

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING SEPTEMBER
2020 (This publication can be viewed in its entirety on the state court website at:
www.courts.state.co.us).

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 2020, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved, and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2019CW3050; PADULA FAMILY PARTNERSHIP, LLLP, 4202 S. Andrews Drive, Pueblo, CO 81001 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: David L. Kueter and Kent Holsinger, Holsinger Law, LLC, 1800 Glenarm Place, Suite 500, Denver, Colorado 80202, (303) 722-2828).

Second Amended Application for Conditional Water Right and Approval of Plan for Augmentation

PUEBLO COUNTY

2. Background. This Second Amended Application is for a conditional water right for a well completed in the Fountain Creek alluvium, which is tributary to the Arkansas River. The conditional water right will be diverted from an existing well (Permit No. 92821-A), which is currently permitted as an exempt well. Diversions under the conditional water right will not qualify for an exempt well permit and therefore require adjudication. Diversions from the Well under the conditional water right may be withdrawn out-of-priority and therefore require a plan of augmentation to prevent injury to senior diverters. Accordingly, this Application, as amended, seeks a Decree for a conditional water right and an augmentation plan to replace water withdrawn out-of-priority under the conditional water right. **3. Structure.** The point of diversion for the conditional water right and structure to be augmented is a well located in the NE ¼ of the NE ¼ of Section 1, Township 20 South, Range 65 West, 6th P.M., 1,046 feet from the North section line and 229 feet from the East section line, with UTM coordinates 534208 Easting, and 4243928 Northing, Zone 13 ("Well") The Well is not decreed, but is currently permitted pursuant to Permit No. 92821-A. The Well is located on land owned by Applicant. **4. Conditional Water Right.** Applicant seeks a decree for the following water right to be diverted from the Well: **a. Source:** Fountain Creek alluvium, tributary to Arkansas River. **b. Date of Appropriation:** January 18, 2019; initiated by execution of agreement with a water engineering firm. **c. Amount:** 9.88 acre-feet per year conditional. **d. Uses:** irrigation, commercial, industrial, stockwatering, fire protection, and domestic use for one (1) single-family dwelling and one outbuilding. **e. Location of Use:** Applicant intends use the water on a 10-acre parcel located in the NE ¼ of the NE ¼ of Section 1, Township 20 South, Range 65 West, of the 6th P.M., in Pueblo County, Colorado ("Property"). 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.) Applicant is the owner of the Property. f. Return Flow. Water diverted for all uses will be considered to be one-hundred percent (100%) consumptive. Accordingly, Applicant is not claiming any return flows from diversions from the Well. However, Applicant reserves the right to claim such return flows in the future. g. Lagged Depletions: The Well will be entitled to pump on a year-round basis resulting in year-round lagged depletions to the Arkansas River. The maximum lagged depletions are calculated to cease within two years after the end of pumping. **5. Water Right(s) to be Used for Augmentation.** Water rights to be used for augmentation consist of: a. Water leased from the Board of Water Works of Pueblo, Colorado (“Pueblo Water”). Applicant entered into a lease for 10 acre-feet of fully consumable water with Pueblo Water (“Lease”). i. Type of Water Right. The water leased from Pueblo Water may be derived from direct flow, transmountain diversions, following storage or effluent treatment, or from any other reservoir or source from which Pueblo Water may deliver water, at the discretion of Pueblo Water, as long as such water is legally available for augmentation purposes. ii. Location of Storage: Pueblo Reservoir dam axis and the centerline of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West, 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21’ 20” East, a distance of 2,511.05 feet; Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West, 6th P.M., in Lake County; Turquoise Reservoir is located on Lake Fork Creek in Sections 7, 8, 17, 18, 19, and 20, Township 9 South, Range 80 West, 6th P.M. and Sections 10, 11, 12, 13, 14, and 15, Township 9 South, Range 81 West, 6th P.M., in Lake County; and Clear Creek Reservoir is located in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West, 6th P.M., in Chaffee County. iii. Water available under the Lease that is delivered to Fountain Creek pursuant to the Water Trade Agreement between Applicant and Colorado Springs Utilities. The Applicant entered into a Water Trade Agreement with Colorado Springs Utilities (“Trade Agreement”) on June 6, 2020, with a current expiration of August 31, 2039 (EXHIBIT B hereto). Pursuant to the Trade Agreement, up to 10 acre feet of the water available to Applicant under the Lease can be measured and delivered at the Las Vegas Wastewater Treatment Plant outfall, the J.D. Phillips Water Reclamation facility outfall, the Fountain Regional Wastewater Treatment Plant, or above the point of depletion for the Well at any other point of accrual of Colorado Springs Utilities’ reusable return flows on Fountain Creek. b. Source. All water to be used in this augmentation plan will be decreed or otherwise legally available for augmentation purposes. c. Additional sources of augmentation water. Applicant also seeks a term and condition in any final decree requesting the Water Court retain perpetual jurisdiction over the plan for augmentation for the sole purpose of adding new or additional sources of augmentation water pursuant to C.R.S. § 37-92-305(8)(c). **6. Statement of Plan for Augmentation.** Applicant intends to make full replacement of all out- of-priority depletions caused by the water right sought in Paragraph 4, above, on a monthly basis using releases of the replacement water identified in Paragraph 5, above. Such releases will be made in manner sufficient to meet the lawful requirements of a senior diverter at the time and location and to the extent the senior diverter would be deprived of his or her lawful

entitlement by Applicant's diversion including lagged depletions. Applicant does not seek to adjudicate an exchange; however, Pueblo Water may operate an exchange to effect replacement of the water pursuant to the terms of the Lease. **7. Nearby Wells.** Pursuant to C.R.S. § 37-90-137, Applicant has determined that there may be seven (7) wells within 600 feet of the Well. Applicant provided notice of the Application to said owners of such wells by U.S. certified mail return receipt requested, at least fourteen (14) days before filing the original Application in this matter. **8. Remarks.** a. Upon entry of a decree in this case, Applicant shall be entitled to apply for and receive well permits and all subsequent replacement wells for use in accordance with any decree entered in this case. b. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and replacement of lagged depletions under the proposed augmentation plan. c. The Well will be metered as required by the State Engineer. The Well will be equipped with a totalizing flow meter and Applicant will submit diversion records to the Division Engineer on a monthly basis or as otherwise reasonably requested by the Division Engineer. Applicant will also provide Accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. WHEREFORE, Applicant requests this Second Amended Application for Plan for Augmentation be granted as requested herein and for such other and further relief as the Court deems appropriate.

CASE NO. 2020CW8; Previous Case No. 14CW9, 07CW45 and 00CW10 – RICHARD E. DUNN and CAROL S. DUNN, PO Box 1213, La Veta, CO 81055, (719) 989-7275

Application for Finding of Reasonable Diligence

HUERFANO COUNTY

Name of Structure: Carran Pond. **Describe conditional water right:** Date of Original Decree: May 2, 2001; Case No.: 00CW10; Court: Water Division 2. List all subsequent decrees awarding findings of diligence: Date of Decree: March 10, 2008; Case No.: 07CW45; Court: Water Division 2. Legal description: SW1/4 of the SW1/4 Section 6, Township 29 South, Ranch 67 West, 6th P.M., Huerfano County Colorado, 500 feet north of the South line and 900 feet east of the West line of said Section 6. Source of water: Carran Spring. Appropriation Date: 09/30/1996; Amount: 3 gpm absolute. **Use:** Domestic, single family dwelling and irrigation of one acre of lawns and gardens. **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:** During this diligence period, the applicants have confirmed operation of a 1 hp pump, reglued sections of 300 feet of 2" PVC pipe, confirmed operation of a no-frost faucet, maintained 400 feet of hoses. Water was not previously available for storage during this diligence period. When it is, the structure will be finished to store up to 2 acre-feet of water for household use and use in irrigation of one acre of lawn, landscaping and vegetable and flower gardens. UTM coordinates: 37.54861E, -104.93832N Zone 13. Source of UTM's: GPS on iPhone. Accuracy of location on GPS device: accurate to 50 ft. Street Address: 5281 County Road 350, La Veta, CO 81055. Subdivision: Cucharas River Estates, Lot: 13. See general location map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court). **If claim to make absolute:** Description of place of use where water is applied to beneficial use: Lawn and young trees to the east, west and south of the house; vegetable and flower gardens to the east and south of the house. **Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new**

diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicants. **Remarks:** Applicants have been awarded an absolute right in the amount of 0.25 acre-foot for Carran Pond. Applicants are seeking a finding of reasonable diligence and continuation of the conditional right for the remaining 1.75 a.f/yr.

CASE NO. 2020CW3039; WILLIAM ROY MARSHALL, DEBORAH SUE MCKNIGHT 17598 County Rd 386, Buena Vista, CO 81211, TODD and BELINDA TIPTON 35410 Highway 24, Buena Vista, CO 81211, and LINDA K. REINHOLD REV. TRUST, c/o Kathy Reinhold, 35315 Highway 24, Buena Vista, CO 81211 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Balcomb & Green P.C., Scott Grosscup, P.O. Drawer 790, Glenwood Springs, CO 81601 (970) 945-6546). Amended Application for Determination of Water Right (Surface) Pursuant to § 37-92-302(1)(a), C.R.S.

CHAFFEE COUNTY

Seeking interpretation of a Decree entered in Case No. 5792 to recognize that the Bartholomew Ditch right could continue to be used for irrigation purposes until such time that the change to industrial uses has been implemented. All applicant's own property that receive water for irrigation purposes from the Bartholomew Ditch Alternate Diversion Points 1, 2, or 3 located on Frenchman Creek, a tributary of the Arkansas River. The Bartholomew Ditch was first decreed in Civil Action 1127, Chaffee County District Court, for a total of 4 cfs to irrigate 200 acres of land with appropriation dates of 6/30/1882 ("Priority 115") and 9/24/1883 ("Priority 136"). The original decreed location is on the North bank of Frenchman's Creek at a point 325 feet West from where said creek crosses the line running North and South between the NE1/4 and the NW1/4 of the SW1/4 of Section 10, Township 13 South, Range 79 West in Chaffee County, Colorado. In Civil Action 5792 ("Decree 5792") the former owner obtained a water court decree adding three alternate points of diversion for 0.5 cfs of Priority 115 and 1.5 cfs of Priority 136. See **Exhibit 1** 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.). A point on the south bank of Frenchman Creek 300 feet Easterly from the West line of the Northwest Quarter (NW1/4) It also granted the right to use 1.5 cfs for non-consumptive industrial use to be diverted at Points No. 2 and 3. After the issuance of Decree 5792, Alternate points of diversion 1, 2, and 3 were constructed. The industrial uses were never developed.

Diversion Number One: a point on the south bank of Frenchman Creek 300 feet Easterly from the West line of the Northwest Quarter (NW ¼) of the Southeast Quarter (SE1/4) of Section 10, Township 13 South, Range 79 West of the Sixth PM, Chaffee County, Colorado, and alternate or supplemental point of: **Diversion Number Two:** a point on the South bank of Frenchman Creek approximately 849 ft. Westerly from the East line of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of Section 11, Township 13 south, Range 79 West of the Sixth Principal Meridian, or at Alternate or supplemental point of: **Diversion Number Three:** a point on the Southerly bank of Frenchman Creek approximately 645 feet Westerly from the East line of the said Northeast Quarter (NE1/4) of the Southwest Quarter (SW ¼) of section 11, Township 13 South, Range 79 West of the Sixth Principal Meridian, aforesaid, all of said water rights being in Chaffee County, Colorado, in Water District Number 11, and that said Petitioners desire to continue to divert Alternatively and Supplementally and not concurrently such water right at its present point of diversion. Applicants, and Applicants' predecessors in interest, have used the water diverted at the Alternate Points 1 through 3 to irrigate their respective properties. Use of the Bartholomew Ditch water rights for irrigation purposes has

repeatedly been recognized by the Division Engineer. Applicants request a Declaratory Judgment to clarify Decree 5792 added non-consumptive industrial use to Priority 136 such that water can continue to be used for irrigation purposes until it is put to a non-consumptive use. A full copy of the application is available by contacting Applicants' counsel.

CASE NO. 2020CW3050; Previous Case Nos. 98CW175, 07CW86, and 14CW3021 – WINSTON H. CONKLING, 5310 DTC PARKWAY, Suite F., Greenwood Village, CO 80111-3010 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: David M. Shohet, #36675, Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212).

Application for Finding of Reasonable Diligence

FREMONT COUNTY

2. Name of Structures: Conkling Spring No. 1 (a/k/a Goat Spring), Conkling Spring No. 2 (a/k/a Town of Coal Creek Diversion Point No. 3), Conkling Spring No. 3 and Seep, Conkling Spring No. 4, Conkling Reservoir No. 1, Conkling Reservoir No. 2, Conkling Reservoir No. 3, Conkling Reservoir No. 4, Conkling Reservoir No. 5. **3. Description of conditional water rights:** A. Date of Original Decree: August 8, 2001; Case No.: 98CW175; Court: District Court, Water Division 2. B. List of all subsequent decrees awarding findings of diligence: i. Date of Decree: April 21, 2008; Case No.: 07CW86; Court: District Court, Water Division 2. ii. Date of Decree: September 15, 2014; Case No.: 14CW3021; Court: District Court, Water Division 2. C. Legal Description: i. Conkling Spring No. 1 (a/k/a Goat Spring): Located in the SW1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M. in a spring of water at a point from which the southwest corner of said Section 11 bears north two degrees and five minutes (2° 5') east eighteen hundred ninety (1890) feet. ii. Conkling Spring No. 2 (a/k/a Town of Coal Creek Diversion Point No. 3): Located in the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M. in and near the channel of South Oak Creek at a point from which the southwest corner of said Section 11 bears north forty-eight degrees seven minutes (48° 7') east, a distance of fifteen hundred fifty eight (1558) feet. iii. Conkling Spring No. 3 and Seep: Located in the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., lying 660 feet north of the south section line and 600 feet east of the west section line of said Section 11. iv. Conkling Spring No. 4: Located in the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M. lying 40 feet north of the south section line and 475 feet east of the west section line of said Section 11. V. Conkling Reservoir No. 1: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 40 feet north of the south section line and 530 feet east of the west section line of said Section 11. vi. Conkling Reservoir No. 2: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 1050 feet north of the south section line and 1320 feet east of the west section line of said Section 11. vii. Conkling Reservoir No. 3: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 2030 feet north of the south section line and 1690 feet east of the west section line of said Section 11. viii. Conkling Reservoir No. 4: In the SW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 2890 feet south of the north section line and 1990 feet east of the west section line of said Section 11. ix. Conkling Reservoir No. 5: In the NW 1/4, Section 11, Township 20 South, Range 70 West of the 6th P.M., Fremont County, Colorado, lying 400 feet south of the north section line and 1850 feet east of the west section line of said Section 11. A map showing the approximate locations of the above structures is attached to the application as **Exhibit A.**

(All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). D. Source: i. Conkling Spring Nos. 1, 2, 3, and 4: Spring water tributary to South Oak Creek, tributary to Oak Creek, tributary to the Arkansas River. ii. Conkling Reservoir Nos. 1, 2, 3, 4 and 5: These reservoirs are onstream reservoirs on South Oak Creek tributary to Oak Creek tributary to the Arkansas River. Additional sources of water for these reservoirs include Conkling Springs Nos. 1, 2, 3, and 4. E. Appropriation Date for Conkling Spring Nos. 1, 2, 3, and 4, and Conkling Reservoir Nos. 1, 2, 3, 4 and 5: December 31, 1998. F. Amounts: i. Conkling Spring No. 1: 5 g.p.m., conditional. ii. Conkling Spring No. 2: 8 g.p.m., conditional. iii. Conkling Spring No. 3 and Seep: 0.5 c.f.s., conditional. iv. Conkling Spring No. 4: 5 g.p.m., conditional. v. Conkling Reservoir No. 1: 9.2 acre feet fill and refill, conditional. vi. Conkling Reservoir No. 2: 8.6 acre feet fill and refill, conditional. vii. Conkling Reservoir No. 3: 8.0 acre feet fill and refill, conditional. viii. Conkling Reservoir No. 4: 1.8 acre feet fill and refill, conditional. ix. Conkling Reservoir No. 5: 21 acre feet fill and refill, conditional. G. Uses: i. Conkling Spring Nos. 1, 2, 3, and 4: Domestic, stock water, fish propagation, wildlife habitat and storage for the above purposes. ii. Conkling Reservoir Nos. 1, 2, 3, 4, and 5: Storage for domestic, livestock, piscatorial, wildlife habitat, erosion control. **4. Description of work performed toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** In Case No. 98CW175, the Court decreed to Applicant the use of four springs for domestic, stock water, fish propagation, wildlife habitat uses and five surface storage rights for storage for domestic, livestock, piscatorial, wildlife habitat, and erosion control. The decreed springs, Conkling Spring Nos. 1, 2, 3, and 4 and the decreed reservoirs, Conkling Reservoir Nos. 1, 2, 3, 4, and 5 (collectively the "Water Rights"), are a part of a single integrated water supply system for the development of Applicant's property. By decrees entered in Case No. 07CW86 on April 21, 2008, and Case No. 14CW3021 on September 15, 2014, Applicant was awarded a finding of diligence towards the Water Rights, and the Water Rights were continued in good standing. During this diligence period, Applicant, in connection with the development of the Water Rights, has outlaid the following expenditures or completed the following work related to the Water Rights and his integrated water system: A. Constructed an access road to Conkling Reservoir Nos. 1 through 3. B. Surveyed the locations of Conkling Reservoir Nos. 1 through 4. C. Excavated and began construction on Conkling Reservoir No. 1. Conkling Reservoir No. 1 currently has a six-foot dam and a 75-foot-wide spillway. D. Began excavation and cleaning of area around Conkling Reservoir No. 2. Began construction of the spillway for Conkling Reservoir No. 2. E. Excavated, constructed and plumbed Conkling Springs Nos. 1 and 3, including all water lines to deliver these springs to either irrigated fields or to storage. F. Excavated and lined a transfer pond as part of the integrated system of water management. G. Hydroseeding across Applicant's property. H. Obtained engineering design plans and cost estimates for the installation of Agri Drains on Conkling Reservoir Nos. 1 through 3. I. Placed a bid on concrete mounting blocks and anti-seep collars. J. Employed the services of a consulting engineering firm to coordinate the information gathering, annual reporting, and annual inspections by state officials related to the Water Rights. K. Excavated, constructed and lined Conkling Reservoir No. 6, which reservoir was decreed separately, but is included as an integrated feature with the Water Rights. L. Installed tanks and plumbing for water released from Conkling Reservoir No. 6 to irrigate fields below Conkling Reservoir No. 6. M. Purchased an excavator for the construction of the Conkling Reservoirs and other operations on the property. N. To date, Applicant's employees have spent over 1,500-man hours towards building the Conkling Reservoirs and their associated features. O. The total cost of the above listed actions was approximately \$400,000.00, including material, labor, fuel, and

consulting costs. This is in addition to routine daily maintenance of all water rights. P. The Applicant also incurred legal fees associated with drafting and filing of documents pertaining to the Water Rights, including previous related applications and decrees as well as the present filing, and obtaining legal advice. This includes the application and issuance of a decree set forth in Case No. 15CW3077, dated April 26, 2016, where the Applicant was awarded 7 additional acres beyond those awarded in Case No. 11CW87, allowing for the irrigation of 15 acres total using the Conkling Water Rights referred to herein. Q. Furthermore, the Applicant has actively cooperated with the Division Engineer to maintain and improve his integrated water system. A letter from the Division Engineer to the Applicant dated November 6, 2017 granted approval for Conkling Reservoirs Nos. 1 through 5 based on the Applicant's prior submittal of a Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure form for each structure. The Water Rights are part of Applicant's integrated water supply system, which consist of surface water rights and storage water rights. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of an integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. **5. Claim to Make Absolute:** No part of the conditional water rights decreed in Case No. 98CW175 are claimed to be made absolute at this time. **6. Name and address of the owners of land on which structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:** All of the structures are within the Applicant's land ownership in the W 1/2 of Section 11, Township 20 South, Range 70 West, 6th P.M.

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

CASE NO. 2020CW3051, Water Division 2 and 2020CW3133, Water Division 1 - WALTON RANCH, LLC c/o Maria Duran, P.O. Box 1005, Palmer Lake CO 80133

(Please address all pleadings and correspondence regarding this matter to Applicant's attorneys: Chris D. Cummins, #35154, 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 construct or utilize up to seven (7) non-exempt wells (including existing well) to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single family lots, based on an anticipated subdivision of Applicant's 35.3-acre parcel into up to seven lots. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **III. Application for**

Underground Water Rights: A. Legal Description of Wells. 1. Property Description. All wells will be located on Applicant's approximately 35.3 acre property ("Applicant's Property") anticipated to be subdivided into seven lots of +/-5 acres each, with current schedule number 5100000462. Applicant's Property is depicted on **Exhibit A** attached to the application, (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) located in the SW ¼ SW ¼ of Section 19, Township 11 South, Range 65 West of the 6th P.M., also known as 16750 Thompson Road, Colorado Springs, Colorado 80908. 2. Existing Well. There is an existing domestic well with Division of Water Resources Permit No. 97983 ("Walton Ranch Well No. 1"), permit attached as Exhibit B. It is drilled to a total depth of 310 feet to the Dawson aquifer, and located 1200 feet from the South Section Line, 1000 feet from the West Section Line. The well was completed on August 30, 1978 and water placed to beneficial use on August

30, 1978. Upon approval of this plan for augmentation, this well will be re-permitted. 3. Proposed Wells. Applicant proposes that up to six wells (one well per lot) will be located on the Applicant's Property at specific locations not yet determined ("Walton Ranch Wells Nos. 2 through 7"), to be constructed to the Dawson aquifer, for a total of up to seven wells. B. Water Source. 1. Not-Nontributary. The ground water to be withdrawn from the Dawson aquifer 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 Denver, Arapahoe, and Laramie-Fox Hills aquifers 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 ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado's 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)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NT)	491.6	3470.7	34.71	11.57
Denver (NT)	514.3	3086.3	30.86	10.29
Arapahoe (NT)	238.7	1432.4	14.32	4.77
Laramie Fox Hills (NT)	197.6	1046.3	10.46	3.49

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, stock water, recreation, wildlife, fire protection, 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). E. Well Fields. Applicant requests that they 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 they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicant. **IV. APPLICATION FOR PLAN FOR AUGMENTATION:** A. Structures to be Augmented. The structures to be augmented are the Walton Ranch Wells Nos. 1 through 7, 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 Walton Ranch Wells Nos. 1 through 7, 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 by up to seven wells proposed herein for up to seven residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. Uses. i. Household Use Only: 0.25 acre feet annually within single family dwellings on up to seven lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be 0.025 acre feet per well, with return flows of 0.225 acre feet per lot, or 1.575 acre-feet per year. ii. Landscape Irrigation: 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% 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 (or equivalent livestock): 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. Each well will pump a maximum of 1.0 acre feet of water per year per residence, assuming seven lots, for a maximum total of 7.0 acre feet being withdrawn from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.25 acre feet of water per year per residence with the additional 0.75 acre feet per year per residence available for irrigation of lawn and garden and the watering of up to eight horses or equivalent livestock on each residential lot. 3. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 22.28% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 1.559 acre feet in year 300. Should Applicant's pumping be less than the 7.0 total, 1.0 acre feet per lot, per year described herein, resulting depletions and required replacements will be correspondingly reduced. Additionally, should fewer than seven lots be established on the property, pumping from each individual well on each lot actually established may be increased from the maximums described herein, provided that all out-of-priority depletions remain augmented. 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 up to seven residential wells. 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% per year per residence. At a household use rate of 0.25 acre feet per residence per year, total of 1.75 acre feet, 1.575 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Walton Ranch Wells Nos. 1 through 7, Applicant will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. 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 Walton Ranch Wells Nos. 1 through 7 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 Applicant's intent to consolidate the instant matter with pending Division 1 application in Water Division 1 upon completion of publication. 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 they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. 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. E. 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. F. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and 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. G. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. H. Integrity First Financial, Inc. is a lienholder of the property. The Applicant will notify the lienholder no later than 14 days after filing this application, and file such certification with the Court, in accordance with C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I).

CASE NO. 2020CW3052; PAUL M. CAMPBELL, P.O. Box 806, Salida CO 81201.

(Please address all pleadings and correspondence regarding this matter to Applicant's attorneys: Cynthia F. Covell, Andrea L. Benson and Gilbert Y. Marchand, Alperstein & Covell P.C., 1600 Broadway Suite 1070, Denver, CO 80202, (303) 894-8191).

Amended Application for Adjudication of Spring (C.R.S. § 37-92-103(14)(b))

CHAFFEE COUNTY

2. Description of Application: Applicant's property is subject to an agriculture conservation easement with Central Colorado Conservancy pursuant to which Applicant has committed to limit the use of his property to agricultural and related compatible uses in order to conserve, maintain and enhance Chaffee County's economic resources related to agriculture, wildlife habitat, water resources and scenic open space. Continuing drought conditions have limited Applicant's ability to provide water for livestock and wildlife as contemplated by the conservation easement and Applicant's livestock operation. This application seeks to adjudicate Campbell Spring #6. Water from the Campbell Spring #6 will be captured or concentrated in a surface or near-surface structure located at or within 50 feet of the spring's natural discharge point and the water will be conveyed by gravity flow into an existing stock pond that is otherwise filled only intermittently. See C.R.S. § 37-92-103(14)(b). **3. Name of Structure:** Campbell Spring #6. **4. Location of Structure and Point of Diversion:** UTM coordinates: Zone 13: 405679.1 Easting; 4255527.3, Northing (UTM Coordinates obtained from CDSS Map Viewer Location Converter from latitude and longitude readings based on hand-held GPS.); PLSS: NE1/4SE1/4, Section 4, Township 48 North, Range 8 E, NMPM. 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.) Source: Spring tributary to Poncha Creek, tributary to the Arkansas River. **5. Information about Appropriation:** A. Date of appropriation: Date of filing application. B. How appropriation was initiated: Formation of intent to appropriate followed by execution of conservation easement and filing of this application. C. Date water applied to beneficial use: N/A. **6. Amount claimed:** 0.013 cfs (6 gpm), conditional. Use and Location of Use: Stockwatering and wildlife watering. **7. Use and Location of Use:** will be an existing stockwatering pond located at the following UTM coordinates: Zone 13, 405667.5 Easting, 4254540.9 Northing; PLSS: NE1/4 NE1/4 Section 9, Township 48 North, Range 8 East, NMPM. (UTM Coordinates and PLSS location obtained from CDSS Map Viewer Location Converter from latitude and longitude readings based on hand-held GPS.) Shown on Exhibit A. **8. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored:** C.R.S. § 37-92-302(b)(2) provides that in determining the owner of potentially affected land for purposes of the required notice to landowners, the applicant may rely upon the real estate records of the county assessor for the county in which the land is located. The Chaffee County Assessor's Office website states that "no information is available" regarding the ownership of the land on which Campbell Spring #6 is located. Applicant believes the Campbell Spring #6 is located on land in the San Isabel National Forest and will provide notice of this application to Pike-San Isabel National Forests, 2840 Kachina Drive, Pueblo CO 81008. The stockwatering pond to which water from Campbell Spring #6 will be delivered is located on land owned by Cognito Ranch LLC, c/o Richard Minkoff, 4163 Wolff Street, Denver CO 80212-2227.

CASE NO. 2020CW3053; COLORADO CENTRE METROPOLITAN DISTRICT, c/o

Manager, 4770 Horizonview Drive, Colorado Springs, CO 80925, (Please address all pleadings and correspondence regarding this matter to Applicant's attorney: Kevin J. Kinnear, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302, (303) 443-6800).

Application for Change of Water Right and for Approval of Addition of Supplemental Replacement Source.

EL PASO COUNTY

2. Background: On September 8, 2011, the Water Court, Water Division 2 entered a Decree of the Water Court in Case No. 07CW47 (the "Decree") confirming certain water rights and approving a change of water right and a plan for augmentation for Colorado Centre Metropolitan District (the "District"). The replacement (augmentation) supply in that case was 40 shares of stock of the Fountain Mutual Irrigation Company ("FMIC"). Pursuant to paragraph 9.1 of the Decree and C.R.S. §37-92-305(8)(c), the District is entitled to add additional FMIC shares as supplemental replacement water to augment additional depletions for the same types of uses from the augmented structures identified in the Decree by a "noticed application for a change of water rights to be approved by the Water Court" Further, the addition of additional FMIC shares to the augmentation plan is subject to the same terms and conditions described in the Decree, and such supplementation of additional FMIC shares "will not open this decree for any review or re-determination as such matters have been determined as a matter of res judicata, except to the extent that they remain subject to the Water Court's retained jurisdiction ... or except to the extent that the Water Court determines that there have been sufficient changed circumstances under Colorado law to warrant such review ... relative to the question of material injury to vested water rights only." By this application, the District seeks to add 10 additional FMIC shares as an additional augmentation source, subject to the terms and conditions of the Decree and for the uses specified therein. These 10 shares are represented by FMIC Certificate No. 1635, issued to the District on March 18, 2010.

3. Change of water right: (a) By this application, the District seeks to change the type and place of use of the 10 FMIC shares described above to: domestic, municipal (including fire protection), commercial, irrigation, industrial, recreation, augmentation and replacement uses, for use within the District's service area, as that area may be expanded from time to time. The water rights so changed have been permanently removed from their historical use for irrigation and the historically irrigated properties will no longer be irrigated, have been removed from crop cultivation, and have been dried up. Because the FMIC system is a water short system, the withdrawal of water deliveries to lands under that system results in naturally reduced irrigation and dry-up of property, (b) The District also seeks the right to divert and store the 10 FMIC shares described above in the Big Johnson Reservoir pursuant to its ownership interest therein, (c) The District also seeks the right to use the 10 FMIC shares described above to recharge the aquifer that is the source of supply for its various points of diversion described in the Decree.

4. Description of Additional Augmentation Water Associated with FMIC Shares: The District will replace out of priority depletions with 7.0 consumptive acre feet associated with 10 shares out of the 5,793 issued and outstanding FMIC shares. FMIC diverts its water to the Fountain Mutual Ditch from Fountain Creek, tributary to the Arkansas River, at its headgate located in the SW¼ of Section 20, Township 14 South, Range 66 West, 6th P.M. FMIC's water rights were originally decreed for irrigation purposes. Those water rights have been the subject of numerous change of water rights and plans of augmentation. FMIC water rights are valid existing water rights, and these 10 shares represent the District's pro rata interest in the following priorities decreed to the Fountain Mutual Ditch by the District Court in and for El Paso County in the former Water District 10:

DIRECT FLOW

Priority	Amount (cfs)	Priority Date	Adjudication Date
4	5.38 ¹	9/21/1861	3/06/1882
7	1.125	4/01/1862	3/06/1882
11	16.69	2/01/1863	3/06/1882
17	4.25 ²	12/31/1863	3/06/1882
21	4.65	12/31/1864	3/06/1882
28	8.48	12/31/1866	3/06/1882
29	9.68	12/31/1867	3/06/1882
41	17.05	9/21/1874	3/06/1882
168	343.2	1/31/1903	6/02/1919

STORAGE

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

In addition, by virtue of the 10 FMIC shares described above, the District has a *pro rata* interest in the actual capacity of Big Johnson Reservoir (a/k/a Fountain Valley Reservoir No. 2), decreed for 10,000 acre-feet with an appropriation date of March 18, 1903, and an adjudication date of June 2, 1919, the source of which is Fountain Creek. The reservoir is located in Sections 7, 8, 17, and 18, T. 15 S., R 65 W. of the 6th P.M. FMIC water rights have been decreed for use in numerous other changes of water rights and plans of augmentation. In those previous cases, this court has determined that each share of FMIC has historically yielded, on the average, the equivalent of 0.7 acre-foot of net replacement or consumptive use water each year, which number represents a portion of the farm headgate delivery.³ The replacement or augmentation credit allowed to FMIC water rights, as also determined in prior cases, is a percentage of the FMIC actual delivery to its shareholders computed on the basis of the following table.

¹ In addition to the 5.38 cfs, the Fountain Mutual Irrigation Company claims the right to divert any of the remaining 2.73 cfs decreed to this priority that is not used by the other owners thereof. Diversions under this priority in excess of the 5.38 cfs are not included in calculations of consumptive use for purposes of this decree. This decree does not decide what historical use or place of use is attributable to diversions in excess of 5.38 cfs under this Priority No. 4. This decree is without prejudice to any future claim for diversions in excess of 5.38 cfs under Priority No. 4.

² Priority No. 17 is referred to as the Janitell's right and FMIC has used one-half of the water, or 2.125 cfs, in return for the carriage of the other 2.125 cfs to its owner through the FMIC ditch. By Decree Authorizing Change in Point of Diversion in Civil Action No. 38180, entered July 29, 1959, the point of diversion for the 4.25 cfs of Priority No. 17 of the Laughlin Ditch was changed to the headgate of the Fountain Mutual Ditch. The diversions under this Priority No. 17 are not included in the calculations of consumptive use for purposes of this decree. This decree does not decide what historical use or place of use is attributable to diversions under Priority No. 17. This decree is without prejudice to any future claim for diversions under Priority No. 17.

³ These findings have been previously established, in adjudications for other entities, including, without limitation, Widefield Homes Water Company, City of Fountain, Colorado Centre Metropolitan District, Security Water and Sanitation District, Midway Ranches, Wedgewood Farms, Cheyenne Mountain Nursery, Comanche, Frederick D. Martin, and Peggy Jo Price Revocable Trust pursuant to augmentation plans decreed in Case Nos. 81CW229, 85CW110, 86CW031, 90CW28, 95CW3, 90CW7, 99CW146, 00CW152, 01CW153, 02CW112, 04CW55, and 05CW33 (Water Division 2), respectively.

FMIC REPLACEMENT CREDIT

<u>Month</u>	<u>Replacement Credit as a Percentage of Farm Headgate Delivery</u>	<u>Return Flow as a Percentage of Farm Headgate Delivery</u>
January	47	53
February	58	42
March	70	30
April	70	30
May	70	30
June	70	30
July	72	28
August	72	28
September	74	26
October	66	34
November	40	60
December	49	51

This yield of 0.7 acre-foot of net annual consumptive use per share was confirmed by the Colorado Supreme Court in *Williams v. Midway Ranches Property Owners' Assoc.*, 938 P.2d 515, 521 (Colo. 1997), and in subsequent change cases. Since the historical use and consumptive use have previously been determined, no map or diversion records are necessary. This same historical consumptive use was most recently affirmed in Case No.04CW118, District Court in and for Water Division No. 2, decreed on February 12, 2008. There have been no material changed circumstances since these last decrees to modify these historical consumptive use determinations and they continue to hold true to the date of this decree. Because the District will continue to divert the water represented by its shares and store, at times, this water in the reservoir, its ownership of these 10 shares and associated interest in Big Johnson Reservoir will on the average yield the District a total 7.0 consumptive acre feet of water per year for replacement purposes from the Fountain Mutual Ditch, which diverts from Fountain Creek in the SW1/4 of Section 20, T. 14 S., R. 66 W. of the 6th P.M. To the extent that the District does not need to use all or any portion of the subject 40 FMIC shares for augmentation in any year, the District reserves the right to lease, loan, or otherwise use these shares in any manner permitted by law. 5. Addition of FMIC Shares into Decreed Plan for Augmentation. Pursuant to paragraph 9.I of the Decree and C.R.S. §37-92-305(8)(c), the District requests approval to include the 10 FMIC shares described above, and the water rights associated therewith, in the plan for augmentation decreed in Case No. 07CW47 to replace additional depletions. The use of the subject water rights by the District will be subject to the terms and conditions of the Decree. 6. Remarks: There are no new structures associated with this application. The District's service area, which is the location where the subject water rights will be used, is indicated on **Exhibit A** attached to the application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). WHEREFORE, the District requests that the Court enter an order

approving the subject application for approval of change of water right and for approval of addition of supplemental replacement source.

CASE NO. 2020CW3054; Previous Case Nos. 14CW3022, 01CW67, and 84CW177 – BOARD OF WATER WORKS OF PUEBLO, COLORADO, Attention: Executive Director, 319 West Fourth Street, Pueblo, Colorado 81003 (Please address all pleadings and correspondence regarding this matter to Applicant’s attorneys: Karl D. Ohlsen and Katrina B. Fiscella, Carlson, Hammond & Paddock, L.L.C., 1900 N. Grant Street, Suite 1200, Denver, Colorado 80203; Phone: (303) 861-9000).

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

LAKE, CHAFFÉE, AND PUEBLO COUNTIES

This is an Application for a Sexennial Finding of Reasonable Diligence involving certain exchange and reuse rights of the Board of Water Works of Pueblo, Colorado (“Pueblo Water” or the “Applicant”) originally decreed on February 24, 1988, in Case No. 84CW177, Water Division No. 2 and subsequently made absolute, in part, together with a finding of reasonable diligence, on April 8, 2008, in Case No. 01CW67, Water Division No. 2, and a subsequent finding of reasonable diligence, on September 19, 2014, in Case No. 14CW3022, Water Division No. 2. The decree in Case No. 84CW177 adjudicated all issues and claims of use, reuse, and successive use by exchange of water derived from Pueblo Water’s Transmountain Sources (described in Paragraph III(D), below), and delivered to the Arkansas River or its tributaries from points of discharge (the “Sewered Return Flows”). The decree of February 24, 1988, in Case No. 84CW177 excluded all issues and claims of use, reuse and successive use by exchange of water derived from Pueblo Water’s Transmountain Sources that are delivered to the Arkansas River or its tributaries as diffuse return flows from the irrigation of lawns, gardens, parks, landscaping, and all other outside uses within the areas served by Pueblo Water (the “Non-Sewered Return Flows”). All issues and claims regarding exchange of Pueblo Water’s Non-Sewered Return Flows are the subject of the decree entered August 3, 1995, in Consolidated Case Nos. 84CW177(B) and 86CW111(B), and subsequent decrees. **II.**

Name of Structures: (Utilized for Exchange and Reuse): A. **Discharge Facilities:** 1. Pueblo Municipal Wastewater Treatment Plant (aka James R. Dilorio Water Reclamation Facility). This plant discharges treated wastewater to the Arkansas River at a point in the Northeast quarter of Section 5, Township 21 South, Range 64 West of the 6th Principal Meridian. The approximate latitude of said point is 38° 15' 22" North and the approximate longitude is 104° 34' 20" West. 2. Any other wastewater treatment facility outfall utilized by Pueblo Water, including any terminal storage facilities hereafter constructed and located to receive Pueblo Water’s wastewater facility effluent, that discharge to the Arkansas River or its tributaries at or above the confluence of the Arkansas River and the St. Charles River. Currently, Pueblo Water utilizes the C.F. & I Steel Plant wastewater treatment plant (aka EVRAZ Rocky Mountain Steel WWTP) that discharges to the Arkansas River approximately one mile upstream of the Pueblo Municipal Wastewater Treatment Plant discharge. 3. Comanche Power Plant. Comanche Power Plant discharges return flows to the St. Charles River at a point in the Northwest quarter of Section 28, Township 21 South, Range 64 West of the 6th Principal Meridian. B. **Diversion Facilities:** 1. **Pueblo Reservoir.** The point of diversion of Pueblo Reservoir is at a point at the intersection of the Pueblo Dam axis and the Arkansas River whence the Northeast corner of Section 36, Township 20 South, Range 66 West of the 6th P.M., bears North 61°21'20" East a distance of 2,511.05 feet. Said reservoir inundates all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 20 South, Range 66 West of the 6th P.M.; Sections 1, 2, 3, 4, 5, 9, 10, and 11, Township

21 South, Range 66 West of the 6th P.M.; and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, and 25, Township 20 South, Range 67 West of the 6th P.M. 2. Clear Creek Reservoir. Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West of the 6th Principal Meridian, and Section 12, Township 12 South, Range 80 West of the 6th Principal Meridian, in Chaffee County. 3. Twin Lakes Reservoir. Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th Principal Meridian, as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. 4. Turquoise Lake. Turquoise Lake is formed by a dam across Lake Fork Creek in Lake County in Section 19, Township 9 South, Range 80 West of the 6th Principal Meridian as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. Maps of the described facilities are attached to this Application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court). **III. Describe Conditional Exchange and Reuse Water Rights as decreed in Case No. 84CW177 and subsequent diligence proceedings:** A. Decrees: 1. Date of Original Decree: February 24, 1988, Case No. 84CW177, District Court, Water Division No. 2, State of Colorado. 2. Date of Subsequent Decree: July 17, 1995, Case No. 94CW8, District Court, Water Division No. 2, State of Colorado. 3. Date of Subsequent Decree: April 7, 2008, Case No. 01CW67, District Court, Water Division No. 2, State of Colorado. 4. Date of Subsequent Decree: September 19, 2014, Case No. 14CW3022, District Court, Water Division No. 2, State of Colorado. B. Exchange Priority Date: May 18, 1976. C. Use: All beneficial uses for which the waters to be exchanged and reused are decreed, including the uses set forth in the decree in Case No. 84CW177. D. Source of Water for Exchange and Reuse: The water rights that are to be utilized in the exchange and reuse program described herein are return flows derived from sources of supply that are not native or tributary to the Arkansas River. Said waters include return flows occurring after use in Pueblo Water's municipal water system and return flows from other water users supplied by Pueblo Water, derived from Pueblo Water's ownership interests in the following sources of supply: 1. The Ewing Placer Ditch. Ewing Placer Ditch diverts water from Piney Creek, a tributary of the Eagle River, and carries the water across the Continental Divide into Tennessee Creek for delivery to the Arkansas River. The Ewing Placer Ditch was decreed on November 13, 1911, with appropriation date of June 1, 1906, by the District Court, Eagle County, Civil Action No. 507. 2. The Columbine Ditch. Columbine Ditch diverts water from three branches of the East Fork of the Eagle River, and carries such water across the Continental Divide for delivery into the West Branch of Chalk Creek, a tributary of the Arkansas River. The Columbine Ditch was decreed on October 3, 1936, with an appropriation date of June 21, 1930, by the District Court, Eagle County, Civil Action No. 963. Pueblo Water controls the right to utilize a portion of the waters described herein by virtue of an agreement with the owner. 3. The Warren E. Wurtz Ditch (also known as the Warren E. Wurts Ditch). Warren E. Wurtz Ditch diverts water from Bennett Creek, Mitchell Creek, and side tributaries of those creeks, all of which are tributaries of the Eagle River. The ditch carries water across the Continental Divide into West Tennessee Creek for delivery to the Arkansas River. The Warren E. Wurtz Ditch was decreed on October 3, 1936, with an appropriation date of June 8, 1929, by the District Court, Eagle County, Civil Action No. 963. 4. The Wurtz Extension Ditch. Wurtz Extension Ditch diverts water from Yoder Creek, East Fork of Yoder Creek, and Rule Creek, tributaries of the Eagle River. The ditch connects to the Warren E. Wurtz Ditch, which then carries water across the Continental Divide into West Tennessee Creek for delivery to the Arkansas River. The Wurtz Extension Ditch was decreed on October 21, 1982, with an appropriation date of October 26, 1953, by the District Court, Water Division No. 5, Case No. 80CW505. 5. The Busk-Ivanhoe System.

Busk-Ivanhoe System diverts water from Hidden Lake Creek, Pan Creek, Lyle Creek, and Ivanhoe Creek, all tributaries of the Frying Pan and Roaring Fork Rivers, and carries such water through the Continental Divide for delivery into Busk Creek on the headwaters of the Arkansas River. The System was decreed by absolute decree of the District Court, Garfield County, in Case No. 2621 dated January 9, 1928, with appropriation dates differing for various components of the system as more fully set forth in the referenced decree. Other absolute decrees were entered in Civil Actions No. 3082 and 4033. The decrees were entered by the District Court, Garfield County. Pueblo Water owns an undivided one-half interest in these water rights. 6. The Homestake Project diverts water from the headwaters of tributaries of the Eagle River in Eagle County. The water rights were conditionally adjudicated by the decree in Civil Action No. 1193 (District Court, Eagle County) dated June 8, 1962. These water rights have an appropriation date of September 22, 1952. By an assignment of interest from the City of Aurora, Pueblo Water has the annual right to receive 2500 acre-feet of Homestake Project Water delivered at Turquoise Lake. 7. The Independence Pass Transmountain Diversion System diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. The water rights were adjudicated by a decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936, and were modified by a decree in Case No. W-1901 (District Court, Water Division No. 5), dated May 12, 1976. These water rights have an appropriation date of August 23, 1930. Pueblo Water has the right to utilize a portion of such waters and the return flows therefrom by virtue of its ownership of shares of the Twin Lakes Reservoir and Canal Company. 8. The Fryingpan-Arkansas Project diverts water from the headwaters of Hunter Creek and the Fryingpan River and its tributaries in Pitkin County. The water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958, and August 3, 1959, and were modified by the decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979. These water rights have an appropriation date of July 29, 1957. By this Application, Pueblo Water does not seek any rights of use of Fryingpan-Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocation of Fryingpan-Arkansas Project water or return flows from Fryingpan-Arkansas Project water, but this does not alter any existing rights Pueblo Water may otherwise have. Return flows from the Fryingpan-Arkansas Project will be utilized for exchanges and reuse only after they are purchased from the Southeastern Colorado Water Conservancy District. All of the sources of supply described in Paragraph No. III(D) are waters not native and not naturally tributary to the Arkansas River Basin and are referred to as "the Transmountain Sources." All of the Transmountain Sources have been decreed to include municipal purposes. E. Location and Amounts of Decreed Exchange Reaches: The return flows resulting from use of the water derived from the Transmountain Sources are accounted for and measured through appropriate measuring devices into the Arkansas River or its tributaries from the Discharge Facilities identified in Paragraph II(A) and then are exchanged upstream to storage in the Diversion Facilities identified in Paragraph II(B). In addition, the return flows stored by exchange in the Diversion Facilities identified in Paragraph II(B) can be exchanged into storage in a different Diversion Facility identified in Paragraph II(B). The stream reaches and the currently-decreed absolute and conditional amounts of the exchanges are as follows:

1. For the Arkansas River and its tributaries from the point of discharge of Wastewater Treatment Facilities utilized by Pueblo Water, upstream to the following Diversion Facilities

Absolute (c.f.s.)	Conditional (c.f.s.)	Total (c.f.s.)
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a.	Pueblo Reservoir	12.90	47.10	60.0
b.	Clear Creek Reservoir	17.80	42.92	60.0
c.	Twin Lakes Reservoir	5.68	54.32	60.0
d.	Turquoise Lake	5.06	54.94	60.0

2. For the St. Charles River and its tributaries and the Arkansas River and its tributaries from the Comanche Power Plant discharge downstream in the St. Charles River to its confluence with the Arkansas River, then upstream to the following Diversion Facilities:

	Absolute (c.f.s.)	Conditional (c.f.s.)	Total (c.f.s.)	
a.	Pueblo Reservoir	4.01	15.99	20.0
b.	Clear Creek Reservoir	9.96	10.04	20.0
c.	Twin Lakes Reservoir	4.03	15.97	20.0
d.	Turquoise Lake	3.46	16.54	20.0

3. Reservoir Exchanges:

	Absolute (c.f.s.)	Conditional (c.f.s.)	Total (c.f.s.)	
a.	From Pueblo Reservoir to:			
	(1) Twin Lakes Reservoir	3.46	Flow	Flow
	(2) Turquoise Reservoir	3.46	Flow	Flow
	(3) Clear Creek Reservoir	35.00	Flow	Flow
b.	From Turquoise Reservoir to:			
	(1) Twin Lakes Reservoir	0.0	Flow	Flow
	(2) Clear Creek Reservoir	0.0	Flow	Flow
c.	From Twin Lakes Reservoir to:			
	(1) Turquoise Reservoir	0.0	Flow	Flow
	(2) Clear Creek Reservoir	0.0	Flow	Flow
d.	From Clear Creek Reservoir to:			
	(1) Twin Lakes Reservoir	0.0	Flow	Flow
	(2) Turquoise Reservoir	0.0	Flow	Flow

“Flow” – For each of the described Reservoir exchanges, the rate of flow of exchanges against the inflow to the receiving Diversion Facility shall be the maximum rate of such inflow, and for exchanges against releases of water previously reduced to storage in the receiving Diversion Facility, the maximum rate of flow of such releases. Contract Exchanges do not have a rate of flow limitation. **IV. Provide a Detailed Outline of What Has Been Done Toward Completion or for Completion of the Appropriation and Application of Water to Beneficial Use as Conditionally Decreed, Including Expenditures:** The Applicant operates a unified and integrated municipal water supply system consisting of numerous individual components. Those components include, but are not limited to, the many individual water rights, sources of supply and points of diversion described in this Application, and the absolute and conditional exchange and reuse rights that are the subject of this Application. During the period from April 30, 2014 (the date the Application in Case No. 14CW3022 was filed), through September 30, 2020 (the “Diligence Period”), Pueblo Water carried out exchanges as contemplated and authorized by the decree in Case No. 84CW177. In addition, Pueblo Water spent

substantial sums of money and devoted many thousands of man hours to the operation, maintenance, and development of its unified and integrated municipal water supply and treatment system. As a part of this overall effort, Pueblo Water found it necessary to retain engineering consultants and attorneys to assist it in the acquisition, operation, maintenance, and protection of this system. During the Diligence Period, the total costs for all of these efforts exceeded \$220 million. A. The principal activities undertaken by Pueblo Water during the Diligence Period related to the operation of the exchange rights decreed in Case No. 84CW177 included the following: (1) refinement and operation of accounting programs to track the operation of the exchanges; (2) water quality monitoring; and (3) exercise and operation of the exchanges decreed herein. B. During the Diligence Period, Pueblo Water performed the following actions related to the diversion and storage facilities utilized for the exchanges decreed in Case No. 84CW177: (1) for Clear Creek Reservoir, Pueblo Water patched and recoated the steel portion of the outlet works, added piezometers for monitoring seepage, performed a bathymetric survey of the reservoir, performed geophysical testing of the dam and its foundation, created a dam breach inundation map, repaired concrete in the spillway, performed routine maintenance, operation and monitoring, and obtained a decree in Case No. 04CW130 for the enlargement of the reservoir; (2) for Twin Lakes Reservoir, Pueblo Water paid annual assessments to the Twin Lakes Reservoir and Canal Company; (3) for Turquoise Lake, Pueblo Water made annual payments to the United States Bureau of Reclamation for its storage contract; and (4) for Pueblo Reservoir, Pueblo Water made annual payments to the United States Bureau of Reclamation for its storage contract. C. During the Diligence Period, Pueblo Water performed the following actions related to the sources of water utilized in the exchange: (1) For the Ewing Ditch, Pueblo Water performed routine maintenance, operation and monitoring, and participated in the System Conservation Pilot Project in the summer of 2016; (2) for the Columbine Ditch, Pueblo Water retained the right to receive water from the ditch under specific circumstances and continued to operate pursuant to that agreement; (3) for the Warren E. Wurtz Ditch, Pueblo Water performed routine maintenance, operation and monitoring; (4) for the Wurtz Extension Ditch, Pueblo Water performed routine maintenance, operation and monitoring, and filed and continues to prosecute an application seeking a finding of reasonable diligence in Case No. 20CW3037 (Div. 5); (5) for the Busk-Ivanhoe System, Pueblo Water completed dam repairs in 2014, replaced the gate from Ivanhoe Lake to the tunnel, widened sections of the Lyle Ditch, and performed routine maintenance, operation and monitoring; further, Pueblo Water participated in ongoing negotiations with the Busk-Ivanhoe Water System Authority, the City of Aurora, and the Basalt Water Conservancy District regarding future and ongoing operations using the facilities and related to applications for rights of exchange; (6) for the Homestake Project, Pueblo Water made annual payments to City of Aurora pursuant to the 1967 Agreement and participated in ongoing discussions and actions related to a test of the Front Range Water Council's pilot program to shepherd water released from Homestake Reservoir, including water under the control of Pueblo Water, downstream; (7) for the Independence Pass Transmountain Diversion System, Pueblo Water paid annual assessments to the Twin Lakes Reservoir and Canal Company; and (8) for the Fryingpan-Arkansas Project, Pueblo Water purchased Project water and return flow from Project water. D. Pueblo Water also implemented major improvements to its water supply transmission, treatment, and distribution systems necessary to supply customers with water within its water service area. This work included completing conversion of all meters to automated reading, instituting a service line replacement program, rehabilitation of 3 treated water storage tanks, replacement of the roofs of 4 other tanks, replacement of a generator allowing the Whitlock Treatment Plant to continue treating up to 20 MGD during a power outage, replacement of motor

controls at the Gardner Pump Station, rehabilitation of 2 filters at the Whitlock Treatment Plant, and replacement of 15 miles of mains. Pueblo Water continued its practice of making improvements related to collection system facilities, storage reservoirs, water transmission pipelines, water treatment plants and distribution system mains, meters, and reservoirs. The water delivered through these systems includes the water made available to Pueblo Water by the exchange rights that are the subject of this Application. Pueblo Water also continued its long-standing partnership with the Pueblo Economic Development Corporation to attract new business and industry to the City of Pueblo and Pueblo Water's service area. E. In addition, during the Diligence Period, Pueblo Water filed applications for and completed a number of adjudications of water rights that are part of Pueblo Water's unified and integrated water supply system. This includes, but is not limited to: (1) obtaining a finding of reasonable diligence in Case No. 17CW3020 (formerly Cases No. 93CW86, 04CW14 and 10CW79) (HARP), Water Division No. 2; (2) obtaining a decree in its application for a finding of reasonable diligence in the non-sewered portion of the exchange and reuse plans in Case No. 20CW3004 (13CW3043; formerly Consolidated Cases No. 84CW177(B) and 86CW111(B)), Water Division No. 2; (3) obtaining a decree in its application for a finding of reasonable diligence and to make water rights absolute, in part, in the decreed exchanges in Case No. 20CW3005 (13CW3044; formerly Consolidated Cases No. 84CW178) Water Division No. 2; (4) filing an application for and obtaining a finding of reasonable diligence in the sewered portion of the exchange and reuse plans in Case No. 19CW3005 (formerly Cases No. 12CW87 and 86CW111A), Water Division No. 2; (5) obtaining a decree for enlargement of Clear Creek Reservoir in Case No. 04CW130, Water Division No. 2; (6) filing an application for a finding of reasonable diligence for the Wurtz Extension Ditch in Case No. 20CW3037 (13CW3042; formerly Cases No. 06CW211, 99CW271, 93CW159, 86CW275, and 80CW505), Water Division No. 5; (7) obtaining a decree for a change of water rights in Case No. 12CW102, Water Division No. 2; and (8) filing an application for, and continuing to prosecute, a change of water rights for the Southern Colorado Power Company Cooling Basin water storage right and a new HARP Supplemental Water Right in Case No. 20CW3011, Water Division No. 2. Pueblo Water also has acted to preserve and protect all of its water rights by filing statements of opposition to and participating in a number of other judicial proceedings in Water Division 2 and Water Division No. 5. F. During the Diligence Period, in Cases No. 16CW3103 and 17CW3050, Pueblo Water filed applications and obtained decrees for a change of water right and for exchange related to 5,488.368 shares of Bessemer Irrigating Ditch Company, which water rights Pueblo Water intends to include in Pueblo Water's unified and integrated water supply system. G. In addition, although not a direct expense of Pueblo Water, the City of Pueblo continued to upgrade its wastewater treatment system and appurtenances thereto, with the direct result of diminishing water infiltration and therefore reducing the selenium content of the substitute water supply provided by Pueblo Water from the discharge facilities under the exchanges described herein. H. The measure of reasonable diligence is the steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances. § 37-92-301(4), C.R.S. A determination of reasonable diligence is made on a case-by-case basis in light of the facts and circumstances presented. *Municipal Subdistrict, Northern Colorado Water Conservancy Dist. v. Oxy, USA, Inc.*, 990 P.2d 701, 706 (Colo. 1999). I. The work performed and actions taken by Pueblo Water during the Diligence Period demonstrate that Pueblo Water has acted with reasonable diligence and has met all applicable legal standards during the Diligence Period in the development of the remaining conditional portion of the subject water rights. Pueblo Water has demonstrated that the subject water can be and will be diverted, stored, or otherwise captured, possessed, and controlled and

will be beneficially used and that the project can and will be completed with diligence and within a reasonable time. Pueblo Water is entitled to a finding of reasonable diligence and to maintenance of the remaining conditionally-decreed amounts listed in paragraph III.E., above. WHEREFORE, Pueblo Water requests the Court to enter a decree: 1. Confirming that Pueblo Water maintains a single unified and integrated water system and that diligence on any feature of that system shall be considered in finding reasonable diligence in the development of all conditional features of the system, including the conditional exchange and reuse rights that are the subject of this Application; and 3. Finding that Pueblo Water has exercised reasonable diligence and met all applicable standards on the conditional exchange and reuse rights originally decreed in Case No. 84CW177, to the extent not made absolute, continuing those conditional rights in good standing, and fixing a date when a further application for a finding of reasonable diligence is required.

CASE NO. 2020CW3055; HAROLD REED AND MICHAEL HARVEY TRUST NO.1, 2761 County Rd LL, Wiley, CO 81092 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Lisa M. Thompson, Mirko L. Kruse, Trout Raley, 1120 Lincoln Street, Suite 1600, Denver, CO 80203 Telephone: (303)-861-1963.)
Application to Make Conditional Water Rights Absolute in Part and for Finding of Reasonable Diligence

PROWERS COUNTY

2. Name of water right: Reed Wells Nos. 1-4 **3. Legal Description:** The Reed Well Nos. 1-4, are four underground water rights decreed absolute for amounts totaling 83.15 acre-feet per year in 10CW20. 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.) They are used on Applicants' farming operations for irrigation use. Any amounts above 83.15 acre-feet per year were decreed conditional in 10CW20 and it is those conditional amounts that Applicants claim absolute in part and diligence in part in this application. **A. Name of structures:** i. Reed Well No. 1 (WDID No. 6705217) ii. Reed Well No. 2 (WDID No. 6705187) iii. Reed Well No. 3 (WDID No. 6705185) iv. Reed Well No. 4 (WDID No. 6705186). **B. Original Decree:** Case No. 10CW20 (Water Div. 2), decree dated September 15, 2014. **C. Legal Descriptions:** i. Reed Well No. 1: SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of S 8, T 22S, R 47W, 2530 feet from the North section line and 2425 from the East section line. ii. Reed Well No. 2: NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of S 17, T 22S, R 47W, 2613 feet from the South section line and 2600 feet from the East section line. iii. Reed Well No. 3: NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of S 17, T 22S, R 47W, 2192 feet from the South section line and 1976 feet from the East section line. iv. Reed Well No. 4: NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of S 17, T 22S, R 47W, 1949 feet from the South section line and 2153 from the East section line. **D. Depth of Wells:** i. Reed Well No. 1: 50 feet ii. Reed Well Nos. 2, 3 & 4: 36 feet. **E. Amounts/Rates:** i. Reed Well Nos. 1, 3 & 4: 16.63 acre-feet per year absolute, any amount above remaining conditional; 450 gpm conditional. ii. Reed Well No. 2: 33.26 acre-feet per year absolute, any amount above remaining conditional; 450 gpm conditional. **F. Appropriation Dates:** January 1, 1985 for decreed absolute amounts up to 83.15 acre-feet per year; June 13, 2011 for all conditional amounts above the 83.15 acre-feet per year. **G. Use:** Irrigation **H. Irrigated Acreage:** i. Reed Well No. 1: 148 acres in the SE $\frac{1}{4}$ of S 8, and NE $\frac{1}{4}$ of S 17, T 22S, R 47W. ii. Reed Well No. 2: 335 acres in the SE $\frac{1}{4}$ of S 17, the NE $\frac{1}{4}$ of S 20, the SW $\frac{1}{4}$ of S 16, and the W $\frac{1}{2}$ of S 21, all in T 22S, R 47W. iii. Reed Well No. 3: 335 acres in the SE $\frac{1}{4}$ of S 17, the NE $\frac{1}{4}$ of S 20, the SW $\frac{1}{4}$ of S 16, and the W $\frac{1}{2}$ of S 21, all in T 22S, R 47W. iv. Reed Well No. 4: 335 acres in the SE $\frac{1}{4}$ of S 17, NE $\frac{1}{4}$ of S 20, SW $\frac{1}{4}$ of S 16, and the W $\frac{1}{2}$ of S 21, all in T 22S, R 47W. **I. Source:** Alluvial groundwater, tributary to the Wiley Drain and Arkansas River. **4. Claims to make absolute:** A. Over the diligence period, Applicants withdrew water from Reed

Well Nos. 2, 3 & 4 above their decreed absolute amounts. Reed Well Nos. 2-4 are metered through one certified flow meter and recorded 168.99 acre-feet of diversions during the 2014 water year according to records provided by the Colorado Decision Support Systems Hydrobase. Because the recordings of withdrawals for Reed Well Nos. 2-4 are commingled, and because Reed Well No. 2 has twice the diversion rate of Reed Well Nos. 3&4, the additional amount of 102.47 acre-feet of withdrawals (above the 66.52 acre-feet already absolute) is claimed absolute to each well as follows: Reed Well No. 2 in the amount of 51.23 acre-feet per year; Reed Well No. 3 in the amount of 25.62 acre-feet per year; Reed Well No. 4 in the amount of 25.62 acre-feet per year. As a result, the total absolute amounts will be 84.50 acre-feet per year for Reed Well No. 2, 42.25 acre-feet per year for Reed Well No. 3, and 42.25 acre-feet per year for Reed Well No. 4. [see application for table of claimed absolute amounts]. B. Applicants also claim absolute the rate of withdrawal for Reed Well Nos. 1,2,3 & 4. On August 4, 2020 the combined flowmeter for Reed Well Nos. 2-4 captured a diversion rate of 905 gpm. Because the recordings of withdrawals for Reed Well Nos. 2-4 are commingled, and because Reed Well No. 2 has twice the diversion rate of Reed Well Nos. 3&4, the claimed respective absolute rate of withdrawals for Reed Well Nos. 2-4 are as follows: Reed Well No. 2 at the rate of 450 gpm; Reed Well No. 3 at the rate of 226 gpm; Reed Well No. 4 at the rate of 226 gpm. Additionally, on May 25, 2017, the flow meter for Reed Well No. 1 captured a diversion rate of 403 gpm. Therefore, Applicants claim this rate of withdrawal absolute for Reed Well No. 1. **5. Detailed outline of what has been done toward completion of the appropriation, including expenditures during the diligence period:** Applicants seek a finding of reasonable diligence with respect to the remaining amounts and rates for Reed Well Nos. 1-4. Over the diligence period, Applicants conducted the following activities to develop the remaining conditional portions of these rights. A. In total, Applicants expended approximately \$ 299,927 for maintenance and improvements to the Reed Well Nos. 1-4 and irrigation system and \$ 76,006 for share assessments and to lease additional shares of replacement water for Reed Well Nos. 1-4. These expenses do not include Applicants' own labor for improvements. B. Specifically, Applicants expended the following amounts to maintain and improve their wells and irrigation system: \$ 6,624 to replace the well casing from Reed Well No. 1 in May 2014 and \$ 6,105 for Reed Well No. 2 in September 2014; \$ 7,198 for electrical work on the pumps for Reed Well Nos. 1-3 in February and March of 2020; \$280,000 to install a new center pivot sprinkler and associated underground pipeline, pond, and pump in February 2020, irrigated in part by Reed Well Nos. 1-4; \$ 3,508 for pipeline repairs. C. Additionally, Applicants obtained replacement water to allow for the pumping of Reed Well Nos. 1-4. From 2014 to date, Applicants paid \$ 46,305 in assessments for 92 shares in the Lower Arkansas Water Management Association (LAWMA) and \$ 29,701 to lease additional LAWMA shares to supplement their replacement water. Applicants also purchased Fry-Ark Project water from the Southeastern Colorado Water Activity Enterprise for \$ 9,709 from 2015 to date to supplemental their irrigation supply. D. Applicants maintained and submitted accounting of well pumping from the Reed Well Nos. 1-4 to LAWMA. Applicants also maintained certification of the flow meters on Reed Well Nos. 1-4. E. Applicants have farmed approximately 950 acres each year over the diligence period, irrigated in part from the Reed Well Nos. 1-4 F. Applicants reviewed notices of water court applications for potential injurious impacts to the Reed Well Nos. 1-4 and entered a statement of opposition in 19CW3036 to protect the Reed Well Nos. 1-4.**6. Name and address of landowners:** All structures are currently located, or have decreed locations, on lands owned by the Applicant.

CASE NO. 2020CW3056; CITY OF COLORADO SPRINGS, COLORADO SPRINGS

UTILITIES, c/o Abigail Ortega, 1521 Hancock Expressway, Mail Code 1825, Colorado Springs, CO 80903 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Michael J. Gustafson, Senior Attorney, City Attorney's Office-Utilities Division, 30 South Nevada Ave., MC 510, Colorado Springs, CO 80903, (719) 385-5909).

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

EL PASO COUNTY

The City of Colorado Springs, acting by and through its enterprise Colorado Springs Utilities, filed an application for Appropriative Rights of Substitution and Exchange for the Fountain Creek Recovery Project in Case No. 07CW121. A final Decree was entered in that matter on August 27, 2014. Since entry of that Decree, the Applicant was made aware that there was a typographical error in the decreed legal description for the Exchange Pond Outlet which is one of the structures utilized in the decreed exchange. Applicant now seeks a decree correcting the legal description for the Exchange Pond Outlet only. No other exchange structures are being added, removed, or modified in any way. This Application does not seek to alter the August 27, 2014 Decree in Case No. 07CW121, except to correct the legal description for the Exchange Pond Outlet. **2. Decreed exchange structure for which correction is sought:** A. Name of Structure: Exchange Pond Outlet (WDID 1003350). B. Date of Original Decree: August 27, 2014, Case No. 07CW121, District Court, Water Division No. 2. C. Legal description of structure as described in the decree that adjudicated the location of the structure involved in the exchange: Exchange Pond Outlet, located in the NE1/4 SE1/4 of Section 10, T15S, R66W, of the 6th P.M., approximately 1,450 feet downstream on Fountain Creek from the Stubbs and Miller headgate, at a point approximately 2,060 feet from the West line and 880 feet from the South line of said Section 3. D. Appropriation Date of Exchange: September 20, 2006. E. Amount of Exchange: 170 c.f.s., of which 59.6 c.f.s. has been decreed absolute and 110.4 c.f.s. of which remains conditional. F. Decreed sources/uses of water under the exchange. Any fully consumable water owned, controlled, or available for use by the Applicant that is stored in the Exchange Pond. The water diverted under the exchange may be used for all purposes for which Applicant's fully consumable water is decreed. **3. Detailed description of proposed correction to an established but erroneously described location of a structure involved in an exchange:** The Application and the Decree ultimately entered by the Court in Case No. 07CW121 provided that the Exchange Pond Outlet is located in the NE1/4 SE1/4 of Section 10, T15S, R66W, of the 6th P.M., approximately 1,450 feet downstream on Fountain Creek from the Stubbs and Miller headgate, at a point approximately 2,060 feet from the West line and 880 feet from the South line of said Section 3. The Exchange Pond Outlet is and always has been located in Section 3, not Section 10, at the following location: in the SE1/4 SW1/4 of Section 3, T15S, R66W, of the 6th P.M., approximately 1,450 feet downstream on Fountain Creek of the Stubbs and Miller headgate, at a point approximately 2,380 feet from the West line and 1,020 feet from the South line of said Section 3. The actual location of the Exchange Pond Outlet has the following UTM Coordinates: Zone 13 Easting: 520213 Northing: 4291189 (GPS). Applicant seeks to change the decreed legal description for the Exchange Pond Outlet to reflect its actual location described above instead of the erroneously described location set forth in the 07CW121 Decree. The actual location of the Exchange Pond Outlet is depicted on the general location map, **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.) **4. Names and addresses of owners of the land upon which any structure for this appropriation is or will be constructed:** A. The Fountain Creek Recovery

Project is located on the Pinello Ranch, which is owned by Applicant, the City of Colorado Springs.

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 2020, (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 13th day of October 2020.



Michele Santistevan

Michele M. Santistevan, Clerk
District Court Water Div. 2
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003
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(Court seal)