

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING JUNE 2025.

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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 June 2025, 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. 1971CW116 (aka W-116); IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF: THE CITY OF COLORADO SPRINGS, IN THE ARKANSAS RIVER BASIN, TRIBUTARY INVOLVED: FOUNTAIN CREEK (Please address all

pleadings and inquiries regarding this matter to Applicants' attorneys: Sarah Klahn, Ryan Mitchell, Somach Simmons & Dunn, 1155 Cayon Blvd, Suite 110, Boulder, CO 80302, 303-449-2834)

Joint Motion For Relief Under The Restatement Of Stipulations, Or In The Alternative Relief Under C.R.C.P. 60(B)

EL PASO COUNTY

COME NOW Widefield Water and Sanitation District ("Widefield"), Security Water and Sanitation District ("Security"), Stratmoor Hills Water District and Water Resources Development Corporation (collectively "Stratmoor"), the County of El Paso, Colorado ("El Paso County"), and the City of Colorado Springs ("Colorado Springs"), (collectively "Movants") hereby move the Court to replace the Restatement of Stipulations Concerning the Widefield Aquifer Management Plan ("Restatement of Stipulations") (**Exhibit A** attached to the Motion) (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) with the Second Restatement of Stipulations Concerning the Widefield Aquifer Management Plan ("Second Restatement of Stipulations") (**Exhibit B**) for the reasons described within. As grounds therefore, Movants state as follows: **CERTIFICATION** Movants certify that they have provided copies of this Motion and its supporting documents to all parties, or successors to parties, filing statements of opposition to the original application herein that have not joined in this Motion.¹ Movants further certify that they conferred in good faith with opposing parties and/or counsel about this Motion and that the following parties do not oppose the relief sought herein: the Pikes Peak Real Estate Foundation, Don Gregory, Ralph D. Janitell III Income Only Trust, Southeastern District, and AVDA. **I. BACKGROUND** 1. The Widefield Aquifer is a former channel of Fountain Creek that has been filled by alluvium. It is located on the east side of Fountain Creek and is approximately five miles long and two-thirds of a mile wide. The Widefield Aquifer is bounded on the north by Sand Creek and on the south by the City of Fountain. It is separated from Fountain Creek by a shale ridge barrier; shale bedrock also comprises the bottom of the aquifer. Sources of inflow into the aquifer include Sand Creek and Fountain Creek. Outflows include groundwater pumpage, outflow to Fountain Creek at the southern end of the aquifer, and outflows across the shale ridge.

While the Widefield Aquifer is a dynamic system which is affected by a number of variables, storage in the aquifer is estimated to be 18,000 acre feet. If managed within certain bounds, the aquifer is capable of supporting large-scale well production on a sustainable basis. 2. The Widefield Aquifer is fully appropriated. Use of the Widefield Aquifer began as early as the 1930s. Historically well owners within the aquifer fought bitterly over priority issues, well-to-well interference problems, localized drawdown problems and increased use of the aquifer for municipal supply. Such issues characterized the conflict between users of the Widefield Aquifer in the landmark case *Colorado Springs v. Bender*, 366 P.2d 552 (Colo. 1961). 3. By 1975, many of the major Widefield Aquifer users had obtained augmentation plans authorizing their pumping from the aquifer. However, as more and more entities and individuals sought augmentation plans, numerous questions remained about how the aquifer could be managed to ensure that the multiple users with rights to pump would be able to pump the aquifer sustainably. 4. On December 9, 1975 Stratmoor, Security, and Fred C. Sproul, Jr., parties to Case Nos. W-3935, W-4212, and W-4237, entered into stipulations in the referenced cases that amounted to a plan for aquifer management. 5. This led to the filing of a further stipulation between the parties in the captioned case, Case No. W-116, on February 10, 1978 (the "Original Stipulation"). In Case No. W-116, W.W. Wheeler ("Wheeler") developed a ground water model that predicted the safe yield of the aquifer from each of the various aquifer "reaches". See, **Exhibit A**, Map of Reaches. Eventually, after negotiations in reliance on Wheeler's technical evaluations, the parties to W-116 entered into the Original Stipulation. 6. Under the Original Stipulation, the stipulated entities agreed to annual and seasonal pumping limitations and to refrain from asserting their well priorities against each other. See **Exhibit C**. The Original Stipulation also authorized higher pumping levels, so long as the entity engaged in managed aquifer recharge. Minimum water levels were identified at various points within the aquifer and Wheeler was made responsible for water level monitoring. If water levels drop below the minimum water levels under the Original Stipulation, then the parties with the producing wells within the subject reach must reduce well diversions until minimum water levels are restored. 7. By the early 2000s, parties to the Original Stipulation identified users of the aquifer that had not been party to the original case. In order to ensure continued, sustainable use of the aquifer, these users were included in a revised stipulation. On July 12, 2004, the original signatories to the Original Stipulation along with the additional users entered into the Restatement of Stipulations to maintain and continue the previous stipulation terms and conditions for the management of the Widefield Aquifer, to ensure continuation of the decades-long practice of comprehensively limiting pumping to sustainable levels, while allowing flexibility in the internal management of the Widefield Aquifer. 8. On August 29, 2008, the joint motion for relief under C.R.C.P. 60(b) was filed, requesting that this Court relieve the Movants of the future application of the Original Stipulation and substitute in its place the Restatement of Stipulations, as amended from time to time ("Rule 60(b) Motion"). The Rule 60(b) Motion was published in the August 2008 Water Court Resume and in the September 8, 2008 edition of the Gazette Telegraph and proof of said publication was filed with the Court. The Court found notice of the Rule 60(b) Motion had been given in the manner required by law. 9. On May 21, 2009, the Court entered an Order approving the Restatement of Stipulations, with the same replacing and superseding in entirety the Original Stipulation. 10. By its terms, the Restatement of

Stipulations extends until June 1, 2025, and can be extended by petition of one or more of the Movants, as requested contemporaneously. **II. SECOND RESTATEMENT OF STIPULATIONS** 11. Paragraph 54 of the Restatement of Stipulations provides that the Restatement of Stipulations shall extend until June 1, 2025. Paragraph 57 of the Restatement of Stipulations provides that if the parties do not renew the Restatement of Stipulations prior to June 1, 2025, a party can petition the Court to extend the term of the Restatement of Stipulations. 12. Mindful of these deadlines, the parties to the Restatement of Stipulations met to review and discuss minor modifications to the agreement. 13. The Movants, except El Paso County, filed such a petition on June 4, 2025. On June 5, 2025, the Court granted the petition and approved the request to extend the term of the Restatement of Stipulation past June 1, 2025, and to be effective until the Court's entry of an order granting this Joint Motion. 14. On June 16, 2025, the Movants entered into the Second Restatement of Stipulations. 15. The following changes in fact demonstrate that the Restatement of Stipulations is an incomplete and inadequate tool to prospectively manage Movants' operations in the Widefield Aquifer, justifying relief under Paragraph 56 of the Restatement of Stipulations: a. Widefield has obtained Water Court approval in Case No. 22CW3040 for use of Well No. W-7 as an alternate point of diversion for Well No. W-13. Well No. W-7 is included as a structure in the Restatement of Stipulations. Well No. W-13 is not currently identified as a structure from which Widefield can withdraw water under the Restatement of Stipulations. 16. Adding Well No. W-13 to the structures regulated by the Second Restatement of Stipulations does not accomplish an enlargement of decreed water rights and will not result in injury to any other person. 17. By its terms, the Second Restatement of Stipulations is effective until June 1, 2045. **III. THE COURT SHOULD ADOPT THE SECOND RESTATEMENT OF STIPULATIONS TO REPLACE THE RESTATEMENT OF STIPULATIONS** 18. As grounds to enter an order adopting the Second Restatement of Stipulations, the Court may rely on the terms of the Restatement of Stipulations or on C.R.C.P. Rule 60. 19. Under paragraph 56 of the Restatement of Stipulations, the Court is authorized to enter an order replacing and superseding the Restatement of Stipulations with the Second Restatement of Stipulations. a. Paragraph 56 of the Restatement of Stipulations provides that "any controversy or claim arising out of or relating to the Management Plan or to the rights and obligations of any party hereto shall be settled by petition in these proceedings by and party or combination thereof to the District Court of Water Division No. 2." b. The Restatement of Stipulations is both a contract between the parties and an order of the Court. *Burlington Ditch Reservoir & Land Co. v. Metro Wastewater Reclamation Dist.*, 256 P.3d 645, 676 (2011). Paragraph 56 of the Restatement of Stipulations provides the Court with authority to replace and substitute the Restatement of Stipulations. 20. Alternatively, the Court may rely on C.R.C.P. 60(b)(4) or 60(b)(5) to relieve the parties to the Restatement of Stipulations from a final judgment or order if it is no longer equitable that the judgment should have prospective application, or for any other reason justifying relief from the judgment. C.R.C.P. 60(b)(4) and (5); *Davidson v. McClellan*, 16 P.3d 233 (Colo. 2001). 21. First, a C.R.C.P. 60(b) motion must be made within a reasonable time. This Motion is made within a reasonable time, as the Restatement of Stipulations was set to expire on June 1, 2025, but has been extended by the Court for the pendency of this Joint Motion. 22. Second, a C.R.C.P. 60(b) motion must be made "upon terms as are just." See also *Building and Trades Council*, 64 F.3d at 887 (proposed modification must be

suitably tailored to changed circumstances). The terms of the Second Restatement of Stipulations are just and suitably tailored to changed circumstances for the following reasons: a. The Second Restatement of Stipulations does not enlarge any of Movants' decreed water rights and will not injure or prejudice any other person or party; b. The Second Restatement of Stipulations is an internal agreement governing Movants' diversions from the Widefield Aquifer and does not affect or modify their decreed augmentation obligations to Fountain Creek which are established by Movants' respective plans for augmentation. Movants must still operate their wells in a manner that does not cause injury to other water users, either within or outside of the aquifer, and must meet the augmentation requirements under their decrees; c. The Second Restatement of Stipulations does not supersede the authority of the State and Division Engineers to administer the Widefield Aquifer under the priority system; and d. The Restatement of Stipulations was set to expire by its own terms on June 1, 2025, but has been extended by the Court for the pendency of this Joint Motion. 23. Under C.R.C.P. 60(b)(4), a party seeking modification of a decree must establish that a significant change in facts or law warrants revision of the decree and that the proposed modification is suitably tailored to the changed circumstance. *Building and Trades Council v. N.L.R.B.*, 64 F.3d 880, 887 (3d Cir. 1995) (construing federal counterpart to C.R.C.P. 60(b)(4) in context of consent decree) citing *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367 (1992); see also *Appellee v. Binkley (In re Anderson-Binkley)*, 2012 Colo. App. LEXIS 2955, *3 ("Relief is available under the rule when conditions have changed since a judgment entered, making continued enforcement of the judgment inequitable."). a. As described in section II above, the significant change in fact or law is Widefield's decree in Case No. 22CW3040 that allows Well No. W-7 to be used as an alternative point of diversion for Well No. W-13. Well No. W-13 is included as a structure in the Restatement of Stipulations (See **Exhibit A**, Map of Reaches) but was not previously identified as a structure from which Widefield could make diversions. 24. Movants are also entitled to relief under the residuary clause of C.R.C.P. 60(b)(5), which provides relief from a judgment "for any other reason justifying relief." The residuary clause applies in the case of extreme situations or extraordinary circumstances and considers factors such as agreement among the parties that the court consider the motion, and prejudice to opposing parties. *People ex rel. A.P.*, 2022 CO 24, P22 (Colo. 2022); *Davidson*, 16 P.3d at 238. a. As noted above in the Certification, each of the Movants and the Pikes Peak Real Estate Foundation, Don Gregory, the Ralph D. Janitell III Income Only Trust, Southeastern District, and AVDA, as the opposers or the successors to the opposers in Case No. W-116, consent to the instant Motion and the substitution of the Second Restatement of Stipulations for the Restatement of Stipulations. b. As argued above (see, ¶20) the Second Restatement of Stipulations does not enlarge any of Movants' rights. The Second Restatement of Stipulations continues the longstanding agreement to manage diversions sustainably to the benefit of the entire community that relies on the Widefield Aquifer. Movants' operations remain subject to the administrative authority of the State and Division Engineers, and Movants must still comply with their augmentation plan decrees including, *inter alia*, operation of wells in a manner that will not cause injury to other water users. FOR THE FORGOING REASONS, Movants request this Court to grant their joint motion by entering an order: 1. Relieving them from prospective application of the Restatement of Stipulations; 2. Replacing and

substituting the Restatement of Stipulations with the Second Restatement of Stipulations; and 3. Such other relief the Court may deem necessary.²

CASE NO. 2025CW1; Previous Case No. W-642 – THE CORLEY COMPANY, W.D. CORLEY, JR., PRESIDENT, 2605 Constellation Dr, Colorado Springs, CO 80906; (719) 632-5050, ajjc@att.net

Application for Change of Water Right

FREMONT COUNTY

2. Decreed water right for which change is sought: **A. Name of Structure:** Corley Mine Well, **B. Date of original and all relevant subsequent decrees:** 03-16-1972, **Case No.** W-642, **Court:** District Court, Water Division No. 2. **C. Legal Description:** In the NE 1/4 of the NE 1/4 of Section 23, T20 S, R70W of the 6th P.M. at a point which is 1240 feet South of the North Section line of said Section 23 and 540 feet West from the East Section line of said Section 23. **D. Decreed source of water:** Newlin Creek. **E. Appropriation Date:** 12-31-1953 for mining and 12-31-1966 for livestock and irrigation. **F. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs):** Absolute 60 gpm. **G. Decreed use or uses:** mining, livestock, and irrigation. **H. Amount of water that applicant intends to change:** Absolute: no change. **3. Detailed description of proposed change in a surface point of diversion:** **A. Complete statement of change:** The water is to be used for fire fighting for existing underground coal fires in Section 24, T20S, R70W. The coal fires are the result of historic coal mining. The source of the water is in the voids from the underground coal mining, which volume of the voids is calculated to be approximately 5,000 acre feet as the old mine is filled with water. Dorchester and Energy Fuels Coal Inc. used the water for mining from approximately 1977 to 2001, but all of their records of volume have been destroyed. **B. Legal Description of the corrected point of diversion:** NE ¼ NE ¼, Section 23, Township 20S, Range 70W, 6th PM, **UTM Coordinates:** Easting: 484074.81m; Northing 4238864.06m, Zone 13, **Source of UTM:** Leica GS15 GPS, **Accuracy of location displayed on GPS device:** 0.003m, **Source of PLSS information:** field survey. **4. 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:** N/A

CASE NO. 2025CW2; Previous Case Nos. 2017CW3026 – ROGER SNARE, 1093 Witcher Mountain Trail, Guffey CO 80820; (719) 468-1985

Application to Make Absolute in Whole or in Part

PARK COUNTY

2. Name of Structure: Green Spring, Type: Spring, Sistern. **3. Describe conditional water right:** **A. Date of Original Decree:** 05/16/17 **Case No:** 17CW3026 **Court:** Water Division 2, Pueblo. **C. Legal description:** SE ¼, SE ¼, Section 10, Township 15S, 72W, 6th PM, Park County, **UTMs:** Easting: 462882E, Northing: 4290019N, 1093 Witcher Mountain Trail, Lot 7, 213-yard feet from S and 30 feet from W, **D. Source of water:** Spring. **E. Appropriation Date:** May 16, 2017. **Amount:** 6 gallons per hour **F. Use:** Indoor use, domestic use in one dwelling, Irrigation of water, and wildlife watering. **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: I get water that runs out of the spring and I can fill up my Sistern. 5. Claim to make absolute in whole or in part. A. Date water applied to beneficial use: 05/16/17 Amount: 6 gallons per hour Use: Indoor water Sistern gardening, wildlife and irrigation. C. Description of place of use where water is applied to beneficial use: In the home for cleaning, showers, dishwasher, plants. 6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description: n/a. 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

****Per Water Division 1 Order, Resume to be published by Water Division 2 and Consolidated to Water Division 2 after publication****

CASE NO. 2025CW3027, Water Division 2 and CASE NO, 2025CW3066, Water Division 1 – UNITED CONGREGATIONAL CHURCH, c/o Roger Sung, Pastor, 3195 County Line Road, Monument CO 80132 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Joseph B. Dischinger and Philip E. Lopez of Fairfield and Woods P.C., 1801 California Street, Suite 2600, Denver, Colorado 80202 (303) 830-2400)

Amended Application for Determination of Denver Basin Ground Water Rights from Nontributary and Not Nontributary Sources and for Approval of Plan for Augmentation

EL PASO COUNTY

Applicant, United Congregational Church ("UCC"), seeks a determination of its rights to withdraw and use any and all of the legally available nontributary and not nontributary groundwater underlying its property in unincorporated El Paso County. UCC seeks to adjudicate its Denver Basin groundwater rights in the Upper Dawson, Denver, Upper Arapahoe, and Laramie-Fox Hills aquifers (collectively, "Denver Basin Groundwater") underlying lands owned in fee by UCC. Applicant also seeks approval of a plan for augmentation for the use of the Upper Dawson aquifer to supply water to a proposed subdivision of Applicant's property. **Adjudication of Denver Basin Groundwater** 2. Well Permits. The wells that will withdraw nontributary or not nontributary groundwater pursuant to this adjudication do not currently exist, and UCC has not applied for permits to drill any of the wells. Applicant intends to divide the Adjudication Parcel into up to eighty parcels. UCC anticipates the lots will vary in size and will be a minimum of 2.5 acres each. At this time, UCC does not request the issuance of any well permits. UCC will apply to the State Engineer pursuant to § 37-90-137, C.R.S. and the provisions of the decree to be entered in this case prior to constructing any well. UCC requests that the Court require the State Engineer to issue well permits for any such wells in accordance with the decree to be entered herein. Applicant requests a determination that failure to construct any of its wells within the period of time specified in the well permit not be deemed to extinguish the underlying water rights. UCC also requests a determination that at such time as it is prepared to drill its wells, the State Engineer shall issue new well permits to replace any well permits that have expired and that said well permits be issued in accordance with the terms of the decree to be entered herein. 3. Location of Future Wells. UCC seeks the right to locate the future wells at any suitable location within the

Adjudication Parcel as further defined in paragraph 4 below, so long as the wells are at least 600 feet away from any other existing well in the same aquifer owned by another person or entity; however, the future wells may be located closer than 600 feet from any other existing wells in the same aquifer owned by another person or entity if, pursuant to C.R.S. § 37-90-137(2)(b)(II), the State Engineer finds circumstances warrant issuance of a permit and issues a permit for the wells, or the owner of such existing well waives the 600-foot spacing requirement. To the extent necessary, UCC waives the 600-foot spacing requirement within the Adjudication Parcel as further defined in paragraph 4 below as between any of its future wells. 4. General Parcel Information. UCC seeks a determination of its right to perfect its ownership of, and to withdraw and to use, all of the Denver Basin Groundwater under one parcel of land owned by UCC and further described in this Application, which consists of approximately 331 acres of land located in El Paso County, as depicted on the map attached to the application as **Exhibit A** and further described on **Exhibit B** (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) (“Adjudication Parcel”). As described on Exhibit B, the Adjudication Parcel consists of El Paso County Assessor’s Parcel Nos. 7105424044, 7104237002, 7104200012, 7104000001, 7104000002, 7104001010, and 7103000028. UCC owns all of the Denver Basin Groundwater underlying the Adjudication Parcel involved in this Application. There are no pre-SB 213 wells conforming to the definition at § 37-90-137(5), C.R.S. that overlap the Adjudication Parcel. All of the Public Land Survey System descriptions below are approximate and parties are referred to Exhibit B for more precise legal descriptions. All recorded documents mentioned herein may be inspected at the offices of the El Paso County Clerk and Recorder. 4.1. Section 3: A portion of the Adjudication Parcel lies in approximately the NW¼NW¼ of Section 3, T.11S., R.67W., 6th P.M. comprising 44.28 acres. 4.2. Section 4: A portion of the Adjudication Parcel lies in approximately the NE¼NE¼, W½NE¼, E½NW¼, S½S½NW¼, and the N½SW¼ of Section 4, T.11S., R.67W., 6th P.M., comprising 257.97 acres. 4.3. Section 5: A portion of the Adjudication Parcel lies in approximately the S½S½NE¼, and a portion of the N½SE¼ of Section 5, T.11S., R.67W., 6th P.M., comprising 29.11 acres. 5. Right to Denver Basin Groundwater. 5.1. UCC owns the Adjudication Parcel described in Exhibit B to this Application. 5.2. The Denver Basin Groundwater has not been severed from the surface estate. 5.3. The withdrawal of the amounts determined to be available from the various Denver Basin aquifers underlying the Adjudication Parcel can be made pursuant to § 37-90-137(4), C.R.S. 5.4. UCC seeks a decree for the withdrawal not nontributary and nontributary Denver Basin groundwater based upon an aquifer life of 300 years as required by El Paso County, Colorado Land Development Code § 8.4.7(C)(1). 6. Division Engineer Written Consultation Report. Prior to any hearing or trial on the merits herein, this application will be supplemented by evidence that the State Engineer has issued or failed to issue a determination as to the facts of this application within four months of the filing of this application under § 37-92-302(2), C.R.S. 7. Source of Water. UCC seeks to adjudicate all of the legally available nontributary and not nontributary Denver Basin Groundwater underlying UCC’s Adjudication Parcel. Not nontributary water is defined in § 37-90-103(10.7), C.R.S. UCC seeks judicial approval in this case of an augmentation plan in accordance with § 37-90-137(9)(c.5), C.R.S. for the use of any water that is decreed as not nontributary groundwater. Nontributary water is described in § 37-90-103(10.5),

C.R.S., the withdrawal of which will not, within 100 years, deplete the flow of a natural stream, as defined in § 37-82-101(2) and § 37-92-102(1)(b), C.R.S., at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal. 8. Adjustment of Amount. UCC requests that the Court retain jurisdiction to provide for the adjustment of the amounts of Denver Basin Groundwater that are legally available for withdrawal under the Adjudication Parcel from the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, based on actual aquifer characteristics, and to authorize UCC to invoke such retained jurisdiction at any time after such data become available without the necessity of amending or republishing this Application. 8.1. SB 213 Water. In the event the Court determines any Denver Basin Groundwater underlying the Adjudication Parcel is legally unavailable to UCC because such water is within the cylinder of appropriation of one or more pre-Senate Bill 213 wells, and such cylinder is later reduced, the amount of water available to UCC hereunder shall be increased under the retained jurisdiction of this Court. 9. Amounts Claimed and Rates of Withdrawal. 9.1. UCC claims all the not nontributary and nontributary groundwater in the Upper Dawson, Denver, Upper Arapahoe, and Laramie-Fox Hills aquifers legally available under the Adjudication Parcel, subject to the limitations set forth in § 37-90-137(9)(b) and -(c.5). The estimated average annual amounts available for withdrawal from the subject aquifers are set forth in **Table 1**. UCC seeks to withdraw said amounts at whatever rate is required when UCC needs the water during the course of any year. UCC requests the right to pump its wells at rates in excess of any nominal production rate to the extent necessary to withdraw the total number of acre-feet that UCC is entitled to withdraw from the aquifers each year including any banked water as described below in paragraph 18. 9.2. The estimated average annual amount of water available for withdrawal from each Denver Basin aquifer is based on the Denver Basin Rules in 2 CCR 402-6. **TABLE 1**

Section of UCC Adjudication Parcel	Aquifer	Acreage (Acres)	Annual Amount (acre-feet/year)
Section 3	Upper Dawson (NNT)	44.3	14.30
	Denver (NT)	44.3	10.24
	Upper Arapahoe (NT)	44.3	10.96
	Laramie-Fox Hills (NT)	44.3	4.14
Section 4	Upper Dawson (NNT)	258.0	89.46
	Denver (NT)	258.0	39.00
	Upper Arapahoe (NT)	258.0	69.23
	Laramie-Fox Hills (NT)	258.0	23.60
Section 5	Upper Dawson (NNT)	29.1	10.33
	Denver (NT)	29.1	3.19
	Upper Arapahoe (NT)	29.1	7.77
	Laramie-Fox Hills (NT)	29.1	2.63

Subject to the Court's retained jurisdiction, decreed amounts may vary from the above to conform with the State's Determination of Facts. 10. Proposed Uses. UCC seeks the right to use, reuse, successively use, lease, sell, and otherwise dispose of all of the Denver Basin Groundwater for municipal, domestic, industrial, mechanical, manufacturing, energy production, agricultural, commercial, irrigation, stock watering, recreation, fish and wildlife, wetlands, reclamation, revegetation, dust suppression, fire protection and other beneficial uses including but not limited to replacement, augmentation, substitution and exchange, including as a substitute supply for appropriative rights of exchange, water exchange projects, and/or appropriative rights of substitution, both within and outside of UCC's service area. UCC may withdraw such water for immediate application to beneficial use, for storage and subsequent application to beneficial use, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for all other augmentation and replacement purposes including taking credit for all return flows as augmentation for or as offsets against out-of-priority tributary depletions. 11. Names and Addresses of Owners of Land on Which Wells Will be Located. UCC owns the Adjudication Parcel. There is no lien or mortgage on, or deed of trust to, the Adjudication Parcel. 12. Water Matter. UCC is filing this application for water rights pursuant to § 37-92-302, C.R.S., as a water matter concerning not nontributary and nontributary groundwater. 13. No Designated Basin groundwater. None of the Denver Basin groundwater claimed in this Application lies within a designated basin. 14. Date of Initiation of Appropriation. Not applicable. UCC contends that the prior-appropriation doctrine does not apply to the ground water rights to be determined herein. See § 37-92-305(11), C.R.S. UCC requests the Court to determine that, notwithstanding the groundwater involved herein has not been diverted and applied to beneficial use, UCC's rights thereto are vested property rights and not conditional water rights subject to the requirements of findings of reasonable diligence. If it is determined that some or all of the claimed ground water is subject to the appropriation doctrine or must be decreed as conditional water rights, UCC claims the date of this application as the appropriation date. 15. Points of Diversion. Each of the future nontributary wells is sought as a point of diversion for all of the nontributary groundwater sought herein from the aquifer into which such well is completed and UCC claims the right to pump such wells at any rate as may be necessary to withdraw the maximum amount of groundwater decreed to be available to UCC from each aquifer. Each of the future not nontributary wells is sought as a point of diversion for all of the not nontributary groundwater decreed herein from the aquifer into which such well is completed. 16. Additional Wells. UCC will need to construct additional wells, including supplemental, replacement or alternate point of diversion wells, to recover the entire amount of water available to it from each aquifer. UCC requests the right to construct such additional wells as necessary to maintain production of the amounts of water to which it is entitled. 17. Well Fields. UCC requests that all of the wells constructed in one aquifer shall constitute a "well field" as that term is described in the Statewide Nontributary Ground Water Rules, 2 CCR 402-7, Rule 4.A.13 and 14. 18. Banking. UCC requests the right to withdraw an amount of water in excess of the decreed allowed average annual amount of withdrawal for each well field as long as the total amount of water withdrawn from each well field does not exceed the product of the number of years since the date of issuance of the decree for each water right described herein multiplied by the decreed allowed average

annual amount of withdrawal. The right to withdraw more than the average annual amount estimated above pursuant to Rule 8A of the *Statewide Nontributary Groundwater Rules*, 2 CCR § 402-7, promulgated pursuant to § 37-90-137(4), C.R.S. 19. Rate of Withdrawal. UCC seeks to withdraw the total annual average amount of water provided herein from each well field and from any combination of the wells in that well field. **Plan for Augmentation** 20. Structures to be Augmented. The structures to be augmented are the wells to be constructed on the Adjudication Parcel into the Upper Dawson aquifer, along with any replacement or additional wells associated with the withdrawal of not nontributary groundwater. 21. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Upper Dawson aquifer, together with water rights from the nontributary aquifers for any injurious post pumping depletions. 22. Statement of Plan for Augmentation. Potential water use criteria and their consumptive use component for replacement of actual depletions caused by pumping not nontributary water are estimated as follows: 22.1. Amounts and Uses. Based on the amount of water available for withdrawal from the Upper Dawson aquifer under the Adjudication Parcel, Applicant could pump a maximum of 114.09 acre-feet per calendar year for 300 years. 22.2. Current Plans for Usage. Applicant intends to subdivide the Adjudication Parcel into approximately 77 residential lots and up to three commercial lots (to be used for an existing church, an existing recreation center, and a planned house of prayer and retreat) after adjudication of the water rights claimed in this application. 22.3. Depletions. Maximum stream depletions over the 300-year pumping period for the Upper Dawson aquifer amounts to approximately 25.83% of pumping. Applicant's current plans for development of the Adjudication Parcel would withdraw approximately 54.62 acre-feet per year, resulting in average annual depletions of Upper Dawson wells of 14.108 acre-feet/year. Should Applicant's pumping be more or less than 54.62 acre-feet per year, resulting depletions and required replacements will be correspondingly increased or reduced, but in no event will Applicant withdraw more than 114.09 acre-feet per year in maximum average annual depletions from the Upper Dawson aquifer. 23. Augmentation of Depletions During Pumping. Pursuant to § 37-90-137(9)(c.5), UCC will replace actual stream depletions attributable to pumping the Upper Dawson wells. Depletions during pumping for all uses will be effectively replaced by residential return flows from a non-evaporative septic system. Pumping the maximum amount allowed from the Upper Dawson aquifer would result in estimated demand per residential lot of 0.67 acre-feet per year, but the return flows from in-house use alone will more than replace any depletions caused. The annual consumptive use for non-evaporative septic systems is 10% per year. Assuming an in-home maximum usage of 0.26 acre-feet per year per El Paso County's Land Development Code, 0.23 acre-feet per lot is replaced to the stream system annually, utilizing a non-evaporative septic system, resulting in 18.72 acre-feet of total annual replacements per year (including return flow from the proposed church, recreation center, and house of prayer and retreat). If in-home usage were reduced to 0.2 acre-feet per year, there would still be 14.40 acre-feet of replacement returns each year (including return flow from the proposed church, recreation center, and house of prayer and retreat). Thus, during pumping, stream depletions will be more than adequately augmented. 24. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Upper Dawson wells,

Applicant will reserve sufficient supplies of water in the nontributary Laramie-Fox Hills aquifer, accounting for actual stream depletions replaced during the plan pumping period, as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, Applicant reserves the right under the Court's retained jurisdiction to prove that post pumping depletions will be noninjurious. The reserved nontributary aquifer groundwater will be used to replace any injurious post-pumping depletions, which shall be reduced by that amount replaced during pumping. **General** 25. Records. UCC will maintain such records and make such measurements of water as may be reasonably required by the Division Engineer. 26. Non-Injury. No legal injury will occur to the owner of any vested or conditionally decreed water right from the granting of this application. 27. Future Diligence Not Necessary. No findings of reasonable diligence are required maintain the water rights claimed in this Application. 28. Jurisdiction. This Court has jurisdiction over the subject matter of this Application pursuant §§ 37-92-203(1), 37-92-302(2) and 37-90-137(6), C.R.S. 29. This Application is filed in both Water Divisions Nos. 1 and 2 because depletions from the pumping of the Dawson aquifer will occur in El Paso County, but the depletions may affect both the South Platte and the Arkansas River systems. At full buildout, Applicant anticipates depletions to the South Platte River basin to be 6.054 acre-feet/year and return flows to be 6.19 acre feet-year. Depletions to the Arkansas River basin will be 8.02 acre-feet/year and returns will be 8.21 acre-feet/year. The return flows set forth herein will accrue to both river systems and Applicant intends to consolidate the instant matter with the application in Water Division No. 2 upon completion of publication. Because replacements will be made by returns from septic systems located within the development and close to the wells, Applicant requests a finding that the total amount of depletions to both the South Platte River and the Arkansas River systems will be sufficiently replaced to both river systems. WHEREFORE, Applicant requests the Court to confirm this request for determination of water rights and approval of a plan for augmentation and for such other relief as this Court deems just and proper.

CASE NO. 2025CW3028; SANDRA S. VERGEZ AND PAUL L. VERGEZ, 15942 Longmeadow Lane, Colorado Springs, CO 80921 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Ryan W. Farr and Sedona E. Chavez of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation
EL PASO COUNTY

Applicants own an 8-acre parcel of land and are seeking to quantify the Denver Basin groundwater underlying the property. Applicants also seek approval of a plan for augmentation for the use of a not-nontributary Dawson aquifer well for provision of water to Applicants' property. **III. Property Description**. Applicants' property lies in the NW¼ SW¼ and SW¼ SW¼ of Section 33 and the NE¼ SE¼ and SE¼ SE¼ of Section 32, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado ("Applicants' Property"), as approximately shown on **Exhibit A map** attached to the application, (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) and as more specifically described in

attached **Exhibit B**, also known as 4195 Green Mountain Drive, Colorado Springs, Colorado 80921 (Schedule No. 7133003006). Existing Wells. There is one existing well located on Applicants' Property that is registered with Division of Water Resources under Permit No. 19659-A, which is drilled to depth of approximately 155 feet to alluvium. This existing well serves a parcel adjacent to and to the east of Applicants' Property, specifically 4125 Green Mountain Drive, Colorado Springs, Colorado 80921, which is not owned by Applicants and is not property subject of this Application. The approximate location of this well can be seen on attached **Exhibit A**. Proposed Wells. Applicants propose that one well will be completed to the Dawson aquifer on the Applicants' Property, at a specific location yet to be determined, which will be augmented consistent with the plan for augmentation decreed pursuant to this Application (the "Vergez Well"). Water Source. Not-Nontributary. The groundwater to be withdrawn from the Dawson and Denver aquifers underlying Applicants' Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer require the replacement of actual stream depletions. Nontributary. The groundwater to be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying Applicants' Property will be nontributary. Estimated Rates of Withdrawal. Pumping from wells on Applicants' Property will not exceed 100 gpm. The actual pumping rate for wells will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. Estimated Average Annual Amounts of Groundwater Available. Applicants request a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the 100-year life of the aquifers as required under the State of Colorado's 100-year life requirement pursuant to C.R.S. § 37-90-137(4). Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying the Applicants' Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre-Feet)	Annual Avg. Withdrawal 100 Years (Acre-Feet)
Dawson (NNT)	101.4	175	1.75
Denver (NNT)	165.9	205	2.08
Arapahoe (NT)	325.4	438	4.38
Laramie-Fox Hills (NT)	180.5	216	2.16

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. § 37-92-305(11), the Applicants further request that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. Requested Uses. The Applicants request the right to use the groundwater for beneficial uses upon the Applicants' Property consisting of domestic, irrigation, watering of stock and domestic animals, agricultural, commercial, fire protection, recreation, fish and wildlife, aesthetic, and also for storage and augmentation purposes

associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. § 37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to use water from the not-nontributary Dawson aquifer pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifer in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicants are entitled to withdraw from the aquifers underlying Applicants' Property. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells will be located is owned by the Applicants. **IV. Structures to be Augmented**. The structure to be augmented is the Vergez Well, which will be on Applicants' Property and completed to the Dawson aquifer, along with any replacement or additional wells associated therewith. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Vergez Well on Applicants' Property, together with water rights from the nontributary Arapahoe aquifer for any injurious post-pumping depletions. Statement of Plan for Augmentation. Applicants seek to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by the Vergez Well on Applicants' Property described herein. Water use criteria and their consumptive use component for replacement of actual depletions for the Applicants' Property are estimated as follows: Uses. Pumping from the Dawson aquifer will be a maximum of 1.75 acre-feet of water per year. Such uses shall be for domestic, irrigation, watering of stock and domestic animals, agricultural, commercial, fire protection, recreation, fish and wildlife, aesthetic, and also for storage and augmentation purposes associated with such uses. Amounts. The Vergez Well will pump a maximum of 1.75 acre-feet from the Dawson aquifer annually, for the uses described above. An example breakdown of this combination of use is in-house use of 0.20 acre-feet of water per year, with the remaining 1.55 acre-feet per year available for any other remaining uses. Depletions. It is estimated that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 0.697% of pumping. Maximum annual depletions for total pumping from the Vergez Well is therefore 0.0112 acre-feet in year 100 (i.e. 0.697% of pumping). Should Applicants' pumping be less than the 1.75 acre-feet total per year described herein, resulting depletions and required replacements will be correspondingly reduced, so long as depletions resulting from pumping are adequately replaced. Augmentation of Depletions During Pumping.

Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of a well completed to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from a non-evaporative septic system. The annual consumptive use for non-evaporative septic systems is 10%. At a household rate of 0.20 acre-feet per residence per year, 0.18 acre-feet is replaced to the stream per year from the primary residence, assuming the use of a non-evaporative septic system. Thus, during pumping, stream depletions will be adequately augmented. Augmentation for Post-Pumping Depletions. For the replacement of any injurious post-pumping depletions that may be associated with the use of the Vergez Well, Applicant will reserve up to 175 acre-feet of the water from the underlying Arapahoe aquifer, accounting for actual stream depletions replaced during the pumping period, as necessary to replace any injurious post-pumping depletions. Applicants also reserve the right to substitute other legally available augmentation sources for such post-pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post-pumping depletions will be noninjurious. The reserved nontributary Arapahoe groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a well permit for the Vergez Well on Applicants' Property, and any replacement or additional wells, for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137.

CASE NO. 2025CW3029; The filing made under this case number was rejected; therefore, this case number does not exist in Water Division 2.

CASE NO. 2025CW3030; WOODMEN-UTAH, LLC, c/o Vantage Homes, Corp. 9540 Federal Drive, Ste. 100, Colorado Springs, CO 80921 (Please direct all pleadings and inquiries regarding this matter to Applicants' attorney: Ryan W. Farr, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Co 80921, 719-471-1212, rwf@cowaterlaw.com)

Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation
EL PASO COUNTY

Applicant owns three contiguous parcels totaling approximately 16.39 acres of land and are seeking to quantify the Denver Basin groundwater underlying the property. Applicant also seeks approval of a plan for augmentation for the use of a not-nontributary Denver aquifer well for provision of water to Applicant's property for commercial sanitary purposes and for landscape irrigation for a commercial storage facility. **III. Property Description.** Applicant's property consists of three contiguous parcels lying in the NW1/4 of the NE1/4 of Section 8, Township 13 South, Range 65 West of the 6th P.M., El Paso County, Colorado ("Applicant's Property"), as approximately shown on **Exhibit A** map attached to the application, (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) and as more specifically described in attached **Exhibit B**, also known as 7425 Adventure Way (Schedule No. 5308000071), Nevada Lane (Schedule No. 5308000082), and 7525 Adventure Way (Schedule No. 5308000002), all in Colorado Springs, Colorado, 80923. Existing Wells. There are existing wells located on Applicant's Property that are registered with Division of Water

Resources under Permit Nos. 222231--A and 41283--A. Permit No. 222231--A serves 7425 Adventure Way as an exempt commercial well constructed to the Denver aquifer. Permit No. 41283--A serves 7525 Adventure Way as an exempt domestic well constructed to the Denver aquifer. Proposed Wells. Applicant proposes to use one of the currently constructed Denver wells or to construct a new Denver aquifer, which will be augmented consistent with the plan for augmentation decreed pursuant to this Application (the "Woodmen-Utah Well"). Any well on Applicant's Property not utilized will be properly abandoned. Not-Nontributary. The groundwater to be withdrawn from the Denver and Arapahoe aquifers underlying Applicant's Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Denver aquifer require the replacement of actual stream depletions. Nontributary. The groundwater to be withdrawn from the Laramie-Fox Hills aquifer underlying Applicant's Property is nontributary. Estimated Rates of Withdrawal. Pumping from wells on Applicant's Property will not exceed 100 gpm. The actual pumping rate for wells will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. Estimated Average Annual Amounts of Groundwater Available. Applicant requests a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 100-year life of the aquifers as required under the State of Colorado's 100-year life requirement pursuant to C.R.S. § 37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying the Applicant's Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre-Feet)	Annual Avg. Withdrawal 100 Years (Acre-Feet)
Denver (NNT)	303	843	8.43
Arapahoe (NNT)	239	666	6.66
Laramie-Fox Hills (NT)	187	459	4.59

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. § 37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. Requested Uses. The Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, watering of stock and domestic animals, agricultural, commercial, fire protection, recreation, and also for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. § 37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to use water from the

not-nontributary Denver and Arapahoe aquifers pursuant to a decreed plan for augmentation entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifer in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. Averaging of Withdrawals. Applicant requests that it be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum total withdrawals from all the wells in the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying Applicant's Property. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells will be located is owned by the Applicant. **IV. Structures to be Augmented**. The structure to be augmented is the Woodmen-Utah Well, which will be on Applicant's Property and completed to the Denver aquifer, along with any replacement or additional wells associated therewith. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Denver aquifer from the Woodmen-Utah Well on Applicant's property, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post-pumping depletions. Statement of Plan for Augmentation. Applicant seeks to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Denver aquifer by the Woodmen-Utah Well on Applicant's Property described herein. Water use criteria and their consumptive use component for replacement of actual depletions for the Applicant's Property are estimated as follows: Uses. Pumping from the Denver aquifer for the first two years shall not exceed 2.77 acre-feet of water per year. Thereafter, pumping for use on the Applicant's Property shall not exceed 1.42 acre-feet per year and additional pumping to meet augmentation replacement requirements shall not exceed 0.65 acre-feet per year, for a maximum total of pumping in years 3 through 100 of 2.07 acre-feet per year. Such uses shall be for irrigation, commercial, fire protection, and also for storage and augmentation purposes associated with such uses. Amounts. The Woodmen-Utah Well will pump up to a maximum of 2.77 acre-feet from the Denver aquifer annually for the first two years, for the uses described above. Thereafter and until year 100, the Woodmen-Utah Well will pump up to a maximum of 1.42 acre-feet per year for the uses described above, along with up to 0.65 acre-feet to meet augmentation replacement purposes to augment the pumping for the uses described above. Depletions. It is estimated that annual and cumulative percentage stream depletions over the 100-year pumping period are as set forth in the attached **Exhibit C** Unit Response Function ("URF") table. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of a well completed to the Denver aquifer. Depletions during pumping will be effectively replaced by commercial return flows from commercial sanitary use and augmentation over-pumping discharging to a non-evaporative septic system and irrigation return flows. The annual consumptive use for non-evaporative septic systems is 10% and the annual consumptive

use for the onsite irrigation is estimated at 95%. Applicant will utilize the **Exhibit C** URF table to determine the additional pumping to the non-evaporative septic system required yearly to meet the necessary replacement obligations that are not met by commercial sanitary septic return flows and irrigation return flows. Augmentation for Post-Pumping Depletions. For the replacement of any injurious post-pumping depletions that may be associated with the use of the Woodmen-Utah Well, Applicant will reserve up to 213 acre-feet of the water from the underlying Laramie-Fox Hills aquifer, with credit accounting for actual stream depletions replaced during the pumping period, as necessary to replace any injurious post-pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post-pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post-pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a well permit for the Woodmen-Utah Well on Applicant's Property, and any replacement or additional wells, for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137.

CASE NO. 2025CW3031; Previous Case No. 16CW3074 – SPANISH PEAKS JV, LLC, Attn: Milton R. Geist, Manager, 6834 S. University, #415, Centennial, CO 80122

(Please direct all pleadings and inquiries regarding this matter to Applicants' attorneys: David M. Shohet and Sedona E. Chavez if Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921, 719-471-1212, dms@cowaterlaw.com, sec@cowaterlaw.com)

Application for Findings of Reasonable Diligence and to Make a Conditional Water Right Absolute in Part

HUERFANO COUNTY

II. The Applicant seeks to make absolute, in part, and a finding of reasonable diligence for the remaining conditional Spanish Peaks Well #1 decreed in Case No. 16CW3074, District Court, Water Division 2. **III. Name of Water Right.** Spanish Peaks Well #1 (Well Permit No. 83649-F; WDID 7905805). Legal Description of Location of Water Right. NE¼ NE¼ of Section 2, Township 27 South, Range 68 West of the 6th P.M., Huerfano County, Colorado. UTM Coordinates (Meters, Zone: 13, NAD83) of the well are: Easting (UTM x): 503293; Northing (UTM y): 4176362. Date and Case Number of Original Decree. The date of the original decree is June 14, 2019, entered in Case No. 16CW3074, District Court, Water Division 2. Source. Huerfano River alluvium, tributary to the Arkansas River. Appropriation Date. October 31, 2016. Decreed Amount. 40 gallons per minute, 50 acre-feet per year, conditional. Decreed Uses. Domestic, sanitation, irrigation, commercial, industrial, storage, fire protection and suppression, and recharge. **IV. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures.** The water to be withdrawn from Spanish Peaks Well #1 will be used to support the Applicant's agricultural operation, including greenhouse irrigation and aquaponics. During this diligence period, Applicant has completed the following work and incurred the following expenditures related to Spanish Peaks Well #1: The Applicant has

expended approximately \$5,100,000 to acquire land, complete construction on a greenhouse, and design and construct water infrastructure that will be used in the Applicant's agricultural operation. The Applicant has renovated an existing greenhouse to accommodate aquaponics use, incurring approximately \$4,500,000 in costs. The Applicant has retained civil engineering consultants, who have designed preliminary site plans for a future expansion of the Applicant's aquaponics operations. The Applicant has installed a well and diverted groundwater pursuant to the plan for augmentation decreed in Case No. 16CW3074, District Court, Water Division 2, placing such water to beneficial use, diverting water from 2018 through 2022, and in 2025. Applicant has retained water resource engineers to assist in the administration, accounting, and other tasks associated with the operation of the well and its decreed plan for augmentation. The Applicant has expended approximately \$136,000.00 during this diligence period on its water resource engineers. **V.** In light of the construction and diversion of water from Spanish Peaks Well #1 to beneficial use, the Applicant seeks to make absolute the conditional water right associated with the Spanish Peaks Well #1 for 11.60 acre feet, at a rate of 50 gpm. Water was placed to beneficial use for irrigation and commercial uses pursuant to the plan for augmentation decreed in Case No. 16CW3074. Water was first placed to beneficial use on May 1, 2018. **VI.** Spanish Peaks Well #1 is located on land owned by Deborah and Novell Perrino, whose address is 2714 CR 616, Walsenburg, Colorado 80189. Applicant requests the Court to enter a decree (1) finding that reasonable diligence has been exercised in the development of the subject conditional water right, (2) making absolute the Spanish Peaks Well #1 in the amount 11.60 acre feet, at a rate of 50 gpm; and, (3) continuing any portion of the conditional water right for Spanish Peaks Well #1 not made absolute in full force and effect for an additional diligence period, together with any further relief determined by the Water Court to be appropriate.

CASE NO. 2025CW3032; Previous Case No. 16CW3032 – AMRIZE CEMENT INC. f/k/a Holcim US Inc., c/o Shad Shapiro, Area Environmental and Public Affairs Manager, 3500 State Highway 120, Florence, CO 81226 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: James S. Witwer, Andrea M. Bronson, Natalie C. Boldt, Davis Graham & Stubbs LLP; 3400 Walnut Street, Suite 700, Denver, CO 80205; Telephone: 303.892.9400; Facsimile: 303.893.1379; E-mail: James.Witwer@davisgraham.com, Andrea.Bronson@davisgraham.com, Natalie.Boldt@davisgraham.com)

Amended Application To Amend Plan For Augmentation Approved
FREMONT AND PUEBLO COUNTIES

2. SUMMARY OF APPLICATION: Amrize Cement Inc. ("Amrize"), formerly known as Holcim (US) Inc. ("Holcim") is the owner and operator of a cement manufacturing plant ("Plant") and a limestone quarry known as the Bear Creek Quarry, both located east of Florence, in Fremont County, Colorado. Amrize is also the owner and operator of a limestone quarry known as the Red Creek Quarry, located in Fremont and Pueblo Counties, Colorado. By decree entered on April 29, 2019, the District Court, Water Division 2, approved an application for plan for augmentation filed by Holcim, now known as Amrize ("16CW3102 Decree"). The 16CW3102 Decree permits Amrize's uninterrupted consumptive use of water from ponds located in the Bear Creek Quarry ("Quarry Ponds") and from wetlands constructed adjacent to the Arkansas River

("Wetlands"). Specifically, the Quarry Ponds result in evaporative depletions and depletions from water pumped for dust suppression; the Wetlands cause net depletions from evaporation and evapotranspiration. Amrize replaces out-of-priority depletions from the Quarry Ponds and Wetlands pursuant to the terms and conditions of the 16CW3102 Decree. The Colorado Division of Reclamation, Mining, and Safety (DRMS) recently approved an amendment to Amrize's mining permit to include the Red Creek Quarry ("RCQ"). The RCQ is the property defined as the "Reserve Property" in the 16CW3102 Decree, described as follows: a 250-foot wide strip of land, located in Sections 20, 21, 28, 33, and 34, in Township 19 South, Range 68 West and Sections 3, 10, 14, 15, and 23, in Township 20 South, Range 68 West, 6th P.M., Fremont County, and an approximately 3,851-acre parcel of land located in Sections 24 and 25, Township 20 South, Range 68 West, 6th P.M., Fremont County, and Sections 19, 20, 29, and 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County (all as more particularly described in the deed recorded at reception no. 889838 in the office of the Fremont County Clerk and Recorder and in the deed recorded at reception no. 1887257 in the office of the Pueblo County Clerk and Recorder). The Highway 96 Easement is located in Sections 31 and 32 in Township 20 South, Range 67 West, 6th P.M., Pueblo County. Activities associated with the RCQ will include surface mining, preliminary material sizing, material conveyance from the RCQ to the Plant and reclamation. The location of the RCQ is shown on **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Starting in 2025, Amrize will begin moving its limestone mining operations from the Bear Creek Quarry to the RCQ. Amrize seeks to amend the plan for augmentation approved in Case No. 16CW3102 to permit out-of-priority depletions to the Arkansas River from new water wells that will supply water for dust suppression and sanitary uses associated with the operation of the RCQ. Amrize does not seek to alter any other portion of the augmentation plan and it will continue to replace depletions from the Wetlands and Quarry Ponds in accordance with the terms of the 16CW3102 Decree. Amrize's existing replacement supplies are sufficient to replace all out-of-priority depletions from the Quarry Ponds, Wetlands, and RCQ. **3. NAME AND LOCATION OF ADDITIONAL STRUCTURES TO BE AUGMENTED**: Amrize plans to drill wells (collectively, "Wells") at the RCQ to supply water necessary for dust suppression and sanitary uses. Amrize has not determined the final location of each of the Wells, but has identified the following potential well locations at the RCQ (NAD 1983 UTM): A. Well No. 001: latitude 38.300445, longitude -104.957857, NW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County; B. Well No. 002: latitude 38.300387, longitude -104.946918, NE 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County; C. Well No. 003: latitude 38.295756, longitude -104.951949, NW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County; D. Well No. 004: latitude 38.292859, longitude -104.954331, SW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County; E. Well No. 005: latitude 38.291220, longitude -104.957419, SW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County; F. Well No. 006: latitude 38.274048, longitude -104.957895, SW 1/4 Section 25, Township 20 South, Range 68 West, 6th P.M., Fremont County; G. Well No. 007: latitude 38.282065, longitude -104.957530, NW 1/4 Section 25, Township 20 South, Range 68 West, 6th P.M., Fremont County; H. Well No. 008: latitude 38.286551, longitude -104.944402, NE 1/4 Section 25, Township 20 South, Range 68 West, 6th P.M., Fremont

County. I. Well No. 009: latitude 38.286947, longitude -104.929791, NE 1/4 Section 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County; J. Well No. 010: latitude 38.285126, longitude -104.928440, NE 1/4 Section 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County; K. Well No. 011: latitude 38.294477, longitude -104.921769, W 1/2 Section 20, Township 20 South, Range 67 West, 6th P.M., Pueblo County; L. Well No. 012: latitude 38.293526, longitude -104.906741, SE 1/4 Section 20, Township 20 South, Range 67 West, 6th P.M., Pueblo County; M. Well No. 013: latitude 38.290115, longitude -104.908800, SE 1/4 Section 20, Township 20 South, Range 67 West, 6th P.M., Pueblo County; N. Well No. 014: latitude 38.286020, longitude -104.908494, NE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County; O. Well No. 015: latitude 38.281062, longitude -104.907694, NE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County; P. Well No. 016: latitude 38.279408, longitude -104.905212, SE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County; Q. Well No. 017: latitude 38.274688, longitude -104.905225 SE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County.

4. WATER RIGHTS TO BE USED FOR AUGMENTATION: Amrize will use the following water rights described in paragraph 22 of the 16CW3102 Decree, for replacement of out-of-priority depletions at the RCQ: A. Water rights originally decreed to the Davis and McCumber Ditch in a general adjudication dated February 3, 1894, in Fremont County, Colorado (Priority No. 273) and later changed to the Hayner Ditch in Case No. 4670, decree dated March 15, 1926, Fremont County District Court, and as more particularly described as the Hayner Ditch Water Right in paragraphs 10-17 of the 16CW3102 Decree. B. Fully consumable water leased from the Board of Water Works of Pueblo ("Pueblo Water") pursuant to an Amended and Restated Water Lease Agreement ("Water Lease") dated August 14, 2018, which granted Holcim two options to extend a previous lease agreement for two terms of 10 years each, the first commencing January 1, 2020, and terminating December 31, 2029, and the second commencing January 1, 2030, and terminating December 31, 2039, subject to the terms of the Water Lease. Holcim exercised its right to extend the Water Lease in 2019, requesting Pueblo Water make available for delivery 150 acre-feet per year for each year of the first extended term (2020-2029). The Water Lease and the 2019 letter extending the Water Lease are attached as **Exhibit B**. C. Additional supplies added pursuant to paragraph 35 of the 16CW3102 Decree.

5. DESCRIPTION OF PLAN FOR AUGMENTATION: A. Statement of Plan for Augmentation: Amrize will use the water rights described in paragraph 4 of this application to replace out-of-priority lagged depletions to the Arkansas River caused by pumping the Wells for dust suppression and sanitary uses at the RCQ. B. Depletions: Amrize's RCQ activities will cause depletions from dust suppression and sanitary use. Depletions vary from year to year depending on Amrize's operations. i. Dust Suppression: the volume of water Amrize will pump from the Wells for dust suppression will depend on the volume of product mined and the mining operations in a given year. Amrize currently projects that it will use approximately 40 acre-feet per year for dust suppression at the RCQ once mining begins. Amrize expects to begin mining at the RCQ in 2027 and expects to undertake road and other construction activities between 2025 and 2027. Less water will be needed for dust suppression prior to mining. ii. Sanitary Use: Amrize will employ approximately 25 full-time staff at the RCQ. Amrize estimates the water needed for sanitary use will be 1 to 2 acre-feet per year based on typical per capita usage at the

Plant and Bear Creek Quarry. Sanitary uses are 10% consumptive, with the remaining water returning to the groundwater system through a septic/leach field system. C. Timing and Location of Depletions: Red Creek runs through the RCQ. Because Red Creek is an intermittent stream, water pumped from the Wells will impact the Arkansas River through the groundwater system, rather than Red Creek. These impacts are lagged over time based on the geologic characteristics of the local aquifer. Amrize's engineering consultant determined estimated parameters for the Glover analysis to lag depletions from the Wells and determined depletions from the Wells impacting the Arkansas River over 150 months, with at least 95% of the depletions in the first 124 months. Amrize will replace out of priority lagged depletions from the RCQ Wells to the Arkansas River at or below the Portland Gage. **6. NAME AND ADDRESS OF OWNER OR REPUTED OWNER 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. 2025CW3033; Previous Case Nos. W-664, W-664(76), 81CW52, 86CW46, 92CW81, 99CW66, 05CW97, 12CW96, 19CW3004 – SECURITY WATER DISTRICT, c/o Roy E. Heald, Manager, 231 Security Blvd., Colorado Springs, CO 80911 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: David M. Shohet and Sedona E. Chavez of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, CO 80921, 719-471-1212, dms@cowaterlaw.com, sec@cowaterlaw.com)

Application for Reasonable Diligence

EL PASO COUNTY

2. Name of Structure: Bender Well No. 2. **3. Description of conditional water right**: Date of Original Decree: January 16, 1973; Case No.: W-664; Court: District Court, Water Division 2. List of all Subsequent decrees awarding findings of diligence: Date of Decree: June 10, 1977; Case No.: W-664(76); Court: District Court, Water Division 2. Date of Decree: June 7, 1982; Case No.: 81CW52; Court: District Court, Water Division 2. Date of Decree: November 14, 1986; Case No.: 86CW46; Court: District Court, Water Division 2. Date of Decree: April 1, 1993; Case No.: 92CW81; Court: District Court, Water Division 2. Date of Decree: December 13, 1999; Case No.: 99CW66; Court: District Court, Water Division 2. Date of Decree: September 12, 2006; Case No.: 05CW97; Court: District Court, Water Division 2. Date of Decree: January 28, 2013; Case No.: 12CW96; Court: District Court, Water Division 2. Date of Decree: June 25, 2019; Case No.: 19CW3004; Court: District Court, Water Division 2. Decreed Point of Diversion: The decreed location of the Bender Well No. 2 is at a point whence the NE 1/4 corner of Section 14, Township 15 South, Range 66 West of the 6th P.M., bears North 88 degrees 22' 15" East a distance of 1805.88 feet, El Paso County Colorado. In Case No. 81CW225 the point of diversion for the Bender Well No. 2 was changed as an alternate point of diversion to the Bender Well No. 1 located at a point whence the North 1/4 corner of Section 14, Township 15 South, Range 66 West of the 6th P.M., bears North 71 degrees 22' West a distance of 496.0 feet. Source of Water: Widefield Aquifer, tributary to Fountain Creek, tributary to the Arkansas River. Appropriation Date & Amount: April 25, 1958; 927 g.p.m., conditional. Uses: Domestic and municipal. Well Permit No.: 7800-F. **4. Detailed outline**

of what has been done toward completion or for completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures: The Bender Well No. 2 (the “Bender Well”) was originally decreed on January 16, 1973, in Case No. W-664, District Court, Water Division No. 2. The Bender Well was also the subject of the decree dated January 5, 1987, entered in Case No. 81CW225, District Court, Water Division 2, which added municipal use and alternate points of diversion for the Bender Well and also adjudicated an augmentation plan for the well (“Bender Change Decree”). The Bender Change Decree utilized 60 shares of Fountain Mutual Irrigation Company (“FMIC”) to provide for the replacement of depletions caused by pumping the Bender Well to supply water to a residential development, and also to provide recharge to the Widefield Aquifer. In Case No. 09CW92, Applicant obtained an augmentation plan for the Bender Well using Applicant’s water rights, including the augmentation water under the Bender Change Decree, as replacement water for the Bender Well’s out-of-priority depletions to Fountain Creek. The decree in Case No. 09CW92 also awarded a change in place of use for the Bender Well to include all of Applicant’s existing and future service area. Case No. 09CW92 also decreed the Bender Well as an alternate point of diversion for Applicant’s other wells in the same reach of the Widefield Aquifer. Finally, Case No. 09CW92 incorporated 55 annual acre feet of Widefield Aquifer recharge attributable to the Bender Well within Applicant’s decree entered in Case No. 01CW149, District Court, Water Division 2, for aquifer recharge and reuse. The Bender Well is a component of the Applicant’s integrated water system, which consists of storage water rights, plans for augmentation, appropriative rights of exchange, surface water rights, and groundwater rights, as well as both a physical and administrative infrastructure to operate the system. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of the integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. During this diligence period, Applicant has completed the following work and incurred the following expenditures related to the integrated water system: Applicant has expended over \$122,165.00 in plant repairs and maintenance of their integrated water system, in addition to \$13,469,201.00 total capital expenditures for the water system. Applicant has continuously operated its integrated water system to provide water services to the District’s residents, which has cost \$32,481,667.00 in general operations and maintenance expenses. The Applicant temporarily discontinued using all of its wells in 2016 due to the discovery of perfluorinated compounds (PFCs) in the Widefield and Windmill Gulch aquifers. During this diligence period, Applicant has designed, constructed, and operated a new water treatment system to remove Perfluoroalkyl substances (“PFAS”) from Applicant’s base water supply. This PFAS water treatment system was completed in 2021 and became fully operational in 2022. In total, \$26,176,741 was spent on designing, constructing, and operating this PFAS water treatment system. Costs incurred by the Applicant for the PFAS water treatment system are included in the total operation costs described in paragraph 4.B. Applicant has also participated as a member of the Widefield Aquifer Recharge Association (“WARA”), an unincorporated nonprofit association, under C.R.S. § 7-30-101, *et. seq.*, consisting of Widefield Water and Sanitation District, the City of Fountain, and the Applicant. WARA was formed to plan, evaluate, design, and study the financial feasibility of a public water treatment and supply project to recharge the Widefield Aquifer. During this diligence period, Security paid significant sums to WARA for engineering,

legal, accounting, and association management services, and made payments to FMIC for the future use of FMIC's facilities. Applicant also included several parcels in its service area. All inclusions have been approved by orders entered by the District Court of El Paso County, and Security has commenced work to provide water service to these inclusions. Applicant has pursued the adjudication of an additional plan for augmentation and change of water right in Case No. 23CW3039, District Court, Water Division 2. **5.** No part of the conditional water right is claimed to be made absolute at this time. **6.** Name and address of the owners of land on which the structure is located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use: The Bender Well is located upon land owned by Avatar Fountain LP, whose address is 6800 Jericho Turnpike, #120W, Syosset, New York 11791-4445. The Applicant has an inclusion agreement with the previous owner granting easements for Applicant's use of the Bender Well.

CASE NO. 2025CW3034; Previous Case Nos. (18CW3070, 09CW114) - EVERGREEN NATURAL RESOURCES, LLC, 1775 N. Sherman St., Suite 2775, Denver, CO 80203

(Please address all pleadings and inquiries regarding this matter to Applicants' attorney: William H. Caile, Holland & Hart LLP, 3200 17th St., Suite 3200, Denver CO 80202; telephone: (303) 295-8000; email: whcaile@hollandhart.com)

Application for Finding of Reasonable Diligence

LAS ANIMAS COUNTY

2. Name of Structures: A. Lorencito 14-16 Pond. B. Warren McDonald Pond. C. Margery Pond. D. Stage Coach Pond 3. Description of Conditional Water Rights: a. Date of Original Decree: November 25, 2012, Case No. 09CW114, Water Division 2. b. Subsequent decrees awarding findings of diligence: The most recent decree awarding a finding of reasonable diligence for the subject water rights was entered on June 10, 2019, in Case No. 18CW3070, Water Division 2. c. Name of Reservoir: Lorencito 14-16 Pond. i. Legal Description: An off-channel pond located in the NW 1/4 of the SW 1/4 of Section 16, Township 34 South, Range 66 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,075 feet from the South Section Line and 500 feet from the West Section Line (This location is outside of the sections surveyed by the USGS, so interpreted sections have been used). See location map on file with the Water Court as **Exhibit A-1**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) ii. Source: Lorencito Canyon, tributary to the Purgatoire River. (1) Name of Diversion: Lorencito Diversion with a capacity of 1.0 c.f.s. iii. Point of Diversion: The planned point of diversion is located in the NW 1/4 of the SW 1/4 of Section 16, Township 34 South, Range 66 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 1,965 feet from the South Section Line and 380 feet from the West Section Line (This location is outside of the sections surveyed by the USGS, so interpreted sections have been used). See **Exhibit A-1**. iv. Appropriation Date: August 1, 2011. v. Amount: (1) 20.7 acre-feet (conditional), with the right to fill and refill the pond when in priority, up to three complete fills annually. (2) Rate of Diversion for Filling Reservoir: 1.0 c.f.s. (conditional). vi. Uses: Commercial, mining, manufacturing, construction, augmentation pursuant to the augmentation plan decreed in Case No. 10CW02, Water Division No. 2, or subsequent augmentation plans approved by the Water Court, livestock watering, wildlife, fire

protection, road construction and maintenance, dust suppression, and industrial uses, directly or by exchange. No appropriative right of exchange is being decreed herein, and any exchange in which the water may be used must be separately decreed or administratively approved. vii. Surface area of high-water line: approximately 1.5 acres. (1) Vertical height of dam: approximately 15-20 feet. (2) Length of dam: approximately 400 feet. viii. Total Capacity of Reservoir in acre feet: 20.7 acre-feet (conditional). (1) Active capacity: 20.7 acre-feet. (2) Dead storage: None. ix. Place of Use: The place of use for water stored under this water right is the Colorado portion of the area known as the Central Raton Basin. See area map on file with Water Court as **Exhibit B**. The place of use for augmentation purposes shall be limited to those areas specifically described in the decree in Case No. 10CW02, Water Division No. 2 or subsequent augmentation plans approved by the Court and obtained by the same applicants, and for the same areas and types of uses, as identified in Case No. 10CW02.x. Remarks: The Lorencito Diversion is adjudicated only as a source of supply for the Lorencito 14-16 Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the Lorencito Diversion shall be diverted to storage in Lorencito 14-16 Pond, with uses therefrom, as adjudicated herein. No out of priority diversion of water to storage in Lorencito 14-16 Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division No. 2, or subsequent augmentation plans which may be approved by the water court. d. Name of Reservoir: Warren McDonald Pond. i. Legal Description: An off-channel pond located in the NW 1/4 of the SE 1/4 of Section 36, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,120 feet from the South Section Line and 2,178 feet from the East Section Line. See location map on file with the Water Court as **Exhibit A-2**. ii. Source: Sarcillo Canyon, tributary to the Purgatoire River. (1) Name of Diversion: Warren McDonald Diversion with a capacity of 1.0 c.f.s. iii. Point of Diversion: The planned point of diversion is located in the SW 1/4 of the NE 1/4 of Section 36, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 2,480 feet from the North Section Line and 1,850 feet from the East Section Line. See **Exhibit A-2**. iv. Appropriation Date: September 30, 2009. v. Amount: (1) 25.0 acre-feet (conditional), with the right to fill and refill the pond when in priority, up to three complete fills annually. (2) Rate of Diversion for Filling Reservoir: 1.0 c.f.s. (conditional). vi. Uses: See paragraph 3.c.vi, above. vii. Surface area of high-water line: approximately 3.2 acres. (1) Vertical height of dam: approximately 10-15 feet. (2) Length of dam: approximately 700 feet. viii. Total Capacity of Reservoir in acre feet: 25.0 acre-feet (conditional). (1) Active capacity: 25.0 acre-feet. (2) Dead storage: None. ix. Place of Use: See paragraph 3.c.ix, above. x. Remarks: The Warren McDonald Diversion is adjudicated only as a source of supply for the Warren McDonald Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the Warren McDonald Diversion shall be diverted to storage in Warren McDonald Pond, with uses therefrom, as adjudicated herein. No out of priority diversion of water to storage in Warren McDonald Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division No. 2, or subsequent augmentation plans which may be approved by the water court. e. Name of Reservoir: Margery Pond i. Legal Description: An off-channel pond located in the SW 1/4 of the SE 1/4 of Section 14, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam

axis will be approximately 190 feet from the South Section Line and 1,840 feet from the East Section Line. See location map on file with Water Court as **Exhibit A-3**. ii. Source: Sarcillo Canyon, tributary to the Purgatoire River, diverted through the pipeline described below. (1) Name of Pipeline: Margery Pipeline with a capacity of 1.0 c.f.s. iii. Point of Diversion: The planned point of diversion for Margery Pipeline is located in the SW 1/4 of the SE 1/4 of Section 14, Township 32 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 850 feet from the South Section Line and 1,851 feet from the East Section Line. See **Exhibit A-3**. iv. Appropriation Date: September 30, 2009. v. Amount: (1) 14.5 acre-feet (conditional), with the right to fill and refill the pond when in priority, up to three complete fills annually. (2) Rate of Diversion for Filling Reservoir: 1.0 c.f.s. (conditional). vi. Uses: See paragraph 3.c.vi, above. vii. Surface area of high-water line: approximately 1.6 acres (1) Vertical height of dam: approximately 15 feet. (2) Length of dam: approximately 550 feet. viii. Total Capacity of Reservoir in acre feet: 14.5 acre-feet (conditional) (1) Active capacity: 14.5 acre-feet. (2) Dead storage: None. ix. Place of Use: See paragraph 3.c.ix, above. x. Remarks: The Margery Pipeline is adjudicated only as a source of supply for the Margery Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the Margery Pipeline shall be diverted to storage in Margery Pond, with uses therefrom, as adjudicated herein. No out of priority diversion of water to storage in Margery Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division No. 2, or subsequent augmentation plans which may be approved by the water court.f. Name of Reservoir: Stage Coach Pond i. Legal Description: An off-channel pond located in the SE 1/4 of the NE 1/4 of Section 26, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The midpoint of the dam axis will be approximately 2,350 feet from the North Section Line and 530 feet from the East Section Line. See location map on file with Water Court as **Exhibit A-4**. ii. Source: Purgatoire River or Wet Canyon, tributary to the Purgatoire River. (1) Name of Pipeline: Stage Coach Pipeline with a capacity of 1.0 c.f.s. iii. Point of Diversion: The point of diversion is located in the SE 1/4 of the NW 1/4 of Section 26, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 2,040 feet from the North Section Line and 1,930 feet from the West Section Line. See **Exhibit A-4**. (1) Alternate Point of Diversion: An alternate point of diversion is located in the NE 1/4 of the NW 1/4 of Section 36, Township 33 South, Range 67 West of the 6th P.M. in Las Animas County. The point of diversion will be approximately 1000 feet from the North Section Line and 2,550 feet from the West Section Line. See **Exhibit A-4**. iv. Appropriation Date: September 30, 2009. v. Amount: (1) 47.5 acre-feet (conditional), with the right to fill and refill the pond when in priority, up to three complete fills annually. (2) Rate of Diversion for Filling Reservoir: 1.0 c.f.s. (conditional). vi. Uses: See paragraph 3.c.vi, above. vii. Surface area of high-water line: approximately 4.77 acres. (1) Vertical height of dam: approximately 10-15 feet. (2) Length of dam: approximately 600 feet, viii. Total Capacity of Reservoir in acre feet: 47.5 acre-feet (conditional). (1) Active capacity: 47.5 acre-feet. (2) Dead storage: None, ix. Place of Use: See paragraph 3.c.ix, above. x. Remarks: The Stage Coach Pipeline is adjudicated only as a source of supply for the Stage Coach Pond, and shall not be entitled to make diversions for direct flow uses. Rather, all diversions to the Stage Coach Pipeline shall be diverted to storage in Stage Coach Pond, with uses therefrom, as adjudicated herein.

No out of priority diversion of water to storage in Stage Coach Pond shall be made other than subject to the plan for augmentation decreed in Case No. 10CW02, Water Division No. 2, or subsequent augmentation plans which may be approved by the water court.4. Integrated System: In Case No. 09CW114, by decree entered on November 25, 2012, this Court adjudicated conditional water rights for the Lorencito 14-16 Pond, Warren McDonald Pond, Margery Pond, and Stage Coach Pond. The Court concluded that: The conditional water storage rights decreed herein are individual components of Applicant's integrated water supply system as described in more detail in the Application for Approval of Plan for Augmentation, Including Exchanges, filed jointly by Applicant and other parties in Case No. 10CW02, Water Division 2. Consequently, in subsequent diligence proceedings, work on any one feature of Applicant's supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicant's water supply system. See C.R.S. § 37-92-301(4)(b). 5. Detailed outline of what has been done toward completion or for completion of the appropriation of water to a beneficial use as conditionally decreed, including expenditures, during the applicable diligence period: a. In Case No. 18CW3070, by decree dated June 10, 2019, this Court granted the prior application for a finding of reasonable diligence and continued the conditional water rights that are the subject of this application in full force and effect. The decree in that case required that a further application for a finding of reasonable diligence be filed on or before the last day of June 2025. b. Applicant operates coal bed methane ("CBM") gas wells in the Central Raton Basin, which includes the drainages of the Purgatoire River and its tributaries generally above Trinidad Reservoir and portions of the Apishapa River. As part of the CBM extraction process, CBM wells typically produce small amounts of groundwater (sometimes referred to as "produced water") from groundwater aquifers. In Case No. 10CW02, Water Division 2, by decree dated January 30, 2017, parties including Applicant's predecessor, Pioneer Natural Resources USA, Inc. obtained approval of a plan for augmentation, including exchange, to replace out-of-priority depletions associated with the withdrawal of produced water from those CBM wells that withdraw tributary groundwater. c. During the relevant diligence period, Applicant undertook the following activities in support of the development of the subject conditional water rights and completion of the appropriations. i. Conducted numerous technical analyses, investigations and evaluations in support of the above-described activities, including without limitation the ongoing refinement and operation of a calibrated, multi-layered numerical model of groundwater flow systems in the Central Raton Basin using the MODFLOW computer code developed by the United States Geological Survey. ii. Met and exchanged correspondence with staff of the Colorado Water Quality Control Commission and the Water Quality Control Division regarding the permitting of produced water discharges and injection well permitting. iii. Met and coordinated with staff of the Division of Water Resources to develop and implement plans for accounting, measurement, reporting and administration of the augmentation plan decreed in Case No. 10CW02 including the subject conditional water rights. iv. Met and coordinated with staff of the Division of Water Resources regarding amendment of water well permits and discharge of water from CBM wells in the Apishapa River Basin. v. Regularly prepared and submitted required reporting to the Colorado Energy & Carbon Management Commission ("ECMC"), formerly know as the Colorado Oil & Gas Conservation

Commission, including reporting of water production. Engaged with ECMC on matter related to, *inter alia*, produced water management in the Central Raton Basin. vi. Filed and prosecuted the application in Case No. 23CW3005, Water Division 2, obtaining a finding of reasonable diligence for the conditional appropriative rights of exchange decreed in Case No. 10CW02. vii. Reviewed water court resumes and applications for water rights in the Purgatoire River basin and filed statements of opposition where necessary to protect Applicant's conditional water rights, including the subject conditional water rights and the interest in the augmentation plan decreed in Case No. 10CW02. viii. Applicant engaged legal counsel and consultants in connection with the activities described above. d. Total capital expenditures for all of the above activities are difficult to calculate but are conservatively estimated to be in excess of \$300,000.00 during the diligence period. e. The list of diligence activities described herein is not intended to be exhaustive, and Applicant reserves the right to present additional evidence of reasonable diligence as necessary or appropriate. 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. Applicant or its affiliates, and the following: a. Hill Ranch, a Texas general partnership, 3794-C West Highway 67, Glen Rose, TX 76043-0000; b. Ten Bar Ranch LLLP c/o Warren McDonald, 15403 County Road 41.7, Weston, CO 81091; c. Four McDonald Sisters, LLC c/o Warren McDonald, 15403 County Road 41.7, Weston, CO 81091 d. Charlene Spencer, et al., 1216 Brilliant St., Raton, NM 87740. Applicant respectfully requests that the Court enter a ruling and decree: Finding that all jurisdictional requirements have been met, including without limitation as required under C.R.S. § 37-92-302; finding that Applicant has been reasonably diligent in the development of the subject conditional water rights and continuing the conditional water rights in full force and effect; and for such other relief as the Court deems just and proper.

CASE NO. 2025CW3035; Previous Case Nos: (18CW3042, 03CW118, 89CW61, 84CW62, 84CW63, 84CW64) – THE COLORADO CANAL COMPANY, THE LAKE MEREDITH RESERVOIR COMPANY, AND THE LAKE HENRY RESERVOIR COMPANY: c/o Stacey Sober, General Manager, 331 Main Street, Ordway, CO 81063, (719) 267-4411; CITY OF COLORADO SPRINGS, Attn: Scott Lorenz, Planning Supervisor, Water Resources and Demand Management Department, Colorado Springs Utilities, 1521 South Hancock Expressway, MC 1813, Colorado Springs, CO 80903, (719) 252-8098 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Karl D. Ohlsen and Matthew L. Navarrette, Carlson, Hammond & Paddock, LLC, 1900 Grant Street, Suite 1200, Denver, CO 80203-4539, (303) 861-9000; and Michael Gustafson and Nathan Endersbee, City Attorney's Office-Utilities Division, 30 S. Nevada Avenue, Suite 501, P.O. Box 1575, Mail Code 510, Colorado Springs, CO 80901-1575, (719) 385-6422)

Application For Finding Of Reasonable Diligence And To Make Certain Conditional Rights Of Exchange And Substitution Absolute

CROWLEY, PUEBLO, LAKE, CHAFFEE, FREMONT, EL PASO, AND OTERO COUNTIES

2. Name of Structures Utilized for Exchange and Substitution: A. Lake Meredith Reservoir ("Lake Meredith") (WDID: 1403525). 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. UTM Coordinates: 609903.9 E., 4222981 N. (Spotted from quarters). Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW 14 of the SW 14 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. (The forgoing legal description was corrected in Case No. 03CW118 from that in the prior decrees in these cases.). B. Lake Meredith Reservoir Outlet Canal (the "Outlet Canal") (WDID: 1709516). Waters released from Lake Meredith Reservoir are carried through the Outlet Canal to a point in the South Half 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 Southwest Quarter 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 1/4 of Section 27, Township 22 South, Range 57 West of the 6th P.M., in Otero County, Colorado. (The forgoing legal description was corrected in Case No. 03CW118 from that in the prior decrees in these cases.). UTM Coordinates: 608527.9 E., 422133.9 N. (GPS). C. Lake Henry Reservoir ("Lake Henry") (WDID: 1703524). Lake Henry 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 are located in the South 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 Southeast 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. UTM Coordinates: 611994.1 E., 4234990.1 N. (GPS). D. 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, 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 and 25 in Township 20 South, Range 67 West, all from the 6th P.M., in Pueblo County, Colorado. UTM Coordinates: 524024 E., 4235675 N. (GPS). The Pueblo Reservoir dam axis and the centerline of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21' 20" East a distance of 2,511.05 feet, all as more particularly described in the decree in Case No. B-42135, District Court, Pueblo County. E. Twin Lakes Reservoir (WDID: 1103503). Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West of the 6th P.M., in Lake County, Colorado. UTM Coordinates: 387249.0 E., 4326318.0 N. (GPS). The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the Southeast corner of Section 23, Township 11 South, Range 81 West of the 6th P.M., bears South 54° 13'08" East a distance of 3,803.10 feet,

all as more particularly described in the decree in Civil Action No. 5141, District Court, Chaffee County. F. Turquoise Reservoir (WDID: 1103500). Turquoise Reservoir is located in all or portions of Sections 7, 8, 17, 18, 19 and 20, Township 9 South, Range 80 West, and Sections 10, 11, 12, 13, 14 and 15, Township 9 South, Range 81 West, all from the 6th P.M., in Lake County, Colorado. UTM Coordinates: 381722.0 E., 4345669.0 N. (GPS). The Turquoise Reservoir dam axis and the centerline of Lake Fork Creek intersect at a point whence the Northwest corner of Section 16, Township 9 South, Range 80 West of the 6th P.M., bears North 44° 46' 8" East a distance of 10,344.35 feet, all as more particularly described in the decree in Civil Action No. 5141, District Court, Chaffee County. G. Clear Creek Reservoir (WDID: 1103504). Clear Creek Reservoir is located in all or part of Sections 7 and 8, Township 12 South, Range 79 West of the 6th P.M., in Lake County, Colorado. UTM Coordinates: 392231.0 E., 4319918.0 N. (GPS). The Clear Creek Reservoir dam axis and the centerline of Clear Creek intersect at a point whence the South 1/4 corner of Section 8, Township 12 South, Range 79 West of the 6th P.M., bears South 27 West a distance of 2,255 feet. **3. Describe conditional water right (as to each structure):** A. Conditional Exchange or Substitution to Pueblo Reservoir: i. **Original Decree:** October 21, 1985, Case Nos. 84CW62, 84CW63, and 84CW64, Water Court, Water Division No. 2. ii. **Subsequent Decrees:** December 30, 1997, Case No. 89CW61, Water Court, Water Division No. 2; July 23, 2012, Case No. 03CW118, Water Court, Water Division No. 2; June 19, 2019, Case No. 18CW3042, Water Court, Water Division No. 2. iii. **Legal Description:** Stream Reach Affected (Exchange Reach): The Arkansas River between the following points: (1) Exchange From: Lake Meredith Reservoir Outlet Canal. (2) Exchange To: Pueblo Reservoir. iv. **Source:** Any waters stored in Lake Henry or Lake Meredith. v. **Exchange Priority Date:** April 14, 1981, subordinate and junior to any water right or exchange right filed for adjudication prior to 1984. vi. **Amount:** The quantity that can be exchanged or substituted annually using an active storage capacity of 10,915 acre-feet for Lake Henry and using an active storage capacity of 41,413 acre-feet from Lake Meredith at rates of flow not to exceed 756.28 c.f.s. vii. **Use:** All beneficial uses for which the stored waters to be exchanged or substituted are decreed. B. Conditional Exchange or Substitution to Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir: i. **Original Decree:** October 21, 1985, Case No. 84CW62, 84CW63, and 84CW64, Water Court, Water Division No. 2. ii. **Subsequent Decrees:** December 30, 1997, Case No. 89CW61, Water Court, Water Division No. 2; July 23, 2012, Case No. 03CW118, Water Court, Water Division No. 2; June 19, 2019, Case No. 18CW3042, Water Court, Water Division No. 2. iii. **Legal Description:** Stream Reach Affected (Exchange Reach): The Arkansas River and its tributaries between the following points: (1) Exchange From: Lake Meredith Reservoir Outlet Canal; Pueblo Reservoir. (2) Exchange To: Pueblo Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, and Clear Creek Reservoir. iv. **Source:** Any waters stored in Lake Henry, Lake Meredith, and Pueblo Reservoir. v. **Exchange Priority Date:** April 14, 1981, subordinate and junior to any water right or exchange right filed for adjudication prior to 1984. vi. **Amount:** The quantity that can be exchanged or substituted annually using an active storage capacity of 10,915 acre-feet for Lake Henry and using an active storage capacity of 41,413 acre-feet from Lake Meredith at rates of flow not to exceed 756.28 c.f.s. vii. **Use:** All beneficial uses for which the stored waters to be exchange or substituted are decreed. C. Amounts Previously Made Absolute: i.

Exchange to Pueblo Reservoir: (1) From Lake Meredith Reservoir Outlet Canal to Pueblo Reservoir: 752.23 c.f.s. total absolute rate of flow (500 c.f.s. made absolute in Case No. 03CW118; 252.23 c.f.s. made absolute in Case No. 18CW3042). **ii. Exchange to Twin Lakes Reservoir:** (1) From Lake Meredith Reservoir Outlet Canal to Twin Lakes Reservoir: 150 c.f.s. total absolute rate of flow (75.36 c.f.s. in Case No. 89CW61; 74.56 c.f.s. in Case No. 03CW118). (2) From Pueblo Reservoir to Twin Lakes Reservoir: 600 c.f.s. total absolute rate of flow in Case No. 18CW3042. **iii. Exchange to Turquoise Reservoir:** (1) From Lake Meredith Reservoir Outlet Canal to Turquoise Reservoir: 100 c.f.s. total absolute rate of flow (10 c.f.s. in Case No. 89CW61; 90 c.f.s. in Case No. 03CW118). (2) From Pueblo Reservoir to Turquoise Reservoir: 200 c.f.s. total absolute rate of flow in Case No. 18CW3042. **iv. Exchange to Clear Creek Reservoir:** (1) From Lake Meredith Reservoir Outlet Canal to Clear Creek Reservoir: 50 c.f.s. total absolute rate of flow in Case No. 18CW3042. **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period:** A. Applicants constructed system improvements for the purpose of improving the necessary facilities for the integrated water systems of the Applicants and their shareholders and perfecting these conditional water rights. These improvements included, but are not limited to, the following work on facilities of the Colorado Canal: continual placement of rip rap as required at three drop structures; an upgrade to diversion gates; the treatment of the Kramer Creek Flume with polyurethane. In addition, the Colorado Canal Company has contracted with WestWater Research for assistance with strategic planning. The Colorado Canal Company is also currently contracting a system condition assessment and improvements plan. Between 2019 and 2025, the Colorado Canal Company spent in excess of \$3,767,923.40 on operation and maintenance, \$168,661.99 for professional services, and \$442,866.22 for equipment purchases and repairs for its facilities used in furthering completion of the conditional exchange rights. B. Improvements to Lake Henry Reservoir facilities during the diligence period included, but are not limited to, extending and completing repairs to the East Dam Toe Drain and raising the East Dam crest. Between 2019 and 2025, the Lake Henry Reservoir Company spent in excess of \$371,415.34 on operation and maintenance, \$25,589.80 for professional services, and \$202,316.81 for structure replacement and repair for its facilities used in furthering completion of the conditional exchange rights. C. Improvements to Lake Meredith Reservoir facilities during the diligence period included, but are not limited to, upgrading outlet gates and contracting for a spillway hydrology study, outlet channel, structure replacement and repair. The Lake Meredith Reservoir Company is also negotiating a contract to replace the outlet stems and guides for two gates at Lake Meredith Reservoir. Work on the gates is scheduled to begin in October or November of this year. Between 2019 and 2025, the Lake Meredith Reservoir Company spent in excess of \$175,275.45 on operation and maintenance, \$77,386.40 for professional services, and \$15,067.31 for structure replacement and repair for its facilities used in furthering completion of the conditional exchange rights. D. Expenditures for legal expenses for the Colorado Canal Company, the Lake Meredith Reservoir Company, and the Lake Henry Reservoir Company (collectively, the “Companies”) in connection with these projects over the period from 2019 to the present totaled \$83,260.61, and engineering and consultant charges totaled \$75,741.11 over the same period. E. During

the diligence period, Applicant the City of Colorado Springs expended in excess of \$39,269,778 towards the perfection of these conditional water rights as part of its integrated water system. Said sum includes \$33,084,240 for capital improvements and maintenance, including work on the Otero Pump Station, Homestake Pipeline and Twin Rocks Pump Station facilities, and \$6,185,538 spent to secure and maintain a long-term excess capacity storage contract in Bureau of Reclamation facilities to accommodate use of Colorado Springs Utilities interest in the conditional water rights within the Colorado Springs municipal system. In addition, Colorado Springs paid over \$5,281,046 in assessments levied by the Companies, portions of which were applied to the improvements described above, and to the costs of legal proceedings in which the Companies participated to protect their water rights, as described below. \$5,749,514 was levied in assessments by the Twin Lakes Reservoir and Canal Company. In addition, Colorado Springs Utilities has also undertaken numerous projects and activities for the improvement and enlargement of its water supply and distribution systems in order to facilitate the completion of the appropriation of the conditionally decreed rights of substitution and exchange that are the subject of this Application including development of its Arkansas River exchange program and Colorado Canal reuse program. Colorado Springs also participated independently as an Objector in Water Court proceedings to protect its interests in the decreed water rights, and expended significant sums for legal representation in connection with such proceedings. Colorado Springs Utilities reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Colorado Springs Utilities made diligent efforts regarding this Application to determine and quantify all efforts made toward completion of the appropriations and application of the subject water rights. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment. F. During the diligence period, the City of Aurora ("Aurora"), a stockholder of the Companies and a beneficiary of the decreed exchanges, expended in excess of \$9,478,841 towards the perfection of these conditional water rights as part of its integrated system. Said sum includes assessments levied by the Companies, portions of which were applied to the improvements described above, contracts and other payments for the use of Pueblo Reservoir, and assessments levied by the Twin Lakes Reservoir and Canal Company. Further, there was additional work and expenditures, not included in said sum, associated with Aurora's integrated water supply system in the South Platte Basin, necessary for delivery to and use of this water by Aurora. G. During the diligence period, Applicants have participated as an Objector, Applicant, or Plaintiff in several different cases in Water Court to protect their water rights, including conditional water rights. Over the period from 2019 to present day, the Companies expended in excess of \$67,329.54 in connection with such proceedings. H. During the diligence period, Applicants made diligent efforts to implement the conditional rights of exchange and substitution set forth above, and did implement the exchanges in part. In June 2024, Applicants operated an exchange from Lake Meredith Reservoir Outlet Canal to Twin Lakes at a maximum rate of 300 c.f.s. Applicants and shareholders continued to exercise the decreed exchanges when available in priority and needed for shareholder uses. All exchanges were within the decreed volumetric and rate of flow limitations and were for use in accordance with paragraph 6.2 of the original Decree in Cases No. 84CW62, 84CW63, and 84CW64. I. Applicants' actions during the diligence

period constitute reasonable diligence in the development and implementation of the foregoing conditional rights of exchange and substitution. Applicants intend to place these conditional rights of exchange and substitution to beneficial use within a reasonable period of time. **5. If claim to make absolute, describe when water applied to beneficial use:** A. Between June 8, 2024, and June 10, 2024, Applicants operated an exchange from Lake Meredith Reservoir Outlet Canal to Twin Lakes at a maximum rate of 300 c.f.s. and put that water to beneficial use in accordance with the requirements of the Decree in Case Nos. 84CW62, 84CW63, and 84CW64. Accordingly, Applicants request that the Conditional Right of Exchange and Substitution described in paragraph 3.B., above, be made absolute as follows: i. From Lake Meredith Reservoir Outlet Canal to Twin Lakes Reservoir - Rate of flow to be made absolute in this matter: 150 c.f.s. - Total absolute rate of flow: 300 c.f.s. (75.36 c.f.s. in Case No. 89CW61; 74.56 c.f.s. in Case No. 03CW118; and 150 c.f.s. in the present case). A spreadsheet demonstrating Applicants' operated exchange at a maximum rate of 300 c.f.s. and a Bureau of Reclamation table indicating the same are attached to application as **Exhibit A** and **Exhibit B**, respectively. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Table 1 lists the total amounts of the decreed exchanges that have been exercised, including those newly exercised exchange described in Part 5.A., above, and therefore have been, or will be upon conclusion of this case, made absolute, and the amounts remaining conditional:

Table 1

Exchange From	Exchange To	Decreed Maximum Exchange Rate (c.f.s.)	Previously Decreed Absolute Exchange Rate (c.f.s.)	Additional Exchange Rate Claimed Absolute (c.f.s.)	New Absolute Exchange Rate (c.f.s.)	Remaining Conditional Exchange Rate (c.f.s.)
Lake Meredith Reservoir Outlet Canal (WDID: 1709516)	Pueblo Reservoir (WDID: 1403526)	756.28	752.23	0	752.23	4.05
	Twin Lakes Reservoir (WDID: 1103503)	756.28	150	150	300	456.28
	Turquoise Reservoir (WDID: 1103500)	756.28	100	0	100	656.28
	Clear Creek Reservoir (WDID: 1103504)	756.28	50	0	50	706.28

<u>Pueblo Reservoir</u> (WDID: 1403526)	Twin Lakes Reservoir (WDID: 1103503)	756.28	600	0	600	156.28
	Turquoise Reservoir (WDID: 1103500)	756.28	200	0	200	556.28
	Clear Creek Reservoir (WDID: 1103504)	756.28	0	0	0	756.28

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: A. N/A. **WHEREFORE**, Applicants pray the Court enter judgment: A. finding that Applicants have shown reasonable diligence on all the conditional water rights decreed in these cases; B. continuing in good standing all remaining conditionally decreed water rights of exchange and substitution and fixing a date when a further application for a finding of diligence is required; and C. making absolute the rights of exchange and substitution requested in paragraph 5, above.

CASE NO. 2025CW3036; CITY OF AURORA, COLORADO, ACTING BY AND THROUGH IT UTILITY ENTERPRISE (“AURORA” OR “APPLICANT”), 15151 East Alameda Parkway, Suite 3600, Aurora, CO 80012-1555 (Please address all pleadings and inquiries to Applicants’ attorneys: Alyson Kimzey Scott, Teri L. Petitt, Alyson Scott Law, LLC, 3801 E. Florida Avenue, Suite 410, Denver, Colorado 80210, (720) 538-0356, and Steve C. Cann and Ian J. Best, City Attorney’s Office, 15151 E. Alameda Parkway, Aurora, Colorado 80012-1555, (303) 517-6252)

Application for Conditional Appropriative Rights of Substitution and Exchange

PUEBLO, CROWLEY, OTERO, AND BENT COUNTIES

1. Introduction. Aurora is a municipal water provider whose mission is to enhance and protect the quality of life for Aurora citizens by providing safe, dependable and sustainable water, sewer and stormwater services, today and in the future. In March 2024 the Aurora City Council by resolution approved the purchase of 4,095.178 shares of stock in the Catlin Canal Company and 622.5 shares of stock in the Otero Ditch Company (collectively, the “Shares”) to supply water to the City for municipal pursuant to an interruptible water supply agreement allowing Applicant to utilize the water available to the Shares in three out of ten years, and directed the filing of this Application. A copy of this resolution is attached to the application as **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) In April 2024, Applicant acquired an equitable interest in the Shares. Aurora’s equitable interest in the Shares is memorialized by escrowed deeds and escrowed stock certificates

and assignments deposited with U.S. Escrow pursuant to the Fifth Agreement to Amend Purchase and Sale Agreement (Water Rights and Real Property), dated April 17, 2024, entered into by and between Aurora and C&A Holding Company, Inc., and the Escrow Agreement, dated April 18, 2024, entered into by and between IPX Farms, LLC (an assignee of C&A Holding Company), and Aurora. IPX Farms, LLC, by Agreement with Aurora, dated June 27, 2025, authorized Aurora to file this application seeking to exchange water available to the Shares to Pueblo Reservoir and other intervening locations. A copy of this agreement is attached as **Exhibit B**. Aurora intends to utilize the Shares for municipal purpose through a future Interruptible Water Supply Agreement as authorized by C.R.S. § 37-92-309 or successor statute (“IWSA”) or if such use is authorized either by decree or statutorily authorized administrative approval, including without limitation, such approval as authorized by C.R.S. §§ 37-92-308, or 37-83-101 *et seq.* This Application seeks judicial confirmation, pursuant to C.R.S. §37-80-120, 37-82-106, 37-83-104, and 37-92-302, of conditional appropriative rights of substitution and exchange, under which the water attributable to the Shares will be delivered to the Arkansas River or its tributaries upstream of John Martin Dam and an equivalent amount of water will be diverted and stored upstream in Pueblo Reservoir or at various intervening storage locations, directly or by stepped, intermediate and successive exchanges, after accounting for reasonable transportation losses, if any.

3. Release Points, Exchange-To Points, and Exchange-From Points.

3.1. Release Points. Aurora will measure or release the claimed substitute supplies to the Arkansas River or its tributaries from the structures identified and described in this paragraph (“Release Points”) for subsequent exchange.

3.1.1. Stonewall Springs South Reservoir Outlet (WDID not assigned yet). Located in the N ½ of Section 2, Township 21 South, Range 63 West of the 6th P.M. in Pueblo County, Colorado, at the following approximate location: UTM x: 551769, UTM y: 4234577, UTM Zone 13.

3.1.2. Stonewall Springs Central Reservoir Outlet (WDID not assigned yet). To be located in Section 36, Township 20 South, Range 63 West of the 6th P.M. in Pueblo County, Colorado, at the following approximate location: UTM x: 553105, UTM y: 4235171, UTM Zone 13.

3.1.3. Stonewall Springs East Reservoir Outlet (WDID not assigned yet). To be located in Section 31, Township 20 South, Range 62 West of the 6th P.M. in Pueblo County, Colorado, at the following approximate location: UTM x: 554241.6, UTM y: 4234846, UTM Zone 13.

3.1.4. Haynes Creek Reservoir Outlet (WDID not assigned yet). To be located in Sections 5, 8, or 9 of Township 21 South, Range 61 West of the 6th P.M. in Pueblo County, Colorado, at the following approximate location: UTM x: 566130, UTM y: 4232393, UTM Zone 13. (Haynes Creek Reservoir WDID: 1403621).

3.1.6. Otero Canal Release to Apishapa River (WDID not assigned yet). Located in the NW ¼ of the SE ¼ of Section 24, Township 22 South, Range 59 West of the 6th P.M. in Otero County, Colorado, at the following approximate location: UTM x: 591612.4, UTM y: 4219541.3, UTM Zone 13.

3.1.7. Otero Canal Aug Station #1 to Smith Hollow (WDID not assigned yet). Located in the SW ¼ of the SW ¼ of Section 22, Township 22 South, Range 58 West of the 6th P.M. in Otero County, Colorado, at the following approximate location: UTM x: 597188, UTM y: 4218969, UTM Zone 13.

3.1.8. Catlin Canal Aug Station to Smith Hollow (WDID not assigned yet). Located in the SE ¼ of the NW ¼ of Section 22, Township 22 South, Range 58 West of the 6th P.M. in Otero County, Colorado, at the following approximate location: UTM x: 597554, UTM y: 4219784, UTM Zone 13.

3.1.9. Lake Henry Outlet (WDID 1703524). Located in the N ½

of Section 6, Township 21 South, Range 56 West of the 6th P.M. in Crowley County, Colorado, UTM x: 611994.5, UTM y: 4235004, UTM Zone 13. **3.1.10. Lake Meredith Outlet** (WDID 1703525). 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. in Crowley County, Colorado, UTM x: 609775, UTM y: 4222984.1, UTM Zone 13. **3.1.11. Dye Reservoir Outlet** (WDID 1703510). Located in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 5, Township 23 South, Range 56 West of the 6th P.M. in Otero County, Colorado, UTM x: 614523.9, UTM y: 4215331.6, UTM Zone 13. **3.1.12. Otero Aug Station #2 to Timpas Creek** (WDID not assigned yet). Located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 24, Township 24 South, Range 57 West of the 6th P.M. in Otero County, Colorado, at the following approximate location: UTM x: 610048, UTM y: 4199803, UTM Zone 13. **3.1.13. Catlin Canal Aug Station to Timpas Creek** (WDID 1700800). Located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, Township 24 South, Range 56 West of the 6th P.M. in Otero County, Colorado, UTM x: 611921.8, UTM y: 4201497.5, UTM Zone 13. **3.1.14. Holbrook Reservoir Outlet** (WDID 1703511). Located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 7, Township 23 South, Range 55 West of the 6th P.M. in Otero County, Colorado, UTM x: 622311.8, UTM y: 4213413, UTM Zone 13. **3.1.15. Otero Canal Release to Crooked Arroyo** (WDID not assigned yet). Located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 26, Township 24 South, Range 56 West of the 6th P.M. in Otero County, Colorado, at the following approximate location: UTM x: 619327.3, UTM y: 4199565.3, UTM Zone 13. **3.1.16. Catlin Canal Aug Station to Crooked Arroyo** (WDID 1700801). Located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Township 24 South, Range 56 West of the 6th P.M. in Otero County, Colorado, UTM x: 619916, UTM y: 4201520, UTM Zone 13. **3.1.17. John Martin Reservoir Outlet** (WDID 6703512). Located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 8, Township 23 South, Range 49 West of the 6th P.M., in Bent County, Colorado, UTM x: 680969.5, UTM y: 4215276.3, UTM Zone 13. **3.1.18. Supplemental, Intervening Release Points**. Any additional, intervening Release Points that currently exist or that may be constructed in the future between Pueblo Reservoir and John Martin Reservoir. Applicant will provide all parties in this matter with notice prior to using any such additional Release Points for the exchanges requested in this application. **3.2. Exchange-From Points**. Locations from which substitute supplies will be exchanged ("Exchange-From Points"): **3.2.1. Stonewall Springs South Reservoir Outlet Confluence with the Arkansas River** (WDID 1400802). The outlet discharges to the north bank of the Arkansas River in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 21 South, Range 63 West of the 6th P.M., Pueblo County, Colorado, UTM x: 551682.1, UTM y: 4233932, UTM Zone 13. **3.2.2. Stonewall Springs Central Reservoir Outlet Confluence with the Arkansas River** (WDID 1400803). The outlet discharges to the north bank of the Arkansas River in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 1, Township 21 South, Range 63 West of the 6th P.M., Pueblo County, Colorado, UTM x: 552572.8, UTM y: 4233604.5, UTM Zone 13. **3.2.3. Stonewall Springs East Reservoir Outlet Confluence with the Arkansas River** (WDID 1400804). The outlet discharges to the north bank of the Arkansas River in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6, Township 21 South, Range 62 West of the 6th P.M., Pueblo County, Colorado, UTM x: 554572.3, UTM y: 4233224.1, UTM Zone 13. **3.2.4. Haynes Creek Reservoir Outlet Confluence with the Arkansas River** (WDID not assigned yet). The outlet of a proposed future Haynes Creek Reservoir is expected to discharge to the north bank of the Arkansas River in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 8, Township 21 South, Range 61 West of the 6th P.M., Pueblo County, Colorado, at the following

approximate location: UTM x: 565998, UTM y: 4231967, UTM Zone 13. (Haynes Creek Reservoir WDID: 1403621) **3.2.5. Apishapa River Confluence with the Arkansas River** (WDID 1709502). The confluence of the Apishapa and Arkansas Rivers is located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, Township 22 South, Range 58 West of the 6th P.M., Otero County, Colorado, UTM x: 592338.2, UTM y: 4220459.6, UTM Zone 13. **3.2.6. Smith Hollow Confluence with the Arkansas River** (WDID not assigned yet). The confluence of Smith Hollow and the Arkansas River is located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 22, Township 22 South, Range 58 West of the 6th P.M., Otero County, Colorado, at the following approximate location: UTM x: 597625.8, UTM y: 4220297.8, UTM Zone 13. **3.2.7. Lake Meredith Outlet Confluence with the Arkansas River** (WDID 1729073). The outlet discharges to the north bank of the Arkansas River in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 27, Township 22 South, Range 57 West of the 6th P.M., Otero County, Colorado, UTM x: 607449, UTM y: 4218104, UTM Zone 13. **3.2.8. Dye Reservoir Outlet Confluence with the Arkansas River** (WDID 1729074). The outlet discharges to the north bank of the Arkansas River in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 5, Township 23 South, Range 56 West of the 6th P.M., Otero County, Colorado, UTM x: 614100, UTM y: 4214901, UTM Zone 13. **3.2.9. Timpas Creek Confluence with the Arkansas River** (WDID 1729075). The confluence of Timpas Creek and the Arkansas River is located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 15, Township 23 South, Range 56 West of the 6th P.M., Otero County, Colorado, UTM x: 620015.6, UTM y: 4209489, UTM Zone 13. **3.2.10. Holbrook Reservoir Outlet Confluence with the Arkansas River** (WDID 1729076). The outlet discharges to the north bank of the Arkansas River in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, Township 23 South, Range 56 West of the 6th P.M., Otero County, Colorado, UTM x: 621138, UTM y: 4210001, UTM Zone 13. **3.2.11. Crooked Arroyo Confluence with the Arkansas River** (WDID 1729077). The confluence of Crooked Arroyo and the Arkansas River is located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 33, Township 23 South, Range 55 West of the 6th P.M., Otero County, Colorado, UTM x: 624874.1, UTM y: 4207023.7, UTM Zone 13. **3.2.12. John Martin Reservoir Outlet** (WDID 6703512). The outlet discharges to the Arkansas River in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 8, Township 23 South, Range 49 West of the 6th P.M. in Bent County, Colorado, UTM x: 680969.5, UTM y: 4215276.3, UTM Zone 13. **3.2.13. Supplemental, Intervening Exchange-From Points.** Any additional, intervening locations on the main stem of the Arkansas River at or above John Martin Dam and below Pueblo Reservoir that currently exist or that may be constructed in the future to which Aurora can deliver water. Applicant will provide all parties in this matter with notice prior to using any such additional Exchange-From Points for the exchanges requested in this application. **3.3. Exchange-To Points.** Locations to which substitute supplies will be exchanged ("Exchange-To Points"): **3.3.1. 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 in the 6th P.M. in Pueblo County, Colorado, UTM x: 524034, UTM y: 4235773, UTM Zone 13. **3.3.2. Excelsior Ditch Headgate** (WDID 1400539). The headgate is located on the north bank of the Arkansas River in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 36, Township 20 South, Range 64 West of the 6th P.M., Pueblo County, Colorado, UTM x: 543882.9, UTM y: 4234751.3, UTM Zone 13. Water exchanged to this

location will be subsequently stored in the Stonewall Springs South, Central, and East Reservoirs. **3.3.3. Colorado Canal Headgate** (WDID 1700540). The present location of the Colorado Canal is located on the north bank of the Arkansas River in the NW ¼ of the NW ¼ Section 11, Township 21 South, Range 62 West of the 6th P.M., Pueblo County, Colorado, UTM x: 560241.3, UTM y: 4233243.3, UTM Zone 13. Water exchanged to this location will be subsequently stored in the Haynes Creek Reservoir, Lake Henry, or Lake Meredith. **3.3.4. Holbrook Canal Headgate (a.k.a. Lake Canal Headgate)** (WDID 1700554). The point of diversion is on the north bank of the Arkansas River in the SW ¼ of the NE ¼ of Section 24, Township 22 South, Range 58 West of the 6th P.M., in Crowley County, Colorado, UTM x: 601202.8, UTM y: 4220086.1, UTM Zone 13. Water exchanged to this location will be subsequently stored in Dye Reservoir or Holbrook Reservoir. **3.3.5. Rocky Ford Ditch Headgate** (WDID 1700558). The Rocky Ford Ditch headgate is located on the south bank of the Arkansas River in the NW¼ NE¼, Section 30, Township 22 South, Range 57 West, 6th P.M., in Otero County, Colorado, UTM x: 602903.3, UTM y: 4218898.5, UTM Zone 13. Water exchanged to this location will be subsequently delivered to recharge or storage under the Rocky Ford Ditch system. **3.3.6. Supplemental, Intervening Exchange-To Points.** Any additional, intervening locations on the main stem of the Arkansas River at or above John Martin Dam and below Pueblo Reservoir that currently exist or that may be constructed in the future to which Aurora can deliver water. Applicant will provide all parties in this matter with notice prior to using any such additional Exchange-To Points for the exchanges requested in this application. **4. Exchange reaches.** The exchange reaches requested herein extend from the Exchange-From Points described in Paragraph 3.2, above, to the Exchange-To Points described in Paragraph 3.3, above. These reaches are depicted on **Exhibit C** attached to this Application. **5. Exchange operations.** Fully consumable water and the delayed return flows derived from the sources described in Paragraph 7, below, will be released from the Release Points and delivered to the Exchange-From Points on the Arkansas River and its tributaries, and an equal amount of water will be diverted by exchange upstream at the Exchange-To Points. Transit losses shall be assessed by the State water administration officials as necessary. **6. Appropriation. 6.1 Date of initiation of appropriation.** March 11, 2024. **6.2. How appropriation was initiated.** By formation of intent to appropriate supported by, among other actions, the following. **6.2.1.** Approval of a resolution by the Aurora City Council approving the purchase of the Shares and directing the filing of this Application dated March 11, 2024. **6.2.2.** Purchase of the substitute supplies identified in this application on April 12, 2024. **6.2.3.** Publicly posting a request for engineering proposals concerning this application on October 21, 2024. **6.2.4.** Filing this Application. **6.2.5.** Engineering, legal analyses, and other activities to support the purchase of the Shares and this Application. **6.2.6. Date water applied to beneficial use.** Not applicable. **7. Sources of substitute supply. 7.1. Catlin shares.** The historic consumptive use and return flows associated with the water rights represented by 4,095.178 shares of the capital stock of the Catlin Canal Company, which owns and operates the Catlin Canal, whether changed or unchanged, including, without limitation, through any short-term leases or interruptible water supplies available pursuant to an IWSA as authorized by C.R.S. § 37-92-309 or successor statute or if such use is authorized either by decree or statutorily authorized administrative approval, including without limitation, such approval as authorized by C.R.S. §§ 37-92-308, or 37-83-101 et

seq. The water rights decreed to the Catlin Canal are described below. **7.1.1.** 22 cfs in the water right assigned priority no. 2 by the Decree of April 8, 1905, with an appropriation date of April 10, 1875. Pursuant to *Reorganized Catlin Consolidated Canal Co. v. Hinderlider*, 80 Colo. 522, 253 P. 389 (1927), this 22 cfs interest is required to be administered as junior to Fort Lyon Canal Company's priority no. 4 water right, as described in the decree of August 21, 1905. **7.1.2.** 226 cfs in the water right assigned priority no. 5 by the Decree of April 8, 1905, with an appropriation date of December 3, 1884. **7.1.3.** 97 cfs with an appropriation date of November 14, 1887 (priority no. 7). **7.2. Otero shares.** The historic consumptive use and return flows associated with the water rights represented by 622.5 shares of the capital stock of the Otero Ditch Company, which owns and operates the Otero Canal, whether changed or unchanged, including, without limitation, through any short-term leases or interruptible water supplies available pursuant to an IWSA as authorized by C.R.S. § 37-92-309 or successor statute or if such use is authorized either by decree or statutorily authorized administrative approval, including without limitation, such approval as authorized by C.R.S. §§ 37-92-308, or 37-83-101 *et seq.* The water rights decreed to the Otero Canal are described below. **7.2.1.** 123 cfs in the water right assigned priority no. 13, with an appropriation date of March 3, 1890, as decreed by the Bent County District Court, on April 08, 1905. **7.2.2.** 334.92 cfs in the water right assigned priority no. 62, with an appropriation date of February 2, 1903, as decreed by the Bent County District Court, on August 30, 1922. **7.3. Additional supplies represented by Catlin shares and Otero shares.** The historic consumptive use and return flows associated with the water rights represented by shares of the capital stock of the Catlin Canal Company and of the Otero Ditch Company other than the shares described in Paragraphs 7.1 and 7.2 above, whether changed or unchanged, whether owned or leased by Applicant, including, without limitation, through any short-term leases or interruptible water supplies available pursuant to an IWSA as authorized by C.R.S. § 37-92-309 or successor statute or if such use is authorized either by decree or statutorily authorized administrative approval, including without limitation, such approval as authorized by C.R.S. §§ 37-92-308, or 37-83-101 *et seq.* **7.4. Compliance with intergovernmental agreements.** Applicant will use the substitute supplies described in this paragraph 7 in compliance with the Intergovernmental Agreement between the Southeastern Colorado Water Conservancy District and the City of Aurora, dated October 3, 2003, and the Intergovernmental Agreement between the City of Aurora and the Lower Arkansas Valley Water Conservancy District, dated September 28, 2011, or any amendments of these agreements that may be entered between the relevant parties while this case is pending before the Court. **7.5. No change of water rights claimed.** This Application does not seek to adjudicate changes of any source of substitute supply. Any source of substitute supply, as described above, may be used for exchange only if such use is authorized, either by decree or statutorily authorized administrative approval, including, without limitation, such approval as authorized by C.R.S. §§ 37-92-308, 37-92-309, or 37-83-101 *et seq.* **8. Amount claimed.** The conditional, instantaneous rates of exchange are set forth in the exchange matrix in Paragraph 9, below. The exchanges described herein will operate on the Arkansas River from the Exchange-From Points identified in Paragraph 3.2, above, to the Exchange-To Points identified in Paragraph 3.3, above. The proposed rates of the exchanges requested herein are the lesser amount of the maximum rate of release of the substitute supply from the Exchange-From Points or

the maximum rate of inflow into the Exchange-To Points. Applicant will operate the exchange in compliance with the 10,000 acre-feet per year volumetric limit at the Otero Pump Station as set forth in its intergovernmental agreements with the Southeastern Colorado Water Conservancy District and the Lower Arkansas Valley Water Conservancy District, as those agreements are more specifically identified in Paragraph 7.4 above. **8.1. Maximum release rates from Exchange-From Points.** **8.1.1. Stonewall Springs South Outlet Confluence with the Arkansas River:** 32 cfs **8.1.2. Stonewall Springs Central Outlet Confluence with the Arkansas River:** 32 cfs **8.1.3. Stonewall Springs East Outlet Confluence with the Arkansas River:** 32 cfs **8.1.4. Haynes Creek Reservoir Outlet Confluence with the Arkansas River:** 100 cfs **8.1.5. Apishapa River Confluence with Arkansas River:** 55 cfs **8.1.6. Smith Hollow Confluence with Arkansas River:** 90 cfs **8.1.7. Lake Meredith Outlet Confluence with the Arkansas River:** 400 cfs **8.1.8. Dye Reservoir Outlet Confluence with the Arkansas River:** 132 cfs **8.1.9. Timpas Creek Confluence with Arkansas River:** 150 cfs **8.1.10. Holbrook Reservoir Outlet Confluence with the Arkansas River:** 200 cfs **8.1.11. Crooked Arroyo Confluence with Arkansas River:** 145 cfs **8.1.12. John Martin Reservoir Outlet:** 400 cfs **8.2. Maximum inflow rates to Exchange-To Points.** **8.2.1. Pueblo Reservoir:** 500 cfs **8.2.2. Excelsior Ditch Headgate:** 60 cfs **8.2.3. Colorado Canal Headgate:** 756 cfs **8.2.4. Holbrook Canal Headgate:** 600 cfs **8.2.5. Rocky Ford Ditch Headgate:** 116 cfs **9. Exchange matrix.** The Exchange Matrix displayed below summarizes the claimed Exchange-To Points and Exchange-From Points and exchange rates, as more fully described above in this Application.

EXCHANGE FROM POINT: (LOCATION ON ARKANSAS R)			EXCHANGE TO POINT:			
			Pueblo Res	Excelsior D HG	Colo Canal HG	Holbrook Can HG
WDID	rate (cfs)	WDID	1403526	1400539	1700540	1700554
			500	60	756	600
Stonewall Springs South Reservoir Outlet	1400802	32	32	xxx	xxx	xxx
Stonewall Springs Central Reservoir Outlet	1400803	32	32	xxx	xxx	xxx
Stonewall Springs East Reservoir Outlet	1400804	32	32	xxx	xxx	xxx
Haynes Creek Reservoir Outlet	TBD	100	100	60	xxx	xxx
Apishapa River	1709502	55	55	55	55	xxx
Smith Hollow	TBD	90	90	60	90	xxx
Lake Meredith Outlet	1729073	400	400	60	xxx	xxx
Dye Reservoir outlet	1729074	132	132	60	132	xxx
Timpas Creek	1729075	150	150	60	150	150
Holbrook Reservoir Outlet	1729076	200	200	60	200	200
Crooked Arroyo	1729077	145	145	60	145	145
John Martin Reservoir	6703512	400	400	60	400	400

10. Proposed uses. All uses for which the water claimed as a substitute supply is decreed and all additional beneficial uses that can be made by Aurora, including, without limitation, the following uses: municipal, domestic, agricultural, energy production, manufacturing, mechanical and industrial purposes including, but not limited to, fire protection, irrigation, commercial, recreation, fish and wildlife propagation, reservoir evaporation replacement, creation and maintenance of wetlands, maintenance of storage reserves, stock watering, reclamation, revegetation, dust suppression, water treatment and supply, wastewater treatment, recharge or storage for such uses, and use as a supply or substitute supply for augmentation, replacement, exchanges decreed or to be decreed, and substitute supply plans. All uses include reuse and successive reuse to extinction for the above purposes, or disposition of effluent for the above purposes. **11. Places of use.** The water rights that are the subject of this Application are intended for use in or for the benefit of Aurora's current and future service areas served by its municipal water supply

and water reuse systems and any areas within the South Platte River Basin capable of being served by the Aurora municipal water supply and water reuse systems, including areas served by its connections with other systems, and by any current or future water supply contracts or obligations of Aurora. Aurora may also use the water in Division 1 or 2 to meet its replacement or delivery obligations in those divisions. Aurora may also deliver the water to any places within Division 2 for use by third parties by any current or future water supply contracts or obligations of Aurora. **12. Substituted water**. The substituted water identified in Paragraph 7, above, is of a quality and continuity to meet the requirements for which the water of the senior appropriation normally has been used. **13. Integrated system**. The Applicant owns an integrated system for water diversion, transmission, storage, treatment, and distribution, as well as collection and treatment of the resultant wastewater for release, exchange, and reuse. The conditional appropriative right of exchange rights that are subject of this Application are a part of this integrated water system comprising all water rights decreed and used for development and operation of the Applicant's municipal water supply system. Applicant requests that reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. **14. Use of lands and facilities owned by third parties**. This Application does not seek to create any right to utilize land or structures owned by third parties for the diversion, carriage or storage of water pursuant to the claims made in this Application. Applicant may utilize structures and land for the construction and operation of structures contemplated herein only to the extent that it has acquired the right to do so from the appropriate entities either by purchase, by exercise of the power of eminent domain as permitted by law, or by other lawful means. **15. No injury**. Use of the appropriative rights of exchange described in this Application in accordance with the terms, conditions, and restrictions described in this Application will not cause injury to vested water rights or decreed conditional water rights. **16. Senior appropriative rights of exchange decreed in Case Nos. 84CW62, 84CW63, and 84CW64**. Notwithstanding the date of appropriation sought herein in Paragraph 6, above, Aurora hereby reserves the right to exchange water to the extent allowed pursuant to the senior priority for the appropriative rights of exchange decreed in Case Nos. 84CW62, 84CW63 and 84CW64, Pueblo County District Court, Water Division No. 2 (October 21, 1985). **17. Names and addresses of owners of land upon which structures are or will be located**. **17.1 Catlin Canal Headgate**. Catlin Canal Company, 917 Elm Avenue, Rocky Ford, Colorado 81067, with separate mailing address: P.O. Box 352, Rocky Ford, Colorado 81067. **17.2 Dye Reservoir, Holbrook Reservoir No. 1, and Holbrook Canal Headgate (a.k.a. Lake Canal Headgate)**. **17.2.1**. Holbrook Mutual Irrigation Company, 26334 Highway 266, Rocky Ford, Colorado 81067, with separate mailing address: P.O. Box 34, Cheraw, Colorado 81030. **17.2.2**. Quarter Circle LT Inc, 2475 County Lane 16, Ordway, CO 81603. **17.2.3**. Otero County Government, 13 W 3rd St, La Junta, CO 81050. **17.2.4**. Richard & J Carolyn Case, 180 E Costilla Ave, Centennial, CO 80122. **17.2.5**. Haynow Two LLC, PO Box 647, Crystal Beach, FL 34681. **17.2.6**. Holbrook Drainage District, La Junta, CO 81050. **17.2.7**. Colorado Water Protective and Development Association, 205 S Main St, Fowler, CO 81039. **17.2.8** State of Colorado, 1313 Sherman St, Ste 621, Denver, CO 80203. **17.3. Excelsior Ditch Headgate, Stonewall Springs South Reservoir, Stonewall Springs Central Reservoir, and Stonewall Springs East Reservoir**. **17.3.1**. Excelsior Irrigating

Company, 205 South Main Street, Fowler, CO 81039. **17.3.2.** Kirkland Property Holdings, LLC, PO Box 580, Rye, CO 81069. **17.3.3.** Martin Marietta Materials, Inc. C/O Baden Tax Management, PO Box 8040, Ft. Wayne, IN 46898. **17.3.4.** Morley Companies Family Investments, Rocolo VII LLC & ASI Water LLC, PO Box 75568, Colorado Springs, CO 80970. **17.3.5.** Triview Metropolitan District, 16055 Old Forest Pt, Ste 302, Monument, CO 80132. **17.3.6.** Pete Lien and Sons, Inc, PO Box 440, Rapid City, SD 57709. **17.4. Colorado Canal Headgate.** **17.4.1.** Colorado Canal Company, 331 Main Street, Ordway, Colorado 81063, with separate mailing address: P.O. Box 8, Ordway, CO 81063. **17.4.5.** Dennis and Lindsay Martin, 52190 E State Highway 96, Boone, CO 81025 **17.5. Haynes Creek Reservoir.** **17.5.1.** The City of Pueblo, Colorado, a municipal corporation, acting by and through the Board of Water Works of Pueblo, Colorado, 319 West Fourth Street, Pueblo, Colorado 81003. **17.5.2.** Applicant. **17.5.3.** The City of Colorado Springs, acting by and through its enterprise, Colorado Springs Utilities, 121 South Tejon Street, Colorado Springs, Colorado 80903. **17.5.4.** The City of Fountain Water, Wastewater, and Utility Enterprise, 116 South Main Street, Fountain, Colorado 80817. **17.5.5.** The Pueblo West Metropolitan District, 356 South McCulloch Boulevard, Pueblo, Colorado, 81007. **17.5.6.** Southeastern Colorado Water Activity Enterprise, 31717 United Avenue, Pueblo, Colorado 81001. **17.6. John Martin Reservoir.** **17.6.1.** U.S. Army Corps of Engineers, Reservoir Manager, 29955 County Road 25.75, Hasty, Colorado 81044. **17.6.2.** Caddoa Sands, LLC, 2010 Fox Mountain Point, Colorado Springs, Colorado 80906. **17.7. Lake Henry.** Lake Henry Company, 331 Main Street, Ordway, Colorado 81063, with separate mailing address: P.O. Box 8, Ordway, CO 81063. **17.8. Lake Meredith.** Lake Meredith Company, 331 Main Street, Ordway, Colorado 81063, with separate mailing address: P.O. Box 8, Ordway, CO 81063. **17.9. Otero Canal Headgate.** Otero Ditch Company, 24478 State Highway 71, Rocky Ford, Colorado, with separate mailing address: P.O. Box 239, La Junta, Colorado 81050. **17.10. Pueblo Reservoir.** **17.10.1.** US Department of the Interior, Bureau of Reclamation, Eastern Colorado Area Office, 11056 West County Road 18-E, Loveland, Colorado 80537-9711. **17.10.2.** State of Colorado, 1313 Sherman St, Ste 621, Denver, CO 80203. **17.10.3.** Public Service CO of Colorado, C/O Property and Local Taxes, PO Box 840, Denver, CO 80201. **17.10.4.** State of Colorado, DNR, 1375 Sherman St, Denver, CO 80203. **17.11 Rocky Ford Ditch Headgate.** **17.11.1.** Rocky Ford Ditch Company, 1317 Pine Avenue, Rocky Ford, Colorado 81067-2141. **17.11.2.** Nicholas Behm, 10145 County Road JJ.5, Manzanola, CO 81058. I did not see this on the list in Section 3. **17.12. Potential Recharge or Storage Sites on Lands under the Rocky Ford Canal.** Applicant. **18. Remarks.** The description of or reference to structures and water rights herein, other than the proposed exchanges described in this Application, does not seek to amend or limit the decrees for those structures and water rights, and errors and omissions in such descriptions and references shall not prejudice the owners of those structures and water rights. WHEREFORE, Applicant requests that the Court enter a decree approving the conditional appropriative rights of substitution and exchange as requested herein and for other and further relief as the Court deems appropriate.

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 August 2025, (forms available at Clerk's office or at www.coloradojudicial.gov, 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.

Witness my hand and the seal of this Court this 15th day of July 2025.





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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