

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING NOVEMBER 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 November 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. 2025CW3057; Previous Case Nos. 18CW3047, 08CW61 – CITY OF MANITOU SPRINGS, 606 Manitou Ave., Manitou Springs, CO 80829 (Please

address all pleadings and inquiries regarding this matter to Applicant's attorney: Julianne Woldridge, MacDougall & Woldridge, P.C., 18401 Highway 24, Suite 211, P.O. Box 7273, Woodland Park, CO 80863, (719) 520-9288)

Application to Make Absolute and for Findings of Reasonable Diligence

PUEBLO AND EL PASO COUNTIES

2. Description of conditional water rights (a copy of maps showing the locations of the exchange reaches is attached to the application): a. Manitou Springs Fountain Creek Exchange: 1). Prior decrees: Case No. 08CW61, District Court, Water Div. No. 2, January 26, 2010. Subsequent findings of diligence were entered in Case No. 18CW3047, District Court, Water Div. No. 2, November 1, 2019. 2). Legal description of exchange: From the confluence of Fountain Creek and the Arkansas River in the SE1/4 NE1/4 Section 6, T.21S., R.64W., 6th P.M., up Fountain Creek, French Creek and the North Fork of French Creek to Manitou Reservoir, the dam for which is located in the SE1/4 NE1/4 Section 33, T.13S., R.68W., 6th P.M. Lower terminus UTM X 535960.1 UTM Y 4233962.5. Upper Terminus UTM X 500553 UTM Y 4303101. See **Exhibit A** map and **Exhibit B** accounting record 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.) 3). Source of exchange supply: Applicant's municipal boundaries are located within the boundaries of the Southeastern Colorado Water Conservancy District. Applicant is therefore entitled to purchase, on an annual basis, water from the Fryingpan-Arkansas Project ("Project Water"), which is administered by Southeastern, subject and pursuant to Southeastern's Allocation Principles and Water Allocation Policy. Applicant is similarly entitled to apply for purchase of return flows of Fryingpan-Arkansas Project water, pursuant to the Southeastern Colorado Water Activity Enterprise Policy Concerning Sale of Return Flows from Fryingpan-Arkansas Project Water. ("Project Return Flows"). 4). Appropriation Date: November 10, 2005. 5). Amount of conditional exchange: 0.45 c.f.s. (4.55 c.f.s. is already absolute). The exchange is further limited to a maximum of 750 acre-feet in any water year (November 1 - October 31). 6). Uses: The Fryingpan-Arkansas Project Water and Project Return Flows exchanged pursuant to the exchange rights will be used for all municipal purposes, including without limitation domestic, irrigation of parks, playing fields, lawns

and gardens, commercial, manufacturing, industrial, fire protection, power generation, fish and wildlife propagation, sewage treatment, street washing, dust suppression and maintenance of adequate storage reserves. b. Manitou Springs Upper Fountain Creek Exchange: 1). Prior decrees: Case No. 08CW61, District Court, Water Div. No. 2, January 26, 2010. Subsequent findings of diligence were entered in Case No. 18CW3047, District Court, Water Div. No. 2, November 1, 2019. 2). Legal description of exchange: From the outlet of the existing Colorado Springs Utilities' Las Vegas Street Wastewater Treatment Plant, located in the S1/2 SW1/4 Section 20, T.14S., R.66W., 6th P.M., up Fountain Creek, French Creek and the North Fork of French Creek to Manitou Reservoir, the dam for which is located in the SE1/4 NE1/4 Section 33, T.13S., R.68W., 6th P.M. Lower Terminus UTM X 516895 UTM Y 4295954. Upper Terminus UTM X 500553 UTM Y 4303101. 3). Source of exchange Supply: Project Water treated at the Colorado Springs Utilities Las Vegas Street Wastewater Treatment Plant and then discharged into Fountain Creek as Project Return Flows. 4). Appropriation date: November 10, 2005. 5). Amount of conditional exchange: 2.86 c.f.s. (0.64 c.f.s. is already absolute). The exchange is further limited to a maximum of 300 acre-feet in any water year (November 1 - October 31). 6). Uses: The Fryingpan-Arkansas Project Water and Project Return Flows exchanged pursuant to the exchange rights will be used for all municipal purposes, including without limitation domestic, irrigation of parks, playing fields, lawns and gardens, commercial, manufacturing, industrial, fire protection, power generation, fish and wildlife propagation, sewage treatment, street washing, dust suppression and maintenance of adequate storage reserves. 3. Applicant seeks a determination that the remaining 0.45 c.f.s. of the Manitou Springs Fountain Creek Exchange be made absolute. On July 23, 2024, Applicant exercised this exchange to the full decreed amount of 5.00 c.f.s. including the remaining conditional amount of 0.45 c.f.s. Applicant placed the exchanged water to use within its municipal water system. An excerpt of Applicant's accounting showing the exercise of this exchange during that time period is attached to the Application. 4. Applicant seeks findings that it has been reasonably diligent toward or for completion of the conditional appropriation for the Manitou Springs Upper Fountain Creek Exchange and, to the extent it is not made absolute, the Manitou Springs Fountain Creek Exchange. Both exchanges are part of Applicant's integrated water supply system. During the diligence period, Applicant confirmed with the Water Commissioner regularly (daily during the 2023-2024 water year) if there was exchange opportunity available for both exchanges and operated the exchanges to the extent there was exchange opportunity. During the 2023-2024 water year, Applicant purchased the right to Project Water and exchanged 34.74 acre-feet of water using the Manitou Springs Fountain Creek Exchange during that year. It exercised this exchange from Pueblo Reservoir to Manitou Reservoir in November 2023 and February, April, May, June, July, September, and October of 2024. Applicant kept daily accounting of water stored in and released from Manitou Reservoir and of exchanges when exercised. Applicant purchased and maintained storage accounts for its Project water during each of the years in the diligence period. Applicant, through its Water Enterprise Fund budgeted money on an annual basis for operation, maintenance and capital expenditures for its water supply system, including expenditures of \$2,013,815 in 2022, \$2,210,059 in 2023, and \$3,191,915 in 2024. \$10,433,696 was budgeted for 2025. In 2024, Applicant initiated a targeted update of its Comprehensive

Plan, which was approved in April 2025. Applicant operated a “blanket” augmentation plan approved in Case No. 13CW3027. **5.** Names and addresses of owners of land upon which any new or existing diversion or storage structure, or modification to the same, is or will be constructed: Las Vegas Street Wastewater Treatment Plant – Colorado Springs Utilities, P.O. Box 1103, Colorado Springs, CO 80901; Pueblo Reservoir – U.S. Bureau of Reclamation, 1156 West County Road 18E, Loveland, CO 80537; Manitou Reservoir – applicant.

CASE NO. 2025CW3058; Previous Case Nos. 19CW3035, 08CW103 – LUFFEL DTT RANCH, LLC, a Texas limited liability company, c/o Thomas Luffel, 30 Tuscan Villa Circle, Lubbock TX 79423 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: Chris D. Cummins, Sedona E. Chavez, MONSON, CUMMINS, SHOHET & FARR, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, CO 80921; (719) 471-1212)

Application for Finding of Reasonable Diligence

LAS ANIMAS COUNTY

II. Luffel DTT Ranch LLC (“Applicant”) seeks a finding of reasonable diligence for the Parsons Augmentation Pond (the “Pond”), the conditional water right decreed in Case No. 08CW103, District Court, Water Division 2. During the subject diligence period, Applicant, or Applicant’s predecessors in interest, exercised reasonable diligence as to the Pond by conveying the Pond to Applicant, retaining an engineering consultant to complete work concerning the Pond, and conducting regular maintenance and repair of all structures associated with the water rights decreed in Case No 08CW103, including the Pond. **III.** Name of Structure: Parsons Augmentation Pond. *Legal Description:* The center of the dam is located in the SE¼ NW¼ of Section 36, Township 33 South, Range 67 West of the 6th P.M., approximately 2,300 feet from the north section line of Section 36, and 2,502 feet from the west section line, as depicted on **Exhibit A** 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.) *Source of Water:* The South Fork of the Purgatoire River, tributary to the Purgatoire River. *Conditional Appropriation Date:* December 24, 2008. *Amount:* Seven acre-feet, absolute, with rights to fill and refill based upon availability of historical consumptive use credits under the Dorn Ditch, subject to the Plan for Augmentation decreed in Case No. 08CW103. *Surface Area:* The maximum surface area is approximately 1.25 acres. *Total Capacity:* 7 acre-feet, active capacity. *Uses:* Storage for augmentation purposes, with said storage being limited to storage of Dorn Ditch HCU, as provided in Case No. 08CW103. Augmentation uses being limited to augmentation of depletions associated with the plan for augmentation decreed in Case No. 08CW103, **CONDITIONAL**. *Date and Case No. of Original Decree:* 08CW103, May, 31, 2013. *Date and Case No. of Subsequent Diligence Decree:* 19CW3035, November 25, 2019. *Court:* District Court, Water Division 2. **IV.** Per the decree entered in 08CW103, the Pond is a part of Applicant’s augmentation plan, which consists of surface water rights and storage water rights, and which also includes previously decreed absolute water rights associated with the structure described herein. For the purposes of showing diligence, diligence as to any part of the Applicant’s water rights shall be diligence as to all aspects of the Applicant’s water rights pursuant to C.R.S. §37- 92-301(4)(b). During the subject diligence period, Applicant or Applicant’s

predecessor in interest outlaid the following expenditures or completed the following work related to the Pond: On or about April 15, 2024, Applicant purchased the property on which the Parsons Augmentation Pond is located, along with the Parsons Augmentation Pond and the other water rights decreed in Case No. 08CW103. In total, Applicant expended \$3,600,000.00 for this purchase. Applicant retained an engineering consultant to provide Applicant with a summary of the water rights decreed in Case No. 08CW103 and Case No. 19CW3035, in which the Court found reasonable diligence for the Parsons Augmentation Pond. This same consultant also completed a field survey of and prepared an elevation-area-capacity table for the Parsons Augmentation Pond. Applicant expended \$1,674 for said engineering work to be completed. Conducting regular maintenance and repair of ditches, diversion structures, headgates, dams, and associated infrastructure. **V.** Applicant does not seek to make any portion of the conditional surface water storage right absolute. **VI.** Applicant owns the land where Parsons Augmentation Pond is located and the beneficial use of the water from this source will be upon the Applicant's land.

CASE NO. 2025CW3059; Previous Case Nos. 19CW3019, 11CW91 – COLORADO MOUNTAIN COLLEGE (“CMC”), TIMBERLINE CAMPUS, 901 South Highway 24, Leadville, CO 80461 (Please address all pleadings and inquiries regarding this matter to Applicants' attorneys: Ryan Jarvis and Kaitlin Randall of JVAM PLLC, 305 Gold Rivers Ct., Ste 200, Basalt CO 81621, (970) 922-2122)

Application for Finding of Reasonable Diligence

LAKE COUNTY

2. Name of structure: CMC Agronomy Center Well. Original decree: 11CW91, 3/22/2013, Div 2. Subsequent decree: 19CW3019, 11/13/2019, Div 2. Location: In the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Sec 3 T11S R80W 6th PM, 1,010 ft from the N Sec line of Sec 3 and 980 ft from the E Sec line of Sec 3. UTM coordinates: Easting: 386315; Northing: 4331557, Zone 13, NAD 83. This point is depicted on the location map attached hereto as **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **Source: Groundwater tributary to Box Creek, tributary to the Arkansas River.** Approp. date: 07/01/2011. Amount: 200 gpm, conditional, with a max annual volume of 100 af. Uses: Irrigation and commercial. Legal description of land irrigated: Approx. 2.36 acres within Applicant's property described in **Exhibit B** hereto, which is located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Sec 3 T11S R80W 6th PM. Depth: Approx. 65 ft. Remarks: The subject water right has been assigned WDID No. 1105123 by DWR and is authorized to operate pursuant to the plan for augmentation decreed in 11CW91, Div 2. Owner of Land: Applicant. Application on file with court includes additional details and a list of activities demonstrating diligence.

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

CASE NO. 2025CW3060, Water Division 2 and CASE NO. 2025CW3169, Water Division 1 – MARVIN E. ORNES AND TERRI J. WAHLBERG TRUST, c/o Marvin Ornes and Terri Wahlberg, Co-Trustees, 10840 Vollmer Road, Colorado Springs, CO 80908 (Please direct all pleadings and inquiries regarding this matter to Applicants' attorneys: Chris D. Cummins, W. James Tilton, Monson, Cummins, Shohet & Farr, LLC,

13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921 (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Marvin E Ornes and Terri J Wahlberg Trust ("Applicant") seeks to construct up to two wells to the not-nontributary Dawson aquifer to provide water service to an equivalent number of lots, based on an anticipated subdivision of Applicant's approximately 19.55 acre parcel of land. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. **III. Application for Use of Underground Water Rights.** **Legal Description of Wells.** **Property Description.** All wells will be located on Applicant's approximately 19.55 acre property ("Applicant's Property") anticipated to be subdivided into two lots, with current schedule number 5219000060. Applicant's Property is depicted 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.) located in the SW¼ of Section 19, Township 12 South, Range 65 West of the 6th P.M., and more particularly described as 6060 Old Ranch Rd, Colorado Springs, CO 80908. **Proposed Wells.** Applicant proposes that up to two wells will be located on the Applicant's Property at specific locations not yet determined ("Ornes Well Nos. 1 and 2"), each to be constructed to the Dawson aquifer (one well per lot). **Land Ownership.** The land upon which the proposed wells will be constructed is owned by Applicant, Marvin E Ornes and Terri J Wahlberg Trust, which is managed by Marvin Ornes and Terri Wahlberg, as co-trustees of the Marvin E Ornes and Terri J Wahlberg Trust. **Water Source.** **Not-Nontributary.** The ground water to be withdrawn from the Dawson, Denver, and Arapahoe aquifers underlying the Applicant's Property are not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5) an augmentation plan before any groundwater may be withdrawn from these aquifers. The augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. *Id.* Augmentation requirements for wells in the Denver and Arapahoe aquifers will require 4% of the water withdrawn from wells be returned on an annual basis. C.R.S. § 37-90-137(9)(c.5)(I)(C). **Nontributary.** The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer underlying the Applicant's Property is nontributary. **Estimated Rates of Withdrawal and Ground Water Available.** **Estimated Rates of Withdrawal.** Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. **Estimated Average Annual Amounts of Ground Water Available.** Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code § 8.4.7(C)(1) which is more stringent than 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 Applicant's Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	112.9	441.44	4.41	1.47
Denver (NNT - 4%)	314.2	1,044.24	10.44	3.48
Arapahoe (NNT - 4%)	273.1	907.65	9.08	3.02
Laramie Fox Hills (NT)	189.7	556.3	5.56	1.85

Decreed amounts may vary from the above to conform with 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 ground water for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, domestic animal and stock watering, equestrian facilities, agricultural, commercial, filling of a swimming pool and/or hot tub, fire protection, recreation, and also for storage and augmentation purposes associated with such uses. The Applicant also request 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 construct wells or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifers 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 aquifers in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests permission to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. Averaging of Withdrawals. Applicant requests the entitlement 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 of the 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 the Applicant's Property. Owner of Land Upon Which Wells are to Be Located. The

land upon which the wells will be located as well as the underlying groundwater is owned by the Applicant. **IV. Application for Approval of Plan for Augmentation.** Statement of Plan for Augmentation. Applicant seeks approval of a plan for augmentation to allow it to utilize the not-nontributary Dawson aquifer underlying the property described herein, including following potential subdivision thereof. All wells to the not-nontributary Dawson aquifer will, during the pumping life of such wells, be augmented by septic return flows resulting from domestic uses, with post pumping depletions provided by pumping of the nontributary Laramie-Fox Hills aquifer. Structures to be Augmented. The structures to be augmented are the Ornes Well Nos. 1 and 2, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Ornes Well Nos. 1 and 2, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by Ornes Well Nos. 1 and 2, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: Uses. Household Use Only: 0.2 acre-feet annually within single-family dwellings on each of the two lots, with a maximum of ten percent consumptive use based on non-evaporative septic leach field disposal systems. Landscape Irrigation: 0.0566 acre-feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.048 acre-feet. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Amounts. Ornes Well Nos. 1 and 2 will each pump a maximum of 0.57 acre-feet per year per lot, for a maximum total of 1.14 acre-feet being withdrawn from the Dawson aquifer per year. See **Exhibit B.** Such use shall be a combination of household use, irrigation of lawn, garden, and greenhouse, and the watering of horses or equivalent livestock, and other permitted uses described in paragraph III.D., above. An example breakdown of this combination of use, utilizing the factors described above, for each lot, is in-house use of 0.26 acre-feet of water per year, the use of 0.033 for livestock or poultry on the property, with the remaining 0.277 acre-feet per year available for irrigation of lawn, garden, and greenhouse. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 30.88% of pumping. **Exhibit C.** Maximum annual depletions for total pumping from both wells are therefore 0.352 acre-feet in year 300 (i.e. 30.88% of pumping). *Id.* Should Applicant's pumping be less than the 1.14 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), Applicant is required to replace actual stream depletions attributable to pumping each of the planned residential wells subject to this

augmentation plan. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. Using a conservative in-house use rate of 0.2 acre-feet per lot per year, total of 0.4 acre-feet, 0.36 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Ornes Well Nos. 1 and 2, Applicant will reserve the entirety of the Laramie Fox Hills aquifer, accounting for actual stream depletions replaced during the planned 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 permits for Ornes Well Nos. 1 and 2 in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137.

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

CASE NO. 2025CW3061, Water Division 2 and CASE NO. 2025CW3170, Water Division 1 – MARVIN E. ORNES AND TERRI J. WAHLBERG TRUST, c/o Marvin Ornes and Terri Wahlberg, Co-Trustees, 10840 Vollmer Road, Colorado Springs, CO 80908 (Please direct all pleadings and inquiries regarding this matter to Applicants' attorneys: Chris D. Cummins, W. James Tilton, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921 (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Applicant seeks to construct up to fourteen wells to the not-nontributary Dawson aquifer to provide water service to an equivalent number of lots, based on an anticipated subdivision of Applicant's approximately 37.58 acre parcel of land. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof. III. Application for Use of Underground Water Rights. Legal Description of Wells. Property Description. All wells will be located on Applicant's approximately 37.58 acre property ("Applicant's Property") anticipated to be subdivided into up to fourteen (14) lots, with current schedule number 5200000395. Applicant's Property is depicted 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.) located in the N½ SE¼ of Section 21, Township 12 South, Range 65 West of the 6th P.M., and more particularly described as 10840 Vollmer Rd, Colorado Springs, CO 80908. Existing

Well. There is one (1) well already located on Applicant's property, being the well associated with Well Permit No. 304498. This well was completed in 2017 to the Dawson aquifer. This well was permitted pursuant to state statute as the single well "on a tract of land of thirty-five acres or more" in size. C.R.S. § 37-92-602(3)(b)(II)(A). The statutory presumption by which this well was permitted "is not lost if" the property where it is located is "divided into multiple parcels". C.R.S. § 37-92-602(3)(b)(IV). This well will be re-permitted following the issuance of a decree in this matter, to be known as Wahlberg Well No. 1, retaining all uses permitted pursuant to C.R.S. § 37-92-602(3)(b)(II)(A). Proposed Wells. Applicant proposes that up to fourteen (14) wells will be located on the Applicant's Property at specific locations not yet determined for ("Wahlberg Well Nos. 2 through 14"), each of which will be constructed to the Dawson aquifer (one well per lot). Land Ownership. The land upon which the proposed wells will be constructed is owned by Applicant, Marvin E Ornes and Terri J Wahlberg Trust, which is managed by Marvin Ornes and Terri Wahlberg, as co-trustees of the Marvin E Ornes and Terri J Wahlberg Trust. Water Source. Not-Nontributary. The ground water to be withdrawn from the Dawson and Denver aquifers underlying the Applicant's Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5). The augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. Augmentation requirements for wells in the Denver aquifer will require 4% of the water withdrawn from wells be returned on an annual basis. C.R.S. § 37-90-137(9)(c.5)(I)(C). Nontributary. The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicant's Property is nontributary. Estimated Rates of Withdrawal and Ground Water Available. Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code § 8.4.7(C)(1) which is more stringent than 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 Applicant's Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	251.9	1,593.28	15.93	5.311 ¹

¹ This amount presumes the existing well associated with permit no. 304498 will have 300 acre feet of groundwater, or 1 annual acre foot for 300 years, for its continued permitted uses for the duration of this augmentation plan.

Denver (NNT - 4%)	302.7	1,933.83	19.34	6.446
Arapahoe (NT)	253.3	1,618.23	16.18	5.394
Laramie Fox Hills (NT)	190	1,071.03	10.71	3.57

Decreed amounts may vary from the above to conform with 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 ground water for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, domestic animal and stock watering, equestrian facilities, agricultural, commercial, filling of a swimming pool and/or hot tub, fire protection, recreation, and also for storage and augmentation purposes associated with such uses. The Applicant also request 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 construct wells or use water from the not-nontributary Dawson or Denver aquifers 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 aquifers in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests permission to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. Averaging of Withdrawals. Applicant requests the entitlement 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 of the 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 the Applicant's Property. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells will be located as well as the underlying groundwater is owned by the Applicant. IV. Application for Approval of Plan for Augmentation. Statement of Plan for Augmentation. Applicant seeks approval of a plan for augmentation to allow it to utilize the not-nontributary Dawson aquifer underlying the property described herein, including following potential subdivision thereof. All wells to the not-nontributary Dawson aquifer will, during the pumping life of such wells, be augmented by septic return flows resulting from domestic uses, with post pumping depletions provided by pumping of the nontributary Arapahoe aquifer. Structures to be Augmented. The structures to be augmented are the Wahlberg Well Nos. 2 through 14,

along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Wahlberg Well Nos. 2 through 14, together with water rights from the nontributary Arapahoe aquifer for any injurious post pumping depletions. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by Wahlberg Well Nos. 2 through 14, together with water rights from the nontributary Arapahoe aquifer for any injurious post pumping depletions. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: Uses. Household Use Only: 0.2 acre-feet annually within single-family dwellings on each of the two lots, with a maximum of ten percent consumptive use based on non-evaporative septic leach field disposal systems. Landscape Irrigation: 0.0566 acre-feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.048 acre-feet. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Amounts. Wahlberg Well Nos. 2 through 14 will each pump a maximum of 0.408 acre-feet per year per lot, for a maximum total of 5.304 acre-feet being withdrawn from the Dawson aquifer per year. **See Exhibit B**. Such use shall be a combination of household use, irrigation of lawn, garden, and greenhouse, and the watering of horses or equivalent livestock, and other permitted uses described in paragraph III.D., above. An example breakdown of this combination of use, utilizing the factors described above, for each lot, is in-house use of 0.26 acre-feet of water per year, with the additional 0.148 acre-feet per year available for irrigation of lawn, garden, and greenhouse, and the watering of horses or equivalent livestock and poultry on each lot. Depletions. Applicant's consultant has determined that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 36.19% of pumping. **Exhibit C**. Maximum annual depletions for total pumping from all wells are therefore 1.918 acre-feet in year 300 (i.e. 36.19% of pumping). *Id.* Should Applicant's pumping be less than the 5.304 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), Applicant is required to replace actual stream depletions attributable to pumping each of the planned residential wells subject to this augmentation plan. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. Using a conservative in-house use rate of 0.2 acre-feet per lot per year, total of 2.6 acre-feet ($0.2 \times 13 = 2.6$), 2.34 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of Wahlberg

Well Nos. 2 through 14, Applicant will reserve the entirety of the Arapahoe aquifer, accounting for actual stream depletions replaced during the planned 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 Arapahoe aquifer 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 new well permit for the Wahlberg Well Nos. 2 through 14 for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137.

CASE NO. 2025CW3062; Previous Case Nos. 18CW3063, 01CW145 – THE CITY OF AURORA, COLORADO, A municipal corporation of the Counties of Adams, Arapahoe and Douglas acting by and through its Utility Enterprise ("Aurora" or "Applicant"): 15151 East Alameda Parkway, Suite 5300, Aurora, Colorado 80012-1555 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Stephen C. Cann and Ian J. Best, 15151 E. Alameda Parkway, Suite 5300, Aurora, CO 80012-1555 (303) 739-7030)

Application for a Finding of Reasonable Diligence

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

This Application seeks a finding of reasonable diligence on the rights of exchange to the proposed Box Creek Reservoir that were originally decreed in Water Division 2, Case No. 01CW145. The exchanges are on the Arkansas River extending from Pueblo Reservoir, the Meredith Outlet Canal, and the confluence of Lake Creek and the Arkansas River to Box Creek Reservoir, the Arkansas River intake for that Reservoir, the Upper River Ditch, the Derry No. 1 Ditch and Twin Lakes Reservoir. Sources of supply for the exchanges include Aurora's Rocky Ford Ditch water, Colorado Canal water, and Lake County water. **2. NAME OF STRUCTURES: Pueblo Reservoir.** The 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. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section bears North 61° 21' 20" East, a distance of 2,511.05', all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado as shown on **Exhibit A** 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.) **The Arkansas River at the Lake Meredith Reservoir Outlet Canal ("Outlet Canal").** Waters released from Lake Meredith Reservoir are carried through the Lake Meredith Reservoir 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 NW1/4 of the SE1/4 of Section 22, Township 22 South, Range 57 West of the 6th P.M., in Otero County, Colorado. **Lake Meredith Reservoir.** Lake Meredith Reservoir is described in the decree in Water Division 2, Case No. 84-CW-63 as 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, 6 and 12 in Township 22 South, Range 57 West, and in Sections 24, 25 and 36 in Township 21 South, Range 57 West, all from the 6th P.M., in Crowley County, Colorado. Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW1/4 of the SW1/4 of Section 12, Township 22 South, Range 57 West of the 6th P.M., at a point from which the West Quarter Corner of said Section 12 bears North 27°14' West a distance of 564.30 feet. Recent mapping shows the following description: 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 in Sections 24, 25 and 36 in Township 21 South, Range 57 West, all from the 6th P.M., in Crowley County, Colorado. Lake Meredith Reservoir dam axis and the centerline of the outlet canal intersect at a point located in the NW1/4 of the SW1/4 of Section 12, Township 22 South, Range 57 West of the 6th P.M., at a point from which the West Quarter Corner of said Section 12 bears North 27° 14' West a distance of 564.30 feet. **Lake Henry Reservoir.** Lake Henry Reservoir is located in all or portions of Sections 31 and 32, Township 20 South, Range 56 West, and Sections 5 and 6, Township 21 South, Range 56 West, all from the 6th P.M., in Crowley County, Colorado; the primary outlet works for Lake Henry Reservoir are located in the South Half 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 Quarter 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. **Twin Lakes Reservoir.** Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 Township 11 South, Range 80 West, and Sections 24 and 25, Township 11 South, Range 81 West, all from the 6th P.M., in Lake County, Colorado. The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the SE corner of Section 23, Township 11 South, Range 80 West of the 6th P.M. bears South 54 degrees, 13 minutes, 8 seconds East, a distance of 3,803.10 feet, as more particularly described in the decree in Civil Action No. 5141, District Court, Chaffee County, Colorado. **Box Creek Reservoir.** Box Creek Reservoir will be constructed on the channel of Box Creek and will include all or portions of Sections 32 and 33, Township 10 South, Range 80 West, 6th P.M. and Sections 4 and 5, Township 11 South, Range 80 West, 6th P.M., in Lake County, Colorado. The exact location of Box Creek Reservoir Dam is subject to change based upon refinement of engineering analyses; however, Aurora anticipates that the Box Creek dam axis will intersect the centerline of the Box Creek valley within 500 feet of a point approximately 2000 feet West and 300 feet South of the Northeast corner of said Section 4, Township 11 South, Range 80 West, 6th P.M. **Arkansas River**

Intake (to Box Creek Reservoir). The Intake is to be located in Sections 9, 16, 21, 22, 27, 33 and 34, Township 10 South, Range 80 West, of the 6th P.M., in Lake County, Colorado. **Derry Ditch No. 1.** The headgate for the Derry No. 1 Ditch is on the Right bank of the Arkansas River at a point whence the $\frac{1}{4}$ corner of Section 16, T 10 S, R 80 W, of the 6th P.M. bears S. 22 degrees, 1 minute E 3,753 feet, in Lake County, Colorado. **Upper River Ditch.** The point of diversion for the Upper River Ditch is on the West bank of the Arkansas River at point whence the S.E. corner of Section 16, T 10 S., R. 80 W., of the 6th P.M. bears S. 23 degrees, 28 minutes E, 2008.5 feet, in Lake County, Colorado. **Confluence of Lake Creek and the Arkansas River ("LC/AR Confluence").** This confluence is located in the NW1/4, SE1/4, Section 24, Township 11 South, Range 80 West, of the 6th P.M., in Lake County, Colorado. **3. DESCRIPTION OF CONDITIONAL WATER RIGHTS Date of Original Decree.** October 30, 2012, Case No. 01CW145, District Court Water Division 2, Colorado ("Original Decree"). **Date of Subsequent Diligence Decree.** November 21, 2019, Case No. 18CW3063, District Court Water Division 2, Colorado. **Legal Descriptions.** See paragraph 2 above. **Sources of Substitute Supply for Exchanges.** Rocky Ford Ditch Transfer I. The historic consumptive use water diverted and stored in Pueblo Reservoir under 466.48 shares of the Rocky Ford Ditch Company. The water right represented by the 466.48 shares is Priority No. 1, decreed in the original adjudication for former Water District 17, on April 8, 1905, for 111.76 cfs with an appropriation date of May 15, 1874. These shares were decreed for a water rights change in Water Division 2, Case No. 83-CW-18 (decreed and amended on November 3, 1986), and also subsequently decreed for exchange in Water Division 2, Case No. 87-CW-63 (decreed on March 22, 1994). Rocky Ford Ditch Transfer II. The historic consumptive use water diverted and stored in Pueblo Reservoir and diverted at the Colorado Canal Headgate and stored in Lake Henry Reservoir or Lake Meredith Reservoir under 288.274 shares of the Rocky Ford Ditch Company. The water rights represented by the 288.274 shares are a portion of Priority No. 1, decreed in the original adjudication for former Water District 17, on April 8, 1905, for 111.76 cfs with an appropriation date of May 15, 1874, and Priority No. 14, decreed in the same adjudication for 96.54 cfs with an appropriation date of May 6, 1890. These water rights are also the subject of the following cases in Water Division 2: The change of water rights decreed in Case No. 99CW169(A) (decreed January 28, 2004; amended September 21, 2015), and the exchange decrees entered in Cases No. 99CW170(A) (decreed June 27, 2005) & 99CW170(B) (decreed July 28, 2005). Colorado Canal System. The water rights associated with 14,225.38 shares of Colorado Canal Company stock, 13,061.8 shares of Lake Meredith Reservoir Company stock and 1,163.58 shares of Lake Henry Reservoir Company Stock owned by Aurora. The water rights associated with each of the three companies were the subject of Water Division 2, Case Nos. 84CW62, 84CW63 and 84CW64 (decreed October 21, 1985), which actions permitted inter alia, storage thereof at Pueblo Reservoir, Lake Henry and Lake Meredith. Upper Arkansas Ranch Rights. The consumptive use associated with the historic irrigation of several ranches in the upper Arkansas River basin. These water rights are further described in the decrees in Cases No. W-4799 and 82CW182 (decreed June 29, 1984), 89CW42 (decreed March 27, 1992), 98CW137(A) (decreed May 4, 2004) and 98CW137(B) (decreed June 13, 2005), all in Water Division No. 2. **Exchange Reaches and Amounts.** Aurora will operate appropriative rights of

exchange from each of the following Exchange-From Points to each of the following Exchange-To Points, the locations of which are more specifically described above: Exchange-From Points. Pueblo Reservoir Outlet Canal (the point of release for waters placed in Lakes Henry and Meredith) Lake Creek/Arkansas River (LC/AR) Confluence Exchange-To Points. Box Creek Reservoir Arkansas River Intake Upper River Ditch Derry No. 1 Ditch Twin Lakes Reservoir Maximum Rates of Exchange. Aurora is not seeking to change any of the terms and conditions contained in the Original Decree, including those pertaining to maximum rates of exchange. Exchanges on the Arkansas River mainstem, being those from the Outlet Canal, Pueblo Reservoir, and/or LC/AR Confluence to the Arkansas River Intake, the Upper River Ditch, and/or the Derry No. 1 Ditch, shall be limited to no more than 200 c.f.s. Exchanges that extend up Lake Creek, involving diversions at Twin Lakes Reservoir, shall be limited to no more than 200 c.f.s. Exchanges that extend up Box Creek, involving diversions at Box Creek Reservoir itself, shall be limited to no more than 50 c.f.s. **Appropriation Date.** December 17, 2001. **Uses.** The water diverted by exchange may be used for any purpose for which the water given as a substitute supply was decreed. These uses include municipal and domestic purposes including, but not limited to, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical and industrial use, recreational purposes, creation and maintenance of wetlands, stock watering, fish and wildlife propagation, allowable instream uses, if any, snowmaking, revegetation, storage and maintenance of storage reserves, for augmentation, further exchange and replacement purposes, and for use and reuse until extinction. **Place of Use.** As stated in the Original Decree, the water rights that are the subject of this Application are intended for use in or for the benefit of Aurora's municipal service areas, as they may exist from time to time, and any place capable of being served from the Box Creek Reservoir or Box Creek Reservoir Arkansas River Intake. The lands identified in the Original Decree as being within Aurora's then municipal boundaries are located in the South Platte Basin and lie within Township 3 South, Ranges 64, 65, 66 and 67 West, 6th P.M., in Adams County; Townships 4 and 5 South, Ranges 65, 66 and 67 West, 6th P.M. in Arapahoe County; and Township 6 South, Ranges 65 and 66 West, 6th P.M., in Douglas County. **Reuse Activities.** Aurora has diligently pursued its plans to reuse, directly or by exchange, its return flows attributable to reusable water sources to the extent allowed by law. **4. DETAILED OUTLINE OF WHAT HAS BEEN DONE TOWARD COMPLETION OR FOR COMPLETION OF THE APPROPRIATIONS AND APPLICATION OF WATER TO A BENEFICIAL USE AS CONDITIONALLY DECREED.** Pursuant to the Original Decree, these exchanges are part of a unified extensive system for the collection, treatment and distribution of water operated by Aurora. For the purposes of showing diligence as to completion of the appropriative rights of exchange decreed in the Original Decree, diligence as to any part of the Aurora water rights system used to operate or benefit from these exchanges shall be diligence as to the completion of the exchanges. **Project Specific Efforts.** During the diligence period of September 2018 through October 2025, Aurora has done at least the following work toward completion of the appropriation and application of the water rights decreed in the Original Decree (expenditure numbers are rounded to the nearest \$1,000). Payment for assessments of Rocky Ford Ditch shares. Aurora spent more than \$1,690,000 during this diligence period for the original Rocky Ford Ditch shares changed in Case No. 83CW18 and 99CW169(A), that are a reusable

source for the exchanges herein. **Revegetation:** Aurora has expended at least \$830,000 during this diligence period for revegetation, including expenditures for expert revegetation classifications and reports, actual revegetation and weed control costs, as well as farm equipment purchases, office overhead and personnel costs, under Case No. 83CW18 and for revegetation and continued farming of historically irrigated lands pursuant to the decree in Case No. 99CW169(A). **Payments to Otero County:** Aurora and Otero County entered into an Intergovernmental Agreement on February 22, 1994, and amended that Agreement on October 29, 2001, under which Amendment Aurora agreed to make annual payments to Otero County concerning the Rocky Ford Ditch shares that are a reusable source for the exchanges herein. During this diligence period, Aurora made payments in excess of \$321,000 pursuant to the Agreement. **Pueblo Reservoir Storage:** During the diligence period, Aurora paid the Bureau of Reclamation more than \$5,530,000 for use of Pueblo Reservoir in the storage and exchange of Arkansas River Basin water upstream for transport and use by Aurora in the South Platte Basin. **Intergovernmental Agreement with SECWCD.** On October 3, 2003, Aurora entered into an Intergovernmental Agreement with the Southeastern Colorado Water Conservancy District ("SECWCD"), replacing an agreement between the parties dated December 7, 2001. Aurora's use of Fryingpan-Arkansas facilities for certain water rights is discussed under this IGA. During the diligence period, Aurora made payments of more than \$1,105,000 to SECWCD under this IGA. **Box Creek Reservoir:** Entered into a mining lease with Titan Au to mine precious metals within the Box Creek site for a term through December of 2028. Completed 30% design of the Box Creek Reservoir and appurtenant facilities in 2019. Intake pipeline alignment study to avoid potential wetlands bank on SLB property for \$8,700. **Arkansas River Basin:** Aurora made the following diligent efforts with regard to maintaining and enlarging its water supply system components in the Arkansas River Basin which are necessary for continuation and transport of its reusable supplies from the Arkansas River Basin. **Agreements for Use of the Holbrook Reservoir System Facilities:** On March 1, 2005, Aurora entered into two agreements pertaining to the use of the diversion, conveyance and storage facilities of the Holbrook Mutual Irrigating Company ("Holbrook"). These agreements implement a program to recapture and store yield from foregone diversions of senior water rights. During this diligence period, Aurora made payments of approximately \$501,000 to Holbrook under this agreement. Aurora and Holbrook extended the storage Agreement on February 6, 2025, for an additional 5-year term. **Recovery of Yield ("ROY"):** On August 17, 2016, Aurora, along with Colorado Springs, the Pueblo Board of Water Works, the City of Fountain, and the Southeastern Colorado Water Conservancy District, obtained a decree in Case No. 06CW120 adjudicating exchanges necessary as a result of the 2004 Regional Intergovernmental Agreement ("IGA") between the various water providers and the City of Pueblo, whereby the water providers agreed to allow certain of their senior flows to pass through Pueblo's RICD reaches on the condition those flows could be diverted downstream and exchanged back upstream. Aurora expended significant sums on these efforts during the diligence period. The ROY partners have acquired land to prospectively be used as a reservoir site at a cost of more than \$770,000 to Aurora. The ROY partners are in the process of executing an agreement to form a water authority to facilitate the cooperative efforts of the ROY entities. The principals have executed the formation agreement, and the initial

meeting of the ROY Authority is being scheduled. **Systemwide Efforts:** During the diligence period, Aurora has accomplished at least the following systemwide efforts that will be used to operate or benefit the conditional rights (expenditure numbers are rounded to the nearest \$1,000). South Platte River Basin: Aurora made the following diligent efforts with regard to its water supply system components in the South Platte River Basin which are necessary for continuation of its reusable supplies from the South Platte River Basin. Metro Wastewater Reclamation District Charges: Aurora expended at least \$223,326,000 during this diligence period for fees for wastewater treatment of its water at the Metro Wastewater Reclamation facility. Such treatment is necessary for release of this water into the South Platte River Basin as a replacement source enabling maximum efficient use of the water conveyed to Aurora under the exchanges herein. Sand Creek Water Reuse Plant Improvements: Aurora operates this 5-million-gallon per day facility that provides treated water used for irrigation throughout the City and for discharge into Sand Creek for use as a replacement source for the exchanges herein. Improvements of this facility and operating costs completed during this diligence period cost at least \$21,865,000. These improvements are necessary for use of this water as a substitute supply that enables maximum use of the water conveyed to Aurora under the rights decreed herein. Quantification and Determination of Lawn Irrigation Return Flows: Aurora obtained a decree in Case No. 02CW341, Water Division 1, on September 25, 2008, quantifying LIRFs from its municipal system (and subsequent requantifications as required by the Decree in 02CW341), generated as a result of use of transmountain water rights, fully consumable in-basin water rights, decreed and permitted non-tributary sources and any other fully consumable water available to Aurora. During this diligence period, Aurora has expended over \$62,000 in engineering costs requantifying the LIRFs adjudicated in Case No. 02CW341 available for exchange which enables maximum use of the water conveyed to Aurora by the rights decreed herein. Spinney Mountain Reservoir: Aurora expended substantial sums for facility upgrades during the diligence period, including internal outlet works inspections, applications of protective coatings on outlet pipes, assessment, design and extension of the storm drainage systems below the dam, installation of filter trench drains, measurement devices, and installation of heater jackets over valve operators. Installed new energy dissipation hoods on the outlet works at Spinney, repaired spillway and upstream flume at a cost of \$1,700,000. Griswold Water Treatment Plant Renovations. This facility treats a portion of the raw water that is a replacement source herein before it is delivered to Aurora's customers. More than \$84,117,000 was spent by Aurora during this diligence period for improvements to this facility. This includes expenditures directly by Aurora for renovation of the facility. Wemlinger Water Treatment Plant Improvements. During this diligence period, Aurora spent more than \$38,024,000 for improvements to the Wemlinger Water Treatment Plant. This facility treats a portion of the raw water that is a replacement source herein before it is delivered to Aurora's customers. Rampart Reservoir Improvement. More than \$17,756,000 was spent by Aurora during this diligence period for improvements to the Rampart Reservoir delivery system, including improvements to the 54" raw water transmission pipeline between Rampart Reservoir and storage and water treatment facilities within the city. Rampart Reservoir is used to store the water that has been exchanged from the Arkansas and Colorado River Basins and transported to the South Platte River before it is transported through the parallel 54"

and 40" pipelines to Aurora. Rampart Reservoir is important for regulation of the flow through these parallel pipelines. Improvements to Extend or Improve Water Service in and to Aurora: More than \$152,140,000 was spent by Aurora during this diligence period for extension and upgrade of its water transmission and distribution system necessary to deliver the water that is the subject of the exchanges herein to Aurora's customers. Prairie Waters Project: The Prairie Waters Project is a large comprehensive water recapture, supply, storage and treatment project which in part recovers reusable return flows from Aurora's water sources from the South Platte River. To facilitate this project Aurora obtained various decrees in Case Nos. 06CW104, 03CW414, and 03CW415, Water Division 1. This project allows further reuse of much of the water decreed to Aurora, including water conveyed to its municipal system by the rights herein. Reuse water recovered by this project is one of the sources at Aurora's water treatment plants for replacement under the operations at issue here. During the diligence period, Aurora obtained a decree in Case No. 13CW3088 (decreed 11/4/2020) and Aurora obtained a decree in Case No. 21CW3028, WD-1, (decreed 12/09/2021) finding reasonable diligence for the water rights decreed conditionally in 03CW415 (decreed March 2, 2015) and in 14CW3065, and Aurora filed an application in Case No. 23CW3175 seeking to make absolute portions of the rights decreed conditionally in Case No. 06CW104, and 15CW3064, WD-1, and seeking a finding of reasonable diligence on the remainder. Aurora has expended at least \$33,091,000 on elements of the Prairie Waters Project during this diligence period. Automated Meter Reading System: Aurora spent more than \$20,897,000 during this diligence period for upgrades to its automated utility reading system. South Platte Exchange: On June 24, 2020, Aurora obtained a decree in Case No. 19CW3185, Water Division 1, granting a finding of reasonable diligence and making absolute portions of conditional exchange rights originally decreed in 79CW375 and decreed as to diligence and partially absolute in Case Nos. 89CW078, 98CW294 and 08CW253. These water rights allow Aurora to exchange certain reusable water from the confluence of Tarryall Creek and the South Platte River to Spinney Mountain Reservoir. Binney Water Purification Facility: This state-of-the-art water purification and recycling plant owned and operated by Aurora treats water conveyed by the exchanges herein for use throughout the city. Over \$18,968,000 was spent by Aurora during the diligence period for improvements to this facility. South Colorado River Basin: Aurora made the following diligent efforts with regard to its water supply system components in the Colorado River Basin that are necessary for continuation of its reusable supplies from the Colorado River Basin. Aurora has continued to pursue development of a joint project or projects as contemplated in a 1998 Memorandum of Understanding with Vail Associates, Upper Eagle River Regional Water Authority, Eagle River Water and Sanitation District, Cypress Climax Mining Company and the Colorado River Water Conservation District. On June 21, 2004, the City of Aurora entered into an additional Water Exchange Agreement with the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Eagle River Water and Sanitation District, the Upper Eagle Regional Water Authority, and Vail Associates, Inc. to supplement a 1998 Water Exchange Agreement. This agreement affects operations of the Homestake water rights and deliveries of reusable water to Aurora for use in the exchanges herein. On January 5, 2010, the City of Aurora entered into a Consolidated Water Exchange Agreement to supplement, merge and consolidate

the 1998 and 2004 agreements. Aurora seeks to further maximize the operations of the Homestake water rights with these projects. A diligence application was filed by the parties to the agreements in regard to the subject exchange rights in 2023. Homestake Project: During this diligence period, work was done on the Homestake Arkansas River Diversion Channel to reduce erosion, including riprap and installation of a new roadway culvert. Additionally, Homestake Reservoir underwent resurfacing and improvement. Once water is transported under the Continental Divide to Twin Lakes Reservoir and then from there, through the Otero Pump Station and Homestake Pipeline, it is then transported to Spinney Mountain Reservoir in the South Platte Basin. During this diligence period, Aurora prosecuted Case No. 2023CW3031, 2020CW3024 and 2023CW3087 in Water Division 5 through the Homestake Partners, comprising the City of Aurora and the City of Colorado Springs Utility. These water court matters seek a decree confirming diligence and continuing in effect the conditional water rights originally decreed in Case No. 98-CW-270, which comprise part of the Homestake Project. On March 31, 2017, Aurora and the City of Colorado Springs jointly filed Case No. 17CW3064 seeking diligence on the Homestake Project exchanges originally decreed in Case No. 95CW272(A), Water Division 5. During this diligence period a decree was entered by the court on June 10, 2018. During this diligence period, Aurora executed a Recovery Agreement (3-27-20) with the United States and Wildlife Service regarding the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin (Recovery Program). The purpose of the Recovery Agreement is to formalize Aurora's participation in the Recovery Program, provide certainty that Aurora's Colorado River depletions can occur consistent with the Endangered Species Act, and provide that Aurora will take reasonable actions to support implementation for the Recovery Elements specified in the 1999 Programmatic Biological Opinion. During the previous diligence period, the Upper Colorado River Endangered Fish Recovery Program, Recovery Implementation Program and Recovery Action Plan Participation Agreement (11-01-13) was executed with Northern Colorado Water Conservancy District, and a Ruedi Insurance Water Cost Participation Agreement (11-01-13) with the City and County of Denver. Through implementation of these agreements, the east slope water users' commitment for 5412.5 acre-feet of water annually to the Recovery Program is being met. Aurora has and continues to provide its annual pro rata share of operation and maintenance costs associated with these agreements. In addition, Aurora participates and annually contributes to the Colorado Water Congress Colorado River Project for collaboration and support of the Recovery Program by the water users in Colorado, Utah, and Wyoming. Non-Basin Specific: Protection Efforts: During this diligence period, Aurora spent more than \$5,000,000 on legal services for participation in Water Divisions 1, 2 and 5 cases to protect the rights and interests of Aurora with regard to its water supply system and prosecution of changes of water rights to integrate acquired water rights into Aurora's municipal water rights portfolio. Aurora reserves the right to identify additional relevant efforts that may be later discovered or to make upward adjustments to amounts expended on certain projects. Aurora has an extensive water rights portfolio, an extensive and complex water supply, collection, treatment and reuse system, and an extensive number of agreements, contracts, leases, etc. related to its facilities and the use, reuse and storage of its water rights. It is involved in many legal actions related to the collection,

treatment, reuse and protection of its water rights. Further, the management, protection, and operation of the water rights and the facilities system involve numerous City of Aurora departments and staff members throughout the state. Aurora made diligent efforts with regard to this application to determine and quantify all efforts made by the City toward completion of the appropriations and application of the water rights decreed in the Original Decree to beneficial use. However, it is reasonably possible that relevant efforts or expenditures may have been overlooked or need further upward adjustment.

5. NAMES AND ADDRESSES OF OWNERS OF THE LAND UPON WHICH ANY NEW DIVERSION OR STORAGE STRUCTURE OR MODIFICATION TO ANY EXISTING DIVERSION OR STORAGE STRUCTURE OR EXISTING STORAGE POOL IS OR WILL BE CONSTRUCTED OR UPON WHICH WATER IS OR WILL BE STORED.

Structure Box Creek Reservoir **Owner** The Reservoir is proposed to be built on Hallenbeck Ranch lands, owned by the City of Aurora. Depending on the final reservoir configuration and location, it may also inundate lands owned by the U.S. Forest Service, the State of Colorado, and additional private entities. **Address** City of Aurora, 15151 East Alameda Parkway, Suite 3600, Aurora, CO 80012-1555, Bureau of Land Management, U.S. Dept. of Interior, 3028 East Main St., Canon City, CO 81212, U.S. Forest Service, P.O. Box 970, Leadville, CO 80461, State of Colorado, 1313 Sherman St., Suite 620, Denver, CO 80203, Joseph & Christine Louth, 13538 Ducat Ct., Corpus Christi, TX 78418. **Structure** Arkansas River Intake to Box Creek Reservoir. **Owner** City of Aurora State of Colorado. **Address** City of Aurora, 15151 East Alameda Parkway, Suite 3600, Aurora, CO 80012-1555, State of Colorado, Division of Parks and Wildlife, 1313 Sherman St., Denver, CO 80203, Bureau of Land Management, U.S. Dept. of Interior, 3028 East Main St., Canon City, CO 81212, Lake County BOCC, P.O. Box 964, Leadville, CO 80461, Moyer Ranch, LLC, P.O. Box 186, Buena Vista, CO 81211, James and Christina Kern, 38821 E. 145th Ave., Keenesburg, CO 80643, The Overmyer-Smith Family Limited Partnership, 134 County Road 44, Leadville, CO 80461. **Structure** Pueblo Reservoir and Twin Lakes Reservoir. **Owner** US Forest Service, U.S. Department of the Interior, Bureau of Reclamation, State of Colorado. **Address** USFS, 1400 Independence Ave, SW, Washington D.C., 20250, Bureau of Reclamation, 11056 W. County Road, 18E, Loveland, CO 80537-9711, State of Colorado, 1313 Sherman St., Suite 621, Denver, CO 80203. **Structure** Lake Meredith/Lake Henry and Outlet Canal. **Owner** The City of Aurora owns shares in both the Lake Henry and Lake Meredith Reservoir Companies, so has a right to use the Outlet Canal. Lake Henry and Lake Meredith Reservoir facilities are owned by the Colorado Canal Companies. **Address** City of Aurora, 15151 East Alameda Parkway, Suite 3600, Aurora, CO 80015-1555, Colorado Springs Utilities, P.O. Box 1103, Colorado Springs, CO 80947, The Colorado Canal Companies, 331 Main St., P.O. Box 8, Ordway, CO 81063. **Structure** Derry Ditch No. 1 headgate. **Owner** Smith Ranch, Attn: Pdraic Smith. **Address** The Overmyer-Smith Family Limited Partnership, 134 County Road 44, Leadville, CO 80461. **Structure** Upper River Ditch headgate. **Owner** State of Colorado. **Address** State of Colorado, 1313 Sherman St., Suite 620, Denver, CO 80203. Wherefore, Applicant respectfully requests that the Court find diligence in the development of the appropriative rights described herein, and continue the conditional decree for said structures and remaining conditional amounts for the statutory period, and provide any other relief it finds just and appropriate in these

circumstances.

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

CASE NO. 2025CW3063; Water Division 2 and CASE NO. 2025CW3176, Water Division 1 – GRUN BERG ZIEL TRUST, c/o Eric Leffler, Trustee, 9220 Arroya Lane, Colorado Springs, CO 80908 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, W. James Tilton, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921 (719) 471-1212)

Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation

EL PASO COUNTY

II. Grun Berg Ziel Trust ("Applicant") seeks to construct up to fourteen (14) wells to the not-nontributary Dawson aquifer to provide water service to an equivalent number of lots, based on an anticipated subdivision of Applicant's approximately 35.15 acre parcel of land. Applicant therefore seeks to quantify the Denver Basin groundwater underlying the Applicant's Property, and approval of a plan for augmentation for the use thereof.

III. Application for Use of Underground Water Rights. Legal Description of Wells. Property Description. All wells are and will be located on Applicant's approximately 35.15 acre property ("Applicant's Property") anticipated to be subdivided into up to fourteen (14) lots, with current schedule number 6100000283. Applicant's Property is depicted on the **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.) located in the W½ NE¼ of Section 25, Township 11 South, Range 66 West of the 6th P.M., and more particularly described as 0 Farrar Drive, Colorado Springs, CO 80908, also known as Tract 7 of Eagle Crest Estates in El Paso County, Colorado.

Exhibit B. Proposed Wells. Applicant proposes that up to fourteen (14) wells will be located on the Applicant's Property at specific locations not yet determined ("Ziel Well Nos. 1 through 14"), each to be constructed to the Dawson aquifer (one well per lot).

Land Ownership. The land upon which the existing and proposed wells will be constructed is owned by Applicant, Grun Berg Ziel Trust. **Exhibit B.** Water Source.

Not-Nontributary. The ground water to be withdrawn from the Dawson aquifer underlying the Applicant's Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions. Nontributary. The groundwater that will be withdrawn from the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant's Property is nontributary. Estimated Rates of Withdrawal and Ground Water Available.

Estimated Rates of Withdrawal. Pumping from the wells will not exceed 100 g.p.m. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw ground water at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. Estimated Average Annual Amounts of Ground Water Available. Applicant requests a vested right for the withdrawal of all legally available ground water in the Denver Basin aquifers underlying the Applicant's

Property. Said amounts may be withdrawn over the 300-year life of the aquifers as required by El Paso County, Colorado Land Development Code § 8.4.7(C)(1) which is more stringent than 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 Applicant's Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)	Annual Avg. Withdrawal 300 Years (Acre Feet)
Dawson (NNT)	484.1	3,403.22	34.03	11.344
Denver (NT)	530.8	3,171.8	31.72	10.573
Arapahoe (NT)	228.2	1,363.61	13.64	4.545
Laramie Fox Hills (NT)	195.4	1,030.25	10.3	3.434

Decreed amounts may vary from the above to conform with 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, domestic animal and stock watering, equestrian facilities, agricultural, commercial, filling of a swimming pool and/or hot tub, fire protection, recreation, and also for storage and augmentation purposes associated with such uses. The Applicant also request 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 construct wells or 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 the not-nontributary Dawson aquifer in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests permission to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. Averaging of Withdrawals. Applicant requests the entitlement to withdraw an amount of ground water in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum of the 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 the Applicant's Property. Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located as well as the underlying groundwater is owned by the Applicant. **IV. Application for Approval of Plan for Augmentation.** Statement of Plan for Augmentation. Applicant seeks approval of a plan for augmentation to allow it to utilize the not-nontributary Dawson aquifer underlying the property described herein, including following potential subdivision thereof. All wells to the not-nontributary Dawson aquifer will, during the pumping life of such wells, be augmented by septic return flows resulting from domestic uses, with post pumping depletions provided by pumping of the nontributary Denver and Arapahoe aquifers. Structures to be Augmented. The structures to be augmented are the Ziel Well Nos. 1 through 14, along with any replacement or additional wells associated therewith, as likewise may be constructed to the Dawson aquifer of the Denver Basin underlying the Applicant's Property as requested and described herein. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Ziel Well Nos. 1 through 14, together with water rights from the nontributary Denver and Arapahoe aquifers for any injurious post pumping depletions. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by Ziel Well Nos. 1 through 14, together with water rights from the nontributary Denver and Arapahoe aquifer for any injurious post pumping depletions. Potential water use criteria and their consumptive use component for replacement of actual depletions for the lots are estimated as follows: Uses. Household Use Only: 0.26 acre-feet annually within single-family dwellings on up to all thirteen (13) potential lots, with a maximum of ten percent consumptive use based on non-evaporative septic leach field disposal systems. Landscape Irrigation: 0.0566 acre-feet annually per 1,000 square feet (2.18 acre feet per acre) per year, with an 85% assumed consumptive use rate. The annual consumptive use for each 1,000 square feet of lawn and garden irrigated is therefore 0.048 acre-feet. Horses (or equivalent livestock): 0.011 acre-feet annually (10 gallons per day) per head with a one hundred percent consumptive use component. Amounts. Ziel Well Nos. 1 through 14 will each pump a maximum of 0.8 acre-feet per year per lot, or a maximum total of 11.2 acre-feet shall be withdrawn from the Dawson aquifer per year. Such use shall be a combination of household use, irrigation of lawn, garden, and greenhouse, and the watering of horses or equivalent livestock, and other permitted uses described in paragraph III.D., above. An example breakdown of this combination of uses, utilizing the factors described above, is 0.26 acre feet for a residence on each of the fourteen lots (total of 3.64 annual acre feet), outside irrigation of lawn, garden, and greenhouses at each lot (total of 5.712 annual acre feet), and up to twelve horses or equivalent livestock between the fourteen lots (1.848 annual acre feet). **See Exhibit C. Depletions.** Applicant's consultant has determined that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 22.19% of pumping. **Exhibit D.** Maximum annual depletions for total pumping from all wells are therefore 2.485 acre-feet in year 300 (i.e. 22.19% of pumping). *Id.* Should Applicant's pumping be less than the annual 11.2 acre-feet total 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), Applicant is required to replace actual stream depletions attributable to pumping of the up to fourteen (14) residential wells subject to this augmentation plan. Applicant's consultant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. Using a conservative in-house use rate of 0.2 acre-feet per lot per year, total of 2.6 acre-feet from fourteen wells, 2.52 acre-feet will be replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Ziel Well Nos. 1 through 14 Applicant will reserve the entirety of the nontributary Denver aquifer, and a portion of the Arapahoe aquifer (252 acre feet, being 0.84 annual acre feet over 300 years), accounting for actual stream depletions replaced during the planned 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 Denver and Arapahoe aquifer 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 new well permits for the Ziel Well Nos. 1 through 14 for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137.

CASE NO. 2025CW3064; Previous Case Nos. – 19CW3041, 09CW31, 02CW83, 94CW73 – WOODMOOR WATER AND SANITATION DISTRICT NO. 1, P.O. Box 1407, Monument, Colorado 80132 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: P. Fritz Holleman and Paul J. Raymond, Bushong & Holleman PC, 1966 13th Street, Suite 270, Boulder, Colorado 80302, (303) 431-9141)

Application for Finding of Reasonable Diligence

EL PASO COUNTY

2. Name of structure: Woodmoor Monument Creek Exchange. **3. Description of conditional water right from previous decrees:** A. Date of original decree, Case No. and Court: June 4, 1996, Case No. 94CW73, District Court, Water Division No. 2., B. Subsequent decrees: A decree finding reasonable diligence was entered in Case No. 02CW83, on February 27, 2003, and a decree finding reasonable diligence and making portions of the conditional water right absolute was entered in Case No. 09CW31, on June 14, 2013, and a decree finding reasonable diligence was entered in Case No. 19CW3041, on November 25, 2019, all in District Court, Water Division No. 2, C. Legal Description: (1) Point of diversion (exchange-to point): On the east bank of Monument Creek at a point in the SW1/4 SE1/4, Section 22, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, located approximately 800 feet north of the south

section line and 1900 feet west of the east section line of said Section 22, (2) Point of introduction of substitution and exchange supply (exchange-from point): On Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility located in the NW1/4 NE1/4 of Section 27, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado. The WDID number for the Tri-Lakes Wastewater Treatment Facility is 1000913, and the UTM coordinates for the outfall discharge are 13N 510870.0m E 4324518.0m N. See **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.) D. Source: (1) Water diverted by substitution and exchange at exchange-to point: Monument Creek, (2) Water used for substitution and exchange at exchange-from point: Fully consumable return flows from Applicant's not nontributary and nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer wells decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division No. 2, E. Appropriation date: May 5, 1992, F. Amount: 2.23 cfs (1,000 gpm), of which 2.08 cfs (935 gpm) was made ABSOLUTE in Case No. 09CW31, leaving 0.15 cfs (65 gpm) CONDITIONAL, G. Use: All municipal purposes, including domestic, agricultural, industrial, commercial, irrigation, stockwatering, fire protection, recreation, fish and wildlife preservation and propagation and for all other beneficial purposes, including recharge of Denver Basin aquifers, exchange purposes, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to § 37-90-137(9)(b), C.R.S., and all augmentation purposes. The water diverted by substitution and exchange will be fully consumable and may be used, reused, successively used and completely disposed of for the above-described purposes. **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, including expenditures**: The subject exchange is one of the components of Woodmoor's water supply system. Since July 2019, Woodmoor has continued to divert excess reusable return flows available at the outfall of the Tri-Lakes Wastewater Treatment Facility by exchange at the point of diversion described in paragraph 3.C.(1) above. The water so diverted by exchange was placed to beneficial use for all municipal purposes within Applicant's service area. This operation of the subject exchange during the diligence period has been with the knowledge and approval of the Water Commissioner, and reports concerning it have been filed regularly with the Water Commissioner and Division Engineer. The exchange-to point pump station has been continuously maintained and improved. In addition, during the diligence period, Woodmoor designed and/or constructed new facilities or modified existing facilities necessary to divert, treat and place water to beneficial use under the subject exchange, including but not limited to (i) construction of two new Denver Basin wells and one replacement well and (ii) addition of more than 190 new water taps to its water system. During the diligence period, Woodmoor has expended more than \$17,943,000 for improvements to its water supply, treatment, and distribution system. Woodmoor has also spent over \$645,000 on engineering costs related to water court matters for the protection of water rights integral to Woodmoor's integrated water system, including the subject exchange. Applicants continues to rely upon the subject water right and has no intention to abandon the same. **5. If claim to make absolute in whole or part**: Not applicable. **6. Name(s) and address(es) of owner(s) of land upon which any new**

diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored: No new diversion or storage structures will be constructed or modified as part of this application. Water diverted under the subject water right is stored in Lake Woodmoor, which is owned by Applicant. WHEREFORE, Applicant requests the Court to enter a decree finding that Applicant has exercised reasonable diligence in the development of the subject conditional water right and continuing the remaining portion of the subject conditional water right in full force and effect for an additional diligence period.

CASE NO. 2025CW3065; Previous Case Nos. 19CW3033, 10CW29 – WOODMOOR WATER AND SANITATION DISTRICT NO. 1, P.O. Box 1407 Monument, Colorado 80132 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: P. Fritz Holleman and Paul J. Raymond, Bushong & Holleman PC, 1966 13th Street, Suite 270, Boulder, Colorado 80302, (303) 431-9141)

Application for Finding of Reasonable Diligence

EL PASO COUNTY

2. Name of appropriative right of substitution and exchange: Woodmoor GC Exchange.

3. Description of conditional water right from previous decrees: A. Date of original decree, Case No. and Court: May 22, 2013, Case No. 2010CW29, District Court for Water Division 2, B. Subsequent decrees: November 21, 2019, Case No. 2019CW3033, District Court for Water Division 2, C. Legal description of exchange reach: (1) (1) Exchange reach: The exchange reach is on Monument Creek, Dirty Woman Creek and an unnamed tributary of Dirty Woman Creek, from the outfall of the Tri-Lakes Wastewater Treatment Facility on Monument Creek, the location of which is described in paragraph 3.C.(3) below, upstream to the confluence of Monument Creek and Dirty Woman Creek, and thence upstream on Dirty Woman Creek and the unnamed tributary of Dirty Woman Creek to the Woodmoor Pines Golf Pond Nos. 1-4 described in paragraph 3.C.(2) below, and includes the following-described points of diversion by exchange (exchange-to points) and point of introduction of substitute supply (exchange-from point) within this reach, (2) Points of diversion by exchange (exchange-to points): Four ponds located on an unnamed tributary of Dirty Woman Creek, a tributary of Monument Creek, which are owned and operated by the Country Club at Woodmoor (formerly known as Woodmoor Pines Golf and Country Club, LLC). The approximate locations of the four ponds are as follows: (a) Woodmoor Pines Golf Pond No. 1, located in the NW1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 2360 feet north of the south line of said Section 12, and 1380 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 1 is 6.6 acre feet, (b) Woodmoor Pines Golf Pond No. 2, located in the NW1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 1750 feet north of the south line of said Section 12 and 1730 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 2 is 1.6 acre feet, (c) Woodmoor Pines Golf Pond No. 3, located in the SW1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 1274 feet north of the south line of said Section 12 and 1800 feet west of the east line of said Section 12. The approximate capacity of

Woodmoor Pines Golf Pond No. 3 is 2.5 acre feet, (d) Woodmoor Pines Golf Pond No. 4, located in the SE1/4 SE1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, being 640 feet north of the south line of said Section 12 and 1265 feet west of the east line of said Section 12. The approximate capacity of Woodmoor Pines Golf Pond No. 4 is 15.0 acre feet. The Woodmoor Pines Golf Pond Nos. 1-4 are not decreed and no other water rights are diverted from these structures. The WDID number for the Woodmoor Pines Golf Ponds reservoir system is 1003348, (3) Point of introduction of substitute supply (exchange-from point): On Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility located in the NW1/4 NE1/4 of Section 27, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado., (4) Map: A map showing the location of the substitution and exchange reach on Monument Creek, Dirty Woman Creek and the unnamed tributary of Dirty Woman Creek, the locations of the Woodmoor Pines Golf Pond Nos. 1-4 and the location of the Tri-Lakes Wastewater Treatment Facility outfall is attached to this 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.) D. Source: (1) Water diverted at exchange-to points: The source of water to be diverted by exchange under the subject appropriative right of substitution and exchange is an unnamed tributary of Dirty Woman Creek on which the Woodmoor Pines Golf Pond Nos. 1-4 are located. Dirty Woman Creek is a tributary of Monument Creek. The source of the water and water rights to be used for the substitution and exchange supply are described below, (2) Water released at exchange-from point: (a) Fully consumable return flows resulting from use of Applicant's tributary, not nontributary and nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division 2, and in Case No. 02CW25, District Court, Water Division 1, and in Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1), as more fully described in paragraphs 7.A.(1)-(5) of the decree in Case No. 10CW29, (b) Fully consumable return flows resulting from use of water diverted by Applicant pursuant to the appropriative rights of substitution and exchange decreed in Case Nos. 87CW67 (Dirty Woman Creek Exchange) and 94CW73 (Monument Creek Exchange), District Court, Water Division 2, as more fully described in paragraphs 7.B.(1)-(4) of the decree in Case No. 10CW29, (c) Direct discharge of Applicant's nontributary and fully augmented tributary and not nontributary Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer groundwater decreed in Case Nos. W-2647, W-4544, 80CW169, 81CW230 and 81CW231, all District Court, Water Division 2, in Case No. 02CW25, District Court, Water Division 1, and in Water Division 2 Consolidated Case Nos. 07CW104 (Water Division 2) and 08CW263 (Water Division 1), as described in paragraph 3.D.(2)(a) above and in paragraphs 7.A.(1)-(5) of the decree in Case No. 10CW29, (d) Other fully consumable water legally available to Applicant that can be delivered to Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility, the location of which is described in paragraph 3.C.(3) above, E. Date of appropriation: April 8, 2010, F. Amount: 2.5 cfs (1123 gpm) total, of which 1.383 cfs (621 gpm) was decreed absolute, and 1.117 cfs (502 gpm) was decreed conditional in Case No. 2010CW29. By this application, Applicant seeks a finding of reasonable diligence as to the remaining conditional amount of 1.117 cfs (502 gpm), G. Use: Irrigation of the Country Club at

Woodmoor golf course (formerly known as Woodmoor Pines golf course) located in the SE1/4, S1/2 NE1/4 and E1/2 SW1/4 of Section 12, Township 11 South, Range 67 West, 6th P.M., El Paso County, Colorado, the approximate location of which is shown on the map attached to this application as **Exhibit A.** 4. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: The subject exchange is one of the components of Woodmoor's water supply system. Since July 2019, the Country Club at Woodmoor has continued to divert excess reusable return flows available at the outfall of the Tri-Lakes Wastewater Treatment Facility by exchange to Woodmoor Pines Golf Pond Nos. 1-4. The water so diverted by exchange was used for irrigation of the golf course. This operation of the subject exchange during the diligence period has been with the knowledge and approval of the Water Commissioner, and reports concerning it have been filed regularly with the Water Commissioner and Division Engineer. The Woodmoor Pines Golf Pond Nos. 1- 4, which are the exchange-to points for the subject exchange, and the golf course irrigation system, have been continually maintained and improved. In addition, during the diligence period, Woodmoor designed and/or constructed new facilities or modified existing facilities necessary to divert, treat and place water to beneficial use under the subject exchange, including but not limited to (i) construction of two new Denver Basin wells and one replacement well and (ii) addition of more than 190 new water taps to its water system. During the diligence period, Woodmoor has expended more than \$17,943,000 for improvements to its water supply, treatment, and distribution system. Woodmoor has also spent over \$645,000 on engineering costs related to water court matters for the protection of water rights integral to Woodmoor's integrated water system, including the subject exchange. Applicant continues to rely upon the subject water right and has no intention to abandon the same. 5. If claim to make absolute in whole or part: Not applicable. 6. Names and addresses of owners of land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored: Country Club at Woodmoor (formerly known as Woodmoor Pines Golf and Country Club, LLC), 18945 Pebble Beach Way, Monument, Colorado 80132. WHEREFORE, Applicant requests the Court to enter a decree finding and determining that Applicant has exercised reasonable diligence in the development of the subject conditional water right and continuing the subject conditional water right in full force and effect for an additional six-year diligence period.

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 January 2026, (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 December 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

(Court seal)
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