

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER 2025 AND INVITATION TO JOIN THE STATE ENGINEER'S SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST AND/OR PRODUCED NONTRIBUTARY GROUND WATER NOTIFICATION LIST. (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 December 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. 2025CW3012; TITAN AU, INC., 8480 E. Orchard Rd., Suite 4900, Greenwood Village, CO 80111 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: John T. Howe, Hoskin, Farina & Kampf, P.C., 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502, Telephone: (970) 986-3400, email: jhowe@hfak.com)

Amended Application for Groundwater Right and Approval of Plan for Augmentation Including a Water Exchange Right

LAKE, CHAFFEE, PARK AND PITKIN COUNTIES

2. Summary of Application: Applicant operates a gold placer mine known as the Box Creek Placer Mine in Lake County, Colorado, approximately 8.5 miles south-southwest of Leadville, Colorado. In addition to the current gold placer mining operations, Applicant intends to mine and export gravel from the site beginning in 2025. Corske Creek enters the site from the southwest corner, and during low flows, terminates within the central portions of the 950-acre permit area. Box Creek enters from the northwest, and terminates in the northern central most portion of the site. The Box Creek Placer Mine includes up to two gold mining areas and processing plants with secondary gravel mining and processing at any given time. There will be no ongoing groundwater depletions following completion of Applicant's placer mining and gravel mining operations. Applicant seeks: (a) an underground water right for the Box Creek Placer Mine that will deplete groundwater tributary to Box Creek and Corske Creek, tributary to the Arkansas River; (c) approval of a plan for augmentation for depletions that result from the Box Creek Placer Mine; and (c) in connection with the plan for augmentation, a water exchange project for the exchange reach between the Box Creek Placer Mine and the point of replacement. **3. Claim for groundwater right:** 3.1 Name of structure: Box Creek Placer Mine. An aerial photograph of the site is attached to the Application as Exhibit A (All exhibits and tables referred to in this resumed notice are incorporated by reference and available for inspection at the office of the Division 2 Water Clerk). 3.2 Permit Number: the Division of Water Resources issued Well Permit No. 89622-F for the Box Creek Placer Mine as a gravel pit well. 3.3 Location: The well permit location for the Box Creek Placer mine is in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, Township 11 South, Range 80 West of the 6th P.M. UTM Coordinates: 383970.4 Easting, 4330922.5 Northing, Zone 13, NAD83. The Box

Creek Placer Mine site is located in Section 33, Township 10 South, Range 80 West of the 6th P.M. and Sections 3, 4 and 5, Township 11 South, Range 80 West of the 6th P.M. A map of the location of the site is attached to the Application as Exhibit B. 3.4 Source of Water: groundwater tributary to Box Creek and Corske Creek, tributary to the Arkansas River. Depth of Ponds: approximately 20 feet. 3.5 Surface Area of Ponds: up to 9.7 acres. Note – previous placer mining severely modified the Box Creek Placer Mine permit area; ponds and exposed groundwater associated with historic mining, historical dredge piles and included as part of Box Creek are not included in this surface area amount. 3.6 Appropriation date: October 11, 2018. 3.8 How appropriation initiated: by filing an application for the Box Creek Placer Mine with the Colorado Division of Reclamation, Mining and Safety (Permit No. M-2018-053). 3.9 Date water applied to beneficial use: May 1, 2020. Applicant's north processing plant commenced operations on May 1, 2020 under an SWSP covering the period from May 1, 2020 to April 30, 2021. 3.10 Amount claimed: 2.228 c.f.s. (1,000 gpm) maximum pumping rate; 36.48 acre feet annually absolute in the amount of 32.08 acre feet annually for evaporation and industrial, including processing pond evaporation, first fill inflow, material processing and dust suppression in connection with Applicant's placer mine operation and conditional in the amount of 4.4 acre feet annually for gravel export losses in connection with Applicant's gravel operation. There will be no ongoing groundwater depletions following completion of Applicant's placer mining and gravel mining operations. 3.11 Uses: evaporation and industrial, including processing pond evaporation, first fill inflow, material processing, dust suppression and gravel export losses. 3.12 Plan for Augmentation: the Box Creek Placer Mine will be operated according to a plan for augmentation, approval for which is sought in this Application. 3.13 Additional Information: the Box Creek Placer Mine has operated under a series of substitute water supply plans ("SWSP"), including sitewide SWSPs beginning in 2023, approved pursuant to C.R.S. §37-92-308(5). The current SWSP for the Box Creek Placer Mine is SWSP ID 9464 approved December 18, 2024. Applicant will seek approval of an SWSP pursuant to C.R.S. §37-92-308(4) after filing this Application and will request approval from the Division 2 Water Judge for approval to operate the Box Creek Placer Mine past the time periods specified in C.R.S. §37-92-308(4)(b). **4. Owner of Land on Which Structures are Located**: the City of Aurora, Colorado and the Colorado State Land Board is the owner of the real property on which the Box Creek Place Mine located. Applicant leases the site from the City of Aurora and the Colorado State Land Board. **5. Request for Approval of Plan for Augmentation**: 5.1 Name of Structure to be Augmented: Box Creek Placer Mine. 5.2 Water Rights to be Used for Augmentation: 37 acre-feet of fully consumable water leased from the Board of Water Works of Pueblo, Colorado ("Pueblo Water"). Applicant entered into a Water Lease Agreement dated April 16, 2025 with Pueblo Water with a term commencing May 1, 2025 and ending April 30, 2030 ("Lease"). A copy of the Lease is attached as Exhibit C to the Application. The water rights or sources of water that may be used for augmentation in this augmentation plan include the following: Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The source of such water is not specifically identified in the Lease, but may include Pueblo Water's water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, or from direct flow transmountain water or from any other reservoir or place from which

Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 80 West, 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sections 7, 8, 17, 18, 19, and 20, Township 9 South, Range 80 West, 6th P.M. and Sections 10, 11, 12, 13, 14, and 15, Township 9 South, Range 81 West, 6th P.M., in Lake County), Clear Creek Reservoir (located in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West, 6th P.M. in Chaffee County), and reusable return flows. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 1984CW177, District Court, Water Division 2; 1984CW177(B), District Court, Water Division 2; 1990CW340, District Court, Water Division 5; W-1901, District Court, Water Division 5; 1995CW321, District Court, Water Division 5; 1990CW55, District Court, Water Division 2; and 2004CW130, District Court, Water Division 2. Applicant requests that the Court retain perpetual jurisdiction over the plan for augmentation for the sole purpose to add new or additional sources of augmentation to this requested plan for augmentation pursuant to C.R.S. § 37-92-305(8)(c). Accordingly, Applicant may utilize other fully consumable water rights for augmentation purposes under this plan.

5.3 Statement of Plan for Augmentation

5.3.1 Operation of Box Creek Placer Mine: Gold bearing gravel is located roughly 20 feet immediately above the clay layer of an ancient lake bed which was formed when the Arkansas valley was dammed by moraines of the Bull Lake glaciation. This clay layer is greater than or equal to 10 feet thick onsite and is a sharp and easily observable confining layer between barren gravels below. Gold bearing gravel is topped by variably thick and sometimes sparse overburden. Overburden will be excavated and then directly placed in previously mined out areas for reclamation. Gold bearing gravel will be processed for the gold (a very small percent of the material volume) and the washed gravel replaced into mined out excavations as part of reclamation or will be processed further as construction materials. The operation will mine all the way to 'bedrock' clay lake beds exposing the groundwater that is roughly three feet below the surface. The pay zone will be loaded into trucks with heavy equipment and deposited adjacent to the wash plant. The trucks will dump the pay gravel on the ground and a front end loader will pick up the material and load it into a grizzly screen to separate large (typically greater than 4 inch) material. Large material will not be further processed, but will be set aside for use in backfilling or for sale. Any smaller material will continue into the hopper that feeds a trommel. A trommel is a large steel cylinder with a sequence of round holes along the side of fairly small diameter (typically less than 3/4 inch). Here, water sprays are used to wash the material and break it up. All finer material falls through the holes and ends up in the sluice box. This device is a metal trough of approximately 20 feet length and 8 feet width that is tilted downward at an angle. At the bottom of the metal sluice is a carpet-like astroturf termed "miner's moss" that collects denser gold particles as they pass across the sluice. Approximately 2000 gallons per minute of water is used to wash the gravel over the sluice. The sluice is capable of passing 100 to 150 cubic yards per hour of gold bearing alluvium. No chemicals are used in any of the processing operation. Gravels previously processed for gold may be further processed for construction materials. Heavy equipment will be used to transport and load gravel into a portable crushing and screening plant. Water sprays

may be used, as needed, to mitigate fugitive dust during the crushing process. Crushed material will be screened and stored in stockpiles by size in preparation for export into the construction materials market. **5.3.2 Water Depletions:** Water depletions represent the amount of water that is diverted out of priority and consumptively used. The depletions associated with the operation will be the following: •Exposed groundwater evaporation; •Processing pond evaporation; •First pit inflow; •Material processing; •Dust suppression; and •Gravel export. There will be no ongoing groundwater depletions following completion of Applicant's placer mining and gravel mining operations. While material will be excavated wet for processing, at this time, none of this material is leaving the site. However, Applicant intends to export gravel material in 2025, therefore, gravel export is now included in the plan as groundwater depletion from wet material. Placer processing involves significant water recycling through a pair of ponds. This pair of settling ponds facilitates the drop out of finer sediment carried in the water from processing and allows process water to be reused. Thus, processing of placer materials only needs to pump water for processing as make-up water. All calculations show in this section are annual estimates for each source of depletion. Table 3 shows month-by-month calculations, which typically result in smaller amounts of depletion. **5.3.2.1 Evaporation:** Evaporative depletion is the product of the evaporation rate and the surface area of the exposed groundwater in a pit. During operations only a small area of groundwater will be exposed at a time. This pit will be backfilled soon after it is mined out to minimize groundwater exposure. For the purpose of calculations, it is assumed that this area is exposed over the course of a whole season. Quantification of the net monthly depletions at the pit is based on SEO Guidelines for sites with an elevation greater than 6,500 feet. This is calculated by subtracting the effective precipitation (70% of average actual measured precipitation) from the gross evaporation (from the National Oceanic and Atmospheric Administration Technical Report NWS 33) distributed according to SEO Guidelines. The Box Creek Placer Mine is located at an elevation approximately 9,300 feet above MSL. Because of its location and elevation, average precipitation measurements are from the Leadville (9,925 feet above MSL) Climate Station. Table 1 shows this data as part of the Model Inputs for the various water calculations. Climate is from the Western Regional Climate Center website. Evaporation is only applicable in the months with average temperatures above 32° F (May-Oct). There are three ponds where evaporation will cause depletions per mining and processing plant location (with up to two mining and plant locations): the groundwater exposed in the pump pit and the two plant settling ponds. These ponds and their specific depletion calculations are shown below. At the DWR's request, this plan for augmentation accounts for all groundwater ponds exposed at the site that resulted from modern mining efforts from 2018 through this filing. Therefore, the exposed groundwater calculations are far greater than what would be included in a traditional placer gold processing scenario. •**Plant Settling Ponds:** The plant settling ponds receive sediment laden water from the output of placer processing for the purpose of settling out said sediment. As a pond, consumptive use is based on the evaporation rate, effective precipitation rate, and surface area. These calculations include depletions for the pump pits for each mining location. $1.0 \text{ acre total pond area} \times (40 \text{ inches/acre/year evaporation rate} - 6.73 \text{ inches/acre/year effective precipitation}) = 2.8 \text{ acre-feet}$; $2.8 \text{ acre-feet} \times 2 \text{ mining and processing areas} = 5.6 \text{ acre-feet}$. •**Exposed Groundwater:** Groundwater exposed calculations are based on aerial drone images

captured in June 2024 with adjustments made to current September 2024 conditions. Groundwater exposed as of September 26, 2024 totals 6.13 acres across the entire site. Note, ponds and exposed groundwater associated with historic mining, historical dredge piles, and that are included as part of Box Creek are not included in the exposed groundwater calculation. $6.13 \text{ acres} \times (40 \text{ inches/acre/year evaporation rate} - 6.73 \text{ inches/acre/year effective precipitation}) = 17.0 \text{ acre-feet}$. • **Pond Surface Total:** 17.0 acre-feet (exposed groundwater) + 5.6 acre-feet (settling ponds) = 22.6 acre-feet. **5.3.2.2 Dust Suppression:** Water used for dust suppression is usually 100 percent depleted with no measurable return flows to the river. Dust from the haul road and active mining areas (i.e., disturbed areas not in any phase of reclamation) will be controlled by water. Water will only be applied when needed at this elevation, since cold conditions on site for much of the year result in little evaporation. Based on experience with similar operations in Colorado, roughly 0.15 acre-feet of water will be needed per acre of disturbance for dust control. 30 acres are anticipated to be disturbed at any given time. Areas that are in the reclamation process: acres of disturbance $\times 0.15 \text{ acre-feet/acre} = 4.5 \text{ acre-feet}$. **5.3.2.3 Processing:** Processing plant water consumption is detailed below. Each part of the processing operation and its individual consumptive use can be seen in detail. Due to the small size of the piles and equipment, precipitation is ignored in the following calculations. Placer processing incorporates a large flow of water; therefore, additional water will not be needed for dust suppression in placer processing equipment. • ***Grizzly overflow pile:*** Material larger than 4-inches in diameter is placed in an overflow pile prior to being used to refill the pit. Consumptive uses here include evaporation of water in the overflow pile and is calculated the same way as water surface area. This keeps the calculation conservative as water within a pile of material evaporates slower than water from a pond. $706 \text{ square feet pile area} \times (40 \text{ inches/acre/year evaporation rate} - 6.73 \text{ inches/acre/year effective precipitation}) = 0.04 \text{ acre-feet}$. • ***Trommel:*** Consumptive use within the trommel is calculated based on the surface area of the trommel (over which water flows) and the frequency of the plant operation (hours/day). This value is then doubled to account for the turbulence of the flow, the use of sprays, and to maintain a conservative estimate of the consumptive use. $64 \text{ square feet area} \times (40 \text{ inches/acre/year evaporation rate} - 6.73 \text{ inches/acre/year effective precipitation}) \times (7 \text{ hours/24 hours}) \times 2.0 = 0.002 \text{ acre-feet}$. • ***Trommel overflow pile:*** Material between 3/4-inch and 4-inches in diameter is placed in a trommel overflow pile prior to being used to refill the pit. Water evaporation in this pile is a consumptive use and is calculated the same way as water surface area. This keeps the calculation conservative as water within a pile of material evaporates slower than water from a pond. $706 \text{ square feet pile area} \times (40 \text{ inches/acre/year evaporation rate} - 6.73 \text{ inches/acre/year effective precipitation}) = 0.04 \text{ acre-feet}$. • ***Sluice:*** Consumptive use within the sluice is calculated based on the surface area of the trommel (over which water flows) and the frequency of the plant operation (hours/day). This value is then doubled to account for the turbulence of the flow, and to maintain a conservative estimate of the consumptive use. $160 \text{ square feet area} \times (40 \text{ inches/acre/year evaporation rate} - 6.73 \text{ inches/acre/year effective precipitation}) \times (7 \text{ hours/24 hours}) \times 2.0 = 0.006 \text{ acre-feet}$. • ***Total Processing Water Consumption:*** $0.04 \text{ acre-feet (grizzly pile)} + 0.002 \text{ acre-feet (trommel)} + 0.04 \text{ acre-feet (trommel pile)} + 0.006 \text{ acre-feet (sluice)} = 0.088 \text{ acre-feet}$; $0.088 \text{ acre-feet} \times 2 \text{ mining and processing areas} = 0.18 \text{ acre-feet}$. **5.3.2.4 First Fill Inflow:** The first fill inflow is calculated based on the volume and porosity of material removed

below the water table and occurs once annually per mining and processing location. The pump pit is the only location that will see first fill inflow at the start of the season. It has a volume of: 0.20 acres x 17 feet deep with a porosity of 0.3. 0.20 acres x 17 feet x (1-0.3) = 2.38 acre-feet; 2.38 ac-ft x 2 mining and processing areas = 4.8 acre-feet. **5.3.2.5 Gravel Export:** Gravel export consumptive use values are calculated in accordance with the Division of Water Resource's "General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits" updated July 26, 2024. As the gravel material is excavated below the groundwater table and may be washed, a 4% moisture content is used in the calculations below. Maximum gravel exports will not exceed 150,000 tons. However, in the event that additional export volumes are needed, the Lease will be amended accordingly. 150,000 tons x 2000 lbs/ton x 4% = 12,000,000 pounds of water. Then 12,000,000 divided by (62.4 lbs/cubic foot x 43560 cubic feet/ acre) = 4.4 ac-ft. **Total Consumptive Uses:** The consumptive uses from the entire operation are summarized below. See Table 3 for a monthly breakdown. All consumptive uses are supplied by groundwater; therefore, lagged depletions will be accounted for. Summary of Consumptive Uses using annual values from Tables 1-3:

Activity	Consumptive Use	Use (acre-feet/year)	Comments
Placer Mining	Pond Evaporation	22.54	Settling ponds + groundwater exposure
	Dust Suppression	4.50	
	Processing	0.18	
	First Pit Inflow	4.80	Only occurs at the start of each season
Gravel Mining	Gravel Export	4.40	Based on 150,000 annual tons exported
Total		36.42	Instantaneous Depletions

5.3.3 Lagged Depletions: Monthly groundwater lagged depletions were calculated using the Alluvial Water Accounting System (AWAS) program developed by the Integrated Decision Support (IDS) Group at Colorado State University with the following aquifer parameters. Aquifer dimensions and distance to the Arkansas River are measured from Google Earth imagery paired with geologic mapping overlay from Kellogg, et al., 2017. Aquifer hydrologic properties are from Groundwater Hydrology (David Keith Todd) and were field measured by Lewicki and Associates in July 2021. •Distance from the gravel pit centroid to the river (X) = 830 feet; •Alluvial aquifer width (W) = 3,930 feet; •Specific yield (S) = 24%; •Transmissivity (T) = 119,276 gallons per day per foot. The groundwater consumptive use totals from Table 3 were inputted to the AWAS program to calculate the lagged depletions that must be replaced in the stream system by augmentation water. The results of this analysis are shown in Table 4. **5.4 Water Supply and Augmentation Releases:** Applicant has obtained a water lease from Pueblo Water in the amount of 37.0 acre feet per year to cover out-of-priority depletions to the Arkansas River. Table 5 shows the month-by-month balance of depletions, water rights and required reservoir releases. Water will be released by Pueblo Water as directed in accordance with this augmentation plan. Applicant shall be responsible for any transit losses imposed on the released replacement water to the point of replacement, as determined by the Division Engineer.

Applicant will submit diversion records to the Division Engineer on a monthly basis or as otherwise requested by the Division Engineer. Applicant will also provide accountings to the Division Engineer to demonstrate compliance under this augmentation plan. Applicant may obtain additional replacement water as needed if, under future conditions, the potential out-of-priority depletions exceed 37.0 acre feet per year. The engineering values used in this Application are those currently used by or calculated by Applicant's consultants but may be subject to change during the course of this proceeding without the need to amend or republish this application.

6. Water Exchange Project:

6.1 Description of Water Exchange Project: Applicant claims an exchange project right pursuant to C.R.S. §§ 37-92-103(9), 37-92-302(1)(a), 37-92-302(5), 37-92-305(3), 37-92-305(5), and 37-92-305(8)(a), C.R.S., to replace depletions associated with the Box Creek Placer Mine that will occur upstream of the point of introduction of the augmentation supplies to the Arkansas River at the confluence of Lake Creek with the Arkansas River. The exchange project right will operate to replace out of priority depletions to the flow of water in the Arkansas River as the depletions occur.

6.1.1 Exchange from Point – Confluence of Lake Creek and the Arkansas River: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24, Township 11 South, Range 80 West of the 6th P.M. UTM Coordinates 389182.5 Easting, 4326182.6 Northing, Zone 13, NAD83.

6.1.2 Exchange to Point – Box Creek Placer Mine: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, Township 10 South, Range 80 West of the 6th P.M. UTM Coordinates 385130.6 Easting, 4332016.8 Northing, Zone 13, NAD83.

6.1.3 Substitute Supplies for the Exchange Project Right: The water leased from Pueblo Water described in Section 5.2 above. In the event that Pueblo Water augmentation water is unavailable from the proposed replacement point or a location upstream of the replacement point, the Applicant will purchase temporary replacement water from an available source for that season of the needed quantity.

6.1.4 Appropriation Date/Amount: The water exchange project right will be operated and administered with a priority date of December 12, 2025, at a maximum flow rate of 0.20 c.f.s. The maximum instantaneous consumptive use rate of 0.20 c.f.s. represents the peak concurrent demand during high-use periods of the operating season when multiple water uses occur simultaneously. The operating season extends from April 1 through October 31 (214 days), during which water consumptive uses occur on different schedules: continuous uses including pond evaporation (driven by temperature and occurring 24 hours per day) and first fill inflow (passive groundwater seepage into the pump pit, concentrated in April when excavations are first exposed and pit pumps begin continuous operation), and operational uses including dust suppression, processing, and gravel export (occurring 10 hours per day, Monday through Saturday). The maximum rate is determined by analyzing peak concurrent activities during April when first fill inflow coincides with seasonal evaporation and operational activities, and during July when peak evaporation coincides with maximum operational activities. The claimed maximum of 0.20 cubic feet per second provides approximately 20% margin above the calculated peak concurrent rates of 0.158 c.f.s. in April and 0.162 c.f.s. in July, providing for fluctuations in water consumption.

6.2 Operation of Exchange: The Exchange Project will operate to cover all depletions arising from placer mining and gravel mining operations, including evaporation from exposed groundwater ponds, evaporation from process ponds, water used for dust suppression, first-fill inflows at the beginning of each mining season, processing losses, and moisture content in exported gravel. While these consumptive uses occur at the site and are readily measured as unlagged activities,

the actual impact to the Arkansas River is delayed due to aquifer storage and transmission. To represent this delay, the Alluvial Water Accounting System (“AWAS”) model has been applied to develop lag kernels that distribute each month’s consumptive use over subsequent months until the full amount reaches the stream. For each reporting month, Applicant will calculate unlagged consumptive use, apply the AWAS lag kernel, and determine the stream depletions to be replaced. Replacement water will be delivered by Pueblo Water at the “from” point under the Division Engineer’s direction. Applicant will bear all transit losses between the release and depletion locations. The exchange will operate only when all senior rights within the reach are satisfied or otherwise unable to divert, and operation will be curtailed if adequate replacement water is not available. The exchange program will also continue for 26 months beyond the last month of depletions to account for the lagged depletions of the last month of depletions. If less than 26 months remain on the active water lease, mining operations will cease. 6.3 Administration and Reporting: The Exchange Project shall at all times operate so that the net replacement water delivered equals or exceeds the lagged depletions calculated for each period. If intervening senior calls prevent operation of the exchange, Applicant will coordinate with Pueblo Water to deliver replacement water directly upstream of the call or through another method acceptable to the Division Engineer. **7. Relief Requested:** Applicant requests that the Court enter a decree for the underground water right and approve the plan for augmentation requested in this Application, and grant such other relief as the Court deems appropriate.

CASE NO. 2025CW3032; Previous Case No. 16CW3102; AMRIZE CEMENT INC. (f/k/a Holcim (US) Inc.), c/o Shad Shapiro, Area Environmental and Public Affairs Manager, 3500 State Highway 120 Florence, CO 81226 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: James S. Witwer and Trevor I. Klein, Trout Raley P.C., 1120 Lincoln Street, Suite 1600, Denver, CO 80203, (303) 861-1963)

Second Amended Application to Amend Plan for Augmentation

FREMONT AND PUEBLO COUNTIES

2. Summary of Application: Amrize Cement Inc. (“Amrize”), formerly known as Holcim (US) Inc. (“Holcim”) is the owner and operator of a cement manufacturing plant (“Plant”) and a limestone quarry known as the Bear Creek Quarry, both located east of Florence, in Fremont County, Colorado. Amrize is also the owner and operator of a limestone quarry known as the Red Creek Quarry, located in Fremont and Pueblo Counties, Colorado. By decree entered on April 29, 2019, the District Court, Water Division 2, approved an application for plan for augmentation filed by Holcim, now known as Amrize (“16CW3102 Decree”). The 16CW3102 Decree permits Amrize’s uninterrupted consumptive use of water from ponds located in the Bear Creek Quarry (“Quarry Ponds”) and from wetlands constructed adjacent to the Arkansas River (“Wetlands”). Specifically, the Quarry Ponds result in evaporative depletions and depletions from water pumped for dust suppression; the Wetlands cause net depletions from evaporation and evapotranspiration. Amrize replaces out-of-priority depletions from the Quarry Ponds and Wetlands pursuant to the terms and conditions of the 16CW3102 Decree. The Colorado Division of Reclamation, Mining, and Safety (DRMS) recently approved an amendment to Amrize’s mining permit to include the Red Creek Quarry (“RCQ”). The RCQ is the property defined as the

“Reserve Property” in the 16CW3102 Decree, described as follows: a 250-foot wide strip of land, located in Sections 20, 21, 28, 33, and 34, in Township 19 South, Range 68 West and Sections 3, 10, 14, 15, and 23, in Township 20 South, Range 68 West, 6th P.M., Fremont County, and an approximately 3,851-acre parcel of land located in Sections 24 and 25, Township 20 South, Range 68 West, 6th P.M., Fremont County, and Sections 19, 20, 29, and 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County (all as more particularly described in the deed recorded at reception no. 889838 in the office of the Fremont County Clerk and Recorder and in the deed recorded at reception no. 1887257 in the office of the Pueblo County Clerk and Recorder). The Highway 96 Easement is located in Sections 31 and 32 in Township 20 South, Range 67 West, 6th P.M., Pueblo County. Activities associated with the RCQ will include surface mining, preliminary material sizing, material conveyance from the RCQ to the Plant and reclamation. The location of the RCQ is shown on **Exhibit A** 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.) Starting in 2025, Amrize will begin moving its limestone mining operations from the Bear Creek Quarry to the RCQ. Amrize seeks to amend the plan for augmentation approved in Case No. 16CW3102 to permit out-of-priority depletions to the Arkansas River from new water wells that will supply water for dust suppression and sanitary uses associated with the operation of the RCQ. Amrize does not seek to alter any other portion of the augmentation plan and it will continue to replace depletions from the Wetlands and Quarry Ponds in accordance with the terms of the 16CW3102 Decree. Amrize’s existing replacement supplies are sufficient to replace all out-of-priority depletions from the Quarry Ponds, Wetlands, and RCQ.

3. Name and Location of Additional Structures to be Augmented: Amrize plans to drill wells (collectively, “Wells”) at the RCQ to supply water necessary for dust suppression and sanitary uses. Amrize has not determined the final location of each of the Wells, but has identified the following potential well locations at the RCQ (NAD 1983 UTM): A. Well No. 001: latitude 38.300445, longitude -104.957857 NW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County B. Well No. 002: latitude 38.300387, longitude -104.946918 NE 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County C. Well No. 003: latitude 38.295756, longitude -104.951949 NW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County D. Well No. 004: latitude 38.292859, longitude -104.954331 SW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County E. Well No. 005: latitude 38.291220, longitude -104.957419 SW 1/4 Section 24, Township 20 South, Range 68 West, 6th P.M., Fremont County F. Well No. 006: latitude 38.274048, longitude -104.957895 SW 1/4 Section 25, Township 20 South, Range 68 West, 6th P.M., Fremont County G. Well No. 007: latitude 38.282065, longitude -104.957530 NW 1/4 Section 25, Township 20 South, Range 68 West, 6th P.M., Fremont County H. Well No. 008: latitude 38.286551, longitude -104.944402 NE 1/4 Section 25, Township 20 South, Range 68 West, 6th P.M., Fremont County I. Well No. 009: latitude 38.286947, longitude -104.929791 NE 1/4 Section 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County J. Well No. 010: latitude 38.285126, longitude -104.928440 NE 1/4 Section 30, Township 20 South, Range 67 West, 6th P.M., Pueblo County K. Well No. 011: latitude 38.294477, longitude -104.921769 W 1/2 Section 20, Township 20 South, Range 67 West, 6th P.M., Pueblo County L. Well No. 012: latitude 38.293526, longitude -104.906741 SE 1/4 Section 20,

Township 20 South, Range 67 West, 6th P.M., Pueblo County M. Well No. 013: latitude 38.290115, longitude -104.908800 SE 1/4 Section 20, Township 20 South, Range 67 West, 6th P.M., Pueblo County N. Well No. 014: latitude 38.286020, longitude -104.908494 NE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County O. Well No. 015: latitude 38.281062, longitude -104.907694 NE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County P. Well No. 016: latitude 38.279408, longitude -104.905212 SE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County Q. Well No. 017: latitude 38.274688, longitude -104.905225 SE 1/4 Section 29, Township 20 South, Range 67 West, 6th P.M., Pueblo County **4. Water Rights to be Used for Augmentation:** Amrize will use the following water rights described in paragraph 22 of the 16CW3102 Decree, for replacement of out-of-priority depletions at the RCQ: A. Water rights originally decreed to the Davis and McCumber Ditch in a general adjudication dated February 3, 1894, in Fremont County, Colorado (Priority No. 273) and later changed to the Hayner Ditch in Case No. 4670, decree dated March 15, 1926, Fremont County District Court, and as more particularly described as the Hayner Ditch Water Right in paragraphs 10-17 of the 16CW3102 Decree. B. Fully consumable water leased from the Board of Water Works of Pueblo ("Pueblo Water") pursuant to an Amended and Restated Water Lease Agreement ("Water Lease") dated August 14, 2018, which granted Holcim two options to extend a previous lease agreement for two terms of 10 years each, the first commencing January 1, 2020, and terminating December 31, 2029, and the second commencing January 1, 2030, and terminating December 31, 2039, subject to the terms of the Water Lease. Holcim exercised its right to extend the Water Lease in 2019, requesting Pueblo Water make available for delivery 150 acre-feet per year for each year of the first extended term (2020-2029). The Water Lease and the 2019 letter extending the Water Lease are attached as **Exhibit B.** C. Additional supplies added pursuant to paragraph 35 of the 16CW3102 Decree. **5. Description of Plan for Augmentation:** A. Statement of Plan for Augmentation: Amrize will use the water rights described in paragraph 4 of this application to replace out-of-priority lagged depletions to the Arkansas River caused by pumping the Wells for dust suppression and sanitary uses at the RCQ. B. Depletions: Amrize's RCQ activities will cause depletions from dust suppression and sanitary use. Depletions vary from year to year depending on Amrize's operations. i. Dust Suppression: the volume of water Amrize will pump from the Wells for dust suppression will depend on the volume of product mined and the mining operations in a given year. Amrize currently projects that it will use approximately 150 acre-feet per year for dust suppression at the RCQ once mining begins. Amrize expects to begin mining at the RCQ in 2027 and expects to undertake road and other construction activities between 2025 and 2027. Less water will be needed for dust suppression prior to mining. ii. Sanitary Use: Amrize will employ approximately 25 full-time staff at the RCQ. Amrize estimates the water needed for sanitary use will be approximately 3 acre-feet per year based on typical per capita usage at the Plant and Bear Creek Quarry. Sanitary uses are 10% consumptive, with the remaining water returning to the groundwater system through a septic/leach field system. C. Timing and Location of Depletions: Red Creek runs through the RCQ. Because Red Creek is an intermittent stream, water pumped from the Wells will impact the Arkansas River through the groundwater system, rather than Red Creek. These impacts are lagged over time based on the geologic characteristics of the local aquifer. Amrize's engineering

consultant determined estimated parameters for the Glover analysis to lag depletions from the Wells and determined depletions from the Wells impacting the Arkansas River over 150 months, with at least 95% of the depletions in the first 124 months. Amrize will replace out of priority lagged depletions from the RCQ Wells to the Arkansas River at or below the Portland Gage. **6. Name and address of owner or reputed owner of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant. WHEREFORE, Amrize requests the Court to enter a decree approving the amended application to amend the augmentation plan in 16CW3102 requested herein, and for such other and further relief as the Court deems proper.

CASE NO. 2025CW3066; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. DENNIS NETHERTON and CORLISS NETHERTON – Verified Complaint for Injunctive Relief, Penalties, and Costs. This case is being listed in the resume to account for the case number in consecutive order.

CASE NO. 2025CW3067; Previous Case Nos. W-4103, 79CW66, 83CW6, 87CW27, 93CW54, 00CW08, 06CW98, 13CW18, 19CW3046 – TOWN OF MONUMENT, 645 BEACON LITE ROAD, MONUMENT, CO 80132 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Robert F. T. Krassa, 2300 Canyon Blvd, Ste 2, Boulder, CO 80302, 303-442-2156)

Application for Finding of Reasonable Diligence

EL PASO COUNTY

Name of Structure: Monument Well No. 3, WDID # 1005603, well permit number 16543-F. **3. Describe conditional water right** giving the following from the Referee's Ruling and Judgment and Decree: **a. Date of Original Decree:** May 9, 1975, Second Amended Decree entered June 13, 1980; Case W-4103, Water Division No. 2. **b. List all subsequent decrees** awarding findings of diligence (all in this Court): 79CW66; 83CW36 entered Sep. 30, 1983; 87CW27 entered Aug. 24, 1987; 93CW54 entered Jan. 25, 1994; 00CW08 entered Nov. 13, 2000; 06CW98 entered Feb. 9, 2007, 13CW18 entered July 11, 2013 and 19CW3046 entered December 28, 2019. **c. Location:** NE 1/4 SE 1/4 Section 15, Township 11 South, Range 67 West of the 6th P.M. in El Paso County, being 1980 feet north of the south line and 50 feet west of the east line of said Section 15. According to the Division Engineer's office, the UTMs are (NAD83) 511386.1 Easting, 4326887.1 Northing. See map attached to the application as **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) **d. Source:** Dawson and Denver aquifers. Adjudicated tributary to Monument Creek in second amended decree dated June 16, 1980 in consolidated cases W-627 and W-4103 in this Court. **e. Date of Appropriation:** October 6, 1972. **Amount:** 0.33 cfs (150 gpm), conditional. Monument Well No. 3 also has an absolute decree for 200 gpm of same priority. **f. Use:** Municipal purposes **g. Depth:** 1050 feet **4. Detailed** outline of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures, during the diligence period which ran from December 28, 2019 to the present. During the diligence period, Monument redrilled this well including VFR installation at a cost of about

\$1,000,000. Monument also completed the following capital improvements on its water system at total cost of approximately \$17,000,000: radium removal and plant expansion of the 3/9 plant for \$3,000,000, new chlorine skid and pumps for \$30,000; drilling of Wells 11, 12 and 13 for \$4,500,000, constructed Red Rocks tank and pipeline for \$8,000,000, upgraded XetaWave radio system and SCADA server for \$60,000, installed new valves at booster station and lines to gain system redundancy for \$120,000, drilled Well 10 for \$ and acid washed Well 7 for \$300,000 all of which improvements facilitate use of water produced from Well No. 3. Monument also engaged in administrative, legal and engineering activities, to determine how best to utilize the subject water right and structure within the context of the current water legal and administrative system. This led to the filing of currently pending applications by the Town in Cases 19CW3009 and 19CW3010 in this Court, which will increase the efficiency of augmentation and use of the subject water right. Further, Monument has defended its water rights in various court proceedings utilizing attorneys and water resources engineers. Monument has in all respects diligently worked toward placing the subject water right to beneficial use. **5. All structures involved** in this matter are located on lands owned by Applicant Town of Monument.

CASE NO. 2025CW3068; Previous Case Nos. 85CW134(A), 99CW118, 06CW53, 12CW110 & 19CW3013 – PUEBLO WEST METROPOLITAN DISTRICT, 20 W. PALMER LAKE, P.O. BOX 7005, PUEBLO WEST, CO 81007 (Please address all correspondence and inquiries regarding this matter to Applicant's attorney: Robert F. T. Krassa, Krassa & Miller, LLC, 2300 Canyon Blvd., Suite 2, Boulder, CO 80302, 303-442-2156)

Application for Finding of Reasonable Diligence

PUEBLO COUNTY

2. Introduction, Description of Decree. Pueblo West Metropolitan District ("Pueblo West") seeks a finding of reasonable diligence for appropriative rights of reuse and exchange decreed on September 21, 1993 in Case 85CW134(A), Water Division No. 2. That decree may be inspected at the office of the clerk of this Court or at the office of the Pueblo County Clerk and Recorder under Reception # 1029671, Book 2703, page 68, recorded Dec. 28, 1993. Said decree adjudicated a plan of use, reuse and successive use by exchange of reusable return flows attributable to the measured discharge from Pueblo West's wastewater treatment plants. **a. The decree in Case 85CW134(A)** excluded all issues and claims of use, re-use and successive use by exchange of reusable return flows attributable to all other sources, which by their nature cannot be measured directly at those sources. Those sources include by way of example and not limitation, lawn irrigation return flows, septic system return flows and water main leakage. Those claims and issues were determined in Case 85CW134(B) and are not the subject of the present diligence application. In addition, Pueblo West's request to exchange water from Lake Meredith to Pueblo Reservoir as part of its exchange and reuse plan, and all issues arising thereunder, as well as consideration of return flow credits based on calculation or estimation of sub-surface flows at Pueblo West's measurement points, were allocated to Case 85CW134(B). **b. The previous diligence determinations** regarding the water rights confirmed in case 85CW134(A) were entered by this Court on June 23, 2000 in Case 99CW118, October 10, 2006 in Case 06CW53, February 9, 2013 in Case 12CW110 and December 28, 2019 in Case 19CW3013. **c. Certain amounts of the**

subject water right have previously been made absolute as follows: 1.84 c.f.s., Case 19CW3013 decreed Dec, 28, 2019 and 1.92 c.f.s., Case 21CW3067 decreed September 2, 2022. Accordingly, 2.24 c.f.s of the 6.0 c.f.s originally decreed amount remains conditional. **3. Names and Locations of Structures Utilized under Case 85CW134(A)**

See also map attached to the application as **Exhibit A**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

a. Pueblo Reservoir. Pueblo Reservoir is formed by a dam across the Arkansas River in Pueblo County in Sections 25 and 36, Township 20 South, Range 66 West of the 6th Principal Meridian, and in Section 1, Township 21 South, Range 66 West of 6th Principal Meridian, as depicted on the U.S. Geological Survey 7.5' series, topographic map of the Northwest Pueblo quadrangle (1974 photo revision), and as described in the Decree in Case No. B-42135 (District Court, Pueblo County), dated June 25, 1962. The Structure WDID of Pueblo Reservoir is 1403526, UTM 524028.7 Easting, 4235568.4 Northing.

b. Pueblo West Trifurcation Point. The trifurcation point is at the South end of the concrete portion of the dam of Pueblo Reservoir, in the SW 1/4 of the NE 1/4 of said Section 36. Other water rights are diverted at this and associated structures. The Structure WDID of the Pueblo West Trifurcation Point is 1400663, UTM 524067 Easting, 4235568 Northing.

c. Pueblo West Wastewater Treatment Plant, located in Sections 7 and 16, T.20S, R.65W of the 6th P.M. in Pueblo County, whose outfall flows into a tributary of Dry Creek (also known as Wildhorse Creek) and thence into the Arkansas River. The Structure WDID of the Pueblo West Wastewater Treatment Plant, also known as the Pueblo West Sewage Plant on Division Engineer records, is 1400662, UTM 528436.2 Easting 4240713.3 Northing. **4. Description of Sources of Water for Exchange and Reuse.**

a. Twin Lakes. Pueblo West owns more than 5901 shares of the capital stock of the Twin Lakes Reservoir and Canal Company ("Twin Lakes"). This stock represents pro rata ownership of the Independence Pass Transmountain Diversion System which diverts water from the headwaters of the Roaring Fork River and its tributaries in Pitkin County. These water rights were adjudicated by a Decree in Civil Action No. 3082 (District Court, Garfield County) dated August 25, 1936 and were modified by a Decree in Case No. W-1901 (District Court, Water Division No. 5) dated May 12, 1976. These water rights have an appropriation date of August 23, 1930, with a direct flow amount for diversions through the transmountain tunnel of 625 cubic feet per second with an annual limit of 68,000 acre feet, a running ten year limit of 570,000 acre feet, and various other limitations recited in the Decrees. These water rights are Decreed for all beneficial uses. By virtue of its ownership of such stock, Pueblo West has the right to utilize such waters and the return flows therefrom. These are transmountain waters not native to the Arkansas River. Also, Pueblo West has, by virtue of its ownership of shares in the Twin Lakes Reservoir and Canal Company, a right to use and occupy a portion of the storage capacity of Twin Lakes Reservoir. Pueblo West's Twin Lakes water derived from Arkansas River Basin sources is not legally available for re-use. **b. Case 80CW160.** Non-tributary underground water adjudicated in Case No. 80CW160 by Decree of the District Court for Water Division No. 2 dated November 18, 1985. This Decree adjudicated 17 wells which withdraw water from the Dakota Sandstone and Purgatoire formations. All of the wells are located within the municipal boundaries of Pueblo West, generally described in paragraph 2 hereinabove. The total amount of water which may be diverted from said wells is 3303 g.p.m. or about 7.3 c.f.s. All of the wells were constructed prior to June 20, 1972, and are

decreed for the following uses: "municipal, including domestic, industrial, commercial, irrigation, fire protection, stock water, recreation, and any other beneficial use, including the right to store the water, use it for augmentation purposes, and to consume all of the water withdrawn from said wells." The location, construction date and amount of water from each well are as follows. (P.W. means Pueblo West, G.C. means Golf Course and T. means Teckla. Location is given as quarter of quarter, section, township and range West of the 6th P.M. in that sequence.)

<u>Name</u>	<u>Location</u>	<u>Date</u>	<u>Amount</u>
P.W. #1	SE1/4 SW1/4 12-19-66	March 17, 1969	50 gpm
P.W. #2	SE1/4 NE1/4 16-20-66	Aug. 10, 1969	500 gpm
P.W. #3	SW1/4 NE1/4 11-20-66	Aug. 14, 1969	83 gpm
P.W. #4	SE1/4 NW1/4 9-20-66	May 30, 1962	45 gpm
P.W. #5	SW1/4 SE1/4 12-20-66	Aug. 17, 1969	15 gpm
P.W. #6	NE1/4 NW1/4 22-20-66	Aug. 20, 1969	500 gpm
P.W. #7	NE1/4 NE1/4 7-20-66	Aug. 20, 1969	175 gpm
P.W. #8	NW1/4 NW1/4 8-20-65	Sept. 10, 1969	55 gpm
P.W. #11	Ctr. of NW1/4 3-20-66	April 12, 1971	500 gpm
P.W. #12	NW1/4 NE1/4 1-20-66	April 15, 1970	65 gpm
P.W. #14	NW1/4 NW1/4 2-20-66	Aug. 4, 1970	500 gpm
P.W. #15	SE1/4 NW1/4 17-19-65	May 4, 1972	200 gpm
P.W. #16	NE1/4 NW1/4 2-20-66	April 26, 1972	100 gpm
P.W. #17	NW1/4 NW1/4 21-19-65	June 19, 1972	80 gpm
G.C. #1	NE1/4 NW1/4 11-20-66	March 27, 1972	150 gpm
T. #1	NW1/4 NW1/4 24-20-66	June 10, 1971	180 gpm
T. #3	NE1/4 NE1/4 24-20-66	March 1, 1976	105 gpm

The remaining provisions of the said Decree, which is recorded at Book 2264, pages 790 through 807, records of Pueblo County, are incorporated by reference. This water is non-tributary to the Arkansas River and may be used and re-used to extinction subject to C.R.S. 37-82-106. **c. Case 80CW171.** Non-tributary underground water adjudicated in Case No. 80CW171 by Decree of the District Court for Water Division No. 2 dated August 13, 1985, for Pueblo West Well No. 18, located in the SW 1/4 NW 1/4, Section 18, T. 19 S., R. 65 W. of the 6th P.M. in Pueblo County, withdrawing water from the Dakota and Lytle Sandstone formations, in an amount of 40 gpm or 0.09 c.f.s., with a limitation to 650 acre feet in any ten consecutive years. The construction date is November 15, 1976, and the decreed uses are the same as recited in subparagraph (b) hereinabove. The remaining provisions of the said Decree, which is recorded at Book 2253 pages 308 through 312, records of Pueblo County, are incorporated by reference. This water is non-tributary to the Arkansas River and may be used and re-used to extinction pursuant to C.R.S. 37-82-106. **d. Successive Use Waters.** Return flows from the re-use of waters described in paragraphs 5(a) through 5(c) hereof, will be successively reused to extinction. **e. Other Sources.** Water from such additional or replacement wells as are constructed by Pueblo West pursuant to the provisions of the Decrees for the water rights identified in foregoing subparagraphs (b) and (c), or pursuant to applicable rules, regulations or permits, to recover the amount of groundwater to which Pueblo West is entitled. **5. Description of Exchange and Re-Use Plan, With Appropriation Date. a.**

Date of original decree: September 21, 1993, Case 85CW134(A), District Court, Water Division No. 2, State of Colorado, as recorded December 28, 1993 at reception number 1029671, Book 2703, page 68, records of Pueblo County. **b. Subsequent decrees awarding findings of diligence:** Case 99CW118 decreed June 23, 2000, Case 06CW53 decreed October 10, 2006, Case 12CW110 decreed February 9, 2013 and Case 19CW3013 decreed December 28, 2019. all in District Court, Water Division No. 2, State of Colorado **c. Priority Date:** December 1, 1978 **d. Use:** All uses for which the waters to be exchanged and reused are decreed, including the uses decreed in said Case 85CW134(A). **e. Location of exchange reaches** and amounts of exchange decreed: (1) For return flows delivered to the Arkansas River below Pueblo Reservoir on an instantaneous basis, the rate of flow for exchange to the upstream reservoir and diversion structures described in paragraph 4 shall be a maximum of 6.0 c.f.s. on an average daily basis. This exchange reach is from the above described Waste Water Treatment Plant, downstream on Dry Creek and its tributaries to the Arkansas River confluence, which confluence is located in the NE/4NW/4 Section 35, Township 20 South, Range 65 West of the 6th P.M. in Pueblo County, thence upstream on the Arkansas River to the Pueblo Reservoir described in foregoing paragraph 3(a) or to the Trifurcation Point described in foregoing paragraph 3(b). (2) For return flows delivered to the Arkansas River upstream of the dam forming Pueblo Reservoir (described above), either by pipeline from the existing wastewater treatment plant or from such additional wastewater treatment plants as may be added to this plan pursuant to paragraph 8(e)(ii) hereof, Pueblo West may immediately divert at the Pueblo West Trifurcation Point at the rate those return flows accrue to the stream as determined under the Decree in 85CW134(A). **6. Provide a detailed outline of what has been done toward completion or for completion of appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** Pueblo West owns and operates a single, unified and integrated municipal water supply and wastewater collection and treatment system that contain numerous components. Those components include, but are not limited to, the individual water rights and points of diversion described in this application, and the appropriative rights of exchange and reuse rights that are the subject of this application. Paragraph 108 of the said decree in Case 85CW134(A) provides that, "The proposed exchange and reuse program is part of a single extensive system of water supply and distribution. Pueblo West's ability to complete and make absolute the appropriative rights of exchange is dependent in large part on growth in water demand in the Pueblo West Water Service Area. Therefore, based on the foregoing Findings of Fact, for purposes of showing diligence in completing the appropriative rights of exchange, diligence as to any part of the system by which Pueblo West brings the Reusable Waters to the Pueblo West Water Service Area and reuses the Reusable Sewered Return Flows shall be considered diligence as to completion of the appropriative rights of exchange. Sec. 37-92-301(4)(b), C.R.S." During the period from October 10, 2006 through October 30, 2012 (the "Diligence Period"), Pueblo West has conducted the following activities. **a. Carried out the exchanges** decreed in Case 85CW134(A) to the extent of its present water and wastewater production quantities. **b. Made an additional 1.92 c.f.s.** of the originally decreed conditional right of exchange absolute in Case 21CW3067 decreed September 2, 2022. **c. Proceeded with its Wildhorse Creek return flow pipeline project** which will significantly reduce losses of its reusable wastewater as that water returns to the

Arkansas River. This project began in 2020 and reached construction completion in 2024. In 2025, Pueblo West initiated coordination of all necessary flowmeter data for accounting purposes, and the pipeline is scheduled to officially come online in May 2026. The pipeline is designed to reduce evaporation and transmission losses between the wastewater plant and the river, thereby maximizing reuse credits that the District can apply toward increasing its overall water supply. This project is specifically intended to increase the volume of water available for exchange under Case 85CW134A. Pueblo West spent approximately \$10 million dollars on the Wildhorse Pipeline Project during the diligence period. **d. Participated in a number of water court cases** in which other entities seek exchanges in the Arkansas River between the Fountain Creek confluence and Pueblo Reservoir, in order to protect Pueblo West's ability to operate the subject exchange as decreed in said case 85CW134. **e. Engineering and construction of improvements** to the water and wastewater system including extension of water and sanitary sewer lines. **f. The total amount spent by Pueblo West** on activities related to the exchange and reuse rights decreed in Case 85CW134(A) during the Diligence Period exceeds \$11 million. **g. Pueblo West also expended** approximately \$7 million on other capital projects in its water system, all of which will benefit from the activities and expenditures described above. The work performed and actions taken by Pueblo West during the Diligence Period demonstrate Pueblo West's continuing intent to develop the conditional appropriative rights of exchange and reuse described in this application. Pueblo West has shown that it can and will divert, store or otherwise capture, possess or control and beneficially use the subject exchange and reuse rights and that the subject exchange and reuse rights can and will be completed with diligence and within a reasonable time. Pueblo West has in all respects diligently worked toward placing the subject conditional water right to beneficial use. **7. Names and addresses of owners or reputed owners of the land** upon which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. **a. Pueblo Reservoir** and the Pueblo West Trifurcation Point are on land owned the U.S. Department of Interior, Bureau of Reclamation, ("Reclamation"), Eastern Colorado Area Office, 11056 West County Rd. 18-E, Loveland, CO 80537-9711. **b. The Pueblo West Wastewater Treatment Plant** is on land owned by Pueblo West.

CASE NO. 2025CW3069; TOWN OF BUENA VISTA ("Buena Vista" or "BV" or "Applicant"), c/o Brian Berger, Town Administrator, P.O. Box 2002, Buena Vista, Colorado 81211 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Andrea L. Benson and Gilbert Y. Marchand, Jr., Alperstein & Covell, P.C., 2299 Pearl Street, Suite 400-C, Boulder, CO 80302, (303) 894-8191, alb@alpersteincovell.com; gym@alpersteincovell.com.)

First Amended Application for Change of Water Right, Plan for Augmentation including Exchange Project, and Appropriative Right of Substitution and Exchange

CHAFFEE COUNTY

The original application ("Original Application") in this matter was filed on December 26, 2025, but was not published in the resume or newspaper. By minute order dated January 14, 2026, the Court ordered an amended application to "be filed by 12:00 noon on January 15, 2026, to include the PLSS legal description, and point of diversion, for the upper and

lower termini at provision 14.1.” In compliance with the minute order, paragraphs 14.1.1 and 14.1.2, below, were added, and additional language was added to paragraph 10.4, below. The Court also requested a clarifying reference in paragraph 4, below, to a previous decree for the Bray-Allen Ditch Water Right. No other changes have been made to the Original Application. This First Amended Application will be published in the resume and newspaper. A redlined version of the First Amended Application, showing all the revisions to the Original Application, is on file with the Court.

1. Name, mailing address, email address and telephone number of applicant: Town of Buena Vista (“Buena Vista” or “BV” or “Applicant”), c/o Brian Berger, Town Administrator, P.O. Box 2002, Buena Vista, Colorado 81211, Telephone No.: 719-395-8643, e-mail: bvadmin@buenavistaco.gov.

CHANGE OF WATER RIGHT

2. Description of application, and decreed name of water right and structure for which change is sought: Buena Vista acquired the water right for the Bray Ditch and Allen Extension (“Bray-Allen Ditch”) (WDID 1100537) described herein, and seeks to change the water right to use it for augmentation, municipal and other beneficial purposes. As part of the change, Buena Vista seeks to quantify the lawful historical consumptive use of the water right and replace its historical return flows and ditch losses in such a manner as to prevent injury to other water rights. The irrigation season depletion amount (“Depletion Credits”) associated with the changed water right will be fully consumable so long as both surface and deep percolation historical return flows and ditch losses are replaced as necessary to prevent injury to other water rights. After measurement of the diversion, Buena Vista may (1) deliver the required return flow and ditch loss water back to the Arkansas River as necessary to prevent injury to other water rights and (2) deliver the Depletion Credits to the Arkansas River to augment out-of-priority delayed depletions associated with Buena Vista’s wells described herein. The augmentation of such depletions will occur via the Exchange Project sought herein. Additionally, Buena Vista has entered into a long-term lease with the Board of Water Works of Pueblo, Colorado for storage capacity in Clear Creek Reservoir. In connection therewith, Buena Vista may deliver water associated with the changed Bray-Allen Ditch water right to the Arkansas River and exchange such water up to Clear Creek Reservoir for storage and subsequent beneficial use.

3. Date of original and all relevant subsequent decrees and decree information for the subject water right: The Bray-Allen Ditch water right was decreed by the District Court, County of Chaffee, State of Colorado, in Case No. 1530 “In The Matter of Water Rights and Priorities in Water District No. 11 of the State of Colorado” on July 13, 1897, with Priority No. 116E for 5.0 cfs for irrigation purposes with an appropriation date of September 28, 1882. A decree correcting the established but erroneously described point of diversion pursuant to C.R.S. § 37-92-305(3.6) was entered on December 31, 2024 in Case No. 24CW3025, District Court, Water Division No. 2.

4. Legal description of point of diversion (pursuant to the aforementioned decree in Case No. 24CW3025 that corrected the decreed legal description): on the east bank of the Arkansas River in the NW1/4 quarter of the NW1/4 quarter of Section 22, Township 14 South, Range 78 West, of the 6th P.M., at a point located approximately 300 feet from the west section line and 1,210 feet from the north section. The UTM coordinates are: Northing 4297550.0 meters, Easting 403839.0 meters (Datum: NAD83; UTM Zone 13N).

5. Decreed source of water: Arkansas River.

6. Appropriation date: September 28, 1882; Priority 116E.

7. Total amount decreed to structure in cubic feet per second (“cfs”): 5 cfs, absolute.

8.

Decreed use: irrigation. **9. Amount of water that Applicant intends to change:** 5 cfs.

10. Detailed description of proposed change: **10.1. Historical Use:** The Bray-Allen Ditch water right was historically used to irrigate an annual average of approximately 145 acres of land within the west half of the northeast quarter, the east half of the northwest quarter, the west half of the southeast quarter, the east half of the southwest quarter, and the southwest quarter of the northwest quarter, all in Section 3, Township 15 South, Range 78 West, of the 6th P.M., Chaffee County, Colorado. A map of the historically irrigated lands is attached as **Exhibit A** to the application. . (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) A summary of diversion records (sourced from CDSS) is attached as **Exhibit B** to the application on file with the Court and incorporated herein by reference. BV will quantify the historical consumptive use of the Bray-Allen Ditch water right in this proceeding. BV will evaluate the Bray-Allen Ditch water right using the Integrated Decision Support Consumptive Use Model from Colorado State University and the modified Blaney-Criddle ET method over a study period of 1954 to 2020. Climate data used in the model was from NOAA climate station Buena Vista 2 S, CO US. BV will propose terms and conditions as necessary to prevent injury to other water rights. **10.2. Proposed Change:** **10.2.1. No Change in Point of Diversion:** BV does not seek a change in point of diversion of the Bray-Allen Ditch water right. It will continue to be diverted at the point of diversion described above in paragraph 4. **10.2.2. Change in Location of Use:** BV seeks to change the place of use of the Bray-Allen Ditch water right to allow its use in all locations served by BV's municipal water system, as it currently exists or may exist in the future, and in all locations where water is otherwise provided to the Arkansas River stream system by BV. A map showing the approximate boundaries of BV's current municipal service area is attached as **Exhibit C** to the application on file with the Court and incorporated herein by reference. **10.2.3. Change in Type of Use:** BV seeks to change the Bray-Allen Ditch water right to allow it to be used by direct flow and/or storage, including aquifer storage and/or recharge, for BV's municipal purposes, including, but not limited to, domestic, industrial, commercial, fire protection, graywater, stock watering, in-reservoir recreation, wetlands, irrigation, aesthetic, water features, in-reservoir fish, and in-reservoir wildlife use, and as a source of augmentation, replacement, and substitute supply, including for exchanges. BV also seeks the right to totally consume the water and use it to extinction either by first use, reuse, successive use, or disposition to third parties including, but not limited to, by existing or subsequent lease or agreement. **10.2.4.** After diversion and prior to initial use by BV, water diverted pursuant to the Bray-Allen Ditch water right may be stored in Clear Creek Reservoir (WDID 1103504). Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West, and Section 12, Township 12 South, Range 80 West, of the 6th P.M. in Chaffee County. The UTM Coordinates for the centerline of the dam above the outlet are: Northing 4319850.0 meters, Easting 392217.0 meters (Datum: NAD83; UTM Zone 13N). Such water will be delivered to storage by the exchange sought herein. A map showing the location of Clear Creek Reservoir is attached as **Exhibit D** to the application on file with the Court and incorporated herein by reference. **10.3. Historical Return Flows:** In this change of water right proceeding, historical return flows attributable to the Bray-Allen Ditch water right will be quantified. Such return flows accrued to the Arkansas River in the vicinity of the historically irrigated lands described in paragraph 10.1 above. BV will

replace the return flows above the location of a validly administered call on the Arkansas River senior to December 26, 2025. BV may use the Bray-Allen Ditch water right and any other water rights owned or controlled by BV that are or have been determined to be fully consumable or usable for replacement purposes by this or any other decree to meet required historical return flow obligations. To the extent that the Bray-Allen Ditch water right is used to replace return flows, such water will be delivered from the proposed Bray-Allen Augmentation Station or released from Clear Creek Reservoir. When return flows are replaced using fully consumable water other than the changed Bray-Allen Ditch water right, the corresponding diversion of the changed Bray-Allen Ditch water right shall be a fully consumptive Depletion Credit available for the changed uses. The fully consumable rights currently available to BV (not counting the subject Bray-Allen Ditch water right) that BV may use to meet return flow obligations are shown below in paragraph 10.3.1. **10.3.1. Fryingpan-Arkansas Project Water (“Project Water”)** to the extent it is available for return flow replacement pursuant to an annual allocation that BV is eligible to receive. Such water may be made available to BV in Cottonwood Lake (WDID 1104005) which is located on South Cottonwood Creek, in Section 36, Township 14 South, Range 80 West of the 6th P.M. in Chaffee County, Colorado. (The Division Engineer’s reported location is Northing 4293209 meters, Easting 388969 meters (Datum: NAD83; UTM Zone 13N)). BV may purchase and use such Project Water after it is allocated to BV by the Southeastern Colorado Water Conservancy District (“Southeastern District”). The Southeastern District allocates Project Water annually based on its principles, policies, rules and regulations, as they may be amended. Any and all use of Project Water as described herein will be pursuant to and subject to the decrees for the Fryingpan-Arkansas Project, and to all lawful rules, regulations, policies and contract obligations of the Southeastern District. Any decree entered in this case will not give BV any rights to use Fryingpan-Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocations of Project Water or return flows therefrom, but will not alter any existing rights, including allocation rights, that BV may otherwise have. BV will use Project Water only if, when and to the extent that it has purchased such water after it is allocated to BV by the Southeastern District. **10.4. Augmentation station:** As required by the terms and conditions of the decree to be entered in this case, return flows, ditch losses, and Depletion Credits associated with the Bray-Allen Ditch water right shall be returned to the Arkansas River through an augmentation station at a location to be described in the decree. A map showing the proposed approximate location of the augmentation station (“Bray-Allen Augmentation Station”) is attached as **Exhibit E** to the application on file with the Court and incorporated herein by reference, and its legal description is in paragraph 14.1.1, below. **AUGMENTATION PLAN INCLUDING EXCHANGE PROJECT 11.**

Names of structures, and decrees for structures, to be augmented: **11.1.** Buena Vista Town Well No. 3 (“Well No. 3”), permit number 87123-F. Well No. 3 is permitted and operated in accordance with the Upper Arkansas Water Conservancy District (“UAWCD”) exchanges and augmentation plans approved by the Division 2 Water Court in Case Nos. 92CW84, 94CW5, 94CW41, 94CW42, 96CW17, 03CW55 and 06CW32, and such other or additional UAWCD exchanges and augmentation plans as have been or may be judicially and/or administratively approved in the future (collectively, such existing and future UAWCD exchanges and augmentation plans are referred to herein as “UAWCD Exchanges and Augmentation Plans”). If necessary to comply with the decree

entered herein, BV will apply for a new permit for Well No. 3 in accordance with C.R.S. § 37-90-137(2) to reflect new pumping parameters and augmentation sources decreed herein. **11.1.1. Legal description of well.** Well No. 3 is located in the NE1/4 SW1/4, Section 9, Township 14 South, Range 78 West of the 6th P.M., at GPS location Northing 4300240.0 meters, Easting 402548.0 meters (Datum: NAD83; UTM Zone 13N). The source of the UTM coordinates and PLSS description is Applicant's consultant's ArcGIS software. **11.1.2. Source:** Arkansas River alluvium. **11.1.3. Depth:** 88 feet. **11.1.4. Amount:** Under permit number 87123-F, the pumping rate shall not exceed 500 gpm, and the annual amount of ground water to be appropriated shall not exceed 60.023 acre-feet. **11.1.5. Use:** all municipal purposes. **11.2. Buena Vista Town Well No. 4** ("Well No. 4"). BV will apply for a permit for Well No. 4 in accordance with C.R.S. § 37-90-137(2). **11.2.1. Legal description of well.** Well No. 4 is proposed to be located in the SW1/4 NW1/4, Section 9, Township 14 South, Range 78 West of the 6th P.M. at or within 200 feet of a point at GPS location Northing 4300438 meters, Easting 402290 meters (Datum: NAD83; UTM Zone 13N). **11.2.2. Source:** Arkansas River alluvium. **11.2.3. Depth:** approximately 90 feet, actual depth to be determined upon drilling and completion. **11.2.4. Amount:** 500 gpm; the cumulative combined pumping rate of Well Nos. 3, 4, and 5 will not exceed 800 gpm. **11.2.5. Use:** all municipal purposes. **11.3. Buena Vista Town Well No. 5** ("Well No. 5"). BV will apply for a permit for Well No. 5 in accordance with C.R.S. § 37-90-137(2). **11.3.1. Legal description of well.** Well No. 5 is proposed to be located in the SW1/4 NW1/4, Section 9, Township 14 South, Range 78 West of the 6th P.M., at or within 200 feet of a point at GPS location Northing 4300456.0 meters, Easting 402386.0 meters (Datum: NAD83; UTM Zone 13N). **11.3.2. Source:** Arkansas River alluvium. **11.3.3. Depth:** approximately 90 feet, actual depth to be determined upon drilling and completion. **11.3.4. Amount:** 500 gpm; the cumulative combined pumping rate of Well Nos. 3, 4, and 5 will not exceed 800 gpm. **11.3.5. Use:** all municipal purposes. **12. Water rights to be used for augmentation:** **12.1.** Bray-Allen Ditch water right pursuant to the change claimed and to be decreed herein. Depletion Credits made available under the changed Bray-Allen Ditch water right will be released to the Arkansas River from the Bray-Allen Augmentation Station described above in paragraph 10.4 and depicted in **Exhibit E**. Such Depletion Credits may also be released from Clear Creek Reservoir, described in paragraph 10.2.4 above and depicted in **Exhibit D**. **12.2.** Pursuant to C.R.S. § 37-92-305(8), BV also proposes to use in the future as augmentation supplies or return flow replacement supplies other water rights or sources of water that BV then owns or controls, including other water rights identified during this proceeding, provided that they are decreed for, or otherwise available for, augmentation or replacement purposes or may be used for augmentation or replacement purposes pursuant to a State Engineer-approved substitute water supply plan pursuant to C.R.S. § 37-92-308 or interruptible supply plan pursuant to C.R.S. § 37-92-309, or any amendment thereof, and provided that BV can make such supplies available at the locations, at the time, and in the amount required for such augmentation or replacement. Pursuant to C.R.S. § 37-92-305(8), required procedures to allow BV's use of such additional sources will be determined in this proceeding. BV also claims the right to use such other water in one or more substitute water supply plans that may be approved for operations prior to entry of a final decree. **13. Complete statement of plan for augmentation:** Under this plan for augmentation, BV will replace injurious out-of-priority depletions caused by pumping of Buena Vista

Town Well Nos. 3, 4, and 5, which are described in paragraph 11, above. Such depletions may be replaced by Depletion Credits from the changed Bray-Allen Ditch water right delivered from the Bray-Allen Augmentation Station, in which case the replacement will occur by virtue of the exchange project(s) described below in paragraph 14. Such depletions may also be replaced by Depletion Credits from the changed Bray-Allen Ditch water right that are released from Clear Creek Reservoir, after having been stored in the reservoir by virtue of the appropriative right of exchange described below in paragraph 15. The injurious out-of-priority depletions of Buena Vista Town Well No. 3 are currently replaced as described in paragraph 11.1 above. In addition to being augmented by the Bray-Allen Depletion Credits determined herein, the injurious out-of-priority depletions of Buena Vista Town Well Nos. 4 and 5 may also be quantified and replaced pursuant to the UAWCD Exchanges and Augmentation Plans described above in paragraph 11.1.

EXCHANGE PROJECT(S). **14. Exchange Project(s):** The augmentation supply to be decreed herein for Well Nos. 3, 4, and 5 will be delivered to the Arkansas River from the Bray-Allen Augmentation Station, which is described above in paragraph 10.4. The location of the most upstream point where stream depletions from pumping of Well Nos. 3, 4, and 5 accrue to the Arkansas River ("Upstream Depletion Point") is estimated to be at the following coordinates: Northing 4300639.0 meters, Easting 402398.0 meters (Datum: NAD83; UTM Zone 13N). Since the location where augmentation water will be delivered to the Arkansas River is below the location of the Upstream Depletion Point, an Exchange Project is involved. **14.1.** The reach of the Exchange Project ("Exchange Project Reach") is from the point on the Arkansas River where Bray-Allen Depletion Credits are delivered from the Bray-Allen Augmentation Station ("Lower Terminus") to the Upstream Depletion Point ("Upper Terminus"). A map depicting the Exchange Project Reach is attached as **Exhibit F** to the application on file with the Court and incorporated herein by reference. **14.1.1** Lower Terminus (Bray-Allen Augmentation Station): The Bray-Allen Augmentation Station is proposed to be located in the SW1/4 NW1/4, Section 22, Township 14 South, Range 78 West of the 6th P.M. at or within 200 feet of a point at GPS location Northing 4297466 meters, Easting 403899 meters (Datum: NAD83; UTM Zone 13N). **14.1.2** Upper Terminus (Upstream Depletion Point): The Upstream Depletion Point will be determined herein and is estimated to be located in the SW1/4 NW1/4, Section 9, Township 14 South, Range 78 West of the 6th P.M. at or within 200 feet of a point at GPS location Northing 4300639 meters, Easting 402398 meters (Datum: NAD83; UTM Zone 13N). **14.2.** The date of appropriation of the Exchange Project is December 26, 2025. The appropriation was initiated by Buena Vista's formation of the intent to appropriate the water exchange project right followed by actions to further and give notice of the appropriation including, but not limited to, the filing of this application. **14.3.** The maximum rate of the Exchange Project will be determined herein, and is presently estimated to be 1.78 cubic feet per second. Without amending the application, Buena Vista reserves the right to revise the rate of the water exchange project upward as necessary to reflect the well pumping and augmentation operations proposed herein. **14.4.** The source of substitute supply for the Exchange Project is the Depletion Credits resulting from the changed Bray Allen Ditch water right determined herein and such other augmentation water that may be added to the Exchange Project pursuant to C.R.S. § 37-92-305(8). **14.5.** The proposed use is augmentation of the well depletions described herein. **14.6.** The Exchange Project will operate to replace depletions to the flow of water

in the stream system as the depletions from well pumping occur. The Exchange Project will be operated and administered with a priority date of December 26, 2025 at the maximum flow rate determined herein. Buena Vista's augmentation plan will cause depletion of the Exchange Reach described above, and future water rights, if any, in the Exchange Project Reach that are junior to an appropriation and priority date of December 26, 2025, will not be allowed to call out Buena Vista's well pumping and/or augmentation plan. **APPROPRIATIVE RIGHT OF SUBSTITUTION AND EXCHANGE.** **15.** BV is seeking an appropriative right of substitution and exchange, with an appropriation date of December 26, 2025. The right of exchange will allow water associated with downstream Depletion Credits from the Bray-Allen Augmentation Station to be substituted and exchanged for diversion into storage in Clear Creek Reservoir. The exchange reach extends from the point where water delivered from the Bray-Allen Augmentation Station reaches the Arkansas River to the point where water is stored in Clear Creek Reservoir ("Exchange Reach"). BV seeks confirmation of this right of exchange as described hereinafter. **Exhibit F** is a map depicting the structures involved and the Exchange Reach. Accordingly, BV requests approval of the following conditional appropriative right of exchange: **15.1. Exchange Reach:** **15.1.1.** Downstream Terminus: the point on the Arkansas River where Bray-Allen Depletion Credits are delivered from the Bray-Allen Augmentation Station. The Bray-Allen Augmentation Station is described in paragraph 10.4, above, and depicted in **Exhibit F.** **15.1.2.** Upstream Terminus: Clear Creek Reservoir and/or its dam, described in paragraph 10.2.4, above, and depicted in **Exhibit F.** **15.2.** The date of appropriation of the exchange is December 26, 2025. The appropriation was initiated by Buena Vista's formation of the intent to utilize the appropriative right of substitution and exchange to store water in Clear Creek Reservoir followed by actions to further and give notice of the appropriation including, but not limited to, the filing of this application. **15.3.** The maximum rate of the exchange is 5 cfs. As a proposed term and condition, the maximum volume of the exchange will not exceed 415 acre-feet per year. **15.4.** The source of substitute supply for the exchange is the changed Bray-Allen Ditch water right. **15.5.** The proposed uses of the exchanged water are described in paragraph 10.2.3. **16. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** **16.1.** To the extent that the diversion structure associated with the Bray-Allen Ditch water right will be modified in connection with the application herein, the owner of the affected land is: Trout Creek Farm, LLC, 27581 CR 301, Mailing: 1816 Wood Ave., Colorado Springs, CO 80907. **16.2.** The owner of Clear Creek Reservoir is Pueblo, a municipal corporation, acting by and through Board of Water Works of Pueblo, Colorado, 319 West 4th Street, Pueblo, CO 81003. **17.** Buena Vista agrees that it will not use water rights or structures owned by others if it has not first acquired a lawful right to do so.

CASE NO. 2025CW3070; EMILY AND JASON R. SCHOTT, 2865 Spaatz Road, Monument, Colorado 80132 (Please direct all pleadings and inquiries regarding this matter to Applicant's attorneys: Ryan W. Farr, 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 Plan for Augmentation
EL PASO COUNTY

II. The Applicants own approximately 5.15 acres located in a portion of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 27, Township 11 South, Range 67 West of the 6th P.M. in El Paso County, Colorado, more specifically described as Lot 6, Block 4, Pine Hills Addition No. 4, County of El Paso, State of Colorado, as amended by Amended Plat recorded November 15, 1957 in Book Z at Page 32, with an address of 2865 Spaatz Road, Monument, CO 80132, and depicted on the **Exhibit A** map attached to the application ("Applicants' Property"). (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) Applicants intend to utilize the existing well for multiple dwellings on this property. Existing Wells. There is one domestic well registered with Division of Water Resources Permit No. 308413 ("Schott Well"). The Schott Well is drilled to a depth of 330 feet to the Dawson aquifer. Upon approval of this plan for augmentation this well will be re-permitted for all uses approved with the augmentation plan. Water Source. Not-Nontributary. The groundwater to be withdrawn from the Dawson and Denver aquifers underlying the Applicants' Property is not-nontributary (NNT). Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson and Denver aquifers will require the replacement of actual stream depletions. Nontributary. The groundwater that will be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicants' Property is nontributary (NT). Estimated Rates of Withdrawal and Groundwater Available. Estimated Rates of Withdrawal. Pumping from any well to be drilled on the Applicants' Property will not exceed 100 gallons per minute. The actual pumping rates for each well will vary according to aquifer conditions and well production capabilities. The Applicants request the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of any well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions. Estimated Average Annual Amounts of Groundwater Available. Applicants request a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicants' Property. Said amounts may be withdrawn over the State of Colorado's 100-year life requirement pursuant to § 37-90-137(4)(b), C.R.S. Applicants estimate that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicants' Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)
Dawson (NNT)	76.9	79.21	0.79
Denver (NNT)	322.5	282.35	2.82
Arapahoe (NT)	394.3	345.21	3.45
Laramie Fox Hills (NT)	183	141.37	1.41

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. § 37-92-305(11), the Applicants 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 Applicants request the right to use the groundwater for beneficial uses upon the Applicants' Property consisting of domestic use in up to three residences (including long and short-term rentals), irrigation of lawn, garden and greenhouse, recreation (including filling of a pool or hot tub), commercial (home office, rental), fire protection, and also for storage and augmentation purposes associated with such uses. The Applicants also request that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicants' Property subject, however, to the requirement of C.R.S. § 37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicants may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicants shall only be entitled to use water from the not-nontributary Dawson and 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 aquifer in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicants request that they be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Applicants' Property through any combination of wells. Applicants request that these wells be treated as a well field. Averaging of Withdrawals. Applicants request that they be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicants' Property, so long as the sum 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 Applicants are entitled to withdraw from the aquifers underlying the Applicants' Property. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells are located is owned by the Applicants. III. Structure to be Augmented. The structure to be augmented is the Schott Well, which is currently completed to the Dawson aquifer in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 27, Township 11 South, Range 67 West of the 6th P.M., in El Paso County, Colorado, and permitted under Well Permit No. 308413, along with any replacement or additional wells associated therewith. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Schott Well, together with water rights from the nontributary Arapahoe aquifer for any injurious post pumping depletions. Statement of Plan for Augmentation. Applicants seek to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer well described herein. Water use criteria and their consumptive use component for replacement of actual depletions for the Applicants' Property are estimated as follows: Use. The Schott Well will pump a maximum total of 0.777 acre feet of water from the Dawson aquifer annually. Such use shall be a combination of household use, irrigation of lawn and garden, pool/hot tub, and the watering of horses or equivalent livestock. Depletions. It is estimated that maximum stream depletions over the 100 year pumping period for the Dawson aquifer amounts to approximately 26.1 percent of pumping at year 100. See

Exhibit B. Maximum annual depletions for pumping 0.777 acre feet from Schott Well are therefore 0.203 acre feet in year 100. *Id.* Should Applicants' pumping be less than 0.777 acre feet described herein resulting depletions will be correspondingly reduced.

Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicants are required to replace actual stream depletions attributable to pumping of a well completed to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10%. At a household use rate of 0.2 acre feet per residence per year, 0.18 acre-feet is replaced to the stream system per year from each residence, assuming the use of a non-evaporative septic systems, or 0.36 acre feet combined from two residences. 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 Schott Well, Applicants will reserve up to 0.8 acre-feet of water from the nontributary Arapahoe Arapahoe aquifer, less the amount of actual stream depletions replaced during the plan pumping period. Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Arapahoe aquifer groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicants will be entitled to apply for and receive a new well permit for the Schott Well, for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137. **IV.** Applicants request a finding that they have complied with C.R.S. § 37-90-137(4), and that the groundwater requested herein is legally available for withdrawal by the requested not-nontributary well upon the entry of a decree approving an augmentation plan pursuant to C.R.S. § 37-90-137(9)(c.5). The term of this augmentation plan is for 100 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. The Applicants request a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. Wells shall be installed and metered as reasonably required by the State Engineer. Each well may be required to be equipped with a totalizing flow meter and Applicants may be required to submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicants may also be required to provide accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan of augmentation. The Applicants waive the 600 feet well spacing requirement of C.R.S. § 37-90-137(2)(b) for any wells to be located upon the Applicants' Property in relation to one another. This waiver does not apply to wells not located on the property and/or not owned by the Applicants. Applicants own their property

free and clear of any liens or encumbrances, rendering the notice provisions set forth in C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(l) unapplicable.

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

CASE NO. 2025CW3071, Water Division 2 and CASE NO. 2025CW3190, Water Division 1 – BRIAN PETERSON, 17390 Shiloh Pines Drive, Monument, Colorado

80132 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Ryan W. Farr, Sedona E. Chavez, Monson, Cummins, Shohet & Farr, 13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921 (719) 471-1212)
Application for Plan for Augmentation

EL PASO COUNTY

II. Applicant owns a 3.94-acre parcel of land and is seeking approval of a plan for augmentation for the use of a not-nontributary Dawson aquifer well for provision of water to this property. **III. Application for Underground Water Rights.** Property Description. Applicant's property lies in the SE1/4 of the NE1/4 of Section 16, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, Schedule No. 7116100001, as approximately shown 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.) and as more specifically described as follows: BEGINNING AT THE SW CORNER OF SD TRACT AND CONSIDERING THE W LN THEREOF TO BEAR N00-20-04E WITH ALL BEARINGS CONTAINED HEREIN RELATIVE TO; TH N00-20-04E ALONG THE W LNG OF SD TRACT 268.00FT; TH DEPARTING SD W TRACT LN N65-23-47E 252.87FT; TH N89-10-49E 80.57FT; TH S53-43-37E 305.58FT; TH S00-20-04W 185.67FT M/L TO A PT ON THE S LN OF SD TRACT; TH S89-10-51W ALG THE S LN OF SD TRACT 557.37FT M/L TO THE POB This is a portion of the 3125 N. Monument Lake Road, Monument, Colorado 80132 address. The El Paso County Assessor has assigned Schedule No. 7116100001 to Applicant's Property. Existing Wells. There are no existing wells on the Applicant's Property. Proposed Wells. Applicant intends to construct one well on the Applicant's Property, to be drilled to the not-nontributary Dawson aquifer ("Peterson Well"). Water Source. Not-Nontributary. The groundwater to be withdrawn from the Dawson and Denver aquifers underlying Applicant's Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson and Denver aquifers require the replacement of actual stream depletions. Nontributary. The groundwater to be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying Applicant's Property is nontributary. Estimated Rates of Withdrawal and Groundwater Available. Estimated Rates of Withdrawal. Pumping from the wells on Applicant's Property will not exceed 100 gpm. The actual pumping rate for the wells will vary according to aquifer conditions and well production capabilities. Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts as set forth below. Estimated Average Annual Amounts of Groundwater Available. The Denver Basin aquifer water underlying Applicant's Property was previously subject of a decree quantifying water underlying a larger area of land, of which Applicant's Property was a portion. Such decree was issued in Case No. 13CW3025, District Court, Water Division 2, dated February 21, 2014. Applicant is the owner of Applicant's Property as well as the owner of the following

water in the Denver Basin aquifers as quantified in the Decree pursuant to the attached **Exhibit B** deed:

Aquifer	Net Sand (Feet)	Total (Acre-Feet)	Annual Avg. Withdrawal 100 Years (Acre-Feet)	Annual Avg. Withdrawal 300 Years (Acre-Feet)
Dawson (NNT)	320	251	2.51	0.83
Denver (NNT)	220	150	1.5	N/A
Arapahoe (NT)	460	313	3.13	N/A
Laramie-Fox Hills (NT)	200	120	1.2	N/A

IV. Application for Augmentation Plan. Structures to be Augmented. The structure to be augmented is the Peterson Well on Applicant's Property, which is to be completed to the Dawson aquifer, along with any replacement or additional wells associated therewith. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer from the Peterson Well, together with water rights from the nontributary Arapahoe aquifer for any injurious post-pumping depletions. Statement of Plan for Augmentation. Applicant seeks to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by means of the Peterson Well. Water use criteria and their consumptive use component for replacement of actual depletions from the pumping of the Peterson Well are estimated as follows: Uses. Pumping from the Dawson aquifer will be a maximum of 0.50 acre-feet of water per year. Such uses shall be for domestic, commercial, irrigation, stock watering, recreation, piscatorial, and fire protection, and for storage and augmentation purposes associated with such uses. Amounts. The Peterson Well will pump a maximum of 0.50 acre-feet from the Dawson aquifer annually, for the uses described above. Depletions. It is estimated that maximum stream depletions over the 300-year pumping period for the Dawson aquifer amounts to approximately 34.55% of pumping. Maximum annual depletions for total pumping from the Peterson Well is therefore 0.173 acre-feet in year 300. Should Applicant's pumping be less than the 0.50 acre-feet total per year described herein, resulting depletions and required replacements will be correspondingly reduced, so long as depletions resulting from pumping are adequately replaced. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of a well completed to the Dawson aquifer. Depletions during pumping will be effectively replaced by residential return flows from a non-evaporative septic system. The annual consumptive use for non-evaporative septic systems is 10%. At a household rate of 0.20 acre-feet per residence per year, 0.18 acre-feet is replaced to the stream system per year from in-home domestic uses, assuming the use of a non-evaporative septic system. Thus, during pumping, stream depletions will be adequately augmented. Augmentation for Post-Pumping Depletions. For the replacement of any injurious post-pumping depletions that may be associated with the use of the Peterson Well, Applicant will reserve 153 acre-feet from the underlying Arapahoe aquifer accounting for actual stream depletions replaced during the pumping period, as necessary to replace any injurious post-pumping depletions. Applicant also reserves the right to substitute other legally available

augmentation sources for such post-pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post-pumping depletions will be noninjurious. The reserved nontributary Arapahoe 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 Peterson Well on Applicant's Property, and any replacement or additional wells, for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137. **V. Remarks.** This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system, where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter in Water Division 2 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. Applicant requests a finding that it has complied with C.R.S. § 37-90-137(4), and that the groundwater requested herein is legally available for withdrawal by the non-tributary Mellion Well No. 1 upon the entry of a decree approving a plan for augmentation pursuant to C.R.S. § 37-90-137(9)(c.5). The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post-pumping stream depletions accrue to a particular well only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. Wells shall be installed and metered as reasonably required by the State Engineer. Each well may be required to be equipped with a totalizing flow meter and Applicant may be required to submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant may also be required to provide accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan for augmentation. The Applicant waives the 600-feet well spacing requirement, pursuant to C.R.S. § 37-90-137(2)(b), for any wells to be located on Applicant's Property in relation to one another. This waiver does not apply to wells not located on Applicant's Property and/or not owned by the Applicant. There are no lienholders on the Applicant's Property, as such, the notice requirements of C.R.S. § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(l) are not applicable.

CASE NO. 2025CW3072; OVERLOOK MUTUAL WATER COMPANY, c/o Gregory Bloss, 3810 McKay Road, Colorado Springs, CO 80906 (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 for Approval of Plan for Augmentation Including Exchange.

EL PASO COUNTY

2. Structures to be augmented: McKay Tunnel, with the following water rights ("McKay Tunnel Water Rights"): a. McKay Pipe Line No. 2: Case Numbers: Case No. 10146, District Court, County of El Paso, June 2, 1919; Case No. 13801, District Court, County of El Paso, February 8, 1954. Legal description of point of diversion: Southeast Quarter of Section 2, Township 15 South, Range 67 West, 6th P.M., at a point whence the North Quarter corner of said Section 2 bears North 1 degree 8 minutes West, a distance of 3132.31 feet. The location is generally shown on the map attached to the Application on file with the Clerk of the Water Court. Appropriation date: April 28, 1911. Amount: 0.094 c.f.s. absolute. Source of water: springs tributary to Fountain Creek. Decreed uses: Case No. 10146 - irrigation; Case No. 13801 - general municipal use including domestic, municipal, fire protection, sewage disposal, street sprinkling and flushing, sprinkling of lawns, parks, trees, shrubs and flowers and in the growing of small private gardens, manufacturing and industrial use including the creation and generation of power and other municipal use. b. McKay Seepage Ditch and McKay Seepage Ditch and Pipe Line Amended: Case numbers: Case No. 10146, District Court, County of El Paso, June 2, 1919; Case No. 13801, District Court, County of El Paso, February 8, 1954. Legal description of point of diversion: Southeast Quarter of Section 2, Township 15 South, Range 67 West., 6th P.M. at a point whence the North Quarter corner of said Section 2, Township 15 South, Range 67 West, bears North 0 degrees 57 minutes 38 seconds West a distance of 3656.24 feet. The location is generally shown on the **Exhibit 1** 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.) Appropriation date: July 26, 1910. Amount: 0.119 c.f.s. absolute. Source of water: springs tributary to Fountain Creek. Decreed uses: Case No. 10146 - irrigation; Case No. 13801 - general municipal use including domestic, municipal, fire protection, sewage disposal, street sprinkling and flushing, sprinkling of lawns, parks, trees, shrubs and flowers in the growing of small private gardens, manufacturing and industrial use including the creation and generation of power and other municipal use. **3. No other water rights are diverted from these structures.** **4. Water rights to be used for augmentation:** Applicant has contracted to purchase up to 3.0 acre-feet annually of fully consumable water obtained from Colorado Springs-Utilities ("Utilities"), that will be measured and deemed delivered to Fountain Creek from Utilities' Las Vegas Street Waste Water Treatment Plant upstream of the confluence of Spring Run Creek with Fountain Creek a distance of 1,100 feet and delivered on a schedule to replace such depletions. The water purchased from Utilities is derived from the sources described in Appendix A to the amended Decree entered January 8, 1998, in Consolidated Case Nos. 84CW202, 84CW203, 86CW118 (B), and 89CW36, and made available for use pursuant to the terms of the Decrees which have been entered in Case Nos. 84CW202 (both Sewered and Non-Sewered), 84CW203 (both Sewered and Non-Sewered), and 86CW118 (A) and (B), and fully consumable water available under the Decree entered February 4, 2020 in Case No. 16CW3056, District Court, Water Division No. 2. The Las Vegas Street Waste Water Treatment Plant Outfall (WDID: 1201122) is located in El Paso County, CO in the SE1/4 of the SW1/4 of Section 20, T.14S., R.66W. of the 6th P.M. Said outfall discharges to the Fountain Mutual Ditch and then to Fountain Creek through the Fountain Mutual Ditch wastewater which is above the measuring flume for the Fountain Mutual Ditch, in the NW1/4 of the NE1/4 of Section

29, T.14S., R.66W. of the 6th P.M. UTM (NAD83)(GPS): Easting: 516895.0, Northing: 4295954.0. Additional or alternative sources of augmentation water may be added to the augmentation plan pursuant to statutory requirements, including C.R.S. § 37-92-305 (8)(c). **5. Statement of plan for augmentation.** Applicant operates a central water system for the Overlook Colony with 28 homes on non-evaporative septic systems, using the McKay Tunnel Water Rights. A map of relevant structures is attached to the Application on file with the Clerk of the Water Court. Applicant will replace out-of-priority depletions from the McKay Tunnel Water Rights in time, location, and amount so as to prevent injury with fully consumable water that it purchases from Utilities. The claimed exchange will operate as part of the augmentation plan to replace out-of-priority depletions. Applicant will maintain diversion records of the McKay Tunnel Water Rights and augment out-of-priority depletions based on actual diversion records. Depletions from the use of the McKay Tunnel Water Rights and accretions from septic return flows accrue to Spring Run Creek, tributary to Fountain Creek, tributary to the Arkansas River, approximately in the SW1/4NE1/4 of Section 29, T.14S., R.66W, 6th P.M. Applicant will measure actual diversions and proposes to calculate depletions assuming indoor use returns to the stream as 90% of diversions, calculating outdoor use as the total monthly use during the irrigation season minus the average monthly use during the non-irrigation season, assuming 100% consumption of outdoor uses, and calculating lagged return flows and total stream depletions using the Glover method with unit response functions developed for the McKay Tunnel Water Rights and the Overlook Colony. To determine the amount of augmentation water that may be needed Applicant developed a water budget based on diversions of the McKay Tunnel Water Rights of 2.53 acre-feet per year (assuming the historical maximum monthly diversion of the McKay Tunnel Water Rights over a chosen study period) and using the methodology described above. The water budget estimated outdoor use of 0.22 acre-feet, lagged return flows of 2.08 acre-feet, and total stream depletions of 0.45 acre-feet for the initial augmentation plan year. Based on this water budget, Applicant estimates that up to 0.45 acre-feet per year of augmentation water will be needed. Transit losses on augmentation water will be as assessed by the Water Commissioner. Applicant will report to the Division Engineer actual diversions of the McKay Tunnel Water Rights, calculated augmentation water requirements, and augmentation water releases no less frequently than monthly. **6. Exchange.** Applicant requests adjudication of an appropriative right of exchange or exchange project: a. Structure/exchange: Overlook Exchange. b. Description of Exchange: The exchange shall operate from the outfall of Utilities Las Vegas Street Waste Water Treatment Plant located as described above, downstream on Fountain Creek to the confluence with Spring Run Creek located in the SW1/4NE1/4 of Section 29, T.14S., R.66W., 6th P.M., then upstream on Spring Run Creek to the point of depletion and point of diversion of the McKay Tunnel Water Rights in SE1/4 of Section 2, T.15S., R.67W., 6th P.M.. A map of the exchange reach is attached to the Application on file with the Clerk of the Water Court. c. Source of exchanged water or substitute supply: The augmentation water described above. d. Date of initiation of appropriation: August 15, 2025. e. How appropriation was initiated: By formulation of intent to appropriate and place water to beneficial use, by execution of a water purchase contract with Utilities, and by filing this application with the Water Court. f. Amount of exchange: up to 3 acre-feet per year, at a maximum exchange rate of 0.213 c.f.s., conditional. g. Use: All uses of the McKay Tunnel Water Rights

described above and augmentation thereof. **7. 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:** Colorado Springs Utilities, P.O. Box 1103, Colorado Springs, CO 80947, Cheyenne Mountain Museum & Zoological Society, Inc., 4250 Cheyenne Mountain Road, Colorado Springs, CO 80906.

CASE NO. 2025CW3073; Previous Case No. 2016CW3103 – THE BOARD OF WATER WORKS OF PUEBLO, COLORADO, Executive Director, 319 West Fourth Street, Pueblo, Colorado 81002 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Karl D. Ohlsen and Beth Ann J. Parsons, Carlson, Hammond & Paddock, L.L.C., 1900 N. Grant Street, Suite 1200, Denver, Colorado 80203-4312; Phone: (303) 861-9000)

Application For Sexennial Finding Of Reasonable Diligence

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

INTRODUCTION. The Board of Water Works of Pueblo, Colorado ("Pueblo Water") seeks a sexennial finding of reasonable diligence for rights of reuse and exchange originally decreed on December 4, 2019, in Case No. 16CW3103, District Court, Water Division No. 2 (the "16CW3103 Decree"). The 16CW3103 Decree adjudicated issues and claims of appropriative rights of exchange of water generated by Pueblo Water's shares in the Bessemer Irrigating Ditch Company ("Bessemer Shares"). Pueblo Water claims the right to use, reuse, successively use, and fully consume the water produced by the Bessemer Shares pursuant to the conditional appropriative rights of exchanges confirmed in the 16CW3103 Decree ("Bessemer Share Exchanges"). Pueblo Water may operate such appropriative rights of exchange simultaneously or in stepped fashion to move water up the Arkansas River to the "Exchange-to" locations described herein. The Bessemer Share Exchanges are related to the decree entered in Case No. 17CW3050, District Court, Water Division No. 2 (the "17CW3050 Decree"). In that case, Pueblo Water changed the water rights associated with 5,540.88 shares of stock in the Bessemer Irrigating Ditch Company ("BIDC"), a Colorado mutual ditch company. The 17CW3050 Decree confirmed the point of diversion and changed the type, manner, season, and place of use of Pueblo Water's Bessemer Shares, including both water available under the BIDC's operation of its direct flow water rights and BIDC's participation in and resulting yield from the Winter Water Storage Program decreed in Case No. 84CW179, District Court, Water Division 2, and described at paragraph 20.n of the 16CW3103 Decree, to add municipal and related uses (the "Changed Uses") by Pueblo Water. **2. Exchange and Reuse Water Rights as Originally Decreed:** 2.1. Date of original decree: December 4, 2019, Case No. 16CW3103, District Court, Water Division No. 2, State of Colorado. 2.2. Priority Date: December 30, 2016. 2.3. Use: All beneficial uses for which the waters to be exchanged and reused are decreed or for which they may be lawfully used as described in the 17CW3050 Decree. 2.4. Source of water for exchange and reuse: Water generated by Pueblo Water's Bessemer Shares changed in the 17CW3050 Decree. **3. Description of Exchanges.** 3.1. **Bessemer Ditch Exchanges:** Pueblo Water will divert the water available to the Bessemer Shares that are converted to Designated Changed Shares (per paragraph 1.13.10 of the 17CW3050 Decree, "Designated Changed Shares" are the Bessemer Shares that Pueblo Water designates for Changed Uses pursuant to

paragraph 6.1 of the 17CW3050 Decree, and become available for the Changed Uses after compliance with the dry-up and revegetation requirements of the 17CW3050 Decree), put them to the Changed Uses, and replace Pueblo Water's Return Flow Replacement Obligations, as defined in paragraph 6.6.3 of the 17CW3050 Decree, through releases to the Arkansas River or its tributaries in accordance with the requirements of the 17CW3050 Decree. At times the amount of water delivered by Pueblo Water to the Arkansas River and its tributaries through the Bessemer Ditch pursuant to the 17CW3050 Decree will exceed Pueblo Water's Return Flow Replacement Obligations. If so, Pueblo Water may claim the excess amount as fully consumable and exchange it from the confluence of the Arkansas River with the St. Charles River, Sixmile Creek, or the Huerfano River at the points described below, to the upstream Exchange-To locations described below. 3.2. **Pueblo Water System Exchanges:** Water from Bessemer Shares that are converted by Pueblo Water to Designated Changed Shares is fully consumable, subject to the terms and conditions set forth in the 17CW3050 Decree. Certain of Pueblo Water's initial uses of water available to the Bessemer Shares for the Changed Uses will not fully consume the amount of water produced by the Bessemer Shares. As a result, there will be exchangeable water produced from releases to the Arkansas River or its tributaries as seweried effluent or other measured point source discharges from locations described below, following a first use of the water in Pueblo Water's system. The amount of water available from the Bessemer Shares for the claimed exchanges from the structures described below will be determined in accordance with the provisions set forth in paragraph 6.9 of the 17CW3050 Decree. Pueblo Water is decreed appropriative exchanges from the exchange from locations described below, to the upstream exchange-to locations described below to facilitate reuse and successive use of water attributable to the Bessemer Shares consistent with the 17CW3050 Decree.

3.3. **Recaptured Bessemer Water ("RBW") Exchanges:** If Pueblo Water is unable or chooses not to operate the Bessemer Ditch Exchanges or Pueblo Water System Exchanges then Pueblo Water may capture fully consumable water as described in the 16CW3103 Decree, subject to transit loss, by storage at or below the confluence of the Arkansas River and Fountain Creek. The reservoirs in which Pueblo Water may store such water, subject to agreement with the owners and or preferential users of such reservoirs and subject to the availability of capacity, are referred to herein as the "ROY Storage Locations." These reservoirs, and the locations of their outlets, are identified below. Pueblo Water will move the water from the Bessemer Shares stored at the ROY Storage locations upstream by exchange to the Exchange-To locations described below when conditions permit. Pueblo Water will operate the RBW Exchanges only pursuant to the 16CW3103 Decree. RBW Exchanges are junior to and will not be operated under the water rights or priorities approved in the decree entered in Case No. 06CW120, District Court, Water Division No. 2. 3.4. **Inter -Reservoir Exchanges:** Pueblo Water may exchange water produced by Bessemer Shares for Changed Uses once either delivered or exchanged into storage in Pueblo Reservoir, Clear Creek Reservoir, Twin Lakes Reservoir, or Turquoise Reservoir from the Exchange-From locations described below to any of the Exchange-To locations described below. Pueblo may release water from one or more of the above-described reservoirs and an equivalent amount may be diverted to storage by exchange in one or more of the other above-described reservoirs, subject to the terms and conditions of the 16CW3103 Decree.

4. Structures Utilized for Exchange

and Reuse: Pueblo Water will exchange water made available from the use of the Bessemer Shares for the Changed Uses from the following locations shown in the maps attached to the application as **Exhibits 1 through 6**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

4.1. **Exchange-From Locations:** 4.1.1. Pueblo Dam and Reservoir: 4.1.1.1. UTM: Zone 13S, Easting 524036, Northing 4235771. 4.1.1.2. PLSS: 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 of Township 20 South, Range 66 West of the 6th P.M. and Sections 1, 2, 3, 4, 5, 9, 10, and 11 of Township 21 South, Range 66 West of the 6th P.M. and Sections 5, 8, 9, N 13, 14, 15, 16, 22, 23, 24, and 25 of Township 20 South, Range 67 West of the 6th P.M. all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the centerline of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West, 6th P.M., Pueblo County, Colorado, from which the Northeast corner of said Section 36 bears North 61° 21' 20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B- 42135, District Court, Pueblo County, Colorado, as corrected in Case No. 02CW37, District Court, Water Division No. 2. 4.1.2. City of Pueblo James R. Dilorio Water Reclamation Facility ("Pueblo WRF") point of discharge to the Arkansas River: 4.1.2.1. UTM: Zone 13S, Easting 537427, Northing 4234318. 4.1.2.2. PLSS: NE1/4 of the NE1/4 of Section 5, Township 21 South, Range 64 West of the 6th P.M., Pueblo County, Colorado, at a point approximately 972 feet from the North Line and 560 feet from the East Line of said Section 5. 4.1.3. Comanche Generating Station: 4.1.3.1. UTM: Zone 13S, Easting 537578, Northing 4227163. 4.1.3.2. PLSS: Comanche Generating Station discharges to the St. Charles River at a point in the NW1/4 of Section 28, Township 21 South, Range 64 West of the 6th P.M., Pueblo County, Colorado. 4.1.3.3. Exchanges of water delivered from the Comanche Generating Station will occur from the confluence of the St. Charles and Arkansas Rivers, located in the SE1/4 SW1/4 of Section 32, Township 20 South, Range 63 West of the 6th P.M., Pueblo County, Colorado. 4.1.4. EVRAZ Rocky Mountain Steel WWTP, formerly known as Pueblo CF& I Steel Plant WWTP: 4.1.4.1. UTM: Zone 13, Easting 538805, Northing 4234484. 4.1.4.2. PLSS: EVRAZ discharges to Salt Creek, a tributary of the Arkansas River, at a point in the NE1/4 NW1/4 of Section 18, Township 21 South, Range 64 West of the 6th P.M., Pueblo County, Colorado. 4.1.4.3. Exchanges of water delivered from the EVRAZ Rocky Mountain Steel WWTP will occur from the confluence of Salt Creek and the Arkansas River, located in the NE1/4 of the NE1/4 of Section 4, Township 21 South, Range 64 West of the 6th P.M., Pueblo County, Colorado. 4.1.4.4. Accruals to the Arkansas River are measured at the Salt Creek near Mouth below Pueblo stream gage (DWR gage ID SALTMOCC). EVRAZ exchange water made available from the use of the Bessemer Shares for Changed Uses delivered to the Arkansas River shall be limited to the lesser of the (1) EVRAZ Reusable Return Flow, as determined pursuant to the 17CW3050 Decree, less transit loss assessed in the 16CW3013 Decree between the EVRAZ WWTP and the Arkansas River and (2) measured discharge from Salt Creek to the Arkansas River. 4.1.5. For the Bessemer Ditch Exchanges, Pueblo Water will exchange from the confluences of the St. Charles River, Sixmile Creek, and/or the Huerfano River with the Arkansas River, the locations of which are described below. Such water will be measured and released for exchange from the tributary augmentation station locations described below and the amount of water available for exchange shall be

reduced by transit losses between the tributary augmentation stations and the Arkansas River, as assessed by the Division Engineer under the 16CW3103 Decree. 4.1.5.1. St. Charles River Augmentation Station and Arkansas River Confluence: 4.15.1.1. Pueblo Water St. Charles River Augmentation Station: The Bessemer Ditch crosses the St. Charles River in the NE1/4 of Section 22, Township 21 South, Range 64 West of the 6th P.M. An existing controlled spill structure on the ditch upstream of the St. Charles River siphon inlet conveys storm runoff from the ditch to the St. Charles River at a point in the NW1/4 of Section 23, Township 21 South, Range 64 West of the 6th P.M. The St. Charles River Augmentation Station may be located at the existing spill structure, or any other location on the Bessemer Ditch approved by BIDC between Bessemer lateral headgate 27 and Bessemer lateral headgate 33, and shall be capable of providing delivery of water to the St. Charles River at a location on the St. Charles River west of the east line of Section 14, Township 21 South, Range 64 West of the 6th P.M. Pueblo Water shall follow the process in the 17CW3050 Decree to finalize this location before use. All deliveries to the spill structure will be controlled and measured separately from the existing spill structure before being discharged to the receiving stream using the same conveyance channel as used by the spill structure. 4.1.5.1.2. The location of the St. Charles River and the Arkansas River confluence is currently in the SE1/4 SW1/4 Section 32, Township 20 South, Range 63 West, 6th P.M. Pueblo County, Colorado. 4.1.5.2. Sixmile Creek Augmentation Station and Arkansas River Confluence: 4.1.5.2.1. Pueblo Water Sixmile Creek Augmentation Station: The Bessemer Ditch crosses Sixmile Creek in the NE1/4 of Section 34, Township 21 South, Range 63 West of the 6th P.M. An existing controlled spill structure on the ditch downstream of the Sixmile Creek crossing conveys storm runoff from the ditch to Sixmile Creek at a point in the SE1/4 of Section 27, Township 21 South, Range 63 West of the 6th P.M. Additionally, an existing lateral headgate (57A-1) is used as an augmentation station to deliver measured water to Sixmile Creek for replacement purposes by others. The Pueblo Water Sixmile Creek Augmentation Station may be located at the existing spill structure, at existing lateral headgate 57A-1, with appropriate permissions, or at any other location on the Bessemer Ditch approved by BIDC between Bessemer lateral headgate 57 and Bessemer lateral headgate 61 capable of providing delivery of water to Sixmile Creek at a location on Sixmile Creek south of the north line of Section 23, Township 21 South, Range 63 West of the 6th P.M. The Pueblo Water Sixmile Creek Augmentation Station will be a lateral headgate augmentation station. Pueblo Water shall follow the process in the 17CW3050 Decree to finalize this location before use. All deliveries to the spill structure will be controlled and measured separately from the existing spill structure before being discharged to the receiving stream using the same conveyance channel as used by the spill structure. 4.1.5.2.2. The location of the Sixmile Creek and Arkansas River confluence is currently in the NW1/4 SE1/4 Section 1, Township 21 South, Range 63 West, 6th P.M., Pueblo County, Colorado. 4.1.5.3. Huerfano River Augmentation Station and Arkansas River Confluence: 4.1.5.3.1. Pueblo Water Huerfano River Augmentation Station: The last Bessemer Ditch lateral headgate (85) is in the SW1/4 of Section 22, Township 21 South, Range 62 West of the 6th P.M. The Pueblo Water Huerfano Augmentation Station will be located upstream of lateral headgate 85 at a location approved by BIDC, and shall be capable of delivering water to the Huerfano River at a location on the Huerfano River west of the east line of Section 23, Township 21 South, Range 62 West of the 6th P.M. The Pueblo Water Huerfano River

Augmentation Station will be a lateral headgate augmentation station. Pueblo Water shall follow the process in the 17CW3050 Decree to finalize this location before use. 4.1.5.3.2. The Huerfano River and Arkansas River confluence is currently in the NW1/4 SW1/4 Section 8, Township 21 South, Range 61 West, 6th P.M. Pueblo County, Colorado. 4.1.6. For the RBW Exchanges from ROY Storage, Pueblo Water may store fully consumable water attributable to the Bessemer Shares that have been converted to Designated Changed Shares under the 17CW3050 Decree in (1) Holbrook Reservoir No.1 and Dye Lake Reservoir after diversion at the Holbrook Canal; (2) Lake Henry and Lake Meredith Reservoir after diversion at the Colorado Canal; and (3) the future Arkansas Gravel Pit Reservoir and the Stonewall Springs Reservoir Complex, previously described as the Excelsior Ditch Storage Facility in the Original Application, after diversion at the Excelsior Ditch. After such storage, Pueblo Water may subsequently release and exchange such water to one or more Exchange-To locations described herein when conditions permit. Bessemer shares may be released to the Arkansas River from ROY storage at the following locations: 4.1.6.1. Holbrook Outlet Canal: 4.1.6.1.1. UTM: Zone 13S, Easting 621152, Northing 4210040. 4.1.6.1.2. PLSS: The Holbrook No. 1 Outlet Canal originates in NE1/4 of the SE1/4, Section 7, Township 23 South, Range 55 West, 6th P.M., Otero County, Colorado, and delivers water to the Arkansas River in the NE1/4 of the SE1/4, Section 24, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado. 4.1.6.2. Dye Reservoir Outlet Canal: 4.1.6.2.1. UTM: Zone 13S Easting 614070, Northing 4214926. 4.1.6.2.2. The Dye Reservoir Outlet Canal delivers water to the Arkansas River in the NW1/4 of the SE1/4 of Section 5, Township 23 South, Range 56 West, 6th P.M., Otero County, Colorado. 4.1.6.3. Lake Meredith Outlet Canal: 4.1.6.3.1. UTM: Zone 13S Easting 607422, Northing 4218130. 4.1.6.3.2. PLSS: Waters released from Lake Henry and Lake Meredith Reservoir are measured at the Lake Meredith reservoir outlet and carried through the Lake Meredith Reservoir Outlet Canal to a point in the S1/2 of Section 21, Township 22 South, Range 57 West of the 6th P.M., where they are discharged to 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 are discharged through a headgate on its southerly bank in the SW1/4 of the SW1/4 of Section 22, Township 22 South, Range 57 West of the 6th P.M., in Crowley County, Colorado, whence they travel south-southeast approximately one mile to discharge into the Arkansas River in the NW1/4 of the SE1/4 of Section 27, Township 22 South, Range 57 West of the 6th P.M., in Otero County, Colorado. 4.1.6.4. Arkansas Gravel Pit Reservoir ("AGPR") is a yet to be constructed reservoir that will receive water from the main stem of the Arkansas River via the Excelsior Ditch with the headgate located on the north bank of the Arkansas River in the SE1/4 of the SE1/4 of Section 36, Township 20 South, Range 64 West, 6th P.M., in Pueblo County, Colorado. The AGPR will include an outlet to return water to the main stem of the Arkansas River in the SE1/4 of the SE1/4 of Section 34, Township 20 South, Range 63 West of the 6th P.M., in Pueblo County, Colorado. 4.1.6.5. The Stonewall Springs Reservoir Complex is a series of reservoirs to be constructed in Section 6, Township 21 South, Range 62 West; Sections 35 and 36, Township 20 South, Range 63 West; Section 2, Township 21 South, Range 63 West; and Section 31, Township 20 South, Range 62 West, all in the 6th P.M. The Stonewall Springs Reservoir Complex will have a maximum storage capacity of 19,538 acre-feet, and maximum surface acreage of 518 acres previously referred to as the Excelsior Ditch Storage Facility in the Original

16CW3103 Application. The Stonewall Springs Reservoir Complex was the subject of Case No. 16CW3093, District Court, Water Division No. 2, and the legal descriptions for the reservoir structures decreed in that case will control. The legal descriptions of each reservoir included in the complex are as follows: 4.1.6.5.1. The centroid of South Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13S, meters) 551523.0 Easting, 4234870.0 Northing. The two outlets from South Reservoir will discharge water to the Arkansas River in the NE1/4 SW1/4, Section 1, Township 21 South, Range 63 West of the 6th P.M. WDID Number 1403593. 4.1.6.5.2. The centroid of the Central Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13S, meters) 553075.0 Easting, 4235190.0 Northing. The two outlets from the Central Reservoir will discharge water to the Arkansas River in the NW1/4 SW1/4, Section 6, Township 21 South, Range 62 West of the 6th P.M., or through the outlets in the South or East Reservoirs. WDID Number 1403595. 4.1.6.5.3. The centroid of the East Reservoir is approximately located at UTM coordinates (NAD83 datum, Zone 13S, meters) 554241.6 Easting, 4234846.0 Northing. The water released for exchange by Pueblo Water from this structure will either be from the outlet from East Reservoir discharging to the Arkansas River in the SW1/4 SE1/4, Section 6, Township 21 South, Range 62 West of the 6th P.M., or through the outlet in the South or Central Reservoirs. WDID Number 1403596. 4.1.7. For Inter-Reservoir Exchanges involving either exchanges to or exchanges from Clear Creek Reservoir, the confluence of Clear Creek and the Arkansas River will serve as an exchange-from location and is currently located in the NE1/4 of Section 8, Township 12 South, Range 79 West of the 6th P.M., Chaffee County, Colorado. 4.1.8. For Inter-Reservoir Exchanges involving either exchanges to or exchanges from Twin Lakes Reservoir, the confluence of Lake Creek and the Arkansas River will serve as an exchange-from location and is currently located in the NW1/4 SE1/4 of Section 24, Township 11 South, Range 80 West of the 6th P.M., Lake County, Colorado. 4.1.9. Twin Lakes Reservoir and Turquoise Reservoir are upstream of Clear Creek Reservoir. Exchanges from Twin Lakes Reservoir to Clear Creek Reservoir will operate only following release and delivery of the substitute supply from Twin Lakes Reservoir down Lake Creek and the Arkansas River to the confluence with Clear Creek. Exchanges from Turquoise Reservoir to Twin Lakes Reservoir and to Clear Creek Reservoir will operate only following release and delivery of the substitute supply from Turquoise Reservoir down Lake Fork Creek and the Arkansas River to the confluence with either Lake Creek or Clear Creek. 4.2. **Exchange-To Locations.** Pueblo Water's exchanges of the water produced by the Bessemer Shares will be made to the following locations: 4.2.1. Pueblo Dam and Reservoir: Pueblo Water will store the exchanged water in Pueblo Reservoir, described below, for subsequent use, or it may exchange such water to Pueblo Water's municipal intakes at Pueblo Dam so that such water may be introduced directly into the Pueblo Water system. 4.2.1.1. UTM: Zone 13S, Easting 524036, Northing 4235771. 4.2.1.2. PLSS: 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 of Township 20 South, Range 66 West of the 6th P.M. and Sections 1, 2, 3, 4, 5, 9, 10, and 11 of Township 21 South, Range 66 West of the 6th P.M. and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24, and 25 of Township 20 South, Range 67 West of the 6th P.M. all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the centerline of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West, 6th P.M., Pueblo County, Colorado,

from which the Northeast corner of said Section 36 bears North 610 21' 20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado, as corrected in Case No. 02CW37. 4.2.2. Pueblo Water - Northside Intake: Pueblo Water will divert the exchanged water from the Arkansas River at the Pueblo Water – Northside Intake located at: 4.2.2.1. UTM: Zone 13S, Easting 528731.6; Northing 4235894. 4.2.2.2. PLSS: North bank of the Arkansas River, in the NW1/4 NE1/4 of Section 33, Township 20 South, Range 65 West, of the 6th P.M., Pueblo County, Colorado, at or near a point that lies South 74014' 30" West, 2673.9 feet from the Northeast corner of said Section 33. 4.2.3. Pueblo Water - Southside Intake: Pueblo Water will divert the exchanged water from the Arkansas River at the Pueblo Water – Southside Intake located at: 4.2.3.1. UTM: Zone 13 S, Easting 529949.9, Northing 4235512. 4.2.3.2. PLSS: The right bank of the Arkansas River at a point whence the West quarter corner of Section 34, Township 20 South, Range 65 West of the 6th P.M., Pueblo County, Colorado, bears South 69035' West 1478 feet. 4.2.4. Pueblo Water - Comanche Pump Station: Pueblo Water will divert the exchanged water from the Arkansas River by exchange at the Pueblo Water – Comanche Pump Station, located at: 4.2.4.1. UTM: Zone 13S, Easting 525563.3, Northing 4234795. 4.2.4.2. PLSS: Considering the south line of the SE1/4 of Section 31, Township 20 South, Range 65 West of the 6th P.M., Pueblo County, Colorado, to bear North 89024' 53" East, with all bearings contained herein being relative thereto: Beginning at a point on the northerly right-of-way line of the Denver and Rio Grande Western Railroad from which the Southwest 1/4 corner of the Southeast 1/4 of said Section 31 bears South 00°39' 25" East, a distance of 660.62 feet; thence North 47012' 21" East, a distance of 58.61 feet; thence North 02029' 30" West, a distance of 80.47 feet; thence North 87030' 30" East, a distance of 132.5 feet; thence North 02029' 30" West, a distance of 92.5 feet to the point of diversion. 4.2.5. Clear Creek Reservoir: Pueblo Water will divert the exchanged water from Clear Creek, a tributary to the Arkansas River, at Clear Creek Reservoir for storage and subsequent use. The location of Clear Creek Reservoir is: 4.2.5.1. UTM: Zone 13S, Easting 392176, Northing 4319875. 4.2.5.2. PLSS: Clear Creek Reservoir is located on Clear Creek in Sections 7 and 8, Township 12 South, Range 79 West of the 6th P.M., and Section 12, Township 12 South, Range 80 West of the 6th P.M., in Chaffee County, Colorado. 4.2.6. Twin Lakes Reservoir: Pueblo Water will divert the exchanged water from Lake Creek, a tributary to the Arkansas River, at Twin Lakes Reservoir for storage and subsequent use. The location of Twin Lakes Reservoir is: 4.2.6.1. UTM: Zone 13S, Easting 387227, Northing 4326203. 4.2.6.2. PLSS: Twin Lakes Reservoir is formed by a dam across Lake Creek in Lake County in Section 23, Township 11 South, Range 80 West of the 6th Principal Meridian, as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. 4.2.7. Turquoise Lake: Pueblo Water will divert the exchanged water from the Lake Fork Creek, a tributary of the Arkansas River, at Turquoise Reservoir for storage and subsequent use. The location of Turquoise Lake is: 4.2.7.1. UTM: Zone 13S, Easting 381601, Northing 4345778. 4.2.7.2. PLSS: Turquoise Lake is formed by a dam across Lake Fork Creek in Lake County in Section 19, Township 9 South, Range 80 West of the 6th Principal Meridian, as described in the decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. 4.2.8. ROY Storage re-diversion locations: To the extent that Pueblo Water has fully consumable water from Bessemer Shares that have been converted to Designated

Changed Shares under the 17CW3050 Decree that it cannot or chooses not to immediately exchange to the Exchange-To locations described above, Pueblo Water may re-divert directly or by subsequent exchange re-divert such water into one or more of the ROY Storage locations, subject to agreement with the owners and/or preferential users of such reservoirs and the availability of capacity. Pueblo Water will subsequently exchange such water from one or more of the ROY Storage outlet locations to one or more of the Exchange-To locations described herein when conditions permit, including the following exchange-to points.

4.2.8.1. Excelsior Ditch: Pueblo Water will divert the exchanged water from the Arkansas River at the Excelsior Ditch headgate for storage in the Stonewall Springs Reservoir Complex and the AGPR and subsequent use. The location of the ditch headgate is: 4.2.8.1.1. UTM: Zone 13S, Easting 543851, Northing 4234780.

4.2.8.1.2. PLSS: The Excelsior Ditch headgate is located on the north bank of the Arkansas River in the SE1/4 SE1/4 of Section 36, Township 20 South, Range 64 West of the 6th P.M., Pueblo County, Colorado.

4.2.8.2. Colorado Canal: Pueblo Water will divert the exchanged water from the Arkansas River at the Colorado Canal headgate for storage in Lake Henry and Lake Meredith Reservoir and subsequent use. The location of the canal headgate is: 4.2.8.2.1. UTM: Zone 13S, Easting 560225, Northing 4233250.

4.2.8.2.2. PLSS: The originally decreed point of the Colorado Canal diversion is in the NE1/4 of Section 10, Township 21 South, Range 62 West of the 6th P.M., at a point bearing South 0° 58' West 426 feet from the Southwest corner of Section 2, Township 21 South, Range 62 West of the 6th P.M. The river has shifted and relocated to the northeast to the extent that the center of the diversion gates is located slightly more than 300 feet northeasterly at a point in the NW1/4 NW1/4 of Section 11, Township 21 South, Range 62 West of the 6th P.M., Pueblo County, Colorado, at a point bearing South 63° 14' East a distance of 117.3 feet from the Southwestern corner of said Section 2. The Arkansas River is in excess of 500 feet wide at the Colorado Canal diversion dam and either point, one on the bank, and one further out in the river, accurately describe the headgate of the Colorado Canal as originally decreed and constructed.

4.3. **Amount of Exchanges** (all conditional):

4.3.1. Bessemer Ditch Exchanges Rates (in cfs)

Exchange-From Pts.	Exchange-To Points								
	Pueblo Res.	Comanche Pump Station	Northside Intake	Southside Intake	Excelsior Ditch Headgate	Clear Creek Res.	Twin Lakes Res.	Turquoise Res	Colorado Canal
St. Charles River	60	33	60	54	60	60	60	60	
Sixmile Creek	60	33	60	54	60	60	60	60	
Huerfano River	60	33	60	54	60	60	60	60	60
Maximum simultaneous exchange rate is 60 cfs									

4.3.2. Pueblo Water System Exchanges Rates (in cfs)

Exchange-From Pts.	Exchange-To Points								
	Pueblo Res.	Comanche Pump Station	Northside Intake	Southside Intake	Excelsior Ditch Headgate	Clear Creek Res.	Twin Lakes Res.	Turquoise Res	

Pueblo WRF and EVRAZWWTP (comb)	30	30	30	30		30	30	30
Sixmile Creek	60	33	60	54	60	60	60	60
Huerfano River	60	33	60	54	60	60	60	60
Maximum simultaneous exchange rate is 36 cfs								

4.3.3. Recaptured Bessemer Water Exchange Rates (in cfs)

Exchange-From Pts.	Exchange-To Points									
	Pueblo Res.	Comanche Pump Station	Northside Intake	Southside Intake	Excelsior Ditch	Colorado Canal	Holbrook Canal	Clear Creek Res.	Twin Lakes Res.	Turquoise Res.
Arkansas Gravel Pit Reservoir Outlets	150	33	82	54	150			150	150	150
Stonewall Springs Reservoir Complex	150	33	82	54	150			150	150	150
Lake Meredith Outlet Canal	500	33	82	54	400	488		400	500	375
Dye Reservoir Outlet Canal	275	33	82	54	275	275	275	275	275	275
Holbrook Res. No. 1 Outlet Canal	160	33	82	54	160	160		160	160	160

4.3.4. Inter-Reservoir Exchange Rates (in cfs)

Exchange -From Pts.	Exchange-To Points		
	Clear Creek Reservoir	Twin Lakes Reservoir	Turquoise Lake
Pueblo Reservoir	400	1350	375
Clear Creek Reservoir		400	375
Twin Lakes Reservoir	400		375
Turquoise Lake	400	400	

Maximum simultaneous exchange rate is 2000 cfs

4.3.5. The maximum total volume of all exchanges combined is limited to 144,000 acre-feet for any successive 20 years or 15,000 acre-feet in any single year. **5. Provide a Detailed Outline of What Has Been Done Toward Completion or for Completion of the Appropriation and the Application of Water to Beneficial Use as Conditionally Decreed, Including Expenditures:** 5.1. Pueblo Water operates an integrated system within the meaning of that term in §37-92-301(4)(b), C.R.S., of which the exchanges decreed in Case No. 16CW3103 are a part. As part of an integrated system, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. *Id.* Those components include, but are not limited to, the individual water rights and points of diversion described in this Application, and the appropriative rights of exchange and

reuse rights that are the subject of this Application. During the period from December 4, 2019, through December 30, 2025 (the “Diligence Period”), Pueblo Water has not exercised the conditional appropriative exchanges originally decreed in Case No. 16CW3103. Thus, this Application is for a finding of reasonable diligence only. In addition, Pueblo Water has spent a substantial amount of money and devoted many thousands of man hours to the development, operation, maintenance, and improvement of its single, unified, and integrated municipal water supply system. As a part of this overall effort, Pueblo Water retained engineering consultants and attorneys to assist it in the acquisition, operation, maintenance, improvement, and protection of this system. These actions enhance and preserve Pueblo Water’s water supply and its ability to serve the needs of its customers. The total cost of these efforts during the Diligence Period exceeded \$303,796,827. 5.2. Specifically, during the Diligence Period, Pueblo Water spent money on engineering and constructing improvements to its water supply transmission and distribution system. Improvements were made to collection system facilities, storage reservoirs, water transmission pipelines, water treatment plants, and distribution system mains, meters, and reservoirs. 5.3. During the Diligence Period, the principal engineering and construction activities undertaken by Pueblo Water related to the operation of its exchanges and reuse rights included the following: (1) upkeep and improvements of stream flow gauges, other data collection or recording and transmission devices, and communication links needed to operate the exchanges and reuse rights decreed in Case No. 16CW3103; (2) payment of assessments to the BIDC for the operation and maintenance of the Bessemer Ditch; (3) water quality monitoring; and (4) upkeep and maintenance of the specific exchange “to” and exchange “from” structures decreed in Case No. 16CW3103. The total cost to Pueblo Water of upkeep and maintenance of the specific exchange structures decreed in Case No. 16CW3103 during the Diligence Period exceeded \$2,130,400. In addition, the City of Pueblo’s Wastewater Utility Enterprise expended approximately \$105,000,000 operating the sewer collection system and the Pueblo Municipal Wastewater Treatment Plant. 5.4. In addition, during the Diligence Period, Pueblo Water filed applications for and diligently prosecuted several adjudications of water rights, including applications for findings of reasonable diligence that are part of Pueblo Water’s unified and integrated water supply system, many of which incorporate structures that are the subject of this Application. These include, but are not limited to: Case No. 20CW3037, decreed on December 12, 2020, finding reasonable diligence for the Warren E. Wurtz Extension Ditch; Case No. 23CW3055, decreed on July 9, 2024, finding reasonable diligence for the Historic Arkansas River Project Water Right and Tailwater right; Case No. 20CW3054, decreed on March 31, 2021, finding reasonable diligence for certain conditional exchanges and rights of reuse for sewered return flows from transmountain sources; Case No. 20CW3004, decreed on September 1, 2020, finding reasonable diligence and making certain conditional rights absolute, in part, for certain conditional exchanges and rights of reuse for non-sewered return flows from transmountain sources; Case No. 20CW3005, decreed on September 1, 2020, finding reasonable diligence and making certain conditional rights absolute, in part, for certain conditional exchanges of native and transmountain water rights; Case No. 20CW2011, decreed on May 3, 2022, seeking a conditional surface water right for the beneficial use of supplying water for the operation of the Historic Arkansas River Project (“HARP”) in the City of Pueblo and changing the of use of the Southern Colorado Power Company Water

Storage Right to add the new use of storing water for the operation of HARP; Case No. 22CW3028, decreed on June 2, 2023, finding reasonable diligence for the Clear Creek Reservoir Second Enlargement; and Case No. 22CW3059, decreed January 26, 2023, finding reasonable diligence for the exchanges adjudicated jointly between City of Aurora, Colorado Springs Utilities, the City of Fountain, Southeastern, and Pueblo Water; and Case No. 25CW3045 seeking a finding of reasonable diligence for the exchanges originally decreed in 86CW111A. Also during the Diligence Period, Pueblo Water participated as an opposer in 13 cases in Water Division No. 2 to ensure the protection of the exchange reaches and related water rights that are the subject of this Application.

5.5. Pursuant to paragraph 45 of the 16CW3103 Decree, Pueblo Water, in cooperation with the Regional Resource Planning Group ("RRPG") established by the October 3, 2003, Intergovernmental Agreement between Southeastern Colorado Water Conservancy District and Aurora, and of which Pueblo Water and others are members, has implemented a monitoring program of river salinity within the reaches of the Arkansas River affected by the RBW and Pueblo Water System Exchanges ("Monitoring Program"). Details of the Monitoring Program and related data are at the USGS website using the following link: <https://www.usgs.gov/tools/arkansas-river-and-fountain-creek-water-quality-dashboard>. Pueblo Water and the RRPG continue to meet regularly to refine, improve and expand the Monitoring Program. During the Diligence Period the RRPG expended over \$315,591, primarily on partner cost-share agreements with the USGS. Of that, Pueblo Water contributed \$71,351.

5.6. The work performed and actions taken by Pueblo Water during the Diligence Period demonstrate Pueblo Water's continuing intent to develop the conditional appropriative rights of exchange and reuse described in this Application. Pueblo Water has shown that it can and will divert, store, or otherwise capture, possess, or control and beneficially use water pursuant to the subject exchange and reuse rights and that the subject reuse and exchange rights can and will be completed with diligence within a reasonable time.

6. Request for Relief:

6.1. Pueblo Water requests the Court to enter a decree:

- 6.1.1. Confirming that Pueblo Water maintains a single unified and integrated water supply system and that diligence on any feature of that system is considered in finding reasonable diligence in the development of all conditional features of the system, including the conditional exchange and reuse rights that are the subject of this Application;
- 6.1.2. Finding that Pueblo Water has shown reasonable diligence in development of the conditional appropriative rights of exchange decreed in Case No. 16CW3103. Pueblo Water also seeks a finding that it has met all applicable legal requirements and is entitled to a decree continuing the conditional rights in the amounts described in paragraph 4.3 and its subsections, above, in good standing and fixing a date when the next application for a finding of reasonable diligence is required; and
- 6.1.3. Finding that any diligence work performed between the filing of this Application and entry of a decree in this case will qualify as diligence performed during the next diligence period.

CASE NO. 2025CW3074; Previous Case Nos. 19CW3040, 09CW138 – TOWN OF PONCHA SPRINGS, c/o Town Administrator, P.O. Box 190, 333 Burnett Ave, Poncha Springs, CO 81242 (Please submit all documents and pleadings to David M. Shohet and Sedona E. Chavez of Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Ste. 250, Colorado Springs, CO 80921 (719) 471-1212)

Application for Finding of Reasonable Diligence
CHAFFEE AND SAGUACHE COUNTIES

II. Name of Conditional Water Rights: Town of Poncha Springs Case No. 09CW138 Exchanges. **III. Description of Conditional Water Rights. Decree Description for Conditional Water Rights:** Case No. 09CW138, District Court, Water Division 2, decreed on July 12, 2013. **Previous Diligence Decree:** Case No. 19CW3040, District Court, Water Division 2, decreed on December 28, 2019. **Sources of Exchanged Water. Project Water.** The Town's annual allocation of Project Water and non-sewered return flows after the Town's use of Project Water, described as follows: **West Slope Decrees:** The Fryingpan-Arkansas Project diverts surface water from the headwaters of Hunter Creek and the Fryingpan River and their tributaries in Pitkin County. The principal water rights were adjudicated by the decrees in Civil Action No. 4613 (District Court, Garfield County) dated June 20, 1958, and August 3, 1959, and were modified by the Decree in Case No. W-829-76 (District Court, Water Division No. 5) dated November 27, 1979, and were supplemented by the Decree in Case No. 83CW352 (District Court, Water Division No. 5) dated May 31, 1985. These water rights have an appropriation date of July 29, 1957. Water diverted under these decrees flows through the Boustead Tunnel beneath the Continental Divide and discharges into the Turquoise Reservoir. This water may be stored in Turquoise Reservoir, Twin Lakes Reservoir, and elsewhere, and applied to beneficial use within the Southeastern Colorado Water Conservancy District's ("Southeastern District") boundaries. Because the water is imported from another river basin, it is fully consumable in Water Division 2. **East Slope Decrees:** The Fryingpan-Arkansas Project also diverts and stores surface water from the Arkansas River and its tributaries in Lake, Chaffee, Fremont, and Pueblo Counties. The principal water rights were adjudicated by the decrees in Civil Action No. 5141 (District Court, Chaffee County) dated July 9, 1969, and Civil Action No. B-42135 (District Court, Pueblo County) dated June 25, 1962, and were modified and supplemented by the Decree in Case No. 80CW6 (District Court, Water Division No. 2), dated October 23, 1980. These water rights include storage in Turquoise Reservoir, Twin Lakes Reservoir, Pueblo Reservoir, and elsewhere, with an appropriation date of February 10, 1939, and are expressly decreed for reuse and exchange for beneficial use within Southeastern's District boundaries. Under these decrees, Turquoise Reservoir and Twin Lakes Reservoir may store native water or imported water, directly or by exchange with each other or with Pueblo Reservoir. The Applicant is eligible to receive annual allocations of Project Water from the Southeastern District. Poncha is also eligible and has the first right of refusal to purchase any return flows generated by its use of Project Water. The Southeastern District allocates Project Water annually in accordance with its principles, policies, rules, and regulations. Any and all use of Project Water and return flows will be pursuant to and subject to the above-referenced decrees for the Fryingpan-Arkansas Project, and to all lawful rules, regulations, policies, and contract obligations of the Southeastern District. Any decree entered in this case will not give Applicant any rights to use Fryingpan-Arkansas Project structures, or any rights of ownership or rights to purchase or receive allocations of Project Water or return flows therefrom, but will not alter the existing rights, including allocation rights, held by Applicant. Applicant will use Project Water, and any return flows, only if, and when, and to the extent they have purchased Project Water after it is allocated to them by the Southeastern District. **McPherson Ditch**

Water Rights. The McPherson Ditch was decreed on June 19, 1890, by the District Court in the original adjudication of the Fourth Judicial District of the State of Colorado, sitting in and for the County of Chaffee, State of Colorado, In the Matter of a Certain Petition for Adjudication of the Priority of Rights to the Use of Water for Irrigation in Water District 11. The decreed point of diversion in the original decree for the McPherson Ditch is on the north bank of the South Arkansas River, a tributary to the Arkansas River, 400 feet due south of the quarter corner between Sections 9 and 10, Township 49 North, Range 8 East, N.M.P.M., Chaffee County, Colorado. The McPherson Ditch's water source is the South Arkansas River, a tributary of the Arkansas River, in Chaffee County, Colorado. By Decree Changing Point of Diversion dated July 5, 1956, in Case No. 4502, Chaffee County District Court, State of Colorado, the point of diversion for the entire 1.0 c.f.s. of water decreed to the McPherson Ditch was changed from the original decreed point of diversion, as set forth above, to the headgate of the Murray Ditch. The headgate of the Murray Ditch as fixed by decree dated February 1, 1902, Case No. 1735, in Chaffee County District Court, is described at a point located on the north bank of the South Arkansas River, a tributary to the Arkansas River, at a point whence the northeast corner of Section 10, Township 49 North, Range 8 East, of the N.M.P.M. bears north 39 degrees east, a distance of 5,200 feet in Chaffee County, Colorado. Applicant, under Case No. 99CW183, changed the McPherson Ditch for dedication and use under the Applicant's existing plan for augmentation and exchange as previously decreed in Case No. 82CW104, to augment Applicant's municipal uses. The Court in Case No. 99CW183 found that the total historical depletions of the McPherson Ditch were 43.4 annual acre feet. The historical depletions from the McPherson Ditch water right were also changed for storage at O'Haver Reservoir for use under and in accordance with the Applicant's existing augmentation decree. Friend Ranch Water Rights. Under Case No. 07CW111, the Applicant was awarded a change of the historical stream depletions of the Friend Ranch Water Rights from irrigation use to municipal and augmentation uses for the Applicant's existing and future service areas ("Friend Ranch Decree"). The Applicant's Friend Ranch Water Rights available for exchange are described as the historical average stream depletions of 61.3 acre feet of the Little Cochetopa Water Rights (Huntzicker Ditch and the Hensie Ditch No. 1), 60.7 annual acre feet of the Mundlein Ditch No. 2, and 89.0 annual acre feet of the Pass Creek Water Rights (Boon Ditch No. 2 and the Hensie Ditch No. 2) available during the historical irrigation season of April through October, as quantified under the final decree entered in Case No. 07CW111. The amount and availability of the Friend Ranch Water Rights available for exchange in accordance with the terms and conditions of the Friend Ranch Decree after the Friend Ranch Water Rights have already been exchanged into O'Haver Reservoir, North Fork Reservoir, or Boss Lake ("South Arkansas Reservoirs"), and then released from the South Arkansas Reservoirs for the operation of this exchange. Reach of Exchanges. Project Water. The appropriative right of exchange for Project Water begins at the confluence of Little Cochetopa Creek and the South Arkansas River located in the NW1/4, Section 8, Township 49 North, Range 8 East, N.M.P.M., in Chaffee County up Little Cochetopa Creek to the confluence of Little Cochetopa Creek and Pass Creek located in the NW1/4 of the NE1/4, Section 18, Township 49 North, Range 8 East, N.M.P.M., then up Pass Creek to the headgate of the Velotta Ditch No. 1 located at a point on the north bank of Pass Creek, whence the East Quarter Corner of Section 13, Township 49 North, Range

7 East, of the N.M.P.M., bears South 74°45' East, 1760 feet. Non-Sewered Project Water Return Flows. Applicant's appropriative right of exchange of non-sewered Project Water return flows is from Little Cochetopa Creek and the South Arkansas River, to the confluence of Little Cochetopa Creek and Pass Creek, then up Pass Creek to the headgate of the Velotta Ditch No. 1, all as described above. McPherson Ditch. The reach of Applicant's appropriative right of exchange for the McPherson Ditch operates from the McPherson Ditch on the South Arkansas River to the confluence of Little Cochetopa Creek and the South Arkansas, up Little Cochetopa Creek to the confluence of Little Cochetopa Creek and Pass Creek, then up Pass Creek to the headgate of the Velotta Ditch No. 1, as described above. The Applicant also stores the McPherson Ditch Water Right depletion credits in O'Haver Reservoir pursuant to the decree entered in Case No. 99CW183. The Applicant is entitled to release its stored McPherson Ditch Water Right depletion credits from O'Haver Reservoir to Poncha Creek, which returns to the South Arkansas at the confluence with Poncha Creek located in the SW1/4 of the SW1/4, Section 10, Township 49 North, Range 8 East, N.M.P.M., which is above the McPherson Ditch headgate. The Applicant can therefore utilize the same appropriative right of exchange for any fully consumable McPherson Ditch Water Right it stores and releases from O'Haver Reservoir. Stored Friend Ranch Water Rights. The Applicant's appropriative right of exchange of its adjudicated historical depletions from the Friend Ranch Water Rights as released from storage in the South Arkansas Reservoirs shall operate from the confluence of Little Cochetopa Creek and the South Arkansas, and from this point up Little Cochetopa Creek to the confluence of Little Cochetopa Creek and Pass Creek, then up Pass Creek to the headgate of the Velotta Ditch No. 1. When the Friend Ranch Water Rights depletion credits are released from O'Haver Reservoir, the exchange operates from the confluence of the South Arkansas River and Poncha Creek to the confluence of the South Arkansas River and Little Cochetopa Creek then up to the confluence of Little Cochetopa Creek and Pass Creek, then up Pass Creek to the headgate of the Velotta Ditch No. 1. A map showing the approximate locations of the above points is attached to the application as Exhibit A. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

Appropriation Date. November 23, 2009. **Amounts.** Project Water. The amount of the exchange of Project water and Project water return flows within the exchange reach on the South Arkansas River (for Project water return flows), Little Cochetopa Creek, and Pass Creek shall be limited to the amount of Applicant's available Project Water, with an annual maximum of 70 acre feet of water, at a maximum exchange rate of 2.0 c.f.s., conditional. McPherson Ditch. The amount of the exchange of the McPherson Ditch Water adjudicated historical depletions within the exchange reach on the South Arkansas River, Little Cochetopa Creek, and Pass Creek is an annual maximum of 70 acre feet of water, at a maximum exchange rate of 2.0 c.f.s., conditional, for combined storage releases from O'Haver Reservoir and direct exchanges of historical depletion credits from the McPherson Ditch. However, consistent with the average annual historical depletions of the McPherson Ditch determined in Case No. 99CW183, direct exchange of the McPherson Ditch water right surface diversions, not including as placed into storage, shall always be limited to the 43.4 acre feet of average annual historical depletions at a rate not to exceed 1.0 c.f.s., and subject to such other limitations as exist in Case No. 99CW183. Stored Friend Ranch Water Rights. The amount of the exchange of Friend

Ranch Water Rights historical depletions within the exchange reach of the South Arkansas River, Little Cochetopa Creek, and Pass Creek, as released from storage in the South Arkansas Reservoirs, is an annual maximum of 70 acre feet of water, at a maximum exchange rate of 2.0 c.f.s., conditional. The total amount of all exchanges shall not exceed a combined 70 annual acre feet, which is the storage capacity of the Friend Ranch Reservoir. The total rate of all exchanges shall not exceed 6.0 c.f.s. **Uses.** The use of the exchanged water is for all municipal uses as part of Applicant's integrated water supply system for its existing and future service area, including, without limitation, domestic, irrigation, fire protection, recreational purposes, fish and wildlife propagation, commercial and industrial, and for augmentation, exchange, and replacement purposes, in accordance with the Applicant's decreed plans for augmentation in Case Nos. 82CW104, 99CW183, and 07CW111. Such uses may be for immediate application or placed into storage for subsequent beneficial use. These beneficial uses include use, reuse, and successive use to extinction. **IV. Detailed Outline of Diligence.** The Town of Poncha Springs Case No. 09CW138 Exchanges are part of the Applicant's integrated water supply system, which consists of surface water rights and storage water rights. Pursuant to C.R.S. § 37-92-301(4)(b), work on one component of an integrated system shall be considered in finding that reasonable diligence has been shown for all components of the integrated system. During this diligence period, Applicant has performed significant work within its service boundaries and on its municipal water system to develop the Town of Poncha Springs Case No. 09CW138 Exchanges as part of its integrated municipal supply system, specifically including the following: Between 2021 and 2025, Applicant has performed significant work within its service boundaries and on its municipal water system. This work included: extending the water main system for specific areas within Poncha's service area; constructing water infrastructure for Poncha Meadows Filing 1, Poncha Meadows Filing 2, and Tailwinds subdivisions; and maintenance and repair work on the Poncha Springs water storage tank. The Applicant spent approximately \$1,600,099.75 on these efforts. Applicant has constructed two new wells, the Hoover Park Well (Permit No. 87501-F) and Poncha Springs Well No. 7 (Permit No. 84670-F, WDID 1105784). Applicant also undertook design, permitting, and electric and controls maintenance efforts for Poncha Springs Well No. 7, evaluations for Poncha Springs Well Nos. 1 and 2, and installed a pump and flow meter on Poncha Springs Well No. 2. This work cost Applicant approximately \$550,619.07. Applicant has installed and developed a water distribution system model utilizing a SCADA system, with the expenditures on these systems totaling \$71,441.78. Applicant has been engaged in ongoing discussions with the owners of the Friend Ranch property for the future development of the Friend Ranch property. **V. Claim to Make Absolute.** The Applicant does not seek to make any portion of the Town of Poncha Springs Case No. 09CW138 Exchanges absolute. **VI. Name and address of the owners of land on which structures are located.** The Velotta Ditch No. 1 is located upon land owned by the United States Department of the Interior, Bureau of Land Management, whose field address is Royal Gorge Field Office, 3028 East Main Street, Canon City, Colorado 81212.

CASE NO. 2025CW3075; Previous Case Nos. 19CW3042, 08CW106 – UPPER ARKANSAS WATER CONSERVANCY DISTRICT (“UAWCD”) P.O. Box 1090 Salida, Colorado 81201 (Please address all pleadings and inquiries regarding this matter to

Applicant's attorney: Law of the Rockies Kendall K. Burgemeister, Atty. Reg. No. 41593, 525 North Main Street Gunnison, CO 81230, (970) 641-1903
kburgemeister@lawoftherockies.com

Application For A Change Of Water Right

CHAFFEE COUNTY

2. UAWCD seeks a change of water right with respect to the 08CW106 Stream Exchange, more particularly described as follows: Original Decree: Case No. 08CW106, District Court, Water Division 2, June 25, 2013. Subsequent finding of reasonable diligence: Case No. 19CW3042, District Court, Water Division 2, December 28, 2019. 08CW106 Stream Exchange Reach: The 08CW106 Stream Exchange Reach is those portions of Cottonwood Creek, South Cottonwood Creek, and Middle Cottonwood Creek located between the Lower Terminus and the Upper Termini, as defined below: Lower Terminus: That point on Cottonwood Creek where the headgate of the Trout Creek Ditch Company Ditch (the "TCDC Ditch") is located, to wit: On the south bank of Cottonwood Creek 200 yards easterly of the junction of the Denver, South Park and Pacific Railroad and the Denver and Rio Grande Railroad south of Buena Vista, Chaffee County, Colorado. The ditch is located on the south bank of Cottonwood Creek in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, Township 14 South, Range 78 West, 6th P.M., Chaffee County. Upper Termini: (1) Cottonwood Lake Reservoir, which is located on South Cottonwood Creek, a tributary of Cottonwood Creek, a tributary of the Arkansas River, in the SE $\frac{1}{4}$, Section 36, Township 14 South, Range 80 West, 6th P.M., Chaffee County; and (2) Rainbow Lake, which is located on Middle Cottonwood Creek, a tributary of Cottonwood Creek, a tributary of the Arkansas River in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 14 South, Range 79 West, 6th P.M., and the point of diversion of which is at a point whence the SE corner of Section 19, same Township and Range, bears South 80° 34.0' East, 2,110.3 feet, Chaffee County. 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.) Appropriation Date: December 30, 2008. Exchange Amount: 2.0 cubic feet per second ("cfs") (conditional). Use: As a source of augmentation water pursuant to UAWCD's existing plans for augmentation decreed in Case Nos. 92CW84 and 94CW5, both as amended by Case No. 06CW32 (the "UAWCD Plans"), for all beneficial uses set forth in the UAWCD Plans, including, but not limited to, domestic, irrigation, livestock watering, municipal, industrial, piscatorial, and recreational. Water appropriated via the 08CW106 Stream Exchange will be stored in Cottonwood Lake Reservoir and Rainbow Lake for subsequent release to augment depletions pursuant to the UAWCD Plans. Source of Substitute Supply: The substitute supply for the 08CW106 Stream Exchange will be provided to Cottonwood Creek at the headgate of the TCDC Ditch. The source of the substitute supply is the operation of the 08CW106 Ditch Exchange, as described in the 08CW106 Decree. **3. Description of Proposed Change.** The 08CW106 Decree contemplates that UAWCD would construct and drill a single well, the "UAWCD-Moltz Well," to pump water into the Trout Creek Ditch Company Ditch. UAWCD has determined that it is more efficient to construct two or more smaller wells than a single well. In this case, UAWCD seeks to modify the terms of the 08CW106 Decree so that all references to the UAWCD-Moltz Well (singular) are modified to the UAWCD-Moltz Wells (plural). All limits on diversions from the UAWCD-Moltz Well will apply to the combined diversions

from the UAWCD-Moltz Wells. All conditions in the 08CW106 Decree related to the location UAWCD-Moltz Well will apply to the locations of all UAWCD-Moltz Wells. The 08CW106 Decree stated that the Rate of Exchange would be a minimum of 0.5 cfs and a maximum of 2.0 cfs. In this case, UAWCD seeks to reduce the minimum Rate of Exchange from 0.5 cfs to 0.25 cfs. Without limiting the generality of the statement of change above, to date, UAWCD has constructed two wells proposed to serve as UAWCD-Moltz Wells in the SW1/4 of Section 22, Township 14 South, Range 78 West, at the following coordinates: UAWCD-Moltz Well 1: 404164E, 4296609N, Zone 13, NAD83 UAWCD-Moltz Well 2: 404165E, 4296608N, Zone 13, NAD83 **4. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Rainbow Lake: Rainbow Lake Resort Inc., PO Box 17450, Oklahoma City, OK 73136. Cottonwood Lake Reservoir: United States Department of Agriculture, Forest Service, 5575 Cleora Road, Salida, Colorado 81201. The location of the UAWCD-Moltz Wells is on land owned by Collegiate Peaks Holdings LLC, 12110 County Road 302, Buena Vista, CO, 81211.

CASE NO. 2025CW3076; Previous Case Nos. 08CW106, 19CW3042 – UPPER ARKANSAS WATER CONSERVANCY DISTRICT (“UAWCD”) P.O. Box 1090 Salida, Colorado 81201 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorney: Law of the Rockies Kendall K. Burgemeister, Atty. Reg. No. 41593, 525 North Main Street Gunnison, CO 81230, (970) 641-1903 kburgemeister@lawoftherockies.com)

Application For A Finding Of Reasonable Diligence

CHAFFEE COUNTY

2. UAWCD seeks a finding of reasonable diligence for the 08CW106 Stream Exchange, more particularly described as follows: Original Decree: Case No. 08CW106, District Court, Water Division 2, June 25, 2013. Subsequent finding of reasonable diligence: Case No. 19CW3042, District Court, Water Division 2, December 28, 2019. 08CW106 Stream Exchange Reach: The 08CW106 Stream Exchange Reach is those portions of Cottonwood Creek, South Cottonwood Creek, and Middle Cottonwood Creek located between the Lower Terminus and the Upper Termini, as defined below: Lower Terminus: That point on Cottonwood Creek where the headgate of the Trout Creek Ditch Company Ditch (the “TCDC Ditch”) is located, to wit: On the south bank of Cottonwood Creek 200 yards easterly of the junction of the Denver, South Park and Pacific Railroad and the Denver and Rio Grande Railroad south of Buena Vista, Chaffee County, Colorado. The ditch is located on the south bank of Cottonwood Creek in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, Township14 South, Range78 West, 6th P.M., Chaffee County. Upper Termini: (1) Cottonwood Lake Reservoir, which is located on South Cottonwood Creek, a tributary of Cottonwood Creek, a tributary of the Arkansas River, in the SE $\frac{1}{4}$, Section 36, Township 14 South, Range 80 West, 6th P.M., Chaffee County; and (2) Rainbow Lake, which is located on Middle Cottonwood Creek, a tributary of Cottonwood Creek, a tributary of the Arkansas River in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Township 14 South, Range 79 West, 6th P.M., and the point of diversion of which is at a point whence the SE corner

of Section 19, same Township and Range, bears South 80° 34.0' East, 2,110.3 feet, Chaffee County. 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.) Appropriation Date: December 30, 2008. Exchange Amount: 2.0 cubic feet per second ("cfs") (conditional). Use: As a source of augmentation water pursuant to UAWCD's existing plans for augmentation decreed in Case Nos. 92CW84 and 94CW5, both as amended by Case No. 06CW32 (the "UAWCD Plans"), for all beneficial uses set forth in the UAWCD Plans, including, but not limited to, domestic, irrigation, livestock watering, municipal, industrial, piscatorial, and recreational. Water appropriated via the 08CW106 Stream Exchange will be stored in Cottonwood Lake Reservoir and Rainbow Lake for subsequent release to augment depletions pursuant to the UAWCD Plans. Source of Substitute Supply: The substitute supply for the 08CW106 Stream Exchange will be provided to Cottonwood Creek at the headgate of the TCDC Ditch. The source of the substitute supply is the operation of the 08CW106 Ditch Exchange, as described in the 08CW106 Decree. **3. A detailed outline of what has been done toward completion of the appropriation** is included in the Application on file with the Water Court, and includes, among other items, that UAWCD completed site reconnaissance, grant application and administration, engineering, permitting, drilling, procurement, and well monitoring and pump testing activities related to two groundwater wells to serve as the UAWCD-Moltz Well described in the 08CW106 Decree. The total amount spent during the diligence period is at least \$106,156.52. UAWCD is developing this exchange as part of its integrated system of water rights and augmentation plans. **4. Owners of land where water will be stored:** Rainbow Lake: Rainbow Lake Resort Inc., PO Box 17450, Oklahoma City, OK 73136-1450. Cottonwood Lake Reservoir: United States Department of Agriculture, Forest Service, 5575 Cleora Road, Salida, Colorado 81201.

CASE NO. 2025CW3077; Previous Case Nos. W-1604, W-1604(78), 82CW201, 87CW26, 93CW53, 06CW48 and 2012CW123, 2019CW3034 – RILEY L MAY, 39818

County 7, Lamar, Colorado 81052 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: Steerman Law Offices, PLLC, Donald L. Steerman, PO Box 390, 200 West Elm Street, Lamar, CO 81052, (719) 336-4313)

Application for a Finding of Reasonable Diligence

PROWERS COUNTY

Applicant seeks a finding of reasonable diligence for the following conditional water well right: **2. Name of Structure:** Well No. 1. Original Decree: Case No. W-1604, dated October 4, 1974. Subsequent Decrees: Case No. W-1604 (78) date of decree: January 19, 1979; Case No. 82CW201 (W-1604) date of Decree: April 21, 1983; Case No. 87CW26 (W-1604) date of decree: August 24, 1987; Case No. 93CW53 (W-1604) date of decree: June 26, 2000; Case No. 06CW48 (W-1604) dated December 5, 2006; Case No. 12CW123, date of decree: May 21, 2013, Case No. 19CW3034: date of decree: December 20, 2019. Legal Description: Located in the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section Thirteen (13), Township Twenty-Two (22) South, Range Forty-Six (46) West of the 6th P.M., 660 feet from the North Section line and 120 feet from the West Section line.) Source of water: Arkansas River. Appropriation Date: June 6, 1956. Amount: The use of water for irrigation was absolutely granted for 8.88 c.f.s., or 4,000 gpm, but not to exceed 2,840 acre feet per calendar year. Use of

water for industrial use was made absolute for 3,618 gpm, or 8.06 c.f.s., not to exceed 6 acre-feet per calendar year (Absolute). The Application concerns the balance of the conditional 3,618 gpm, or 8.06 c.f.s., not to exceed 2,834 acre-feet per calendar year (Conditional). Uses: industrial. Detailed outline of what has been done toward completion of the appropriation. During the diligence period, Applicant has maintained the well in good operating condition, and production from the well has been maintained for irrigation and industrial use at or near the maximum decreed rate. In addition has repaired the pump and has incurred significant expenses to maintain the well, including the payment of \$1,709.86 for the purpose of maintaining the line and well. This is in addition to the considerable expense incurred in developing the well during the last diligence period. Applicant has maintained an existing overhead delivery system, which allows water produced by the well to be delivered into water trucks for industrial use. Applicant has installed a flow meter on a separate valve that is solely dedicated to this use, and all water is strictly metered through such flow meter for loading tankers. Applicant has continued to sell water for industrial use and has been able to put the water into a beneficial use for this purpose. This water has been used for dust suppression, packing lines and other similar uses. Water from the Well can also be used to load in or water pack casing for shut-in oil and gas wells, as required by the Colorado Oil and Gas Conservation Commission. Applicant has maintained his membership in the Lower Arkansas Water Management Association, and 347 shares of the capital stock of LAWMA owned by Applicant are assigned to Well No. 1 as an augmented structure for augmentation purposes. The annual assessment for the shares was approximately \$14,777.00 annually for the years 2020, 2022, 2023. The assessment increased to \$16,165.00 for 2024 and increased again to \$17,900 for the year 2025. Applicant also claims to make absolute in part the conditional water right in part. Applicant has applied water to beneficial use: 2021: Amount: 10.7099 af/2,606,811.43 gallons, Use: Industrial; 2022: Amount: 7.318 af/2,280,960.00 gallons, Use: Industrial; 2023: Amount: 22.856 af/5,865,325.72 gallons, Use: Industrial; 2024: Amount: 14.243 af/3,910,217.34 gallons, Use: Industrial; 2025: Amount: 35.019 af/9,449,691.43 gallons Use: Industrial; The amount of water to be made absolute is the remaining 26.959 acre feet for industrial use of which 35.019 acre feet was used and put to beneficial use in 2025. The additional 26.959 acre-feet to be made absolute. This amount includes the additional 26.959 acre feet of the 35.019 minus the 6 acre feet of absolute industrial use awarded in previous decrees. Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Land is owned by Applicant, Riley L. May.

CASE NO. 2025CW3078; Previous Case No. CA 1590 – STATE OF COLORADO, DEPARTMENT OF CORRECTIONS, Office of Facility Management Services, 1250 Academy Park Loop, Colorado Springs, Colorado 80910 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Austin Hamre and Teri L. Petitt (Special Counsel), Hamre, Rodriguez, Ostrander & Prescott, P.C., 188 Inverness Drive West, Suite 430, Englewood, Colorado 80112-5204, (303) 779-0200) Application for Correction of Established But Erroneously Described Point of Diversion Pursuant to § 37-92-305(3.6), C.R.S.

CHAFFEE COUNTY

2. The decreed water right for which correction is sought is referred to herein as the "Bray-Allen Ditch Morrison Extension Water Right," and is described as follows: 2.1. Name of Structure: The Bray-Allen Ditch (WDID 1100537). 2.2 Date of original and all relevant subsequent decrees, including case number and court: The Bray-Allen Ditch Morrison Extension Water Right was decreed by the District Court, County of Chaffee, STate of Colorado in Case No.1590 "In the Matter of the adjudication of Priorities of water rights in Water District No. 11 upon the Petition of Willia Heckman and W. J. Dawson" on July 13, 1898. It was decreed Priority No. 188A for 6.0 cfs for irrigation purposes, with an appropriation date of March 1, 1890. The decree is referred to herein as the "CA 1590 Decree." 2.3. Legal Description of Structure: 2.3.1. The CA 1590 Decree describes the headgate of the Bray-Allen Ditch Morrison Extension Water Right as follows: "the headgate of said ditch is situated on the east bank of the Arkansas River at a point bearing South 76° 40' East from the northwest corner of Section 22, Township 14, South of Range 78 West, distance 7522 feet..." 2.3.2. The actual location of the headgate of the Bray-Allen Ditch Morrison Extension Water Right is on the east bank of the Arkansas River in the NW1/4 quarter of the NW1/4 quarter of Section 22, Township 14 South, Range 78 West, of the 6th P.M., at a point located approximately 300 feet from the west section line and 1,210 feet from the north section. The UTM coordinates (Zone 13, NAD 83) are: 403839mE, 4297550mN. 2.3.3. The established location is approximately 6,415 feet from the decreed location described in the CA 1590 Decree. A map depicting the established location of the headgate of the Bray-Allen Ditch Morrison Extension Water Right and the erroneous location described in the CA 1590 decree is attached to 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.) 2.4. Decreed source of water: Arkansas River. 2.5. Appropriation date: March 1, 1890. 2.6. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): 6.0 cfs, absolute. 2.7. Detailed description of proposed correction to established by erroneously described point of diversion pursuant to Section 37-92-305(3.6)(a) and (b), C.R.S.: 2.7.1. Applicant is the owner of a one-half interest in the Bray-Allen Ditch Morrison Extension Water Right. Applicant acquired its one-half interest in the water right by a deed dated June 7, 1937, and recorded in the Chaffee County records at Book 221 Page 476. 2.7.2. The remaining one-half interest in the Bray-Allen Ditch Morrison Extension Water Right is owned by River Rock Ranch, Inc., which acquired its one-half interest by a deed dated November 6, 2002, and recorded in the Chaffee County records at Reception No. 330333. River Rock Ranch, Inc. has given Applicant its express consent to the filing of this application. 2.7.3. Upon information and belief, the point of the diversion of the Bray-Allen Ditch Morrison Extension Water Right has been at the physical location described in paragraph 2.3.2., above, since the CA 1590 Decree confirmed the water right, and is the point from which Applicant and River Rock Ranch and/or their predecessors have diverted water pursuant to the CA 1590 Decree. Applicant has reviewed aerial photography to further confirm the location of the actual diversion point in accordance with its description listed above. 2.7.4. Applicant learned of the erroneous description of the point of diversion in August 2024 from counsel for the Town of Buena Vista which also owns a water right associated with the Bray-Allen Ditch. Applicant River Rock Ranch learned of the erroneous description from counsel for Applicant Corrections by letter dated December

8, 2025. Applicant is filing this application less than three (3) years from the date that it and River Rock Ranch were informed of the error. 2.8. Remarks: This application does not include, and will not be consolidated or joined with, an action by the Applicant seeking any type of change of water right or diligence proceeding or application to make absolute with respect to the Bray-Allen Ditch Morrison Extension Water Right described herein. 2.9. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Not applicable. WHEREFORE, pursuant to C.R.S. 37-92-305(3.6), Applicant requests the court to find that Applicant has satisfied the requirements for the correction of an established but erroneously described point of diversion set forth in C.R.S § 37-92-305(3.6); that the correction to the established but erroneously described point of diversion sought herein will not cause an enlargement of the historical use associated with the Bray-Allen Ditch Morrison Extension Water Right and will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right; and to enter a decree correcting the established but erroneously described point of diversion as described herein and granting such other relief as the Court deems proper.

CASE NO. 2025CW3079; WHITE FAMILY REVOCABLE TRUST c/o Andrew and Judith White 3413 Monte Vista Drive, Austin, TX 78731 (Please address all pleadings and inquiries regarding this matter to Applicant's attorney: JVAM PLLC 305 Gold Rivers Ct, Ste 200, Basalt CO 81621, (970) 922-2122)

Amended Application For Approval Of Absolute Storage Right, Plan For Augmentation, Conditional Exchange Project Right And Conditional Appropriative Right Of Exchange
Silver Heels Creek, tributary to Bear Creek, tributary to the Arkansas River, FREMONT COUNTY

Source: Silver Heels Reservoir is an existing on-channel structure located on Silver Heels Creek, tributary to Bear Creek, to the Arkansas River. Silver Heels Reservoir has been in existence since at least the 1930s, and a storage water right was decreed for it in Case No. 83CW72. Applicant is requesting approval of an absolute storage right, aug plan, exchange project right, and appropriative right of exchange to preserve the water level in Silver Heels Reservoir. To preserve this historical operation, Applicant requests exchange rights and substitution that will allow Silver Heels Reservoir to be refilled with delivery of Upper Arkansas Water Conservancy District (UAWCD) substitute supplies upstream of the downstream calling water right. **FIRST CLAIM FOR RELIEF: APPLICATION FOR ABSOLUTE WATER STORAGE RIGHT.** Name of structure: Silver Heels Reservoir Use Enlargement. Location: SW1/4 of SE1/4 of Sec 22, T 49 N, Range 9 E of the N.M.P.M. Silver Heels Reservoir can also be described as being located on the line between Sec 22 & 27, T 49 N, Range 9 E of the N.M.P.M in Fremont County, being located in part in SW1/4 of SE1/4 of Sec 22 and in part in NW1/4 of NE1/4 of Sec 27. Inlet located at NAD 83, UTM Zone 13, UTMx (m): 416220, UTMy (m): 4259237. The center of the dam is located at NAD 83, UTM Zone 13, UTMx (m): 416266, UTMy (m): 4259238. Date of appropriation: Dec 31, 1937. Amount claimed: 0.90 AF, abs. Uses: fill and continuously refill for fire protection and in-pond wildlife, aesthetic, piscatorial, and recreation; and continuous refill for stock water (in addition to the first fill stock water use approved in Case No. 83CW72). Active capacity:

0.62 AF; Dead storage: 0.28 AF. Remarks: The Silver Heels Reservoir water right was decreed in Case No. 83CW72, absolute for 1.0 AF for stock water use. The Silver Heels Creek Reservoir Use Enlargement water right is sought only for additional uses, not additional volume. Consistent with historical operations, the Silver Heels Reservoir and Silver Heels Reservoir Use Enlargement is subject to protection under C.R.S. § 37-92-102(3)(b). **SECOND CLAIM FOR RELIEF: APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION.** Names of structures to be augmented: Silver Heels Reservoir and Silver Heels Reservoir Use Enlargement. Is structure decreed: Yes. *Silver Heels Reservoir*: Case No. 83CW72, Div 2, Aug 2, 1984. Location & Appropriation Date: described above. Amount: 1 AF, absolute. Use: Stock water. Water right to be used for augmentation: On Oct 24, 2025, Applicant entered into a 30-year lease with UAWCD for up to 2.0 AF annually of fully consumable supplies from various sources including, but not limited to, those rights described in Paragraph 10 of the decree in Case No. 18CW3076 (the “18CW3076 decree”, but excluding Fryingpan-Arkansas Project Water and Project Water Return Flows described in Paragraph 10.b. of the 18CW3076 decree, and including water that has been changed for use in the 18CW3076 decree by court or administrative approval. Applicant does not intend to change a water right to provide source of augmentation. General plan: The plan for augmentation will operate by delivering UAWCD replacement water upstream of the calling water right that is located downstream of the confluence of Bear Creek and the Arkansas River via the water exchange project right, appropriative right of exchange, or substitution during periods of administration of a downstream senior call on Bear Creek, depletions from Silver Heels Reservoir will be curtailed. Depletions to be augmented: Total annual depletions are estimated to be 1.39 AF, which is comprised of the following: Evaporation: 0.43 AF annually. Stock watering: 12 gallons per day per head (March through November), consistent with UAWCD’s decree entered in Case No. 18CW3076, ¶12.b & total annual depletion is assumed to be 0.05 acre-feet. Storage refill: 0.90 AF per year. Operation of Plan for Augmentation: Silver Heels Reservoir and Silver Heels Reservoir Use Enlargement are likely to be out-of-priority all of the time because of an Arkansas River mainstem call. If there are periods when they are not, they may fill under their own priorities. To the extent that the downstream call is on the Arkansas River mainstem only, in-basin replacement to Bear Creek is not required, and replacement water can be delivered pursuant to the UAWCD lease. In such instances, refill of the Silver Heels Reservoir and replacement of evaporation and stock use depletions may occur by operation of the water exchange project, operation of the appropriative right of exchange, or substitution as provided for in C.R.S. § 37-80-120. To the extent that Silver Heels Gulch is a live stream to Bear Creek, refill and replacement may occur by operation of the appropriative right of exchange. To the extent that Silver Heels Gulch is not a live stream to Bear Creek, the refill may occur pursuant to the water exchange project or substitution. Table 2 to Application describes depletions and UAWCD replacement releases during operation of the plan of augmentation. Substitution operations are expected to primarily operate during the Pueblo Winter Water Storage Program pursuant to the decree entered in Case No. 84CW179. Due to operation of the Pueblo Winter Water Storage Program, any depletions from the Silver Heels Reservoir or Silver Heels Reservoir Use Enlargement owed to the Arkansas River can be aggregated and replaced to the Pueblo Winter Water Storage Program account in Pueblo Reservoir with approval of the Division Engineer. During times when an administrative call originates from senior water rights on Bear Creek downstream of its

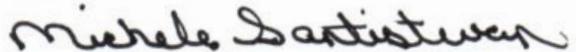
confluence with Silver Heels Creek, Silver Heels Reservoir will be drawn down commensurate with evaporation and stock watering depletions (i.e., all inflows bypassed with no continuous refill). As described in paragraph 3.M, consistent with historical operations, the Silver Heels Reservoir and Silver Heels Reservoir Use Enlargement is subject to protection under C.R.S. § 37-92-102(3)(b). **THIRD CLAIM FOR RELIEF: APPLICATION FOR EXCHANGE PROJECT RIGHT.** Name of structure: Silver Heels Reservoir Exchange Project. Downstream termini: The exchange project utilizes the leased UAWCD water as the replacement source. Based on the supplies available from UAWCD, the downstream termini include: The confluence of Bear Creek and the Arkansas River, located at a point described as NE ¼ NE ¼ Section 15, Range 9.0 East, Township 49.0 North, N.M.P.M, approximately 290 feet from the east section line and 690 feet from the north section line. This point can also be described as NAD83, UTM Zone 13, UTMx (m): 416891, UTMy (m): 4262300. The confluence of Grape Creek and the Arkansas River located at a point described as NE ¼ NW ¼ Section 6, Range 70.0 West, Township 19.0 South, 6th P.M, approximately 1,380 feet from the west section line and 170 feet from the north section line. This points can also be described as NAD83, UTM Zone 13, UTMx (m): 476571, UTMy (m): 4253690. . Pueblo Reservoir, an on-channel reservoir formed by the intersection of Pueblo Dam and the Arkansas River at a point whence the Northeast corner of Sec 36, T 20 S, Range 66 West of the 6th PM, bears North 61° 21' 20" East a distance of 2,511.05 feet. 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 of Township 20 South, Range 66 West of the 6th PM and Sections 1, 2, 3, 4, 5, 9, 10 and 11 of Township 20 South, Range 67 West of the 6 PM all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, T 20 S, Range 66 West of the 6th PM, from which the Northeast corner of the Sec 36 bears North 61° 21'20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B42135 as corrected in Case No. 02CW37. Upstream termini: Silver Heels Reservoir. Appropriation Date: Dec 31. 2025. Amount: 0.005 c.f.s., cond. Use: Aug. Max annual vol of exchange: 0.6 AF. Remarks: Applicant shall not operate exchanges from Pueblo Reservoir so as to reduce the rate of flow in the Arkansas River immediately above the discharge of the Fremont Sanitation District Wastewater Treatment Plant to less than 190.0 cfs & Applicant will not operate the exchange project from Pueblo Reservoir unless there is a minimum inflow of 155 cfs of native water flowing into Pueblo Reservoir measured at the Portland gage (ID 0709700). **FOURTH CLAIM FOR RELIEF: APPLICATION FOR APPROPRIATIVE RIGHT OF EXCHANGE.** Name of structure: Silver Heels Reservoir Exchange. Downstream termini: The exchange project utilizes the leased UAWCD water as the replacement source all as described above. Upstream termini: Silver Heels Reservoir described above. Appropriation date: Dec 31, 2025. Amount: 0.45 c.f.s., cond. Use: All uses decreed to the Silver Heels Reservoir and the Silver Heels Reservoir Use Enlargement. Maximum annual volume of exchange: 1.8 AF. Remarks: same as above. The Application, tables, figures, and exhibits contain additional information (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

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 February 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 January 2026.



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)

Published:

SUBSTITUTE WATER SUPPLY PLAN AND PRODUCED NONTRIBUTARY GROUNDWATER NOTIFICATION LIST

Section 37-92-308(6), C.R.S. directs the State Engineer to establish a notification list for each water division for the purpose of notifying interested parties of requests for the State Engineer's approval of substitute water supply plans ("SWSPs") filed in that water division pursuant to section 37-92-308, C.R.S. The SWSP Notification List is also used to provide notice of proposed water right loans to the Colorado Water Conservation Board for use as instream flows under section 37-83-105(2)(b)(II), C.R.S., notice of applications for the State Engineer's approval of interruptible water supply agreements under section 37-92-309(3)(a), C.R.S., notice of applications for fallowing and leasing pilot projects under section 37-60-115(8)(e)(II), C.R.S., notice of fire suppression ponds under section 37-80-124(10)(a)(II)(E), C.R.S., and notice of storm water detention and infiltration facilities under section 37-92-602(8)(d), C.R.S.

Pursuant to Rule 17.5(B)(2) of the Rules and Regulations for the Determination of the Nontributary Nature of Ground Water Produced Through Wells in Conjunction with the Mining of Minerals, at 2 CCR 402-17 ("Rules"), the State Engineer is publishing this invitation to persons to be included on the Produced Nontributary Ground Water

Notification List. According to Rule 17.5(B)(2) of the Rules, the State Engineer must establish a Produced Nontributary Ground Water Notification List for each water division within the State of Colorado for the purposes of ensuring that water users within each water division receive adequate notice of proceedings held pursuant to the Rules. In order to establish such notification list, the State Engineer is directed, in January of each year, to cause to have published in the water court resume for each water division this invitation to be included on the Produced Nontributary Ground Water Notification List for the applicable water division.

This notice is an invitation to be included on the SWS and/or Produced Nontributary Groundwater Notification Lists. Sign up for these or other notification lists maintained by the State Engineer at: <https://dwr.colorado.gov/public-information/notification-lists>. Additional information is available on the Division of Water Resources' website at: <https://dwr.colorado.gov/>.