

**DISTRICT COURT, WATER DIVISION 1, COLORADO  
SEPTEMBER 2020 WATER RESUME PUBLICATION**

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIV. 1

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amendments filed in the Office of the Water Clerk during the month of **SEPTEMBER 2020** for each County affected.

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**20CW27 JON F. AND SHARON LARSON, 4303 Esther Lee Ct., Columbia, MO 65203-0597. 573-445-3188. APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN PARK COUNTY.**

Date of original decree: 12-04-01 in case 96CW1015, WD 1; Subsequent decree: 04-09-08 in case 07CW297, WD1. Larson Well located SE1/4, NE1/4, S34, T9S, R75W of the 6<sup>th</sup> PM at a point approximately 2550 ft. from N and 40 ft. from E. Indian Mountain subdivision. Source: Groundwater. Appropriation date: 05-31-73. Amount: 0.033 cfs (15gpm), Conditional. Use: Household use only in a single-family dwelling, not including irrigation. The return flow from such uses shall be returned to the same stream system in which the well is located.

**20CW28 JOHN AND STEFANIE MALKUT, 7209 S. Andes Ct., Centennial, CO 80016. 303-680-2041. APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN PARK COUNTY.**

Date of original decree: 07-10-01 in case 96CW715, WD1. Subsequent decree: 04-09-08 in case 07CW166, WD1. Malkut well located NW1/4, NW1/4, S4, T10S, R75W of the 6<sup>th</sup> PM at a distance 1010 ft. from N. and 780 ft. from W. Elkhorn Ranches, Lot 150, Filing 4.

**20CW29 BRYAN MACLEOD, 2886 Running Brook Rd, Elizabeth, CO 80107. 303-875-8180; [bmail@macleods.net](mailto:bmail@macleods.net). APPLICATION FOR UNDERGROUND WATER RIGHTS IN THE DENVER BASIN AQUIFERS IN ELBERT COUNTY.**

Date of Original Decree: 05-08-1985. MacLeod Well located SE 1/4, SE 1/4, S25, T7S, R65W of the 6<sup>th</sup> PM at a distance from section lines 148 feet S and 498 feet from E from Well Permit 295955, Running Brook Estates, Lot 58B1

**20CW30 ALVIN JOHNSON, 3250 CR 74E, Livermore, CO 80536, 970-493-3535, [virginia.al.johnson@gmail.com](mailto:virginia.al.johnson@gmail.com) APPLICATION FOR SIMPLE CHANGE IN SURFACE POINT OF DIVERSION IN LARIMER COUNTY.**

Date of Original Decree 4-11-1882, Total amount decreed to structure in gallons per minute or cubic feet per second. Conditional Absolute: 1/2 interest of 10.37cfs +3.0 cfs=13.37cfs (1/2 6.68 cfs) for crop irrigation. Amount of water applicant intends to change is 2 cfs or 864 gpm for pivot irrigation. Name of Structure: Wetzler, Weymouth, Mitchell Ditch (Headgate on Lone Pine Creek) located NW1/4, NW1/4, S32, T10N, R70W of the 6<sup>th</sup> PM. A pivot irrigation is to be installed at a new diversion point. A pumping station and diversion structure on Lone Pine Creek to be constructed. There is no other diversion between original diversion point and requested diversion point. The new diversion point will be the last diversion point on Lone Pine Creek preventing any down-stream injury. Applicant owns all land and creek east of this diversion. Alternate point of diversion of 2 cfs, leaving 4.68 cfs of original head gate diversion point.

**20CW3130. KENYON FOX AND HILARY FOX, 9806 Wild Crocus Circle, Parker, CO 80134. C/O- Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212, E-mail: [cdc@cowaterlaw.com](mailto:cdc@cowaterlaw.com); [ebp@cowaterlaw.com](mailto:ebp@cowaterlaw.com). APPLICATION FOR ADJUDICATION OF DENVER BASIN GROUNDWATER AND PLAN FOR AUGMENTATION, IN DOUGLAS COUNTY. II.**

Background and Summary of Application. A. Applicants seek to quantify the Dawson aquifer groundwater underlying their approximately 5.0 acre property in Douglas County, Colorado, and to obtain a plan for augmentation for the use of a not-nontributary Dawson aquifer well thereon to provide water service to two

dwellings including domestic, landscape and garden irrigation, stock watering, and augmentation purposes associated therewith. B. Underground water rights within the nontributary Denver, Arapahoe, and Laramie-Fox Hills aquifers were previously decreed in Case No. 05CW0184, District Court, Water Division 1 (“05CW0184 Decree”). The 05CW0184 Decree established groundwater rights for approximately 386 acres of land generally located in the N 1/2, NW 1/4, E 1/2 of S19, and part of the NE 1/4 of S30, all in T7S, R65 W of the 6<sup>th</sup> P.M., in Douglas County, Colorado, of which the Applicant’s Property is a portion. C. The Applicants’ are the current owners of a lot within the Hills at Bayou Gulch Subdivision, depicted on attached **Exhibit A**, and is specifically described as Lot 47, The Hills at Bayou Gulch, Filing 1-C, also known as 9806 Wild Crocus Circle, Parker, CO 80134 (“Applicants’ Property”). Applicants own the following water in the nontributary Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant’s Property, as quantified in the 05CW0184 Decree:

<b>Aquifer</b>	<b>Net Sand (ft)</b>	<b>Annual Amount – 100 years (Acre-Feet)</b>	<b>Total (Acre-Feet)</b>
Denver (NT)	190	1.62	162
Arapahoe (NT)	250	2.13	213
Laramie-Fox Hills (NT)	195	1.46	146

III. Application for Underground Water Rights. Applicants are the owners of Applicants’ Property, and the above described water and water rights subject to the 05CW0184 Decree underlying the Applicant’s Property. Applicants do not seek any change or revision as to the 05CW0184 Underground Water Rights Decree as would affect any other lots within the Hills at Bayou Gulch Subdivision. By this application, Applicants seek to quantify the Dawson aquifer groundwater underlying their property, and approval of a plan for augmentation for the use thereof. A. Legal Description of Well. 1. Existing Well. There is an existing well on the Applicant’s Property, Permit No. 185230 (“Fox Well No. 1”), a copy of which is attached as Exhibit B. Fox Well No. 1 is located approximately 2,085 feet from the South section line, and 875 feet from the East section line of Section 19 and is constructed to the not-nontributary Dawson aquifer, and is currently permitted as an exempt well pursuant to C.R.S. §37-92-602. Applicants intend for Fox Well No. 1 to be re-permitted for non-exempt uses upon entry of a decree approving the plan for augmentation requested herein. B. Water Source. 1. Not-Nontributary. The ground water to be withdrawn from the Dawson aquifer underlying the Applicant’s Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant’s Property is nontributary, as previously decreed in the 05CW0184 Decree. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the Dawson aquifer well(s) 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 any well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicant requests an absolute water right for the withdrawal of all legally available ground water in the not-nontributary Dawson aquifer underlying the Applicants’ Property. Said amounts may be withdrawn over the 100-year aquifer life pursuant to C.R.S. §37-90-137(4). Applicant owns the vested water rights of the nontributary Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicants’ property, as was previously quantified in the 05CW0184 decree. Applicants estimate that the following value and average annual amount is representative of the Dawson aquifer underlying Applicants’ Property:

<b>Groundwater Quantification</b>			
Acres: 5.03		NE 1/4 SE 1/4 Sec 19 T7S R65W 6th P.M.	
<b>Denver Basin Aquifer</b>	<b>Net Sand (ft)</b>	<b>Total (AF)</b>	<b>100 Year (AF)</b>
Upper Dawson (NNT)	138.00	138.83	1.388
Lower Dawson (NT)	72.10	72.53	0.725

Decreed amounts may vary based upon the State’s Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer.

**D. Requested Uses.** The Applicants request the right to use the ground water for beneficial uses upon the Applicants’ Property consisting of domestic, irrigation, stock water, fire protection, hot tub, and 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 requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed, consistent with the 05CW0184 Decree. 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 use water from the not-nontributary Upper 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 aquifer in accordance with C.R.S. §37-90-137(9)(c.5).

**E. Well Field.** The Applicants request that they be permitted to produce the full legal entitlement from the Dawson aquifer underlying Applicants’ Property through any combination of wells. The Applicants request that these wells be treated as a well field.

**F. Averaging of Withdrawals.** The 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 the well 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.

**G. Owner of Land Upon Which Wells are to Be Located.** The land and underlying groundwater upon which the well is located is owned by the Applicants.

**IV. Application for Approval of Plan for Augmentation.**

**A. Structure to be Augmented.** The structure to be augmented is the Fox Well No. 1 as is currently constructed to the not-nontributary Upper Dawson aquifer underlying the Applicants’ Property, and as will be re-permitted pursuant to this plan for augmentation, as requested and described herein, along with any replacement or additional wells associated therewith.

**B. Water Rights to be Used for Augmentation.** The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from Fox Well No. 1, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions.

**C. 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 one well herein. Water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows:

1. **Use.** Fox Well No. 1 will pump a maximum total of 1.3-acre feet of water from the Dawson aquifer annually. Such use shall be a combination of household use within two single-family dwellings; irrigation of lawn, garden, and greenhouse; hot tub, and the watering of horses or equivalent livestock. An example breakdown of this combination of use is household use at 0.50 acre feet, plus outdoor use, including the watering of up to 8 horses or equivalent livestock with a water use of 0.20 acre feet per year (10 gallons/day/head or 0.011 annual acre feet per head); and irrigation of lawn and garden of 0.60 acre feet per year (0.05 annual acre feet per 1000 sq. ft.).

2. **Depletions.** It is estimated that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 10.99% percent of pumping. Maximum

annual depletions for total residential pumping from the well is therefore 0.143-acre feet, in year 100. Should Applicants' pumping be less than the 1.3-acre feet described herein, resulting depletions will be correspondingly reduced.

3. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of augmented wells to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems, and depletions from irrigation will be adequately replaced by irrigation return flows. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.25-acre feet per residence per year, 0.45 acre-feet is replaced to the stream system per year, assuming the use of two non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented.

4. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Fox Well No. 1, Applicants will reserve water from the nontributary Laramie-Fox Hills aquifer, less the amount of actual stream depletions replaced during the plan pumping period. The 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, under the Court's retained jurisdiction, the Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Fox Well No. 1, for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. V. Remarks. A. The Applicants request a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). B. The term of this augmentation plan is for 100 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 only to the extent related to that well's actual pumping. C. 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. D. 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. E. The well shall be installed and metered as reasonably required by the State Engineer. The well will be equipped with a totalizing flow meter and the 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. F. The Applicants intend to waive the 600 feet well spacing requirement for any wells to be located upon the Applicants' Property. G. The Applicants own the Subject Property free and clear of all liens and encumbrances and no other person or entity has a financial interest in the Subject Property. Accordingly, The Applicants certify compliance with the notice requirements of C.R.S. § 37-92-302(2).

**2020CW3131. LEGACY LAKE, LLC, Greg Shaw, 9067 Ogallala, Longmont, Colorado 80503 C/O Lawrence Jones Custer Grasmick LLP, 5245 Ronald Reagan Blvd, Suite 1, Johnstown, CO, 80534 (970)622-8181. APPLICATION FOR FINDING OF REASONABLE DILIGENCE in WELD COUNTY.** 2. Name of Structure: South Shaw Lake No. 1. 2.1. Prior Decree: Case No. 03CW261, Water Division One, entered on September 3, 2014. 2.2. Remarks. South Shaw Lake No. 1 is one of three conditional water rights decreed in Case No. 03CW261. By deed dated August 14, 2015, Virginia N. Shaw and Michael S. Shaw conveyed to Gregory N. Shaw certain land and water rights, including the South Shaw Lake No. 1. Gregory. N. Shaw, by deed dated December 14, 2015 conveyed the South Shaw Lake No. 1 and other property and water rights to Applicant herein. Applicant is filing this Application for Finding of Reasonable Diligence as to the South Shaw Lake No. 1 only. Virginia and Michael Shaw and/or Idaho Creek, LLC will be filing a similar application as to the Middle Shaw Lake No. 2 and North Shaw Lake

No. 3. 2.3. Legal Description: In the E1/2 SW1/4 and NW1/4 SE1/4, Section 29, T2N, R68W, 6th P.M., Weld County, Colorado; with an approximate center point 1800 feet from the South section line and 2050 feet from the West section line. 2.4. Name and capacity of ditches used to fill reservoir and legal descriptions of point of diversion. 2.4.1. Houck's Ditch and Slough (also known as Hauck Ditch – decreed in Case No. W-1350). Capacity: 3.5 cfs. Point of Diversion: Houck's Ditch and Slough is a drainage way beginning approximately in the SE1/4 SE1/4 Section 32, T2N, R68W, 6th P.M., Weld County, Colorado. The diversion point from Houck's Slough into South Shaw Lake No.1 is located in the W1/2 SE1/4 SW1/4 of S29, T2N, R68W, immediately east of Weld County Road 31/4, approximately 400 feet north of the south line of Section 29. 2.4.2. Boulder and Weld County Ditch. Capacity: 59.4 cfs; capacity of lateral which will deliver water to South Shaw Lake No. 1 is approximately 5 cfs. Point of Diversion: Boulder and Weld County Ditch diverts from Boulder Creek in the NW 1/4 of Section 15, T1N, R69W, approximately 1100 feet from the West section line and 1100 feet from the North section line of Section 15, T1N, R69W, 6th P.M., Boulder County, Colorado. The head gate of the lateral that delivers water to the Shaw property is located in the SE 1/4 , NE 1/4 of S32, T2N, R68W, approximately 1,600 feet from the North section line, and 300 feet from the East section line of S32, T2N, R68W, 6<sup>th</sup> P.M., Boulder County, Colorado. Water delivered through the lateral from the Boulder and Weld County Ditch is conveyed by buried pipeline to Houck's Slough from which it can be diverted at the location described in paragraph 2.4.1. 2.4.3. Shaw Drain No. 1. Capacity: 0.25 cfs. Shaw Drain No. 1 daylights in the SE1/4., NW1/4, S29, T2N, R68W, 6th P.M., Weld County, Colorado; approximately 2640 feet from the North section line and 1950 feet from the West section line. When not in priority, water collected and brought to the surface from the drain shall be returned to Boulder Creek. Once South Shaw Lake No. 1 is lined, all diversions of water from Shaw Drain No. 1 shall be measured and accounted for daily with a totalizing flow meter or other continuous similar recording device. A conditional water right for Shaw Drain No. 1 for storage in the Shaw Lakes was decreed in Case No. 02CW162. All diversions of water to storage in the Shaw Lakes under the water right decreed in Case No. 02CW162 shall count against the fill for the subject storage rights confirmed in this decree. The Applicant filed for a diligence decree for Shaw Drain No. 1 in case no. 2017CW3074 and a conditional water right decree was entered and remains in full force and effect until October 31, 2024. 2.5. Source: Seepage, drainage, natural runoff, wastewater and direct flows tributary to Boulder Creek. 2.6. Date of Appropriation: April 30, 1986. 2.7. Amount: 372 a.f. storage (one fill); at the diversion rates listed in ¶ 2.4.1-¶ 2.4.3, all conditional. 2.8 Use: Irrigation, fire protection, recreation, fish and wildlife, stock watering, industrial, augmentation and exchange. The area to be irrigated is 55 acres around the South Shaw Lake No. 1, Middle Shaw Lake No. 2 and North Shaw Lake No. 3 in the SE1/4 Section 20 and the NW1/4 NE1/4 , NE1/4 NW1/4 , SE1/4 NW1/4 , S1/2 NW1/4 , E1/2 SW1/4 , NW1/4 SE1/4 of S29 all in T2N, R68W of the 6th P.M., Weld County, Colorado. Recreation, fish and wildlife uses will occur within the high-water line and land adjacent to the reservoirs decreed herein. Industrial use is limited to mining and associated activities located on property owned by the Applicant, Greg Shaw, Idaho Creek Ranch, LLC, and/or Mike and Virginia Shaw Augmentation use is subject to the terms and conditions in paragraph 21 in the 03CW261 decree. 2.9 Surface Area at High Water Line: 31 acres. Lake is an excavation there is no dam. 3. **Outline of Work Done toward the Completion of the Appropriation**. During the diligence period, Applicant has improved the natural habitat surrounding South Shaw Lake No. 1, brought electricity to the site, and installed improvements conducive to wildlife, recreational and piscatorial uses. Extensive revegetation work has been completed in and around the Lake, including the planting of numerous native tree and shrubs, as well as native grasses to support maintenance and preservation of wildlife, and irrigation of same. Applicant has also secured and installed fish rearing systems in the Lake to support the piscatorial use. Applicant has filed and prosecuted a diligence application for the Shaw Drain No. 1 in Case No. 17CW3074. Applicant incurred total legal fees in the amount of \$8,575.00 related to such application. Applicant has consulted its professional engineer and contractors regarding design, construction, and installation of measuring structures on Shaw Drain No. 1, as well as engaged separate contractors to perform investigations into the Shaw Drain No. 1. The total approximate cost incurred by Applicant related to such engineering and professional services totaled \$9,800.00. 4. **Claim for Finding of Reasonable Diligence**. Pursuant to § 37-92-301(4), Applicant hereby requests a

finding and decree that it has been reasonably diligent in the development of the South Shaw Lake No. 1 water right, and requests a decree maintaining all volumes and flow rates associated with the South Shaw Lake No. 1 as conditional. 5. **Names and Addresses of Owners of Land on Which Structures are Located:** Applicant owns the structures and the land upon which the structures are located.

**20CW3132 SARA AND JONATHAN BOTKIN, MOUNTAIN MUTUAL RESERVOIR COMPANY, and NORTH FORK ASSOCIATES, LLC; Sara and Jonathan Botkin, 16689 Newport Ct., Brighton, CO 80602; Email: sarabotkin@gmail.com; Telephone: 334-447-8201; Mountain Mutual Reservoir Company, 6949 Highway 73, Suite 15, Evergreen, CO 80439; Email: norm@hch2o.com; Telephone: 303-989-6932; and North Fork Associates, LLC, 2686 S. Yukon Ct., Denver, CO 80227; Email 613blatch@gmail.com; Telephone: 303-988-7111.** Please direct all correspondence concerning this Application to: Aaron Ladd, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301; Email: asl@vrlaw.com; Telephone: 303-443-6151. **APPLICATION FOR STORAGE WATER RIGHTS, APPROVAL OF A PLAN FOR AUGMENTATION INCLUDING EXCHANGE IN PARK COUNTY. CLAIM NO. 1: APPLICATION FOR STORAGE WATER RIGHT** 2. Names of Reservoir: Greater Botkin Pond 3. Location of Reservoir: Greater Botkin Pond is located in the SE1/4 SE1/4 of Section 10, and the NE1/4 NE1/4 of Section 15, Township 9 South, Range 78 West of the 6th P.M. The dam is located 150 feet from the east section line and 80 feet from the south section line of said section. The Greater Botkin Pond is located on Unit 1, Lot 26, Park City South Subdivision, a/k/a 297 Park City Road, Alma, Colorado 80420. This point is also described as UTM Zone 13, NAD 83, 406155 easting and 4347821 northing. The location of the Greater Botkin Pond is shown on **Exhibit A**. 4. Source of Water: Greater Botkin Pond is an on-channel reservoir located on an unnamed creek, tributary to Mosquito Creek, tributary of the Middle Fork of the South Platte River, tributary of the South Platte River. 5. Date of Appropriation: July 15, 1995, by construction, storage, and beneficial use of water in the Greater Botkin Pond. 6. Amounts Claimed: 1.2 acre-feet, ABSOLUTE. 7. Surface Area and description of dam: 0.45 acres. The length of the dam is 50 feet and height of the dam is 5 feet. 8. Uses: Recreation, piscatorial, wildlife propagation, and fire protection. 9. Names and Addresses of Owners of Land on which Structures are Located: Co-Applicants Sara and Jonathan Botkin. **CLAIM NO. 2: APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION INCLUDING EXCHANGE** 10. Names of Structures to be Augmented: Greater Botkin Pond. 11. Water Rights to be Used for Augmentation Purposes: a. The Botkins have entered into a contract with North Fork Associates, LLC to purchase 13.4 shares of the capital stock of the Mountain Mutual Reservoir Company (“MMRC”). The 13.4 shares represent the right to receive 0.422 acre-feet of augmentation water per year from the water rights and storage facilities MMRC holds for the benefit of its shareholders, as more particularly described below. b. The water rights which MMRC owns for the benefit of its shareholders to be used in this plan for augmentation (“Augmentation Sources”) are summarized as follows: (1) Guiraud 3T Ditch. MMRC owns 3.481 cubic feet per second of the water rights decreed in the Guiraud 3T Ditch as follows:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount</u>
Oct. 18, 1889	July 1, 1867	20 cfs
(Original Adjudication Water District 23)		

The Guiraud 3T Ditch headgate is located on the South bank of the Middle Fork of the South Platte River in the NE1/4, Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast Corner of the NE1/4 of said Section 8 bears North 63° 35” East, 1,305 feet. Originally decreed for irrigation uses, this water right has been subject to various change proceedings. Past decrees have determined the average annual consumptive use under the Guiraud 3T Ditch to be 21.82 acre-feet per year per 1.0 cfs. The yield of Guiraud 3T Ditch is attached as Exhibit B. (2) Lower Sacramento Creek Reservoir No. 1. North Fork Associates owns a 21.8 percent interest in the Lower Sacramento Creek Reservoir No. 1. The reservoir has been constructed and holds the following decree for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other

beneficial purposes, including exchange to compensate for depletions in the South Platte River or its tributaries.

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount (AF)</u>
1974: Case No. W-7741-74	July 25, 1974	40

The reservoir is located in the NE1/4 NW1/4, Section 32 and the SE1/4 SW1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County, Colorado. Releases from the reservoir are made pursuant to the decrees issued in Case Nos. 84CW250 and 85CW465. Guiraud 3T Ditch water owned by MMRC is stored in the reservoir pursuant to an exchange decreed in Case No. 96CW287. The allocation of storage in the Lower Sacramento Creek Reservoir is attached as Exhibit C. (3) Maddox Reservoir. The Maddox Reservoir is located in the NE1/4 SW1/4, Section 22, Township 7 South, Range 73 West of the 6th P.M. in Park County. It was adjudicated on November 11, 1971 with an appropriation date of May 31, 1905. It is decreed for multiple purposes including irrigation, domestic, fish culture and recreation with a capacity of 54.0 acre-feet. It is filled by the Maddox Reservoir Feeder Ditch, which diverts from the North Fork of the South Platte River in the NE1/4 SE1/4 SW1/4, Section 22, Township 7 South, Range 73 West of the 6th P.M. and decreed as an alternate point of diversion for the Slaughter Ditch. (c) The augmented structures and augmentation supplies are shown on the maps attached as Exhibit A. 12. Statement of Plan for Augmentation, Covering all Applicable Matters under C.R.S. §37-92-103(9), §302(a)(2) and §305(8): Evaporation from the Greater Botkin Pond, located in the SE1/4 SE1/4 of Section 10, and the NE1/4 NE1/4 of Section 15, Township 9 South, Range 78 West of the 6th P.M, will be replaced using the Augmentation Sources listed in paragraph 12, above. Evaporation losses from the Greater Botkin Pond have been determined using the criteria described in the "General Administration Guidelines for Reservoirs," dated October 2011, published by the Colorado Division of Water Resources. The net annual evaporation rate at the Greater Botkin Pond has been determined to be 11 inches, based on a gross evaporation rate of 36 inches, adjusted for the fact that the surface of the Greater Botkin Pond is frozen from December through March and effective precipitation. In addition, because the pond is on-stream, required augmentation of evaporation is offset by claiming credit for 50% of the footprint of the pond formerly being sub-irrigated by grass and willows pursuant to §37-84-117(5), C.R.S. The evaporation calculation provided at Exhibit D, attached hereto, demonstrates that the net evaporation to be replaced pursuant this augmentation plan, based on the maximum surface area of 0.45 acres at all times, will require 0.422 of an acre-foot of replacement water as is shown in the table below.

Use	Total Quantity of Replacement	CU Rate	Replacement: Winter	Replacement: Summer
Evaporation	0.422 af	100%	0.122 af	0.300 af

The monthly depletions are as follows in acre-feet:

Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
0.000	0.000	0.000	0.000	0.000	0.061	0.044	0.072	0.071	0.054	0.059	0.061

a. In order to assure that sufficient augmentation water will be available to augment the anticipated stream depletions, 0.019 of a cubic foot per second of the Guiraud 3T Ditch priority, yielding 0.422 of an acre foot of water per year, will be reserved for use in this plan for augmentation. b. Whenever possible, out-of-priority depletions to the stream system which occur during the period May through September 31, inclusive, will be continuously augmented by MMRC foregoing the diversion of a portion of its Guiraud 3T Ditch water rights. During times when the Guiraud 3T Ditch water rights are not in priority and during the non-irrigation season, out-of-priority depletions will be augmented by releasing water from Lower Sacramento Creek Reservoir. Applicants are entitled to store up to 0.122 acre-feet in

Lower Sacramento Creek Reservoir. Applicants will store a portion of the Guiraud 3T Ditch priority in the Lower Sacramento Creek Reservoir, pursuant to the exchange decreed in Case No. 96CW287. c. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions may be aggregated and replaced by one or more releases of short duration. Transportation charges from the point where water is released from MMRC's facilities to the stream system, to the point of depletion from the subject wells, will be computed on the basis of 0.13 percent per mile. d. Applicants seek changes in the decree for the Guiraud 3T Ditch so that 0.019 of a cubic foot per second of said Decree can be assigned as an in-stream augmentation credit to offset depletions from the subject wells. Applicants also seek judicial confirmation that the Guiraud 3T Ditch water can be stored in the Lower Sacramento Creek Reservoir No. 1, and that storage water available to them in the Lower Sacramento Creek Reservoir No. 1 can be utilized for replacement and augmentation purposes. Releases from Maddox Reservoir will be used as an alternative to Lower Sacramento Creek Reservoir if necessary. e. Since the point of depletion associated with water usage at the subject development is upstream of the point of delivery of augmentation water from the Guiraud 3T Ditch and the Lower Sacramento Creek Reservoir, Applicants assert a right of water exchange pursuant to C.R.S. Sections 37-80-120, 37-92-302(1)(a), 37-92-305(3), and 37-92-305(5) to be operated in conjunction with the augmentation plan described in this Application. The reach of the substitution and exchange shall extend from (a) the former headgate of the Guiraud 3T Ditch in the NE1/4, Section 8, Township 11 South, Range 76 West and (b) the outlet of the Lower Sacramento Creek Reservoir in the NE1/4, NW1/4, Section 8, Township 11 South, Range 76 West of the 6<sup>th</sup> P.M., thence up the Middle Fork of the South Platte River to its confluence with Mosquito Creek in the SW1/4 NW1/4, Section 18, Township 9 South, Range 77 West, thence up Mosquito Creek to the confluence with an unnamed creek in the NE1/4 SW1/4, Section 11, Township 9 South Range 78 West, thence up the unnamed creek to the point of depletion in the SE1/4 SE1/4, Section 10 and the NE1/4 NE1/4 of Section 15, Township 9 South, Range 78 West of the 6<sup>th</sup> P.M. In the event that there is an intervening senior water right that precludes the exchange the Applicants can either have replacement water delivered by truck to the point of depletions or have an on-site container from which replacement water may be released. The substitution and exchange will operate to replace depletions to the flow of water in the stream system as the depletions occur. The exchange will be administered with a priority date of September 24, 2020, at a maximum flow rate of 0.001 of a cubic foot per second. WHEREFORE, the Applicants request the entry of a decree approving this Application, including but not limited to (1) granting the appropriations sought in this Application, (2) authorizing use of the augmentation supplies sought in this Application, (3) determining that the source and location of delivery of augmentation and replacement water are sufficient to prevent material injury to vested water rights. (9 pgs., 4 Exhibits)

**2020CW3133 WALTON RANCH, LLC, c/o: Maria Duran, P.O.Box1005,Palmer Lake CO 80133**  
Please direct all communication to Chris D. Cummins, #35154, Emilie B. Polley, #51296, MONSON, CUMMINS & SHOHET, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212, E-mail: [cdc@cowaterlaw.com](mailto:cdc@cowaterlaw.com); [ebp@cowaterlaw.com](mailto:ebp@cowaterlaw.com). **APPLICATION FOR ADJUDICATION OF DENVER BASIN GROUNDWATER AND FOR APPROVAL OF PLAN FOR AUGMENTATION II in ELPASO COUNTY**. Summary of Application. Applicant seeks to construct or utilize up to seven (7) non-exempt wells (including existing well) to the not-nontributary Dawson aquifer to provide water service to an equivalent number of single family lots, based on an anticipated subdivision of Applicant's 35.3-acre parcel into up to seven lots. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. III. Application for Underground Water Rights. A. Legal Description of Wells. 1. Property Description. All wells will be located on Applicant's approximately 35.3 acre property ("Applicant's Property") anticipated to be subdivided into seven lots of +/-5 acres each, with current schedule number 5100000462. Applicant's Property is depicted on the attached **Exhibit A** map, located in the SW 1/4 SW1/4 of Section 19, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., also known as 16750 Thompson Road, Colorado Springs, Colorado 80908. 2. Existing Well. There is an existing domestic well with Division of Water Resources Permit No. 97983 ("Walton Ranch Well No. 1"), permit attached as



**Exhibit B.** It is drilled to a total depth of 310 feet to the Dawson aquifer, and located 1200 feet from the South Section Line, 1000 feet from the West Section Line. The well was completed on August 30, 1978 and water placed to beneficial use on August 30, 1978. Upon approval of this plan for augmentation, this well will be re-permitted. 3. Proposed Wells. Applicant proposes that up to six wells (one well per lot) will be located on the Applicant’s Property at specific locations not yet determined (“Walton Ranch Wells Nos. 2 through 7”), to be constructed to the Dawson aquifer, for a total of up to seven wells. B. Water Source. 1. Not-Nontributary. The ground water to be withdrawn from the Dawson aquifer underlying the Applicant’s Property is not-nontributary. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. 2. Nontributary. The groundwater that will be withdrawn from the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant’s Property is nontributary. C. Estimated Rates of Withdrawal and Ground Water Available. 1. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. 2. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant’s Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1) which is more stringent than the State of Colorado’s 100-year life requirement pursuant to C.R.S. §37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant’s Property:

<b>AQUIFER</b>	<b>NET SAND (Feet)</b>	<b>Total Appropriation (Acre Feet)</b>	<b>Annual Avg. Withdrawal 100 Years (Acre Feet)</b>	<b>Annual Avg. Withdrawal 300 Years (Acre Feet)</b>
Dawson (NT)	491.6	3470.7	34.71	11.57
Denver (NT)	514.3	3086.3	30.86	10.29
Arapahoe (NT)	238.7	1432.4	14.32	4.77
Laramie Fox Hills (NT)	197.6	1046.3	10.46	3.49

Decreed amounts may vary from the above to conform with the State’s Determination of Facts. Pursuant to C.R.S. §37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. D. Requested Uses. The Applicant requests the right to use the ground water for beneficial uses upon the Applicant’s Property consisting of domestic, irrigation, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant’s Property subject, however, to the requirement of C.R.S. §37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct wells or use water from the not-nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with C.R.S. §37-90-137(9)(c.5). E. Well Fields. Applicant requests that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant’s Property through any combination of wells. Applicant requests that these wells be treated as a well field. F. Averaging of Withdrawals. Applicant

requests that they be entitled to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property. G. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicant. IV. APPLICATION FOR PLAN FOR AUGMENTATION. A. Structures to be Augmented. The structures to be augmented are the Walton Ranch Wells Nos. 1 through 7, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Walton Ranch Wells Nos. 1 through 7, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by up to seven wells proposed herein for up to seven residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: 1. Uses. i. Household Use Only: 0.25 acre feet annually within single family dwellings on up to seven lots, with a maximum of ten percent consumptive use based on a nonevaporative septic leach field disposal systems. The annual consumptive use for each lot will therefore be 0.025 acre feet per well, with return flows of 0.225 acre feet per lot, or 1.575 acre-feet per year. ii. Landscape Irrigation: 0.05 acre feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.042 acre feet. iii. Horses (or equivalent livestock): 0.011 acre feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. 2. Each well will pump a maximum of 1.0 acre feet of water per year per residence, assuming seven lots, for a maximum total of 7.0 acre feet being withdrawn from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn and garden, and the watering of horses or equivalent livestock. An example breakdown of this combination of use, utilizing the factors described above, is household use of 0.25 acre feet of water per year per residence with the additional 0.75 acre feet per year per residence available for irrigation of lawn and garden and the watering of up to eight horses or equivalent livestock on each residential lot. 3. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300 year pumping period for the Dawson aquifer amounts to approximately 22.28% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 1.559 acre feet in year 300. Should Applicant's pumping be less than the 7.0 total, 1.0 acre feet per lot, per year described herein, resulting depletions and required replacements will be correspondingly reduced. Additionally, should fewer than seven lots be established on the property, pumping from each individual well on each lot actually established may be increased from the maximums described herein, provided that all out-of-priority depletions remain augmented. 4. Augmentation of Depletions During Pumping. Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of up to seven residential wells. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.25 acre feet per residence per year, total of 1.75 acre feet, 1.575 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. 5. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Walton Ranch Wells Nos. 1 through 7, Applicant will reserve up to the entirety of the nontributary Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping

depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the Walton Ranch Wells Nos. 1 through 7 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. V. Remarks. A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the South Platte River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with pending Division 1 application in Water Division 1 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the South Platte River as set forth herein, and for a finding that those replacements are sufficient. B. Applicant requests a finding that they have complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested not-nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping. D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of ground water withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. E. The Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of ground water and the proposed plan for augmentation. F. The wells shall be installed and metered as reasonably required by the State Engineer. Each well must be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. G. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. H. Integrity First Financial, Inc. is a lienholder of the property. The Applicant will notify the lienholder no later than 14 days after filing this application, and file such certification with the Court, in accordance with C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I).

**20CW3134 (10CW233; 01CW161) CONIFER METROPOLITAN DISTRICT ("CONIFER METRO DISTRICT") c/o Michael L. Staheli, Secretary Cordes & Company, 5299 DTC Boulevard, Suite 600, Greenwood Village, CO 80111, Telephone: (303) 796-1130.** Please forward all pleadings, correspondence and inquiries regarding this matter to the attorneys for Conifer Metro District: Alan E. Curtis, Heather A. Warren, White & Jankowski LLC, 1333 West 120th Avenue, Suite 302, Westminster, CO 80234, [alanc@white-jankowski.com](mailto:alanc@white-jankowski.com), [heatherw@white-jankowski.com](mailto:heatherw@white-jankowski.com). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE CONDITIONAL WATER RIGHTS ABSOLUTE in JEFFERSON COUNTY.** **2. BACKGROUND.** This Application seeks a finding of reasonable diligence and to make absolute a number of conditional water rights that were confirmed by the August 11, 2004 Decree in Case No. 01CW161, Water Division 1, as modified by an Order entered on May 17, 2006 ("01CW161 Decree"). As discussed below, portions of the conditional water rights confirmed in the 01CW161 Decree were confirmed absolute by the September 30, 2014 Decree in Case No. 10CW233, Water Division 1 ("10CW233 Decree"). The portions of the conditional water rights confirmed absolute by the 10CW233 Decree are not at issue in this diligence proceeding. **3. DESCRIPTION OF WATER RIGHTS** (collectively, the "Subject Water Rights"). **a. Location of Structures.** All structures are located in the NW1/4 SE1/4 of Section 14, Township 6 South, Range 71 West, 6th P.M., Jefferson County, Colorado. All of these structures are shown on the attached **EXHIBIT A** and are more particularly described as follows: i. Village Well No. 1. Permit No. 77181-F (original Permit No. 63577-F); WDID No. 0905914.

Located 1,520 feet from the east section line and 1,520 feet from the south section line of Section 14, Township 6 South, Range 71 West, 6th P.M. UTM coordinates (NAD83/Zone13): UTMx: 473978.3; UTMy: 4375311.1. ii. Village Well No. 2. Permit No. 63578-F; WDID No. 0905915. Located 1,520 feet from the east section line and 1,870 feet from the south section line of Section 14, Township 6 South, Range 71 West, 6th P.M. UTM coordinates (NAD83/Zone13): UTMx: 473977.9; UTMy: 4375417.8. iii. Village Well No. 3. Permit No. 63579-F; WDID No. 0905916. Located 1,720 feet from the east section line and 2,020 feet from the south section line of Section 14, Township 6 South, Range 71 West, 6th P.M. UTM coordinates (NAD83/Zone13): UTMx: 473916.8; UTMy: 4375462.4. iv. Village Well No. 4. Permit No. 63696-F; WDID No. 0905917. Located 2,391 feet from the east section line and 1,840 feet from the south section line of Section 14, Township 6 South, Range 71 West, 6th P.M. UTM coordinates (NAD83/Zone13): UTMx: 473712.5; UTMy: 4375403.9. v. Village Well No. 5. Permit No. 65162-F; WDID No. 0905918. Located 1,820 feet from the east section line and 1,520 feet from the south section line of Section 14, Township 6 South, Range 71 West, 6th P.M. UTM coordinates (NAD83/Zone13): UTMx: 473886.8; UTMy: 4375309.5. vi. Village Pond. Located in the NW1/4 SE1/4 of Section 14, Township 6 South, Range 71 West, 6th P.M. The center of the Village Pond is located approximately 2,450 feet from the south section line and 1,600 feet from the east section line of said Section 14. UTM coordinates (NAD83/Zone13): UTMx: 473980.0; UTMy: 4375309.5. vii. TTIC Exchange. The conditional appropriative right of substitution and exchange for the TTIC Exchange was confirmed by the 01CW161 Decree and utilizes water released from Spinney Mountain Reservoir into the South Platte River. Water is then exchanged from the confluence of Bear Creek and up the South Platte River, up Bear Creek to its confluence with Turkey Creek, up Turkey Creek to its confluence with North Turkey Creek, up North Turkey Creek to the confluence of North Turkey Creek and an unnamed tributary in the NW1/4 NW1/4, Section 14, Township 6 South, Range 71 West, 6th P.M., up the unnamed tributary to a second unnamed tributary in the SE1/4 NW1/4, Section 14, Township 6 South, Range 71 West, 6th P.M., and up the second unnamed tributary to the exchange-to point at the Village Pond as described in ¶ 3.a.vi, above. viii. MMRC Exchange. A conditional appropriative right of substitution and exchange for the Mountain Mutual Resource Company Exchange (“MMRC Exchange”) was confirmed by the 01CW161 Decree. The decreed exchange reach is from the exchange-from point at the confluence of Bear Creek and Turkey Creek at Bear Creek Lake in Section 5, Township 5 South, Range 69 West, 6th P.M., up Turkey Creek to its confluence with North Turkey Creek and South Turkey Creek, and thence up North Turkey Creek to the exchange-to point at Meadowview Reservoir. Alternatively, instead of exchanging into storage in Meadowview Reservoir, the exchange may be continued up North Turkey Creek to the confluence of North Turkey Creek and an unnamed tributary in the NW1/4 NW1/4, Section 14, Township 6 South, Range 71 West, 6th P.M., up the unnamed tributary to a second unnamed tributary in the SE1/4 NW1/4, Section 14, Township 6 South, Range 71 West, 6th P.M., and up the second unnamed tributary to the exchange-to point at the Village Pond as described in ¶ 3.a.vi, above. **b. Sources.** i. Village Well Nos. 1–5. Ground water tributary to North Turkey Creek, a tributary of Turkey Creek, tributary to the South Platte River. ii. Village Pond. Inflows from the Village Spring, natural runoff from an unnamed tributary to North Turkey Creek and from water delivered under the TTIC Exchange and MMRC Exchange. iii. TTIC Exchange. See ¶ 3.a.vii, above. iv. MMRC Exchange. See ¶ 3.a.viii, above. **c. Appropriation Dates.** i. Village Well Nos. 1–5 and Village Pond. May 24, 2001. ii. TTIC Exchange. August 1, 2001. iii. MMRC Exchange. September 30, 2003. **d. Uses.** i. Village Well Nos. 1–5. Indoor commercial use and fire protection. ii. Village Pond. Augmentation, recreation and piscatorial uses. **e. Amounts.** i. Village Well Nos. 1–5. Maximum pumping rate of 50 gallons per minute (“gpm”) for each well, with a cumulative maximum annual pumping volume of 24.48 acre-feet for all five wells. Under the 01CW161 Decree, at least 95% of the ground water diverted through Village Well Nos. 1–5 is treated onsite using a central mechanical wastewater treatment system and returned to the stream system. The specific amounts, if any, for Village Well Nos. 1–5 confirmed absolute by the 10CW233 Decree for Village Well Nos. 1–5 are as follows: (1) Village Well No. 1. 0 gpm, absolute; 50 gpm remaining conditional. (2) Village Well No. 2. 32 gpm, absolute; 18 gpm remaining conditional. (3) Village Well No. 3. 31 gpm, absolute; 19 gpm remaining conditional. (4)

Village Well No. 4. 35 gpm, absolute; 15 gpm remaining conditional. (5) Village Well No. 5. 0 gpm, absolute; 50 gpm remaining conditional. (6) Village Well Nos. 1–5. 22.66 acre-feet per year absolute; 1.82 acre-feet per year remaining conditional. ii. Village Pond. Capacity 3.7 acre-feet, absolute. iii. TTIC Exchange. 2.15 acre-feet per year at maximum flow of 0.3 cfs, conditional. iv. MMRC Exchange. 2.0 acre-feet per year, conditional. **4. ABSOLUTE CLAIM.** During April 2020, 4.3 gpm of the 50 gpm conditional water right for Village Well No. 5 was put to the beneficial uses approved in the 01CW161 Decree. See April 2020 Excel accounting file attached as **EXHIBIT B.** Based on such use, the Conifer Metro District requests that the Court determine and decree that 4.3 gpm of the 50 gpm water right for Village Well No. 5 has been made absolute, with 45.7 gpm remaining conditional. **5. DILIGENCE CLAIM FOR SUBJECT WATER RIGHTS.** **a. Diligence Period.** The most recent diligence period for the Subject Water Rights was from September 30, 2014 when the 10CW233 Decree was entered, through September 30, 2020 (“Diligence Period”). **b. Integrated System.** This Court has previously confirmed that the Subject Water Rights “and appurtenant facilities are an integrated system in accordance with C.R.S. §37-92-3[0]1(4)(b).” See 10CW233 Decree ¶ 19, at 10. Pursuant to C.R.S. § 37-92-301(4)(b), work on other components of the Conifer Metro District’s water system is evidence of diligence on the Subject Water Rights. **c. Activities and Expenditures.** During the Diligence Period, the Conifer Metro District, with the assistance of White & Jankowski LLC and other legal counsel and consultants, completed activities and expended funds exceeding Two Million Nine Hundred Thousand Dollars (\$2,900,000). These actions and expenditures confirm the Conifer Metro District’s steady and diligent effort to complete the appropriation of the remaining conditional portions of the Subject Water Rights by applying water diverted by the Subject Water Rights to beneficial use. These activities and expenditures include, without limitation: i. Operation of District Well Nos. 1–5 and Treatment Plant. The Conifer Metro District has continued to operate District Well Nos. 1–5 and a wastewater treatment plant to provide onsite treatment of all water withdrawn through Village Well Nos. 1–5 at costs exceeding \$1,484,000. ii. Legal, Consulting and Administrative Costs and Expenses. The Conifer Metro District incurred and paid: (1) legal costs exceeding \$290,000; (2) water and other consulting fees exceeding \$56,000; and (3) administrative, management, accounting, audit and insurance costs exceeding \$677,000. iii. Capital Improvements to Integrated Water System. The Conifer Metro District incurred and paid: (1) water capital expenses exceeding \$101,000; and (2) general capital expenses exceeding \$291,000. iv. Ground Water Monitoring. Jefferson County and the Division 1 Water Court require the Conifer Metro District to operate a ground water monitoring program. This program includes the periodic measurement and reporting of 22 wells. This information is measured by “data loggers” which must be periodically calibrated and downloaded by the Conifer Metro District’s ground water monitoring program. Costs for operation of the ground water monitoring program during the Diligence Period exceeded \$158,000. A map of the monitored wells is attached as **EXHIBIT C.** v. Capital Improvements to Integrated Water System. The Conifer Metro District incurred and paid: (1) water capital expenses exceeding \$101,000; and (2) general capital expenses exceeding \$291,000. vi. Village Pond. The Conifer Metro District has continued to operate the Village Pond. All inflow and outflows to the Village Pond are measured, recorded and reported to the Water Commissioner. vii. Flumes. In order to measure the exchange capabilities and for accounting purposes, the Conifer Metro District has operated and maintained measuring flumes to record flows at all points described in ¶ 40 of the 01CW161 Decree. The flumes are periodically monitored and the results reported to the Water Commissioner as part of the recordkeeping for the augmentation plan. viii. Accounting. The Conifer Metro District has prepared and submitted the accounting required by the 01CW161 Decree and the 10CW233 Decree. **6. REQUESTED RULING.** Based on the foregoing, the Conifer Metro District respectfully requests that the Water Court enter a decree finding that 4.3 gpm of the 50 gpm water right for Village Well No. 5 has been made absolute, with 45.7 gpm remaining conditional. The Conifer Metro District further requests that any and all remaining conditional portions of the Subject Water Rights are continued in full force and effect for all purposes in their full decreed amounts. **7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF LAND UPON WHICH STRUCTURES ARE LOCATED.** All of the facilities and structures identified in this Application are on land owned or leased by the Conifer Metro District. (8 pages, 3 exhibits).

**2020CW3135 (99CW110, 07CW138, 14CW3021 TORCHBEARERS OF THE CAPERNWRAY MISSIONARY FELLOWSHIP AKA RAVENCREST CHALET AND ROBERT AND LISA FULTON Torchbearers of the Capernwray Missionary Fellowship, aka Ravencrest Chalet (hereinafter “Ravencrest”), c/o Erik Snyder, P.O. Box 2620, Estes Park, Colorado 80517, Robert & Lisa Fulton (the “Fultons”), 731 Pole Hill Road, Estes Park, Colorado 80517, Ravencrest and the Fultons will be collectively referred to herein as the “Applicants.”** Direct All Pleadings to: Glenn E. Porzak, Cassidy L. Woodard, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302 **COLORADO. APPLICATION TO MAKE ABSOLUTE AND FOR FINDINGS OF REASONABLE DILIGENCE IN LARIMER COUNTY,** Overview. By this application, Applicants seek to make portions of certain Ravencrest Well Nos. 1 to 6 water rights (the “Ravencrest Wells”) absolute and request a finding of reasonable diligence for all water rights described herein not made absolute at this time. Ravencrest Well Nos. 1-4 are owned by Ravencrest and provide water for a bible school, retreat center, and residential lots. The Fultons acquired the Ravencrest Well Nos. 5-6 on September 22, 2014, and these wells provide water for two residential lots. 3. Description of Conditional Water Rights: Ravencrest Wells. A. Ravencrest Well No. 1. 15 gpm decreed conditional for domestic, commercial, and irrigation purposes by the District Court in and for Water Division No. 1 (the “Water Court”) in Case No. 99CW110 on June 13, 2001 (the “99CW110 Decree”), with an appropriation date of January 3, 1980. The source of which is fractured granite, tributary to the Big Thompson River system. This water right is located in the NE1/4 of the NW1/4 of Section 34, Township 5 North, Range 72 West of the 6th P.M., at a point approximately 60 feet from the North Section line and 1,920 feet from the West Section line of said Section 34. The structure associated with this water right is State Engineer Structure ID No. 5584 and has Permit No. 057338-F. The depth of this well is 415 feet. B. Ravencrest Well No. 2. 15 gpm decreed conditional for domestic, commercial, and irrigation purposes in the 99CW110 Decree, with an appropriation date of November 2, 1983. The source of which is fractured granite, tributary to the Big Thompson River system. This water right is located in the NW1/4 of the NW1/4 of Section 34, Township 5 North, Range 72 West of the 6th P.M., at a point approximately 825 feet from the North Section line and 270 feet from the West Section line of said Section 34. The structure associated with this water right is State Engineer Structure ID No. 5585 and has Permit No. 057337-F. The depth of this well is 340 feet. C. Ravencrest Well No. 3. 15 gpm decreed conditional for domestic, commercial, and irrigation purposes in the 99CW110 Decree, with an appropriation date of January 31, 1983. The source of which is fractured granite, tributary to the Big Thompson River system. This water right is located in the NW1/4 of the NW1/4 of Section 34, Township 5 North, Range 72 West of the 6th P.M., at a point approximately 340 feet from the North Section line and 580 feet from the West Section line of said Section 34. The structure associated with this water right is State Engineer Structure ID No. 5586 and has Permit No. 057448-F. D. Ravencrest Well No. 4. 15 gpm decreed conditional for domestic, commercial, and irrigation purposes in the 99CW110 Decree, with an appropriation date of July 31, 1962. The source of which is fractured granite, tributary to the Big Thompson River system. This water right is located in the NW1/4 of the NW1/4 of Section 34, Township 5 North, Range 72 West of the 6th P.M., at a point approximately 310 feet from the North Section line and 1,240 feet from the West Section line of said Section 34. The structure associated with this water right is State Engineer Structure ID No. 5587 and has Permit No. 057449-F. The depth of this well is 150 feet. E. Ravencrest Well No. 5. 15 gpm decreed conditional for domestic purposes in the 99CW110 Decree, with an appropriation date of July 30, 1999. The commercial and irrigation uses were cancelled by the decree entered in Case No. 14CW3021. The source of which is fractured granite, tributary to the Big Thompson River system. This water right is located within 500 feet of a point in the NE1/4 of the NW1/4 of Section 34, Township 5 North, Range 72 West, 6th P.M., 630 feet from the North Section line and 2,490 feet from the West Section line of said Section 34. The structure associated with this water right is State Engineer Structure ID No. 5589 and has Permit No. 78363-F (previously Permit No. 59124-F). The depth of this well is approximately 1,000 feet. F. Ravencrest Well No. 6. 15 gpm decreed conditional for domestic purposes in the 99CW110 Decree, with an appropriation date of July 30, 1999. The commercial and irrigation uses were cancelled by the decree entered in Case No. 14CW3021. The source of which is fractured granite,

tributary to the Big Thompson River system. This water right is located within 500 feet of a point in the NE1/4 of the NW1/4 of Section 34, Township 5 North, Range 72 West, 6th P.M., 100 feet from the North Section line and 2,500 feet from the West Section line of said Section 34. The structure associated with this water right is State Engineer Structure ID No. 5590 and has Permit No. 59125-F. The locations of the Ravencrest Wells are shown on the attached **Exhibit A**. Prior findings of reasonable diligence were entered for the Ravencrest Wells by the Water Court in Case No. 07CW138 (the “07CW138 Decree”) on February 27, 2008, and in Case No. 14CW3021 on September 4, 2014 (the “14CW3021 Decree”).

4. Description of Conditional Exchanges. The conditional exchanges were decreed by the Water Court in the 99CW110 Decree with subsequent findings of reasonable diligence entered in the 07CW138 Decree and the 14CW3021 Decree.

A. Exchange From Point: Point of diversion for the Handy Ditch, located on the Big Thompson River in Section 3, Township 5 North, Range 70 West of the 6th P.M.

B. Exchange To Points: (i) A point on the Big Thompson River perpendicular to the location of the Ravencrest Wells, and (ii) to the Adrian Pond, which is located in the SW1/4 of Section 17, Township 5 North, Range 72 West of the 6th P.M., at a point approximately 400 feet North and 1,000 feet East of the Southwest corner of said Section 17.

C. Priority Date: April 16, 1999.

D. Amount: The rate of exchange is 0.25 cfs to the Ravencrest Wells and 1.0 cfs to the Adrian Pond. The combined maximum rate of exchange is 1.25 cfs. Such exchanges will not cumulatively exceed 1.5 acre-feet per year.

E. Use: The water is used for domestic, commercial, irrigation, and for augmentation uses pursuant to the plan for augmentation and exchange decreed in the 99CW110 Decree and subject to the terms and conditions contained therein.

F. Source of Replacement Supply: 1.5 acre-feet of historic consumptive use credits decreed by the Water Court in the 99CW110 Decree, as being historically attributable to 0.42 shares of the Handy Ditch Company, a Colorado mutual ditch company, represented by Certificate No. 4353 (previously 3847), which one share consists of a 0.42/900<sup>th</sup> share of the following water rights: i. Handy Ditch, transferred from the Big Thompson Ditch & Manufacturing Company, all on the Big Thompson River, adjudicated by original decree of the Larimer County District Court in Civil Action No. 260, entered May 28, 1883: a. Priority No. 2, for 1.39 cfs, appropriation date April 1, 1863, of which 0.695 cfs is available to the shareholders of the Handy Ditch Company; b. Priority No. 4, for 1.52 cfs, appropriation date May 1, 1864, of which 0.76 cfs is available to the shareholders of the Handy Ditch Company; c. Priority No. 101/2, for 2.69 cfs, appropriation date March 1, 1867, of which 1.345 cfs is available to the shareholders of the Handy Ditch Company; d. Priority No. 20, for 0.40 cfs, appropriation date May 1, 1872, of which 0.20 cfs is available to Handy Ditch shareholders; ii. Handy Ditch transferred from the Big Thompson Irrigating Ditch by decree of the Larimer County District Court in Civil Action No. 1336, entered on June 2, 1882 of Priority No. 5, for 20.0 cfs, appropriation date February 25, 1865; and iii. Handy Ditch by original appropriation from the Big Thompson River by decree of the Larimer County District Court entered May 28, 1883: a. Priority No. 39, for 31.2 cfs, appropriation date February 28, 1878; and b. Priority No. 471/2, for 141.234 cfs, appropriation date December 15, 1880.

5. Request to Make Absolute: During the diligence period, Applicants have placed Ravencrest Well Nos. 1, 4, and 5 to use and hereby request that the Water Court make absolute the following: (1) Ravencrest Well No. 1 at 15 gpm for domestic and commercial purposes; (2) Ravencrest Well No. 4 at 15 gpm for domestic and commercial purposes; and (3) Ravencrest Well No. 5 at 15 gpm for domestic purposes.

6. Request for Finding of Reasonable Diligence: For all portions of the Ravencrest Wells not made absolute as requested in paragraph 5 above and for the conditional exchanges, Applicants hereby request findings of reasonable diligence.

7. Detailed Outline of Work Done to Complete Project and Apply Water to Beneficial Use: The water rights and related features serve a bible school, retreat center, and residential lots and will serve expansions to the facilities. Specific activities that demonstrate diligence toward the application of water to the decreed beneficial uses include the following: A. During the diligence period, Applicants placed Ravencrest Well Nos. 1, 4, and 5 to beneficial use as described in the request to make absolute in paragraph 5 above, B. During the diligence period, Ravencrest expended \$67,523 to treat and test water from Ravencrest Well Nos. 1 to 4 and address water quality issues associated with Ravencrest Well Nos. 2 and 3, C. During the diligence period, Ravencrest expended \$15,435 on work associated with the Ravencrest Wells and other expenses associated with the plan for augmentation and exchange decreed in the 99CW110 Decree, D. Applicants work regularly with its legal advisors to understand and implement

the plan for augmentation and conditional exchanges in the 99CW110 Decree. Ravenscrest also regularly communicates with the water commissioner about updates to its monthly summary spreadsheet and accounting to track usage and replacements. Moving forward, Applicants will continue to develop their accounting form in conjunction with the water commissioner and implement procedures to begin accounting for the subject conditional exchanges, E. During the diligence period, Ravenscrest conveyed Ravenscrest Well Nos. 5 and 6 to the Fultons. Applicants also entered into a Water Use and Lease Agreement regarding the operation of the plan for augmentation and exchange in the 99CW110 Decree with respect to Ravenscrest Well No. 5 and 6, F. Ravenscrest is exploring plans to construct additional student housing on the property, which will be served by the Ravenscrest Wells. Currently, the Ravenscrest Wells serve up to sixty-five students and between sixteen to thirty staff members and their families. The proposed expansion will allow for a total of 110 students, G. Ravenscrest has plans to expand its wastewater treatment system, which will be implemented alongside the additional student housing, H. Ravenscrest continues to rely on the subject water rights and has no intent to abandon them, I. The foregoing activities are necessary to apply the subject water rights to their full decreed beneficial uses. 8. Names and addresses of owners of land upon which new diversion or storage structures will be built, owners of existing structures which may require modification, and owners of land upon which water is or will be stored. A. The decreed locations for the Ravenscrest Well are on land owned by Applicants, B. Adrian Pond is located on land owned by the Dry Gulch Adrian Family LLC, whose mailing address is P.O. Box 3427, Carefree, AZ 85377. The physical address of the property is 1489 Dry Gulch Road, Estes Park CO 80517, C. Handy Ditch Company, P.O. Box 569, Berthoud, CO 80513. WHEREFORE, Ravenscrest requests that this Court enter a decree (1) making portions of the conditional water rights absolute as described in paragraph 5 above; (2) entering findings of reasonable diligence for the remaining conditional water rights and exchanges as described in paragraph 6 above; and (3) providing such other and further relief as may be appropriate. (8 pages + Exhibit)

**20CW3136 THE ARCHDIOCESE OF DENVER, 1300 S. Steele St., Denver, CO 80210-2599, Email: kyle.mills@annunciationheights.org; Telephone: 303-722-4687.** Please direct all correspondence concerning this Application to: Paul Zilis, Esq., Peter C. Johnson, Esq., Alison I. D. Gorsevski, Esq. and Andrea A. Kehrl, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301; Email: pjz@vrlaw.com; pej@vrlaw.com; adg@vrlaw.com; and aak@vrlaw.com; Phone: 303-443-6151. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN BOULDER COUNTY.** 2. **Name of Structure:** Camp St. Malo Pond No. 5 3. **Description of Conditional Water Right:** 3.1 **Original Decree:** Camp St. Malo Pond No. 5 conditional water right was originally decreed in Case No. 86CW392, District Court, Water Division 1, on December 4, 1987. 3.2 **Subsequent Decrees Awarding Diligence:** Diligence continuing the Camp St. Malo Pond No. 5 conditional water right was awarded in Case Nos. 93CW160, 00CW123, 07CW120, and 13CW3138, all in District Court, Water Division 1. 3.3 **Legal Description:** Camp St. Malo Pond No. 5 is an on-channel reservoir, and the outlet will be located in the NW 1/4 NW 1/4 of Section 11, Township 3 North, Range 73 West, 6th P.M., Boulder County, Colorado at a point approximately 4,970' West of the East section line and approximately 4,520' North of the South section line of said Section 11, as shown on Exhibit A. 3.4 **Source:** Cabin Creek, tributary to St. Vrain Creek. 3.5 **Appropriation Date:** December 1986. 3.6 **Decreed Amount:** 3 acre feet, with right to fill and refill. 3.7 **Uses:** Commercial, domestic, recreational, piscatorial and fire protection purposes associated with Applicant's church camp. 4. **Absolute Claim:** N/A. Applicant does not seek to make any portion of the Camp St. Malo Pond No. 5 conditional water right absolute in this application. 5. **Diligence Claim:** Applicant intends to pursue the full decreed diversion and beneficially use the Camp St. Malo Pond No. 5 conditional water right. Applicant seeks a determination from the Court pursuant to § 37-92-301(4), C.R.S., that it has been reasonably diligent in the development of the Camp St. Malo Pond No. 5 conditional water right. 6. **Detailed outline of what has been done towards completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period:** 6.1 Camp St. Malo Pond No. 5 is a part of an integrated system of decreed water rights which Applicant has and will utilize to provide an adequate water supply to Camp St. Malo.



Applicant included the Pond in its decreed Plan of Augmentation (Case No. 86CW390), which coordinated and integrated all of its water rights. Pursuant to the decrees in Case Nos. 86CW390 and 86CW392, Camp St. Malo Pond No. 5 will store water in priority for the stated uses, and it will also be utilized to store a portion of the augmentation water when constructed. When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system. C.R.S. § 37-92-301(4)(b). 6.2 In determining whether reasonable diligence has been exercised to develop a conditional water right, a factor to be considered is the intervention of outside delaying factors. *Municipal Subdistrict, Northern Colorado Water Conservancy District v. Oxy USA, Inc.*, 990 P2d 701 (Colo. 1999). Camp St. Malo has been subject to very significant outside delaying factors. The camp was destroyed by a fire on November 14, 2011. In addition, the property experienced significant flooding on September 13, 2013. Nonetheless, Applicant still intends to pursue the subject conditional water right. 6.3 Applicant intends to construct Camp St. Malo Pond No. 5 during the process of rebuilding the camp. Applicant has expended funds towards rebuilding the camp in the amount of approximately \$2.5 million during the diligence period. Accordingly, Applicant has had and continues to have the intent to construct Camp St. Malo Pond No. 5 and apply the subject conditional water right to its decreed beneficial uses at the camp. 6.4 In addition to work rebuilding the camp, Applicant conducted the following work during the diligence period: 6.4.1 Applicant filed an application for a storage water right for Camp St. Malo Pond No. 6, and to include Camp St. Malo Pond No. 6 in the existing augmentation plans for Camp St. Malo. It also revised its water accounting forms to include the Camp St. Malo Pond No. 6 storage right and the inclusion of Pond No. 6 in the Augmentation Plan. This work included two site visits from engineering consultants to Camp St. Malo to identify structures and work items necessary to update the accounting forms. 6.4.2 Applicant's engineering consultants also obtained aerial photographs of Camp St. Malo in order to identify decreed locations of the water rights associated with Camp St. Malo's water supply system, including Camp St. Malo Pond No. 5. Applicant also communicated with the District 5 Water Commissioner regarding on-site flow measurement devices required for administration of the Camp St. Malo water rights. 6.4.3 Applicant identified survey information regarding the Camp St. Malo ponds and incorporated that survey data into the relevant accounting forms and submitted accounting forms for the Camp St. Malo integrated water supply system to the Division Engineer's Office for the months of May 2019 through July 2020. 6.4.4 Applicant spent approximately \$18,000 on the work described in Paragraphs 6.4.1 to 6.4.3. 6.4.5 Applicant has also expended \$8,990 towards the development of Ponds 2, 3, 4, and 6, including the excavation of Ponds 2, 3 and 6, and the installation of a gate valve, water pipes, a new retaining wall, and other infrastructure improvements at Pond 4. 7. **Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** All lands upon which Camp St. Malo Pond No. 5 is to be located are owned by the Applicant herein. (7 pgs., 1 Exhibit)

**2020CW3137 COORS BREWING COMPANY; P.O. Box 4030, Golden, CO 80401.** Stephen H. Leonhardt, Esq., April D. Hendricks, Esq.; BURNS, FIGA & WILL, P.C.; 6400 Fiddlers Green Circle, Suite 1000, Greenwood Village, CO 80111; (303) 796-2626. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN PART IN JEFFERSON COUNTY.**

**2.** Summary of Application. In Case No. 99CW236, Coors received conditional decrees for its Wannamaker/Farmers High Line and Augmentation Plan III appropriative rights of exchange, along with an absolute decree for a portion of its Wannamaker/Farmers High Line exchange, in the amount of 1.8 c.f.s. By this Application, Coors seeks to make an additional portion of its Wannamaker/Farmers High Line exchange absolute, and to maintain diligence on any portion of that conditional right of exchange not made absolute in this case. Coors also seeks to maintain diligence on the entirety of its conditional Augmentation Plan III exchange. **3. Description of Conditional Appropriative Rights of Exchange:** The conditional appropriative rights of exchange, for which findings of reasonable diligence are sought, were originally decreed by the Division 1 Water Court in Case No. 99CW236 on August 8, 2007. Since that time, the Court

has found Coors to have been diligent in the development of the subject conditional appropriative rights of exchange and accordingly has entered a decree continuing the remaining conditional portions of such water rights in full force and effect in Case No. 13CW3094 (entered September 4, 2014). The exchange rights are more particularly described as follows: **A. Name of Exchange:** Wannamaker/Farmers High Line Exchange **i. Description of Exchange:** Whenever diversions from Clear Creek above the Farmers High Line Canal are being curtailed for the benefit of any of the water rights decreed to that canal with dates of appropriation equal to or senior to November 2, 1865, and Coors is making junior ground water or cooling water diversions at or above the point of diversion of that canal, Coors may replace the depletions resulting from those junior diversions as required by the Decree in Consolidated Cases Nos. W-8036(75) and W-8256(76) by an exchange resulting from Coors causing a reduction in the amount of water then being called past the point of diversion of the Farmers High Line Canal for the benefit of Coors's share of the June 1, 1860 water right decreed to the Wannamaker Ditch to replace depletions resulting to the Farmers High Line Canal caused by Coors's junior diversions at the Coors Cooling Water Intake. Coors's exercise of its interest in the water rights decreed to the Wannamaker Ditch in operating this exchange is subject to the terms and conditions of the Decrees in Case Nos. W-8036(75) and W-8256(76) (Consolidated), 89CW234 and Case No. 99CW236 applicable to that interest. A diagram illustrating this exchange is attached to the Application as Exhibit 1. **ii. Location of the Structures Involved:** (a) The exchange from point, the Wannamaker Ditch. Point of diversion is located on the North bank of Clear Creek in the NE1/4 of Section 27, T 3 S., R 70 W., of the 6th P.M., whence the NE corner of said Section 27 bears North 38°17.5' East, 2099.64 feet, Jefferson County, Colorado. (b) The exchange to point, the Coors Cooling Water Intake (Coors Industries Ditch). Point of diversion located at a point on the South bank of Clear Creek in the SW1/4 of Section 27, T 3 S., R 70 W. of the 6th P.M., Jefferson County, Colorado, which bears South 32°59'17" East 1620.67 feet from the NW Corner of the SW1/4 of said Section 27. **iii. Amount Decreed:** 1.8 c.f.s (absolute); 5.32 c.f.s. (conditional), as originally decreed in Case No. 99CW236. The 5.32 c.f.s. conditional portion of this water right is a subject of this application. **iv. Appropriation Date:** September 18, 1990. **v. Source of Substitute Supply:** Coors's interest in the water rights decreed to the Wannamaker Ditch, diverting from Clear Creek, a tributary of the South Platte River. **B. Name of Exchange:** Augmentation Plan III Exchange. **i. Description of Exchange:** These exchanges will operate as part of the Coors Augmentation III Plan decreed in Case No. 99CW236. The water rights to be used for exchange are those listed in ¶ 3.B.v below, which were decreed as the sources of substitute supply for the Augmentation Plan III Exchange in Case No. 99CW236. The "exchange-from" points are the augmentation release locations described below in ¶ 3.B.ii.(a). The "exchange-to" points are the diversion and depletion points of the structures to be augmented as described in Case No. 99CW236, listed below in ¶ 3.B.ii.(b). **ii. Location of the Structures Involved:** Coors's exchange reach lies between the headgate of the Agricultural Ditch, located on the South bank of Clear Creek in the SW1/4 of Section 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado and Coors's easternmost reservoir of the Jefferson Storage System, being Prospect Park Lake, located in the W 1/2 Section 21, Township 3 South, Range 69 West of the 6th P.M., Jefferson County, Colorado, and includes the following exchange-from points and exchange-to points: (a) Exchange-from points: (i) Cooling Water Pumped Return Above Cooling Water Inlet: A point lying in the SW one-quarter of Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, and more particularly described as lying S 32°28'54" E., 1622.56 feet from the West one-quarter corner of said section. (7' Parshall flume). (ii) Cooling Water Pumped Return Below Cooling Water Inlet: A point lying in the SW one-quarter of Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, and more particularly described as lying S 33°37'49" E., 1609.50 feet from the West one-quarter corner of said section. (7' Parshall flume). (iii) Pond Overflow Cooling Water Return: A point lying in the SW one-quarter of Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, and more particularly described as lying S 71°21'56" E., 1890.89 feet from the West one-quarter corner of said section. (2' Sharp Crested Weir). (iv) Hot Well #1 Cooling Water Return: A point lying in the SW one-quarter of Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, and more particularly described as lying S 81°71'01" E., 2094.53 feet from the West one-quarter corner of said section. (4' Parshall flume). (v) Hot Well #2 Cooling Water Return: A point lying in the Southwest one-quarter of Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, and more particularly

described as lying S 75°00'09" E., 1944.76 feet from the West one-quarter corner of said section. (4' Parshall flume). **(vi) South Loop Cooling Water Return**: A point lying in the NE one-quarter of Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, more particularly described as lying N 84°15'31" E., 2791.31 feet from the West one-quarter corner of said section. (4' Parshall flume). **(vii) Cooling Water Screen Backwash**: At a point on the South bank of Clear Creek in Sec. 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado, more particularly described as lying S 39°38'50" E., 1611.0 feet from the West one-quarter corner of said Sec. 27. (Totalizing flow meter). **(viii) Sewage Disposal Plant Outfall**: At a point on the North bank of Clear Creek in Sec. 24, T 3 S., R 70 W., of the 6th P.M., in Jefferson County, Colorado. (Totalizing flow meter). **(ix) Water Treatment Plant Backwash**: At a point on the South bank of Clear Creek in Sec. 24, T 3 S., R 70 W., of the 6th P.M., in Jefferson County, Colorado, more particularly described as lying N 23°24'49" W., 1112.61 feet from the SE corner of said Sec. 24. (Totalizing flow meter). **(x)** The release points within the exchange reach (described in ¶ 3.B.ii above) from the following storage structures decreed under the Jefferson Storage System in Case No. W-152-73, as modified by Case No. 88CW206, and described in ¶ VIII.A.2 in the decree in Case No. 99CW236: (1) Clinton Reservoir; (2) Crawford Reservoir; (3) Wanemaker (Wannamaker) Reservoir; (4) Hawley Reservoir\*; (5) Lee Reservoir\*; (6) Summers Reservoir\*; (7) Eskins Reservoir\*; (8) Pearson Reservoir No. 1 and Pearson Reservoir No. 1 Enlargement; (9) B-2 Lake; (10) B-3 Lake; (11) B-4 Lake; (12) B-5 East Lake\*; (13) B-6 Lake; (14) B-7 Lake; (15) B-9 Lake; (16) West Lake; (17) Bass Lake; (18) Tabor Lake; (19) Prospect Park Lake. (\* In its pending application in Case No. 18CW3225 (Water Division No. 1), Coors seeks to change the locations and/or points of diversion for all or part of the five indicated reservoirs and conditional storage rights. However, any decree entered in Case No. 18CW3225 will not change the location of any “exchange from” or “exchange to” location decreed in Case No. 99CW236.) **(b)** The exchange to points: **(i)** The points of depletion from Clear Creek of Coors’s underground springs decreed in Case No. W-7809(74), as listed in ¶ VIII.A.1 of the decree in Case No. 99CW236, which depletion points are located within the exchange reach described in ¶ 3.B.ii above. **(ii)** The points of depletion from Clear Creek of Coors’s underground springs decreed in Consolidated Case Nos. W-8036(75) and W-8256(76), as listed in ¶ VIII.A.1 of the decree in Case No. 99CW236, which depletion points are located within the exchange reach described in ¶ 3.B.ii above. **(iii)** The following points of diversion for structures used to fill storage structures decreed under the Jefferson Storage System in Case No. W-152-73, as modified in Case No. 88CW206 and, for the structures noted in Paragraph 3.B.ii.(a)(x), in Case No. 18CW3225.\*\* (\*\*Coors’s pending application in Case No. 18CW3225 requests changes to its conditional storage rights for the Jefferson Storage System, including changes to the decreed storage locations and an alternate point of diversion at the Rocky Mountain Ditch headgate for Hawley Reservoir, Lee Reservoir, and B-5 East Lake, and for portions of Summers Reservoir and Eskins Reservoir. The Rocky Mountain Ditch headgate is more particularly described herein in Paragraph 3.b.ii.(b)(iv)(3). Any decree entered in Case No. 18CW3225 will not change the location of any “exchange from” or “exchange to” location decreed in Case No. 99CW236.) **(1)** The point of diversion for the structure used to fill Clinton Reservoir: From the right bank of Clear Creek at a point whence the SW Corner of Section 24, T 3 S., R 70 W., of the 6th P.M., bears South 0° East, 700 feet. **(2)** The point of diversion for the structure used to fill Crawford Reservoir: From the right bank of Clear Creek at a point whence the SW Corner of Section 24, T 3 S., R 70 W., of the 6th P.M., bears South 0° West, 700 feet. **(3)** The point of diversion for the structure used to fill Wanemaker (Wannamaker) Reservoir: From the right bank of Clear Creek at a point whence the SE Corner of Section 23, T 3 S., R 70 W., of the 6th P.M., bears North 90° East, 1,300 feet. **(4)** The point of diversion for the structure used to fill Hawley Reservoir, Lee Reservoir and Summers Reservoir: From the right bank of Clear Creek at a point whence the SW Corner of Section 19, T 3 S., R 69 W., of the 6th P.M., bears South 0° West, 1,100 feet. **(5)** The point of diversion for the structure used to fill Eskins Reservoir: From the right bank of Clear Creek at a point whence the S1/4 Corner of Section 19, T 3 S., R 69 W., of the 6th P.M., bears South 0° East, 1,300 feet. **(6)** The point of diversion for the structure used to fill Pearson Reservoir No. 1 and B-5 East Lake: From the Pearson Ditch at a point whence the corner common to Sections 19, 20, 29 and 30, T 3 S., R 69 W., of the 6th P.M., bears North 77° East, 1,310 feet. **(7)** The point of diversion for the structure used to fill Pearson Reservoir No. 1 Enlargement and B-5 East Lake: From the right bank of Clear Creek at a point whence the SW Corner

of Section 19, T 3 S., R 69 W., of the 6th P.M., bears South 64° West, 2,800 feet. **(8)** The point of diversion for the structure used to fill B-2 Lake, B-6 Lake and B-7 Lake: Through the Wannamaker Ditch at a point on the North bank of Clear Creek in the NE1/4 of Section 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, State of Colorado, whence the NE Corner of said Section 27, bears N. 38°17.5' East, 2099.64 feet. **(9)** The points of diversion of the structures used to fill B-3 Lake and B-4 Lake: **(a)** On the right bank of Clear Creek at a point whence the South 1/4 Corner of Section 24, T 3 S., R 70 W., of the 6th P.M., Jefferson County, State of Colorado, bears S 0° E., 900 feet. **(b)** On the right bank of Clear Creek at a point whence the SE Corner of Section 24, T 3 S., R 70 W., of the 6th P.M., Jefferson County, State of Colorado, bears S 60° E., 1900 feet. **(c)** On the South side of Clear Creek which is on the South side of the diversion dam common to the Croke Canal and the Rocky Mountain Ditch in the NE1/4 NE1/4 NW1/4 of Section 26, T 3 S., R 70 W., of the 6th P.M., Jefferson County, State of Colorado, and which bears South 18°12' 25" West a distance of 401.11 feet from the North 1/4 corner of said Section 26. **(d)** On the Miles & Eskins Drainage, Seepage and Waste Water Ditch at a point whence the NW Corner of Section 30, T 3 S., R 69 W., of the 6th P.M., Jefferson County, State of Colorado, bears N 18° 46' West 1,621 feet. **(10)** The points of diversion of the structures used to fill B-9 Lake: **(a)** On the North side of Clear Creek in the NW1/4 SE1/4 of Section 19, T 3 S., R 69 W., of the 6th P.M., Jefferson County, State of Colorado, at a point which is approximately 1700 feet from the East section line and 1400 feet from the South section line of said Section 19. **(b)** Through the Slough Ditch at a point on the North bank of Clear Creek in the NW1/4 SE1/4 of Section 19, T 3 S., R 69 W., of 6th P.M., Jefferson County, State of Colorado, at a point which is approximately 2400 feet from the East section line and 1320 feet from the South section line of said Section 19. **(c)** Through the Reno and Juchem Ditch at a point on the North bank of Clear Creek in the SE1/4 SW1/4 of Section 19, T 3 S., R 69 W., of the 6th P.M., Jefferson County, State of Colorado, at a point approximately 1320 feet from the West section line and 1250 feet from the South section line of said Section 19. **(11)** The point of diversion of the structure used to fill West Lake: At a point on the South side of Clear Creek in the SW1/4 of Section 20, T 3 S., R 69 W., of the 6th P.M., Jefferson County, State of Colorado, whence the South quarter corner of said Section 20, bears S. 1° E., 1920 feet. **(12)** The point of diversion of the structure used to fill Bass Lake: At a point on the South side of Clear Creek in the SE1/4 of Section 20, T 3 S., R 69 W., of the 6th P.M., Jefferson County, State of Colorado, whence the South quarter corner of said Section 20, bears S. 30°W., 1880 feet. **(13)** The point of diversion of the structure used to fill Tabor Lake and Prospect Park Lake: Through the Slough ditch at a point on the North side of Clear Creek in the NW1/4 SE1/4 of Section 19, T 3 S., R 69 W., of the 6th P.M., Jefferson County, State of Colorado, at a point which is approximately 2400 feet from the East section line and 1320 feet from the South section line of said Section 19. **(iv)** The point of diversion for the Coors Industries Ditch: on the Southern bank of Clear Creek at a point which is South 25°6'12" East, 1525.92 feet from the NW Corner of the SW1/4 of Section 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado; and the following Alternate Points of Diversion for the Coors Industries Ditch as decreed in Case No. W-7585: **(1)** Coors Cooling Water Intake. Point of diversion located at a point on the South bank of Clear Creek in the SW1/4 of Section 27, T 3 S., R 70 W., which bears South 32°59'17" East 1620.67 feet from the NW Corner of the SW1/4 of Section 27, T 3 S., R 70 W., of the 6th P.M., Jefferson County, Colorado. **(2)** The Wannamaker Ditch: Point of diversion located in the NE1/4 of Section 27, T 3 S., R 70 W., of the 6th P.M., at a point on the North bank of Clear Creek whence the NE corner of Section 27, T 3 S., R 70 W., of the 6th P.M., bears North 38°17.5' East, 2099.64 feet, Jefferson County, Colorado. **(3)** The Rocky Mountain Ditch: Point of diversion located on the South side of the Croke Dam in the NE1/4 NE1/4 NW1/4 of Section 26, T 3 S., R 70 W., of the 6th P.M., at a point on the South side of Clear Creek which bears South 18°12'25" West, a distance of 401.11 feet from the North 1/4 corner of said Section 26, Jefferson County, Colorado. **(4)** Coors Industries Ditch Alternate Point of Diversion #3: Point of diversion at a headgate in SE1/4 of Section 24, T 3 S., R 70 W., of the 6th P.M., located at a point on the South bank of Clear Creek whence the South 1/4 corner of Section 24, T 3 S., R 70 W., of the 6th P.M., bears South 47°51'47" West, a distance of 1375.04 feet, Jefferson County, Colorado. **iii. Cumulative Amount and Rate of Exchange.** The cumulative amount of water exchanged under the exchange decreed herein shall not exceed the total annual amount of 384.8 acre-feet (less transit and evaporation losses). During the Croke season (November 11 through March 20), the total cumulative

instantaneous flow rate under this exchange shall not exceed 13.2 cfs. During the non-Croke season (March 21 through November 10), the total cumulative instantaneous flow rate shall not exceed 7.56 cfs for exchanges from direct deliveries of Coors's augmentation water supplied to the stream system pursuant to the decree in Case No. 99CW236, and shall not exceed a 25.0 cfs maximum flow rate for exchanges of releases from storage of Coors's excess consumptive use credits in its Jefferson Storage System (as described in ¶ VIII.C.3.a(3) of the decree in Case No. 99CW236), to be exchanged to any of the exchange-to structures. **iv. Appropriation Date:** December 30, 1999; **v. Sources of Substitute Supply:** **(a)** Coors's interests in the water rights decreed to the Farmers High Line Canal, the Agricultural Ditch, and the Wannamaker Ditch as described in ¶ VI.A of the decree in Case No. 99CW236, and as changed in that decree, including any excess consumptive use credits from said water rights stored in the Jefferson Storage System. **(b)** Deliveries of water from the Farmers High Line Canal, the Church Ditch, the Croke Canal and Standley Lake Reservoir pursuant to Coors's contract with the City of Thornton dated May 23, 1988 and the First Amendment to that Agreement dated December 23, 1996, and to the Decree in Case No. 96CW1117, as described in ¶ VI.B of the Decree in Case No. 99CW236. **(c)** Non-tributary groundwater from the Arapahoe and Laramie Fox Hills aquifers decreed by this Court in Case No. 85CW051, as described in ¶ VIII.B.2 of the Decree in Case No. 99CW236. **C.** Pursuant to C.R.S. § 37-92-305(5), the substituted water provided by Coors for the exchanges herein is of a quality, quantity and continuity to meet the requirements of use for which the receiving senior appropriators have normally used such water. **4. Reasonable Diligence in Development of Conditional Appropriative Rights of Exchange:** In support of this Application for Finding of Reasonable Diligence, during this diligence period from September 2014 through September 2020, in continuing the development of the conditional appropriative rights of exchange for use in its unified system, Coors has been engaged in the use, construction and completion of some of the diversion facilities, storage facilities, and water rights involved. In addition, Coors has been engaged in the legal defense and protection of said water rights, and has continued in the planning, designing and exploration of the physical and business arrangements associated with the construction and use of the water rights and facilities involved. Work done during the diligence period toward completion and exercise of the appropriative rights of exchange, and application of water to a beneficial use as conditionally decreed, include the following activities: **A. Diligence activities directly related to development of the appropriative rights of exchange in this application include:** **(1)** Coors has exercised, operated and administered its plan for augmentation and exchanges decreed in Case No. 99CW236, including continued exercise of its Wannamaker/Farmers High Line Exchange both within and above the exchange rate previously decreed absolute. (Coors also seeks to make an additional amount of this exchange absolute, as described herein in ¶ 5.) **(2)** Coors has exercised, operated and administered its Plan for Augmentation and Exchange decreed in Case No. 99CW236. This Plan for Augmentation, including exchange, is operated and administered in conjunction with Coors's previously decreed Augmentation Plan I (Case Nos. 8036(75), W-8256(76) and 88CW271), Augmentation Plan II (Case Nos. 89CW234, 99CW062 and 06CW83), and recently decreed Augmentation Plan IV (Case No. 17CW3177), and consistent with the decree in Case No. 99CW236. **(3)** During the diligence period, Coors has made substantial refinements to its accounting for its Augmentation Plans and exchanges decreed in the above-described cases, in coordination with the Division Engineer's Office. Coors believes that its revised accounting will improve the basis for the operation of the exchanges at issue in this application, in accordance with the decree in Case No. 99CW236. **B. Unified System Activities:** The appropriative rights of exchange in this Application are integral features in Coors's unified water system developed by Coors for beverage and food production, malting, irrigation, domestic and other commercial and industrial uses, as this Court found in Case No. 13CW3094. Other components of the unified water system include the Straight Creek Tunnel Drainage and Effluent System (Case Nos. W-1665 in Water Division No. 5 and W-7097 in Water Division No. 1); Jefferson Storage System (Case Nos. W-152 and 88CW206; realignment of certain Jefferson Storage System reservoirs pending in Case No. 18CW3225); Coors Golden Milling Right (Civil Action No. B-9675, Jefferson County District Court); Coors's Underground Springs (Case Nos. W-7809-74, 90CW064 and 95CW081) and Augmentation Plan Springs (Case No. 81CW110); Idaho Springs Reservoir (Case No. 84CW671); the nontributary wells that are the subject of Case No. 85CW051; Coors Industries Ditch (Case Nos. W-224 and W-7585); the Coors

Augmentation Plans I–IV, decreed in Case Nos. W-8036(75) and W-8256(76), 88CW271, 99CW236, and 17CW3177, respectively; the Cosmic Decree (Case No. 88CW271), and related exchanges decreed in Case Nos. 88CW268, 88CW272 and 96CW1117 (all cases are decrees entered in Water Division No. 1, except where otherwise noted); as well as a complete water treatment, cooling, and distribution system at the plant site in Golden, Colorado. As described below, Coors and its affiliated entities, including Molson Coors Beverage Company, MillerCoors LLC, and Rocky Mountain Water Company, have expended substantial effort in the development of Coors’s overall unified system of which the rights identified in this Application are integral components. During this diligence period, Coors has continued the development of the unified water supply system of which the exchanges that are the subject of this Application are an integral part. This Court has determined that continued development and maintenance of Coors’s unified water system constitutes diligence for the individual water rights associated with that system as found by this Court. *See, e.g.*, Decree in Case No. 13CW3094 at page 12, ¶ 9.c (September 4, 2014). Coors has also been engaged in the legal defense and protection of said water rights and has continued in the planning, design, and exploration of the physical and business problems associated with the construction and use of the diversion facilities and water rights involved. During this diligence period, Coors and its affiliates, including MillerCoors, have undertaken the following activities and expended at least \$1,900,000 for the development and maintenance of Coors’s unified water supply system: (1) Coors’s activities related to the Jefferson Storage System, including: (1) storage of water in the Jefferson Storage System, including 3,735 acre-feet stored in B-4 Lake and applied to decreed beneficial uses for storage and other decreed purposes; (2) new engineering studies of the remaining Jefferson Storage System conditional storage rights and alternative water storage locations, costing in excess of \$150,000; and (3) an application filed on December 28, 2018 (Case No. 18CW3225) for changes of conditional storage locations to reflect a realignment of structures for future construction, and an alternate point of diversion for conditional water storage rights for multiple reservoirs in the Jefferson Storage System; (2) Expenditures in excess of \$70,000 for contractual obligations under the Cosmic Agreement and related agreements; (3) Operation of deliveries and exchanges of water pursuant to Case No. 96CW1117 to the extent water has been available for such deliveries and exchanges, at an expense of more than \$265,000; (4) Engineering costs in excess of \$200,000 relating to Coors’s water rights and water supply system; (5) Expenditures in excess of \$540,000 for ditch companies supporting Coors’s unified water system; (6) Expenditures of approximately \$750,000 for pump installation and replacement, operation, maintenance, and repairs to Coors’s underground springs; (7) Expenditures in excess of \$800,000 on other capital projects in support of Coors’s unified water system; and (8) Expenditures in excess of \$46,000 to participate in the South Platte Water Related Activities Program (SPWRAP). Such participation will facilitate future federal permitting that may be necessary in connection with improvements or enlargement of storage structures in Coors’s unified water system, and will facilitate future storage and releases pursuant to the subject conditional exchange. C. During the diligence period, Coors has also participated in a number of water cases adjudicating matters required for the production of water used in Coors’s unified water system, including but not limited to the following cases: (1) Case No. 15CW3179 and appeal (application to amend Coors’s Augmentation Plans); (2) Case No. 17CW3177 (change of Miles and Eskins Ditch for Coors’s Augmentation Plan IV, along with appropriative right of exchange); (3) Case No. 18CW3225 (Jefferson Storage System storage realignment); (4) Case No. 19CW3037 (diligence and making conditional right absolute on Jefferson Storage System); (5) Case No. 19CW3055 (diligence on Coors’s Cosmic Exchange rights); (6) Case No. 20CW3060 (diligence on Coors’s Underground Springs); (7) Case No. 20CW3066 (diligence on Coors’s Augmentation Plan II Exchange); and (8) Case No. 20CW3087 (diligence by Coors and co-applicants on exchange rights relating to the Cosmic Agreement). (9) Coors has also filed statements of opposition to a number of water court applications to prevent injury to Coors’s water rights, including those which are the subject of this Application. Coors’s legal fees and expenses in pursuing these applications and filing these statements of opposition to continue and protect the unified system water rights exceeded \$1,300,000 during the diligence period. 5. Claim to Make Absolute in Part. In Case No. 99CW236, 1.8 c.f.s. of Coors’s Wannamaker/Farmers High Line Exchange was decreed absolute. By this Application, Coors seeks to make absolute an additional 4.68 c.f.s of this exchange, for a total of 6.48 c.f.s., absolute. Coors seeks to

maintain diligence on the remaining conditional 0.64 c.f.s. **A. Date(s) water exchanged and applied to beneficial use:** September 2014 to Present; maximum daily exchange rate diverted on April 22, 2019. **B. Amount:** Maximum daily exchange rate of 6.48 c.f.s. on April 22, 2019, as supported by Coors's accounting records for this exchange, attached to the Application as Exhibit 2. This amount includes 4.68 c.f.s. conditional, in addition to the 1.8 c.f.s. previously made absolute in Case No. 99CW236. **C. Description of Exchange Locations:** Coors operated the Wannamaker/Farmers High Line Exchange on the dates and in the amounts described above by diverting water at the Coors Cooling Water Intake, described more particularly in ¶3.A.ii.b, in exchange for a substitute supply provided to Clear Creek at the Wannamaker Ditch, described more particularly in ¶3.A.ii.a. **D. Use:** Replacement of depletions caused by Coors's junior diversions, as required by the Decree in Consolidated Cases Nos. W-8036(75) and W-8256(76), and as described more particularly in ¶3.A.i. **6. Owner of Land and Facilities:** All structures described herein are located on land owned by the Applicant. WHEREFORE, Coors Brewing Company respectfully requests that this Court enter a decree (1) finding that Coors's Wannamaker/Farmers High Line Exchange has been made absolute in the additional amount of 4.68 cfs, for a total of 6.48 cfs absolute; (2) finding that Coors has exercised reasonable diligence in the development of its remaining conditional rights of exchange decreed in Case No. 99CW236; and (3) continuing the remaining conditional water rights in full force and effect for another six-year diligence period. Coors also seeks such other and further relief as this Court deems just and proper. Number of pages of Application: 17.

**20CW3138 STANLEY GINGERICH, P.O. BOX 316, 120 W. NELSON AVE., KEENESBURG, CO 80643.** c/o Steven O. Sims, Esq. Brownstein Hyatt Farber Schreck, LLP 410 Seventeenth Street, Suite 2200 Denver, Colorado 80202-4437 Phone: 303-223-1100 E-mail: ssims@bhfs.com; msmith@bhfs.com. **APPLICATION FOR DETERMINATION OF UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES IN THE LOWER ARAPAHOE AND LARAMIE-FOX HILLS AQUIFERS IN WELD COUNTY.** **Wells.** Wells that will withdraw the groundwater sought to be decreed by this Application have not yet been constructed, nor have applications for well permits been filed. Prior to constructing any well to withdraw the subject groundwater, Applicant will apply to the State Engineer for a permit to construct that well, and the Applicant requests that the Court require, as a condition of the decree entered in this case, that well permits be issued upon application for any such wells in accordance with said decree. **Description of Wells and Overlying Land.** **A. Parcel description information:** This Application consists of one parcel, Parcel A, of approximately 300 acres, more or less, in Weld County, located generally in the S 1/2 of S 22, T2 N, R 64W, of the 6th PM("Subject Property"). A map of the Subject Property is attached hereto as **Exhibit A** and a legal description of the Subject Property is attached hereto as **Exhibit B.** **B. Parcel ownership:** The claim of Applicant to the water underlying the Subject Property is based on ownership of the land as is evidenced by the deed attached hereto as **Exhibit C.** The Applicant owns the Subject Property free and clear of all liens and encumbrances and no other person or entity has a financial interest in the Subject Property. Accordingly, the Applicant certifies compliance with the notice requirements of § 37-92-302(2), C.R.S. **C.** This Application seeks a determination of its right to withdraw all ground water in the Lower Arapahoe and Laramie-Fox Hills aquifers underlying the Subject Property, as is determined to be available in accordance with the Denver Basin Rules (2 C.C.R. § 402-6). The water underlying the Subject Property in the Lower Arapahoe aquifer is "not nontributary groundwater" as defined in Ss 37-90-103(10.7) and 37-90-137(9)(c.5), C.R.S. and the water in the Laramie-Fox Hills aquifer is "nontributary groundwater" as described in 37-90-103(10.5), C.R.S. **D. Estimated Amounts and Rates of Withdrawal:** The wells on the Subject Property will withdraw the subject amounts of groundwater at rates of flow necessary to efficiently withdraw the entire decreed amounts. Applicant will withdraw the subject groundwater through wells completed in the same aquifer to be located at any location on the Subject Property. Applicant waives any 600-foot spacing rule as described in S 37-90-137(2), C.R.S. for wells located on the Subject Property. The estimated average annual amounts of withdrawal available from the subject aquifers as indicated below, are based upon the Denver Basin Rules, 2 C.C.R. § 402-6. Applicant, based on the Colorado Division of Water Resources online aquifer determination tool, estimates the following annual amounts are representative of the Lower Arapahoe and

Laramie-Fox Hills aquifers underlying the Subject Property (there are no cylinders of appropriation affecting the amounts available):

Parcel	Aquifer	Bottom Depth	Top Depth	Thickness	Annual Approp.	Source of Water
		[ft]	[ft]		[ac-ft]	
Gingerich Farm Parcel A	Lower Arapahoe	272	44	228	41.3	Not Nontributary
	Laramie-Fox Hills	999	662	337	67.8	Nontributary

The average annual amounts available for withdrawal from the subject aquifers will depend on the hydrogeology and the legal entitlement of the Applicant and this Application represents a claim to all nontributary and not nontributary groundwater within the above aquifers underlying the Subject Property. Applicant requests the Court to determine that the allowed annual amount of withdrawals may exceed the average annual amount of withdrawal of water so long as the total volume of water withdrawn from the wells does not exceed the product of the number of years since the date or dates of issuance of any well permit or the date of the decree entered in this case, whichever comes first, times the allowed average annual amount of withdrawal, as provided in the Statewide Nontributary Groundwater Rules, 2 C.C.R. 402-7, Rule 8(A). The Court shall retain jurisdiction over this matter to provide for the adjustment of the annual amounts of withdrawal allowed to conform to actual local aquifer characteristics (upward or downward) from adequate information obtained from well drillings or test holes. E. Well Fields: Applicant requests that, with respect to each aquifer, the Court determine that Applicant has the right to withdraw all of the legally available groundwater lying below the Subject Property, through the wells requested herein which may be located anywhere on the Subject Property, and any additional wells which may be completed in the future as Applicant’s well field. Proposed Use: The groundwater that is the subject of the Application will be used, re-used, successively used and otherwise disposed of for domestic, stock watering, augmentation, replacement and industrial for oil and gas development, on or off the Subject Property. Said water will be produced for immediate application to beneficial use, for storage and subsequent application and beneficial use subject to the provisions of the Denver Basin Rules, 2 C.C.R. § 402-6. Jurisdiction: The Water Court has jurisdiction over the subject matter of this Application pursuant to Ss 37-92-302(2) and 37-90-137(6), C.R.S. WHEREFORE, Applicant prays that this Court enter a Decree: granting this Application and specifically determining that Applicant has complied with S 37-90-137(4), C.R.S., and that water is legally available for withdrawal and use as requested herein. (5 pages, 3 exhibits)

**20CW3139 (2003CW261); IDAHO CREEK, LLC; IDAHO CREEK, LLC, c/o Virginia Shaw, P.O. Box 1227, Longmont, CO 80502, Telephone: (303) 772-12977.** (P. Andrew Jones, #29076, Law Office of P. Andrew Jones, 1213 Founders Circle, Windsor, CO 80550, Telephone: (970) 235-0252; [ajones@pandrewjones.com](mailto:ajones@pandrewjones.com)) **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN WELD COUNTY** 2. Name of Water Right: South Shaw Lake No. 1. Applicant no longer owns South Shaw Lake No. 1. Applicant has conferred with counsel for the owner of South Shaw Lake No. 1 and understands that a separate application for finding of diligence will be filed. 3. Name of Water Right: Middle Shaw Lake No. 2. 3.1 Legal Description: In the S1/2 NW1/4, S 29, T2N, R68W, 6th P.M., Weld County, Colorado; with an approximate center point 2200 feet from the North S line and 1350 feet from the West S line. 3.2 Names and capacities of the structures that may be used to fill the reservoir and the legal descriptions of the points of diversion. 3.2.1 Middle Shaw Lake No. 2 may be connected with North Shaw Lake No. 3 by a pipe. Water may also be transferred from Middle Shaw Lake No. 2 to North Shaw Lake No.3 via a pump. Except for Idaho Creek – Shaw Lakes Diversion Structure No. 2, the filling sources will either flow into Middle Shaw Lake No. 2 and then into North Shaw Lake No. 3 via the pipe or may be diverted directly into both Middle Shaw Lake No. 2 and North Shaw Lake No. 3. Idaho Creek – Shaw Lakes Diversion Structure No. 2 will flow into North Shaw Lake No. 3 and into Middle Shaw Lake No. 2 via the pipe. 3.2.2 Idaho Creek – Shaw Lakes Diversion Structure No. 1. Capacity: 14



cfs. The point of diversion of the Idaho Creek - Shaw Lakes Diversion Structure No. 1 is on the relocated Idaho Creek in the SE1/4, NW1/4, S29, T2N, R68W, 6th P.M. 3.2.3 Idaho Creek – Shaw Lakes Diversion Structure No. 2. Capacity: 27 cfs. The point of diversion of the Idaho Creek - Shaw Lakes Diversion Structure No. 2 is on the relocated Idaho Creek in the NW1/4, NE1/4, S29, T2N, R68W, 6th P.M. Weld County, Colorado. Idaho Creek – Shaw Lakes Diversion Structure No. 2 diverts directly into North Shaw Lake No. 3 and would be used to fill Middle Shaw Lake No. 2 via interconnect pipe. 3.3 Source: Boulder Creek and Idaho Creek, and all waters tributary thereto including seepage, drainage, natural runoff, and waste water. 3.4 Date of Appropriation: April 30, 1986. 3.5 How Appropriation Was Initiated: Exploration for storage and mining. 3.6 Amount Claimed: 122.9 a.f. storage (one fill), conditional. 3.7 Uses: Irrigation, fire protection, recreation, fish and wildlife, stock watering, industrial, augmentation and exchange. 3.8 Surface Area at High Water Line: 17.6 acres. Lake is an excavation there is no dam. 3.9 Capacity of Reservoir: 122.9 a.f.; 0 a.f. dead storage. 4. Name of Structure: North Shaw Lake No. 3. 4.1 Legal Description: In the E1/2 NW1/4 and the N1/2 NE1/4, S29 and the SE1/4 of S 20, both in T2N, R68W, 6th P.M., Weld County, Colorado; with an approximate center point 150 feet from the North S line and 1800 feet from the East S line. 4.2 Names and capacities of the structures that may be used to fill the reservoir and the legal descriptions of the points of diversion. Same as Middle Shaw Lake No. 2 set out in ¶3.2. 4.3 Source: Seepage, drainage, natural runoff, waste water and direct flows tributary to Boulder Creek and Idaho Creek. 4.4 Date of Appropriation: April 30, 1986. 4.5 How Appropriation Was Initiated: Exploration for storage and mining. 4.6 Amount Claimed: 400.3 a.f. storage (one fill), conditional. 4.7 Uses: Irrigation, fire protection, recreation, fish and wildlife, stock watering, industrial, augmentation and exchange. 4.8 Surface Area at High Water Line: 43 acres. Lake is an excavation there is no dam. 4.9 Capacity of Reservoir: 400.3 a.f.; 0 a.f. dead storage. 4.10 Description of Project: South Shaw Lake No. 1, Middle Shaw Lake No. 2 and North Shaw Lake No. 3 may be collectively referred to herein as the “Reservoirs.” The Reservoirs are former gravel pits. Middle Shaw Lake No. 2 and North Shaw Lake No. 3 have both been lined. The liners for these lakes were tested and approved by the Division of Water Resources on February 2, 2007 and October 26, 2007, respectively. 5. Claim to make absolute: 5.1 Applicant diverted 60.19 acre feet to storage in the Middle Shaw Lake No. 2 in the period April 2017 - March 2018 and subsequently applied the water to decreed beneficial uses. Applicant claims 60.19 acre absolute, and seeks a finding of diligence on the remaining 62.71 acre feet to remain conditional. 5.2 Applicant diverted 516.01 acre feet to storage in North Shaw Lake No. 3 in the period April 2011 - March 2012 and subsequently applied the water to decreed beneficial uses. Applicant claims the entire decreed amount of 400.3 acre feet absolute. 6. Outline of work done: 6.1 Applicant maintained and operated the Reservoirs throughout the diligence period. Applicant purchased and installed improvements, expended resources on legal and engineering counsel to meet accounting and legal requirements and to protect and enhance the rights, and paid contractors to operate the Reservoirs and related ditch infrastructure. Applicant expended the following total amounts per year on these activities:

2015	\$50,358
2016	\$76,535
2017	\$65,041
2018	\$55,636
2019	\$42,152
2020	\$35,193

7. Remarks: The structures referenced in this Application are located on property owned by Applicant. This Application consists of five (5) pages.

**2020CW3140 (2010CW308), CITY OF BLACK HAWK**, c/o Director of Public Works, 987 Miners Mesa Road, P.O. Box 68, Black Hawk, Colorado **80422**, Telephone: **(303) 582-1324**, **tisbester@cityofblackhawk.org**. Please send all correspondence: David L. Kueter, Kent Holsinger,

Holsinger Law, LLC, 1800 Glenarm Place, Suite 500, Denver, Colorado 80202, Telephone: (303) 722-2828, dkueter@holsingerlaw.com, kholsinger@holsingerlaw.com. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN GILPIN AND CLEAR CREEK COUNTIES.** 2. NAMES OF WATER RIGHTS: Black Hawk North Clear Creek Diversion Point No. 1; Black Hawk North Clear Creek Diversion Point No. 2; and Black Hawk North Clear Creek Exchange Rights. 3. DATE OF ORIGINAL DECREE: September 11, 2014, Case Number 2010CW308, Water Division No. 1, State of Colorado. 4. DESCRIPTION OF CONDITIONAL DIRECT FLOW WATER RIGHTS. 4.a. Name of Structure: Black Hawk North Clear Creek Diversion Point No. 1. 4.a.(1) Legal Description of Diversion Point: Black Hawk North Clear Creek Diversion Point No. 1 is located in the NW1/4 of the NW1/4 of S 17, T3S, R72W of the 6th P.M., at a point approximately 105 feet from the North S line and approximately 1,285 feet from the West S line of said S 17, at Latitude 39.795121093, Longitude - 105.47490035. The location of the point of diversion is shown on the map attached hereto as Exhibit A, hereby incorporated. 4.a.(2) Source of Water: North Clear Creek, a tributary to Clear Creek, a tributary to the South Platte River. 4.a.(3) Date of Appropriation: December 30, 2010. 4.a.(4) Amount decreed: 10 c.f.s., conditional. 4.a.(5) Use: The water diverted under the direct flow water right described herein will be used for fire protection and to irrigate 125 acres of the proposed 182 acre golf course to be constructed by Black Hawk within its city limits, as well as for use in the lakes/ponds situated on the golf course for preservation of wildlife and aesthetic values, piscatorial use, and recreation. Black Hawk has the right to use, reuse, and successively use to extinction all water lawfully diverted and/or impounded pursuant to any decree entered in this case. 4.a.(6) Place of use: Applicant will use the water decreed hereunder for irrigation of 125 acres of the proposed 182 acre golf course to be constructed by Black Hawk within its city limits, as the same may exist from time to time. 4.b. Name of Structure: Black Hawk North Clear Creek Diversion Point No. 2. 4.b.(1) Legal Description of Diversion Point: Black Hawk North Clear Creek Diversion Point No. 2 is located in the NW 1/4 of the SE 1/4 of S 17, T3S, R72W of the 6th P.M., at a point approximately 1,835 feet from the South S line and approximately 1,481 feet from the East S line of said S 17, at Latitude 39.786611558, Longitude - 105.466708199. The location of the point of diversion is shown on attached Exhibit A. 4.b.(2) Source of Water: North Clear Creek, a tributary to Clear Creek, a tributary to the South Platte River. 4.b.(3) Date of Appropriation: December 30, 2010. 4.b.(4) Amount decreed: 10 c.f.s., conditional. 4.b.(5) Use: The water diverted under the direct flow water right described herein will be used for fire protection and to irrigate 125 acres of the proposed 182 acre golf course to be constructed by Black Hawk within its city limits, as well as for use in the lakes/ponds situated on the golf course for preservation of wildlife and aesthetic values, piscatorial use, and recreation. Black Hawk has the right to use, reuse, and successively use to extinction all water lawfully diverted and/or impounded pursuant to any decree entered in this case. 4.b.(6) Place of use: See paragraph 4.a.(6), above. 5. DESCRIPTION OF CONDITIONAL APPROPRIATIVE RIGHTS OF SUBSTITUTION AND EXCHANGE. In Case No. 2010CW308, Black Hawk was decreed the following conditional appropriative rights of substitution and exchange in Clear Creek, North Clear Creek and their tributaries. The location of the exchanges sought herein are shown on Exhibit B hereto, hereby incorporated. 5.a. Black Hawk North Clear Creek Exchange Rights. Under the Black Hawk North Clear Creek Exchange Rights, Black Hawk will divert by exchange up to 10 c.f.s from North Clear Creek at each of the points (“exchange-to points”) identified in paragraph 5.a.(1), below, for direct use and/or for storage for subsequent use, based upon the introduction of substitute supplies made available under the water rights described in paragraphs 5.a.(2), below (“substitute supplies”). Black Hawk will make the substitute supplies available at the points identified in paragraph 5.a.(3), below (the “exchange-from points”) by making deliveries, by forgoing diversions and/or storage, and/or by releases from storage. 5.a.(1) Names and locations of structures at the exchange-to points through which or into which water will be diverted and/or stored by exchange and the sources at the exchange-to points are as follows: 5.a.(1)(a) Black Hawk North Clear Creek Diversion Point No. 1. Location described in paragraph 4.a.(1), above. 5.a.(1)(b) Black Hawk North Clear Creek Diversion Point No. 2. Location described in paragraph 4.b.(1), above. 5.a.(2) Sources of substitute supply: 5.a.(2)(a) Water legally stored by Black Hawk in Green Lake, including, but not limited to, the water rights decreed to Applicant in Cases Nos. 2009CW276 and 2009CW277, Water Division No. 1. Green Lake is located on the channel of an unnamed tributary to South

Clear Creek in the County of Clear Creek, Colorado located in the W1/2 of S 29 and the E1/2 of S 30, T 4 S, R 74 W of the 6th P.M. 5.a.(2)(b) Water legally stored by Black Hawk in Georgetown Lake, including, but not limited to, the water rights decreed to Applicant in Case No. 2007CW327, Water Division No. 1. Georgetown Lake is an on-channel reservoir located on Clear Creek in the SE1/4 and portions of the NE1/4 of S 5, and the NE1/4 of S 8, T 4 South, R 74 West of the 6th P.M. in Clear Creek County, Colorado. The point of diversion is located 800 feet from the East S line and 1,900 feet from the North S line of S 5, T 4 South, R 74 West of the 6th P.M. 5.a.(2)(c) Water leased from the City of Golden including, but not limited to, water delivered pursuant to the Assignment and Water Delivery Agreement, dated June 7, 2007, for Vidler Tunnel Water as described in said agreement, and other water leased from the City of Golden pursuant to said agreement and stored and released from Guanella Reservoir located in N1/2 of SW1/4 and NW1/4 of SE 1/4 of S 29 and NE1/4 of SE1/4 of S 30, T 3 South, R 74 West of the 6th P.M., Clear Creek County, Colorado. Nothing in the decree in Case No. 2010CW308 changes the provisions of said agreement. 5.a.(2)(d) Water legally available for diversion by exchange by Black Hawk at the Hidden Valley Surface Water Diversion Point located in the SW1/4 of the SE1/4 of the NE1/4 of S 32, T 3 South, R 72 W of the 6th P.M., at a location 1,000 feet West of the East boundary of S 32 and 2,140 feet South of the North boundary of S 32, Clear Creek County, Colorado, limited to water attributable to Black Hawk's proportionate interest in the Church Ditch (a/k/a the Golden City and Ralston Creek Ditch) exchanged to the Hidden Valley Surface Water Diversion Point pursuant to the decree entered in Case No. 92CW059. 5.a.(2)(e) Water legally available for diversion by exchange by Black Hawk at the Hidden Valley Groundwater Diversion Point located in the SW1/4 of the SE1/4 of the NE1/4 of S 32, T 3 South, R 72 W of the 6th P.M., at a location 800 feet West of the East boundary of S 32 and 2,030 feet South of the North boundary of S 32, Clear Creek County, Colorado, limited to water attributable to Black Hawk's proportionate interest in the Church Ditch exchanged to the Hidden Valley Ground Water Diversion Point pursuant to the decree entered in Case No. 92CW059. 5.a.(2)(f) Fully consumable water and water available under the water right decreed to the City of Black Hawk Effluent Diversion in Case No. 93CW055 delivered to North Clear Creek at the Black Hawk - Central City Sanitation District Wastewater Treatment Plant, located in the NE1/4 of SW1/4 of S 26, T 3 S, R 72 West of the 6th P.M., Gilpin County, Colorado, at a point 1,550 feet east of the West S line and 2,100 feet north of the South S line of said S 26. The source of water is effluent discharged at said location including, but not limited to, the water rights decreed in Case No. 93CW055 on August 22, 2003. 5.a.(3) Exchange-from points at which Black Hawk shall make substitute supplies available to allow diversion by exchange at the exchange-to points: 5.a.(3)(a) Confluence of Clear Creek and North Clear Creek located in the NE1/4 SW1/4 of S 36, T 3 South, R 72 West of the 6th P.M., Clear Creek and Gilpin Counties, Colorado. 5.a.(3)(b) The outfall of the Black Hawk - Central City Sanitation District Wastewater Treatment Plant at the location described in paragraph 5.a.(2)(f), above. 5.a.(4) Date of appropriation: December 30, 2010. 5.a.(5) Amount decreed: 10 c.f.s., conditional. The exchanges under this decree are limited to 10 c.f.s. of combined total diversions at the two above-described exchange-to points at any given time. 5.b. Decreed Use: The water diverted by exchange under the water right described herein will be used for fire protection and to irrigate 125 acres of the proposed 182 acre golf course to be constructed by Black Hawk within its city limits, as well as for use in the lakes/ponds situated on the golf course for preservation of wildlife and aesthetic values, piscatorial use, and recreation. Black Hawk has the right to use, reuse, and successively use to extinction all water lawfully diverted and/or impounded pursuant to any decree entered in this case. Black Hawk shall at all times be entitled to fully consume the same amount of water diverted by exchange as the amount of decreed fully-consumable water being simultaneously delivered to or made available at the exchange-from points; Black Hawk shall be entitled to divert by exchange, based upon the delivery at the exchange-from points of water for which Black Hawk has the right to only a single use, provided that Black Hawk shall only be entitled to a single use of water diverted at the exchange-to points based upon delivery of single use water at the exchange-from points; and to the extent that Black Hawk has the decreed right to fully consume water diverted under the exchanges, Black Hawk shall be entitled to fully consume such water by direct use, storage and subsequent release, reuse, successive use, further exchange and disposition. 5.c. Place of Use: See paragraph 4.a.(6), above. 6. PROVIDE A DETAILED OUTLINE OF WHAT HAS BEEN DONE

TOWARD COMPLETION OR FOR COMPLETION OF THE APPROPRIATION AND APPLICATION OF WATER TO A BENEFICIAL USE AS CONDITIONALLY DECREED, INCLUDING EXPENDITURES: Pursuant to paragraph 18 of the decree in Case No. 2010CW308, Black Hawk's potable water system and raw water system and each of the water rights and structures decreed in Case No. 2010CW308 that now and in the future will provide water for the Applicant were determined to be integrated systems of water rights and structures, and pursuant to C.R.S. § 37-92-301(4)(b) work on one or more of the separate components constitutes diligence for all. 6.a. From 2014 to the filing of this application, Black Hawk has spent in excess of \$23,431,230 on its integrated water system of which the subject water rights are a part: 6.a.(1) For the year ending December 31, 2014, Black Hawk expended \$6,560,453 on its water system including \$3,826,497 on capital projects. Projects included construction of the Georgetown Lake outlet, continuation of the Green Lake pipeline replacement, and construction of the Dory Hill Water Treatment Plant. 6.a.(2) For the year ending December 31, 2015, Black Hawk expended \$5,276,333 on its water system including \$2,594,343 on capital projects. Projects included the design and construction of the Highway 119 waterline loop, continuation of the Green Lake pipeline replacement, and completion of the Dory Hill Water Treatment Plant. 6.a.(3) For the year ending December 31, 2016, Black Hawk expended \$2,768,008 on its water system including \$464,615 on capital projects. Projects included installation of a fire suppression system at the Dory Hill Water Treatment Plant, sand blasting and painting the 350,000-gallon steel water tank, continued work on the Georgetown Lake outlet, and completion of the Green Lake pipeline replacement. 6.a.(4) For the year ending December 31, 2017, Black Hawk expended \$2,059,524 on its water system including \$456,689 on capital projects. Projects included design of the Church Ditch Augmentation Station replacement, sand blasting and painting the exterior of the Dory Hill water tank, installation of new Gregory Street pipeline and pressure reducing valve vault, installation of fiber optics within the distribution system, installation of new chlorine dioxide system at the Hidden Valley Treatment Plant, completion of the Georgetown Lake outlet, preliminary design and survey for a new headgate for the Green Lake inflow pipeline, and preliminary design of power generators for the Hidden Valley Treatment Plant and Pump Stations. 6.a.(5) For fiscal year 2018, the City of Black Hawk expended \$2,934,151 on its water system including \$741,990 on capital projects. Projects included construction of the Church Ditch Augmentation Station, painting the exterior of the Dory Hill water tank, sand blasting and painting PRV vaults in the distribution system, sealing Green Lake with sodium bentonite, design and construction to dredge Georgetown Lake, pre-design for a new head-gate for the Leavenworth diversion for Green Lake, and final design of power generators for the Hidden Valley Treatment Plant & Pump Stations. 6.a.(6) For fiscal year 2019, the City of Black Hawk expended \$2,603,209 on its water system including \$619,808 on capital projects. Projects included construction of the Hidden Valley Stand-by Generators back-up electrical system, design for a new head-gate for the Leavenworth diversion for Green Lake, rebuilding the Hidden Valley pipeline pumps, design and construction of the Green Lake seepage flume. 6.a.(7) For fiscal year 2020 up to September 16th, the City of Black Hawk expended \$1,229,552 on its water system including \$88,773 on capital projects. Projects included improvements to the Church Ditch Augmentation Station, purchasing the headgate structure for the Leavenworth diversion for Green Lake. 6.b. The amount in paragraph 6.a includes more than \$2,181,184 for engineering and \$1,562,030 for legal fees and costs during the diligence period. 6.c. On December 5, 2016, Black Hawk obtained a decree in Case No. 2012CW303, Water Division No. 1, which included: (1) an augmentation plan to replace depletions from diversions at the points identified in paragraphs 4.a and 4.b, above; and (2) a change of water rights for inches in the Church Ditch for use in the exchanges in Case No. 92CW059 as referenced in paragraphs 5.a.(2)(d) and 5.a.(2)(e), above. 6.d On December 11, 2017, Black Hawk obtained a decree in Case No. 2016CW3149, Water Division No. 1, which found diligence and made a portion absolute of the Black Hawk Effluent Diversion originally decreed in Case No. 93CW055, and which is a source of substitute supply for the exchanges herein. 6.e. On December 21, 2018, Black Hawk obtained a decree in Case No. 2018CW3019, Water Division No. 1, for a finding of diligence for the exchanges decreed in Case No. 92CW059, which will be operated in conjunction with the exchanges referenced in paragraphs 5.a.(2)(d) and 5.a.(2)(e), above. 6.f. On October 22, 2019, Black Hawk obtained a decree in Case No. 2018CW3152, Water Division No. 1, which found diligence and made a portion absolute of the storage rights and exchanges in Georgetown

Lake originally decreed in Case No. 2007CW327, which is a source of substitute supply for the exchanges herein. 6.g. During the diligence period, Black Hawk participated in rulemaking hearings and other proceedings before the Colorado Water Quality Control Commission regarding water quality standards and the Black Hawk-Central City Sanitation District's CDPEs permit. 6.h. During the diligence period, Black Hawk has participated as an objector in numerous Water Court proceedings in order to protect its water rights, including the subject water rights. 7. NAMES AND ADDRESSES OF OWNERS OR REPUTED OWNERS OF THE LAND UPON WHICH ANY NEW DIVERSION OR STORAGE STRUCTURE OR MODIFICATION TO ANY EXISTING DIVERSION OR STORAGE STRUCTURE IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED: 7.a. Black Hawk North Clear Creek Diversion Point No. 1: Colorado Department of Transportation, c/o Jay Kramer, R.O.W. Manager, CDOT Region 1, 18500 East Colfax Avenue, Aurora, CO 80111-8017; 7.b. Black Hawk North Clear Creek Diversion Point No. 2: Black Hawk Development Corp., P.O. Box 293, Black Hawk, CO 80422 WHEREFORE, Applicant requests that diligence be found for the conditional amounts decreed to the Black Hawk North Clear Creek Diversion Point No. 1, Black Hawk North Clear Creek Diversion Point No. 2, and Black Hawk North Clear Creek Exchange Rights, and that said rights be continued as conditional in full force and effect until the due date of the next diligence filing herein. Number of pages of Application: 11, including 2 pages of exhibits.

**2020CW3141 DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS**, Douglas County Attorney's Office, Attn: Amy T. Williams, 100 Third Street, Castle Rock, CO 80104. Christopher L. Geiger and Margaret L. Casey, Balcomb & Green P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; 970-945-6546. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN DOUGLAS COUNTY.** Structure: Sandstone Reservoir (a/k/a Aswam Reservoir). Legal Description: SW1/4 NE1/4, Sec. 36, T. 9 S., R. 68 W., 6<sup>th</sup> P.M., 2200 ft. N. of the S. Sec. Line, 2450 ft. E. of the W. Sec. Line. Source: Gove Creek, a trib. of W. Plum Creek, unnamed trib. to Gove Creek, and water within the drainage basins above the reservoir. The Sandstone Storage Structures may also be filled by non-trib. and/or not non-trib. wells constructed pursuant to permits and/or decrees for such non-trib. and/or not non-trib. ground water underlying Applicant's Sandstone Ranch property. Sandstone Reservoir may be filled in part by diversions through the Ahlmaaz Gove Ditch at a rate of up to 5.0 c.f.s., the headgate location of which is in the SE1/4 NE1/4, Sec 2, T. 10 S., R. 68 W., 6<sup>th</sup> P.M., at a pt. approx. 1640 ft. from the N. Sec. Line and 590 ft. from the E. Sec. line. Date of Approp.: 12/26/2007. Amt.: 24 AF, cond. with the right to fill, and one refill. Use: Livestock and wildlife watering, and irr. on the property depicted on Exhibit A of application; aug., replacement and exchange; pisc. and rec. within the high water line of the reservoir. Physical Characteristics of Reservoir: Surface area of high water line: 4 acres; Max. height of dam: 10 ft.; Length of dam: 560 ft.; Total capacity of reservoir: 24 AF. Active capacity: 24 AF; Dead storage: 0 AF. Structure: Sandstone Reservoir, (a/k/a Aswam Reservoir), First Enl. Legal Description: SW1/4 NE1/4, Sec. 36, T. 9 S., R. 68 W., 6<sup>th</sup> P.M., 2200 ft. N. of the S. Sec. Line, 2450 ft. E. of the W. Sec. Line. Source: Gove Creek, a trib. of W. Plum Creek, unnamed trib. to Gove Creek, and water within the drainage basins above the reservoir. The Sandstone Storage Structures may also be filled by non-trib. and/or not non-trib. wells constructed pursuant to permits and/or decrees for such non-trib. and/or not non-trib. ground water underlying Applicant's Sandstone Ranch property. Sandstone Reservoir, First Enl. may also be filled in part by diversions through the Ahlmaaz Gove Ditch at a rate of up to 5.0 c.f.s., the headgate location of which is in the SE1/4 NE1/4, Sec. 2, T. 10 S., R. 68 W., 6<sup>th</sup> P.M., at a pt. approx. 1640 ft. from the N. Sec. Line and 590 ft. from the E. Sec. line, Douglas County, Colorado. Date of Approp.: 12/26/2007. Amt.: 90 AF, cond. with the right to fill, and one refill. Use: Livestock and wildlife watering, and irr. on the property depicted on Exhibit A to application; aug., replacement and exchange; pisc. and rec. within the high water line of the reservoir. Physical Characteristics of Reservoir: Surface area of high water line: 8 acres; Max. height of dam: 10 ft.; Length of dam: 330 ft.; Total capacity of reservoir: 90 AF; Active capacity: 80 AF; Dead storage: 10 AF; Structure: Lower Sandstone Reservoir. Legal Description: SE1/4 NW1/4, Sec. 36, T. 9 S., R. 68 W., 6<sup>th</sup> P.M., 3430 ft. S. of the N. Sec. Line, 2050 ft. W. of the E. Sec. Line. Source: Gove Creek, a trib. of W. Plum Creek, unnamed trib. to Gove Creek, and water within the drainage basins above the

reservoir. The Sandstone Storage Structures may also be filled by non-trib. and/or not non-trib. wells constructed pursuant to permits and/or decrees for such non-trib. and/or not non-trib. ground water underlying Applicant's Sandstone Ranch property. Lower Sandstone Reservoir may also be filled in part by diversions through the Ahlmaaz Gove Ditch at a rate of up to 5.0 c.f.s., the headgate location of which is in the SE1/4 NE1/4, Sec. 2, T. 10 S., R. 68 W., 6<sup>th</sup> P.M., at a pt. approx. 1640 ft. from the N. Sec. Line and 590 ft. from the E. Sec. line, Douglas County, Colorado. Date of Approp.: 12/26/2007. Amt.: 60 AF, cond. with the right to fill, and one refill. Use: Livestock and wildlife watering, and irr. on the property depicted on Exhibit A attached to application; aug., replacement and exchange; pisc. and rec. within the high water line of the reservoir. Physical Characteristics of Reservoir: Surface area of high water line: 5 acres; Max. height of dam: 10 ft.; Length of dam: 780 ft.; Total capacity of reservoir: 60 AF; Active capacity: 50 AF; Dead storage: 10 AF. Structure: **Sandstone Ranch Pond 1**. Legal Description: SW1/4 NE1/4, Sec. 1, T. 10 S., R. 68 W., 6<sup>th</sup> P.M., 1800 ft. N. of the S. Sec. Line, 2420 ft. E. of the W. Sec. Line. Source: Gove Creek, a trib. of W. Plum Creek, unnamed trib. to Gove Creek, and water within the drainage basins above the pond. The Sandstone Storage Structures may also be filled by non-trib. and/or not non-trib. wells constructed pursuant to permits and/or decrees for such non-trib. and/or not non-trib. ground water underlying Applicant's Sandstone Ranch property. Date of Approp.: 12/26/2007. Amt.: 6 AF, cond. with the right to fill, and one refill. Use: Livestock and wildlife watering, and irr. on the property depicted on Exhibit A to application; aug., replacement and exchange; pisc. and rec. within the high water line of the pond. Physical Characteristics of Pond: Surface area of high water line: 0.64 acres; Max. height of dam: 12 ft.; Length of dam: 150 ft.; Total capacity of reservoir: 6 AF; Active capacity: 6 AF; Dead storage: 0 AF. Structure: **Sandstone Ranch Pond 2**. Legal Description: SW1/4NE1/4, Sec. 1, T. 10 S., R. 68 W., 6<sup>th</sup> P.M., 1830 ft. N. of the S. Sec. Line, 2100 ft. E. of the W. Sec. Line. Source: Gove Creek, a trib. of W. Plum Creek, unnamed trib. to Gove Creek, and water within the drainage basins above the pond. The Sandstone Storage Structures may also be filled by non-trib. and/or not non-trib. wells constructed pursuant to permits and/or decrees for such non-trib. and/or not non-trib. ground water underlying Applicant's Sandstone Ranch property. Date of Approp.: 12/26/2007. Amt.: 1.1 AF, cond. with the right to fill, and one refill. Use: Livestock and wildlife watering, and irr. on the property depicted on Exhibit A attached to application; aug., replacement and exchange; pisc. and rec. within the high water line of the reservoir. Physical Characteristics of Pond: Surface area of high water line: 0.13 acres; Max. height of dam: 10 ft.; Length of dam: 140 ft.; Total capacity of reservoir: 1.1 AF; Active capacity: 1.1 AF; Dead storage: 0 AF. Remarks: None of the Sandstone Storage Structures are located within a designated groundwater basin. Each of the structures is located within a natural stream channel. Each of the structures shall be equipped to allow out-of-priority inflows, such as precipitation and surface runoff from precipitation and irr., to be released back to Gove Creek within 24 hours of impoundment. A map showing the location of the Sandstone Storage Structures is Exhibit B attached to the Application. Terms and Conditions Concerning Use for Aug., Replacement and Exchange. Although the Ruling and Decree entered in Case No. 07CW308 approved the use of the water rights decreed to the Sandstone Storage Structures for purposes including aug., replacement and exchange, no specific exchanges or out-of-priority diversions were authorized by that Ruling and Decree. The operation of any exchange or aug. plan utilizing the water rights decreed to the Sandstone Storage Structures in Case No. 07CW308 as a replacement source must be in compliance with Colorado law and, if a decree for such an exchange or aug. plan is entered by the Court, in compliance with the terms and conditions of said Decree. Any use of the water rights decreed to the Sandstone Storage Structures in Case No. 07CW308 for aug., replacement and exchange purposes shall be solely limited to structures and beneficial uses located on the property depicted on Exhibit A attached to application. Integrated System. The water rights confirmed and decreed to the Sandstone Storage Structures in Case No. 07CW308 described above are individual components of Applicant's integrated water system for its open space ranch. Consequently, work on any one feature shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicant's water supply system. In the diligence period preceding the filing of this Application, Applicant and its predecessor diligently pursued the development of the cond. water rights decreed to the Sandstone Storage Structures. Applicant continues to rely upon these cond. water rights and has no intention to abandon them. Examples of activity

performed by Applicant or its predecessors, whether directly or at its discretion and expense, which establish diligence are on file with this court. Names and addresses of owners or reputed owners of the land upon which any new or existing 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.

**20CW3142 ARAPAHOE COUNTY WATER AND WASTEWATER AUTHORITY (“ACWWA” OR “APPLICANT”), c/o Steve Witter, General Manager, 13031 East Caley Avenue, Centennial, Colorado 80111, Telephone: (303) 790-4830. APPLICATION FOR CHANGE OF WATER RIGHTS, PLAN FOR AUGMENTATION, AND APPROPRIATION OF RETURN FLOWS in ADAMS, ARAPAHOE, DENVER, DOUGLAS, ELBERT, LARIMER, MORGAN, AND WELD COUNTIES.**

Please send all pleadings and correspondence to: Brian M. Nazarenus, Esq., Sheela S. Stack, Esq., William D. Wombacher, Esq., Stacy L. Brownhill, Esq., NAZARENUS STACK & WOMBACHER LLC, 8301 E. Prentice Ave., Suite 110, Greenwood Village, Colorado 80111 (Attorneys for ACWWA). 2. Introduction. The purpose of this application is to change the use of the water rights associated with ACWWA’s 7 shares in the Whitney Irrigating Ditch Company (“Whitney”). 3. Summary of the Subject Water Rights. ACWWA seeks to change the use of 7 shares out of a total of 320 outstanding shares in Whitney (“ACWWA’s Whitney Shares”). ACWWA’s Whitney Shares are derived from Share Certificate No. 301 and were historically used on the Hall farm as detailed below. 4. Decreed Water Rights for Which Change is Sought. 4.1. Name of Structure. Whitney Irrigating Ditch (the “Whitney Ditch”). 4.2. Original and all Relevant Subsequent Decrees. The water rights for the Whitney Ditch were decreed on April 11, 1882 in Case No. 320 by the Larimer County District Court. The water rights associated with 128 of the 320 shares issued to Whitney were quantified and changed by the Water Court on October 25, 2011, in Case No. 08CW65, Water Division 1, based on the results of a ditch-wide historical consumptive use analysis. 4.3. Legal Description of Point of Diversion. The Whitney Ditch is decreed to divert on the north side of the Cache la Poudre River, in S 19, T 6 N, R 67 West, of the 6th P.M., Weld County, Colorado. 4.4. Source. Cache la Poudre River, tributary to the South Platte River. 4.5. Amounts and Appropriation Dates. The Whitney Ditch was decreed two separate priorities as follows: (1) 48.23 cfs, with an appropriation date of September 1, 1862; and (2) 12.95 cfs, with an appropriation date of September 10, 1871. 4.6. Decreed Use. Irrigation. 4.7. Amount to be Changed. ACWWA seeks to change all of the water rights associated with ACWWA’s Whitney Shares. Pursuant to the prior ditch-wide analysis, the historical consumptive use of ACWWA’s Whitney Shares is 13.69 acre-feet/year/share. The decreed pro-rata river headgate diversion for each priority of ACWWA’s Whitney Shares is as follows:

<b>Appropriation Date</b>	<b>Total Amount Decreed to All Whitney Shares (cfs)</b>	<b>Pro-Rata Flow Rate (cfs)</b>
September 1, 1862	48.23	1.055
September 10, 1871	12.95	0.283

5. Historical Use. ACWWA’s Whitney Shares were historically used to irrigate crops on the Hall Farm as depicted on the map attached as **Exhibit 1**. The Hall Farm is located in portions of the SE1/4 of S 30 and the NE1/4 of S 31, T 6 North, R 66 West of the 6th P.M. 6. Proposed Change of ACWWA’s Whitney Shares. 6.1. Change in Type of Use. ACWWA seeks to use ACWWA’s Whitney Shares for the uses described below, which may occur directly, following storage or recharge, and/or by exchange. 6.1.1. Use in ACWWA’s Plans for Augmentation, including Substitution. ACWWA will use the ACWWA Whitney Shares as a source of replacement water including use by substitution in the plans for augmentation decreed in Case Nos. 10CW306 and 13CW3026, the plans for augmentation currently pending in Case Nos. 19CW3074 and 19CW3084, the plan for augmentation requested in this case, and in any future plan for augmentation. 6.1.2. Source for ACWWA’s Recharge Projects. ACWWA will deliver ACWWA’s Whitney Shares to recharge facilities for subsequent beneficial use. These facilities include those located in the Beebe Draw and on 70 Ranch as decreed in Case Nos. 10CW306, facilities currently pending in

Case No. 16CW3195, and any future recharge project or facility to which ACWWA is legally entitled to recharge water. Recharge accretions generated by ACWWA's Whitney Shares can be subsequently stored, exchanged, or further placed into recharge if not needed for an immediate beneficial use. 6.1.3. Source in ACWWA's Exchange. ACWWA will re-divert ACWWA's Whitney Shares, either directly or following recharge or storage and subsequent release, at the exchange-to points under the appropriate rights of exchange decreed in Case No. 09CW283 and currently pending in Case No. 16CW3195. ACWWA may also use ACWWA's Whitney Shares in any future exchange. 6.1.4. Places of Storage. ACWWA may store ACWWA's Whitney Shares by direct delivery or after exchange and/or recharge in any storage facility in which ACWWA is legally permitted to store water, including: 6.1.4.1. 70 Ranch Reservoir, a lined off-channel reservoir that will be located in the S1/2 of S 3, T 4 N, R 63 West of the 6th P.M., and a portion of the NE1/4 of S 10, T4N, R63W of the 6th P.M., Weld County, Colorado. 6.1.4.2. Milliken Reservoir (a/k/a Gilcrest Reservoir), a lined off-channel reservoir located within a part of S 2, T 3 N, R 67 West, and Ss 23, 26, 34, and 35, T4N, R67W of the 6th P.M., Weld County, Colorado. 6.1.4.3. United Reservoir No. 3, an off-channel reservoir located on the east side of the South Platte River, in the S1/2 of S 26, and the N1/2 of S 35, T 1 S, R 67 West of the 6th P.M., Adams County, Colorado. 6.1.4.4. Barr Lake, an off-channel reservoir located in Ss 15, 21, 22, 23, 26, 27, 28, and 33, T 1 South, R 66 West of the 6th P.M., Adams County, Colorado. Barr Lake is an enlargement of the original Oasis Reservoir. 6.1.4.5. Milton Lake, an off-channel reservoir located in Ss 10, 11, 14, 15, 22, and 23, T 3 N, R 65 West of the 6th P.M., Weld County, Colorado. 6.1.4.6. Highlands Reservoir, an off-channel reservoir located in the NW1/4 of S 32, T 1 N, R 65 West of the 6th P.M., Weld County, Colorado. 6.1.4.7. Serfer Pit, an off-channel reservoir located in the NE1/4 of the NE1/4 of S 24, T 6 N, R 68 W of the 6th P.M., Larimer County, Colorado. 6.1.4.8. Binder Reservoir, an off-channel reservoir located in the N1/2 of S 15, T1N, R66W of the 6th P.M., Weld County, Colorado. 6.1.4.9. Any other existing or future storage facility in which ACWWA is legally permitted to store water. 6.1.5. Use to Replace Return Flow Obligations. ACWWA will use ACWWA's Whitney Shares, either directly, following storage or recharge, or by exchange, to replace return flow obligations associated with ACWWA's Whitney Shares and the water rights changed in Case Nos. 10CW313, 12CW73, 13CW3026, 05CW58/11CW151, and to satisfy return flow obligations for other water rights, currently pending changes of water rights, or water rights changed in the future if such change decree lists ACWWA's Whitney Shares as a replacement source. 6.1.6. All Municipal Uses. ACWWA will use the water attributable to ACWWA's Whitney Shares for all municipal uses via augmentation and exchange, including after recharge. ACWWA's municipal uses include, but are not limited to, domestic, mechanical, manufacturing, commercial, industrial, exchange, augmentation and replacement, recharge, substitute supply, including further exchange with other water systems and with other water users, and for all other beneficial uses within ACWWA's present and future service area, at such locations as to allow ACWWA to pump water at the ACWWA/ECCV Well Field or provide direct deliveries for municipal use within ACWWA's present and future service area, and at locations as necessary to operate the augmentation plans, recharge projects, and exchanges described herein. 6.1.7. Right of Reuse, Successive Use, and Disposition. ACWWA claims the right to use, reuse, successively use and dispose of, by sale, lease, exchange, augmentation, or otherwise, to extinction, all water exchanged, lawfully diverted, and/or impounded pursuant to the decree entered in this case. As such, ACWWA's Whitney Shares will be fully consumable water. 6.1.8. Use in ECCV's Augmentation Plans and Delivery to ECCV Recharge Projects. ACWWA may lease and/or trade water attributable to ACWWA's Whitney Shares to ECCV for use as a source of augmentation and replacement water in ECCV's augmentation plans, either directly or following delivery to storage or to recharge projects, including those decreed in Case Nos. 02CW403 and 02CW404/03CW442, as amended by the decree entered in Case No. 10CW306. 6.1.9. Change in Place of Use. ACWWA will use the water attributable to ACWWA's Whitney Shares on lands within ACWWA's present and future service area, at such locations as to allow ACWWA to pump water at the ACWWA/ECCV Well Field or provide direct deliveries for municipal use within ACWWA's present and future service area, and at locations as necessary to operate the augmentation plans, recharge projects, and exchanges described herein. A map of ACWWA's current service area is attached as Exhibit 2. 7. Delivery of the Subject Water Rights. ACWWA's Whitney Shares will continue to be



diverted at the Whitney Ditch headgate, and ACWWA may deliver the water attributable to ACWWA's Whitney Shares through any structure currently located on the Whitney Ditch or constructed in the future.

8. ACWWA's Return Flow Obligations. ACWWA shall maintain historical surface runoff and ground water return flows on a daily basis whenever the downstream calling water right on the South Platte River is senior to September 30, 2020. ACWWA shall meet its return flow obligations for ACWWA's Whitney Shares with any of the sources described in the attached Exhibit 3, either directly, by substitution, by exchange, or following storage or recharge or any combination thereof. ACWWA may also deliver water from other fully-consumable sources, either directly, by substitution, by exchange, or following storage or recharge or any combination thereof, owned or controlled by ECCV or any other sources so long as the sources are decreed for augmentation purposes by the Water Court or approved for replacement use under a Substitute Water Supply Plan approved by the State Engineer pursuant to C.R.S. § § 37-92-308 or 309, or successor statutes, or are otherwise lawfully available for such use. To the extent that fully consumable water derived from water rights other than ACWWA's Whitney Shares is used to meet replacement obligations, an equivalent amount of water diverted pursuant to ACWWA's Whitney Shares and attributable to historical return flow will become fully consumable.

9. Integrated System. Use of ACWWA's Whitney Shares as described herein comprise a component of an integrated system of water rights and structures under C.R.S. § 37-92-301(4)(b). Work performed and effort or costs expended by Applicant on any water rights or structures which are part of their integrated water systems shall be considered in finding that reasonable diligence has been shown in the development of the conditional water rights for all features of the system as provided in C.R.S. § 37-92-301(4)(b).

10. ACWWA's Independent Claim to Appropriate Return Flows Associated with ACWWA's Whitney Shares.

10.1. Claim to Appropriate Return Flows. When the calling right downstream of the point the return flows historically accrued to the Cache la Poudre River is junior to September 30, 2020, or there is no call from downstream of the point the return flows historically accrued to the South Platte River, ACWWA seeks the right to use, retain, reuse, successively use, and use to extinction, for all of the purposes described in paragraph 6, above, the historical return flow portion of its irrigation season delivery of the Subject Water Rights and the winter return flow portion of its prior irrigation season deliveries of the Subject Water Rights.

10.2. Date of Appropriation. September 30, 2020.

10.3. How Appropriation was Initiated. The appropriation date is based upon the date the Application in this case was filed.

10.4. Date Water First Applied to Beneficial Use. Not Applicable.

10.5. Source. Cache la Poudre River.

10.6. Amount Claimed. Any and all amounts of return flows determined to be attributable to ACWWA's Whitney Shares, conditional.

10.7. Claimed Uses. For the same uses as described in paragraph 6, above.

11. ACWWA's Plan for Augmentation.

11.1. Purpose of the Plan for Augmentation. Through this augmentation plan, ACWWA will provide adequate sources of replacement water to maintain the historical return flow obligations associated with ACWWA's Whitney Shares.

11.2. Location of Return Flows. The locations where return flows associated with ACWWA's Whitney Shares historically accrued are shown in Exhibit 1.

11.3. Replacement Sources. ACWWA will use water derived from the sources described in paragraph 8, above, to replace the historical return flow obligations associated with ACWWA's Whitney Shares in time, location, and amount in order to prevent injury to any owner of or persons entitled to use water under a vested water right or a decreed conditional water right.

11.4. Future Acquired Sources. ACWWA intends to acquire and/or lease additional water supplies in the future for use as a source of replacement in the plan for augmentation described in the application. Those supplies may be acquired and/or leased to replace or supplement water from the sources identified in paragraph 8, above. ACWWA will add future acquired sources to the plan for augmentation claimed in this application pursuant to C.R.S. § 37-92-305(8)(c).

11.5. If the return flows associated with ACWWA's Whitney Shares are replaced by sources other than ACWWA's Whitney Shares, an equivalent amount of water diverted pursuant to the Whitney Shares will be available to be placed to the beneficial uses described in paragraph 6, above.

12. Names and addresses of owners of land on which structures are or will be located, and upon which water is or will be stored.

12.1. The Whitney Ditch headgate is located on land owned by Whitney Irrigating Ditch Company, 30951 Country Road 27, Greeley, Colorado 80631.

12.2. United Reservoir No. 3 is owned by United Water and Sanitation District ("United"), 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado

80111. United Reservoir No. 3 is on land owned by Bromley District Water Providers, LLC, whose address is the same. United holds a perpetual easement for United Diversion Facility No. 3, granted by Henderson Aggregate, LTD.. The diversion structure is owned by United. 12.3. Barr Lake and the canals which will be used to deliver water to Barr Lake are owned by the shareholders of The Farmers Reservoir and Irrigation Company (“FRICO”), 80 South 27th Avenue, Brighton, Colorado 80601. 12.4. Milton Lake is owned by the shareholders FRICO, 80 South 27th Avenue, Brighton, Colorado 80601. 12.5. Milliken Reservoir is owned by United Milliken Reservoir Enterprise, LLC, 8301 East Prentice Ave, Suite 100, Greenwood Village, Colorado 80111, and Scout Investments, LLC, whose address is the same. 12.6. Weld Adams Water Development Authority (“WAWDA”), 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado 80111, holds an easement for 70 Ranch Reservoir and its diversion and outlet facilities. The land underlying the easement is owned by 70 Ranch, LLC, whose address is the same. 12.7. Serfer Pit is owned by United, 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado 80111. 12.8. Binder Reservoir is owned jointly by Ronald E. vonLembke, 73 Falcon Hills Drive, Highlands Ranch, Colorado, 80126 and Andrew Damiano, 15 Cherry Vale Drive, Englewood, Colorado, 80113. 12.9. Highlands Reservoir will be owned by WAWDA, 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado 80111. Highland Equities, LLC holds legal title to the land on which Highlands Reservoir will be located as nominee of South Weld Holdings, LLC, which holds beneficial title to the land. The address of Highland Equities, LLC and South Weld Holdings, LLC is the same as WAWDA. WHEREFORE, ACWWA respectfully request that the Court enter a decree granting the change of water rights, approving the plan for augmentation, and for such other relief which it deems proper. (9 pages, 3 exhibits).

**2020CW3143 MARGARET GRAHAM AND ALBERT H. GRAHAM, III, 10343 Holden Circle, Franktown, CO, 80116.** Matthew S. Poznanovic, Eric K. Trout, Petrock Fendel Poznanovic, P.C., 700 17th Street, Suite 1800, Denver, CO, 80202. **APPLICATION FOR UNDERGROUND WATER RIGHTS FROM NONTRIBUTARY AND NOT NONTRIBUTARY SOURCES AND APPROVAL OF PLAN FOR AUGMENTATION, IN THE NONTRIBUTARY LOWER DAWSON, DENVER, ARAPAHOE AND LARAMIE-FOX HILLS AQUIFERS AND THE NOT-NONTRIBUTARY UPPER DAWSON AQUIFER IN ELBERT COUNTY.** Subject Property: 5.1 acres generally located in the NW1/4, S5, T8S, R65 W of the 6th P.M., Tract 49, Bannockburn 2, also known as 10343 Holden Circle, Franktown, CO, 80116, Douglas County, State of Colorado. Applicants are the sole owners of the Subject Property. Well Permits: There is one existing Upper Dawson Aquifer domestic well on the Subject Property under well permit number 171397. This well will be re-permitted under the plan for augmentation requested in this application. Additional well permits will be applied for prior to construction of additional wells. Source of Water Rights: The Upper Dawson aquifer is not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers are nontributary as defined in C.R.S. § 37-90-103(10.5). Estimated Amounts: Applicants estimate the following annual amounts may be available for withdrawal: Upper Dawson, 1.42 acre-feet (NNT); Lower Dawson, 0.75 acre-feet (NT); Denver, 1.62 acre-feet (NT); Arapahoe, 2.27 acre-feet (NT); Laramie-Fox Hills, 1.51 acre-feet (NT). Proposed Uses: Domestic, swimming pool filling, commercial, irrigation, stockwatering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. Jurisdiction: The Court has jurisdiction over the subject matter of this application pursuant to C.R.S. §§ 37-90-137(6), 37-92-203(1), 37-92-302(2). Summary of Plan for Augmentation: Groundwater to be Augmented: Approximately 1.42 acre-feet per year of Upper Dawson aquifer groundwater. Water Rights to be Used for Augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary groundwater. Statement of Plan for Augmentation: The Upper Dawson aquifer groundwater will be used for domestic purposes, including in-house use, irrigation, swimming pool filling, commercial, stockwatering, and fire protection, through one or more wells, both on and off the Subject Property. Applicants reserve the right to amend the amount and uses without amending the application or republishing the same. Sewage treatment for in-house use will be provided by non-evaporative septic systems. Return flow from in-house use will be approximately 90% of that use, and

return flow from irrigation use will be approximately 15% of that use. During pumping Applicants will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the Cherry Creek stream system and return flows accrue to that creek system and are sufficient to replace actual depletions while the subject groundwater is being pumped. Applicants will reserve an equal amount of nontributary groundwater underlying the Subject Property to meet post pumping augmentation requirements. Applicants request the Court approve the above underground water rights and augmentation plan, find that Applicants have complied with C.R.S. § 37-90-137(4) and water is legally available for withdrawal, find there will be no material injury to the owners of or persons entitled to use water under any vested water right or decreed conditional water right, and grant such other and further relief as is appropriate. 4 Pages.

**20CW3144 ELK CREEK ESTATES, LLC, MOUNTAIN MUTUAL RESERVOIR COMPANY, and NORTH FORK ASSOCIATES, LLC; Elk Creek Estates, LLC, c/o Greg Podd, C.P.A., P.F.S., 4942 Snowberry Lane, Evergreen, CO 80439; Email: gregpodd@gmail.com; Telephone: (303) 330-0096; Mountain Mutual Reservoir Company, 6949 Highway 73, Suite 15, Evergreen, CO 80439; Email: 613blatch@gmail.com; Telephone: (303) 989-6932; and North Fork Associates, LLC, 2686 S. Yukon Ct., Denver, CO 80227; Email 613blatch@gmail.com; Telephone: (303) 988-7111.** Please direct all correspondence concerning this Application to: Aaron Ladd, Esq., Vranesh and Raisch, LLP, 5303 Spine Road, Suite 202, Boulder, CO 80301; Email: asl@vrlaw.com; Telephone: (303) 443-6151.

**APPLICATION FOR PLAN FOR AUGMENTATION INCLUDING EXCHANGE IN JEFFERSON AND PARK COUNTIES. CLAIM NO. 1: APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION INCLUDING EXCHANGE**

2. Names of Structures to be Augmented: Elk Creek Estates Well Nos. 11-22. The Elk Creek Estates Well Nos. 11-22 will divert ground water from the fractured granites underlying portions of the NW 1/4, the SW 1/4, and the SE 1/4 of S 5, and parts of the NE 1/4 and the SE 1/4 of S 6, T7S, R71W, 6th P.M., Jefferson County, Colorado. The rate of diversion for each well will not exceed 15 gallons per minute. Applications to construct each well will be submitted to the Division of Water Resources when the property described herein is developed and the wells are needed. The Elk Creek Estates property on which Elk Creek Estates Well Nos. 11-22 will be located is shown on the map attached as Exhibit A. The exact location of the wells will be determined as the properties within the area described above are developed and described in the well permit issued for each well.

3. Water Rights to be used for Augmentation Purposes: Elk Creek Estates has contracted with North Fork Associates, LLC to purchase 12.2 shares of Mountain Mutual Reservoir Company stock, which represents a firm annual yield of 0.384 of an acre-foot to satisfy present and anticipated future replacement needs associated with Elk Creek Estates Well Nos. 11-22.

a. The water rights associated with the MMRC shares described above in paragraph 3 include the following:

i. Maddox Reservoir: The Maddox Reservoir is located in the NE 1/4 SW 1/4, S 22, T7S, R73 W of the 6<sup>th</sup> P.M. in Park County. It was adjudicated on November 11, 1971 with an appropriation date of May 31, 1905. It is decreed for multiple purposes including irrigation, domestic, fish culture and recreation with a capacity of 54.0 acre-feet. It is filled by the Maddox Reservoir Feeder Ditch, which diverts from the North Fork of the South Platte River in the NE 1/4, SE 1/4, SW 1/4, S 22, T7S, R73 W of the 6<sup>th</sup> P.M. and decreed as an alternate point of diversion for the Slaughter Ditch. Allocation of yield to Maddox Reservoir is attached as Exhibit B.

ii. Lower Sacramento Creek Reservoir: The Lower Sacramento Creek Reservoir Company, a Colorado corporation, owns and operates the Lower Sacramento Creek Reservoir No. 1. The Reservoir is located in the NE 1/4 NW 1/4, S 32, and the SE 1/4 SW 1/4, S29, T 9S, R77W, 6th P.M., Park County, Colorado. North Fork Associates owns 932 shares of a total of 3,700 shares in the Company (a 25.2% interest). The Reservoir has been constructed and is entitled to store water under the following decree:

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

The water may be used for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries. Other owners in the reservoir have transferred water rights to Lower Sacramento Creek Reservoir No. 1 in which Applicants have no interest. iii. Nickerson No. 2 Ditch: The Nickerson No. 2 Ditch, with a South Platte Priority No. 262 and North Fork Drainage Priority No. 24 has an appropriation date of May 1, 1872 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 0.65 of a cubic-foot-per-second. The headgate is located on the North bank of Deer Creek at a point whence the E 1/4 Corner, S 9, T7S, R 72 West of the 6th P.M., bears North 58°15' East, 2320 feet and has historically irrigated approximately 35 acres adjacent to Deer Creek in the SE 1/4 S 9, NW 1/4 S 15, and NE 1/4 S 16, T 7 South, R 72 West of the 6th P.M. all in Park County. iv. Parmalee No. 1 Ditch: The Parmalee No. 1 Ditch, with a South Platte Priority No. 251 and North Fork Drainage Priority No. 14 has an appropriation date of May 1, 1867 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 0.52 of a cubic-foot-per-second. In that decree the headgate was located on the North bank of Deer Creek at a point whence the S 1/4 Corner of S 32, T6S, R72W of the 6<sup>th</sup> P.M., bears South 70° 6' East, 1,210 feet. Water Division No. 1 District Court Case No. W-7434 changed the location of the headgate to the Nickerson No. 2 Ditch, as shown above. v. Carruthers No. 2 Ditch: The Carruthers No. 2 Ditch, with a South Platte Priority No. 250 and North Fork Drainage Priority No. 13 has an appropriation date of May 1, 1867 as adjudicated by the District Court for Park County on May 22, 1913 in the amount of 0.52 of a cubic-foot-per-second. In that decree the headgate was located on the North bank of Deer Creek at a point whence the S 1/4 Corner between S 31 and 32, T 6 South, R 72 West of the 6<sup>th</sup> P.M., bears North 85° 30' East, 1398 feet. Water Division No. 1 District Court Case No. W-7434 changed the location of the headgate for 0.28 of a cubic-foot-per-second to the Nickerson No. 2 Ditch, as shown above. This 0.28 of a cubic-foot-per-second is included in this contract. vi. Slaght Ditch: In accordance with the Decree entered in Civil Action No. 1678 of Park County District Court, on May 22, 1913, the Slaght Ditch was awarded a direct flow priority of May 1, 1863, for 2.0 cubic feet per second for irrigation purposes. The source of water is the North Fork of the South Platte River. The point of diversion for the Slaght Ditch was originally established to be a point on the North bank of the North Fork of the South Platte River in the NE 1/4 SE 1/4, of S 21, T7S, R 73 W, 6<sup>th</sup> P.M., approximately 2,060 feet North and 490 feet West of the SE Corner of S 21. Pursuant to a decree entered by the District Court for Water Division 1 in Case No. 82CW472, on October 3, 1983, the Maddox Reservoir Feeder Ditch was approved as an alternate point of diversion for the Slaght Ditch water right. The point of diversion of the Maddox Reservoir Feeder Ditch is located on the North bank of the North Fork of the South Platte River in the NW 1/4 SW 1/4, S 22, T 7 S, R73 W, 6<sup>th</sup> P.M., approximately 1,240 feet East and 1,740 feet North of the SW Corner of S 22. In Case No. 79CW339, 0.12 of a cubic foot per second of the Slaght Ditch water right was changed to augmentation, replacement and storage purposes. In Case No. 81CW253, the point of diversion for 0.008 of a cubic foot per second of the Slaght Ditch priority was changed to a new location, with the water continuing to be used for irrigation purposes. Of the remaining 1.872 cubic feet per second, 0.481 of a cubic foot per second was transferred by MMRC in Case No. 2003CW238 and 0.727 was transferred in Case No. 2016CW3197. vi. Mack Ditch No. 2: In accordance with the Decree entered in Civil Action No. 1678 of the Park County District Court, on May 22, 1913, the Mack Ditch No. 2 as awarded a direct flow priority of May 1, 1863, for 1.0 cubic foot per second for irrigation purposes. The source of water is the North Fork of the South Platte River. The point of diversion of the Mack Ditch No. 2 was originally established to be on the South bank of the North Fork of the South Platte River at a point in the N E1/4 SE 1/4, S 21, T7S, R 73 W, 6<sup>th</sup> P.M., Park County, Colorado whence the E 1/4 Corner of said S 21 bears North 43 degrees East, a distance of 984 feet more or less. By an Order of the Park County District Court entered on October 17, 1927, the point of diversion was moved approximately 789 feet upstream to a point on the

South bank of the North Fork of the South Platte River in the NE 1/4 SE 1/4, S 21, T7S, R 73 West, 6<sup>th</sup> P.M., whence the E 1/4 Corner of said S 21 bears North 79 degrees 30 seconds East, a distance of 1,292 feet, more or less. In Case Nos. W-7503, W7548, 80CW080, 80CW455, 81CW143, 81CW298, and 89CW081, at total of 0.1191 of a cubic foot per second of Mack Ditch No. 2 water right was transferred out of the ditch for uses other than irrigation. Of the remaining 0.8809 of a cubic foot per second, 0.44045 of a cubic foot per second was transferred by MMRC in Case No. 2003CW238. b. Firm Yield of Nickerson Ditch Rights: The Nickerson No 2, Parmalee No. 1, and Carruthers No. 2 Ditches are referred to herein as the “Nickerson Ditch Rights.” The Decree issued in Case No. 2000CW174, dated October 11, 2002, quantified the historic consumptive use associated with the Nickerson Ditch Rights. The terms and conditions under which the Nickerson Ditch Rights are used for augmentation, replacement, exchange and storage purposes were also defined and approved in Case No. 2000CW174, as follows: i. The Nickerson Ditch Rights may be left in the stream system to offset depletions from water use by MMRC shareholders. The water may also be stored in the Lower Sacramento Creek Reservoir No. 1, Maddox Reservoir and other MMRC reservoirs within the South Platte River Basin located above South Platte, Colorado; provided, however, that the details of storage in another reservoir are published in the Water Resume, or such storage is approved by the State Engineer pursuant to Paragraphs 37-80-120 and 37-92-308, 10 C.R.S. (2002). ii. The maximum rate of diversion under the Nickerson Ditch Rights is 0.8 of a cubic foot per second. Diversions are limited to the May 1, 1867 priorities decreed to the Parmalee Ditch No. 1 and the Carruthers Ditch No. 2. iii. Diversions to storage and/or assignment for in-stream augmentation credit are limited to the period April 23 through October 31 of each year and are further limited to those times when water is physically and legally available for diversion at the historic Nickerson Ditch No. 2 headgate on Deer Creek. If the May 1, 1867, priority is not fully satisfied to the extent of 0.8 of a cubic foot per second, the diversion rate is reduced to the flow, which is then physically and legally available. iv. Maximum monthly diversions under the Nickerson Ditch Rights are limited as follows: April, 2.0-acre feet; May, 16.0 acre feet; June, 19.0 acre feet; July, 16.0 acre feet; August, 10.0 acre feet; September, 7.0 acre feet; and October, 4.0 acre feet. Maximum annual diversions are limited to 62 acre-feet per year. During any consecutive ten-year period, total diversions are further limited to 486 acre-feet. c. Firm Yield of Slaght Ditch Rights: The Slaght Ditch and Mack Ditch No. 2 water rights described herein shall hereinafter be referred to collectively as “Slaght Ditch Rights.” Allocation of yield to Slaght Ditch Rights is attached as Exhibit C. The Decree issued in Case No. 2003CW238, dated October 24, 2006, quantified the historic consumptive use associated with the Slaght Ditch Rights. The terms and conditions under which these water rights are used for augmentation, replacement, exchange and storage purposes were also defined and approved in Case No. 2003CW238, as follows: i. The Slaght Ditch Rights may be left in the stream system to offset depletions from water use by MMRC shareholders. The water may also be stored in the Lower Sacramento Creek Reservoir No. 1 or the Maddox Reservoir. ii. The maximum rate of diversion under the Slaght Ditch Rights is 0.5 of a cubic foot per second. iii. Diversions to storage and/or assignment for in-stream augmentation credit are limited to the period May 1 through October 31 of each year, and are further limited to those times when water is physically and legally available for diversion at the historic Slaght Ditch headgates on the North Fork of the South Platte River. If the May 1, 1867, priority is not fully satisfied to the extent of 2.0 cubic foot per second for the Slaght Ditch and 1.0 cubic foot per second for the Mack Ditch No. 2, MMRC’s diversions are limited to its prorated entitlement to the water when physically and legally available. iv. Maximum annual diversions of the portion of the Slaght Ditch Rights changed in 2003CW238 are limited to 41 acre-feet per year. During any consecutive ten-year period, the total diversions are further limited to 342 acre feet. v. Pursuant to the Decree issued in Case No. 2016CW3197, the historic consumptive use associated with an additional 0.727 cfs of the Slaght Ditch water right yields 31.8 acre-feet of consumptive use water. 4. Statement of Plan for Augmentation: Elk Creek Estates is the owner of a 105 acre parcel of property located in parts of the NW 1/4, the SW 1/4, and the SE 1/4 of S 5, and parts of the NE 1/4 and the SE 1/4 of S 6, T7S, R 71 W, 6<sup>th</sup> P.M., Jefferson County. Elk Creek Estates proposes to subdivide the property into twenty-two (22) residential lots. Elk Creek Estates Well Nos. 1-10 will be augmented pursuant to the plan for augmentation previously decreed in Case No. 17CW3124, Water Division 1, dated March 8, 2018. That decree also adjudicated a water right for the Elk Creek Estates Pond

to be located on the property and shown on Exhibit A. This augmentation plan will replace out-of-priority depletions associated with twelve additional wells, Elk Creek Estates Well Nos. 11-22, for in-house domestic uses only. a. The water requirements for Elk Creek Estates Well Nos. 11-22 are for in-house use with an average occupancy of 3.5 persons per house. The estimated water requirements for each well is 80 gallons per capita per day (gpcd) for in-house uses, with 10% consumption based on subsurface discharge from an individual septic tank-soil absorption system. The in-house allowance is well above the actual uses because of a change in the demographics and low flow water systems. This plan will require 0.384 of an acre-foot of replacement water as is shown in Table 1.

Table 1							
Use	Water Requirements	Units	Quantity AF	CU Rate	Replacement Requirements		
					Total Ac-Ft	Summer Ac-Ft	Winter Ac-Ft
In-house	80 gl/cap/dy(3.5 cap)	12	3.768	10%	0.3768	0.1884	0.1884
Tran. Chg	0.13%/Mi	14	0.007	100%	0.0068	0.0034	0.0034
Total			3.3		0.384	0.192	0.192

The monthly depletions are as follows in acre-feet:

Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.32

b. The total consumptive use water requirement will be met with 0.384 of an acre foot of the annual yield from the Slaght Ditch Rights as described above and 0.192 of an acre-feet of space in Maddox Reservoir. (See Exhibits “C” and “B” respectively) The calculated requirements of the direct flow water rights from May through October are a total of 0.188 of an acre-foot at the point of depletion on an unnamed stream in the NW 1/4 SE 1/4, S 5, T7S, R 71 W of the 6<sup>th</sup> P.M. The point of delivery of this water will be the confluence of Elk Creek and the North Fork of the South Platte River in the NE 1/4 SE 1/4, S 27, T7S, R 71 W of the 6<sup>th</sup> P.M. The distance from the headgate of the Slaght Ditch on the North Fork of the South Platte River to its confluence with the Elk Creek is 14 miles. At 0.13% per mile the stream loss from the headgate of the Slaght Ditch to the point of delivery is 1.8%, (0.0035 AF). During the non-irrigation season during the months of November through April, and at times when the Slaght Ditch Rights are not in priority, replacement will be made by release from Maddox Reservoir. The distance from the outlet of the Maddox Reservoir to the same point of depletion is 14 miles. With the same rate of loss, the transportation loss from November through April is 1.8%, (0.0035 AF). The total requirement at the points of exchange at the confluence of Elk Creek and the North Fork of the South Platte River is 0.377 of an acre-foot. MMRC also seeks the right to use the Nickerson Ditch Rights and/or Lower Sacramento Creek Reservoir as an alternate supply to make replacements pursuant to this augmentation plan. c. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions may be aggregated and replaced by one or more releases of short duration. 5. Water Exchange Reach: Since the points of depletion associated with the augmented structures are upstream of the augmentation supplies, Applicants assert an exchange project right including a right of substitution and exchange pursuant to Ss 37-80-120, 37-92-103(9), 37-92-302(1)(a), and 37-92-305(5), C.R.S. The reach of the substitution and exchange shall extend from the confluence of Elk Creek and the North Fork of the South Platte River in the NE 1/4 SE 1/4, S 27, T7S, R 71 W, thence up Elk Creek to its confluence with an unnamed creek in the NW 1/4 SE 1/4, S 5, T7S, R 71 W, thence up the unnamed creek to the point of depletion in the NE 1/4 SW 1/4, S 5, T7S, R 71 W all in the 6<sup>th</sup> P.M. In the event that there is an intervening senior water right that

precludes operation of the substitution and exchange, the Applicants can make releases from Elk Creek Estates Pond as an alternate replacement supply, have replacement water delivered by truck to the point of depletions, or have an on-site container from which replacement water may be released. The exchange project right will operate to replace depletions to the flow of water in the stream system as the depletions occur. The water exchange project right will be operated and administered with a priority date of September 30, 2020, at a maximum flow rate of 0.002 of a cubic foot per second. WHEREFORE, Applicants request the entry of a decree approving this Application, specifically (1) granting the appropriations sought in this Application, (2) authorizing use of the augmentation supplies described in this Application, (3) determining that the source and location of delivery of augmentation water are sufficient to prevent material injury to vested water rights. The Applicants also request entry of an Order directing the State Engineer to issue well permits for the construction and use of Elk Creek Estates Well Nos. 11-22. (11 pgs., 4 Exhibits)

**2020CW3145 ANGLING AQUATICS, LLC P.O. Box 3053, Denver, CO 80201** c/o Panorama Law Practice, LLC P.O. Box 4986, Boulder, CO 80306. **APPLICATION FOR CONDITIONAL WATER RIGHTS, CHANGE OF WATER RIGHT, APPROPRIATIVE RIGHT OF EXCHANGE, AND APPROVAL OF AUGMENTATION PLAN IN BOULDER AND GILPIN COUNTIES.** 1. Summary of application: With this application, Angling Aquatics seeks to re-confirm previously decreed water rights and seeks approval of an augmentation plan to replace depletions resulting from out-of-priority diversions of those water rights. Replacements will be made using water from the Farmers Reservoir and Irrigation Company Marshall Lake Division, and the Applicant accordingly seeks to change water rights associated with 10.25 shares of Marshall Lake stock in the Farmers Reservoir and Irrigation Company. Because the Marshall Lake water rights are downstream of the Applicant's out-of-priority depletions, the Applicant further seeks to adjudicate an appropriate right of exchange on South Boulder Creek to upstream storage locations. When the exchange is in priority, the Applicant will exchange its changed pro rata Marshall Division water to upstream storage locations for release in time with out-of-priority depletions. The City of Louisville previously changed FRICO Marshall Division water rights in Case No. 1992CW79 and completed a ditch-wide analysis for its claim. This Court decreed Louisville's change by decree dated March 31, 1995. Later, Eldorado Artesian Springs, Inc. changed another portion of FRICO Marshall Division water rights in Case No. 2002CW292, relying on Louisville's prior analysis. This Court decreed Eldorado Springs' change by decree dated July 17, 2013. Similarly, the Applicant here has relied on Louisville's ditch-wide analysis from Case No. 1992CW79 while investigating the historical consumptive use of its pro rata water rights subject to this application as well as the historical return flow obligation associated with its pro rata water rights and seeks a decree applying the same historical consumptive use and subject to the same return flow obligations. **Absolute and Conditional Water Rights 3.** The Flyfisher Group, an entity managed by the Applicant, received a conditional water right decree from this Court on December 10, 2013 in Case No. 2011CW297. On failure to timely file an application for findings of reasonable diligence and to make a portion of the water rights absolute, this Court cancelled the 2011CW297 water rights on January 2, 2020. The water rights, as described below, are referred to as the "297 Water Rights". The Applicant seeks to re-confirm the 297 Water Rights subject to the same operating terms and conditions previously decreed. The 297 Water Rights are for use on property ("Property") owned by Lincoln Hills Holding Company, LLC and Boulder River Ranch Holding Company, LLC. Applicant manages the Property and related water rights. 4. Absolute and Conditional Direct Flow A. Points of diversion i. Lake Pactolus Diversion: S 32, T 1 South, R 72 West of the 6th P.M. at a point represented by the following UTM Coordinates (NAD 83, Zone 13): 460141 E, 4418661 N. The Lake Pactolus Diversion is approximately depicted on Exhibit A. ii. Upper Diversion: A point in the SE1/4SW1/4 S32, T1S, R 72 W of the 6<sup>th</sup> P.M. with UTM Coordinates (NAD 83, Zone 13): 459322 E, 4418114 N. The Upper Diversion is approximately depicted on Exhibit A. B. Source: South Boulder Creek and its tributaries C. Date of appropriation: December 30, 2011 D. How appropriation was initiated: Planning, field work, engineering, and filing the application in Case No. 2011CW297. E. Date applied to beneficial use: June 2015 F. Amount: 12 cfs, ABSOLUTE through the Lake Pactolus Diversion 12 cfs, CONDITIONAL through the Upper Diversion The combined diversion rate is limited to 12 cfs through both points of diversion F. Uses:

piscatorial, stock watering, recreation, fish and wildlife, freshening flows, irrigation, mine reclamation, and commercial. G. Place of use: On the Property, which is generally located adjacent to South Boulder Creek in Ss 28, 32 and 33, S32, T1S, R 72 W of the 6<sup>th</sup> P.M. 5. Conditional Storage Right: A. Points of diversion i. Lake Pactolus Diversion: S 32, T 1 South, R 72 West of the 6<sup>th</sup> P.M. with UTM Coordinates (NAD 83, Zone 13): 460141 E, 4418661 N. The Lake Pactolus Diversion is approximately depicted on Exhibit A. ii. Upper Diversion: A point in the SE1/4 SW1/4 S 32, T 1 South, R 72 West of the 6<sup>th</sup> PM with UTM Coordinates (NAD 83, Zone 13): 459322 E, 4418114 N. The Upper Diversion is approximately depicted on Exhibit A. B. Source: South Boulder Creek and its tributaries C. Date of appropriation: December 30, 2011 D. How appropriation was initiated: Planning, field work, engineering, and filing the application in this matter. E. Date applied to beneficial use: n/a F. Amount: 25 acre-feet combined for the two storage structures CONDITIONAL to be filled and refilled once in priority at a rate of 12 cfs, cumulatively through the two diversion points. H. Uses: Storage for subsequent release for piscatorial, stock watering, recreation, fish and wildlife, freshening flows, irrigation, mine reclamation, commercial; and augmentation, replacement, and exchange uses associated with the foregoing uses on the Property. I. Places of Storage: i. Lake Pactolus, the approximate down-gradient boundary of which was decreed by this Court in Case No. W-979 to be located at a point whence the East quarter corner of S 32, T 1 South, R 72 West of the 6<sup>th</sup> P.M. bears 90° East 800 feet. ii. A lined off-channel reservoir to be constructed in the SE1/4SW1/4 and the SW1/4SE1/4 S 32, S32, T1S, R 72 W of the 6<sup>th</sup> P.M. **Change of Water Right** 6. Decreed water right for which change is sought: Water rights associated with 10.25 shares of stock in the Farmers Reservoir and Irrigation Company Marshall Division. The Marshall Division water rights are described below. 7. Name of structure: Community Ditch A. Original claim: i. Decree: December 19, 1900, Boulder County District Court, Case No. C.A.3944 ii. Point of diversion: On the south bank of South Boulder Creek in the NE1/4SE1/4 S 25, T 1 South, R 71 West of the 6<sup>th</sup> P.M. iii. Source: South Boulder Creek iv. Appropriation date: June 6, 1885 v. Amount: 83.3 cfs vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. B. Enlargement i. Decree: April 10, 1905, Boulder County District Court, Case No. C.A.4735 ii. Point of Diversion: The Community Ditch headgate on South Boulder Creek iii. Source: South Boulder Creek iv. Appropriation date: March 13, 1901 v. Amount: 45.6 cfs vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. C. Second Enlargement i. Decree: June 21, 1926, Boulder County District Court, Case No. C.A.6672 ii. Points of Diversion: a. On the south bank of South Boulder Creek in the NE1/4SE1/4 S 25, S32, T1S, R 72 W of the 6<sup>th</sup> P.M. b. From Coal Creek in the NW1/4NE1/4 S 26, S32, T1S, R 72 W of the 6<sup>th</sup> P.M. c. From Rock Creek in the SE1/4SW1/4 S 30, T 1 South, R 69 West of the 6<sup>th</sup> P.M. d. From Dowdy Draw in the SW1/4SW1/4 S 29, S32, T1S, R 72 W of the 6<sup>th</sup> P.M. iii. Sources: a. South Boulder Creek b. Coal Creek c. Rock Creek d. Dowdy Draw iv. Appropriation date: August 26, 1903 v. Amounts: a. South Boulder Creek: 319.1 cfs b. Coal Creek and Rock Creek: 319.1 cfs; 8,000 acre-feet c. Dowdy Draw: 227 cfs vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. 8. Name of structure: Marshall Lake Reservoir A. Location: S 22, T 1 S., R 70 W. of the 6<sup>th</sup> P.M. B. Original claim: i. Decree: December 19, 1900, Boulder County District Court, Case No. C.A.3944 ii. Point of diversion: The Community Ditch headgate on South Boulder Creek iii. Source: South Boulder Creek iv. Appropriation date: June 6, 1885 v. Amount: 83.3 cfs, 1,349.14 acre-feet vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. C. Fill Rate Enlargement i. Decree: April 10, 1905, Boulder County District Court, Case No. C.A.4735 ii. Point of Diversion: The Community Ditch headgate on South Boulder Creek iii. Source: South Boulder Creek iv. Appropriation date: March 13, 1901 v. Amount: 45.6 cfs vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. D. First Lake Enlargement i. Decree: June 21, 1926, Boulder County District Court, Case No. C.A.6672 ii. Point of Diversion: Community Ditch headgate on South Boulder Creek iii. Source: South Boulder Creek iv. Appropriation date: March 4, 1902 v. Amount: 440 cfs, 7,901.74 acre-feet vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. E. Second Lake



Enlargement i. Decree: June 21, 1926, Boulder County District Court, Case No. C.A.6672 ii. Point of Diversion: Community Ditch headgate on South Boulder Creek iii. Source: South Boulder Creek iv. Appropriation date: September 20, 1921 v. Amount: 1,545.01 acre-feet vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. F. Dowdy Draw Claim i. Decree: June 21, 1926, Boulder County District Court, Case No. C.A.6672 ii. Point of Diversion: The interS of the Community Ditch with Dowdy Draw, described in paragraph 7.C.ii.d., above iii. Source: Dowdy Draw iv. Appropriation date: March 4, 1902 v. Amount: 448 cfs, 10,000.07 acre-feet vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. G. Refill Right i. Decree: September 28, 1953, Boulder County District Court, Case No. C.A.12111 ii. Points of Diversion: a. Community Ditch headgate on South Boulder Creek b. The interS of Community Ditch with Dowdy Draw iii. Sources: a. South Boulder Creek b. Dowdy Draw iv. Appropriation date: December 31, 1929 v. Amount: 9,053.14 acre-feet vi. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. 9. Name of structure: West Lake Reservoir A. Location: NW1/4 S 29, T. 1 South, R. 68 W. of the 6<sup>th</sup> P.M. B. Decree: i. Original Decree: December 19, 1900, Boulder County District Court, Case No. C.A.3944 ii. Change Decree: District Court, Water Division No. 1, Case W-8287-76 (transferred water right to Marshall Lake) A. Point of Diversion: Community Ditch headgate on South Boulder Creek B. Source: South Boulder Creek C. Appropriation date: March 4, 1902 D. Amount: 699.08 acre-feet E. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. 10. Name of structure: S 19 Reservoir A. Location: NW1/4 S 19, T 1 S, R 68 W of the 6<sup>th</sup> P.M. B. Decree: i. Original Decree: December 19, 1900, Boulder County District Court, Case No. C.A.3944 ii. Change Decree: District Court, Water Division No. 1, Case No. 1988CW330 (transferred water right to Marshall Lake) A. Point of Diversion: Community Ditch headgate on South Boulder Creek B. Source: South Boulder Creek C. Appropriation date: May 1, 1888 D. Amount: 80.8 acre-feet E. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. 11. Name of structure: McKay Lake A. Location: Portions of Ss 20 and 21, T 1 S, R 68 W of the 6<sup>th</sup> P.M. B. Decree: Original Decree: April 10, 1905, Boulder County District Court, Case No. C.A.4735 C. Point of Diversion: Community Ditch headgate on South Boulder Creek D. Source: South Boulder Creek E. Appropriation dates: i. February 26, 1900 ii. March 13, 1901 F. Amount: 956.81 acre-feet G. Rates: i. 83.3 cfs ii. 45.6 cfs H. Use: Irrigation of lands below Marshall Lake Reservoir and its distribution facilities, including the Community Ditch and other ditches and laterals. 12. Amount applicant is changing: Pro rata rights associated with ownership of 10.25 shares of company stock. 13. Description of proposed change: Applicant will use the changed water rights as a replacement source in the augmentation plan described below, for storage, and piscatorial, stock watering, recreation, fish and wildlife, freshening flows, irrigation, mine reclamation, commercial uses. To facilitate operation of its augmentation plan, the Applicant also proposes to change the place of storage of its pro rata Marshall Division water rights to include storage in the Valmont Reservoir Complex, downstream on South Boulder Creek, and, by exchange, in Gross Reservoir, upstream on South Boulder Creek, in addition to the historical places of storage described above. To the extent that the water rights represented by the subject Marshall Shares are not needed or committed in any year to replace depletions or return flow obligations under the plan for augmentation described below, they may continue to be used for agricultural irrigation under the Marshall Lake system as originally decreed. **Right of Exchange** 14. Name: Lincoln Hills Exchange 15. Location: A. Downstream termini/exchange from locations: i. Community Ditch headgate on South Boulder Creek ii. Valmont Outfall: Approximately located in S 27, T 1 North, R 70 West of the 6<sup>th</sup> P.M. iii. Gross Reservoir: Approximately located in Ss 19, 20, 21, and 30, T 1 South, R 71 West of the 6<sup>th</sup> P.M. B. Upstream termini/exchange to locations: i. Gross Reservoir ii. Lake Pactolus Diversion, described above, for storage in Lake Pactolus iii. Upper Diversion, described above, for storage on the Property 16. Appropriation date: September 30, 2020 17. Amount: A. Exchange Rate: 5.0 cfs B. Volume: 74 acre-feet **Plan for Augmentation** 18. Water rights to be augmented: 297 Water Rights, described above 19. Water rights to be used for augmentation: Water rights associated with ownership of 10.25 shares of stock in the

Farmers Reservoir and Irrigation Company Marshall Division, described above 20. Statement of plan for augmentation: A. Depletions: Applicant will calculate the out-of-priority depletions resulting from out-of-priority diversions of the 297 Water Rights. The channels through which the 297 Water Rights are diverted and carried through the property, including Lake Pactolus, are the result of historical sand and gravel mining operations prior to 1981. Aerial photography indicates that there has been some increase in the surface area of groundwater exposed by the historical sand and gravel mining. This surface area further increases with diversions of the 297 Water Rights, and the Applicant will replace out-of-priority evaporative losses from the water surface in excess of the pre-1981 exposed ground water together with other consumptive uses from out-of-priority diversions of the 297 Water Rights. Total out-of-priority depletions for the Property, including out-of-priority depletions resulting from the exposed water surface area, is 3.59 acre-feet annually. B. Replacement of out-of-priority depletions: Applicant may use the historical consumptive use component of its changed pro rata Marshall Division water rights in any of the following methods: i. When the Community Ditch is diverting water from South Boulder Creek in accordance with any of the priorities described above, the Applicant may divert water back into South Boulder Creek at an augmentation station near the Community Ditch headgate for exchange to the upstream exchange termini for later release in amounts and at times required to replace Applicant's out-of-priority depletions; ii. The Applicant may store any or all of its changed pro rata Marshall Division water rights in the Valmont Reservoir Complex by diversion from South Boulder Creek through the Valmont Reservoir Complex's points of diversion. Any such changed amounts will be made in coordination with and deducted from the Farmers Reservoir and Irrigation Company's diversions on the Marshall Division water rights described above, using the Community Ditch augmentation station as necessary. The Applicant's changed pro rata Marshall Division water rights stored in the Valmont Reservoir Complex may be later released at the Valmont Outfall for exchange to the upstream exchange termini for later release in amounts and at times required to replace Applicant's out-of-priority depletions. iii. The Applicant may release water stored in priority under the 297 Water rights in amounts and at times required to replace Applicant's out-of-priority depletions. C. Maintenance of return flows. The Applicant recognizes the obligation to maintain historical return flows associated with its changed pro rata Marshall Division water rights. The Applicant will release the portion of its changed pro rata Marshall Division water rights attributable to historical return flows from storage in one of the Marshall Division reservoirs to maintain historical return flow patterns. The Applicant will not be obligated to maintain return flows then the downstream calling water right is junior to September 30, 2020. 21. This Application includes claims to use structures in which the Applicant does not have an ownership interest. To the extent the Applicant does not have ownership or other rights of use for structures named in this Application, the Applicant acknowledges it may utilize existing water diversion and carriage structures only to the extent that it has acquired the right to use such structures from the appropriate parties or by other lawful means. 22. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. Boulder River Ranch Holding Company, LLC P.O. Box 3053 Denver, Colorado, 80201 Lincoln Hills Holding Company, LLC P.O. Box 3053 Denver, Colorado 80201 The Farmers Reservoir and Irrigation Company 80 S. 27<sup>th</sup> Avenue Brighton, Colorado 80601 The City and County of Denver Board of Water Commissioners 1600 W. 12<sup>th</sup> Avenue Denver, Colorado 80204 Public Service Company of Colorado 1800 Larimer Street, Suite 1100 Denver, Colorado 80202 13 pp.

**20CW3146 ARAPAHOE COUNTY WATER AND WASTEWATER AUTHORITY ("ACWWA"), c/o Steve Witter, 13031 East Caley Avenue, Centennial, Colorado 80111, Telephone: (303) 790-4830; United Water and Sanitation District ("United"), c/o Robert Lembke, 8301 E. Prentice Ave., Suite 100, Greenwood Village, Colorado 80111, Telephone: (303) 773-1005.** All correspondence and communications should be addressed to: Brian M. Nazareus, Esq., Sheela S. Stack, Esq., William D. Wombacher, Esq., Stacy L. Brownhill, Esq., NAZAREUS STACK & WOMBACHER, LLC, 8301 E. Prentice Avenue, Suite 110, Greenwood Village, Colorado 80111, Telephone: (720) 647-5661, (Attorneys for ACWWA); Tod J. Smith, Esq., THE LAW OFFICE OF TOD J. SMITH, 5777 Central Ave., Suite 228, Boulder,

Colorado 80301, Telephone: (303) 444-4203, (Attorney for United). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE AMOUNTS ABSOLUTE** in **ADAMS, ARAPAHOE, DENVER, DOUGLAS, ELBERT, LARIMER, MORGAN, AND WELD COUNTIES.**

**2. Original Decree.** The original decree was entered by the Water Court, Water Division 1, on September 18, 2014, in Case No 09CW283. **3. Conditional Appropriative Rights of Exchange: South Platte River and St. Vrain Creek Exchange Reaches.** 3.1. Exchange-From Points. The exchange-from points are the locations identified as the delivery locations to the South Platte River described for each location and/or structure listed below. The approximate locations of the exchange-from points and related structures are shown on **Exhibit 1**. 3.1.1. Downstream End Point of South Platte River Reach 5 (“SPR Reach 5”) – Confluence of Beaver Creek and the South Platte River. Located in the NW1/4 of the SW1/4 of S 4, T 4 N, R 55 W of the 6th P.M., Morgan County, Colorado. ACWWA does not seek to exchange water up Beaver Creek. For purposes of this exchange, the confluence of Beaver Creek and the South Platte River is also the downstream end point of SPR Reach 5. SPR Reach 5 was decreed at paragraph 19.1.8 of the decree entered in Case No. 10CW306 (“306 Decree”) as an administrative reach of the South Platte River for ACWWA’s augmentation plans approved in the 306 Decree. SPR Reach 5 is located below the Bijou Canal headgate to the confluence of Beaver Creek and the South Platte River. The Bijou Canal headgate is located on the south bank of the South Platte River, in the NE1/4 of the NE1/4 of S 13, T4N, R63W of the 6th P.M., Morgan County, Colorado, at a point approximately 95 feet west of the east S line and 604 feet south of the north S line of said S 13. 3.1.2. Fort Morgan Canal – Teague Return Pipeline. United has an easement to use an existing pipeline extending from a parcel located approximately ten miles south of the Fort Morgan Canal that crosses underneath the Canal in the NE1/4 of the SW1/4 of S 13, T 3 North, R 57 West of the 6th P.M., Morgan County, Colorado, and discharges to the South Platte River, in the SW1/4 of the NW1/4 of S 30, T4N, R56W of the 6th P.M., Morgan County, Colorado. 3.1.3. Weldon Valley Ditch Augmentation Structures. ACWWA will use the following augmentation structures to deliver sources of substitute supplies from the Weldon Valley Ditch to the South Platte River: (1) an augmentation structure, referred to as the Weldon Valley Ditch Central/ACWWA Augmentation Station, located in the NE1/4 of the NW1/4 of S 3, T4N, R60W of the 6th P.M., Morgan County, Colorado, which delivers water to the South Platte River, in the W1/2 of the NE1/4 of S 3, T4N, R60W of the 6th P.M., Morgan County, Colorado; and (2) an augmentation structure, referred to as the Weldon Valley Ditch Tail, located in the NW1/4 of the SE1/4 of S 7, T4N, R58W of the 6th P.M., Morgan County, Colorado, which delivers water to the South Platte River, in the NE1/4 of the NW1/4 of S 18, T4N, R58W of the 6th P.M., Morgan County, Colorado. 3.1.4. ACWWA 70 Ranch Recharge Project Exchange Quantification Point. The ACWWA 70 Ranch Recharge Project was decreed at paragraphs 37-41 of the 306 Decree. The Quantification Point for recharge accretions from the ACWWA 70 Ranch Recharge Project is the farthest downstream point at which recharge accretions from the ACWWA 70 Ranch Recharge Project accrue to the South Platte River. The delivery location is the ACWWA 70 Ranch Recharge Project Quantification Point, which is located on the South Platte River at the west S line of S 23, T4N, R62W of the 6th P.M., Weld County, Colorado, as the S line intersects with the South Platte River. 3.1.5. Downstream End Point of South Platte River Reach 4 (“SPR Reach 4”) – Bijou Canal Headgate. SPR Reach 4 was decreed at paragraph 19.1.7 of the 306 Decree as an administrative reach of the South Platte River for ACWWA’s augmentation plans approved in the 306 Decree. SPR Reach 4 is located from the Empire Inlet Canal headgate, which is located in the SW1/4 of the SW1/4 of S 19, T5N, R63W of the 6th P.M., Weld County, Colorado, to the Bijou Canal headgate, located on the south bank of the South Platte River, in the NE1/4 of the NE1/4 of S 13, T4N, R63W of the 6th P.M., Morgan County, Colorado, at a point approximately 95 feet west of the east S line and 604 feet south of the north S line of said S. 3.1.6. Confluence of Crow Creek and the South Platte River. Located in SE1/4 of the NE1/4 of S 24, T5N, R64W of the 6th P.M., Weld County, Colorado. Prior to delivery to the confluence of Crow Creek and the South Platte River for exchange, ACWWA intends to divert certain sources of substitute supply at the headgate for the Greeley No. 2 Canal, located in the SE1/4 of the NE1/4 of S 11, T 6 North, R 68 West of the 6th P.M., Larimer County, Colorado, and deliver the substitute supplies from said Canal to Crow Creek, in the NW1/4 of the SW1/4 of S 25, T6N, R64W of the 6th P.M., Weld County, Colorado, where the substitute supplies will be conveyed to the confluence with the South Platte

River. 3.1.7. Confluence of Lone Tree Creek and the South Platte River. Located in the SE1/4 of the SE1/4 of S 6, T5N, R64W of the 6th P.M., Weld County, Colorado. Prior to delivery to the confluence of Lone Tree Creek and the South Platte River for exchange, ACWWA intends to divert certain sources of substitute supply from the Cache la Poudre River at the headgate for the Greeley No. 2 Canal, described in paragraph 3.1.6, above, and deliver the substitute supplies from said Canal to Lone Tree Creek in the NE1/4 of the NW1/4 of S 15, T6N, R65W of the 6th P.M., Weld County, Colorado, where substitute supplies will be conveyed to the confluence with the South Platte River. 3.1.8. Confluence of the Cache la Poudre River and the South Platte River. Located in the SW1/4 of the SW1/4 (Lot 4) of S 6, T5N, R64W of the 6th P.M., Weld County, Colorado, the centroid being 590 feet from the west S line and 4760 feet from the north S line. ACWWA will deliver its sources of substitute supply to the confluence of the Cache la Poudre and South Platte Rivers by: (1) conveying certain sources of substitute supply down the Cache la Poudre River to its confluence with the South Platte River; and/or (2) delivering certain sources of substitute supply to the confluence of Sand Creek and the Cache la Poudre River, which is located in the NW1/4 of the NW1/4 of S 11, T5N, R65W of the 6th P.M., Weld County, Colorado, immediately above the confluence of the Cache la Poudre and South Platte Rivers. 3.1.9. Downstream End Point of South Platte River Reach 3 (“SPR Reach 3”) – Empire Inlet Canal Headgate. SPR Reach 3 was decreed at paragraph 19.1.6 of the 306 Decree as an administrative reach of the South Platte River for ACWWA’s augmentation plans approved in the 306 Decree. SPR Reach 3 is located from the Lower Latham Ditch headgate, which is located in the NW1/4 of the NE1/4 of S 31, T5N, R65W of the 6th P.M., Weld County, Colorado, to the Empire Inlet Canal headgate, described in paragraph 3.1.5, above. For purposes of this exchange, the exchange-from point for SPR Reach 3 is a point at the downstream end of SPR Reach 3, located immediately upstream of the Empire Inlet Canal headgate. 3.1.10. Downstream End Point of South Platte River Reach 2 (“SPR Reach 2”) – Lower Latham Headgate. SPR Reach 2 was decreed at paragraph 19.1.5 of the 306 Decree as an administrative reach of the South Platte River for ACWWA’s augmentation plans approved in the 306 Decree. SPR Reach 2 is located from the Western Mutual Ditch headgate, located in the SE1/4 of the SW1/4 of S 11, T3N, R6W of the 6th P.M., Weld County, Colorado, to the Lower Latham Ditch headgate described in paragraph 3.1.9, above. For purposes of this exchange, the exchange-from point for SPR Reach 2 is a point at the downstream end of SPR Reach 2, located immediately upstream of the Lower Latham Ditch headgate. 3.1.11. Western Mutual Ditch Augmentation Structures. ACWWA may use the following augmentation structures to deliver certain sources of substitute supply from the Western Mutual Ditch to the South Platte River: (1) an existing measuring device/augmentation structure located at the tail end of the Western Mutual Ditch, which discharges to the Union Ditch in the SW1/4 of the NE1/4 of S5, T4N, R65W of the 6th P.M., Weld County, Colorado. Such water delivered to the Union Ditch can be delivered to the South Platte River, in the SE1/4 of the NE1/4 of S 29, T5N, R65W of the 6th P.M., Weld County, Colorado. 3.1.12. Farmers Independent Ditch Augmentation Structures. An existing augmentation structure, referred to as the Farmers Independent Ditch Tail, located in the SE1/4 of the NE1/4 (Lot 1) of S 1, T4N, R66W of the 6th P.M., Weld County, Colorado, which delivers certain sources of substitute supply from the Farmers Independent Ditch to the South Platte River, in the NE1/4 of the NW1/4 of S 31, T5N, R65W of the 6th P.M., Weld County, Colorado. 3.1.13. Milliken Reservoir (f/k/a Gilcrest Reservoir). Milliken Reservoir is an off-channel reservoir located within parts of S 2, T3N, R67W and Ss 23, 26, 34, and 35, T4N, R67W, all of the 6th P.M., Weld County, Colorado. Certain sources of substitute supply stored by ACWWA in Milliken Reservoir will be delivered from Milliken Reservoir to the South Platte River at the following locations: (1) SE1/4 of the NW1/4 of S 2, T3N, R67W of the 6th P.M., Weld County, Colorado; (2) SE1/4 of the NE1/4 of S 26, T4N, R67W of the 6th P.M., Weld County, Colorado; and (3) NW1/4 of the NW1/4 of S 35, T4N, R67W of the 6th P.M., Weld County, Colorado. 3.1.14. Confluence of St. Vrain Creek and the South Platte River. Located in the SW1/4 of the NE1/4 of S 34, T4N, R67W of the 6th P.M., Weld County, Colorado. From this point, water will be exchanged up St. Vrain Creek to the St. Vrain Pipeline Diversion as described in paragraph 3.1.15, below. 3.1.15. St. Vrain Pipeline (a/k/a United Diversion Facility No. 5). The St. Vrain Pipeline diversion point is located 500 feet west and 200 feet north of the SE corner of S 20, T3N, R67W of the 6th P.M., Weld County, Colorado. The St. Vrain Pipeline will discharge certain sources of substitute supply to the South Platte River at one of the following locations, all

located above the Farmers Independent Ditch headgate, located in the SW1/4 of the SW1/4 of S 19, T3N, R66W of the 6th P.M., Weld County, Colorado: (1) at a point to be located upstream of the Highway 66 bridge as it crosses the South Platte River, which delivers water to the South Platte River, in the SW1/4 of the SW1/4 of S 19, T3N, R66W of the 6th P.M., Weld County, Colorado; and (2) at a point to be located upstream of the Highway 66 bridge as it crosses the South Platte River, which delivers water to the South Platte River, in the SE1/4 of the SE1/4 of S 24, T3N, R67W, or the SE1/2 of S 25, T3N, R67W of the 6th P.M., Weld County, Colorado. 3.1.16. Downstream End Point of South Platte River Reach 1 (“SPR Reach 1”) – Western Mutual Ditch Headgate. SPR Reach 1 was decreed at paragraph 19.1.4 of the 306 Decree as an administrative reach of the South Platte River for ACWWA’s augmentation plans approved in the 306 Decree. SPR Reach 1 is located above the Western Mutual Ditch headgate. For purposes of this exchange, the exchange-from point for SPR Reach 1 is a point at the downstream end of SPR Reach 1, located immediately upstream of the Western Mutual Ditch headgate, which is located in the SE1/4 of the SW1/4 of S 11, T3N, R67W of the 6th P.M., Weld County, Colorado. 3.1.17. Fulton Irrigating Ditch Augmentation Structures. ACWWA will use the following augmentation structures to deliver certain sources of substitute supply from the Fulton Irrigating Ditch to the South Platte River: (1) an existing augmentation structure, referred to as the Fulton Irrigating Ditch Augmentation Structure (upstream), located in the SW1/4 of the NW1/4 of S 8, T1N, R66W of the 6th P.M., Weld County, Colorado, which delivers water to the South Platte River, in the SE1/4 of the NW1/4 of S 7, T1N, R66W of the 6th P.M., Adams County, Colorado; and (2) an augmentation structure, referred to as the Fulton Irrigating Ditch CCWCD Lower Augmentation Station, to be constructed in S 3 of the Fulton Ditch, in the NE1/4 of the SE1/4 of S 28, T2N, R66W of the 6th P.M., Weld County, Colorado, which delivers water to the South Platte River, in the NW1/4 of the NE1/4 of S 30, T2N, R66W of the 6th P.M., Weld County, Colorado. 3.1.18. United Reservoir No. 3. United Reservoir No. 3 is an off-channel reservoir located in the E1/2 of S 26, T1S, R67W of the 6th P.M., Adams County, Colorado. Certain sources of substitute supply stored by ACWWA in United Reservoir No. 3 will be delivered to the South Platte River at a point at or near the decreed point of diversion, United Diversion Facility No. 3, which is located on the east bank of the South Platte River, in the SW1/4 of S 26, T1S, R67W of the 6th P.M., Adams County, Colorado; more specifically, located 1,636 feet east of the west line and 1,531 feet north of the south line of said S 26. 3.2. Exchange-To Points (from downstream to upstream). The approximate locations of the exchange-to points and related structures are shown on **Exhibit 1**. 3.2.1. Fort Morgan Canal Headgate. Located on the south bank of the South Platte River, in the NE1/4 of the SE1/4 of S 31, T5N, R59W of the 6th P.M., Morgan County, Colorado. 3.2.1.1. Use of Water. The substitute supplies exchanged to the Fort Morgan Canal headgate will be used by ACWWA to satisfy its historical return flow obligations for changed water rights as described in Exhibit 3 and/or replacement obligations in SPR Reach 5 pursuant to the 306 Decree, if the substitute supplies are decreed for such uses. 3.2.2. United Diversion Facility No. 2 Point of Depletion on the South Platte River. United Diversion Facility No. 2 is comprised of Wells Nos. 1, 3, and 4, as described in paragraph 27.1 of the 306 Decree. The point of depletion on the South Platte River for United Diversion Facility No. 2 is located in the reach from the Empire Inlet Canal headgate downstream to the Bijou Canal headgate (SPR Reach 4), pursuant to paragraph 34.1 of the 306 Decree. 3.2.2.1. Use of Water. The United Diversion Facility No. 2 point of depletion shall operate as an exchange-to point only in conjunction with the ACWWA 70 Ranch Augmentation Plan approved in the 306 Decree when ACWWA seeks to replace out-of-priority depletions from United Diversion Facility No. 2 with downstream augmentation sources, if the substitute supplies are decreed for such uses. 3.2.3. United Diversion Facility No. 1 Point of Diversion. The point of diversion from the South Platte River for United Diversion Facility No. 1 will be located at the existing headgate for the Riverside Intake Canal, on the north bank of the South Platte River, in the SW1/4 of the SW1/4 of S 20, T5N, R63W of the 6th P.M., Weld County, Colorado, if an agreement with the Riverside Irrigation District and Riverside Reservoir Company (“Riverside”) is obtained. Absent an agreement with Riverside, the headgate will be located on the north bank of the South Platte River, in the S1/2 of the SW1/4 of S 20, T5N, R63W of the 6th P.M., Weld County, Colorado, between the headgate of the Riverside Intake Canal and the west S line of S 20, T5N, R63W of the 6th P.M., at a location to be established within that reach, approximately 200 yards in extent. 3.2.3.1. Use of Water. Substitute supplies exchanged to the point of diversion for United

Diversion Facility No. 1 will be used by ACWWA to satisfy its replacement obligations in SPR Reaches 4 and 5, if the substitute supplies are decreed for such use; and/or will be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Recharge Project under the 306 Decree, if the substitute supplies are decreed for such use. 3.2.4. Milliken Reservoir (f/k/a Gilcrest Reservoir) Points of Diversion. The location of Milliken Reservoir is described in paragraph 3.1.13, above. A point of diversion for Milliken Reservoir is planned to be located adjacent to the Jay Thomas Ditch Diversion Dam, on the east bank of the South Platte River, in the NW1/4 of the NW1/4 of S 11, T3N, R67W of the 6th P.M., Weld County, Colorado. Substitute supplies will also be diverted into Milliken Reservoir through a proposed inlet/outlet structure which is designed to also operate as a northern intake to the Reservoir and will be located in the NE1/4 of the SW1/4 of S 26, T4N, R67W of the 6th P.M., Weld County, Colorado. 3.2.4.1. Use of Water. Substitute supplies exchanged to the points of diversion for Milliken Reservoir will be stored in the Reservoir and will subsequently: (a) be used by ACWWA to satisfy its replacement obligations in SPR Reaches 2, 3, 4, 5, and the Beebe Draw, if the substitute supplies are decreed for such uses; (b) be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Recharge Project under the 306 Decree, if the substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ACWWA's wells on 70 Ranch pursuant to the terms and conditions for the ACWWA 70 Ranch Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA 70 Ranch Augmentation Plan under the 306 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/East Cherry Creek Valley Water and Sanitation District ("ECCV") Well Field pursuant to the ACWWA Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA Augmentation Plan under the 306 Decree; and/or (e) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ACWWA Beebe Draw Recharge Project under the 306 Decree, if the substitute supplies are decreed for such uses. 3.2.5. St. Vrain Pipeline Diversion (United Diversion Facility No. 5). The St. Vrain Pipeline Diversion will be located on the east bank of St. Vrain Creek 500 feet west and 200 feet north of the SE corner of S 20, T3N, R67W of the 6th P.M., Weld County, Colorado. 3.2.5.1. Use of Water. Substitute supplies exchanged to the St. Vrain Pipeline Diversion and discharged to the South Platte River as described in paragraph 3.1.15, above, may be re-diverted by ACWWA to storage in Milliken Reservoir for the uses described in paragraph 3.2.4.1, above, and will: (a) be used by ACWWA to satisfy its replacement obligations in SPR Reaches 1, 2, 3, 4, 5, and the Beebe Draw, if the substitute supplies are decreed for such uses; (b) be delivered into recharge facilities at 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Recharge Project under the 306 Decree, if the substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ACWWA's wells on 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA 70 Ranch Augmentation Plan under the 306 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field pursuant to the ACWWA Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA Augmentation Plan under the 306 Decree; and/or (e) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ACWWA Beebe Draw Recharge Project under the 306 Decree, if the substitute supplies are decreed for such uses. 3.2.6. United Diversion Facility No. 3. The headgate of United Diversion Facility No. 3 is located on the east bank of the South Platte River, in the SW1/4 of S 26, T1S, R67W of the 6th P.M., Adams County, Colorado, located 1,636 feet east of the west line and 1,531 feet north of the south line of said S 26. Substitute supplies exchanged and diverted at United Diversion Facility No. 3 will be delivered to United Reservoir No. 3, the location of which is described in paragraph 10.18.1, above. 3.2.6.1. Use of Water. Substitute supplies exchanged to United Diversion Facility No. 3 will subsequently: (a) be used by ACWWA to satisfy its replacement obligations in SPR Reaches 1, 2, 3, 4, 5, and in the Beebe Draw, if the substitute supplies are decreed for such uses; (b) be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Recharge Project under the 306 Decree, if the substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ACWWA's wells on 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Augmentation Plan

under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA 70 Ranch Augmentation Plan under the 306 Decree; (d) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ACWWA Beebe Draw Recharge Project under the 306 Decree, if the substitute supplies are decreed for such use; (e) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field pursuant to the ACWWA Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA Augmentation Plan under the 306 Decree; (f) be stored in United Reservoir No. 3, described in paragraph 3.1.18, above; (g) be stored in Barr Lake; and/or (h) be delivered to ECCV's Water Treatment Plant in the Beebe Draw, if the substitute supplies are decreed for such uses. 3.2.7. Burlington Ditch. Pursuant to the decreed changed point of diversion in Case No. 02CW403, the headgate of the Burlington Ditch is on the east bank of the South Platte River, in the NE1/4 of the SW1/4 of S 14, T3S, R68W of the 6th P.M., City and County of Denver, Colorado. 3.2.7.1. Use of Water. Substitute supplies exchanged to the Burlington Ditch may be stored in Barr Lake, released to the Beebe Draw, and used to satisfy ACWWA's replacement obligations in the Beebe Draw. Substitute supplies exchanged to the Burlington Ditch will also be conveyed to United Reservoir No. 3 through the Beebe Pipeline for release to the South Platte River and will subsequently: (a) be used by ACWWA to satisfy its replacement obligations in SPR Reaches 1, 2, 3, 4, and 5, if the substitute supplies are decreed for such uses; (b) be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Recharge Project under the 306 Decree, if the substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ACWWA's wells on 70 Ranch pursuant to the terms and conditions of the ACWWA 70 Ranch Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA Augmentation Plan under the 306 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field pursuant to the ACWWA Augmentation Plan under the 306 Decree, if the substitute supplies are decreed for such use and are added to the ACWWA Augmentation Plan under the 306 Decree; (e) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ACWWA Beebe Draw Recharge Project under the 306 Decree, if such substitute supplies are decreed for such use; and/or (f) be stored in United Reservoir No. 3 described in paragraph 3.1.18, above, if the substitute supplies are decreed for such uses. 3.3. Amounts. The maximum exchange rates in cubic feet per second (cfs) for the appropriative rights of exchange are set forth in the Exchange Matrix attached as **Exhibit 2**. 3.4. Uses. Use of water diverted by exchange under the appropriative rights of exchange described herein, including but not limited to recharge accretions attributable to such diversions, shall be for use only by ACWWA as described in paragraphs 3.2.1.1, 3.2.2.1, 3.2.3.1, 3.2.4.1, 3.2.5.1, 3.2.6.1, and 3.2.7.1, above, and shall be further limited to uses decreed for each source of substitute supply. 3.5. Appropriation Dates. 3.5.1. February 24, 2013: for the appropriative right of exchange from the Teague Return Pipeline and the appropriative right of exchange to the Fort Morgan Canal headgate. 3.5.2. October 3, 2011: for the appropriative rights of exchange in excess of 225 cfs. 3.5.2. December 29, 2011: for all other appropriative rights of exchange claimed herein. 3.6. Sources of Substitute Supply. The sources of substitute supply are the fully consumable portions of certain water rights that Applicants have acquired, have an agreement to acquire, or for which Applicants have taken substantial steps toward acquiring consistent with the Colorado Supreme Court's decision in *Centennial Water and Sanitation District v. City and County of Broomfield*, 256 P.3d 677 (Colo. 2011). Applicants have sought or will seek changes of these water rights to, in part, allow use of those rights as a source of substitute supply for the appropriative rights of exchange claimed herein. **Exhibit 3** is a list of ACWWA's sources of substitute supply. **4. Detailed outline of work done for the completion of the conditional appropriation for reasonable diligence**. ACWWA's unified, integrated system for the diversion, accretion, collection, storage, transmission, and treatment of water rights (the "Water Supply Project" or "Flow Project") was originally designed to provide ACWWA with a long-term, sustainable municipal water supply for its service area. The conditional water rights decreed herein are part of the Water Supply Project, which will provide water within ACWWA's service area. Pursuant to S 37-92-301(4)(b) of the Colorado Revised Statutes, for purposes of demonstrating diligence, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of all water rights conditionally decreed herein, and shall constitute

diligence toward the development of each of the conditional water rights decreed herein. During the diligence period ACWWA has done, at a minimum, the following work towards completion or for completion of the appropriations and application of water to a beneficial use as conditionally decreed (expenditure numbers are rounded to the nearest \$1,000).

4.1. Legal Fees. Legal fees in the amount of \$3,000,000.00 were expended during the diligence period in ACWWA's adjudicatory proceedings for the appropriation of new water rights and changes to existing water rights for ACWWA's Flow Project, and water rights protection and opposition.

4.2. Engineering Costs. Engineering costs in the amount of \$1,680,000.00 were expended during the diligence period in connection with ACWWA's Flow Project, to perform water rights modeling, exchange potential modeling, appropriation of new water rights, changes to existing water rights, water rights protection and opposition, and water rights accounting.

4.3. Additional Sources of Substitute Supplies. ACWWA has filed applications and obtained decrees in the cases listed below to increase the replacement supplies available under its augmentation plan decrees and facilitate increased diversions in the ACWWA/ECCV Well Field, to add additional storage facilities and recharge locations, and to add exchanges to aid in moving its replacement water to its places of beneficial use.

4.3.1. Case No. 10CW313 original application filed December 30, 2010; decree entered February 21, 2015.

4.3.2. Case No. 11CW151, original application filed August 31, 2011; decree entered November 26, 2018.

4.3.3. Case No. 10CW312, application filed December 30, 2010; decree entered October 20, 2014.

4.3.4. Case No. 12CW73, original application filed March 30, 2012; decree entered February 26, 2016.

4.3.5. Case No. 13CW3026, original application filed April 26, 2013; decree entered October 31, 2017.

4.3.6. Case No. 13CW3171, application filed December 30, 2013; decree entered June 20, 2017.

4.3.7. Case No. 16CW3195, application filed December 29, 2016; case currently pending.

4.3.8. Case No. 16CW3200, application filed December 29, 2016; case currently pending.

4.3.9. Case No. 19CW3084, application filed May 15, 2019; case currently pending.

4.3.10. Case No. 20CW3117, application filed August 21, 2020; case currently pending.

4.4. Water System Development. During the diligence period, United, on behalf of ACWWA, has developed and acquired infrastructure for Phase II of the Water Supply Project, including but not limited to, mining United Reservoir No. 3; acquiring Milliken Reservoir in August 2015; completing construction of 70 Ranch Reservoir in July 2019; and securing easement deeds and agreements for structures necessary to deliver water to ACWWA. During this diligence period ACWWA has been working on Phase II of the ACWWA Flow Water Supply Project. This phase will allow ACWWA to deliver up to 5.25 million gallons of renewable water to customers each day, whereby reducing dependency on non-renewable wells. The second phase of this Water Supply Project included the expansion of the Northern Water Treatment RO Plant (2018-2020) and the North and South Booster Pump Stations (2018-2019), and construction of Deep Injection Well II (2018). Construction is still underway and is expected to be completed in 2020. The total estimated cost of the Phase II infrastructure is \$60 million for an additional 10 million gallons of pumping and treatment capacity. The Booster Pump Stations are approximately \$25 million and the NWTP Expansion is approximately \$35 million. ACWWA has purchased an additional 3 million gallons of capacity from these facilities, totaling about \$18 million in capital expenditure.

4.5. Substitute Water Supply Plans. During this diligence period, ACWWA has filed joint substitute water supply plans ("SWSP") with ECCV in order to use additional replacement supplies to replace out-of-priority depletions from the ACWWA/ECCV Well Field to facilitate the efficient operation of the Water Supply Project. SWSPs were filed in 2014 (approved April 15, 2015), 2015 (approved April 6, 2016), 2016 (approved May 19, 2017), 2017 (approved March 30, 2018), 2018 (approved March 27, 2019), and 2019 (approved April 6, 2020).

4.6. Protection of Water Rights. ACWWA has regularly monitored the filings of other water users. It has filed statements of opposition to and has incurred legal and engineering costs in connection with numerous cases to protect its water rights. Legal fees in the amount of \$150,000.00 were expended during the diligence period in water rights protection and opposition on behalf of ACWWA for its Flow Project.

4.7. Opposition of Detrimental Legislation. ACWWA has been actively involved in opposing Colorado State legislation that would negatively impact the operation of its augmentation plans and exchanges.

4.8. ACWWA continues to rely upon and develop the conditional water rights described herein and has no intent to abandon them.

5. Claim to Make Absolute. During this diligence period, ACWWA made a maximum of 444 acre-feet and 6.73 cfs absolute. Specifically, since the decree was



entered in Case No. 09CW283, ACWWA has made absolute portions of the following exchanges: 5.1. Exchange on August 2, 2016 from the Fulton Upper Augmentation Station to United Diversion Facility No. 3, at a rate of 2.91 cfs. 5.2. Exchange on June 20, 2018 from the Weldon Valley Ditch Central/ACWWA Augmentation Station to United Diversion Facility No. 3, at a rate of 4.35 cfs. 5.3. Exchange on July 20, 2019 from the Weldon Valley Ditch Augmentation Station to United Diversion Facility No. 3, at a rate of 4.09 cfs. 5.4. Exchange on May 25, 2020 from Farmers Independent Ditch Lower Augmentation Station to United Diversion Facility No. 3, at a rate of 1.75 cfs. 5.5. Exchange on May 29, 2020 from the Farmers Independent Ditch Lower Augmentation Station to Milliken Reservoir, at a rate of 1.65 cfs. 5.6. Exchange on June 3, 2020 from Milliken Reservoir Outlet to United Diversion Facility No. 3, at a rate of 2.50 cfs. 5.7. Exchange on July 10, 2020 from the Weldon Valley Ditch Central/ACWWA Augmentation Station to Milliken Reservoir, at a rate of 2.28 cfs. *See* ACWWA's Water Rights Accounting Summary, attached as **Exhibit 4. 6. Names and addresses of owners of the land on which the structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.** 6.1. Fort Morgan Canal. Fort Morgan Reservoir & irrigation Company, P.O. box 38, Fort Morgan, Colorado 80701. 6.2. Weldon Valley Ditch Augmentation Station. Weldon Valley Ditch Company, P.O. Box 66, Weldona, Colorado 80653. 6.3. Weldon Valley Ditch Central/ACWWA Augmentation Station. Central Colorado Water Conservancy District and the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District, 3209 W. 28th Street, Greeley, Colorado, 80631; and Arapahoe County Water and Wastewater Authority, 13031 East Caley Avenue Centennial, Colorado 80111. 6.4. United Diversion Facility No.1. 70 Ranch, LLC, c/o Robert Lembke, 8301 E. Prentice Avenue, Greenwood Village, CO 80111. The land on which the Diversion Facility will be located is owned by Riverside, 221 E. Kiowa, Fort Morgan, Colorado, 80201 and the Colorado Division of Wildlife, 6060 Broadway, Denver, Colorado, 80216. 6.5. Lower Latham Ditch. Lower Latham Ditch Company, 8209 W. 20th Street, Suite A, Greeley, CO 80634. 6.6. Western Mutual Ditch. Western Mutual Ditch Company, P.O. Box 282, LaSalle, Colorado, 80645. 6.7. Brownwood Station. Central Colorado Water Conservancy District, 3209 West 28th Street, Greeley, Colorado, 80634. 6.8. Farmers Independent Ditch. Farmers Independent Ditch Company, 2158 27th Avenue, Greeley, Colorado 80634. 6.9. St. Vrain Pipeline. United Water and Sanitation District, 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado, 80111; Elverna Burchfield Trustee & Sherry Rose, 221 West Platte Avenue, Fort Morgan, Colorado, 80701; Public Service Company, d/b/a Xcel Energy, Inc., 1800 Larimer Street, Denver, Colorado, 80202-1414. 6.10. Milliken Reservoir. United Milliken Reservoir Enterprise, LLC, 8301 East Prentice Ave, Suite 100, Greenwood Village, Colorado 80111, and Scout Investments, LLC, whose address is the same. The Jay Thomas Diversion Dam and the land at the point of diversion for Milliken Reservoir are owned by Public Service Company, d/b/a Xcel Energy, Inc., 1800 Larimer Street, Denver, Colorado, 80202-1414. 6.11. Fulton Irrigating Ditch. Fulton Irrigating Ditch Company, 25 South 4th Avenue, Brighton, Colorado 80601. 6.12. United Diversion Facility No. 3. United Water and Sanitation District, 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado, 80111. 6.13. Burlington Ditch. Farmers Reservoir and Irrigation Company, 80 South 27th Avenue, Brighton, Colorado 80601. WHEREFORE, Applicants respectfully request that this Court enter an order finding that the following exchanges be made ABSOLUTE: (1) from the Fulton Upper Augmentation Station to United Diversion Facility No. 3, at a rate of 2.91 cfs; (2) from the Weldon Valley Ditch Central/ACWWA Augmentation Station to United Diversion Facility No. 3, at a rate of 4.35 cfs; (3) from the Weldon Valley Ditch Augmentation Station to United Diversion Facility No. 3, at a rate of 4.09 cfs; (4) from Farmers Independent Ditch Lower Augmentation Station to United Diversion Facility No. 3, at a rate of 1.75 cfs; (5) from the Farmers Independent Ditch Lower Augmentation Station to Milliken Reservoir, at a rate of 1.65 cfs; (6) from Milliken Reservoir Outlet to United Diversion Facility No. 3, at a rate of 2.50 cfs; and (7) from the Weldon Valley Ditch Central/ACWWA Augmentation Station to Milliken Reservoir, at a rate of 2.28 cfs; and the remaining portions continue as conditional. In the alternative, Applicants request a finding of reasonable diligence has been exercised in the development of the subject conditional rights of exchange. (17 pages, 4 exhibits)

**20CW3147: East Cherry Creek Valley Water and Sanitation District (“ECCV”), c/o Dave Kaunisto, 6201 South Gun Club Road, Aurora, Colorado 80015, Telephone: (303) 693-3800, United Water and Sanitation District (“United”), c/o Robert Lembke, 8301 E. Prentice Ave., Suite 100, Greenwood Village, Colorado 80111, Telephone: (303) 773-1005.** All Correspondence and communications should be addressed to: Brian M. Nazareus, Esq., Sheela S. Stack, Esq., William D. Wombacher, Esq., Stacy L. Brownhill, Esq., NAZAREUS STACK & WOMBACHER, LLC, 8301 E. Prentice Avenue, Suite 110, Greenwood Village, Colorado 80111, Telephone: (720) 647-5661, (Attorneys for ECCV), Tod J. Smith, Esq., THE LAW OFFICE OF TOD J. SMITH, 5777 Central Ave., Suite 228, Boulder, Colorado 80301, Telephone: (303) 444-4203, (Attorney for United). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE AMOUNTS ABSOLUTE in ADAMS, ARAPAHOE, DENVER, DOUGLAS, ELBERT, LARIMER, MORGAN, AND WELD COUNTIES. 2. Original Decree.** The original decree was entered by the Water Court, Water Division 1, on September 18, 2014, in Case No 11CW285. **3. Conditional Appropriative Rights of Exchange: South Platte River and St. Vrain Creek Exchange Reaches.** 3.1. Exchange-From Points. The exchange-from points are the locations identified as the delivery locations to the South Platte River described for each location and/or structure listed below. The approximate locations of the exchange-from points and related structures are shown on **Exhibit 1.** 3.1.1. Downstream End Point of South Platte River Reach 5 (“SPR Reach 5”) - Confluence of Beaver Creek and the South Platte River. Located in the NW1/4 of the SW1/4 of S 4, T 4 N, R 55 W of the 6th P.M., Morgan County, Colorado. For purposes of this exchange, the confluence of Beaver Creek and the South Platte River is also the downstream end point of SPR Reach 5. SPR Reach 5 was decreed at paragraph 17.1.8 of the decree entered in Case Nos. 02CW404 and 03CW442 (“404/442 Decree”) as an administrative reach of the South Platte River for the augmentation plans approved in the decree entered in Case No. 02CW403 (“403 Decree”) and the 404/442 Decree, as amended by the decree entered in Case No. 10CW306 (“306 Decree”). SPR Reach 5 is located below the Bijou Canal headgate to the confluence of Beaver Creek and the South Platte River. The Bijou Canal headgate is located on the south bank of the South Platte River, in the NE1/4 of the NE1/4 of S 13, T4N, R63W of the 6th P.M., Morgan County, Colorado, at a point approximately 95 feet west of the east S line and 604 feet south of the north S line of said S 13. 3.1.2. Fort Morgan Canal – Teague Return Pipeline. United has an easement to use an existing pipeline extending from a parcel located approximately ten miles south of the Fort Morgan Canal that crosses underneath the Canal in the NE1/4 of the SW1/4 of S 13, T3S, R57W of the 6th P.M., Morgan County, Colorado, and discharges to the South Platte River, in the SW1/4 of the NW1/4 of S 30, T4N, R56W of the 6th P.M., Morgan County, Colorado. 3.1.3. Weldon Valley Ditch Augmentation Structures. ECCV will use the following augmentation structures to deliver certain sources of substitute supplies from the Weldon Valley Ditch to the South Platte River: (1) an augmentation structure, referred to as the Weldon Valley Ditch Central/Arapahoe County Water and Wastewater Authority (“ACWWA”) Augmentation Station, located in the NE1/4 of the NW1/4 of S 3, T4N, R60W of the 6th P.M., Morgan County, Colorado, which delivers water to the South Platte River, in the W1/2 of the NE1/4 of S 3, T4N, R60W of the 6th P.M., Morgan County, Colorado; and (2) an augmentation structure, referred to as the Weldon Valley Ditch Tail, located in the NW1/4 of the SE1/4 of S 7, T4N, R58W of the 6th P.M., Morgan County, Colorado, which delivers water to the South Platte River, in the NE1/4 of the NW1/4 of S 18, T4N, R58W of the 6th P.M., Morgan County, Colorado. 3.1.4. ECCV 70 Ranch Recharge Project Exchange Quantification Point. The ECCV 70 Ranch Recharge Project was decreed at paragraphs 34-38 of the 404/442 Decree. The Quantification Point for recharge accretions from the ECCV 70 Ranch Recharge Project is the farthest downstream point at which recharge accretions from the ECCV 70 Ranch Recharge Project accrue to the South Platte River. The delivery location is the 70 Ranch Recharge Project Quantification Point, which is located on the South Platte River at the west S line of S 23, T4N, R62W of the 6th P.M., Weld County, Colorado, as the S line intersects with the South Platte River. 3.1.5. Downstream End Point of South Platte River Reach 4 (“SPR Reach 4”) – Bijou Canal Headgate. SPR Reach 4 was decreed at paragraph 17.1.7 of the 404/442 Decree as an administrative reach of the South Platte River for the augmentation plans approved in the 403 and 404/442 Decrees, as amended by the 306 Decree. SPR Reach 4 is located from the Empire Inlet Canal headgate, which is located in the SW1/4 of the SW1/4 of S 19, T5N, R63W of the 6th P.M.,

Weld County, Colorado, to the Bijou Canal headgate described in paragraph 3.1.1, above. For purposes of this exchange, the exchange-from point for SPR Reach 4 is a point at the downstream end of SPR Reach 4, located immediately upstream of the Bijou Canal headgate.

3.1.6. Confluence of Crow Creek and the South Platte River. Located in SE1/4 of the NE1/4 of S 24, T5N, R64W of the 6th P.M., Weld County, Colorado. Prior to delivery to the confluence of Crow Creek and the South Platte River for exchange, ECCV intends to divert certain sources of substitute supply from the Cache la Poudre River at the headgate for the Greeley No. 2 Canal, located in the SE1/4 of the NE1/4 of S 11, T6N, R 68 W of the 6th P.M., Larimer County, Colorado, and deliver the substitute supplies from said Canal to Crow Creek, in the NW1/4 of the SW1/4 of S 25, T6N, R64W of the 6th P.M., Weld County, Colorado, where the substitute supplies will be conveyed to the confluence with the South Platte River.

3.1.7. Confluence of Lone Tree Creek and the South Platte River. Located in the SE1/4 of the SE1/4 of S 6, T5N, R64W of the 6th P.M., Weld County, Colorado. Prior to delivery to the confluence of Lone Tree Creek and the South Platte River for exchange, ECCV intends to divert certain sources of substitute supply from the Cache la Poudre River at the headgate for the Greeley No. 2 Canal, described in paragraph 3.1.6, above, and deliver the substitute supplies from said Canal to Lone Tree Creek, in the NE1/4 of the NW1/4 of S 15, T6N, R65W of the 6th P.M., Weld County, Colorado, where substitute supplies will be conveyed to the confluence with the South Platte River.

3.1.8. Confluence of the Cache la Poudre River and the South Platte River. Located in the SW1/4 of the SW1/4 (Lot 4) of S 6, T5N, R64W of the 6th P.M., Weld County, Colorado, the centroid being 590 feet from the west S line and 4760 feet from the north S line. ECCV will deliver its sources of substitute supply to the confluence of the Cache la Poudre River and the South Platte River by: (1) conveying certain sources of substitute supply down the Cache la Poudre River to its confluence with the South Platte River; and/or (2) delivering certain sources of substitute supply to the confluence of Sand Creek and the Cache la Poudre River, which is located in the NW1/4 of the NW1/4 of S 11, T5N, R65W of the 6th P.M., Weld County, Colorado, immediately above the confluence of the Cache la Poudre and South Platte Rivers. From the confluence of Sand Creek and the Cache la Poudre River, the sources of substitute supply will be conveyed in the Cache la Poudre River to the exchange-from point at the confluence of the Cache la Poudre and South Platte Rivers.

3.1.9. Downstream End Point of South Platte River Reach 3 (“SPR Reach 3”) – Empire Inlet Canal Headgate. SPR Reach 3 was decreed at paragraph 17.1.6 of the 404/442 Decree as an administrative reach of the South Platte River for the augmentation plans approved in the 403 and 404/442 Decrees, as amended by the 306 Decree. SPR Reach 3 is located from the Lower Latham Ditch headgate, which is located in the NW1/4 of the NE1/4 of S 31, T5N, R65W of the 6th P.M., Weld County, Colorado, to the Empire Inlet Canal headgate described in paragraph 3.1.5, above. For purposes of this exchange, the exchange-from point for SPR Reach 3 is a point at the downstream end of SPR Reach 3, located immediately upstream of the Empire Inlet Canal headgate.

3.1.10. Downstream End Point of South Platte River Reach 2 (“SPR Reach 2”) – Lower Latham Headgate. SPR Reach 2 was decreed at paragraph 17.1.5 of the 404/442 Decree as an administrative reach of the South Platte River for the augmentation plans approved in the 403 and 404/442 Decrees, as amended by the 306 Decree. SPR Reach 2 is located from the Western Mutual Ditch headgate, located in the SE1/4 of the SW1/4 of S 11, T3N, R6W of the 6th P.M., Weld County, Colorado, to the Lower Latham Ditch headgate described in paragraph 3.1.9, above. For purposes of this exchange, the exchange-from point for SPR Reach 2 is a point at the downstream end of SPR Reach 2, located immediately upstream of the Lower Latham Ditch headgate.

3.1.11. Western Mutual Ditch Augmentation Structures. ECCV may use the following augmentation structures to deliver certain sources of substitute supply from the Western Mutual Ditch to the South Platte River: (1) an existing measuring device/augmentation structure located at the tail end of the Western Mutual Ditch which discharges to the Union Ditch, in the SW1/4 of the NE1/4 of S 5, T4N, R65W of the 6th P.M., Weld County, Colorado. Such water delivered to the Union Ditch can be delivered to the South Platte River, in the SE1/4 of the NE1/4 of S 29, T5N, R65W of the 6th P.M., Weld County, Colorado. Substitute supplies from this augmentation structure will be measured at an existing measuring flume, which Applicants shall equip with telemetry. The measuring flume will allow ECCV to measure certain sources of substitute supply, as described in Exhibit 3, and to deliver the substitute supplies into the Union Ditch. Prior to delivery to the South Platte River, the water will be measured at an existing augmentation structure on the Union Ditch,

located in the NE1/4 of the NE1/4 of S 32, T5N, R65W of the 6th P.M., Weld County, Colorado; (2) an existing augmentation structure located in the NE1/4 of the SE1/4 of S 26, T4N, R67W of the 6th P.M., Weld County, Colorado, which delivers water to the South Platte River, in the SE1/4 of the NE1/4 of S 26, T4N, R67W of the 6th P.M., Weld County, Colorado; and (3) an augmentation structure to be constructed in the SW1/4 of the SE1/4 of S 2, T3N, R67W of the 6th P.M., Weld County, Colorado, which will deliver water to the South Platte River, in the SW1/4 of the SW1/4 of S 2, T3N, R67W of the 6th P.M., Weld County, Colorado.

3.1.12. Farmers Independent Ditch Augmentation Structures. An existing augmentation structure, referred to as the Farmers Independent Ditch Tail, located in the SE1/4 of the NE1/4 (Lot 1) of S 1, T4N, R66W of the 6th P.M., Weld County, Colorado, which delivers certain sources of substitute supply from the Farmers Independent Ditch to the South Platte River, in the NE1/4 of the NW1/4 of S 31, T5N, R65W of the 6th P.M., Weld County, Colorado.

3.1.13. Milliken Reservoir (f/k/a Gilcrest Reservoir). Milliken Reservoir is an off-channel reservoir located within parts of S 2, T3N, R67W and Ss 23, 26, 34, and 35, T4N, R67W, all of the 6th P.M., Weld County, Colorado. Certain sources of substitute supply stored by ECCV in Milliken Reservoir will be delivered from Milliken Reservoir to the South Platte River at the following locations: (1) SE1/4 of the NW1/4 of S 2, T3N, R67W of the 6th P.M., Weld County, Colorado; (2) SE1/4 of the NE1/4 of S 26, T4N, R67W of the 6th P.M., Weld County, Colorado; and (3) NW1/4 of the NW1/4 of S 35, T4N, R67W of the 6th P.M., Weld County, Colorado.

3.1.14. Confluence of St. Vrain Creek and the South Platte River. Located in the SW1/4 of the NE1/4 of S 34, T4N, R67W of the 6th P.M., Weld County, Colorado. From this point, water will be exchanged up St. Vrain Creek to the St. Vrain Pipeline Diversion as described in paragraph 3.1.15, below.

3.1.15. St. Vrain Pipeline (a/k/a United Diversion Facility No. 5). The St. Vrain Pipeline diversion point is located 500 feet west and 200 feet north of the SE corner of S 20, T3N, R67W of the 6th P.M., Weld County, Colorado. The St. Vrain Pipeline will discharge certain sources of substitute supply to the South Platte River at one of the following locations, all of which are located above the Farmers Independent Ditch headgate, described in paragraph 3.1.12, above: (1) at a point to be located upstream of the Highway 66 bridge as it crosses the South Platte River, which delivers water to the South Platte River, in the SW1/4 of the SW1/4 of S 19, T3N, R66W of the 6th P.M., Weld County, Colorado; and (2) at a point to be located upstream of the Highway 66 bridge as it crosses the South Platte River, which delivers water to the South Platte River, in the SE1/4 of the SE1/4 of S 24, T3N, R67W, or the SE1/2 of S 25, T3N, R67W of the 6th P.M., Weld County, Colorado.

3.1.16. Downstream End of South Platte River Reach 1 (“SPR Reach 1”) – Western Mutual Ditch Headgate. SPR Reach 1 was decreed at paragraph 17.1.4 of the 404/442 Decree as an administrative reach of the South Platte River for ECCV’s augmentation plans approved in the 403 and 404/442 Decrees, as amended by the 306 Decree. SPR Reach 1 is located above the Western Mutual Ditch headgate. For purposes of this exchange, the exchange-from point for SPR Reach 1 is a point at the downstream end of SPR Reach 1, located immediately upstream of the Western Mutual Ditch headgate, which is described in paragraph 3.1.11, above.

3.1.17. Fulton Irrigating Ditch Augmentation Structures. ECCV will use the following augmentation structures to deliver certain sources of substitute supply from the Fulton Irrigating Ditch to the South Platte River: (1) an existing augmentation structure, referred to as the Fulton Irrigating Ditch Augmentation Structure (upstream), located in the SW1/4 of the NW1/4 of S 8, T1N, R66W of the 6th P.M., Weld County, Colorado, which delivers water to the South Platte River, in the SE1/4 of the NW1/4 of S 7, T1N, R66W of the 6th P.M., Adams County, Colorado; and (2) an augmentation structure, referred to as the Fulton Irrigating Ditch CCWCD Lower Augmentation Station, to be constructed in S 3 of the Fulton Ditch, in the NE1/4 of the SE1/4 of S 28, T2N, R66W of the 6th P.M., Weld County, Colorado, which delivers water to the South Platte River, in the NW1/4 of the NE1/4 of S 30, T2N, R66W of the 6th P.M., Weld County, Colorado.

3.1.18. United Reservoir No. 3. United Reservoir No. 3 is an off-channel reservoir located in the E1/2 of S 26, T1S, R67W of the 6th P.M., Adams County, Colorado. Certain sources of substitute supply stored by ECCV in United Reservoir No. 3 will be delivered to the South Platte River at a point at or near the decreed point of diversion, which is located on the east bank of the South Platte River, in the SW1/4 of S 26, T1S, R67W of the 6th P.M., Adams County, Colorado; more specifically, located 1,636 feet east of the west line and 1,531 feet north of the south line of said S 26.

3.2. Exchange-To Points (from downstream to upstream). The approximate locations of the exchange-to points and related

structures are shown on **Exhibit 1**. 3.2.1. Fort Morgan Canal Headgate. As described in paragraph 3.1.2, above. 3.2.1.1. Use of Water. The substitute supplies exchanged to the Fort Morgan Canal headgate will be used by ECCV to satisfy its historical return flow obligations for changed water rights as described in Exhibit 3 and/or replacement obligations in SPR Reach 5 pursuant to the 403, 404/442, and 306 Decrees, if the substitute supplies are decreed for such uses. 3.2.2. United Diversion Facility No. 1 Point of Diversion. The point of diversion from the South Platte River for United Diversion Facility No. 1 will be located at the existing headgate for the Riverside Intake Canal, on the north bank of the South Platte River, in the SW1/4 of the SW1/4 of S 20, T5N, R63W of the 6th P.M., Weld County, Colorado, if an agreement with Riverside Irrigation District and Riverside Reservoir Company (“Riverside”) is obtained. Absent an agreement with Riverside, the headgate will be located on the north bank of the South Platte River, in the S1/2 of the SW1/4 of S 20, T5N, R63W of the 6th P.M., Weld County, Colorado, between the headgate of the Riverside Intake Canal and the west S line of S 20, T5N, R63W of the 6th P.M., at a location to be established within that reach, approximately 200 yards in extent. 3.2.2.1. Use of Water. Substitute supplies exchanged to the point of diversion for United Diversion Facility No. 1 will be used by ECCV to satisfy its replacement obligations in SPR Reaches 4 and 5, and/or will be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Recharge Project under the 404/442 Decree, if the substitute supplies are decreed for such uses. 3.2.3. Milliken Reservoir (Gilcrest Reservoir) Points of Diversion. The location of Milliken Reservoir is described in paragraph 3.1.13, above. A point of diversion for Milliken Reservoir is planned to be located adjacent to the Jay Thomas Ditch Diversion Dam, on the east bank of the South Platte River, in the NW1/4 of the NW1/4 of S 11, T3N, R67W of the 6th P.M., Weld County, Colorado. Substitute supplies will also be diverted into Milliken Reservoir through a proposed inlet/outlet structure which is designed to also operate as a northern intake to the Reservoir and will be located in the NE1/4 of the SW1/4 of S 26, T4N, R67W of the 6th P.M., Weld County, Colorado. 3.2.3.1. Use of Water. Substitute supplies exchanged to the points of diversion for Milliken Reservoir will be stored in the Reservoir and will subsequently: (a) be used by ECCV to satisfy its replacement obligations in SPR Reaches 2, 3, 4, 5, and the Beebe Draw, if the substitute supplies are decreed for such uses; (b) be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions the ECCV 70 Ranch Recharge Project under the 404/442 Decree, if the substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ECCV’s wells on 70 Ranch pursuant to the terms and conditions for the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree, if the substitute supplies are decreed for such use and are added to the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field pursuant to the ECCV Augmentation Plan under the 403, 404/442, and 306 Decrees, if the substitute supplies are decreed for such use and are added to the ECCV Augmentation Plan under the 403 Decree; and/or (e) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ECCV Beebe Draw Recharge Project under the 404/442 and 306 Decrees, if the substitute supplies are decreed for such uses. 3.2.4. St. Vrain Pipeline Diversion (United Diversion Facility No. 5). The St. Vrain Pipeline Diversion will be located on the east bank of St. Vrain Creek, 500 feet west and 200 feet north of the SE corner of S 20, T3N, R67W of the 6th P.M., Weld County, Colorado. 3.2.4.1. Use of Water. Substitute supplies exchanged to the St. Vrain Pipeline Diversion and discharged to the South Platte River as described in paragraph 3.1.15, above, may be re-diverted by ECCV to storage in Milliken Reservoir for the uses described in paragraph 3.2.3.1, above, and will: (a) be used by ECCV to satisfy its replacement obligations in SPR Reaches 1, 2, 3, 4, 5, and the Beebe Draw, if the substitute supplies are decreed for such uses; (b) be delivered into recharge facilities at 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Recharge Project under the 404/442 Decree, if substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ECCV’s wells on 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree, if the substitute supplies are decreed for such use and are added to the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field pursuant to the ECCV Augmentation Plan under the 403, 404/442, and 306 Decrees, if the substitute supplies are decreed for such use and are added to the ECCV Augmentation Plan under the 403 Decree; and/or (e) be delivered to

recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ECCV Beebe Draw Recharge Project under the 404/442 and 306 Decrees, if the substitute supplies are decreed for such uses.

3.2.5. United Diversion Facility No. 3. The headgate of United Diversion Facility No. 3 is located on the east bank of the South Platte River, in the SW1/4 of S 26, T1S, R67W of the 6th P.M., Adams County, Colorado, located 1,636 feet east of the west line and 1,531 feet north of the south line of said S 26. Substitute supplies exchanged and diverted at United Diversion Facility No. 3 will be delivered to United Reservoir No. 3, the location of which is described in paragraph 3.1.18, above. Water stored in United Reservoir No. 3 can be delivered to Barr Lake through the Beebe Pipeline pursuant to the 403 Decree.

3.2.5.1. Use of Water. Substitute supplies exchanged to United Diversion Facility No. 3 will subsequently: (a) be used by ECCV to satisfy its replacement obligations in SPR Reaches 1, 2, 3, 4, 5, and in the Beebe Draw, if the substitute supplies are decreed for such uses; (b) be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Recharge Project under the 404/442 Decree, if the substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ECCV's wells on 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree, if the substitute supplies are decreed for such use and are added to the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field, which defined in paragraph 9.3 of the 306 Decree, pursuant to the ECCV Augmentation Plan under the 403, 404/442, and 306 Decrees, if the substitute supplies are decreed for such use and are added to the ECCV Augmentation Plan under the 403 Decree; (e) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of ECCV's Beebe Draw Recharge Project under the 404/442 and 306 Decrees if such substitute supplies are decreed for such use; (f) be stored in United Reservoir No. 3, as described in paragraph 3.1.18, above; (g) be stored in Barr Lake; and/or (h) be delivered to ECCV's Water Treatment Plant in the Beebe Draw, if the substitute supplies are decreed for such uses.

3.2.6. Burlington Ditch. Pursuant to the decreed changed point of diversion in Case No. 02CW403, the headgate of the Burlington Ditch is on the east bank of the South Platte River, in the NE1/4 of the SW1/4 of S 14, T3S, R68W of the 6th P.M., City and County of Denver, Colorado.

3.2.6.1. Use of Water. Substitute supplies exchanged to the Burlington Ditch may be stored in Barr Lake, released to the Beebe Draw, and used to satisfy ECCV's replacement obligations in the Beebe Draw. Substitute supplies exchanged to the Burlington Ditch will also be conveyed to United Reservoir No. 3 through the Beebe Pipeline for release to the South Platte River and will subsequently: (a) be used by ECCV to satisfy its replacement obligations in SPR Reaches 1, 2, 3, 4, 5, if the substitute supplies are decreed for such uses; (b) be delivered to recharge facilities at 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Recharge Project under the 404/442 Decree, if such substitute supplies are decreed for such use; (c) be used to replace depletions from pumping ECCV's wells on 70 Ranch pursuant to the terms and conditions of the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree, if the substitute supplies are decreed for such use and are added to the ECCV 70 Ranch Augmentation Plan under the 404/442 Decree; (d) be used to augment depletions to the South Platte River from the ACWWA/ECCV Well Field pursuant to the ECCV Augmentation Plan under the 403, 404/442, and 306 Decrees, if the substitute supplies are decreed for such use and are added to the ECCV Augmentation Plan under the 403 Decree; (e) be delivered to recharge facilities in the Beebe Draw pursuant to the terms and conditions of the ECCV Beebe Draw Recharge Project under the 404/442 and 306 Decrees if such substitute supplies are decreed for such use; and/or (f) stored in United Reservoir No. 3 described in paragraph 3.1.18, above, if the substitute supplies are decreed for such uses.

3.3. Amounts. The maximum exchange rates in cubic feet per second (cfs) for the appropriative rights of exchange are set forth in the Exchange Matrix attached as **Exhibit 2.**

3.4. Uses. Use of water diverted by exchange under the appropriative rights of exchange described herein, including but not limited to recharge accretions attributable to such diversions, shall be for use only by ECCV as described in paragraphs 3.2.1.1, 3.2.2.1, 3.2.3.1, 3.2.4.1, 3.2.5.1, and 3.2.6.1, above, and shall be further limited to uses decreed for each source of substitute supply.

3.5. Appropriation Dates.

3.5.1. February 24, 2013: for the appropriative right of exchange from the Teague Return Pipeline and the appropriative right of exchange to the Fort Morgan Canal headgate.

3.5.2. December 29, 2011: for all other appropriative rights of exchange claimed herein.

3.6. Sources of Substitute Supply. The sources of

substitute supply are the fully consumable portions of certain water rights that Applicants have acquired, have an agreement to acquire, or for which Applicants have taken substantial steps toward acquiring consistent with the Colorado Supreme Court's decision in *Centennial Water and Sanitation District v. City and County of Broomfield*, 256 P.3d 677 (Colo. 2011). Applicants have sought or will seek changes of these water rights to, in part, allow use of those rights as a source of substitute supply for the appropriate rights of exchange claimed herein. **Exhibit 3** is a list of the sources of substitute supply decreed for the appropriate rights of exchange herein. **4. Detailed outline of work done for the completion of the conditional appropriation for reasonable diligence.** ECCV's unified, integrated system for the diversion, accretion, collection, storage, transmission, and treatment of water rights (the "Water Supply Project") was originally designed to provide ECCV with a long-term, sustainable municipal water supply for its service area. The conditional water rights decreed herein are part of the Water Supply Project, which will provide water within ECCV's service area. Pursuant to S 37-92-301(4)(b) of the Colorado Revised Statutes, for purposes of demonstrating diligence, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of all water rights conditionally decreed herein, and shall constitute diligence toward the development of each of the conditional water rights decreed herein. During the diligence period ECCV has done, at a minimum, the following work towards completion or for completion of the appropriations and application of water to a beneficial use as conditionally decreed (expenditure numbers are rounded to the nearest \$1,000).

4.1. Legal Fees. Legal fees in the amount of \$3,000,000.00 were expended during the diligence period in ECCV's adjudicatory proceedings for the appropriation of new water rights and changes to existing water rights for ECCV's Water Supply Project, and water rights protection and opposition.

4.2. Engineering Costs. Engineering costs in the amount of \$2,100,000.00 were expended during the diligence period in connection with ECCV's Water Supply Project, to perform water rights modeling, exchange potential modeling, appropriation of new water rights, changes to existing water rights, water rights protection and opposition, and water rights accounting.

4.3. Additional Sources of Substitute Supplies. ECCV has filed applications and obtained decrees in the cases listed below to increase the replacement supplies available under its augmentation plan decrees and facilitate increased diversions in the ECCV Well Field, to add additional storage facilities and recharge locations, and to add exchanges to aid in moving its replacement water to its places of beneficial use.

4.3.1. Case No. 06CW40, original application filed February 20, 2006; decree entered July 5, 2016.

4.3.2. Case No. 11CW151, original application filed August 31, 2011; decree entered November 26, 2018.

4.3.3. Case No. 11CW280, application filed December 29, 2011; decree entered October 21, 2014.

4.3.4. Case No. 12CW73, original application filed March 30, 2012; decree entered February 26, 2016.

4.3.5. Case No. 13CW3026, original application filed April 26, 2013; decree entered October 31, 2017.

4.3.6. Case No. 13CW3172, application filed December 30, 2013; decree entered June 20, 2017.

4.3.7. Case No. 16CW3196, application filed December 29, 2016; case currently pending.

4.3.8. Case No. 16CW3200, application filed December 29, 2016; case currently pending.

4.3.9. Case No. 19CW3084, application filed May 15, 2019; case currently pending.

4.3.10. Case No. 20CW3096, application filed July 13, 2020; case currently pending.

4.3.11. Case No. 20CW3117, application filed August 21, 2020; case currently pending.

4.4. Water System Development. During the diligence period, United, on behalf of ECCV, has developed and acquired infrastructure for Phase II of the Water Supply Project, including but not limited to, mining United Reservoir No. 3, acquiring Milliken Reservoir in August 2015; completing construction of 70 Ranch Reservoir in July 2019; and securing easement deeds and agreements for structures necessary to deliver water to ECCV. During this diligence period ECCV has been working on Phase II of the Water Supply Project. This phase will allow ECCV to deliver up to 14.75 million gallons of renewable water to customers each day, whereby reducing dependency on non-renewable wells. This phase included designing the expansion of the RO Plant and North and South Booster Pump Station (2017), construction of Deep Injection Well II (2018), and expansion of the plant and pump station (2020). Construction is currently underway and is expected to be completed in 2020. The estimated cost of the Phase II infrastructure is \$84.8 million.

4.5. Substitute Water Supply Plans. During this diligence period, ECCV has filed joint substitute water supply plans ("SWSP") with ACWWA in order to use additional replacement supplies to replace out-of-priority depletions from the ACWWA/ECCV Well Field to facilitate

the efficient operation of the Water Supply Project. SWSPs were filed in 2014 (approved April 15, 2015), 2015 (approved April 6, 2016), 2016 (approved May 19, 2017), 2017 (approved March 30, 2018), 2018 (approved March 27, 2019), and 2019 (approved April 6, 2020). 4.6. Protection of Water Rights. ECCV has regularly monitored the filings of other water users. It has filed statements of opposition to and has incurred legal and engineering costs in connection with numerous cases to protect its water rights. Legal fees in the amount of \$150,000.00 were expended during the diligence period in water rights protection and opposition on behalf of ECCV for its Water Supply Project. 4.7. Opposition of Detrimental Legislation. ECCV has been actively involved in opposing Colorado State legislation that would negatively impact the operation of its augmentation plans and exchanges. 4.8. ECCV continues to rely upon and develop the conditional water rights described herein and has no intent to abandon them. **5. Claim to Make Absolute**. During this diligence period, ECCV made a maximum of 164 acre-feet and 8.25 cfs absolute. Specifically, since the decree was entered in Case No. 11CW285, ECCV has made absolute portions of the following exchanges: 5.1. Exchange on March 26, 2017 from the Milliken Reservoir outlet to United Diversion Facility No. 3, at a rate of 8.25 cfs. 5.2. Exchange on July 24, 2019 from the Weldon Valley Central/ACWWA Augmentation Station to Milliken Reservoir, at a rate of 5.0 cfs. 5.3. Exchange on June 28, 2020 from the Weldon Valley Central/ACWWA Augmentation Station to Milliken Reservoir, at a rate of 1.0 cfs. 5.4. Exchange on July 10, 2020 from the Weldon Valley Ditch Tail End Augmentation Station to Milliken Diversion, at a rate of 0.91 cfs. 5.5. Exchange on July 10, 2020 from SPR Reach 4 to Milliken Diversion, at a rate of 1.37 cfs. 5.6. Exchange on July 28, 2020 from Farmers Independent Ditch Augmentation Structure to Milliken Diversion, at a rate of 1.39 cfs. *See* ECCV's Water Rights Accounting Summary, attached as **Exhibit 4. 6. Names and addresses of owners of the land on which the structures are or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use**. 6.1. Fort Morgan Canal. Fort Morgan Reservoir & irrigation Company, P.O. box 38, Fort Morgan, Colorado 80701. 6.2. Weldon Valley Ditch Augmentation Station. Weldon Valley Ditch Company, P.O. Box 66, Weldona, Colorado 80653. 6.3. Weldon Valley Ditch Central/ACWWA Augmentation Station. Central Colorado Water Conservancy District and the Groundwater Management Subdistrict of the Central Colorado Water Conservancy District, 3209 W. 28th Street, Greeley, Colorado, 80631; and ACWWA, 13031 East Caley Avenue Centennial, Colorado 80111. 6.4. United Diversion Facility No.1. 70 Ranch, LLC, c/o Robert Lembke, 8301 E. Prentice Avenue, Greenwood Village, CO 80111. The land on which the Diversion Facility will be located is owned by Riverside, 221 E. Kiowa, Fort Morgan, Colorado, 80201 and the Colorado Division of Wildlife, 6060 Broadway, Denver, Colorado, 80216. 6.5. Lower Latham Ditch. Lower Latham Ditch Company, 8209 W. 20th Street, Suite A, Greeley, CO 80634. 6.6. Western Mutual Ditch. Western Mutual Ditch Company, P.O. Box 282, LaSalle, Colorado, 80645. 6.7. Brownwood Station. Central Colorado Water Conservancy District, 3209 West 28th Street, Greeley, Colorado, 80634. 6.8. Farmers Independent Ditch. Farmers Independent Ditch Company, 2158 27th Avenue, Greeley, Colorado 80634. 6.9. St. Vrain Pipeline. United Water and Sanitation District, 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado, 80111; Elverna Burchfield Trustee & Sherry Rose, 221 West Platte Avenue, Fort Morgan, Colorado, 80701; Public Service Company, d/b/a Xcel Energy, Inc., 1800 Larimer Street, Denver, Colorado, 80202-1414. 6.10. Milliken Reservoir. United Milliken Reservoir Enterprise, LLC, 8301 East Prentice Ave, Suite 100, Greenwood Village, Colorado 80111; and Scout Investments, LLC, whose address is the same. The Jay Thomas Diversion Dam and the land at the point of diversion for Milliken Reservoir are owned by Public Service Company, d/b/a Xcel Energy, Inc., 1800 Larimer Street, Denver, Colorado, 80202-1414. 6.11. Fulton Irrigating Ditch. Fulton Irrigating Ditch Company, 25 South 4th Avenue, Brighton, Colorado 80601. 6.12. United Diversion Facility No. 3. United Water and Sanitation District, 8301 East Prentice Avenue, Suite 100, Greenwood Village, Colorado, 80111. 6.13. The Burlington Ditch. Farmers Reservoir and Irrigation Company, 80 South 27th Avenue, Brighton, Colorado 80601. WHEREFORE, Applicants respectfully request that this Court enter an order finding that the following exchanges be made ABSOLUTE: (1) from the Milliken Reservoir outlet to United Diversion Facility No. 3, at a rate of 8.25 cfs; (2) from the Weldon Valley Central/ACWWA Augmentation Station to Milliken Reservoir, at a rate of 5.0 cfs; (3) from the Weldon Valley Central/ACWWA Augmentation Station to Milliken Reservoir, at a rate of 1.0 cfs; (4) from the Weldon



Valley Ditch Tail End Augmentation Station to Milliken Diversion, at a rate of 0.91 cfs; (5) from SPR Reach 4 to Milliken Diversion, at a rate of 1.37 cfs; and (6) from Farmers Independent Ditch Augmentation Structure to Milliken Diversion, at a rate of 1.39 cfs; and the remaining portions continue as conditional. In the alternative, Applicants request a finding of reasonable diligence has been exercised in the development of the subject conditional rights of exchange. (17 pages, 4 exhibits).

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

**YOU ARE HEREBY NOTIFIED** that any party who wishes to oppose an application, or an amended application, may file with the Water Clerk, P. O. Box 2038, Greeley, CO 80632, a verified Statement of Opposition, setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions. Such Statement of Opposition must be filed by the last day of **NOVEMBER 2020** (forms available on [www.courts.state.co.us](http://www.courts.state.co.us) or in the Clerk's office) and must be filed as an Original and include **\$192.00** filing fee. A copy of each Statement of Opposition must also be served upon the Applicant or Applicant's Attorney and an affidavit or certificate of such service of mailing shall be filed with the Water Clerk.