

DISTRICT COURT, WATER DIVISION 3, STATE OF COLORADO

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS FILED IN WATER DIVISION 3.

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume in Water Division 3, containing notice of all applications, amended applications, or requests for correction filed in the office of the Water Clerk during the month of October, 2007.

The names and addresses of applicants, description of water rights, or conditional water rights involved, and description of ruling sought, are as follows:

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Case No. 2007CW54, ORIENT LAND TRUST, Neil Seitz, P. O. Box 65, Villa Grove, Colorado 81155-0065, (719) 256-4315, c/o Richard J. Mehren, #32231, Patricia M. DeChristopher, #36951, Moses, Wittemyer, Harrison and Woodruff, P.C., P. O. Box 1440, Boulder, Colorado 80306-1440, (303) 443-8782

**APPLICATION FOR WATER STORAGE RIGHT, SURFACE WATER RIGHT, CHANGE OF WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION IN SAGUACHE COUNTY**

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II. Application for Conditional Water Storage Right: A. Name of reservoir: Everson Ranch Pond. B. Location of dam: The dam for Everson Ranch Pond is located in the SW1/4 of the NE1/4, Section 4, Township 45 North, Range 10 East, N.M.P.M., Saguache County, Colorado, at a point 2,700 feet from the South section line and 2,900 feet from the West section line of said Section 4. C. Ditch to fill reservoir: Hot Springs Creek Ditch, with a capacity of 2.96 cfs and decreed point of diversion as described in part IV.A.3. below. D. Source: Hot Springs Creek. E. Appropriation: 1. Date of appropriation: September 1, 2006. 2. How appropriation was initiated: By rehabilitation of the pond. 3. Date water applied to beneficial use: N/A. F. Amount claimed: 8 acre-feet (or the actual as-built capacity), CONDITIONAL, with the right to fill and refill continuously when in-priority. The pond will be filled at a rate of 2.96 cfs. G. Use: Piscatorial, fish and wildlife uses in and around Everson Ranch Pond, recreation and aesthetic. The uses will be year-round. H. Surface area of high water line: Approximately 0.9 acres (or the actual as-built surface area). 1. Maximum height of dam: Approximately 10 feet. 2. Length of dam: Approximately 500 feet. I. Capacity of reservoir: 8 acre-feet (or the actual as-built capacity), active; 0 acre-feet dead storage. J. Remarks: Everson Ranch Pond is an off-channel pond that is filled by the Hot Springs Creek Ditch, which is also used by Applicant to irrigate 194 acres of Applicant's Everson Ranch property as depicted on **Exhibit A** attached hereto. Everson Ranch Pond was originally constructed in the 1920s as part of the Ranch's irrigation system and was historically used as a temporary storage structure for management of water diverted under the Applicant's Hot Springs Creek Ditch water right for irrigation. Applicant intends to use Everson Ranch Pond to continue this historical irrigation practice, when Applicant's Hot Spring Creek Ditch water right is in priority, in addition to the other uses described in this

application. No change of water right is needed to allow that historical irrigation practice to continue. Any out-of-priority storage in, and out-of-priority evaporation from, Everson Ranch Pond will be replaced under the plan for augmentation described below. Everson Ranch Pond will be filled upon entry of a decree for this application or under a substitute water supply plan. Applicant may choose to dry-up additional historically irrigated land for one irrigation season so that it may use its Hot Springs Creek Ditch water right to fill Everson Ranch Pond. III. Application for Conditional Surface Water Right: A. Name of structure: Hot Springs Creek Ditch. B. Location of structure: A point on Hot Springs Creek in the NE1/4 of Section 4, Township 45 North, Range 10 East, N.M.P.M., Saguache County, Colorado, which is approximately 2400 feet South and 1100 feet West of the Northeast corner of said Section 4. C. Source: Hot Springs Creek. D. Appropriation: 1. Date of appropriation: September 1, 2006. 2. How appropriation was completed: By rehabilitation of the pond. 3. Date water applied to beneficial use: N/A. E. Amount claimed: 2.96 cfs, CONDITIONAL. F. Use: Piscatorial, fish and wildlife uses in and around Everson Ranch Pond, recreation and aesthetic. The uses will be year-round. G. Remarks: The subject surface water right to be decree for diversion at the Hot Spring Creek Ditch will be diverted from Hot Springs Creek, delivered through Everson Ranch Pond, and returned to Hot Springs Creek and/or the groundwater system that is tributary to Hot Springs Creek by means of the Hot Springs Creek Ditch and associated lateral ditches that are located on the Ranch. Applicant's diversion and use of the subject surface water right will be essentially non-consumptive. IV. Change of Water Right: A. Description of water right sought to be changed: 1. Name: Hot Springs Creek Ditch. 2. Original and related decrees: Original adjudication of water rights in former Water District 25, Saguache County, on March 28, 1890. Modified by Case No. 79CW36, District Court, Water Division No. 3, dated December 27, 1979, and Case No. 88CW8, District Court, Water Division No. 3, dated October 27, 1989. 3. Decreed point of diversion: A point on Hot Springs Creek in the NE1/4 of Section 4, Township 45 North, Range 10 East, N.M.P.M., Saguache County, Colorado, which is approximately 2400 feet South and 1100 feet West of the Northeast corner of said Section 4. 4. Source: Hot Springs Creek. 5. Appropriation date: May 1, 1871. 6. Amount: 3.96 cfs, of which the last 2.96 cfs is owned by Applicant. 7. Decreed use: Irrigation and non-consumptive recreational, commercial, municipal and power generation. B. Historical use: Applicant's senior Hot Springs Creek Ditch water right described in part IV.A., above, has historically been used to irrigate 194 acres on Applicant's property as generally depicted on **Exhibit A** attached hereto. Summaries of available diversion records for the senior Hot Springs Creek Ditch water right are shown on **Exhibit B** attached hereto. C. Proposed changes: Applicant has ceased, or will cease, irrigating approximately 3 acres that were historically irrigated on the Ranch with its senior Hot Springs Creek Ditch water right. Applicant estimates that the average annual historical consumptive use on such 3 acres was at least 3 acre-feet. If necessary, Applicant will remove additional land from irrigation as needed to make water available under its senior Hot Springs Creek Ditch water right to augment out-of-priority storage in, and

out-of-priority evaporation from, operation of Everson Ranch Pond as described in the plan for augmentation below. Consequently, Applicant requests the Court to approve a change of type of use of a portion of its senior Hot Springs Creek Ditch water right to include piscatorial, fish and wildlife uses in and around the pond, recreation and aesthetic, either directly or by means of augmentation or replacement of depletions, as described in the plan for augmentation. Applicant also requests the Court to approve a change of the place of use of a portion of its senior Hot Springs Creek Ditch water right to allow use and/or storage of the water in Everson Ranch Pond, as described above, in addition to the previously decreed places of use. V. Plan for Augmentation: A. Structure to be augmented: Everson Ranch Pond, described in part II above. B. Water rights to be used for augmentation: A portion of Applicant's senior Hot Springs Creek Ditch water right described in part IV above. C. Description of plan for augmentation: Applicant proposes to use a portion of the historical consumptive use credits available under its Hot Springs Creek Ditch water right, as described above, to replace out-of-priority storage in, and out-of-priority evaporation from, operation of Everson Ranch Pond. As described above, Applicant has removed, or will remove, 3 acres from irrigation to make at least 3 acre-feet of historical consumptive use credits under its senior Hot Springs Creek Ditch water right available to augment out-of-priority storage in, and out-of-priority evaporation from, operation of Everson Ranch Pond. Diversions and use under Applicant's senior Hot Springs Creek Ditch water right will be reduced and a pro-rata portion of such water left in Hot Springs Creek to replace such out-of-priority depletions. If necessary, Applicant will remove such additional land from irrigation as needed to make water available under its senior Hot Springs Creek Ditch water right to augment out-of-priority depletions from operation of Everson Ranch Pond. After the initial fill, Everson Ranch Pond will be operated under the decree requested by this application by diverting up to 2.96 cfs year-round from Hot Springs Creek in-priority under the surface water right requested in part III above or out-of-priority from Hot Springs Creek into the Hot Springs Creek Ditch. The diverted water will be delivered through Everson Ranch Pond and returned to Hot Springs Creek and/or the groundwater system that is tributary to Hot Springs Creek by means of the Hot Springs Creek Ditch and associated laterals. The initial filling of Everson Ranch Pond will require approximately 8 acre-feet of water. Out-of-priority depletions may be caused by Everson Ranch Pond due to exposure of 0.9 acres of surface water to evaporation or due to out-of-priority storage in Everson Ranch Pond. Annual evaporation in the vicinity of Everson Ranch Pond is estimated to be approximately 3.3 feet. With a surface area of 0.9 acres, the annual evaporation from Everson Ranch Pond is estimated to be approximately 3.0 acre-feet per year. [Footnote 1: In Case No. 94CW62, this Court determined that the appropriate replacement equation for pond evaporation in the San Luis Valley is the pond surface area in acres multiplied by the appropriate value from Chart A (attached hereto as **Exhibit C**) in feet/year. Based on the Everson Ranch Pond's approximate elevation of 7800 feet, the Chart A value is 3.3 feet/year.] Assuming the Hot Springs Creek Ditch water right described in part III, above for Everson Ranch Pond is out-of-priority for the entire year and the

initial fill of the pond has occurred, Applicant may need to replace to the stream system up to 3.0 acre-feet per year of out-of-priority evaporative depletions from the pond. If Applicant's augmentation water is not available to replace out-of-priority pond depletions at any time, water will be released from Everson Ranch Pond as necessary to account for such depletions. Applicant will install such measuring devices and maintain such records as may reasonably be required to implement the proposed plan for augmentation. VI. Name(s) and address(es) of owner(s) or reported owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant. WHEREFORE, Applicant requests the Court to enter a decree approving the conditional water storage right, the conditional surface water right, change of water right and plan for augmentation described in this application, and determining that such water right, change of water right and plan for augmentation will not cause injury to the vested or decreed conditional water rights of others.

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Case No. 2007CW55, V.W. Ellithorpe, P.O. Box 489, Center, CO 81125,  
Application for Change of Water Rights, in Alamosa County.

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Decreed name of structure for which change is sought: Well No. 5, Permit 9457. From previous decree: Date entered: November 7, 1974, Case No. W-501, Well No. 5, Water Division 3. Decreed point of diversion: SW ¼ of Sec. 24, T39N, R9E, NMPM, at a point approximately 1,320 feet from the South section line and 1,320 feet from the West section line. Source: Confined Aquifer. Appropriation Date: May 3, 1965. Amount: 1100 gpm, 2.44 cfs. Historic Use: Water Court Case #5 W-501 granted a well to be drilled in the SW ¼ of Section 24, T39N, R9E, NMPM, in Alamosa County. The well has been historically used to irrigate portions of the SW ¼ of Section 24. The well was decreed to produce a maximum of 1100 gpm from the confined aquifer to irrigate 160 acres of land. Proposed Change: A) Partial replacement of water from this right to a confined aquifer domestic use well, permit number 87539, located in the NE¼ NE¼ SW¼ of Section 24, T39N, R9E, NMPM at a distance of 2,622 feet from the south section line and 2,613 feet from the west section line to be used for commercial use in the processing and humidification of a potato storage building, with a capacity of 39,000 cwt. The aforementioned domestic well has been in place since 1978 and used for potato storage humidification and domestic/stock water use. B) location: NE¼ NE¼ SW¼ of Sec. 24, T39N, R9E, NMPM, a distance of 2,622 feet from the south section line and 2,613 feet from the west section line. C) Use: commercial use for potato storage humidification. D) Amount: 50 gpm. E) Proposed plan: The new commercial use within well permit number 87539 well will be used for humidification of stored potatoes within the 39,000 cwt storage facility located in the NE¼ NE¼SW¼ Sec. 24, T39N, R9E, NMPM. Consumptive use of water from the new commercial use within well permit number 87539 will not exceed 5.00 acre-feet annually for potato storage humidification and processing. Relocation of 5 acre feet of water will allow for the legal use of water from well permit #87539 for humidification and processing

of the 39,000 cwt potato storage facility for seasonal use, approximately nine months out of the year. Furthermore, the 9+or- acres located in the NE corner of the SW ¼ of said Sec 24 will be permanently taken out of any agricultural production and irrigation, to compensate for this change of use and relocation of water right. If a change in point of diversions provide legal description: NE¼ SW¼ of Sec. 24, T39N, R9E, NMPM at a distance 2,622 feet from the south section line and 2,613 feet from the West section line. The GPS location is Northing 416030 Easting 417060. Applicant is the owner of the land on which the water is or will be placed to beneficial use.

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Case No. 2007CW56, Donald R. Glittenberg, 45000 N. Hwy 285; Villa Grove, CO 81155, (719) 539-3122 (summers) or 175 Pr 2321 Decatur, TX 76234, (940) 627-7993 (winters) or cell phone (719) 221-7993, Application for Change of Water Right and Application for Surface Water Rights in Saguache County.

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Decreed name of structure for which change is sought: Dorcey Ditch No. 1, Dorcey Ditch No. 2 and Dorcey Ditch No. 3 (Called Dorcey D1, D2 & D3 in remainder of application). The structures are irrigation ditches. From previous decree: Date entered: March 28, 1890, Case No., Original Adjudication, Court: Saguache. Decreed point of diversion: Dorcey D1=NESWSW Sec 11, T48N, R8E NMPM; Dorcey D2=NWSENW Sec 14, T48N, R8E, NMPM; Dorcey D3=SWNWSE Sec 14, T48N, R8E, NMPM. Source: Dorcey Creek/San Luis Creek (formerly called "Carpenter Creek"). Appropriation Date: May 5, 1888. Amount: D1 & D2=0.400 cfs; D3=0.440 cfs. Historic Use: The rights to be corrected are Dorcey D1, D2 and D3 which are decreed in the incorrect positions vs the actual locations, probably due to inaccuracies of the old 1880's maps and/or owner plotting errors. Dorcey D1's adjudicated position is located in the wrong section (11) and according to evidence on the ground, it should be located on the West side of San Luis Creek, aka "Carpenter Creek" in Sec 14 where there is a very old ditch (a letter of explanation is attached). The old map shows it on San Luis Creek 2250 feet above the point where it joins Dorcey Creek. I believe D1 ditch was actually south of the "plotted or decreed" position because of the mistaken use of "Whence" and "thence" as explained in the attached letter. I believe the historic use of D1 was the irrigation of approx 40 acres in the SW of Sec 14 on the west side of San Luis Creek. Dorcey D2 is close to its adjudicated position, but will need to be more precisely located. The historic use of D2 is irrigation of approx 40 acres in the W½ of Sec 14, T48N, R8E, NMPM on the west side of San Luis Creek. The historic diversion point (as evidenced by inspection) is in the NENW of Sec 14, on BLM land, 94 meters from my North property line of SENW Sec 14. Dorcey D3, according to the adjudicated position, is on the side of a hill on BLM land to the east of the actual physical position, where there is no drainage and obviously has never been a source of irrigation water. The historic location is on San Luis Creek (aka "Carpenter Creek") and I propose to correct its decreed position off BLM land to correspond to the point where it has been for over a hundred years. D3's historic use is the irrigation of 40 acres in SW of Sec 14, T48N, R8E, NMPM on the east side of San Luis Creek. Proposed Change: A) Describe change requested: Correct the location

of the D1 ditch to reflect its actual position on San Luis Creek. Accurately locate D2 (with GPS), and relocate D3 to reflect the actual position of the historic diversion point on San Luis Creek. There would be no change of use anticipated for D2 and D3, and as D1 should have been where the Parshall flume is located on the West bank of San Luis Creek, there is no actual change. B) The corrected location of the D1 diversion point would be on the West side of San Luis Creek (where the old Parschall is located) in the NESW of Sec 14, T48N, R8E, NMPM (see GPS UTM coordinates). D2's location would be on the west side of San Luis Creek, 21 feet north of the confluence with Dorcey Creek, in the NENW of Sec 14, T48N, R8E, NMPM. D3's location would be corrected to the East side of San Luis Creek (where the old Parshall flume is located) in the NESW of Sec 14, T48N, R8E, NMPM. The decreed flow rates are unchanged: D1 & D2 = 0.400 cfs, and D3 = 0.440 cfs. The change of use is to correct the decreed location of D2 and D3 to more accurately correspond to the actual historic location of the ditches and to correct D1 to correspond to its historic position, i.e. on San Luis Creek opposite the same diversion point as D3, but on the West side of the creek. If a change in point of diversion, the legal description is Dorcey D1, NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec 14, T48N, R8E, NMPM at a point 2343 feet from the South Sec line and 1922 feet from the West section line bearing to  $\frac{1}{4}$  cor14/23 (UTM 4251537 N, 408027 E) is 164 deg true and distance is 690 meters. GPS location for Dorcey D1 with points averaged is Northing 4252202 Easting 0407842 Zone 13. Dorcey D2 is in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec 14, T48N, R8E, NMPM at a point 882 feet from the North sec line and 1693 feet from the West sec line 299 meters from the north line of Sec 14 or a Bearing to NW 1/16 Sec 14 (UTM 4252754 N 407647 E) of 239 degrees true and distance of 161 meters. GPS location for Dorcey D2 with point averaged is Northing 4252837 Easting 0407787 Zone 13. Dorcey D3 is in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec 14, T48N, R8E, NMPM at a point 2307 feet from the South Sec line and 1946 feet from the West sec line distance from corner bearing to NW 1/16 sec 14=340 deg true and 600 meters dist. GPS location for Dorcey D3 with point average is Northing 4252191 Easting 0407849 Zone 13. The applicant is the owner of the land upon which the structures are located. Other Interested parties are BLM, 46525 Hwy 114, Saguache, CO 81149. **Application for Surface Water Rights** for Dorcey Ditch No. 4 (further referred to as Dorcey D-4 in this application). Legal description: Dorcey D4 is in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec 14, T48N, R8E, NMPM at a point 778 feet from the North Sec line and 1963 feet from the West Sec line bearing from D4 to NW 1/16 sec 14 is 243 deg true and 250 meters distance. Distance and bearing from section corner 10-11—15-14 = distance 701 meters & bearing 097 degrees true). GPS location with points averaged is Northing 4252865 Easting 407870 Zone 13. Source: Dorcey Creek. Date of Appropriation: March 28, 1890 based on evidence of an old ditch. How appropriation was initiated: reinstate very old ditch from 1890's. Date water applied to beneficial use: March 28, 1890. Amount claimed: 1.0 cfs, Absolute. Use: Irrigation of approx 10 acres in W1/2 of Sec 14, T48N, R8E, NMPM. Number of acres historically irrigated: 10, proposed to be irrigated: 10 acres. Legal description: NW Sec 14, T48N, R8E, NMPM. The BLM is the owner of the land upon which the structure will be

located. Remarks: I would be adjudicating a ditch that has been in use for over a hundred years.  
(20 pages including attachments)

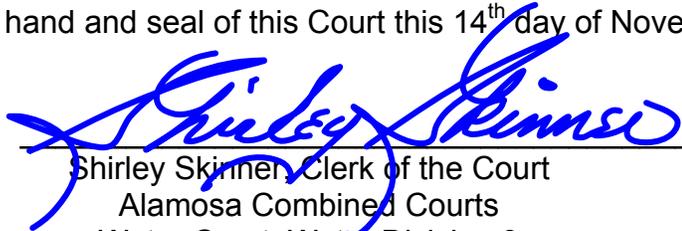
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**THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.**

You are further notified that you have until the last day of December 2007, to file with the Water Clerk, in quadruplicate, a verified statement of opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions or a protest to the requested correction. A copy of such a statement of opposition or protest must also be served upon the Applicant or the Applicant's attorney and an affidavit or certificate of such service must be filed with the Water Clerk. A **\$90.00** filing fee is required. PLEASE NOTE: WATER DIVISION 3 HAS MANDATORY E-FILING FOR ALL PARTIES REPRESENTED BY AN ATTORNEY.

You can review the complete applications or requests for correction in the office of the Alamosa Combined Court, 702 Fourth St., Alamosa, CO 81101.

Witness my hand and seal of this Court this 14<sup>th</sup> day of November, 2007.



Shirley Skinner, Clerk of the Court  
Alamosa Combined Courts  
Water Court, Water Division 3  
702 Fourth Street, Alamosa, CO 81101

Seal