

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING AUGUST 2022. (This publication can be viewed in its entirety on the state court website at: [www.courts.state.co.us](http://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 and certain amendments filed and/or ordered published during August 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. 2022CW2; THOMAS A. and LESLIE S. WALKER, 7179 S Parfet Court, Littleton, CO 80127, (303) 875-6951**

Amended Application for Absolute Underground Water Right for an Exempt Well  
**CHAFFEE COUNTY**

**2. Name(s) of well(s) and permit, registration, or denial number(s):** Parcel: Riverview Ranch, Permit #: 323499, Receipt # 10014304. Total area of parcel on which this well is located: 35.68 acres. **3. Location of Structure, Legal Description:** SE ¼ SW ¼ Section 13 Township 13 South Range 79 West Sixth P.M. Chaffee County. **UTM Coordinates:** Easting X: 398278, Northing Y: 4307937, Zone 13, WDID 1108290, Street Address: 34150 N Hwy 24, Buena Vista, CO 81211, Subdivision: Riverview Ranch, Lot: 3. Source of UTMs: GPS, Accuracy of location displayed on GPS device: w/in 25 feet. 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. Date of appropriation:** 08/04/2021 B. How appropriation was initiated: 08/24/2021. C. Date water applied to beneficial use: Not operated as of current date. **5. Source of water:** Arkansas River Tributary. Depth of well: 80 Feet. **6. Amount of underground water claimed:** Conditional 15 gpm. **7. Existing Uses:** N/A. **8. Proposed Uses:** A. Number of single-family dwellings: 3. B. Area of lawns and gardens irrigated: 1 acres. C. Domestic animals watering: Yes D. Livestock watering on farm/ranch/pasture: Yes. E. Other uses: Fire Protection, ordinary household purposes inside but not more than 3 single family dwellings, the watering of poultry, domestic animals and livestock on a farm ranch and the irrigation of not more than (1) acre of home garden and lawns. **9. Name(s) and address(es) of owner(s) 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, including any modification to the existing storage pool:** Applicant.

**CASE NO. 2021CW3072; CATLIN AUGMENTATION ASSOCIATION, INC. (CCA), GARDNER FARMS. LLP; HIRAKATA FARMS, LLC; MARVIN SCHLEGEL; AND ARKANSAS GROUNDWATER AND RESERVOIR ASSOCIATION, c/o Kent Ricken, 205 South Main Street, Fowler, CO 81039**

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: James S. Witwer, Andrea M. Bronson, and Michael Golz Davis Graham & Stubbs LLP; 1550 Seventeenth Street, Suite 500, Denver,

Colorado 80202; (303) 892-9400)

Amendment to Application for Change of Water Rights, Including Storage, Recharge, and Appropriative Rights of Exchange and/or Water Exchange Project Water Rights; for Underground Water Rights; and for Approval of Plan for Augmentation Including Exchange

### **OTERO, BENT, AND PUEBLO COUNTIES**

**1. Description of Amendment and Original Application:** Applicants (as hereinafter defined) filed the original Application in this case on November 23, 2021 (the “Original Application”). Applicants filed an Amended Application in August 2022, and through this Amendment, are publishing only those sections of the Application where changes were made from the original Application. The full Original Application, to which this Amendment refers, was published in the November 2021 Water Court Resume for Water Division No. 2, and is available at the following link: <https://www.courts.state.co.us/Courts/Water/Resumes/Div2/Resume%2011-2021.pdf>.

**Paragraph 1 of the Original Application is amended to read as follows:** 1. Name, Mailing Address, and Telephone Number of Applicants. Catlin Augmentation Association, Inc. (“CAA”). Attn: Kent Ricken, 205 South Main Street, Fowler, CO 81039. Telephone: (719) 826-2597. CAA is the Applicant for the First and Third Claims in this Application. Gardner Farms, LLP, Marvin Schlegel, and Hirakata Farms, LLC are Co-Applicants only for corresponding portions of the Second Claim in this Application (for Underground Water Rights). Gardner Farms, LLP’s mailing address is 26825 County Road DD, Rocky Ford, Colorado 81067. Marvin Schlegel’s mailing address is 24775 County Road 24, La Junta, CO 81050. Hirakata Farms, LLC’s mailing address is 22161 County Road CC, Rocky Ford, CO 81067. The Arkansas Groundwater and Reservoir Association (“AGRA”) is a Co-Applicant only for the First Claim in this Application (for Appropriative Rights of Exchange) and only for the absolute exchange right claims in which AGRA’s predecessor entity, Colorado Water Protective and Development Association (“CWPDA”), was involved. AGRA’s mailing address is 205 South Main Street, Fowler, Colorado 81039.

**Paragraph 2(d) of the Original Application is amended to read as follows:** 2. General Description of Application. d. In addition, several CAA members here seek confirmation of underground water rights associated with eight new wells that will operate pursuant to the plan for augmentation described herein, or pursuant to a related substitute water supply plan. **I. APPLICATION FOR CHANGE OF WATER RIGHTS. Paragraph**

**4(c)(iii) of the Original Application is amended to read as follows:** 4. Additional Places of Storage. c. In addition, following release or return to the Arkansas River, the water may be exchanged in one of the exchanges described herein, or another administrative exchange, and stored in Pueblo Reservoir or one of the following structures: iii. West Pueblo Reservoir. AGRA’s West Pueblo Reservoir is an off-channel lined gravel pit storage structure located in portions of the SW1/4, the S1/2 of the NW1/4, and the W1/2 of the SE1/4, Section 32, Township 20 South, Range 65 West, 6th P.M., Pueblo County, Colorado. **The legal description of John Martin Reservoir contained**

**in Table 6 in 6(c) of the Original Application is amended to read as follows:** c. Location of Exchange Points. The legal descriptions of the termini of the exchanges claimed herein are described in Table 6.

TABLE 6

LOCATION OF EXCHANGE TERMINI			
Description	UTM X	UTM Y	PLSS
John Martin Reservoir	680795	4215646	Outlet Location: SW1/4 SW1/4, Section 5, Township 23 South, Range 49 West, 6th P.M., in Water District 67, Bent County, Colorado

**The Second Claim for Relief in the Original Application is amended to read as follows: II. APPLICATION FOR UNDERGROUND WATER RIGHTS.** 7. Summary. Gardner Farms, Hirakata Farms, and Marvin Schlegel each individually seek confirmation of underground water rights associated with eight new wells (“New Wells”) that will operate pursuant to the plan for augmentation described herein, or pursuant to a related substitute water supply plan. Gardner Farms, Hirakata Farms, and Mr. Schlegel are each members of CAA, but seek confirmation of these underground water rights on an individual basis. 8. Names and Location of New Wells.

Name of Well	PLSS
Gardner Farms 306	SE1/4 NE1/4, Sec. 5, T.24S., R.56W., 6 <sup>th</sup> P.M.
Gardner Farms 308	NW1/4 SE1/4, Sec. 20, T.23S., R.56W., 6 <sup>th</sup> P.M.
Gardner Farms 1602	NW1/4 SW1/4, Sec. 36, T.23S., R.56W., 6 <sup>th</sup> P.M.
Gardner Farms 2602	Lot, NE1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.
Hirakata Farms 902	NW1/4 SE1/4, Sec. 5, T.24S., R.56W., 6 <sup>th</sup> P.M.
Hirakata Farms 904	NW1/4 NE1/4, Sec. 28, T.23S., R.56W., 6 <sup>th</sup> P.M.
Hirakata Farms 906	NW1/4 SW1/4, Sec. 27, T.23S., R.56W., 6 <sup>th</sup> P.M.
Schlegel 2502	SE1/4 NE1/4, Sec. 2, T.24S., R.56W., 6 <sup>th</sup> P.M.

9. Source of water for all New Wells: Groundwater tributary to the Arkansas River. 10. Depth of well, if completed: The Wells have not yet been completed. 11. Date of appropriation for all New Wells: November 22, 2021, date of the filing of the Application for all wells except Hirakata Farms 904 and 906; February 10, 2022, date the initial survey was conducted to locate the wells for Hirakata Farms 904 and 906. 12. How appropriation was initiated for all New Wells: Filing of the Application or initial well survey (for Hirakata Farms 904 and 906). 13. Date water applied to beneficial use: Water has not yet been applied to beneficial use. 14. Amount claimed: the following table provides the amount of water claimed for each New Well, conditional.

Name of Well	Maximum Annual Pumping (ac-ft)
Gardner Farms 306	435

Gardner Farms 308	706
Gardner Farms 1602	1517
Gardner Farms 2602	235
Hirakata Farms 902	853
Hirakata Farms 904	400.8
Hirakata Farms 906	880.4
Schlegel 2502	640

15. Does the well operate pursuant to a decreed plan for augmentation? All New Wells will operate pursuant to the plan for augmentation described in the Third Claim in this application, or pursuant to State Engineer approval of a substitute water supply plan pursuant to C.R.S. § 37-92-308. 16. Uses: Irrigation of land in Otero County, described as follows:

<b>Name of Well</b>	<b>Maximum Number of Irrigated Acres</b>	<b>DWR Parcel IDs for Irrigated Acreage</b>
Gardner Farms 306	95	24560530, 24560542, 24520525, 24520536, 24520543
Gardner Farms 308	152	23562024, 23562029, 23562027, 23562028, 23562006
Gardner Farms 1602	314	23563637, 23563609, 23562507, 23562518, 23563601, 23563605, 23563622, 23563606, 23563641, 23563602, 23563639, 23563643, 23563640, 23563610
Gardner Farms 2602	75	No parcel IDs; irrigated acreage is located in Section 23, Township 22 South, Range 58 West, 6th P.M.
Hirakata Farms 902	187	24560533, 24560517, 24560518, 24560520, 24560503, 24560522, 24560540, 24560527, 24560541, 24560504, 24560526, 24560538
Hirakata Farms 904	96.2	23562818, 23562832, 23562830, 23562817, 23562821, 23562821, 23562801
Hirakata Farms 906	176.42	23562808, 23562829, 23562827, 23562812, 23562828, 23562813, 23562824, 23562823, 23562716, 23562717, 23562723, 23562724, 23562715, 23562725

Schlegel 2502	133	24560205, 24560227, 24560219, 24560218, 24560207, 24560220, 24560221, 24560206, 24560240, 24560238, 24560239
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17. Name(s) and address(es) of owner(s) 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, including any modification to the existing pool. a. The Hiramkata Farms New Wells are located on property owned by Glenn and Michael Hiramkata, 22161 County Road CC, Rocky Ford, CO 81067. b. All Gardner Farms New Wells are located are located on property owned by Co-Applicant Gardner Farms, LLP, 26825 Co Rd DD, Rocky Ford, CO 81067. c. The Schlegel New Well is located on property owned by Co-Applicant Marvin Schlegel 24775 County Road 24, La Junta, CO 81050. **III. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION. Table 8 in Paragraph 18 of the Original Application is amended to read as follows:**

TABLE 8 - WELL DESCRIPTION

CAA ID	SEO WDID	CAA MEMBER	CAA FARM UNIT	CASE NO.	PERMIT NO.	APPRO. DATE	RATE (GPM)	VOLUME (AC-FT)
301	1705344	GARDNER FARMS	350	W 2592	7021-R	12/31/1936	750	534
303	1705449	GARDNER FARMS	350	W 646	13240-R	12/31/1934	950	675
305	1705493	GARDNER FARMS	330	W 460	1373-R	5/31/1957	766	547
901	1705809	HIRAKATA FARMS	950	W 1464	10069-R	9/16/1956	600	425
1001	1705323	MORELAND, JAMES	1010	W 1471	6340-F	10/30/1964	350	250
1301	1705281	GMG, LP. (GRIMSLEY, GREG)	1310	W 2496	22974-F	4/30/1931	1943	1375
1403	1705285	KNAPP FARMS	1410	W 657	6655-F	1/6/1965	1450	1030
1405	1705290	KNAPP FARMS	1440	W 2519	6633-R	7/15/1934	350	250
1407	1705291	KNAPP FARMS	1440	W 2502	6698-R	6/10/1934	189	134
1409	1705292	KNAPP FARMS	1430	W 2502	6699-R	7/10/1935	320	227
2001	1705589	PROCTOR FARMS	2010	W 1466	13283-R	11/27/1956	1053	750
2003	1705596	PROCTOR FARMS	2010	W 2424	13038-R	7/1/1953	800	570
2601	1705228	GARDNER FARMS	2610	W 1334	6867-F-R	3/1/1965	1180	841
2603	1705233	GARDNER FARMS	2610	W 1334	1182-R	6/30/1954	543	384
2605	1705234	GARDNER FARMS	2610	W 1334	1183-R	6/30/1954	489	348
2607	1705235	GARDNER FARMS	2610	W 1334	4466-R-R	7/31/1946	850	608
2609	1705236	GARDNER FARMS	2610	W 1334	19972-S	4/30/1940	1050	748
2611	1705239	GARDNER FARMS	2610	W 1334	6542-F	12/14/1965	1200	857
NA	1705238	GARDNER FARMS (bank)	2610	W 1334	2753-F	11/15/60	600	425

CAA ID	SEO WDID	CAA MEMBER	CAA FARM UNIT	CASE NO.	PERMIT NO.	APPRO. DATE	RATE (GPM)	VOLUME (AC-FT)
2701	1705297	McELROY, LARRY or NANCY	2710	W 2692	6385-F	11/11/1964	1300	928
3301	1705544	PROCTOR FARMS	3310	W 1230	12857-R	4/21/1960	697	496
4021	1705524	DIAMOND A FARMS	4170	W 100	5927-R	4/20/1955	600	430
306	NEW	GARDNER FARMS	320	--	--	--	--	--
308	NEW	GARDNER FARMS	310	--	--	--	--	--
902	NEW	HIRAKATA FARMS	960	--	--	--	--	--
904	NEW	HIRAKATA FARMS	910	--	--	--	--	--
906	NEW	HIRAKATA FARMS	920	--	--	--	--	--
1602	NEW	GARDNER FARMS	1650, 330	--	--	--	--	--
2502	NEW	SCHLEGEL, MARVIN	2510	--	--	--	--	--
2602	NEW	GARDNER FARMS	2610	--	--	--	--	--

**Table 9 in Paragraph 18 of the Original Application is amended to read as follows:**

TABLE 9–WELL LOCATIONS

CAA ID	SEO WDID	PLSS	UTM X	UTM Y
301	1705344	SW1/4 SE1/4, Sec. 32, T.23S., R.55W., 6 <sup>th</sup> P.M.	624025	4206468
303	1705449	NW1/4 SW1/4, Sec. 32, T.23S., R.55W., 6 <sup>th</sup> P.M.	622830	4206816
305	1705493	NW1/4 NW1/4, Sec. 36, T.23S., R.56W., 6 <sup>th</sup> P.M.	619621	4207515
901	1705809	NE1/4 NEW/4, Sec. 4, T.24S., R.56W., 6 <sup>th</sup> P.M.	615422	4206026
1001	1705323	NW1/4 NW1/4, Sec. 12, T.23S., R.57W., 6 <sup>th</sup> P.M.	609919	4213887
1301	1705281	SE1/4 NW1/4, Sec. 3, T.23S., R.57W., 6 <sup>th</sup> P.M.	607061	4215200
1403	1705285	NE1/4 SW1/4, Sec. 2, T.23S., R.57W., 6 <sup>th</sup> P.M.	609012	4214683
1405	1705290	SW1/4 NW1/4, Sec. 12, T.23S., R.57W., 6 <sup>th</sup> P.M.	609921	4213726
1407	1705291	SE1/4 NW1/4, Sec. 12, T.23S., R.57W., 6 <sup>th</sup> P.M.	610427	4213695
1409	1705292	SW1/4 NE1/4, Sec. 11, T.23S., R.57W., 6 <sup>th</sup> P.M.	609339	4213478

2001	1705589	SW1/4 NE1/4, Sec. 18, T.24S., R.56W., 6 <sup>th</sup> P.M.	612400	4202570
2003	1705596	SE1/4 SE1/4, Sec. 7, T.24S., R.56W., 6 <sup>th</sup> P.M.	612919	4203035
2601	1705228	NW1/4 NE1/4, Sec. 11, T.23S., R.57W., 6 <sup>th</sup> P.M.	601238	4218659
2603	1705233	SW1/4 SW1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	598645	4219166
2605	1705234	SW1/4 SW1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	598612	4219213
2607	1705235	SE1/4 NW1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	599006	4219785
2609	1705236	NE1/4 SE1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	599928	4219535
2611	1705239	SW1/4 NE1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	599705	4220022
NA	1705238	NW1/4 SE1/4, Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	599409	4219457
2701	1705297	NW1/4 NE1/4, Sec. 25, T.23S., R.56W., 6 <sup>th</sup> P.M.	620733	4209091
3301	1705544	SW1/4 SW1/4, Sec. 12, T.23S., R.57W., 6 <sup>th</sup> P.M.	609980	4212659
4021	1705524	SW1/4 NE1/4, Sec. 35, T.23S., R.56W., 6 <sup>th</sup> P.M.	618998	4207502
306	<i>NEW</i>	Sec. 5, T.24S., R.56W., 6 <sup>th</sup> P.M.	614765	4205511
308	<i>NEW</i>	Sec. 20, T.23S., R.56W., 6 <sup>th</sup> P.M.	613942	4209909
902	<i>NEW</i>	Sec. 5, T.24S., R.56W., 6 <sup>th</sup> P.M.	614163	4205232
904	<i>NEW</i>	NW1/4, NE1/4, Sec. 28, T.23S., R.56W., 6 <sup>th</sup> P.M.	615671	4209480
906	<i>NEW</i>	NW1/4, SW1/4, Sec. 27, T.23S., R.56W., 6 <sup>th</sup> P.M.	616484	4208320
1602	<i>NEW</i>	Sec. 36, T.23S., R.56W., 6 <sup>th</sup> P.M.	619635	4206984
2502	<i>NEW</i>	Sec. 2, T.24S., R.56W., 6 <sup>th</sup> P.M.	619558	4205574
2602	<i>NEW</i>	Sec. 23, T.22S., R.58W., 6 <sup>th</sup> P.M.	599286	4220308

**Paragraph 18(f) of the Original Application is amended to read as follows:** 18. Structures to be Augmented. f. Anticipated Pumping Amounts. CAA's engineering consultant used historical monthly pumping data for each of the Existing Wells from 2000 through 2019, to calculate the average and maximum annual pumping amounts for each Existing Well over this time period. Collectively, the annual pumping for the Existing Wells ranged from 960 to 3,821 acre-feet, and averaged 1,936 acre-feet. CAA's engineering consultant also calculated the maximum and average pumping requirement for each New Well as the wellhead depletion rate times the area (acres) to be irrigated and divided by the presumptive depletion factor. The collective annual pumping of New Wells ranged

from an average of 3,052 ac-ft to a maximum of 5,727 ac-ft. Collectively, the annual pumping for the Existing Wells and New Wells could range from 4,012 to 9,548 ac-ft, and is currently projected to average 4,988 ac-ft. **Paragraph 19(d) of the Original application is amended to read as follows:** 19. Water Rights to be Used for Augmentation. d. Twin Lakes Reservoir and Canal Company, Colorado Canal Company, Lake Meredith Reservoir Company, and/or Lake Henry Reservoir Company (“Colorado Canal Companies”) shares decreed for all beneficial uses in Case Nos. 84CW62, 84CW63, and 84CW64 that CAA leases or may lease from AGRA or other parties. AGRA owns 21.09 shares of Colorado Canal / Lake Meredith and it currently leases one of those shares to CAA; CAA’s use of any Colorado Canal Companies shares shall be by agreement. **Paragraph 19 of the Original Application is amended to add the following augmentation sources in addition to those listed in the Original Application:** 19. Water Rights to be Used for Augmentation. h. Unconsumed portion of transit loss assessed by the Division Engineer from releases from the Augmentation Stations to John Martin Reservoir as determined by the Division Engineer. i. Unconsumed portion of transit loss assessed by the Division Engineer from releases from the Augmentation Stations to (1) the confluence of Timpas Creek and the Arkansas River, or (2) the confluence of Crooked Arroyo and the Arkansas River. j. Unconsumed portion of transit loss assessed by the Division Engineer from releases from Lake Meredith to John Martin Reservoir as determined by the Division Engineer. k. Unconsumed portion of transit loss assessed by the Division Engineer from releases from Pueblo Reservoir to (1) Arkansas River HI Model Reaches 6 and 7; (2) Colorado Canal; (3) West Pueblo Reservoir and East Pueblo Reservoir 1 and 2; (4) Excelsior Ditch recharge facilities; or (5) RFHL recharge facilities. l. Unconsumed portion of transit loss assessed by the Division Engineer from releases from East Pueblo Reservoir 1 and 2 or West Pueblo Reservoir to Colorado Canal and points between.

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**CASE NO. 2022CW26; Previous Case Nos. 16CW1, 09CW102 – LEADVILLE BACK-COUNTRY PHASE II, 1708 Mt Lincoln W, Leadville, CO 80461 (719) 239-0949**

Application for Finding of Reasonable Diligence

**LAKE COUNTY**

**2. Name of Structure:** West Pass Hut Spring Type: Spring. **3. Describe conditional water right:** **A. Date of Original Decree:** 12/16/09 **Case No:** 09CW102 **Court:** Pueblo County District Court. **B. List all subsequent decrees:** **Decree:** 07/28/16 **Case No:** 16CW1 **Court:** District Court Water Div 2. **C. Legal description:** SW ¼ of the SE ¼ Section 35, Township 10 South, Range 79 West 6<sup>th</sup> PM, Lake County CO, Approx 925’ from the south line and 2100’ from east line of Sec 35. 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.) **D. Source of water:** Spring Tributary to Big Union CR, Tributary to Arkansas River. **E. Appropriation Date:** 08/17/09. **Amount:** 7.2 GPM **F. Use:** Domestic uses inside a single structure. **G. Depth:** N/A **4. 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:** The applicant has built a road to the spring. A pit was dug with a backhoe at the site of the spring and the pit was lined w/small boulders, a 42” well casing was installed on top of the rock base, and a spring house was built over the well casing/pit. Applicant expended \$4750.00



during the diligence period in development of this conditional water right. **5. Claim to make absolute in whole or in part:** N/A. **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description:** Same as paragraph 3C. UTM coordinates: Easting: 0397354, Northing: 4332013, Approx 925' from the south line and 2100' from east line of Sec 35, 100 Cty Rd 7A, Leadville, CO 80461. Source of UTM: Hand Held Accuracy of location displayed on GPS device: 100'

**7. Name(s) and address(es) of owner(s) 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, including any modification to the existing storage pool:** Applicant

**8. Remarks:** N/A

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**CASE NO. 2022CW27; Previous Case No. 16CW2 – MAREK and IRMINA SOLAK; 231 Royal Gorge Blvd, Canon City, CO 81212 (719) 284-5107**

Application to Make Absolute in Whole or in Part

**FREMONT COUNTY**

**2. Name of Structure:** Dry Creek Spring, Spring and Turkey Pond, Pond. **3. Describe conditional water right:** **A. Date of Original Decree:** August 1, 2016 **Case No:** 16CW2 **Court:** Water Division 2 **B. List all subsequent decrees:** **Decree:** N/A **C. Legal description:** **Dry Creek Spring** (WDID 1202810) T = 19S R = 70W Sec 20 NW/NW, UTM: Easting 477816 Northing 4248713 and **Turkey Pond** (WDID 1203412) T = 19 R = 70W Sec 17, UTM: Easting 477844 Northing 4248870. 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.) **D. Source of water:** Dry Creek Spring – Natural Spring Water and Turkey Pond – Dry Creek Springs. **E. Appropriation Date:** January 1, 1970. **Amount:** .5 acre-feet conditional for Turkey Pond and 5 gpm for Dry Creek Spring, 1.15 gpm being absolute. **F. Use:** Dry Creek Spring – Domestic purposes inside a single family dwelling and irrigation. Turkey Pond – Wildlife watering and irrigation garden. **G. Depth:** N/A **4. 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:** Since last 7 years after 2 heavy rains I got damage and broken supply pipes to my house and to the pump house (tank). I had to replace pipes and clean debris in my pond. Water is not always staying in the pond, when is more water and more rains or more snow melting there is water in the pond when is last water coming then water sink to the ground. **5. Claim to make absolute in whole or in part:** **Date applied for beneficial use:** January 1, 1970. **Amount:** .50 acre-feet Turkey Pond, 5 gpm Dry Creek. **Use:** Dry Creek Spring – Domestic purposes inside a single family dwelling and irrigation garden. **Description of place of use where water is applied to beneficial use:** Dry Creek Spring (WDID 1202810) UTM Coordinates: Easting 477816 Northing 4248713 and Turkey Pond (WDID 1203412) UTM Coordinates: Easting 477844 Northing 4248870. **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description:** Same as paragraph 3C. UTM coordinates: Dry Creek Spring: Easting: 477816, Northing: 4248713, and Turkey Pond: Easting: 477844 Northing: 4248870. Source of UTM: Hand Held Accuracy of location displayed on GPS device: within 10 feet **7. Name(s) and address(es) of owner(s) 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, including any modification to the existing storage pool: Applicant 8. Remarks: N/A

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**CASE NO. 2022CW28; Previous Case Nos. 16CW5, 09CW126, 03CW36, 96CW100 – GERALD A. LLOYD and LINDA K. LLOYD, 1138 Locke Mtn Rd, Florence, CO 81226 (719) 784-2457**

Application for Finding of Reasonable Diligence

**FREMONT COUNTY**

**2. Name of Structure:** Lloyd Spring (WDID 1202632). Type: Spring. **3. Describe conditional water right:** **A. Date of Original Decree:** 4/2/97 **Case No:** 96CW100 **Court:** District Court Water Division 2 Colorado. **B. List all subsequent decrees:** **Decree:** 10/24/2003 **Case No:** 03CW36, **Decree:** 4/13/2010 **Case No:** 09CW126, **Decree:** 08/26/2016 **Case No:** 2016CW5, **Court:** District Court Water Division 2 Colorado. **C. Legal description:** NE ¼ of Section 30, S 35° 30" W, a distance of 2000 feet from the NE corner of Section 30, Township 51 North, Range 11 East of the New Mexico Principal Meridian in Fremont County, Colorado. 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.) **D. Source of water:** Natural spring tributary to Gribble Creek, tributary to Badger Creek, tributary to Arkansas River. **E. Appropriation Date:** 07/29/1996. **Amount:** 1.5 gpm **F. Use:** Domestic. **G. Depth:** N/A **4. 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:** Continue to use ¾ HP well pump to pump into storage tank and remove equipment in winter. We maintain dam area due to washouts – use D4 dozer (personally owned) for such work. Expenditure for new pump and generator - \$950.00. **5. Claim to make absolute in whole or in part:** N/A. **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description:** Same as paragraph 3C. **UTM coordinates:** Easting: 430602, Northing: 4277096, **Subdivision:** Rock Creek, **Lot:** Tract 75 **7. Name(s) and address(es) of owner(s) 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, including any modification to the existing storage pool:** Applicant 8. Remarks: N/A

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**CASE NO. 2022CW29; Previous Case Nos. 09CW59, 16CW6 – ROGER E. LAINE, TRUSTEE, LAINE REVOCABLE TRUST U/T/A February 22, 2008, 22422 N. Rebecca Burwell, Katy, TX 77449-2909, (281) 782-0243**

Application to Make Absolute in Whole or in Part

**LAKE COUNTY**

**2. Name of Structure:** Laine Wells Nos. 2 & 3 **Type:** Well. **3. Describe conditional water right:** **A. Date of Original Decree:** July 7, 2010 **Case No:** 2009CW59 **Court:** District Water Div-2 **B. List all subsequent decrees:** **Decree:** August 30, 2016 **Case No:** 2016CW6 **Court:** District Water Div-2. **D. Source of water:** Water for all of the wells is ground water that is tributary to Halfmoon Creek. **E. Appropriation Date:** Laine Well Nos. 2 and 3 - March 31, 2009. **Amount:** The amount of water decreed to each of the Laine Well Nos. 2 and 3 is 30 gallons per minute, conditional, subject to a pro rata reduction of such diversions in any

year that a portion of the augmentation and replacement water describe herein is leased to others as described in Paragraph No. 15, Decree 2009CW59. **F. Use:** Water pumped from the Laine Well Nos. 2 and 3 is delivered directly to plants via a high efficiency irrigation system. All water that is delivered to the plants is assumed to be consumed for purposes of this augmentation plan. The Laine Well Nos. 2 and 3 are equipped with totalizing flow meters to monitor annual ground water withdrawals. Depletions are replaced in accordance with measured water deliveries. **G. Depth:** Laine Well No. 2: 44 feet, Laine Well No. 3: 41 feet. **4. 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:** Laine Wells Nos. 2 and 3: The wells were drilled, and pumps were installed in 2010. Two-inch PVC, trunk pipelines were installed underground to connect both wells such that irrigation water is available to the entire property. Polyethylene branch lines of 1.25 & 1.5 inches in diameter connect the trunk lines to the 0.25-inch drip lines. Pilot-project planting started in 2000. Commercial Treefarm planting started in 2011, and it will continue until approximately 1,400 trees have been planted. Commercial Treefarm watering will continue indefinitely. Pilot-project watering switched to Wells Nos 2 and 3 in 2011, and it will continue indefinitely. Please refer to the embedded, annotated, USGS topographic maps attached to the application. Please refer to the embedded, Div of Water Resources Well Construction reports 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.) **5. Claim to make absolute in whole or in part:** **A. Date applied for beneficial use:** Wells 2&3: Aug 2010. **Amount:** 4.1 ac ft **Use:** Irrigation. See Excel spreadsheet attached to the application named "Due\_Diligence\_cum\_water\_2010-22.xlsx.pdf". This spreadsheet summarizes the irrigation water volumes from 2010 through 2022. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Description of place of use where water is applied to beneficial use:** T10S R80W portions of sections 5-8, PM 6. Please refer to the annotated USGS topographic maps attached to the application. **UTM coordinates:** **Well #2** – Easting: 382067.8, Northing: 4340207.6, **Well #3** – Easting: 381898.9, Northing: 4340132.9 **Street Address:** 215 Mayro Cox Way, Leadville, CO 80461 **UTMs** **Source:** <https://dwr.state.co.us/Tools/WellPermits/0239857B,/3645416&/3645415> **Accuracy of location displayed on GPS:** spotted from section lines **Legal Description:** Lake County Well #2 SW ¼ of the SW ¼ Section 5 and Well #3 SE ¼ of the SE ¼ Section 6, "both wells" in T10S R80W 6<sup>th</sup> PM. Approximate distance from section lines: Well #2 – 850 Feet from S and 100 Feet from W, Well #3 – 600 Feet from S and 450 Feet from E **Source PLSS:** <https://dwr.state.co.us/Tools/WellPermits/0239857B,/3645416&/3645415> **Street Address:** 215 Mayro Cox Way, Leadville, CO 80461 6. **Name(s) and address(es) of owner(s) 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, including any modification to the existing storage pool:** Applicant

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**CASE NO. 2022CW30; AARON and SARAH ATWOOD, 701 Airman Lane, Colorado Springs, CO 80921** (Please address all pleadings and inquiries regarding this matter to

Applicant's attorneys: James J. Petrock, Eric K. Trout, Hayes Poznanovic Korver LLC, 700 17<sup>th</sup> Street, Suite 1800, Denver, CO 80202 (303) 825-1980)

Application for Amendment of a Plan for Augmentation, in the Not-Nontributary Denver Aquifer

**EL PASO COUNTY**

Subject Property: 5.04 acres generally located in the NW1/4 NE1/4, Section 36, Township 11 South, Range 67 West of the 6th P.M., Lot 38, Chaparral Hills, also known as 515 Struthers Loop, Colorado Springs, CO, 80921, El Paso County, State of Colorado. See. **Exhibit A** ("Subject Property") 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.) Applicants are the sole owners of the Subject Property, therefore notice to any mortgage and lien holders was not required under C.R.S. 37-92-302(2)(b). Well Permits: There no wells on the Subject Property. Well permits will be applied for prior to construction of wells. Source of Water Rights: The Upper Dawson, Denver, and Arapahoe aquifers are not-nontributary as defined in C.R.S. § 37-90-103(10.7), and the Laramie-Fox Hills Aquifer is nontributary as defined in C.R.S. § 37-90-103(10.5). Previously Decreed Amounts: Applicants own the following annual amounts of groundwater as decreed in Case No. 2021CW3010, District Court, Water Division 2, on September 22, 2021 (the "21CW3010 Decree"). The volumes below are based on a 300-year withdrawal period:

Aquifer	Annual Amount (acre-foot)	Total Amount (acre-feet)
Dawson (NNT)	0.337	101
Denver (NNT)	0.927	278.2
Arapahoe (NNT)	0	0
Laramie-Fox Hills (NT)	0.47	140

Decreed Uses: Domestic, 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 Revised Plan for Augmentation: The revised plan for augmentation outlined below is intended to completely replace the plan for augmentation in the 21CW3010 Decree. Groundwater to be Augmented: Approximately 0.6 acre-feet per year for 300 years of Denver 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 Denver Aquifer groundwater will be used for in-house use and fire protection, through one or more wells, on 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. During pumping Applicants will replace actual depletions pursuant to C.R.S. § 37-90-137(9)(c.5). Depletions occur to the Monument 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 amended 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.

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**CASE NO. 2022CW3057; SAMUEL VIER, P.O. Box 3534, Boulder, CO 80307** (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2<sup>nd</sup> Ave, Ste 11B, Durango, CO 81301 (970) 403-1770)

Application for Conditional Water Right (Surface)

**LAKE COUNTY**

Structure: C.K SPRING. Legal Description: SW ¼ SE ¼, of § 35, T10S, R79W, SPM. Source: Spring and surface water tributary to the Arkansas River. App Date: 08/18/22. Amt: 0.0037 cfs (1.4 g.p.m) Conditional. Uses: Domestic uses on Applicant's property. Landowners: Applicant owns the land on which any new diversion or storage structure will be constructed. Applicant Remarks: See Application for additional information. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

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**CASE NO. 2022CW3058; Previous Case No. 05CW107B – CITY OF LAMAR, COLORADO c/o City Administrator, 102 E. Parmenter Street, Lamar, Colorado 81052** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: David M. Shohet, #36675, Emilie B. Polley, #51296, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921, (719) 471-1212)

Amended Application for Finding of Reasonable Diligence.

**PROWERS, BENT, OTERO AND PUEBLO COUNTIES**

This Amended Application is filed to clarify the decreed and actual location for an optional exchange from point identified in the original Application filed in this matter at the request of the Water Referee. This Amended Application relates back to the original Application filed in this case, shall be considered an August 2022 filing, and does not constitute a new filing for purposes of appropriation or adjudication. All exhibits to the original Application remain the same for this Amended Application. **II. Summary of Application.** In Case No. 05CW107-B, the City of Lamar ("Lamar") was decreed three conditional exchanges for its Fort Bent Shares from the Fort Bent Ditch to Lamar's Clay Creek recharge facility, and of fully consumable return flows derived from the first use of Lamar's Fort Bent Shares as those return flows accrue to the Arkansas River. Lamar seeks to make absolute a portion the exchange based on operation during the subject diligence period. Lamar also seeks a finding of reasonable diligence for all the exchanges not made absolute. **III. Description of Conditional Appropriative Rights of Exchange.** A. Description of Location: 1. *Exchange From Points*: The lowest terminus of Lamar's conditional exchange is the confluence of Clay Creek and the Arkansas River located in the NE¼ of Section 36, Township 22 South, Range 46 West of the 6<sup>th</sup> P.M., Prowers County, Colorado. Lamar may also exchange from any point on the segment of the Arkansas River between the confluence of Clay Creek and the Arkansas River and the

Fort Bent Ditch headgate identified below, including, without limitation, the LAWMA Augmentation Station located on a lateral of the Fort Bent Ditch, which is decreed in error as being in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 1, Township 23 South, Range 48 West of the 6<sup>th</sup> P.M., but which is actually located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 1, Township 23 South, Range 48 West of the 6<sup>th</sup> P.M. 2. Exchange To Points: The exchange will operate to the following points: i. Fort Bent Ditch Headgate. The decreed headgate location is at a point on the South bank of the Arkansas River, which point is located as follows: at appoint whence it is South 48 degrees 17' East 438 feet to the Southwest corner of Lot Four (4), in Section 1, Township 23 South, Range 49 West of the 6<sup>th</sup> P.M., Bent County, Colorado. ii. John Martin Reservoir. The center point of the dam is located in Section 8, Township 23 South, Range 49 West of the 6<sup>th</sup> P.M., approximately 3,600 feet west from the east section line and 1,400 feet south of the north section line of said Section 8. The reservoir inundates portions of Sections 5 through 8, 17, and 18 in Township 23 South, Range 49 West; Sections 29, and 31 through 35 in Township 22 South, Range 50 West; Sections 1 through 17, 20, and 21 in Township 23 South, Range 50 West; Section 25, and 34 through 36 in Township 22 South, Range 51 West; and Sections 1 through 4, 9, and 10 in Township 23 South, Range 51 West; all in the 6<sup>th</sup> P.M., Bent County, State of Colorado, and any intervening reaches in between. iii. Pueblo Reservoir. Pueblo Reservoir is located in all or portions of Section 7, 18 through 22, and 25 through 36 of Township 20 South, Range 66 West of the 6<sup>th</sup> P.M. and Sections 1 through 5, and 9 through 11 of Township 21 South, Range 66 West of the 6<sup>th</sup> P.M. and Sections 5, 8, 9, 13 through 16, and 22 through 25 of Township 20 South, Range 67 West of the 6<sup>th</sup> 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 6<sup>th</sup> P.M., from which the Northeast corner of said Section 36 bears North 61 degrees 21' 20" East, a distance of 2,511.05 feet, all more particularly described in Case No. B-42135 District Court, Pueblo County, State of Colorado, as corrected in Case No. 02CW37. A map of the exchange to and from points is attached as Exhibit A. B. Source of Substitute Water: 1. Lamar's Shares in the Fort Bench Ditch Company. The water rights to be used for exchange include Lamar's Fort Bent Shares including the associated Ft. Bent Article II storage account water stored in John Martin Reservoir. The Fort Bent water rights are decreed as follows: i. Appropriation Dates, Priority Numbers, and Amounts: a. April 1, 1886, Priority No. 6 for 27.77 c.f.s. b. March 10, 1889, Priority No. 10 for 32.77 c.f.s. c. September 11, 1889, Priority No. 12 for 11.7 c.f.s. d. August 12, 1890, Priority No. 14 for 26.27 c.f.s. e. January 1, 1893, Priority No. 1918-2 for 50 c.f.s. f. December 31, 1900, Priority No. 1918-9 for 80 c.f.s. ii. Original Decree for Priority Nos. 6, 10, 12, and 14. An unnumbered adjudication titled "In the matter of the Adjudication of Priorities to the use of Water for Irrigation in District Number 67" decreed on July 1, 1895, by the Bent County District Court. iii. Original Decree for Priority Nos. 1918-2 and 1918-9. An unnumbered adjudication titled "In the matter of the Adjudication of Priorities to the use of Water for Irrigation in District Number Sixty-seven, in the State of Colorado" decreed on October 14, 1918, by the Bent County District Court. iv. Case Nos. 02CW181 and 05CW107-A. In Case No. 05CW107-A, decreed on June 8, 2015, and in the LAWMA Decree, Lamar's Fort Bent Shares were changed to new uses for Lamar's augmentation and replacement uses. 2. Sewered Waste Water Return Flows. Lamar operates a central wastewater treatment facility for disposal of potable water used for indoor purposes. Lamar's

wastewater treatment facility consists of an influent pumping station and three lagoons covering an area of 96.1 acres. The first two lagoons are naturally aspirated, facultative lagoons operating in series. The second lagoon overflows into a third lagoon that is partially covered with phreatophytes. Lamar's wastewater treatment facility is located near the Arkansas River in Sections 27 and 28, Township 22 South, Range 46 West of the 6<sup>th</sup> P.M., Prowers County, Colorado. Water seeps into the underlying alluvium from all three lagoons. The amount of sewerage waste water return flows available for Lamar to exchange shall be calculated in accordance with Paragraph 41.C of the 05CW107-A decree.

3. Lawn Irrigation Return Flows. A portion of Lamar's water supply is applied to irrigation of residential and commercial lawns and gardens. When applied for such uses, a portion of the water runs off as surface tail water and is intercepted by storm drains, which discharge to Willow Creek, other tributary channels or the Arkansas River. The remaining portion percolates through the root zone to the groundwater aquifer. Lawn irrigation return flows from both Lamar's potable and non-potable water system can be exchanged by Lamar. The amount of lawn irrigation return flows available for Lamar to exchange shall be calculated in accordance with Paragraphs 41.E and 41.F of the 05CW107-A decree.

4. Recharge Accretions. Lamar has constructed and operates off-channel recharge facilities, which includes recharge areas, pumps, pipelines, diversion structures, and measuring devices, all located in portions of Sections 10, 15, and 22, Township 23 South, Range 46 West of the 6<sup>th</sup> P.M., Prowers County, Colorado ("Recharge Facilities"). When Lamar delivers water to the Recharge Facilities for recharge purposes above the amount delivered by the Clay Creek Well Field and evaporation, the remaining water accrues to the Arkansas River. The amount of accretions from the Recharge Facilities available for exchange under the terms of this decree shall be calculated in accordance with paragraphs 48-55 of the 05CW107-A decree.

C. Amount of Water Exchanged Annually: 1. *Exchange of Accretions to the Fort Bent Headgate*: 167 acre-feet. 2. *Exchange of Accretions to John Martin Reservoir*: 197 acre-feet. 3. *Exchange of Accretions to Pueblo Reservoir*: 78 acre-feet. 4. *Exchange of water turned out from a Ft. Bent Augmentation Station to John Martin Reservoir*: 1,723 acre-feet. 5. *Exchange of water turned out from a Ft. Bent Augmentation Station to Pueblo Reservoir*: 359 acre-feet. 6. Total exchange volume shall not exceed 2,000 acre feet annually.

D. Rates of Exchanges, conditional, not to exceed 10 c.f.s.: 1. *Exchange to the Fort Bent Headgate*: 1 c.f.s. 2. *Exchanges to John Martin and Pueblo Reservoirs*: 10 c.f.s.

E. Date of Original Decree: August 2, 2016. F. Appropriation Date: December 30, 2005.

G. Uses of Exchanged Water: Municipal uses, including, without limitation, domestic and household purposes, commercial, industrial, irrigation, generation of electric power and power generally, recreation, fish and wildlife preservation and propagation, agricultural, livestock water, aqua culture, augmentation, wetlands propagation, fire protection, groundwater recharge, and replacement purposes.

**IV. Outline of Work Done Towards Completion of Appropriation and Application of Water to Beneficial Use**: In Case No. 05CW107-B, the Court decreed to Lamar the conditional use of the appropriative rights of exchange described in paragraph III, above ("Exchange Rights"). The Exchange Rights are a part of Lamar's integrated municipal water supply system. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of an integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. During this diligence period, Lamar has outlaid the following expenditures and

completed the following work related to the Exchange Rights in its integrated water system: A. Lamar has operated, with the Division Engineer's approval, has operated the exchange of excess recharge accretions and return flows (farthest downstream point is the confluence of Clay Creek and the Arkansas River) up to the Fort Bent Ditch headgate. B. Lamar has worked with the Division Engineer to update its accounting sheet to track and account for all exchanges, including the sources of substituted supply. C. Lamar has supported the effort to create a Colorado Multi-Use Account in John Martin Reservoir, which is an exchange-to location decreed in Case No. 05CW107-B. This support has included retaining Helton & Williamsen, P.C. to represent Lamar's interests to study the feasibility of such an account. D. Lamar has incurred over \$151,242.00 in engineering fees, analysis, and operations for its water system. E. Lamar has paid average yearly fees of \$21,330.00 for its interest in Ft. Bent Ditch in addition to paying an average annual fee of \$44,900.00 for water storage. F. Lamar accumulated Ft. Bent ditch maintenance fees of approximately \$120,000.00 and improvements in its water delivery system at a cost of nearly \$5,568,038.00. G. Lamar has incurred extensive legal fees associated with drafting and filing of documents pertaining to the Exchange Rights, obtaining legal advice as to the use and development of Lamar's integrated water system, and participating and filing of water court cases to protect its water rights. H. Additionally, Lamar has expended significant time and resources building and maintaining infrastructure necessary to place the Exchange Rights to beneficial use. Based on the expenditures and efforts described herein, and the improvement and maintenance of other water rights integrated into the use of the subject conditional appropriative rights of exchange, Lamar has established that it can and will complete the development of the Exchange Rights and place them to beneficial use within a reasonable period of time. **V. Claims to Make Absolute:** Lamar seeks to make absolute the following exchange: A. Date Lamar operated the Exchange Rights: July 29-31, 2022. B. Rate of exchange: 0.36 c.f.s. C. Use of exchanged water: Recharge. D. Exchange from point: The confluence of Clay Creek and the Arkansas River as described above. E. Exchange to point: Fort Bent Ditch headgate as described above. F. Evidence supporting claim: A letter report dated August 29, 2022, prepared by Helton & Williamsen, P.C., is attached as Exhibit B, and provides all records showing the operation of the exchange. Lamar seeks a finding of reasonable diligence for any amounts not made absolute in this Application. **VI. Name and address of the owners of 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 Fort Bent Ditch Headgate and augmentation station is located on land owned by Fort Bent Ditch Company, P.O. Box 485, Lamar, CO 81052; the LAWMA augmentation station is located on land owned by the Lower Arkansas Water Management Association, P.O. Box 1161, Lamar, CO 81052; John Martin Reservoir is located on land owned by the United States Army Corps of Engineers, Reservoir Manager, 29955 County Road 25.75, Hasty, Colorado 81044; and Pueblo Reservoir is located on land owned by the United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18-E, Loveland, CO 80537-9711. Lamar's wastewater treatment facility and Recharge Facilities are located on lands owned by the Lamar.

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**CASE NO. 2022CW3059; Previous Case No. 06CW120 – THE CITY OF AURORA, acting by and through its Utility Enterprise, 15151 E. Alameda Parkway, Suite 3600,**



**Aurora, Colorado 80012; THE CITY OF COLORADO SPRINGS, acting through its enterprise Colorado Springs Utilities, 1521 Hancock Expressway, Mail Code 1825, Colorado Springs, CO 80903; THE CITY OF FOUNTAIN, acting through its Electric, Water and Wastewater Utility Enterprise, 116 South Main Street, Fountain, Colorado 80817; THE PUEBLO BOARD OF WATER WORKS, 319 West Fourth Street, Pueblo, Colorado 81003; and THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT, acting by and through its water activity enterprise, 31717 United Avenue, Pueblo, Colorado 81001** (Please address all pleadings and inquiries regarding this matter to the Co-Applicants' attorneys: Attorneys for the City of Aurora: John M. Dingess, Austin Hamre, Teri L. Petitt (Special Counsel) Hamre, Rodriguez, Ostrander & Dingess, P.C., 3600 South Yosemite Street, Suite 500, Denver, Colorado 80237-1829, (303) 779-0200; Attorneys for the City of Colorado Springs acting through Colorado Springs Utilities: Michael J. Gustafson, Nathan Endersbee, City Attorney's Office Utilities Division, PO Box 1575, Mail Code 510, 30 South Nevada Ave., Suite 501, Colorado Springs, CO 80901, (719) 385-5909; Attorneys for the City of Fountain: Cynthia F. Covell, Andrea L. Benson, Alperstein & Covell P.C., 1391 Speer Blvd., Suite 730, Denver, Colorado 80204, (303) 894-8191; Attorneys for the Board of Water Works of Pueblo, Colorado: Bill Paddock, Karl D. Ohlsen, Carlson, Hammond & Paddock, LLC, 1900 Grant Street, Suite 1200, Denver, Colorado 80203-4312, (303) 861-9000; Attorneys for Southeastern Colorado Water Conservancy District: Stephen H. Leonhardt, Peter D. Jaacks, Burns, Figa & Will, P.C., 6400 S. Fiddlers Green Circle, Suite 1000, Greenwood Village, Colorado 80111, (303) 796-2626; Peter D. Levish, Southeastern Colorado Water Conservancy District, 31717 United Avenue, Pueblo, Colorado 81001, (303) 956-0656)

Application for a Finding of Reasonable Diligence and to Continue Conditional Water Rights

## **CROWLEY, OTERO, PUEBLO, FREMONT, CHAFFEE, AND LAKE COUNTIES**

**2. NAMES AND LOCATIONS OF STRUCTURES** (See **Exhibit A** attached to the application for a general location map illustrating the structures and the exchange reaches for the diligence and absolute claims sought herein). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

2.1. **Excelsior Ditch (WDID: 1400539)**. The Excelsior Ditch headgate is located in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 36, Township 20 South, Range 64 West, 6th P.M. in Pueblo County, Colorado. 2.2. **Colorado Canal (WDID: 1700540)**. The Colorado Canal headgate is located on the north side of the Arkansas River approximately 15 miles downstream of Pueblo near Boone, Colorado. The originally decreed point of diversion is in the NE $\frac{1}{4}$  of Section 10, Township 21 South, Range 62 West of the 6th P.M. at a point at a point bearing South 0°58' West 426 feet from the S.W. corner of Section 2, Township 21 South, Range 62 West of the 6th P.M. The river has shifted and relicted to the northeast to the extent that the center of the diversion gates is located slightly more that 300 feet northeasterly at a point in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 11, Township 21 South, Range 62 West of the 6th P.M. at a point bearing South 63°14' East a distance 117.3 feet from the S.W. corner of said Section 2. The Arkansas River is in excess of 500 feet wide at the Colorado Canal diversion dam and either point, one on the bank, and one further out in the river, accurately describe the headgate of the Colorado Canal as originally decreed and constructed. 2.3. **Lake Henry Reservoir (WDID: 1703524)**. Lake Henry Reservoir is located in all or portions of Sections 31 and 32, Township 20 South,

Range 56 West, and Sections 5 and 6, Township 21 South, Range 56 West, all from the 6th P.M., in Crowley County, Colorado; the primary outlet works for Lake Henry Reservoir are located in the South  $\frac{1}{2}$  of said Section 6 and the Lake Henry Reservoir dam axis and the centerline of the outlet canal intersect at a point on the West line of the SE $\frac{1}{4}$  of said Section 6, a distance of 512 feet south of the center of Section 6, Township 21 South, Range 56 West of the 6th P.M., in Crowley County, Colorado. Lake Henry is decreed to store 6,355 acre-feet at a rate of 756 c.f.s. under a priority of 1891; to store 2,000 acre-feet at a rate of 756 c.f.s. under a priority of September 10, 1900; and to store 3,561 acre-feet at a rate of 756 c.f.s. under a priority of May 15, 1909. 2.4. **Lake Meredith Reservoir (WDID: 1703525)**. Lake Meredith Reservoir is located in all or portions of Sections 15, 16, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, and 33 in Township 21 South, Range 56 West, Sections 1 and 12 in Township 22 South, Range 57 West, Section 6 in Township 22 South, Range 56 West, and Sections 24, 25, and 36 in Township 21 South, Range 57 West, all from the 6th P.M., in Crowley County, Colorado. Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 12, Township 22 South, Range 57 West of the 6th P.M., at a point from which the West Quarter Corner of said Section 12 bears North 27° 14' West a distance of 564.30 feet. Lake Meredith is authorized to store 26,028.4 acre-feet at a rate of 756.28 c.f.s. under a priority of March 9, 1898. 2.5. **Lake Meredith Outlet Canal (WDID: 1729073)**. Waters released from Lake Meredith Reservoir are carried through the Lake Meredith Reservoir Outlet Canal to a point in the S $\frac{1}{2}$  of Section 21, Township 22 South, Range 57 West of the 6th P.M., where they can be released to the Holbrook Canal and/or discharged into the Fort Lyon Storage Canal whence they are carried southeasterly approximately one-half mile in the Fort Lyon Storage Canal to a point at which they either continue in said Fort Lyon Storage Canal or are discharged through a headgate on its southerly bank in the SW $\frac{1}{4}$  of Section 22, Township 22 South, Range 57 West of the 6th P.M., in Crowley County, Colorado, whence they travel south-southeast approximately one mile to discharge into the Arkansas River in the SE $\frac{1}{4}$  of Section 27, Township 22 South, Range 57 West of the 6th P.M., in Otero County, Colorado. 2.6. **Holbrook Canal (WDID: 1700554)**. The point of diversion for the Holbrook Canal is located on the north bank of the Arkansas River in the NE $\frac{1}{4}$ , Section 24, Township 22 South, Range 58 West of the 6th P.M., Crowley County, Colorado. 2.7. **Dye Lake Reservoir (WDID: 1703510)**. Dye Lake Reservoir is filled through the Holbrook Canal. Dye Lake inundates portions of Sections 32 and 33, Township 22 South, Range 56 West, 6th P.M., Otero County, Colorado. Dye Lake is decreed for a total storage volume of 7,986 acre-feet as adjudicated in Bent County District Court on February 3, 1927. 2.8. **Dye Reservoir Outlet Canal (WDID: 1729074)**. The Dye Reservoir Outlet Canal is located in SE $\frac{1}{4}$ , Section 5, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado. The diversion into the reservoir from the canal, which can also act as a release back to the storage canal, in NE $\frac{1}{4}$ , Section 5, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado. 2.9. **Holbrook Reservoir No. 1 (WDID: 1703599)**. Holbrook Reservoir No. 1 inundates portions of Sections 6, 7, and 8, Township 23 South, Range 55 West, 6th P.M., Otero County, Colorado. Holbrook No. 1 is decreed for a total storage volume of 7,472 acre-feet as adjudicated in Bent County District Court on April 8, 1905 and February 3, 1927. 2.10. **Holbrook Outlet Canal (WDID: 1700554)**. Holbrook No. 1 Outlet Canal originates in NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 7, Township 23 South, Range 55 West, 6<sup>th</sup> P.M.,

Otero County, Colorado, and delivers such water to the Arkansas River in NE¼ of the SE¼, Section 24, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado.

2.11. **Rocky Ford Ditch Augmentation Station (WDID: 1700668)**. The Rocky Ford Ditch Augmentation Station is located on the south bank of the Arkansas River in the NW¼ NE¼, Section 29, Township 22 South, Range 57 West, 6th P.M., in Otero County, Colorado with GPS coordinates of N 38° 06.173' W 103° 48.416'. 2.12. **Arkansas Gravel Pit Reservoir (“AGPR”) (WDID: 1403620)**. The AGPR will receive water from the main stem of the Arkansas River via the Excelsior Ditch with the headgate located in the SE¼ of the SE¼ of Section 36, Township 20 South, Range 64 West, 6th P.M. in Pueblo County, Colorado. The AGPR will return water to the main stem of the Arkansas River via a return outlet to be located in the SE¼ of the SE¼ of Section 34, Township 20 South, Range 63 West of the 6th P.M. in Pueblo County, Colorado. Storage of water diverted will occur in any facility that can use the receiving and returning facilities including a facility located as follows: A portion of the S½ of Section 34; and a portion of the SW¼ of the SW¼ of Section 35, Township 20 South, Range 63 West; and portions of the N½ of Section 2 and Section 3, Township 21 South, Range 63 West of the 6th P.M., all in Pueblo County, Colorado. 2.13. **Pueblo Reservoir (WDID: 1403526)**. 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 in Township 20 South, Range 66 West, and Sections 1, 2, 3, 4, 5, 9, 10 and 11, in Township 21 South, Range 66 West, and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25, in Township 20 South, Range 67 West, all of the 6th P.M. 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 bears North 61° 21' 20" East, a distance of 2,511.05', all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado, as corrected in Case No. 02CW37. The current decreed and existing capacity is 357,678 acre-feet. 2.14. Any other point of diversion and/or storage located along the Exchange Stream Reach now existing or hereafter constructed and available for use by one or more of the Applicants.

**3. DESCRIPTION OF CONDITIONAL APPROPRIATIVE RIGHTS OF EXCHANGE.** 3.1. **Background.** The Original Application filed in Case No. 06CW120, Water Division 2, was filed as part of the implementation of the *Intergovernmental Agreement among the City of Pueblo, the City of Aurora, the Southeastern Colorado Water Conservancy District, the City of Fountain, the City of Colorado Springs, and the Board of Water Works of Pueblo, Colorado*, which was signed by the Applicants and the City of Pueblo on May 27, 2004 (“May 2004 IGA”) and the *Intergovernmental Agreement among the City of Pueblo, the City of Colorado Springs, and the Board of Water Works of Pueblo, Colorado*, entered into on March 1, 2004 (“March 2004 IGA”) (collectively “IGAs”). As part of both IGAs, the parties thereto agreed to the Arkansas River Flow Management Program. 3.1.1. While the IGAs control the relationships between the parties thereto, and nothing in the Original Decree (described in paragraph 3.2) altered, amended, or interpreted such relationships, the Arkansas River Flow Management Program can be generally described as applying to exchanges of water rights of the Applicants and certain changes of water rights of the Applicants, the exercise of which reduce flows in the Arkansas River between the Above Pueblo Gauge and the confluence of the Arkansas River and Fountain Creek. 3.1.2. The exchanges or changes of water rights of the Applicants that are subject to the Flow Management

Program are known as the "Subject Exchanges." The Subject Exchanges are defined in the IGA's as (1) all exchanges of water rights of the Applicants', regardless of when initiated or decreed, and (2) changes of water rights from points of diversion below the existing "Above Pueblo Gauge" which changes are decreed on or after November 3, 1986, except for the decree in Case No. 84CW179, entered on November 10, 1987, and made final on November 10, 1990, that reduce flows in the Arkansas River in the river segment between the Above Pueblo Gauge and the confluence of the Arkansas River and Fountain Creek. The Above Pueblo Gauge is currently located at Lat. 38°16'18", Long. 104°43'03", in NE¼NE¼ of Section 36, T.20 S., R.66 W., Pueblo County, Hydrologic Unit 11020002, on left bank of Arkansas River, approx. 0.25 mi. downstream from Pueblo Dam, and 7 miles West of Pueblo. 3.1.3. Under the IGAs, the Applicants agreed to limit the exercise of the Subject Exchanges in an effort to meet certain flows in the Arkansas River through the described stream reach, subject to the right to recapture the water not diverted. The water not diverted by the Subject Exchanges to comply with the Flow Management Program is defined in the IGAs as the "Foregone Diversions. 3.1.3.1. Foregone Diversions are water, the in-priority diversion or exchange of which is initially foregone by the Applicants under the Subject Exchanges in order to comply with the Flow Management Program. The term "Foregone Diversions" is defined in the May 2004 IGA and the November 7, 2006 "IGA Letter Agreement" entered into among the Applicants and the City of Pueblo, and the Original Decree did not alter that definition. 3.1.4. The IGAs contemplate that Applicants who temporarily forego diversions under the Subject Exchanges will recapture those Foregone Diversions at or below the confluence of the Arkansas River and Fountain Creek ("Recapture of Yield" or "ROY Storage") and then move that water back upstream by exchange when stream flow conditions permit. 3.2. **Original Decree.** Case No. 06CW120, District Court Water Division 2, Colorado, entered on August 17, 2016; corrected decree entered on April 17, 2017 *nunc pro tunc* August 17, 2016 ("Original Decree"). 3.3. **Subsequent Decrees.** None. 3.4. **Stream Reach Affected.** The appropriative rights of exchange that are the subject of this Application operate on the Arkansas River and its tributaries. The downstream terminus of the exchanges is the confluence of Holbrook Outlet Canal and the Arkansas River located in the NE¼ of the SE¼, Section 24, Township 23 South, Range 56 West of the 6th P.M. The most upstream terminus of the exchanges is Pueblo Reservoir. The stream reach affected by the exercise of the appropriative rights of exchange is referred to herein as the "Exchange Stream Reach." 3.5. **Description of Exchanges.** Applicants will operate appropriative rights of exchange from each of the following Exchange-From Points to the following Exchange-To Points located upstream from any Exchange-From Points, the locations of which are more specifically described above: 3.5.1. Exchange-From Points: 3.5.1.1. Holbrook Outlet Canal. 3.5.1.2. Rocky Ford Ditch augmentation station. 3.5.1.3. Dye Reservoir Outlet Canal. 3.5.1.4. Lake Meredith Outlet Canal. 3.5.1.5. Arkansas Gravel Pit Reservoir ("AGPR"). 3.5.1.6. Excelsior Ditch Storage Facility Return at Arkansas River. 3.5.2. Exchange-To Points. 3.5.2.1. Holbrook Canal. 3.5.2.2. Colorado Canal. 3.5.2.3. Excelsior Ditch. 3.5.2.4. Pueblo Reservoir. 3.5.3. In addition to the specifically described locations, the Applicants have the right to conduct exchanges from any other point of diversion and/or storage located within the Exchange Stream Reach now existing or hereafter constructed and available for use by one or more of the Applicants from which water can be diverted from or delivered to the Arkansas River and

located (1) at or downstream of the confluence of the Arkansas River and Fountain Creek, (2) at or upstream of the confluence of the Arkansas River and the Holbrook Outlet Canal; and (3) then upstream to the Holbrook Canal, Colorado Canal, Excelsior Ditch, and Pueblo Reservoir. 3.5.4. **Table of Exchanges.**

<b>Exchange-From Point</b>	<b>Exchange-To Point</b>	<b>Absolute</b>	<b>Conditional</b>	<b>Total</b>
Excelsior Ditch Storage Facility Return at Arkansas River	Pueblo Reservoir	-0-	150 c.f.s.	150 c.f.s.
Lake Meredith Outlet at Arkansas River	Pueblo Reservoir	232.86 c.f.s.	267.14 c.f.s.	500 c.f.s.
Holbrook Outlet at Arkansas River	Pueblo Reservoir	60.6 c.f.s.	99.4 c.f.s.	160 c.f.s.
Dye Reservoir Outlet at Arkansas River	Pueblo Reservoir	-0-	275 c.f.s.	275 c.f.s.
Rocky Ford Ditch augmentation station	Pueblo Reservoir	-0-	53 c.f.s.	53 c.f.s.
AGPR return at Arkansas River	Pueblo Reservoir	-0-	150 c.f.s.	150 c.f.s.
<b>Intermediate Exchange Locations, including points listed above</b>				
<b>Exchange-From Point</b>	<b>Exchange-To Point</b>	<b>Absolute</b>	<b>Conditional</b>	<b>Total</b>
Holbrook Outlet	Colorado Canal	-0-	160 c.f.s.	160 c.f.s.
	Excelsior Canal	-0-	160 c.f.s.	160 c.f.s.
Dye Reservoir Outlet	Colorado Canal	-0-	275 c.f.s.	275 c.f.s.
	Excelsior Canal	-0-	200 c.f.s.	200 c.f.s.
Rocky Ford Ditch augmentation station	Holbrook Canal	-0-	53 c.f.s.	53 c.f.s.
	Colorado Canal	-0-	53 c.f.s.	53 c.f.s.
	Excelsior Ditch	-0-	53 c.f.s.	53 c.f.s.
Meredith Outlet	Excelsior Canal	-0-	200 c.f.s.	200 c.f.s.
	Holbrook Total			53 c.f.s.
	Colorado Canal Total			488 c.f.s.
	Excelsior Canal Total			200 c.f.s.
	<b>Total Intermediate Exchange Rate</b>			488 c.f.s.

\* The maximum rate of exchange into a reservoir or facility may not exceed the lesser of (1) the rate of flow that would have been released from the receiving reservoir or facility

had no exchange been made and had no storage right junior to the priority of this exchange been exercised to store water in the receiving reservoir or facility (including the rates of inflow to the reservoir in excess of the outlet capacity that would otherwise be stored inadvertently), or (2) the rate of release of substitute supply at the Exchange-From Points.

**3.6. Sources of Substitute Supply for Exchanges.** All Foregone Diversions by the Parties of water available from the following sources:

3.6.1. Aurora. The sources of water used by the City of Aurora in the exchanges are all of the sources of water identified in the decrees in Water Division 2, Cases Nos. 83CW18, 87CW63, 99CW169(A), 99CW170 (A&B), 84CW62, 84CW63, 84CW64, and 01CW145.

3.6.2. Springs Utilities. The sources of water used by Springs Utilities in the exchanges are all of the sources of reusable water identified in all of the decrees in Water Division 2, Case Nos. 84CW202, 84CW203, 86CW118 (both sewerred and non-sewerred phases for each decree), 89CW36, Colorado Springs' interests in the water rights subject to the decrees in Case Nos. 84CW62, 84CW63 and 84CW64, and the Temporary Use Agreement Water Return Flows identified in the decree in Water Division 2, Case No. 05CW96.

3.6.3. Fountain. The sources of water used by the City of Fountain in the exchanges are all of the sources of water identified in the decrees in Case Nos. 01CW108 and 01CW146, both decreed in the District Court, Water Division No. 2.

3.6.4. Pueblo Water. The sources of water used by Pueblo Water in the exchanges are all of the sources of water identified in the decrees in Water Division 2, Case Nos. 84CW177 and 86CW111 (both sewerred and non-sewerred phases for each decree), District Court, Water Division No. 2.

3.6.5. Southeastern. The sources of water used by Southeastern are the sources of water identified in the decree in Civil Action No. 4613, entered on June 28, 1958, in the District Court in and for the County of Garfield, State of Colorado, in the proceeding captioned "In the Matter of the Supplemental Adjudication of the Priorities of the Appropriation of Water for All Beneficial Purposes in Water District No. 38 in the State of Colorado; Robert L. Bridges, Executor of the Estate of Tucker McClure, Deceased and M. Stanley Pings, Petitioners" (and its Supplemental Decree entered on August 3, 1959, along with subsequent diligence decrees in Water Division No. 5); the decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979; the decree in Case No. 83CW352 (District Court, Water Division No. 5) dated May 31, 1985; the decree in Civil Action No. 5141 (District Court, Chaffee County) dated July 9, 1969; the decree in Civil Action No. B-42135 (District Court, Pueblo County) dated June 25, 1962; the decree in Water Division No. 2, Case No. 01CW151, dated July 29, 2014; and the decree entered on February 14, 2017, in Case No. 06CW08, Water Division 2.

**3.7. Date of Appropriation.** May 27, 2004.

**3.8. Uses.** The water diverted by exchange may be used for any purpose for which the substitute water supply is decreed.

**3.9. Place of Use.** The water diverted by exchange may be used in any place of use for which the substitute water supply is decreed.

**3.10. Maximum Rates of Exchange.** The maximum rate of exchange is the maximum rate of flow at which water would have been released from upstream receiving reservoir(s), in excess of the requirements of the Flow Management Program and intervening water rights entitled to divert water released from the reservoir(s), had no exchange been made and had no water storage right junior to the exchange been exercised to store water in the upstream receiving reservoir(s). The rate of upstream exchange may not exceed the combined outlet capacity of the existing and future downstream storage structures from which the Foregone Diversions will be released, a rate estimated to be 1,288 c.f.s. At

times when there is a live stream between the structures listed in paragraph 3.5.4. above, Applicants will operate the decreed exchanges, when in priority, and subject to the terms and conditions contained in the Original Decree, up to the maximum amount as described herein. **4. INTEGRATED WATER SUPPLY SYSTEM.** Each of the conditionally decreed exchange water rights described above each constitutes a feature of an integrated water supply system. As found in the Original Decree, each of the exchange appropriations that are the subject of this application are parts of the extensive integrated water supply systems of each Applicant. Each Applicant's integrated systems gather, treat (where necessary) and distribute water throughout each Applicant's service area, as the same may exist from time to time, and to its other customers. The operation of the exchanges decreed herein depends not only on the stream exchange potential available, but also on the yield of each Applicant's other water rights and senior exchanges currently operated by that Applicant in the Exchange Stream Reach. Therefore, based on the foregoing, for the purposes of showing diligence and completion of the conditionally decreed exchange rights, diligence as to any part of an Applicant's integrated water rights system is considered in finding reasonable diligence as to the completion of those rights of exchange herein decreed. C.R.S. § 37-92-301(4)(b). **5. DETAILED OUTLINE OF WHAT HAS BEEN DONE TOWARD COMPLETION OR FOR COMPLETION OF THE APPROPRIATIONS AND APPLICATION OF WATER TO BENEFICIAL USE AS CONDITIONALLY DECREED.** During the diligence period, the Applicants performed the following work and made the following expenditures toward completion of the appropriations and application of the water rights decreed in the Original Decree to beneficial use (expenditure numbers are rounded to the nearest \$1,000). **5.1. Project Specific Efforts.** During the diligence period, the Applicants have done at least the following project specific work toward completion of the appropriations and application of the conditional water rights decreed in Case No. 06CW120 to beneficial use. **5.1.1.** The Applicants have made significant efforts to secure the AGPR or a comparable facility as noted in paragraph 3.5.3. above and paragraph 15.14 of the Original Decree. During December 2021 the ROY participants purchased the so-called Fossil property for potential use as a reservoir site within the exchange reach. The Applicants have expended at least \$3,126,000 on these efforts. **5.1.2.** Holbrook Reservoir Agreement. Applicant Aurora entered into an Amended Agreement with the other Applicants, dated February 2, 2017, whereby the other Applicants assumed agreed-upon portions of Aurora's rights and obligations with respect to its Agreements for Use of Excess Capacity with Holbrook Mutual Irrigating Company ("Holbrook"), further described in paragraph 5.1.3. below. Applicants have paid their agreed-upon percentages of such costs and Aurora's administrative fees during this diligence period and have had the opportunity to store their water rights and supplies in the Excess Capacity as provided in Aurora's agreements with Holbrook. **5.1.3.** Aurora Agreements for Use of the Holbrook System Facilities. On March 1, 2005, Aurora entered into two agreements pertaining to the use of the diversion, conveyance and storage facilities of the Holbrook Mutual Irrigating Company ("Holbrook"). Aurora and Holbrook extended this agreement on February 2, 2010. These agreements implement a program to recapture and store yield from foregone diversions of senior water rights. Aurora completed structural modifications to the Holbrook system facilities and filed a Substitute Water Supply Plan necessary to implement the program. An Amended Agreement was entered into on April 21, 2016.

Further, Aurora initiated a study to examine enlargement of the Holbrook Reservoir to further facilitate operations. During this diligence period, Aurora made payments of approximately \$416,000 to Holbrook under this agreement. 5.1.4. The exchanges decreed in the Original Decree are important components of Fountain's integrated water supply system. Fountain has in place accounting, recordkeeping and reporting systems that will allow it to incorporate its operation of the exchanges decreed in the Original Decree. Fountain has paid its proportionate share of expenses associated with Aurora's contract with Holbrook for Excess Capacity in Holbrook Reservoir, and has paid its proportionate share of the Fossil Reservoir purchase. 5.1.5. Payment for purchase and lease of Rocky Ford Ditch shares. During this diligence period, Aurora spent approximately \$1,645,000 for repayment of bonds and payments to note sellers, including principal and interest, that were issued or refunded for the purchase of original Rocky Ford Ditch shares changed in Case No. 83CW18, Water Division 2. 5.1.6. Assessments Paid for Use of Lake Henry/Lake Meredith, Rocky Ford Ditch. The Applicants have paid the following in annual assessments during the diligence period: at least \$1,976,000 for the Colorado Canal/Lake Henry/Lake Meredith (necessary for storage); and at least \$1,449,000 for the Rocky Ford Ditch for the shares attributable to the Rocky Ford Ditch Water Right. 5.1.7. Pueblo Reservoir Storage. During this diligence period, the Applicants have paid the Bureau of Reclamation at least \$3,928,000 for storage use of Pueblo Reservoir, as well as for consultants and legal fees for long-term storage contracts. 5.2. **System-wide Efforts.** During the diligence period, each of the Applicants has accomplished at least the following system-wide efforts that will be used to operate or benefit the conditional rights. 5.2.1. Aurora. 5.2.1.1. *South Platte River Basin*. 5.2.1.1.1. Spinney Mountain Reservoir. Aurora expended substantial sums for facility upgrades during the diligence period, including internal outlet works inspections, applications of protective coatings on outlet pipes, assessment, design and extension of the storm drainage systems below the dam, installation of filter trench drains, measurement devices, and installation of heater jackets over valve operators. 5.2.1.1.2. Metro Wastewater Reclamation District Charges. Aurora expended approximately \$163,376,000 during this diligence period for fees for wastewater treatment of its water at the Metro Wastewater Reclamation facility. Such treatment is necessary for reuse of the water that is the subject of the exchanges herein within the South Platte River Basin and to comply with water reuse requirements. 5.2.1.1.3. Griswold Water Treatment Plant Renovations. This facility treats a portion of the raw water exchanged under the Original Decree before it is delivered to Aurora's customers. Approximately \$32,057,000 was spent by Aurora for improvements to this facility necessary to accommodate the water that is the subject of the exchanges herein. This includes expenditures directly by Aurora for renovation of the facility. 5.2.1.1.4. Wemlinger Water Treatment Plant Expansion. Aurora spent approximately \$39,082,000 for expansion of the Wemlinger Water Treatment Plant. This facility treats a portion of the raw water exchanged under the Original Decree before it is delivered to Aurora's customers. 5.2.1.1.5. Improvements to Extend and Improve Water Service in and to Aurora. Approximately \$57,671,000 was spent by Aurora for extension and upgrade of its water transmission system necessary to deliver the water that is the subject of the exchanges herein to Aurora's customers. 5.2.1.1.6. Automated Meter Reading System. Aurora spent approximately \$7,743,000 for updates to its automated utility reading system. This is needed for efficient operation of



Aurora's water supply and delivery system, including use of the water that is the subject of the exchanges herein. 5.2.1.1.7. Improvements to Sanitary Sewer System. Approximately \$7,031,000 was spent by Aurora for extension and upgrade of its sanitary sewer system necessary for wastewater treatment and reuse within the South Platte River Basin of the water that is the subject of the exchanges herein. 5.2.1.1.8. Prairie Waters Project. The Prairie Waters Project is a large comprehensive water supply, storage and treatment project in which return flows to the South Platte River from Aurora's water sources, including the water that is the subject of the exchange herein, may be rediverted for subsequent reuse. To facilitate this project Aurora obtained various decrees in Case Nos. 06CW104, 03CW414, and 03CW415, Water Division 1. This project allows further reuse of much of the water decreed to Aurora. During the diligence period, Aurora obtained a decree in Case No. 15CW3064, finding reasonable diligence for the water rights originally decreed in Case No. 06CW104 (decreed December 1, 2017). On November 23, 2021 in Case No. 21CW3006 Aurora obtained a decree finding reasonable diligence for the Aurora-Everist No. 2 water rights originally decreed in Case No. 03CW414. On November 4, 2020, Aurora was granted a decree in Case No. 20CW3058 for findings of reasonable diligence for conditional storage rights for the Aquifer Recharge and Recovery Facility B (ARR-B) and the Tucson South Reservoir, originally decreed in Case No. 03CW414. On December 9, 2021, Aurora obtained a decree in Case No. 21CW3028, finding reasonable diligence on the conditional rights originally decreed in 03CW415. On April 28, 2022, Aurora obtained a decree in Case No. 21CW3077, finding reasonable diligence for the PWP InFill Wells originally decreed in Case No. 13CW3042. Aurora has expended at least \$3,669,000 on several elements of the Prairie Waters Project during this diligence period. 5.2.1.1.9. Lawn Irrigation Return Flows (LIRFs) Credits. Aurora obtained a decree in Case No. 02CW341, Water Division 1, on September 25, 2008, quantifying LIRFs from its municipal system (and subsequent requantifications as required by the Decree in 02CW341), generated as a result of use of transmountain water rights, fully consumable in-basin water rights, decreed and permitted non-tributary sources and any other fully consumable water available to Aurora. Aurora also installed 17 new monitoring wells and expends manpower to monitor these wells every three months. Water that is transported under the exchanges herein and used in Aurora's service area can be reused under the decree in Case No. 02CW341. On April 15, 2018, the Court granted an Aurora motion to approve revised deep percolation percentages, revised unit response factors, and revised accounting forms. During this diligence period, Aurora has expended significant sums for engineering and legal costs required to requantify the LIRFs adjudicated in Case No. 02CW341 available for reuse. 5.2.1.1.10. Rampart Reservoir and Delivery System. Approximately \$15,224,000 was spent by Aurora during this diligence period for improvements to the Rampart Reservoir delivery system. This reservoir is used to store the water that is the subject of the exchanges herein before it is transported through parallel 54" and 40" pipelines to Aurora. Rampart Reservoir is important for regulation of the flow through these parallel pipelines. 5.2.1.1.11. Binney Water Purification Facility. This state-of-the-art water purification and recycling plant owned and operated by Aurora treats water for use throughout the City. Approximately \$6,622,000 was spent by Aurora during the diligence period for improvements to this facility. 5.2.1.1.12. Aurora Know Your Flow Program. During the diligence period, Aurora Water Conservation developed its voluntary *Know Your Flow*

*Program* designed to help customers understand how efficiently they are using water. Through the program, Aurora Water Conservation estimates what a customer's water use could be for a given billing cycle if the customer were using water efficiently. The customer receives a monthly e-mail from Aurora Water Conservation showing the property's actual water use versus the customized recommended indoor and outdoor water use. Customers also receive weekly watering recommendations and tips during the irrigation season. The *Know Your Flow Program* was designed by Aurora to encourage more efficient use of the water that is the subject of this application. 5.2.1.2. *Arkansas River Basin*. 5.2.1.2.1. Assessments Paid for Use of Twin Lakes Reservoir. During this diligence period, Aurora paid approximately \$449,000 in annual assessments to the Twin Lakes Company, which payments were necessary for the operation of the exchanges involved herein. 5.2.1.2.2. Intergovernmental Agreement with Southeastern. On October 3, 2003, Aurora entered into an Intergovernmental Agreement with the Southeastern, replacing an agreement between the parties dated December 7, 2001. Under this new IGA, Aurora and Southeastern agree to support proposed federal legislation relating to the Fryingpan-Arkansas Project to include, among other things, re-operations of the existing water storage facilities, studies for enlargements to Pueblo and Turquoise Reservoirs, and confirming the authority of the Bureau of Reclamation to enter into contracts with Aurora for use of the facilities including long-term contracts. Aurora's ability to use Fryingpan-Arkansas facilities is expanded under this IGA and Aurora is obligated to make certain payments to Southeastern in consideration for the expanded use. Under this IGA, Southeastern also agrees not to oppose Aurora's attempts to contract with the Bureau of Reclamation for use of the Fryingpan-Arkansas Project facilities, to facilitate delivery of Aurora's water, and to settle opposition to each other's water court applications, including this case. During this diligence period, Aurora made payments of approximately \$994,000 to Southeastern under this IGA. 5.2.1.2.3. Intergovernmental Agreement with LAVWCD. Pursuant to an Intergovernmental Agreement with the Lower Arkansas Valley Water Conservation District ("LAVWCD"), Aurora paid approximately \$750,000 to LAVWCD for the identification and implementation of infrastructure improvements, research, and investigations designed to assist in the permitting or implementation of water leasing programs in the Lower Arkansas Valley, as well as remediation and restoration efforts in the Fountain Creek Corridor. 5.2.1.2.4. Revegetation. Aurora has expended approximately \$1,464,000 during this diligence period for revegetation, including expenditures for expert revegetation classifications and reports, actual revegetation and weed control costs, as well as farm equipment purchases, office overhead and personnel costs, under Case No. 83CW18. Aurora also expended additional sums for revegetation and continued farming of historically irrigated lands pursuant to the decree in Case No. 99CW169(A). On June 3, 2014, Aurora entered into an Intergovernmental Agreement with Otero County to clarify between the parties certain terms contained in the 99CW169(A) decree regarding revegetation. 5.2.1.2.5. Otero IGA. Aurora and Otero County entered into an Intergovernmental Agreement on February 22, 1994, and amended that Agreement on October 29, 2001 under which Amendment Aurora agreed to make annual payments to Otero County concerning the Rocky Ford Ditch shares that are the source for the subject conditional water right. During this diligence period, Aurora made payments of approximately \$270,000. 5.2.1.3. *Protection Efforts*: During this diligence period, Aurora spent approximately \$470,000 for legal services for participation

in Water Divisions 1 and 2 cases to protect the rights and interests of Aurora with regard to its water supply system, including the subject conditional water right. 5.2.2. Springs Utilities. 5.2.2.1. During this diligence period Springs Utilities 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 Colorado Springs' municipal water systems includes the water made available to Springs Utilities by the exchanges that are the subject of this Application. These expenditures on Springs Utilities' municipal water supply system are necessary for further development of such exchanges. As part of this overall effort, Springs Utilities 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. Springs Utilities 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 conditional exchange rights including, but not limited to: 5.2.2.1.1. Southern Delivery System. Completion of Phase 1 of the Southern Delivery System Project which will be used to deliver substitute supply exchanged into Pueblo Reservoir under the exchanges to Springs Utilities' municipal water supply system. Springs Utilities also constructed and established certain wetlands along Fountain Creek as required per the SDS Project environmental mitigation requirements. 5.2.2.1.2. Local Water System Improvements. Completion of 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; installation of 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; 5.2.2.1.3. Water Supply Planning: 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. 5.2.2.1.4. Water Supply Acquisitions and Leasing. Springs Utilities also acquired Temporary Use waters through purchasing shares in the Lower Arkansas Water Management Association and the Fort Lyon Canal Company. Additionally, Springs Utilities entered into leases with the Colorado Water Protective and Development Association (now Arkansas Groundwater and Reservoir Association), Super Ditch and Pueblo Water. 5.2.2.2. *Water Court Applications*. Springs Utilities also filed applications for, prosecuted and completed several adjudications of water rights that comprise portions of its 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 Springs Utilities’ FMIC and Chilcott water rights (decree entered on January 29, 2020); Case No. 16CW3072 (Water Division No. 2) involving claims for diligence related to Springs Utilities’ 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 Springs Utilities’ claims of diligence for rights of exchange and substitution involving Lake Meredith, Pueblo Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir originally decreed in Case Nos. 84CW62, 84CW63, and 84CW64 (decree entered on June 19, 2019); Case No. 18CW3053 (Water Division No. 2) regarding Springs Utilities’ 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 Springs Utilities’ 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 (decree entered on April 26, 2022); 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 Springs Utilities’ 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 Springs Utilities’ Denver Basin groundwater exchange program originally 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 Springs Utilities’ 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 Springs Utilities’ 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 Springs Utilities’ rights of substitution and exchange decreed in Case No. 07CW122 (pending); Case No. 22CW3006 (Water Division 2) involving claims for diligence related for Springs Utilities’ rights of substitution and exchange decreed in Case No. 84CW203 (pending); and Case No. 22CW3023 (Water Division 2) involving claims for diligence related for Springs Utilities’ rights of substitution and exchange decreed in Case No. 05CW96 (pending).

5.2.2.3. *Expenditures.* Springs Utilities’ total capital expenditures in connection with the activities described above on its integrated municipal water system during the Due Diligence Period have exceeded \$371,570,000. In addition to that amount, over \$464,893,000 was expended on the operations, which includes facilitation of exchanges.

5.2.3. Fountain.

5.2.3.1. During this diligence period, Fountain has continued to improve, operate and maintain its integrated water supply system, of which the exchanges decreed in the Original Decree are a part. To enable Fountain to more effectively provide water service to its existing and future customers, it has expended approximately \$10,000,000 during this diligence period for capital

infrastructure investment to construct, repair and improve its wells, water system infrastructure and related infrastructure and projects that are part of the efficiency, operation and maintenance of its integrated water supply system. Among other things, during this diligence period, Fountain has undertaken costly and extensive efforts to decontaminate wells that were found to contain perfluoralkyl and polyfluoroalkyl substances (PFAS) and has actively participated in legislative hearings regarding regulation of PFAS. These efforts have allowed Fountain to continue to provide reliable water service to its existing customers and to plan for anticipated future demand. 5.2.3.2. During 2021, Fountain staff, consultants and water counsel developed a comprehensive and detailed water supply plan update for the City of Fountain. The water supply plan was presented to the Fountain City Council in September 2021 and adopted by the Fountain City Council. Fountain expended over \$5,000 in attorney fees in connection with this plan. 5.2.3.3. Fountain has defended its water rights, including the exchanges decreed in the Original Decree, against applications filed by others in cases in which Fountain determined that injury to its water rights could occur in the absence of appropriate protective terms and conditions. During this diligence period, Fountain has expended in excess of \$392,000 for representation by water counsel in water court matters, including opposition to water court applications filed by others, in order to protect and defend its water rights, and in other matters related to the development and utilization of Fountain's water rights and water system infrastructure. During this diligence period, Fountain has also expended approximately \$473,900 in water resource engineering fees. 5.2.4. Pueblo Water. 5.2.4.1. During the diligence period, Pueblo Water spent substantial sums of money and devoted many thousands of hours to operation, maintenance, development, and protection of its unified and integrated municipal water supply and treatment system, including work done by engineering consultants and attorneys. During the diligence period, the total amount spent by Pueblo Water for all of these purposes exceeded \$274,000,000.00. 5.2.4.2. During the Diligence Period, Pueblo Water filed applications for and completed a number of adjudications of water rights that are part of Pueblo Water's unified and integrated water supply system. This includes, but is not limited to: (1) obtaining a finding of reasonable diligence in Case No. 17CW3020 (formerly Cases No. 93CW86, 04CW14 and 10CW79) (HARP), Water Division No. 2; (2) obtaining a decree in its application for a finding of reasonable diligence in the non-sewered portion of the exchange and reuse plans in Case No. 20CW3004 (13CW3043; formerly Consolidated Cases No. 84CW177(B) and 86CW111(B)), Water Division No. 2; (3) obtaining a decree in its application for a finding of reasonable diligence and to make water rights absolute, in part, in the decreed exchanges in Case No. 20CW3005 (13CW3044; formerly Consolidated Cases No. 84CW178) Water Division No. 2; (4) filing an application for and obtaining a finding of reasonable diligence in the sewer portion of the exchange and reuse plans in Case No. 19CW3005 (formerly Cases No. 12CW87 and 86CW111A), Water Division No. 2; (5) filing, and continuing to prosecute, an application for a finding of due diligence for the enlargement of Clear Creek Reservoir in Case No. 22CW3028 (formerly Case No. 04CW130, Water Division No. 2); (6) filing an application for and obtaining a finding of reasonable diligence for the Wurtz Extension Ditch in Case No. 20CW3037 (13CW3042; formerly Cases No. 06CW211, 99CW271, 93CW159, 86CW275, and 80CW505), Water Division No. 5; (7) filing an application for and obtaining a decree for a change of water rights for the Southern Colorado Power

Company Cooling Basin water storage right and a new HARP Supplemental Water Right in Case No. 20CW3011, Water Division No. 2; and (8) filing applications for and obtaining decrees in Cases No. 16CW3103 and 17CW3050, for a change of water right and for exchange related to 5,488.368 shares of Bessemer Irrigating Ditch Company, which water rights Pueblo Water intends to include in Pueblo Water's unified and integrated water supply system. Pueblo Water also has acted to preserve and protect all its water rights by filing statements of opposition to and participating in a number of other judicial proceedings in Water Division 2 and Water Division No. 5.

5.2.5. Southeastern. 5.2.5.1. The Fryingpan-Arkansas Project is the primary source of water for Southeastern's exchanges described above. Fryingpan-Arkansas Project activities include operation, maintenance and improvement of the collection system and storage facilities, including Pueblo Reservoir. Operation is subject to the terms of Southeastern's Water Division No. 5 and Division No. 2 Decrees, the Operating Principles, and the Congressional authorizing legislation. Current diversions and recordkeeping are integral to Southeastern's future exercise of the exchanges herein. During the diligence period, Southeastern spent more than \$19 million on the East Slope and West Slope Project operation and maintenance costs.

5.2.5.2. During the diligence period, Southeastern has also worked extensively towards the completion of the Arkansas Valley Conduit (AVC). The AVC is a Project feature that was originally contemplated in the Project's authorizing legislation to provide water to municipalities and water providers in the Arkansas River Valley. It will facilitate the generation of return flows used as a source of supply for Southeastern's exchanges described above. Southeastern spent in excess of \$2,100,000 in expenses on the AVC during the diligence period. The Record of Decision for the AVC was completed in 2014, after the Final Environmental Impact Statement was completed in 2013. To facilitate the AVC, Southeastern entered into a Contract with the United States for the Use of Excess Capacity in the Facilities of the Project on December 23, 2016. Planning for the AVC has continued throughout the diligence period.

5.2.5.3. Southeastern has expended over \$200,000 for engineering and more than \$1,500,000 for legal fees and costs, primarily to protect Southeastern's West and East Slope water decrees and for further Project development during the diligence period. Southeastern has appeared as a party in various water rights proceedings involving water rights along the Arkansas River and its tributaries in order to protect Southeastern's various decreed rights in the Fryingpan-Arkansas Project. Moreover, Southeastern has taken part in various legislative, administrative and judicial proceedings to protect Southeastern's rights in the Fryingpan-Arkansas Project, including its absolute and conditional East Slope water storage and exchange rights.

5.3. **Other**. The Applicants reserve the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Each of the Applicants has an extensive water rights portfolio, extensive and complex water supply, collection, treatment and reuse systems, and a significant number of agreements, contracts, leases, etc. related to its facilities and the use, reuse and storage of its water rights and supplies. The Applicants are involved in many legal actions related to the collection, treatment, reuse, and protection of their water rights. Further, the management, protection, and operation of each Applicant's water rights and facilities systems involves many staff members, and, in the case of some Applicants, numerous departments and staff members throughout the state. The Applicants have made diligent efforts with regard to this application to

determine and quantify their efforts toward completion of the appropriations of the conditional exchanges decreed in the Original Decree and application of the water rights to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. **6. 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 OR EXISTING STORAGE POOL IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED.**

6.1. **Arkansas Gravel Pit Reservoir.** Lafarge West, Inc., a Colorado Corporation, 1590 West 12th Avenue, Denver, CO 80204, and Martin Marietta Minerals, Inc., 2710 Wycliff Road, Raleigh, NC 27607. Co-applicant Aurora currently holds an option to purchase this property. 6.2. **Holbrook Reservoir No. 1.** Holbrook Mutual Irrigating Company, P.O. Box 511, La Junta, CO 81050-0511. According to the real property records of Otero County, Colorado, portions of the land inundated by Holbrook Reservoir No. 1 are owned by the State of Colorado, Phil Weiser, Esq., Colorado Attorney General, 1525 Sherman Street, 5th Floor, Denver, CO 80203. 6.3. **Dye Lake Reservoir.** Holbrook Mutual Irrigating Company, P.O. Box 511, La Junta, CO 81050-0511. According to the real property records of Otero County, Colorado, portions of the land inundated by Dye Lake are owned by Quarter Circle LT, Inc., 2475 Lane 16, Ordway, CO 81063, and Raymond E. and Frances A. Carter, 17248 County Road HH.50, Rocky Ford, CO 81067. 6.4. **Lake Meredith and Lake Henry Reservoirs.** The Lake Meredith and Lake Henry Reservoir Companies, c/o Bruce Hughes, Superintendent, 331 Main Street, Box 8, Ordway, CO 81063. 6.5. **Pueblo Reservoir.** United States Department of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18-E, Loveland, CO 80537-9711. Applicant Southeastern holds the water rights and decrees for Pueblo Reservoir as part of the Congressionally authorized Fryingpan-Arkansas Project pursuant to Contract No.229F650016 with the United States.

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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 October 2022, (forms available at Clerk's office or at [www.courts.state.co.us](http://www.courts.state.co.us), after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

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Witness my hand and the seal of this Court this 14<sup>th</sup> day of September 2022.



*Michele Santistevan*

Michele M. Santistevan, Clerk  
District Court, Water Div. 2  
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(Court seal)  
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