

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING APRIL 2022.

(This publication can be viewed in its entirety on the state court website at:

www.courts.state.co.us).

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of Applications, Protests to Final Revised Abandonment List, and certain amendments filed and/or ordered published during April 2022, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved, and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2022CW3; CONCERNING A PROTEST TO FINAL REVISED ABANDONMENT LIST CASE NUMBER: 2021CW3078 – OPPOSER: JIM VAUPAL, 0955 CR 6, Coaldale, CO 81222, (719) 239-1683

(Attorneys for Applicant State Engineer and Division 2 Engineer: Paul Bennington, William Davidson, Chris Stork, 1300 Broadway, 7th Floor, Denver CO 80203, (720) 508-6309)

Protest to Final Revised Abandonment List

FREMONT COUNTY

2. Water Right: A. Name of Structure: Lemons Ditch, B. Date of Original Decree: 05/24/1924, Case No: CA4514, Court: Fremont County. C. Decreed Legal Description: East Quarter Corner of Section 5, Township 47 North, Range 11 East of the New Mexico Meridian, Fremont County, Colorado, bearing South 52, ten minutes East, 1012 feet. D. Source of water: Hayden Creek. E. Decreed use: Irrigation. F. Appropriation Date: 06/01/1913, Decreed Amount: .5 cfs. G. Amount and use listed as abandoned: All decreed uses, .5 cfs. H. Former District Number and Page Number where listed on Abandonment List: District 12, Page 12, Final Abandonment List, Division 2.

3. State factual and legal basis for this Protest: I purchased the property and the Lemons Ditch 3 years ago. I immediately redug, cleaned and started using the ditch to grow hay for my cows. In November 2019, the same year I bought the ditch, I installed a new diversion and headgate. In April 2021, I installed a new flume. I have been using the ditch whenever all the other ditches on Hayden Creek are fully satisfied and there is a supply of water as stated in the decree dated May 24, 1924. I have also attached diversion records for the 2021 irrigating season and 2022 so far this year. Reason for also protesting 2B and 2F describing water right. **4. Remarks:** I have attached a copy of the map and filing statement for the Lemons Ditch which I printed off the DWR website. See general location map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) It was accepted for filing in the office of the State Engineer of Colorado on November 29, 1920. It says the Lemons Ditch was constructed in 1899 and carried 1.6 cfs. Attached to the application is a copy of the adjudication case #CA4514 for the Lemons Ditch done in Fremont County District Court. **YOU ARE HEREBY NOTIFIED THAT YOU HAVE** until AUGUST 31, 2022 to file with the Division 2 Water Clerk an entry of appearance, under Water Court Rule

12(d), and file a completed JDF 320W - Entry of Appearance in Protest to Final Abandonment List.

CASE NO. 2022CW4; KYLE DUNN, 7238 South Iris Court, Littleton, CO 80128, (303) 905-3171

Application for Conditional Water rights (Surface)

PUEBLO COUNTY

2. Name of structure: K T Dunn Headgate, Hydropower. **3. Location of structure:** SE ¼ NE ¼, Section 3 Township 23S Range 66W, Sixth P.M. **UTM coordinates:** Easting 521131.609, Northing 4214311.004. See general location map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **4. Source:** Saint Charles River. **5. Date of appropriation:** N/A. **How appropriation was initiated:** N/A. **Date water applied to beneficial use:** N/A. **6. Amount claimed:** Conditional 20 cfs, Absolute N/A. **7. Uses or Proposed Uses:** Non-consumptive use via diversion for run-of-the-river hydropower electricity generation. **If non-irrigation describe purpose fully:** A <5kW run-of-the-river hydropower electrical generator will be installed for domestic use (lighting, heating, cooking, etc.). All diverted water will be discharged as return flows back into the Saint Charles River within the same location legally described in section 3A of this application. **8. Name(s) and address(es) of owner(s) 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. **9. Remarks:** The diversion will be limited to spillover from the existing headgate structure diverting water for the "B F PATTERSON DITCH" (WDID 1500501). The requested appropriation will not affect downstream appropriations; spillover at headgate has been observed year-round. The application seeks to put to beneficial use a small portion of a proposed 2020 abandonment from the "ST CHARLES FLOOD DITHC" (WDID 1500522).

CASE NO. 2022CW5; FERRENDELLI Ranch L.L.C., VINCE MARINO, MANAGER, 11628 North 131st Street, Scottsdale, AZ 85259, (480) 861-6474

Application for Water Storage Rights

HUERFANO COUNTY

2. Name of Reservoirs: Isabella's Pond, Gigi's Pond, Katie's Pond, Dominic's Pond. **3.**

Location of Structures:

Structure Name	Q40	Q160	Section	Township	Range	Principal Meridian
Isabella's Pond	NE	SE	11	30 South	67 West	6 th
Gigi's Pond*	NW	SW	12	30 South	67 West	6 th
Katie's Pond	NW	NW	13	30 South	67 West	6 th
Dominic's Pond	NW	NW	13	30 South	67 West	6 th

*Gigi's Pond appears to straddle the section line between Sections 11 and 12. The dam is mostly in Section 12 so a Section 12 location is provided.

See general location map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

Location information in UTM format:

Structure Name	Easting	Northing	Location Note
Isabella's Pond	512861	4144460	Dam centerline location

Gigi's Pond*	513219	4144520	Dam centerline location
Katie's Pond	513488	4143919	Dam centerline location
Dominic's Pond	513539	4143939	Dam centerline location

4. Source:

Structure	Source
Isabella's Pond	Local overland flows & spring flows via pipeline
Gigi's Pond*	Local overland flows
Katie's Pond	Spring flows
Dominic's Pond	Spring flows & Katie's Pond

5. If filled from a ditch: A. Names of ditch(es) to fill reservoir and capacity in cubic feet of water per second (cfs): All ponds supplied by co-located or nearby spring flows and/or overland flows. Isabella's Pond is additionally fed by Isabella's Pond Spring flows delivered via the Isabella's Pond Pipeline (f.k.a. Carri Seepage Ditch, 1917). **B. Location of Structure:** Isabella's Pond Spring NW Q40, NW Q160, Section 14 Township 30 South Range 67 West, 6th PM. **UTM's:** Easting 511913 Northing 4143823, spring location. UTM Zone 13S, NAD83, Source: handheld GPS unit, accuracy 20+/- feet. Street address, lot, block information: N/A. **6. Appropriation:**

Structure Name	Date of Appropriation	How Appropriation was Initiated	Date Water Applied to Beneficial Use
Isabella's Pond	6-5-1954	Pond constructed	6-5-1954
Gigi's Pond*	6-16-1977	Pond constructed	6-16-1977
Katie's Pond	6-16-1977	Pond constructed	6-16-1977
Dominic's Pond	6-16-1977	Pond constructed	6-16-1977

7. Amount claimed:

Structure Name	Amount Claimed (absolute)
Isabella's Pond	1.7 acre-feet
Gigi's Pond*	1.4 acre-feet
Katie's Pond	1.4 acre-feet
Dominic's Pond	1.6 acre-feet

B. If filled from a ditch or pipeline, rate of diversion in cubic feet per second for filling reservoir: Isabella's Pond Spring: 0.009 cfs (4gpm) absolute. **8. Uses or Proposed Uses:** Isabella's Pond, Gigi's Pond, Katie's Pond, Dominic's Pond, Existing Uses: Livestock, Wildlife, Piscatorial and Recreation. Location of Uses: All uses are in-pond uses (see map and above pond locations). **A. If irrigation:** Number of acres historically irrigated: 0 acres; proposed to be irrigated: 0 acres. Does applicant intend to use these water rights to supplement irrigation on an area of land already irrigated under another water right? No Legal description of irrigated acreage: N/A. If non-irrigation, describe purpose fully: Livestock, Wildlife, Piscatorial and Recreation. **9. Surface area, dam height and dam length:**

Structure Name	Surface Area (acres)	Dam Height (feet)	Dam Length (feet)
Isabella's Pond	0.48	6	190
Gigi's Pond*	0.42	8	190
Katie's Pond	0.42	10	135
Dominic's Pond	0.45	15	180

10. Total, active and dead capacity of reservoir in acre feet:

Structure Name	Total	Active Capacity	Dead Storage
Isabella's Pond	1.7	0	1.7
Gigi's Pond*	1.4	0	1.4
Katie's Pond	1.4	0	1.4
Dominic's Pond	1.6	0	1.6

11. Name(s) and address(es) of owner(s) 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: Ruger Ranch L.L.C., 28 Seven Oaks Drive, Bluffton, South Carolina 29910. **12. Remarks:** The Ferrendelli Ranch L.L.C. ponds have been in use since their construction dates. All ponds were in use during the free river administrative periods of the 1980s and the 1990s.

CASE NO. 2022CW3023; Previous Case No. 05CW96 – CITY OF COLORADO SPRINGS, COLORADO SPRINGS UTILITIES, c/o Abigail Ortega, P.E., 1521 Hancock Expressway, Mail Code 1825, Colorado Springs, CO 80903 (Please address all

pleadings and inquiries regarding this matter to Applicant's attorneys: Michael J. Gustafson, Senior Attorney, Nathan Endersbee, Attorney, City Attorney's Office-Utilities Division, 30 South Nevada Ave., MC 510, Colorado Springs, CO 80903; (719) 385-5909) Application for Findings of Reasonable Diligence and to Make Conditional Water Rights Absolute in Part

PUEBLO, CHAFFEE, LAKE, FREMONT, EL PASO, AND TELLER COUNTIES

1. Name, address, and telephone number of Applicant: 2. Names of Structures and Description of Conditional Water Rights: This Application involves the City of Colorado Springs, acting by and through its enterprise, Colorado Springs Utilities ("Applicant") conditional appropriative rights of substitution and exchange described in paragraph 3 below that were decreed in District Court, Water Division No. 2, Case No. 05CW96. 3. Conditional Rights of Substitution and Exchange. A. Date of Original Decree: April 29, 2016, Case No. 05CW96, District Court, Water Division No. 2 ("05CW96 Decree"). B. Subsequent Decrees Awarding Findings of Diligence: N/A. C. Appropriation Date: July 14, 2005 (absolute exchange; and December 23, 2005 (conditional exchanges). D. Decreed Use: The water diverted pursuant to the appropriative rights of substitution and exchange herein will be used for all beneficial uses for which the waters to be exchanged are decreed or may be lawfully used by the Applicant including, but not limited to, augmentation, all municipal uses, reuse, and successive use, and storage as required. E. Decreed Legal Description and PLSS Description of the structures from which substitute supplies will be released (exchange from points): I. Pueblo Reservoir (WDID: 1403526): Pueblo Reservoir is an on-channel reservoir formed by the intersection of Pueblo Dam and the Arkansas River at a point whence the NE corner of Section 36, Township 20 South, Range 66 West of the 6th P.M. bears north 61°21'20" east a distance of 2,511.05 feet. Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 20 South, Range 66 West of the 6th P.M. and Sections, 1, 2, 3, 4, 5, 9, 10, and 11, Township 21 South, Range 66 West of the 6th P.M. and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24, and 25 Township 20 South, Range 67 West of the 6th P.M., all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in

Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21' 20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B42135, District Court, Pueblo County, Colorado, as corrected in Case No. 02CW37 (District Court, Water Division No. 2), dated April 27, 2004. UTM coordinates for dam: (NAD83) (GPS): Easting: 524024.0, Northing: 4235675.0. II. Confluence of Fountain Creek and the Arkansas River (WDID:1400800): The confluence of Fountain Creek and the Arkansas River is a point on the Arkansas River in the Northeast quarter of Section 6, Township 21 South, Range 64 West of the 6th P.M., on the eastern boundary of Section 6, approximately 1,800 feet south of the Northern section line of Section 6, at the crossing of Colorado State Highway 227 (S. La Crosse Ave). UTM coordinates: (NAD83) (GPS): Easting: 535960.1, Northing: 4233962.5. F. Structures where water will be diverted or stored by exchange for substitute supplies released from the structures listed in subparagraph 3(E) (exchange-to points): I. Turquoise Lake, also known as Turquoise Reservoir, formerly Sugarloaf Reservoir (WDID: 1103500): Turquoise Lake is formed by a dam across Lake Fork Creek in Lake County in Section 19, Township 9 South, Range 80 West of the 6th P.M. as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), as dated October 23, 1980. It is decreed to store 129,432 a.f. UTM coordinates: (NAD83) (GPS): Easting: 381722.0, Northing: 4345669.0. II. Twin Lakes Reservoir (WDID: 1103503): Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th P.M., as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2) as dated October 23, 1980. UTM coordinates: (NAD83) (GPS): Easting: 387249.0, Northing: 4326318.0. III. Otero Pump Station Intake (WDID: 1100529): The Otero Pump Station diverts water from the Arkansas River in Chaffee County, approximately at the point that bears North 30° West a distance of 6,180 feet to the Northeast corner of Section 6, Township 12 South, Range 79 West of the 6th P.M. PLSS: in the Southwest quarter of the Southeast quarter of Section 5, Township 12 South, Range 79 West of the 6th P.M. at a point 35 feet from the South Section line and 2256 feet from the East Section line. UTM coordinates: (NAD83) (GPS): Easting: 392343.0, Northing: 4320484.0. IV. Upper Homestake Pipeline (WDID: 1101238): The Upper Homestake Pipeline connects the outlet works of Twin Lakes Reservoir with the Otero Pump Station, which structures are described above in Paragraphs 3(F)(II) and (III). UTM coordinates: (NAD83)(GPS): Easting: 387391.0, Northing: 4326045.0. V. A map depicting the location of the exchange from and exchange-to points is attached to the application as **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) G. Description of Exchange: I. Exchange Reaches: The claimed exchange reaches are: 1) from Pueblo Reservoir as described above in paragraph 3E(I) to the upstream points described above in paragraphs 3(F)(I)-(IV), and 2) from the confluence of the Arkansas River and Fountain Creek as described above in paragraph 3(E)(II) to the points described above in paragraphs 3(F)(I)-(IV). II. Water and water rights to be used as sources of substitute supplies: a) Temporary Use Agreement Waters. Subject to the limitations in paragraph 29.P of the 05CW96 Decree, all fully consumable waters that are or will be lawfully available for the Applicant's use, reuse, or successive use that the Applicant acquires by temporary use agreements. b) Return flows from Temporary Use Agreement Waters. The return flows from the fully consumable waters described above in paragraph 3(G)(II)(a), and as quantified in paragraphs 29.Q

and 29.R of the 05CW96 Decree, that are controlled, projected to be controlled, or available for use by the Applicant; that may be lawfully delivered to the Applicant's municipal water supply system; and that are stored in Pueblo Reservoir and/or delivered to Arkansas River below Pueblo Reservoir via Fountain Creek. III. Exchange Amounts Decreed:

EXCHANGE FROM	EXCHANGE TO	ABSOLUTE (C.F.S.)	CONDITIONAL (C.F.S.)
Pueblo Reservoir	Twin Lakes Reservoir	50.00	450.00
	Turquoise Reservoir	0.00	276.00
	Upper Homestake Pipeline	0.00	105.20
	Otero Pump Station Intake	0.00	105.20
Confluence of Fountain Creek and the Arkansas River	Twin Lakes Reservoir	0.00	164.00
	Turquoise Reservoir	0.00	164.00
	Upper Homestake Pipeline	0.00	105.20
	Otero Pump Station Intake	0.00	105.20

4. Diligence: A. Integrated System. The Applicant owns and operates an integrated system for water diversions, transmission, storage, treatment, and distribution, as well as collection and treatment of the resultant wastewater for release, exchange, and reuse. The conditional water rights herein are a part of this integrated water system comprising all water rights decreed and used for development and operation of the City of Colorado Springs' municipal water supply system. Reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. B. Diligence Activities. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures. I. During the period from April 29, 2016 (date of last decree) through April 1, 2022 (the "Diligence Period"), Applicant has operated some of the decreed exchanges that are the subject of this Application to divert and beneficially use additional amounts of water so as to make absolute additional incremental amounts of the decreed exchanges. Applicant has also spent substantial sums of money and devoted many thousands of man hours to the operation, maintenance, improvement, and development of its water resources and its municipal water supply, distribution, and wastewater treatment systems, including work related to collection system facilities, storage reservoirs, water transmission pipelines, water treatment plants, and distribution system mains, meters, and reservoirs. The water delivered through the Applicant's municipal water systems includes the water made available to Applicant by the rights of exchange that are the subject of this Application. These expenditures on Applicant's municipal water supply system are necessary for further development of Applicant's exchanges and reuse program of which the exchanges that are the subject hereof are a part. As part of this overall effort, Applicant retained engineering consultants and attorneys to assist it in the acquisition, operation, maintenance, improvement, and protection of its water resources and its municipal water supply, distribution, and wastewater treatment systems. Applicant has undertaken numerous projects and activities for the improvement and enlargement of its water supply

and distribution systems in order to facilitate the completion of the appropriation of the conditionally decreed rights of storage, substitution and exchange that are the subject of this Application including, but not limited to: completion of the SDS Project Phase 1; construction and establishment of certain wetlands along Fountain Creek as required per the SDS Project environmental mitigation requirements; improvements to the Northfield Reservoir dam and spillway; completion of upgrades to the 33rd Street Pump Station; completion of upgrades to the Manitou Intake diversion structure on Ruxton Creek; improvements to the French Creek Intake diversion structure; investigations into seepage from Rampart Reservoir dam; investigations regarding system water losses; install water quality improvements on its Northfield and Pikeview Systems; design and initial construction activities for refacing of the Crystal Creek Reservoir dam; improvements to the Nichols Reservoir dam and spillway; design for refacing of the South Catamount Reservoir dam; pipeline repair and replacement of certain sections of the Homestake Pipeline; operation and development of its Arkansas River exchange program and its Colorado Canal reuse program; development and completion of the Integrated Water Resources Plan which identified a portfolio of water supply projects, policies, and processes that will be necessary to provide a reliable and sustainable supply of water for its customers for the next 50 years; continued pursuit of development of a joint project(s) as contemplated by the 1998 MOU between the cities of Aurora and Colorado Springs, Vail Associates, Upper Eagle River Regional Water Authority, Eagle River Water and Sanitation District, Cypress Climax Mining Company, and the Colorado River Water Conservation District; and pursuit of a project to maximize the yield of the Blue River System. Applicant also acquired Temporary Use waters through purchasing shares in the Lower Arkansas Water Management Association and the Fort Lyon Canal Company. Additionally, Applicant entered into leases with Colorado Water Protective and Development Association (now Arkansas Groundwater and Reservoir Association), Super Ditch and the Board of Water Works of Pueblo (Pueblo Water). II. During the Diligence Period, Applicant also filed applications for, prosecuted and completed several adjudications of water rights that comprise portions of Applicant's integrated municipal water supply system. These activities include, but are not limited to, filing of applications in Water Division 2 (Arkansas River Basin) and/or pursuit of adjudication of decrees in: Case No. 15CW3001 (Water Division No. 2) involving a change of water rights in the Chilcott Ditch Company ("Chilcott") (decree entered on September 5, 2018); Case No. 15CW3002 (Water Division No. 2) involving a change of water rights in the Fountain Mutual Irrigation Company ("FMIC") (decree entered on September 5, 2018); Case No. 16CW3056 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative right of exchange involving Applicant's FMIC and Chilcott water rights (decree entered on January 29, 2020); Case No. 16CW3072 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Consolidated Case Nos. 84CW202, 84CW203, 86CW118(B) and 89CW36 (decree entered on February 13, 2018); Case No. 18CW3042 (Water Division No. 2) regarding Applicant's claims of diligence for rights of exchange and substitution involving Lake Meredith, Pueblo Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir (decree entered on June 19, 2019); Case No. 18CW3053 (Water Division No. 2) regarding Applicant's conditional storage Rights for Upper Sugar Loaf Reservoir and Sugar Loaf Reservoir Enlargement and Amendment (decree entered

on March 8, 2019); Case No. 19CW3026 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of exchange originally decreed in Case No. 86CW118(A) (decree entered on April 29, 2020); 19CW3052 (Water Division No. 2) involving an augmentation plan, replacement plan, and appropriative rights of exchange on Fountain Creek (pending); Case No. 19CW3053 (Water Division No. 2) involving an augmentation plan, and appropriative rights of exchange (pending); Case No. 20CW3033 (Water Division No. 2) involving claims for diligence related to Applicant's appropriative rights of substitution and exchange in the Fountain Creek watershed originally decreed in Case No. 84CW202 (decree entered on August 5, 2021); Case No. 21CW3009 (Water Division 2) involving claims for diligence related to Applicant's Denver Basin groundwater exchange program decreed in Case No. 04CW132 (decree entered on February 4, 2022); Case No. 21CW3015 (Water Division 2) involving a claim for appropriative rights of exchange associated with water available under Applicant's shares in the Lower Arkansas Water Management Association that may be subsequently exchanged into Pueblo Reservoir pursuant to the exchange decreed herein (pending); Case No. 21CW3055 (Water Division 2) involving claims for diligence related to Applicant's water rights decreed in Case No. 12CW31 for Upper Williams Creek Reservoir (pending); Case No. 22CW3002 (Water Division 2) involving claims for diligence related for Applicant's rights of substitution and exchange decreed in Case No. 07CW122 (pending); and Case No. 22CW3006 (Water Division 2) involving claims for diligence related for Applicant's rights of substitution and exchange decreed in Case No. 84CW203 (pending). III. Applicant has also acted to preserve and protect all its water rights by filing statements of opposition to, and participating in, many judicial and administrative proceedings. For example, Applicant has consistently opposed water court applications that seek approval of plans for augmentation that operate on Fountain Creek. Applicant has participated in these cases to ensure that the out-of-priority depletions are replaced in time, amount, and location, and that the Division Engineer assesses transit losses on the replacement water supply. Applicant has undertaken endeavors to improve the accuracy of the Fountain Creek Transit Loss Model, which directly affects the exchanges at issue in this Application. C. Expenditures. Applicant's total capital expenditures in connection with the activities described above on its integrated system during the Due Diligence Period have exceeded \$364,317,000. In addition to that amount, over \$9,051,000 was expended on the operation of the Arkansas River Exchange Program. Applicant reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. D. Applicant made diligent efforts regarding this Application to determine and quantify all efforts made toward completion of the appropriations and application of the water rights decreed in Case No. 05CW96 to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. 5. Claim to make absolute in whole or in part: The Applicant has operated the decreed exchanges that are the subject of this Application to divert and beneficially use additional amounts of water beyond the amounts previously made absolute so as to make absolute additional incremental amounts of the decreed exchanges as follows: A. Date water was applied to beneficial use: Between December 18, 2013 and April 1, 2022 Applicant has operated the following exchanges after providing the notice required by paragraph 29.P of the 05CW96 Decree: I. Twin Lakes Reservoir: Between 12:00 pm on

June 8, 2019 and 12:00 pm on June 9, 2019 Class I TU water was exchanged from Pueblo Reservoir at a rate of 403.33 c.f.s. for a total exchange of 800 a.f. Because 50.00 c.f.s. was previously made absolute, the additional amount claimed during this diligence period is 353.33 c.f.s. II. Turquoise Reservoir: On June 28, 2019, Class II TU water was exchanged from Pueblo Reservoir at a rate of 89.85 c.f.s., for a total exchange of 178.21 a.f. Because 0.00 c.f.s. was previously made absolute, the additional amount claimed absolute in this diligence period is 89.85 c.f.s. B. Amounts: as set forth in the table below (2013-2022 Exchanges):

2013-2022 EXCHANGES

Structure Name (Exchange-from)	Structure Name (Exchange-to)	Total Amount Decreed in 05CW96 (C.F.S.)	Amount Decreed Absolute in 05CW96 (C.F.S.)	Amount Decreed Conditional in 05CW96 (C.F.S.)	Additional Amount Claimed Absolute (C.F.S.)	Resulting Remaining Conditional Amount (C.F.S.)	New Total Amount Claimed Absolute (C.F.S.)
Pueblo Reservoir	Twin Lakes Reservoir	500.00	50.00	450.00	353.33	96.67	403.33
	Turquoise Reservoir	276.00	0.00	276.00	89.85	186.15	89.85
	Upper Homestake Pipeline	105.20	0.00	105.20	0.00	105.20	0.00
	Otero Pump Station Intake	105.20	0.00	105.20	0.00	105.20	0.00
Confluence of Fountain Creek and the Arkansas River	Twin Lakes Reservoir	164.00	0.00	164.00	0.00	164.00	0.00
	Turquoise Reservoir	164.00	0.00	164.00	0.00	164.00	0.00
	Upper Homestake Pipeline	105.20	0.00	105.20	0.00	105.20	0.00
	Otero Pump Station Intake	105.20	0.00	105.20	0.00	105.20	0.00

C. Uses: Municipal purposes within the Colorado Springs municipal water supply service area, including augmentation, all municipal uses, reuse, and successive use, and storage as required. 6. Landowners: Names and addresses of 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 including any modification to the existing storage pool: A. City of Colorado Springs, Colorado Springs Utilities, c/o Jessica Davis, Plaza of the Rockies, 121 S. Tejon, MC 950, Colorado Springs, CO 80903 (Jointly with City of Aurora – Otero Pump Station Intake, Upper Homestake Pipeline). B. United States of America, Department of Interior, Bureau of Reclamation, Easter Colorado Area Office, 11056 W. County 18-E, Loveland, CO 80537 (Pueblo Reservoir, Turquoise Lake, Twin Lakes Reservoir). C. City of Aurora, Utility

Enterprise, ATTN: Utilities Director, 15151 E. Alameda Parkway, Aurora, CO 80012 (Jointly with City of Colorado Springs – Otero Pump Station Intake, Upper Homestake Pipeline). 7. Remarks or other pertinent information: A. PLSS Descriptions. PLSS descriptions are included herein in compliance with Water Court forms. In the event of a discrepancy between the decreed location and the PLSS descriptions herein, the decreed location is controlling. Any person reading this Application should rely on the terms of the decree in Case No. 05CW96 adjudicating the conditional water rights herein.

CASE NO. 2022CW3024; Previous Case Nos. 15CW3054 and 06CW117 – SECURITY WATER DISTRICT (“Security”), C/O Roy Heald, Manager, 231 Security Boulevard, Colorado Springs, Colorado 80911 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: MONSON, CUMMINS, SHOHET & FARR, LLC, David M. Shohet, #36675, Emilie B. Polley, #51296, 13511 Northgate Estates Dr., Suite 250, Colorado Springs, CO 80921, (719) 471-1212)

Application for Finding of Reasonable Diligence
EL PASO COUNTY

Application for Finding of Reasonable Diligence

EL PASO COUNTY

II. Summary of Application: Security seeks a finding of reasonable diligence for the conditional exchange adjudicated in Case No. 06CW117, District Court, Water Division 2, for which diligence has been previously found in Case No. 15CW3054. **III. Conditional Exchange:** A. Description of Conditional Exchange: An exchange from point of the Lock Ditch Headgate located in the SW¼ SE¼ of Section 6, Township 16 South, Range 65 West of the 6th P.M., a distance of 850 feet from the south line of said section and 1,670 feet from the east line of said section, to the exchange to point of the point of depletion on Fountain Creek generally located in the NE¼ of Section 25, Township 15 South, Range 66 West of the 6th P.M., from pumping of Security’s Widefield Aquifer wells and Windmill Gulch Aquifer wells (“Exchange”). B. Date of Original Decree: November 6, 2009 in Case No. 06CW117, District Court, Water Division 2. C. Date of Subsequent Decrees: April 28, 2016 in Case No. 15CW3054, District Court, Water Division 2. D. Source: The source of the Exchange is augmentation water consisting of a 25% interest in the Lock Ditch and Lock Ditch No. 2 water rights diverting from Fountain Creek, which is tributary to the Arkansas River (“Subject Water Rights”). The source of supply for the Lock Ditch was also claimed by the original applicant to be Sand Creek, believed to be present day Jimmy Camp Creek, tributary to Fountain Creek, tributary to the Arkansas River. E. Appropriation Date and Amounts for the Lock Ditch: The appropriation date and amounts for Lock Ditch and Lock Ditch No. 2 are as follows:

A. Description of Conditional Exchange: An exchange from point of the Lock Ditch Headgate located in the SW¼ SE¼ of Section 6, Township 16 South, Range 65 West of the 6th P.M., a distance of 850 feet from the south line of said section and 1,670 feet from the east line of said section, to the exchange to point of the point of depletion on Fountain Creek generally located in the NE¼ of Section 25, Township 15 South, Range 66 West of the 6th P.M., from pumping of Security’s Widefield Aquifer wells and Windmill Gulch Aquifer wells (“Exchange”). B. Date of Original Decree: November 6, 2009 in Case No. 06CW117, District Court, Water Division 2. C. Date of Subsequent Decrees: April 28, 2016 in Case No. 15CW3054, District Court, Water Division 2. D. Source: The source of the Exchange is augmentation water consisting of a 25% interest in the Lock Ditch and Lock Ditch No. 2 water rights diverting from Fountain Creek, which is tributary to the Arkansas River (“Subject Water Rights”). The source of supply for the Lock Ditch was also claimed by the original applicant to be Sand Creek, believed to be present day Jimmy Camp Creek, tributary to Fountain Creek, tributary to the Arkansas River. E. Appropriation Date and Amounts for the Lock Ditch: The appropriation date and amounts for Lock Ditch and Lock Ditch No. 2 are as follows:

Water Right Name	Adjudication Date	Appropriation Date	Local Priority No.	Full Water Fight (cfs)	Subject Water Rights (cfs)
Lock Ditch	Feb. 15, 1882	Dec. 31, 1863	15	6.30	1.575
Lock Ditch No. 2	Feb. 15, 1882	Dec. 31, 1864	22	8.38	2.095
Lock Ditch No. 2	Feb. 15, 1882	Dec. 31, 1880	45	5.02	1.255 ¹
Totals				19.70	4.925

¹ The 1.255 interest in Priority No. 45 of the Subject Water Rights was abandoned by Security in Case No. 06CW117.

F. Appropriation Date of Exchange: The appropriation date for the Exchange is December 28, 2006. G. Rate and Amount of Water Exchanged: The annual amount of the Exchange is for a total of 250 acre-feet of water with a maximum exchange rate of 1.58 cfs. Of the total 1.58 c.f.s., 0.5 c.f.s. is absolute, while 1.08 c.f.s. remains conditional. G. Uses of Exchange Water: In accordance with the Decree, the water will be used for augmentation and replacement of Security's depletions as a result of the pumping of the Widefield Aquifer wells and Windmill Gulch Aquifer wells. H. Ownership of Augmentation Source: Security is the owner of the Subject Water Rights. **IV. Outline of Work Done towards completion of Appropriation and Application of Water to Beneficial Use.** In Case No. 06CW177, the Court decreed to the Applicant the conditional appropriative right of exchange for the beneficial use of Applicant's municipal water supply system. The conditional right of exchange is a component part of Security's integrated water system, which consists of storage water rights, plans for augmentation, appropriative rights of exchange, ground water rights, and surface water rights, as well as both a physical and administrative infrastructure to operate the system. Pursuant to § 37-92-301(4)(b), C.R.S., work on one component of the integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. During this diligence period, Applicant temporarily discontinued the use of all of its wells in 2016 due to the discovery of perfluorinated compounds (PFCs) in the Widefield Aquifer. The Applicant has been working with the United State Air Force, who has committed to design and construct a water treatment system to remove PFCs from the Applicant's groundwater. The system is expected to cost over \$15 million and will allow Security to resume diversions from the Widefield Aquifer. As a result of the contamination of the Widefield Aquifer, applicant has been unable to operate the Exchange. Applicant, however, is prepared to operate the Exchange upon resuming groundwater diversions from the Widefield Aquifer. During the diligence period, Applicant has outlaid the following expenditures and completed the following work related to the conditional appropriative right of exchange described herein in their integrated water system: A. The Applicant has expended over \$54,860.00 in plant repairs and maintenance of their integrated water system, in addition to \$13,118,632.00 total capital expenditures for the water system. B. The Applicant has continuously operated its integrated water system in order to provide water services to the residents of the district, amounting to a cost of \$34,301,118.00 in general operations and maintenance expenses of said system. C. The Applicant invested in approximately \$296,373 of well improvements to operate the Exchange's exchange to point, or point of depletion as described in paragraph III.A., above. D. The Applicant has incurred extensive legal fees associated with drafting and filing of documents pertaining to Applicant's water rights, including previous related applications and decrees as well as the present filing, obtaining legal advice as to the use and development of Applicant's integrated water system, and protecting its water rights in water court cases. E. Additionally, the Applicant has expended significant time and resources building and maintaining infrastructure necessary to place the conditional rights to beneficial use. **V. Claim to Make Absolute.** None. **VI. Name of the Owners of the Land on Which Structure is Located Upon Which Water Is or Will Be Stored or Upon Which Water is or Will Be Placed to Beneficial Use:** The Lock Ditch Headgate is located on land owned by El Paso County, 200 S Cascade Ave, Ste. 150, Colorado Springs, CO 80903.

****Per Order, Resume to be published by Water Division 1****

CASE NO. 2022CW3025, Water Division 2 and CASE NO. 2022CW3066, Water Division 1; Previous Case No. 18CW3226 – SHAY MILES, 15630 Fox Creek Lane, Colorado Springs, CO 80908

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins and Emilie B. Polley at Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921 (719-471-1212))

Application for Revision of Plan for Augmentation

EL PASO COUNTY

Background and Summary of Application. Applicant seeks to revise an existing augmentation plan concerning the groundwater supplies underlying a 39.72-acre parcel of land located in the SW¼ of Section 29, Township 11 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, as depicted on **Exhibit A** attached to the application ("Applicant's Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicant obtained a decree for underground water rights within the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, along with a plan for augmentation, in Case No. 18CW3226, District Court, Water Division 1. ("18CW3226 Decree"), attached to the application as **Exhibit B**. The 18CW3226 Decree established an augmentation plan for Applicant's Property which decreed the use of seven wells to the Dawson aquifer for the withdrawal of 4.13 acre-feet from the Dawson aquifer annually to support a seven (7) lot subdivision. Water uses set forth per lot were in-house (0.25 annual acre-feet), irrigation of approximately 5,920 square feet of lawn and garden and the watering of up to four horses or equivalent livestock, for a total of 0.59 acre-feet for each lot. The Decree reserved a total of 1,130 acre-feet of water from the nontributary Laramie-Fox Hills aquifer for replacement of post-pumping depletion obligations (a 300-year aquifer life/plan for augmentation). The Applicant now seeks to revise the plan for augmentation approved in the 18CW3226 decree to support the subdivision of Applicant's Property into up to eleven lots. **Proposed Revision.** Applicant is the owner of Applicant's Property, along with water subject to the plan for augmentation approved and decreed by the Division 1 Water Court in the 18CW3226 Decree. By this application, Applicant requests the following revisions to the plan for augmentation set forth in the 18CW3226 Decree as follows: **Structures to be Augmented.** The structures to be augmented are the Miles Wells Nos. 1 through 11, 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. **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 Miles Wells Nos. 1 through 11, together with water rights from the nontributary Arapahoe and Laramie-Fox Hills aquifers for any injurious post pumping depletions. **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 eleven wells proposed herein for eleven residential lots. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: **Household Use Only:** 0.26 acre-feet annually within single family dwellings on up to eleven 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 0.026 acre-feet per well, with return flows of 0.234 acre-feet per lot. 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. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Hot Tub Use: 0.006 acre-feet (2100 gallons) annually, based upon six fillings per year, with a 50% consumptive use rate. The annual consumptive use for each hot tub is therefore 0.003 acre-feet (1050 gallons). Each of the wells will pump a maximum of 0.82 acre-feet of water per year, per lot, for total maximum pumping of 9.08 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 0.26 acre-feet of water per year per residence with the remaining 0.56 acre-feet per year per residence available for irrigation of lawn and garden and the watering of up to four horses or equivalent livestock on each residential lot. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 21.1% of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 1.91 acre-feet in year 300. Should Applicant's pumping be less than the 9.08 total, 0.82 acre-feet per lot, per year, described herein, resulting depletions and required replacements will be correspondingly reduced. Augmentation of Depletions During Pumping. Applicant will replace depletions resulting from the pumping of the Miles Wells Nos. 1 through 11 during the pumping life of the well utilizing residential return flows from non-evaporative septic systems from in-house uses on each of the lots. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.26 acre-feet per residence per year, 2.574 acre-feet is replaced to the stream system per year utilizing the non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented thereby preventing injury to other vested water rights. Augmentation for Post Pumping Depletions. Applicant seeks to revise the reservation of the Laramie-Fox Hills aquifer in the 18CW3226 Decree for replacement of reserved 1,130 acre-feet of water from the Laramie Fox Hills Aquifer. The Applicant now reserves the entirety of the Laramie-Fox Hills and Arapahoe aquifers, thereby adding 1,650 acre-feet to post-pumping augmentation supply, sufficient to replace depletions from increased pumping from eleven wells described herein. 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 Arapahoe and 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 new well permits for the proposed Miles Wells Nos. 1 through 11 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137. **Remarks**. 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 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. Applicant requests a finding that he has complied with C.R.S. §37-90-137(4), and that the ground water requested herein is legally available for withdrawal by the requested wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(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. 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. The Applicant requests a finding that vested water rights of others will not be materially injured by the additional use requested herein. Upon entry of a decree in this case, the Applicant shall be entitled to apply for and receive a new well permit in accordance with the provisions of any decree entered in this case. The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-90-137(6) and 37-92-302, C.R.S. 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. 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. The Applicant intends to waive the 600 feet well spacing requirement for any wells to be located upon the Applicant's Property. Applicant will comply with any lienholder notice provisions set forth in C.R.S. §37-92-302(2)(b) and §37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2022CW3026; SYLVAN LAKES METROPOLITAN DISTRICT, PO Box 156 Leadville, Colorado 80461-0156 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Ryan W. Farr, #39394, Steven T. Monson, #11329, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Amended Application for Approval of Plan for Augmentation

LAKE, CHAFFEE AND PITKIN COUNTIES

II. Background and Summary of Application. Applicant is a Title 32 Metropolitan District. Applicant owns and controls nine lakes that serve as aesthetic, recreational, fish propagation, wildlife habitat, and fire suppression reservoirs within the boundaries of the metropolitan district. Applicant is seeking storage water rights and an augmentation plan to replace the depletions of the reservoirs caused by evaporation. **III. Plan for Augmentation.** A. Property Description. Applicant's boundaries consist of the NW1/4 of

the NE1/4, that portion of the NE1/4 of the NE1/4 lying west of US Highway 24, the SW1/4 of the NE1/4, the SE1/4 of the NE1/4, and the NW1/4 of the SE1/4, all lying within Section 21, Township 8 South, Range 80 West of the 6th P.M., Lake County, Colorado (“Applicant’s Property”). See **Exhibit A** attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) B. Structures to be Augmented. The structures to be augmented are nine lakes located on the Applicant’s Property all within the NE1/4 of Section 21, Township 8 South, Range 80 West of the 6th P.M., and all are served by Hartner Ditch No. 2, as described below, and as shown on the attached **Exhibit A** (“Lakes”). The Lakes are known as follows: 1. Chickadee Lake, UTM Zone 13, NAD83, Easting: 384876, Northing: 4355807. 2. Flora Lake No. 1, UTM Zone 13, NAD83, Easting: 384899, Northing: 4355642. 3. Flora Lake No. 2, UTM Zone 13, NAD83, Easting: 384925, Northing: 4355534. 4. Mirror Lake, UTM Zone 13, NAD83, Easting: 384963, Northing: 4355408. 5. Brush Lake No. 1, UTM Zone 13, NAD83, Easting: 384876, Northing: 4355807. 6. Brush Lake No. 2, UTM Zone 13, NAD83, Easting: 385042, Northing: 4355403. 7. Brush Lake No. 3, UTM Zone 13, NAD83, Easting: 385104, Northing: 4355418. 8. Brush Lake No. 4, UTM Zone 13, NAD83, Easting: 385155, Northing: 4355399. 9. Brush Lake No. 5, UTM Zone 13, NAD83, Easting: 385229, Northing: 4355396. C. Volume. Total volume of all Lakes amounts to 20 acre-feet. D. Source. The Lakes are filled by diversions from West Tennessee Creek, tributary to Tennessee Creek, tributary to the Arkansas River through the Hartner Ditch No. 2, as described below. E. Uses. The Lakes are used for piscatorial, recreation, wildlife habitat, aesthetic, and fire suppression purposes. F. Water Right. Applicant is the owner of the Hartner Ditch No. 2 that is used to fill the Lakes from West Tennessee Creek. The Hartner Ditch No. 2 water right was decreed in Case No. CA3053, District Court for Chaffee County on January 18, 1932. Hartner Ditch No. 2 is located in the NW1/4 of the NE1/4 of Section 21, Township 8 South, Range 80 West of the 6th P.M. and is decreed for 2.98 cfs for the purposes of fish culture and propagation. G. Water Rights to be Used for Augmentation. 1. Mount Massive Lakes/Homestake Trout Club Water. Applicant has entered into a lease with Mount Massive Lakes, Inc. and Home Stake Trout Club, Inc. (“MML/HSTC”) for 22.36 annual acre-feet of fully consumable water. Such water is available according to the following schedule:

Month	Acre-Feet
May	3.18
June	5.78
July	4.92
August	4.43
September	3.18
October	0.87
Total	22.36

MML/HSTC adjudicated a change of water right of the Noland Ditch water right in Case No. 87CW73, District Court, Water Division 2 (“87CW73 Decree”). The Noland Ditch water rights were originally adjudicated in Case Nos. CA1127 and CA2749, former Water District 11, Water Division 2 for irrigation purposes. Specifically, the Noland Ditch was decreed as follows: Case No. CA1127, former Water District No. 11, Water Division 2, decree entered in the District Court of Chaffee County, Colorado on June 19, 1890: i.

(CA1127) Noland Ditch, Priority No. 19, 3.6 cfs for irrigation, appropriation date of November 15, 1867, later reduced to 2.8 cfs; ii. Noland Ditch First Enlargement, Priority No. 92, 2.4 cfs for irrigation, appropriation date of May 31, 1881, later reduced to 1.87 cfs; iii. Noland Ditch Second Enlargement, Priority No. 133, 0.33 cfs for irrigation, appropriation date of May 31, 1883; and Case No. CA2749, former Water District No. 11, Water Division 2, decree entered in the District Court of Chaffee County, Colorado on July 19, 1923: iv. Noland Ditch Third Enlargement, 8.0 cfs for irrigation, appropriation date of June 21, 1890. The 87CW73 Decree awarded 238.6 acre-feet of consumptive use water to MML/HSTC from the Noland Ditch, including 22.36 acre-feet of unassigned consumptive use water. The point of delivery for replacement water from MML/HSTC will be at the confluence of the Arkansas River and the South Arkansas River. 2. Twin Lakes Water. Applicant also leases 4.1 shares of Twin Lakes Reservoir and Canal Company stock from residents within Sylvan Lakes Metropolitan District. These shares provide approximately 2.87 acre-feet of replacement water. The native portion of the Twin Lakes shares will not be used for replacement purposes. The Twin Lakes shares represent a *pro rata* interest in native Arkansas River diversions and the Independence Pass transmountain diversion system which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County for storage in the Twin Lakes Reservoirs in southern Lake County, Colorado. Each Twin Lakes share consists of direct flow and storage rights which are available for 100 percent consumptive use and reuse and is available for augmentation. The water rights producing the pro rata interest of the Applicant are described as follows: i. Colorado River Water Rights. a. *Decree*: 1. Case No. 3082, District Court, Garfield County, August 25, 1936. 2. Case No. W-1901, District Court, Water Division 5, May 12, 1976. a. *Priority*: August 23, 1930, Priority No. 431. b. *Source*: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Division 5, as more fully set forth in the above referenced Decrees. c. *Use*: Direct flow and storage purposes, for irrigation, domestic, commercial, industrial, municipal and all beneficial uses. d. *Amount*: Direct flow amount for diversions through transmountain tunnels of 625 cfs with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre feet, and other limitations set forth in the decrees. ii. Arkansas River Water Rights. a. *Decree*: 1. Original Decree, Case No. 2346, District Court, Chaffee County, July 14, 1913. 2. Modified, Case No. W-3965, District Court, Water Division 2, April 19, 1974. a. *Priorities*: December 15, 1896, Priority No. 3, and March 25, 1897, Priority No. 4. b. *Source*: Lake Creek and its tributaries tributary to the Arkansas River. c. *Use*: Storage for irrigation, domestic, commercial, industrial and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served water by diversion from said Arkansas River. d. *Amount*: 54,452 acre-feet (20,645.3 acre-feet - Priority No. 3; 33,806.7 acre-feet - Priority No. 4). ii. Point of Replacement. The point of delivery for replacement water from Twin Lakes Reservoir and Canal Company will be at the confluence of Lake Creek and the Arkansas River. 2. Pueblo Board of Water Works. Pueblo Board of Water Works ("PBWW") leases direct source and augmentation water from its water rights to water users. Applicant intends to lease such water rights for augmentation hereunder. Water available for lease by PBWW includes PBWW's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which PBWW may deliver water, the sources of which are at the option of PBWW,

as long as they are legally available for their requested purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West, 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sections 7, 8, 17, 18, 19, and 20, Township 9 South, Range 80 West, 6th P.M. and Sections 10, 11, 12, 13, 14, and 15, Township 9 South, Range 81 West, 6th P.M., in Lake County), Clear Creek Reservoir (located in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West, 6th P.M. in Chaffee County, and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. H. Statement of Plan for Augmentation. Applicant seeks to augment stream depletions associated with diversions through Hartner Ditch No. 2 to fill and cover evaporative losses from the Lakes. Gross annual evaporative depletions from the Lakes have been determined to be 14.52 acre-feet, the total of which is broken down into monthly amounts as follows:

Month	Acre-Feet
January	0
February	0
March	0
April	0
May	2.4
June	2.98
July	3.08
August	2.5
September	2.12
October	1.44
November	0
December	0

The Lakes have a total surface area of 6.69 acres. The Lakes are naturally occurring lakes that were enlarged over time to their current sizes. Applicant intends to take credit against the above listed evaporative losses and any fills for the portions of the Lakes that are deemed naturally occurring. I. Remarks. Additional remarks are as follows: 1. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of evaporative depletions in order to protect other water rights. 2. Depletions will be considered to be out-of-priority during all times when there is a valid call for water downstream of the Hartner Ditch No. 2 headgate from a water right that is senior to the Hartner Ditch No. 2 water right. Once the Lakes are full and spilling, the amount of out-of-priority replacement will be the evaporative depletions as set forth above. 3. The Applicant requests a finding that the vested water rights of others will not be materially injured by the fill and evaporative depletions as long as those depletions are augmented as set forth herein. 4. The Lakes shall be metered/measured/monitored as reasonably required by the State and Division Engineers. The Applicant shall provide accounting to the Division Engineer and Water Commissioner as required by them to demonstrate

compliance under this plan for augmentation. 5. The transit loss from the delivery point to the point of augmentation will be assessed on the delivered water as determined by the Division Engineer's Office. 6. As required by the lease with MML/HSTC, diversions by Applicant from West Tennessee Creek by Hartner Ditch No. 2 shall not decrease the flow of Tennessee Creek to an amount that is less than the existing decreed minimum in-stream flow right of the CWCB. 7. If any of the replacement sources described above are exhausted at any time and the Hartner Ditch No. 2 is called out, Applicant will shut off the Hartner Ditch No. 2 headgate until such sources are once again available and allow the lake levels to drop as a result of the suffered evaporation. 8. If there is an intervening call that is not being fully satisfied between the diversion point of Hartner Ditch No. 2 and the point of replacement for the above listed augmentation sources, Applicant will decrease diversion or shut off the Hartner Ditch No. 2 headgate until such calling right is fully satisfied and allow the lake levels to drop as a result of the suffered evaporation. 9. Pursuant to C.R.S. § 37-92-305(8), Applicant will set forth procedures for the inclusion of alternative augmentation sources.

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

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of June 2022, (forms available at Clerk's office or at www.courts.state.co.us, after serving parties and attaching a certificate of mailing, filing fee \$192.00). YOU ARE HEREBY NOTIFIED that any party who wishes to support or oppose a protest to the final revised abandonment list may file with the Division 2 Water Clerk an entry of appearance, under Water Court Rule 12(d), and file a completed JDF 320W - Entry of Appearance in Protest to Final Abandonment List, such entry of appearance must be filed by August 31, 2022 (forms available at Clerk's office or at www.courts.state.co.us). A copy of such entry of appearance must also be served upon the Opposer and the applicant's attorney and an affidavit or certificate of such service shall be filed with the Division 2 Water Clerk, as prescribed by Rule 5, CRCP. The foregoing are resumes and the entire application, protest, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 13TH day of May 2022.

Michele Santistevan

Michele M. Santistevan, Clerk



District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8749

(Court seal)
Published: