

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER 2013;

INVITATION TO JOIN STATE ENGINEER'S SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST; AND

INVITATION TO JOIN STATE ENGINEER'S PRODUCED NONTRIBUTARY GROUND WATER NOTIFICATION LIST

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during December 2013, 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. 2013CW3057, Water Division 2, and CASE NO. 2013CW3147, Water Division 1 – PAUL HOWELL and LORI HOWELL, 14060 Vollmer Road, Colorado Springs, CO 80908 (c/o Chris D. Cummins, Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, Colorado 80903, (719) 471-1212)

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

EL PASO COUNTY, COLORADO

SUMMARY OF APPLICATION. Applicants wish to construct a new, non-exempt well on a portion of Applicants' Property, as more particularly described below, and as depicted on the Exhibit A map attached to the Application, to provide water service to an additional single family dwelling thereon. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicants currently have an exempt well on their property, which will be re-permitted as provided in this application pursuant to the plan for augmentation requested herein, upon entry of a decree. Applicants therefore seek to quantify the Denver Basin groundwater underlying the Applicants' Property, and for approval of a plan for augmentation for the use thereof of two wells serving two residential dwellings.

APPLICATION FOR UNDERGROUND WATER RIGHTS: Legal Description of

Wells: Property Description: All wells will be located on Applicants' property, described as a portion of the E1/2 SE1/4 NE1/4, Section 4, Township 12 South, Range 65 West of the 6th P.M., also known as Lot 1, Block 1, Ponderosa Pines Subdivision No. 3., El Paso County, Colorado, which contains approximately 12.66 acres, more or less ("Applicants' Property"). (See Exhibit A general location and ownership map). **Existing**

Well: Division of Water Resources Well Permit No. 248235 is a well currently located on the Applicants' Property, currently permitted pursuant to §37-92-602(3)(b)(II)(A), C.R.S. as an "exempt" domestic well located in the SE1/4 NE1/4 of Section 4, Township 12 South, Range 65 West of the 6th P.M, also known as Lot 1, Block 1, Ponderosa Pines Subdivision No. 3, El Paso County, Colorado. This well is located approximately

2,200 feet from the north section line, and approximately 200 feet from the east section line of said Section 4. UTM coordinates NAD83 – Northing 4320838, Easting 529091, Zone 13. (“Howell Well No. 1”). Howell Well No. 1 is completed to the Dawson aquifer. **Proposed Additional Well:** Applicants seek a second additional well to be located in the SE1/4 NE1/4 of Section 4, Township 12 South, Range 65 West of the 6th P.M., also known as Lot 1, Block 1, Ponderosa Pines Subdivision No. 3, El Paso County, Colorado. UTM coordinates NAD83 – Northing 4320975, Easting 529039, Zone 13. (“Howell Well No. 2”). Howell Well No. 2 will be completed to the Dawson aquifer. **Water Source: Not-Nontributary:** The ground water withdrawn from the Dawson aquifer of the Denver Basin underlying Applicants’ Property is not-nontributary. Pursuant to §37-90-137(9)(c.5), C.R.S., the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. **Nontributary:** The groundwater withdrawn from the Denver, Arapahoe, and Laramie-Fox Hills aquifers of the Denver Basin underlying the Applicants’ Property is nontributary. **Estimated Rates of Withdrawal and Ground Water Available: Estimated Rates of Withdrawal:** Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. **Estimated Average Annual Amounts of Ground Water Available:** Applicants request an absolute water right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicants’ Property. Said amounts may be withdrawn over the course of the 300-year life of the aquifer as is required under the El Paso County Land Development Code. Applicants’ estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants’ Property:

Aquifer	Sand Thickness (Feet)	Total Ground Water Storage (Acre Feet)	Annual Average Withdrawal 300-year (Acre Feet)
Dawson (NNT)	499.7	1300	4.3 ¹
Denver (NT)	394	870	2.9
Arapahoe (NT)	261.6	580	1.9
Laramie-Fox Hills (NT)	185.6	360	1.2

Decreed amounts may vary based upon the State’s Determination of Facts. Pursuant to §37-92-305(11), C.R.S., the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. **Requested Uses:** The Applicants request the right to use the ground water for beneficial uses upon the Applicants’ Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, and also for storage, and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and

successively used to extinction, both on and off the Applicants' Property subject, however, to the relinquishment of the right to consume no more than two percent of such nontributary water withdrawn. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to construct a well or use water from the not-nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with §37-90-137(9)(c.5), C.R.S. **Well Fields:** Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicants' Property through any use of the wells. Applicants request that these wells be treated as a well field. **Averaging of Withdrawals:** Applicants request that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. **Name and Address of Owner of Land Upon Which Wells are to Be Located:** The land upon which the wells are and will be located is owned by Applicants. **APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. Structures to be Augmented:** The structures to be augmented are Howell Well No. 1 and Howell Well No. 2, as constructed to the not-nontributary Dawson aquifer. Howell Well No. 1 will be re-permitted pursuant to the augmentation plan described herein, upon decree. **Water Rights to be Used for Augmentation:** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from Howell Well No. 1 and Howell Well No. 2, together with water rights from the nontributary Laramie-Fox Hills aquifer, and a portion of the nontributary Arapahoe aquifer, for any injurious post-pumping depletion. **Statement of Plan for Augmentation:** Applicants wish to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by the two above described wells. Water use criteria and their consumptive use component for replacement of actual depletions for the lot is as follows: **Use:** Each well will pump a maximum of one acre foot of water annually, for a maximum total of 2 annual acre feet withdrawn from the Dawson aquifer. Household use will utilize up to 0.3 acre feet of water per year per residence with the additional 0.7 acre feet per year of pumping per residence being available for irrigation of up to approximately 10,000 square feet of lawn and garden and the watering of up to four horses or equivalent livestock. **Depletions:** Applicants have determined that maximum stream depletions over the course of a 300 year pumping period amount to approximately 20% percent of pumping. Therefore, if both wells pump the allotted one acre foot per year per residence, the maximum annual depletion will be 0.4 acre feet per year. **Augmentation of Depletions During Pumping:** Pursuant to §37-90-137(9)(c.5), C.R.S., Applicants are required to replace actual stream depletions attributable to pumping of the two wells. Applicants have determined that the two subject wells combined should annually return 0.54 acre feet per year to the stream through their septic systems (90% of in-house uses). Thus,

during pumping, stream depletions will be adequately augmented. **Augmentation for Post Pumping Depletions:** For the replacement of any injurious post-pumping depletions which may be associated with the use of Howell Well No. 1 and Howell Well No. 2, Applicants will reserve up to 360 acre feet of water from the nontributary Laramie-Fox Hills aquifer and an additional 240 acre feet of water from the nontributary Arapahoe aquifer underlying the Applicants' Property, less the amount of actual stream depletions replaced during the planned pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, Applicants claim that post-pumping depletions will be noninjurious and do not need to be replaced. Under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post-pumping depletions will be noninjurious. The reserved nontributary water will be used to replace any injurious post-pumping depletions. **Remarks.** Additional remarks are as follows: This Application is being filed in Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur. Applicants request that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. Applicants request a finding that they have complied with §37-90-137(4), C.R.S., and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to §37-90-137(9)(c.5), C.R.S. The term of this augmentation plan is for up to 300 years; however, the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post-pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. Pursuant to §37-90-137, C.R.S., upon approval of the plan for augmentation requested herein, Applicants will file an application with the State Engineer's office to re-permit the existing Howell Well No. 1 on Applicants' approximately 12.66 acre property (Permit No. 248235) for operation under the plan for augmentation. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. The well(s) shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. Applicants will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(l), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2013CW3058; Previous Case No. 2007CW24 – JANET PETTIT, P. O. Box 4, Cascade, CO 80809 (Steven T. Monson and Ryan W. Farr, Felt Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, Colorado 80903; (719) 471-1212)

Application for Finding of Reasonable Diligence

EL PASO COUNTY, COLORADO

SUMMARY OF APPLICATION: Applicant filed for two groundwater rights on February 28, 2007 in Case No. 07CW24. In that application the Applicant requested an absolute water right for Pettit Well No. 1 and a conditional water right for Pettit Well No. 2. The Water Referee issued a ruling on October 1, 2007 granting both the absolute water right and the conditional water right. A Decree by the Court confirming this ruling was entered on October 29, 2007. Applicant is now seeking a finding of reasonable diligence regarding the conditional water right associated with Pettit Well No. 2. **III.**

NAME OF CONDITIONAL WATER RIGHTS: Pettit Well No. 2. **IV. DECREE**

INFORMATION OF CONDITIONAL WATER RIGHT: **A. Date of Original Decree:** October 29, 2007. **B. Court Case No.:** 07CW24. **C. Court:** District Court, Water Division 2. **D. Permit Number:** Pettit Well No. 2 is permitted under Well Permit No. 99660, dated June 23, 1978. **DESCRIPTION OF CONDITIONAL WATER RIGHTS A.**

Legal Description of Water Rights: Pettit Well No. 2 is located in the NE1/4 of the NE1/4, Section 16, Township 13 South, Range 68 West of the 6th P.M., being 625 feet from the north section line of said Section 16 and 37 feet from the west section line of said Section 16. **B. Source:** The source of Pettit Well No. 2 is Sand Gulch, tributary to Fountain Creek, Tributary to the Arkansas River. The depth of this existing well is 75 feet. **C. Appropriation:** The appropriation date of this well is June 23, 1978 as decreed October 27, 2009 in District Court Case No. 07CW24. **D. Amount:** The amount of water decreed for this well is 15 gallons per minute, conditional. **E. Uses:** The decreed uses are for ordinary household purposes inside of one single family dwelling only and not to be used for irrigation, as allowed under the existing well permit. **F. Ownership:** The land on which all points of diversion and places of use are located is owned by the Applicant as set forth in Section I of this application and as fully described in the Decree in Case No. 07CW24. **G. Comments:** Pettit Well No. 2 is as an exempt well pursuant to §37-92-602, C.R.S., and was decreed as such in Case No. 07CW24 on October 27, 2007. **OUTLINE OF WORK DONE TOWARDS COMPLETION OF APPROPRIATION**

AND APPLICATION OF WATER TO BENEFICIAL USE In late July of 2012 a flash flood occurred in the Town of Cascade, Colorado, which affected the property and residence of Robert Wetzel. As a result, Mr. Wetzel spoke with the Applicant concerning the acquisition of the Applicant's property where Pettit Well No. 2 is located for the purpose of relocating his home. As part of the process to determine if the Applicant's property was suitable for the relocation of his residence, Mr. Wetzel hired three different movers to come to the property at three different times to determine whether or not they would be able to move his home to the site. One of the movers said that he would be able to move the residence and Mr. Wetzel has kept in contact with this mover. However, based on cost Mr. Wetzel has started making plans to purchase a modular home instead of moving his original residence and have that placed at the new location. A survey of the entire property owned by the Applicant was conducted by

Rampart Surveys on November 11, 2012. This survey included the land which Mr. Wetzel is interested in purchasing and which contains Pettit Well No. 2. The total cost of the survey was \$5,700 of which \$4,000 related to the Pettit Well No. 2 property. The road leading to the property and the well site has been graded as part of the residential development for the property. In addition, parts of the road have been repaired which had been washed out over time, and some of the area where the residence would be placed has been cleared in order to be able to move vehicles in and out of the location. In connection with the intended acquisition of the property, Mr. Wetzel in the spring of 2013 utilized the services of two different modular installers to assess the needs of the area for his modular home. As part of El Paso County's flood mitigation efforts, the County has moved forward with a plan to construct drainage improvements that involve the acquisition of Mr. Wetzel's existing property, and the County has entered into a process to purchase his property from him. Mr. Wetzel and the Applicant have had many discussions concerning the purchase of the property. Mr. Wetzel has the intent to purchase the property and has worked out with the Applicant a price of \$100,000 for the property. The oral contract in place at this time is that once the County pays Mr. Wetzel for his existing property, he will in turn purchase the property from the Applicant with the use of Pettit Well No. 2 as the water supply for his new residence. As set forth above, both the Applicant and Mr. Wetzel have expended money and effort in order to complete the sale of the property which will in turn require the use of water from Pettit Well No. 2.

CASE NO. 2013CW3059; Previous Case Nos. 90CW47, 2006CW76(90CW47) – THE FORT LYON CANAL COMPANY, 750 Bent Avenue, Las Animas, CO 81054 (John S. Lefferdink, Lefferdink Law Office, Attorney for Applicant, P. O. Box 110, Lamar, CO 81052; (719) 336-7411)

Application for Finding of Diligence

BENT, OTERO, PROWERS, CROWLEY AND KIOWA COUNTIES

Name of Structure: John Martin Reservoir Article III Exchange. **Conditional Water Right:** Date of Original Decree: September 5, 2000, as amended by Order dated October 18, 2000, Case No. 90CW47. Location: A Resolution Concerning an Operating Plan for John Martin Reservoir was adopted by the Arkansas River Compact Administration on April 24, 1980. This Resolution modified the operation of conservation storage for John Martin Reservoir, and established a storage account for Fort Lyon under Article III. John Martin Reservoir was constructed in 1948 by the United States of America, and is operated by the United States Army Corps of Engineers. Water is apportioned to Kansas and Colorado pursuant to the Arkansas River Compact, C.R.S. 37-69-101. The provisions of the Compact are administered by the Arkansas River Compact Administration. The Reservoir is located on the Arkansas River approximately 45 miles downstream from the headgate of the Fort Lyon Canal, and the present place of storage is Sections 5, 6, 7, 8, 17, and 18, Township 23 South, Range 49 West of the 6th P.M.; Sections 29, 31, 32, 33, 34, and 35, Township 22 South, Range 50 West of the 6th P.M.; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, and 21, Township 23 South Range 50 West of the 6th P.M.; Sections 25, 33, 34, 35, and 36, Township 22 South, Range 51 West of the 6th P.M., and Sections 1, 2, 3, 4, 9, and 10, Township 23 South, Range 51 West of the 6th P.M., Bent County, Colorado. The

headgate of the Fort Lyon Canal is located on the north bank of the Arkansas River in the NE ¼ of Section 32, Township 23 South, Range 55 West of the 6th P.M., Otero County, Colorado. Water rights decreed for direct flow diversion out of the Arkansas River are 164.64 c.f.s. as of April 15, 1884, 597.16 c.f.s. as of March 1, 1887 and 171.20 c.f.s. as of August 31, 1893, which said priorities were decreed in the Bent County District Court on April 8, 1905. Said direct flow diversions are applied to approximately 94,000 acres of land under Applicant's system located in Otero, Bent, and Prowers Counties. Source: Arkansas River. Appropriation Date: Fort Lyon was awarded an absolute exchange water right with a priority date of April 24, 1980 to exchange water from John Martin Reservoir upstream to the headgate of the Fort Lyon Canal at a maximum rate of flow of 544 c.f.s. and an annual maximum exchange in any one year of 15,228.95 acre feet. Fort Lyon was also awarded a conditional exchange water right with an appropriation date of April 24, 1980, but junior to all rights decreed in applications filed before 1992, to exchange water from John Martin Reservoir upstream to the headgate of the Fort Lyon Canal at a maximum rate of flow of 606 c.f.s. Said absolute and conditional exchange water rights were limited to a maximum of 20,000 acre feet on an annual basis. Said absolute and conditional exchange water rights were further subject to terms and conditions as set forth in said Order dated September 5, 2000, as amended by the Order Amending Decree dated October 18, 2000, entered in Case No. 90CW47. A finding of reasonable diligence was entered by this Court in Case No. 06CW76(90CW47) on December 27, 2007. Use: Agricultural purposes. **Work Done to Complete Project:** During the current diligence period which began in 2007, Fort Lyon diverted by exchange under its Article III Account. An Operation Summary of the Fort Lyon Article III Account in John Martin Reservoir for water years 2007 through 2013 is attached to the Application as Table 1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The maximum rate of exchange for this period was 366.99 c.f.s. on May 22, 2013, and the largest volume exchanged on an annual basis was 3,503.78 acre feet in the year 2013. There has been a substantial drought during the current diligence period, and water supplies have been considerably less during this time. Fort Lyon has maintained its canal system in good operation and repair, has an annual budget of over \$1 million dollars and has maintained the capacity of its main canal to divert at the maximum rate of 1,150 c.f.s. under its absolute and conditional exchange rights described herein. All of the water diverted or exchanged by Fort Lyon has been placed to beneficial use. **Owner of Structure:** John Martin Reservoir: U.S. Army Corps of Engineers, 4101 Jefferson Plaza, NE, Albuquerque, NM 87109, (505) 342-3432. Fort Lyon Headgate: The Fort Lyon Canal Company. WHEREFORE, Applicant requests that the Court enter a decree awarding a finding of diligence for the subject conditional water rights, continuing the subject conditional water rights 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.

**CASE NO.: 2013CW3060 – CITY OF LAMAR, COLORADO, c/o City Administrator,
102 E. Parmenter Street, Lamar, CO 81052** (c/o David M. Shohet, Ryan W. Farr, Felt,
Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber St., Colorado Springs,
CO 80903; (719) 471-1212)

Application for Approval of Plan for Augmentation and Appropriative Right of Exchange
PROWERS COUNTY, COLORADO

Summary of Plan for Augmentation. The City of Lamar (“Lamar”) has recently acquired approximately 108 acres of land located in portions of Sections 29 and 30 in Township 22 South, Range 46 West of the 6th P.M. The property acquired by Lamar was formerly a mine site known as Valco Lamar East Pit M-77-572. Upon completion of mining activities on the property, the property has been reclaimed leaving three ponds with a total water surface area of 30.2 acres. Of the 30.2 acres of surface area, 7.0 acres existed pre-1981 resulting in a post-1980 surface area of 23.2 acres. Lamar files this Application requesting a permanent plan of augmentation to replace all evaporative depletions associated with 23.2 acres of surface area of the ponds with water rights owned by the Lamar, including without limitation, Lamar’s shares in the Fort Bent Ditch Company, allocated Fryingpan-Arkansas Project water, and Lamar’s sewered and non-sewered return flows. Lamar intends to utilize the ponds, in conjunction with the Colorado Parks and Wildlife, for recreational, wildlife and piscatorial uses. Lastly, this Application requests an appropriative right of exchange from the confluence of Clay Creek and the Arkansas River to the point of depletion of the ponds to the Arkansas River. **Plan for Augmentation.** Lamar seeks a plan for augmentation to cover the out-of-priority depletions attributable to evaporation associated with the three ponds now known as the Lamar North Gateway Park Ponds as described as follows: **Name of Structures to be Augmented:** **Lamar North Gateway Park Pond No. 1:** Legal Description of Pond: In the NE1/4 of the SE 1/4, Section 30, Township 22 South, Range 46 West of the 6th P.M., approximately 1,840 feet north of the South Section Line and 950 feet west of the East Section Line. Source: Exposed groundwater as the result of gravel mining tributary to the Arkansas River. Surface Area of Pond: 8.8 acres. **Lamar North Gateway Park Pond No. 2:** Legal Description: In the NW ¼ of the SW 1/4, Section 29, Township 22 South, Range 46 West of the 6th P.M., approximately 1,810 feet north of the South Section Line and 1,020 feet east of the West Section Line. Source: Exposed groundwater as the result of gravel mining tributary to the Arkansas River. Surface Area: 6.6 acres. **Lamar North Gateway Park Pond No. 3:** Legal Description: In the NE 1/4, SW 1/4, Section 29, Township 22 South, Range 46 West of the 6th P.M., approximately 1,890 feet north of the South Section Line and 2,050 feet east of the West Section Line. Source: Exposed groundwater as the result of gravel mining tributary to the Arkansas River. Surface Area: 14.8 acres of surface area. Collectively, the above structures are the Lamar North Gateway Park Ponds. The Lamar North Gateway Park Ponds are shown on Figure 1 attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Water Rights to be used for augmentation:** **Shares in the Fort Bent Ditch Company.** The water rights to be used for augmentation of the Lamar North Gateway Park Ponds include 2,813.6 shares of Fort Bent Ditch Company (“Ft. Bent”) owned by Lamar including the

associated Ft. Bent Article II storage account water stored in John Martin Reservoir. Of the 2,813.6 shares in the Ft. Bent to be used for augmentation hereunder, 923 of the shares have been changed in Case No. 02CW181. The remaining shares are to be changed under Lamar's pending change case, Case No. 05CW107-A. Lamar will use all shares to augment depletions hereunder pursuant to the terms and conditions entered in Case Nos. 02CW181 and 05CW107-A. The Fort Bent water rights are decreed as follows: Appropriation Dates, Priority Numbers and Amounts: April 1, 1886, Priority No. 6 for 27.77 c.f.s. March 10, 1889, Priority No. 10 for 32.77 c.f.s. September 11, 1889, Priority No. 12 for 11.7 c.f.s. August 12, 1890, Priority No. 14 for 26.27 c.f.s. January 1, 1893, Priority No. 1918-2 for 50 c.f.s. December 31, 1900, Priority No. 1918-9 for 80 c.f.s. Original Decree for Priority Nos. 6, 10, 12 and 14: Case No.: Unnumbered adjudication titled "In the matter of the Adjudication of Priorities to the use of Water for Irrigation in District Number 67." Dated entered: July 1, 1895. Court: Bent County District Court. Original Decree for Priority Nos. 1918-2 and 1918-9: Case No.: Unnumbered adjudication titled "In the Matter of the Adjudication of Water Rights and priorities to the use of Water in Water District Number Sixty-seven, in the State of Colorado." Date entered: October 14, 1918. Court: Bent County District Court. Decreed Point of Diversion: The decreed headgate location is at "a point in the South bank of the Arkansas River, which point is located as follows: at a point whence it is South 48°17' East 438 feet to the Southwest corner of Lot Four (4), in Section One (1), Township Twenty-three (23) South, Range Forty-nine (49) West of the Sixth Principal Meridian, in Bent County, Colorado." Source: The Arkansas River. **Fryingpan-Arkansas Project water**. Lamar is within the boundaries of the Southeastern Colorado Water Conservancy District ("Southeastern District") and is therefore entitled to receive an annual allocation of water from the Fryingpan-Arkansas project ("Project Water"). Lamar claims the right to use, reuse, and successively use to extinction the Project Water for augmentation hereunder. The project water rights are described as follows: West Slope Decrees: The Fryingpan-Arkansas project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County. The principal water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958, and August 3, 1959; and were modified by the Decree in Case No. W-829-76 (District Court, Water Division 5) dated November 27, 1979; and were supplemented by the Decree in Case No. 83CW352 (District Court, Water Division No. 5) dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees travels under the Continental Divide through Boustead Tunnel, which empties into Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir and elsewhere, and applied to beneficial use within Southeastern's District boundaries. Because the water is imported from another river basin, it is fully consumable in Water Division 2. East Slope Decrees: The Fryingpan-Arkansas Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141 (District Court, Chaffee County) dated July 9, 1969; and Civil Action No. B-42135 (District Court, Pueblo County) dated June 25, 1962; and were modified and supplemented by the Decree in Case No. 80CW6 (District Court, Water Division 2), dated October 23, 1980. These water rights include storage in

Turquoise Reservoir, Twin Lakes Reservoir, Pueblo Reservoir and elsewhere, with an appropriation date of February 10, 1939, and are expressly decreed for reuse and exchange for beneficial use within Southeastern's District boundaries. Under these decrees, Turquoise Reservoir and Twin Lakes Reservoir may store native water or imported water, directly or by exchange with each other or with Pueblo Reservoir. The Southeastern District allocates Project Water annually based on its principles, policies, rules and regulations. Any and all use of Project Water therefrom will be pursuant to and subject to the above-referenced decrees for the Fryingpan-Arkansas Project, and to all lawful rules, regulations, policies, and contract obligations of the Southeastern District. Any decree entered in this case will not give Lamar any rights to use Fryingpan-Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocations of Project Water therefrom, but will not alter the existing rights, including allocation rights, held by Lamar. **Wastewater treatment system.** Lamar operates a wastewater treatment facility for disposal of water used for in-building purposes collected by a central wastewater collection system. The portion of the fully consumable treated wastewater delivered to the three lagoons that is not evaporated from the water surface or consumed by phreatophytes percolates into the Arkansas River alluvium and the City claims these treated wastewater return flows for augmentation purposes. The City of Lamar's wastewater disposal lagoons are located in the SW1/4 of Section 27 and the SE1/4 of Section 28, Township 22 South, Range 46 West of the 6th P.M., Prowers County. Lamar's sewer return flows are to be calculated and decreed in Case No. 05CW107-A. **Lawn and landscape irrigation return flows.** Potable and non-potable water is used for irrigation of residential and commercial lawns and landscape and public parks, athletic fields, golf course, cemeteries and open space. Lamar's irrigation return flows are to be calculated and decreed in Case No. 05CW107-A. **Statement of Plan for Augmentation.** Lamar seeks approval of a plan for augmentation to cover depletions caused by the Lamar North Gateway Park Ponds. The total surface area of the Lamar North Gateway Park Ponds is 30.2 acres. 7.0 acres of this exposed surface water existed as of December 30, 1980. Therefore, of the 30.2 acres of exposed surface area, 23.2 acres requires replacement of stream depletions due to evaporation from the ponds. Lamar's water resource engineers have calculated that the annual net evaporation rate of the ponds is 4.11 annual acre feet per acre of surface area exposed. Accordingly, the Lamar North Gateway Park Ponds will cause 95.35 annual acre-feet of depletions to the Arkansas River. Lamar North Gateway Park Ponds are located an average distance of 76.7 feet from the Arkansas River. A Glover analysis was completed by Lamar's water resource engineers with an aquifer transmissivity of 200,000 gpd/ft and a specific yield of 0.20. The result of the analysis shows that 95.8 percent of depletions to the river resulting from pond evaporation occur within the same month. Therefore, Lamar will return the full amount of that month's replacement water to the Arkansas River in the same month. Monthly evaporation for the Lamar North Gateway Park Ponds have been determined as follows:

Month	Net Evaporation Rate (ft.)	Pond Evaporation To Be Replaced (acre feet)
January	0.13	2.97
February	0.15	3.40
March	0.23	5.24
April	0.36	8.46
May	0.46	10.67
June	0.60	13.86
July	0.62	14.27
August	0.55	12.76
September	0.43	10.00
October	0.30	6.96
November	0.17	3.88
December	0.12	2.88

Total Replacement = 95.35 af.

Replacement water associated with the Fort Bent shares will be returned to the Arkansas River by either an augmentation station located on the Fort Bent Ditch or by returning water to the Arkansas River at its confluence with Clay Creek as a result of placement of water into Lamar's recharge facility located in portions of Sections 10, 15, 22, Township 23 South, Range 46 West, 6th P.M. **Appropriative Right of Exchange. Water to Be Exchanged.** Lamar seeks to exchange the following water rights: Fort Bent water. 2,813.6 Ft. Bent shares as described above. Fryingpan-Arkansas Project water. Lamar's allocated Project Water as described above. **Exchange Right.** Lamar delivers its Fort Bent water and Project water to a recharge facility tributary to Clay Creek located in portions of Sections 10, 15, and 22, Township 23 South, Range 46 West of the 6th P.M., Prowers County, Colorado, to replace diversions associated with its municipal well pumping from its Clay Creek wells. Deliveries of water for recharge purpose that exceeds the amount diverted by Lamar at its Clay Creek wells returns to the Arkansas River. Lamar seeks to adjudicate the amount of water that returns to the Arkansas River in Case No. 05CW107-A in the SE1/4 Section 25, Township 22 South, Range 46 West of the 6th P.M, to Lamar North Gateway Park Ponds point of depletions on the Arkansas River located in the SW1/4 Section 29 and SE1/4 Section 30, Township 22 South, Range 46 West of the 6th P.M. **Uses.** Lamar seeks to use the exchanged water for augmentation and replacement purposes. **Appropriation Date.** April 30, 2013. **Amount of Exchange.** The maximum exchange rate shall be 8 c.f.s., conditional. **Name And Address Of Owners Of Land On Which Structures Will Be Located.** Lamar owns the land on which all three of the Lamar North Gateway Park Ponds are located. **Additional Terms and Conditions.** Lamar shall install and maintain such water measuring devices as deemed essential by the State Engineer or Division Engineer and the same shall be installed and operated in accordance with the instruction of that office. The Lamar North Gateway Park Ponds are currently permitted under Well Permit No. 52184-F issued by the State Engineer. Lamar will obtain a new well permit in accordance with any final decree entered in this matter. Lamar will provide appropriate monthly accountings to the Division Engineer demonstrating compliance with this plan for each pond. The operation of the exchange will be limited to the timing of the availability of the water rights to be exchanged within the exchange

reach. The exchanges may only be operated to the extent that other vested water rights senior to this exchange within the exchange reaches are not deprived of water to which they would have been entitled in the absence of such exchanges. The Division Engineer shall assess appropriate transit losses, if any. Lamar intends to use the Lamar North Gateway Park Ponds for recreational, wildlife and piscatorial uses. As these uses are non-consumptive and Lamar is replacing 100% of the evaporative depletions associated with the ponds, a separate augmentation plan is not needed to utilize the ponds for such future uses. Lamar, however, seeks confirmation that it can utilize the Lamar North Gateway Park Ponds for its future uses so long as it replaces 100% of the evaporative depletions from the ponds.

CASE NO. 2013CW3061 – TOWN OF PALMER LAKE, c/o Town Clerk, P.O. Box 208, Palmer Lake, CO 80133-0208 (Please send all pleadings and correspondence to: Harvey W. Curtis, Esq. and David L. Kueter, Esq., Attorneys for Applicant, 8310 South Valley Highway, Suite 230 Englewood, CO 80112, Telephone: (303) 292-1144, Email: firm@curtis-law.com)

Application for Change of Water Right

EL PASO COUNTY

2. Decreed Water Right for which change is sought: **2.a. Name of Structure:** Anchor No. 1 Ditch (a/k/a Monument Ditch). **2.b. Decreed Amount Being Changed:** 0.89 c.f.s. (Railroad portion). **2.c. Decreed Uses for Portion Being Changed:** To supply locomotives and other railway industrial uses. **2.d. Decreed Appropriation Date:** March 1, 1867. **2.e. Date of Original Decree:** February 15, 1882, Case No. 751, El Paso County District Court. **2.f. Date of Subsequent Decree:** February 8, 1954, Case No. 13801, El Paso County District Court. **2.g. Decreed Source(s):** Middle Monument Creek, a tributary to the Fountain River. **2.h. Decreed Point of Diversion:** A point located within the East half of the Southwest Quarter of Section 6, Township 11 South, Range 67 West [of the 6th P.M.] as shown on the blue-print map attached to the Statement of Claim of the Town of Palmer Lake and of the Denver & Rio Grande Railroad Company [in Case No. 13801]. **2.h.1.** A map showing the approximate location of the point of diversion is attached to the Application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The point of diversion is in the Southwest 1/4 Southeast 1/4 of Section 6, Township 11 South, Range 67 West of the 6th P.M. **2.i. Other Information:** The total water right originally decreed to the Anchor No. 1 Ditch was 2.14 c.f.s. 0.36 c.f.s. of said 2.14 c.f.s., which is not owned by Applicant, is listed on the 2010 Division No. 2 Revised Abandonment List per the Court's Order in Case No. 12CW77. 0.89 c.f.s. of the water right is the subject of this change application. The Applicant owns the remaining 0.89 c.f.s. which is decreed for domestic water supply for the inhabitants of the Town of Palmer Lake and which is not being changed by this application. **2.j. Description of Change of Water Right:** The 0.89 c.f.s. decreed for uses to supply locomotives and for other railway industrial uses is sought to be changed to all municipal uses, including use of consumable water for augmentation and replacement purposes, including replacement of evaporation on a natural lake known as Palmer Lake within the municipal limits of the Town of Palmer Lake in the East 1/2 of Section 5, of Township 11 South, Range 67 West of the 6th P.M. The historic use of the water right

being changed is described in the engineering report of TetraTech attached to the Application and dated May 10, 2013, **2.k. Owner of Land on which Subject Diversion Structure is located:** Applicant, the Town of Palmer Lake.

CASE NO. 2013CW3062 – HUERFANO COUNTY WATER CONSERVANCY DISTRICT, c/o Kent Mace, President, P. O. Box 442, LaVeta, CO 81055 (Please

send all pleadings and correspondence to: Steven T. Monson, Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Changes of Water Right, Plan for Augmentation, and Appropriative Rights of Exchange

HUERFANO COUNTY, COLORADO

Background and Summary of Application. The Huerfano County Water Conservation District (“District”) desires to develop a regional plan for augmentation within its district boundaries for the Huerfano River basin within Huerfano County as such area is shown on Exhibit A attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The District seeks to change a senior water right on the Huerfano River from its historical agricultural use to new uses, including augmentation uses to replace out-of-priority depletions to the Huerfano River basin from multiple types of existing and new beneficial uses made by participants within the boundaries of the regional augmentation plan. Replacements of depletions are to be made by direct use of historical stream credits, accrual of recharged stream credits to the river, and by releases of stream credits from storage. The District also seeks to exchange the senior water right, as changed, to upstream locations for storage and for replacement of plan depletions by direct exchange. The District will utilize a notice and comment procedure for adding new diversions and associated depletions to the regional augmentation plan.

Application for Changes of Water Right. Name of Structure. The name of the structure for which the change of water right is sought is the William Craig Ditch (“Wm. Craig Ditch”). **Information from Previous Decree. Date Entered.** The Wm. Craig Ditch was decreed on June 12, 1889 by the original adjudication of the District Court of Huerfano County (“Read Decree”). **Decreed Point of Diversion.** The Read Decree for the Wm. Craig Ditch states that the headgate is located in Section 31, Township 26 South, Range 67 West, 6th P.M. The headgate location within said Section 31 is generally shown on the map attached to the Application as Exhibit B. **Source.** The source of water for the Wm. Craig Ditch is the Huerfano River, tributary to the Arkansas River. **Appropriation Date/Amounts.** The appropriation date and decreed amount for the Wm. Craig Ditch is as follows, six-sevenths of which water right is under contract by the District and is the subject of this Application (“Subject Water Right”):

Water Right Name	Adjudication Date	Appropriation Date	Local Priority No.	Full Water Right (cfs)	Subject Water Right (cfs)
Wm. Craig Ditch	June 12, 1889	May 1, 1864	7	2.4	2.06

Historical Use. The Subject Water Right has historically been used for the irrigation of approximately 92 acres of property within Sections 31 and 32 of Township 26 South, Range 67 West, 6th P.M., as generally shown on Exhibit B (“Historically Irrigated Property”). During a study period of 72 years from 1941 through 2012, Wm. Craig Ditch

in-priority diversions have averaged 470 annual acre feet as shown on Exhibit C attached to the Application. Diversions associated with the Subject Water Rights averaged approximately 403 annual acre feet. Based upon the analysis of consumptive use by the crops upon the historically irrigated property, the historical diversions associated with the Subject Water Right resulted in average net stream depletions of approximately 170 annual acre feet. A summary of the historical diversion records for the Subject Water Right is attached to the Application as Exhibit C. The Historical Irrigated Property is located upon a portion of the 998 acre William Craig ranch described in Exhibit D to the Application ("Wm. Craig Ranch"). **Use Sought.** The District seeks to change the type and place of use for the historical use of the Subject Water Right to allow it to be used within the District's regional plan for the following uses by the District and plan participants and as set forth later in this requested plan for augmentation. 1. **Type of Use.** The change in type of use sought for the Subject Water Right is from direct flow for irrigation use to direct flow and storage for the District's uses including continued irrigation, commercial, recreational, and other beneficial uses, including augmentation, exchange, recharge, and replacement purposes. The changed historical depletions are to be used, reused, and successively used to extinction by the District for these beneficial uses. 2. **Place of Use.** The change in place of use sought for the Subject Water Right is from the Historically Irrigated Property under the Subject Water Right to use within the existing boundaries of the District's service area of the regional augmentation plan shown on Exhibit A ("Service Area"). The Subject Water Right may also be used for continued irrigation upon the Historically Irrigated Property to the extent not temporarily or permanently withdrawn from irrigation and dried up. The District will withdraw portions of the Historically Irrigated Property from irrigation as depletion credits are needed within the regional augmentation plan. 3. **Alternate Point of Diversion.** The District also seeks to change the decreed historical diversion of the Subject Water Right to one or more wells located upon the Wm. Craig Ranch intended at this time to be the NW1/4 SW1/4 and/or NW1/4 SW1/4 of Section 31, Township 26 South, Range 67 West, 6th P.M. and/or NW1/4 SW1/4, Section 32, Township 26 South, Range 67 West, 6th P.M. which wells are to be located to result in instantaneous depletions to the Huerfano River ("District Wells"). The District Wells may be otherwise located upon the Wm. Craig Ranch as provided in the final decree. The purpose of the wells are to divert the decreed historical diversions of the Subject Water Right including depletion credits and return flows, for replacement water to the river, continued irrigation upon the Historically Irrigated Property, and also to divert such water into one or more recharge facilities (collectively, "Recharge Facility") for replicating historical return flows and generating reusable accretion credits to the Huerfano River for use under the plan for augmentation. The timing of the accrual of such return flows and depletion credits to the Huerfano River for recharge will be determined in the decree based upon the District's engineer following standard engineering practices. **Return Flow Obligations.** The District will construct an augmentation station located on the Camp Ranch Property within Section 31, Township 26 South, Range 67 West of the 6th P.M. ("Augmentation Station"). The District will replace return flow obligations by delivery of those return flows to the river through this Augmentation Station and from the District's water resources decreed for replacement purposes, including portions of the historical depletions from the Subject Water Right released from storage and as accruing to the

Huerfano River from the District's Recharge Facility. To the extent the diversions from the Subject Water Right, as changed, are continued to be applied to the irrigation of the Historically Irrigated Property, such continued irrigation on a pro rata basis will meet District's obligation for return flows. Return flows from the Subject Water Right will be appropriated by the District and only need to be replaced when the call below the Wm. Craig Ditch is senior to the December 2013 filing date of this Application. **Recharge Facility.** District may construct the Recharge Facility upon the Wm. Craig Ranch intended at this time to be within the SW1/4 SW1/4 of Section 31, and/or NW1/4 NW1/4 of Section 32, Township 26, South, Range 67 West, 6th P.M. The location of a Recharge Facility within the Wm. Craig Ranch may change as provided in the final decree. For the change of water right, the recharge facility may be used to receive historical stream depletions and return flows of the Subject Water Right for later delivery of credits back to the Huerfano River. The timing of those recharge credits will be lagged to the Huerfano River in accordance with the application of standard engineering practices. The Recharge Facility may be by pond infiltration, after reduction for evaporation, or may be a buried facility recharging water directly to the groundwater system. **Additional Information.** The District currently has the Subject Water Right and the Wm. Craig Ranch under contract to purchase pursuant to the July 18, 2013 Ranch and Water Rights Purchase Agreement between District and the Roxie L. Camp Revocable Trust and the Len L. Camp Revocable Trust. **Names and Addresses of Owners of Land Upon Which Structures are Located.** The current owners of the land where the structures for the Subject Water Right are located are the Roxie L. Camp Revocable Trust and the Len L. Camp Revocable Trust, whose address is 550 Spears Avenue, Evansville, Wyoming 82636. **Plan for Augmentation. Structures to be Augmented.** The District will augment various groundwater and surface water diversion structures that apply to and are accepted into the District's regional augmentation plan ("Participating Diversions"). Participating Diversions and the land where the water will be used must be located within the boundaries of the Service Area, as it may be amended from time to time, as shown on Exhibit A. Existing Participating Diversions that are to be included in the decree at this time, including diversions operating under the District's existing substitute water supply plan and Rule 14 plan, are described as follows: 1. **Gardner Public Improvement District.** This district provides water to the customers of the Town of Gardner from two tributary wells located in the Town of Gardner, Colorado. The first well is Gardner Well A (WDID No. 7905005) located in the SW1/4 SE1/4, Section 13, Township 26 South, 70 West, 6th P.M. The second well is Gardner Well 3 (WDID No. 7905004) located in the NE1/4 NE1/4, Section 13, Township 26 South, Range 70 West, 6th P.M. ("Gardner Wells"). These wells were decreed on June 9, 1978 in Case No. 4714. 2. **CO 61.** CO 61 Water Association provides water for homeowners in the area near Section 27, Township 25 South, Range 70 West, 6th P.M. from a tributary well, Division of Water Resources Well Permit No. 276173, that is located in the NW1/4 NE1/4 of Section 26, Township 25 South, Range 70 West, 6th P.M. ("CO 61 Well"). 3. **Paradise Acres Well.** Water is provided to residents in the Paradise Acres Homeowner's Association from the Houchin Well No. 3, Division of Water Resources Well Permit No. 6353-F (WDID No. 7905008) located in the NE1/4 SE1/4, Section 4, Township 28 South, Range 70 West, 6th P.M. ("Houchin Well No. 3"). Houchin Well No. 3 was decreed in Case Nos. W-613 and

99CW129. 4. Direct Stream Withdrawals. Huerfano County uses water for maintenance of county roads. a. Water is diverted from the Huerfano River at the point where County Road 560 crosses the Huerfano River in the NW1/4 NW1/4, Section 24, Township 26 South, Range 70 West, 6th P.M. Other Participating Diversions may also make stream withdrawals from this point. b. Water is diverted from the Huerfano River at the point where the Badito Ditch meets the Huerfano River in the NE1/4 SE1/4, Section 5, Township 27 South, Range 68 West, 6th P.M. Other participating Diversions may also make stream withdrawals from this point. c. Water is diverted from the Huerfano River at a point just under one-half mile east of I-25 in the SW1/4 NW1/4, Section 30, Township 26 South, Range 66 West, 6th P.M. Other Participating Diversions may also make stream withdrawals from this point. 5. Malachite Spring. Water is provided to citizens of Huerfano County from Malachite Spring in the NE1/4 SE1/4, Section 31, Township 26 South, Range 70 West, 6th P.M. ("Malachite Spring"). This water right was decreed for livestock and domestic uses on November 16, 2005 in District Court, Water Division 2 Case No. 05CW11. 6. Wm. Craig Ranch Well. The Wm. Craig Ranch Well will be located on the Wm. Craig Ranch anticipated within the NE1/4 SW1/4 of Section 31, Township 26 South, Range 67 West, 6th P.M. This well is to be used for irrigation within the Wm. Craig Ranch. 7. Mapes Well No. 1. This well provides water for irrigation purposes upon the Wm. Craig Ranch under Division of Water Resources Well Permit No. 14474-R. This well was adjudicated on May 10, 1974 for irrigation in Case No. W-2931. **Water Rights to be Used for Augmentation.** 1. Existing Water Rights. The water rights to be used for augmentation include historical depletion credits requested to be adjudicated for the District's purposes under the Subject Water Right. 2. Other Future Acquired Water Rights. Water rights to be used for augmentation will also consist of a) other water rights owned, leased, or acquired by District which are already decreed as consumptive use or depletion credits and are made available for the replacement of plan depletions in accordance with the procedures of Section V.B.3. below, b) other water rights that are decreed as consumptive use or depletion credits for use under this augmentation plan at the locations, times, and amounts as specified in such future Water Court decrees, whether by independent Water Court case or supplemental decree to this case, c) water rights included in a substitute water supply plan approved for use in this case pursuant to C.R.S. §37-92-308 or future equivalent statute for such administrative approval, d) water rights that are part of an interruptible water supply agreement approved pursuant to C.R.S. §37-92-309 or future equivalent statute for such approvals, and (e) water that is not decreed or otherwise lawfully available for augmentation use if Colorado statutes provide a mechanism for using such water right. The District shall furnish the State Engineer's Office with proof of ownership of any additional water which District may acquire for use in this plan. Additional Replacement Sources. For water that is decreed or lawfully available for augmentation or replacement use but is not already approved for such use under this decree, the District seeks to designate such additional replacement sources for use in this augmentation plan. The District will provide notice to the Division Engineer and objectors of the manner in which those decreed water rights will be incorporated into the plan for augmentation, and those parties will have opportunity to object to such proposal. Disputes as to the addition of the supplemental augmentation water will be resolved by hearing before the Water Court. Retiming Well.

The District may also provide augmentation water to the Huerfano River by pumping of tributary groundwater from a retiming or augmentation well located upon the Wm. Craig Ranch within the SW1/4 SW1/4 of Section 29 and/or the SW1/4 SW1/4 of Section 32, Township 26 South, Range 67 West, 6th P.M. ("District Augmentation Well"). The District Augmentation Well may be relocated upon the Wm. Craig Ranch as provided in the final decree. The District Augmentation Well may pump tributary groundwater directly to the Huerfano River by pipeline which will, at that time, increase the supply of water to the stream for beneficial use. Depletions from the District Augmentation Well, as lagged and timed to the Huerfano River in accordance with standard engineering practices and the terms of this Application, will later be replaced by the District from its other available augmentation sources. **Statement of Plan for Augmentation.** The consumptive use attributable to the Subject Water Right and future acquired water rights shall be committed to the plan for augmentation to replace the out-of-priority depletions associated with diversions from the existing and future Participating Diversions. 1. **Operation of Augmentation Plan.** Participating Diversions will be determined by the values set forth below, or diversions may also be determined by metering, with the depletions then determined under the presumptive depletion values. Wells within the requirements of the Amended Rules Governing the Measurement of Tributary Groundwater Diversions located in the Arkansas River Basin will be metered. **a. Diversions and Depletions.** The District may apply the following presumptive water use and depletion rates in order to calculate the diversions by plan participants and the depletions to be augmented. i. **Residential Indoor.** Residential year round indoor use shall be based on diversions of 0.27 annual acre feet per unit with the depletion of 5 percent for central wastewater treatment and 10 percent for wastewater treatment by septic tank with leach field. ii. **Landscape Irrigation.** Irrigation consumptive use for lawns and landscaping may be determined on a per unit basis in accordance with Exhibit E based upon elevation zones. Where the diversion to irrigation is measured, depletion shall be determined as 85 percent of the diversion. iii. **Livestock.** Livestock use is to be determined as 12 gallons per head per day for cattle and horses and 2 gallons per head per day for sheep and goats, which shall be 100 percent consumptive. iv. **Ponds.** Pond surface evaporation shall be determined by the table in Exhibit E based on elevation zones, amount of surface area, and whether the pond is on or off channel. v. **Commercial/Industrial.** The amount of diversions for all commercial or industrial uses will be based upon metered diversions or the presumptive diversions of Exhibit E, and depletions will be calculated based upon the method of sewage disposal as set forth above for residential use. vi. **Other Outdoor.** Dust suppression, construction, bulk water sales, and greenhouses will be metered and will be assumed to be 100 percent consumptive. vi. **Other Circumstances.** Participating Diversions that do not fit within the above presumed diversions will be measured on a case-by-case basis subject to approval of the Division Engineer, and an applicable depletion factor will be applied to those diversions. **b. Timing of Depletions.** Participating Diversions will create instantaneous and lagged depletions to the stream system depending upon the distance of such diversions from a normally live stream. i. **Steady State Depletions.** Participating Diversions for full time occupancy for in-house domestic use and stock watering are presumed to occur on a year round basis. Therefore, a steady-state condition will be assumed for these diversions such that stream depletions will equal

plan diversions for such uses less applicable return flows. ii. Lagged Depletions. Lagged depletions to the stream system will primarily occur from groundwater diversions located at a distance from the stream. The timing of lagged depletions will be based on the distances from a normally live stream. The District will account for lagged depletions and accrual of irrigation and septic system return flows based on such lagged accrual of depletions and return flows to the stream. The District's proposed lagging based upon distances from the normally live stream are set forth in Exhibit F.

c. Replacement Water. The District will make reservoir releases, bypass depletion use credits at the Augmentation Station, or claim stream accretions from recharge of historical depletion credits in order to provide for replacement of depletions from Participating Diversions in time, place, and amount. Replacement credits will be applied to account for seasonal fluctuations and for lagged depletions by Plan Participants as provided herein. At times when the exchange rights decreed herein are legally and physically available, replacement water may also be exchanged up to the point of depletion.

d. Storage Structures. The District will have the right to store water, or will acquire the right to store water, in the following structures. Augmentation water for use in this plan may be stored and/or released from any or all of such structures. Future storage structures decreed for storage and release of augmentation water may also be added to this plan for augmentation following the same procedures of Section V.B.2. and 3 for the inclusion of additional decreed augmentation water.

i. Red Wing Augmentation Facility ("RWA"). The point of diversion for the RWA is located in the NW1/4 SE 1/4 of Section 1, Township 27 South, Range 71 West, 6th P.M.

ii. Paradise Acres Pond. The point of diversion for the Paradise Acres Pond will be in the SW1/4 NE1/4 of Section 9, Township 28 South, Range 70 West, 6th P.M.

e. Procedure to Enter Plan. The District will use the following procedure for adding Participating Diversions to the Regional Augmentation Plan.

i. Those owners of wells, pipelines, ponds, springs, ditches or other diversion structures who wish to participate in this regional plan for augmentation will submit to the District an application with fees and appropriate supplemental information as to water usage.

ii. Following the receipt of an application the District will evaluate the sufficiency of the application which may require investigation on the part of the District or require the applicant to supply further information to the District. Once an application is determined to be complete, the District will process the application and perform the necessary analysis as to whether the proposed uses fit within the decree and can be incorporated into the District's regional augmentation plan. After this work is completed, the District shall provide notice of the application to the opposers in the case and the State and Division Engineers. The notice shall include the application submitted, any supplemental information provided or obtained with the application, and the analysis concerning incorporation into the regional augmentation plan conducted by the District. Opposers may file comments with the State Engineer and the District within 30 days of the notice for applications for residential use and within 60 days for all other uses.

iii. If no comments have been filed for a specific application, then the District may approve the application based upon whether the application meets the District's requirements and is within the parameters of the augmentation plan. If comments have been filed for a specific application, then the District based on the above criteria and consideration of the comments may approve the application, approve the application with conditions, or

deny the application based on the approval criteria. The District shall provide notice of the action taken on an application to all opposers who filed comments. iv. Any opposer who timely filed comments to a particular application and who opposes the District's approval of the application may, within 60 days of the approval notice by the District of a new participating diversion, apply to the Water court for a de novo hearing, under the Court's retained jurisdiction, as to whether the terms and conditions of this decree have been met with respect to the request for a new participating diversion. Such de novo hearing shall be pursuant to the Water Right Determination and Administration Act of 1969, C.R.S. §37-92-101, et. seq. District shall have the initial burden of proof as to whether the application fits within the parameters of the augmentation plan and has been properly approved. New diversions and depletions, by either an uncontested approval by the District or by order of the Water Court, shall be made part of this decreed plan for augmentation. vi. For any well added to this plan, no diversions from such wells shall be made until such time as a well permit is issued for uses approved to be augmented under this plan. The Division Engineer shall issue any well permits in accordance with C.R.S. §37-90-137(2) for approved plan usage. **D. Names and Addresses of Owners of Land Upon Which Structures are Located.** The Recharge Facility, Augmentation Station, Wm. Craig Ranch Well, Mapes Well No. 1, and the District Augmentation Well are located or are to be located upon property currently owned by the Roxie L. Camp Revocable Trust and the Len L. Camp Revocable Trust, whose address is 550 Spears Avenue, Evansville, Wyoming 82636. The District has this property under a contract to purchase. The RWAf is located upon land owned by Growing Roots, LLC, c/o Anna (Christy) Wyckoff, Managing Member, P.O. Box 874, Ft. Collins, Colorado 80522. The District has an easement agreement in place with Growing Roots, LLC for the RWAf. The Paradise Acres Pond and Houchin Well No. 3 are located upon land owned by Paradise Acres Homeowners Association, whose address is 41 Houchin Blvd., LaVeta, Colorado 81055. The Gardner Wells are owned by the Gardner Public Improvement District whose address is c/o Huerfano Board of County Commissioners, 401 Main Street, Suite 201, Walsenburg, CO 81089. The CO 61 Well is owned by Gail Terry, whose address is P.O. Box 227, Gardner, Colorado 81040. Malachite Spring is owned by Malachite Spring, LLC, whose address is 8055 County Road 570, Gardner, Colorado 81040. **VI. Appropriative Rights of Exchange.** **A. Wm. Craig Ditch Exchange Requested.** The District has appropriated the exchange of the Subject Water Right from the point of the Wm. Craig Ditch Augmentation Station, and from the point of accrual to the Huerfano River from the recharge facility on the Wm. Craig Ranch, to the locations of storage and plan depletions on the Huerfano River and its tributaries. Exchanges will also be made of water released from the RWAf. The exchanges will correspond in the amount and timing with the availability of the Subject Water Rights. **B. Exchange Right.** District seeks a decree for the following described appropriative rights of exchange as also shown on the Exhibit G exchange matrix attached to the Application:

Exchanges Requested

Stream(s)	Exchange-From	Exchange-To	Rate (cfs)
Huerfano River	Huerfano River at Wm Craig Augmentation Station	Huerfano River at Inlet to Red Wing Augmentation Facility (RWF)	1.85
Huerfano River	Huerfano River at Wm Craig Augmentation Station	Huerfano River at USFS Boundary	1.85
Huerfano River, Pass Creek	Huerfano River at Wm Craig Augmentation Station	Pass Creek Near Paradise Acres Pond	1.85
Huerfano River, Pass Creek, Unnamed Creek	Huerfano River at Wm Craig Augmentation Station	Unnamed Creek Near Paradise Acres Pond	1.85
Huerfano River, Muddy Creek, Bruff Creek	Huerfano River at Wm Craig Augmentation Station	Bruff Creek at USFS Boundary	1.85
Huerfano River, Muddy Creek, North Muddy Creek	Huerfano River at Wm Craig Augmentation Station	North Muddy Creek at USFS Boundary	1.85
Huerfano River, Muddy Creek, South Muddy Creek	Huerfano River at Wm Craig Augmentation Station	South Muddy Creek at USFS Boundary	1.85
Huerfano River, Williams Creek	Huerfano River at Wm Craig Augmentation Station	Williams Creek at USFS Boundary	1.85
Huerfano River, Turkey Creek, Custer Creek, Reveille Canyon	Huerfano River at Wm Craig Augmentation Station	Reveille Canyon at USFS Boundary	1.85
Huerfano River, Turkey Creek, Custer Creek	Huerfano River at Wm Craig Augmentation Station	Custer Creek at USFS Boundary	1.85
Huerfano River, Turkey Creek	Huerfano River at Wm Craig Augmentation Station	Turkey Creek at USFS Boundary	1.85
Huerfano River, Apache Creek, North Apache Creek	Huerfano River at Wm Craig Augmentation Station	North Apache Creek at USFS Boundary	1.85
Huerfano River, Apache Creek, South Apache Creek	Huerfano River at Wm Craig Augmentation Station	South Apache Creek at USFS Boundary	1.85

Huerfano River	Huerfano River at Wm Craig Recharge Accrual Location	Huerfano River at Inlet to Red Wing Augmentation Facility (RWAF)	1.12
Huerfano River	Huerfano River at Wm Craig Recharge Accrual Location	Huerfano River at USFS Boundary	1.12
Huerfano River, Pass Creek	Huerfano River at Wm Craig Recharge Accrual Location	Pass Creek Near Paradise Acres Pond	1.12
Huerfano River, Pass Creek, Unnamed Creek	Huerfano River at Wm Craig Recharge Accrual Location	Unnamed Creek Near Paradise Acres Pond	1.12
Huerfano River, Muddy Creek, Bruff Creek	Huerfano River at Wm Craig Recharge Accrual Location	Bruff Creek at USFS Boundary	1.12
Huerfano River, Muddy Creek, North Muddy Creek	Huerfano River at Wm Craig Recharge Accrual Location	North Muddy Creek at USFS Boundary	1.12
Huerfano River, Muddy Creek, South Muddy Creek	Huerfano River at Wm Craig Recharge Accrual Location	South Muddy Creek at USFS Boundary	1.12
Huerfano River, Williams Creek	Huerfano River at Wm Craig Recharge Accrual Location	Williams Creek at USFS Boundary	1.12
Huerfano River, Turkey Creek, Custer Creek, Reveille Canyon	Huerfano River at Wm Craig Recharge Accrual Location	Reveille Canyon at USFS Boundary	1.12
Huerfano River, Turkey Creek, Custer Creek	Huerfano River at Wm Craig Recharge Accrual Location	Custer Creek at USFS Boundary	1.12
Huerfano River, Turkey Creek	Huerfano River at Wm Craig Recharge Accrual Location	Turkey Creek at USFS Boundary	1.12
Huerfano River, Apache Creek, North Apache Creek	Huerfano River at Wm Craig Recharge Accrual Location	North Apache Creek at USFS Boundary	1.12
Huerfano River, Apache Creek, South Apache Creek	Huerfano River at Wm Craig Recharge Accrual Location	South Apache Creek at USFS Boundary	1.12
Huerfano River	Confluence of Huerfano River and RWAF Outlet	Huerfano River at USFS Boundary	3.0
Pass Creek	Confluence of Huerfano River and Pass Creek	Pass Creek Near Paradise Acres Pond	3.0

Pass Creek, Unnamed Creek	Confluence of Huerfano River and Pass Creek	Unnamed Creek Near Paradise Acres Pond	3.0
Muddy Creek, Bruff Creek	Confluence of Huerfano River and Muddy Creek	Bruff Creek at USFS Boundary	3.0
Muddy Creek, North Muddy Creek	Confluence of Huerfano River and Muddy Creek	North Muddy Creek at USFS Boundary	3.0
Muddy Creek, South Muddy Creek	Confluence of Huerfano River and Muddy Creek	South Muddy Creek at USFS Boundary	3.0
Williams Creek	Confluence of Huerfano River and Williams Creek	Williams Creek at USFS Boundary	3.0
Turkey Creek, Custer Creek, Reveille Canyon	Confluence of Huerfano River and Turkey Creek	Reveille Canyon at USFS Boundary	3.0
Turkey Creek, Custer Creek	Confluence of Huerfano River and Turkey Creek	Custer Creek at USFS Boundary	3.0
Turkey Creek	Confluence of Huerfano River and Turkey Creek	Turkey Creek at USFS Boundary	3.0
Apache Creek, North Apache Creek	Confluence of Huerfano River and Apache Creek	North Apache Creek at USFS Boundary	3.0
Apache Creek, South Apache Creek	Confluence of Huerfano River and Apache Creek	South Apache Creek at USFS Boundary	3.0

Location of Exchange Points

Category	Name	Q40	Q160	Sec.	Town	Range
Exchange-From Points	Huerfano River at Wm Craig Augmentation Station	NW	SE	31	T26S	R67W
	Huerfano River at Wm Craig Recharge Accrual Location	SE	NW	32	T26S	R67W
	Confluence of Huerfano River and RWAf outlet	SE	NE	1	T27S	R71W
	Confluence of Huerfano River and Pass Creek	SE	SW	22	T26S	R70W
	Confluence of Huerfano River and Muddy Creek	NE	NW	24	T26S	R70W
	Confluence of Huerfano River and Williams Creek	NW	SE	19	T26S	R69W
	Confluence of Huerfano River and Turkey Creek	SE	SE	35	T26S	R69W
	Confluence of Huerfano River and Apache Creek	NW	NW	36	T25S	R66W
Exchange-To Points	Huerfano River at Inlet to RWAf	NW	SE	1	T27S	R71W
	Pass Creek Near Paradise Acres Pond	SW	NE	9	T28S	R70W
	Unnamed Creek Near Paradise Acres Pond	SE	SW	4	T28S	R70W
	Huerfano River at USFS Boundary	SE	SW	32	T27S	R72W
	Bruff Creek at USFS Boundary	NW	SW	25	T25S	R72W
	North Muddy Creek at USFS Boundary	NW	SW	12	T25S	R72W
	South Muddy Creek at USFS Boundary	SW	NW	13	T25S	R72W
	Williams Creek at USFS Boundary	NE	NE	11	T25S	R70W
	Reveille Canyon at USFS Boundary	NW	NW	8	T25S	R69W

	Custer Creek at USFS Boundary	NE	NW	13	T25S	R69W
	Turkey Creek at USFS Boundary	NW	NE	15	T25S	R69W
	North Apache Creek at USFS Boundary	SW	NW	24	T25S	R68W
	South Apache Creek at USFS Boundary	NW	NW	25	T25S	R68W

2. Operation of Exchanges. Water will be exchanged from the Lower Terminus (exchange from point) up the exchange reaches to the Upstream Terminus of the exchange (exchange to point). Water may be exchanged from and to points within the exchange reaches listed consisting of portions of the entire exchange reach. These exchanges can and will be implemented within a reasonable time frame by the application of the Subject Water Rights to beneficial use. **D. Uses.** The District will use the exchanged water for beneficial uses under the augmentation plan, including augmentation and replacement purposes as well as initial use, reuse, and successive use until extinction. **E. Source of Water for Exchange.** The source of water for exchanges is the Subject Water Right. **F. Amount of Exchange.** The amount of the exchanges within the exchange reaches are shown on the above list of exchanges and also on the Exhibit G exchange matrix. **G. Appropriation Date.** The appropriation date of this exchange is December 2, 2013 which is the date of the public resolution of the District approving these appropriative rights of exchange thereby confirming, implementing, and demonstrating the District's intent and actions to initiate and appropriate these water rights for the beneficial uses as set forth herein. **H. Future Exchanges.** Future exchanges of decreed water rights may also be added for use within this plan for augmentation following the same procedures of Section V. B .2 and 3 for the inclusion of additional decreed augmentation water. **I. Names and Addresses of Owners of Land Upon Which Structures are Located.** The owner of the land where the Red Wing Augmentation Facility and Wilson Ditch are located is Growing Roots, LLC, c/o Christy Wyckoff, P.O. Box 874, Ft. Collins, Colorado 80522. The District has been granted easement rights for the use of the Wilson Ditch, pipelines, and Red Wing Augmentation Facility. The owners of land where the Paradise Acres Pond is located is Paradise Acres Homeowners Association, c/o President, 41 Houchin Blvd., LaVeta, Colorado 81055. The Wm. Craig Ditch Augmentation Station and the Recharge Facility are located upon the Wm. Craig Ranch owned by the Roxie L. Camp Revocable Trust and the Len L. Camp Revocable Trust, whose address is 550 Spears Avenue, Evansville, Wyoming 82636.

CASE NO. 2013CW3063 - DAVID SMITH AND STEPHANIE SMITH, 456 County Road 396, P.O. Box 126, Wetmore, CO 81253 (Chris D. Cummins, Ryan W. Farr, Felt, Monson & Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903; (719) 471-1212)

Application for Simple Change in Surface Point of Diversion
CUSTER COUNTY

CHANGE OF LOCATION FOR A SURFACE POINT OF DIVERSION. **Description of Decreed Interest and Points of Diversion on the Melrose Ditch:** Decree Information: The subject water rights are water rights decreed to the "Melrose Ditch", for 0.5 cubic feet per second (Hardscrabble Creek priority Nos. 18, 50, and 57, and Arkansas River priority Nos. 77, 316, and 336), as adjudicated in the original adjudication of water rights for Water District No. 12 dated February 3, 1894, for the

irrigation of twenty nine (29) acres. Decreed Point of Diversion: Pursuant to the Decree dated February 3, 1894, the Melrose Ditch is to divert water from Hardscrabble Creek from a headgate located on the “east, or south side” of the Creek. No more specific description of the Point of Diversion is provided by said Decree. Based upon information provided by Applicants and other neighboring water users with knowledge of the Melrose Ditch and its use, the originally and historically utilized point of diversion is located at the following UTM coordinates: NAD83, Zone 13, Easting: 491688, Northing: 4228928. Current Point of Diversion: Since roughly 1947, when severe flooding occurred on Hardscrabble Creek in the vicinity of the original point of diversion, the Melrose Ditch has diverted from a shared point of diversion with the Reece Ditch, at a point approximately one hundred (100) yards downstream/southeast of the above described original point of diversion. The 1947 flood and erosion resulting therefrom rendered the original point of diversion unworkable, being in excess of 25 feet above the eroded stream channel, thereby necessitating the use of the Reece point of diversion for continued beneficial use of the Melrose Ditch water rights. The approximate location of the shared Reece Ditch and Melrose Ditch point of diversion is UTM coordinates: NAD83, Zone 13, Easting: 491750, Northing: 4228940. Source: Hardscrabble Creek, tributary to the Arkansas River. Appropriation Date: October 31, 1871. **Description of Decreed Interests and Points of Diversion on the Reece Ditch:** Decree Information: The Reese Ditch is decreed to divert 1.125 cubic feet per second of water for the irrigation of ninety (90) acres of land under Arkansas River priority No. 44; along with, 0.5625 cubic feet per second of water for the irrigation of forty five (45) acres of land under Arkansas River priority No. 94; and 0.875 cubic feet per second of water for the irrigation of seventy (70) acres of land under Arkansas River priority No. 134. All as adjudicated in the original adjudication for Water District No. 12 dated February 3, 1894. Decreed Point of Diversion: The Reece Ditch is to divert water from Hardscrabble Creek from a headgate located on the “east side of [Hardscrabble] Creek.” No more specific description of the Point of Diversion is provided by said Decree. Based upon information provided by Applicants and other neighboring water users with knowledge of the Reese Ditch and its use, the originally and historically utilized point of diversion is located at UTM coordinates: NAD83, Zone 13, Easting: 491750, Northing: 4228940 (coincident with that described above as the current point of diversion for the Melrose Ditch). Applicants seek no change to the Reese Ditch water rights, and the information provided herein is merely as background for the historical use of the Melrose Ditch in conjunction therewith. **Change in the Point of Diversion:** Applicant seeks a “simple change in the point of diversion” of the Melrose Ditch, pursuant to C.R.S. §37-92-305(3.5). An application for a simple change of a point of diversion may “*be made with respect to a change of point of diversion that has already occurred.*” C.R.S. §37-92-305(3.5)(b)(III)(a). “Simple change in a surface point of diversion” means a change in the point of diversion from a decreed surface diversion point to a new surface diversion point that is not combined with and does not include any other type of change of water right and for which there is no intervening surface diversion point or inflow between the new point of diversion and the diversion point from which a change is being made. C.R.S. §37-92-305(3.5)(a)(II). Applicant seeks a simple change from the original decreed point of diversion for the Melrose Ditch to its current location one hundred (100) yards downstream to the southeast, and diverting from Hardscrabble Creek at a point

co-incident with that of the Reece Ditch. This point of diversion has been in place since approximately 1947. There are no intervening surface diversion points or inflows between this “new” historically utilized point of diversion and the original point of diversion for which change is sought. **No Injury or Resulting Change, Other Than Requested:** There will be no injury to other vested water users as a result of the requested change in point of diversion. This change in point of diversion will not result in a diversion of a greater amount of water than has been decreed and historically utilized. Approximately 250 yards below the common point of diversion for the Reece Ditch and Melrose Ditch from Hardscrabble Creek, is a headgate with a turnback to Hardscrabble Creek (UTM coordinates: NAD83, Zone 13, Easting: 491820, Northing: 4228980). This headgate and turnback allows for proper measurement and allocation of decreed water amounts for both the Reece Ditch and Melrose Ditch, and for return to Hardscrabble Creek of any amounts in excess of the decreed entitlements thereof. The quantities of water appropriated for the decreed Melrose Ditch water right is present and available for diversion from this new point of diversion, as the water that would have been removed from Hardscrabble Creek at the original point of diversion is instead diverted only approximately one hundred yards (100) downstream. The “new” point of diversion for which this simple change is sought has been in place and operating consistent with the Decree amounts and uses since approximately 1947 with no injury to other vested water users. Applicants seek no other changes to the Melrose Ditch water right, and will continue to beneficially use the flows therefrom on the historically irrigated acreage upon which this water right matured to beneficial use. No injury will result to other vested water rights as a result of this requested simple change in point of diversion. No intervening point of diversion from, or inflows to, Hardscrabble Creek occur between the original point of diversion and the requested changed point of diversion co-incident with the Reece Ditch. No greater quantities of water than is decreed to the Melrose Ditch will be diverted nor used as a result of the proposed simple change, nor are any other changes to the Melrose Ditch water right requested. Applicants seek this simple change at the encouragement of local water administrators.

CASE NO. 2013CW3064 – GRANADA FEEDERS, LLC, P. O. Box 40, Granada, CO 81041 (John S. Lefferdink, Lefferdink Law Office, Attorney for Applicant, P. O. Box 110, Lamar, CO 81052; (303) 336-7411)

Application for Finding of Reasonable Diligence

PROWERS COUNTY, COLORADO

UNDERGROUND WATER RIGHT NO. 1: GRANADA FEEDERS DAKOTA AQUIFER WELL NO. 1. **Permit Number:** 248443. **Legal Description of Well:** NW ¼ NW ¼ of Section 22, Township 23 South, Range 44 West of the 6th P.M., Prowers County, Colorado, 705 feet from the north section line and 880 feet from the west section line. **Source:** Dakota Aquifer; **Depth:** 440 feet. **Date of Appropriation:** July 1, 2003; **How Appropriation was Initiated:** Filing of Application. **Date of Well Completion:** April 29, 2004. **Amount Claimed:** 150 gpm, not to exceed 240 a.f. per year (conditional). **Proposed Use:** Water supply for commercial livestock feedyard with a maximum capacity of 30,000 head. **Name and Address of Owner of Land on which Well is Located:** Granada Feeders, LLC, P. O. Box 40, Granada, CO 81041. A tract of land containing 73.87 acres lying in Prowers County, Colorado in the W ½ of Sec. 22,

T.23S., R44W., of the 6th P.M., and being more particularly described as follows: Beginning at the Northwest corner of said Sec. 22 as monumented by a 2-7/8" iron pipe with 3-1/4" aluminum cap marked RLS 11380 and considering the North line of said Sec. 22, (as monumented by a similar pipe and cap at its East end), bearing S.89°59'28"E. (G.P.S.) with all other bearings contained herein being relative thereto; thence S.89°59'28"E., along the North line of said Sec. 22, a distance of 483.47 feet; thence continuing S.89°59'28"E., 897.71 feet; thence S.27°33'11"W., 1073.66 feet; thence S.0°12'08"E., 2990.00 feet; thence N.56°36'01 "W., 138.29 feet; thence N.30°35'55"W., 209.89 feet; thence N.43°42'46"W., 127.38 feet; thence N.68°07'29"W., 274.24 feet; thence N.37°51'34"W., 136.37 feet; thence N.6°19'03"E., 239.28 feet; thence N.23°22'07"W., 237.00 feet; thence N.0°54'49"W., 185.29 feet; thence N.15°19'58"W., 261.80 feet; thence N.42°29'02"W., 152.18 feet to a point on the West line the NW14 of said Sec. 22, thence N.0°05'43"W., along said West line, a distance of 1294.72 feet; thence continuing N.0°05'43"W., 1083.31 feet to the point of beginning. All comers, unless otherwise noted, are monumented by 5/8" rebars and aluminum caps marked BRUNDAGE, PLS 30087. **State Engineer's Well Identification Number:** 6706440. **10. Augmentation:** The subject well is a non-exempt structure and will be operated under the Lower Arkansas Water Management Association augmentation plan decreed in Water Division 2 Case No. 02CW181. **UNDERGROUND WATER RIGHT NO. 2. GRANADA FEEDERS DAKOTA AQUIFER WELL NO. 2. Legal Description of Well:** NW ¼ SW ¼ of Section 22, Township 23 South, Range 44 West of the 6th P.M., Prowers County, Colorado, 1400 feet from the south section line and 150 feet from the west section line. **Source:** Dakota Aquifer; **Depth:** 560 feet, approximately. **Date of Appropriation:** July 1, 2003. **How Appropriation was Initiated:** Filing of Application. **Date of Well Completion:** Not completed. **Amount Claimed:** 150 gpm, not to exceed 240 a.f. per year (conditional). **Proposed Use:** Water supply for commercial livestock feedyard with a maximum capacity of 30,000 head. **Name and Address of Owner of Land on which Well is Located:** Granada Feeders, LLC, P.O. Box 40, Granada, CO 81041. A tract of land containing 73.87 acres lying in Prowers County, Colorado in the W ½ of Sec. 22, T.23S., R44W., of the 6th P.M., and being more particularly described as follows: Beginning at the Northwest corner of said Sec. 22 as monumented by a 2-7/8" iron pipe with 3-1/4" aluminum cap marked RLS 11380 and considering the North line of said Sec. 22, (as monumented by a similar pipe and cap at its East end), bearing S.89°59'28"E. (G.P.S.) with all other bearings contained herein being relative thereto; thence S.89°59'28"E., along the North line of said Sec. 22, a distance of 483.47 feet; thence continuing S.89°59'28"E., 897.71 feet; thence S.27°33'11"W., 1073.66 feet; thence S.0°12'08"E., 2990.00 feet; thence N.56°36'01"W., 138.29 feet; thence N.30°35'55"W., 209.89 feet; thence N.43°42'46"W., 127.38 feet; thence N.68°07'29"W., 274.24 feet; thence .37°51'34"W., 136.37 feet; thence N.6°19'03"E., 239.28 feet; thence N.23°22'07"W., 237.00 feet; thence N.0°54'49"W., 185.29 feet; thence N.15°19'58"W., 261.80 feet; thence N.42°29'02"W., 152.18 feet to a point on the West line the NW1/4 of said Sec. 22, thence N.0°05'43"W., along said West line, a distance of 1294.72 feet; thence continuing N.0°05'43"W., 1083.31 feet to the point of beginning. All corners, unless otherwise noted, are monumented by 5/8" rebars and aluminum caps marked BRUNDAGE, PLS 30087. **State Engineer's Well Identification Number:** None. **Augmentation:** The subject well is a non-exempt

structure and will be operated under the Lower Arkansas Water Management Association augmentation plan decreed in Water Division 2 Case No. 02CW181. **WORK DONE TO COMPLETE PROJECT:** These two wells were adjudicated in Case No. 03CW60, District Court, Water Division No. 2, State of Colorado on December 27, 2007. Granada Feeders Dakota Aquifer Well No. 1 was awarded a conditional water right of 150 gpm, not to exceed 240 a.f. per year, and Granada Feeders Dakota Aquifer Well No. 2 was awarded a conditional water right of 150 gpm, not to exceed 240 a.f. per year. The Granada Feeders Dakota Aquifer Well No. 1 was completed as a well on or about April 29, 2004, was drilled to a depth of 440 feet, and casing was installed. The cost to drill this well was \$11,867.09. The well was test pumped at a rate of 12 gpm. Applicant estimates that it will cost \$20,000 to equip the well and tie the well by pipeline into the existing commercial livestock feedyard water system. Applicant does intend to tie this well to its watering system. The Granada Feeders Dakota Aquifer Well No. 2 has not been drilled. Applicant does intend to complete this well, but the existing water supply has been sufficient for current livestock feedyard operations. Applicant has a present livestock capacity of 15,000 head of cattle. Applicant has the right to operate up to a maximum of a 30,000 head commercial cattle feedyard pursuant to special use permits dated April 19, 2000 issued by the Prowers County Planning Commission and Prowers County Board of Commissioners. At this maximum capacity, Applicant will require a water supply of at least 500 a.f. of water per year. **CONTINUATION OF CONDITIONAL WATER RIGHTS:** Applicant requests that the conditional water rights decreed for Granada Feeders Dakota Aquifer Well No. 1 and Granada Feeders Dakota Aquifer Well No. 2 be continued in full force and effect for an additional diligence period.

CASE NO. 2013CW3065 - LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION ("LAWMA"), c/o Donald F. Higbee, Manager, 310 South 6th Street, P. O. Box 1161, Lamar, Colorado 81052 (Please send all pleadings and correspondence to: Richard J. Mehren, Jennifer M. DiLalla, and Anne D. Bensard, Moses, Wittemyer, Harrison & Woodruff, P.C., Attorneys for Applicant, P. O. Box 1440, Boulder, CO 80306-1440; (303) 443-8782)

Application for Plan for Augmentation
PROWERS AND BENT COUNTIES

2. Purpose of application: LAWMA is a non-profit corporation organized for the purpose of, among other things, providing a means for its members to continue to make groundwater diversions from wells and other structures with junior priorities and to continue to make surface water diversions from structures with junior priorities in the Arkansas River water rights regime. The purpose of this application is to include one additional well in LAWMA's plan for augmentation, which was decreed on March 8, 2007 in Case No. 02CW181, Water Division No. 2 ("02CW181 Decree"). Pursuant to paragraph 43 of the 02CW181 Decree, additional wells or structures may be added to the plan for augmentation by filing a new application with the Water Court. **3. Description of structures to be augmented:** McClave School District RE-2 Cheyenne Aquifer Well located in the SE ¼ NE ¼ Sec. 13, T22S, R49W, 6th P.M., Bent County, Colorado, 1880 feet from the North line and 100 feet from the East line. A map depicting the location of the structure is on file with the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of

the clerk of this Court.) **4. Water rights and other sources of water to be used for augmentation:** Those water rights and other sources of water identified in paragraph 40 of the 02CW181 Decree. **5. Statement of plan for augmentation:** The amount, timing and location of depletions from the McClave School District RE-2 Cheyenne Aquifer Well will be determined in accordance with the methodologies approved in the 02CW181 Decree. LAWMA intends to account for and fully-replace all out-of-priority stream depletions caused by the McClave School District RE-2 Cheyenne Aquifer Well with fully-consumable water in accordance with the terms and conditions of the 02CW181 Decree in a manner that protects Colorado senior surface water rights from injury and assures compliance with the Arkansas River Compact. This application does not seek to change any provisions of the 02CW181 Decree other than the inclusion of the additional well. **6. Name and address of owner of land upon which the structure is or will be located:** McClave School District RE-2, P. O. Box 1, McClave, CO 81057. WHEREFORE, LAWMA respectfully requests that this Court enter a decree approving this plan for augmentation and determining that such plan for augmentation will not cause injury to the vested or decreed conditional water rights of others and will not violate the Arkansas River Compact.

CASE NO. 2013CW3066 - ELK CAMP, LLC, c/o Mark Johnson, 7009 South Jordan Road, Centennial, CO 80112

(Please send all pleadings and correspondence to: Timothy J. Flanagan, Fowler, Schimberg & Flanagan, P.C., Attorneys for Applicant, 1640 Grant Street, Suite 300, Denver, CO 80203; (303) 298-8603)

Application for Conditional Water Storage Right

TELLER COUNTY, COLORADO

Elk Camp is a limited liability company in good standing and is authorized to do business in Colorado. **2. Name of Reservoir:** East Beaver Creek Reservoir. **3. Legal description of location of dam centerline.** SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 10, Township 16 South, Range 68 West of the 6th P.M. From the Southwest corner of Section 10 (10) Township sixteen (16) South, Range sixty-eight (68) West of the Sixth (6th) Principal Meridian bears North one thousand seventeen (1,017) feet, and East nine hundred seventy-two and three-tenths (972.3) feet. UTM: 500731.92, 4280015.28, Zone 13N, meters. This is an on-channel reservoir. See Location Map (Figure 1) attached to the Application. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Source:** East Beaver Creek. **5. Date of appropriation:** December 1, 2013, initiated by completion of initial engineering report and publication in the Division 2 Resume for December, 2013. **6. Amount claimed:** 75 acre-feet conditional, with right to continuous fill and refill up to 150 acre-feet annually. **7. Proposed Uses:** wildlife, augmentation, irrigation, and recreation. Irrigation will be limited to 7.3 acres located in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 15 South, Range 68 West of the 6th Prime Meridian, and the South $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 26, Township 15 South, Range 68 West of the 6th Prime Meridian; and 24.5 acres of the eastern half of Section 34, Township 15 South, Range 68 West of the 6th Prime Meridian. Wildlife and recreation uses will be limited to uses at the proposed reservoir site in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 10, Township 16 South, Range 68 West of the 6th Prime Meridian, with a dam location at 500731.92, 4280015.28 (NAD 83 UTM Zone 13 North, meters). Wildlife and recreation uses will include releases from

the dam to East Beaver Creek to maintain streamflow on East Beaver Creek for fish and other wildlife. **8. Surface area of high water line:** 5.27 acres. A. Maximum height of dam in feet: 46 feet. B. Length of dam in feet: 291 feet. **9. Total capacity of reservoir in acre feet:** 75 acre feet. **10. Name and address of owner of the land upon which reservoir will be constructed:** Elk Camp, LLC, 7009 South Jordan Road, Centennial, Colorado 80112.

CASE NO. 2013CW3067 - ELK CAMP, LLC, c/o Mark Johnson, 7009 South Jordan Road, Centennial, Colorado 80112 (Please send all pleadings and correspondence to:

Timothy J. Flanagan, Fowler, Schimberg & Flanagan, P.C., Attorneys for Applicant, 1640 Grant Street, Suite 300, Denver, CO 80203; (303) 298-8603)

Application for a Conditional Surface Water Right

TELLER COUNTY, COLORADO

Elk Camp is a limited liability company in good standing and is authorized to do business in Colorado. **2. Name of structures:** Elk Camp Ditch 1, Elk Camp Ditch 2, Elk Camp Ditch 3; conditional structures not yet completed, see Figure 1 to the Application for location. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **3. Legal description of each point of diversion:** Elk Camp Ditch 1: SE ¼ of the SW ¼ of Section 26, Township 15 South, Range 68 West of the 6th P.M. From the Southwest corner of Section 26, Township fifteen (15) South, Range sixty-eight (68) West of the Sixth (6th) Principal Meridian bears North one hundred fifty one (151) feet, and East two-thousand four hundred twenty three (2,423) feet. UTM: 502665.79, 4284723.68, Zone 13N, meters. Elk Camp Ditch 2: NE ¼ of the NE ¼ of Section 34, Township 15 South, Range 68 West of the 6th P.M. From the Northeast corner of Section 34, Township fifteen (15) South, Range sixty-eight (68) West of the Sixth (6th) Principal Meridian bears South one thousand two hundred seventy five (1,275) feet, and West ten (10) feet. UTM: 501929.82, 4284289.34, Zone 13N, meters. Elk Camp Ditch 3: NE ¼ of the SE ¼ of Section 34, Township 15 South, Range 68 West of the 6th P.M. From the Southeast corner of Section 34, Township fifteen (15) South, Range sixty-eight (68) West of the Sixth (6th) Principal Meridian bears North one thousand six hundred sixty five (1,665) feet, and West one thousand one hundred fourteen (1,114) feet. UTM: 501599.62, 4283599.09, Zone 13N, meters. **4. Source:** East Beaver Creek, tributary to the Arkansas River. **5. Date of appropriation:** December 1, 2013, initiated by completion of initial engineering report and publication in the Division 2 Resume for December, 2013. **6. Amount claimed in cubic feet per second (cfs):** 0.636 cfs CONDITIONAL. **7. List All Uses or Proposed Uses:** Irrigation of 7.3 acres located in the NW ¼ of the NW ¼ of Section 35, Township 15 South, Range 68 West of the 6th Prime Meridian, and the South ¼ of the SE ¼ of Section 26, Township 15 South, Range 68 West of the 6th Prime Meridian; and 24.5 acres of the eastern half of Section 34, Township 15 South, Range 68 West of the 6th Prime Meridian; see Figure 1. **8. Name and address of owner of the land upon which ditches will be constructed:** Elk Camp, LLC, 7009 South Jordan Road, Centennial, Colorado 80112. **9. Other:** Attached as Figure 1 to the Application is a map prepared by the Applegate Group showing general vicinity of claimed ditches and irrigated fields.

CASE NO. 2013CW3068; Previous Case Nos. 92CW30; 02CW82(92CW30); 06CW79(92CW30) – PURGATOIRE RIVER WATER CONSERVANCY DISTRICT, 314 West Main Street, Trinidad, CO 81082 (Julianne M. Woldridge, MacDougall & Woldridge, P.C., Attorneys for Applicant, 1586 S. 21st St., Suite 200, Colorado Springs, CO 80904, 719-520-9288)

Application to Make Absolute Part of a Conditional Water Right

LAS ANIMAS COUNTY

2. Name of structure: Joint Use Capacity, Trinidad Reservoir. **3. Describe conditional water right:** a. Original Decree: Case No. 92CW30, District Court, Water Division No. 2, Colorado, dated September 6, 2000. Supplemental decrees: Case No. 02CW82, District Court, Water Division No. 2, Colorado, dated May 5, 2003; and Case No. 06CW79, District Court, Water Division No. 2, dated July 20, 2010. b. Location: Trinidad Dam is located on the upper Purgatoire River, a tributary of the Arkansas River, at river mile 160.5 (Latitude 37°08'27", Longitude 104°33'03") about 3.2 miles southwest of the City of Trinidad, Las Animas County, Colorado. The principal axis of the dam is located as follows: commencing at a point whence the Northwest corner of Section 27, Township 33 South, Range 64 West, 6th P.M. bears North 39°45' West for a distance of 2,257 feet; thence South 04°45'49" West 60.21 feet to the northerly end of the principal axis; thence South 45°12'52" East a distance of 1,887.99 feet along the principal axis of the dam to the southerly end of the principal axis. The Joint Use Capacity of Trinidad Reservoir inundates parts of Sections 21, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 33 South, Range 64 West, 6th P.M., Las Animas County, Colorado. c. Source: Purgatoire River and Leitensdorfer, Chicosa, and Black Hills Arroyos, available by impoundment or exchange for storage under: a) operating principles of the contract between applicant and the United States of America, dated February 10, 1967, as amended from time to time; b) Article IV D of the Arkansas River Compact; and c) contracts with owners of decreed rights for domestic, irrigation, and municipal supply to lands within the Purgatoire River Water Conservancy District. d. Appropriation date: May 6, 1989. e. Amount: 39,000 acre-feet, with the right to fill and refill each year as necessary. f. Uses: Domestic, irrigation, and municipal uses within the Purgatoire River Water Conservancy District in the manner authorized by the operating principles of the Trinidad Reservoir Project contained in the contract dated February 10, 1967 between Applicant and the United States of America, as amended.

4. Request to make part of the water right absolute: According to Corps of Engineers' records, as of June 2, 1999 Applicant had 37,604 acre-feet in storage pursuant to the Joint use Capacity storage right. In Case No. 02CW82, the subject storage right was made absolute to the extent of 36,189.08 acre-feet for irrigation purposes based on releases of such water. Applicant seeks to make an additional 1,414.92 acre-feet of the 39,000 acre-feet conditional water right absolute for irrigation uses and to make 37,604 acre-feet of the 39,000 acre-feet conditional water right absolute for domestic and municipal uses pursuant to C.R.S. § 37-92-301 (4) (e) (2013) which provides in pertinent part "a decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure", and C.R.S. § 37-92-103 (4) (1) (2013) which provides in pertinent part that beneficial

use includes “storage for any purpose for which an appropriation is lawfully made...” The water was placed to beneficial use by storage in Trinidad Reservoir. **5. Name of owner of land where reservoir sits:** U.S. Army, Corps of Engineers, Albuquerque District, P.O. Box 1580, Albuquerque, NM 87103. **6.** Applicant’s request would result in 37,604 acre-feet of the 39,000 acre-feet conditional water right being absolute for all of the decreed uses, leaving 1,396 acre-feet of the conditional water right conditional for all of the decreed uses. Applicant is not seeking to make the remaining 1,396 acre-feet conditional right absolute or seeking findings of diligence as to the remaining 1,396 acre-feet conditional right at this time. Applicant, therefore, requests a decree finding that an additional 1,414.92 acre-feet of the 39,000 acre-feet conditional water right has been made absolute for irrigation uses and to that 37,604 acre-feet of the 39,000 acre-feet conditional water right has been made absolute for domestic and municipal uses.

CASE NO. 2013CW3069 – LYNNE A. BLYMIRE, 119 Mountain Drive, Andreas, PA 18211 (Please send all pleadings and correspondence to: David M. Shohet, Felt, Monson & Culichia, LLC, Attorneys for Applicant, 319 N. Weber Street, Colorado Springs, CO 80903, Phone: (719) 471-1212)

Application for Surface Water Right

PUEBLO COUNTY, COLORADO

II. APPLICATION FOR SURFACE WATER RIGHTS **A. Name of Structure:** Lynne’s Ditch. **B. Legal Description of Point of Diversion:** The point of diversion is located in the Southwest 1/4 of Section 24, Township 24 South, Range 68 West of the 6th P.M., at a point located by G.P.S. by the Division of Water Resources during a field inspection at NAD 83, 13S-0504107 East, 13S-4199130 North. **C. Source:** Fischer Canon Creek, a tributary of Muddy Creek, a tributary of Greenhorn Creek, a tributary of the St. Charles River. **D. Date of Initiation of Appropriation:** November 1, 2009. **E. Amount Claimed:** 1 c.f.s, conditional. **F. Use:** Irrigation of approximately 20 acres, stock watering. **IV. REMARKS.** A. Applicant is the owner of the land where the structure sought to be adjudicated herein is located and upon which the place of use of the water from all of the structures is intended. B. Diversions may be placed in lined or piped ditches to the irrigated fields. C. This application is filed merely for back-up purposes and shall be a supplemental source to Applicants’ decreed water rights and shall only be operated at times when there are free river conditions or pursuant to C.R.S. § 37-92-502.

CASE NO. 2013CW3070 – BAR NI CORPORATION, c/o Steve Hanks, Ranch Manager, Bar NI Ranch, 6614 Highway 12, Stonewall Gap, Weston, CO 81091

(Please send all pleadings and correspondence to: Raymond L. Petros and Thoms W. Korver, Petros & White, LLC, Attorneys for Applicant, 1999 Broadway, Suite 3200, Denver, CO 80202; (303) 825-1980)

Application for Water Storage Rights, Approval of Plan for Augmentation and Appropriative Right of Exchange

LAS ANIMAS COUNTY, COLORADO

Background: The Bar NI Corporation (“Applicant”), a Colorado corporation, is the owner of a ranch (“Bar NI Ranch” or “Ranch”) near Stonewall, Colorado in western Las Animas County. There are four off-channel ponds located on Applicant’s property

totaling 7.992 acre-feet in capacity and covering 1.751 surface acres. This application seeks (1) to adjudicate absolute water rights for the four existing ponds on Applicant's property; (2) to adjudicate an additional conditional water right for a pond located on a separate nearby property owned by Applicant; (3) approval of a plan for augmentation to replace out-of-priority evaporative depletions caused by the open water surfaces of the four existing ponds; and (4) to adjudicate an appropriative right of exchange in connection with the augmentation plan.

I. APPLICATION FOR WATER STORAGE RIGHTS.

Name of structure: Lawton Pond. **A. Location:** The centerline of the dam is located in the SE1/4 SE1/4 Section 25, T. 33 S., R. 69W., 6th P.M., at a point 545 feet from the South section line and 515 feet from the east section line of said Section 25. Section lines at the Bar NI Ranch: Section lines are estimates based on Maxwell Land Grant Co. surveys. Coordinates for the Maxwell Land Grant Co. survey monuments, marked P.L.S. 9645, for the NE corner and north quarter corner of Section 30, T33S, R68W, 6th PM, were provided by Terry Surveying Inc. of Trinidad, Colorado. Section lines were calculated based on these monument locations. The surveys for the ponds at Bar NI Ranch and other surveys in the vicinity were based on these monuments as well.

B. Source: Duling Creek, tributary to the South Fork of the Purgatoire River. **C. Diversion:** An unnamed diversion structure with a capacity of approximately 1.0 cfs. which diverts from Duling Creek in the NE1/4 NE1/4, Section 36, T. 33S., R. 69W., 6th P.M., at a point 20 feet from the north section line and 1260 feet from the east section line of said Section 36 (UTM coordinates, Zone 13, NAD83, Easting 495589, Northing 4110191). **D. Appropriation Date:** December 31, 1954, by construction. **E. Date Water Applied to Beneficial Use:** December 31, 1954. **F. Amount:** 1.876 acre-feet, absolute, together with the right to refill this amount when water is available in priority, to be filled at a rate of diversion of 1.0 cfs absolute. (i) Active Capacity: 1.876 acre-feet (ii) Dead Storage: 0.00 acre-feet **G. Surface Area:** 0.416 acres. (i) Maximum Height of Dam: 6.5 feet (ii) Length of Dam: 190 feet **H. Use:** Aesthetic, piscatorial, irrigation, recreation, hydropower, stock watering, wildlife habitat, fire suppression, augmentation and exchange.

Name of structure: Rainbow Pond. **A. Location:** The centerline of the dam is located in the SW1/4 SW1/4 Section 30, T. 33S., R. 68W., 6th P.M., at a point 885 feet from the south section line and 235 feet from the west section line of said Section 30. **B. Source:** Abbott Creek, tributary to the South Fork of the Purgatoire River. **C. Diversion:** An unnamed diversion structure with a capacity of approximately 1.75 cfs. which diverts from Abbott Creek in the SW1/4 SW1/4, Section 30, T. 33S., R. 68W., 6th P.M., at a point 645 feet from the south section line and 130 feet from the west section line of said Section 30 (UTM coordinates, Zone 13, NAD83, Easting 496012, Northing 4110391). **D. Appropriation Date:** December 31, 1966, by construction. **E. Date Water Applied to Beneficial Use:** December 31, 1966. **F. Amount:** 3.194 acre-feet, absolute, together with the right to refill this amount when water is available in priority, to be filled at a rate of diversion of 1.75 cfs absolute. (i) Active Capacity: 3.194 acre-feet (ii) Dead Storage: 0.00 acre-feet **G. Surface Area:** 0.579 acres. (i) Maximum Height of Dam: 8.1 feet (ii) Length of Dam: 195 feet **H. Use:** Aesthetic, piscatorial, irrigation, recreation, hydropower, stock watering, wildlife habitat, fire suppression, augmentation and exchange.

Name of structure: Whispering Pines Pond. **A. Location:** The centerline of the dam is located in the SW1/4 NE1/4 Section 36, T. 33S., R. 69W., 6th P.M., at a point 1835 feet from the north

section line and 1800 feet from the east section line of said Section 36. **B. Source:** Abbott Creek, tributary to the South Fork of the Purgatoire River. **C. Diversion:** An unnamed diversion structure with a capacity of approximately 1.75 cfs. which diverts from Abbott Creek in the SW1/4 NE1/4, Section 36, T. 33S., R. 69W., at a point 2100 feet from the north section line and 1940 feet from the east section line of said Section 36 (UTM coordinates, Zone 13, NAD83, Easting 495374, Northing 4109560). **D. Appropriation Date:** December 31, 1988, by construction. **E. Date Water Applied to Beneficial Use:** December 31, 1988. **F. Amount:** 1.472 acre-feet, absolute, together with the right to refill this amount when water is available in priority, to be filled at a rate of diversion of 1.75 cfs absolute. (i) Active Capacity: 1.472 acre-feet (ii) Dead Storage: 0.00 acre-feet **G. Surface Area:** 0.314 acres. (i) Maximum Height of Dam: 6.4 (ii) Length of Dam: 200 feet **H. Use:** Aesthetic, piscatorial, irrigation, recreation, hydropower, stock watering, wildlife habitat, fire suppression, augmentation and exchange. **Name of structure:** Entrance Pond. **A. Location:** The centerline of the dam is located in the NW1/4 NW1/4 Section 30, T. 33S., R. 68W., 6th P.M., at a point 730 feet from the north section line and 1250 feet from the west section line of said Section 30. **B. Source:** Middle Fork of the Purgatoire River. **C. Diversion:** An unnamed diversion structure with a capacity of approximately 1.0 cfs which diverts from the Middle Fork of the Purgatoire River in the NW1/4 NW1/4 Section 30, T. 33S., R. 68W., 6th P.M., at a point 1190 feet from the north section line and 910 feet from the west section line of said Section 30 (UTM coordinates, Zone 13, NAD83, Easting 496259, Northing 4111454). **D. Appropriation Date:** December 31, 1988, by construction. **E. Date Water Applied to Beneficial Use:** December 31, 1988. **F. Amount:** 1.450 acre-feet, absolute, together with the right to refill this amount when water is available in priority, to be filled at a rate of diversion of 1.0 cfs absolute. (i) Active Capacity: 1.450 acre-feet (ii) Dead Storage: 0.00 acre-feet **G. Surface Area:** 0.442 acres. (i) Maximum Height of Dam: 5.6 feet (ii) Length of Dam: 200 feet **H. Use:** Aesthetic, piscatorial, irrigation, recreation, hydropower, stock watering, wildlife habitat, fire suppression, augmentation and exchange. **Name of structure:** Solitario Pond. **A. Location:** The pond will be located in the NE1/4 SW1/4 Section 19, T. 33S., R. 67W., 6th P.M., the centerline of the dam of which will be at a point approximately 3210 feet from the north section line and 2695 feet from the east section line of said Section 19. **B. Source:** Purgatoire River. **C. Diversion:** Direct diversions from the Dolores Duran Ditch, precipitation runoff, and irrigation runoff, including runoff from the Reys Montoya Ditch as transferred for diversion in the Dolores Duran Ditch on April 17, 1943, in Case No. 11637. The Reys Montoya Ditch diverts from the Purgatoire River in the NE1/4 SW1/4, Section 32, T. 33S., R. 65W., 6th P.M. (UTM coordinates, NAD83, Easting, 526829.8, Northing 4108859). The Reys Montoya Ditch was originally decreed in the amount of 3.2 cfs on August 10, 1903 as District Priority No. 10, Las Animas River Priority No. 10, with an appropriation date of February 1, 1863. **D. Appropriation Date:** December 31, 2013. **E. Date Water Applied to Beneficial Use:** NA. **F. Amount:** 7.0 acre-feet, absolute, together with the right to refill this amount when water is available in priority, to be filled at a rate of diversion of 7.0 cfs. (i) Active Capacity: 7.0 acre-feet (ii) Dead Storage: 0.00 acre-feet **G. Approximate Surface Area:** 2.0 acres. **H. Use:** Aesthetic, piscatorial, irrigation, recreation, hydropower, stock watering, wildlife habitat, fire suppression, augmentation and exchange. **IV.**

APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. Name of structures to be augmented: Lawton Pond; Rainbow Lake; Whispering Pines Pond and Entrance Pond (collectively, the “Bar NI Ponds”), as described above. **Water Rights to be Used for Augmentation:** The Applicant will replace yearly evaporative loss from the Bar NI Ponds with an equivalent volume of water leased from the City of Trinidad including water stored in Trinidad Reservoir pursuant to Case No. 88CW61 (“the Trinidad Replacement water”). Trinidad Reservoir is an on-channel reservoir located on the Purgatoire River. Trinidad Reservoir's dam is located in the SE1/4 NW1/4 of Section 27, Township 33 South, Range 64 West of the 6th PM, 2400 feet from north and 1800 feet from east Section Lines. Fully-consumable water lawfully stored in Trinidad Reservoir may include the following water rights. **A. Direct Flow Water Rights Changed to Storage in Case No. 88CW61, District Court, Water Division No. 2, entered June 22, 2001.** In Case No. 88CW061, the Water Court changed the following irrigation priorities adjudicated for diversion by the John Flood Ditch and Model Land and Irrigation Company, owned by the City of Trinidad, to storage in Trinidad Reservoir: 1. John Flood Direct Flow Water Rights:

a. Appropriations:

District 19 Priority No.	Appropriation Date	Original Decree Date	Amount (cfs)	Trinidad Ownership (cfs)
5	03/20/1862	08/10/1903	4.00	2.00
9	01/01/1863	08/10/1903	1.28	0.877
15	04/10/1864	08/10/1903	5.10	2.343
20	10/07/1865	08/10/1903	24.00	3.391
27	05/31/1866	08/10/1903	2.25	1.541
145	10/20/1902	01/12/1925	100.00	68.50

b. Decreed Uses: Municipal, industrial, maintenance of the Trinidad Reservoir permanent fishery pool, recreation and irrigation. Municipal includes all municipal uses, such as, but not by way of limitation, domestic, commercial, manufacturing, industrial, agricultural, watering of parks and lawns and gardens, fire protection, generation of electric power and power generally, recreation, fish and wildlife propagation, sewage treatment, street sprinkling, maintenance of adequate storage reserves, replacement, augmentation and exchange. c. Historic Use: The historic use of these water rights was determined in Case No. 88CW61. These water rights may be used to extinction and are fully-consumable subject to the terms and conditions of the decree in Case No. 88CW61. 2. Model Land & Irrigation Company Water Rights:

a. Appropriations:

District 19 Priority No.	Appropriation Date	Original Decree Date	Amount	Trinidad Ownership
168	01/22/1908	01/12/1925	200.00 cfs	That amount of water allocable to 373.7 acres under the Model Ditch which has been removed from irrigation.
--	01/22/1908	01/12/1925	20,000 af	

b. Decreed Uses: Municipal, industrial, maintenance of the Trinidad Reservoir permanent fishery pool, recreation, fish propagation and irrigation. c. Historic Use: The historic use of these water rights was determined in Case No. 88CW61. These water rights may be used to extinction and are fully-consumable subject to the terms and conditions of the decree in Case No. 88CW61. 3. Direct Flow Water Rights Changed to Storage in Case No. 06CW78, District Court, Water Division No. 2, entered on November 25, 2012. In Case No. 06CW78, the following irrigation priorities were adjudicated for diversion by the John Flood Ditch, owned by the City of Trinidad, to storage in Trinidad Reservoir:

a. Appropriations:

District 19 Priority No.	Appropriation Date	Original Decree Date	Amount Decreed (cfs)	Trinidad Ownership (cfs)
13	01/01/1864	08/10/1903	5.00	0.538
20	10/07/1865	08/10/1903	24.00	0.86

b. Decreed Uses: Municipal, industrial, maintenance of the Trinidad Reservoir permanent fishery pool, recreation, fish propagation and irrigation. c. Historic Use: These water rights were historically used to flood irrigate 88 acres located in the South ½ of Section 6 and the North ½ of the North ½ of Section 7, Township 32 South, Range 62 West of the 6th P.M., as more fully described in Case No. 06CW78. 4. Direct Flow Water Rights to Be Changed to Storage in Case No. 08CW101, District Court, Water Division No. 2, pending. In Case No. 08CW101, Trinidad seeks to change the following irrigation priorities adjudicated for diversion by the John Flood Ditch, owned by the City of Trinidad, to storage in Trinidad Reservoir:

a. Appropriations:

District 19 Priority No.	Appropriation Date	Original Decree Date	Amount Decreed (cfs)	Trinidad Ownership (cfs)
9	01/01/1863	08/10/1903	1.28	0.048
15	04/10/1864	08/10/1903	5.10	0.128
20	10/07/1865	08/10/1903	7.35	0.586
27	05/31/1866	08/10/1903	2.25	0.084
145	10/20/1902	01/12/1925	100.00	3.750

b. Uses Requested in Case No. 08CW101: Municipal, industrial, maintenance of the Trinidad Reservoir permanent fishery pool, recreation, fish propagation and irrigation. c.

Historic Use: These water rights were historically used to flood irrigate 128.4 acres located in the East ½ of Section 25 and the South ½ of Section 36, Township 31 South, Range 63 West of the 6th P.M., and in the West ½ of Section 30, Township 31 South, Range 62 West of the 6th P.M. as more fully described in Case No. 08CW101. 5. Transbasin Water Stored in Trinidad Reservoir. Trinidad may utilize any fully-consumable transbasin water exchanged to Trinidad Reservoir with approval of the Division Engineer pursuant to a contract or lease with a third party. **Statement of Plan for Augmentation:** The Applicant will augment actual out-of-priority evaporative depletions and storage from the Bar Ni Ponds with releases of the Trinidad Replacement water. The capacity of the Bar Ni Ponds is 7.992 acre-feet. The total surface area of the Bar Ni Ponds is 1.751 surface acres. Based on NOAA Technical Report 33, and assuming the Bar Ni Ponds do not freeze in the winter months (November through March), maximum evaporative depletions for all four ponds is estimated to be 5.95 acre-feet annually. Applicant will account for evaporative loss in the same month that the losses occur by releasing the Trinidad Replacement water in accordance with the monthly schedule of evaporative loss provided in Exhibit A, (attached to the application and available for inspection at the Office of the Division 2 Water Clerk or via ICCES). If the Applicant is unable to replace evaporative losses from the Bar Ni Ponds with sufficient Trinidad Replacement water, Applicant will obtain and use other approved fully consumable sources or release water from the ponds pursuant to the monthly schedule in Exhibit A or will curtail diversions into the ponds. Applicant has also purchased additional water rights that may be used as a long-term source of augmentation water, and may amend its augmentation plan to incorporate those water rights, or other water rights, in the future. So as to assure the operation of the subject augmentation plan, Applicant will install and maintain such water measuring devices and implement such accounting procedures as may be required to verify that the amount of augmentation water replaces the amount of consumptive use resulting from the out of priority depletions augmented herein. **V. APPLICATION FOR APPROPRIATIVE RIGHT OF EXCHANGE.** **Name of Exchange:** Bar Ni Exchange (“Exchange”). **Description of Exchange:** Pursuant to C.R.S. §§ 37-80-120, 37-83-104 & 37-92-302(1)(a), C.R.S. (2009), Applicant seeks to adjudicate a conditional appropriative right of exchange (the “Exchange”). Water stored in Trinidad Reservoir or other sources of replacement water available to Applicant at or upstream of Trinidad Reservoir on the Purgatoire River will be delivered to the Purgatoire River. **Location of structures and exchange reach:** The upstream termini of the exchange are the points of diversion for each of the structures described above. The downstream terminus of the Exchange is Trinidad Reservoir as described above, or, in the alternative, a location upstream of Trinidad Reservoir on the Purgatoire River at or downstream of the upstream termini including the Solitario Pond described in above. Water will be exchanged up the Purgatory River to the Solitario Pond or to the confluence of the Purgatory River with the Middle Fork of the Purgatory River in the SE1/4 NE1/4, Section 24, T. 33S., R. 68W., 6th P.M., and up the Middle Fork of the Purgatory River to the creeks and structures described above. **Water and water rights used for substitution/replacement:** Water stored in Trinidad Reservoir, as described above, to which the Applicant is entitled pursuant to a lease with the City of Trinidad. Other sources of replacement water available to Applicant at or upstream of Trinidad

Reservoir on the Purgatoire River may be delivered to the Purgatoire River in substitution for the Trinidad Reservoir water if said Trinidad Reservoir water is not available. **Appropriation Date:** October 15, 2009, by formation of the requisite intent to appropriate and completion of substantial steps in furtherance of such intent, including, but not limited to, submission of an application for a Substitute Water Supply Plan to the State Engineer on October 15, 2009, and securing a lease with the City of Trinidad on September 29, 2009 for the use of water stored in Trinidad Reservoir for substitution and replacement. **Exchange Amount:** 8.0 cfs. **Use:** The water diverted by exchange will be used to fill or replace evaporation loss from the Ponds for the uses described above. **Ownership:** The land upon which the Bar Ni Ponds and the Solitario Pond are located is owned by Applicant. The Bureau of Reclamation owns the land upon which the Trinidad Reservoir diversion and storage structures are located. Its address is: United States Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18E, Loveland, Colorado 80537-9711. Maps depicting the location of the Bar Ni Ponds and proposed location of the Solitario Pond are attached to the Application as Exhibits B and C and are available for inspection at the office of the Division 2 Water Court Clerk or via ICCES. WHEREFORE, Applicant respectfully requests that the Court enter a decree adjudicating the storage rights, approving the augmentation plan, granting the right of exchange, and granting other such relief as the Court deems just and proper.

CASE NO. 2013CW3071 – CLEAR CREEK RESOURCES, LTD., LLLP, 69 Marland Place, Colorado Springs, CO 80906; and CIRCLE A OF COLORADO, LLC, 1615 Poydras Street, New Orleans, LA 70112 (Please send all pleadings and correspondence to: David M. Shohet, Ryan W. Farr, Felt, Monson and Culichia, LLC, Attorneys for Applicants, 319 North Weber Street, Colorado Springs, CO 80903, (719) 471-1212)

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

CHAFFEE COUNTY, COLORADO

Summary of Application for Simple Change in Surface Point of Diversion. Clear Creek Resources, Ltd., LLLP, and Circle A of Colorado, LLC, (collectively, “Applicants”) are the 100% owners of the Clear Creek Ditch diverted from Clear Creek, a tributary of the Arkansas River. Due to flooding on Clear Creek in 2010, Clear Creek shifted course leaving the Clear Creek Ditch unable to divert any water at its decreed point of diversion. By the filing of this Application, Applicants seek a decree, pursuant to C.R.S. § 37-92-305(3.5), to move the decreed point of diversion of the Clear Creek Ditch approximately 250 feet downstream from its decree point of diversion. By this Application, the Applicants only seek a simple change in point of diversion for the Clear Creek Ditch. The Applicants do not seek a change in use from the historic irrigation, the amount of diversions, or the location of the historically irrigated acres. **Decreed water right for which change is sought.** **Name of Structure:** Clear Creek Ditch. **Decree Information:** Case No. 1773 in District Court, Water District No. 11 in Chaffee County, dated January 20, 1903. **Decreed Point of Diversion:** On the southeast bank of Clear Creek at a point whence N ¼ corner of Section 15, Township 12 South, Range 80 West of the 6th P.M. which bears N. 65° 32’ E. 7295.7 feet. The Exhibit A map attached to

the Application shows the location of the decreed point of diversion for the Clear Creek Ditch. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source:** Clear Creek, tributary to the Arkansas River. **Appropriation Date:** July 1, 1883. **Decreed Amount and Use.** 2.0 c.f.s., absolute, for irrigation. Applicant intends to change the entire decreed amount. **Change in the Point of Diversion.** Applicants seek a simple change of point of diversion for the Clear Creek Ditch from the original decreed point of diversion to a new location approximately 250 feet downstream on Clear Creek. There are no intervening surface diversion points or inflows between this proposed new location and the originally decreed point of diversion from which change is sought. The location of the proposed new point of diversion for the Clear Creek Ditch is in the NE ¼ of the SW ¼ of Section 15, Township 12 South, Range 80 West of the 6th P.M., approximately 3,780 feet west from the east section line of Section 15 3,010 feet south from the north section line of Section 15. The GPS location in UTM coordinates of the new point of diversion of the Clear Creek Ditch is as follows: NAD83, Zone 13, Easting: 385358.16, Northing: 4318476.69. The map attached to the Application as Exhibit A shows the location of the proposed new decreed point of diversion for the Clear Creek Ditch. **Names and addresses of owners of the land upon which any new diversion structure will be constructed.** The new point of diversion for the Clear Creek Ditch is on lands owned by Clear Creek Resources, Ltd., LLLP. **Terms and Conditions.** There will be no injury to other vested water users as a result of the requested change in point of diversion. This change in point of diversion will not result in a diversion of a greater amount of water than has been decreed and historically utilized. The quantities of water appropriated for the decreed Clear Creek Ditch water right are present and available for diversion from this new point of diversion, as the water that would have been removed from Clear Creek at the original point of diversion will now instead be removed approximately 250 feet downstream. Applicants seek no other changes to the Clear Creek water right, and will continue to beneficially use the flows therefrom on the historically irrigated acreage upon which this water right matured to beneficial use. No injury will result to other vested water rights as a result of this requested simple change in point of diversion. No intervening point of diversion from, or inflows to, Clear Creek occur between the original point of diversion and the requested changed point of diversion. No greater quantities of water than is decreed to the Clear Creek Ditch will be diverted nor used because of the proposed simple change, nor are any other changes to the Clear Creek Ditch water right requested. Applicants were awarded an alternate point of diversion for Clear Creek Ditch on Clear Creek by the District Court, Water Division 2, in Case No. 89CW11. Nothing in this Application seeks to modify or change the Applicants' right to divert the Clear Creek Ditch at the alternate point of diversion decreed in Case No. 89CW11. Applicants maintain all rights to continue to divert the Clear Creek Ditch at the alternate point decreed in Case No. 89CW11.

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 February 2014, (forms available at Clerk's office or at www.courts.state.co.us, must be submitted in quadruplicate, after serving parties and attaching a certificate of mailing, filing fee \$158.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 6th day of January, 2014.



Mardell R. DiDomenico

Mardell R. DiDomenico, Clerk
District Court, Water Div. 2
Pueblo County Judicial Building
320 W. 10th Street
Pueblo, CO 81003; (719) 583-7048

(Court seal)
Published: January _____, 2014

SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSP") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP notification list is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., and notice of applications for fallowing-leasing pilot projects under section 37-60-115(8)(e)(II).

This notice is an invitation to be included on the SWSP notification list. To be included on the SWSP notification list, submit your name, address, e-mail address, daytime phone number, and water divisions of interest. If you prefer to be notified by electronic mail, specify that preference. Submit the information to: Substitute Water Supply Plan Notification List (c/o Katie Radke, Program Manager), Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203, Phone: (303) 866-3581, Fax: (303) 866-3589, or e-mail to: Kathryn.radke@state.co.us.

Additional information regarding Substitute Water Supply Plans is available on the Division of Water Resources' website at <http://water.state.co.us>.

PRODUCED NONTRIBUTARY GROUND WATER NOTIFICATION LIST

Pursuant to Rule 17.5.B.2 of the Produced Nontributary Ground Water Rules, 2 CCR 402-17 (“Rules”), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water Notification List. According to Rule 17.5.B.2 of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division an invitation to be included on such notification list for the applicable water division.

To receive this information by e-mail, provide your name, e-mail address, daytime telephone number, and the water divisions of interest. If you prefer to be noticed by first-class mail, specify that preference and provide your mailing address. Submit the information to: Produced Nontributary Ground Water Notification List (c/o Katie Radke, Program Manager), Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, Colorado 80203, Phone: (303) 866-3581, Fax: (303) 866-3589, or e-mail to: Kathryn.radke@state.co.us.

Any additional information regarding the Produced Nontributary Ground Water Rules can be found on the Division of Water Resources website at: www.water.state.co.us.