

TO ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIVISION 1:

Pursuant to CRS, 37-92-302, you are hereby notified that the following pages comprise a resume of applications and amended applications filed in the office of the Water Clerk for Water Division No. 1 during the month of **January, 2003.**

2003CW002 HENRY H. HOSHIKO, JR., 15312 N. 107th Street, Longmont, CO 80504.

Application for Change of Water Right, **IN BOULDER COUNTY.** Hoshiko Pond is located in the SE1/4S3, T3N, R69W, 6th P.M. Decreed point of diversion: Highland Ditch gate. Source: Highland Ditch Amount: 0.25 shares of Highland Ditch Historic Use: Historic use has been to use the 0.25 share of the Highland Ditch to direct irrigate the land of the property as shown on the map. Proposed change: a) Change of use: Change of use of the water rights is to convert from direct irrigation of the 0.25 shares of water rights to store the 0.25 shares of water rights in a pond and then irrigate out of the pond through pumping and/or gravity feed out of the pond. B) Location: The location of the pond is as shown on the map. The water will be used in approximately the same location as the historical use, approximately 20% to be used for landscape irrigation and some will be stored from year to year. Use: The water will be used to irrigate crops grown on the land and some for landscaping. Amount: 0.25 shares of the Highland ditch which in a normal year is approximately 3 acre feet. Plan for operation: The plan for operation will be to run the water from the Highland Irrigation Ditch from the existing gate through pipes into the proposed irrigation pond early in the summer. Then irrigate the crops and landscaping throughout the summer using a pump or gravity feed. No change in point of diversion is needed. (4 pages)

2003CW003 EAST RIDGE OF FORT COLLINS LLC, a Colorado limited liability company, **PLAINTIFF, v. THE LARIMER AND WELD IRRIGATION COMPANY,** a mutual ditch company **DEFENDANT. COMPLAINT.**

2003CW004 PERRY A. AND MOLLIE M. EATON, 378 W. Oakwood Lane, Castle Rock, CO 80108. Application for Underground Water Right, **IN DOUGLAS COUNTY.** Eaton Well #114383A is located in the SE1/4SW/14, S34, T6S, R67W, 6th P.M., 1270' from the S and 1340' from the W section line, a/k/a Lot 37, Filing 1, Oakhills Subdivision. Source: Non-tributary Dawson Aquifer Depth: 603' Appropriation: 9/27/1994 Amount: 10 gpm (1.5 AF annually) Use: Irrigation of 15,000 sq. ft of lawns and gardens. If non-irrigation, describe purpose fully: Common usage of water in 1 single family home. Watering of domestic animals (1-3 horses) (3 pages)

2003CW005 PAUL AND MARY ANN GALLAGHER, 26035 Rea Ave, Conifer, CO 80433. Application for Underground Water Right, **IN JEFFERSON COUNTY.** Gallagher Well is located in the NE1/4NE1/4, S14, T6S, R71W, 6th P.M., 1240' from N and 1140' from E section line, a/k/a Lot 2, Block 23, Aspen Park Subdivision. Source: Groundwater Depth: 205' Appropriation: 6/29/1979 Amount: 6.5 gpm (1 AF annually) Use: Domestic (3 pages)

2003CW006 DAVID SPRINGBERG, 4304 Idledale Dr., Ft. Collins, CO 80526. Application for Water Rights (Surface), **IN LARIMER COUNTY**. Sunrise Spring is located in the SE corner, S1, T6N, R70W, 6th P.M., 316' from S and 462' from W from SE corner of S1. Source: Groundwater Appropriation: 1/3/2003 Amount: 0.1 cfs (CONDITIONAL) Use: Small pond and irrigation of less than 1 acre. Proposed to be irrigated 1 acre Legal description of acreage: Land near spring. To grow some fruit and vegetables, plus some gardening. If non-irrigation described purpose fully: Small pond as a water feature of property. (3 pages)

2003CW007 REBECCA SCHNEIDER, 14300 Watkins Road, Brighton, CO 80603. Application for Underground Water Right, **IN ADAMS COUNTY**. Schneider Well #231185 is located in the NW1/4NW1/4, S19, T1S, R64W 6th P.M., 280' from N and 620' W. Source: Upper Arapahoe Depth: 310' Appropriation: 12/19/2000 Amount: 15 gpm Use: Residential water, livestock water, and irrigation of 1 acre of lawns and garden and trees. (3 pages)

2003CW008 TIM AND LISA WELSH, 221 Gunn Ave, Berthoud, CO 80513. Application for Underground Water Right, **IN LARIMER COUNTY**. Welsh Well 79153 is located in the NE1/4NE1/4, S21, T4N, R70W, 6th P.M., 1100' from N and 1050' from E, a/k/a Lot 48, Carter Lake Heights Subdivision. Source: Groundwater Depth: 500' Appropriation: 5/22/1975 Amount claimed: 7 gpm Use: Household use only. (3 pages)

2003CW009 MONTE UYEMURA, 30375 County Road 35, Wray, CO 80758. **DOROTHY UYEMURA**, 2119 Cherry Ave., Greeley, CO 80631. **KELLY AND DEB DETERDING**, 29361 US Hwy. 34, Wray, CO 80758. Application for Change of Water Right, **IN YUMA COUNTY**. Chief Creek Ditch with irrigation priority #12 decreed 7/3/1912 in Case No. 872, Court 65. Source: Chief Creek Appropriation: 11/14/ 1894 Amount: 6ft/sec Historic use: Irrigation of 150 acres, alfalfa, wheat, hay, rome grass in S2, T1N, R44W< 6th P.M. Proposed change: Alternate point of diversion to direct flow rights from the Chief Creek where it intersects the line that divides the NW1/4 from the NE1/4 of the SW1/4, of S2, T1N, R44W< 6th P.M., Yuma County, Colorado. Applicants will forego 4ft/sec and maintain rights to divert 2'/sec by a approximately 900 gpm, 30 hp metered pump, for the purpose of irrigating approximately 75 acres with center pivot irrigation. Another description of the point of diversion: 3100 ft from north section line and 1300' from west section line. (2 pages)

2003CW10 - CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT, 8501 E. Iliff Avenue, Denver, Colorado 80231, 303-755-44742. Frederick A. Fendel, III, PETROCK & FENDEL, P.C., 700 17th Street, Suite 1800, Denver, Colorado 80202, (303) 534-0702, Attorneys for Cherry Creek Valley Water and Sanitation District, APPLICATION FOR FINDING OF DILIGENCE, **IN ARAPAHOE COUNTY**. Structure/Conditional Water Rights: 2.1. CCV ALV Wells 1 - 3 ("the Wells"); 2.2. Exchange from the Metropolitan Denver Wastewater Reclamation Plant ("the Exchange"); 3. Description of Conditional Water Rights from original decree: 3.1. Original decree: Case No. 90CW218(A), entered April 27, 1994. 3.2 The Wells: 3.2.1 Locations: 3.2.1.1 CCVALV-1: In the SE1/4NW1/4, section 28, T4S, R67W, 6th PM, Arapahoe County at a point 2500 feet from the north line and 2500 feet from the west line; 3.2.1.2 CCVALV-2: In the NE1/4SE1/4, section 28 T4S, R67W, 6 PM, Arapahoe County at a point 1350 from the south line and 880 feet from the east line; 3.2.1.3 CCVALV-3: In the SE1/4NE1/4, section 28, T4S, R67W, 6th PM, Arapahoe County at a point 2550 feet from the north line and 1300 feet from the east line. 3.2.2 Source: Cherry Creek, tributary to the South Platte River. 3.2.3 Amount: 2.23 cfs (1,000 gpm) each, conditional. 3.2.4 Appropriation Date: December 28, 1990. 3.3. the Exchange: 3.3.1 Points of Diversion: the Wells; 3.3.2. Point of release of substitute supply: Outfall of the Denver Metropolitan Wastewater Reclamation District Plant located in the SW1/4NW1/4, section 1, T3S, R68W, 6 PM, Adams County. 3.3.3. Amount: 6 cfs, conditional 3.3.4 Appropriation Date: December 28, 1990. 3.5 Source of Substitute Supply: Wastewater from the use of water in Cherry Creek Valley's separate water system, which includes water from the Wells and Cherry Creek Valley's nontributary and not nontributary ground water rights. Water supplied to Cherry Creek Valley under its Distributor's Contract with Denver is not included. 3.4. Use: All municipal purposes within the Applicant's service area including domestic, industrial, commercial, irrigation, stockwatering, fire protection, recreation, fish and wild life preservation and propagation. Water may be diverted for use in the separate water system servicing a portion of the District pursuant to agreement with the Denver Water Department.

In Case No. 94CW267, additional uses were added as follows: augmentation, replacement and exchange; and artificial recharge of the alluvium of Cherry Creek and of those portions of the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the District. Detailed outline of work done toward completion of the appropriation: 4.1. Cherry Creek Valley planned, filed, and pursued to decree Case Nos. 94CW266 and 267 (the “Wabash Project”) adding additional sources of augmentation water to the augmentation plan for the Wells, new uses for the Wells, and additional points of diversion, places of storage and source of substitute supply for the Exchange. 4.2. Continuous ongoing planning and engineering for use of Denver basin groundwater and the Wabash Project as sources of augmentation water for the wells and sources of substitute supply for the exchange, including studies funded in part by the Colorado Water Conservation Board of the yield and reliability of the projects, a water conservation plan, analysis of regulations governing aquifer recharge, site surveys, mapping and aerial photography of the well sites, design of Wabash project facilities, drilling and equipping a nontributary well, and environmental studies related to endangered species. 4.3. Acquisition of land and additional nontributary groundwater rights, negotiations for additional land acquisition and land trades for the Wabash Project. 4.4. Negotiations with potential users of water from the separate water system, including a private school and public open space, renegotiate prior agreement with Los Verdes Country Club, and related engineering studies. 4.5. Protection of water rights by opposition to applications for competing water rights, exchanges and augmentation plans. 4.6. Studies funded by an EPA 319 grant of surface and ground water quality, ground water water levels, and climatic data. 4.7. Additional miscellaneous work and expenditures. 4.8. Expenditures for development of these conditional rights and related parts of CCV’s integrated system were at least \$1,292,210. Expenditures associated with some of the activities identified remain to be quantified. 5.0. Owners of land on which structures are located: 5.1. The Wells and Wabash Project pipeline: Applicant 5.2. Wastewater outfall: Metropolitan Wastewater Reclamation District 6450 York Street, Denver, Colorado 80229 6. Cherry Creek Valley did not timely receive notice of the requirement to file its diligence application for these conditional water rights. This application is filed more than 6 years from the date of the original conditional decree, but pursuant to *West Elk Ranch, LLC v. U.S.A.*, 02SA93, December 2, 2002, is timely due to the lack of notice. WHEREFORE, Applicant Cherry Creek Valley Water and Sanitation District, requests a finding of reasonable diligence, that its conditional water rights be continued, and for such other and further relief as may be appropriate.

2003CW11 CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT, 8501 E. Iliff Avenue, Denver, Colorado 80231, 303-755-4474 Frederick A. Fendel, III, PETROCK & FENDEL, P.C., 700 17th Street, Suite 1800, Denver, CO 80202, 303-534-0702, APPLICATION FOR FINDING OF DILIGENCE, COUNTY OF ARAPAHOE, 2. Structure/Conditional Water Rights: 2.1 Wabash Storage and Recharge System, consisting of CCV Storage and Recharge Structures 1, 3, and 5, and CCV Reservoirs 2 and 4 (“Wabash System”); Wabash Effluent Exchange; Wabash Consumable Return Flows Exchange. 3. Description of Conditional Water Rights from original decree in 94CW266, entered January 3, 1997: 3.1 Wabash System: 3.2.1 Locations: 3.2.1.1 CCV Storage and Recharge Structure 1: In the NE¼SW¼, section 28, T4S, R67W, 6th PM. The “center point” of the structure (to the extent that such a point can be defined) will be approximately 1550 feet north of the south line and 700 feet west of the east line of said section; 3.2.1.2 CCV Reservoir 2: In the NE¼SE¼, section 28 T4S, R67W, 6th PM. The “center point” of the reservoir (to the extent that such a point can be defined) will be approximately at a point 1640 feet north of the south line and 320 feet west of the east line of said section; CCV Storage and Recharge Structure 3: In the NE¼SE¼, section 28, T4S, R67W, 6th PM. The “center point” of the structure (to the extent that such a point can be defined) will be approximately at a point 2240 feet north of the south line and 470 feet west of the east line of said section. CCV Reservoir 4: In the NW¼SE¼, section 28, T4S, R67W, 6th PM. The “center point” of the structure (to the extent that such a point can be defined) will be approximately at a point 2225 feet north of the south line and 1875 feet west of the east line of said section. 3.2.1.5 CCV Storage and Recharge Structure 5: In the SE¼SE¼, section 28, T4S, R67W, 6th PM. The “center point” of the structure (to the extent that such a point can be defined) will be approximately 1100 feet north of the south line and 430 feet west of the east line of said section; 3.2.2 Source: Water diverted from Cherry Creek and its alluvium and surface water tributary thereto. 3.2.3. Amount: 419 acre feet, conditional, diverted at a maximum rate of 211.69 cfs, for all reservoirs and storage and recharge structures, together with the rights (1) to fill and refill said structures whenever the water rights decreed herein are wither in priority or are being augmented and (2) to fully consume all waters lawfully placed into the individual structures which make up the system. 3.3.3 Appropriation Date: October 18, 1994. 3.3.4 Use: All municipal purposes in the District’s “Separate Water System,” including but not limited to domestic, irrigation, commercial, industrial, recreation and fish and wild life preservation; augmentation, replacement and exchange; and artificial recharge of the alluvium of Cherry Creek and of those portions of the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the District. 3.3 Wabash Effluent Exchange: 3.3.1 Legal Description of Exchange Reach: The downstream terminus of the exchange is the outfall of the Metro Wastewater Reclamation District Treatment Plant located in the SW1/4NW1/4, Section 1, T3S,

R68W of the 6th P.M. water may be exchanged up the South Platte River to the confluence of the South Platte River and Cherry Creek and thence up Cherry Creek to the Parker-Iliff Storm Line Diversion Pipeline, the Wabash Diversion Pipeline, and Well Nos. CCV ALV 1-3, described in the decree in 94CW266. 3.3.2 Amount: 6 cfs, conditional, but in no event will the total effluent exchange for the Wabash Effluent Exchange and the exchange decreed in 92CW218(A) (sic) exceed 6.0 cfs. 3.3.3 Appropriation Date: October 18, 1994. 3.4 Source of Replacement Water: Reusable wastewater effluent attributable to the District's Separate Water System released from the Metro Wastewater Reclamation District Treatment Plant. 3.3.5 Use: All municipal purposes in the District's Separate Water System, including but not limited to domestic, irrigation, commercial, industrial, recreation, and fish and wild life preservation; augmentation, replacement, and exchange; and artificial recharge of the alluvium of Cherry Creek and of those portions of the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the District with the right to use and reuse the water exchanged to extinction. 3.4 Wabash Consumable Return Flows Exchange: 3.3.1 Legal Description of Exchange Reach: The downstream terminus of the exchange reach is the point at which Cherry Creek crosses the SE1/4SE1/4 of Section 18, T4S, R67W of the 6th P.M. the upstream termini will be the Parker-Iliff Storm Line Diversion Pipeline, the Wabash Diversion Pipeline, and Well Nos. CCV ALV 1-3, described in the decree in 94CW266. Source of Exchanged Water: Consumable/reusable irrigation return flows attributable to the District's Separate Water System. Date of Initiation of Appropriation: October 18, 1994. Maximum Rate of Exchange: 3.5 cfs, conditional. Use of Water: All municipal purposes in the District's Separate Water System, including but not limited to domestic, irrigation, commercial, industrial, recreation, and fish and wild life preservation; augmentation, replacement, and exchange; and artificial recharge of the alluvium of Cherry Creek and of those portions of the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the District with the right to use and reuse the water exchanged to extinction. Detailed outline of work done toward completion of the appropriation: 4.1 Continuous ongoing planning and engineering for use of Denver basin groundwater and the Wabash Project as sources of augmentation water for the wells and sources of substitute supply for the exchange, including studies funded in part by the Colorado Water Conservation Board of the yield and reliability of the projects, a water conservation plan, analysis of regulations governing aquifer recharge, site surveys, mapping and aerial photography of the well sites, design of Wabash project facilities, development of a stream model, drilling and equipping a nontributary well, environmental studies related to endangered species, and regular reporting to District board. 4.2 Acquisition of land and additional nontributary groundwater rights, negotiations for additional land acquisition and land trades for the Wabash Project. 4.3 Negotiations with potential users of water from the separate water system, including a private school and public open space, amend prior agreement with Los Verdes Country Club, and related engineering studies. 4.4 Protection of water rights by opposition to applications for competing water rights, exchanges and augmentation plans. 4.5 Studies funded by an EPA 319 grant of surface and ground water quality, ground water levels, and climatic data. Water levels, runoff water quality, all related to the sources and storage locations for these water rights. 4.6 Participation in Cherry Creek Basin Watershed Association. 4.7 Additional miscellaneous work and expenditures. 4.8 Expenditures for development of these conditional rights and related parts of CCV's integrated system were at least \$1,292,210. Expenditures associated with some of the activities identified remain to be quantified. 5. Owners of land on which structures are located. 5.1 Wabash Project and points of diversion: Applicant 5.2 Wastewater outfall: Metropolitan Wastewater Reclamation District 6450 York Street, Denver, Colorado 80229, WHEREFORE, Applicant Cherry Creek Valley Water and Sanitation District, requests a finding of reasonable diligence, that its conditional water rights be continued, and for such other and further relief as may be appropriate.

2003CW12 MICHAEL & DENISE SYMES, 273 Pinecrest Road, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Well #188778 is located in the NW1/4NW1/4, S27, T12S, R69W, 6th P.M., 925' from N and 500' from W, a/k/a Lot 25, Aspen Hills Subdivision. Source: Unnamed drainage tributary to Trout Creek, Tributary to Horse Creek, tributary to the South Platte River. Depth: 500' Appropriation: 7/7/1995 Amount: 1.2 gpm Use: Household use only. (3 pages)

200CW013 DORIE SLAUGHTER, 204 Spruce Drive, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Well #193602 is located in the SE1/4SW1/4, S22, T12, R69W, 6th P.M., 800' from S and 2500' W, a/k/a Lot 65, Aspen Hills Subdivision. Source: Septic leach field. Depth: 400' Appropriation: 6/6/1998. Amount claimed: 2 gpm Use: Household use only. (3 pages)

2003CW014 JAMES I. FOSTER AND PATRICIA H. FOSTER REVOCABLE TRUST, 4265 Trout Creek Road, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Well 152035 is located in the NW1/4NE1/4, S27, T12S, R69W, 6th P.M., 2599' from E and 1200' from N. Source: Granite Depth: 470' Appropriation: 8/1/1988 Amount: 1.5 gpm (1 a/f annually) Use: Household use only. (3 pages)

2003CW015 HOWARD S. ELLIOTT. Robert E. Schween, P.C., Robert E. Schween, P.O. Box 262104, Littleton, Colorado 80163-2104. Telephone: 303-471-5150 acsimile: 303-470-3103. APPLICATION FOR NONTRIBUTARY AND NOT-NONTRIBUTARY GROUND WATER RIGHTS IN THE DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, **IN DOUGLAS COUNTY**.

1. **Name, Address, and Telephone Number of Applicant:** Howard S. Elliott, 12152 South Highway 83, Franktown, Colorado 80116. 303-688-6279. 2. **Well Permits:** Well permit applications for the wells to be constructed pursuant to this application and subsequent decree will be applied for at such time as Applicant is prepared to construct such wells pursuant to the terms of the decree to be entered in this matter. 3. **Names, Description, and Estimated Depths of Wells:**

A. The wells which will withdraw ground water from each aquifer underlying the land described in paragraph 10 below will be located on Applicant's property, consisting of three separate, but adjacent tracts totaling 114.2 acres, more or less, in the NE ¼, Section 13, Township 10 South, Range 66 West of the 6th P.M., in Douglas County, Colorado. See **Exhibit A**, General Location Map, **Exhibit A-1**, Site Location Map, and **Exhibit B**, Property Legal Description, attached hereto. Applicant requests the right to construct such wells anywhere on the three tracts to recover the entire allowable annual amounts from each aquifer as claimed herein or as determined by the Court pursuant to its retained jurisdiction.

B. The estimated depths to the base of the aquifers at the location of Applicant's property are as described in the Denver Basin Rules, 2 CCR 402-6. Actual well completion depths will comply with the well permit, but may vary slightly from the permitted depth depending on the topography at any particular location. **Source of Water Rights:** Not-Nontributary Ground Water. A. The ground water contained in the Dawson aquifer at this location is not-nontributary ground water as defined at § 37-90-103 (10.7), C.R.S. Applicant may not obtain a well permit and withdraw such not-nontributary ground water until an augmentation plan is approved for the replacement of injurious depletions caused thereby. See § 37-90-137(9), C.R.S. *No such plan is sought by this application.*

B. Nontributary Ground Water. The ground water contained in the Denver, Arapahoe, and Laramie-Fox Hills aquifers at this location is not-nontributary ground water as defined at § 37-90-103 (10.7), C.R.S. Applicant may obtain a well permit, withdraw, and fully consume such nontributary ground water, except that Applicant must relinquish two-percent (2%) of such ground water withdrawn to the stream system, as required by the Denver Basin Rules. Such relinquishment may be by any means selected by the Applicant.

5. **Background:** Applicant files this application for water rights pursuant to § 37-92-203, C.R.S., as a water matter concerning nontributary and not-nontributary ground water. Applicant is the owner of the overlying land as described herein. 6. **Date of Initiation of Appropriation:**

Not Applicable.

7. **Right to Ground Water Claimed Herein:** A. Applicant seeks a decree for all ground water determined to be available from the named aquifers underlying the three tracts of land described herein based upon a statutory aquifer life of 100 years. B. Applicant asserts that withdrawal in the average annual amounts determined to be available from the named aquifers can be made pursuant to § 37-90-137(4) and (9), C.R.S., without causing material injury to the vested rights of others. A separate Court-approved plan for augmentation must be obtained before any such not-nontributary ground water adjudicated herein may be produced. 8. **Estimated**

Amounts and Rates of Withdrawal:

A. **Estimated Average Annual Amounts Available:** The estimated average annual amounts of withdrawal available from the named aquifers underlying each of the three tracts, as indicated below, are based upon interpretations of information contained in the Denver Basin Rules, 2 C.C.R. 402-6.

(1) Tract 3 (41.22 Acres): Sat. Sand Specific Average Annual

<u>Aquifer</u>	<u>Acres</u>	<u>Thickness</u>	<u>Yield</u>	<u>Amount</u>
Dawson	41.22	380 Feet	20%	31.3 AF
Denver	41.22	330 Feet	17 %	23.1 AF
Arapahoe	41.22	300 Feet	17 %	21.0 AF
Laramie-Fox Hills	41.22	200 Feet	15 %	12.4 AF
(2) Tract 4 (37.0 Acres):		Sat. Sand	Specific	Average Annual
<u>Aquifer</u>	<u>Acres</u>	<u>Thickness</u>	<u>Yield</u>	<u>Amount</u>
Dawson	37.0	380 Feet	20%	28.1 AF
Denver	37.0	330 Feet	17 %	20.8 AF
Arapahoe	37.0	300 Feet	17 %	18.9 AF
Laramie-Fox Hills	37.0	200 Feet	15 %	11.1 AF
(3) Tract 5 (36.0 Acres):		Sat. Sand	Specific	Average Annual
<u>Aquifer</u>	<u>Acres</u>	<u>Thickness</u>	<u>Yield</u>	<u>Amount</u>
Dawson	36.0	380 Feet	20%	27.4 AF
Denver	36.0	330 Feet	17 %	20.2 AF
Arapahoe	36.0	300 Feet	17 %	18.4 AF
Laramie-Fox Hills	36.0	200 Feet	15 %	10.8 AF

Note: The final average annual amounts available from each aquifer will depend upon the actual hydrogeology and the legal entitlement of Applicant to all ground water in the subject aquifers underlying Applicant's described property.

B. Average Pumping Rates: The average pumping rate for wells to be completed into the four named aquifers is expected to vary from 15 to about 250 gpm. Applicant requests that the pumping rates for each well may be as great as necessary to withdraw the full annual allocation of water from each named aquifer.9. Well Fields: Subject to obtaining an adequate Court approved augmentation plan therefor, Applicant has the right to withdraw all of the legally available ground water in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the three tracts described in Paragraph 11 below, through any well(s) initially permitted in each aquifer and any additional well(s) which may become part of the Applicant's well field. Applicant requests that the initial well(s) permitted, along with any additional well(s) completed into the same aquifer, shall be treated as a well field. As additional wells are constructed, well permit applications will be filed in accordance with § 37-90-137(10), C.R.S.

10. Proposed Uses: A. Applicant requests the right to use all ground water subject to this application. Such water is to be used, reused, successively used and, after use, leased, sold or otherwise disposed of for the following beneficial purposes: *domestic, industrial, agricultural, commercial, irrigation, stock watering, storage, recreational, fish and wildlife propagation, fire protection, and any other beneficial purposes, to be used on or off the land described in Paragraph 11.*

B. Such water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of stream depletions resulting from the use of water from other sources, and for augmentation purposes.

11. Description of the Land Overlying Subject Ground Water: The property overlying the ground water claimed herein consists of three tracts of land with a total acreage of 114.2 acres, more or less, located in Douglas County, and generally described as follows:

Tracts 3, 4, and 5, all located in the NE ¼, Section 13, Township 10 South, Range 66 West of the 6th P.M., in Douglas County, also known as Elliott Property, Tracts 3, 4, and 5. Douglas County.

See General Location Map, **Exhibit A**, Site Location Map, **Exhibit A-1**, and Property Legal Description, **Exhibit B**. 12. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-92-302(2) and 37-90-137(6), C.R.S.

13. Name of Owner of the Land on Which Structures are Located: The owner Tracts 3, 4, and 5, the overlying land area described herein, is the Applicant, Howard S. Elliott. 14. Additional

Remarks:

A. Applicant requests the Court enter a decree granting: (1) A quantification and adjudication of the ground water rights in the aquifers named herein to which Applicant is entitled to develop and use; (2) The right to file and adjudicate an augmentation plan for use of such not-nontributary ground water herein at a later date under a separate caption and case number; (3) The right to withdraw

more than the average annual amount estimated in paragraph 5B above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7; and (4) The right to revise the above estimate of the average annual amounts available for withdrawal upward or downward, based on better or revised data, without the necessity of amending this application or republishing same.

B. In compliance with House Bill 93-1060 (§ 37-92-302(2)(b), C.R.S.), Applicant will, within ten (10) days after filing this application, supplement this application with evidence that Applicant has given notice of the filing of this application by certified mail, return receipt requested, to every record owner of the overlying land and to every person who has a lien or mortgage on, or deed of trust to, the overlying land recorded in the county in which the overlying land is located.

WHEREFORE, Applicant Howard S. Elliott requests a ruling and decree granting the application herein and awarding the ground water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained, so that the State Engineer may issue well permits for such well(s) as Applicant requests under this decree, subject to the limitations described in such ruling and decree. Further, Applicant requests that the ruling and decree find that - (1) Applicant has complied with § 37-90-137(4), C.R.S., and ground water is legally available for withdrawal from the named aquifers through wells to be located on the Applicant's property, EXCEPT THAT withdrawals of not-nontributary ground water may not be withdrawn until an augmentation plan is approved therefor; (2) Jurisdiction is to be retained with respect to the average annual amounts of withdrawal specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near Applicant's property, pursuant to § 37-92-305(11), C.R.S.; (3) Applicant or his successors may construct wells into the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers anywhere on the subject property, so long as statutory well spacing requirements are met, without the necessity of filing any further amendments to this application, republishing this application, or reopening the decree to be awarded; (4) Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals proposed herein; (5) In accordance with § 37-92-305(11), C.R.S., no findings of reasonable diligence are required to maintain the water rights applied for herein; and (6) The nature and extent of the water rights claimed herein are defined by § 37-90-137(4), C.R.S., and the withdrawals sought to be made are based upon an aquifer life of 100 years and upon the quantity of ground water, exclusive of any artificial recharge, underlying the land shown on **Exhibit A** and described in **Exhibit B** hereto. **FURTHER, Applicant** requests this Court grant such other relief as it deems proper in the premises.

2003CW016 ROBERT & ANTONIA CHASTAIN, 4353 Trout Creek Road, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Well #84361 is located in the NE1/4NE1/4, S27, T12S, R69W, 6th P.M. Source: Groundwater Depth: 200' Appropriation: 6/9/1976 Amount claimed: 60 gpm Use: Irrigation of approximately 300 sq. ft. and for all household uses; washing, bathing, cleaning, cooking & flower beds. (3 pages)

2003CW017 PATRICIA S. MCRAE, 235 Pinecrest Road, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Well #61856 is located in the NW14/NW1/4, S27, T12S, R69W, 6th P.M., 800' from N and 650' from W, a/k/a Lot 24, Aspen Hills Subdivision. Source: Unnamed drainage tributary Trout Creek, Tributary to Horse Creek, Tributary to the S. Platte River Amount claimed: 1-2 gpm Use: Household use only.

2003CW18 J. GREG LUCEY, 274 Pinecrest Road, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Greg's Well #120870 is located in the NW1/4NW1/4, S22, T12S, R69W, 6th P.M., 1155' from N and 330' from W. Source: Unnamed drainage tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. Depth: 500' Appropriation: 10/7/1981 Amount claimed: 1 gpm Use: Household use only. County approved septic system with leach field, (3 pages)

2003CW019 Tri-City Ventures, L.L.C., c/o Jeff Perryman, J. Arthur Financial, 3545 W. 12th Street, Suite 203, Greeley, CO 80634 (Kelly Custer, Lind, Lawrence, & Ottenhoff, 1011 Eleventh Avenue, Greeley, CO 80631) Application to Make Absolute

and for Finding of Reasonable Diligence **in Weld County**. 2. Name of Structure: Meadow Brook Lake. 3. Conditional Water Right: A. Original Decree: Case No. 95CW224, Water Division No. 1, January 16, 1997. B. Location: In the Northwest Quarter of Section 8, Township 5 North, Range 67 West of the 6th P.M., Weld County, Colorado. C. Legal description of structure: Commence at the North ¼ corner of Section 8 and consider the West line of the Northeast ¼ to bear South 00E21'28" West and all other bearings relative thereto: thence South 57E44'48" West for 629.473 feet to the East of the spillway of the dam at Meadow Brook Farm. D. Source: Unnamed draw tributary to the Cache La Poudre River. E. Date of Appropriation: December 31, 1963. F. Amount: 30.92 acre feet, conditional. G. Use: Recreation, fish, wildlife. 4. Outline of What Has Been Done Toward Completion: Applicant constructed the dam in 1995 and has stored the full decreed amount, 30.92 acre feet, and has placed the water to the decreed beneficial uses. 5. Claim to Make Absolute or In the Alternative, for Diligence: Applicant seeks to make absolute the entire decreed amount, 30.92 acre feet, or in the alternative, seeks a finding of reasonable diligence for any portion of the appropriation not made absolute.

2003CW020 CASTLE ROCK INVESTMENTS, L.L.C., Robert E. Schween, P.C., Robert E. Schween, P.O. Box 262104, Littleton, Colorado 80163-2104. Telephone: 303-471-5150 Facsimile: 303-470-3103 E-Mail: RobtSchweenPC@Owest.net APPLICATION FOR NONTRIBUTARY AND NOT-NONTRIBUTARY GROUND WATER RIGHTS IN THE UPPER DAWSON, LOWER DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, **IN DOUGLAS COUNTY.**

1. **Name, Address, and Telephone Number of Applicant:** Castle Rock Investments, LLC, a Colorado limited liability company, Attn: Ken Hoff, 1935 Liggett Road, Castle Rock, Colorado 80104. [Telephone: 303-814-9868] 2. **Well Permits:** Well permit applications for the wells to be constructed pursuant to this application and subsequent decree will be applied for at such time as Applicant is prepared to construct such wells pursuant to the terms of the decree to be entered in this matter. 3. **Names, Description, and Estimated Depths of Wells:** A. The wells which will withdraw ground water from each aquifer underlying the land described in paragraph 11 below will be located on Applicants' property that is subject to this application, consisting of 15.05 acres, more or less, located in the NW ¼ of Section 2, Township 8 South, Range 67 West of the 6th P.M., and in the SW ¼ of Section 35, Township 7 South, Range 67 West of the 6th P.M., in Douglas County, Colorado. **See Exhibit A**, General Location Map, **Exhibit A-1**, Site Vicinity Map, and **Exhibit B**, Property Legal Description, attached hereto. B. Applicant requests the right to construct such wells anywhere on the overlying property to recover the entire allowable annual amounts from each aquifer as claimed herein or as determined by the Court pursuant to its retained jurisdiction. C. The average depths from the land surface to the base of the aquifers at the location of Applicant's property described herein are as described in the Denver Basin Rules, 2 CCR 406-6. Actual well completion depths will be consistent with actual aquifer base depths at the particular well location. 4. **Source of Water Rights:** Nontributary and Not-Nontributary Ground Water. A. A portion of the ground water in the Lower Dawson aquifer and the ground water contained in the Arapahoe and Laramie-Fox Hills aquifers at this location is nontributary as defined at § 37-90-103(10.5), C.R.S. Applicant may withdraw, use, and fully consume such ground water, except that two percent (2%) of all such nontributary ground water withdrawn must be relinquished to the stream system. B. A portion of the ground water in the Lower Dawson aquifer and the ground water contained in the Upper Dawson and Denver aquifers at this location is classified as not-nontributary as defined at § 37-90-103 (10.7), C.R.S. Applicant may not obtain a well permit and withdraw such not-nontributary ground water until an augmentation plan is approved for the replacement of injurious stream depletions caused. **See § 37-90-137(9), C.R.S. No such plan is sought by this application.** 5. **Background:** Applicant files this application for water

rights pursuant to § 37-92-203, C.R.S., as a water matter concerning nontributary or not-nontributary ground water. Applicant is the owner of the overlying land area as described herein.

6. **Date of Initiation of Appropriation:** Not Applicable. 7. **Right to Ground Water Claimed Herein:** Applicant seeks a decree for all ground water determined to be available from the named aquifers underlying Applicant's property described herein, based upon a statutory aquifer life of 100 years. Applicant asserts that withdrawal in the average annual amounts determined to be available from the named aquifers can be made pursuant to § 37-90-137(4) and (9), C.R.S., without causing material injury to the vested rights of others. A Court-approved plan for augmentation must be obtained before any such not-nontributary ground water adjudicated herein may be produced.

8. **Estimated Average Annual Amounts of Withdrawal:** A. The estimated average annual amounts of withdrawal available from the named aquifers, as indicated below, are based upon interpretations of information contained in the Denver Basin Rules, 2 C.C.R. 402-6, and illustrated on maps of the Denver Basin aquifers.

<u>Aquifer</u>	<u>Acres</u>	<u>Sat. Sand Thickness</u>	<u>Specific Yield</u>	<u>Average Annual Amount</u>
Upper Dawson	15.1	20 Feet	20 %	0.6 AF
Lower Dawson	15.1	150 Feet	20 %	4.5 AF
Denver	15.1	350 Feet	17 %	9.0 AF
Arapahoe	15.1	300 Feet	17 %	8.3 AF
Laramie-Fox Hills	15.1	190 Feet	15 %	4.3 AF

B. The final average annual amounts available from each aquifer will depend upon the actual hydrogeology and the legal entitlement of Applicant to all ground water in the subject aquifer underlying the herein described property. C. The average pumping rate for wells to be completed into the named aquifers is expected to vary from 15 to about 350 gpm. Applicant requests that the pumping rates for each well may be as great as necessary to withdraw the full annual allocation of water from each named aquifer.

9. **Well Fields:** Subject to obtaining an adequate Court approved augmentation plan for the withdrawal of not-nontributary ground water, Applicant has the right to withdraw all of the legally available ground water in the Upper Dawson, Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the land area described in Paragraph 11 below, through any well(s) initially permitted in each aquifer and any additional well(s) which may become part of the Applicant's well field. Applicant requests that the initial well(s) permitted, along with any additional well(s) completed into the same aquifer, shall be treated as a well field. As additional wells are constructed, well permit applications will be filed in accordance with § 37-90-137(10), C.R.S.

10. **Proposed Uses:** Applicant requests the right to use all ground water subject to this application. Such water is to be used, reused, successively used and, after use, leased, sold or otherwise disposed of for the following beneficial purposes: *domestic, industrial, agricultural, commercial, irrigation, stock watering, storage, recreational, fish and wildlife propagation, fire protection, and any other beneficial purposes, to be used on or off the land described in Paragraph 11.* Such water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of stream depletions resulting from the use of water from other sources, and for augmentation purposes.

11. **Description of the Land Overlying Subject Ground Water:** The Applicant's property overlying the ground water claimed herein consists of a parcel of land, located in Douglas County, and generally described as follows: *A tract of land in the NW ¼ of Section 2, Township 8 South, Range 67 West of the 6th P.M., and in the SW ¼ of Section 35, Township 7 South, Range 67 West of the 6th P.M., in Douglas County, containing 15.05 acres, more or less.*

See Exhibit A, Exhibit A-1, and, Exhibit B.

12. **Jurisdiction:** The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-92-302(2) and 37-90-137(6), C.R.S. 13. **Name of Owner of the Land on**

Which Structures are Located: The owner of the overlying land area described herein is the named Applicant herein, Castle Rock Investments, LLC. 14. **Additional Remarks:**

A. Applicant requests the Court enter a decree granting: (1) A quantification and adjudication of the ground water rights in the aquifers named herein to which Applicant is entitled to develop and use underlying Applicant's property described herein; (2) The right to file and adjudicate an augmentation plan for such not-nontributary ground water herein at a later date under a separate

caption and case number; (3) The right to withdraw more than the average annual amount estimated in paragraph 5B above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7; and (4) The right to revise the average annual amounts available for withdrawal upward or downward, based on better or revised data, without the necessity of amending this application or republishing same. B. In compliance with House Bill 93-1060 (§ 37-92-302(2)(b), C.R.S.), Applicant asserts that there is no person or entity who has a lien or mortgage on, or deed of trust to, the overlying land recorded in the county in which the overlying land is located. **WHEREFORE**, Applicant requests the entry of a ruling and decree:

1. Granting the application herein and awarding the ground water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained, so that the State Engineer may issue well permits for such well(s) as Applicant requests under this decree, subject to the limitations described in such ruling and decree; and 2. Finding and determining that –

(a) Applicant has complied with § 37-90-137(4), C.R.S., and ground water is legally available for withdrawal from the named aquifers through wells to be located on the Applicant's property, EXCEPT THAT withdrawals of not-nontributary ground water may not be withdrawn until an augmentation plan is approved therefor; (b) Jurisdiction is to be retained with respect to the average annual amounts of withdrawal specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near Applicant's property, pursuant to § 37-92-305(11), C.R.S.; (c) Applicant or its successors may construct wells into the Upper Dawson, Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers anywhere on the subject property without the necessity of filing any further amendments to this application, republishing this application, or reopening the decree to be awarded; (d) Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals proposed herein; (e) In accordance with § 37-92-305(11), C.R.S., no findings of reasonable diligence are required to maintain the water rights applied for herein; and (f) The nature and extent of the water rights claimed herein are defined by § 37-90-137(4), C.R.S., and the withdrawals sought to be made are based upon an aquifer life of 100 years and upon the quantity of ground water, exclusive of any artificial recharge, underlying the land areas shown at **Exhibits A and A-1** and described in **Exhibit B** hereto.

FURTHER, Applicant requests this Court grant such other relief as it deems proper in the premises.

2003CW021 CAMBRIDGE GREEN, L.L.C. Robert E. Schween, P.C., Robert E. Schween, P.O. Box 262104, Littleton, Colorado 80163-2104. Telephone:303-471-5150. Facsimile: 303-470-3103. E-Mail: RobtSchweenPC@Qwest.net. APPLICATION FOR NONTRIBUTARY AND NOT-NONTRIBUTARY GROUND WATER RIGHTS IN THE UPPER DAWSON, LOWER DAWSON, DENVER, ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, **IN DOUGLAS COUNTY**.

1. **Name, Address, and Telephone Number of Applicant:** Cambridge Green, LLC, Attn: Albert Theodore Powers, The Hong Kong Club Bldg., Suite 1901, 3A Chater Road, Central, Hong Kong, China. [Telephone: 011 852 2523 3200] 2. **Well**

Permits: Well permit applications for the wells to be constructed pursuant to this application and subsequent decree will be applied for at such time as Applicant is prepared to construct such wells pursuant to the terms of the decree to be entered in this matter. 3. **Names,**

Description, and Estimated Depths of Wells: A. The wells which will withdraw ground water from each aquifer underlying the land described in paragraph 11 below will be located on Applicant's property that is subject to this application, consisting of five (5) acres, more or less, located in the SW ¼, SW ¼ of Section 5, and the NW ¼, NW ¼ of Section 8, all in Township 8 South, Range 66 West of the 6th P.M., in Douglas County, Colorado. See Exhibit A, General Location Map, **Exhibit A-1**, Site Vicinity Map, and **Exhibit B**, Property Legal Description, attached hereto. B. Applicant requests the right to construct such wells anywhere on the overlying property to recover the entire allowable annual amounts from each aquifer as claimed herein or as determined by the Court pursuant to its retained jurisdiction. C. The average depths from the land surface to the base of the aquifers at the location of Applicant's property described herein are as described in the Denver Basin Rules, 2 CCR 406-6. Actual well completion depths will be consistent with actual aquifer base depths at the particular well location. 4. **Source**

of Water Rights: Nontributary and Not-Nontributary Ground Water. A. The ground water

contained in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers at this location is nontributary as defined at § 37-90-103(10.5), C.R.S. Applicant may withdraw, use, and fully consume such ground water, except that two percent (2%) of all such nontributary ground water withdrawn must be relinquished to the stream system. B. The ground water contained in the Upper Dawson aquifer at this location is not-nontributary as defined at § 37-90-103 (10.7), C.R.S. Applicant may not obtain a well permit and withdraw such not-nontributary ground water until an augmentation plan is approved for the replacement of injurious stream depletions caused. See § 37-90-137(9), C.R.S. *No such plan is sought by this application.*

5. **Background:** Applicant files this application for water rights pursuant to § 37-92-203, C.R.S., as a water matter concerning nontributary or not-nontributary ground water. Applicant is the owner of the overlying land area as described herein. 6. **Date of Initiation of**

Appropriation: Not Applicable. 7. **Right to Ground Water Claimed Herein:**

A. Applicant seeks a decree for all ground water determined to be available from the named aquifers underlying Applicant's property described herein, based upon a statutory aquifer life of 100 years. B. Applicant asserts that withdrawal in the average annual amounts determined to be available from the named aquifers can be made pursuant to § 37-90-137(4) and (9), C.R.S., without causing material injury to the vested rights of others. A Court-approved plan for augmentation must be obtained before any such not-nontributary ground water adjudicated herein may be produced.

8. **Estimated Average Annual Amounts of Withdrawal:** A. The estimated average annual amounts of withdrawal available from the named aquifers, as indicated below, are based upon interpretations of information contained in the Denver Basin Rules, 2 C.C.R. 402-6, and will be modified to conform with the Findings of the State Engineer as to the actual amounts in each aquifer.

<u>Aquifer</u>	<u>Acres</u>	<u>Sat. Sand Thickness</u>	<u>Specific Yield</u>	<u>Average Annual Amount</u>
Upper Dawson	5	50 Feet	20 %	0.5 AF
Lower Dawson	5	150 Feet	20 %	1.5 AF
Denver	5	350 Feet	17 %	3.0 AF
Arapahoe	5	300 Feet	17 %	2.6 AF
Laramie-Fox Hills	5	190 Feet	15 %	1.4 AF

B. The final average annual amounts available from each aquifer will depend upon the actual hydrogeology and the legal entitlement of Applicant to all ground water in the subject aquifer underlying the herein described property. C. The average pumping rate for wells to be completed into the named aquifers is expected to vary from 15 to about 350 gpm. Applicant requests that the pumping rates for each well may be as great as necessary to withdraw the full annual allocation of water from each named aquifer. 9. **Well Fields:** Subject to obtaining an adequate Court approved augmentation plan for the withdrawal of not-nontributary ground water, Applicant has the right to withdraw all of the legally available ground water in the Upper Dawson, Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the land area described in Paragraph 11 below, through any well(s) initially permitted in each aquifer and any additional well(s) which may become part of the Applicant's well field. Applicant requests that the initial well(s) permitted, along with any additional well(s) completed into the same aquifer, shall be treated as a well field. As additional wells are constructed, well permit applications will be filed in accordance with § 37-90-137(10), C.R.S.

10. **Proposed Uses:** Applicant requests the right to use all ground water subject to this application. Such water is to be used, reused, successively used and, after use, leased, sold or otherwise disposed of for the following beneficial purposes: *domestic, industrial, agricultural, commercial, irrigation, stock watering, storage, recreational, fish and wildlife propagation, fire protection, and any other beneficial purposes, to be used on or off the land described in Paragraph 11.* Such water will be produced for immediate application, or for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation uses. 11.

Description of the Land Overlying Subject Ground Water: Applicant's property overlying the ground water claimed herein consists of a parcel of land, located in Douglas County, and generally described as follows: *A tract of land in the SW ¼, SW ¼ of Section 5, and in the NW ¼, NW ¼ of Section 8, Township 8 South, Range 66 West of the 6th P.M., in Douglas County,*

containing 5.0 acres, more or less. See General Location Map, **Exhibit A**, Site Vicinity Map, **Exhibit A-1**, and Property Legal Descriptions, **Exhibit B**.

12. **Jurisdiction:** The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-92-302(2) and 37-90-137(6), C.R.S. 13. **Name of Owner of the Land on**

Which Structures are Located: The owner of the overlying land area described herein is the named Applicant herein, Cambridge Green, LLC. 14. **Additional Remarks:**

A. Applicant requests the Court enter a decree granting:

(1) A quantification and adjudication of the ground water rights in the aquifers named herein to which Applicant is entitled to develop and use underlying Applicant's property described herein;

(2) The right to file and adjudicate an augmentation plan for such not-nontributary ground water herein at a later date under a separate caption and case number;

(3) The right to withdraw more than the average annual amount estimated in paragraph 5B above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7; and

(4) The right to revise the average annual amounts available for withdrawal upward or downward, based on better or revised data, without the necessity of amending this application or republishing same.

B. In compliance with House Bill 93-1060 (§ 37-92-302(2)(b), C.R.S.), Applicant asserts that there are no persons or entities who hold a lien or mortgage on, or deed of trust to, the overlying land recorded in the county in which the overlying land is located.

WHEREFORE, Applicant Cambridge Green, LLC, requests a ruling and decree:

1. Granting the application herein and awarding the ground water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained, so that the State Engineer may issue well permits for such well(s) as Applicant requests under this decree, subject to the limitations described in such ruling and decree; and 2. Finding and determining that –

(a) Applicant has complied with § 37-90-137(4), C.R.S., and ground water is legally available for withdrawal from the named aquifers through wells to be located on the Applicant's property, EXCEPT THAT withdrawals of not-nontributary ground water may not be withdrawn until an augmentation plan is approved therefor; (b) Jurisdiction is to be retained with respect to the average annual amounts of withdrawal specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near Applicant's property, pursuant to § 37-92-305(11), C.R.S.; (c) Applicant or its successors may construct wells into the Upper Dawson, Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers anywhere on the subject property without the necessity of filing any further amendments to this application, republishing this application, or reopening the decree to be awarded; (d) Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals proposed herein; (e) In accordance with § 37-92-305(11), C.R.S., no findings of reasonable diligence are required to maintain the water rights applied for herein; and (f) The nature and extent of the water rights claimed herein are defined by § 37-90-137(4), C.R.S., and the withdrawals sought to be made are based upon an aquifer life of 100 years and upon the quantity of ground water, exclusive of any artificial recharge, underlying the land areas shown at **Exhibit A** and described in **Exhibit B** hereto.

FURTHER, Applicant Cambridge Green, LLC, requests this Court grant such other relief as it deems proper in the premises.

2003CW022 PHILIP L. BARBER, 833 Coyote Trail., Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Barber Well #48696 is located in the SW14SE1/4, S22, T12S R69W, 6th P.M., a/k/a Lot 47, W2 Lot 48, Aspen Hills Subdivision. Source: Decomposed Granite Trout Creek Drainage Basin. Appropriation: 9/16/1971 Amount: 8 gpm Name of Aquifer : Trout Creek Drainage Basin Proposed use: Domestic (3 pages)

2003CW023 **TIM HACKNEY**, 44 Pinecrest Road, Woodland Park, CO 80863. Application for Underground Water Right, **IN TELLER COUNTY**. Hackney Well #197486 is located in the NE1/4NW1/4, S27, T12S, R69W, 6th P.M., 1200' from N and 1600' from W, a/k/a Lot 3, Aspen Hills Subdivision. Source: Groundwater Depth: 360' Appropriation: 8/20/1999 Amount: 20 gpm Use: Household use only. (3 pages)

2003CW024 GATEWAY AMERICAN PROPERTIES, L.L.C., Robert E. Schween, Robert E. Schween, P.C., P.O. Box 262104. Littleton, Colorado 80163-2104. Telephone: 303-471-5150 Facsimile: 303-470-3103. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION FOR USE OF NOT-NONTRIBUTARY GROUND WATER, **IN ADAMS COUNTY**.

BY THIS APPLICATION, Applicant Gateway American Properties, L.L.C., a Colorado limited liability company, seeks a plan for augmentation to augment modeled stream depletions caused by well withdrawals of not-nontributary ground water in the Lower Arapahoe aquifer it owns underlying certain property in Adams, Colorado. Such plan is designed to comply with the requirements of § 37-90-137(9), C.R.S.

1. **Name and Address of Applicant:** Gateway American Properties, L.L.C., Harvey Deutsch, Esq., Manager, 9145 Kenyon Avenue, Suite 202, Denver, Colorado 80237. 303-843-9742.

2. **Background:** A. The property overlying the not-nontributary Lower Arapahoe aquifer ground water to be withdrawn pursuant to the augmentation plan requested herein is 185 acres, more or less, in Section 22, Township 1 South, Range 67 West of the 6th P.M., in Adams County, which was part of a 300-acre parcel of land, the ground water under all of which was adjudicated in Case No. 02-CW-032, Water Division 1, entered on July 30, 2002. All such property is shown on the General Location Map, **Exhibit A**, and described in **Exhibit B** hereto ("the Property"). Such Property is owned by Applicant. B. The above referenced decree in Case No. 02-CW-032 remains in full force and effect. This application seeks a plan for augmentation for that Lower Arapahoe aquifer ground water decreed in such Case No. 02-CW-032.

3. **Names of Structures to be Augmented:** A. By this application, Applicant seeks to construct as many Lower Arapahoe aquifer wells as needed in the future to be located within the boundaries of the Property for the purpose of withdrawing such ground water to serve the domestic and lawn irrigation demands of a residential development planned for the Property. Such ground water may also be used as a fire protection supply, as an augmentation supply for such withdrawals of not-nontributary ground water, and for all other decreed beneficial uses.

B. Well permit applications have not been submitted at the time of this application. The Water Court has jurisdiction over this application. §§ 37-90-137(4) and -137(9), C.R.S.

4. **Previous Decrees for Water Rights To Be Used for Augmentation Source:** A. **Decrees and Amounts:** The Ruling and Decree in Case No. 02-CW-032, Water Division 1, adjudicated nontributary and not-nontributary ground water underlying the Property. Certain of these adjudicated water rights are to be used as sources of replacement water in this augmentation plan. The location of the ground water and the average annual amounts decreed, all owned by the Applicant, are as follows: (1) The decreed ground water rights underlie property located in Township 1 South, Range 67 West of the 6th P.M., in Adams County, generally described as follows: *A tract of land in part of the NW ¼, part of the SW ¼, and the SW ¼ of the SE ¼, Section 22; and the N ½ of the NW ¼, the SW ¼, and the NW ¼, Section 27, Township 1 South, Range 67 West of the 6th P.M., Adams County.* (2) Allowed Average Annual Amounts (Case No. 02-CW-032):

<u>Aquifer</u>	<u>Acreage</u>	<u>Amount</u>
Lower Arapahoe		
Nontributary	115 Ac.	25.4 AF
Not-Nontributary	185 Ac.	40.9 AF
Laramie-Fox Hills	300 Ac.	99.0 AF

B. **Decreed Uses:** Reuse and successive uses for all municipal purposes including domestic, industrial, commercial, irrigation, stock watering, recreation, fish and wildlife, fire protection, and sanitary purposes, including the right to use, reuse, and successively use such water to extinction.

Further, such water may be stored for subsequent use and may be used for augmentation, exchange, and replacement purposes.

C. Land Area: No part of the Property lies within a designated ground water basin. The land area for which this plan for augmentation is sought is that 185 acres of the Property which lies in Section 22, see Exhibit A, and which overlies the not-nontributary ground water in the Lower Arapahoe aquifer subject to this application.

5. Statement and Description of Plan for Augmentation: A. Sources of Augmentation Water.

The augmentation sources for this plan will be (a) fully augmented not-nontributary ground water in the Lower Arapahoe aquifer underlying the Property; (b) nontributary ground water in the Lower Arapahoe aquifer underlying the Property; (c) nontributary ground water in the Laramie-Fox Hills aquifer underlying the Property, and (d) reserved nontributary ground water underlying other property, if necessary, to be determined. Such sources may be available by direct discharge to the stream system, by percolation and return to the stream system after land application, and by rapid infiltration.

B. Use of Water Under This Application. (1) Under this application, Applicant intends to withdraw a maximum of 13.6 acre-feet per year of Lower Arapahoe aquifer ground water for up to 300 years to serve residential purposes on the Property. It is contemplated that such ground water will be withdrawn through one or two wells located on the Property and additional wells as may be needed in the future. Such water will be used for all domestic, fire-protection, and lawn and garden irrigation purposes, or for any other beneficial use related to the development of the Property and the needs of the community. (2) In addition to the not-nontributary Lower Arapahoe aquifer ground water subject to this application, Applicant will also use ground water from both the nontributary Lower Arapahoe and Laramie-Fox Hills aquifers to serve as the supply for the residential community planned for the Property.

C. Modeled Stream Depletions: South Platte River. (1) During the Pumping Period: The maximum stream depletion caused by pumping not-nontributary Lower Arapahoe ground water under this application during the pumping period (300 years) is approximately 0.3 acre-feet, based on a maximum depletion factor of 2.13 % of the amount pumped and an annual withdrawal of 13.6 acre-feet. It is likely that actual stream depletions will be less than the maximum modeled/calculated depletions. (2) During the Post-Pumping Period:

Pumping from the not-nontributary Lower Arapahoe aquifer at this location for 300 years results in maximum modeled depletions to the stream system of 4.27 % of the annual amount pumped. Such maximum depletion occurs at approximately 560 years after commencement of pumping. See Stream Depletion Table 1, Exhibit C hereto. (3) The point of contact between the aquifer and the stream system affected by pumping is greater in distance than one mile from the location of the Property. Therefore, four percent (4%) of the amount pumped must be replaced instead of the modeled actual depletion. Four percent of the amount pumped is 0.54 AF (13.6 AF x 4%= 0.54 AF).

D. Replacement of Stream Depletions During Pumping Period: (1) Studies show that of the total amount of water use for in-house domestic purposes, approximately 90% will percolate and return to the stream system, given the use of nonevaporative waste water systems. Further, of the amount of water uses for lawn irrigation purposes, approximately 15% will percolate and return to the stream system. These assumptions are standard for plans such as this.

Given these standard assumptions, the maximum amount of return flows generated annually by such uses as contemplated hereby will be as follows: (a) Domestic Uses: Maximum Annual Amount Pumped: 39.0 AF; Percent Percolating to Stream System: 90%; Annual Return Flow Generated: 35.1 AF.

(b) Lawn and Garden Irrigation Uses: Maximum Annual Amount Pumped: 22.4 AF; Percent Percolating to Stream System: 15%; Return Flow Generated: 3.4 AF. (c) Total Annual Generated Return Flow: 38.5 AF

(2) The generated return flows from the use of not-nontributary Lower Arapahoe aquifer ground water alone will exceed the required replacement obligation of four percent of the amount pumped. Nevertheless, generated return flows from all sources will exceed replacement obligations as follows:

(a) Total Generated Return Flows: 38.50 AF/Yr.; (b) Four Percent of Amount Pumped: 0.54 AF/Yr.;

(c) Excess Return Flows: 37.96 AF/Yr. (3) Such return flows will be adequate in quantity to replace either the modeled actual stream depletions or "4% of the amount pumped" as required by the Denver Basin Rules. Applicant will account for such replacement water on an accounting form that is deemed acceptable to the Division Engineer. (4) To the extent that generated return flows exceed the quantities needed to augment the projected stream depletions caused by pumping, Applicant reserves the right to apply for alluvial wells in the South Platte River basin to recapture and reuse such excess returns, or to use such excess amounts as a credit against other replacement obligations. E. Replacement of Modeled Stream Depletions During the Post-Pumping Period: (1) Applicant reserves the right to claim and demonstrate that the impact of post-pumping stream depletions caused by pumping of not-nontributary ground water at this location are wholly de minimis and non-injurious and need not be replaced under the law. § 37-90-137(9), C.R.S.

(2) If such stream depletions are determined to be injurious and replacement is required, Applicant will reserve for such purpose an adequate amount of its nontributary ground water underlying its Property or under other property to be determined. Such quantity will be sufficient to replace all injurious stream depletions caused by pumping of not-nontributary ground water under this plan for augmentation.

F. Summary of Augmentation Plan: (1) Up to 4090 acre-feet (13.6 AF/year for 300 years) may be produced from Lower Arapahoe aquifer wells, and additional wells, as needed. The estimated average pumping rate for the wells to be constructed into the Lower Arapahoe aquifer at this location is not known at this time. (Actual pumping rates may vary based on particular location or well design.) (2) During the pumping period, modeled depletions to the affected stream system from such ground water production may reach a maximum of about 0.3 acre-feet per year from all wells withdrawing not-nontributary Lower Arapahoe aquifer ground water. Return flows to the South Platte River basin from the planned uses of all ground water sources on the Property will exceed 37 acre-feet per year from domestic and lawn irrigation uses, and will, therefore, adequately replace all projected stream depletions caused by such pumping. (3) To the extent that a "short fall" in actual return flows occurs in any given time period during the period this plan operates, adequate return flows from the use of nontributary ground water exist to compensate for such short fall.

6. Administration of Plan for Augmentation: The Applicant shall install and maintain such measuring devices and maintain such accounting forms as necessary to demonstrate the adequacy of Applicant's augmentation efforts as a minimum requirement for administration of its augmentation obligations hereunder. Applicant shall make reports to the Water Division 1 Engineer, annually or as required.

7. Retained Jurisdiction: A. Applicant requests the Court to retain jurisdiction for a period to be determined at the entry of the decree to protect against injury to other water rights. Applicant requests that any party or entity invoking such retained jurisdiction must make a prima facie case that injury to its water rights has been actually caused by Applicant's withdrawals or operation of this plan for augmentation.

B. Applicant requests that the Court retain jurisdiction to resolve any controversy which may arise with respect to well construction, well location(s), and amount, timing, and location of replacements to be required hereunder. C. Applicant requests the Court to retain jurisdiction to allow Applicant to file a separate application for the recapture and reuse of the excess return flows, or to use such excess amounts thereof for credit toward other augmentation obligations, and to cancel or rescind that portion of this plan that no longer operates if the need to augment post-pumping depletions is obviated for any reason.

8. Miscellaneous: The land upon which the proposed Lower Arapahoe aquifer wells will be located is owned by the Applicant. **WHEREFORE**, Applicant Gateway American Properties, LLC, asks the Court to enter a decree in this matter granting the application sought herein, and specifically determining: (1) That Applicant's Lower Arapahoe aquifer ground water withdrawals hereunder may be augmented with generated return flow water accruing to the stream from use of such not-nontributary ground water on the Property, or by direct discharge of water, if necessary; (2) That granting this application will not injuriously affect the owners or persons entitled to use water under vested water rights or decreed conditional water rights; and (3) That jurisdiction will be retained for the following purposes:

- (a) On the question of injury to other water rights; (b) To allow Applicant or its successor(s) to file a separate application to claim, recapture, and reuse its excess consumptive use return flow credits; and (c) To allow Applicant or its successor(s) to cancel or rescind any portion of this plan that may become unnecessary. FURTHER, Applicant prays this Court grant this and such other relief as it deems proper and necessary.

2003CW025 H-F INVESTMENT COMPANY, LLC 13022 E. 136th Ave. Brighton, Colorado 80601 c/o Charles B. White, Esq., David S. Hayes, Esq. Petros & White, LLC 730 17th Street, Suite 820, Denver, Colorado 80202-3518, (303) 825-1980 APPLICATION FOR UNDERGROUND WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION, in ADAMS COUNTY. Overview of Application: Applicant owns and operates the Little Valley Wholesale Nursery (ALittle Valley≅). A map of the Little Valley property is attached to this Application as Exhibit AA.≅ Little Valley maintains an inventory of over 450 varieties of perennials, 250 varieties of shrubs and over 100 varieties trees for wholesale distribution to buyers in Colorado, Wyoming, Utah and New Mexico. The water supply necessary to grow and maintain this nursery stock is derived from a combination of surface and tributary groundwater. The surface water supply is delivered pursuant to shares in the Fulton Ditch owned and leased by Applicant. Two wells pump groundwater tributary to the South Platte River for the groundwater supply on the property owned by Applicant (the ALittle Valley Wells≅). The Little Valley Wells presently operate in accordance with the terms and conditions of the Decree entered in Case No. 95CW208, District Court, Water Division No. 1. Applicant also maintains Water Allotment Contracts with the Ground Water Management Subdistrict of the Central Colorado Water Conservancy District (ACentral≅) for the Little Valley Wells. In addition, Applicant has entered into a Lease-Option Agreement with an adjacent land owner allowing Applicant to utilize an additional 37.9 acres of land. The Lease-Option land is irrigated by two tributary wells (the ALease-Option Wells≅). A Water Allotment Contract with Central is maintained for the Lease-Option Wells. In Case No. 95CW153, District Court, Water Division No. 1, Applicant adjudicated its rights to the nontributary ground water underlying its property in the Lower-Arapahoe and Laramie-Fox Hills Aquifers. The Decree in Case No. 95CW153 determined available annual average withdrawals to be 20.4 acre-feet from the Lower Arapahoe Aquifer and 28.7 acre-feet from the Laramie-Fox Hills Aquifer, based on 119.7 acres of overlying land. Subsequent to entry of the Decree in Case No. 95CW153, Applicant entered into the Lease-Option described above. The lessor has consented to the withdrawal by Applicant of the nontributary groundwater underlying the land subject to the Lease-Option. This Application seeks to determine the allowable annual average withdrawal available from the nontributary water sources underlying the 37.9 acres of Lease-Option land and add these amounts to those previously determined in Case No. 95CW153. In addition, this Application seeks approval of an augmentation plan utilizing Little Valley=s cumulative nontributary groundwater sources as a replacement supply for out-of-priority depletions associated with the Little Valley Wells and the Lease-Option Wells. It is the Applicant=s intent that this augmentation plan be available to operate in the alternative and/or in addition to its Water Allotment Contracts with Central. **II. ADJUDICATION OF UNDERGROUND WATER RIGHTS** Well Permits. A. Well AL-1, Permit No. 58908-F. A copy of the Permit is attached as Exhibit AB.≅ B. Well LFH-1, Permit No. 58907-F. A copy of the Permit is attached as Exhibit AC.≅ Legal description of subject property and wells: Applicant seeks a determination of the rights to nontributary groundwater underlying 37.9 acres located in the S1/2 NW1/4 of Section 25, Township 1 South, Range 67 West of the 6th P.M., as shown on the map attached to the application as Exhibit AA.≅ A. Well AL-1 is located in the SW1/4 NE1/4, Section 25, Township 1 South, Range 67 West, 6th P.M., Adams County, Colorado, at a point 1740 feet from the North Section Line and 2270 feet from the East Section Line. B. Well LFH-1 is located in the SW1/4 NE1/4, Section 25, Township 1 South, Range 67 West, 6th P.M., Adams County, Colorado, at a point 1720 feet from the North Section Line and 2220 feet from the East Section Line. 5. Source: The groundwater to be withdrawn by Applicant from the Lower Arapahoe and Laramie-Fox Hills aquifers is nontributary groundwater as defined in 37-90-103(10.5), C.R.S. Wells will be completed to the bottom of each of the aquifers, which Permit No. 58908-F identifies as being 500 feet for the Lower Arapahoe, and Permit No. 58907-F identifies as being 1145 feet for the Laramie-Fox Hills. 6. Amounts: A. Lower Arapahoe: 7.4 acre-feet allowed annual average, based on 115 feet of saturated thickness and a 17 percent average specific yield determined by the State Engineer in the Findings attached to Permit No. 58908-F; at rates not to exceed 250 g.p.m. B. Laramie-Fox Hills: 9.1 acre-feet allowed annual average, based on 160 feet of saturated thickness and a 15 percent average specific

yield determined by the State Engineer in the Findings attached to Permit No. 58907-F; at rates not to exceed 250 g.p.m. 7. Well fields: Applicant requests that the Court determine that Applicant has the right to withdraw all of the legally available groundwater lying below the property described in Paragraph 4, through the permitted wells and any additional wells which may be completed in any one aquifer in the future. 8. Proposed use: The water will be used, reused, and successively used and after use, leased, sold or otherwise disposed of for domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, storage, exchange, replacement of depletions resulting from the use of other water sources, augmentation, and any other beneficial purpose, on or off the site of the overlying land identified above. 9. Remarks: Applicant requests that the Court allow the nontributary water described in this Section II to be withdrawn together with the nontributary groundwater rights previously decreed in Case No. 95CW153. Applicant further requests the right to withdraw more than the annual average amounts estimated in Paragraph 6 above pursuant to Rule 8A of the Statewide Nontributary Groundwater Rules (2 CCR 402-7). Copies of Nontributary Ground Water Landownership Statements for the land identified in Paragraph 4 are attached to the Application as Exhibits AD≡ and AE.≡

III. PLAN FOR AUGMENTATION

10. Name of structures to be augmented: A. Hart & Fike Well: Located in the SW1/4 NE1/4 of Section 25, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado, at a point 1770 feet South and 2320 feet West of the NE Corner of said Section 25; adjudicated in Case No. W-3974, and changed in Case No. 95CW208, District Court, Water Division No. 1; permitted as No. 045805-F. B. Whitebread Well: Located in the SE1/4 SE1/4 Section 24, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado, at a point 59 feet North and 4003 feet East of the SW Corner of said Section 24; adjudicated in Case No. W-1237, and changed in Case No. 95CW208, District Court, Water Division No. 1; permitted as No. 045804-F. C. Well No. 1-0091: Located 3020 feet north and 2090 feet east of the SW corner of Section 25, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado; adjudicated in Case No. W-2143, District Court, Water Division No. 1; Registration No. 0091R. D. Well No. 3-0093: Located 2685 feet north and 1430 feet east of the SW corner of Section 25, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado; adjudicated in Case No. W-2143, District Court, Water Division No. 1; Registration No. 0093R. The wells identified in Subparagraphs A and B are collectively referred to as the ALittle Valley Wells≡ and the wells identified in Subparagraphs C and D are collectively referred to as the ALease-Option Wells.≡ No other water rights are diverted from these structures. 11. Water rights to be used for augmentation: A. Well AL-1 (Permit No. 58908-F): i. Date entered: March 13, 1996. ii. Case No.: 95CW153 iii. Court: District Court, Water Division No. 1, Colorado iv. Type of water right: Nontributary groundwater v. Legal description of point of diversion: SW1/4 NE1/4, Section 25, Township 1 South, Range 67 West, 6th P.M., Adams County, Colorado, at a point 1740 feet from the North Section Line and 2270 feet from the East Section Line. vi. Source: Lower-Arapahoe Aquifer vii. Amount: 250 gallons per minute, 20.4 acre-feet allowed annual average (as determined in the 95CW153 decree) viii. Appropriation date: N/A ix. Decreed use: Municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, storage, exchange, replacement of depletions resulting from the use of other water sources, augmentation, and any other beneficial purpose. B. Well LFH-1 (Permit No. 58907-F): i. Date entered: March 13, 1996 ii. Case No.: 95CW153 iii. Court: District Court, Water Division No. 1, Colorado iv. Type of water right: Nontributary groundwater v. Legal description of points of diversion: SW1/4 NE1/4, Section 25, Township 1 South, Range 67 West, 6th P.M., Adams County, Colorado, at a point 1720 feet from the North Section Line and 2220 feet from the East Section Line. vi. Source: Laramie-Fox Hills Aquifer vii. Amount: 250 gallons per minute, 28.7 acre-feet allowed annual average (as determined in the 95CW153 decree) viii. Appropriation date: N/A ix. Decreed use: Municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, storage, exchange, replacement of depletions resulting from the use of other water sources, augmentation, and any other beneficial purpose. C. The additional nontributary groundwater rights adjudicated in Section II of this Application. 12. Historic use: Applicant's rights to the nontributary water described in Paragraph 11 have not yet been used. 13. Statement of plan for augmentation: The Little Valley Wells will continue to be used for the irrigation of crops such as trees, shrubs, containers and greenhouse crops on the property owned by Applicant. The Lease-Option Wells will be used to irrigate similar crops on the property subject to the Lease-Option. Depletions from the Little Valley Wells and the Lease-Option Wells are tributary to Second and Third Creeks, which are tributary to the South Platte River. To the extent replacements are not made from other legally available sources, Applicant will replace all out-of-priority depletions replacements made pursuant to this plan for augmentation. Actual demands and depletions will be based on data included in accounting

forms prepared by the Applicant for the administration of this plan. 14. No injury: The plan for augmentation requested for approval herein will not result in injury to any vested water right or decreed conditional water right. 15. Names and addresses of owners of land on which the structures will be located or upon which water will be placed to beneficial use: The Little Valley Wells and Wells AL-1 and LFH are located on property owned by the Applicant. The Lease-Option Wells and the land overlying the nontributary groundwater rights identified in Paragraph 4 is presently owned by: Robert and Katherine Sakaguchi 4060 Broadlands Lane Broomfield, Colorado 80020 WHEREFORE, Applicant respectfully requests that the Court enter a decree awarding the water rights claimed herein, approving the plan for augmentation described herein, and specifically determining that the vested or conditionally decreed water rights of others will not be materially injured by the withdrawals of groundwater and the plan for augmentation proposed herein.

2003CW26 DAVID P. MENDEZ and SANDY CAMPBELL MENDEZ, 25927 Richmond Hill Road, Conifer, Colorado 80433-6112, **NORTH FORK ASSOCIATES, LLC** and the **MOUNTAIN MUTUAL RESERVOIR COMPANY**, 2525 South Wadsworth Blvd., Suite 306, Denver, Colorado 80227. (c/o David C. Lindholm, Esq., P.O. Box 18903, Boulder, Colorado 80308-1903). APPLICATION FOR UNDERGROUND WATER RIGHTS, APPROVAL OF A PLAN FOR AUGMENTATION AND EXCHANGE RIGHT. IN JEFFERSON AND PARK COUNTIES. APPLICATION FOR UNDERGROUND WATER RIGHTS: 1. Names of Wells and Permit, Registration or Denial Numbers: Mendez Well Nos. 1 (Permit No. 168149) and Mendez Well No. 2. 2. Legal Description of the Wells: Mendez Well No. 1 is located in the SW 1/4 SW 1/4 of Section 36, Township 6 South, Range 71 West, 6th P.M., Jefferson County, Colorado, at a point approximately 200 feet North of the South Section line and 860 feet East of the West Section line of said Section 36. Pursuant to Policy Memo No. 99-1 of the State Engineer, David and Sandy Mendez ("Mendez"), request a conditional underground water right for the Mendez Well No. 2. The exact location of the Well will not be known until the subdivision of the Mendez property is approved by Jefferson County. However, the Well can generally be described as being within the S 1/2 SW 1/4 SW 1/4 of Section 36, Township 6 South Range 71 West, 6th P.M., Jefferson County, Colorado. 3.A. Source of Water: Ground water which is tributary to West Resort Creek, Last Resort Creek and the North Fork of the South Platte River. 3.B. Depth of Mendez Well No. 1: 500 feet. Depth of Mendez Well No. 2: 600 feet, approximate. 4.A. Dates of Appropriation: Mendez Well No. 1: January 19, 1993. Mendez Well No. 2: January 31, 2003. 4.B. How Appropriation was Initiated: Issuance of a well permit by the Colorado Division of Water Resources, field survey of the proposed subdivision and the filing of this Application. 4.C. Dates Water Applied to Beneficial Use: Mendez Well No. 1: March 24, 1995. Mendez Well No. 2: N/A. 5. Amount Claimed: Mendez Well No. 1: 5.1 gallons per minute, Absolute, and 9.9 gallons per minute, Conditional. Mendez Well No. 1: 15 gallons per minute, Conditional. 6. Uses: Ordinary household purposes inside a single family dwelling, the watering of domestic animals, the irrigation of lawns and gardens and fire protection purposes.. 7. Name and Address of Owner of Land and on which the Wells are or will be Located: David and Sandy Mendez, as described above. APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION AND EXCHANGE RIGHT: 1. Names of Structures to be Augmented: The wells described above. 2. Water Rights to be Used for Augmentation Purposes. a. Mendez have entered into a contract with North Fork Associates, LLC to purchase 4.3 shares of the capital stock of the Mountain Mutual Reservoir Company, ("MMRC"). The 4.3 shares represent the right to receive 0.134 of an acre foot of augmentation water per year from the water rights and storage facilities MMRC holds for the benefit of its shareholders. b. MMRC owns water rights decreed to the Parmalee Ditch No. 1, the Carruthers Ditch No. 2 and the Nickerson Ditch No. 2 ("Parmalee/Carruthers water rights"), portions of which will be used to replace the out-of-priority depletions from the Mendez Well Nos. 1 and 2. The Parmalee/Carruthers water rights have a priority date of May 1, 1867 and were decreed in the original adjudication for former Water District No. 23 by the Park County District Court on May 22, 1913 in Civil Action No. 1678. Historically, the Parmalee/Carruthers water rights were diverted from Deer Creek at the headgate of the Nickerson Ditch No. 2 in the NW 1/4 SE 1/4 of Section 9, Township 7 South, Range 72 West, 6th P.M., Park County, Colorado. Such diversions no longer occur. The terms and conditions under which the Parmalee/Carruthers water rights are used for augmentation, replacement and storage purposes are described in the Decree entered by the District Court for Water Division 1 in Case No. 2000CW174, dated October 11, 2002. A copy of the Decree in Case No. 2000CW174 is attached as Exhibit "A." c.

Consumptive use water stored in Maddox Reservoir and/or the Lower Sacramento Creek Reservoir No. 1 will be released to the stream system when the Parmalee/Carruthers water rights are out-of-priority. The Lower Sacramento Creek Reservoir No. 1 is located in the NE 1/4 NW 1/4 of Section 32 and the SE 1/4 of Section 29, Township 9 South, Range 77 West, 6th P.M., Park County. It was originally decreed in Case No. W-7741-74 for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River or its tributaries. Maddox Reservoir is located in the NE 1/4 SW 1/4 of Section 22, Township 7 South, Range 73 West, 6th P.M., Park County.

3. Statement of Plan for Augmentation, Covering all Applicable Matters under Sections 37-92-103(9), 302(1)(2) and 305(8), 10 C.R.S.: a. Mendez propose to subdivide a tract of land consisting of approximately 10 acres into two residential lots, each consisting of approximately 5 acres. The property is located in the S 1/2 SW 1/4 SW 1/4, Section 36, Township 6 South, Range 71 West, 6th P.M., Jefferson County, Colorado. The water supply for the lots will be obtained from the Mendez Well Nos. 1 and 2. b. Wastewater from all in-building uses of water will be treated utilizing non-evaporative septic systems with soil absorption leach fields. Return flows will be to an unnamed tributary of West Resort Creek. c. Based on prior engineering studies of similar residential subdivisions, it is assumed that the maximum average occupancy for each single family residence will be 3.5 persons per residence and that the per capita daily water usage will not exceed 80 gallons. The augmentation plan will also cover the irrigation of 500 square feet of lawn grass, or equivalent gardens, per lot, and the watering of four horses. Water requirements for horses are assumed to be 10 gallons per animal per day. Gross irrigation requirements for lawn grass are anticipated to be no more than 1.25 acre feet of water per irrigated acre. Gross irrigation requirements for gardens are anticipated to be no more than 0.5 of an acre foot of water per irrigated acre. The total volume of water required for the two lots is projected to be approximately 0.7 of an acre foot per year. d. Depletions associated with water which is used inside the single family residences will be based on a ten percent (10%) consumption factor. All of the water supplied to horses is assumed to be consumed. Consumption of lawn grass at this location is 1.0 acre foot per acre. Consumption of gardens is 0.4 of an acre foot per acre. Maximum stream depletions, including any applicable stream transportation charges, are not anticipated to exceed 0.134 of an acre foot per year. e. The required volume of augmentation water will be provided from the sources described in Paragraph No. 2, above. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions may be aggregated and replaced by one or more releases from storage of short duration. f. Replacement water will be provided to the stream system during the period April 23 through October 31, inclusive, by leaving Parmalee/Carruthers water rights in the stream. During times when the Parmalee/Carruthers water rights are not in priority and during the non irrigation season, depletions will be augmented by releasing water from the Maddox Reservoir or the Lower Sacramento Creek Reservoir No. 1. Transportation charges from the point where water is released from MMRC's facilities to the stream system, to the point of depletion from the subject wells, will be computed on the basis of 0.13 percent per mile. g. Since the point of depletion associated with water use from the Mendez Well Nos. 1 and 2 is on a side tributary of the North Fork of the South Platte River, Mendez assert an appropriative right of substitute supply and exchange pursuant to Sections 37-80-120 and 37-92-302(1)(a), 10 C.R.S. The reach of the exchange shall extend from the confluence of the North Fork of the South Platte River and the South Platte River in the SW 1/4 SE 1/4 of Section 25, Township 7 South, Range 70 West, 6th P.M.; thence up the North Fork of the South Platte River to the confluence of Last Resort Creek and the North Fork of the South Platte River in the SW 1/4 of Section 16, Township 7 South, Range 70 West, 6th P.M.; thence up Last Resort Creek to the confluence of Last Resort Creek and West Resort Creek in the SE 1/4 NE 1/4 of Section 18, Township 7 South, Range 70 West, 6th P.M.; thence up West Resort Creek to its confluence with an unnamed tributary of West Resort Creek in the SW 1/4 SE 1/4 of Section 2, Township 7 South, Range 71 West, 6th P.M.; and thence up the unnamed tributary to the point of depletion from the subject wells in the NW 1/4 NW 1/4 of Section 1, Township 7 South, Range 71 West, 6th P.M. The exchange will operate to replace depletions to the flow of water in the unnamed tributary of West Resort Creek, West Resort Creek, Last Resort Creek and the North Fork of the South Platte River as the depletions occur. The exchange will be administered with a priority date of January 31, 2003, at a maximum flow rate of 0.001 of a cubic foot per second.

4. Names and Addresses of Owners of Land on which Structures are or will be Located: a. Lower Sacramento Creek Reservoir No. 1: Lower Sacramento Creek Reservoir Company, 2525 South Wadsworth Blvd., Suite 306, Denver, Colorado 80227. b. Maddox Reservoir: Susan Hickel, P. O. Box 135, Shawnee, Colorado 80475. c. Structures described in Paragraph No. 1: David and Sandy Mendez,

as above described. WHEREFORE, Mendez request the entry of a decree approving this Application, specifically determining that the source and location of delivery of augmentation water are sufficient to eliminate material injury to vested water rights. Mendez also request a determination that the wells described herein can be operated without curtailment so long as out-of-priority stream depletions are replaced as proposed herein. Mendez further request the entry of an Order directing the State Engineer to issue permits for the construction and use of the subject wells. (7 pages and an 11 page exhibit).

2003CW027 Bear Ranch, LLLP, Ms. Jean Bear, 9945 Wolff Street, Westminster, CO 80030, (303) 469-4708. **North Fork Associates, LLC, Mountain Mutual Reservoir Company**, 2525 South Wadsworth Blvd, Suite 306, Denver, CO 80227, (303) 989-6932. PORZAK, BROWNING & BUSHONG LLP, 929 Pearl Street, Suite 300, Boulder, CO 80302. Ph: (303) 443-6800 Fax: (303) 443-6864 E-mail: mfrowning@pbblaw.com. APPLICATION FOR APPROVAL OF AUGMENTATION PLAN, INCLUDING EXCHANGE RIGHTS, IN PARK COUNTY. 2. Background. Co-Applicant Bear Ranch LLLP (“Bear”) owns 35.471 acres in the NE1/4 of the NW1/4 of Section 2038, Greeley, CO 80632. 1. Name, address 1 and Government Lot 4, Township 7 South, Range 72 West of the 6th P.M. in Park County, Colorado, the legal description of which is attached hereto as Exhibit A (the “Property”). Bear intends to subdivide and develop the Property into lots for seven single family homes and one or more commercial buildings to be known as the Bear Mountain Ridge Subdivision (the “Development”). The eight tracts into which the Property is proposed to be subdivided are described and depicted on Exhibit B attached hereto (the “Tracts” or, individually a “Tract”). Water will be supplied to the Development by groundwater wells located on the Property. Water will be used within the Development for in-building use, landscape irrigation, horse watering and fire protection purposes. Wastewater will be treated on site by individual on-site septic/leach field systems. Bear has contracted with Co-Applicant North Fork Associates, LLC (“North Fork Associates”) to purchase 37.5 shares of Co-Applicant Mountain Mutual Reservoir Company (“Mountain Mutual”) to provide 1.16 acre feet of augmentation water to replace all out of priority depletions associated with the Development. This application seeks new conditional water rights for the wells to be constructed in connection with Development, and approval of an augmentation plan to replace all out of priority depletions associated with the use of such wells. 3. Conditional Water Rights for New Wells. Bear seeks conditional ground water rights for the following wells (State Engineer Policy Memorandum 99-1 allows proposed wells in new subdivisions to be described by reference to, and located anywhere within, a proposed subdivision tract) (the “Wells”):

<u>Tract</u>	<u>Use</u>	<u>Well Name</u>
Lot 23	Residential	Bear Mountain Ridge Subdivision Well #1
Lot 24	Residential	Bear Mountain Ridge Subdivision Well #2
Lot 25	Residential	Bear Mountain Ridge Subdivision Well #3
Lot 26	Residential	Bear Mountain Ridge Subdivision Well #4
Lot 28	Residential	Bear Mountain Ridge Subdivision Well #5
Lot 29	Residential	Bear Mountain Ridge Subdivision Well #6
Lot 30	Residential	Bear Mountain Ridge Subdivision Well #7
Lot 27	Commercial	Bear Mountain Ridge Subdivision Wells #8, 9, 10, 11 and 12

The residential wells are claimed for domestic, landscape irrigation, horse watering and firefighting purposes. The commercial wells are claimed for commercial, landscape irrigation and firefighting purposes. Each well is claimed for 50 gpm, conditional, with an appropriation date of January 31, 2003. Each well will withdraw water from fractured granite and other groundwater sources underlying the Property, which sources are tributary to Elk Creek, a tributary of the North Fork of the South Platte River. In the event that a satisfactory well cannot be completed with a given Tract, or the owners of Tracts want to share a Well, a Well on one Tract may be used on multiple Tracts. Within 60 days of the completion of a Well pursuant to a

well permit, Applicant or the then owner of the Tract and Well involved will notify both the Water Court and the State Engineer of the precise location of that Well and the Tract(s) served by such Well. The precise location of a Well will also be set forth in the application filed to make the conditional water right decreed to such Well absolute.

4. Augmentation Water. Bear is under contract with North Fork Associates and Mountain Mutual to purchase 37.5 shares in Mountain Mutual representing 1.177 acre feet of augmentation water from the following sources:

(a) The Nickerson No. 2 Ditch, with a South Platte Priority No. 262 and North Fork Drainage Priority No. 24, has an appropriation date of May 1, 1872, as adjudicated by the District Court for Park County on May 22, 1913, in the amount of 0.65 cfs. The headgate is located on the North bank of Deer Creek at a point whence the SE Corner of Section 4, Township 7 South, Range 72 West of the 6th P.M., bears North 58B15' East 2320 feet and historically irrigated approximately 35 acres adjacent to Deer Creek in the SE1/4 of Section 9, NW1/w of Section 15, and NE1/4 of Section 16, Township 7 South, Range 72 West of the 6th P.M., all in Park County.

(b) The Parmalee No. 1 Ditch, with a South Platte Priority No. 251 and North Fork Drainage Priority No. 14, has an appropriation date of May 1, 1867, as adjudicated by the District Court for Park County on May 22, 1913, in the amount of 0.52 cfs. In that decree the headgate was located on the North Bank of Deer Creek at a point whence the S1/4 Corner of Section 32, Township 6 South, Range 72 West of the 6th P.M. bears South 70B6' East 1210 feet. In Case No. W-7434, District Court for Water Division 1, the point of diversion was changed to the headgate of the Nickerson No. 2 Ditch described above.

(c) The Carruthers No. 2 Ditch, with a South Platte Priority No. 250 and North Fork Drainage Priority No. 13, has an appropriation date of May 1, 1867, adjudicated by the District Court for Park County on May 22, 1913, in the amount of 0.52 cfs. In that decree, the headgate was located on the North Bank of Deer Creek at a point whence the S1/4 Corner between Sections 31 and 32, Township 6 South, Range 72 West of the 6th P.M. bears North 85B30' East 1398 feet. In Case No. W-7434, District Court for Water Division 1, the point of diversion for 0.28 cfs that is part of the Nickerson Ditch Rights was changed to the headgate of the Nickerson No. 2 Ditch described above.

(d) Earlier Change Case. Pursuant to the Decree entered on October 11, 2002, by the District Court in and for Water Division 1, in Case No. 2000CW17 (the "General Change Decree"), the historic consumptive use associated with the Nickerson No. 2 Ditch, Parmalee No. 1 and 0.28 cfs of the Carruthers No. 2 Ditches was quantified and allowed to be used for augmentation and replacement purposes (the "Nickerson Ditch Rights"), subject to the certain terms and conditions set forth in such decree, certain of which are summarized below:

(i) The Nickerson Ditch Rights may be left in the stream system to offset depletions from water use by Mountain Mutual shareholders. The water may also be stored in the Lower Sacramento Creek Reservoir No. 1 and the Maddox Reservoir described below, or other Mountain Mutual reservoirs within the South Platte River Basin located above South Platte, Colorado; provided, however, that the details of storage in another reservoir are published in the water resume, or such storage is approved by the State Engineer pursuant to §§37-80-120 and 37-92-308, 10 C.R.S (2002);

(ii) The maximum rate of diversion under the Nickerson Ditch Rights is 0.8 cfs. Diversions are limited to the May 1, 1867 priorities decreed to the Parmalee Ditch No. 1 and the Carruthers Ditch No. 2;

(iii) Diversions to storage and/or assignment for in-stream augmentation credit are limited to the period April 23 through October 31 of each year, and are further limited to those times when water is physically and legally available for diversion at the historic Nickerson Ditch No. 2 headgate on Deer Creek. If the May 1, 1867 priority is not fully satisfied to the extent of 0.8 cfs, the diversion rate is reduced to the flow which is then physically and legally available;

(iv) Maximum monthly diversions under the Nickerson Ditch Rights are limited as follows: April -- 2.0 acre feet; May – 16.0 acre feet; June – 19.0 acre feet; July – 16.0 acre feet; August – 10.0 acre feet; September – 7.0 acre feet; and October – 4.0 acre feet.

Maximum annual diversions are limited to 62 acre feet per year. During any consecutive ten year period, total diversions are further limited to 486 acre feet. The terms and conditions imposed in the General Change Decree, whether or not summarized above, are sometimes referred to herein

as the “General Conditions”. Co-Applicants plan for augmentation described herein will be subject to all of the General Conditions. The decree in General Change Case finds, and Co-Applicants assert, that the General Conditions are res judicata with respect to this application. (e) Maddox Reservoir. The Nickerson Ditch Rights may be stored, subject to the General Conditions, in the Maddox Reservoir located in the NE1/4SW1/4 of Section 22, Township 7 South, Range 73 West of the 6th P.M. in Park County. The Reservoir has a capacity of 39.1 acre feet and is filled by the Maddox Reservoir Feeder Ditch, which diverts from the North Fork of the South Platte River in the NE1/4SE1/4SW1/4 of said Section 22. Maddox Reservoir was adjudicated on November 11, 1971, with an appropriation date of May 31, 1905, for multiple purposes. Co-Applicants have and claim no interest in such water right, but North Fork has or will obtain the right to store the Nickerson Ditch Rights in the Maddox Reservoir subject to the General Conditions. (f) Lower Sacramento Creek Reservoir No. 1. The Nickerson Ditch Rights may be stored, subject to the General Conditions in the Lower Sacramento Creek Reservoir No. 1. The Lower Sacramento Reservoir Company, a Colorado corporation, owns and operates the Lower Sacramento Creek Reservoir No. 1. The Reservoir is located in the NE1/4 of the NW1/4 of Section 32, and the SE1/4 of the SW1/4 of Section 29, Township 9 South, Range 77 West of the 6th P.M. in Park County, Colorado. North Fork/Mountain Mutual own 932 shares of a total of 3,700 shares in the Company (a 25.2% interest). The Reservoir has been constructed and is entitled to store water under the following decree:

Adjudication Date	Appropriation Date	Amount
1974; Case No. W-7741-74	July 25, 1974	40 acre feet
Case No. 84CW250	Use of Res. as Recharge Facility	
Case No. 85CW465	Use of Res. as Recharge Facility	

The water may be used for domestic, municipal, commercial, industrial, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries. Other ownerships in the reservoir have transferred water rights to Lower Sacramento Creek Reservoir No. 1 in which Applicants have no interest. 5. Description of Augmentation Plan. (a) Water Requirements. The Development will consist of seven individual residential homes and one or more commercial office buildings. The commercial office space is anticipated to consist of 5,000 square feet of general office space, 5,000 square feet of medical office space, and 5,000 square feet for a child care facility. Bear desires to also allow for the watering of up to 14 horses on the Property, and a small amount of irrigated landscaping. The anticipated water requirements of the Development are summarized below:

Use	Water Required (in acre feet)	See Note Below	Percent Consumed	Consumptive Use (in acre feet)
7 Single Family Homes	2.3	1	10%	0.23
Watering of 14 horses	0.15	2	100%	0.15
Irrigation for 7 Homes	0.15	3	80%	0.12
5,000 square feet General Office Space	0.525	4	10%	0.052
5,000 square feet Medical Office space	2.575	5	10%	0.258
5,000 square feet Child Care Facility	2.40	6	10%	0.24
Irrigation for commercial area	0.137	7	80%	0.11

TOTAL	8.237 acre feet			1.16 acre feet
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Notes: (1) Based on 85 gallons per person per day, year-round occupancy, with 3.5 persons per residence Septic/leach field sewage disposal systems will result in a 10% consumptive use. (2) Based on 10 gallons per day per horse, which annualized in acre feet per year is 0.0112 per horse per year, all of which is deemed consumed. (3) Based on irrigation of 560 square feet of landscaping per home at 0.38 acre feet of water per 1,000 square feet of landscaping, 80% of which is deemed consumed. (4) Based on 0.105 acre feet per 1,000 square feet of commercial office space. (5) Based on 0.515 acre feet per 1,000 square feet of medical office space. (6) Based on 0.48 acre feet per 1,000 square feet of child care facility. (b) Transportation Losses. Co-Applicants have also calculated that the transportation losses associated with delivery of the Mountain Mutual augmentation water, assessed at 0.0013% per mile for the 11 miles from the headgate of the Nickerson No. 2 Ditch described above to the confluence of Elk Creek and the North Fork of the South Platte River will be 0.017 acre feet. Accordingly, the amount of augmentation water being purchased by Bear from North Fork/Mountain Mutual is 1.177 acre feet (1.16 plus 0.017). (c) Accounting. Co-Applicant Bear will install such meters and measuring devices, and perform such accounting, as may be required to adequately administer this plan for augmentation and determine the amount of water used for the various purposes permitted hereunder. Accounting forms will be maintained and submitted to the Division Engineer in a form acceptable to the Division Engineer on a monthly basis, unless requested to be submitted more frequently by the Division Engineer. (d) Change in Mix of Uses. The ultimate amount and type of commercial use, number of horses and amount of irrigated landscaping may change from that currently projected based on market conditions and ultimate development. The mix of water use within the Development may vary from that set forth above provided that total consumptive uses within the Development never exceeds 1.16 acre feet per year, according to the following formula: $CU = 0.033Homes + 0.0112Horses + 80\% \text{ of Irrigation} + 10\% \text{ of Office}$: Where: "CU" equals 1.16 acre feet of consumptive use; "Homes" equals the number of single family residences; "Horses" equals the number of horses quartered at the Development during the year; "Irrigation" equals the number of gallons of irrigation water used within the Development per year, divided by 325,851; and "Office" equals the number of gallons of water used within office space within the Development per year divided by 325,851. (e) Administration. A copy of the decree approving this augmentation plan will be recorded in the real property records of Park County, Colorado. Co-Applicant Bear will cause restrictive covenants to be recorded against the Property to restrict water use to that permitted hereunder. Bear will also cause one or more owner's association to be created which will be responsible for the administration and enforcement of the augmentation plan decreed herein. 6. Exchange Claimed. Applicant Bear seeks adjudication of an exchange of the augmentation water described above from the confluence of Elk Creek and the North Fork of the South Platte River, up Elk Creek to its confluence with Jones Gulch, and then up Jones Gulch to the Development. Applicant claims the exchange at the rate of 2 gpm (0.0044 cfs) with an appropriation date of January 31, 2003, with an annual maximum of 1.16 acre feet, which is the net depletions associated with the Development. 7. CWCB Rights. Applicant believes and asserts that the depletions associated with the Development will result in de minimis injury to the 5 cfs minimum stream flow right held by the Colorado Water Conservation Board on Elk Creek that was decreed in Case No. 84CW646. The average yearly depletions will not exceed 1.16 acre feet per year, or an average depletion rate of 0.719 gpm (0.0016 cfs). 8. Ownership. The Applicant is the sole owner of the Property upon which the Wells will be located and upon which the subject water is or will be placed to beneficial use. Maddox Reservoir is owned by Susan Hickel whose address is P.O. Box 135, Shawnee, CO 80475. The Lower Sacramento Creek Reservoir No. 2 is owned by the Lower Sacramento Creek Reservoir Company whose address is 2525 South Wadsworth Blvd,

Suite 306, Denver, CO 80227. The Nickerson Ditch Rights described above are owned by Co-Applicant Mountain Mutual and have already been converted to augmentation use. Co-Applicant Bear has a purchase contract on the 1.177 acre feet thereof 9. Other. A map depicting the location of the lands historically irrigated by the Nickerson Ditch Rights, the Maddox Reservoir and the Property is attached hereto as Exhibit D.

2003CW028 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY:

Name and Address of Applicant: Robert D. Bluhm and Beverly J. Bluhm, 2873 James St., Corona, California 92881, (909) 735-0069. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C. Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Bluhm Well. B. Legal Description: The well is located in the SE1/4 SW1/4 Section 22, Township 12 South, Range 69 West of the 6th PM being 531 feet from the north section line and 1,769 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 67R of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 124 feet. D. Appropriation: (a) Date of Initiation of Appropriation: September 21, 1964; (b) How Appropriation Was Initiated. By the filing for an exempt domestic well permit no. 21651 with the Colorado Division of Water Resources on November 24, 1964 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: October 26, 1964; E. Amount Claimed: 10 g.p.m. absolute. F. Use: Domestic well as per permit no. 21651. G. Land Ownership. The land upon which Bluhm Well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW029 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Elizabeth R. Mowen, 1118 Coyote Trail, Woodland Park, CO 80863, (719) 687-3319. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Mowen Well. B. Legal Description: The well is located in the SW 3 SW 3 Section 22, Township 12 South, Range 69 West of the 6th PM being 716 feet from the north section line and 770 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 45 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 150 feet. D. Appropriation: (a) Date of Initiation of Appropriation: October 15, 1971. (b) How Appropriation Was Initiated. By the filing for an exempt domestic use well permit No. 49372 by the Colorado Division of Water Resources on October 15, 1971 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: November 18, 1971. E. Amount Claimed: 15 g.p.m. absolute. F. Use: Domestic use as per permit No. 49372. G. Land Ownership. The land upon which Mowen Well is located is owned by the

Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW030 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Debie Bennett and Bob Grzywacz, P.O. Box 4317, Woodland Park, CO 80866, (719) 687-6510. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., James G. Felt, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Bennett Well, B. Legal Description: The well is located in the SE 3 SW 3, Section 22, Township 12 South, Range 69 West of the 6th PM being 660 feet from the south section line and 1650 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 69, Filing 1 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 300 feet. D. Appropriation: (a) Date of Initiation of Appropriation: January 16, 1985; (b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit no. 138548 with the Colorado Division of Water Resources on January 16, 1985 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: December 16, 1985. E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit no. 138548. G. Land Ownership. The land upon which Bennett Well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW031 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Patricia Ann Nolta, 1288 Coyote Trail, Woodland Park, CO 80863, (719) 687-2011. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Nolta Well. B. Legal Description: The well is located in the SW 3 SW 3, Section 22, Township 12 South, Range 69 West of the 6th PM being 400 feet from the south section line and 1200 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 42 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 250 feet. D. Appropriation: (a) Date of Initiation of Appropriation: July 3, 1986. (b) How Appropriation Was Initiated. By the filing of an exempt household use only well permit no. 144913 with the Colorado Division of Water Resources on July 3, 1986 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: October 29, 1986. E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit no. 144913. G. Land Ownership. The land upon which Nolta Well

is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW32 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Kirk S. Ratz, 171 Spruce Dr., Woodland Park, CO 80863, (719) 687-5814. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Ratz Well. B. Legal Description: The well is located in the SE 3 SW 3, Section 22, Township 12 South, Range 69 West of the 6th PM being 1200 feet from the south section line and 2200 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 63 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 220 feet. D. Appropriation: (a) Date of Initiation of Appropriation: March 10, 1994. (b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit no. 177473 with the Colorado Division of Water Resources on March 10, 1994 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: August 4, 1994. E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit no. 177473. G. Land Ownership. The land upon which Ratz Well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW33 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Lorie Lindsey and George G. Lindsey, 1460 Coyote Trail, Woodland Park, CO 80863, (719) 686-9191. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well: Lindsey Well. B. Legal Description: In the NW 3 NW 3, Section 27, Township 12 South, Range 69 West of the 6th PM being 50 feet from the north section line and 1200 feet from the west section line of said Section 27, Teller County, Colorado. The well is located within the boundaries of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 220 feet. D. Appropriation: (a) Date of Initiation of Appropriation. November 4, 1971. (b) How Appropriation Was Initiated. By the filing of an exempt domestic well permit No. 49704 with the Colorado Division of Water Resources on November 4, 1971, which permit has been replaced by permit No. 49704A, together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: April 10, 1972. E. Amount Claimed: 15 g.p.m. absolute. F. Use: Domestic use as per permit No.

49704A. G. Land Ownership. The land upon which the well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW034 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Steve and Cynthia Stcynske, 44 Pinecrest Road, Woodland Park, CO 80863 (719) 687-8576. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C. James G. Felt, #4369, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Stcynske Well B. Legal Description: The well is located in the NE 3 NW 3, Section 27, Township 12 South, Range 69 West of the 6th PM being 1,155 feet from the north section line and 1,821 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 2 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 200 feet. D. Appropriation: (a) Date of Initiation of Appropriation: March 17, 1972, (b) How Appropriation Was Initiated. By the issuance of an exempt domestic well permit no. 53287 by the Colorado Division of Water Resources on March 17, 1972 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: April 13, 1972; E. Amount Claimed: 15 g.p.m. absolute. F. Use: Domestic use as per permit no. 53287. G. Land Ownership. The land upon which Stcynske Well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW035 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Rick D. Jensen and Donna B. Jensen, 1265 Coyote Trail, Woodland Park, CO 80863, (719) 687-0545. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well: Jensen Well. B. Legal Description: In the SW 3 SW 3, Section 22, Township 12 South, Range 69 West of the 6th PM being 1000 feet from the south section line and 1300 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 57 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 225 feet. D. Appropriation: (a) Date of Initiation of Appropriation: February 17, 1972. (b) How Appropriation Was Initiated. By the filing for an exempt domestic well permit No. 51376 with the Colorado Division of Water Resources on February 17, 1972, which was replaced by well permit No. 51376A, together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: April 10, 1972. E. Amount Claimed: 15 g.p.m. absolute. F. Use: Domestic use as

per permit Nos. 51376 and 51376A . G. Land Ownership. The land upon which the well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicants requests that this Application for Underground Water Rights be granted as requested herein.

2003CW36 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Paula Starr Bourgeois, 108 Cedar Trail, Woodland Park, CO 80863, (719) 687-8726. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C, Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights A. Name of Well(s): C & P Well, B. Legal Description: The well is located in the SE 3 SW 3, Section 22, Township 12 South, Range 69 West of the 6th PM being 217 feet from the south section line and 2,300 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 34 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 250 feet. D. Appropriation: (a) Date of Initiation of Appropriation: April 11, 1972, (b) How Appropriation Was Initiated. By the filing for an exempt domestic well permit no. 58438 with the Colorado Division of Water Resources on April 11, 1972 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: April 11, 1973. E. Amount Claimed: 15 g.p.m. absolute.

F. Use: Domestic use as per permit no. 58438. G. Land Ownership. The land upon which the C & P Well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW037 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: John Ostrowski and Mary Jane Ostrowski, 630 Pinecrest Road, Woodland Park, CO 80863, (719) 687-9152. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Ostrowski Well. B. Legal Description: The well is located in the NW 3 NW 3, Section 27, Township 12 South, Range 69 West of the 6th PM being 402 feet from the north section line and 1259 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 37 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 150 feet. D. Appropriation: (a) Date of Initiation of Appropriation: March 13, 1972. (b) How Appropriation Was Initiated. By the filing for an exempt domestic well permit No. 53839 with the Colorado Division of Water Resources on March 13, 1972 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: June

23, 1972. E. Amount Claimed: 15 g.p.m. absolute. F. Use: Domestic use only as per permit no. 53839. G. Land Ownership. The land upon which Ostrowski Well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW038 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Bartley L. Reese and Rayne P. Reese, 236 Pinecrest Road, Woodland Park, CO 80863, (719) 687-6656. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C, Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well: Pikes Peak Paradise Well; B. Legal Description: In the NW 3 NW 3, Section 27, Township 12 South, Range 69 West of the 6th PM being 1200 feet from the north section line and 500 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 6, Filing 1 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 180 feet. D. Appropriation: (a) Date of Initiation of Appropriation: August 5, 1981. (b) How Appropriation Was Initiated: By the filing for an exempt household use only well permit No. 121710 with the Colorado Division of Water Resources on August 5, 1981, which was changed to exempt commercial well under permit No. 036104-F, together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: August 24, 1984. E. Amount Claimed: 15 g.p.m. absolute; F. Use: Commercial use only as per permit No. 036104-F. G. Land Ownership. The land upon which the well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW039 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Jerry L. Good and Vickie A. Good, 594 Pinecrest Road, Woodland Park, CO 80863, (719) 687-4438. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., James G. Felt, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Good Well. B. Legal Description: The well is located in the NW 3 NW 3, Section 27, Township 12 South, Range 69 West of the 6th PM being 440 feet from the north section line and 805 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 38 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 200 feet. D. Appropriation: (a) Date of Initiation of Appropriation: July 10, 1999. (b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit no. 219671 with the Colorado Division of Water Resources on July 10, 1999 together with

Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: September 14, 1999. E. Amount Claimed:15 g.p.m. absolute. F. Use: In-house use only as per permit no. 219671. G. Land Ownership. The land upon which Good=s Well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW040 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant:Eldon L. Gay and Janice M. Boston, 2933 SW Woodside Dr., Topeka, KS 66614, (785)272-2607. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well: Gay Well. B. Legal Description: In the NW3 NW3, Section 27, Township 12 South, Range 69 West of the 6th PM being 1000 feet from the north section line and 1250 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 22 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 300 feet. D. Appropriation; (a) Date of Initiation of Appropriation: September 22, 1982

(b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit No. 128059 with the Colorado Division of Water Resources on September 22, 1982 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: December 8, 1982. E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit No. 128059. G. Land Ownership. The land upon which Gay Well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW041 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Wesley W. Von Heine, 151 Pinecrest Road, Woodland Park, CO 80863,(719) 687-6162 Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C, Bradford R. Benning, #31946, James G. Felt, #4369, 319 North Weber, Colorado Springs, Colorado 80903 (719) 471-1212. Application for Underground Water Rights: A. Name of Well: Wes=s Well. B. Legal Description: In the NW3 NW3, Section 27, Township 12 South, Range 69 West of the 6th PM being 900 feet from the north section line and 800 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 23 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 230 feet. D. Appropriation; (a) Date of Initiation of Appropriation: March 11, 1977

(b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit No. 88737 with the Colorado Division of Water Resources on March 11, 1977, which well permit was re-permitted as well permit No. 109973, together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: October 4, 1979. E. Amount Claimed: 15 g.p.m. absolute; F. Use: In-house use only as per permit No. 109973. G. Land Ownership. The land upon which Wes=s Well is located is owned by the Applicant. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW042 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: David L. Kelly and Norma J. Kelly, 406 Pinecrest Rd., Woodland Park, CO 80863, (719) 687-2609. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Kelly Well. B. Legal Description: The well is located in the NW 3 NW 3, Section 27, Township 12 South, Range 69 West of the 6th PM being 1085 feet from the north section line and 217 feet from the west section line of said Section 27, Teller County, Colorado. The well is located in Lot 8 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 455 feet. D. Appropriation: (a) Date of Initiation of Appropriation: September 26, 1965. (b) How Appropriation Was Initiated. By the filing for an exempt domestic well permit no. 25455 with the Colorado Division of Water Resources on September 26, 1965 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: October 10, 1965. E. Amount Claimed: 10 g.p.m. F. Use: Domestic use as per permit no. 25455. G. Land Ownership. The land upon which Kelly Well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW043 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Paul M. Roberts and Sharon M. Roberts, 1340 Coyote Trail, Woodland Park, CO 80863(719) 686-8495. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C, Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Roberts Well; B. Legal Description: Roberts Well is located in the SE 3 SW3 of Section 22, Township 12 South, Range 69 West 6th P.M. being 412 feet from the south section line and 1485 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 41, Filing 1 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the

well is 200 feet; D. Appropriation: (a) Date of Initiation of Appropriation. June 7, 1979; (b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit No. 108393 with the Colorado Division of Water Resources on June 7, 1979 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: November 12, 1980; E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit no. 108393. G. Land Ownership. The land upon which Roberts Well is located is owned by the Applicant. H. Additional Information. The wells which are the subject of this application are exempt wells under C.R.S. § 37-92-602 and a decree for these exempt wells is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW044 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Kelly L. Becker and Janene Guy, 71 Cedar Trail, Woodland Park, CO 80863, (719) 536-3242. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C, Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903 (719) 471-1212. Application for Underground Water Rights: A. Name of Well(s): Becker Well, B. Legal Description: The well is located in the SE 3 SW 3, Section 22, Township 12 South, Range 69 West of the 6th PM being 165 feet from the south section line and 2063 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 70 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the South Platte River. The depth of the well is 400 feet. D. Appropriation: (a) Date of Initiation of Appropriation: March 6, 1995; (b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit no. 186252 with the Colorado Division of Water Resources on March 6, 1995 together with Applicant=s intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: August 14, 1995; E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit no. 186252; G. Land Ownership. The land upon which Becker Well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. § 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. § 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW045 APPLICATION FOR UNDERGROUND WATER RIGHTS, IN TELLER COUNTY.

Name and Address of Applicant: Mark Mackel and Jin H. Mackel, 84 Juniper Trail, Woodland Park, CO 80863, (719) 687-3933. Attorneys for Applicants: FELT, MONSON & CULICHIA, L.L.C., Bradford R. Benning, 319 North Weber, Colorado Springs, Colorado 80903, (719) 471-1212. Application for Underground Water Rights: A. Name of Well: Mackel Well. B. Legal Description: In the SW3 SW3, Section 22, Township 12 South, Range 69 West of the 6th PM being 850 feet from the south section line and 500 feet from the west section line of said Section 22, Teller County, Colorado. The well is located in Lot 50 of the Aspen Hills subdivision. C. Source: Tributary groundwater of an unnamed drainage, tributary to Trout Creek, tributary to Horse Creek, tributary to the

South Platte River. The depth of the well is 300 feet. D. Appropriation; (a) Date of Initiation of Appropriation: March 8, 1972. (b) How Appropriation Was Initiated. By the filing for an exempt household use only well permit No. 53289 with the Colorado Division of Water Resources on March 8, 1972, which was replaced by well permit No.53289A together with Applicant=s predecessor intent to appropriate the water from the well and apply the water to beneficial use. (c) Date Water Applied to Beneficial Use: April 11, 1972. E. Amount Claimed: 15 g.p.m. absolute. F. Use: In-house use only as per permit No. 53289A. G. Land Ownership. The land upon which Mackel Well is located is owned by the Applicants. H. Additional Information. The well which is the subject of this application is an exempt well under C.R.S. 37-92-602 and a decree for this exempt well is sought pursuant to C.R.S. 37-92-602(4). WHEREFORE, the Applicant requests that this Application for Underground Water Rights be granted as requested herein.

2003CW046, Weld County School District RE-4, 1020 Main Street, Windsor, CO. 80550. APPLICATION FOR APPROVAL OF A CHANGE OF POINTS OF DIVERSION AND A PLAN FOR AUGMENTATION, **IN WELD COUNTY**. All future correspondence and pleadings to: Daniel K. Brown, Fischer, Brown & Gunn, P.C., P.O. Box Q, Ft Collins, CO 80522. 2. Purpose: Applicant utilizes 11 wells to irrigate the roughly 55 acres of bluegrass lawns (including football, soccer and other sports fields) located around three school sites in the Town of Windsor. These wells have historically been augmented under the auspices of Ground Water Appropriators of the South Platte (“GASP”). Applicant is applying to augment these well through its own augmentation plan, as detailed below. In the process of preparing this application, Applicant learned that the actual location of its 11 wells did not precisely correspond to their decreed locations. Applicant, therefore, is seeking to correct the decreed well locations for these wells to their actual locations (as determined recently by GPS). All legal descriptions herein are in Township 6 North, Range 67 West of the 6th P.M. Decreed name of structure for which change is sought: (indicate whether ditch, well, springs, reservoir, etc.). Applicant intends to change the point of diversion for each of these wells, as detailed in paragraph 5 below.

- a. Well No. 15005
 - b. Well No. 15004
 - c. Well No. 28540F
 - d. Well No. 28541F
 - e. Well No. 13136F
 - f. Well No. 13137F
 - g. Well No. 13138F (a/k/a Tozer School Well)
 - h. Well No RD-296-RF (a/k/a Mountain View Well No. 1)
 - i. Well No. 27067F (a/k/a Mountain View Well No. 2)
 - j. Well No. 27068F (a/k/a Mountain View Well No. 3)
 - k. Well No. 27069F (a/k/a Skyview School Well)
4. Decree information for wells owned by Applicant to be augmented (and the point of diversion corrected) herein: 4.1 From previous Decree: Well No. 15005 (originally decreed in Case No. W-1442, entered May 20, 1976) Date Entered: Jan. 30, 1990 Case No.: Joint Decree 82CW426 and 83CW270 Court: District Court, Water Division No. 1 Decreed point of diversion (include map): SE ¼ of Section 17, at a point 1,500 feet North and 1,320 feet South of the SE corner of said section. C. Source: Ground water tributary to the Cache La Poudre River. D. Appropriation Date: November 30, 1948, as decreed in W-1442, May 20, 1976 Amount: 250 g.p.m. E. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Irrigation of approximately 18.2 acres of bluegrass on the Windsor High School site in the SE ¼ of Section 17. 4.2 From previous Decree: Well No. 15004 A. Date Entered: May 20, 1976, Case No. W-1442, Court: Division 1 Decreed point of diversion (include map): SW ¼ of Section 17, at a point 1,000 feet North and 2,080 feet East of the SW corner of said section. C. Source: Groundwater tributary to Cache La Poudre. D. Appropriation Date: December 31, 1918, Amount: 250 g.p.m., Historic use: (Include a description of all water

rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) The irrigation of approximately 10 acres of bluegrass in the S ½ of Section 17.

4.3 From previous Decree: Well No. 28540F (decreed as an alternate point of diversion for Well No. 15005) Date Entered: Jan. 30, 1990, Case No.: Joint Decree 82CW426 and 83CW270, Court: District Court, Water Division No. 1 Decreed point of diversion (include map): SE ¼ of Section 17, at a point 1,630 feet North and 1,170 feet West of the SE corner of said section. C. Source: Ground water tributary to the Cache La Poudre River D. Appropriation Date: Nov. 30, 1948, Amount: 250 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Irrigation of approximately 6.4 acres of bluegrass in the SE ¼ of Section 17.

4.4 From previous Decree: Well No. 28541F (decreed as alternate point of diversion for Well No. 15005) Date Entered: Jan. 30, 1990 Case No.: Joint decree 82CW426 and 83CW270 Court: District Court, Water Division No. 1 Decreed point of diversion (include map): SE ¼ of Section 17, at a point 310 feet North and 1,000 feet West of the SE corner of said section. C. Source: Ground water tributary to the Cache La Poudre River. D. Appropriation Date: Nov. 30, 1948, Amount: 150 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Irrigation of approximately 3.3 acres of bluegrass in the SE ¼ of Section 17.

4.5 From previous Decree: Well No. 13136F (originally decreed in W-6411, entered March 15, 1976), Date Entered: Jan. 30, 1990, Case No.: Joint Decree 82CW426 and 83CW270, Court: District Court, Water Division No. 1, B. Decreed point of diversion (include map): SE ¼ of Section 17, at a point 150 feet North and 650 feet West of the SE corner of said section. C. Source: Ground water tributary to the Cache La Poudre River. D. Appropriation Date: August 15, 1968, Amount: 150 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Used together with Well No. 13137F for the Irrigation of approximately 1.2 acre of bluegrass in Section 17.

4.6 From previous Decree: Well No. 13137F A. Date Entered: March 15, 1976, Case No. W-6411, District Court, Water Division No. 1, B. Decreed point of diversion (include map): SE ¼ of Section 17, at a point 150 feet North and 600 feet West of the SE corner of said section. C. Source: Ground water tributary to the Cache La Poudre River. D. Appropriation Date: February 3, 1946 Amount: 75 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Decreed together with Well No. 13136F for the irrigation of up to 4 acres in the SE ¼ of Section 17. Has recently not be used, but Applicant desires to retain this well as an alternate point for 13136F for the irrigation of 1.2 acres of bluegrass in the SE ¼ of Section 17.

4.7 From previous Decree: Well No. 13138F (a/k/a Tozer Well) A. Date Entered: March 15, 1976, Case No. W-6411 District Court, Water Division No. 1. B. Decreed point of diversion (include map): NW ¼ of Section 21, at a point 2,250 feet South and 1,000 feet East of the NW corner of said section. C. Source: Ground water tributary to the Cache La Poudre River D. Appropriation Date: April 5, 1961, Amount: 100 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Irrigation of approximately 1 acre of bluegrass in SW ¼ of the NW ¼ of Section 21.

4.8 From previous Decree: Well No. RD-296-RF (a/k/a Mountain View Well No. 1) Originally decreed in Civil Action 11217, Larimer County District Court A. Date Entered: October 1, 1984, Case No. 80CW179, District Court, Water Division No. 1. B. Decreed point of diversion (include map): NW ¼ of Section 21, at a point 2,600 feet South and 1,017 feet East of the NW corner of said section. C. Source: Ground water tributary to the Cache La Poudre River D. Appropriation Date: December 9, 1948, Amount: 230 g.p.m., E. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Together with Mountain View Well No. 2 (Well No. 27067F) and Mountain View Well No. 3 (Well No. 27068F), this well is used to irrigate 10 acres of bluegrass around the Mountain

View School in the Section 21. 4.9 From previous Decree: Well No. 27067 (a/k/a Mountain View Well No. 2). A. Date Entered: October 1, 1984, Case No. 80CW179 District, Court, Water Division No. 1, B. Decreed point of diversion (include map): SW ¼ of Section 21, at a point 2,771 feet South and 1,165 feet East of the NW corner of said section. C. Source: Ground water tributary to the Cache La Poudre River D. Appropriation Date: December 9, 1948, Amount: 85 g.p.m. E. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Together with Mountain View Well No. 1 (Well No. RD-296-RF) and Mountain View Well No. 3 (Well No. 27068F), this well is used to irrigate 10 acres of bluegrass around the Mountain View School in the Section 21. 4.10 From previous Decree: Well No. 27068F (a/k/a Mountain View Well No. 3) A Date Entered: October 1, 1984, Case No. 80CW179, District Court, Water Division No. 1. B. Decreed point of diversion (include map): SW ¼ of Section 21, at a point 2,270 feet South and 940 feet East of the NW corner of said section. C. Source: Ground water tributary to the Cache La Poudre River D. Appropriation Date: April 16, 1938, Amount: 450 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) This well is decreed, together with Mountain View Well No. 1 (Well No. RD-296-RF) and Mountain View Well No. 2 (Well No. 27067F), for the irrigation of 10 acres of bluegrass around the Mountain View School in the Section 21. The well has not been used recently and will have to be re-drilled, but Applicant has always intended to re-drill this well as an alternate point for Mountain View wells nos. 1 and 2. 4.11 From previous Decree: Well No. 27069F (a/k/a Skyview Well) A. Date Entered: October 1, 1984, Case No. 80CW179, District Court, Water Division No. 1. B. Decreed point of diversion (include map): SE ¼ of Section 20, at a point 2,540 feet North and 1,620 feet West of the SE corner of said section. C. Source: Ground water tributary to the Cache La Poudre River. D. Appropriation Date: April 16, 1938, Amount: 150 g.p.m., Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Irrigation of approximately 5 acre of bluegrass in the NW ¼ of the SE ¼ of Section 20. Proposed change: (a) describe change requested: alternate point of diversion/replacement/change of use; (if well, please list pertinent information from well permit) (b) location; (c) use; (d) amount; (e) give proposed plan for operation (if (b) thru (e) applicable, please give full descriptions.) Applicant seeks to change the decreed point of diversion for the following wells from their previously decreed locations to the actual location of the well. The actual and decreed locations for each of these wells is depicted in the map attached as Exhibit 1.

Well Name (Permit Number)	Previously Decreed Location of Well	Actual Location of Well
Well No. 15005	SE ¼ of Section 17, at a point 1,500 feet North and 1,320 feet South of the SE corner.	SE ¼ of Section 17, at a point 1,592 feet North and 1,686 feet South of the SE corner.
Well No. 15004	SW ¼ of Section 17, at a point 1,000 feet North and 2,080 feet East of the SW corner.	SW ¼ of Section 17, at a point 915 feet North and 1,924 feet East of the SW corner.
Well No. 28540F	SE ¼ of Section 17, at a point 1,630 feet North and 1,170 feet West of the SE corner.	SE ¼ of Section 17, at a point 1,627 feet North and 1,177 feet West of the SE corner.
Well No. 28541F	SE ¼ of Section 17, at a point 310 feet North and 1,000 feet West of the SE corner.	SE ¼ of Section 17, at a point 438 feet North and 1,060 feet West of the SE corner.
Well No 13136F	SE ¼ of Section 17, at a point 150 feet North and 650 feet West of the SE corner.	SE ¼ of Section 17, at a point 204 feet North and 776 feet West of the SE corner.
Well No. 13137F	SE ¼ of Section 17, at a point 150 feet North and 600 feet West of the SE corner.	SE ¼ of Section 17, at a point 189 feet North and 934 feet West of the SE corner.
Permit No. 13138F Tozar School Well	NW ¼ of Section 21, at a point 2,250 feet South and 1,000 feet East of the NW corner.	NW ¼ of Section 21, at a point 2,088 feet South and 954 feet East of the NW corner.

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Well No RD-296-RF Mountain View # 1	NW ¼ of Section 21, at a point 2,600 feet South and 1,017 feet East of the NW corner.	SW ¼ of Section 21, at a point 2,753 feet South of and 1,318 feet East of the NW Corner.
Permit No. 27067F Mountain View # 2	SW ¼ of Section 21, at a point 2,771 feet South and 1,165 feet East of the NW corner.	SW ¼ of Section 21, at a point 3,019 feet South and 1,226 feet East of the NW corner.
Permit No. 27068F Mountain View # 3	SW ¼ of Section 21, at a point 2,270 feet South and 940 feet East of the NW corner.	SW ¼ of Section 21, at a point 2,342 feet South and 920 feet East of the NW corner.
Permit No. 27069F Skyview School Well	SE ¼ of Section 20, at a point 2,540 feet North and 1,620 feet West of the SE corner.	SE ¼ of Section 20, at a point 2, 636 feet North and 1,437 feet West of the SE corner.

Augmentation Plan. 6. Name(s) of structure(s) to be augmented: Applicant proposes to augment the 11 wells discussed in paragraphs 3, 4 and 5 above. Additionally, the Applicant may augment under this plan any future wells or other structures requiring augmentation on property owned operated or used by the Applicant. The plan also is intended to augment any replacement or alternative point of diversion well authorized by the State Engineer in connection with the listed wells, or any future wells augmented under this plan. Are there other water rights diverted from this structure(s)? No 7. Previous decree(s) for water right(s) to be used for augmentation: Applicant will obtain a suitable water supply to augment the depletions from the wells set forth in paragraph 6 above in amount, time and place of impact. 7.1 Kern Reservoir: Presently, Applicant is negotiating with the Town of Windsor to augment the depletions from the pumping of the wells listed in paragraph no. 7, with water purchased or leased from the Town of Windsor's Kern Reservoir (a/k/a Windsor Lake) shares. Applicant will not make use of this water without first reaching an agreement with the Town of Windsor and the Kern Reservoir Company. Date entered:

December 9, 1904, revised October 28, 1909, Case No.:1591, Court: Larimer County District Court, District No. 3, Type of water right (surface, underground storage): surface, Legal description of point(s) of diversion or place of storage: include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate ¼ ¼, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 13 and NAD27(CONUS) datum. In urban areas, include street address, lot, block, and subdivision: Point of Diversion from the Cache La Poudre: The Windsor Reservoir is filled by the Greeley No. 2 which diverts from the east side of the Cache La Poudre River in the N1/2 of the SE1/4 of section 11, Township 6 North, Range 68 West of the 6th. P.M. The Windsor Reservoir is located approximately in the W ½ and the SE ¼ of Section 16, Township 6 North, Range 67 West of the 6th P.M. Source: Cache La Poudre River. Amount: 1800 acre-feet, Appropriation: February 10, 1882, Priority No. 1, Decreed use (if irrigation, include total acreage): Storage of 1800 acre-feet for irrigation of approximately 1000 acres of farm land. 7.2: Other Sources: Applicant may acquire other sources of water, or obtain the right to use other sources for augmentation purposes for the wells described herein. Applicant will amend this application as necessary when such other sources are acquired. Historic use: (Include a description of all water rights to be used for augmentation, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) The Town of Windsor owns 68 shares (68%) in the Kern Reservoir and Ditch Company, which has the number one storage priority from the Cache La Poudre River. Water is delivered to shareholders through the Kern Lateral which flows south from Windsor Reservoir and by direct pumping from Windsor Lake. Water from the Kern Reservoir and Ditch system has historically been used as primary and secondary supply to irrigate about 830.5 acres of farmland as shown, as shown in Exhibit 2. Historic annual consumptive use was estimated by the Town of Windsor's engineer by the modified Blaney-Criddle method for a study period of 1948-1977. The estimated annual consumption for these shares is 1,094.6 acre-feet. The Applicant proposes to purchase or lease sufficient water from these 68 shares to augment the well pumping of the wells listed in paragraph 7. Statement of plan for augmentation, covering all applicable matters under CRS 37-92-103(9), 302(1)(2) and 305(8). Give full details of plan, including a description of all water rights to be established or changed by the plan. Diversions from the wells listed in paragraphs 7 above will deplete the Cache La Poudre River. This plan for augmentation will replace all depletions, in time location and amount, that would cause material injury to vested senior vested water rights. Applicant has determine the effects on the Cache La Poudre River from the amounts pumped by the wells listed in paragraphs 3, 4 and 5 above. Quantification of Depletions: Applicant's engineer has estimated the depletions from the 11 wells listed in paragraphs 3 and 4 above. These estimates were based on standard assumptions for evapotranspiration and climate for the area, and the assumed sprinkler efficiency was 80%. A chart showing the climate data and the estimated monthly depletions for each well is attached as Exhibit 3. The following is the total estimated monthly depletions for the 11 wells.

Month	Net River Depletions (in acre feet)
January	8.29
February	7.18
March	6.35
April	5.88
May	6.40
June	8.30

July	10.66
August	12.58
September	13.47
October	13.17
November	11.80
December	9.85
Total	113.95

Determination of Timing and Location of Stream Depletions: Applicant’s engineer determined the timing of impact from the wells by calculating the Stream Depletion Factors (“SDF”) for each.

Well Name (Permit Number)	Distance to Cache La Poudre (in feet)	SDF
Well No. 15005	5470	299
Well No. 15004	4700	221
Well No. 28540F	5630	317
Well No. 28541F	4530	205
Well No 13136F	4420	195
Well No. 13137F	4420	195
Permit No. 13138F Tozar School Well	3753	141
Well No RD-296-RF Mountain View # 1	3550	126
Permit No. 27067F Mountain View # 2	3275	107
Permit No. 27068F Mountain View # 3	3513	123
Permit No. 27069F Skyview School Well	1600	26

The location of the stream depletions was determined by applicant’s engineer to be approximately the stretch of the Cache La Poudre River to the east of where the River crosses the north/south half section line in the S ½ of Section 20, to the point where the Consolidated Law Ditch returns to the River in the S ½ of the NW ¼ of Section 35. Amount and Location of Water Releases: The Town of Windsor is proposing to change its Kern Reservoir shares in 02CW301 to enable the water to be used for, among other things, augmentation purposes. Applicant will release the water it purchases or leases from the Town of Windsor so as to replace water to the stretch of water depleted by the well pumping in amount, location and time. Applicant may acquire other sources in such other amounts for the same purpose. Name(s) and address(es) of owner(s) of the land on which structures is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. Applicant owns all of the land on which the wells to be augmented are located and the land upon which the water will be beneficially used. The Town of Windsor, 301 Walnut Street, Windsor, Colorado 80550 and the Kern Reservoir Company, P.O. Box 699, Windsor, Colorado are the owners of the Kern Lake, related structures and land upon which the Town of Windsor beneficially uses the subject water rights. WHEREFORE, the Applicant prays this Court to enter a decree (1) approving the change of water rights; (2) approving this plan for augmentation; and (3) granting such other and further relief as the Court may deem necessary for the purpose of according full relief.

2003CW047, The Lower Latham Reservoir Company, c/o Dennis Hoshiko, P.O. Box 398, Kersey, CO 80644. APPLICATION FOR CHANGE OF WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION, IN WELD COUNTY. All future correspondence and pleadings to: William H. Brown, Fischer, Brown & Gunn, P.C., P.O. Box Q, Ft Collins, CO 80522. 2. Purposes of Application: The Applicant, The Lower Latham Reservoir Company, is a non profit reservoir company organized pursuant to Section 7-42-101, et. seq., Colorado Revised Statutes. The purposes of this application are: (a) to change the use of certain water rights that Applicant owns or has a right to use that are currently decreed for irrigation to allow such to also be used for augmentation, recharge, and substitute supply purposes, either directly or following storage; (b) to provide for the ability to use recharge locations where the changed water rights can be delivered and used for recharge purposes; (c) to adjudicate a plan for augmentation that uses the consumptive use of water associated with the water rights to be changed herein, as well as other water rights to which Applicant is entitled, either on a direct flow or release from storage basis, to replace out-of-priority depletions associated with well pumping from wells described in paragraph 6 below, and/or to replace historic return flows from the changed water rights or additional water rights, to the extent necessary to prevent legal injury to other water rights; (d) to provide for the inclusion of additional replacement water, including that provided by re-timing wells, augmentation wells, bypassed senior water rights, and other structures or water rights which Applicant obtains the right to use in the future and which are legally available for augmentation use, into the plan for augmentation applied for herein, and (e), to change the points of diversion of water rights to allow for storage in Lower Latham Reservoir or for delivery to recharge sites. 3. Decreed name of structures for which change is sought: (indicate whether ditch, well, springs, reservoir, etc.) 3.1 Highland Ditch (a/k/a Plumb Ditch): The Highland Ditch was decreed in Case No. 6009, as modified by Case No. 41518. A. Date Entered: April, 28, 1883 Civil Action No. 6009 Court: District 2; March 29, 1909 Case No. 41518 Court: District 2. Decreed point of diversion (include map): In the NW ¼ of Section 13, Township 5 North, Range 65 West of the 6th P.M., in Weld County. A map showing the location of the point of diversion, as well as the location of the Jurgens Farm referred to below, is attached as Exhibit A. Decreed Use: Irrigation; Source: South Platte River; Appropriation Date: October 1, 1871 Decree, No. 6009 Amount: 64.4 c.f.s. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the Applicant intends to rely on to the extent such records exist.) The water rights to be changed to allow for use of such rights for augmentation, replacement and exchange in addition to their presently decreed purposes are 56 shares in the Plumb Irrigation Company, commonly known as the Plumb Ditch or Highland Ditch. In Case No. 41518, forty (40) c.f.s. of the right decreed in the original Highland Ditch Decree was transferred to the Bijou Irrigation District for diversion at the Bijou canal. The remaining 24.4 c.f.s. has historically been diverted at the Plumb Ditch. The Applicant owns 56 shares in the Highland Ditch Company (out of a total of 90 shares) which were historically used to irrigate approximately 244 acres of the Jurgens Farm located in Section 8, Township 5 North, 64 West of the 6th P.M., as well as an additional 80 acres of adjacent leased land. Applicant intends to rely on historic diversion records based on records of the State Engineer that show that for the study period 1950 to 2000 the average annual diversions of the Plumb Ditch were 3,896 acre feet, and that the average annual diversions for that same time period relating to Applicant's 56 shares is 2,424 acre feet. These records also show the annual diversions during the time period on a monthly basis, and are attached as Exhibit B. 3.2 Greeley No. 3: Applicant owns 15.19 shares of 519.7 outstanding shares in the Greeley Irrigation Company ("GIC"). The GIC owns a 5/8th interest in the water rights decreed to the Greeley Canal No. 3., as well as 60 preferred rights in Fossil Creek Reservoir. Date Decree Entered: The original decree for the Greeley Canal No. 3 was entered on April 11, 1882. Case No. Civil Action No. 320 Court: District Court, Larimer County. Decreed point of diversion (include map): Located on the South side of the Cache La Poudre River in the NW ¼ of the SE1/4 of Section 32, Township 6 North, Range 66 West of the 6th P.M., Weld County, at a point 1900 feet West and 2200 feet North of the southeast corner of said Section 32. A map showing the approximate location is attached as Exhibit C. Decreed Use: Irrigation and Domestic. Source: Greeley Canal No. 3, Cache La Poudre River. Fossil Creek Reservoir, Cache La Poudre River and Fossil Creek, Box Elder Creek, and Cooper and Ames Sloughs, tributaries to the Cache La Poudre River. Appropriation Dates: April 1, 1870 Amount: 52 c.f.s.; October 1, 1871 Amount: 41 c.f.s.; July 15, 1872 Amount: 63.13 c.f.s. May 15, 1873 Amount: 16.67 c.f.s.; F. The Fossil Creek Reservoir water rights were decreed by the District Court in Larimer County.

<u>Priority No.</u>	<u>Approp. Date</u>	<u>Amount (AF.)</u>	<u>Adj. Date-Case</u>
Original Constr. 1591*	3/5/1901	12,052	10/28/1909-
(Priority No. 40) First Enlargement (Priority No. 66)	6/1/1904	1,545	4/22/1922-20317
Second Filling (Refill) (Priority No. 136E)	5/1901	2,052	9/10/1953-11217

*Date of Revised Final Findings and Decree in Civil Action No. 1591.

G. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the Applicant intends to rely on to the extent such records exist.) The 15.19 shares were used for agricultural irrigation on nine farm locations in the GIC system. Applicant's ownership of GIC shares allows it to receive delivery of Fossil Creek Reservoir water. Maps showing the location of the farms are attached as Exhibit D. Diversion records for the Greeley Canal No.3 are attached as Exhibit E, and include deliveries of Fossil Creek Reservoir water. The shares obtained by the Applicant are described as follows, and their locations are shown on the above exhibits:

- 1.49 shares historically used at farm E-31.
- 1.5 shares historically used at farm E-92
- 1 share historically used at farm W-34
- 3.7 shares historically used at farm E-89d
- .75 shares historically used at farm E-50a
- .25 shares historically used at farm E-50b
- 2 shares historically used at farm E-63 and E-90c
- 4 shares historically used at farm E-14
- .50 shares identified with no particular farm.

4. Proposed change: (a) describe change requested: alternate point of diversion/replacement/change of use; (if well, please list pertinent information from well permit) (b) location; (c) use; (d) amount; (e) give proposed plan for operation (if (b) thru (e) applicable, please give full descriptions.) As to the 56 shares of the Plumb Irrigation Company, 244.1 acres of annual crops and about 77.9 acres of irrigated pasture grass have been irrigated with the Plumb Ditch water. A study period extending from 1950 until 2000 was used to estimate the historic consumptive use of the share water on the farm. The mix of annual crops was determined, based on acreage planted and the years planted. Using soil moisture water budget models and weather data from the Greeley, Colorado, weather station, and employing the modified Blaney-Criddle method, the potential consumptive use of the crops historically grown was determined. The soils on the farm were analyzed, and a field observation was made, resulting in an engineering assumption that a 60% farm irrigation efficiency existed, meaning that 60 % of the water delivered to the farm was available for consumptive use. A 10% ditch loss was assumed, based on discussions with the former farm owner, indicating that the ditch is a gaining ditch. The long-term (1950-2000) average consumptive use was determined to be 529 acre feet per year. This is equivalent to 1.65 acre feet per irrigated acre. Applicant proposes to use the consumptive use credit available in the plan for augmentation described in this application. Applicant will replace to the stream system the historic return flows from the former irrigation use by making required releases of water from the Lower Latham Reservoir, which releases to the South Platte upstream of the Plumb Ditch diversion, or from such other sources and locations that may be available for such purposes, to the extent necessary to replace legal injury to senior water rights. Applicant owns the land that was historically irrigated by the 56 shares of the Plumb Ditch, and will covenant and agree to no longer irrigate such lands. Applicant seeks the right to divert its shares at the headgate of the Union Ditch, located in the NE Quarter of Section 18, Township 4 North, Range 66 West of the 6th P.M., for delivery to storage in the Lower Latham Reservoir for subsequent use for the changed purposes. As to the 56 shares in the GIC, Applicant intends to change these shares to augmentation, replacement and exchange purposes in accordance with the ditch-wide historic use analysis, consumptive use provisions and other applicable requirements contained in the decree entered by this Court in Case No. 96CW658, In the Matter of the Application for Water Rights of the Poudre Prairie Mutual Reservoir & Irrigation Company. In Case No. 96CW658, the Applicant conducted a ditch-wide analysis to determine the historic consumptive use of each share of GIC water rights during the period of 1950-1979, a period that the court

found representative of historic use. This Court found that during this period the average annual diversion of GIC direct flow water rights was 11,400 acre feet.. Thus the diversions attributable to Applicant’s shares would be 333.2 acre feet annually, on average. The decree found that the average annual consumptive use per share under the GIC system was 10.31 acre feet. The decree in the case further provided, at paragraph 20, that other owners of shares in the GIC system could rely upon the findings made in the decree regarding historic consumptive use of GIC shares in any subsequent change application, in the absence of any showing of later events which the court did not address in 96CW658 and which are germane to the question of injury. The Applicant asserts that the historic consumptive use of the 15.19 shares should thus be determined to be 156.6 acre feet on an average annual basis. Applicant shall replace all historic return flows from the irrigation use of such water to the extent necessary to prevent legal injury to senior water rights and shall not use the said water rights unless such replacement is made. Replacements may be made by releases from the Lower Latham Reservoir whenever the legally injured water right entitled to such return flows is downstream on the South Platte River. Applicant seeks the right to store the changed water in the Lower Latham Reservoir or such other storage vessels as may be available to it, and to use the changed water for augmentation, exchange and replacement by direct release to the South Platte River, or for later release following storage, or by means of recharge at recharge locations. 5. Name(s) and address(es) of owner(s) of the land on which structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. The Lower Latham Reservoir Company, address above. The Lower Latham Ditch Company, c/o Jim Park, P.O. Box 398, Kersey CO 80644. The use of the changed water will be to augment wells of shareholders of the Lower Latham Reservoir Company and the Lower Latham Ditch Company, and it is impractical to list them. No structures or other facilities of any entity other than the Applicant will be used unless and until Applicant may obtain the legal right to do so, and Applicant requests that the decree to be entered herein so provide. **Augmentation Plan** 6. Name(s) of structure(s) to be augmented, together with related information applicable to this plan for augmentation:

Owner Name	Well Permit	Stream Depletion Factor (SDF)	Range		Township		Sect	q160	q40
Axelson, Howard N.	1361	220	64	W	5	N	18	SW	NE
Cenntennial Valley Ranch	13949	60	63	W	5	N	33	NW	NW
Cenntennial Valley Ranch	15930	210	63	W	5	N	32	NW	SW
Centennial Valley Ranch	7169	290	63	W	5	N	31	NE	SW
Danks, William	7168	880	63	W	4	N	6	SW	SW
Danks, William	13960	760	63	W	4	N	6	NW	SW
Desparado Dairy	8640	50	65	W	5	N	13	NE	SW
Duell, Lucille	12972	500	64	W	5	N	20	NW	SW
Foos, Steve P.	15879	1080	64	W	4	N	1	SE	SW
Frank, Robert et.al.	5886	1080	64	W	4	N	12	NE	NE
Hergenreder, Carl	1787	160	63	W	5	N	32	SE	NE
Hergenreder, Carl L.	10104	120	63	W	5	N	33	SW	NW
Hop, Andrew J.	2932F	20	64	W	5	N	13	NE	SW
Hoshiko Farms	8672	360	64	W	5	N	36	NE	SW
Hoshiko Farms	11651	110	65	W	5	N	13	SE	SW
Hoshiko, Dennis	12745	2000	64	W	4	N	2	NE	SW
Howard, Cecil	11611	200	64	W	5	N	18	SW	SW
Howard, Cecil	12017	290	64	W	5	N	18	SE	NW
Klein, James	R5964RF	340	64	W	5	N	19	NW	SW
Millage Brothers	1512	880	64	W	4	N	1	NE	NW
Monfort Feedlot	6531	270	64	W	5	N	25	SW	NW
Monfort Feedlot	8571	280	64	W	5	N	26	NE	SW
P. & H. Joint Venture	11534	240	64	W	5	N	22	SW	NE
P. & H. Joint Venture	11538	260	64	W	5	N	22	SW	NE
Park, James	RF418	130	63	W	4	N	4	NE	NW

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Park, James	12316	140	63	W	4	N	4	NE	NW
Rein, John	13958	980	64	W	4	N	1	NE	SW
Rothe, Roy	04137F	100	63	W	5	N	29	SW	SE
Rothe, Roy	11057	100	63	W	5	N	30	SE	NE
Rothe, Roy	13071	530	63	W	5	N	31	SW	SW
Rothe, Roy	13073	500	63	W	5	N	31	SW	NW
Rothe, Roy	15931	110	63	W	5	N	29	SW	NW
Rothe, Roy	16392	160	63	W	5	N	30	SE	SW
Rothe, Roy W.	10836	340	63	W	5	N	31	NW	SW
Siebring, Neeland (Trust)	11526	110	63	W	5	N	32	NE	NW
Siebring, Neeland (Trust)	12019	100	63	W	5	N	29	SE	SW
Siebring, Norma	12021	60	63	W	5	N	32	NE	NE
Van Wyke, Norma J.	D4303F	120	63	W	5	N	32	NW	NE
AJR Farms,	6416	60	65	W	5	N	13	SW	SE
Berryman, Kathy	4481	480	64	W	5	N	20	NE	SW
Berryman, Kathy	11524	460	64	W	5	N	20	NE	SW
Buderus, Ted	3316	450	63	W	4	N	6	NE	NE
Buderus, Ted	7166	620	63	W	4	N	6	NE	SW
Buderus, Ted	7167	690	63	W	4	N	6	SE	NW
Chestnut Farms,	5854	380	64	W	5	N	22	SW	SW
Chestnut Farms,	5855	250	64	W	5	N	22	SW	NW
Clynke, Linda	1070	730	64	W	5	N	36	SW	SW
Dairy, Djong	20033	50	65	W	5	N	13	SW	SW
Dunn, William	11604	70	64	W	5	N	7	SW	SW
Gillam, Ben	6289	330	64	W	5	N	18	SE	SW
Gunther, Eugene	11399	210	64	W	5	N	18	NE	SW
Gunther, Eugene	11844	270	64	W	5	N	18	NE	SE
Hop, Andrew	6415	30	65	W	5	N	13	SE	NW
Hoshiko Farms,	11869	70	64	W	5	N	17	SE	NW
Hoshiko Farms,	16121	470	64	W	5	N	27	NE	NW
Hoshiko, Jean	8225	190	64	W	5	N	17	NE	SW
Klein, Frieda	13463	190	64	W	5	N	16	SW	SW
Klein, Frieda	13464	200	64	W	5	N	16	SW	SW
Klein, James	4183	30	64	W	5	N	7	SW	NW
Klein, James	12985	140	64	W	5	N	7	SE	SW
Klein, Louis	8718	410	64	W	5	N	19	NE	SW
Klein, Louis	8719	490	64	W	5	N	19	SW	NE
Klein, William	5639	70	64	W	5	N	16	NW	SW
Klein, William	10103	110	64	W	5	N	16	SW	NW
Klein, William	12743	10	64	W	5	N	9	SW	SW
McCauley, Clarence	11845	150	65	W	5	N	24	NE	NW
Mowery, Gladys	8720	480	64	W	5	N	19	NE	NW
National Hog Farms,	564	90	63	W	4	N	3	SE	
National Hog Farms,	15507	40	63	W	4	N	3	SE	NE
National Hog Farms,	15508	90	63	W	4	N	3	NW	SE
National Hog Farms,	15509	40	63	W	4	N	2	SW	SW
National Hog Farms,	15510	140	63	W	4	N	3	SW	NW
Pankow, Herbert	6838	1090	64	W	4	N	1	SW	NW
Rothe, Frank	11292	730	64	W	5	N	36	SE	SW
Schlagel, Phil	10100	310	64	W	5	N	26	SE	NW
Schmidt, Ed	11605	130	64	W	5	N	18	NW	NE

Wetco Farms,	11491	130	63	W	4	N	4	NE	NW
Schaumberg, Patricia	10990	250	64	W	5	N	17	NW	SW
Bihain, Connie	1-20389	355	64	W	5	N	27	NE	NE
Bihain, Connie	2-20389	355	64	W	5	N	27	NE	NE
Dunn, Rose	12735	380	64	W	5	N	17	SW	SW
Magnuson, Larry	6170	20	65	W	5	N	21	SE	SW
Sandin, Milton	4482	170	65	W	5	N	24	NW	SE
Lorenz Farms,	13982	80	65	W	5	N	22	NE	SE
Lorenz Farms,	13983	10	65	W	5	N	22	NW	NW
Lorenz Farms,	13984	20	65	W	5	N	22	NW	SW
Lorenz Farms,	13985	10	65	W	5	N	22	NW	NW
Peterson, Herman	368	70	63	W	5	N	30	NE	SW
Pritchard, Valerie	523	20	63	W	5	N	29	NW	SE

Two other structures to be augmented are owned by the Applicant and decreed in Case No. W-1292 (well permit Nos. 12253-R and 6606-R). Well No. 12253-R is located in the SW ¼ of Section 8, Township 5 North, Range 64 West of the 6th P.M. Well No. 6606-R is located in the SE ¼ of Section 8, Township 5 North, Range 64 West of the 6th P.M. The SDF factor for Well 12253R is 100 days, while the factor for Well 6606R is 75 days. It is Applicant's intent to augment any well that may be a replacement well for the wells listed above. Are there other water rights diverted from this structure(s)? No. 7. Previous decree(s) for water right(s) to be used for augmentation: The sources of water to be used for augmentation are listed in paragraph 3 above. In addition, Applicant has a contractual right to receive from the City of Longmont 403.7 acre feet of fully consumable water, to be delivered via the St. Vrain Creek, with said water to be delivered to either the headgate of the Union Ditch, for delivery to storage in the Lower Latham Reservoir, or to the headgate of the Lower Latham Ditch. Such water agreement is temporary in nature, and such deliveries are to be made only until March 31, 2004. However, it is Applicant's intent to use such water for augmentation, exchange and replacement purposes during such time period. A copy of the agreement granting Applicant this right is attached hereto as Exhibit F. The Applicant also seeks the right to use, either permanently or temporarily, for augmentation, replacement, and/or recharge in this plan for application, waters that have been decreed for or changed to fully consumptive uses, or are fully consumptive by definition, such as transbasin water. Further, Applicant seeks approval of its right to use other sources of water that may be acceptable to the State Engineer as substitute supply water in accordance with Section 37-92-308, C.R.S. Historic use: Historic use of the water rights of the 56 shares of the Plumb Irrigation Company and the GIL water is stated above in paragraph 3. 8. Statement of plan for augmentation, covering all applicable matters under CRS 37-92-103(9), 302(1)(2) and 305(8). Give full details of plan, including a description of all water rights to be established or changed by the plan. The pumping of the wells listed above causes depletions to the South Platte River. The purpose of the plan is to replace those depletions that are out of priority in time, location and amount so as to prevent injury to senior vested water rights. Applicant proposes to determine the depletions from the pumping of the wells to be augmented as follows. A water budget method will be used, and is appropriate for estimating well depletions under the Applicant's system. The proposed water budget accounting procedure is outlined below: A. On an annual basis, the owner of each farm within the Lower Latham irrigation system and included within the augmentation plan will report the crop types and number of acres irrigated on the farm. Any areas irrigated solely by wells will be identified. In addition, any supplemental surface water supplies, other than Lower Latham Ditch and Reservoir company water, will be identified. B. The total irrigation water requirement for the lands irrigated will be determined on a monthly basis using the modified Blaney-Criddle method. C. The total surface water supply delivered to farm will be determined based upon monthly ditch diversion records, reservoir storage/release records, and the owners' pro-rata interest in the Lower Latham Ditch and Reservoir companies. Any supplemental surface water supplies will also be quantified on a monthly basis. D. A monthly water budget will be simulated for each farm and will include surface water deliveries to the farm and soil moisture storage. E. A farm efficiency of 65 percent for flood irrigation practices and 80 percent for sprinkler irrigation practices will be adopted within the water budget simulation. F. The consumptive use of groundwater will be calculated for each well as the difference between the total irrigation requirement and the portion of the total requirement satisfied by surface water supplies. G. The lagged effects of groundwater consumption will be estimated using the Stream Depletion Factor (SDF) methodology developed by the U.S.G.S. H. Out-of-priority depletions to

the South Platte River will be replaced at the appropriate times and places. I. For livestock wells included in the plan, flow meters or power meter records will be used to measure the total pumping, which will be considered as 100% consumptive. The monthly alluvial depletions for the wells are lagged to the South Platte River using the SDF, or Stream Depletion Factor, method. A determination acceptable to the Court will be made as to the amounts and timing of pumped water that returns to the South Platte River as surface flows, and that which returns as deep percolation ground water flows. It is assumed that wells with SDF's of 120 days or less have surface return flows, and that they equal 40% of such wells' return flow component. It is assumed that only such wells have a surface return flow component. Surface returns are assumed to return to the South Platte River within one month of pumping, while deep percolation flow return times will be estimated using SDF's. For the depletions occurring in 2003 resulting from past pumping of the wells, and based on data provided to Applicant by the Central Colorado Water Conservancy District that estimated that the Central membership wells within the Lower Latham system is 386 acre feet, and assuming that the non-Central wells cause similar depletions, it is estimated that the pumping of all wells within the augmentation plan proposed will result in approximately 750 acre feet of depletions. Augmentation water may be obtained by the use of recharge sites. Potential recharge sites are located on Exhibit C. Water will be placed into such sites by injection or other acceptable method whereby the location of recharge and the amount of recharged water can be determined. A determination will be made, using SDF factors, as to when such recharged water reaches the South Platte River and thus is available for augmentation, to include the amounts of such water available, the location of availability, and the time of availability. Applicant will make replacements of materially injurious out-of-priority depletions caused by pumping of the wells under the plan at times when the actual injury is occurring, using for augmentation water the sources identified herein and approved by this Court either separately or in combination. Applicant will provide appropriate accounting as to the operation of this plan for augmentation as required by the Division Engineer. Applicant reserves the right to operate under the Amended Rules and Regulations proposed by the State Engineer for the regulation of well pumping in the South Platte Basin, which are the subject of court review in Case No. 02CW108, if such rules are approved, until a decree in this matter has been issued. Name(s) and address(es) of owner(s) of the land on which structures is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. All structures are owned by The Lower Latham Ditch Company, The Lower Latham Reservoir Company and/or the shareholders in these companies. It is impractical to list them all.

2003CW048 Judith Ann Schell, 833 Hwy 52, Erie, CO 80516. APPLICATION TO MAKE ABSOLUTE CONDITIONAL WATER RIGHTS, IN WELD COUNTY. All future correspondence and pleadings to: William H. Brown, Fischer, Brown & Gunn, P.C., P.O. Box Q, Fort Collins, CO 80522. 1. Name of structure: (well, spring, ditch, reservoir): Schell Reservoir, Schell Well No. 1, Schell Well No. 2, Schell Well No.3. 2. Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree: A. Date of Original Decree: January 10, 1997; Case No. 95CW266; District Court, Water Division 1. B. Legal description: include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate $\frac{1}{4}$ $\frac{1}{4}$, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 13 and NAD27(CONUS) datum. In urban areas, include street address, lot, block, and subdivision: 1.) **Schell Reservoir:** Within the NE $\frac{1}{4}$ of Section 17 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado. The outlet is located in said Section 16 at a point 220 feet south of the north section line and 110 feet east of the west section line. 2.)**Schell Well No. 1:** NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado, at a point 30 feet south of the north section line and 200 feet east of the west section line. 3.) **Schell Well No. 2:** NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado, at a point 900 feet south of the north section line and 100 feet west of the east section line. 4.) **Schell Well No. 3:** SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado, at a point 1840 feet south of the north section line and 700 feet west of the east section line. A map showing the approximate location of the reservoir and the wells is attached as Exhibit A. A. Source: Alluvial groundwater tributary to Boulder Creek that is pumped from Schell Wells No. 1, No. 2 and No. 3. Appropriation Date: 1.) As to the storage and underground rights to fill the reservoir: May 19, 1994. 2.) As to the right of exchange: December 29, 1995. Amount: 1.) For storage: 140 a.f. 2.) Rate of Diversion (total) to fill Reservoir: 4.46 c.f.s. 3.) Schell Well No. 1: 1,000 gpm (2.23 c.f.s.) 4.) Schell Well No. 2: 1,000 gpm (2.23 c.f.s.) 5.) Schell Well No. 3: 1,000 gpm (2.23 c.f.s.), For the

exchange: 2.23 c.f.s., A. Uses: Reclamation, recreation, wildlife habitat, fire fighting, fish propagation, providing freshening flows and exchange. A. Depth: (if well): 1.) Schell Well No. 1: 15 feet. 2.) Schell Well No. 2: 15 feet. 3.) Schell Well No. 3: 15 feet. 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, including expenditures: (add additional sheets if necessary): Schell Wells Nos. 1, 2 and 3, all of which are located within 25 feet of Boulder Creek, were permitted by the State Engineer, constructed, and water was pumped from them at the combined flow rate of 4.46 c.f.s in priority beginning June 20, 1997, with the pumped water being used to fill the Schell Reservoir to its capacity of 140 acre feet. During the pumping period each of the three wells was at times pumped at its individual flow rate of 2.23 c.f.s. The reservoir was filled by approximately July 5, 1997. The waters stored in the Schell Reservoir were thereafter used for fish propagation, with fish being stocked in the reservoir in the spring of 1998, and for recreation (fishing) and wildlife habitat. The water was also used for reclamation of the mined site in accordance with the requirements of the permit from the Mined Land Reclamation Board in 1997. The reclamation work was inspected and approved by officials of that board. Prior to pumping the wells to obtain the water to store in the Schell Reservoir, the reservoir was inspected by personnel from the office of the Division Engineer and was found to be acceptably lined to meet that agency's standards. Water is available for fire-fighting purposes should the need arise. After the reservoir was filled, Schell Well No. 3 has been used to provide freshening flows to the reservoir when in priority, and also in accordance with the exchange described in the decree in Case No. 95CW266, which is to measure water from Schell Well No. 3 that is placed into the reservoir at its south, or upper, end, with an equal amount of water being simultaneously measured out of the reservoir at its north, or lower, end, and returned to Boulder Creek. The applicant expended approximately \$7000 for the stocking of fish in the reservoir, and an additional \$2000 to build suitable habitat for fish at the bottom of the reservoir. The cost of equipment was approximately \$3000. The applicant's husband and others developed the wells, so there was no monetary expense involved with that. 1. If claim to make absolute Water applied to beneficial use: A. Date: June 20, 1997. Amounts: 4.46 c.f.s. total pumping rate for all three wells: 2.23 c.f.s. for each of the three individual wells. Use: To fill Schell Reservoir to its capacity of 140 acre feet.

Date: Approximately July 6, 1997. Amount: 2.23 c.f.s. Use: Exchange use of Schell Well No. 3.

Date: July – August 1997. Amount: Approximately 10 acre feet. Use: reclamation purposes.

Date: Approximately May 1, 1998: Amount: 140 acre feet. Use: Fish stocking, fish propagation, wildlife habitat and recreation.

B. Description of place of use where water is applied to beneficial use: At the wells' locations and within the reservoir. Reclamation occurred on the reservoir's banks. 1. Names(s) and address(es) of owner(s) of land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use. The applicant owns all structures and places of use. WHEREFORE, Applicant requests a ruling and decree finding and determining that the conditional water rights described herein have been made absolute as to all uses in the amounts as conditionally decreed, that the claimed dates of appropriation be awarded, and that the applicant has proceeded with the requisite diligence in the development of her water rights. Further, should the Court determine that any of conditionally decreed water rights have not been made absolute, that the Court award applicant an additional six year diligence period to make such rights absolute, and for such further relief as the Court may deem necessary and proper.

2003CW049 JAMES R. AND HELEN JEAN MIHALEK, 1981 W. 149th Ave., Broomfield, CO 80020. Application for Underground Water Right, **IN ADAMS COUNTY**. Well #19961 is located in the SE1/4NW1/4, S16, T1N, R68W, 6th P.M., 1830' from N and 1353' from W section line, a/k/a Lot 7, Block 5, Waddle Subdivision. Source: Groundwater Appropriation: 5/26/1964 Amount claimed: 15 gpm Use: Irrigation of 1 acre of lawns and gardens. If non-irrigation describe purpose fully: Stock tanks (3 pages)

2003CW50 SPENCER REAL ESTATE, LLC. APPLICATION FOR UNDERGROUND WATER RIGHTS FROM THE DENVER BASIN AQUIFERS AND APPROVAL OF PLAN FOR AUGMENTATION, IN DOUGLAS AND EL PASO COUNTIES, 1. Name, Address and telephone number of Applicants: Spencer Real Estate, LLC, c/o Todd Spencer, 19475 Beacon Lite Road, Monument, CO 80132, (719) 481-0407. All pleadings should be directed to: Michael

F. Browning, Porzak Browning & Bushong LLP, 929 Pearl Street, Suite 300, Boulder, CO 80302, (303) 443-6800. 2. Jurisdiction Consolidation. The Water Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §37-92-302(2) and §37-90-137(6). 3. Well Permits: Well permits for the subject wells will be obtained before such wells are constructed. 4. Legal Description of Wells and Subject Property: Applicant owns 5.02 acres of land located in the NW1/4NW1/4 of Section 11, Township 11 South, Range 67 West of the 6th P.M. which property is more particularly described in Exhibit A attached hereto and generally depicted on the map attached hereto as Exhibit B (the "Subject Property"). The wells which will withdraw groundwater from the Dawson, Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying the Subject Property may be located anywhere within the Subject Property. Applicant waives any 600 foot spacing rule as described in C.R.S. §37-90-137(2) for wells located on the Subject Property. 5. Source and Depth: The groundwater to be withdrawn from the Dawson and Denver aquifers beneath the Subject Property is not nontributary water as described in C.R.S. §37-90-103(10.7). The groundwater to be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers beneath the Subject Property is nontributary water as described in C.R.S. §37-90-103(10.5). Each well will be completed to the bottom of the aquifer into which it is drilled. For the purpose of the decree herein, Applicant will use the well depths estimated in the State Engineer's related determination of facts. 6. Estimated Amounts and Rate of Withdrawal: Applicant claims the right to withdraw all of the groundwater in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Subject Property. Applicant claims the right to withdraw 1% of the total decreed entitlement from each aquifer each year; provided that, for each aquifer, Applicant claims the right to withdraw through wells in the same aquifer, including any additional wells, an amount of water in excess of the amount decreed for average annual withdrawal from that aquifer, so long as the sum of the total volume of water withdrawn from said wells does not exceed the product of the number of years since the date of issuance of the original well permits or the date of entry of a decree herein, whichever occurs first, times the average annual amount of withdrawal which Applicant is entitled to withdraw from that aquifer. The wells will withdraw the subject amounts of groundwater at rates of flow necessary to efficiently withdraw the entire decreed amounts. Applicant believes the average annual amounts of withdrawal available from the subject aquifers are as estimated below:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Total Amount</u>	<u>Annual Entitlement</u>
Dawson	410 feet	410 acre feet	4.1 acre feet
Denver	380 feet	320 acre feet	3.2 acre feet
Arapahoe	365 feet	310 acre feet	3.1 acre feet
Laramie-Fox Hills	190 feet	190 acre feet	1.4 acre feet

As additional data is obtained, different aquifer characteristics and saturated thicknesses may be shown. Applicant reserves the right to revise the above estimates based on new data and to adjust upwards or downwards the above estimates without the necessity of amending or republishing this application. 7. Existing Exempt Well. An existing exempt well, Permit No. 141996, currently exists on the Property completed into the Denver aquifer. Once a decree is entered herein, Applicant will re-permit the well under this plan for augmentation or abandon such well in accordance with State Engineer requirements. 8. Well Fields. Applicants may need to construct additional wells to recover the entire amount of water available to it from the subject aquifers. As additional wells are required, well permit applications therefor will be filed and issued in accordance with C.R.S. §37-90-137(10). Applicant requests that all wells, including additional wells, located on the Subject Property that are completed in the same aquifer be allowed to operate as a "well field" as that term is described in the Statewide Nontributary Ground Water Rules, 2 CCR 402-7, Rule 4.A.1 and Rule 4. 9. Proposed Uses. Applicant seeks the right to use, reuse, successively use, lease, sell or other dispose of the water withdrawn from the subject aquifers for domestic, industrial, commercial, irrigation, livestock watering, recreational, fish and wildlife, fire protection and any other beneficial purposes. Such water will be produced for

immediate application for such uses, both on and off the Subject Property; for storage and subsequent application for such uses; for exchange purposes; for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes, including taking credit for all return flows resulting from the use of said water as augmentation for or as an offset against any out of priority tributary or not nontributary depletions; provide, however, that augmentation use cannot be made until a court approved plan for augmentation is obtained. Applicant claims the right to use, reuse, successively sue to extinction and/or take return flow credit for 100% of the groundwater which is the subject of this application. 10. Augmentation Plan. Applicant seeks a determination that no augmentation plan is required with respect to water withdrawn from the nontributary Arapahoe and Laramie-Fox Hills aquifers, subject to the 2% relinquishment requirement of Rule 8 of the Denver Basin Rules, 2 CR 406-2. Applicant seeks approval of the following augmentation plan with respect to the withdrawal of water from the not nontributary Dawson and Denver aquifers, pursuant to CRS §37-90-137(9)(c)(I). Pursuant to CRS §37-90-137(9)(c)(I), Applicant must replace the actual out of priority stream depletions associated with the pumping of Applicant's well(s) on the Subject Property completed within the Dawson aquifer. Applicant's geologist has calculated, using State Engineer's "Dawson DA02" computer ground water flow model, that the maximum stream depletion associated with pumping of Applicant's Dawson aquifer well(s) will be 11 percent if pumped for 100 years. The well(s) to be completed in the Denver aquifer will be more than one mile from any point of contact with any natural stream including its alluvium on which water rights may be injuriously affected by any stream depletion. Accordingly, pursuant to CRS §37-90-137(9)(c) it is sufficient for Applicant to provide for the replacement of a total amount of water equal to 4% of the amount of water withdrawn on an annual basis from the Denver aquifer. To meet the foregoing replacement obligations during pumping, Applicant will insure that at least 11% of the water pumped from its Dawson aquifer wells, and 4% of the water pumped from its Denver aquifer wells, is discharged into the shallow alluvial aquifer that underlies the Subject Property. Such discharge may be made by discharge from county approved non-evaporative septic systems located on the Subject Property. To replace depletions following pumping, Applicant will reserve adequate amounts of water from its entitlement from either or both of the nontributary Arapahoe and Laramie-Fox Hills aquifers to met any post-pumping augmentation requirements. At no time will the combined yield of Applicant's wells in the Dawson and Denver aquifers exceed 4.5 acre feet per year. Applicant reserves the right to replace any such depletions with any other judicially acceptable source of augmentation water upon application and notice as required by law. 10. Ownership and Encumbrances. Applicant is the record owner of the Subject Property. Applicant will subsequently file evidence that Applicant has, within ten days after the filing of this application, given notice of the application by registered or certified mail, return receipt requested, to every person who has lien or mortgage on, or deed to trust to, the Subject Property recorded in El Paso County, Colorado, pursuant to CRS §37-90-137(4)(b.5). 11. Remarks. This application is filed simultaneously in Water Division Nos. 1 and 2 because, while the Subject Property and wells are located in Water Division 2, some of the depletions therefrom may affect one or more streams in Water Division 1, including Plum Creek and Cherry Creek. After the time for filing statements of opposition herein has expired, Applicant will seek to consolidate the two cases in Water Division No. 2 pursuant C.R.C.P. Rule 42.1.

Exhibit A -- Legal Description: A parcel of land located in the NW1/4 of the NW1/4 of Section 11, Township 11 South, Range 67 West of the 6th P.M. described as follows: From the Northwest Corner of said Section 11 thence South 42B33'54" 44.48 feet to the point of beginning; thence North 89B30'46" 395.77 feet; thence South 05B54'00" 521.85 feet; thence North 89B59'02" 449.4 feet; thence North 00B00'00" 515.59 feet to the point of beginning. A/K/A Lot 1, Shattuck Subdivision, County of El Paso, State of Colorado.

2003CW51 LAEL S. DEMUTH. APPLICATION FOR FINDING OF REASONABLE DILIGENCE, IN CLEAR CREEK AND JEFFERSON COUNTIES. 1. Name, address and telephone number of Applicant: Lael S. DeMuth, 321 Rocky Cliff Trail, Franktown, Colorado 80116 (303) 733-8788 (James J. Petrock, Esq., Petrock & Fendel, P.C., 700 17th St., Suite 1800, Denver, CO 80202 (303) 534-0702). 1. Decree information: Decreed on January 17, 1997, in Case No. 95CW271, District Court, Water Division 2. Name of structures and description of conditional water rights: A. DeMuth Well No. 1, located NW1/4 of Section 9, T4S, R70W, 6th P.M., at a point approximately 40 feet from the North section line and 1790 feet from the West section line. B. DeMuth Well No. 2, located NW1/4 of Section 9, T4S, R70W, 6th P.M., at a point approximately 500 feet from the North section line and 1670 feet from the West section line. C. DeMuth Well No. 3, located NW1/4 of Section 9, T4S, R70W, 6th P.M., at a point approximately 1030 feet from the North section line and 2075 feet from the West section line. a. Rate of flow and annual limitation for each well: 15 gpm and 193,338 gallons annually (conditional). (The annual amount for each well was revised in Case No. 98CW226 to 166,184 gallons). b. Appropriation Date: August 29, 1995. c. Source: Groundwater tributary to Deadman gulch, tributary to Kenney's Run, tributary to Clear Creek. d. Uses: Irrigation, domestic and inhouse (conditional). D. Conditional Right of Exchange. a. Description of conditional exchange: One acre-foot of water contracted from Vidler Water Company is diverted from Leavenworth Creek into Clear Creek, to a point of confluence with Clear Creek and Beaver Brook. In exchange, water is diverted from Beaver Brook and stored in the Beaver Brook Reservoir and/or Upper Beaver Brook reservoir and/or Beaver Brook Pipeline and/or Golden Pipeline No. 1, for conveyance to storage in Lookout Mountain Reservoir for use in Applicant's plan for augmentation as also decreed in Case No. 95CW271. The general location of the structures are as follows: 1. Confluence of Beaver Brook and Clear Creek: NW1/4 of Section 3, T4S, R71W, 6th P.M. 2. Beaver Brook Reservoir: South fork of Beaver Brook in NE1/4 of Section 14, T4S, R72W, 6th P.M. 3. Upper Beaver Brook Reservoir: South fork of Beaver Brook in SE1/4 of Section 15 and N1/2 of Section 22, T4S, R72W, 6th P.M. 4. Beaver Brook Pipeline: South bank of North Beaver Brook in NE1/4 of Section 14, T4S, R72W, 6th P.M. 5. Golden Pipeline No. 1: Outlets of Beaver Brook and Upper Beaver Brook Reservoirs, which then extends approximately 10 miles to Lookout Mountain Reservoir in NE1/4 Section 5, T4S, R70W, 6th P.M. b. Amount of exchange: 1 c.f.s. and 0.862 acre-feet annually (conditional). c. Appropriation Date: August 29, 1995. d. Use: Augmentation of depletions associated with use of DeMuth wells as decreed in Case No. 95CW271. 3. This Application for Finding of Reasonable Diligence is filed pursuant to the Water Right Determination and Administration Act of 1969, §37-92-302, C.R.S. During this diligence period, in continuing the development of the conditional water rights, Applicant has been engaged in the legal defense and protection of said water rights and has been diligent in the continued use and development of the water rights involved, including expenditures for legal, consulting, and engineering work. As well, Applicant is the owner of another conditional water right as decreed in Case No. 98CW226, and all of Applicant's conditional water rights are part of an integrated and unified water supply system, and diligence activities associated with any individual conditional water right is diligence on the entire unified water system. During this diligence period, Applicant has continued to be diligent in the development of the property on which the water will be put to beneficial use, and the conditional water rights which are the subject of this application. The following summarizes said activity: A. The land on which the DeMuth wells will be constructed and used is approximately 21 acres which will be developed into a four lot residential development. In Case No. 98CW226, Applicant completed a case to add an additional well to the augmentation plan decreed in Case No. 95CW271, and the two decrees will be operated in conjunction. B. One well has been constructed on the 21 acres under Well Permit No.168746, which will be utilized in the future to serve one of the lots pursuant to the augmentation plan. The cost of completing the well and installing the pump was approximately \$6000.00. C. During this diligence period, Applicant has continued in planning, surveying, engineering, and other activities related to the development of the property and obtaining planning approval of the subdivision from Jefferson County, so that the associated conditional water rights can be put to beneficial use. D. Applicant has executed and provided payment for a long term lease of Vidler Tunnel Water Company water, and such water is available for use by Applicant in the augmentation plan. E. This application contains a summary of areas of activity undertaken in pursuance of the water rights and other activities may be presented. WHEREFORE, Applicant prays that this Court enter a decree finding that Applicant has exercised reasonable diligence in the development of the conditional water rights, continuing the conditional water rights in full force as decreed, and for such other and further relief as this Court deems just and proper.

2003CW52 KIRCH HOLDINGS, LLC. APPLICATION FOR CHANGE OF WATER RIGHT, IN DOUGLAS COUNTY. 1. Name, address and telephone number of Applicant: Kirch Holdings, LLC, 31 Algonquian St., Aurora, Colorado 80018 (303) 375-1001 (Carmen S. Hall, Petrock & Fendel, P.C., 700 17th Street, #1800, Denver, Colorado 80202 (303) 534-0702). 2. Decree information for which change is sought: Case No. 2000CW011 as decreed on June 21, 2000, District Court, Water Division 1. The property which is the subject of the decree is approximately 160 acres located in the NW1/4 of Section 16, T6S, R65W of the 6th P.M. Applicant is the owner of 80 acres of the land which is generally described as the W1/2NW1/4 of Section 16, T6S, R65W, as more particularly described and shown on Attachment A hereto (Subject Property). This application for change of water right only affects the Subject Property and no other part of the remaining land or water underlying that land is in anyway affected by this applicaton. 3. Proposed change: In the original decree, 23.75 acre-feet per year of Upper Dawson aquifer water is decreed to be withdrawn through 19 individual wells pursuant to an augmentation plan decreed therein. Each well is decreed to withdraw 1.25 acre-feet per year over a 100 year period. Applicant is the owner of 9 of these augmented wells which is equal to 11.25 acre-feet per year. As well, 23.75 acre-feet per year of nontributary Laramie-Fox Hills aquifer water is reserved for use in the augmentation plan. By this change, Applicant requests that the augmentation plan be revised so that Applicants 9 Upper Dawson aquifer wells and 11.25 acre-feet per year of augmented water is no longer part of the augmentation plan. Also, Applicant requests that the corresponding 11.25 acre-feet per year of nontributary Laramie-Fox Hills aquifer water be removed from the terms of the augmentation plan. Said water will still be decreed but Applicant will not be able to use said Upper Dawson aquifer water until such time that it is included in another court approved augmentation plan. No other parts of the original decree will be changed, including any terms and conditions concerning use of the remaining 10 augmented Upper Dawson aquifer wells and related water. WHEREFORE, Applicant prays that this Court enter a decree granting this application and for a finding that the change requested herein will not injuriously affect other owners or users of vested or conditional water rights, and for such other relief as it deems proper in the premises.

2003CW53 FRANK AND SANDY YBARRA AND JOHN AND DEBORAH YETMAN, APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NOT NONTRIBUTARY AND NONTRIBUTARY SOURCES AND APPROVAL OF AUGMENTATION PLAN, IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE AND LARAMIE-FOX HILLS AND THE NOT NONTRIBUTARY UPPER DAWSON AQUIFERS, IN ELBERT COUNTY. 1. Name, address, and telephone number of Applicants: Frank and Sandy Ybarra and John and Deborah Yetman, 2066 Helen Ct., Parker, Colorado 80134 (303) 646-2568 (Carmen S. Hall, Petrock & Fendel, P.C., 700 17th Street, #1800, Denver, Colorado 80202 (303) 534-0702). 2. Well Permits: Well permits will be applied for prior to construction of the wells. 3. Legal Description of Wells and Subject Property: The wells which will withdraw groundwater from the not nontributary Upper Dawson and nontributary Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers will be located at any location on approximately 3.2 acres of land, being Lot 15, Thunder Hill Subdivision, which is generally located in the NW1/4SW1/4 of Section 1, T7S, R65W of the 6th P.M., as shown on Attachment A hereto ("Subject Property"). 4. Source of Water Rights: The source of the groundwater to be withdrawn from the Upper Dawson aquifer is not nontributary as described in 37-90-103(10.7) and 37-90-137(9)(c), C.R.S. The groundwater to be withdrawn from the Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers is nontributary groundwater as described in 37-90-103(10.5), C.R.S. 5. Estimated Amounts and Rates of Withdrawal: The wells will withdraw the subject amounts of groundwater at rates of flow necessary to efficiently withdraw the entire decreed amounts. Applicants will withdraw the subject groundwater through wells to be located at any location on the Subject Property. Applicants will withdraw all of the water available to be decreed in the Upper Dawson aquifer through an existing well completed into the Upper Dawson aquifer as permitted in Well Permit No. 144027-A which will be repermited to operate pursuant to the augmentation plan requested below. Applicants waive any 600 foot spacing rule as described in Section 37-90-137(2), C.R.S. for wells located on the Subject Property. The estimated average annual amounts of withdrawal available from the subject aquifers as indicated below, are based upon the Denver Basin Rules, 2 C.C.R. 402-6. Applicants estimate the following annual amounts are representative of the Upper and Lower Dawson, Denver Arapahoe and Laramie-Fox Hills aquifers underlying the Subject Property:

Saturated	Annual
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<u>Aquifer</u>	<u>Thickness</u>	<u>Amount</u>
Upper Dawson	154 feet	0.9 acre-feet
Lower Dawson	41 feet	0.2 acre-feet
Denver	295 feet	1.5 acre-feet
Arapahoe	303 feet	1.5 acre-feet
Laramie-Fox Hills	189 feet	0.8 acre-feet

The average annual amounts available for withdrawal from the subject aquifers will depend on the hydrogeology and the legal entitlement of the Applicants' and represents a claim to all Upper Dawson, Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers' groundwater underlying the Subject Property. 6. Well Fields: Applicants request that this Court determine that Applicants have the right to withdraw all of the legally available groundwater lying below the Subject Property, through the wells requested herein, which may be located anywhere on the Subject Property, and any additional wells which may be completed in the future as Applicants' well fields. As additional wells are constructed, applications will be filed in accordance with 37-90-137(10), C.R.S. 7. Proposed Use: Applicants will use all water withdrawn from the subject aquifers in a water system to be used, reused, successively used, leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, livestock watering, recreational, fish and wildlife, and fire protection uses. Said water will be produced for immediate application to said uses, both on and off the property, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes. 8. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to 37-92-302(2), and 37-90-137(6), C.R.S. 9. Description of plan for augmentation: A. Groundwater to be augmented: Approximately 0.75 acre-feet per year over a 100 year pumping period of Upper Dawson aquifer groundwater as requested herein as described in paragraph 5 above. B. Water rights to be used for augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary ground water. C. Statement of plan for augmentation: Applicants will use the Upper Dawson water to supply the subject lot through the existing well at a rate of flow of 15 gpm. Applicants estimate that the well will be limited to 0.75 acre-feet per year for inhouse use (0.3 acre-feet), irrigation/limited to 7000 square-feet of lawn, garden, and trees (0.4 acre-feet), and stockwatering of 4 horses (0.05 acre-feet). Applicants reserve the right to amend these values based on final planning for the lot without amending this application or republishing the same. Sewage treatment for inhouse use will be provided by a non-evaporative septic system. Consumptive use associated with in-house use will be approximately 10% of water used and it is estimated that approximately 10% of water used for irrigation will be returned to the stream system. Stockwatering uses will be considered to be 100% consumptively used. Before any other type of sewage treatment is proposed in the future, including incorporation of the lots into a central sewage collection and treatment system, Applicants, or successors and assigns, will amend this decree prior to such change and thereby provide notice of the proposed change to other water users by publication procedures required by then existing law. During pumping Applicants will replace actual depletions to the affected stream system pursuant to 37-90-137(9)(c), C.R.S. Applicants estimate that depletions may occur to the Coal Creek stream system. Return flows from use of the subject water rights via those stream systems, will accrue to the South Platte river stream system, and those return flows are sufficient to replace actual depletions while the subject groundwater is being pumped. After the entire amount decreed herein has been withdrawn or after pumping ceases, Applicants will demonstrate that any depletions which may occur to the stream systems are non-injurious and need not be replaced. However, if the Court finds that such depletions need to be replaced, Applicants will reserve an adequate amount of nontributary groundwater underlying the Subject Property to meet augmentation requirements. 10. Remarks: A. Applicants claim the right to withdraw more than the average annual amounts estimated in paragraph 5B above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. B. Although Applicants have estimated the amounts of water available for withdrawal from the subject aquifers based on estimates of relative values for specific yield and saturated thickness, Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. C. Applicants will withdraw up to 0.75 acre-feet per year for 100 years of the not nontributary Upper Dawson aquifer groundwater requested herein through the existing well under the plan of augmentation requested herein pursuant to 37-90-137(9)(c), C.R.S. WHEREFORE, Applicants pray that this Court enter a Decree: 11. Granting the application herein and awarding the water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained; 12. Specifically

determining that: A. Applicants have complied with 37-90-137(4), C.R.S., and water is legally available for withdrawal by the wells proposed herein, but that jurisdiction will be retained with respect to the average annual amounts of withdrawal specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near Applicants' property, pursuant to 37-92-305(11), C.R.S. and Denver Basin Rule 9.A.; B. The groundwater in the Upper Dawson aquifer is not nontributary and groundwater in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers is nontributary groundwater; C. Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals of groundwater and the plan for augmentation proposed herein; FURTHER, Applicants pray that this Court grant such other relief as seems proper in the premises.

2003CW54 DAVID AND SUSAN HIX. APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NOT NONTRIBUTARY AND NONTRIBUTARY SOURCES AND APPROVAL OF AUGMENTATION PLAN, IN THE NONTRIBUTARY LOWER DAWSON, DENVER ARAPAHOE AND LARAMIE-FOX HILLS AND THE NOT NONTRIBUTARY UPPER DAWSON AQUIFERS, IN ELBERT COUNTY. 1. Name, address, and telephone number of Applicants: David and Susan Hix, 34095 County Road 3, Elizabeth, Colorado 80107 (303) 646-3328 (Carmen S. Hall, Petrock & Fendel, P.C., 700 17th Street, #1800, Denver, Colorado 80202 (303) 534-0702). 2. Well Permits: Well permits will be applied for prior to construction of the wells. 3. Legal Description of Wells and Subject Property: The wells which will withdraw groundwater from the not nontributary Upper Dawson and nontributary Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers will be located at any location on approximately 40 acres of land, being the SE1/4SW1/4 of Section 10, T8S, R65W of the 6th P.M., as shown on Attachment A hereto ("Subject Property"). 4. Source of Water Rights: The source of the groundwater to be withdrawn from the Upper Dawson aquifer is not nontributary as described in 37-90-103(10.7) and 37-90-137(9)(c), C.R.S. The groundwater to be withdrawn from the Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers is nontributary groundwater as described in 37-90-103(10.5), C.R.S. 5. Estimated Amounts and Rates of Withdrawal: The wells will withdraw the subject amounts of groundwater at rates of flow necessary to efficiently withdraw the entire decreed amounts. Applicants will withdraw the subject groundwater through wells to be located at any location on the Subject Property, including an existing well completed into the Upper Dawson aquifer as permitted in Well Permit No. 1258 which will be re-permitted to operate pursuant to the augmentation plan requested below. Applicants waive any 600 foot spacing rule as described in Section 37-90-137(2), C.R.S. for wells located on the Subject Property. The estimated average annual amounts of withdrawal available from the subject aquifers as indicated below, are based upon the Denver Basin Rules, 2 C.C.R. 402-6. Applicants estimate the following annual amounts are representative of the Upper and Lower Dawson, Denver Arapahoe and Laramie-Fox Hills aquifers underlying the Subject Property:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Annual Amount</u>
Upper Dawson	173 feet	14 acre-feet
Lower Dawson	106 feet	8 acre-feet
Denver	185 feet	12 acre-feet
Arapahoe	249 feet	16 acre-feet
Laramie-Fox Hills	218 feet	13 acre-feet

The average annual amounts available for withdrawal from the subject aquifers will depend on the hydrogeology and the legal entitlement of the Applicants' and represents a claim to all Upper Dawson, Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers' groundwater underlying the Subject Property. 6. Well Fields: Applicants request that this Court determine that Applicants have the right to withdraw all of the legally available groundwater lying below the Subject Property, through the wells requested herein, which may be located anywhere on the Subject Property, and any additional wells which may be completed in the future as Applicants' well fields. As additional wells are constructed, applications will be filed in accordance with 37-90-137(10), C.R.S. 7. Proposed Use: Applicants will use all water withdrawn from the subject aquifers in a water system to be used, reused, successively used, leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, livestock watering, recreational, fish and wildlife, and fire protection uses. Said water will be produced for immediate application to said uses, both on and off the property, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the

use of water from other sources, and for augmentation purposes. 8. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to 37-92-302(2), and 37-90-137(6), C.R.S. 9. Description of plan for augmentation: A. Groundwater to be augmented: 4 acre-feet per year over a pumping period of 300 years of Upper Dawson aquifer groundwater as requested herein as described in paragraph 5 above. B. Water rights to be used for augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary ground water. C. Statement of plan for augmentation: Applicants will use the Upper Dawson water to supply four individual wells on four residential lots to be located on the Subject Property at rates of flow of 15 gpm. Each well will require approximately 1 acre-foot per year for 300 years for inhouse use (0.5 acre-feet), irrigation/limited to 7000 square-feet of lawn, garden, and trees (0.4 acre-feet), and stockwatering of 8 large domestic animals (0.1 acre-feet). Sewage treatment for inhouse use will be provided by a non-evaporative septic system. Consumptive use associated with in-house use will be approximately 10% of water used and it is estimated that approximately 10% of water used for irrigation will be returned to the stream system. Stockwatering uses will be considered to be 100% consumptively used. Before any other type of sewage treatment is proposed in the future, including incorporation of the lots into a central sewage collection and treatment system, Applicants, or successors and assigns, will amend this decree prior to such change and thereby provide notice of the proposed change to other water users by publication procedures required by then existing law. During pumping Applicants will replace actual depletions to the affected stream system pursuant to 37-90-137(9)(c), C.R.S. Applicants estimate that depletions may occur to the Running and Cherry Creek stream systems. Return flows from use of the subject water rights via those stream systems, will accrue to the South Platte river stream system, and those return flows are sufficient to replace actual depletions while the subject groundwater is being pumped. After the entire amount decreed herein has been withdrawn or after pumping ceases, Applicants will demonstrate that any depletions which may occur to the stream systems are non-injurious and need not be replaced. However, if the Court finds that such depletions need to be replaced, Applicants will reserve an adequate amount of nontributary groundwater underlying the Subject Property to meet augmentation requirements. 10. Remarks: A. Applicants claim the right to withdraw more than the average annual amounts estimated in paragraph 5B above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7.B. Although Applicants have estimated the amounts of water available for withdrawal from the subject aquifers based on estimates of relative values for specific yield and saturated thickness, Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. C. Applicants will withdraw up to 4 acre-feet per year for 300 years the not nontributary Upper Dawson aquifer groundwater requested herein under the plan of augmentation requested herein pursuant to 37-90-137(9)(c), C.R.S. WHEREFORE, Applicants pray that this Court enter a Decree: 11. Granting the application herein and awarding the water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained; 12. Specifically determining that: A. Applicants have complied with 37-90-137(4), C.R.S., and water is legally available for withdrawal by the wells proposed herein, but that jurisdiction will be retained with respect to the average annual amounts of withdrawal specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near Applicants' property, pursuant to 37-92-305(11), C.R.S. and Denver Basin Rule 9.A.; B. The groundwater in the Upper Dawson aquifer is not nontributary and groundwater in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers is nontributary groundwater; C. Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals of groundwater and the plan for augmentation proposed herein; D. No findings of diligence are required to maintain these water rights. FURTHER, Applicants pray that this Court grant such other relief as seems proper in the premises.

2003CW055 DAVID QUATROCHI, WILLIAM R. HART, ROGER, WILLARD, BARBARA, EARL, CHARLES, EMILY AND JESS SOLOMON. APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY SOURCES, IN THE NONTRIBUTARY DENVER, ARAPAHOE AND LARAMIE-FOX HILLS AQUIFERS, IN ELBERT COUNTY.

1. Name and Address of Applicants: David Quatrochi, William R. Hart, Roger, Willard, Barbara, Earl, Charles, Emily and Jess Solomon, as their interests may appear, c/o 3855 Mountain View Meadow Circle, Parker, Colorado 80138 (Carmen S. Hall, Petrock & Fendel, P.C., 700 17th Street, #1800, Denver, Colorado 80202 (303)534-0702). 2. Well Permits: Well permits will be applied for prior to construction of the wells. 3. Legal Description of Wells and Subject Property: The property which is the subject of this

application is approximately 300 acres of land located in the S1/2 of Section 19, T6S, R64W of the 6th P.M., as shown on Attachment A hereto. The wells which will withdraw the subject groundwater will be located at any location on the Subject Property subject to Section 37-90-137(4), C.R.S. 4. Source of Water Rights: The source of the groundwater to be withdrawn from the subject aquifers underlying the Subject Property is nontributary groundwater as described in 37-90-103(10.5), C.R.S. 5. Estimated Amounts: The estimated average annual amounts of withdrawal available from the subject aquifers as indicated below, are based upon the Denver Basin Rules, 2 C.C.R. 402-6. For purposes of this application, Applicants estimate that the following annual amounts are representative of the Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Subject Property:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Estimated Annual Amount</u>
Denver	308 feet	151 acre-feet
Arapahoe	272 feet	133 acre-feet
Laramie-Fox Hills	174 feet	75 acre-feet

The average annual amounts available for withdrawal from the subject aquifers will depend on the hydrogeology and the legal entitlement of the Applicants and represents a claim to all nontributary groundwater underlying the Subject Property. 6. Well Fields: Applicants request that this Court determine that Applicants have the right to withdraw all of the legally available groundwater lying below the Subject Property, through the wells requested herein and any additional wells which may be completed in the future as Applicants' well fields. As additional wells are constructed, applications will be filed in accordance with 37-90-137(10), C.R.S. 7. Proposed Use: The water will be used, reused, successively used, leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, livestock watering, fire protection, recreational, and fish and wildlife. Said water will be produced for immediate application to said uses, both on and off the Subject Property, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes. 8. Jurisdiction: The Water Court has jurisdiction over the subject matter of this application pursuant to 37-92-302(2), and 37-90-137(6), C.R.S. 9. Remarks: A. Applicants claim the right to withdraw more than the average annual amounts estimated in paragraph 5 above pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. B. Although Applicants have estimated the amounts of water available for withdrawal from the subject aquifers based on estimates of relative values for specific yield and saturated thicknesses, Applicants request the right to revise the estimates upward or downward, based on better or revised data, without the necessity of amending this application or republishing the same. WHEREFORE, Applicants pray that this Court enter a Decree: 10. Granting the application herein and awarding the water rights claimed herein as final water rights, except as to those issues for which jurisdiction of the Court will be specifically retained; 11. Specifically determining that: A. Applicants have complied with 37-90-137(4), C.R.S., and water is legally available for withdrawal by the wells proposed herein, but that jurisdiction will be retained with respect to the average annual amounts of withdrawal specified herein to provide for the adjustment of such amounts to conform to actual local aquifer characteristics from adequate information obtained from wells or test holes drilled on or near the Subject Property, pursuant to 37-92-305(11), C.R.S. and Denver Basin Rule 9.A.; B. The groundwater in the Denver, Arapahoe and Laramie-Fox Hills aquifers is nontributary groundwater. C. Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals of groundwater proposed herein and no findings of diligence are required to maintain these water rights. FURTHER, Applicants pray that this Court grant such other relief as seems proper in the premises.

2003CW056 CASTLE VISTA, LLC. APPLICATION FOR JUNIOR WATER RIGHT AND APPROVAL OF WATER STORAGE RIGHT, IN DOUGLAS COUNTY

1. Name, address and phone number of Applicant:

Castle Vista, LLC
 234 Lead King Drive
 Castle Rock, CO 80104
 (303) 660-0333

Please transmit all correspondence to:

Carrie L. Ciliberto, Esq.
Ciliberto & Associates, LLC
1660 Lincoln Street, Suite 1700
Denver, CO 80264
(303) 861-4300

2. Name and location of diversion: East Plum Creek Diversion located in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, Township 7 South, Range 68 West of the 6th P.M., Douglas County, Colorado.
3. Source: East Plum Creek.
4. A. Date of appropriation: January 31, 2003.
B. How appropriation was initiated: Intent to appropriate water for beneficial use, planning development on which water will be used, and completion of consultant work by Jehn Water Consultants, Inc.
5. Rate of flow: 1 cfs.
6. Use: Domestic, irrigation, aesthetic, piscatorial, stock watering, agricultural, fire protection, recreational, commercial, mechanical, industrial, manufacturing, mining, wildlife, use and reuse to extinction, municipal, and dust suppression on and off property.

APPROVAL OF WATER STORAGE RIGHT

7. Name and location of structure: Castle Vista Pond No. 1, located in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, Township 7 South, Range 68 West of the 6th P.M., Douglas County, Colorado.
8. Source: East Plum Creek.
9. Date of appropriation: April 3, 1998.
10. Surface area of high water line:
 - A. Maximum height of dam in feet: 9 feet.
 - B. Length of dam in feet: 160 feet.
11. Total capacity of structure in acre-feet: Approximately 20 acre-feet.

12. Name and address of owner upon which the structures will be located, upon which the water will be stored, or upon which the water will be placed to beneficial use: Approximately 72 acres of land, located in the SW $\frac{1}{4}$ of Section 13, and the NW $\frac{1}{4}$ of Section 24, Township 7 South, Range 68 West of the 6th P.M.

WHEREFORE, Applicant prays that this honorable Court will enter a Decree granting this Application, and for a finding that the junior water right and storage right requested herein, will prevent injury to owners and users of senior vested and conditional water rights, and for such other relief as this Court deems just and proper in the premises.

2003CW057 GLACIER VIEW WATER SYSTEM. APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION, IN LARIMER COUNTY.

1. Name, address and telephone number of Applicant:

Glacier View Water System
1431 High Vista Lane
Estes Park, CO 80517
(970) 586-1622

Please send all correspondence to:

Carrie L. Ciliberto, Esq.
Ciliberto & Associates, LLC
1660 Lincoln Street, Suite 1700
Denver, Colorado 80264

2. Names and locations of structures to be augmented: Well Permit No. 19735, located in the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 35, Township 5 North, Range 73 West, 6th P.M., in Larimer County. An additional supply well, Glacier View Well No. 2 ("GV2") may be constructed, and will be located in the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 35, Township 5 North, Range 73 West, 6th P.M., in Larimer County.
3. Previous decrees for water rights to be used for augmentation: Applicant is pursuing a long-term lease with the Town of Estes Park regarding its Windy Gap water rights.
4. Historic use: Well Permit No. 19735 has been historically used to provide domestic water to eight (8) homes in the Glacier View Subdivision since 1964.
- a. Date of appropriation: May 1964.
- b. Uses: Domestic and irrigation.
- c. Pumping rate: 9 gpm, absolute.
5. New well: Glacier View Well No. 2.
- a. Date of appropriation: October 20, 2002.
- b. Uses: Domestic, irrigation, and fire protection.
- c. Amount of diversion: 50 gpm, conditional.
6. Statement of plan for augmentation: The Glacier View Subdivision is located approximately 1 $\frac{1}{2}$ miles southwest of Estes Park and approximately $\frac{1}{2}$ mile south of the Big Thompson River as more particularly described and shown on Figure 1 attached hereto. The Subdivision consists of 12 lots; Lots 1

through 4 are served by the Town of Estes Park municipal water lines and Lots 5 through 12 are served by the subject well, which is located in the southeast portion of Lot 11.

Applicant will use GV2 described above to provide domestic water service for eight (8) homes in the Glacier View Subdivision, specifically Lots 5 through 12, and for ornamental tree irrigation for three of those Lots and fire protection. It is estimated that the above-described use will result in approximately 0.25 acre-foot of depletions per year. Applicant will retain use of Well Permit No. 19735 described above for emergency water supply purposes.

<u>Use</u>	<u>No. of Lots</u>	<u>Demand/Lot</u>	<u>Total Demand</u>	<u>Total CU</u>
Single Family	8	0.31 af/yr	2.51 af/yr	0.13 af/yr
Ornamental Trees*	3	0.05 af/yr	0.15 af/yr	0.12 af/yr

*No lawn irrigation. Three of the eight Lots will irrigate ornamental trees.

7. Consumptive Use/Stream Depletions:

The Upper Thompson Sanitation District provides wastewater treatment for 8 lots within the Glacier View development (Lots 5 through 12). As such, 95% of all in-house uses will be returned to the stream system through the Sanitation District resulting in 5% consumptive use for the in-house portion of the water requirements. The Upper Thompson Sanitation District discharges return flows into the Big Thompson River approximately 1/3 mile downstream from Olympus Dam, below Lake Estes. The irrigation is considered to be 85% consumptive. Irrigation demands have been recorded by Glacier View Water Systems. Consumptive use of 85% for irrigation results in a depletion of 0.12 acre-feet per year. Total consumptive use for in-house and irrigation uses is 0.25 acre-feet per year.

Applicant is pursuing a long-term lease with the Town of Estes Park regarding use of the Town's Windy Gap water for augmentation of the approximately 0.25 acre-foot per year of depletions.

8. Name and address of owners of land where structures are located: Applicant owns the wells which are/will be located in the Glacier View Subdivision as described above.

WHEREFORE, Applicant prays that this honorable Court will enter a Decree granting this Application, and for finding that the use of the wells described herein, pursuant to the plan of augmentation described herein, will prevent injury to owners and user of senior vested and conditional water rights, and for such other relief as this Court deems just and proper in the premises.

2003CW058 RBJ ENTERPRISES, LLC, Attn; Rudy Byler, 1598 North Gate Road, Colorado Springs, CO 80908 (Henry D. Worley, MacDougall, Woldridge & Worley, P.C., Attorneys for Applicant, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905) Application for Underground Denver Basin Water Rights and for Approval of Plan for Augmentation, **El Paso County**

I. APPLICATION FOR DENVER BASIN WATER RIGHTS

1. Name, address, telephone number of applicant: RBJ Enterprises, LLC, Attn: Mr. Rudy Byler, 1598 North Gate Road, Colorado Springs, CO 80908. Phone number: 719-494-8073.

2. Names of wells and permit, registration, or denial numbers: Well Permit 227142.

3. Legal description of wells: Up to fourteen wells in the Dawson aquifer, and so many wells in each of the Denver, Arapahoe and Laramie-Fox Hills aquifers as are necessary to obtain Applicant's full adjudicated amount of water. The wells may be located anywhere on a 72.4 acre parcel of land located in the Cherry Creek basin in the NW1/4 Section 29, T. 11 S., R. 65 W., 6th P.M. (The "Property"), the legal description of which is attached as Schedule A. The Property is currently owned by Daniel S. McBride and Pamela C. McBride. This application will be supplemented with Mr. and Mrs. McBride's written consent for Applicant to prosecute this water rights action, or with a deed conveying the Property to Applicant. Applicant waives the 600 foot spacing requirement for all wells constructed on the Property.

4. Source: Not nontributary Dawson aquifer; nontributary Denver aquifer; nontributary Arapahoe aquifer; nontributary Laramie-Fox Hills aquifer.

5.A. Date of appropriation: Not applicable.

5.B. How appropriation was initiated: Not applicable.

5.C. Date water applied to beneficial use: Not applicable.

6. Amount claimed: Dawson aquifer: 15 g.p.m. per well, 73 acre feet annually, absolute; Denver aquifer: 250 g.p.m. per well, 58 acre feet annually, absolute; Arapahoe aquifer: 250 g.p.m. per well, 30 acre feet annually, absolute; Laramie-Fox Hills aquifer: 150 g.p.m. per well, 21 acre feet annually, absolute. The above amounts will be changed in any decree entered herein to conform to the State Engineer's Determination of Facts. The water court will be asked to retain jurisdiction over such decree to enter a final determination of the amount of water available for appropriation from each aquifer based on geophysical logs for such wells.

7. Proposed use: All beneficial uses including augmentation and exchange.

8. Name and address of owner of land on which wells are located and are to be located: Daniel S. McBride and Pamela C. McBride, 495 Lariat Drive, Monument, CO 80132.

9. Remarks: Prior to applying for a well permit for any of the wells sought to be decreed herein, Applicant shall comply with the provisions of C.R.S. 37-90-137(4)(b.5)(l). This decree and all wells decreed herein will comply with all relevant provisions of the Denver Basin Rules and Statewide Nontributary Ground Water Rules.

II. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION

10. Name of structures to be augmented: Up to fourteen Dawson aquifer wells. No other water rights are or will be diverted from these wells.

12. Previous decrees for water rights to be used for augmentation: None.

13. Historic use: Not applicable.

14. Statement of plan for augmentation: This application provides for the augmentation of stream depletions caused by pumping Dawson aquifer wells, including the well currently permitted as exempt well permit 227142, on each of as many as fourteen residential lots. Well permit 227142 will be re-permitted consistent with the

terms of the decree after the decree is final. Water use criteria for each lot are as follows: indoor uses, 0.27 acre feet annually per single family dwelling which is 10% consumptive; horses (or horse equivalents), 0.011 acre feet annually (10 gallons per day) per head, 100% consumptive; landscape irrigation, 0.046 acre feet annually per 1,000 square feet (2.0 acre feet per acre) per year, 85% consumptive. Consumption attributable to indoor uses is predicated on the use of nonevaporative individual sewage disposal systems ("ISDS"), which shall be required for each lot. Change to any other type of waste water disposal shall require an amendment to the plan for augmentation.

Replacements during pumping. Based upon computer modeling, depletions to the South Platte and Arkansas basins combined are expected to gradually increase to a maximum of 21.01% of pumping annually in the 300th year. Each lot shall be limited to pumping of no more than 1.0 acre foot annually, which would result in annual stream depletions, in the 300th year, of 0.21 acre feet per lot, or 2.94 acre feet annually. Return flows from a single ISDS will equal 0.24 acre feet annually. Thus, even if all water uses on the Property, other than in-door household uses, are fully consumptive, return flows from ISDS alone are adequate to replace stream depletions during pumping. The only restrictions necessary to ensure that replacements equal or exceed stream depletions during pumping are an annual pumping limitation of 1.0 acre foot per well (14.0 acre feet total), and use of ISDS or some other form of wastewater treatment which is no more consumptive.

Replacements after pumping. Stream depletions will reach a maximum of 21.01% of average annual pumping when pumping ceases, theoretically in the 300th year, and will decline thereafter. Applicant shall replace injurious post-pumping depletions with the nontributary Denver aquifer water decreed herein, a portion of which, equal to post-pumping depletions, will be reserved for that purpose. However, Applicant seeks to reserve the right to replace such depletions with any judicially acceptable source of augmentation water upon application and notice as required by law. Applicant further proposes to aggregate all depletions and replace them to the South Platte River drainage in the unnamed tributary of Cherry Creek which flows through the Property. Any final decree entered in this case shall provide that no more than 1.0 acre feet per year may be diverted from each Dawson aquifer well (14.0 acre feet total) absent an amendment to this plan for augmentation. Because depletions will occur in both Water Division 1 and 2, this application is will be published in the resume for both water divisions. Applicant will thereafter seek to consolidate the two cases in Water Division 1.

2003CW059 BENNETT A. AUSLAENDER. Mark J. Wagner, Avi S. Rocklin, HILL & ROBBINS, P.C., 1441 18th Street, Suite 100, Denver, CO 80202. Application for Ground Water Right, **IN JEFFERSON COUNTY.**

1. Name, address, and telephone number of Applicant:

Bennett A. Auslaender
10524 South U.S. Highway 285
Conifer, CO 80433
Telephone: (303) 816-1100

2. Names of well(s) and permit number(s)

Well No. 243772

Well No. 243773

3. Legal description of well(s):

A. Well No. 243772: Located on a tract of 4.0 acres described as Tract 1 in Recorded Exemption #E68-8-85 Jefferson County in the SW/4 SE/4 of Section 14, Township 6 South, Range 71 West of the 6th P.M. at a point approximately 1290 feet from the South Section Line and 2400 feet from the East Section Line.

B. Well No. 243773: Located on a tract of 4.01 acres described as Tract 2 in Recorded Exemption #E68-8-85 Jefferson County in the SW/4 SE/4 of Section 14, Township 6 South, Range 71 West of the 6th P.M. at a point approximately 1290 feet from the South Section Line and 2100 feet from the East Section Line.

4. A. **Source:** Ground water.

B. **Depth:** Approximately 700 feet.

5. A. **Date of appropriation:** October 1, 1985.

B. **How appropriation was initiated:** Formation of intent.

C. **Date water applied to beneficial use:** Not applicable.

6. **Amount claimed:** 15 gpm for each well

7. **If well is non-tributary:** Not Applicable

8. **Proposed use:** In-house use only

9. **Name(s) and address(es) of owner(s) of land on which well is located:** Applicant is the owner of the parcels on which each well is located. The Applicant's address is set forth above.

10. **Remarks:** Each well will be the only well on a residential site of 4.0 acres and 4.01 acres, respectively. The Applicant requests a finding that the above described water right is

2003CW060 BIG ELK MEADOWS ASSOCIATION. John M. Dingess, T. Daniel Platt, Address:4600 South Ulster Street, Suite 1111, Denver, Colorado 80237. Phone Number:303-779-0200 FAX Number:303-779-3662. APPLICATION FOR FINDING OF DILIGENCE AND TO MAKE ABSOLUTE **IN BOULDER AND LARIMER COUNTIES.**

1. NAME, ADDRESS, AND TELEPHONE NUMBER OF APPLICANT:

Big Elk Meadows Association
P.O. Box 440
Lyons, Colorado 80540
303.823.6369

2. INTRODUCTION:

The Decree in Case No. 95CW238, District Court, Water Division 1, granted a conditional

appropriative right of exchange of direct flow and storage rights utilizing water represented by the Applicant's 12 shares of Boulder and Larimer County Irrigation and Manufacturing Ditch Company water rights. The appropriative rights of exchange operate from a downstream terminus at the headgate of the Boulder and Larimer County Ditch upstream on the Little Thompson River to the confluence with the West Fork of the Little Thompson River and to the uppermost point of stream depletion on the West Fork of the Little Thompson River caused by each well, pipeline and lake within the Applicant's integrated water supply system, with an appropriation date of September 5, 1995.

By this Application, the Applicant seeks a decree granting absolute appropriative rights of exchange for 0.11 cfs of the direct flow and 1.80 cfs or 35.71 acre feet of the storage rights decreed conditional in Case No. 95CW238, and a finding of diligence in the development of the remaining direct flow and storage rights of the appropriative rights of exchange not made absolute.

3. EXCHANGE STRUCTURES:

- 3.1. Headgate of the Boulder and Larimer County Ditch, which is described as from a point on the south bank of the little Thompson River at a point whence the Northwest corner of Section 1, Township 3 North, Range 70 West, 6th P.M., bears North 56°East, 360 feet; North 72°East, 900 feet; North 73°East, 1100 feet.
- 3.2. The following structures were decreed for storage purposes in the following Water Division No. 1 cases:
 - 3.2.1. Rainbow Lake – decreed in Case No. W-1771, June 16, 1977. Rainbow Lake is located at a point whence the South 1/4 corner of Section 35, T. 4 N., R. 72 W of the 6th P.M. bears S 67°25' E a distance of 2646 feet, thence S 52°22' W a distance of 176 feet, thence S 46°03' W a distance of 262 feet, thence S 41°27' W a distance of 135 feet, thence S 19°07' W a distance of 144 feet, thence S 7°13' W a distance of 84 feet, thence S 15°17' W a distance of 233 feet, thence S 14°26' W a distance of 222 feet, thence S 8°53' W a distance of 57 feet, thence S 84°32'E a distance of 146 feet, thence N 27°18' E a distance of 137 feet, thence N 34°43' E a distance of 152 feet, thence N 17°33' E a distance of 177 feet, thence N 21°27' W a distance of 128 feet, thence N 6°14' E a distance of 132 feet, thence N 67°17' E a distance of 164 feet, thence N 50°28' E a distance of 400 feet to the point of beginning.
 - 3.2.2. Mirror Lake – decreed in Case No. W-1772, June 16, 1977. Mirror Lake is located at a point whence the South 1/4 corner of Sec. 35, T. 4 N., R. 72 W of the 6th P.M. bears S 28°27' E a distance of 1891 feet; thence N 88°52' W a distance of 330 feet, thence S 63°43' W a distance of 83 feet, thence S 53°59' W a distance of 106 feet, thence S 64°04' W a distance of 65 feet, thence S 72°04' W a distance of 118 feet, thence S 84°39' W a distance of 126 feet, thence N 70°04' W a distance of 104 feet, thence S 52°45' W a distance of 168 feet, thence S 77°31' E a distance of 258 feet, thence N 80°59' E a distance of 139 feet, thence N 73°04' E a distance of 150 feet, thence N 86°14' E a distance of 125 feet, thence N 77°32' E a distance of 85 feet, thence S 84°16' E a distance of 244 feet to the point of beginning.
 - 3.2.3. Sunset Lake – decreed in Case No. W-1766, June 16, 1977. Sunset Lake is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W. of the 6th P.M. bears N 58°01' E a distance of 697, feet, thence N 53°23'30" W a distance of 172 feet, thence S 59°32' W a distance of 26 feet, thence N 77°07' W a distance of 20 feet, thence N 10°02' W a distance of 56 feet, thence N 60°26' W a distance of 27 feet, thence S 42°55'30" W a distance of 114 feet, thence S 66°26'30" W a distance of 105 feet, thence S 28°24'30" W a distance of 61 feet, thence S 76°12'30" W a distance of 101 feet, thence S 23°55'30" W a distance of 135 feet, thence S 20°19'30" E a distance of 77 feet, thence S 65°08' E a distance of 47 feet, thence S 36°59'30" W a distance of 48 feet, thence S 16°28' W a distance of 55 feet, thence S 78°51' E a distance of 26 feet, thence N 20°50' E a distance of 125 feet, thence N 05°07' W a distance

of 77 feet, thence S 39°31' E a distance of 66 feet, thence N 50°50' E a distance of 116 feet, thence 80°23' E a distance of 116 feet, thence N 70°18' E a distance of 46 feet, thence N 43°21' E a distance of 88 feet, thence S 55°47' E a distance of 82 feet, thence N 48°57' E a distance of 64 feet, thence N 02°00' W a distance of 56 feet to the point of beginning.

- 3.2.4. Meadow Lake – decreed in Case No. W-1768, June 16, 1977. Meadow Lake is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W. of the 6th P.M. bears S 69°02' W a distance of 3140 feet, thence N 11°01' E a distance of 211 feet, thence S 82°31' W a distance of 109 feet, thence N 34°50' W a distance of 79 feet, thence N 67°46' W a distance of 717 feet, thence S 16°42' W a distance of 88 feet, thence S 88°18' W a distance of 170 feet, thence N 64°45' W a distance of 196 feet, thence S 31°55' W a distance of 40 feet, thence S 12°17' E 60 feet, thence S 52°25' E a distance of 90 feet, thence S 35°48' E a distance of 50 feet, thence S 56°47' E a distance of 150 feet, thence S 72°22' E a distance of 97 feet, thence S 39°28' E a distance of 90 feet, thence S 70°32' E a distance of 54 feet, thence S 42°35' E a distance of 47 feet, thence S 69°33' E a distance of 224 feet, thence S 81°52' E a distance of 68 feet, thence S 58°49' E a distance of 82 feet, thence N 78°50' E a distance of 110 feet, thence S 62°58' E a distance of 69 feet, thence S 32°55' E a distance of 41 feet, thence S 76°25' E a distance of 51 feet, thence N 51°50' E a distance of 139 feet to the point of beginning.
- 3.2.5. Willow Lake – decreed in Case No. W-1770, June 16, 1977. Willow Lake is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W. of the 6th P.M. bears S 24°54' W a distance of 1605 feet, thence N 18°24' W a distance of 265 feet, thence S 65°16' W a distance of 155 feet, thence S 39°59' W a distance of 319 feet, thence S 32°59' W a distance of 416 feet, thence S 46° 17' E a distance of 167 feet, thence N 48°11' E a distance of 104 feet, thence N 71°37' E a distance of 141 feet, thence N 44°42' E a distance of 130 feet, thence N 29°11' E a distance of 146 feet, thence N 16°01' E a distance of 81 feet, thence N 45°09' E a distance of 102 feet, thence N 60°24' E a distance of 77 feet to the point of beginning.
- 3.2.6. Canyon Lake – decreed CONDITIONAL in Case No. W-1769, June 16, 1977. Canyon Lake is decreed to be located as follows: That portion of Section 35, Township 4 North, Range 72 West and that portion of Section 36, Township 4 North, Range 72 West of the 6th P.M., Larimer County, Colorado, more particularly described as follows: Considering the East line of the SE 1/4 of Section 35, Township 4 North, Range 72 West of the 6th P.M. as bearing North 03°05'35" East and with all bearings contained herein relative thereto: Beginning at the SE corner of said Section 35; thence North 04°35'09" East 2425.40 feet to the TRUE POINT OF BEGINNING, said point being the approximate centerpoint of the proposed dam; thence along the approximate high-water line of the proposed reservoir the following courses and distances: North 56°08'18" East 74.77 feet; North 21°47'14" West 64.74 feet; North 83°28'32" West 86.91 feet to a point which bears South 05°14'40" East 61.68 feet from the East Quarter corner of said Section 35; thence continuing along said approximate high water line North 49°51'58" West 144.38 feet; North 06°38'51" East 96.93 feet; North 13°26'04" West 175.35 feet; North 31°37'02" West 133.91 feet; North 08°53'08" West 54.40 feet; South 15°58'06" West 48.82 feet; South 00°24'02" East 78.12 feet; South 15°44'09" West 65.61 feet; North 81°59'24" West 30.59 feet; North 29°52'36" West 115.18 feet; North 57°11'32" West 157.69 feet; North 80°13'50" West 95.17 feet; South 71°13'42" West 91.03 feet; South 45°20'18" West 586.35 feet; South 30°54'47" West 150.80 feet; South 21°57'12" West 303.16 feet; South 35°19'02" West 224.68 feet; South 62°47'32" West 298.27 feet; South 28°42'48" West 101.37 feet; South 12°58'54" West 81.90 feet; South 22°13'10" West 81.70 feet; South 10°19'40" West 222.54 feet; South 39°20'37" West 147.28 feet; South 33°49'20" East 48.78 feet; South 21°48'14" West 85.58 feet; South 80°54'27" West 180.51 feet; North 65°21'43' West 67.10 feet; South 54°52'55" East 87.74 feet; South 89°20'21" East 163.34 feet; North 56°34'51" East 69.66 feet; North 37°14'12" East 214.38 feet; North 06°39'18" East 48.00 feet; North 28°43'35" East 436.22 feet; North 47°33'15" East 179.65 feet; North 76°45'37" East 69.78 feet; North 59°08'31" East 99.22 feet; North 31°29'21" East 45.81 feet; North 44°37'04" East 152.80 feet; North 20°27'56" East 123.37 feet; North 28°58'41" East 100.27 feet; North 27°48'13' East 206.17 feet; North 55°08'23 East 294.38 feet; South 62°21'48" East 129.89

feet; South 29°12'53" East 73.27 feet; South 25°54'13" East 130.96 feet; South 33°33'09" East 71.63 feet; South 59°58'50" East 147.23 feet; South 75°54'06" East 91.32 feet; North 71°26'21" East 109.88 feet; North 47°12'43" East 83.58 feet; North 56°08'18" East 74.77 feet to the TRUE POINT OF BEGINNING.

3.3. The following structures were decreed for diversion purposes in the following Water Division No. 1 cases:

- 3.3.1. Big Elk Meadows Pipeline – decreed CONDITIONAL in Case No. W-1767, June 16, 1977. The Big Elk Meadows Pipeline water right is decreed to be located as follows: A point whence the SW corner of Section 35, Township 4 North, Range 72 West of the 6th P.M. bears North 64° East, 1,650 feet. In Case No. 02CW251, Water Division No. 1 (pending) Applicant has applied to transfer the point of diversion of the Big Elk Meadows Pipeline water right to an alternate point of diversion at the Intake Facility, as constructed, located in the SW1/4 of Section 35, Township 4 North, Range 72 West of the 6th P.M. in Larimer County, Colorado: Beginning at the SW Corner of said Section 35, heading in a true North Direction 1,921 feet, thence East 1,508 feet, is the North end of said 4 inch diameter pipeline that extends 90 feet South.
- 3.3.2. Well No. 1, decreed in Case No. W-6464, August 31, 1977. Well No. 1 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears S. 25°13' West, 3794 feet.
- 3.3.3. Well No. 2, decreed in Case No. W-6464, August 31, 1977. Well No. 2 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears S. 31°28' W., 2593 feet.
- 3.3.4. Well No. 3, decreed in Case No. W-6464, August 31, 1977. Well No. 3 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears S. 03°36' W., 1278 feet.
- 3.3.5. Well No. 4, decreed in Case No. W-6463, August 31, 1977. Well No. 4 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears N. 63°47' E., 589 feet.
- 3.3.6. Well No. 5, decreed in Case No. W-6464, August 31, 1977. Well No. 5 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears S. 46°15' W., 3096 feet.
- 3.3.7. Well No. 6, decreed in Case No. W-6464, August 31, 1977. Well No. 6 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears S. 08° W., 5000 feet.
- 3.3.8. Well No. 8, decreed in Case No. W-6464, August 31, 1977. Well No. 8 is located at a point whence the SW corner of Sec. 35, T. 4 N., R. 72 W., 6th P.M. bears S. 32°00' W., 2750 feet.

4. DESCRIPTION OF WATER RIGHTS DECREED CONDITIONAL:

- 4.1. Date of Original Decree: February 25, 1997, Case No. 95CW238, District Court Water Division 1, Colorado.
- 4.2. Description of Exchange: The Big Elk Meadows appropriative right of exchange is described as follows: The downstream terminus of the exchange is the headgate of the Boulder and Larimer County Ditch, more fully described herein. Water may be exchanged from any point upstream of the Rockwell Ditch upstream on the Little Thompson River to the confluence with the West Fork of the Little Thompson River and to the uppermost point of stream depletion on the West Fork of the Little Thompson River caused by each well, pipeline and lake within the Big Elk Meadows water system, as described more particularly herein.
- 4.3. Source: Little Thompson River.

- 4.4. Appropriation Date: The date of appropriation for the exchange of direct flows and storage water is September 5, 1995.
 - 4.5. Amount: The maximum rate of exchange of the direct flow rights for the Boulder and Larimer County Irrigation and Manufacturing Ditch Company water rights, priorities 27 and 36, is 0.72 cfs CONDITIONAL, with a maximum annual diversion of 3.6 acre feet. The maximum rate of exchange of the storage rights for the Boulder and Larimer County Irrigation and Manufacturing Ditch Company water rights, priorities 4, 5, 8 and 15, is 85 cfs CONDITIONAL, limited to annual filling of 42.07 acre feet. The ten year running average of combined storage and direct flow water available for augmentation and replacement shall not exceed 31.40 acre feet.
 - 4.6. Use: Domestic, fireflow, irrigation, recreational, piscatorial, stockwatering, and augmentation.
 - 4.7. Remark: In addition to granting the appropriative right of exchange, the decree in Case No. 95CW238 confirmed an absolute water right to appropriate 0.011 cfs from the Pasture Spring with an appropriation date of November 10, 1952, granted augmentation as a change of use for storage water attributable to the Applicant's shares in the Boulder and Larimer County Irrigation and Manufacturing Ditch Company, and approved a plan for augmentation for replacement of Applicant's out of priority depletions.
5. **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, INCLUDING EXPENDITURES:**

The Big Elk Meadows appropriative right of exchange is part of the Applicant's integrated water supply. This water supply currently serves, or will serve, approximately 160 homes, and consists of decreed wells, a surface spring, five existing reservoirs, plus Canyon Lake, and the Big Elk Meadows Pipeline water right. The Applicant has completed work necessary to put a portion of the appropriative right of exchange to beneficial use as decreed in Case No. 95CW238. Since entry of the decree in this case, the following work has been performed:

- 5.1. The Applicant expended approximately \$41,674.00 on overall legal, engineering and other professional fees related to development and maintenance of all components of its integrated water storage and delivery system, including expenditures more specifically described herein.
- 5.2. The Applicant constructed an Intake Facility as an alternate point for diversion of the Big Elk Meadow Pipeline water right decreed conditional in Case No. W-1767. In addition, the Applicant constructed a Surface Water Treatment Facility. An associated pump facility currently delivers water from the Intake Facility located on the West Fork of the Little Thompson River to the Applicant's Treatment Facility and water distribution system at a rate of 0.067 cfs (30 gpm). The cost to the Applicant for construction of the Intake Facility, treatment and pumping facilities during the diligence period was approximately \$168,000.00.
- 5.3. The Applicant expended approximately \$6,379.00 in legal and engineering consulting fees to file the following three water rights applications: Application for Change of Water Right, Case No. 02CW250, for transfer to an alternate point of diversion of the Big Elk Meadow Pipeline water right; Application for Finding of Diligence and to Make Absolute, Case No. 02CW251, for the Big Elk Meadow Pipeline water right decreed conditional in Case No. W-1767; and Application for Finding of Diligence, Case No. 02CW252, for the Canyon Lake water right decreed conditional in Case No. W-1769.
- 5.4. The Applicant expended an additional \$67,350.00 during the diligence period for replacement and maintenance of water mains and for pump house building and water distribution system mechanical maintenance projects.

- 5.5. The Applicant expended approximately \$6,185.00 to conduct hydrographic surveys, to complete depth-area-capacity ratings, and to install staff gauges to measure the water levels for each of the Big Elk Meadows reservoirs described herein.
- 5.6. The Applicant expended \$7,080.00 for a report on hydraulic modeling of the Applicant's water distribution system prepared by Jim Miller of Harding ESE.
- 5.7. The Applicant made inquiries to and participated in discussions with Pinewood Springs Water District regarding Pinewood Springs' possible participation in funding and construction of the Canyon Lake Dam project for the benefit of both organizations.
- 5.8. The Applicant made inquiries to the City of Longmont, Colorado regarding Longmont's possible participation in funding and construction of the Canyon Lake Dam Project for the benefit of both organizations.
- 5.9. The Applicant made inquiries to the United States Forest Service regarding the purchase or exchange of USFS property necessary to construct Canyon Lake at its decreed location.
- 5.10. The Applicant applied to the Colorado Department of Public Health and Environment Water Quality Control Division Financial Assistance Program for \$200,000.00 in financial assistance toward funding a project for storage and water treatment.
- 5.11. The Applicant filed a preliminary application with the Colorado Water Conservation Board for a loan to construct Canyon Lake and for a grant in the maximum amount of \$5,000.00 to pay for up to 50% of the cost for an engineering feasibility study for the project.
- 5.12. The Applicant made inquiries to two owners of shares of stock in the Boulder and Larimer County Irrigation and Manufacturing Ditch Company for the purpose of purchasing additional water rights to replace evaporation losses from Canyon Lake when constructed.
- 5.13. The Board of Directors of the Applicant met to discuss and/or take affirmative action regarding the water rights, water needs and conservation efforts, and maintenance and development of the Applicant's water projects and water distribution systems.
- 5.14. The Applicant prepared annual reports for water years 1996-1997 through 2001-2002 for submission to the Division Engineer, Water Division 1, including an annual Potable Water System Report, Lake Storage and Evaporation Report, Water Summary and Replacement Requirements and Lake Operations Report.
- 5.15. The Applicant conducted preliminary investigations into whether the location of Canyon Lake Dam site as decreed is within a designated flood hazard zone according to the Federal Emergency Management Agency and whether or not a 100-year flood study has been completed for the decreed Canyon Lake Dam site.
- 5.16. The Applicant participated in a meeting with the Division Engineer for Division 1, the Water Commissioner for District 4, and representatives of Pinewood Springs regarding *inter alia* the Applicant's exchange under the decree in Case No. 95CW238 and its affect on Pinewood Springs' water rights.
- 5.17. The Applicant commissioned a report by Blatchley Associates, Inc., regarding a "Test Release of Storage Water from Meadow Lake into the West Fork of the Little Thompson River." The cost of the test release and report to the Applicant was \$4,716.00.
- 5.18. The Applicant reserves the right to identify additional relevant efforts that may be later discovered or to make adjustments to amounts expended on certain projects. The Applicant made diligent efforts with regard to this application to determine and quantify all efforts made by Big Elk

Meadows Association toward completion of the appropriate right of exchange decreed in Case No. 95CW238. However, it is possible that relevant efforts or expenditures may have been overlooked or need further adjustment.

6. CLAIMS TO MAKE ABSOLUTE:

- 6.1. The Applicant claims to make absolute exchange of the direct flow rights represented by its 12 shares of the Boulder and Larimer County Irrigation and Manufacturing Ditch Company water rights, priority 27 and/or 36 for the following exchange reach:
 - 6.1.1. Exchange Reach: From the headgate of the Boulder and Larimer County Ditch on the Little Thompson River then upstream on said River to the confluence of the West Fork of the Little Thompson River to the completed structures described in paragraphs 3.2 and 3.3 herein.
 - 6.1.1.1. Date: August 24, 1997.
 - 6.1.1.2. Amount: 0.11cfs, for a maximum annual diversion of 6.12 acre feet limited to exchange of 3.60 acre feet.
 - 6.1.1.3. Uses: As described in paragraph 4.6., above.
 - 6.2. The Applicant claims to make absolute exchange of the storage rights represented by its 12 shares of the Boulder and Larimer County Irrigation and Manufacturing Ditch Company water rights, priority 4, 5, 8 and/or 15 for the following exchange reach:
 - 6.2.1. Exchange Reach: From the headgate of the Boulder and Larimer County Ditch on the Little Thompson River then upstream on said River to the confluence of the West Fork of the Little Thompson River to the completed structures described in paragraphs 3.2 and 3.3 herein.
 - 6.2.2. Date: April 21 through May 10, 1999.
 - 6.2.2.1. Amount: 1.80 cfs for an annual fill of 42.07 acre feet.
 - 6.2.2.2. Uses: As described in paragraph 4.6., above.

7. NAMES AND ADDRESSES OF OWNERS OF THE LAND ON WHICH STRUCTURE IS OR WILL BE LOCATED, UPON WHICH WATER IS OR WILL BE STORED, OR UPON WHICH WATER IS OR WILL BE PLACED TO BENEFICIAL USE:

- 7.1. Boulder and Larimer County Ditch headgate:
Boulder and Larimer County Irrigating and Manufacturing Ditch Company
PO Box 1079
Berthoud, Colorado 80513
- 7.2. Canyon Lake is decreed to be located on land partially owned in common by the Applicant, a Homeowners Association, and partially owned by the following:

United States Department of Agriculture
Arapahoe and Roosevelt National Forest
Canyon Lakes Ranger District
1311 South College Avenue
Fort Collins, Colorado 80524

State Board of Land Commissioners
1313 Sherman Street, Room 621
Denver, Colorado 80203
- 7.3. All other structures identified in paragraph 3, herein, are located on land commonly owned by Applicant, a Home Owner's Association

8. PRAYERS FOR RELIEF

- 8.1. Applicant respectfully requests this Court grant an absolute appropriate right of exchange of the direct flow rights and storage rights represented by Applicant's 12 shares of the Boulder and Larimer County Irrigation and Manufacturing Ditch Company water rights, as more fully described in Paragraph 6, above.

- 8.2. Applicant respectfully requests this Court find diligence in the development of those portions of the appropriative right of exchange not made absolute, and continue the conditional decree for said structures and remaining conditional amounts for the statutory period.
- 8.3. Applicant requests this Court also grant such additional relief that it deems necessary and appropriate in these circumstances.

2003-CW-061 Red Baron Development, LLC, 2634 S. Lima Street, Aurora, Colorado, 80014, (303) 536-0380, by Kim R. Lawrence, Lind, Lawrence, & Ottenhoff, LLP, 1011 11th Avenue, Greeley, CO, 80631, (970)356-9160. Application for Underground Water Rights from the Laramie Fox-Hills Aquifer in WELD County. 1. Well Permit: 34275-F and 8 additional well permits to be obtained from the State Engineer. 2. Legal Description of Land Upon Which Wells Will Be Located: PARCEL 1: The East ½ of the East ½ of the NE ¼ of Section 6, Township 1 North, Range 65 West of the 6th P.M., Weld County, Colorado. PARCEL 2: Portions of the SE ¼ of Section 30, and the East ½ of the East ½ of Section 31, Township 2 North, Range 65 West of the 6th P.M., Weld County, Colorado, described as follows: Beginning at the NE corner of the SE ¼ of said Section 30; Thence South 00°00'00" West on an assumed bearing along the East line of the said SE ¼, 1197.50 feet to the True Point of Beginning; Thence South 90°00'00" West, 1008.26 feet; Thence South 26°38'00" West, 623.54 feet; Thence South 15°11'50" East, 925.34 feet to a point on the North line of said East ½ of the East ½ of said Section 31; Thence North 89°45'10" East along said North line, 360.22 feet; Thence South 26°23'40" East, 1077.99 feet to a point 200.00 feet West of the East line of said East ½ of the East ½ of said Section 31; Thence 00°20'30" West parallel with the said East line, 3722.86 feet to a point 650.00 feet North of the South line of said East ½ of the East ½ of Section 31; Thence South 89°57'35" West parallel with the said South line, 1125.65 feet to a point on the West line of said East ½ of the East ½ of said Section 31; Thence South 00°23'20" West along said West line, 650.00 feet to the SW Corner of the said East ½ of the East ½ of said Section 31; Thence North 89°57'35" East along the South line of said East ½ of the East ½ of said Section 31, 1326.18 feet to the SE Corner of the said East ½ of the East ½ of said Section 31; Thence North 00°20'30" East along the East line of the said East ½ of the East ½ of said Section 31, 5341.31 feet to the SE Corner of said Section 30; Thence North 00°00'00" East along the East line of said Section 30, 1445.85 feet to the True Point of beginning. The above described parcels contain 123.50 acres. 4. Source: Laramie Fox-Hills, non-tributary aquifer underlying the property. 5. Depth: 34275-F is 730 feet deep. The 8 new wells will be based upon existing data in the Denver Basin Rules, 2 C.C.R. 402-6. 6. Amount Claimed: Applicant claims all of the ground water in the Laramie Fox-Hills underlying the property. Findings of Fact made by the State Engineer, October 24, 1988, determined the allowable annual average amount withdrawn to be 27 acre feet at 100 g.p.m. The 9 wells will be limited to these amounts. 7. Proposed Use: Applicant's plan is to use the water for the development of 9 lots in the Red Baron Estates PUD. Water will be supplied to the lots by 9 Laramie Fox-Hills wells. The use on each lot will be comprised of in house use plus 5000

square feet of irrigation per lot. The total subdivision demand is 5.14 acre feet of consumptive use. The wells are intended to satisfy a 300 year water supply as required by Weld County. The ground water may used, reused, successively used, leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, and all other beneficial uses both on and off the property. Said water may be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes. 8. Replacement: Applicant will replace the by means of septic system returns 2% of the annual pumping of the Laramie Fox-Hills appropriation. 9. Applicant claims the right to withdraw more than the average annual amount estimated above or decreed in this case pursuant to Rule 8A of the Statewide Rules, 2 C.C.R. 402-7. 10. Applicants requests a Decree that: A. The ground water from the Laramie Fox-Hills is nontributary ground water. B. Applicant has the vested right to use all of the ground water in the Laramie Fox-Hills aquifer underlying the property for the uses described herein.

2003CW062 **J.C. Dozier, Jr.** (Daniel K. Brown, Fischer, Brown & Gunn P.C., P.O. Box Q, Fort Collins, Colorado 80522. Phone Number: (970) 407-9000 x29 FAX Number: (970) 407-1055 E-mail: danbrown@fbgpc.com.) APPLICATION TO AMEND PLAN FOR AUGMENTATION DECREED IN 79 CW 347, **IN PARK COUNTY.**

1. Name, address, telephone number of applicant:

J.C. Dozier, Jr.
460 Park County Road 43, Suite #1
Bailey, CO 80421
(303) 838-9723

2. This application is filed to amend plan for augmentation decreed in 79CW347 in the following two respects:
Applicant seeks to amend the point of discharge of the wastewater from the commercial development from a soil-absorption type septic systems or through holding tanks or sewer lines utilizing central waste treatment facilities which include soil-absorption” to Deer Creek in the NW ¼ of the NW ¼ of Section 15, Township 7 South, Range 72 West of the 6th P.M., Park County Colorado, at a point approximately 75 feet east and 400 feet south of the NW corner of said Section 15.

Applicant also seeks to modify the decree so that Applicant only be required to return 5% of its gross diversion for the commercial development to Deer Creek, rather than the current 10% of gross diversion that is required to be returned to the stream system through the existing leach fields. Applicant intends to treat the wastewater from the commercial development with a mechanical wastewater treatment system which is more efficient than the soil-absorption septic system method decreed in 79 CW 347. Applicant’s engineer has determined that with the mechanical wastewater treatment process, less than 5% of the total volume pumped by the Applicant for use in the commercial development will be consumed.

3. Except for the above amendments, the decree shall remain as entered. (2 pages)

2001-CW-193 **LAFARGE WEST, INC. (F/K/A/ MOBILE PREMIX CONCRETE, INC.), DAVID A. BAILEY, Schwarz Semenoff McNab & Bailey, P.C., 1600 Stout Street, Suite 1700, Denver, CO 80203. (303) 893-1827(telephone) (303) 893-1829 (facsimile) [dbailey@mssdenverlaw.com](mailto:d Bailey@mssdenverlaw.com)** AMENDMENT TO APPLICATION FOR CONDITIONAL WATER STORAGE RIGHT, **IN WELD COUNTY.**

1. **Name, address and telephone number of Applicant:**

Lafarge West, Inc. (f/k/a Mobile Premix Concrete, Inc., a subsidiary of Lafarge North America)
1400 W. 64th Ave.
P.O. Box 215001
Denver, CO 80221-0599
(303) 657-4000

2. **Amendment:** Paragraph 3.B of the original application is amended by the following additional points of diversion for the Heaton Reservoir:
- A. St. Vrain Diversion Point No. 1 - A well or infiltration gallery within 100 feet of St. Vrain Creek located approximately 180 feet from the North Section Line and 2,600 feet from the East Section Line of Section 9, T. 2 N., R. 68 W., 6th P.M., in the NW¹/₄NE¹/₄ of said Section 9.
 - B. St. Vrain Diversion Point No. 2 - A well or infiltration gallery within 100 feet of St. Vrain Creek located approximately 30 feet from the North Section Line and 2,500 feet from the East Section Line of Section 9, T. 2 N., R. 68 W., 6th P.M., in the NW¹/₄NE¹/₄ of said Section 9.
 - C. Both of the additional points of diversion described above are located on land owned by applicant. (4 pages)

2001CW194 LAFARGE WEST, INC. (F/K/A MOBILE PREMIX CONCRETE, INC., DAVID A. BAILEY, Schwarz Semenoff McNab & Bailey, P.C., 1600 Stout Street, Suite 1700, Denver, CO 80203 (303) 893-1827(telephone) (303) 893-1829 (facsimile)dbailey@mssdenverlaw.com AMENDMENT TO APPLICATION FOR CHANGE OF WATER RIGHT, **IN WELD COUNTY.**

1. **Name, address and telephone number of Applicant:**
Lafarge West, Inc. (f/k/a Mobile Premix Concrete, Inc., a subsidiary of Lafarge North America)
1400 W. 64th Ave.
P.O. Box 215001
Denver, CO 80221-0599
(303) 657-4000
3. **Amendment:** Paragraph 4.C of the original application is amended by the following additional alternate points of diversion for the Applicant's Rural Ditch shares:
- A. St. Vrain Diversion Point No. 1 - A well or infiltration gallery within 100 feet of St. Vrain Creek located approximately 180 feet from the North Section Line and 2,600 feet from the East Section Line of Section 9, T. 2 N., R. 68 W., 6th P.M., in the NW¹/₄NE¹/₄ of said Section 9.
 - B. St. Vrain Diversion Point No. 2 - A well or infiltration gallery within 100 feet of St. Vrain Creek located approximately 30 feet from the North Section Line and 2,500 feet from the East Section Line of Section 9, T. 2 N., R. 68 W., 6th P.M., in the NW¹/₄NE¹/₄ of said Section 9.
 - C. Both of the additional points of diversion described above are located on land owned by Applicant.

2001CW239 **SHERYL D. LIGHT.** (Mark J. Wagner, Avi S. Rocklin, HILL & ROBBINS, P.C., 1441 – 18th St., Suite 100, Denver, CO 80202 Ph: 303-296-8100 Fax: 303-296-2388 E-mail: markwagner@hillandrobbins.com avirocklin@hillandrobbins.com. Amendment to Application for Ground Water Right, **IN JEFFERSON COUNTY.** The

Applicant hereby amends the Application in this case to correct a typographical error in the legal description for Light Well No. 41198. The correct location of the well is in NE1/4SE1/4, S14, T6S, R71W, 6th P.M. All other matters remain as stated in the original Application. (1 page)

2002CW138 Red Rocks Country Club, c/o Sue Sterner, Manager, 16235 West Belleview Avenue, Morrison, Colorado 80465 (Timothy J. Beaton, Richard J. Mehren, Moses, Wittemyer, Harrison and Woodruff, P.C., P. O. Box 1440, Boulder, CO 80306-1440, (303) 443-8782). Concerning the Amendment of Application for Change of Water Rights of Red Rocks Country Club, **in Jefferson County**. I. Claim for Conditional Water Rights. A. Names of Reservoirs and Structures: 1. Kingfisher Lake No. C702, 2. Willow Springs Reservoir No. C1081, 3. Red Rocks Country Club Supply Canal, 4. Independent High Line Ditch. B. Legal Descriptions: 1. Kingfisher Lake No. C702: a. Located in Section 13, Township 5 South, Range 70 West of the 6th P.M., Jefferson County, Colorado, the initial point of survey of the high water line being located at a point whence the West ¼ corner of said Section 13 bears North 87E West, 1150 feet. b. Name and capacity of ditches used to fill Reservoir and legal descriptions of points of diversion: Red Rocks Country Club Supply Canal and Independent High Line Ditch, 10.0 cfs. See points of diversion described in paragraph 3.a. and 4.a. below. 2. Willow Springs Reservoir No. C1081: a. Located in Section 13, Township 5 South, Range 70 West of the 6th P.M., Jefferson County, Colorado, the initial point of survey of the high water line being located at a point whence the West ¼ corner of said Section 13 bears South 38E40' West, 745 feet. b. Name and capacity of ditches used to fill Reservoir and legal descriptions of points of diversion: Red Rocks Country Club Supply Canal and Independent High Line Ditch, 10.0 cfs. See points of diversion described in paragraph 3.a. and 4.a. below. 3. Red Rocks Country Club Supply Canal: a. Legal description of point of diversion: The point of diversion into the canal is at a point located in the Northwest ¼ of the Northeast ¼ of Section 14, Township 5 South, Range 70 West, 6th P.M., said point being 725 feet from the North section line and 2,097 feet from the East section line of said Section 14. 4. Independent High Line Ditch: a. The headgate is located on the South side of Turkey Creek near the center of the NW¼ of Section 14, Township 5 South, Range 70 West of the 6th P.M., Jefferson County, Colorado. C. Source: 1. Kingfisher Lake No. C702: Turkey Creek, tributary to Bear Creek, tributary to the South Platte River. 2. Willow Springs Reservoir No. C1081: Turkey Creek, tributary to Bear Creek, tributary to the South Platte River. 3. Red Rocks Country Club Supply Canal: Turkey Creek, tributary to Bear Creek, tributary to the South Platte River. 4. Independent High Line Ditch: Turkey Creek, tributary to Bear Creek, tributary to the South Platte River. D. Date of Initiation of Appropriation: The appropriation of each of the above-described rights was initiated on June 28, 2002. E. How Appropriation was Initiated: The appropriation of each of the above-described rights was initiated by the applicant by manifestation of its intent to appropriate water in the amounts and for the purposes described herein, by taking substantial steps toward the appropriation of water for said purposes and by surveying the point of diversion for the above-described rights. F. Dated Water Applied to Beneficial Use: N/A. G. Amounts Claimed: 1. Kingfisher Lake No. C702: a. 150 acre-feet, conditional, with a right to fill and refill on a continuous basis when in priority. B. Rate of diversion in cfs for filling the reservoir: From Red

Rocks Country Club Supply Canal and Independent High Line Ditch, 10.0 cfs. 2. Willow Springs Reservoir No. 1081: a. 150 acre-feet, conditional, with the right to fill and refill on a continuous basis when in priority. b. Rate of diversion in cfs for filling the reservoir: From Red Rocks Country Club Supply Canal and Independent High Line Ditch, 10.0 cfs. 3. Red Rocks Country Club Supply Canal: a. 10 cfs, conditional. 4. Independent High Line Ditch: a. 10 cfs, conditional. H. Proposed Uses: Each of the above-described rights will be used for irrigation of 225 acres in Sections 13, 14, 23 and 24 Township 5 South, Range 70 West, 6th P.M., Jefferson County, Colorado and for recreation, augmentation, fish and wildlife preservation and propagation and all other beneficial uses incidental to use by Red Rocks Country Club. I. Surface Area of High Water Line of Reservoirs: 1. Kingfisher Lake No. C702: 10.3 acres. 2. Willow Springs Reservoir No. C1081: 7.8 acres. J. Maximum Height of Dam in Feet and Length of Dam in Feet of Reservoirs: 1. Kingfisher Lake No. C702: Height: 32 feet. Length: 940 feet. 2. Willow Springs Reservoir No. C1081: Height: 23 feet. Length: 1,800 feet. K. Total Capacity of Reservoirs in Acre-Feet: 1. The total capacity of Kingfisher Lake No. C702 is 125.4 acre-feet. The amount of active capacity is 125.4 acre-feet, all of which is active capacity. An additional 24.6 acre-feet of capacity may be developed. 2. The total capacity of Willow Springs Reservoir No. C1081 is 108 acre-feet. The amount of active capacity is 108 acre-feet, all of which is active capacity. An additional 42 acre-feet of capacity may be developed. L. Name and Address of Owners of Land on Which Structures for which the Water Rights are Located and upon which water will be placed to beneficial use: 1. The headgate of the Red Rocks Country Club Supply Canal is located on lands owned by: Willow Springs North, LLC, 222 Milwaukee Street, Suite 209, Denver, Colorado 80206; Willow Springs Enterprises, Inc., 5461 Willow Wood Drive, Morrison, Colorado 80465 2. Kingfisher Lake No. C702 and Willow Springs Reservoir No. C1081 are located on lands owned by Applicant. 3. Independent High Line Ditch: Denver Mountain Parks, c/o City and County of Denver, Parks and Recreation Department, 2300 15th Street, Denver, Colorado 80202. 4. Water will be applied to beneficial use upon lands owned by Applicant. M. Finding of Single Integrated Water System: All the water rights applied for herein will be part of a single integrated water system. Applicant requests that the Court so find and order that, for purposes of reasonable diligence, work on any part of the system constitutes work on the entire system. II. Withdrawal of Claim: A. Change of Water Rights. The claim for change of water rights to add an alternate point of diversion for Applicant's: (1) Independent High Line Ditch (Priority No. 28) water right; (2) Upper Spickerman Ditch (Priority No. 12) water right; (3) Kingfisher Lake No. C702 water right; and (4) Willow Springs Reservoir No. C1081 water right, as set forth in Sections 2, 3, 4 and 5 of the original Application is withdrawn, and this proposed change of water rights is deleted from the Amended Application because it is no longer needed. (7 pages).

2002CW368 PLAFAIR LAND COMPANY, LLC, P.O. Box 1346, Breckenridge, CO 80424. (Charles Pisano, 400 Front Street, P.O. Box 901, Fairplay, CO 80440). Amended Application for Water Storage Rights, Surface Water Rights, Right of Exchange, Adjudication of a Plan for Augmentation, and Request to Conduct all hearings and Trials, In Park County, S29 & S32, T9S, R77W, 6TH P.M. Now comes the Applicant herein who Moves to Amend said Application, by offering correction's to names. 1. Name, addresses, and telephone number of applicants: a. Playfair Land Company, LLC (not Playfair, Inc. LLC). P.O. Box 1346, Breckenridge, CO 80424 719-836-0849. All other named applicant's should be dismissed, they were named as owner applicant's in error. 2. The name of the reservoir is and remains the "Gloria Z Reservoir". In the original filing by the Applicant herein, said Applicant requested that the

Reservoir name be the Playfair Reservoir for clarity sake Applicant now requests that said Reservoir continue to be referred to as the Gloria Z Reservoir, as it has been known, and at all places, in the Application herein where the Playfair Reservoir is referred to, it should now read The Gloria Z Reservoir. Wherefore after due proceeding had the applicant herein, Playfair, Land Company, LLC. Moves to Amend said application by correcting the name of the Applicant to Playfair, Inc. LLC, Lawrence J. McEvoy, Richard Pfister, and Dispersing Aggregate Materials, Inc. Who were incorrectly named as owner-applicants, and should be dismissed from this action. The only remaining owner-applicant should be Playfair Land Company, LLC. (2 pages)

2002CW241 KELLY AIR PARK ASSOCIATION, INC. MacDougall, Woldridge & Worley, P.C., Henry D. Worley, 530 Communication Circle, Suite 204, Colorado Springs, CO 80905-1743 Phone: (719) 520-9288, Fax: (719) 520-9447 Email: hworley@waterlaw.tv Amended Application, **In Elbert County, S35, T9S, R65W, 6th P.M.** The Applicant, Kelly Air Park Association, Inc., through counsel, hereby files its Motion to Amend Application and Amendment.

1. Rule 15 (a), C.R.C.P. allows one amendment to a pleading “as a matter of course at any time before a responsive pleading is filed....” No responsive pleading has been filed in this case, so amendment should be allowed as a matter of course.

2. Applicant requests that the following amendment be published:

The Application is hereby amended to provide that Applicant will utilize water from the nontributary Lower Dawson aquifer to replace post-pumping stream depletions caused by annual pumping of 0.56 acre feet from the Upper Dawson aquifer from wells on each of on the 57 platted lots in Kelly Air Park subdivision. The number of non-evaporative septic systems required to cause replacement of all depletions during pumping is increased from ten to twelve. (1 page)

2000CW246, THE STATE OF COLORADO, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE, ON BEHALF OF THE PEOPLE OF THE STATE OF COLORADO, IN MORGAN COUNTY, COLORADO. c/o Stephen Cann, Assistant Attorney General, 1525 Sherman Street, 5th Floor, Denver, CO 80203, (303) 866-5033. AMENDED APPLICATION FOR WATER RIGHTS (SURFACE). 1. Name, address, telephone number of applicant:

Colorado Division of Wildlife, and Wildlife Commission, 6060 Broadway, Denver, Colorado 80216 (303) 291-7261. 2. Name of structures: Elliott Wetlands - A through Q, excluding I and O and the Elliott State Wildlife Area, (SWA) Hamlin Tract Wetlands, which are named as follows: Blue Wing, Cinnamon, Gadwall, Green-wing, Mallard, Pintail, Shoveler, Widgeon and Wood Duck. 3. Legal description of each point of diversion: Water from the South Platte River will be diverted through the Union Mutal Ditch Ditch for application to the Elliott Wetlands. The Union Mutal Ditch Ditch has its point of diversion from a point located in the SW1/4, NW1/4, SW1/4, Sect. 33, T4N, R54W, 6th P.M., Morgan County. UTM Location:

N: 623978 E: 4467703. See attached map for ditch route. Source: South Platte River. 4. Source: South Platte River. 5. A. Date of initiation of appropriation: January 18, 1999, completion of survey. B. How appropriation was initiated: Completion of survey of Property. C. Date water applied to beneficial use: September 8, 2000. 6. Amount claimed: Rate of diversion is 16 cfs, with right to fill and refill when in priority on a flow through basis. Water used to date is: During September and October of 2000 366.10 Acre feet were diverted and in 2001 total of 2728.30 acre feet was diverted into the Elliott Wetlands, A through Q. The wetlands located on the Hamlin Tract of the Elliott SWA, were constructed in October 2002. Twenty eight hundred acre feet is requested as absolute for the Elliott Wetlands A through Q. Twenty eight hundred acre feet is requested as conditional for the wetlands associated with the Hamlin Tract of the Elliott SWA for a total of 5600 acre feet. 7. Use or proposed use: Irrigation of wetland vegetation. A. If irrigation, complete the following: Number of acres historically irrigated: none by this water right; proposed to be irrigated 189.0 Acres. Legal description of acreage: Elliott Wetland Structures A through Q are located in the E $\frac{1}{2}$ of Section 23; the SE $\frac{1}{4}$ of Section 23; NE $\frac{1}{4}$ of Section 26; E $\frac{1}{2}$ of Section 26 (map attached). The Elliott Wetland Structures located on the Hamlin Tract are located in the NE $\frac{1}{4}$ and NW $\frac{1}{4}$ of Section 26. All within T4N, R55W, 6th PM, Morgan County. B. If non-irrigation,

describe purpose fully: Water stored under this water right will be used for wildlife purposes and will remain in storage until it naturally infiltrates back to the river. 8. Name and address of owner of land on which points of diversion and place of use(s) is (are) located: Point of Diversion for the Union Mutal Ditch Ditch: North Sterling Irrigation District, 112 North 8th Ave., Sterling, CO 80751. Place of Use: Colorado Division of Wildlife, and Wildlife Commission, 6060 Broadway, Denver, Colorado 80216 (303) 291-7261. 9. Remarks: The Elliott State Wildlife Area (SWA) is located north of I-76, along the South Platte River, north of the Town of Hillrose, CO. The Elliott SWA currently allows public access to the South Platte River, fishing and hunting opportunities, and Watchable Wildlife opportunities for the public. In cooperation with Ducks Unlimited, Inc. (DU), the Division of Wildlife has developed the Elliott Wetlands, and the wetlands on the Hamlin Tract of the Elliott SWA, which are a series, or network of wetlands that are to be managed as a moist soil complex and are intended to increase the forage availability and the soil moisture content. This will provide brood habitat for waterfowl and other aquatic birds, and ultimately, to provide additional wildlife-dependent recreational and viewing opportunities for the public. The Elliott Wetlands A through Q and the wetlands on the Hamlin Tract of the Elliott SWA vary in size and each is located behind a one-foot dike. Water will be applied to the wetland network when water is in priority, which will promote a moist soil complex, through the Union Mutal Ditch Ditch. The Union Mutal Ditch Ditch was decreed on January 15, 1914, with priority No. 57 for 46.87 cfs with an appropriation date of February 16, 1901. The Union Mutal Ditch Ditch enters the Elliott State Wildlife Area at the northwest quarter of Section 35 with a ditch capacity of approximately 16-cfs. Water will flow through the ditch to the individual wetland areas, with water seeping back to the river. This application is being filed in order to meet the criteria outlined in the Division of Water Resources' "*Policies Concerning Wetland Vegetation*", Richard L. Stenzel, Division Engineer, February, 2000. In compliance with that policy, water associated with the Union Mutal Ditch Ditch, Priority No.57, will continue to be applied to the land during the traditional irrigation season and water associated with the new water right claimed herein will be diverted for the new claimed uses under the new priority.

Structure Designation, Area and Volume

<u>Structure</u>	<u>Area @ Full Level (Acres)</u>	<u>Volume at Full Level (acre-feet)</u>
A	1.0	0.5
B	4.3	2.2
C	9.0	4.5
D	11.3	5.6
E	11.2	5.6
F	7.4	3.7
G	4.8	2.4
H	5.5	2.8
J	5.0	2.5
K	10.3	5.2
L	9.7	4.9
M	8.3	4.2
N	14.8	7.4
P	24.0	21.5
Q	<u>7.2</u>	<u>3.6</u>
	Total 133.8	Total: 76.6

Structure Designation, Area and Volume of Wetlands on the Hamlin Tract of the Elliott SWA

<u>Structure</u>	<u>Area @ Full Level (Acres)</u>	<u>Volume at Full Level (acre-feet)</u>
Blue Wing	17.9	14.9
Cinnamon	18.5	8.6
Gadwall	18.3	11.8
Green-wing	13.2	6.8
Mallard	18.4	16.6

Pintail	13.8	8
Shoveler	10.7	8.9
Widgeon	19.9	14
Wood Duck	<u>16.5</u>	<u>11.8</u>
	Total 147.2	Total 101.4

The storage volume indicated is sufficient to fill the network at one time; however, water in most of the wetlands drains quickly through the soil and will require additional applications of water. Wetland experts associated with DU have determined that wetlands located in areas with similar soils, vegetation and precipitation amounts require an increase in water requirements by 60% to compensate for this loss. Therefore the amount of water claimed in this application is 5800 acre feet.

2002-CW-380 KPLATTEVILLE, LLC, Robert E. Schween, Robert E. Schween, P.C., P.O. Box 262104 Littleton, Colorado 80163-2104 Telephone: 303-471-5150 Facsimile: 303-470-3103. AMENDMENT TO APPLICATION, IN WELD COUNTY.

A. **Name, Address and Telephone Number of Applicant:** KPLATTEVILLE, LLC, a Colorado limited liability company, C/O Wendell Geeslin, P.O. Box 190, Platteville, Colorado 80651. 303-654-1429.

B. **Amendment to Application:** The application in this case was filed in the Water Court, Water Division 1, on December 31, 2002. Applicant files the following amendments to the application in this matter to correct certain errors in the original application. No further changes are made in the application, other than the specific amendments listed below:

1. Paragraph III E – The average historical use and return flow values shown in the application as per share values were actually aggregates for the five shares being changed. Accordingly, this sub-paragraph should be revised to read as follows: The five (5) shares were historically used to irrigate 197.69 acres in parts of Sections 13 and 14, Township 3 North, Range 67 West, 6th P.M. Annual river headgate diversions were 16,335 acre-feet (“AF”), or **20.4 AF** per share for the period from 1950 through 2001. The crop grown was alfalfa. The historical consumptive use of the five shares was estimated using a modified Blaney-Criddle analysis. Based on a 10% ditch loss and a 55% farming efficiency, the average consumptive use for the five shares is **48.65 AF** or **9.73 AF** per share. Annual historic return flows from the use of the five shares averaged **43.24 AF** or **8.64 AF** per share.
2. Paragraph III F 2(c) – The well’s location should be shown as being in Range **67 West**; not Range 66 West.
3. Paragraph III F 2(d) – The well’s location should be shown as being in Township **3 North**, Range **67 West**, not Township 2 North, Range 66 West. FURTHER, Applicant asks the Court grant such other relief as it deems just and proper in this matter.

2002-CW-381 MEADOW ISLAND DITCH COMPANY No. 2. Robert E. Schween, Robert E. Schween, P.C., P.O. Box 262104. Littleton, Colorado 80163-2104. Telephone: 303-471-5150 Facsimile: 303-470-3103. AMENDMENT TO APPLICATION, IN WELD COUNTY.

A. **Name, Address and Telephone Number of Applicant:** Meadow Island Ditch Company No. 2, c/o Mr. Dearal Beddo, P.O. Box 426, Platteville, CO 80651. 303-861-1748.

B. **Amendment to Application:** Applicant amends its application in this case to correct errors in the original application, filed on December 31, 2002. Other than the specific corrections noted below, the application is not otherwise changed:

1. At paragraph II F (b): South Platte Alluvial Well No. 1 is located in S25, T3N, Range **67 West** of the 6th P.M., not in Range 66 West. The description in this sub-paragraph is otherwise accurate.
2. At paragraph III A 4: Hansen Well No. 3 was adjudicated on April 9, **1973**, not in 1975. This sub-paragraph is otherwise accurate.
3. At paragraph III A 11: Norgren Well No. 10 was adjudicated on September 29, **1975**, not in 1972.

This sub-paragraph is otherwise accurate.

4. At paragraph III A 14: Case No. W-734 was entered on **April 26, 1972**. This sub-paragraph is

otherwise accurate.

5. At paragraph III A 15: Case No. W-734 was entered on **April 26, 1972**. This sub-paragraph is

otherwise accurate.

6. At paragraph III C 1: Because the potential pumping demand was under-reported in the application, the second sentence of this sub-paragraph should be revised to read as follows: Actual stream depletions are estimated to be **2138** acre-feet per year based on an irrigated acreage of **1280** acres. Total well pumping is estimated to be **2516** AF based on an irrigation efficiency of 85%.

WHEREFORE, Applicant, Meadow Island Ditch Company No. 2, requests this Court to amend the application in this case as stated above and to publish this Amendment to Application in the January, 2003, Resume, Water Division 1.

FURTHER, Applicant asks the Court grant such other relief as it deems just and proper in this matter.

2002CW402 Richard F. Thomas. (Robert V. Trout, Gabriel Racz, Trout, Witwer & Freeman, P.C., 1120 Lincoln Street, Suite 1600, Denver, CO 80203. Phone No.: (303) 861-1963 Fax No.: (303) 832-4465 E-mail: rtrout@troutlaw.com-gracz@troutlaw.com. **PROTEST TO REVISED**

ABANDONMENT LIST, IN BOULDER COUNTY.

1. Name, address, and telephone numbers of protestant/owner:

Richard F. Thomas
5801 South Florence Drive
Greenwood Village, Colorado 80111-3613
home: (303) 771-1612
mobile: (720) 298-7536

2. Description of Water Rights

A. Dixon Mill Ditch

- i. Location and legal description: a point on the North bank of St. Vrain Creek, in the SW 1/4 NE 1/4 of Section 11, Township 2 North, Range 69 West of the 6th P.M., in Boulder County, Colorado whence the Northeast corner of said section bears North 39° 41' East, 2383 feet.
- ii. Court where decree entered: District Court for the County of Boulder, Colorado.

iii. Date of decree: June 1, 1926; Case No. 6673

iv. Source: St. Vrain Creek

v. Decreed uses: power purposes.

vi. Appropriation date: December 1, 1873.

vii. Decreed amount: 57.4 c.f.s.

viii. Amount listed as having been abandoned: 57.4 c.f.s.

ix. Former district number and page number where listed on Abandonment list:

B. Dixon Mill Ditch, First Enlargement

i. Location and legal description: NE 1/4, NW 1/4 of Section 11, Township 2 North, Range 69 West of the 6th P.M., Boulder County, Colorado, whence the Northwest corner of said Section 11 bears N. 14° 21' 30" West 1643.1 feet.

ii. Court where decree entered: District Court for the County of Boulder, Colorado.

iii. Date of decree: February 25, 1971, Case No. 20716.

iv. Source: Effluent of the City of Longmont Waste Treatment Plant which is carried in a pipeline belonging to the City of Longmont and which runs under and across the NE1/4 NW1/4, NW1/4 NE1/4, and the SW1/4 NE1/4 of Section 11, Township 2 North, Range

69 West of the 6th P.M., Boulder County, Colorado, and terminates at a headgate located north of the Dixon Mill Ditch.¹

v. Decreed uses: Manufacturing.

vi. Appropriation date: November 17, 1958.

vii. Decreed amount: 6.0 c.f.s.

viii. Amount listed as having been abandoned: 6.0 c.f.s.

ix. Former district number and page number where listed on Abandonment list:

C. GW Pipeline

i. Location and legal description: a. Beginning at the NE corner of Section 11, Township 2N, Range 69W of the 6th P.M., Boulder County, Colorado, thence S 28° 7' 17" W 1560 feet to a point which is the most southerly end of a concrete tunnel, and b. Beginning at the NE corner of Section 11, Township 2N, Range 69W of the 6th P.M., Boulder County, Colorado, thence S 30° 32' W 1812.8 feet to a point which is the east end of a discharge pipe.

ii. Court where decrees entered: Water Court in and for Water Division 1.

iii. Date of decrees: Jan. 12, 1971, Case Nos. W-220 and W-222.²

iv. Source: Seepage from the S ½ of Section 2 and the North ½ of Section 11, Township 2N, Range 69W of the 6th P.M., Boulder County, Colorado.

v. Decreed uses: Industrial.

vi. Appropriation date: December 17, 1903.

vii. Decreed amount: W-220: 1.5 c.f.s.; W-222: 1.5 c.f.s.

viii. Amount listed as having been abandoned: 3.0 c.f.s.

ix. Former district number and page number where listed on Abandonment list:

D. Great Western Seep

i. Location and legal description: SW 1/4 NW 1/4, Section 12, Township 2N, Range 69W, of the 6th P.M., Boulder County, Colorado, at a point which is S 33° 35' 10.2" E, 1827.8 feet from the NW corner of said section 12, the north line of which Section bears N 88° 34' E.

ii. Court where decrees entered: Water Court in and for Water Division 1.

iii. Date of decree: June 30, 1971, Case No. W-320.³

iv. Source: Seepage from the S ½ of Section 2 and the North ½ of Section 11, Township 2N, Range 69W of the 6th P.M., Boulder County, Colorado.

v. Decreed uses: Irrigation.

vi. Appropriation date: February 1, 1942.

vii. Decreed amount: 1.25 c.f.s.

viii. Amount listed as having been abandoned: 1.25 c.f.s.

ix. Former district number and page number where listed on Abandonment list:

3. Factual and Legal Basis for this Protest:

A. Mr. Thomas purchased the Dixon Mill Ditch, Dixon Mill Ditch 1st Extension, GW Pipeline, and Great Western Seep water rights (the "subject water rights") in 1980 as part of an industrial property near the City of Longmont in Boulder County, Colorado. The property and the subject water rights were used for industrial purposes by the Great Western Sugar Company. Diversions under the subject water rights ended after 1977. Mr. Thomas currently owns an undivided one-half interest in the subject water rights.

¹The revised decennial abandonment list incorrectly lists the source for the Dixon Mill Ditch 1st Enlargement as the St. Vrain Creek.

²The revised decennial abandonment list incorrectly states the date of the decrees as Dec. 31, 1970.

³The revised decennial abandonment list incorrectly states the date of the decree as Dec. 31, 1970.

- B. Mr. Thomas plans to use the property and the subject water rights for a power generation project, using the existing boilers that were part of the processing plant. The water rights would be used to provide water for cooling, fluming from scrubbers, and for other purposes related to power generation.
- C. Mr. Thomas has been actively involved in marketing the plant as a source of power. In an effort to market power generation, Mr. Thomas transferred the real property on which the plant is located to Clean Energy, LLC, in which Mr. Thomas is a principal. Clean Energy, LLC made bid proposals to Xcel Energy and other entities for power generation as recently as March 2000. Mr. Thomas's ability to market the proposed power project has been hampered by instability in the power market. At no time has Mr. Thomas intended to abandon the power generation project.
- D. Since his purchase of the property and the subject water rights, Mr. Thomas has sold portions of the property upon which the former plant is located to various buyers. In each of the sales, Mr. Thomas has preserved his right and ability to use the subject water rights, by reserving or obtaining easements across the property sold for the purpose of conveying water to the property remaining in Mr. Thomas's ownership. Because he retained easements for the purpose of ditches, pipelines, or other water conveyances, Mr. Thomas has not received purchase prices for the property as high as though the property were unencumbered by such easements, and negotiations for the purchase of the property were lengthened by the need to negotiate the location and terms of the easements.
- D. Mr. Thomas does not intend to abandon the subject water rights, and has never intended to abandon the subject water rights at any time. Mr. Thomas intends to use the subject water rights as part of a power generation project.
- E. A water right may not be abandoned unless the owner intends to abandon that water right. *Haystack Ranch, LLC v. Fazio*, 997 P.2d 548, 552 (Colo. 2000). The facts above establish that Mr. Thomas did not intend to abandon the subject water rights, and that the nonuse of the subject water rights is excused.

THEREFORE, the Protestant, Richard F. Thomas, respectfully requests that the Court enter a judgment and decree finding that the subject water rights have not been abandoned and removing the subject water rights from the revised decennial abandonment list.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE, until the last day of **March, 2003** to file with the Water Clerk in quadruplicate a verified statement of opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of each statement of opposition must also be served upon the Applicant or the Applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$45.00). **MARY A. CRESPIN, Water Clerk**, Water Division 1, POB 2038, Greeley, CO 80632.

RULING LIST FOR JANUARY, 2003

Water Court – Div. 1

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01CW115	Weatherwax Farms	Larimer	3
02CW98	Daniel & Priscilla Schnell	Elbert	12
01CW112	Charles Bucknam and Jerri Hill	Douglas	10
01CW148	Harold Baumert	Douglas	2
96CW665	Paul and Jane Williams	Park	3
01CW156	Joe and Mary Dean	Adams	14
99CW86	Howard & Julie Hettinger	Logan	4
02CW142	First Baptist Church of Castle Rock	Douglas	12
02CW125	Pine Creek Water Development Company	Larimer	5
02CW40	Town of Milliken	Weld	3
02CW25	Wiepking Real Estate Investments, LLC	El Paso	8

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02CW181	City of Lafayette	Boulder	5
02CW103	Golden Land Company	Boulder	4
02CW70	Tesodco, Ltd	Adams	11
01CW42	1001 Weber, LLLP	Douglas	12
01CW41	Ian & Susan Griffis	Douglas	11
98CW436	City & County of Broomfield	Broomfield, Adams and Weld	11