions to the Arkansas River shall be calculated based on the parameters set forth in Table 1 of the Final Decree. **4)** The Applicant and its member, K & S, LLC, seek to add this well as a “Covered Well” under the Final Decree, under such appropriation date and priority as the Court may determine, and agree this well shall be operated and used, and its out-of-priority depletions replaced, pursuant to the terms and conditions of the Final Decree. **5)** The Applicant and its member, K & S, LLC, hereby request this well be added as a “Covered Well” under the Final Decree by addition of a new para. 9.9 to the Final Decree, as follows: “9.9 K & S, LLC, K & S Well #1 (WDID 1408332), DWR Permit #298406, application to repermit existing well filed upon DWR Receipt #3670554, is located within Lot 15, Pope Valley Ranch, 35.10 acres in the SW/4 of SW/4, sec. 14, T21S, R68W, of the 6th P.M., UTM Coordinates (Meters, Zone:13, NAD83) Easting: 502377, Northing: 4229920.”

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 2019, (forms available at Clerk’s office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 10th day of October 2019.

Michele Santistevan

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



(Court seal)
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