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## **DISTRICT COURT, WATER DIVISION 1, COLORADO**

### **MARCH 2026 WATER RESUME PUBLICATION**

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#### **TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIVISION 1**

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications, and certain amendments filed in the Office of the Water Clerk and/or ordered published during the month of **MARCH 2026** for each County affected. (This publication can be viewed in its entirety on the state court website at: [www.coloradojudicial.gov](http://www.coloradojudicial.gov))

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**CASE NUMBER 2026CW3 KEVIN McCARTY**, 2275 Alpine Sky Dr., Berthoud, CO 80513. 970-581-1953. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN WELD COUNTY.** Date of original decree: 05-24-96 in case 95CW251, WD1; Subsequent decrees: 06-24-13 in case 11CW5, WD1; 03-03-20 in case 19CW19, WD1. McCarty Pond located SE1/4 SE1/4, S21, T4N, R68W of the 6th PM at a point 775 feet from the south line and 1210 feet from the east line of said Section 21, Lot 1, Little Thompson Valley Estates. Source: Unnamed Tributary to Little Thompson River; Appropriation date: 12-5-95; Amount: 8 af; Conditional. Use: Irrigation.

**CASE NUMBER 2026CW3043 TOWN OF ESTES PARK**, PO Box 1200, Estes Park, CO 80517. David S. Hayes, Matthew S. Poznanovic, John D. Buchanan, Hayes Poznanovic Korver LLC, 700 17th Street, Suite 1800, Denver, CO 80202. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN LARIMER COUNTY.** Description of conditional appropriative rights of exchange (collectively, the “Appropriative Rights of Exchange”): Prior decrees: The subject Appropriative Rights of Exchange were originally adjudicated by the decree entered by the District Court, Water Division No 1, Colorado, in Case No. 97CW126. The decree entered on March 6, 2020, in Case No. 19CW3065 made a portion of the subject exchanges absolute and continued the remainder as conditional. Upstream Terminus (Exchange-To Point): Glacier Creek Pipeline (“GC Pipeline”), located on the south bank of Glacier Creek, a tributary of the Big Thompson River, located in the NE1/4 SE1/4 NW1/4, Section 5, Township 4 North, Range 73 West of the 6th P.M., Larimer County, Colorado, as depicted on Exhibit A. Downstream Termini (Exchange-From Points): Estes Park Sanitation District Wastewater Plant: The Plant discharges to the Big Thompson River upstream of Lake Estes at a point in the in the NW 1/4, Section 30, Township 5 North, Range 72 West of the 6th P.M., Larimer County, as depicted on Exhibit A. Upper Thompson Sanitation District Wastewater Plant: The Plant discharges to the Big Thompson River immediately downstream of Lake Estes in the NE 1/4, Section 29, Township 5 North, Range 72 West of the 6th P.M., Larimer County, Colorado, as depicted on Exhibit A, for reusable Windy Gap effluent. Source of substitute supply: Return flows of Windy Gap Water and/or direct deliveries of Windy Gap Water to the Big Thompson River at or above the Upper Thompson Plant location described above. Estes Park owns 3 Units of Windy Gap Project water. Decrees for the Windy Gap Project include, without limitation, the decrees entered on October 27, 1980 in Civil Action No. 1768, District Court, Grand County, State of Colorado and Case Nos. W-4001 and 80CW108, District Court, Water Division No. 5; the decree entered on February 6, 1989 in Case No. 88CW169, District Court, Water Division No. 5, State of Colorado. Date of Appropriation: March 31, 1997. Amounts: 2.2 c.f.s., conditional. 4.0 c.f.s. was previously made absolute in Case No. 19CW3065. Uses: All municipal uses, including domestic, irrigation, commercial, industrial, mechanical, fire protection, maintenance and replacement of storage losses, and disposition of return flows. Detailed outline of work done to complete project and apply water to beneficial use: The Appropriative Rights of Exchange

described above are components of the Town of Estes Park's integrated municipal water supply and distribution system. During the applicable Diligence Period (March 2020 to the present), Estes Park has taken steps to diligently develop the subject Appropriative Rights of Exchange, including, without limitation, the activities listed below. This list is not intended to be all inclusive and may be supplemented by additional evidence at any hearing in this matter. The Town acquired land and easements to be used for the construction and operation of the Big Thompson Intake and related pipeline. The Town conducted additional design, construction, use, and planning activities, including water master planning, as more fully described in Exhibit B, attached hereto. The Town filed diligence applications in Case Nos. 25CW3162 and 26CW3025 concerning other components of the Town's Glacier Creek and other water rights. In 2021, the Town entered into an agreement with YMCA of the Rockies to provide municipal water service to property owned by YMCA. The Town has reviewed the Division 1 Water Court resume to monitor for applications that could cause injury to the Town's water rights, including the Appropriative Rights of Exchange. The Town's expenditures related to its water rights exceeded \$1,600,000. The work and expenditures listed above and in Exhibit B are illustrative and not exhaustive. Additional work and additional or revised expenditures may be claimed in support of this application. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Applicant. YMCA of The Rockies, 116 KALLENBERG DR, PO BOX 800, ESTES PARK CO 80511. WHEREFORE, the Town of Estes Park respectfully requests that the Court enter an order finding reasonable diligence for and continuing in full force and effect the conditional Appropriative Rights of Exchange described in Paragraph 2 above. 5 Pages.

**CASE NUMBER 2026CW3044 JUNEDALE FARM LAND, LLC** ("Applicant"), c/o Eric Stoutenburg, 502 Locust Place, Boulder, CO 80304; Email [eric.stoutenburg@outlook.com](mailto:eric.stoutenburg@outlook.com); Telephone: (650) 521-1897. Please direct all correspondence concerning this Application to: Andrea A. Kehrl, Esq. and Bradley N. Kershaw, Esq., Lyons Gaddis, P.C., P.O. Box 978, Longmont, CO 80502-0978; Email: [akehrl@lyonsgaddis.com](mailto:akehrl@lyonsgaddis.com) and [bkershaw@lyonsgaddis.com](mailto:bkershaw@lyonsgaddis.com). **APPLICATION FOR SIMPLE CHANGES IN SURFACE POINTS OF DIVERSION PURSUANT TO C.R.S. § 37-92-305(3.5) IN BOULDER COUNTY.** 2. **Introduction:** Applicant recently purchased an 80-acre agricultural property in Boulder, Colorado, which has operated as a family farm since the late 1800s and through which Four Mile Creek flows. Applicant's property is comprised of two contiguous parcels located in the S1/2 of Section 16 and the NE1/4 NW1/4 of Section 21, Township 1 North, Range 70 West, 6th P.M., as generally depicted on Exhibit A (the "Property"). The Property is assigned the following street addresses and Boulder County Assessor Parcel Numbers: 5163 Independence Road, Boulder, Colorado 80301 (Assessor Parcel No. 146316000041) and 0 Independence Road, Boulder, Colorado 80301 (Assessor Parcel No. 146321000038). The Property is encumbered by a perpetual scenic and planting easement and a perpetual agricultural conservation easement for the benefit of the City of Boulder, which desires to maintain the agricultural character of the Property. Accordingly, Applicant intends to continue the agricultural use of the Property, utilizing its Allen-Hayden Ditch Nos. 1, 2, 3, and 4 water rights to do so. By this Application, Applicant seeks simple changes in points of diversion to change the decreed surface points of diversion for its Allen-Hayden Ditch Nos. 1, 2, 3, and 4 water rights on Four Mile Creek, as described further below. The legal descriptions of the originally decreed points of diversion (decreed in 1900) are no longer located on Four Mile Creek and require correction. There are no intervening water rights that could be affected by the proposed changes. Exhibit B depicts the nearest water rights, and none are intervening. Applicant does not seek any other changes to the Allen-Hayden Ditch Nos. 1 through 4 water rights other than correcting their decreed legal descriptions as described herein. The proposed legal description corrections will not result in diversion of a greater flow rate or amount of water than has been decreed to the water rights, and water is physically and legally available at the corrected points of diversion described herein. In addition or in the alternative to these simple changes of surface points of diversion pursuant to C.R.S. § 37-92-305(3.5), C.R.S. § 37-86-111 allows the owner of a water right to relocate a surface diversion structure without any

change of water right proceeding when the natural stream channel has physically changed in a manner that prevents a ditch from receiving its proper inflow of water, so long as the relocation does not physically interfere with the use or enjoyment of any absolute or decreed conditional water right. The 2013 flood in Boulder severely impacted the area, washing out and physically changing Four Mile Creek and damaging irrigation infrastructure on the Property. Based on the originally decreed locations of the Allen-Hayden Ditch Nos. 1 through 4 now being located off-stream from Four Mile Creek and the physical changes to the course of Four Mile Creek over time, C.R.S. § 37-86-111 may apply, and Applicant reserves all its rights under that statute in this proceeding, without the need to file an amendment to this Application.

**3. Decreed Water Right for which Change is Sought:**

**A. Names of Structures:** Allen-Hayden Ditches Nos. 1, 2, 3, and 4. The water rights decreed to the aforementioned structures are referred to below collectively as the “Subject Water Rights.”

**B. Date of Original and All Relevant Subsequent Decrees:** Civil Action No. 3944, District Court, County of Boulder, State of Colorado, entered on December 19, 1900 (“Original Decree”). No subsequent Decrees for the Subject Water Rights have been entered.

**C. Decreed Legal Descriptions of Structures (Verbatim from Original Decree):**

- i. **Allen-Hayden Ditch No. 1:** “[S]aid ditch is located on the south side of Four Mile Canon Creek and its headgate is at a point on the south bank of the creek whence the northeast corner of the southeast quarter of Section 17, Township One North, of Range 70 West of the 6th P.M. bears north three degrees east 985 feet. Said ditch runs in an easterly direction and is 2412 feet in length.”
- ii. **Allen-Hayden Ditch No. 2:** “[S]aid ditch is located on the south side of Four Mile Canon Creek and its headgate is on the south bank of the creek at a point whence the northwest corner of the northeast quarter of Section 21, Township one north of Range 70 West of the 6th P.M. bears south 83° 45” east 1013 feet. Said ditch runs in an easterly direction and is about 2630 feet long.”
- iii. **Allen-Hayden Ditch No. 3:** “[S]aid ditch is located on the north side of Four Mile Creek and its headgate is at a point whence the northwest corner of the northeast quarter of Section 21, Township one north of Range 70 West of the 6th P.M. bears south 56° 15” east of 560 feet; said ditch runs in an easterly direction and is 2760 feet long.”
- iv. **Allen-Hayden Ditch No. 4:** “[S]aid ditch is located on the north side of Four Mile Canon Creek and its headgate is at a point whence the northwest corner of the northeast quarter of Section 21, Township one north of Range 70 West of the 6th P.M. bears south 40° 10” west 785 feet; said ditch runs in an easterly direction and is 1233 feet long.”
- v. The decreed legal descriptions for the Allen-Hayden Ditch Nos. 1 through 4 are depicted on the map attached hereto as **Exhibit A**.

**D. Decreed Source of Water:** Fourmile Canyon Creek, also referred to as Four Mile Canon Creek and Four Mile Creek, a tributary of Boulder Creek.

**E. Appropriation Dates:**

- i. **Allen-Hayden Ditch No. 1:** April 2, 1878 (the third priority ditch on Four Mile Creek).
- ii. **Allen-Hayden Ditch No. 2:** April 3, 1878 (the fourth priority ditch on Four Mile Creek).
- iii. **Allen-Hayden Ditch No. 3:** April 4, 1878 (the fifth priority ditch on Four Mile Creek).
- iv. **Allen-Hayden Ditch No. 4:** April 5, 1878 (the sixth priority ditch on Four Mile Creek).

**F. Total Amount Decreed to Structures:**

- i. **Allen-Hayden Ditch No. 1:** One (1.0) cubic foot per second (“cfs”), absolute.
- ii. **Allen-Hayden Ditch No. 2:** One (1.0) cfs, absolute.
- iii. **Allen-Hayden Ditch No. 3:** One and a half (1.5) cfs, absolute.
- iv. **Allen-Hayden Ditch No. 4:** One-half (0.5) cfs, absolute.

**G. Decreed Use:**

- i. **Allen-Hayden Ditch No. 1:** Irrigation of forty acres of land.
- ii. **Allen-Hayden Ditch No. 2:** Irrigation of forty acres of land.
- iii. **Allen-Hayden Ditch No. 3:** Irrigation of sixty acres of land.
- iv. **Allen-Hayden Ditch No. 4:** Irrigation of ten acres of land.

**H. Amount of Water that Applicant Intends to Change:** Applicant intends to change the decreed legal descriptions for all of the Subject Water Rights, in their entirety.

**I. Water District Identification Nos. (“WDIDs”):**

- i. **Allen-Hayden Ditch No. 1:** 0600624.
- ii. **Allen-Hayden Ditch No. 2:** 0600625.
- iii. **Allen-Hayden Ditch No. 3:** 0600626.
- iv. **Allen-Hayden Ditch No. 4:** 0600627.

**4. Detailed Description of Proposed Changes in Surface Points of Diversion:** Applicant seeks a Decree confirming that the Allen-Hayden Ditch Nos. 1 through 4 points of diversion are changed from their originally decreed locations described above to the updated locations, respectively, described below.

**A. Simple Changes in Points of Diversion:** The requested changes meet the definition of simple changes in surface points of diversion as described in C.R.S. § 37-92-305(3.5). The proposed changes do not include any other changes, and there are no intervening surface diversion points, inflows, or instream flow rights between the originally decreed points of diversion and the claimed changed points of diversion. The map attached hereto as **Exhibit B** depicts the nearest decreed water rights and demonstrates the absence

of any intervening water rights. As such, the requested changes will not injuriously affect any vested water rights or decreed conditional water rights. The Subject Water Rights remain physically and legally available at the updated points of diversion. Further, the requested changes will not result in any increased consumptive use because the Applicant will continue to irrigate the historically irrigated lands. Applicant does not seek to change any other aspect of the Subject Water Rights by this Application. **B. Locations of Updated Points of Diversion:** i. **Allen-Hayden Ditch No. 1:** a. **UTM Coordinates:** UTM Zone 13N 479635m E 4432846m N. b. **Public Land Survey System (“PLSS”):** Southeast One-Quarter of the Southwest One-Quarter, Section 16, Township 1 North, Range 70 West, 6th P.M. Boulder County, CO. Approximately 659.9 feet from the South section line and 1,529.8 feet from the West section line of said Section 16. ii. **Allen-Hayden Ditch No. 2:** a. **UTM Coordinates:** UTM Zone 13N 479864m E 4432716m N. b. **PLSS:** Southeast One-Quarter of the Southwest One-Quarter, Section 16, Township 1 North, Range 70 West, 6th P.M. Boulder County, CO. Approximately 235.0 feet from the South section line and 2,280.6 feet from the West section line of said Section 16. iii. **Allen-Hayden Ditch No. 3:** a. **UTM Coordinates:** UTM Zone 13N 480268m E 4432725m N. b. **PLSS:** Southwest One-Quarter of the Southeast One-Quarter, Section 16, Township 1 North, Range 70 West, 6th P.M. Boulder County, CO. Approximately 255.9 feet from the South section line and 1,661.7 feet from the East section line of said Section 16. iv. **Allen-Hayden Ditch No. 4:** a. **UTM Coordinates:** UTM Zone 13N 480601m E 4432687m N. b. **PLSS:** Southeast One-Quarter of the Southeast One-Quarter, Section 16, Township 1 North, Range 70 West, 6th P.M. Boulder County, CO. Approximately 124.1 feet from the South section line and 551.8 feet from the East section line of said Section 16. 5. **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:** A. City of Boulder, OSMP Agriculture Program, c/o Dustin Allard, Water Resources Sr. Project Manager, 2520 55th Street, Boulder, Colorado 80301. i. **Comment:** The City of Boulder owns the land underlying the updated location of the Allen-Hayden Ditch No. 1 headgate. Applicant has provided the City of Boulder advance verbal notice of this Application and will also mail a written notice of this Application to the City of Boulder and certify the same with the Court as required by law. As aforementioned, the City of Boulder is the beneficiary of a perpetual scenic and planting easement and a perpetual agricultural conservation easement encumbering the Property, and, therefore, has an interest in the continued use of the Allen-Hayden Ditch Nos. 1 through 4 to irrigate the Property. Further, prior to execution of those easements, the City of Boulder and Applicant’s predecessor-in-interest entered into a written agreement whereby the City granted the owner of the Property the right of access to irrigation facilities on City land to facilitate the continued agricultural use of the Property. That Agreement runs with the Property and binds Applicant, its heirs, personal representatives, successors, and assigns. B. For the Allen-Hayden Ditch Nos. 2, 3, and 4, Applicant owns all land upon which the points of diversion are or will be located. WHEREFORE, Applicant respectfully requests that the Water Court enter a final decree granting (1) the claims for simple changes in points of diversion as described herein and (2) granting such other and further relief as may be appropriate. (9 pgs., 2 Exhibits)

**CASE NUMBER 2026CW3045 HCL LLC**, 5910 S. University Boulevard, Suite C18 #140, Greenwood Village, Colorado 80121; Please direct all correspondence concerning this application to: Ryan W. Farr, and Sedona E. Chavez, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921; Telephone Number: (719) 471-1212; Email: [rwf@cowaterlaw.com](mailto:rwf@cowaterlaw.com); [sec@cowaterlaw.com](mailto:sec@cowaterlaw.com). **APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION IN ADAMS COUNTY.** Applicant is seeking approval of a plan for augmentation for use of not-nontributary Denver and Arapahoe aquifer wells to serve 16 lots (13 Denver and 3 Arapahoe) within a subdivision of the Applicant’s Property, as described below. Property Description. Applicant owns an approximately 250.33-acre property and has the right to develop an additional contiguous 37.57-acre property, with the combination totaling 287.9 acres, which combined property is depicted on the attached **Exhibit A** map, located in the E1/2 of Section 7, Township 1 South, Range 64 West of the 6th P.M., Adams County, specifically described on the attached **Exhibit B** (“Applicant’s Property”). Structures to be Augmented. The structures to be augmented are thirteen Denver aquifer wells to be constructed to serve thirteen lots

within a proposed subdivision on the Applicant’s Property, along with any replacement or additional wells as needed that are constructed to the Denver aquifer underlying the Applicant’s Property (“Denver HCL Wells”), and three Upper Arapahoe wells to be constructed to serve three lots within a proposed subdivision on the Applicant’s Property, along with any replacement or additional wells as needed that are constructed to the Upper Arapahoe aquifer underlying the Applicant’s Property (“Arapahoe HCL Wells”). The Denver HCL Wells and Arapahoe HCL Wells are herein collectively referred to as “HCL Wells.” Water Source. A prior Denver Basin groundwater adjudication was prosecuted along with a plan for augmentation, and a decree was issued that included a quantification of all Denver Basin groundwater underlying the Applicant’s Property in Case No. 23CW3090, District Court, Water Division 1 (“23CW3090 Decree”). The 23CW3090 Decree adjudicated the following underlying Denver Basin groundwater amounts:

<b>Aquifer</b>	<b>Net Sand (ft)</b>	<b>Total Appropriation (Acre-feet)</b>	<b>Annual Avg. Withdrawal 100 Years (Acre-feet)</b>	<b>Annual Avg. Withdrawal 300 Years (Acre-feet)</b>	<b>Supply Not Used in 23CW3090 Aug Plan (Acre-feet)</b>
Denver (NNT)	35	495	4.95	1.65	495
Denver (NNT 4%)	35	1,220	12.2	4.07	1,220
Upper Arapahoe (NNT 4%)	50	2,450	24.5	8.17	434
Lower Arapahoe (NT)	50	2,450	24.5	8.17	2,450
Laramie-Fox Hills (NT)	160	6,910	69.1	N/A	4,852

Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Denver and Arapahoe aquifer wells, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions. Statement of Plan for Augmentation (Denver aquifer). Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Denver aquifer. Uses. Pumping from the Denver aquifer will be a maximum of 5.46 acre-feet of water per year combined for the Denver HCL Wells, with each lot pumping a maximum of 0.42 acre-feet per year. Such uses shall be for domestic within a single-family dwelling and guest house, structure and equipment washing, irrigation (indoor and outdoor), commercial, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. Depletions. Pursuant to C.R.S. § 37-90-137(9)(c.5), the Denver aquifer underlying the Applicant’s Property, depending on location, requires either replacement of actual stream depletions or replacement of 4% of the water withdrawn annually. In order to meet both replacement requirements, Applicant shall replace actual stream depletions for all Denver HCL Wells. As such, pumping from the Denver aquifer will require the replacement of 6.34% of the water withdrawn annually, or 0.35 acre-feet. Should annual pumping be less than the 5.46 acre-feet total described herein, resulting depletions and required replacements will be correspondingly reduced. Augmentation of Depletions During Pumping. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a conservative household use rate of 0.20 acre-feet per residence per year from thirteen residences, 2.34 acre-feet is replaced to the stream system per year with the use of a

non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. Statement of Plan for Augmentation (Upper Arapahoe aquifer). Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the remaining not-nontributary Arapahoe aquifer supplies not utilized in the plan for augmentation in the 23CW3090 Decree. Uses. Pumping from the Upper Arapahoe aquifer will be a maximum of 1.26 acre-feet of water per year combined for the Arapahoe HCL Wells, with each lot pumping a maximum of 0.42 acre-feet per year. Such uses shall be for domestic within a single-family dwelling and guest house, structure and equipment washing, irrigation (indoor and outdoor), commercial, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. Depletions. Pursuant to C.R.S. § 37-90-137(9)(c.5), the Upper Arapahoe aquifer underlying the Applicant's Property requires replacement of 4% of the water withdrawn annually. As such, pumping from the Upper Arapahoe aquifer will require the replacement of 0.05 acre-feet annually. Should annual pumping be less than the 1.26 acre-feet total described herein, resulting depletions and required replacements will be correspondingly reduced. Augmentation of Depletions During Pumping. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a conservative household use rate of 0.20 acre-feet per residence per year from three residences, 0.54 acre-feet is replaced to the stream system per year with the use of a non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented. Augmentation for Post Pumping Depletions. For the replacement of post pumping depletions which may be associated with the use of the HCL Wells, Applicant will reserve 2,058 acre-feet of the Laramie-Fox Hills aquifer, subject to credit for during-pumping replacement. The 23CW3090 Decree has already reserved 2,058 acre-feet of the nontributary Laramie-Fox Hills aquifer to cover post pumping depletion requirements. As such, the reservation herein of 2,058 acre-feet of Laramie-Fox Hills aquifer is in addition, bringing the total of the Laramie-Fox Hills aquifer reserved for post pumping replacement to 4,116 acre-feet. The amount of nontributary Laramie-Fox Hills aquifer groundwater reserved may be reduced as may be determined through this Court's retained jurisdiction as described in any decree. If the Court, by order, reduces the Applicant's obligation to account for and replace such post pumping depletions for any reason, it may also reduce the amount of Laramie-Fox Hills aquifer groundwater reserved for such purposes, as described herein. 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, Applicants reserve the right in the future to prove that post pumping depletions will be noninjurious. Pursuant to C.R.S. § 37-90-137(9)(b), no more than 98% of water withdrawn annually from a nontributary aquifer shall be consumed. 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 requested not-nontributary wells 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 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 or wells 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 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. All wells shall be installed and metered as reasonably required by the State and Division Engineer. The wells will be equipped with a totalizing flow meters and Applicant, or its successors and assigns, shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. Applicant, or its successors and assigns, shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation. Applicant will comply with any landowner and lienholder notice provisions set forth in C.R.S. §§ 37-92-302(2)(b) and 37-90-137(4)(b.5)(I), C.R.S., and such notice will be sent within 14 days of the filing of this application. Application is 7 pages.

**CASE NUMBER 2026CW3046 TOWN OF BERTHOUD** (“Applicant”), P.O. Box 1229, Berthoud, Colorado 80513; kmatthews@berthoud.org; (970) 532-2643. Please direct all correspondence concerning this Application to: Peter C. Johnson, Esq., Andrea A. Kehrl, Esq. and Bradley N. Kershaw, Esq., Lyons Gaddis, P.C., P.O. Box 978, Longmont, CO 80502-0978; Email: pjohnson@lyonsgaddis.com; akehrl@lyonsgaddis.com and bkershaw@lyonsgaddis.com. **APPLICATION FOR CHANGE OF WATER RIGHTS, PLAN FOR AUGMENTATION, AND APPROPRIATIVE RIGHT OF EXCHANGE IN LARIMER AND WELD COUNTIES.** 2. Purpose: Applicant seeks a change of water rights for those water rights associated with thirty two and eighty-three hundredths (32.83) shares of the nine hundred (900) outstanding shares of capital stock in the Handy Ditch Company, represented by Share Certificate Nos. 4355 (23.33 shares), 4441 (2.5 shares), 4430 (1 share), and 4235 (6 shares) (collectively, the “Subject Water Rights”). Applicant also seeks to adjudicate a plan for augmentation to provide adequate sources of replacement water to maintain the historical return flows associated with the Subject Water Rights, and to adjudicate appropriative rights of exchange for the purpose of exchanging water available under the Subject Water Rights on the Big Thompson River from its confluence with the Little Thompson River to the Handy Ditch headgate. **Claim for Change of Water Rights** 3. Names of structures: Handy Ditch, Welch Reservoir, and Hertha Reservoir. 4. Handy Ditch Company Water Rights: A. Handy Ditch: i. Decree: May 28, 1883, unnumbered case, District Court, Boulder County. ii. Legal description of structure: The Handy Ditch headgate located on the right bank of the Big Thompson River immediately downstream from the mouth of the Big Thompson Canyon in Section 3, Township 5 North, Range 70 West of the 6th P.M., in Larimer County. See map attached hereto as **Exhibit A**. iii. Decreed source of water: Big Thompson River. iv. Appropriation dates and amounts: February 28, 1878, Priority No. 39, for 31.2 cubic feet per second (“cfs”); and December 15, 1880, Priority No. 47.5, for 141.234 cfs. v. Decreed use: Irrigation. B. Big Thompson Ditch and Manufacturing Company: i. Decree: May 28, 1883, unnumbered case, District Court in and for Boulder County. 1. Subsequent decree: A portion of the water rights originally decreed to the Big Thompson Ditch and Manufacturing Company have historically been utilized under the Handy Ditch system. In a decree entered on March 23, 1914, in Civil Action 0260, District Court in and for Boulder County, that portion of Priorities 2, 4, 10-1/2, and 20 of the Big Thompson Ditch and Manufacturing Company water rights (specifically described below) were changed for diversion at the Handy Ditch headgate. Of changed water rights available at the Handy Ditch headgate, half are owned by the Handy Ditch Company and are the subject of this Application. The other half are privately owned and are not the subject of this Application. ii. Legal description of structure: The original decreed point of diversion of the Big Thompson Ditch and Manufacturing Company water rights is located in the Section 15, Township 5 North, Range 69 West, 6th P.M., in Larimer County. The headgate of the Handy Ditch is described in paragraph 4.A.ii above. iii. Decreed source of water: Big Thompson River. iv. Appropriation dates and amounts (as changed for diversion at the Handy Ditch headgate and owned by the Handy Ditch Company): a. April 1, 1863, Priority No. 2, for 0.695 cfs. b. May 1, 1864, Priority No. 4, for 0.76 cfs. c. March 1, 1867, Priority No. 10-1/2, for 1.345 cfs. d. May 1, 1872, Priority No. 20, for 0.20 cfs. v. Decreed use: Irrigation. C. Big Thompson Irrigating Ditch: i. Decree: May 28, 1883, unnumbered case, District Court, Boulder County. 1. Subsequent decree: A portion of the water right originally decreed to the Big Thompson Irrigating Ditch was historically utilized under the Handy Ditch system. In a decree entered on C.A. 1336, March 21, 1898, District Court, Larimer County, that portion of Priority 5 (described below) of the Big Thompson Irrigating Ditch was changed for diversion at the Handy Ditch headgate. Of the changed Big Thompson Irrigating Ditch water right available at the Handy Ditch headgate, half is owned by the Handy Ditch Company and is the subject of this Application. The other half is privately owned and is not the subject of this Application. ii. Legal description of structure: The original decreed point of diversion of the Big Thompson Irrigating Ditch is located in Section 19, Township 5 North, Range 68 West, 6th P.M., Larimer County. The headgate of the Handy Ditch is described in paragraph 4.A.ii above. iii. Decreed source of water: Big Thompson River. iv. Appropriation date and amount (as changed for diversion at the Handy Ditch headgate and historically used by the Handy Ditch Company): February 25, 1865, Priority No. 5, for 20 cfs. v. Decreed use: Irrigation. D. Welch Reservoir: i. Decrees: April 1, 1931, Case No. 9079,

District Court, Boulder County; and November 14, 1939, Case No. 10077, District Court, Boulder County (enlargement / refill). ii. Legal description of structure: Welch Reservoir is located within parts of Sections 3, 4, 9, and 10, Township 4 North, Range 69 West, 6th P.M., Larimer County, as shown on **Exhibit A**. The point of diversion for Welch Reservoir is the headgate of the Handy Ditch, described in paragraph 4.A.ii above. iii. Decreed source of water: Big Thompson River. iv. Appropriation dates and amounts: 1. Welch Reservoir No. 1: October 1, 1881, Reservoir Priority No. 20, 1,901 acre-feet. 2. Welch Reservoir No. 2: November 25, 1888, Reservoir Priority No. 22, 662 acre-feet. 3. Welch Reservoir No. 5: November 25, 1888, Reservoir Priority No. 23, 26.5 acre-feet. 4. Welch Reservoir Nos. 1, 2, and 5 (First Enlargement): April 17, 1902, Reservoir Priority No. 24, 1,263 acre-feet. 5. Welch Reservoir Nos. 3 and 4: February 1, 1904, Reservoir Priority No. 25, 472 acre-feet. 6. Welch Reservoir Nos. 1, 2, 3, 4, and 5 (Second Enlargement): June 1, 1921, Reservoir Priority No. 28, 631 acre-feet. 7. Welch Reservoir Nos. 1, 2, 3, 4, and 5 (Refill): June 15, 1923, Reservoir Refill Priority No. 49, 4,955 acre-feet. v. Total amount decreed to structure: 4,955 acre-feet, with one annual refill. In Civil Action No. 4862, District Court, Boulder County, by a decree entered March 18, 1912, a diversion rate of 125 cfs from the Handy Ditch was decreed for Welch Reservoirs Nos. 1, 2, 3, 4, and 5. vi. Decreed uses: Agricultural purposes. E. Hertha Reservoir: i. Decrees: April 1, 1931, Case No. 9079, District Court, Boulder County (first fill and enlargement); November 14, 1939, Case No. 10077, District Court, Boulder County (refill). ii. Legal description of structure: Northeast 1/4 of Section 13, Township 4 North, Range 69 West, 6th P.M. Hertha Reservoir is located in parts of Sections 7 and 18, Township 4 North, Range 69 West, 6th P.M., and part of Section 13, Township 4 North, Range 70 West, 6th P.M., Larimer County, as shown on **Exhibit A**. iii. Decreed source of water: Knaus Creek and Dry Creek and their tributaries, which are tributaries to the Little Thompson River, tributary to the Big Thompson River. iv. Appropriation dates and amounts: 1. First Fill: November 9, 1909, Reservoir Priority No. 26, 593 acre-feet. 2. First Enlargement: May 18, 1925, Reservoir Priority No. 29, 1,543 acre-feet. 3. Refill: June 15, 1923, Reservoir Priority No. 51, 593 acre-feet. v. Decreed uses: Agricultural purposes. 5. Amount of water that Applicant intends to change: Applicant seeks to change its pro rata share of the water rights described in paragraph 4, above, based on its ownership of 32.83 shares of the 900 outstanding total number of shares of capital stock in the Handy Ditch Company (“Subject Water Rights”). 6. Detailed description of proposed change: Applicant seeks to change the type of use and the place of use of the Subject Water Rights. A. Change in place of use: Applicant seeks to change the place of use of the Subject Water Rights to allow use within its service area, as shown on **Exhibit A**, as that service area exists or may exist in the future, extra-territorial areas served by interconnects with other water supply systems, under water supply contracts or obligations of Applicant, and at any location where Applicant has augmentation or replacement obligations. In addition, the Subject Water Rights may continue to be used within and under the Handy Ditch system for irrigation purposes in a manner consistent with the historical operating practices of the ditch. i. Place of storage: Applicant will store the Subject Water Rights in the locations described below and shown on **Exhibit A**. 1. Hertha Reservoir, located in parts of Section 7 and 18, Township 4 North, Range 69 West, 6th P.M., and in parts of Section 13, Township 4 North, Range 70 West, 6th P.M., in Larimer County. 2. Welch Reservoir, located in parts of Section 3, 4, 9, and 10, Township 4 North, Range 69 West, 6th P.M., in Larimer County. 3. Berthoud Reservoir, located in portions of the N1/2 of Section 11, Township 4 North, Range 69 West, 6th P.M., in Larimer County. 4. Loveland Lake, located in the S1/2 of the SE1/4 of Section 10; the W1/2 of the NW1/4 of Section 14; and the NE1/4 of Section 15, Township 4 North, Range 69 West, 6th P.M., in Larimer County. Applicant will not store water in Loveland Lake without prior authorization or written approval from the Loveland Lake and Ditch Company. 5. Heron Lakes Pond, located in the NE1/4 of the SW1/4 of Section 3, Township 4 North, Range 69 West, 6th P.M., 1,505 feet from the west section line and 2,270 feet from the south section line. 6. Any other water storage facilities owned by Applicant in the future or facilities in which Applicant has or obtains written approval to store water. B. No change in the point of diversion. No change in the point of diversion for the Subject Water Rights is sought herein. C. Change in type of use: In addition to the continuation of historical irrigation use, Applicant seeks to change the type of use of the Subject Water Rights to include all municipal uses (including but not limited to domestic, irrigation, mechanical, manufacturing, commercial and industrial uses), augmentation, replacement, and in-reservoir beneficial

uses (fishery, wildlife, piscatorial, and recreational). The Subject Water Rights may be applied immediately to such uses, may be stored for subsequent application to such uses, may be used by exchange or substitution, or may be applied to such uses after recharge in a recharge project in which the Subject Water Rights were specifically identified as a source of recharge supply in a future water court application(s) or substitute water supply plan(s). D. Use, reuse, and successive use to extinction: Applicant will use, reuse, and successively use to extinction the Subject Water Rights for the purposes described in this paragraph 6, so long as all historical return flows have first been replaced. Applicant seeks to decree the methodology by which it will quantify reusable effluent return flows available at its wastewater treatment facility for reuse and successive use to extinction for the purposes described in this paragraph 6. Applicant does not seek in this case to quantify any other types reusable return flows (including but not limited to irrigation return flows) derived from use of the Subject Water Rights but reserves the right to do so in a future water court application. E. Integrated system: Pursuant to section 37-92-301(4)(b), C.R.S., the Subject Water Rights and the appropriative rights of exchange described below are part of an integrated system operated by Applicant for use of water within the Town of Berthoud, which system includes other reservoirs and water rights. 7. Determination of historical use: As part of this case, Applicant will quantify the time, place, and amount of the consumptive use and return flows associated with use of the Subject Water Rights for their historically decreed purposes through a historical use analysis of the Subject Water Rights. To quantify the historical use of the Subject Water Rights, Applicant conducted a ditch-wide historical use analysis of the Handy Ditch system. The locations of historical use of the Subject Water Rights are shown on **Exhibit A**; however, these locations are approximate and are subject to future revisions without republication of this Application. A. Records relied upon: Applicant will rely on diversion records available from the ditch company and/or the State Engineer's Office to demonstrate the historical timing, location, and amount of use of the Subject Water Rights. Applicant's analysis demonstrates that the Handy Ditch Company system has historically been water-short, and therefore Applicant does not intend to provide or identify specific dry-up. 8. Return flow replacement plan: Applicant will decree the methodology through which it will replace historical return flows in time, amount, and location as necessary to prevent injury to other vested water rights. Historical return flows that accrued to the Little Thompson River basin will be replaced at Applicant's wastewater treatment facilities, which facilities are located within the SE1/4 SW1/4, Section 19, Township 4 North, Range 68 West, 6th P.M. and the SE1/4 SW1/4, Section 14, Township 4 North, Range 68 West, 6th P.M., and by the delivery of other replacement supplies available to Applicant that are capable of being released above the downstream calling water right. Historical return flows that accrued to the Big Thompson River basin will be replaced at or near the Handy Ditch headgate, with releases from Ryan Gulch Reservoir, and by the delivery of other replacement supplies available to Applicant that are capable of being released above the downstream calling water right. A. Replacement water supplies: Applicant will use one or more of the following sources of water for the replacement of historical return flows: i. The Subject Water Rights. ii. Windy Gap Project Water: Water provided to Applicant pursuant to its allotment of Windy Gap Project water. The water rights for the Windy Gap Project are in the Colorado River Basin and consist of the Windy Gap Pump, Pipeline, and Canal; Windy Gap Pump, Pipeline, and Canal First Enlargement; Windy Gap Pump, Pipeline, and Canal Second Enlargement; and Windy Gap Reservoir. These water rights were originally decreed in Case No. CA-1768, Grand County District Court on October 27, 1980, and in Case Nos. W-4001 and 80CW108, District Court, Water Division 5 on October 27, 1980. In addition, decrees awarding absolute water rights for municipal, industrial, irrigation, and recreational uses, including reuse, successive use, and use to extinction for the Windy Gap Reservoir; Windy Gap Pump, Pipeline and Canal; and Windy Gap Pump, Pipeline, and Canal First and Second Enlargements were entered in Case No. 88CW169, Water Division 5 (February 6, 1989) and Case No. 89CW298, Water Division 5 (July 19, 1990). Windy Gap Project water is introduced, stored, carried, and delivered in and through the components of the Colorado Big Thompson Project, co-operated by the Northern Colorado Water Conservancy District and the Bureau of Reclamation. Windy Gap Project water is imported foreign water that is available for use, reuse, and successive use to extinction. Applicant will quantify reusable return flows from the Windy Gap Project water using the methodology as decreed in Case No. 21CW3023. iii. Previously changed Handy Ditch Company shares, decreed in Case No. 00CW110.

Applicant changed 7.5 Handy Ditch Company shares in Case No. 00CW110, and that water is available for use, reuse, and successive use to extinction. Applicant will quantify reusable return flows from those 7.5 Handy Ditch Company shares using the methodology decreed in Case No. 00CW110. iv. Ryan Gulch Reservoir Company shares, decreed in Case No. 21CW3023. v. Other replacement supplies available to Applicant that are capable of being released above the downstream calling water right. 9. Appropriation of historical return flows: Historical return flows will be replaced only to downstream calling water rights senior to the date of the filing of this Application, and Applicant hereby appropriates for the changed uses described herein any historical return flows not required to be so replaced. **Claim for Plan for Augmentation** 10. Purpose of the Plan For Augmentation: The purpose of the augmentation plan claimed herein is to provide adequate sources of replacement water to maintain the historical return flows associated with the Subject Water Rights. 11. Depletions to be augmented: The historical return flow obligations associated with the Subject Water Rights, determined as described in paragraphs 8 and 9 above. 12. Water Rights to be used for augmentation: Applicant will use water derived from the sources described in paragraph 8 above to replace the historical return flow obligations associated with the Subject Water Rights in time, place, and amount as necessary to prevent injury to any owner of or persons entitled to use water under a vested water rights or a decreed conditional water right. A. Future Acquired Sources: Applicant intends to acquire and/or lease additional water supplies in the future for use as a source of replacement in the plan for augmentation described herein. Said replacement supplies may be acquired and/or leased to replace or supplement water from the sources identified in paragraph 8 above. Applicant will add future acquired sources to the plan for augmentation claimed in this application pursuant to section 37-92-305(8)(c) of the Colorado Revised Statutes. 13. ByLaw Approval: The Bylaws of the Handy Ditch Company require that any change of water right “shall first require approval of the Board of Directors.” The Handy Ditch Company’s policy allows an applicant to file an application for a change of water rights in Water Court, concurrent with the filing of an application with the Handy Ditch Company for change of water rights. Applicant has obtained the Handy Ditch Company’s written approval to file this Application and is in the process of obtaining the Handy Ditch Company’s approval of the changes proposed herein. **Claim for an Appropriative Right of Exchange** 14. Description of Berthoud-Handy Exchange: Applicant seeks to adjudicate an appropriative right of exchange on the Big Thompson River to be used to exchange quantified wastewater return flows upstream for diversion into the Handy Ditch (“Berthoud-Handy Exchange”). The exchange reach for the Berthoud-Handy Exchange is shown on **Exhibit A**. Once in the Handy Ditch system, Applicant will take delivery of the exchanged water for use, reuse, and successive uses as described in paragraph 6, above. Use of the Handy Ditch system for the diversion, delivery, and storage of water diverted under the Berthoud-Handy Exchange will be subject to the September 12, 1989, Carriage Agreement between Applicant and the Handy Ditch Company, or any related or successive agreement regarding carriage of Applicant’s water through the Handy Ditch system. Applicant also reserves the right to lease the exchanged water to the Handy Ditch Company for irrigation purposes under the Handy Ditch system. A. Exchange-from points: i. Confluence of the Little Thompson River and the Big Thompson River, located in Section 2, Township 4 North, Range 67 West, 6th P.M., in Larimer County, at a point 1,575 feet from the east section line and 1,620 from the south section line of said Section 2, (UTM: 512,337.7 E; 4,465.330.8 N). B. Exchange-to points: i. The Handy Ditch headgate, located on the right bank of the Big Thompson River in the SW1/4, Section 3, Township 5 North, Range 70 West of the 6th P.M., in Larimer County. C. Sources of supply: i. The Subject Water Rights. ii. Windy Gap Project Water, as described in paragraph 8.A.ii. iii. Previously changed Handy Ditch Company shares, as described in paragraph 8.A.iii. iv. Ryan Gulch Reservoir Company shares, changed in Case No. 21CW3023. D. Exchange rate: 20 c.f.s., Conditional. 15. Appropriation date: March 27, 2026, the date of filing this Application. 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: Berthoud Heritage Metropolitan District No. 9, 550 West Eisenhower Blvd., Loveland, CO 80537; Heron Lakes Investments, LLC, 444 Mountain Avenue, Berthoud, CO 80513; The Handy Ditch Company, P.O. Box 569, Berthoud, CO 80513. WHEREFORE, Applicant requests that the Court enter a decree

granting the above-proposed change of water rights, plan for augmentation, and appropriative right of exchange, and such other relief that it deems proper. (15 pgs., 1 Exhibit)

**CASE NUMBER 2026CW3047 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN PARK COUNTY. 1. Name, Mailing Address, Phone Number, and E-Mail Address of Applicant.**

**LAKE GEORGE COMPANY**, c/o Ashley Rust, Partner, 677 N. Lafayette St., Denver, Colorado 80218. Phone: (720) 273-4554; E-mail: ashleyrust@gmail.com. Copies of all pleadings and other correspondence to: David F. Bower, Cameron C. Frazier, Johnson & Repucci LLP, 850 W. South Boulder Road, Suite 100, Louisville, Colorado 80027. **2. Overview.** The Lake George Company (“Applicant”) seeks to continue the conditional water right decreed to Lake George for 156.5 acre-feet for recreational and piscatorial purposes and 734 acre-feet for augmentation and exchange purposes. **3. Original and Subsequent Decrees.** Lake George was originally decreed for 734 acre-feet, absolute, for domestic and ice cutting uses, in Case No. 1636, by the District Court in and for Park County, Colorado. Lake George was subsequently decreed a conditional storage right in Case No. 95CW247, Water Division 1, for 156.5 acre-feet absolute for recreational and piscatorial purposes and conditional for augmentation and exchange purposes, with an additional 577.5 acre-feet conditional for recreational, piscatorial, augmentation, and exchange purposes. The 577.5 acre-feet represented capacity that existed in the reservoir but had silted in. The conditional rights decreed in Case No. 95CW247 were continued in full force pursuant to the decrees entered by the Division 1 Water Court in Case No. 06CW115, dated December 27, 2006, Case No. 12CW277, dated June 10, 2013, and Case No. 19CW3130, dated March 11, 2020. **4. Name and Description of Conditional Water Right.** (a) Name of Structure. Lake George (a/k/a Lidderdale Reservoir) (b) Legal Description. Sections 29 and 30, Township 12 South, Range 71 West of the 6th P.M. A map showing the general location of Lake George is attached as Exhibit A. (c) Source. The south fork of the South Platte River, tributary to the South Platte River. (d) Amounts and Uses. 156.5 acre-feet for recreational and piscatorial purposes and 734 acre-feet for augmentation and exchange purposes. (e) Date of Appropriation. December 21, 1994. **5. Claim for Finding of Reasonable Diligence.** Applicant seeks to continue the water right originally decreed in Case No. 95CW247 that remains conditional as described above. During the subject diligence period, the following activities were performed proving Applicant’s intention to put the subject water right to beneficial use and the actions taken to do so: (a) Diversions Removal Restoration Project. On March 16, 2023, the CWCB approved over \$3.6 million in funding for the Lake George Diversions Structure Removal and River Restoration project. The original diversions structure was built for Colorado Springs Utilities and was abandoned in the 1990s. Since the removal of the Lake George Diversions Structure, the last remaining barrier to fish passage between the Eleven Mile Dam and Cheesman Canyon is where Applicant diverts from the South Platte. This barrier both impacts aquatic species passage and traps sediment in the stream system. Applicant has been working with engineering consultants to remove this remaining barrier structure and restore the river, including eliminating some of the siltation problems that have plagued Lake George in the past. The removal and river restoration will allow Applicant to more efficiently and effectively operate Lake George while also providing environmental benefits for the community. (b) Other System Improvements. Applicant has also incurred significant costs in installing additional filtration in the community water system, as well as water meters on distribution lines. The new system should help to help identify and reduce leaks and save water. (c) Management Transition. Since the last diligence decree was entered in Case No. 19CW3130, Applicant has transferred management and operational authority to a different partner within its organization. The new partner in charge of handling Lake George operations has been in communication with the Water Commissioner regarding further revisions to accounting in order to make the subject right absolute. (d) Continued Operations. Applicant has also continued to measure, record, and account for diversions into Lake George, including the water rights decreed in this matter and the other water rights that are decreed to be stored in the reservoir, and has incurred other fees and expenses associated with maintaining and developing the subject conditional water right. **6. Name of Landowner upon which any New or Modified Diversions Structure is Located.** Lake George is on land owned by Applicant. WHEREFORE, Applicant respectfully requests that the Court enter a decree finding that it has

been reasonably diligent in its efforts to develop the conditional water right for Lake George originally decreed in Case No. 95CW247.

**CASE NUMBER 2026CW3048 (2017CW3216) APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE PARTIALLY ABSOLUTE IN WELD COUNTY - TOWN OF FREDERICK**, c/o Jennifer M. DiLalla, Molly K. Haug-Rengers, Adam C. Fisher, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 240, Boulder, CO 80302

(303) 443-8782 1. Name, address, and telephone number of Applicant: Town of Frederick, c/o Sarah Watson, Civil Engineer, P. O. Box 435, 401 Locust Street, Frederick, CO 80530, 720-382-55602 2 Subject Water Rights: The conditional water rights that are the subject of this Application are described in paragraphs 2.1 through 2.4 below (“Subject Water Rights”). All counties referenced in this Application are in Colorado, and all UTM coordinates are NAD 83, Zone 13. 2.1 Characteristics of each Subject Water Right: 2.1.1 Original decree: Case No. 17CW3216, entered March 26, 2020, District Court, Water Division 1 (“17CW3216 Decree”). 2.1.2 Appropriation date: January 16, 2003. 2.1.3 Uses: Municipal, industrial, commercial, irrigation, environmental mitigation, piscatorial, wildlife conservation, recreation, augmentation, replacement, and exchange, including reuse and successive use to extinction. 2.1.4 Places of use: Frederick’s present and future service area. A map of the current service area is attached as **Exhibit A**. 2.2 Lower Boulder Extension Reservoir, First Enlargement (a/k/a Milavec Reservoir, First Enlargement) (WDID 0604182): 2.2.1 Legal description: SE1/4 of Section 24, T2, R68W of the 6th P.M., Weld County, as shown on the map attached as **Exhibit B**. (UTM: 504573.0 East, 4441308.0 North.) The reservoir is referred to as “Milavec Reservoir” in this Application. 2.2.2 Source and points of diversion: Boulder Creek through the Lower Boulder Ditch (a/k/a South Platte Supply Canal) and then through the Leyton (a/k/a Layton) Lateral. The Lower Boulder Ditch diverts from the South bank of Boulder Creek in the SW1/4 SW1/4 of Section 16, T1N, R69W of the 6th P.M., Boulder County. (UTM: 488995.0 East, 4432965.0 North.) The Leyton Lateral diverts from the Lower Boulder Ditch at a point in the NW1/4 of Section 25, T2N, R68W of the 6th P.M., Weld County. (UTM: 503754.0 East, 4440476.0 North.) The inlet canal for Milavec Reservoir diverts from the Leyton Lateral at a point known as “the reservoir headgate” located in the NE1/4SW1/4 of Section 24, T2N, R68W of the 6th P.M., Weld County, at a point from which the Southwest Corner of said Section bears South 52° West 2,400 feet, more or less. (UTM: 503915.0 East, 4441212 North.) 2.2.3 Fill rate: 90 cubic feet per second (“cfs”) at the Leyton Lateral diversion and 106 cfs at the Boulder Creek headgate of the Lower Boulder Ditch. 2.2.4 Volume: 362.0 acre-feet (“af”), of which 184.68 af remains conditional. 2.2.5 Surface area of high water line: 64.9 acres. 2.2.6 Reservoir capacity: 1,130 af. 2.3 Lower Boulder Extension Reservoir, First Enlargement Refill: 2.3.1 Legal description, source, point of diversion, fill rate, surface area of high water line, reservoir capacity, and reservoir construction: As described in paragraphs 2.2.1 through 2.2.6 above. 2.3.2 Volume: 362.0 af, conditional. 2.4 Finley No. 2 Irrigation Pond (WDID 0504101): 2.4.1 Legal Description: E1/2 NE1/4 of Section 24, T2, R68W of the 6th P.M., Weld County, as shown on the map attached as **Exhibit B**. (UTM: 504731.1 East, 4441926.5 North.) 2.4.2 Source and points of diversion: Boulder Creek through the Lower Boulder Ditch, then the Leyton Lateral, and into Milavec Reservoir. Frederick pipes water from Milavec Reservoir to the pond by gravity. 2.4.3 Fill rate: 10 cfs at the Leyton Lateral diversion and 12 cfs at the Boulder Creek headgate of the Lower Boulder Ditch. 2.4.4 Volume: 2.5 af, of which 1.0 af remains conditional. 2.4.5 Surface area of high water line: 0.64 acres. 2.4.6 Pond capacity: 2.5 af, with no dead storage. 3. Outline of work and expenditures during the diligence period toward completion of the appropriations and application of water to beneficial use: The Subject Water Rights are part of “a single integrated water supply system being planned and developed for the Frederick.” 17CW3216 Decree, ¶ 22. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). The diligence period for the Subject Water Rights is March 2020 through March 2026 (“Diligence Period”). During the Diligence Period, Frederick has worked diligently to develop the Subject Water Rights, complete the appropriations, and put the water to beneficial use, as demonstrated by the representative but non-

exhaustive list of activities and expenditures below. 3.1 Infrastructure development and improvements: 3.1.1 Upgrades to Milavec Reservoir’s West Pump Station, including installation of an inlet filter screen, filtration at the outlet, two additional pumps to increase capacity, and additional remote monitoring of meters and pump operations, at a cost of approximately \$527,070. 3.1.2 Waterline repairs and conveyance improvements serving Finley No. 2 Irrigation Pond to improve control of water delivery from Milavec Reservoir, at a cost of approximately \$45,600. 3.1.3 Installation of ultrasonic monitoring units to track general water quality conditions in Milavec Reservoir, and replacement of compressors serving the Milavec aeration system, at a cost of approximately \$142,250. 3.1.4 Installation of a weather station and smart irrigation system at the golf course to monitor and plan irrigation, at a cost of approximately \$87,500. The golf course is irrigated in part by Finley No. 2 Irrigation Pond. 3.1.5 Ongoing meter improvements and replacements at Milavec Reservoir delivery points, at a cost of approximately \$24,240. 3.1.6 Replacement of the Milavec outflow pipe to Mayfield Hollow and valve access improvements, at a cost of approximately \$19,100. 3.2 Routine operation and maintenance: Frederick incurs regular and ongoing costs for operation, maintenance, and repair of its raw water infrastructure and integrated system, at an estimated annual cost of approximately \$139,410. 3.3 Acquisition and evaluation of additional water supplies: Frederick continues to secure and evaluate additional water supplies to support its integrated system’s yield and reliability, including financial participation in Northern Integrated Supply Project and routine acquisition of additional Colorado-Big Thompson Project units. Frederick’s total investment in additional water supplies during the Diligence Period was approximately \$30,588,540. 3.4 Personnel resources: Frederick dedicates significant personnel resources to planning for and administration and daily operation of the integrated system, including water operations, parks and recreation, golf course operations, and engineering staff; and administrative personnel responsible for implementing the Raw Water Master Plan, the Parks, Open Space, and Trails Master Plans, capital projects, and water rights administration. Thirteen full-time and ten seasonal employees support the raw water system, Town parks and recreation facilities, and the golf course, including maintenance and operation of Milavec Reservoir and Finley No. 2 Irrigation Pond and use of water stored in and delivered from those facilities. Two full-time engineering staff directly manage water rights administration, capital project planning and construction, and asset management. 3.5 Outside technical consultants: Frederick engaged outside engineering and technical consultants for development and protection of its water rights and infrastructure, including without limitation the following: 3.5.1 Milavec Reservoir water treatment feasibility study; 3.5.2 Reuse and conservation planning; 3.5.3 Water court technical support and analysis; 3.5.4 Development of construction plans to facilitate releases from Milavec Reservoir to Godding Hollow for historical return flow operations under the decree in Case No. 21CW3138; 3.5.5 Integrated system modeling and infrastructure evaluation through master planning for the potable and raw water systems; 3.5.6 Parks and recreation planning affecting reservoir and pond usage; and 3.5.7 A Water Shortage Contingency Plan to address water shortages while meeting the needs of the community on a scale of severity. The Town spent over \$2.0 million on this consultant work during the Diligence Period. 3.6 Legal fees: Frederick spent more than \$1.5 million to develop its integrated municipal system through legal planning work and through prosecution of the application in Case No. 21CW3138, in which the Court issued a final decree in February 2025; and to protect its water rights, including the Subject Water Rights, from injury. 4. Continuing need: 4.1 Municipal, industrial, and commercial uses: Frederick’s Comprehensive Plan, Water Master Plan, and Raw Water Master Plan project continued population growth and corresponding increases in municipal, industrial, and commercial water demand that will be satisfied in part by the Subject Water Rights. 4.2 Irrigation use: Recent Parks master planning identified additional irrigation demand at municipal facilities including the Frederick Recreation Area (“FRA”) around Milavec Reservoir. The Subject Water Rights allow Frederick to meet these non-potable demands while conserving treated potable supplies. 4.3 Environmental mitigation uses: Frederick has existing and anticipated environmental remediation needs, including oil and gas remediation near Centennial Park and on or near the golf course following oil and gas facility removal. Future park development west of Milavec Reservoir may also require water for mitigation and restoration near oil and gas sites following removal of facilities. 4.4 Piscatorial, wildlife conservation, and recreation uses: Additional stored water enhances lake levels, supporting fish habitat, boating, and

recreational opportunities. Stable water levels also benefit wildlife habitat in and around the FRA, which supports numerous bird species including hawks, pelicans, owls, and eagles. 4.5 Augmentation, replacement, and exchange use: Frederick’s groundwater study identified elevated groundwater conditions affecting homes, infrastructure, and stormwater systems in the Centennial Park and downtown areas. If groundwater pumping is implemented to alleviate these impacts, then the Town will incorporate the Subject Water Rights into an augmentation plan that includes a water exchange project. 5. Claim to make absolute: Section 37-92-301(4)(e), C.R.S., provides that “a decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” The following claim to make absolute for all decreed uses is based on Frederick’s in-priority storage of water on the specified dates, as documented in the annotated tabs of the as-submitted accounting spreadsheets (Col. AN/39) for 2021, 2023, and 2024, attached as **Exhibits C–F**. 5.1 Lower Boulder Extension Reservoir, First Enlargement: 5.1.1 Dates of in-priority storage: June 15 – June 16, 2021; May 13 – June 2, 2023; April 8 – April 11, 2024 (total fill of 254.97 af). 5.1.2 Amount made absolute: 77.65 af, for a total volume of 254.97 af absolute. 5.1.3 Uses made absolute: All decreed uses described in paragraph 2.1.3 above. 6. 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: Applicant. Based on the foregoing, Frederick requests that the Court enter a decree (i) granting this Application; (ii) finding that Frederick exercised reasonable diligence in developing the appropriations of the Subject Water Rights during the Diligence Period; (iii) making the Lower Boulder Extension Reservoir, First Enlargement absolute in the amount and for the uses described in paragraph 5 above; and (iv) continuing in full force and effect for an additional diligence period those portions of the Subject Water Rights that are not made absolute in this case.

**CASE NUMBER 2026CW3049 ADAM AND ANNA WOLKE** (collectively, the “Wolkes”), 5166 Bear Mountain Road, Evergreen, Colorado 80439, Telephone: (530) 227-4838, Email: [a.wolke91@gmail.com](mailto:a.wolke91@gmail.com); **MOUNTAIN MUTUAL RESERVOIR COMPANY** (“MMRC”), 6949 Highway 73, Suite 15, Evergreen, Colorado 80439, Telephone: (303) 989-6932, Email: [norm@mmlrcwater.com](mailto:norm@mmlrcwater.com); **NORTH FORK ASSOCIATES, LLC** (“North Fork”), 2686 S. Yukon Court, Lakewood, Colorado 80227, Telephone: (303) 988-7111. **APPLICATION FOR UNDERGROUND WATER RIGHT AND APPROVAL OF PLAN FOR AUGMENTATION INCLUDING APPROPRIATIVE RIGHT OF EXCHANGE IN JEFFERSON COUNTY**. Please send all pleadings and correspondence to: Sheela S. Stack, Esq., Stacy L. Brownhill, Esq., Nazareus Stack & Wombacher LLC, 5105 DTC Parkway, Suite 200, Greenwood Village, Colorado 80111. 2. Overview. The Wolkes own an approximately 8.5-acre parcel lying in the SW1/4 of Section 12, Township 5 South, Range 71 West of the 6th P.M., Jefferson County, Colorado (“Wolke Property”), also known as Lot 1, Bear Mountain Vista Meadow, according to the Plat thereof recorded on September 24, 2008, at Reception No. 2008089673, and 5166 Bear Mountain Drive in Evergreen, Colorado, 80439-5610, as shown on the map attached as **Exhibit A**. The Wolke Property is located in the drainage of the West Fork of Parmalee Gulch, tributary to Turkey Creek, tributary to Bear Creek and Meyers Gulch, tributary to Bear Creek. The augmentation plan sought by this Application will replace out-of-priority depletions caused by the pumping of a well located on the Wolke Property, hereafter referred to as the Wolke Well No. 1. Water use from Wolke Well No. 1 will be used for in-house domestic use for one existing single-family dwelling and for a second single-family dwelling to be constructed on the Wolke Property. **APPLICATION FOR UNDERGROUND WATER RIGHT** 3. Name of Structure. Wolke Well No. 1. is presently associated with exempt in-house only Well Permit No. 231661-A; however, following entry of a decree in this case, the Wolkes will obtain a new well permit for Wolke Well No. 1. 4. Well Location. Wolke Well No. 1 is located in the SW1/4 of the SE1/4 of Section 12, Township 5 South, Range 71 West of the 6th P.M., Jefferson County, Colorado. The specific location of Wolke Well No. 1 is UTM Zone 13, NAD83, 475348.0 Easting, 4386264 Northing. 5. Source of Water. Groundwater tributary to Bear Creek. 6. Date of Appropriation. March 30, 2026. 6.1. How Appropriation was Initiated. By the filing of this Application. 6.2. Date Water was Applied to Beneficial Use. Not applicable. This is a

conditional water right. 7. Anticipated Well Depth. 1102 feet. 8. Amount Claimed. 0.628 acre-feet per year at a rate of 15gpm, conditional. 9. Proposed Uses. Fire protection and ordinary household use. Wolke Well No. 1 will be used to serve the Wolke Property. **APPROVAL OF A PLAN FOR AUGMENTATION INCLUDING EXCHANGE** 10. Name of Structure to be Augmented. Wolke Well No. 1. 11. Water Rights to be Used for Augmentation Purposes. The Wolkes own 2 shares of MMRC stock, represented as Stock Certificate No. 2480, to satisfy their current and future augmentation needs. These two shares represent the right to 0.063 of an acre-foot to satisfy the replacement needs under this augmentation plan, which firm yield is available for use in Turkey Creek, as reflected on **Exhibit B**, attached hereto. These two shares were originally allocated to the plan for augmentation decreed in Case No. 86CW021, entered December 24, 1986. 11.1. North Fork and MMRC own the following water rights, portions of which will be used to meet the Wolke's contractual entitlement to 0.063 acre-feet of augmentation water: 11.1.1. Spinney Mountain Reservoir. MMRC is the owner by deed from the City of Aurora of a firm annual yield of 80 acre-feet of water stored in Spinney Mountain Reservoir. This reservoir is located on the South Platte River, with the left abutment of the dam being at a point whence the Southwest corner of Section 36, Township 12 South, Range 74 West of the 6th P.M., Park County, Colorado, bears South 23° 26' West, a distance of 8,314.3 feet. A storage decree for the reservoir has been entered for domestic, irrigation, municipal and all other beneficial uses as follows:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount (AF)</u>
1973 (Case No. W-7395)	March 26, 1973	86,000

In addition, various decreed direct flow water rights have been transferred to storage in the structure by the District Court for Water Division 1 and provide the basic yield of the annual allotment of 80 acre-feet. 11.1.2. Woodside Reservoir. North Fork and MMRC own all of the physical facilities and the water rights decreed to the Woodside Reservoir as follows:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount (AF)</u>
1978 (Case No. W-8771-77)	September 1, 1977	50

This reservoir is decreed for domestic, municipal, commercial, irrigation, recreation, light industrial, piscatorial, firefighting, exchange, and all other beneficial uses. It is to be constructed in the Elk Creek drainage basin, located in the E1/2 of the SW1/4 of Section 26, Township 6 South, Range 72 West of the 6th P.M., Park County, Colorado. The source of the water is Elk creek and unnamed tributaries thereto and approved exchanges. 11.1.3. Lower Sacramento Creek Reservoir No. 1. The Lower Sacramento Creek Reservoir Company, a Colorado corporation, owns and operates the Lower Sacramento Reservoir No. 1. North Fork owns 932 shares of a total of 3,700 shares in the Company (a 25.2% interest). This reservoir has been constructed and holds the following decree for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational, and all other beneficial purposes, including exchange, to compensate for depletions in the South Platte River or its tributaries:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount (AF)</u>
1974 (Case No. W-7741-74)	July 25, 1974	40

This reservoir is located in the NE1/4 of the NW1/4 of Section 32 and the SE1/4 of the SW1/4 of Section 29, Township 9 South, Range 72 West, of the 6th P.M., Park County, Colorado. This reservoir will be utilized as a regulatory reservoir for this and other plans of augmentation. Releases from this reservoir will be made to the Middle Fork of the South Platte River as provided in Case No. 84CW250 and 85CW465. 11.1.4. Jefferson Lake Reservoir. North Fork and MMRC own 5 of the 80 shares of the capital stock issued and outstanding in the Jefferson Lake Ditch Company and as such have the right to a pro-rata portion of any water stored in Jefferson Lake Reservoir. This structure is located in Sections 10 and 11, Township 7 South, Range 76 West of the 6th P.M., Park County, Colorado, and diverts water from Jefferson Creek, a

tributary of the main stem of the South Platte River pursuant to the following decrees, both of which are for irrigation purposes:

<u>Adjudication Date</u>	<u>Appropriation Date</u>	<u>Amount (AF)</u>
May 22, 1913 (CA 1678)	June 25, 1888	4,200
March 24, 1953 (CA 3286)	July 15, 1928	1,962.5

The above-described five shares are subject to a contract with the City of Aurora. Augmentation water will not be supplied to the Wolkes from Jefferson Lake Reservoir until a change of use of the waters of Jefferson Lake has been applied for by North Fork and MMRC and a decree approving such changed use is entered by the Court. 12. Statement of Plan for Augmentation. The Wolkes’ water demand consists of in-house use for one existing single-family dwelling and in-house domestic use for a second single-family dwelling to be constructed on the Wolke Property. The water requirements for Wolke Well No. 1 are for two single-family dwellings, with an average occupancy of 3.5 persons per house (“Indoor Use”). The estimated water requirements for Indoor Use is 80 gallons per capita per day (gpcd), with 10% consumption based on subsurface discharge from individual septic tank soil absorption systems. 12.1. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions may be aggregated and replaced by one or more releases of short duration. Augmentation water to cover out-of-priority stream depletions attributable to pumping the Wolke Well No. 1 for use on the Wolke Property will be provided by the water exchange described in paragraph 13, below. 13. Water Exchange Reach. 13.1. Since the point of depletion associated with Wolke Well No. 1 is upstream of the replacement supplies, Applicants seek 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). 13.2. If there is a live stream at all points on the Turkey Creek-Bear Creek stream system between the point of depletion from the Wolke Well No. 1 in the NE1/4 of the SW1/4 of Section 12, Township 5 South, Range 71 West of the 6th P.M., and the confluence of Bear Creek and the South Platte River in the NW1/4 of Section 4, Township 5 South, Range 68 West of the 6th P.M., augmentation and replacement water may be provided by releasing water from storage in Spinney Reservoir, Woodside Reservoir, or Lower Sacramento Creek Reservoir No. 1. Sufficient water will be released from one or more of the above-described structures to cover the Wolkes’ augmentation and replacement water requirements, plus whatever stream losses occur between the point of release to the stream system and the point of depletion. 13.3. In the event that there is a senior call within the exchange project reach which precludes the exchange, the Wolkes can have replacement water delivered via trucking to make replacements above the calling water right or release water from an onsite container. Contingent upon the Wolkes first consulting with and obtaining approval of the Division Engineer or other designated representative, and further contingent upon the release of augmentation and exchange water for the Wolkes’ benefit from Spinney Mountain Reservoir, Woodside Reservoir, or Lower Sacramento Creek Reservoir No. 1, water may be picked up at one of the following locations, or at such alternative locations as are approved by the Division Engineer or other designated representative: 13.3.1. The confluence of Elk Creek and Highway 285, in the SW1/4 of Section 32, Township 6 South, Range 71 West of the 6th P.M., Jefferson County, Colorado. 13.3.2. The intersection of West South Platte River Drive and Hampden Avenue, in the S1/2 of Section 33, Township 5 South, Range 68 West of the 6th P.M., Arapahoe County, Colorado. 13.4. The exchange project right will operate to replace depletions to the flow of water in the stream system as the depletions occur. The water exchange project will be operated and administered with a priority date of March 31, 2026, at a maximum flow rate of 0.001 cfs. 14. Name and address 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. Wolke Well No.1 is owned by Applicant Adam and Anna Wolke. WHEREFORE, Applicants respectfully request that the Court enter a ruling approving this Application, specifically (1) authorizing the appropriations sought herein, (2) authorizing use of the augmentation supplies described in this Application, and (3) determining that the source and location of delivery of augmentation water are sufficient to prevent material injury to vested water rights. Applicants also request

entry of an order directing the State Engineer to issue a well permit for Wolke Well No. 1 consistent with the decree entered in this case. (7 pages, 2 exhibits)

**CASE NUMBER 2026CW3050** (2016CW3160), **CITY OF BOULDER** and **COLORADO WATER CONSERVATION BOARD**. Attorneys for Co-Applicant City of Boulder: Jessica L. Pault-Atiase, #36739, City of Boulder, Colorado, Office of the City Attorney, 1777 Broadway, P.O. Box 791, Boulder, Colorado 80306-0791, Telephone: (303) 441-3020, Email: pault-atiasej@bouldercolorado.gov; Lisa M. Thompson, #35923, Michael A. Kopp, #43204, Trout Raley, 1120 Lincoln Street, Suite 1600, Denver, Colorado 80203, Telephone: (303) 861-1963, Email: lthompson@troutlaw.com; mkopp@troutlaw.com. Attorneys for Co-Applicant Colorado Water Conservation Board: Philip J. Weiser, Attorney General; Jennifer Mele, First Assistant Attorney General, #30720, Natural Resources & Environment Section, Office of the Colorado Attorney General, 1300 Broadway, 7th Floor, Denver, Colorado 80203, Telephone: (720) 508-6282, Email: jennifer.mele@coag.gov. **APPLICATION FOR FINDING OF REASONABLE DILIGENCE FOR CONDITIONAL WATER RIGHTS IN BOULDER COUNTY, COLORADO.** 1. Name, mailing address, email address and telephone number of applicants: Co-Applicant City of Boulder ("Boulder"), c/o Kim Hutton, P.O. Box 791, Boulder, Colorado 80306-0791, Telephone: (303) 441-3115, Email: huttonk@bouldercolorado.gov. Co-Applicant Colorado Water Conservation Board ("CWCB"), 1313 Sherman Street, Suite 718, Denver, CO 80203, Telephone: (303) 866-3441. 2. Conditional water rights: Boulder Municipal Exchanges; Wittemyer Ponds Storage Right; and Wittemyer Ponds Freshening Flow Right. a. Date of original decree, case number and court: Case No. 2016CW3160, entered on March 29, 2020, District Court, Water Division No. 1. b. List of all subsequent decrees awarding findings of diligence: Not applicable. c. Description of conditional water rights: Case No. 2016CW3160 decreed for Boulder conditional appropriative rights of substitution and exchange on Boulder Creek and South Boulder Creek and their tributaries using fully consumable return flows from the indoor municipal use of water within the Boulder service area and other sources (collectively, the "Boulder Municipal Exchanges") and a conditional water storage right and freshening flow water right for proposed lined storage ponds that will divert water from Boulder Creek ("Wittemyer Ponds"). The structure locations for the conditional water rights are described below and depicted on the maps attached as Exhibit A. d. Legal descriptions: i. Boulder Municipal Exchanges: 1. Exchange-from locations (Boulder County, Colorado): a. Boulder Wastewater Treatment Facility Outfall: The Boulder Wastewater Treatment Facility (also known as the Boulder Water Resource Recovery Facility or WRRF) outfall is located at or near the intersection of Boulder Creek and 75th Street, in the SW 1/4 SW 1/4 NE 1/4, Section 13, Township 1 North, Range 70 West of the 6th P.M., at a point located approximately 2,500 feet from the north section line and 2,340 feet from the east section line of said Section 13. b. Release Structures: Boulder will release water from storage to Boulder Creek through one or more proposed Release Structures described below. Refer to Release Structures table in Paragraph 2.d.i.1.b. of the application. 2. Exchange-to location on South Boulder Creek (Boulder County): a. Gross Reservoir Environmental Pool: Gross Reservoir is an on-stream reservoir that is proposed to be enlarged. The dam of Gross Reservoir is located in Tracts 48 and 49, Township 1 South, Range 71 West of the 6th Principal Meridian (where the north half (N1/2) of the southeast quarter (SE1/4) of Section 20 of Township 1 South, Range 71 West of the 6th Principal Meridian would be located by ordinary survey practices) and creates a reservoir covering parts of Tracts 47, 48, 49, 44, 45, 63, 107, 108, 109 and 110, the south half (S1/2) of the south half (S1/2) of Section 18, Section 19, Section 30, the south half (S1/2) of the northeast quarter (NE1/4) of Section 25 and the east half (E1/2) of the southeast quarter (SE1/4) of Section 24, all in Township 1 South, Range 71 West of the 6th Principal Meridian. 3. Exchange-to locations on Middle Boulder Creek (Boulder County, Colorado): a. Boulder City Pipeline #3: The pipeline intake from Barker Reservoir, located at a point whence the northwest corner of Section 17, Township 1 South, Range 72 West, 6th P.M., bears North 16°04' West a distance of 1920± feet. b. Barker Meadow Reservoir: Barker Meadow Reservoir is located on the mainstem of Middle Boulder Creek in the W ½ of Section 17 and in Section 18, Township 1 South, Range 72 West, of the 6th P.M. and in the E ½ of Section 13, Township 1 South, Range 73 West, of the 6th P.M. c. Peterson Lake: Peterson Lake is a natural on-channel lake that also stores water above the natural lake level. The source for Peterson Lake is Peterson Creek and local

inflows, seepage, and springs tributary to Peterson Creek, tributary to Middle Boulder Creek. The Peterson Lake dam centerline is located 65 feet north of the south section line and 1,354 feet east of the west section line of Section 21, Township 1 South, Range 73 West of the 6th P.M. d. Skyscraper Reservoir: Skyscraper Reservoir is located in the SW 1/4 SE 1/4, Section 16, Township 1 South, Range 74 West of the 6th P.M.

4. Exchange-to locations on North Boulder Creek (Boulder County, Colorado) a. Lakewood Pipeline: The pipeline intake from Lakewood Reservoir, also known as Headgate No. 1 of the Boulder City Pipeline (Lakewood Pipeline) is located at a point whence the southeast corner of Section 1, Township 1 South, Range 73 West of the 6th P.M., bears South 3°15' East a distance of 2,300 feet. b. Silver Lake Pipeline: Headgate No. 3 of the Boulder City Pipeline, located at a point whence the NW corner of Section 34, Township 1 North, Range 73 West of the 6th P.M., bears North 77°35' West a distance of 1076+ feet. c. Silver Lake Reservoir: Silver Lake Reservoir is located in Sections 20, 21, 28 and 29 of Township 1 North, Range 73 West, 6th P.M. d. Island Lake: Island Lake is located in Sections 20 and 29, Township 1 North, Range 73 West, 6th P.M. e. Goose Lake: Goose Lake is located in Sections 19 and 30, Township 1 North, Range 73 West, 6th P.M. f. Lake Albion: Lake Albion is located in Section 18, Township 1 North, Range 73 West, 6th P.M. g. Green Lakes Reservoir #1: Green Lakes Reservoir #1 is located in Section 18, Township 1 North, Range 73 West, 6th P.M. h. Green Lakes Reservoir #2: Green Lakes Reservoir #2 is located in Section 18, Township 1 North, Range 73 West, 6th P.M. i. Green Lakes Reservoir #3: Green Lakes Reservoir #3 is located in Section 18, Township 1 North, Range 73 West, 6th P.M. j. Green Lakes Reservoir #4: Green Lakes Reservoir #4 is located in the Northwest Quarter of the Northwest Quarter of Section 18, Township 1 North, Range 73 West of the 6th P.M. and the North Half of the Northeast Quarter of Section 13, Township 1 North, Range 74 West of the 6th P.M. k. Green Lakes Reservoir #5: Green Lakes Reservoir #5 is located in the Southeast Quarter of the Northwest Quarter and the North Half of the Southwest Quarter of Section 13, in Township 1 North of Range 74 West of the 6th P.M.

5. Substitute supply: The water rights and water sources described in paragraph 7.f. and 8 of the decree entered in Case No. 2016CW3160. 6. Dates of appropriation: a. November 28, 2016, for exchanges originating from the Boulder Wastewater Treatment Facility Outfall. b. February 24, 2010, for exchanges originating from the Release Structures to the Gross Reservoir Environmental Pool. c. December 27, 2017, for all other exchanges originating from the Release Structures to the points of diversion and storage on Middle Boulder Creek and North Boulder Creek. 7. Amounts: The rate of diversion at each of the above-described facilities by exchange from the Release Structures shall be the lesser of 100 cfs or the diversion capacity of the facility, CONDITIONAL, as shown in Exhibit B. The rate of diversion at each of the above-described facilities by exchange from the Boulder Wastewater Treatment Facility Outfall shall be 21.9 cfs, CONDITIONAL. The combined rate of diversion by exchange at each facility shall be the sum of the individual exchange rates in Exhibit B. The simultaneous combined rate of all exchanges shall not exceed 121.9 cfs. 8. Uses: All uses for which the substitute supplies are decreed, including without limitation all municipal purposes, including, without limitation, irrigation, industrial and recreational, within the Boulder service area and outside the Boulder service area for such extra-territorial customers as Boulder may serve from time to time pursuant to City Charter and contracts, and irrigation of open space lands owned or controlled by Boulder. Such use includes the right to make a fully consumptive first use of the water and to use, reuse and successively use and dispose of the water to extinction for the purposes described above, consistent with Boulder's underlying decrees. In addition, instream flow uses by the CWCB for water stored and exchanged pursuant to the Wittemyer Ponds Storage Right and Gross Environmental Pool Storage Right (decreed in Case No. 2017CW3212), pursuant to the Water Delivery Agreement, in accordance with C.R.S. § 37-92-102(3). ii. Wittemyer Ponds Storage Right: 1. Wittemyer Ponds: Wittemyer Ponds are proposed ponds, including existing gravel pit ponds that may be enlarged or reconfigured, that will be lined to allow storage. The Ponds will be located in portions of the NE 1/4 of NW 1/4, SE 1/4 of NW 1/4, NW 1/4 of SW 1/4, NE 1/4 of SW 1/4, SW 1/4 of SW 1/4, and N 1/2 of SE 1/4 of SW 1/4 of Section 1, T1N, R69W, 6th P.M., Boulder County, Colorado (the "Wittemyer Ponds Site"). 2. Source: Boulder Creek. 3. Filling structure(s): Howell Ditch and Howell Ditch Extension. Water will be diverted from Boulder Creek at the location of the existing headgate for the Howell Ditch or at one or more new diversion structures for the Howell Ditch and delivered through the Howell Ditch directly to the Wittemyer Ponds or through a

lateral/extension of the Howell Ditch that will begin approximately where the Howell Ditch crosses the west line of the SW1/4 of the SW1/4 of Section 1, T1N, R69W, 6th P.M., Boulder County, Colorado. The location of the Howell Ditch headgate, as stated in the decree entered on February 17, 1941, in civil action 10324, Boulder County District Court, is located on the north bank of Boulder Creek in the SW 1/4 of SW 1/4 of Section 1, T1N, R69W, 6th P.M., Boulder County, Colorado. The UTM coordinates of the actual location of the Howell Ditch headgate are Easting 493416, Northing 4435798.2, Zone 13N. The headgate is located on an old channel of Boulder Creek, which now acts as a high flow channel. During low and average flows, water is conveyed to the Howell Ditch headgate by a pushup dam located on the current channel of Boulder Creek at UTM coordinates: Easting 493233, Northing 4435767.1, Zone 13N. The proposed new diversion structure or structures will divert from the north bank of Boulder Creek at one or more of the locations described below, including the location of the existing pushup dam, and run north and east to the intersection with the current alignment of the Howell Ditch. Depending on stream channel conditions and final design work, the new diversion structure or structures will be constructed at the locations described below or at a point or points located between Potential Diversion #1 and Potential Diversion #3. Refer to Proposed New Diversion Structures table in Paragraph 2.d.ii.3. of the application.

4. Date of appropriation: December 27, 2017. 5. Amounts: Witemyer Ponds: 2,000 acre-feet, with one refill, Conditional; Howell Ditch diversion: 50 cfs, Conditional. 6. Uses: Use by Boulder and its customers for all municipal purposes, including, without limitation, domestic, storage, irrigation, commercial, industrial, power generation, fire protection, recreation, fish and wildlife preservation and propagation, exchange, substitution, augmentation, replacement and recharge, within the Boulder service area and outside the Boulder service area for such extra-territorial customers as Boulder may serve from time to time pursuant to City Charter and contracts, and on open space lands owned or controlled by Boulder. Such use may be fully consumptive. Decreed uses are further described in paragraph 9 of the decree entered in Case No. 16CW3160. Instream flow use by the CWCB to preserve to a reasonable degree the natural environment in South Boulder Creek between enlarged Gross Reservoir and the confluence with Boulder Creek, pursuant to the Water Delivery Agreement and C.R.S. § 37-92-102(3). iii. Witemyer Ponds Freshening Flow Right: 1. Source: Boulder Creek. 2. Diversion point: Howell Ditch and Howell Ditch Extension, as more particularly described above. 3. Date of appropriation: December 27, 2017. 4. Amount: 2.0 cfs. 5. Uses: Piscatorial, wildlife, habitat improvement, and recreation in and around the Witemyer Ponds Site. 3. Decree conditions and limitations: The foregoing conditional water rights remain subject to all conditions and limitations described in the decree in Case No. 2016CW3160. 4. Integrated system: These water rights are part of Boulder's integrated water supply system. Pursuant to C.R.S. § 37-92-301(4)(b), when an integrated system is composed of several features, as is the case here, work on one feature of the system is considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. 5. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: During the diligence period, Boulder continued to plan for and pursue the use of the subject conditional water rights as a component of its integrated water supply system. In furtherance of such use, Boulder has expended more than \$50 million on its integrated water supply system during the diligence period on work related to exercise and use of the subject conditional water rights. The work undertaken by Boulder during the diligence period includes but is not limited to the following, all of which relate to the completion of the appropriation and application of the subject conditional water rights to beneficial use as decreed: (1) design and construction of facility updates at 63rd Water Treatment Facility at a cost of approximately \$31,500,000; (2) design, rehabilitation and enlargement of Lake Albion dam at a cost of approximately \$16,000,000; (3) inspection, design and rehabilitation of the Barker Gravity Pipeline (also known as the Boulder City Pipeline #3) at a cost of approximately \$21,000,000; (4) design and construction of facility and treatment process updates at Betasso Water Treatment Plant at a cost of approximately \$6,700,000; (5) Barker Reservoir dam and outlet works studies at a cost of approximately \$3,500,000, and (6) Witemyer Ponds water supply system operations studies at a cost of approximately \$90,000. During the diligence period, Boulder also spent in excess of \$1.5 million for legal and engineering services in connection with the water rights that are part of its integrated water supply system and for participating as

an objector in various Water Court cases to protect its water rights, including the subject conditional water rights, from injury due to claims of other water users. 6. Name and address of owner 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, including any modification to the existing storage pool: Gross Reservoir: City and County of Denver 1600 West 12th Avenue Denver, CO 80204-3412. United States Forest Service, Boulder Ranger District, Arapaho and Roosevelt National Forests 2140 Yarmouth Avenue, Boulder, CO 80301. Miramonte Limited Liability Company c/o Bruce K. Alexander 1000 E. Tufts Avenue Cherry Creek Village, Denver, CO 80113. Wittemyer Ponds and Howell Ditch: Boulder County Parks and Open Space 5201 St Vrain Road, Building 1, Longmont, CO 80503. Co-Applicant, City of Boulder P. O. Box 791 Boulder, Colorado 80306. All other structures: Co-Applicant, City of Boulder P. O. Box 791 Boulder, Colorado 80306. WHEREFORE, Applicants request the Court to enter a decree finding and determining that Applicants have exercised reasonable diligence in the development of the subject conditional water rights, and continuing the subject conditional water rights in full force and effect for an additional diligence period. This application consists of 14 pages and four exhibits.

**CASE NUMBER 2026CW3051** Applicant. **TODD GABEL AND CORINNE GABEL**, 17154 County Road 29, Platteville, CO 80651. (303) 710-1034 with all future correspondence connected herewith being sent to Applicant's Counsel, David P. Jones, Lawrence Custer Grasmick Jones and Donovan, LLP., 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO, 80534, 970-622-8181. **AMENDED APPLICATION FOR AN ESTABLISHED BUT ERRONEOUSLY DESCRIBED POINT OF DIVERSION IN WELD COUNTY** Pursuant to C.R.S. § 37-92-305(3.6) 2. **Purpose of Amendment.** The original application was filed on March 31, 2026 by Todd Gabel and Corinne Gabel and seeks to correct the legal description of an established but erroneously described point of diversion for two wells. The purpose of this amendment is to correct the application to reflect the correct legal description of the decreed irrigation use for the wells as described in Case No. W-625. The original application omitted a part of the decreed irrigated acreage. 3. **Decreed Water Right for Which Correction is Sought.** 3.1. **Name of Structure.** Well No. 1-13473, Permit No. 13473-R, WDID 0206353. 3.1.1. Original and all Relevant Subsequent Decrees. The Well was decreed in Case. No. W-625, Water Division 1, entered November 30, 1971. 3.1.2. Legal Description/Location from Most Recent Decree. Southeast 1/4 Northeast 1/4 Section 8, Township 1 North, Range 66 West of the 6th P.M., Weld County. 3.1.3. Source. Groundwater. 3.1.4. Appropriation Date. December 31, 1954. 3.1.5. Amount. 0.89 cubic feet per second. 3.1.6. Decreed Use. Irrigation on the E 1/2 E 1/2 Northwest 1/4 Section 8, Township 1 North, Range 66 West of the 6th P.M., and on West 1/2 Northeast 1/4 Section 8, Township 1 North, Range 66 West of the 6th P.M., Weld County, Colorado. 3.1.7. Amount of Water Decreed. 0.89 cubic feet per second. 3.1.8. Remarks. The Well is included in the Groundwater Management Subdistrict Augmentation Plan of the Central Colorado Water Conservancy District, Case No. 02CW335, Water Division 1, decreed June 3, 2005. 3.2. **Name of Structure.** Well No. 2-13474, Permit No. 13474-R, WDID 0206355. 3.2.1. Original and all Relevant Subsequent Decrees. The Well was decreed in Case. No. W-625, Water Division 1, decreed November 30, 1971. 3.2.2. Legal Description/Location from Most Recent Decree. Southeast 1/4 Northeast 1/4 Section 8, Township 1 North, Range 66 West of the 6th P.M., and on West 1/2 Northeast 1/4 Section 8, Township 1 North, Range 66 West of the 6th P.M., Weld County. 3.2.3. Source. Groundwater. 3.2.4. Appropriation Date. December 31, 1955. 3.2.5. Amount. 0.89 cubic feet per second. 3.2.6. Decreed Use. Irrigation on the E 1/2 E 1/2 Northwest 1/4 Section 8, Township 1 North, Range 66 West of the 6th P.M., Weld County, Colorado. 3.2.7. Amount of Water Decreed. 0.89 cubic feet per second. 3.2.8. Remarks: The Well is included in the Groundwater Management Subdistrict Augmentation Plan of the Central Colorado Water Conservancy District, Case No. 02CW335, Water Division 1, decreed June 3, 2005. 4. **Description of Proposed Correction to an Established but Erroneously Described Point of Diversion.** Applicant seeks to correct the legal description of Well No. 1 and Well No. 2 (the "Wells"). Applicant confirms the Wells are established but erroneously described. The Wells' physical locations have not been moved since construction. Division of Water Resources personnel discovered that the original decreed legal description of Well No. 1 and Well

No. 2 was incorrect. A correction to Well No. 1 and Well No 2's legal description will not cause an enlargement of the historical use associated with the Wells, and it will not injuriously affect the owner of or persons entitled to use water under a vested water right or decreed conditional right. 5. **Updated Legal Description of the Point of Diversion.** 5.1. Well No. 1-13473. 5.1.1. Legal Description. Northeast 1/4 of the Northwest 1/4, Section 8, Township 1 North, Range 66 West of the 6th P.M., Weld County, Colorado, approximately 721 feet south of the North Section line and 2680 feet west of the East Section line. 5.1.2. Point of Diversion, UTM. Zone 13, Easting 516944.6, Northing 4435642.8. 5.1.3. Source of UTM. Applicant used Google Maps on an iPhone 14 to obtain the coordinates. Coordinates were then converted to UTM using the Division of Water Resources location converter. 5.1.4. Remarks. The property address of the corrected location is 13504 County Road 12, Fort Lupton, CO 80621. See map, Ex. 1, attached. 5.2. Well No. 2-13474. 5.2.1. Legal Description. Northeast 1/4 of the Northwest 1/4, Section 8, Township 1 North, Range 66 West of the 6th P.M., Weld County, Colorado, approximately 1320 feet south of the North Section line and 2687 feet west of the East Section line. 5.2.2. Point of Diversion, UTM. Zone 13, Easting 516940.5, Northing 4435521.6. 5.2.3. Source of UTM. Applicant used Google Maps on an iPhone 14 to obtain the coordinates. Coordinates were then converted to UTM using the Division of Water Resources location converter. 5.2.4. Remarks. The property address of the corrected location is 13504 County Road 12, Fort Lupton, CO 80621. See map, Ex. 1, attached. 6. **Name and Address of Owner(s) of Land Upon Which Wells are Located.** Todd Gabel and Corinne Gabel, 17154 County Road 29, Platteville, CO 80651. The original application consists of 4 pages and 1 exhibit.

**CASE NUMBER 2026CW3052 CLEAN HARBORS DEER TRAIL, LLC**, c/o Eugene Sullivan, Facility General Manager, 108555 East Highway 36, Deer Trail, CO 80105, Telephone: (970) 386-2293 Facsimile: (970) 386-2262 E-mail: [sullivan.eugene@cleanharbors.com](mailto:sullivan.eugene@cleanharbors.com) and Clean Harbors, Office of the General Counsel, 42 Longwater Drive, Norwell, MA 02061-9149, Telephone: (800) 282-0058. Attorneys for Applicant: Alperstein & Covell, P.C., Andrea L. Benson, #33176, Gilbert Y. Marchand, Jr., #19870, 2299 Pearl Street, Suite 400-C, Boulder, CO 80302, 303-894-8191, [alb@alpersteincovell.com](mailto:alb@alpersteincovell.com), [gym@alpersteincovell.com](mailto:gym@alpersteincovell.com). **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ADDITIONAL AMOUNTS ABSOLUTE IN ADAMS, ARAPAHOE, MORGAN AND WASHINGTON COUNTIES.** 2. **Names of structures (collectively, "Subject Structures"):** 2.A. Highway 36 Storm Water Detention Facility. 2.B. RR Reservoir. 2.C. Wetzel Creek Reservoir. 2.D. Well RR-1. 2.E. Well RR-2. 3. **Description of conditional water rights:** 3.A. The water rights for the Subject Structures were decreed in Case No. 87CW312, District Court, Water Division No. 1, on February 27, 1990 ("87CW312 Decree"). Portions of the water rights were made absolute in a decree entered by the same court on May 30, 1997 in Case No. 96CW42. Decrees finding diligence toward the completion of the appropriations of the remaining conditional water rights were entered by the Court on May 30, 1997 in Case No. 96CW42; on December 29, 2005 in Case No. 03CW237; on June 26, 2012 in Case No. 11CW270; and on March 24, 2020 in Case No. 18CW3097. The decree in Case No. 18CW3097 also found that Applicant has captured, possessed, and controlled the volumes of the appropriations confirmed as being absolute at the decreed storage structures for the water rights for the Highway 36 Storm Water Detention Facility and RR Reservoir and that, pursuant to C.R.S. § 37-92-301(4)(e), those amounts of the water rights for those structures may be made absolute for all decreed purposes in a future proceeding. 3.B. **Highway 36 Storm Water Detention Facility:** 3.B.1. **Decreed legal description:** in Sections 25 and 36 of T. 3 S., R. 57 W., 6th P. M., Adams County, Colorado, more particularly described as beginning at the West 1/4 Corner of Section 25, T. 3 S., R. 57 W., thence North 89 degrees 20 minutes 10 seconds East 2764.45 feet, thence South 00 degrees 39 minutes 50 seconds West 2640.0 feet to the North section line of Section 36, thence South 00 degrees 24 minutes 00 seconds West 2640. 0 feet, thence South 30 degrees 48 minutes 58 seconds West 1551.14 feet, thence North 55 degrees 09 minutes 50 seconds West 2278. 0 feet to the West 1/4 of Section 36, T. 3 S., R. 57 W., thence northerly to the Northwest Corner of Section 36, thence northerly to the point of beginning. 3.B.2. **Source of water:** The storage right is filled by captured on-site precipitation (average 13.94 acre feet per annum), diversions from the Hubbird Well (0.46 acre feet per annum), and water truck-hauled to the site (up to 65.22 acre feet per annum). 3.B.3. **Appropriation date:**

September 18, 1987. **3.B.4. Amount:** 72.35 acre feet, of which 26.0999 acre-feet has been made absolute for commercial, industrial, irrigation and land reclamation purposes, and 46.2501 acre-feet remains conditional for the same purposes. The full 72.35 acre-feet remains conditional for domestic and municipal purposes. The specific absolute and conditional amounts of the components comprising the Highway 36 Storm Water Detention Facility are set forth in the following table (values in acre-feet):

STRUCTURE	TOTAL	ABSOLUTE	CONDITIONAL
Uncontaminated Runoff Pond	33.60	10.4782	23.1218
Potentially Contaminated Runoff Pond	20.80	6.7414	14.0586
2 One Million Gallon Uncontaminated Storage Tanks (Tanks 101A & 101B)	6.10	5.9146	0.1854
2 250,000 Gallon Contaminated Storage Tanks (491A & 491B)	1.50	1.3746	0.1254
2 Waste Storage Cells	10.20	1.4438	8.7562
Fire Protection Storage Tank	0.15	0.1473	0.0027
SUBTOTAL	72.35	26.0999	46.2501

**3.B.5. Use:** Domestic, commercial, industrial, municipal, irrigation and land reclamation. **3.C. RR Reservoir:** **3.C.1. Decreed legal description:** An off stream reservoir located in the SW 1/4 of the NE 1/4 of Section 14, T. 3 N., R. 56 W., 6th P.M. in Morgan County, Colorado, at a point from which the NE corner of said section bears N. 46 degrees 45 minutes E. a distance of 2,630 feet. **3.C.2. Source of water:** Ground water from Beaver Creek and Platte River alluvium by pipeline from Well RR-1. **3.C.3. Appropriation date:** September 18, 1987. **3.C.4. Amount:** 19 acre-feet, of which 13.01 has been made absolute for commercial, industrial, irrigation and land reclamation purposes, and 5.99 acre-feet remains conditional for the same purposes. The full 19 acre-feet remains conditional for domestic and municipal purposes. **3.C.5. Use:** Augmentation of domestic, commercial, industrial, municipal, irrigation and land reclamation purposes. **3.D. Wetzel Creek Reservoir:** **3.D.1. Decreed legal description:** Located on Wetzel Creek in the South 1/2 of Section 34, T. 3 S., R. 57 W., 6th P.M., Adams County, Colorado, a point on the west abutment of the dam from which the Southeast Corner of Section 1, T. 4 S., R. 57 W., 6th P.M., Arapahoe County, Colorado, bears South 55 degrees 30 minutes 51 seconds East 15,037.61 feet. **3.D.2. Source of water:** Wetzel Creek. **3.D.3. Appropriation date:** September 10, 1987. **3.D.4. Amount** 26 acre-feet, conditional. **3.D.5. Use:** Domestic, commercial, industrial, municipal, irrigation and land reclamation. **3.E. Well RR-1:** **3.E.1. Decreed legal description:** In the SE 1/4 of the NE 1/4 of Section 14, Township 3 North, Range 56 West, 6th P.M., Morgan County, Colorado, at a point 2215 feet south and 90 feet west of the NE Corner of said section 14. **3.E.2. Source of water:** Alluvium of Beaver Creek. **3.E.3. Appropriation date:** December 3, 1987. **3.E.4. Amount:** 450 gallons per minute (“gpm”) (1.0 cfs), all of which has been made absolute for commercial, industrial, irrigation and land reclamation purposes, and all of which remains conditional for domestic and municipal purposes. **3.E.5. Use:** Domestic, commercial, industrial, municipal, irrigation and land reclamation and to fill RR Reservoir. **3.E.6. Depth:** 100 feet. **3.F. Well RR-2:** **3.F.1. Decreed legal description:** In the SE 1/4 of the NE 1/4 of Section 14, Township 3 North, Range 56 West, 6th P.M., Morgan County, Colorado, at a point 2480 feet south and 100 feet west of the NE Corner of said section 14. **3.F.2. Source of water:** Alluvium of Beaver Creek. **3.F.3. Appropriation date:** December 3, 1987. **3.F.4. Amount:** 450 gallons per minute (“gpm”) (1.0 cfs), conditional. **3.F.5. Use:** Domestic, commercial, industrial, municipal, irrigation and land reclamation and to fill RR Reservoir. **3.F.6. Depth:** 100 feet. **3.G.** The locations of the Subject Structures are depicted on the maps filed with the Court as Figures 1, 2, and 3 of the application. **4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** Applicant’s project consists of facilities for permanent treatment and disposal of certain categories of waste not suitable for ordinary landfill operations. The project is an integrated project of which each of the water rights is an integral part. Therefore, pursuant to C.R.S. § 37-92-301(4)(b), work on one feature of the project shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the

project. Applicant has engaged in the following specific activities which demonstrate its diligence and development of the conditional water rights described above: **4.A.** Applicant has continued operation of the waste treatment and disposal facility. The waste treatment and disposal facility has continued to accept waste products for treatment and disposal throughout the diligence period. Applicant has annually expended substantial sums in connection with operation and maintenance of the facility, and repair and replacement as necessary. The water rights are integral components of the facility. **4.B.** During the subject diligence period, RR Reservoir was lined to prevent leakage. Prior to completion of the lining, Applicant obtained approvals of temporary substitute supply plans (“SWSPs”) from the State Engineer’s Office. Applicant expended \$209,467 on the lining project. After the lining, RR Reservoir was filled up to 13.43 acre-feet, thereby allowing an additional 0.42 acre-feet of the decreed storage right to be made absolute. Since completion of the lining, Applicant has continued use of RR Reservoir and it has been filled as required by the related augmentation plan each October during the diligence period. **4.C.** Applicant has operated and maintained the RR-1 well and other wells on the property, and has used them to fill the RR Reservoir annually after completion of the lining project. Applicant has also truck-hauled water from Well RR-1 for use at its waste treatment and disposal facility for use in construction and closure operations. **4.D.** In August of 2021, a five-year inspection was completed on the 250,000 gallon contaminated storage tank 491A. In January of 2022, a five-year inspection was completed on the 250,000 gallon contaminated storage tank 491B. Applicant expended \$19,200 (\$9,600 for each) on these inspections. Applicant also performed internal inspections on these tanks in July of 2020, which cost a total of \$7,000. Necessary repairs were made to these storage tanks. **4.E.** Regarding Applicant’s waste storage cells, the flow meter for cell 4 was replaced in 2023 at a cost of \$2,500.00. The LCS and LDS pumps were replaced in 2024 at a cost of \$30,000.00. **4.F.** Applicant continues to hold a permit as required by the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 et seq. During the diligence period, Applicant has taken specific steps to comply with all terms and conditions of the current permit. Applicant maintains a Certificate of Designation with Adams County that governs radioactive material, in addition to a Radioactive Materials License with the Colorado Department of Public Health and Environment (“CDPHE”), which is pending approval. **4.G.** Applicant has continued to engage a water resources consultant to assist in complying with its augmentation plan and related obligations. Applicant expended \$32,647.54 for these services, which included accounting, technical support regarding the above-described SWSPs, well meter verifications, and assistance with permits. **5. If claim to make absolute in whole or in part: 5.A. Date water applied to beneficial use, including amount and use: 5.A.1.** By October 31, 2023, RR Reservoir was filled up to 13.43 acre-feet, thereby allowing an additional 0.42 acre-feet of the decreed storage right to be made absolute. Applicant has captured, possessed, and controlled 13.43 acre-feet of the appropriation associated with the water right for the RR Reservoir. Applicant has also placed the stored water to decreed beneficial uses. Pursuant to the decree in Case No. 18CW3097 and C.R.S. § 37-92-301(4)(e), 13.43 acre-feet of the water right should be made absolute for commercial, industrial, irrigation and land reclamation purposes and augmentation of same uses. **5.B. Description of place of use where water is or was applied to beneficial use:** Applicant’s Highway 36 Storm Water Detention Facility described in paragraph 3.B., above. **6.** Applicant is requesting cancellation of the domestic and municipal uses that were decreed in Case No. 87CW312. **7. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure, is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Applicant, whose name and address are set forth in paragraph 1, above, is the owner of the land. **WHEREFORE**, pursuant to C.R.S. Section 37-92-301(4), Applicant requests the Court to enter a decree making the additional amounts described herein absolute; finding that reasonable diligence has been shown toward the completion of the remaining conditional portions of the appropriations associated with the water rights for the Subject Structures; continuing said water rights in full force and effect; and granting such other relief as the court deems proper under the circumstances. (Application consists of 9 pages plus three pages of attachments)

**Case Number 25CW3128 amended to add Weld County.**

**\*\*AMENDED\*\* CASE NUMBER 2025CW3128 (91CW126; 08CW205; 18CW3120)** 1. Applicant: **CITY OF THORNTON**, Colorado (“Thornton”), Infrastructure Department, Division of Water Resources, 12450 North Washington Street, Thornton, Colorado 80241, 720-977-6600, Please direct communications related to this application to: Megan Christensen, Esq., City of Thornton, 9500 Civic Center Drive, Thornton, Colorado 80229, Tele: (303) 538-7210. **CONCERNING THE AMENDED APPLICATION FOR WATER RIGHTS OF THE CITY OF THORNTON, IN ADAMS, DENVER AND WELD COUNTIES**. 2. Summary of Application. Thornton seeks findings of reasonable diligence for the conditional portions of the water rights originally decreed in Case No. 91CW126, Water Div. 1. Thornton further seeks to make additional portions of such water rights absolute as follows: Hammer Pit in the amount of 318.04 af (8.03 cfs); Rogers Pit at a rate of 44.00 cfs, and Cooley East Pit in the amount 2587.97 af (149.92 cfs). 3. Names of Structures. Gravel pit reservoirs generally located along the South Platte River between its confluence with Clear Creek and its confluence with the Cache la Poudre River. Specific gravel pit names are provided in paragraph 6 below. Collectively, the water rights described in paragraph 6 are referred to as the Subject Water Rights. The locations of the Subject Water Rights are shown on the maps attached as Exhibit A. 4. Original Decree. September 16, 2002, Case No. 91CW126, District Court, Water Division 1. 5. Subsequent decrees. Since the original decree entered on September 16, 2002, timely applications for findings of reasonable diligence have been filed in accordance with Colorado law. Final decrees have been entered granting each such application, finding that Thornton has exercised reasonable diligence in the development of the Subject Water Rights on July 2, 2012 in Case No. 08CW205, District Court, Water Division 1, and on September 12, 2019 in Case No. 18CW3120, District Court, Water Division 1. Additionally, the Court decreed 2,128.57 acre-feet of the Rogers Pit absolute in Case No. 18CW3120. Water rights decreed to the Cooley West Complex and North Dahlia Pit were changed by decree dated October 8, 2013 in Case No. 04CW326, water rights decreed to the Cooley East Pit and Hammer Pit were changed by decree dated February 1, 2021 in Case No. 18CW3158, and a point of diversion for Rogers Pit was changed in Case No. 20CW3206. Rights of substitution and exchange involving the Subject Water Rights were decreed in Case No. 96CW1116. 6. Description of Subject Water Rights. 6.1. West Sprat-Platte Pit (f.k.a. Thornton Pit). 6.1.1. Location: Located in the S1/4, Section 17; and N1/4 of the N1/4, Section 20, T2S, R67W, 6th P.M., Adams County. 6.1.2. Points of Diversion: 6.1.2.1. The combined headgate of the Lower Clear Creek Ditch and Colorado Agricultural Ditch, on the north bank of Clear Creek in the SW1/4 of the SE1/4, Section 4, T3S, R68W, 6th P.M., Adams County, at a point approximately 1,200 feet north and 1,400 feet west of the southeast corner of said section. 6.1.2.2. South Platte River Diversion: On the northwest bank of the South Platte River in the SW1/4 of the NW1/4, Section 20, T2S, R67W, 6th P.M., Adams County, at a point approximately 3,780 feet north and 15 feet east of the southwest corner of said section. 6.1.3. Appropriation Date: December 31, 1991. 6.1.4. Rates of Diversion: 6.1.4.1. Combined Headgate of the Lower Clear Creek Ditch and Colorado Agricultural Ditch: 230 cfs. 6.1.4.2. South Platte River Diversion: 300 cfs. 6.1.5. Amount (capacity): 1,900 ac-ft., CONDITIONAL. 6.2. Cooley West Complex (f.k.a. Thornton Pit or Cooley Pit). 6.2.1. Location: NE1/4, N1/2 of the SE1/4, NE1/4 of the SW1/4, and E1/2 of the NW1/4, Section 17, T2S, R67W, 6th P.M., Adams County. This legal description is based on the change of water rights decreed in Case No. 04CW326. 6.2.2. Points of Diversion: 6.2.2.1. The combined headgate of the Lower Clear Creek Canal and Colorado Agricultural Ditch, on the north bank of Clear Creek in the SW1/4 of the SE14, Section 4, T3S, R68W, 6th P.M., Adams County, at a point approximately 1,200 feet north and 1,400 feet west of the southeast corner of said section. 6.2.2.2. South Platte River Diversion: On the northwest bank of the South Platte River in the SW1/4 of the NW1/4, Section 20, T2S, R67W, 6th P.M., Adams County, at a point approximately 3,780 feet north and 15 feet east of the southwest corner of said section. 6.2.3. Appropriation Date: December 31, 1991. 6.2.4. Rates of Diversion: 6.2.4.1. Combined Headgate of the Lower Clear Creek Canal and Colorado Agricultural Ditch: 230 cfs. 6.2.4.2. South Platte River Diversion: 300 cfs. 6.2.5. Amount (capacity): 4,411.37 ac-ft., CONDITIONAL. This amount is based on the change of water rights decreed in Case No. 04CW326. 6.3. North Dahlia Pit. 6.3.1. Location: Located in the S1/2 of the NE1/4, and the SE1/4, Section 19; and the W1/2 of the SW1/4, and S1/2 of the NW1/4, Section 20, T2S, R67W, 6th P.M., Adams County. 6.3.2. Points of Diversion: 6.3.2.1. Burlington Ditch. As decreed in Case No. 22CW3034, the point of diversion

is located at a point on the east bank of the South Platte River in the NE1/4 of the SW1/4 of Section 14, Township 3 South, Range 68 West of the 6th P.M., City and County of Denver, Colorado. The headgate is located at approximately latitude 039° 47' 24.69" N, longitude 104° 58' 9.97" W. The UTM coordinates are approximately NAD 1983 UTM Zone 13S 502616.89 mE 4404471.42 mN. 6.3.2.2. South Platte River Diversion: On the southeast bank of the South Platte River in the SW1/4 of the SE1/4, Section 19, T2S, R67W, 6th P.M., Adams County, at a point approximately 582 feet north and 2,073 feet west of the southeast corner of said section. 6.3.3. Appropriation Dates: 6.3.3.1. Burlington Ditch Diversion: August 19, 1996. 6.3.3.2. South Platte River Diversion: December 31, 1991. 6.3.4. Rates of Diversion: 6.3.4.1. Burlington Ditch Diversion: 200 cfs. 6.3.4.2. South Platte River Diversion: 300 cfs. 6.3.5. Amount (capacity): 2,888.63 ac-ft., CONDITIONAL. This amount is based on the change of water rights decreed in Case No. 04CW326. 6.4. East Sprat-Platte Pit (a.k.a. Sprat-Platte Ranch East Pit). 6.4.1. Location: Located in the S1/2 of the SW1/4, SW1/4 of the SE1/4, Section 17, and the NW1/4, and NW1/4 of the NE1/4, Section 20, T2S, R67W, 6th P.M., Adams County. 6.4.2. Points of Diversion: 6.4.2.1. The headgate of the Burlington Ditch, as described in paragraph 6.3.2.1 above. 6.4.2.2. South Platte River Diversion A (Sprat-Platte Ranch East Pit): On the southeast bank of the South Platte River in the SW1/4 of the NW1/4, Section 20, T2S, R67W, 6th P.M., Adams County, at a point approximately 3,703 feet north and 136 feet east of the southwest corner of said section. 6.4.2.3. South Platte River Diversion B (North Dahlia Pit and Sprat-Platte Ranch East Pit): On the southeast bank of the South Platte River in the SW1/4 of the SE1/4, Section 19, T2S, R67W, 6th P.M., Adams County, at a point approximately 582 feet north and 2,073 feet west of the southeast corner of said section. 6.4.3. Appropriation Dates: 6.4.3.1. Burlington Ditch Diversion: August 19, 1996. 6.4.3.2. South Platte River Diversion A: December 31, 1991. 6.4.3.3. South Platte River Diversion B: December 31, 1991. 6.4.4. Rates of Diversion: 6.4.4.1. Burlington Ditch Diversion: 200 cfs. 6.4.4.2. South Platte River Diversion A: 300 cfs. 6.4.4.3. South Platte River Diversion B: 300 cfs. 6.4.5. Amount (capacity): 1,500 ac-ft., CONDITIONAL. 6.5. Cooley East Pit. 6.5.1. Location: Located in the S1/2 of Section 9, and the NW1/4 of Section 16, T2S, R67W, 6th P.M., Adams County. 6.5.1.1. Surface Area: As decreed in Case No. 18CW3158, approximately 115.1 acres at high water line as currently constructed. The current stage-area-capacity table is attached as Exhibit B. Because water storage is below grade, there is no dam height or dam length for this structure. The south cell of the Cooley East Pit has not yet been constructed. Thornton will provide an updated stage-area-capacity table when the as-built configuration changes. 6.5.1.2. Cooley East Pit Outlet Location: As decreed in Case No. 18CW3158, located on the east bank of the South Platte River in the SW1/4 of the SW1/4 of Section 9, T2S, R67W, 6th P.M., Adams County, at a point approximately 540 feet north and 50 feet east of the southwest corner of said section. 6.5.2. Point of Diversion: The headgate of the Fulton Ditch, on the east bank of the South Platte River in the NE1/4 of the SE1/4, Section 17, T2S, R67W, 6th P.M., Adams County, at a point approximately 2,815 feet south and 145 feet west of the northeast corner of said section. 6.5.3. Appropriation Date: December 31, 1991. 6.5.4. Rate of Diversion: 300 cfs. 6.5.5. Amount (capacity) as decreed in Case No. 18CW3158: 6.5.5.1. Active Capacity: 4,583.9 ac-ft., CONDITIONAL. 6.5.5.2. Dead Storage: 0 ac-ft. 6.6. Hammer Pit. 6.6.1. Location: As decreed in Case No. 18CW3158, located in the E1/2 of the SW1/4, and the W1/2 of the SE1/4 of Section 14; and the NW1/4, NW1/4 NE1/4 and the N1/2 SW1/4 of Section 23, T1S, R67W, 6th P.M., Adams County. This structure is an excavated and lined former gravel pit and therefore does not have a dam centerline. The Hammer Pit is generally located on the north or west side of the South Platte River, east of Riverdale Road and north of the E-470 toll road. 6.6.1.1. Surface Area: As decreed in Case No. 18CW3158, approximately 112.4 acres at high water line as currently constructed. The current stage-area-capacity table is attached as Exhibit B. Because water storage is below grade, there is no dam height or dam length for this structure. Thornton will provide an updated stage-area-capacity table if the as-built configuration changes. 6.6.1.2. Hammer Pit Outlet Location: As decreed in Case No. 18CW3158, located on the west bank of the South Platte River in the NE1/4 of the NW1/4 of Section 23, T1S, R67W, 6th P.M., Adams County, at a point approximately 1,100 feet south and 2,500 feet east of the northwest corner of said section. 6.6.2. Points of Diversion: 6.6.2.1. The headgate of the Brantner Ditch, on the north bank of the South Platte River in the NE1/4 of the SW1/4, Section 4, T2S, R67W, 6th P.M., Adams County, at a point approximately 2,721 feet south and 2,140 feet east of the northwest corner

of said section. 6.6.2.2. South Platte River Diversion A: On the west bank of the South Platte River in the NE1/4 of the NW1/4 of Section 23, T1S, R67W, 6th P.M., Adams County, at a point approximately 1,100 feet south and 2,500 feet east of the northwest corner of said section. 6.6.2.3. South Platte Diversion B: On the west bank of the South Platte River in the SE1/4 of the NE1/4 of Section 14, T1S, R67W, 6th P.M., Adams County, at a point approximately 2,400 feet south and 580 feet west of the northeast corner of said section. 6.6.3. Appropriation Date: December 31, 1991 for all points of diversion. 6.6.4. Rates of Diversion: 6.6.4.1. Brantner Ditch: 110 cfs. 6.6.4.2. South Platte River Diversion A: 300 cfs. 6.6.4.3. South Platte River Diversion B: 300 cfs. 6.6.5. Amount (capacity) as decreed in Case No. 18CW3158: 6.6.5.1. Active Capacity: 2,116.1 ac-ft., CONDITIONAL. 6.6.5.2. Dead Storage: 0 ac-ft. 6.7. Rogers Pit. 6.7.1. Location: Located in the NE1/4 of Section 1, T1S, R67W; and the SW1/4 of the NW1/4 of Section 6, T1S, R66W, 6th P.M., Adams County. 6.7.2. Points of Diversion: 6.7.2.1. The headgate of the Brantner Ditch, on the north bank of the South Platte River in the NE1/4 of the SW1/4, Section 4, T2S, R67W, 6th P.M., Adams County, at a point approximately 2,721 feet south and 2,140 feet east of the northwest corner of said section. 6.7.2.2. The headgate of the Brighton Ditch, on the west bank of the South Platte River in the SE1/4 of the SE1/4, Section 11, T1S, R67W, 6th P.M., Adams County, at a point approximately 780 feet north and 1,120 feet west of the southeast corner of said section. 6.7.2.3. South Platte River Diversion A: As decreed in Case No. 20CW3206: Public Land Survey System (PLSS): As confirmed by the decree in Case No. 18CW3120, the as-constructed point of diversion is located on the west bank of the South Platte River in the NE1/4 of the NE1/4, Section 1, T1S, R67W, 6th P.M., Adams County, at a point approximately 500 feet south and 150 feet west of the northeast corner of said section. Point of Diversion in UTM Format: Zone 13 S, Easting 514649.72, Northing 4427665.34 (NAD 83). 6.7.2.4. South Platte River Diversion B: On the northwest bank of the South Platte River in the NW1/4 of the SW1/4, Section 6, T1S, R66W, 6th P.M., Adams County, at a point approximately 2,480 feet south and 300 feet east of the northwest corner of said section. 6.7.3. Appropriation Date: December 31, 1991 for all points of diversion. 6.7.4. Rates of Diversion: 6.7.4.1. Brantner Ditch: 110 cfs. 6.7.4.2. Brighton Ditch: 45 cfs. 6.7.4.3. South Platte River Diversion A: 300 cfs. 6.7.4.4. South Platte River Diversion B: 300 cfs. 6.7.5. Amount (capacity): 2,128.57 ac-ft., ABSOLUTE; 371.43 ac-ft., CONDITIONAL. 6.8. Fort Lupton Pit. 6.8.1. Location: Located in the W1/2 of the SW1/4, Section 7, T1N, R66W, 6th P.M.; and in the E1/2 of the SE1/4, Section 12, T1N, R67W, 6th P.M., Weld County. 6.8.2. Points of Diversion: 6.8.2.1. The headgate of the Lupton Bottom Ditch, on the northwest bank of the South Platte River in the NW1/4 of the SW1/4, Section 19, T1N, R66W, 6th P.M., Weld County, at a point approximately 2,110 feet north and 56 feet east of the southwest corner of said section. 6.8.2.2. Big Dry Creek Diversion: On the north bank of Big Dry Creek in the SE1/4 of the SE1/4, Section 12, T1N, R67W, 6th P.M., Weld County, at a point approximately 4,691 feet south and 4,094 feet east of the northwest corner of said section. 6.8.2.3. South Platte River Diversion: On the west bank of the South Platte River in the NE1/4 of the NW1/4, Section 18, T1N, R66W, 6th P.M., Weld County, at a point approximately 1,547 feet South and 3,769 feet west of the northeast corner of said section. 6.8.3. Appropriation Dates: 6.8.3.1. Lupton Bottom Ditch: December 31, 1991. 6.8.3.2. Big Dry Creek Diversion: August 19, 1996. 6.8.3.3. South Platte River Diversion: December 31, 1991. 6.8.4. Rates of Diversion: 6.8.4.1. Lupton Bottom Ditch: 150 cfs. 6.8.4.2. Big Dry Creek Diversion: 80 cfs. 6.8.4.3. South Platte River Diversion: 300 cfs. 6.8.5. Amount (capacity): 2,700 ac-ft., CONDITIONAL. 6.9. Doeringsfeld Pit. 6.9.1. Location: Located in the SE1/4 of the SW1/4 and SW1/4 of the SE1/4, Section 3; the NE1/4 of the NE1/4, Section 9; and the NW1/4, W1/2 of the NE1/4, and NE1/4 of the NE1/4, Section 10, T5N, R65W, 6th P.M., Weld County. 6.9.2. Point of Diversion: At the headgate of the Patterson Ditch on the north bank of the South Platte River in the NE1/4 of the NE1/4, Section 21, T5N, R65W, 6th P.M., Weld County, at a point approximately 641 feet south and 5,133 feet east of the northwest corner of said section. 6.9.3. Appropriation Date: December 31, 1991. 6.9.4. Rate of Diversion: 370 cfs. 6.9.5. Amount (capacity): 4,474 ac-ft., CONDITIONAL. 6.10. Doeringsfeld Pit, First Enlargement. 6.10.1. Location: as described in paragraph 6.9.1 herein. 6.10.2. Point of Diversion: as described in paragraph 6.9.2 herein. 6.10.3. Appropriation Date: August 19, 1996. 6.10.4. Rate of Diversion: 370 cfs. 6.10.5. Amount (capacity): 1,526 ac-ft., CONDITIONAL. 7. Sources. The sources of water appropriated for the Subject Water Rights are as follows: 7.1. All Reservoirs: South Platte River, including waters of the streams tributary thereto. Thornton

also stores or will store reusable municipal effluent or other water that Thornton owns and controls in the pits described in paragraph 6. 7.2. Additional Sources: Diversions from the additional sources listed below, at points above their respective confluences with the South Platte River, are, or may be, used to fill the gravel pit reservoirs as follows: 7.2.1. Clear Creek: West Sprat-Platte Pit, Cooley West Complex. 7.2.2. Big Dry Creek: Fort Lupton Pit. 8. Uses: The water captured by exercise of the Subject Water Rights shall be used, directly or by exchange, for irrigation, agricultural, commercial, industrial and all municipal uses, including, but not limited to, domestic, mechanical, manufacturing, industrial, power generation, fire protection, sewage treatment, street sprinkling, irrigation of parks, lawns and grounds, recreation, piscatorial, maintenance and preservation of wildlife and aesthetic values, lake and reservoir evaporation, augmentation and replacement, adjustment and regulation of Thornton's water supply system, including further exchange within Thornton's system and with other water users. 9. Place of Use: The place of use of the Subject Water Rights will be the service area of the City of Thornton as it presently exists and as it may exist in the future, the lands lying under the Water Supply and Storage Company System, and other water users in the Cache la Poudre and South Platte river basins to whom Thornton may release such water in satisfaction of replacement obligations. 10. Right to Reuse: The water captured by exercise of the Subject Water Rights may be used, reused, further exchanged, successively used and reused to extinction and/or disposition. 11. Right to Fill and Refill: Thornton shall have the right to exercise the Subject Water Rights to fill and refill the Reservoirs as the availability of capacity in the Reservoirs and water for diversion permit, subject to an overall annual limit of 57,000 acre-feet and a refill restriction on the Doeringsfeld Pit contained in paragraph 26.3.1 of the original decree. 12. Detailed outline of what has been done toward completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures: From July 31, 2018 (the date the last diligence application was filed) through September 30, 2025 (the "Diligence Period"), Thornton performed the following work and incurred the following costs, all or in part, concerning the remaining conditional portions of the Subject Water Rights, including work and expenditures on specific structures integral to the diversion and use of the Subject Water Rights and in the further development of Thornton's integrated water supply systems within which the Subject Water Rights have been and will be placed to beneficial use. The work done and costs incurred set forth below are illustrative and not exhaustive and Thornton reserves the right to present evidence of additional activities and costs in support of this application. 12.1. Thornton Integrated System Activities: During the diligence period, Thornton has continued the development and improvement of its Clear Creek and South Platte River water supply system including many of the structures used in the exercise of the Subject Water Rights, and the eventual treatment and use of the water yielded by such rights. The reservoirs listed in Section 6 are just a few components of the integrated water supply system that Thornton operates to provide itself and its customers with water for municipal purposes. The gravel pits are operated in conjunction with, and are integrated with other structures owned by Thornton, including the West Gravel Lakes decreed in Case No. 81CW448, which are located along the west side of the South Platte River, and the East Gravel Lakes decreed in 79CW376 and 92CW164, which are located generally on the east side of the South Platte River. Water can be stored in the gravel pits and moved through the integrated system prior to treatment at the Wes Brown Water Treatment Plant. Thornton incurred approximately \$72.6 million in total costs, which include the following: 12.1.1. Gravel Lakes Planning and Facility Construction and Maintenance: Thornton spent over \$12.2 million on reservoir planning, upgrades to pump stations, design and construction of rip rap to protect eroded slopes on the city's raw water storage reservoirs, construction of outlet gates, and general engineering such as reservoir inspections, dam inspections, and design reviews. Specific maintenance projects included in the total cost are as follows: 12.1.1.1. North Dahlia Pit: Thornton spent approximately \$109,902 on the replacement of outlet gates at North Dahlia Pit to increase reservoir capacity. 12.1.1.2. Cooley West Complex: Thornton spent approximately \$21,250 on sediment removal projects at the Cooley West Complex. 12.1.1.3. Cooley East Pit: Thornton spent approximately \$8.7 million to design and construct a new pump station at Cooley East Pit. 12.1.2. Ditch Company Assessments: Thornton paid assessments according to its share ownership in various ditch companies associated with the Subject Water Rights including the Burlington Ditch Reservoir and Land Company of \$54,437, Lower Clear Creek Ditch Company of \$344,594, Colorado Agricultural Ditch Company of \$328,424, and Fulton

Ditch Company of \$392. 12.1.3. Ditch Company Carriage Fees: Thornton paid carriage fees to several ditch companies associated with the Subject Water Rights including Fulton Ditch Company \$2,180; Lower Clear Creek/Colorado Agricultural Ditch companies \$144,611; Henrylyn Reservoir and Irrigation District \$40,000; and Delta Irrigation Company \$25,200. 12.1.4. Treatment Infrastructure Improvements: The Subject Water Rights can be treated at Wes Brown Water Treatment Plant prior to being distributed to Thornton customers. During the diligence period, several projects occurred at the plants, including installation of new technologies, membrane replacement, tank repairs, clarifier rehabilitation, plant and equipment replacement, and process improvements. Thornton has also continually improved, maintained, and extended its treated water distribution system to provide water service to its customers. Examples of such projects include installation of distribution tank mixers, replacement of sludge lines, and repair/replacement of pressure reduction valves and air release valves. Thornton spent approximately \$49.9 million on all these projects. 12.1.5. Planning: Thornton spent \$99,750 on drought management planning and water supply modeling during the diligence period. 12.1.6. Water Quality Monitoring: During the relevant diligence period, Thornton spent approximately \$9.1 million on water quality monitoring and sampling of the gravel lakes and ditches associated with the Subject Water Rights. 12.1.7. Water Court: Thornton has actively participated in water court proceedings to protect its water rights, including the Subject Water Rights, and in furtherance thereof has filed a number of statements of opposition during the diligence period. Additionally, Thornton changed the decreed point of diversion for the Subject Water Rights at the Burlington Ditch from the original headgate to the New Burlington Ditch Headgate in Case No. 22CW3034 in furtherance of developing these water rights. Total legal and engineering costs incurred relating to the protection of Thornton's Clear Creek and South Platte River water rights portfolio, including the Subject Water Rights, during the diligence period were approximately \$287,794. 13. Claims to make absolute: Thornton claims the following amounts of the Subject Water Rights absolute: 13.1. Hammer Pit: A total of 318.04 acre-feet was stored in priority during January 9, 2019 – February 1, 2019, at a maximum rate of 8.03 cfs from the South Platte River Diversion A on January 14, 2019. The water was placed to beneficial use within the City of Thornton. Thornton seeks confirmation of the amount of 318.04 acre-feet made absolute, with the amount of 1,798.06 acre-feet remaining conditional. Thornton further seeks confirmation of the diversion rate of 8.03 cfs at South Platte River Diversion A made absolute, with a rate of 291.97 cfs remaining conditional. Diversion information for the Hammer Pit is attached as Exhibit C. 13.2. Rogers Pit: Water was stored in priority in Rogers Pit at a maximum rate of 44.00 cfs from the South Platte River Diversion A on May 13, 2021. The water was placed to beneficial use within the City of Thornton. Thornton seeks confirmation of the diversion rate of 44.00 cfs at South Platte River Diversion A made absolute, with a rate of 256.01 cfs remaining conditional. Diversion information for the Rogers Pit is attached as Exhibit C. 13.3. Cooley East Pit: The initial fill of the reservoir occurred during the May 2023 flood conditions on the South Platte River and the reservoir reached its current maximum physical capacity. A total of 2587.97 acre-feet was booked over in priority during May 13-22, 2023 at a maximum rate of 149.92 cfs on May 14, 2023. The water was placed to beneficial use within the City of Thornton. Thornton seeks confirmation of the amount of 2587.97 acre-feet made absolute, with the amount of 1995.93 acre-feet remaining conditional. Thornton further seeks confirmation of the diversion rate of 149.92 cfs at the headgate of the Fulton Ditch made absolute, with a rate of 150.08 cfs remaining conditional. Diversion information for the Cooley East Pit is attached as Exhibit C. 13.4. Thornton claims absolute amounts in reliance on C.R.S. § 37-92-301(4)(e). 14. Remarks. 14.1. The conditional water rights originally decreed in Case No. 91CW126 to the Mann Lakes South Pit, the Tower Pit, and the Platte Valley Pit were abandoned in Case No. 08CW205 and are not part of the Subject Water Rights. 14.2. The Subject Water Rights are part of Thornton's integrated municipal water system. 15. Names and addresses of owners or reputed owners of land on which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be located, or upon which water is or will be stored: See attached Exhibit D. WHEREFORE, Thornton respectfully requests that this Court enter an order: 1) finding the facts as set forth above; 2) finding that Thornton has exercised reasonable diligence in the development of the Subject Water Rights and continuing those conditional water rights in full force and effect for a period of six years after entry of the Court's decree herein; 3) confirming the absolute amounts for the Subject Water Rights

as listed above; and 4) for such other and further relief as this Court deems just and proper. (15 pages and exhibits A, B, C, D).

**Case Number 25CW3150 amended to include Jefferson County.**

**\*\*AMENDED\*\*CASE NUMBER 2025CW3150 (90CW230; 98CW381; 09CW70; 19CW3046)** 1. Applicant. **CITY OF THORNTON, COLORADO** (“Thornton”) Infrastructure Department, Division of Water Resources, 12450 North Washington Street, Thornton, Colorado 80241, 720-977-6600. Please direct communications related to this application to: Megan Christensen, Esq., City of Thornton, 9500 Civic Center Drive, Thornton, Colorado 80229, Tele: (303) 538-7210. **CONCERNING THE AMENDED APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN PART, IN ADAMS, DENVER, AND JEFFERSON COUNTIES.** 2. Summary of Application. Thornton seeks findings of reasonable diligence for the conditional portions of the water rights originally decreed in Case No. 90CW230, Water Div. 1. Thornton further seeks to make additional portions of such water rights absolute as follows: Hunters Glen Reservoir in the amount of 18.49 acre-feet (2.58 cfs) and Standley Lake at a total rate of 31.02 cfs. 3. Names of Structures. Farmers High Line Canal, Croke Canal, Colorado Agricultural Ditch, Lower Clear Creek Ditch, Standley Lake, Croke Reservoir No. 12, Hunters Glen Reservoir, Tani Lakes, Brannan Lakes. Collectively, the water rights described in paragraph 4 are referred to as the Subject Water Rights. The locations of the Subject Water Rights are shown on the maps attached as Exhibit A. 4. Description of Subject Water Rights: 4.1. Original Decree. September 14, 1992, Case No. 90CW230, District Court, Water Division 1. 4.2. Subsequent Decrees Awarding Findings of Diligence and Making Absolute in Part. Since the original decree entered on September 14, 1992, timely applications for findings of reasonable diligence have been filed in accordance with Colorado law. Final decrees have been entered granting each such application, finding that Thornton has exercised reasonable diligence in the development of the Subject Water Rights on June 9, 2003 in Case No. 98CW381, District Court, Water Division 1, on March 15, 2013 in Case No. 09CW70, District Court, Water Division 1, and on October 23, 2019 in Case No. 19CW3046, District Court, Water Division 1. 4.2.1. In Case No. 98CW381, the Court decreed the following water rights absolute: 12.7 cfs of the Farmers High Line Canal (direct flow); 60 cfs of the Croke Canal (direct flow, thus completing the appropriation); 17 cfs of the Colorado Agricultural Ditch (direct flow); 5346.3 acre-feet of Standley Lake (storage); and 227.3 AF of Brannan Lake (storage). 4.2.2. In Case No. 09CW70, the Court decreed an additional 13 cfs of the Colorado Agricultural Ditch (direct flow) absolute, thus completing the appropriation. 4.2.3. In Case No. 19CW3046, the Court decreed an additional 17.23 cfs of the Farmers High Line Canal (direct flow) absolute, for a total of 29.93 cfs. 4.3. Location of Structures: 4.3.1. Farmers High Line Canal: The headgate is located on the north bank of Clear Creek in the NW1/4 of the SW1/4 of Section 27, Township 3 South, Range 70 West of the 6th P.M., Jefferson County, a short distance downstream from the Ford Street Bridge across Clear Creek in the City of Golden, Colorado, at a point approximately 950 feet east and 1500 feet north of the SW corner of said Section 27. 4.3.2. Croke Canal: The headgate is located on the north bank of Clear Creek in the NW1/4 of the NE1/4 of Section 26, Township 3 South, Range 70 West of the 6th P. M., Jefferson County, at a point approximately 2700 feet west and 2400 feet south of the NE corner of said Section 26. 4.3.3. Colorado Agricultural Ditch: The headgate of the Colorado Agricultural Ditch is a combined headgate with the Lower Clear Creek Ditch and is located on the north bank of Clear Creek in the SW1/4 of the SE1/4 of Section 4, Township 3 South, Range 68 West of the 6th P.M., Adams County, at a point approximately 1400 feet west and 1200 feet north of the SE corner of said Section 4. 4.3.4. Lower Clear Creek Ditch: The headgate of the Lower Clear Creek Ditch is a combined headgate with the Colorado Agricultural Ditch as described in Paragraph 6.3.3 above. 4.3.5. Standley Lake: The dam is located in the SE1/4 of Section 16, the NE1/4 of Section 21, and the W1/2 of the W1/2 of Section 22, all in Township 2 South, Range 69 West of the 6th P.M., Jefferson County. The reservoir is located in Sections 16, 17, 20, 21, 22, 27, 28, and 29, Township 2 South, Range 69 West of the 6th P.M., Jefferson County. 4.3.6. Croke Reservoir No. 12: The east dam embankment is located in the SW1/4 of the SE1/4 of Section 15, Township 2 South, Range 68 West of the 6th P.M., Adams County. The west dam embankment is located in the SE1/4 of the SW1/4 of Section 15, Township 2 South, Range 68 West of the 6th P.M., Adams County. The reservoir is located in

the W1/2 of the SE1/4 and the E1/2 of the SW1/4 of Section 15, Township 2 South, Range 68 West of the 6th P.M., Adams County, just north of the intersection of Highway I-25 and Thornton Parkway. 4.3.7. Hunters Glen a/k/a Poitz Reservoir: The east dam embankment is located in the SE1/4 of the SW1/4 of Section 26, Township 1 South, Range 68 West of the 6th P.M., Adams County. The west dam embankment is located in the W1/2 of the SW1/4 of Section 26, Township 1 South, Range 68 West of the 6th P.M., Adams County. The reservoir is located in the SW1/4 of Section 26, Township 1 South, Range 68 West of the 6th P.M., Adams County. 4.3.8. Tani Lakes a/k/a East Gravel Lakes: Located in Sections 25 and 36, Township 2 South, Range 68 West of the 6th P.M., and in Sections 30 and 31, Township 2 South, Range 67 West of the 6th P.M., all in Adams County. 4.3.9. Brannan Lakes: Located in the SW1/4 of Section 35, Township 2 South, Range 68 West of the 6th P.M., Adams County, Colorado. 4.4. Source: Clear Creek and its tributaries, all tributary to the South Platte River. 4.5. Appropriation Date: March 23, 1990. 4.6. Amounts Decreed: 4.6.1. Farmers High Line Canal (direct flow): 100 cfs. 4.6.1.1. 29.93 cfs, absolute. 4.6.1.2. 70.07 cfs, conditional. 4.6.2. Standley Lake (storage): 4.6.2.1. Amount: 12,000 AF. 4.6.2.1.1. 5,346.3 AF, absolute. 4.6.2.1.2. 6,653.7 AF, conditional. 4.6.2.2. Rate of Diversion to Fill: 4.6.2.2.1. 200 cfs through the Farmers High Line Canal. 4.6.2.2.1.1. 13.5 cfs, absolute. 4.6.2.2.1.2. 186.5 cfs conditional. 4.6.2.2.2. 300 cfs through the Croke Canal. 4.6.2.2.2.1. 200.8 cfs, absolute. 4.6.2.2.2.2. 99.2 cfs, conditional. 4.6.3. Croke Reservoir No. 12 (storage): 4.6.3.1. Amount: 213.0 AF, conditional. 4.6.3.2. Rate of Diversion to Fill: 30 cfs through the Farmers High Line Canal and Tuck Lateral, conditional. 4.6.4. Hunters Glen a/k/a Poitz Reservoir (storage): 4.6.4.1. Amount: 60.0 AF, conditional. 4.6.4.2. Rate of Diversion to Fill: 25.0 cfs through the Farmers High Line Canal, conditional. 4.6.5. Tani Lakes a/k/a East Gravel Lakes (storage): 4.6.5.1. Amount: 4,000 AF, conditional. 4.6.5.2. Rate of Diversion to Fill: 30 cfs combined through the Lower Clear Creek Ditch and/or the Colorado Agricultural Ditch, conditional. 4.6.6. Brannan Lakes (storage): 4.6.6.1. Amount: 1,500 AF. 4.6.6.1.1. 227.3 AF, absolute. 4.6.6.1.2. 1,272.7 AF, conditional. 4.6.6.2. Rate of Diversion to Fill: 50 cfs through the Lower Clear Creek Ditch. 4.6.6.2.1. 19.9 cfs, absolute. 4.6.6.2.2. 30.1 cfs, conditional. 5. Uses: By direct flow, and/or after storage and subsequent release from the reservoirs identified herein, for irrigation, agricultural, commercial, industrial and all municipal uses, including but not limited to domestic, mechanical, manufacturing, industrial, power generation, fire protection, sewage treatment, street sprinkling, irrigation of parks, lawns and grounds, recreation, piscatorial, agricultural, maintenance and preservation of wildlife and aesthetic values, lake and reservoir evaporation, augmentation, and replacement, adjustment and regulation of Thornton's water supply system, including exchange within Thornton's system and with other users. Thornton will use the water diverted within the Thornton service area as it presently exists and as it may exist in the future, and in any location capable of service from any of the points of diversion and storage identified herein. 6. Detailed outline of what has been done toward completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures: From March 26, 2019 (the date the last diligence application was filed) through October 31, 2025 (the "Diligence Period"), Thornton performed the following work and incurred the following costs, all or in part, concerning the remaining conditional portions of the Subject Water Rights, including work and expenditures on specific structures integral to the diversion and use of the Subject Water Rights and in the further development of Thornton's integrated water supply systems within which the Subject Water Rights have been and will be placed to beneficial use. The work done and costs incurred set forth below are illustrative and not exhaustive and Thornton reserves the right to present evidence of additional activities and costs in support of this application. 6.1. Thornton Integrated System Activities: During the diligence period, Thornton has continued the development and improvement of its Clear Creek and South Platte River water supply system including many of the structures used in the exercise of the Subject Water Rights, and the eventual treatment and use of the water yielded by such rights. Thornton incurred over \$720 million in total costs, which include the following: 6.1.1. Ditch Company Assessments: Thornton paid assessments of approximately \$1,501,290 for its share ownership in the Lower Clear Creek Ditch Company (LCC), Colorado Agricultural Ditch Company (COAg), Farmers High Line Canal (FHL), and the FRICO-Standley Lake Division. 6.1.2. LCC and COAg Carriage and Maintenance Agreement: Under a carriage and maintenance agreement with the LCC and COAg, Thornton paid approximately \$126,500 for its share of operating expenses. 6.1.3. FHL Carriage Agreement: Under a

carriage agreement with FHL, Thornton paid approximately \$1,330 for the right to use excess capacity in the ditch. 6.1.4. Standley Lake Operating Committee: As a member of the Standley Lake Operating Committee, Thornton is responsible for a third of operating and maintenance costs involving Standley Lake. During the relevant diligence period Thornton paid approximately \$702,470. 6.1.5. Standley Lake Pipeline Rehabilitation and Replacement: Thornton spent over \$3.9 million on projects including rebuilding the “T” in the pipeline bifurcation, repairing a meter vault and valve, installing four new manways, completing cathodic protection, spillway repairs and security assessments. 6.1.6. Treatment Infrastructure Improvements: The Subject Water Rights can be treated at Wes Brown Water Treatment Plant and Thornton Water Treatment Plant prior to being distributed to Thornton customers. During the diligence period, Thornton completed construction of the new Thornton Water Treatment Plant and implemented several other projects at the plants, including installation of new technologies, membrane replacement, tank repairs, clarifier rehabilitation, equipment replacement, and process improvements. Thornton has also continually improved, maintained, and extended its treated water distribution system to provide water service to its customers. Examples of such projects include installation of distribution tank mixers, replacement of sludge lines, and repair/replacement of pressure reduction valves and air release valves. Thornton spent over \$702 million on all these projects. 6.1.7. Planning: Thornton spent \$80,700 on drought management planning and water supply modeling during the diligence period. 6.1.8. Water Quality Monitoring: During the relevant diligence period, Thornton spent approximately \$8.5 million on water quality monitoring and sampling of the gravel lakes and ditches associated with the Subject Water Rights, as well as PFAS studies and treatment. 6.1.9. Gravel Lakes Planning and Facility Construction and Maintenance: Thornton spent approximately \$3.1 million on reservoir planning, upgrades to pump stations, design and construction of rip rap to protect eroded slopes on the city’s raw water storage reservoirs, construction of outlet gates, and general engineering such as reservoir inspections, dam inspections, and design reviews. Specific maintenance projects included in the total cost are as follows: 6.1.9.1. East Gravel Lakes Infrastructure: Thornton spent over \$1.4 million on the design, purchase, and installation of two variable frequency drive pumps at East Gravel Lake No. 4 to convey raw water to the Thornton Water Treatment Plant. 6.1.10. Water Court: Thornton has actively participated in water court proceedings to protect its water rights, including the Subject Water Rights, and in furtherance thereof has filed a number of statements of opposition during the diligence period. Total legal and engineering costs incurred relating to the protection of Thornton’s Clear Creek and South Platte River water rights portfolio, including the Subject Water Rights, during the diligence period were approximately \$300,500. 7. Claims to make absolute: Thornton claims the following amounts of the Subject Water Rights absolute: 7.1. Hunters Glen a/k/a Poitz Reservoir: A total of 18.49 acre-feet was stored in priority during June 11, 2019 – June 25, 2019, at a maximum rate of 2.58 cfs from the Farmers High Line Canal on June 12, 2019. The water was placed to beneficial use within the City of Thornton. Thornton seeks confirmation of the amount of 18.49 acre-feet made absolute, with the amount of 41.51 acre-feet remaining conditional. Thornton further seeks confirmation of the diversion rate of 2.58 cfs from the Farmers High Line Canal at Hunters Glen made absolute, with a rate of 22.42 cfs remaining conditional. Diversion information for the Hunters Glen Reservoir is attached as Exhibit B. 7.2. Standley Lake – Farmers High Line Canal: Water was stored in priority in Standley Lake at a maximum rate of 31.02 cfs from the Farmers High Line Canal on May 27, 2021. The water was placed to beneficial use within the City of Thornton. Thornton seeks confirmation of the diversion rate of 31.02 cfs from the Farmers High Line Canal to Standley Lake made absolute, which is an additional 17.52 cfs over the 13.5 cfs already absolute, with a rate of 168.98 cfs remaining conditional. Diversion information for Standley Lake is attached as Exhibit B. 8. Names and addresses of owners or reputed owners of land on which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be located, or upon which water is or will be stored: All diversion and storage structures named in this application currently exist and do not need modification to exercise the Subject Water Rights. WHEREFORE, Thornton respectfully requests that this Court enter an order: 1) finding the facts as set forth above; 2) finding that Thornton has exercised reasonable diligence in the development of the Subject Water Rights and continuing those conditional water rights in full force and effect for a period of six years after entry of the Court’s decree herein; 3) confirming the absolute amounts for the Subject Water Rights

as listed above; and 4) for such other and further relief as this Court deems just and proper. (8 pages and exhibits A & B)

**\*\*AMENDED\*\* CASE NUMBER 2025CW3153 CITY OF BRIGHTON**, 500 South 4th Avenue, Brighton, Colorado 80601, Attn: Michael Martinez, City Manager, (303) 655-2043. Please send all further pleadings to: Sara J.L Irby, Brent A. Bartlett, and Whitney Phillips Coulter, Fischer, Brown, Bartlett, Larsen & Irby, P.C., 1319 E. Prospect Road, Fort Collins, CO 80525. **FIRST AMENDED APPLICATION FOR CHANGE OF WATER RIGHTS, APPROPRIATIVE RIGHTS OF EXCHANGE, WATER EXCHANGE PROJECTS WITH WATER EXCHANGE PROJECT RIGHTS, CONDITIONAL APPROPRIATION OF RETURN FLOWS, AND CONDITIONAL APPROPRIATION OF STORAGE RIGHTS IN ADAMS, CLEAR CREEK, JEFFERSON AND WELD COUNTIES**. 2. Introduction. The City of Brighton (“Brighton” or “Applicant”) operates a municipal water and sewer system that obtains a portion of its raw water supply from tributary ground water in the South Platte and Beebe Draw basins, treats the water, and supplies the water to its customers. Out-of-priority depletions resulting from the pumping of Brighton’s South Platte wells and Beebe Draw wells are augmented through Brighton’s decreed South Platte and Beebe Draw well augmentation plans (Case Nos. 2000CW202 and 2003CW320). Brighton supplements the augmentation water utilized in these plans, as well as their exchanges, with additional sources of water described in Case Nos. 2004CW174, 2009CW144, 2015CW3012, 2015CW3170, 2018CW3195, 2020CW3199, 2023CW3173 and 2025CW3091. Collectively these decree(s) operate in an integrated fashion to augment depletions from all of Brighton’s tributary wells. In the Original Application, Applicant sought to change the water rights represented by Brighton’s ownership of shares in the Fulton Irrigating Ditch Company (“Fulton Company” or “Fulton”), Burlington Ditch, Reservoir and Land Company (“Burlington Company” or “Burlington”), and the Wellington Reservoir Company (“Wellington Company” or “Wellington”), decree appropriative rights of exchange, decree water exchange projects with water exchange project rights, and to appropriate the return flows associated with Brighton’s interest in the Fulton, Burlington and Wellington water rights. In this first amended application, Applicant seeks to include sixty-five (65) additional Fulton shares, for a total of 321.385 shares of stock to be changed in the Fulton Company, eight (8) additional Burlington Shares, for a total of 56.33 shares to be changed in the Burlington Company, and eight (8) additional Wellington shares for a total of forty-five (45) shares to be changed in the Wellington Company. Additionally, Applicant seeks to increase the exchange-from rates for Brighton’s North Outfall and South Storm Drain, as further set forth in Exhibits D-1 and D-2, to account for the increase in the number of shares being changed. **CHANGE OF WATER RIGHTS** 3. Description of water rights for which change is sought. 3.1. Fulton Irrigating Ditch Company. The water rights to be changed have been delivered by the Fulton Ditch and are represented by 321.385 shares of stock in the Fulton Company. 3.1.1. Decreed Point of Diversion. The original decreed point of diversion is located on the east side of the South Platte River near Section 9, between Sections 16 and 17, Township 2 South, Range 67 West of the 6th P.M., Adams County, Colorado. The actual headgate location is in the NE 1/4 NE 1/4 SE 1/4 of Section 17, Township 2 South, Range 67 West of the 6th P.M. Adams County, Colorado. 3.1.2. Fulton Decree, Priorities, Source, Appropriation Dates, Amounts and Adjudication Date.

Priority No.	Source	Appropriation Date	Amount (cfs)	Case No.	Adjudication Date
8	South Platte River	May 1, 1865	79.70	6009, District Court, Arapahoe County	April 28, 1883
43	South Platte River	July 8, 1876	74.25	6009, District Court,	April 28, 1883

				Arapahoe County	
51	South Platte River	November 5, 1879	50.23	6009, District Court, Arapahoe County	April 28, 1883

3.2. Burlington Ditch, Reservoir and Land Company. The water rights to be changed have been delivered through the Little Burlington Ditch and the Brighton Lateral and are represented by 56.33 shares of stock in the Burlington Company. 3.2.1. Burlington Decrees, Appropriation Dates, Amounts, Sources and Adjudication Dates.

Name	Appropriation Date	Amount	Source	Case No.	Adjudication Date
Duggan Ditch	April 1, 1864	16.28 cfs	South Platte	6009, District Court, Arapahoe County	April 28, 1883
Burlington Ditch	November 20, 1885	350.00 cfs (Original Decree) (200 cfs in the Little Burlington System)	South Platte	11200, District Court, Arapahoe County	July 8, 1893
Burlington Ditch	September 1, 1886	50.00 cfs	First Creek	11200, District Court, Arapahoe County	July 8, 1893
Burlington Ditch	November 15, 1886	250.00 cfs	Second Creek	11200, District Court, Arapahoe County	July 8, 1893
Burlington Ditch	September 15, 1887	250.00 cfs	Third Creek	11200, District Court, Arapahoe County	July 8, 1893
Duck Lake	September 15, 1904	750.00 AF	Geneva Creek	1777, District Court, Park County	May 18, 1918

Footnote 1: The Duggan Ditch Right totals 27.3 cfs, of which 16.28 cfs is owned by the Burlington Company, 7.987 cfs is owned by the Wellington Company, and 3.133 cfs is owned by South Adams County Water and Sanitation District (SACWSD). The 3.133 cfs owned by SACWSD is not part of this change case. Footnote 2: The District Court, Water Division 1, Case No. 02CW403 found that the November 20, 1885 water right originally decreed to the Burlington Ditch was impliedly limited to 200 cfs for use above Barr Lake (affirmed by Colorado Supreme Court in Case No. 09SA133). 3.2.2. Decreed Points of Diversion. The Burlington direct flow water rights are decreed for diversions from multiple streams. The Duggan Ditch headgate was initially decreed as being located on the bank of the South Platte River in Section 36, Township 2 South, Range 68 West, 6th P.M. By later decrees, the point of diversion of the Duggan Ditch was transferred to the headgate of the Burlington Ditch. The Burlington Canal Headgate, located on the east bank of the South Platte River in the SW 1/4 of the NE 1/4, Section 14, Township 3

South, Range 68 West, of the 6th P.M., in Adams County, Colorado, at a point approximately 3,084 feet east of the West line and 2,327 feet south of the North line of Section 14; latitude 039°47'30.97"N, longitude 104°58'0.92"W. In Case No. 2002CW403, affirmed by the Colorado Supreme Court in Case No. 2009SA133, the Court determined that the Globeville Area Flood Control Project structure constituted a new point of diversion for the Burlington Ditch at a point on the east bank of the South Platte River in the NE 1/4 of the SW 1/4 of Section 14, Township 3 South, Range 68 West, of the 6th P.M. The headgate is located at approximately latitude 039°47'24.69"N, longitude 104°58'9.97" W. The UTM coordinates are approximately NAD 1983 UTM Zone 13N 502616.89E 4404471.42N. The Burlington Ditch Second Creek diversion, located in the northwest quarter of the southwest quarter of Section 6, Township 2 South, Range 66 West of the 6th P.M. in Adams County. The Burlington Ditch Third Creek diversion, located in the northeast quarter of the southeast quarter of Section 32, Township 1 South, Range 66 West of the 6th P.M. in Adams County. Duck Lake, located at Geneva Creek with the right abutment in Section 36, Township 5 South, Range 75 West of the 6th P.M. in Clear Creek County. The Burlington Ditch also diverts from a decreed alternate point of diversion known as the Metro Pump Station that discharges to the Burlington Ditch in Section 12, Township 3 South, Range 68 West of the 6th P.M. in Adams County. The Duggan Ditch water right was initially decreed for diversion at the Duggan Ditch headgate, located on the east bank of the South Platte River in Section 36, Township 2 South, Range 68 West of the 6th P.M. The point of diversion for the Duggan Ditch was later transferred to the headgate of the Burlington Ditch. Water stored in Duck Lake is released and rediverted at the Burlington Company's South Platte River Headgate. 3.3. The Wellington Reservoir Company. The water rights to be changed have been delivered by the Wellington Company through the Little Burlington Ditch and the Brighton Lateral and are represented by 45.00 shares of stock in the Wellington Company. 3.3.1. The Wellington Reservoir Decrees, Appropriation Dates, Amounts, Sources, and Adjudication Dates.

Name	Appropriation Date	Amount	Source	Case No.	Adjudication Date
Duggan Ditch	April 1, 1864	7.987 cfs	South Platte River	6009, District Court, Arapahoe County	April 28, 1883
Wellington Reservoir	May 31, 1892	2,747.72 AF	Buffalo Creek	1839, District Court, Park County	June 21, 1922
Wellington Reservoir Enlargement	June 5, 1920	1,652.00 AF	Buffalo Creek	1839, District Court, Park County	June 21, 1922
Mendenhall Feeder Ditch	September 3, 1892	25.00 cfs	Mendenhall Creek	1839, District Court, Park County	June 21, 1922
Hicks Creek Feeder Ditch	December 31, 1921	25.00 cfs	Hicks Creek	1839, District Court, Park County	June 21, 1922

Footnote 3: Case No. W-186, District Court, Water Division No. 1 denied Wellington Reservoir Company's request for reasonable diligence towards completion of the remaining 1,938 acre feet conditional right.

3.3.2. Decreed points of diversion. The Duggan Ditch headgate was initially decreed as being located on the bank of the South Platte River in Section 36, Township 2 South, Range 68 West, 6th P.M. By later decrees the point of diversion of the Duggan Ditch was transferred to the headgate of the Burlington Ditch. Wellington Reservoir and its First Enlargement, located on Buffalo Creek in Sections 29, 30, 31, and 32, Township 8 South, Range 71 West of the 6th P.M. in Jefferson County. Mendenhall Feeder Ditch, located in the northeast quarter of the southwest quarter of Section 30, Township 8 South, Range 71 West of the 6th P.M. in Jefferson County. Hicks Creek Feeder Ditch, located in the southeast quarter of the southeast quarter of Section 32, Township 8 South, Range 71 West of the 6th P.M. in Jefferson County. The Wellington Company storage rights are released from Wellington Reservoir, then re-diverted downstream at the Burlington Ditch River Headgate. The Mendenhall and Hicks Creek Feeder Ditches are water rights used to fill Wellington Reservoir. Wellington also operates a well field located in the Southeast quarter of Section 32, Township 1 South, Range 66 West, 6th P.M. in Adams County. The wells' registration numbers are 11772-R, 04181-F and 04182-F.

3.4. Historical Use. The described water rights in this paragraph 3 that are to be changed pursuant to this Application are sometimes referred to herein as the "Subject Water Rights." The Subject Water Rights have been used for the irrigation of farms within the Burlington, Wellington and Fulton systems. Maps showing the location of these parcels are attached as Exhibits A-1 and A-2. Tables setting forth the names of those from whom the shares were purchased, the date Brighton obtained the shares, the certificate number of the particular shares, and the number of shares received by Brighton are attached as Exhibits B-1 and B-2. The Subject Water Rights were used to irrigate up to 943.65 acres with the Burlington and Wellington shares, and 4,340.22 acres with the Fulton shares within the parcels shown on Exhibits A-1 and A-2. Brighton may seek to rely upon any and all diversion records pertaining to the Subject Water Rights kept and retained by Fulton, Burlington and Wellington, and by the office of the State Engineer. The attached Exhibits C-1 and C-2 provide a summary of diversions for the Subject Water Rights with Fulton diversions based on the State of Colorado Division of Water Resources records and the Burlington and Wellington diversions based on the respective company records.

4. Detailed description of Proposed Change. Applicant seeks the following changes of the Subject Water Rights in order to integrate the Subject Water Rights into Brighton's augmentation plans, including but not limited to those decreed in Case No. 2000CW202 and Case No. 2003CW320, and pending in Case No. 2025CW3091, and exchange systems, and to make the Subject Water Rights available to meet Brighton's contractual obligations:

4.1. Change in Place of Use. Applicant seeks to have the Subject Water Rights changed from the existing place of use to lands within the City of Brighton's service area as it currently exists or may exist in the future, and within any extra-territorial area within the South Platte River basin in Jefferson, Denver, Adams, Weld, and Morgan Counties in which the City of Brighton must provide return flows to meet Brighton's return flow obligations, augmentation replacement to meet Brighton's augmentation replacement obligations, use on property owned or managed by Brighton, or to meet contractual obligations.

4.2. Change in Type of Use. The changed uses for the Subject Water Rights will be for municipal, augmentation, and replacement uses, including by recharge, exchange and substitution, either directly or following storage in the storage structures described below in paragraph 4.4 of this Application. Municipal uses include, but are not limited to, domestic, mechanical, manufacturing, commercial, industrial, fire protection, sewage treatment, street sprinkling, recreational, fish propagation, wildlife propagation, irrigation of parks, lawns, gardens and grounds, augmentation and replacement, recharge, use as substitute supply, including further exchange with other municipal water systems and with other water users, within the City of Brighton's service area, as it may exist now and in the future, and for meeting Brighton's return flow, augmentation replacement, and contractual obligations outside of Brighton's service area. Applicant seeks to quantify its historical diversions of the Subject Water Rights, and the historical consumptive use derived therefrom, and to fully consume such historical consumptive use when the changed water is used for the above changed purposes, including by reuse or successive use to extinction. Such right of reuse and successive use shall be conditioned upon Brighton's ability to maintain legal dominion and control over such water, and upon such notification, identification and reporting as the

Division Engineer may require. In particular, but not by way of limitation, Applicant may use water diverted under the Subject Water Rights for augmentation and replacement purposes under the decrees entered in Case Nos. 2000CW202, 2003CW320, 2004CW174, 2009CW144, 2015CW3012, 2015CW3170, 2018CW3195, 2020CW3199, and decrees and substitute water supply plans from Applicant's applications pending in 2023CW3173 and 2025CW3091, and for the above-referenced uses including through exchange, water exchange projects with water exchange project rights, either directly, after storage, or following use in Applicant's municipal water supply system. 4.3. Amount. The amount of water to be changed is the entire volume of water to which the Subject Water Rights are entitled. 4.4. Storage. Applicant also seeks the right to store the Subject Water Rights. The identified places of storage include the following, as well as any other storage site that might be available to Brighton. The locations of these structures are as follows: 4.4.1. Ken Mitchell Lakes, located in parts of Sections 11, 12, 13, and 14, Township 1 South, Range 67 West, of the 6th P.M. 4.4.2. 124th Avenue Reservoir, located in the NE ¼ of the SW ¼ and the NW ¼ of the SE ¼ of Section 35, Township 1 South, Range 67 West of the 6th P.M. 4.4.3. Erger's Pond, which is located adjacent to Cell 1 of Ken Mitchell Lakes in Section 12, Township 1 South, Range 67 West of the 6th P.M. 4.4.4. Barr Lake is located within parts of Sections 15, 21, 22, 23, 26, 27, 28, 33 and 34, Township 1 South, Range 66 West of the 6th P.M. 4.4.5. Soda Lakes Reservoirs 1 and 2, located in the NW ¼, SW ¼ and SE ¼ of Section 1, Township 5 South, Range 70 West of the 6th P.M. 4.4.6. Bear Creek Lake, located in portions of Sections 31 and 32, Township 4 South, Range 69 West of the 6th P.M.; portions of Sections 5 and 6, Township 5 South, Range 69 West of the 6th P.M.; and portions of Section 1, Township 5 South, Range 70 West of the 6th P.M. 4.4.7. Lutz Reservoir, located in the SE ¼ of Section 20, Township 1 South, Range 66 West of the 6th P.M. 4.4.8. Lupton Meadows Reservoir, located in the NE ¼ of Section 13, Township 2 North, Range 67 West, and the W ½ of the NW ¼ of Section 18, Township 2 North, Range 66 West of the 6th P.M. APPROPRIATIVE RIGHTS OF EXCHANGE 5. Brighton seeks a decree for conditional appropriative rights as to the following exchanges and the providing of substitute supplies in accordance with the provisions of Sections 37-80-120(2)(3) and (4), and 37-83-104, C.R.S. 5.1 Exchanges Involving Subject Water Rights. The upstream and downstream exchange points of Brighton's exchange reaches are as follows: 5.1.1 Downstream Points for the Exchanges (Exchange-From Points): 5.1.1.1 Point A - The confluence of Brighton's North Storm Drain Outfall and the South Platte River, located in the SE ¼ of the SW ¼ of the SW ¼ of Section 31, Township 1 North, Range 66 West, of the 6th P.M. 5.1.1.2 Point B - The confluence of Brighton's South Storm Drain Outfall and the South Platte River located in the SE ¼ of the NW ¼ of the NE ¼ of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 5.1.1.3 Point C - The outfall of Ken Mitchell Lake, which is located near the point where the South Platte River crosses the west line of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 5.1.1.4 Point H-1 - Northern Treatment Plant located in the SE ¼ of the SW ¼ of Section 31, Township 1 North, Range 66 West, of the 6th P.M. 5.1.1.5 Point J - 124th Avenue Reservoir Outfall, located in the NW ¼ of the SE ¼ of Section 35, Township 1 South, Range 67 West, of the 6th P.M. 5.1.1.6 Point N - The outfall of Erger's Pond, which is located in the N ½ of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 5.1.1.7 Point U - The outfall of Lupton Meadows Reservoir, which is located in the NW ¼ of Section 8, Township 2 North, Range 66 West, of the 6th P.M. 5.1.2 Upstream Points for the Exchanges (Exchange-To Points): 5.1.2.1 Point B - The confluence of Brighton's South Storm Drain Outfall and the South Platte River located in the SE ¼ of the NW ¼ of the NE ¼ of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 5.1.2.2 Point D-1 - Ken Mitchell Reservoir Pump Station Inlet Pipe, located on the east bank of the South Platte River, in the SE ¼ of Section 11, Township 1 South, Range 67 West, of the 6th P.M., at a point whence the Southwest Corner of said Section 11 bears approximately South 86° West, approximately 4,160 feet, in Adams County. 5.1.2.3 Point D-2 - Ken Mitchell Reservoir Pump Station Inlet Pipe, located on the east bank of the South Platte River, in the NW ¼ of the SE ¼ of Section 14, Township 1 South, Range 67 West, of the 6th P.M., at a point whence the Southwest Corner of said Section 14 bears approximately South 69° West, approximately 4,000 feet, in Adams County. 5.1.2.4 Point E - Ken Mitchell Reservoir Inlet, located on the east bank of the South Platte River, in the SE ¼ of Section 14, Township 1 South, Range 67 West, of the 6th P.M., at a point whence the Southwest Corner of said Section 14 bears approximately South 88°30' West, approximately 3,190 feet,

in Adams County. 5.1.2.5 Point G - The Fulton Ditch headgate located in the NE 1/4 of the NE 1/4 of the SE 1/4 of Section 17, Township 2 South, Range 67 West, of the 6th P.M., in Adams County. 5.1.2.6 Point I - The United Diversion Facility No. 3, located on the east bank of the South Platte River in the SW 1/4 of Section 26, Township 1 South, Range 67 West, of the 6th P.M., in Adams County. 5.1.2.7 Point M - The Burlington Canal Headgate, located on the east bank of the South Platte River in the SW 1/4 of the NE 1/4, Section 14, Township 3 South, Range 68 West, of the 6th P.M., in Adams County, Colorado, at a point approximately 3,084 feet east of the West line and 2,327 feet south of the North line of Section 14; latitude 039°47'30.97"N, longitude 104°58'0.92"W. In Case No. 2002CW403, affirmed by the Colorado Supreme Court in Case No. 2009SA133, the Court determined that the Globeville Area Flood Control Project structure constituted a new point of diversion for the Burlington Ditch at a point on the east bank of the South Platte River in the NE 1/4 of the SW 1/4 of Section 14, Township 3 South, Range 68 West, of the 6th P.M. The headgate is located at approximately latitude 039°47'24.69"N, longitude 104°58'9.97" W. The UTM coordinates are approximately NAD 1983 UTM Zone 13N 502616.89E 4404471.42N. 5.1.2.8 Point P - Bear Creek Dam and Reservoir, located in portions of Sections 31 and 32, Township 4 South, Range 69 West, of the 6th P.M.; portions of Sections 5 and 6, Township 5 South, Range 69 West, of the 6th P.M.; and portions of Section 1, Township 5 South, Range 70 West, of the 6th P.M. 5.1.2.9 Point S - Arnett-Harriman Ditch, located on the south bank of Bear Creek, NE 1/4 of the NE 1/4 of Section 2, Township 5 South, Range 70 West, of the 6th P.M. 5.1.2.10 Point T - the Erger's Pond inlet structure, located on the east bank of the South Platte River in the NE 1/4 of the SW 1/4, Section 12, Township 1 South, Range 67 West, of the 6th P.M., in Adams County. 5.2 Sources of Substitute Supply. Water made available from the change of the Subject Water Rights and reusable return flows for the Subject Water Rights. 5.3 Date of Appropriation. October 31, 2025. 5.4 How Appropriation was Initiated. The appropriation date is the date of filing of this Application, and is based upon the formation of the intent to divert and put the exchanged water to beneficial use. 5.5 Amount Claimed. The individual exchanges and claimed amounts are shown in the exchange matrix attached hereto as Exhibit D-1. 5.6 Claimed uses. The uses described in paragraph 4, above. WATER EXCHANGE PROJECTS WITH WATER EXCHANGE PROJECT RIGHTS 6. Claim of Water Exchange Projects. Brighton seeks judicial confirmation of the following water exchange projects involving the Subject Water Rights with the following water exchange project rights: 6.1 South Platte River Water Exchange Project. 6.1.1 Downstream Points for the Water Exchange Project Right (Exchange-From Points): 6.1.1.1 Point A - The confluence of Brighton's North Storm Drain Outfall and the South Platte River, located in the SE 1/4 of the SW 1/4 of the SW 1/4 of Section 31, Township 1 North, Range 66 West, of the 6th P.M. This is the most downstream point of the exchange reach. 6.1.1.2 Point B - The confluence of Brighton's South Storm Drain Outfall and the South Platte River located in the SE 1/4 of the NW 1/4 of the NE 1/4 of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 6.1.2.3 Point C - The outfall of Ken Mitchell Lake, which is located near the point where the South Platte River crosses the west line of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 6.1.1.4 Point H-1 - Northern Treatment Plant located in the SE 1/4 of the SW 1/4 of Section 31, Township 1 North, Range 66 West, of the 6th P.M. 6.1.1.5 Point N - The outfall of Erger's Pond, which is located in the N 1/2 of Section 12, Township 1 South, Range 67 West, of the 6th P.M. 6.1.1.6. Point U - The outfall of Lupton Meadows Reservoir, which is located in the NW 1/4 of Section 8, Township 2 North, Range 66 West, of the 6th P.M. 6.1.2 Upstream Points for the Water Exchange Project Right (Exchange-To Points): 6.1.2.1 Point F - A point where the South Platte River crosses the South line of Section 23, Township 1 South, Range 67 West, of the 6th P.M., in Adams County. This is an approximation of the upstream limit of the reach of the South Platte River that is depleted by pumping of Brighton's South Platte wells. 6.1.3 Sources of Substitute Supply. This water exchange project will exchange water made available from the change of the Subject Water Rights, appropriated return flows, conditional storage rights, and all other water rights lawfully available to the Applicant for such use, including water made available pursuant to the plan for augmentation decreed in Case No. 2000CW202, to Brighton's most upstream point of well depletions on the South Platte River, which is augmented under the decree in Case No. 2000CW202. 6.1.4 Date of Appropriation. October 31, 2025. 6.1.5 How Appropriation was Initiated. The appropriation date is the date of filing of this Application, and is based upon the formation of the intent to divert the exchanged water

and put it to beneficial use.6.1.6 Amount Claimed. The individual water exchange project rights and claimed amounts are shown in the water exchange projects matrix attached hereto as Exhibit D-2.6.1.7 Claimed uses. Brighton will use the water diverted under this water exchange project for the uses authorized by the respective water court decree(s) for the source of substitute supply then being diverted by exchange, the uses described in paragraph 4, above, and pursuant to Brighton's other decrees that authorize such use.6.2 Beebe Draw Water Exchange Project. 6.2.1 Downstream Point for the Beebe Draw Water Exchange Project Right (Exchange-From Point): 6.2.1.1 The point of discharge from the Lochbuie WWTP located in the NE 1/4 of the NW 1/4 of the NW 1/4 of Section 29, Township 1 North, Range 65 West, 6th P.M. The following substitute supplies can be delivered to this exchange-from point: Brighton's fully consumable portion of effluent generated from the Lutz Reservoir Storage Right. 6.2.2 Upstream Point for the Beebe Draw Water Exchange Project Right (Exchange-To Points): 6.2.2.1 Barr Lake, located in portions of Sections 15, 21, 22, 23, 26, 27, 28, and 33, Township 1 South, Range 66 West, 6th P.M.6.2.2.2 The Toe of Barr Lake, which is the upstream extent of well depletions from the Beebe Draw Wells in the NW 1/4 of Section 23, Township 1 South, Range 66 West, 6th P.M. approximately 390 feet from the North section line and 930 feet from the West section line, and the location where the depletions from the Beebe Draw Wells are assumed to affect the Beebe Draw. 6.2.3 Sources of Substitute Supply. This water exchange project will exchange water made available from the change of the Subject Water Rights, appropriated return flows, conditional storage rights, and all other water rights lawfully available to the Applicant for such use, including water made available pursuant to the plan for augmentation decreed in Case No. 2003CW320, to Brighton's most upstream point of well depletions on the Beebe Draw, which is augmented under the decree in Case No. 2003CW320.6.2.4 Date of Appropriation. October 31, 2025.6.2.5 How Appropriation was Initiated. The appropriation date is the date of filing of this Application, and is based upon the formation of the intent to divert the exchanged water and put it to beneficial use.6.2.6 Amount Claimed. The individual water exchange project right and claimed amount is shown in the water exchange projects matrix attached hereto as Exhibit D-2. 6.2.7 Claimed uses. Brighton will use the water diverted under this water exchange project for the uses authorized by the respective water court decree(s) for the source of substitute supply then being diverted by exchange, the uses described in paragraph 4 above, and pursuant to Brighton's other decrees that authorize such use. CLAIM OF APPROPRIATION OF RETURN FLOWS 7. Claim of Appropriated Return Flows. 7.1 When there is no call for water rights downstream of where the historical return flows of the Subject Water Rights accrued to the South Platte River, or the calling right downstream of the point the return flows historically accrued to the South Platte River is junior to October 31, 2025, Brighton seeks the right to use, retain, store, reuse, successively use, and use to extinction the historical return flows for all the uses described in paragraph 4 above, after delivering the historical return flow portion of of the Subject Water Rights to the South Platte River at the locations described below in paragraph 7.2. 7.2 Locations. The return flows will be measured and delivered at the South Platte River using the 124th Avenue Augmentation Station, 144th Direct Augmentation Station, 148th Avenue Augmentation Station on the Fulton Ditch, 148th Avenue Augmentation Station on the Fulton Lateral, Erger's Direct Augmentation Station, Midland Fulton Augmentation Station, FRICO Release Structure, Sand Creek Water Right/FRICO's Waste Way, 148th Avenue Augmentation Station on the Brighton Lateral, and Midland Brighton Lateral Augmentation Station, as shown on Exhibit E-1. To the extent the water is not immediately needed to replace historical return flows of the Subject Water Rights, such water will be diverted directly or by exchange at Ken Mitchell Lakes, 124th Avenue Reservoir, Erger's Pond, Barr Lake, Soda Lakes Reservoirs 1 and 2, Bear Creek Lake, Lutz Reservoir, and Lupton Meadows Reservoir, as shown on Exhibit F. 7.3 Source. The South Platte River. 7.4 Date of Appropriation. October 31, 2025. 7.5 How Appropriation was Initiated. The appropriation date is the date of filing of this Application and is based upon the formation of the intent to divert and put the claimed return flows to beneficial use. 7.6 Date Water First Applied to Beneficial Use. Not applicable. 7.7 Amount Claimed. Any and all amounts of return flows determined to be attributable to Brighton's water rights described in paragraph 3, CONDITIONAL. 7.8 Claimed uses. Those uses described in paragraph 4, above. CLAIM FOR APPROPRIATION OF CONDITIONAL STORAGE WATER RIGHT 8. Claim of Conditional Storage Right. 8.1 Purpose. Brighton seeks an appropriation of conditional rights to store or detain water

for the purpose of appropriating waters of the State that are made available to the stream from the historical return flows associated with the Subject Water Rights, as further set forth in paragraph 7 of this Application.

8.2 Name of Structures. Ken Mitchell Lakes, 124th Avenue Reservoir, Erger's Pond, Barr Lake, Soda Lakes Reservoirs 1 and 2, Bear Creek Lake, Lutz Reservoir, and Lupton Meadows Reservoir, as further described in paragraphs 4.4 and 7.2 above.

8.3 Source. The source of water is the return flow component of the Subject Water Rights stored or detained in the structures listed in paragraph 8.2, which water becomes waters of the State when not used for maintenance of return flows, pursuant to paragraph 7 of this Application. Such source of water will be made available within such structures and appropriated by Brighton in priority under the claimed October 31, 2025 priority date. Once having been appropriated in priority by Brighton at such structures, Brighton will not be required to release such water to the stream system as return flow replacement water but rather may retain such water in such structures and beneficially use such water for the purposes described in paragraph 4.

8.4 Date of Appropriation. October 31, 2025.

8.5 How Appropriation was Initiated. The appropriation date is the date of filing of this Application and is based upon the formation of the intent to divert and put the claimed return flows to beneficial use.

8.6 Date Water First Applied to Beneficial Use. Not applicable.

8.7 Amount Claimed. Any and all amounts of return flows determined to be attributable to the Subject Water Rights described in paragraph 3, CONDITIONAL.

8.8 Claimed uses. Those uses described in paragraph 4, above.

9. Names and addresses of owners of land on which structures are located. All structures are owned by Brighton except as follows: The Burlington Canal, the Little Burlington Ditch and Brighton Lateral are owned by the Burlington Ditch, Reservoir and Land Company, 80 South 27th Avenue, Brighton, Colorado 80601 and are located on lands owned by, or on easements that Applicant believes are controlled by the Burlington Ditch, Reservoir and Land Company. The Fulton Ditch is owned by the Fulton Irrigating Ditch Company, 25 South 4th Avenue, Brighton, Colorado 80601. The Subject Water Rights exchanged to Soda Lakes Reservoirs 1 and 2 are carried in the Arnett-Harriman Ditch, and the Arnett-Harriman Ditch is owned by the Denver Water Board, 1600 W. 12th Avenue, Denver, CO 80209. Soda Lakes Reservoir and Mineral Water Company is the owner and operator of Soda Lakes Reservoirs 1 and 2 and are managed by the Denver Water Board, 1600 W. 12th Avenue, Denver, CO 80209. Barr Lake Reservoir, including the Toe of Barr Lake, the FRICO Release Structure and the Sand Creek Water Right/FRICO Waste Way are owned by the Farmers Reservoir and Irrigation Company, 80 South 27th Avenue, Brighton, CO 80601. Bear Creek Lake is owned by the Army Corps of Engineers, Omaha District, 1616 Capital Avenue, Suite 9000, Omaha, NE 68102 and is under a 50-year lease with the City of Lakewood, 480 S. Allison Pkwy, Lakewood, CO 80226. The United Diversion Facility No. 3 is owned by Silver Peaks Metropolitan District, 8301 E. Prentice Ave., Suite 100, Greenwood Village, CO 80111 and on land owned by Henderson Aggregate Ltd., PO Box 1240 Cody, WY 82414. The Lochbuie Wastewater Treatment Plant and the land it is located on is owned by the Town of Lochbuie, 703 Weld County Rd. 37, Lochbuie, CO 80603. The Northern Treatment Plant is owned by Metro Wastewater Reclamation District, 6450 York Street, Denver, CO 80229. The Lupton Meadows Reservoir is planned to be located on lands owned by Platte Land & Water, LLC, 3900 E. Mexico Ave., Suite 614, Denver, CO 80210. Lutz Reservoir is located on lands owned by THF Prairie Center Development, L.L.C. 211 N. Stadium Blvd, Suite 201 Columbia, Missouri 80631, Burlington Ditch, Reservoir and Land Company, and Platte Land and Water, LLC. WHEREFORE, Brighton requests the Court enter a decree granting the change of water rights, the conditional appropriation of rights of exchange, conditional appropriation of return flows, and for such other relief as the Court deems proper. (Application consists of 18 pages, 10 exhibits).

**Case Number 2025CW3180 amended to include Jefferson County.**

**\*\*AMENDED\*\* CASE NUMBER 2025CW3180 (92CW164; 02CW51; 11CW291; 19CW3068)** 1. Applicant. **CITY OF THORNTON, COLORADO** ("Thornton") Infrastructure Department, Division of Water Resources, 12450 North Washington Street, Thornton, Colorado 80241, 720-977-6600. Please direct communications related to this application to: Megan Christensen, Esq. City of Thornton, 9500 Civic Center Drive, Thornton, Colorado 80229, Tele: (303) 538-7210. **CONCERNING THE AMENDED APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE, IN ADAMS, DENVER, AND JEFFERSON COUNTIES.** 2. Summary of Application. Thornton seeks findings of reasonable diligence

for the conditional portions of the water rights originally decreed in Case No. 92CW164, Water Div. 1. 3. Names of Structures. Dahlia Pit Reservoir a/k/a South Dahlia Pit Reservoir. Collectively, the water rights described in paragraph 4 are referred to as the Subject Water Rights. The locations of the Subject Water Rights are shown on the maps attached as Exhibit A and B. 4. Description of Subject Water Rights: 4.1. Original Decree. March 11, 1996. Case No. 92CW164, District Court, Water Division 1. 4.2. Subsequent Decrees Awarding Findings of Diligence and Making Absolute in Part. Since the original decree entered on March 11, 1996, timely applications for findings of reasonable diligence have been filed in accordance with Colorado law. Final decrees have been entered granting each such application, finding that Thornton has exercised reasonable diligence in the development of the Subject Water Rights on December 1, 2005 in Case No. 02CW51, District Court, Water Division 1 (making absolute 1,230 acre-feet of the Dahlia Pit Reservoir Storage Right at a rate of 80 cfs from the Burlington Ditch); on April 2, 2013 in Case No. 11CW91, District Court, Water Division 1; and on November 19, 2019 in Case No. 19CW3068, District Court, Water Division 1. 4.3. Reservoir Storage Right: 4.3.1. Name of water right: Dahlia Pit Reservoir Storage Right a/k/a South Dahlia Pit Reservoir Storage Right. 4.3.2. Originally decreed location: The South Dahlia Pit Reservoir is a gravel pit reservoir located in the NE 1/4, the NW 1/4 of the SE1/4, and the E 1/2 of the NE 1/4 of the SW 1/4 of Section 30, T. 2 S., R. 67 W., 6th P.M., Adams County. See Exhibit A. 4.3.2.1. Location of reservoir per Water Court form requirements: The center point of the South Dahlia Pit Reservoir is located in the SW1/4 NE1/4 of Section 30, T. 2 S., R. 67 W., 6th P.M., Adams County, approximately 1,864 feet from the North Section line and 1,399 feet from the East Section line. 4.3.3. Points of diversion: 4.3.3.1. Burlington Ditch. As decreed in Case No. 22CW3034, the point of diversion is located at a point on the east bank of the South Platte River in the NE1/4 of the SW1/4 of Section 14, Township 3 South, Range 68 West of the 6th P.M., City and County of Denver, Colorado. The headgate is located at approximately latitude 039° 47' 24.69" N, longitude 104° 58' 9.97" W. The UTM coordinates are approximately NAD 1983 UTM Zone 13S 502616.89 mE 4404471.42 mN. 4.3.3.2. South Dahlia Pit Reservoir Diversion Structure. Thornton will construct a new diversion facility at one of the following locations: 4.3.3.2.1. Thornton's Proposed 88th Avenue South Platte Pump Station, Alternative 1: Near the point at which the South Platte River crosses the West section line of Section 30, T. 2 S., R. 67 W., 6th P.M., Adams County. 4.3.3.2.2. Thornton's Proposed 88th Avenue South Platte Pump Station, Alternative 2: Near the point at which the South Platte River crosses the North section line of Section 30, T. 2 S., R. 67 W., 6th P.M., Adams County. 4.3.3.2.3. Thornton's Proposed 88th Avenue South Platte Pump Station, Alternative 3: Near the point at which the South Platte River crosses from the SW 1/4 into the SE 1/4 of Section 19, T. 2 S., R. 67 W., 6th P.M., Adams County. 4.3.4. Source: The source of the water appropriated is the South Platte River and all streams tributary thereto above the points of diversion for the reservoir. 4.3.5. Appropriation Date: October 10, 1988. 4.3.6. Amount: 4,500 AF with the right to fill and refill. 4.3.6.1. 1,230 AF, absolute. 4.3.6.2. 3,270 AF, conditional. 4.3.7. Rate of Fill: 4.3.7.1. Diversion at the Burlington Ditch: 115 cfs. 4.3.7.1.1. 80 cfs, absolute. 4.3.7.1.2. 35 cfs, conditional. 4.3.7.2. Diversion at the South Dahlia Pit Reservoir Diversion Structure: 100 cfs, conditional. 4.3.8. Use: This water right is decreed for use, directly and by exchange, for irrigation, agricultural, commercial, industrial and all municipal uses, including, but not limited to, domestic, mechanical, manufacturing, industrial, power generation, fire protection, sewage treatment, street sprinkling, irrigation of parks, lawns and grounds, recreation, piscatorial, maintenance and preservation of wildlife and aesthetic values, lake and reservoir evaporation, augmentation and replacement, adjustment and regulation of Thornton's water supply system, including further exchange within Thornton's system and with other water users. Thornton is allowed to fully consume such water used through its municipal system by direct use, storage and subsequent release, reuse, successive use, further exchange and disposition. Specifically, but not by way of limitation, Thornton is allowed to use the water stored in the South Dahlia Pit Reservoir pursuant to the conditional storage appropriation confirmed in Case No. 92CW164, or effluent generated from the use of such water, as substitute supply and to meet replacement and other obligations pursuant to the decree entered in Consolidated Case Nos. 86CW401, 86CW402, 86CW403 and 87CW332, Water Division 1 (the "Northern Project Decree"). Thornton is not allowed to use the water stored in the South Dahlia Pit Reservoir pursuant to the conditional storage appropriation in the decree in Case No. 92CW164, or effluent generated from the

use of such water, as substitute supply in decreed exchanges or plans for augmentation which do not specifically identify the South Dahlia Pit Reservoir appropriation as a source of substitute supply. 4.4. Rights of Exchange: 4.4.1. Name of water right: South Dahlia Pit Exchanges, which include the South Dahlia Pit-River Exchange and the South Dahlia Pit-Burlington Ditch Exchange. See Exhibit B. 4.4.1.1. South Dahlia Pit-River Exchange. 4.4.1.1.1. Exchange-from Point. Substitute supplies will be released at rates up to 100 cfs from the South Dahlia Pit Reservoir Outlet to the South Platte River. The South Dahlia Pit Reservoir Outlet will be located near the point at which the South Platte River crosses from the SW 1/4 into the SE 1/4 of Section 19, T. 2 S., R. 67 W., 6th P.M., Adams County. 4.4.1.1.2. Exchange-to Points. Water will be diverted by exchange at any one or combination of the following points: 4.4.1.1.2.1. Croke Canal. The headgate of the Croke Canal is located on the north bank of Clear Creek in the NW 1/4, NE 1/4 of Section 26, T. 3 S., R. 70 W., 6th P.M., Jefferson County, Colorado, at a point which is approximately 2700 feet East and 250 feet South of the Northwest corner of said section. 4.4.1.1.2.1.1. Rate of diversion: 100 cfs. 4.4.1.1.2.1.2. Source: Clear Creek and its tributaries above this point of diversion. 4.4.1.1.2.2. Farmers' High Line Canal. The headgate of the Farmers' High Line Canal is located on the north bank of Clear Creek in the NW 1/4, SW 1/4 of Section 27, T. 3 S., R. 70 W., 6th P.M., Jefferson County, Colorado, at a point approximately 950 feet East and 1500 feet North of the Southwest corner of said section. 4.4.1.1.2.2.1. Rate of diversion: 100 cfs. 4.4.1.1.2.2.2. Source: Clear Creek and its tributaries. 4.4.1.1.2.3. Common Headgate of the Lower Clear Creek Ditch and Colorado Agricultural Ditch. The common headgate of the Lower Clear Creek and Colorado Agricultural ditches is located on the north bank of Clear Creek in the SE 1/4 of Section 4, T. 3 S., R. 68 W., 6th P.M., Adams County, Colorado, at a point which is approximately 1400 feet West and 1200 feet North of the Southeast corner of said section. 4.4.1.1.2.3.1. Rate of diversion: 100 cfs. 4.4.1.1.2.3.2. Source: Clear Creek and its tributaries. 4.4.1.1.2.4. Burlington Ditch. See paragraph 4.3.3.1 above. 4.4.1.1.2.4.1. Rate of diversion: 100 cfs. 4.4.1.1.2.4.2. Source: South Platte River and its tributaries above this point of diversion. 4.4.1.2. South Dahlia Pit – Burlington Ditch Exchange. 4.4.1.2.1. Exchange-from Point. Substitute supplies will be released at rates up to 100 cfs from the South Dahlia Pit Reservoir to the Burlington Ditch at the Burlington Ditch Return Point. The Burlington Ditch Return Point will be located down-ditch from Thornton's municipal headgate(s) on the Burlington Ditch, at a point on the Burlington Ditch to be determined after consultation with the Burlington Ditch, Land and Reservoir Company. 4.4.1.2.2. Exchange-to Point(s). Water will be diverted by exchange at any one or combination of Thornton's municipal headgate(s) along the Burlington Ditch, all of which shall be located up-ditch from the Burlington Ditch Return Point; including Thornton's proposed diversion facility on the Burlington Ditch, which will be located above (up-ditch of) the existing outfall to the Burlington Ditch from the Denver Water Board's Metro Pump Station (near the point where Burlington Ditch crosses Sand Creek), and Thornton's existing municipal headgate on the Burlington Ditch located in Section 31, T. 2 S., R. 67 W., 6th P.M., Adams County, Colorado. 4.4.1.2.2.1. Rate of diversion: 100 cfs. 4.4.1.2.2.2. Source: South Platte River water previously diverted into the Burlington Ditch. 4.4.2. Appropriation Date: October 10, 1988. 4.4.3. Exchange Rate: 4.4.3.1. South Dahlia Pit-River Exchange: 100 cfs, conditional. 4.4.3.2. South Dahlia Pit-Burlington Ditch Exchange: 100 cfs, conditional. 4.4.4. Use. The water diverted pursuant to the South Dahlia Pit Exchanges will be put to the same uses as described in Paragraph 4.3.8 above. Thornton is allowed to fully consume such water used through its municipal system to the same extent as allowed for the waters released as substitute supply. 4.4.5. Places of storage of exchanged water. The names and locations of the reservoirs in which Thornton may store the water exchanged are listed below. 4.4.5.1. Standley Lake: located in Sections 16, 17, 20, 21, 22, 27, 28, and 29, T. 2 S., R. 69 W., 6th P.M., Jefferson County. 4.4.5.2. Croke Reservoir No. 12: located in the South 1/2 of Section 15, T. 2 S., R. 68 W., 6th P.M., Adams County. 4.4.5.3. Eastlake Reservoirs 1, 2 and 3: located in Sections 25, 35 and 36, T. 1 S., R. 68 W., 6th P.M., Adams County. 4.4.5.4. Brannan Lake: located in the Southwest 1/4 of Section 35, T. 2 S., R. 68 W., 6th P.M., Adams County. 4.4.5.5. West Gravel Lakes: located just West of the South Platte River in Sections 25 and 36, T. 2 S., R. 68 W., and Section 30, T. 2 S., R. 67 W., 6th P.M., Adams County. 4.4.5.6. East Gravel Lakes: (a/k/a Tani Lakes) located adjacent to the east bank of the South Platte River, in Sections 25 and 36, T. 2 S., R. 68 W., and Sections 30 and 31, T. 2 S., R. 67 W., 6th P.M., Adams County. 4.4.6. Substitute supply. The water stored in the South Dahlia Pit Reservoir for release in this

exchange will be derived from the following sources: 1) Water appropriated by Thornton for storage in the South Dahlia Pit Reservoir, as described in Paragraph 4.3, above; 2) Other previously decreed water rights owned by Thornton, and; 3) Effluent generated by the exercise of any of Thornton's water rights which it owned as of October 10, 1988, and which have been decreed to be fully consumable. 5. Detailed outline of what has been done toward completion of the appropriation and application of water to beneficial use as conditionally decreed, including expenditures: From April 18, 2019 (the date the last diligence application was filed) through November 30, 2025 (the "Diligence Period"), Thornton performed the following work and incurred the following costs, all or in part, concerning the remaining conditional portions of the Subject Water Rights, including work and expenditures on specific structures integral to the diversion and use of the Subject Water Rights and in the further development of Thornton's integrated water supply systems within which the Subject Water Rights have been and will be placed to beneficial use. The work done and costs incurred set forth below are illustrative and not exhaustive and Thornton reserves the right to present evidence of additional activities and costs in support of this application.

5.1. Thornton Integrated System Activities: During the diligence period, Thornton has continued the development and improvement of its Clear Creek and South Platte River water supply system including many of the structures used in the exercise of the Subject Water Rights, and the eventual treatment and use of the water yielded by such rights. Thornton incurred over \$111,923,860.00 in total costs, which include the following:

5.1.1. Ditch Company Assessments: Thornton paid assessments of approximately \$1,479,583 for its share ownership in the Burlington Ditch and Reservoir Company (Burlington), Farmers Reservoir and Irrigation Company (FRICO) Standley Lake Division, Lower Clear Creek Ditch Company (LCC), Colorado Agricultural Ditch Company (COAg), and Farmers High Line Canal (FHL).

5.1.2. LCC and COAg Carriage and Maintenance Agreement: Under a carriage and maintenance agreement with the LCC and COAg, Thornton paid approximately \$126,580 for its share of operating expenses.

5.1.3. FHL Carriage Agreement: Under a carriage agreement with FHL, Thornton paid approximately \$1,340 for the right to use excess capacity in the ditch.

5.1.4. Henrylyn Maintenance Payment: Payments were made annually to the Henrylyn Reservoir and Irrigation District totaling \$35,000 to meet Thornton's commitments under its agreements with the District.

5.1.5. Standley Lake Operating Committee: As a member of the Standley Lake Operating Committee, Thornton is responsible for a third of operating and maintenance costs involving Standley Lake. During the relevant diligence period Thornton paid approximately \$702,475.

5.1.6. Burlington Canal Diversion: Thornton spent over \$2.2 million to repair and replace components from the diversion facility from the Burlington Ditch into South Tani Reservoir. This included items such as the physical diversion structure, measurement devices, mag meters, and traveling screens.

5.1.7. Lower Clear Creek Ditch Structures: In order to upgrade flow measurement devices, Thornton spent approximately \$985,600 on the design and construction of diversion structures off the LCC into Brannan Lakes and West Gravel Lakes.

5.1.8. Standley Lake Spillway and Pipeline Rehabilitation and Replacement: Thornton spent over \$3.1 million on projects including rebuilding the "T" in the pipeline bifurcation, repairing a meter vault and valve, installing four new manways, completing cathodic protection, spillway repairs and security assessments.

5.1.9. Treatment Infrastructure Improvements: The Subject Water Rights can be treated at Wes Brown Water Treatment Plant and Thornton Water Treatment Plant prior to being distributed to Thornton customers. During the diligence period, Thornton completed construction of the new Thornton Water Treatment Plant and implemented several other projects at the plants, including installation of new technologies, membrane replacement, tank repairs, clarifier rehabilitation, equipment replacement, and process improvements. Thornton has also continually improved, maintained, and extended its treated water distribution system to provide water service to its customers. Examples of such projects include installation of distribution tank mixers, replacement of sludge lines, and repair/replacement of pressure reduction valves and air release valves. Thornton spent over \$97,811,000 on all these projects.

5.1.10. Planning: Thornton spent \$80,600 on drought management planning and water supply modeling during the diligence period.

5.1.11. Water Quality Monitoring: During the relevant diligence period, Thornton spent approximately \$2,432,630 on water quality monitoring and sampling of the gravel lakes and ditches associated with the Subject Water Rights, as well as PFAS studies and treatment.

5.1.12. Gravel Lakes: Thornton spent approximately \$1.9 million on reservoir planning, and construction of rip rap to protect eroded slopes on

the city's raw water storage reservoirs, construction of outlet gates, and general engineering such as reservoir inspections, dam inspections, and design reviews. 5.1.13. Water Court: Thornton has actively participated in water court proceedings to protect its water rights, including the Subject Water Rights, and in furtherance thereof has filed a number of statements of opposition during the diligence period. Total legal and engineering costs incurred relating to the protection of Thornton's Clear Creek and South Platte River water rights portfolio, including the Subject Water Rights, during the diligence period totaled approximately \$1 million. 6. Names and addresses of owners or reputed owners of land on which any new diversion or storage structure or modification to any existing diversion or storage structure is or will be located, or upon which water is or will be stored: 6.1. South Dahlia Pit Reservoir and South Dahlia Pit Reservoir Outlet: Applicant. 6.2. Burlington Ditch: Burlington Ditch Reservoir and Land Company, 80 South 27th Street, Brighton, Colorado 80601. 6.3. Thornton's Proposed 88th Avenue South Platte Pump Station, Alternative 1: Applicant. 6.4. Thornton's Proposed 88th Avenue South Platte Pump Station, Alternative 2: Applicant. 6.5. Thornton's Proposed 88th Avenue South Platte Pump Station, Alternative 3: Adams County, 4430 South Adams County Parkway, Brighton, Colorado 80601. WHEREFORE, Thornton respectfully requests that this Court enter an order: 1) finding the facts as set forth above; 2) finding that Thornton has exercised reasonable diligence in the development of the Subject Water Rights and continuing those conditional water rights in full force and effect for a period of six years after entry of the Court's decree herein; and 3) for such other and further relief as this Court deems just and proper. (10 pages and exhibit A&B)

**Case Number 2026CW3023 was included in the February Resume and properly published in all of the affected counties listed in the 2026CW3023 Resume except for Sedgwick County. Therefore, the 2026CW3023 Resume is included in the March Resume and shall be published in the newspaper for Sedgwick County.**

**CASE NUMBER 2026CW3023 RULES GOVERNING THE REVIEW OF A SUBSTITUTE WATER SUPPLY PLAN FOR THE LEASE, LOAN, OR TRADE OF A DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT, IN ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, CHEYENNE, CLEAR CREEK, DENVER, DOUGLAS, EL PASO, ELBERT, GILPIN, JEFFERSON, KIT CARSON, LARIMER, LINCOLN, LOGAN, MORGAN, PARK, PHILLIPS, SEDGWICK, TELLER, WASHINGTON, WELD, AND YUMA COUNTIES.**

The State Engineer and Director of Colorado Division of Water Resources, 1313 Sherman Street, 8th Floor, Denver, CO 80203 (please forward all correspondence and pleadings to the attention of Trevor D. Rogan, Assistant Attorney General, and Derek L. Turner, First Assistant Attorney General, Colorado Attorney General, Natural Resources & Environment Section, 1300 Broadway, 10th Floor, Denver, CO 80203, Telephone: 720-508-6865 (Rogan), 720-508-6926 (Turner); E-mail: [trevor.rogan@coag.gov](mailto:trevor.rogan@coag.gov), [derek.turner@coag.gov](mailto:derek.turner@coag.gov)) respectfully requests the publication of the following proposed Rules in every county in Water Division 1 and in the resume of applications filed with the Water Clerk for Water Division 1.

**TITLE** The title of these rules is "Rules Governing the Review of a Substitute Water Supply Plan for the Lease, Loan, or Trade of a Decreed Agricultural Water Protection Water Right." The short title of these rules is "Agricultural Water Protection Right Rules," and in this document, the rules may be referred to as "Rules."

**AUTHORIZATION** In order to comply with the requirements of section 37-80-123, C.R.S., it is necessary to adopt rules governing the review of a substitute water supply plan pursuant to section 37-92-308(12), C.R.S. The State Engineer's authority to promulgate these Rules is based on section 37-80-102(1)(g), C.R.S., which vests rulemaking authority for the Division of Water Resources in the State Engineer; section 37-80-123, C.R.S., which requires the promulgation of these rules according to the State Engineer's own rule-making process; and section 37-92-501, C.R.S., which authorizes the State Engineer to adopt rules and regulations to assist in the performance of administration, distribution, and regulation of the waters of the state in accordance with the constitution of the State of Colorado and other applicable laws.

**ORDER OF THE STATE ENGINEER IT IS ORDERED** that the following Rules governing the review of a substitute water supply plan for the lease, loan, or trade of a decreed agricultural water protection water right are adopted by the State Engineer. These Rules replace and supersede the “Rules Governing the Review of a Substitute Water Supply Plan for the Lease, Loan, or Trade of a Decreed Agricultural Water Protection Water Right” made effective by Order of the District Court for Water Division 1 on April 22, 2019 in Case No. 2017CW3152 (Consolidated Case No. 17CW3057, Div. 2).

**RULE 1 SCOPE** These Rules apply to all applications for substitute water supply plans pursuant to section 37-92-308(12), C.R.S.

**RULE 2 DEFINITIONS** The following definitions are applicable to these Rules:

2.1 “Agricultural Water Protection Water Right” means a water right changed by a water court decree to allow the lease, loan, or trade of up to fifty percent of the amount of water so decreed, subject to the allowances and limitations described in section 37-92-305(19), C.R.S. The Agricultural Protection Water Right is the total amount of the water right that was changed by the water court for agricultural water protection use. A portion of the Agricultural Protection Water Right may be Lease Water, as defined in Rule 2.6.

2.2 “Change Decree” means the water court decree for the change of water right from an absolute decreed irrigation water right used for agricultural purposes to an Agricultural Water Protection Water Right.

2.3 “Criteria and Guidelines” means the document developed by the Colorado Water Conservation Board for the establishment of Agricultural Water Protection Programs pursuant to section 37-92-305(19)(b)(IV)(B), C.R.S., to assure sufficient protection and monitoring of Agricultural Water Protection Water Rights.

2.4 “Final Decision” means the approval or denial of a substitute water supply plan, as defined in Rule 2.9, which is issued after the reconsideration period, as described in Rule 6.

2.5 “Initial Decision” is the State Engineer’s initial approval or denial of a substitute water supply plan, as defined in Rule 2.9, which may be reconsidered upon request as described in Rule 6.

2.6 “Lease Water” means the portion of the historical consumptive use described in the Change Decree that is requested for lease, loan, or trade in the substitute water supply plan. The amount may be up to fifty percent of the quantified historical consumptive use portion of the Agricultural Water Protection Water Right described in the Change Decree.

2.7 “Person” means an individual, a partnership, a corporation, a municipality, the state of Colorado, the United States, or any other legal entity, public or private. See section 37-92-103(8), C.R.S.

2.8 “Point of Diversion” means either (a) the decreed location where the Lease Water will be diverted from the natural stream or (b) the decreed upstream location of a reach of the natural stream where the Lease Water will be put to beneficial use.

2.9 “Substitute water supply plan” or “SWSP” means a one-year plan for the use of Lease Water at a Point of Diversion, which is administratively approved by the State Engineer pursuant to section 37-92-308(12), C.R.S.

2.10 “SWSP Parties” means applicant, all parties commenting on the SWSP application, and all parties to the Change Decree.

**RULE 3 APPLICATION REQUIREMENTS AND CRITERIA THAT THE STATE ENGINEER WILL CONSIDER IN REVIEW OF A SUBSTITUTE WATER SUPPLY PLAN APPLICATION**

Rule 3 describes requirements for information to be included in any SWSP application and, as directed by section 37-80-123(1)(b)(II), C.R.S., criteria the State Engineer will consider in reviewing all applications. Much of the information included in the application will be information found in the Change Decree but will be necessary in the application to provide a complete picture of the proposed operation. Applications should be submitted no later than January 15 to allow for review prior to the irrigation season. Applications should be submitted as early as possible to allow adequate time for evaluation.

3.1 Information that must be included in the application. Rather than transcribing long sections of the Change Decree, references to the decree paragraph and/or page number may be sufficient to fulfill requirements in Rule 3.1; however, language from the Change Decree may be included in the application for clarity.

- 3.1.1 Applicant name and evidence that applicant is the owner of the Agricultural Water Protection Water Right.
- 3.1.2 Evidence of written notice to the SWSP notification list, as required by section 37-92-308(12)(b)(I)(A), C.R.S.
- 3.1.3 Case number for the Change Decree.
- 3.1.4 Person to whom the Lease Water will be leased, loaned, or traded.
- 3.1.5 Copy of written lease, loan, or trade with end user of water. Confidential information, which is commonly related to price, may be redacted from application materials as long as essential information such as term, renewal/termination dates, and any special operation clauses are shown.
- 3.1.6 Proposed use of Lease Water:
- 3.1.6.1 The amount of Lease Water as a percentage (50 percent or less) of the Agricultural Water Protection Water Right and other amount limitations described in the Change Decree. Such limitations may include volumetric limits, which may vary by the percent of the Agricultural Water Protection Water Right being used, or limits that are a result of return flow percentages.
- 3.1.6.2 The Point of Diversion of the Lease Water, case number and paragraph or page number where the Point of Diversion is decreed, and any WDIDs assigned by the Division of Water Resources.
- 3.1.6.3 For a Point of Diversion that is upstream of the decreed point of diversion of the Lease Water, identify intervening water rights and describe how the upstream diversion can occur without injury.
- 3.1.6.4 Type and place of use of Lease Water. If an augmentation plan allows for the temporary addition of replacement sources, Lease Water may be added only pursuant to the provisions of that augmentation plan and must be diverted at a previously decreed Point of Diversion and returned to the stream for credit.
- 3.1.7 Opt out of SWSP operation: If applicant desires an SWSP with the option to opt out before the irrigation season begins, describe in detail the terms and conditions applicant requests. The Division Engineer must be notified no later than March 31 and before any diversions under the SWSP occur if the applicant elects to opt out.
- 3.1.8 Information on dry up and ongoing irrigation:
- 3.1.8.1 A description of where the Agricultural Water Protection Water Right water that is not being leased, loaned, or traded will continue to be used for agricultural purposes consistent with 37-92 305(19)(b)(III).
- 3.1.8.1.1 If requesting to rotate irrigated/dry-up acres in year 1, year 2 (under a renewal), and year 3 (under a renewal) of SWSP operation, describe the requested irrigated and dried up lands for each year in the initial application so that terms and conditions of the SWSP approval can remain unchanged (see Rule 4.1.2).
- 3.1.8.1.2 If requesting alternative irrigation approaches, rather than drying up a portion of the historically irrigated land, provide a description of the request and information supporting how such an operation prevents injury.
- 3.1.8.2 A description of the historically irrigated land associated with the Lease Water that will not be irrigated by the Lease Water, if any, for the duration of the SWSP.
- 3.1.8.3 A description of the method to ensure any necessary dry up of the irrigated land associated with the Lease Water, any plans to irrigate with alternative water sources, and any additional dry up terms and conditions from the Change Decree.
- 3.1.9 Historical return flow obligations:
- 3.1.9.1 Restatement of return flow obligations by time, place, and amount from the Change Decree. Obligations are typically described as fractions of farm headgate deliveries, flow rates, or volumetric amounts.
- 3.1.9.2 The amount of return flow obligation associated with the Lease Water. The amount of return flow obligation may vary with the percentage of the Agricultural Water Protection Water Right exercised (50 percent or less) and other limitations described in the Change Decree.
- 3.1.9.3 The source(s) of water to be used to meet return flow obligations.
- 3.1.9.4 Documentation of permission to use replacement water (copy of lease or contract) if not owned.
- 3.1.9.5 The location(s) at which replacement water will be placed in the river to meet return flow obligations, and the river distance from the location water is placed in river to the location of the return flow obligation for calculating transit loss.

3.1.9.6 For the use of return flow replacement sources downstream of the historical return flow location, an explanation of how downstream replacement can prevent injury, and under what conditions available upstream sources will be used. Explanation of any exchange or water exchange project to be used to meet return flow obligations, the exchange rate, and exchange potential.

3.1.9.7 For replacement provided through recharge accretions:

3.1.9.7.1 Description of the timing, amounts, and locations of delayed accretions to the receiving stream.

3.1.9.7.2 Table of estimated monthly deliveries, evaporation, other losses, releases, and accretions for the recharge facility.

3.1.9.8 Table of monthly return flow obligations, available replacement water from each replacement source, and transit losses associated with each replacement source. The table should include all ongoing obligations as described in the Change Decree and available replacement water from each replacement source used to meet those obligations.

3.1.10 Required Maps. All maps shall have scale, section, township, and range clearly identified.

3.1.10.1 Map 1: All water infrastructure involved in the SWSP (streams, ditches, historical return flow location, Point of Diversion, measuring structures, replacement sources, etc.).

3.1.10.2 Map 2: Lands that will not be irrigated by the Lease Water for the SWSP.

3.1.10.3 Map 3: Lands included in a conservation program or Agricultural Water Protection Program where the water decreed for agricultural water protection use but not leased, loaned, or traded will continue to be used for agricultural purposes.

3.1.11 A GIS shapefile outlining the land area that will not be irrigated by the Lease Water must be submitted to the Division of Water Resources before an approval can be issued. The shapefile shall include the Change Decree case number, the name of the SWSP application, and any accompanying metadata. In addition, the datum must be NAD83 and the UTM projection must be Zone 13.

3.1.12 Proof of permission (If permission is pending, an explanation on the status may be provided) to use any structures required for the operation of the SWSP but not owned by applicant.

3.1.13 Evidence of enrollment in a conservation program identified in section 37-92-305(19)(b)(IV)(A), C.R.S. or an Agricultural Water Protection Program for the lands identified in Map 3.

3.1.13.1 Applicant shall verify that use of the water under an SWSP does not conflict with water requirements of the conservation program or Agricultural Water Protection Program.

3.1.14 Detailed draft accounting table consistent with any applicable Division of Water Resources accounting guidance.

3.1.15 Contact information (including phone number and email address) for the party that will be submitting accounting for the SWSP and the party(ies) who will be coordinating daily operations with the water commissioner(s).

3.2 Criteria that the State Engineer will consider in reviewing an application, as directed by section 37-92-308(12)(c), C.R.S. The State Engineer must:

3.2.1 Verify that the proposed amount of Lease Water is consistent with the quantification and terms and conditions in the Change Decree and is no more than 50 percent of the historical consumptive use.

3.2.2 Verify that the Point of Diversion is subject to an existing water court decree.

3.2.3 Verify that the SWSP has correctly quantified the amount of replacement water associated with the Lease Water and that the SWSP will meet the return flow obligations in time, place, and amount to prevent material injury to other vested water rights and decreed conditional water rights in accordance with the Change Decree.

3.2.4 Verify that the operation of the SWSP does not facilitate the diversion of water between water divisions by direct diversion, exchange, replacement, or other means.

3.2.5 Consider written comments provided on the application in accordance with section 37-92-308(12)(b)(II), C.R.S.

3.2.6 Verify that, with appropriate terms and conditions, the SWSP will prevent injury to vested water rights and complies with the Change Decree

**RULE 4 TERMS AND CONDITIONS THAT THE STATE ENGINEER MAY IMPOSE THROUGH AN APPROVED SUBSTITUTE WATER SUPPLY PLAN** As required by section 37-80-

123(1)(b)(I), C.R.S., Rule 4 describes the terms and conditions that the State Engineer may impose on SWSP approvals pursuant to these Rules. Sections 37-92-308(12)(c)(VI) and (VII), C.R.S., specifically require SWSP terms and conditions for the use of Lease Water, including the return flow obligations in time, place, and amount, that prevent material injury to other vested water rights and decreed conditional water rights and allow delivery to the Point of Diversion. All terms and conditions of the Change Decree apply to the SWSP. All SWSP terms and conditions shall be consistent with the Change Decree to the extent the Change Decree addresses any aspect of the operation. Should a conflict arise between the Change Decree and the SWSP, the terms and conditions of the Change Decree supersede any conflicting Standard SWSP Terms and Conditions or other conflicts between the SWSP and Change Decree.

4.1 The following Standard Terms and Conditions shall be included in every SWSP approval, but can be modified by the State Engineer in an SWSP approval. Applicants may suggest modifications to Standard Terms and Conditions in the application if necessary.

4.1.1 This SWSP shall be valid for the period of one year, as specified in the Final Decision unless otherwise revoked or superseded. Any change in the use of the Lease Water, return flow replacement, or operations of the SWSP requires submittal of a new application pursuant to section 37-92-308(12), C.R.S.

4.1.2 If the terms and conditions of the SWSP remain unchanged, the applicant may renew the SWSP two times within three years of the original beginning date by notifying the State Engineer by electronic mail or first-class mail (to the State Engineer's Office) that the terms and conditions remain unchanged. The notice must describe the requested period of renewal (beginning date through end date), not to exceed one year, and a copy of the renewed lease, loan, or trade agreement, if applicable. Notice should be provided at least 35 days prior to the requested beginning date.

4.1.3 The State Engineer may revoke this SWSP or add additional restrictions to its operation if at any time the State Engineer determines that injury to other vested water rights has occurred or will likely occur as a result of the operation of this SWSP or if the applicant fails to comply with the SWSP conditions of approval. Should this SWSP expire without renewal or be revoked, all use of water under this SWSP must cease immediately. However, all ongoing obligations from operation under this SWSP, such as historical return flow replacements, must continue to be fulfilled.

4.1.4 Approval of this SWSP is contingent on the non-irrigation of the specified portion of the applicant's property as shown on Map 2.

4.1.5 This SWSP is only valid if the lands shown on Map 3 continue to participate in a program as required in section 37-92-305(19)(b)(IV), C.R.S.

4.2 Pursuant to section 37-92-308(12)(c)(VI), C.R.S., additional terms and conditions not listed in Rule 4.1 will be included in each SWSP approval to allow for administration and prevention of injury based on the specific operation of each SWSP.

4.3 The State Engineer may include terms and conditions submitted by commenting parties pursuant to section 37-92-308(12)(b)(II), C.R.S.

**RULE 5 ADDITIONAL INFORMATION TO BE INCLUDED IN THE DECISION OF THE STATE ENGINEER** The decision of the State Engineer, either an approval or denial of the SWSP application, must include the following information as required by section 37-92-308(12)(f), C.R.S.:

5.1 Detailed statement of the basis and rationale for the decision. If the decision is an approval, the approval must include a complete explanation of the terms and conditions imposed to prevent injury to other water rights (see Rule 4) and why the terms and conditions are imposed.

5.2 Description of the consideration given to any written comments that were filed by other parties

**RULE 6 RECONSIDERATION AND APPEAL OF STATE ENGINEER'S DECISION** Section 37-80-123(1)(b)(IV), C.R.S., requires that the Rules provide procedures for the State Engineer to reconsider a decision and section 37-92-308(12)(h), C.R.S., describes the SWSP appeal process. Reconsideration and appeal of the State Engineer's decision shall be in accordance with the following:

6.1 Initial Decision and Reconsideration

6.1.1 The State Engineer shall serve a copy of the Initial Decision, whether an approval or denial, on all SWSP Parties. The Initial Decision may be reconsidered within 14 days of the date of service of the Initial Decision.

6.1.2 Any party may request that the State Engineer reconsider the Initial Decision during the 14-day reconsideration period by providing information not available to the State Engineer when the Initial Decision was made, by identifying or explaining information the State Engineer failed to consider, or by identifying clerical errors in the Initial Decision. The requesting party shall serve a copy of the request on all SWSP Parties and the State Engineer.

6.1.2.1 The State Engineer will review the information provided by the party requesting reconsideration and will provide a response to all SWSP Parties within a reasonable time.

6.1.3 If no reconsideration is requested, the State Engineer will issue a Final Decision 14 days after the Initial Decision. If any party requests reconsideration, the State Engineer will issue the Final Decision after reconsideration. The State Engineer will serve a copy of the Final Decision on all SWSP Parties. The SWSP may be operated only after the State Engineer issues the Final Decision.

#### 6.2 Appeal of State Engineer's Final Decision

6.2.1 Any appeal of the Final Decision must be made within thirty-five days of the date of service of the Final Decision. Any appeal must be filed under the Change Decree case number.

6.2.2 Only an SWSP Party or a party that requested reconsideration under Rule 6.1 may appeal a Final Decision. This rule does not limit which parties may then participate in the Court's appeal proceeding, which follows the process described in section 37-92-308(12)(h), C.R.S.

**RULE 7 AGRICULTURAL WATER PROTECTION WATER RIGHT SUBSTITUTE WATER SUPPLY PLAN DATABASE** Rule 7 establishes procedures for creating a database that tracks and inventories SWSPs and for making that information available to the public as required by section 37-80-123(1)(b)(V), C.R.S.

#### 7.1 Database creation:

7.1.1 The existing database used to track SWSP status will be modified to include the information listed in Rule

#### 7.2. Database information requirements:

7.2.1 Change Decree case number.

7.2.2 SWSP name.

7.2.3 Approved date of operation for the original SWSP: the date that operation may begin for the first SWSP pursuant to an application, as opposed to a request for a renewal.

7.2.4 SWSP recent renewal date: the date that operation may begin for the one-year renewal of the SWSP, as allowed by section 37-92-308(12)(d), C.R.S.

7.2.5 Status (approved, denied, pending, etc.).

7.2.6 Decreed beneficial use(s) of the Lease Water prior to the Change Decree.

7.2.7 Type of SWSP: "308(12) – Agricultural Water Protection," which also describes the decreed beneficial use of the water under the Change Decree.

7.2.8 Beneficial use of the Lease Water in the SWSP.

7.2.9 Amount of Lease Water in the SWSP.

7.2.10 Location(s) of use of the Lease Water in the SWSP including water division, water district, and section, township, and range.

#### 7.3 Database accessibility:

7.3.1 The public will have access to the information in Rule 7.2 through the Colorado Information Marketplace.

**RULE 8 SEVERABILITY** If any portion of these rules is found to be invalid, the remaining portion of the rules shall remain in force and in effect.

**IT IS FURTHER ORDERED** that these rules shall take effect sixty days after publication in accordance with section 37-92-501, C.R.S., and will thereafter remain in effect until amended as provided by law. In the event that protests are filed with respect to these Rules pursuant to section 37-92-501, C.R.S., the effective date of these Rules is the date on which the Court enters a judgment confirming resolution of all protests to these rules. Any person desiring to protest these rules may do so in the manner provided in section 37-92-501, C.R.S. Any such protest to these rules must be filed by the end of the month following the month in which these rules are published.

THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or an amended application, may file with the Water Clerk, P. O. Box 2038, Greeley, CO 80632, 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 **MAY 2026** (forms available on [www.courts.state.co.us](http://www.courts.state.co.us) or in the Clerk's office), and must be filed as an Original and include **\$192.00** filing fee. A copy of each Statement of Opposition must also be served upon the Applicant or Applicant's Attorney and an affidavit or certificate of such service of mailing shall be filed with the Water Clerk.