

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

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RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MAY 2019  
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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 May 2019, 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:

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**CASE NO. 2019CW3029; ANNE M. DECKER REVOCABLE FAMILY TRUST, P.O. Box 19405, Colorado City, CO 81019**, (Please address all pleadings and inquiries regarding this matter to Applicants' attorney: Linda McMillan, BuxmanKwitek, P.C., 601 N. Main St., Ste. 200, Pueblo, CO 81003, 719-544-5081).

Application for Absolute Underground Water Right

**PUEBLO COUNTY**

2. **Name of well and permit number:** Decker Well #1, permit #10231-F. 3. **Legal description of well:** Decker Well #1 is located in the NE ¼ of the NE ¼ in section 12, Township 25 South, Range 68 West, 6<sup>th</sup> P.M. approximately 1300 feet from the north section line and 1235 feet from the east section line at a point located approximately at UTM Zone 13 Easting 504495.4 Northing 4193422.5. See Exhibit A attached to the application for a general location map of the Decker Well #1. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 4.A. **Source of water:** Fault fractured Dakota Sandstone B. **Depth of well:** 290 feet. 5.A. **Date of appropriation:** August 23, 1965. B. **How appropriation was initiated:** Drilling well. C. **Date water applied to beneficial use:** September 25, 1968. 6. Well does not withdraw tributary groundwater. 7. Well withdraws nontributary groundwater. A. **Name of aquifer into which the well is drilled:** Dakota. B. **Amount claimed in gpm:** 250 gpm. C. **Amount claimed in acre feet annually.** Absolute .029 (acre feet). 8. **Does the well operate pursuant to a decreed plan for augmentation?** No. 9. **Uses:** Domestic and commercial. To provide water to 12 customers. 10. **Ownership of land and structures:** The Decker well #1 and its delivery system are located on land owned by the following: Becca Atkins, P.O. Box 848, Rye, CO 81069; Aaron Barela, 10755 Bartlett Trail, Rye, CO 81069; Stephen E. Colton and Emily Mehring, 10794 Decker Circle, Rye, CO 81069; Edward Decker, P.O. Box 19344, Colorado City, CO 81019; Nathan Johnson, 10829 Bartlett Trail, Rye, CO 81069; Pat Lara, P.O. Box 633, Rye, CO 81069; James Leach, 10775 Bartlett Trail, Rye, CO 81069; Tony Powers, 10805 Decker Circle, Rye, CO 81069; Brian Rahl, P.O. Box 19624, Colorado City, CO 81019; Jeff Riggan, P.O. Box 456, Rye, CO 81069; Paul Stringer, P.O. Box 605, Rye, CO 81069.

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**CASE NO. 2019CW3030: Previous Case No. 10CW17 – RICHARD PURSELL, P.O. Box 248, Poncha Springs, CO 81242** (Please address all pleadings and inquiries regarding this matter to Applicants' attorney: Thomas W. Korver, Esq., Petros & White, LLC, 1999 Broadway, Suite 3200, Denver, CO 80202. Telephone: (303) 825-1980).

Application for Finding of Reasonable Diligence and to Make Conditional Water Rights Absolute.

**CHAFFEE COUNTY**

**Name of structures:** Pursell Ponds Nos. 1-5. Pursell Ponds Nos. 1-5 were decreed by the District Court in and for Water Division No. 2 on May 8, 2013 in Case No. 10CW17.

**Description of conditional water rights:** **A. Pursell Pond No. 1.** i. Location: The centerline of the dam is located in the W½ NE¼ NE¼ of Section 36, Township 50 North, Range 7 East of the New Mexico P.M., at a point 204 feet from the North section line and 1284 feet from the East section line of said Section 36. ii. Appropriation Date: December 31, 1969 for absolute uses; April 2, 2010 for conditional uses. iii. Date Water Applied to Beneficial Use: December 31, 1969. iv. Amount and Uses: 0.63 acre-feet, together with the right to refill this amount when water is available in priority, claimed absolute for stock watering, recreation and piscatorial uses, and conditional for irrigation, fire protection, hydropower, and augmentation use in the augmentation plan decreed herein. (a) Active Capacity: 0.63 acre-feet. (b) Dead Storage: 0.0 acre-feet. v. Surface Area: 0.25 acres. (a) Maximum Height of Dam: 6.0 feet. (b) Length of Dam: 140 feet. **B. Pursell Pond No. 2.** i. Location: The centerline of the dam is located in the W½ NE¼ NE¼ of Section 36, Township 50 North, Range 7 East of the New Mexico P.M., at a point 458 feet from the North section line and 1166 feet from the East section line of said Section 36. ii. Appropriation Date: April 30, 2003 for absolute uses; April 2, 2010 for conditional uses. iii. Date Water Applied to Beneficial Use: April 30, 2003. iv. Amount and Uses: 0.50 acre-feet, together with the right to refill this amount when water is available in priority, claimed absolute for stock watering, recreation and piscatorial uses, and conditional for irrigation, fire protection, hydropower, and augmentation use in the augmentation plan decreed herein. (a) Active Capacity: 0.50 acre-feet. (b) Dead Storage: 0.0 acre-feet. v. Surface Area: 0.17 acres. (a) Maximum Height of Dam: 6.0 feet. (b) Length of Dam: 75 feet. **C. Pursell Pond No. 3.** i. Location: The centerline of the dam is located in the W½ NE¼ NE¼ of Section 36, Township 50 North, Range 7 East of the New Mexico P.M., at a point 696 feet from the North section line and 1032 feet from the East section line of said Section 36. ii. Appropriation Date: December 31, 1969 for absolute uses; April 2, 2010 for conditional uses. iii. Date Water Applied to Beneficial Use: December 31, 1969. iv. Amount and Uses: 0.46 acre-feet, together with the right to refill this amount when water is available in priority, claimed absolute for stock watering, recreation and piscatorial uses, and conditional for irrigation, fire protection, hydropower, and augmentation use in the augmentation plan decreed herein. (a) Active Capacity: 0.46 acre-feet. (b) Dead Storage: 0.0 acre-feet. v. Surface Area: 0.17 acres. (a) Maximum Height of Dam: 6.0 feet. (b) Length of Dam: 110 feet. **D. Pursell Pond No. 4.** i. Location: The centerline of the dam is located in the W½ NE¼ NE¼ of Section 36, Township 50 North, Range 7 East of the New Mexico P.M., at a point 866 feet from the North section line and 914 feet from the East section line of said Section 36. ii. Appropriation Date: December 31, 1969 for absolute uses; April 2, 2010 for conditional uses. iii. Date Water Applied to Beneficial Use: December 31, 1969. iv. Amount and Uses: 0.68 acre-feet, together with the right to refill this amount when water is available in priority, claimed absolute for stock watering, recreation and piscatorial uses, and conditional for irrigation, fire protection, hydropower, and augmentation use in the augmentation plan decreed herein. (a) Active Capacity: 0.68 acre-feet. (b) Dead

Storage: 0.0 acre-feet. v. Surface Area: 0.20 acres. (a) Maximum Height of Dam: 6.0 feet. (b) Length of Dam: 125 feet. **E. Pursell Pond No. 5.** i. Location: The centerline of the dam is located in the W½ NE¼ NE¼ of Section 36, Township 50 North, Range 7 East of the New Mexico P.M., at a point 1008 feet from the North section line and 861 feet from the East section line of said Section 36. ii. Appropriation Date: December 31, 1969 for absolute uses; April 2, 2010 for conditional uses. iii. Date Water Applied to Beneficial Use: December 31, 1969. iv. Amount and Uses: 0.38 acre-feet, together with the right to refill this amount when water is available in priority, claimed absolute for stock watering, recreation and piscatorial uses, and conditional for irrigation, fire protection, hydropower, and augmentation use in the augmentation plan decreed herein. (a) Active Capacity: 0.38 acre-feet. (b) Dead Storage: 0.0 acre-feet. v. Surface Area: 0.12 acres. (a) Maximum Height of Dam: 6.0 feet. (b) Length of Dam: 100 feet. The source of the Pursell Ponds Nos. 1-5 is the Eureka Ditch, which diverts from Squaw Creek, a tributary to the Arkansas River. The Eureka Ditch was decreed on June 19, 1890, in Case No. 1127, Chaffee County District Court, in the amount of 1.8 cfs absolute for irrigation uses, with an appropriation date of March 1883. The decreed point of diversion of the Eureka Ditch is on the south bank of Squaw Creek in Section 10, T. 50 N., R. 7 E., N.M.P.M., Chaffee County, Colorado. A map showing the point of diversion of the Eureka Ditch and the locations of the Pursell Pond Nos. 1-5 is attached to the application as Exhibit 1. A map showing the land to be irrigated from the Pursell Ponds Nos. 1-5 attached to the application is depicted on Exhibit 2. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). **Detailed outline of work done to apply water to beneficial use.** During the diligence period, the Applicant has engaged in specific activities that demonstrate diligence toward the application of water to the decreed beneficial use. The application contains a detailed outline of the activities performed during the diligence period and is available for inspection at the office of the Division 2 Water Clerk or via Colorado Courts E-filing. The work performed and actions taken by Applicant during the diligence period demonstrate that Applicant fully intends to develop and utilize the subject conditional water rights to the full decreed amounts, and Applicant has demonstrated that the subject conditional water rights can and will be diverted, stored, or otherwise captured, possessed, and controlled, and will be beneficially used, and that the project can and will be completed with diligence in a reasonable time. **Application of Water to Beneficial Use.** Applicant has been using water stored in and released from the Pursell Ponds Nos. 1-5 for augmentation use pursuant to the augmentation plan decreed in Case No. 10CW17 since that decree was entered. Applicant has also agreed to a request by the Chaffee County Sheriff to allow the Ponds to be used for fire protection and used the subject water rights for hydropower use in May of 2019. Accordingly, Applicant requests that Pursell Ponds Nos. 1-5 be made absolute for augmentation, fire protection, and hydropower uses in the decreed amounts. **Names, and addresses of owners or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Pursell Ponds Nos. 1 through 5 are located on land owned by the Applicant. WHEREFORE, the Applicant respectfully requests that this Court enter findings of fact, conclusions of law, and a judgment and decree: (1) making absolute the conditional water rights described

above for augmentation, fire protection, and hydropower uses; (2) finding that the Applicant has been reasonably diligent in the development and use of the conditional water rights described above for all remaining uses not made absolute; (3) continuing in full force and effect the remaining conditional water rights adjudicated in Case No. 10CW17; and (4) for such other and further relief as this Court deems just and proper.

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**CASE NO. 2019CW3031, CRAIG AND SALLY MCDERMOTT, 12930 Herring Road, Colorado Springs, Colorado 80908** (Please address all pleadings and inquiries regarding this matter to Applicants' attorney: James J. Petrock, Petrock Fendel Poznanovic, P.C, 700 17<sup>th</sup> Street, #1800, Denver, CO 80202, 303-534-0702).

Application for Underground Water Rights from Nontributary and Not Nontributary Sources and for Approval of Plan for Augmentation in the Nontributary Arapahoe and Laramie-Fox Hills and the Not Nontributary Dawson and Denver Aquifers.

**EL PASO COUNTY**

**Subject Property:** 30 acres being the north 990 feet, except the east 30 feet, of the NE1/4SE1/4 of Section 8, T12S, R65W of the 6th P.M., El Paso County. See Attachment A attached to the application for a general location map. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source of Water Rights:** The Dawson aquifer is not nontributary as described in Sections 37-90-103(10.7), C.R.S., and the Denver, Arapahoe and Laramie-Fox Hills aquifers are nontributary as described in Section 37-90-103(10.5), C.R.S. **Estimated Amounts:** Dawson:21 acre-feet, Denver: 19 acre-feet, Arapahoe: 13 acre-feet, Laramie-Fox Hills: 8 acre-feet. **Proposed Use:** Domestic, commercial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property. **Description of plan for augmentation:** Groundwater to be augmented: 1.25 acre-feet per year for 300 years of Dawson aquifer groundwater as requested herein. Water rights for augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary ground water. Statement of plan for augmentation: The Dawson aquifer groundwater will be used through one or more wells, including existing well Permit No. 217838, for in house use in two residences (0.35 acre-feet per residence), irrigation of 8500 square-feet of lawn, garden, and trees (0.5 acre-feet), and stockwatering of 4 large domestic animals (0.05 acre-feet). Applicants reserve the right to amend the amounts and uses without amending the application or republishing the same. Sewage treatment for in house use will be provided by non-evaporative septic systems and return flow from in house and irrigation use will be approximately 90% and 15% of that use, respectively. During pumping Applicants will replace actual depletions pursuant to Section 37-90-137(9)(c.5), C.R.S. The majority of depletions occur to the Arkansas River stream system, return flows accrue to that system via Monument Creek, and those return flows 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. Further, Applicants pray that this Court grant the application and for such other relief as seems proper in the premises.

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**CASE NO. 2019CW3032: CITY OF SALIDA, 448 E. First Street, Suite 112, Salida, Colorado 81201** (Please address all pleadings and inquiries regarding this matter to Applicants' attorney: Jennifer M. DiLalla, William D. Davidson, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Boulevard, Suite 300, Boulder, Colorado 80302, 303-443-8782).

Application to Amend Plan for Augmentation to Add Augmented Structures

**IN CHAFFEE, FREMONT, AND PUEBLO COUNTIES**

**Purpose of application:** Salida's plan for augmentation was decreed on Nov. 5, 1987, in Case No. 84CW158 ("84CW158 Decree"), and amended on June 30, 2009, in Case No. 04CW125 ("04CW125 Decree") and on Mar. 14, 2009, in Case No. 18CW3008 ("18CW3008 Decree") (collectively, "Augmentation Plan"). The purpose of this application is to amend the Augmentation Plan to include two new augmented structures.

**Structures to be included in Augmentation Plan:** See Exhibit A & B attached to the application for description of two wells and general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Additional Augmented Structures are owned by Sangre De Cristo Ranch, LLC ("Sangre De Cristo"), 86 Hamilton Creek Rd., Coaldale, CO, 81223, and are located near the center of the SE1/4 NW1/4 of Sec. 29, T48N, R11E of the N.M.P.M., north of Hamilton Creek and west of the Arkansas River in Fremont County, CO. Immediately upon filing of this application, Sangre De Cristo will submit well permit applications for the Additional Augmented Structures. **Diversion rate and volume:** 156 gpm, up to 25 acre-feet per year ("afy").

**Water rights and other sources of water to be used for augmentation:** Those water rights and other sources of water identified in par. 16 of the 84CW158 Decree, with the exception of Fryingpan-Arkansas Project water; par. 11 of the 04CW125 Decree; par. 18 of the 18CW3008 Decree; and any water rights and other sources of water added to the Augmentation Plan as sources of augmentation water by any subsequent decree amending the Augmentation Plan (collectively, "Augmentation Supplies"). No Fryingpan-Arkansas Project water will be used as a source of augmentation supply for the Additional Augmented Structures. **5.1** The Augmentation Supplies yield augmentation credits that typically exceed, by an average of 1,165.16 afy, Salida's annual augmentation demand ("Excess Credits"). **5.2** Sangre De Cristo has entered into a perpetual lease with Salida for delivery of 25 afy of Excess Credits under the Augmentation Plan. **Statement of plan for augmentation including exchange:**

Salida will account for and replace 100% of out-of-priority depletions attributable to the Additional Augmented Structures by delivering fully consumable water above the downstream calling water right in accordance with the terms and conditions of the 84CW158 Decree, the 04CW125 Decree, the 18CW3008 Decree, and the decree to be entered in this case, in a manner that protects the vested or decreed conditional water rights of others from injury. **6.1** Salida will deliver the Augmentation Supplies at either Pueblo Reservoir or the confluence of the Arkansas River and the South Arkansas River. **6.2** As of the date of filing of this application, depletions attributable to the Additional Augmented Structures are owed at Pueblo Reservoir. To the extent that delivery of the Augmentation Supplies at Pueblo Reservoir entails the operation of a water exchange project as described in C.R.S. §§ 37-92-103(9) and 37-92-305(3)(a), Salida claims a conditional appropriative right of exchange as an element of the plan for augmentation described herein. Under the appropriative right of exchange, the maximum rate of

exchange will be 0.11 cfs, conditional; the maximum volume of exchange will be 25 afy. The exchange-to point will be the location at which depletions attributable to the Additional Augmented Structures impact Hamilton Creek; the exchange-from point will be Pueblo Reservoir. **6.3** The Additional Augmented Structures do not have water rights associated with them; accordingly, pumping of the Additional Augmented Structures will occur solely under the Augmentation Plan or an associated substitute water supply plan; and depletions attributable to such pumping will be deemed out of priority except at times of free river. **6.4** Salida will account for operation of the Additional Augmented Structures as part of its regular accounting for the Augmentation Plan. **No modification of 84CW158 Decree, 04CW125 Decree, or 18CW3008 Decree and no change of water right:** This application does not seek to change any provision of the 84CW158 Decree, the 04CW125 Decree, or the 18CW3008 Decree; does not seek a change of water right for any of the Augmentation Supplies; and does not seek any change to those augmented structures or augmentation supplies previously included in the Augmentation Plan. **Names and addresses of owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored:** **8.1 Additional Augmented Structures:** Sangre De Cristo Ranch, LLC, 86 Hamilton Creek Rd., Coaldale, CO 81223. **8.2 Pueblo Reservoir:** U.S. Dep't of Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Rd.18 E, Loveland, CO 80537-9711. WHEREFORE, Salida respectfully requests that the Court enter a decree (i) approving inclusion of the Additional Augmented Structures in the Augmentation Plan; (ii) confirming that Salida will fully replace all out-of-priority depletions caused by the Additional Augmented Structures so as to prevent injury to the vested or decreed conditional water rights of others; and (iii) confirming a conditional appropriative right of exchange under which Salida will replace out-of-priority depletions attributable to the Additional Augmented Structures by delivering the Augmentation Supplies at Pueblo Reservoir.

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**CASE NO. 2019CW3033; Previous Case No. 10CW29, WOODMOOR WATER AND SANITATION DISTRICT NO. 1, P.O. Box 1407, Monument, Colorado 80132.** (Please address all pleadings and inquiries to Applicants' attorneys: Paul F. Holleman and Bradley N. Kershaw, Buchanan Sperling & Holleman PC, 1525 Spruce Street, Suite 200, Boulder, Colorado 80302, Phone: 303-431-9141)

Application for Finding of Reasonable Diligence

**EL PASO COUNTY**

**Name of appropriative right of substitution and exchange:** Woodmoor GC Exchange. **Description of conditional water right from previous decrees:** A. Date of original decree, Case No. and Court: May 22, 2013, Case No. 2010CW29, District Court for Water Division 2. B. Subsequent decrees: Not applicable. C. Legal description of exchange reach: (1) Exchange reach: The exchange reach is on Monument Creek, Dirty Woman Creek and an unnamed tributary of Dirty Woman Creek, from the outfall of the Tri-Lakes Wastewater Treatment Facility on Monument Creek, the location of which is described in paragraph 3.C.(3) below, upstream to the confluence of Monument Creek and Dirty Woman Creek, and thence upstream on Dirty Woman Creek and the unnamed tributary of Dirty Woman Creek to the Woodmoor Pines Golf Pond Nos. 1-4 described in paragraph 3.C.(2) below, and includes the following-described points of diversion by

exchange (exchange-to points) and point of introduction of substitute supply (exchange-from point) within this reach. (2) Points of diversion by exchange (exchange-to points): Four ponds located on an unnamed tributary of Dirty Woman Creek, a tributary of Monument Creek, which are owned and operated by Woodmoor Pines Golf and County Club, LLC. The approximate location of the four ponds are as follows: **(a) Woodmoor Pines Golf Pond No. 1**, located in the NW1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 2360 feet north of the south line of said Section 12, and 1380 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 1 is 6.6 acre feet. **(b) Woodmoor Pines Golf Pond No. 2**, located in the NW1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 1750 feet north of the south line of said Section 12 and 1730 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 2 is 1.6 acre feet. **(c) Woodmoor Pines Golf Pond No. 3**, located in the SW1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 1274 feet north of the south line of said Section 12 and 1800 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 3 is 2.5 acre feet. **(d) Woodmoor Pines Golf Pond No. 4**, located in the SE1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 640 feet north of the south line of said Section 12 and 1265 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 4 is 15.0 acre feet. The Woodmoor Pines Golf Pond Nos. 1-4 are not decreed and no other water rights are diverted from these structures. (3) Point of introduction of substitute supply (exchange-from point): On Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility located in the NW1/4 NE1/4 of Section 27, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado. (4) Map: See Exhibit A attached to the application for a general location map of the substitution and exchange reach on Monument Creek, Dirty Woman Creek and the unnamed tributary of Dirty Woman Creek, the locations of the Woodmoor Pines Golf Pond Nos. 1-4 and the location of the Tri-Lakes Wastewater Treatment Facility outfall is attached to the application as Appendix 1. (All exhibits/Appendix mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) D. Source: (1) Water diverted at exchange-to points: The source of water to be diverted by exchange under the subject appropriative right of substitution and exchange is an unnamed tributary of Dirty Woman Creek on which the Woodmoor Pines Golf Pond Nos. 1-4 are located. Dirty Woman Creek is a tributary of Monument Creek. The source of the water and water rights to be used for the substitution and exchange supply are described below. (2) Water released at exchange-from point: **(a)** Fully consumable return flows resulting from use of Applicant's tributary, not nontributary and nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division 2, and in Case No. 02CW25, District Court, Water Division 1, and in Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1), as more fully described in paragraphs 7.A.(1)-(5) of the decree in Case No. 10CW29. **(b)** Fully consumable return flows resulting from use of water diverted by Applicant pursuant to the appropriative rights of substitution and exchange decreed in Case Nos. 87CW67 (Dirty Woman Creek Exchange) and 94CW73 (Monument Creek Exchange), District Court,

Water Division 2, as more fully described in paragraphs 7.B.(1)-(4) of the decree in Case No. 10CW29. **(c)** Direct discharge of Applicant's nontributary and fully augmented tributary and not nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division 2, in Case No. 02CW25, District Court, Water Division 1, and in Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1), as described in paragraph 3.D.(2)(a) above and in paragraphs 7.A.(1)-(5) of the decree in Case No. 10CW29. **(d)** Other fully consumable water legally available to Applicant that can be delivered to Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility, the location of which is described in paragraph 3.C.(3) above. E. Date of appropriation: April 8, 2010. F. Amount: By decree in 10CW29, 2.5 cfs (1123 gpm) total, of which 1.383 cfs (621 gpm) was decreed absolute, and 1.117 cfs (502 gpm) was decreed conditional. By this application, Applicant seeks a finding of reasonable diligence as to the remaining conditional amount of 1.117 cfs (502 gpm). G. Use: Irrigation of Woodmoor Pines golf course located in the SE1/4, S1/2 NE1/4 and E1/2 SW1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, the approximate location of which is shown on the map attached to the application as Appendix 1. **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** The subject exchange is one of the components of Applicant's water supply system. During the diligence period, Applicant has added more than 500 new water taps to its water system and has expended more than \$1,335,714.00 for other improvements to its water supply, treatment and water distribution system. During the diligence period, Applicant has continued to operate the subject exchange up to the already absolute amounts. The water so diverted by exchange was placed to beneficial use for irrigation of the golf course. The operation of the subject exchange during the diligence period has been with the knowledge and approval of the Water Commissioner and reports concerning it have been prepared by Applicant and filed regularly with the Water Commissioner and Division Engineer. Applicant's further efforts toward development of the subject conditional water right include, but are not limited to, the activities described below. This list is not intended to be comprehensive and may be supplemented by additional evidence: **A.** The Woodmoor Pines Golf Pond Nos. 1-4, which are the exchange-to points for the subject exchange, and the golf course irrigation system, have been continually maintained and improved. **B.** Applicant has incurred substantial expense in obtaining decrees for water rights that are part of its unified water supply system and for participating as an objector in various Water Court cases to protect its water rights, including the subject conditional water rights, from injury due to claims of other water users. **C.** Applicant continues to rely upon the subject water right and has no intention to abandon same. **If claim to make absolute in whole or part:** Not applicable. **Names and addresses of owners of 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:** Woodmoor Pines Golf and Country Club, LLC, 18945 Pebble Beach Way, Monument, Colorado 80132. WHEREFORE, Applicant requests the Court to enter a decree finding and determining that Applicant has exercised reasonable diligence in the development of the subject conditional water right and



continuing the subject conditional water right in full force and effect for an additional six-year diligence period.

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**CASE NO. 2019CW3034; Previous Case Nos. W-1604, W-1604(78), 82CW201, 87CW26, 93CW53, 06CW48 and 2012CW123, RILEY L MAY, 39818 County 7, Lamar, Colorado 81052** (Please send all pleadings and inquiries to Applicants' attorney: Steerman Law Offices, PLLC, Donald L. Steerman, PO Box 390, 200 West Elm Street, Lamar, CO 81052, (719) 336-4313).

Application for a Finding of Reasonable Diligence

**PROWERS COUNTY**

Applicant seeks a finding of reasonable diligence for the following conditional water well right: **Name of Structure:** Well No. 1. **Original Decree:** Case No. W-1604, dated October 4, 1974. Subsequent Decrees: January 19, 1979 Case No. W-1604 (78); April 21, 1983 Case No. 82CW201 (W-1604); August 24, 1987 Case No. 87CW26 (W-1604); June 26, 2000 Case No. 93CW53 (W-1604); December 5, 2006 Case No. 06CW48 (W-1604) Date of Decree: May 21, 2013 Case No. W-1604 (78) **Legal Description:** Located in the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section Thirteen (13), Township Twenty-Two (22) South, Range Forty-Six (46) West of the 6<sup>th</sup> P.M., 660 feet from the North Section line and 120 feet from the West Section line.) **Source of water:** Arkansas River. **Appropriation Date:** June 6, 1956. **Amount:** The use of water for irrigation was absolutely granted for 8.88 c.f.s., or 4,000 gpm, but not to exceed 2,840 acre feet per calendar year. Use of water for industrial use was made absolute for 3,618 gpm, or 8.06 c.f.s., not to exceed 6 acre-feet per calendar year (Absolute). The Application concerns the balance of the conditional 3,618 gpm, or 8.06 c.f.s., not to exceed 2,834 acre-feet per calendar year (Conditional). **Uses:** industrial. **Detailed outline of what has been done toward completion of the appropriation** During the current diligence period, oil and gas drilling, which is the primary industrial use of water from this well, has been minimal. It was anticipated that there would be considerable activity in the area for oil and gas drilling before 2012 inasmuch as there had been the lease of over one million acres of million acres in Prowers and the surrounding counties. This did not occur because of falling oil and gas prices but it is expected that there will be substantial oil and gas drilling operations in this area when oil prices increase, and that a substantial quantity of water will be needed for oil and gas drilling operations. During the diligence period, Applicant has maintained the well in good operating condition, and production from the well has been maintained for irrigation and industrial use at or near the maximum decreed rate. Applicant has repaired the pump and has incurred significant expenses to maintain the well including the payment of \$8,525.79 L & N Pump, Inc to repair the pump and shaft. Applicant has also replaced the electrical cable on conduit and repaired the same in the amount of \$8,759.04 to Electra Pro. In addition, Applicant has repaired the pump in an amount of \$9,824.96 paid to SEMCO, Inc. Applicant has maintained an existing overhead delivery system which allows water produced by the well to be delivered into water trucks for industrial use. Applicant has installed a flow meter on a separate valve that is solely dedicated to this use and all water is strictly metered through such flow meter for loading tankers. Applicant has continued to sell water for industrial use, even though the amount of Water sold for this diligence period has not been in excess of the absolute industrial use decreed to this well. This water has been

used for dust suppression, packing line and other similar uses. Water from the Well can also be used to load in or water pack casing for shut-in oil and gas wells as required by the Colorado Oil and Gas Conservation Commission. Applicant has maintained his membership in the Lower Arkansas Water Management Association, and 347 shares of the capital stock of LAWMA owned by Applicant are assigned to Well No. 1 as an augmented structure for augmentation purposes. The annual assessment for the shares is approximately \$13,000.00. **Names(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:** Land is owned by Applicant, Riley L. May.

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**CASE NO. 2019CW3035; M BERNARD PARSONS, P.O. Box 70, Weston, CO 81091,**

(Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Chris D. Cummins, #35154, Emilie B. Polley, #51296, Monson, Cummins & Shohet, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921, (719) 471-1212).

Application for Finding of Reasonable Diligence

**LAS ANIMAS COUNTY**

**II. Summary of Application:** M. Bernard Parsons ("Applicant") seeks a finding of reasonable diligence regarding the conditional water rights decreed in Case No. 08CW103, District Court, Water Division 2. **III. Surface Water Storage Rights:** A. Name of Structure: Parsons Augmentation Pond. 1. Legal Description: The center of the dam is located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 36, Township 33 South, Range 67 West of the 6<sup>th</sup> P.M., approximately 2,300 feet from the north section line of Section 36, and 2,502 feet from the west section line. See Exhibit A attached to the application for a general location map. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) 2. Source of Water: The South Fork of the Purgatoire River, tributary to the Purgatoire River. 3. Conditional Appropriation Date: December 24, 2008. 4. Amount: Seven acre feet, absolute, with rights to fill and refill based upon availability of historical consumptive use credits under the Dorn Ditch, subject to the Plan for Augmentation decreed in Case No. 08CW103. 5. Surface Area: The maximum surface area is approximately 1.25 acres. 6. Total Capacity: 7 acre feet, active. 7. Uses: Storage for augmentation purposes, with said storage being limited to storage of Dorn Ditch HCU, as provided in Case No. 08CW103. Augmentation uses being limited to augmentation of depletions association with the plan for augmentation decreed in Case No. 08CW103. 8. Date and Case No. of Original Decree: 08CW103, May, 31, 2013. 9. Court: District Court, Water Division 2. **IV. Detailed Outline of Diligence.** Per the decree entered in 08CW103, the Parsons Augmentation Pond is a part of Applicant's augmentation plan, which consists of surface water rights and storage water rights, and which also includes previously decreed absolute water rights associated with the structure described herein. During the subject diligence period, Applicant has outlaid the following expenditures or completed the following work related to the Parsons Augmentation Pond: **A.** Expenditures for construction of Pond, including engineering consultations, surveying for plans, machine work, and design and installation of pond infrastructure (headgate, bracing, walk ramp, and measuring staff) totaling \$16,540. Conducting regular

maintenance and repair of ditches, diversion structures, headgates, dams and associated infrastructure. Applicant took all reasonable steps to construct, maintain, and improve all infrastructure associated with the Parsons Augmentation Pond during the relevant diligence period, in order to make absolute the conditional components of Applicant's water rights. Parsons Augmentation Pond construction began in May 2013 and was largely completed, and acknowledged as completed, by the water commissioner on May 12, 2014. The Parsons Augmentation Pond has been constructed, maintained, and improved in accordance with 08CW103, for augmentation purposes. **V. Claim to Make Absolute.** Applicant's Parsons Augmentation Pond lacks only limited measuring and data infrastructure to allow it to be placed in use. The potential exists that such infrastructure may be installed during the pendency of this Application, allowing Applicant to place the water in the Parsons Augmentation Pond for beneficial use. Applicant reserves the right to claim absolute status for all or a portion of the Parsons Augmentation Pond should this occur. **VI. Name and address of the owners of land on which structures are located.** Applicant owns the land where Parsons Augmentation Pond is located and the beneficial use of the water from this source will be upon the Applicant's land. WHEREFORE, Applicant requests the Court find that (1) Applicant has performed reasonable diligence for the conditional water rights described herein; (2) that the Applicant can and will complete the decreed conditional appropriations; (3) that the conditional surface storage rights set forth in Case No. 08CW103, described herein, continue in full force and effect for an additional diligence period, or in the alternative, have been made absolute; and (4) for such other relief as the Court deems appropriate.

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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 July 2019, (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 7th day of June 2019.

*Michele Santistevan*



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Michele M. Santistevan, Clerk  
District Court, Water Div. 2  
Pueblo Judicial Building  
501 N. Elizabeth Street, Suite 116  
Pueblo, CO 81003; (719) 404-8832

(Court seal)  
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