

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MARCH 2026. (This publication can be viewed in its entirety on the state court website at: www.coloradojudicial.gov)

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during March 2026, in Water Division No. 2. The names and addresses of applicants, description of water rights or conditional water rights involved, and description of ruling sought as reflected by said applications, or amendments, are as follows:

CASE NO. 2026CW3; DAVID CLEMENTS, 16854 Trail View Circle, Parker CO 80134, (303) 961-8007

Application for Absolute Underground Water Right
EL PASO COUNTY

Application was filed in March 2026; however, the application did not substantially contain the information required by Rule 3 of the Uniform Local Rules for publication. The application will be published when required information is received by the Court.

CASE NO. 2026CW3011; PONDEROSA PARADISE, LLC, c/o Kristen Anja Wynne, 16965 Lindbergh Road, Monument, CO 80132

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: David M. Shohet, Sedona E. Chavez, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado, 80921 (719) 471-1212)

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

II. Applicant owns a 7.5-acre parcel of land and is seeking to quantify the Denver Basin groundwater underlying the property. Applicant also seeks approval of a plan for augmentation for the use of up to two not-nontributary Denver aquifer wells for provision of water to Applicant's property. III. Property Description. Applicant's property lies in the NW¹/₄ SE¹/₄ of Section 21, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado ("Applicant's Property") as approximately shown on **Exhibit A** map attached to the application, (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) and as more specifically described as follows: THE EAST HALF OF THE NORTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, TOGETHER WITH A TRACT OF LAND ADJACENT THERETO ON THE WEST, BOUNDED ON THE NORTH BY THE EXTENSION OF THE NORTH LINE OF THE ABOVE DESCRIBED PROPERTY, AND ON THE SOUTH BY AN EXTENSION OF THE SOUTH LINE OF THE ABOVE DESCRIBED PROPERTY, ON THE WEST BY THE EXISTING ROADWAY RUNNING NORTH AND SOUTH, AND ON THE EAST BY THE WEST LINE OF THE ABOVE DESCRIBED PROPERTY. a.k.a.: 16965 Lindbergh Rd., Monument, CO 80132. The El

Paso County Assessor has assigned parcel ID no. 7121001009 to the Applicant's Property. Existing Wells. There is one existing well registered with Division of Water Resources Permit No. 170331 ("Ponderosa Well No. 1"). The Ponderosa Well is drilled to depth of approximately 700 feet to the Denver aquifer. Upon approval of the plan for augmentation requested herein, Ponderosa Well No. 1 will be re-permitted. The approximate location of Ponderosa Well No. 1 can be seen on attached **Exhibit A.** Proposed Wells. Applicant may construct an additional well to the Denver aquifer on Applicant's Property, pursuant to and upon approval of the plan for augmentation requested herein ("Ponderosa Well No. 2"). Further, Applicant will construct additional or replacement wells on Applicant's Property as necessary to produce its decreed entitlements. Not-Nontributary. The groundwater to be withdrawn from the Dawson and Denver aquifers underlying Applicant's Property is not-nontributary. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation requirements for wells in the Dawson aquifer require the replacement of actual stream depletions, and the augmentation requirements for wells in the Denver aquifer require replacement of a total amount of water equal to 4% (four percent) of the amount of water withdrawn on an annual basis. Nontributary. The groundwater to be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers underlying Applicant's Property will be nontributary. Estimated Rates of Withdrawal. Pumping from the wells on Applicant's Property will not exceed 100 gpm. The actual pumping rate for the wells will vary according to aquifer conditions and well production capabilities. The Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. Estimated Average Annual Amounts of Groundwater Available. Applicant requests a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicant's Property. Said amounts may be withdrawn over the 100-year life of the aquifers as required under the State of Colorado's 100-year life requirement pursuant to C.R.S. § 37-90-137(4). Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying the Applicant's Property:

AQUIFER	NET SAND (Feet)	Total Appropriation (Acre-Feet)	Annual Avg. Withdrawal 100 Years (Acre-Feet)
Upper Dawson (NNT – actual)	193.3	290	2.90
Denver (NNT – 4%)	217.5	277	2.77
Upper Arapahoe (NT)	443.1	565	5.65
Laramie-Fox Hills (NT)	182.2	205	2.05

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to C.R.S. § 37-92-305(11), the Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer. Requested Uses. The Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic; commercial; agricultural; irrigation; watering of stock and domestic animals; recreation; bathing; dust

suppression; use of water in hot tubs, pools, and/or water features; use of water in tiny homes and recreational vehicles; use of water in event spaces and/or centers; and for storage and augmentation purposes associated with such uses. The Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of C.R.S. § 37-90-137(9)(b), that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to use water from the not-nontributary Dawson and Denver aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary aquifer in accordance with C.R.S. § 37-90-137(9)(c.5). Well Fields. Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying the Applicant's Property through any combination of wells. Applicant requests that these wells be treated as a well field. Averaging of Withdrawals. Applicant requests that it be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath the Applicant's Property, so long as the sum total withdrawals from all the wells in the aquifers do not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which the Applicant is entitled to withdraw from the aquifers underlying Applicant's Property. Owner of Land Upon Which Wells are to Be Located. The land and underlying groundwater upon which the wells will be located is owned by the Applicant, Ponderosa Paradise LLC. **IV. Structures to be Augmented**. The structures to be augmented are the Ponderosa Well Nos. 1 and 2 on, or which will be constructed on, Applicant's Property, along with any replacement or additional wells associated therewith, which are or will be completed to the Denver aquifer, in the NW¼ SE¼ Section 21, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Denver aquifer from the Ponderosa Well Nos. 1 and 2, along with any additional or replacement wells associated therewith, on Applicant's Property, together with water rights from the nontributary Arapahoe aquifer for any injurious post-pumping depletions. Statement of Plan for Augmentation. Applicant seeks to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Denver aquifer by the Ponderosa Well Nos. 1 and 2 on Applicant's Property described herein. Water use criteria and their consumptive use component for replacement of 4% (four percent) of the amount of water withdrawn on an annual basis for the Applicant's Property are estimated as follows: Uses. Pumping from the Denver aquifer will be a maximum of 2.77 acre-feet of water per year total from Ponderosa Well Nos. 1 and 2. Such uses shall be for domestic; commercial; agricultural; irrigation; watering of stock and domestic animals; recreation; bathing; dust suppression; use of water in hot tubs, pools, and/or water features; use of water in tiny homes and recreational vehicles ("RVs"); use of water in event spaces and/or centers; and for storage and augmentation purposes associated with such uses. Amounts. The Ponderosa Well Nos. 1 and 2 will pump a maximum of 2.77 acre-feet from the Denver aquifer annually, for the uses described above. An example breakdown of this combination of use is in-

house use of 0.20 acre-feet of water per year for the primary residence on Applicant's Property, with the remaining 2.57 acre-feet per year available for any other additional uses. Depletions. The Denver aquifer underlying the Applicant's Property is more than one mile from any point of contact of any natural stream, including its alluvium, and, as such, withdrawals from the Denver aquifer by the Ponderosa Well Nos. 1 and 2 requires replacement of 4% (four percent) of the amount of water withdrawn annually, pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(C). Maximum annual depletions for total pumping from the Ponderosa Well Nos. 1 and 2 is therefore 0.1108 acre-feet (i.e. 4% of pumping). Should Applicant's pumping be less than the 2.77 acre-feet total per year described herein, resulting depletions and required replacements will be correspondingly reduced. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(C), Applicant is required to replace 4% (four percent) of the amount of water withdrawn from the Denver aquifer on an annual basis. Depletions during pumping will be effectively replaced by residential return flows from a non-evaporative septic system. The annual consumptive use for non-evaporative septic systems is 10%. At a household rate of 0.20 acre-feet per residence per year, 0.18 acre-feet is replaced to the stream per year from the primary residence, assuming the use of a non-evaporative septic system. Thus, during pumping, stream depletions (0.1108 acre-feet per year) will be adequately augmented. Augmentation for Post-Pumping Depletions. For the replacement of any injurious post-pumping depletions that may be associated with the use of the Ponderosa Well Nos. 1 and 2, Applicant will reserve up to 277 acre-feet of the water from the underlying Arapahoe aquifer, accounting for actual stream depletions replaced during the pumping period, as necessary to replace any injurious post-pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post-pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post-pumping depletions will be noninjurious. The reserved nontributary Arapahoe groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, Applicant will be entitled to apply for and receive a new well permit for the Ponderosa Well Nos. 1 and 2 on Applicant's Property, and any replacement or additional wells, for the uses in accordance with this Application and otherwise in compliance with C.R.S. § 37-90-137. V. 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 not-nontributary Ponderosa Well Nos. 1 and 2 upon the entry of a decree approving a plan for augmentation pursuant to C.R.S. § 37-90-137(9)(c.5). The term of this augmentation plan is for 100 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post-pumping stream depletions accrue to a particular well only to the extent related to that well's actual pumping. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation. Wells shall be installed and metered as reasonably required by the State Engineer. Each well may be required to be

equipped with a totalizing flow meter and Applicant may be required to submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. The Applicant may also be required to provide accountings to the Division Engineer and Water Commissioner to demonstrate compliance under this plan for augmentation. The Applicant waives the 600-foot well spacing requirement, pursuant to C.R.S. § 37-90-137(2)(b), for any wells to be located on Applicant's Property in relation to one another. This waiver does not apply to wells not located on Applicant's Property and/or not owned by the Applicant. Applicant will comply with any lienholder notice provisions set forth in C.R.S. §§ 37-92-302(2)(b) and 37-90-137(4)(b.5)(I), and such notice will be sent within 14 days of the filing of this application.

CASE NO. 2026CW3012; Previous Case No. W-1112 – STATE OF COLORADO, DEPARTMENT OF CORRECTIONS, Office of Facility Management Services, 1250 Academy Park Loop, Colorado Springs, Colorado 80910 (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Austin Hamre and Teri L. Petitt (Special Counsel), Prescott, Rodriguez, Ostrander, Wallshein & Taylor, P.C., 188 Inverness Drive West, Suite 430, Englewood, Colorado 80112-5204, (303) 779-0200) Application for Correction of Established But Erroneously Described Points of Diversion Pursuant to § 37-92-305(3.6), C.R.S.

FREMONT COUNTY

2. The decreed water rights for which correction is sought are referred to herein as the "Penitentiary Well No. 1" and the "Penitentiary Well No. 2" and are described as follows:

2.1. Date of original and all relevant subsequent decrees, including case number and court: Penitentiary Well No. 1 and Penitentiary Well No. 1 were decreed on February 5, 1973 by the District Court in and for Water Division No. 2, State of Colorado, in Case No. W-1112 "In the Matter of the Application for Water Rights of The State of Colorado for the Colorado State Penitentiary in Fremont County." 2.1.1. Name of Structure: Penitentiary Well No. 1 (WDID 1205682). 2.1.1.1. Decreed Location of Well: In the NE¼ of the SW¼ of Sec. 1, T. 19S, R. 69W. of the 6th PM in Fremont County, Colorado. 2.1.1.2. Amount: 0.333 cfs. 2.1.1.3. Beneficial Use: Domestic. 2.1.1.4. Priority Date: November 30, 1955. 2.1.1.5. Permit Number: 21347-F. 2.1.1.6. Decreed source of water: Water tributary to the Arkansas River. 2.1.2. Name of Structure: Penitentiary Well No. 2 (WDID 1205683): 2.1.2.1. Decreed Location of Well: In the NE¼ of the NE¼ of Sec. 8, T. 19S, R. 69W. of the 6th PM in Fremont County, Colorado. 2.1.2.2. Amount: 0.166 cfs., or 74.5 g.p.m. 2.1.2.3. Beneficial Uses: 67 g.p.m. for livestock water and 7.5 g.p.m. for domestic. 2.1.2.4. Priority Date: June 30, 1907. 2.1.2.5. Permit Number: 21348-F. 2.1.2.6. Decreed source of water: Water tributary to the Arkansas River. 2.2. Legal Descriptions of Actual Locations of Structures: 2.2.1. Penitentiary Well No. 1: The well is actually located in the SW¼ SE¼ of Section 1, Township 19S, Range 70W, 6th P.M., 70.0 feet from the South section line and 1,973.2 feet from the East section line. (UTM Zone 13N: Easting: 485208.6 Northing: 4252189.1.) in Fremont County, Colorado. 2.2.2. Penitentiary Well No. 2: The well is actually located

in the SE¼ NW¼ of Section 8, Township 19S, Range 69W, 6th P.M. (UTM Zone 13N Easting: 488019.1 Northing: 4251421.5), in Fremont County, Colorado. 2.2.3. Maps depicting the established locations of the headgates of the Penitentiary Well No. 1 and Penitentiary Well No. 2 and the erroneous locations described in the W-1112 decree are attached to the application as **Exhibits A and B**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.)

3. Detailed description of proposed correction to established but erroneously described point of diversion pursuant to Section 37-92-305(3.6)(a) and (b), C.R.S.:

3.1. Applicant is the owner of the Penitentiary Well No. 1 and Penitentiary Well No. 2. Applicant adjudicated these water rights in 1972, at which time it was the owner of the land on which the wells were located. Applicant has been the sole user of the wells since that time.

3.2. Upon information and belief, Penitentiary Well No. 1 and Penitentiary Well No. 2 have been at the physical location described in paragraph 2. 2., above, since the W-1112 Decree confirmed the water rights and those points are the locations from which Applicant has diverted water pursuant to the W-1112 Decree. Applicant has confirmed the locations of the wells in accordance with the descriptions listed above in paragraph 2.2.

3.3. Applicant learned of the erroneous descriptions of the locations of the wells in connection with discussions with the Division 2 Engineers Office regarding Rule 14 Plan approvals for the wells in the fall of 2025. Applicant is filing this application less than three (3) years from the date that it learned of the error.

4. Remarks: This application does not include, and will not be consolidated or joined with, an action by the Applicant seeking any type of change of water right or diligence proceeding or application to make absolute with respect to the water rights described herein.

5. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool: Not applicable.

WHEREFORE, pursuant to C.R.S. 37-92-305(3.6), Applicant requests the court to find that Applicant has satisfied the requirements for the correction of an established but erroneously described point of diversion set forth in C.R.S § 37-92-305(3.6); that the correction to the established but erroneously described point of diversion sought herein will not cause an enlargement of the historical use associated with Penitentiary Well No. 1 or Penitentiary Well No. 2 and will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right; and to enter a decree correcting the established but erroneously described point of diversion as described herein and granting such other relief as the Court deems proper.

CASE NO. 2026CW3013; Previous Case Nos. 19CW3054, 10CW35 – TRES VALLES WEST OWNERS ASSOCIATION (“Applicant”), Attn: Karen Pursch; 109 W. Main Street, Trinidad, CO 81082 (Please address all pleadings and inquiries regarding this matter to Applicant’s attorneys: William H. Caile Holland & Hart LLP, 555 17th Street,

Suite 3200, Denver, CO 80202-3921; telephone: 303.295.8000, email: whcaile@hollandhart.com)

Application to Make Conditional Water Rights Absolute or for Findings of Reasonable Diligence

HUERFANO COUNTY

2. Name of Structures: A. Tres Valles Pond Nos. 2-1, 3-1, 3-2, and 3-3 (collectively, the "Tres Valles Ponds"); B. Tres Valles Coler System Exchange. **3. Decree Information:** A. Case No. 10CW35; B. Court: District Court in and for Water Division No. 2; C. Date: August 6, 2013; D. Subsequent decrees awarding diligence: Case No. 19CW3054, Water Division 2, decree dated March 10, 2020. **4. Description of Conditional Water Rights – Tres Valles Ponds.** A. Tres Valles Pond No. 2-1 (i) Legal description: NE 1/4 of NE 1/4 of Section 4, Township 29 South, Range 69 West of 6th P.M., at a distance of 1070 feet from the North section line and 875 feet from the East section line (37°33'33.68"N, 105°6'37.62"W), also described with the following UTM coordinates: Easting 490245m; Northing 4156903m, NAD 83. A map depicting the location of the Tres Valles Ponds is attached to the application as **Exhibit 1**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) (ii) Source: Tres Valles Spring No. 2, tributary to South Abeyta Creek, tributary to Cucharas River. (iii) Appropriation date: May 28, 2010. (iv) Date water applied to beneficial use: N/A (see remarks, below). (v) Amount claimed: 6.86 acre feet, CONDITIONAL. (vi) Use: Recreation, piscatorial, aesthetic, fire protection, stock watering and wildlife. (vii) Surface area at high water line: 1.28 acres. (viii) Approximate vertical height of dam: 38.5 feet. (ix) Length of dam: 393 feet. (x) Total capacity of reservoir: 6.86 acre feet. (xi) Active storage: 6.86 acre feet. (xii) Dead storage: 0.0 acre feet. (xiii) Remarks: The Tres Valles Ponds have been in existence since at least 1999, though water has not been diverted in priority and applied to beneficial use since entry of the decree in Case No. 10CW35 due to the call regime on the Arkansas River. B. Tres Valles Pond No. 3-1. (i) Legal description: SW 1/4 of NW 1/4 of Section 34, Township 28 South, Range 69 West of 6th P.M., at a distance of 2,276 feet from the North section line and 100 feet from the West section line (37°34'14.78"N, 105°6'25.41"W), also described with the following UTM coordinates: Easting 490567m; Northing 4158179m, NAD 83. See **Exhibit 1**. (ii) Source: Tres Valles Spring No. 3, tributary to South Abeyta Creek, tributary to Cucharas River. (iii) Appropriation date: May 28, 2010. (iv) Date water applied to beneficial use: N/A (see remarks, below). (v) Amount: 2.33 acre feet, CONDITIONAL. (vi) Use: Recreation, piscatorial, aesthetic, fire protection, stock watering and wildlife. (vii) Surface area at high water line: 0.56 acres. (viii) Approximate vertical height of dam: 20 feet. (ix) Length of dam: 240 feet. (x) Total capacity of reservoir: 2.33 acre-feet. (xi) Active storage: 2.33 acre feet. (xii) Dead storage: 0.0 acre feet. (xiii) Remarks: The Tres Valles Ponds have been in existence since at least 1999, though water has not been diverted in priority and applied to beneficial use since entry of the decree in Case No. 10CW35 due to the call regime on the Arkansas River. C. Tres Valles Pond No. 3-2 (i) Legal description: NE 1/4 of the NW 1/4 of Section 3, Township 29 South, Range 69 West of the 6th P.M., at a distance of 920 feet from the North Section Line and 2,150 feet from the West section line (37°33'35.44"N, 105°5'59.97"W), also described with the following UTM coordinates: Easting 491182m; Northing 4156972m, NAD 83. See **Exhibit 1**. (ii) Source: Tres Valles Spring No. 3, tributary to South Abeyta Creek, tributary to Cucharas River. (iii) Appropriation date: May

28, 2010. (iv) Date water applied to beneficial use: N/A (see remarks, below). (v) Amount: 1.19 acre feet, CONDITIONAL. (vi) Use: Recreation, piscatorial, aesthetic, fire protection, stock watering and wildlife. (vii) Surface area at high water line: 0.64 acres. (viii) Approximate vertical height of dam: 14 feet. (ix) Length of dam: 260 feet. (x) Total capacity of reservoir: 1.19 acre feet. (xi) Active storage: 1.19 acre feet. (xii) Dead storage: 0.0 acre feet. (xiii) Remarks: The Tres Valles Ponds have been in existence since at least 1999, though water has not been diverted in priority and applied to beneficial use since entry of the decree in Case No. 10CW35 due to the call regime on the Arkansas River. D. Tres Valles Pond No. 3-3 (i) Legal description: SE 1/4 of the NW 1/4 of Section 3, Township 29 South, Range 69 West of the 6th P.M., at a distance of 1,590 feet from the North section line and 2,070 feet from the West section line (37°33'29.18"N, 105°6'0.89"W), also described with the following UTM coordinates: Easting 490912m; Northing 4157201m, NAD 83. See Exhibit 1. (ii) Source: Tres Valles Spring No. 3, tributary to South Abeyta Creek, tributary to Cucharas River. (iii) Appropriation date: May 28, 2010. (iv) Date water applied to beneficial use: N/A (see remarks, below). (v) Amount claimed: 2.54 acre feet, CONDITIONAL. (vi) Use: Recreation, piscatorial, aesthetic, fire protection, stock watering and wildlife. (vii) Surface area at high water line: 0.56 acres. (viii) Approximate vertical height of dam: 15.0 feet. (ix) Length of dam: 340 feet. (x) Total capacity of reservoir: 2.54 acre feet. (xi) Active storage: 2.54 acre feet. (xii) Dead storage: 0.0 acre feet. (xiii) Remarks: The Tres Valles Ponds have been in existence since at least 1999, though water has not been diverted in priority and applied to beneficial use since entry of the decree in Case No. 10CW35 due to the call regime on the Arkansas River. **5. Description of Conditional Water Right – Tres Valles Coler System Exchange.** A. Description of Exchange: A conditional appropriative right of exchange to augment depletions associated with the Tres Valles Ponds by exchange from the downstream location where water is introduced to the Cucharas River system from the Coler Ditch and Reservoir System ("Coler System"). Tres Valles owns a 1/60th interest in the Coler System, which was changed in Case No. 10CW35, Water Division 2. B. Exchange reach: (i) Upstream points: Tres Valles Ponds Nos. 2-1 and 3-1, as described in paragraph 4 above, located on unnamed tributaries to South Abeyta Creek. (ii) Downstream point: The location of the Coler System Cucharas Delivery Flume, which is located in the NE 1/4 of the SW 1/4 of Section 17, Township 28 South, Range 66 West of the 6th P.M., Huerfano County, Colorado at a point approximately 1,600 feet from the West line and 2,150 feet from the South line of said Section 17, UTM coordinates 1600588, 516904 =X and 4162387 =Y. (iii) A map depicting the approximate extent of the exchange reach is on file with the Water Court as Exhibit 2. C. Appropriation date: May 28, 2010. D. Date water applied to beneficial use: September 2021. E. Rate of exchange: 1.0 cubic feet per second, CONDITIONAL, not to exceed 92.5 acre feet in any consecutive ten year period. F. Use: Augmentation in the plan for augmentation decreed in Case No. 10CW35, Water Division 2. **6. Claim to Make Conditional Water Rights Absolute.** A. Despite operating since August of 2013 pursuant to the augmentation plan and appropriative right of exchange decreed in Case No. 10CW35, and prior to that time under Substitute Water Supply Plans approved by the State Engineer, the subject conditional water rights have, to date, not recorded an in-priority fill under their 2010 storage rights or documented in-priority operation under the 2010 exchange right due to factors including hydrologic conditions, the call regime on the Arkansas River, and administration of the Arkansas

River Compact between Colorado and Kansas. B. On July 21, 2020, the State Engineer issued Written Instruction 2020-1, titled *DWR Position on Making Water Rights Diverted Out of Priority Absolute* (“Written Instruction”). The Written Instruction provides, inter alia, that “[a] conditional, tributary water right becomes absolute when a water user applies water to beneficial use in priority, or out of priority pursuant to procedures prescribed by law. Procedures prescribed by law include plans for augmentation, decreed exchanges, and administrative approvals. . . .” Written Instruction, Section 4.0 (emphasis in original). Allowing conditional appropriations to be lawfully completed out of priority and made absolute under procedures prescribed by law allows for: (1) confirming priority dates for junior water rights, which provides certainty to water users and allows for proper administration; and (2) reducing the need for ongoing diligence filings with the water court. *Id.* C. The Written Instruction provides further: “To confirm that conditional water rights diverted out of priority are absolute, applicants should show that the claimed appropriation was completed by diverting water and placing it to beneficial use in accordance with procedures prescribed by law. Water users may need to supply records or estimates of the amount of water diverted The showing should also describe the beneficial use of the water and compliance with terms and conditions of the relevant decree, plan for augmentation, and/or administrative approval. If the Division Engineer confirms this evidence, the Division Engineer shall not object to the application to make the water right absolute.” *Id.*, Section 5.0. D. The Tres Valles Ponds were surveyed in 2008 by a licensed Colorado engineer. The stage-area capacity tables are on file with the Water Court as Exhibit 3. E. The Tres Valles Ponds have been regularly maintained and filled over the last several years, including but not limited to 2025. The stage-area capacity tables and records maintained by Applicant and the Division Engineer also reflect that the ponds have been maintained up to their full decreed capacity at various times in past years. F. The Tres Valles Ponds are operated pursuant to the augmentation plan decreed in Case No. 10CW35, which includes replacement of out-of-priority depletions associated with evaporation and stock watering, using the Tres Valles Coler System Exchange decreed in Case No. 10CW35. Water stored in the ponds have been placed to beneficial use for all decreed purposes, including augmentation, recreation, piscatorial, aesthetic, fire protection, stock watering and wildlife. G. The Tres Valles Ponds have been operated seasonally at capacity pursuant to procedures prescribed by law (the operation of the augmentation plan decreed in Case No. 10CW35) and water has been placed to beneficial use. Accordingly, pursuant to the Written Instruction and C.R.S. § 37-92-301(4)(e), Applicant requests that the conditional water rights for the Tres Valles Ponds be made absolute in in their full decreed amounts for all decreed purposes. H. During the same time period, the Tres Valles Coler System Exchange has been operated pursuant to the decree in Case No. 10CW35. Records maintained by the Applicant, Division Engineer, and the City of Walsenburg reflect that depletions from the Tres Valles Ponds have been replaced by exchange utilizing the Tres Valles Coler System Exchange during these times. I. Water Commissioner records and records maintained by the City of Walsenburg indicate the Tres Valles Coler System Exchange being operated in cooperation with the Water Commissioner. J. The Tres Valles Coler System Exchange has replaced water in the time, place and amount as required by, and pursuant to, the augmentation plan decreed in 10CW35. Accordingly, pursuant to the Written Instruction, or actual in-priority operation, Applicant requests that the Tres Valles Coler System

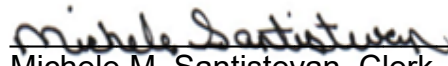
Exchange be made absolute in the amount of 1.0 cubic feet per second for all decreed purposes. **7. Outline of activities performed towards completion of the conditional appropriations and application of water to beneficial use:** A. To the extent that any amounts of the conditional water rights for the Tres Valles Ponds and the Tres Valles Coler System Exchange are not made absolute by the Court herein, Applicant requests a finding of reasonable diligence and to continue the conditional water rights in full force and effect. B. On March 10, 2020, the Court entered a final decree in Case No. 19CW3054 granting a finding of reasonable diligence in the development of the subject conditional water rights. The 19CW3054 decree required a subsequent application for finding of reasonable diligence to be filed during the month of March 2026, in order to maintain the conditional water rights. C. During the applicable diligence period, Applicant has operated the Tres Valles Ponds and the Tres Valles Coler System Exchange for decreed uses, and has conducted regular maintenance and repair on the ponds. Without limiting the foregoing, Applicant has conducted the following specific activities during the diligence period: (i) Inspection, maintenance and operation of Tres Valles Ponds dams, outlet works and related infrastructure; (ii) Stocking of ponds with various fish species for piscatorial and recreational purposes; (iii) Negotiating and entering into grazing leases with third parties, and associated use of the ponds for stock watering; (iv) Operation of the augmentation plan decreed in Case No. 10CW35, including ongoing cooperation with the Division Engineer's Office regarding accounting and releases of augmentation water; (v) Maintenance and protection of Applicant's water rights, including the subject conditional water rights, including without limitation through the review of water court resumes and filing and prosecution of statements of opposition where appropriate. D. Applicant has engaged the services of attorneys, engineers, and contractors, and made other expenditures, in connection with the activities described above. Although total expenditures during the diligence period are difficult to calculate, these costs are conservatively estimated to be in excess of \$60,000. E. The outline of activities and expenditures set forth above is not intended to be exhaustive, and Applicant reserves the right to present additional evidence of reasonable diligence as necessary or appropriate. **8. Names and addresses of owners of land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure, is or will be constructed or where water is or will be stored:** A. The Tres Valles Ponds are located on land owned by Applicant. B. Upon information and belief, the Coler System Cucharas Delivery Flume is located on land owned by the City of Walsenburg, 525 South Albert Avenue, Walsenburg, Colorado 81089. **WHEREFORE,** Applicant respectfully requests that the Court enter a Ruling and Decree in this case: A. Making the conditional water rights for the Tres Valles Ponds and the Tres Valles Coler System Exchange absolute in their entirety for all decreed uses; B. Finding, to the extent not made absolute herein, that Applicant has demonstrated reasonable diligence in the development of the subject conditional water rights, and continuing said conditional rights in full force and effect; C. Granting such other relief as the Court deems just and proper.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST

APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE,
OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or application as amended, may file with the Water Clerk a verified statement of opposition setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions, such statement of opposition must be filed by the last day of May 2026, (forms available at Clerk's office or at www.coloradojudicial.gov, after serving parties and attaching a certificate of mailing, filing fee \$192.00). The foregoing are resumes and the entire application, amendments, exhibits, maps and any other attachments filed in each case may be examined in the office of the Clerk for Water Division No. 2, at the address shown below.

Witness my hand and the seal of this Court this 13th day of April 2026.



Michele M. Santistevan, Clerk
District Court, Water Div. 2
Pueblo Judicial Building
501 N. Elizabeth Street, Suite 116
Pueblo, CO 81003; (719) 404-8832



(Court seal)
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