

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING SEPTEMBER 2025. (This publication can be viewed in its entirety on the state court website at: www.coloradojudicial.gov)

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 September 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. 2025CW3025; GIBSON LIVESTOCK LLC, 217 South 28th St., Waco, TX 76710 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Scott C. Miller and John M. Sittler, Patrick, Miller & Noto, P.C., 229 Midland Avenue, Basalt, CO 81621, (970) 930-1030)

CHAFFEE COUNTY

Amended Application for Conditional Storage Water Right and Approval of Plan for Augmentation Including Exchange

2. This amendment adds and clarifies the sources of fill for the Waupaca Reservoir No. 1 and removes all references to use of the Waupaca Reservoir No. 1 for irrigation purposes, including for use as an irrigation control structure. This amendment also adds two exchange reaches to correspond to the additional fill sources. **First Claim: For Conditional Storage Water Right: 3.** Structure: Waupaca Reservoir No. 1. **4.** Description of conditional water right: Legal: The Waupaca Reservoir No. 1 is located in the NE ¼ of the SE ¼ of Section 33, Township 12 South, Range 79 West of the 6th P.M. (Chaffee County). UTM NAD83 Z13: Northing – 4313325, Easting – 394057. Maps are on file with the Court as **Figures 1** and **2** attached to the amended application (All figures mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.). Source: McFadden Creek via native flows and the McFadden Ditch, tributary to Morrison Creek, tributary to the Arkansas River. If filled from a ditch: Name of ditch used to fill and capacity in c.f.s.: McFadden Ditch with a decreed capacity of approximately 3.2 c.f.s. Legal description of point of diversion: The headgate is on the North bank of McFadden Creek in the NE ¼ of the SW ¼ of Section 33, Township 12 South, Range 79 West of the 6th P.M. Appropriation date: October 22, 2005. How appropriation was initiated: Formulation of intent to apply water to beneficial use, construction of the reservoir, and application of water to beneficial use. Date water applied to beneficial use: October 22, 2005. Amount: 3.5 acre-feet, conditional, with the right to fill and refill in priority or as augmented. Uses: Recreation, stockwatering fire protection, aesthetic, and piscatorial. Surface area of high water line: 0.805 acre. Vertical height of dam: Less than 10 feet. Length of dam: Approximately 180 feet. **5.** Remarks: The Division 2 Water Court originally decreed the Waupaca Reservoir No. 1 for 73.72 acre-feet, conditional, in Case No. W-3643. In Case No. W-4527 a previous owner of the reservoir transferred 13.96 acre-feet to Waupaca Reservoir No. 2. In 2019, the Division 2 Water Court cancelled the remaining 59.76 acre-feet, conditional, in the Waupaca Reservoir No.

1. **6.** Applicant owns the land on which the subject water right is located and where water is put to beneficial use. **Second Claim: For Approval of Plan for Augmentation:** **7.** Structure: Waupaca Reservoir No. 1. **8.** Water rights to be used for augmentation: Applicant entered into a 30-year lease on May 8, 2025 for delivery of up to 3.1 acre-feet per year of fully consumable water from the Upper Arkansas Water Conservancy District ("UAWCD"). The lease includes water supplies in Twin Lakes Reservoir, Pueblo Reservoir, and other sources owned or controlled by UAWCD. **9.** Complete statement of plan for augmentation: Background: Applicant will store water in the Waupaca Reservoir No. 1 and divert water through the reservoir for freshening flows whenever the reservoir is in priority, and at all other times to the extent Applicant is able to replace the out-of-priority depletions from the reservoir or otherwise prevent injury to downstream senior water rights. All uses are non-consumptive, except for evaporation and stockwater, which are replaced through this plan. Applicant's UAWCD lease includes an additional 3.5 acre-feet in the first year for the initial fill of the reservoir. Water requirements: Diversions into Waupaca Reservoir No. 1 to refill the reservoir and replace evaporative depletions are 100 percent consumptive. Applicant's engineer calculated the annual gross free water surface evaporation as 40 inches based on NOAA Technical Report NWS 33 (isopleths of shallow lake evaporation). The total surface area of the reservoir is 0.805 acres. Gross annual evaporation is 2.68 acre-feet, as shown on **Table 1** attached to the amended application. (All tables mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The pond will likely be ice-covered during the winter months, however Applicant's engineer conservatively assumed year-round evaporative depletions. Applicant will also use the pond for stockwater for 4 horses, year round. Applicant's engineer calculated stockwatering use at 12 gallons per day per horse, for a total of 0.054 acre-feet per year, as shown on **Table 2**. Thus, total out-of-priority depletions are estimated at 2.74 acre-feet per year. Call operation: Applicant will augment out-of-priority evaporative depletions using water rights owned or controlled by UAWCD, as described above. **Table 2** shows a sample augmentation schedule. Applicant's total replacement obligation, including 10 percent transit loss, is 3.04 acre-feet per year. Applicant executed a 30-year lease with UACWD for 3.1 acre-feet of water, annually, which fully covers evaporative and stockwatering depletions from the reservoir. The augmentation will be administered through the Gibson Appropriative Exchange, applied for below. Applicant's engineer assumed an Arkansas River mainstem call year-round. If a call occurs on McFadden Creek below Waupaca Reservoir No. 1, Applicant will curtail all out of priority storage inflows to the reservoir and water levels will drop commensurate with evaporation. **Third Claim: For Conditional Appropriative Right of Exchange:** **10.** Structure: Gibson McFadden Creek Exchange. **11.** Description of water right: Location of downstream terminus: The confluence of Morrison Creek and the Arkansas River, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 12 South, Range 79 West of the 6th P.M., at a point approximately 1,500 feet from the South section line and 800 feet from the West section line (Chaffee County). UTM NAD83 Z13: Northing - 4313016, Easting - 396131. Location of upstream terminus: The point of depletion to McFadden Creek from Waupaca Reservoir at the McFadden Ditch headgate, located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 12 South, Range 79 West of the 6th P.M., at a point approximately 2,600 feet from the South section line and 1,500 feet from the East section line (Chaffee County). UTM NAD83 Z13: Northing - 4313394, Easting - 393808. A map is on file with the Court

as **Figure 3**. Source: Water rights owned or controlled by UAWCD, as described above. Appropriation date: May 30, 2025. How appropriation was initiated: Formulation of intent to apply water to beneficial use, execution of a water lease with UAWCD, and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.0071 c.f.s., up to 3.04 acre-feet per year. Use: Exchange to implement the plan for augmentation applied for above. **Fourth Claim: For Conditional Appropriative Right of Exchange: 12.** Structure: Gibson Morrison Creek Exchange. **13.** Description of water right: Location of downstream terminus: The confluence of Morrison Creek and the Arkansas River, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 12 South, Range 79 West of the 6th P.M., at a point approximately 1,500 feet from the South section line and 800 feet from the West section line (Chaffee County). UTM NAD83 Z13: Northing - 4313016, Easting - 396131. Location of upstream terminus: The point of depletion to Morrison Creek from Waupaca Reservoir at the Morrison Creek Ditch headgate, located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, Township 13 South, Range 79 West of the 6th P.M., at a point approximately 520 feet from the North section line and 2,050 feet from the West section line (Chaffee County). UTM NAD83 Z13: Northing - 4312422, Easting - 393325. A map is on file with the Court as **Figure 3**. Source: Water rights owned or controlled by UAWCD, as described above. Appropriation date: September 30, 2025. How appropriation was initiated: Formulation of intent to apply water to beneficial use, execution of a water lease with UAWCD, and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.0071 c.f.s., up to 3.04 acre-feet per year. Use: Exchange to implement the plan for augmentation applied for above. **Fifth Claim: For Conditional Appropriative Right of Exchange: 14.** Structure: Gibson Pine Creek Exchange. **15.** Description of water right: Location of downstream terminus: The confluence of Morrison Creek and the Arkansas River, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 12 South, Range 79 West of the 6th P.M., at a point approximately 1,500 feet from the South section line and 800 feet from the West section line (Chaffee County). UTM NAD83 Z13: Northing - 4313016, Easting - 396131. Location of upstream terminus: The point of depletion to Pine Creek from Waupaca Reservoir at the Anderson Ditch headgate, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, Township 12 South, Range 79 West of the 6th P.M., at a point approximately 25 feet from the North section line and 100 feet from the West section line (Chaffee County). UTM NAD83 Z13: Northing - 4314139, Easting - 391250. A map is on file with the Court as **Figure 3**. Source: Water rights owned or controlled by UAWCD, as described above. Appropriation date: September 30, 2025. How appropriation was initiated: Formulation of intent to apply water to beneficial use, execution of a water lease with UAWCD, and filing of this application. Date water applied to beneficial use: N/A. Amount: 0.0071 c.f.s., up to 3.04 acre-feet per year. Use: Exchange to implement the plan for augmentation applied for above.

CASE NO. 2025CW3050; Previous Case No. 15CW3016 – UNITED STATES OF AMERICA, c/o USAF Academy Base Civil Engineer, 10 CES/CC, 8120 Edgerton Drive, Suite 40, USAF Academy, CO 80840-2400 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Jeffrey N. Candrian, David W. Gehlert, Trial Attorneys, U.S. Department of Justice, Environment and Natural Resources Division, Natural Resources Section, 999 18th Street, North Terrace, Suite 600, Denver, CO 80202 (202) 532-3093 (Candrian), (303) 241-1433 (Gehlert))

Application for Finding of Reasonable Diligence

EL PASO COUNTY

2. Introduction: The United States seeks a finding of reasonable diligence, under C.R.S. § 37-92-301(4), for conditional water storage rights decreed in Case No. 2015CW3016 (“Conditional Storage Rights”). The United States files this Application pursuant to a July 11, 2025 order in Case No. 2015CW3016. That order directed the United States to file an application for reasonable diligence for the Conditional Storage Rights by the last day of September, 2025. **CONDITIONAL STORAGE RIGHTS.** **3. Original Decree:** Case No. 2015CW3016, entered on May 30, 2019. **4. Name of structures in which water is stored:** A. Non-Potable Reservoir No. 1. B. Non-Potable Reservoir No. 2. C. Non-Potable Reservoir No. 3. D. Non-Potable Reservoir No. 4. E. Golf Course Lake No. 7 Silver East. F. Golf Course Lake No. 7 Silver West. G. Golf Course Lake No. 9 Silver. H. Golf Course Lake No. 1 Blue. I. Golf Course Lake No. 11 Blue. **5. Legal description:**

Structure Name/WDID	Qtr Qtr	Sec	Tshp	Rn g	Distance from section line	Count y	Meridian
A. Non-Potable Reservoir No. 1 WDID 1003359	SE SE	13	12 S	67 W	4,800 feet from N, 450 feet from E UTM 514515E 4316793N	El Paso	6 th P. M.
B. Non-Potable Reservoir No. 2 WDID 1003360	SW NW	14	12 S	67 W	1,700 feet from N, 3,600 feet from E UTM 511955E 4317712N	El Paso	6 th P. M.
C. Non-Potable Reservoir No. 3 WDID 1003361	SE SE	10	12 S	67 W	4,700 feet from N, 500 feet from E UTM 511271E 4318367N	El Paso	6 th P.M.
D. Non-Potable Reservoir No. 4 WDID 1003362	NE NW	16	12 S	67 W	900 feet from N, 2,900 feet from E UTM 508955E 4318034N	El Paso	6 th P.M.
E. Golf Course Lake No. 7 Silver East WDID 1003367	NE SE	15	12 S	67 W	3,700 feet from N, 200 feet from E UTM 511346.7E 4317084.8N	El Paso	6 th P. M.
F. Golf Course Lake No. 7 Silver West WDID 1003369	NE SE	15	12 S	67 W	3,900 feet from N, 1,300 feet from E UTM 511029.9E 4317034.5N	El Paso	6 th P. M.
G. Golf Course Lake No. 9 Silver WDID 1003364	NE SW	15	12 S	67 W	3,500 feet from N, 2,700 feet from E UTM 510566.9E 4317137.5N	El Paso	6 th P. M.
H. Golf Course Lake No. 1 Blue WDID 1003370	NE SW	14	12 S	67 W	3,680 feet from N, 3,000 feet from E UTM 512112.4E 4317103.8N	El Paso	6 th P. M.
I. Golf Course Lake No. 11 Blue WDID 1003368	NE SE	14	12 S	67 W	3,700 feet from N, 500 feet from E	El Paso	6 th P. M.

				UTM	512861.8E		
				4317086.6N			

6. Sources of water: a. Non-Potable Reservoir No. 1: Runoff tributary to Lehman Gulch, tributary to Monument Creek. B. Non-Potable Reservoir No. 2: Runoff, tributary to Monument Creek. C. Non-Potable Reservoir No. 3: Runoff, tributary to Monument Creek. D. Non-Potable Reservoir No. 4: Runoff tributary to Goat Camp Creek, tributary to Monument Creek. E. Golf Course Lake No. 7 Silver East: Runoff tributary to Lehman Gulch, tributary to Monument Creek. F. Golf Course Lake No. 7 Silver West: Runoff tributary to Lehman Gulch, tributary to Monument Creek. G. Golf Course Lake No. 9 Silver: Runoff tributary to Lehman Gulch, tributary to Monument Creek. H. Golf Course Lake No. 1 Blue: Runoff tributary to Lehman Gulch, tributary to Monument Creek. I. Golf Course Lake No. 11 Blue: Runoff tributary to Lehman Gulch, tributary to Monument Creek.

7. Appropriation dates: A. Non-Potable Reservoir No. 1: May 21, 1957. B. Non-Potable Reservoir No. 2: May 21, 1957. C. Non-Potable Reservoir No. 3: May 21, 1957. D. Non-Potable Reservoir No. 4: May 21, 1957. E. Golf Course Lake No. 7 Silver East: April 1, 1975. F. Golf Course Lake No. 7 Silver West: April 1, 1975. G. Golf Course Lake No. 9 Silver: April 1, 1975. H. Golf Course Lake No. 1 Blue: April 1, 1975. I. Golf Course Lake No. 11 Blue: April 1, 1975. **Remarks:** Pursuant to the 2015CW3016 decree, Non-Potable Reservoir Nos. 1-4, Golf Course Lake Nos. 7 Silver East and 9 Silver shall be administered as though applications for those facilities were filed in 2015. Golf Course Lake Nos. 7 Silver West, 1 Blue and 11 Blue shall be administered as though applications for those facilities were filed in 2016. As between all water rights, the applications for which were filed in the same calendar year, priorities shall be determined by decreed dates of appropriation and shall not be affected by the dates of entry of decrees.

8. Amounts: A. Non-Potable Reservoir No. 1: 125 acre-feet. B. Non-Potable Reservoir No. 2: 325 acre-feet. C. Non-Potable Reservoir No. 3: 156 acre-feet. D. Non-Potable Reservoir No. 4: 21 acre-feet. E. Golf Course Lake No. 7 Silver East: 2.4 acre-feet. F. Golf Course Lake No. 7 Silver West: 2.4 acre-feet. G. Golf Course Lake No. 9 Silver: 4.9 acre-feet. H. Golf Course Lake No. 1 Blue: 0.8 acre-feet. I. Golf Course Lake No. 11 Blue: 2.4 acre-feet.

9. Uses: A. Non-Potable Reservoir No. 1: Irrigation. B. Non-Potable Reservoir No. 2: Irrigation. C. Non-Potable Reservoir No. 3: Irrigation. D. Non-Potable Reservoir No. 4: Irrigation. E. Golf Course Lake No. 7 Silver East: Recreation. F. Golf Course Lake No. 7 Silver West: Recreation. G. Golf Course Lake No. 9 Silver: Recreation. H. Golf Course Lake No. 1 Blue: Recreation. I. Golf Course Lake No. 11 Blue: Recreation.

10. Outline of what has been done toward completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the previous diligence period. A. The Conditional Storage Rights are part of an integrated water supply system on the United States Air Force ("USAF") Academy grounds. The Conditional Storage Rights are designed to provide irrigation and recreation water for golf courses, and irrigation water for a cemetery, athletic fields, roadway median strips, and

Stillman Field. "When a project is comprised of several features, work on one feature can be considered in determining whether reasonable diligence has been shown in the development of water rights for all features." *Dallas Creek Water Co. v. Huey*, 933 P.2d 27, 36 (Colo. 1997). B. During the diligence period, the USAF took numerous actions and spent considerable funds developing the Conditional Storage Rights. The USAF: (1) installed the majority of the required ultra-sonic water meters to support the data points in the 2015CW3016 accounting spreadsheet (\$780,253); (2) installed pressure-transducer-type staff gauges in lakes, ponds, and reservoirs to support data points in the 2015CW3016 accounting spreadsheet (\$101,550); (3) established a telemetry subscription to gather daily readings; (4) worked with United States Geological Service ("USGS") to survey the Conditional Storage Rights and entered into an annual contract with USGS to provide stream flow sensors and spillway monitors (\$146,600); (5) funded, through a federal grant (\$399,010), a water sustainability study to evaluate the USAF Academy's water systems and identify measures to decrease irrigation demand; (6) began converting eight miles of roadway from turfgrass to inland saltgrass, which requires less irrigation water; (7) initiated a study for Non-Potable Reservoir No. 3 to determine how to improve its function and efficiency (awaiting funding); (8) initiated a program to decrease irrigation demand for the USAF Academy golf courses (awaiting funding); and (9) spent approximately \$172,00 monitoring meter readings, reservoir levels, managing wells and pumps, and troubleshooting issues with meter performance.

11. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: United States of America. **12.** The USAF shall install and maintain such measuring devices and keep such records as the Division Engineer for Water Division 2 may require for administration of the Conditional Storage Rights. During the diligence period, and in accordance with the 2015CW3016 decree, the USAF provided the Division Engineer's Office with monthly reports, as well as additional requested records and reports.

****Per October 7, 2025 Court Order, Resume to be published in October 2025**

Resume**

CASE NO. 2025CW3051; MAY VALLEY WATER ASSOCIATION, P.O. Box 310

Wiley, CO 81092 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: c/o Sara M. Dunn & Andrea J. Hall, Balcomb & Green, P.C., P.O. Drawer 790, Glenwood Springs, CO 81602; (970) 945-6546; sarad@balcombgreen.com and ahall@balcombgreen.com)

PROWERS COUNTY

Amended Application for Findings of Reasonable Diligence

CASE NO. 2025CW3052; CITY OF WALSENBURG, c/o City Administrator, 525 South Albert Street, Walsenburg, CO 81089-2296 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Richard J. Mehren, Jennifer M. DiLalla,

Cameron J. Abatti, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd, Suite 240, Boulder, CO 80302 (303) 443-8782)

Application for Changes of Water Rights and Amendment of Plan for Augmentation

HUERFANO COUNTY

2. Overview of application: Walsenburg seeks a change of the water right associated with its 27,081 shares in the Walsenburg Ditch Company ("Walsenburg Ditch Shares"); a subsequent change of the water rights associated with Walsenburg's 1/6 interest in the Gomez Ditch ("Gomez Ditch Interest"), which water rights previously were changed by the decree entered on December 26, 2014, in Case No. 11CW56 ("11CW56 Decree"); and amendment of the plan for augmentation approved by the 11CW56 Decree. All UTM coordinates identified in this Application are NAD 83, Zone 13. **3. Walsenburg Ditch change:** 3.1 Name of structure: Walsenburg Ditch (WDID 1600636). 3.2 Original decree: June 12, 1889, In the Matter of Priority of Water Rights in Water District No. 16, Huerfano County District Court ("Read Decree"). The Read Decree identifies the Walsenburg Ditch as Ditch No. 4 and Priority No. 5. 3.3 Legal description: The decreed point of diversion is in the SW1/4 of Section 7, T28S, R66W of the 6th P.M. The actual point of diversion is on the north bank of the Cucharas River in the NE1/4 NE1/4 of Section 17, T28S, R66W of the 6th P.M. (UTM: 517746 East, 4163078 North.) The decreed and actual locations are shown on the map 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.) 3.4 Source: Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. 3.5 Amount and appropriation date: 5.9 cubic feet per second ("cfs") absolute with an appropriation date of April 30, 1866. The decree entered in Civil Action 4025 in the Huerfano County District Court on July 24, 1967, *nunc pro tunc* July 18, 1967, as corrected by Order dated November 13, 1967, transferred 0.295 cfs out of the ditch ("Albright Transfer"). Following the Albright Transfer, 5.605 cfs remains decreed to the Walsenburg Ditch. 3.6 Use: Irrigation. 3.7 Amount to be changed: The City's entire interest in the water right. The City's Walsenburg Ditch Shares amount to 57.42% of the 47,165 shares outstanding in the Walsenburg Ditch Company; that interest represents a flow rate of 3.22 cfs out of the 5.605 cfs decreed to the ditch ("City's Walsenburg Ditch Water Right"). 3.8 Detailed description of proposed change: Based upon a ditchwide analysis, Walsenburg will quantify the historical consumptive use of the City's Walsenburg Ditch Water Right and will determine the amount, timing, and location of return flows resulting from the historical use of that water right. The details of the proposed change of water right are as follows: 3.8.1 Change to correct decreed point of diversion: A change of point of diversion to correct the discrepancy between the location given in the Read Decree and the actual location of the point of diversion, both as described in paragraph 3.3 above and as shown on **Exhibit A**. 3.8.2 Alternate points of diversion: A change to authorize diversion at the following three upstream alternate points of diversion ("APOD"), the locations of which are shown on the map attached as **Exhibit B**. 3.8.2.1 Walsenburg Pipeline (WDID 1600637), which diverts from the Cucharas River at a point in the SW1/4 SW1/4 of Section 28, T29S, R68W of the 6th P.M., Huerfano County. UTM: 498637 East, 4149150 North. 3.8.2.2 City Lake (a/k/a Walsenburg Reservoir) Inlet (WDID 1600592), which will divert from the Cucharas River within a 1,000-foot reach located in the SE1/4 NW1/4 and the NE1/4 SW1/4 of Section 26, T28S, R67W of the 6th P.M., Huerfano County UTM: 512222 East, 4159436 North (upstream terminus of

reach); 512465 East, 4159451 North (downstream terminus of reach). 3.8.2.3 Lake Miriam Ditch (a/k/a Coler Inlet Ditch) (WDID 1600584), which diverts from the Cucharas River at a point in the NW1/4 SE1/4 of Section 32, T28S, R67W of the 6th P.M., Huerfano County. UTM: 508063 East, 4157930 North. 3.8.3 Change in type, place, and manner of use: A change such that in addition to its currently decreed irrigation use, the City's Walsenburg Ditch Water Right may be used for all municipal purposes within the City's service area, as it exists now and as it may be altered in the future, with such use made directly, after storage, or by exchange. The claimed municipal purposes include, without limitation, irrigation of parks, open space, common areas within developments, and City-owned or City-operated properties; augmentation within the plan for augmentation decreed in Case No. 11CW56, as that plan will be amended in this case, and within any future-decreed City augmentation plan; replacement of historical return flows attributable to the changed water right, the Gomez Ditch Interest changed in Case No. 11CW56, or City-owned water rights that are the subject of future change cases; delivery into the City's municipal system for domestic and other uses; industrial, mechanical, and commercial uses; environmental mitigation, including without limitation wetlands preservation; stock-watering; fire protection; street sprinkling; and piscatorial, fish and wildlife preservation and propagation, and recreation uses. The City also claims use of the changed water right outside of the City's service area, but only as follows: in any area in which the City has return flow replacement obligations or augmentation obligations; on property owned or managed by the City; on property to which the City is obligated to deliver water under water supply contracts; and on property supplied by means of metered City water taps under the municipal water-haul program. The boundaries of the City's current service area are shown on the map attached as **Exhibit C**. The changed uses and manners of use of the City's Walsenburg Ditch Water Right are referred to collectively in this Application as the "New Uses." 3.8.3.1 Use by exchange: Water attributable to the City's Walsenburg Ditch Water Right will be used as a source of substitute supply in the "2017 Exchanges" and "2018 Exchanges" decreed on September 18, 2020, in Case No. 17CW3063 ("17CW3063 Decree"), and as described in that decree. The City will file a separate application or multiple applications in the future for confirmation of any additional claimed exchanges within which the water is proposed to be used as a source of substitute supply. 3.8.4 Conversion to the New Uses: Walsenburg will convert the Walsenburg Ditch Shares to the New Uses over time. Shares that have not been converted to New Uses ("Unconverted Shares") will continue to be used solely for irrigation under the ditch. Shares will be converted to New Uses ("Converted Shares") only upon the City's documentation that the land historically irrigated with such shares has been dried up and that the City can comply with all decree requirements for meeting return flow obligations for those shares. 3.8.5 Use, reuse, and successive use to extinction: Provided that the City replaces historical return flows in accordance with the decree to be entered in this case, the City will use, reuse, and successively use to extinction the fully consumable portion of the changed water right, and may dispose of such water by sale or otherwise. The City will quantify its reusable return flows from first use of the City's Walsenburg Ditch Water Right using the methodology approved in the 17CW3063 Decree. 3.9 Historical use: The City's Walsenburg Ditch Water Right was used historically for irrigation of approximately 243 acres on seven farms located on what is now known as "City Ranch" in Sections 2 and 3 in T28S, R66W and Sections 26 and

35 of T27S, R66W; all of the 6th P.M., in Huerfano County (“Historically Irrigated Lands”). In accordance with C.R.S. § 37-92-302(2)(a), **Exhibit D** shows the approximate locations of the Historically Irrigated Lands, and **Exhibit E** summarizes records of actual diversions of the water right to the extent such records exist. 3.10 Replacement or maintenance of historical return flows: Return flows resulting from historical use of the City’s Walsenburg Ditch Water Right accrued to the Cucharas River and Pictou Arroyo. For Converted Shares, when there is a downstream call impacting the points at which return flows historically accrued to the stream, the City will replace historical return flows in the amounts and at the times and locations necessary to prevent injury to other water rights. The City will make those replacements using water available to Converted Shares; “Depletion Credits” available to the Gomez Ditch Interest, as that interest was changed by the 11CW56 Decree and will be further changed in this case; deliveries from taps installed on the City’s potable and non-potable systems; and any other fully consumable water legally available to the City for that purpose. Because Unconverted Shares will be used only for continuing irrigation under the ditch, return flows from that use will accrue to the stream system as they did historically and will not be separately replaced. The City will not replace historical return flows at times of free river. 3.11 Places of Converted Share deliveries: The City will take delivery of water attributable to Converted Shares at one or more of the locations described below: 3.11.1 Walsenburg Ditch Augmentation Station: As described in paragraph 7.1.1 of the 17CW3063 Decree, the City will construct an augmentation station off of the Walsenburg Ditch and down-ditch of the Walsenburg Ditch headgate to release water to the Cucharas River in the NE1/4 NE1/4 of Section 17, T28S, R66W of the 6th P.M., Huerfano County, within the reach shown on **Exhibit A**. 3.11.2 APODs: The structures described in paragraphs 3.8.2.1, 3.8.2.2, and 3.8.2.3. 3.12 Places of storage of Converted Share deliveries: The City will store water attributable to Converted Shares by exchange or by delivery of reusable return flows into the following structures, the approximate locations of which are shown on the map attached as **Exhibit B**. 3.12.1 Walsenburg Water System Reservoir (a/k/a Walsenburg Reservoir, a/k/a City Lake) (WDID 1603724). Located in Section 23, T28S, R67W of the 6th P.M., Huerfano County. UTM of dam above centerline: 512975.01465 East, 4160982.92881 North. 3.12.2 Lake Miriam Reservoir (a/k/a Horseshoe Reservoir) (WDID 1603715). Located in the W1/2 of Section 13, the SE1/4 of Section 14, and the NW1/4 of Section 24, T28S, R67W of the 6th P.M., Huerfano County. UTM of dam above outlet: 513799.4 East, 4162034 North. 3.12.3 Lake Oehm Reservoir (a/k/a Martin Reservoir) (WDID 1603716). Located in the E1/2 of Section 13, T28S, R67W; and the W1/2 of Section 18, T28S, R66W; all of the 6th P.M., Huerfano County. UTM of dam above outlet: 515047.1 East, 4162270.1 North. 3.12.4 Wahatoya Lake Reservoir (WDID 1603723). Located in the N1/2 SW1/4 and the SE1/4 NW1/4 of Section 22, T29S, R68W of the 6th P.M., Huerfano County. UTM of dam above outlet: 500805.3 East, 4151471.8 North. 3.12.5 Daigre Reservoir (WDID 1603720). Located in the S1/2 N1/2 of Section 22, T29S, R68W of the 6th P.M., Huerfano County. UTM of dam above outlet: 501131 East, 4151650.3 North. 3.12.6 La Veta Town Reservoir Enlargement (WDID 1603717). Center of dam located in the NW1/4 SE1/4 of Section 28, T29S, R68W of the 6th P.M., Huerfano County. UTM of dam above outlet: 499555 East, 4149552 North. 3.12.7 Bruce Canyon Reservoir (WDID 1603866). Center of dam is located in the SE1/4 NW1/4 of Section 5, T30S, R68W of the 6th P.M., Huerfano County. UTM of dam above outlet: 497394 East,

4147036 North. 3.12.8 South Baker Creek Reservoir (WDID 1603864). Center of dam located in the SW1/4 NE1/4 of Section 16, T31S, R69W of the 6th P.M., Huerfano County. UTM of dam above outlet: 490452 East, 4133683 North. 3.12.9 Britton Reservoirs Enlargement (WDID 1603865). Center of dam located in the SW1/4 NE1/4 of Section 22, T31S, R69W of the 6th P.M., Huerfano County. UTM of dam above outlet: 491983 East, 4131986 North. 3.12.10 White Creek Reservoir (WDID 1603863). Located in Sections 14, 15, 22, and/or 23, T31S, R69W of the 6th P.M., Huerfano County. UTM of dam above outlet: 492413 East, 4132589 North. 3.12.11 Maria Stevens Reservoir (WDID 1603718). Located in the SW1/4 NW1/4 of Section 28, T27S, R65W of the 6th P.M. Huerfano County. UTM of dam above outlet: 528333 East, 4169042 North. 3.12.12 Any reservoir that is available for the City's use and meets the requirements of C.R.S. 37-87-101(3), including without limitation reservoirs located on the Walsenburg Ditch. 3.13 Maintenance of historical ditch loss: The City will maintain historical ditch loss on delivery of water to the Walsenburg Ditch Shares, both Unconverted and Converted. 3.14 Diversion season: The diversion season for the Walsenburg Ditch Shares, both Unconverted and Converted, will be the same as the diversion season for all Walsenburg Ditch Company shareholders; however, the diversion season for Converted shares will be no longer than from April 1 through October 31. 4. Gomez Ditch subsequent change: 4.1 Name of structure: Gomez Ditch (WDID 1600577). 4.2 Original decrees: Read Decree (Priority No. 10); decree entered February 23, 1898, In the Matter of the Adjudication of the Priorities to the Use of Water in Water District No. 16, Huerfano County District Court (a/k/a Killian Decree) (Priority No. 124). 4.3 Subsequent decree: 11CW56 Decree. 4.4 Legal description: On the south bank of the Cucharas River at a point in the SE1/4 SW1/4, Section 9, T28S, R66W of the 6th P.M., as shown on **Exhibit A**. 4.5 Source: Cucharas River, tributary to the Huerfano River, tributary to the Arkansas River. 4.6 Amounts and appropriation dates: 4.6.1 Priority No. 10: 3.2 cfs (0.5334 cfs Gomez Ditch Interest); June 8, 1868. 4.6.2 Priority No. 124: 7.0 cfs (1.167 cfs Gomez Ditch Interest); April 10, 1888. 4.7 Use: 4.7.1 Entirety of both priorities: irrigation. 4.7.2 Gomez Ditch Interest: use directly, after storage, and by exchange for multiple uses associated with Walsenburg's municipal system, including but not limited to municipal, augmentation, and replacement purposes. 4.8 Amount to be changed: The Gomez Ditch Interest previously changed by the 11CW56 Decree. 4.9 Detailed description of proposed change: This Court quantified the historical consumptive use attributable to the Gomez Ditch Interest in Case No. 11CW56, and that quantification is *res judicata*. By this Application, Walsenburg seeks authorization to capture, maintain dominion and control over, and reuse and successively use to extinction the wastewater return flows resulting from the City's first use of the Gomez Ditch Interest under and in compliance with the terms and conditions of the 11CW56 Decree. The City will quantify its reusable return flows from first use of the Gomez Ditch Interest using the methodology approved in the 17CW3063 Decree. The City seeks no other subsequent change to the Gomez Ditch Interest by this Application. 4.10 Historical use: As described in the 11CW56 Decree. In accordance with C.R.S. § 37-92-302(2)(a), **Exhibit F** summarizes records of actual diversions of the water right to the extent such records exist. 4.11 Transferable yield: As described in the 11CW56 Decree. 4.12 Replacement of historical return flows: The City will continue to replace historical return flows in compliance with the 11CW56 Decree. 4.13 Place of delivery of reusable return flows: The City will take delivery of reusable

return flows attributable to the Gomez Ditch Interest at the outfall of the City's wastewater treatment facility ("WWTF") in the SW1/4 of Section 2, T28S, R66W of the 6th P.M. (WDID 1600656; UTM: 521624 East, 4165051 North.) 4.14 Places of storage of reusable return flows: The City will store reusable return flows attributable to the Gomez Ditch Interest at all locations approved for such storage under the 11CW56 Decree and the 17CW3063 Decree; those locations are as described in paragraph 3.13 above. 5. Amendment of plan for augmentation: Walsenburg seeks to amend the plan for augmentation approved by the 11CW56 Decree ("City Augmentation Plan") to include new augmented structures, new augmented uses, a new water right to be used for augmentation, and a new means of using the existing augmentation supply (the City's Gomez Ditch Interest, to be reused and successively used to extinction). Except as expressly amended by the decree to be entered in this case, the City Augmentation Plan will continue to operate as described and in compliance with the 11CW56 Decree. 5.1 Additional augmented structures: Six additional taps for use in the City's water haul program and for delivering water to satisfy return flow obligations associated with the historical use of the City's Walsenburg Ditch Water Right ("Additional Augmented Taps"). The Additional Augmented Taps, which are undecreed structures supplied with water diverted at the Walsenburg Pipeline or the Lake Miriam Ditch (a/k/a Coler Inlet Ditch), are located as described in paragraphs 5.1.1 through 5.1.6 below and as generally shown on the map attached as **Exhibit C**. The Walsenburg Pipeline is described in paragraph 3.8.2.1 above, and the Lake Miriam Ditch is described in paragraph 3.8.2.3 above. 5.1.1 Water Treatment Plant, located in the NE1/4 SE1/4 of Section 23, T28S, R67W of the 6th P.M. in Huerfano County (UTM: 513128 East, 4161020 North) (treated water tap). 5.1.2 Horseshoe Reservoir Boat Ramp, located in the NE1/4 NW1/4 of Section 24, T28S, R67W of the 6th P.M. in Huerfano County (UTM:513709 East, 4161777 North) (raw water tap). 5.1.3 Martin Reservoir Boat Ram, located in the SW1/4 SE1/4 of Section 13, T28S, R67W of the 6th P.M. in Huerfano County (UTM: 514256 East, 4162052 North) (raw water tap). 5.1.4 E. 4th Street & Russell Street, located in the SE1/4 NE1/4 of Section 9, T28S, R67W of the 6th P.M. in Huerfano County (UTM: 519369 East, 4164363 North) (treated water tap). 5.1.5 Lift Station, located in the SE1/4 SW1/4 of Section 33, T27S, R66W of the 6th P.M. in Huerfano County (UTM:518716 East, 4166924 North) (treated water tap). This tap may also be used to deliver fully augmented return flow replacements to Pictou Arroyo. 5.1.6 WWTF, located in the NW1/4 NW1/4 of Section 11, T28S, R66W of the 6th P.M. in Huerfano County (UTM:521697 East, 4164820 North)] (treated water tap). 5.2 Additional augmented uses: Delivery of water outside the Cucharas River basin, and other than by Water Haul, for use in areas other than the Northlands. 5.3 Additional augmentation supplies: 5.3.1 Fully consumable water available to the City's Walsenburg Ditch Shares that are Converted Shares ("Walsenburg Ditch Converted Shares"), including without limitation reusable return flows attributable to the first use of that water, all as described in paragraph 3 above. 5.3.2 Reusable return flows attributable to the City's Gomez Ditch Interest, as described in paragraph 4 above. 5.4 Complete statement of plan for augmentation: 5.4.1 The City will continue to quantify out-of-priority depletions in compliance with the terms and conditions of the 11CW56 Decree, and according to the City's methodology for determining daily offset credits for WWTF return flows from the "Northlands Area" of Walsenburg ("Northlands Offset Credit Calculation") under the 11CW56 Decree. The City filed the required notice of its proposed Northlands Offset

Credit Calculation in Case No. 11CW56 on August 22, 2017, and the Division Engineer for Water Division 2 approved that methodology on October 30, 2017. 5.4.2 The City will augment 100% of metered deliveries through the Additional Augmented Taps in the same manner as it augments deliveries to the City water tap used for the water-hauling program under the 11CW56 Decree. 5.4.3 To quantify augmented depletions attributable to diversions at the Walsenburg Pipeline for deliveries to locations other than the Northlands Area, the City will measure the deliveries using master meters or meters at the individual points of use. 5.4.3.1 If the end-user is not connected to the City's sewer system, the City will augment 100% of metered deliveries. 5.4.3.2 If the end-user is connected to the City's sewer system, the City will claim wastewater return flow credit as an offset to its augmentation obligation, by applying a 5% system loss to the metered sewer returns to the WWTF. If metered sewer flow data are unavailable, the City will augment 100% of metered deliveries. 5.4.4 When water attributable to the Walsenburg Ditch Converted Shares or to the City's Gomez Ditch Interest is being diverted in priority, the City will deliver augmentation supplies to the Cucharas River from the Walsenburg Ditch Augmentation Station, as described in paragraph 3.12.1 above, or the Gomez Ditch Return Flow Structure (WDID 1600587), which delivers water to the Cucharas River in the SW1/4 of Section 9, T28S, R66W of the 6th P.M. (UTM: 518464 East, 4163370 North), as shown on **Exhibit A**. Otherwise, the City will augment out-of-priority depletions by releasing water attributable to those supplies and previously stored in Lake Miriam Reservoir (a/k/a Horseshoe Reservoir) or Lake Oehm Reservoir (a/k/a Martin Reservoir) to the Coler Reservoir Outlet Ditch Outfall (WDID 1600590), located in the NE1/4 SW1/4 of Section 17, T28S, R66W of the 6th P.M., Huerfano County (UTM: 516904 East, 4162387 North); or to the Lake Miriam Ditch Outlet Outfall (WDID 1600591), located in the SE1/4 NW1/4 of Section 17, T28S, R66W of the 6th P.M., Huerfano County (UTM: 517240 East, 4162743 North). As determined by and with the consent of the Division Engineer or the water commissioner, Coler Outlet Ditch releases may be aggregated or released on a schedule as necessary to prevent injury to vested water rights and decreed conditional water rights while maximizing overall use of the stream. **6. Names and addresses of owners or reputed owners of 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:** 6.1 Lake Miriam Reservoir: Game and Fish Commission, Walsenburg, CO 81089 6.2 Lake Oehm: State of Colorado, Colorado Parks and Wildlife, 1313 Sherman St., 6th Floor Denver, CO 80203; City of Walsenburg 6.3 Walsenburg Reservoir: City of Walsenburg 6.4 Wahatoya Reservoir: BK Ranches, LLC & Tammy and My Three Sons, LLC, 3324 CO Rd 450, La Veta, CO 81055 6.5 Daire Reservoir: City of Walsenburg 6.6 Walsenburg Ditch Augmentation Station: Andreatta Well Service, LLC, 12672 County Rd 340, Walsenburg, CO 81089; Highway 87 Properties, LLC, 136 N 2nd St, Raton, CO 87740; Deborah Vezzani & Diane K Miller, 1021 W 7th, Walsenburg, CO 81089; Bruce E. Eccher, 1001 S Main St, Walsenburg, CO 81089; Brown Investments Group, LLC, 2210 County Rd 340, Walsenburg, CO 81089; John W. McAninch & Jose R Merida, 1341 Hillcrest Ave, Colorado Springs, CO 80909; Snowy River Ranches, LLC, 3370 S Marion St, Englewood, CO 80113; Huerfano County Hospital District, 23500 US Highway 160, Walsenburg, CO 81089 6.7 City Lake Inlet: The City Lake Inlet reach spans two properties: (a) that property located at 3255 County

Road 342, Walsenburg, CO 81089, and also described as Lot 2, River Ridge Ranch, Phase 1, according to Plat Map No. 432, September 21, 2000, recorded at Reception No. 346033, in Huerfano County; and (b) that property described as Common Area, River Ridge Ranch Phase 1, according to Plat Map No. 432, September 21, 2000, recorded at Reception No. 346033, in Huerfano County, Colorado. Richard M. & Graciela S. Roberts, 3255 County Road 342, Walsenburg, CO 80189; River Ridge Ranch Landowners' Association, P.O. Box 1042, Walsenburg, CO 81089 6.8 Maria Stevens Reservoir: Maria Lake Grazing Association, LLC, 7343 South Alton Way, Suite 100, Centennial, Colorado 80112. 6.9 La Veta Town Reservoir Enlargement: Town of La Veta, P.O. Box 174, La Veta, Colorado 81055. 6.10 Bruce Canyon Reservoir: William Peter Goemmer, P.O. Box 185, La Veta, Colorado 81055. 6.11 South Baker Creek Reservoir: Cuchara Investments, LLC – ATTN Marshall Moore, 2722 Wagonwheel Dr, Carrollton, TX 75006. 6.12 Britton Reservoirs Enlargement: Crossvine Properties, LLC, 3565 State Hwy 79 S, Wichita Falls, TX 76310. 6.13 White Creek Reservoir: William Peter Goemmer, P.O. Box 185, La Veta, CO 81055. 6.14 La Veta Town Pipeline: Ewing Homestead, LLC, 9035 Ladue Road, St. Louis, Missouri 63124. WHEREFORE, the City of Walsenburg respectfully requests that the Court enter a decree approving this Application for Changes of Water Rights and Amendment of Plan for Augmentation and granting all such other and further relief, whether legal or equitable, as the Court may determine necessary or desirable.

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 November 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 14th day of October 2025.



Michele Santistevan
Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116

Pueblo, CO 81003; (719) 404-8832

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