

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED DURING JANUARY 2006

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed during January 2006, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 05CW74 – DONNA ALLENBAUGH, 5248 CR 650, Rye, CO 81069

Amended Application for Surface Water Rights

Huerfano County

2. Name of structure: Spring. **3. Legal description of each point of diversion:** Huerfano County, SW ¼ of the NE ¼ Section 2, Township 26 South, Range 68 West, 6th P.M., 3,625 feet from the South line and 490 feet from the East line. **Optional Additional Description:** GPS location information in UTM format. **Required settings for GPS units are as follows:** Format must be UTM; Zone must be 13; Units must be Meters; Datum must be NAD83; and Units must be set to true north. **Were points averaged?** No. **Northing** 37° 49.191.75'; **Easting:** 104° 57.562.84' W. **4. Source:** Spring. **5. A. Date of initiation of appropriation:** September 2002. **B. How appropriation was initiated:** Used existing pipeline. **C. Date water applied to beneficial use:** September 2002. **6. Amount claimed:** .04 cfs Absolute. **7. Use or proposed use:** Domestic and agricultural and fire fighting and livestock. **A. If irrigation, complete the following:** **Number of acres historically irrigated:** ____; **proposed to be irrigated:** _____. **Legal description of acreage:** Lot 48, Section C, Colorado Land & Livestock. **B. If non-irrigation, describe purpose fully:** 1 house, 1 acre lawn and garden, 25 alpacas. **8. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant.

(Amended Application, 2 pages)

CASE NO. 06CW1 – MISCELLANEOUS FILINGS. This file is for miscellaneous filings and is simply being listed in the resume to account for the case number in consecutive order.

CASE NO. 06CW2(96CW193) – OLSON FAMILY TRUST, c/o Charles B. and Shirley L. Olson, Trustees, 29624 Thimbleberry Lane, Evergreen, CO 80439

Application for Finding of Diligence and To Make Absolute
Chaffee County

2. Name of structure: Olson Ditch. **3. 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:** Jan. 20, 2000; **Case No.:** 96CW193; **Court:** Division 2. **B. Legal description:** Chaffee County, NE ¼ of the NW ¼ Section 35, Township 13 South, Range 79 West, 6th P.M., 1050 feet from the North line and 1550 feet from the West line. **C. Source:** Powell Creek. **D. Appropriation Date:** March 29, 1996; **Amount:** 1.6 c.f.s. **E. Use:** Irrigation and stock watering. **4. 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:** Total expenditures to date, including an easement survey, diversion structure, flumes, concrete, gravel fill, timber cribbing, metal culverts, roadway permit, equipment rental, fuel and tractor implements, have exceeded \$9,000. Following initial construction of the Olson Ditch a rain storm washed out portions of the ditch, requiring installation of additional culverts, timber cribbing and sand removal features. A portion of the necessary irrigation ditches, within the area to be irrigated, were constructed and flow tested. Work continues on additional distribution ditches. (A location map, outline of progress, photographs, diversion records and copies of letters to Water Commissioner Bruce Smith are attached to the application and available for inspection at the Office of the Clerk for Water Division No. 2). **5. If claim to make absolute – Water applied to beneficial use:** **A. Date:** July 24, 2001; **Amount:** 0.32 c.f.s.; **Use:** Irrigation. **B. Description of place of use where water is applied to beneficial use:** 60 acres within the S½ SE¼ S26, T13S, R79W, 6th P.M. **6. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Point of diversion: Adventure Unlimited Ranches, P. O. Box 2036, Buena Vista, CO 81211; Place of Use: Applicant.
(Application and attachments, 11 pages)

CASE NO. 06CW3(W-4802) – THE UTILITIES BOARD OF THE CITY OF LAMAR, COLORADO, 100 N. 2nd, Lamar, CO 81052

(John S. Lefferdink, Lefferdink Law Office, Attorneys for Applicant, P. O. Box 110, Lamar, CO 81052)
Application for Finding of Diligence
Prowers County

2. Name of Structure: Connecticut General Well #2, Well ID No. 6705349. **3. Conditional Water Right:** **A. 1. Date of Original Decree:** March 30, 1981, Case No. W-4802. **2. Findings of Diligence:** August 28, 1985, Case No. 85CW21 (W-4802); August 29, 1989, Case No. 89CW13(W-4802); January 26,

2000, Case No. 95CW186(W-4802). **B. Location:** NE ¼ NW ¼ of Section 32, Township 22 South, Range 46 West of the 6th P.M., Prowers County, Colorado. **C. Source:** Arkansas River. **D. Appropriation Date:** April 18, 1965. **E. Use:** The water may be used for municipal purposes including temperature adjustment at Applicant's power plant. **F. Amount:** 2.22 c.f.s. not to exceed 710 acre feet per calendar year (conditional). **4. Work Done to Complete Project:** The Division 2 Water Court found by Decree entered January 26, 2000 that Applicant had exercised reasonable diligence in the development of the subject conditional water right. Well No. 2 was tied into the water system of Applicant's power generating plant in April 1995, and water produced by said well can either be pumped into Applicant's system or into a ditch for irrigation by the owner of farm land adjacent to said well. Applicant's water supply system consists of 18 wells including Well No. 2, and the use of water for these wells is for municipal purposes including but not limited to cooling turbines which produce electricity for a municipal electric generating plant owned by Applicant. These wells are interconnected and operate as one system. During the current diligence period, water produced from Applicant's other wells was sufficient to furnish water used at Applicant's steam electric generating plant. For this reason, water from Well No. 2 was not diverted to Applicant's power plant. Also, pursuant to an Agreement dated November 24, 1998 with the owner of the well, Applicant agreed that water from Well No. 2 would not be used at Applicant's power plant for temperature adjustment purposes unless water from other wells owned by Applicant was not adequate to supply Applicant's need for temperature adjustment water. A copy of said Agreement is attached to the Application and marked Exhibit A. All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the Clerk of this Court. Also, Applicant obtained a Judgment and Decree from the Division 2 Water Court dated May 24, 2004 in Case No. 02CW89(A) adjudicating Applicant's 18 wells as being interconnected and operating as one system with the use of water to be for municipal purposes including but not limited to cooling turbines which produce electricity for Applicant's municipal electric generating plant. The Court also found that water produced from these wells and used in Applicant's municipal power plant was a non-consumptive use of water. The Court further approved an exchange where after use of water in Applicant's power plant, said water is discharged into the Lamar Canal as an alternate point of diversion for the Lamar Canal and Irrigation Company, subject to a maximum rate of diversion at said alternate point of 37.8 c.f.s. A copy of said Judgment and Decree is attached to the Application and marked Exhibit B. Applicant has not operated its power plant as a generating facility since April 2003. However, Applicant continues to maintain its power plant for on-line capability, and is considering conversion of the plant from natural gas to coal fired which would increase the generating capacity of the plant and usage of water for cooling purposes. The Lamar Utilities Board, which manages Applicant's utility operation, has determined that water from Well No. 2 is needed as a back-up supply of water for future power generation at Applicant's power plant. **5. Owner of Structure:** GP Ranches, LLC, 1777 South Harrison Street, Suite 908, Denver, CO 80210. WHEREFORE, Applicant requests that the Court

enter a decree awarding a finding of diligence for the subject conditional water right, continuing the subject conditional water right in full force and effect for an additional six year diligence period, and for such other and further relief as the Court deems just and proper.

(Application and attachments, 18 pages)

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

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of March 2006, (forms available at Clerk's office, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$70.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 7th day of February, 2006.

/s/ Mardell R. DiDomenico

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

(Court seal)

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