

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING MAY 2026.

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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 May 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. 2026CW5; LAURIE ASSEMAN, P.O. BOX 114, Coaldale, CO 81222, [hihla@outlook.com](mailto:hihla@outlook.com); 719 269 0597; RACHAEL BAUER, 4320 Avenue B2, Cheyenne, WY 82007, [ornursermb@gmail.com](mailto:ornursermb@gmail.com), 215 620 4921; ELLEN KAY and KENNETH ROSS KAY, 18845 Spring Valley Rd., Monument, CO 80132, [Teachmh@comcast.net](mailto:Teachmh@comcast.net), 719 877 4557(Allen), [scholar888@comcast.net](mailto:scholar888@comcast.net), 954 536 2756(Kenneth); PEGGY QUICK ANEST, 18910 Spring Valley Rd., Monument, CO 80132, 719 481 2933, 719 332 2490; JANE M. MALLERY and CARL J. MALLERY, 18890 Spring Valley Rd., Monument, CO 80132, [jane.mallery@att.net](mailto:jane.mallery@att.net), [carlmallery@hotmail.com](mailto:carlmallery@hotmail.com) 719 533 0607; MICHAEL KOPYCINSKI and KELLEY KOPYCINSKI, 18865 Spring Valley Rd., Monument, CO 80132, [mikekopy@comcast.net](mailto:mikekopy@comcast.net), 719 839 0291(Michael), [kkopy@comcast.net](mailto:kkopy@comcast.net), 303 807 1271 (Kelley); BRADLEY J. JOHN and TRACY JOHN, 18810 Spring Valley Rd., Monument, CO 80132, [retranger@msn.com](mailto:retranger@msn.com), 719 330 5638(Bradley), [twonome@msn.com](mailto:twonome@msn.com), 719 640 1203(Tracy); DR. PENNY L. ALLEN, 18785 Spring Valley Rd., Monument, CO 80132, [allenembery@msn.com](mailto:allenembery@msn.com); 719 237 0224; LOUIS S. GREEN, 18895 Spring Valley Rd., Monument, CO 80132, 719 481 3921; ROBERT EMBERY, 18785 Spring Valley Rd., Monument, CO 80132, [bobembery@gmail.com](mailto:bobembery@gmail.com), 719 440 8450**

Application for Determination of Underground Water Rights in the Denver Basin Aquifer  
**EL PASO COUNTY**

**SECTION I - SUMMARY OF APPLICATION** 1. The Applicants seek judicial correction of long-standing misadministration of the Denver Basin Aquifer system, a stacked sequence of multiple hydro stratigraphic Aquifers commonly labeled in statute as the Dawson, Denver, Arapahoe, and the Laramie-Fox Hills aquifers. These statutory labels do not reflect the actual structure of the Basin, which includes multiple distinct aquifers and sub-aquifers, each having a distinct saturated thickness, transmissivity, decline rate, and hydrologic behavior. 2. Since 1985, the State Engineer has administered the Denver Basin Aquifer using a uniform 100-year Rule that does not reflect actual aquifer conditions and does not comply with C.R.S. 37-92-305(11), or with Water Court decrees requiring adjustments to pumping when actual aquifer characteristics differ from modeled

assumptions. The State Engineer has never invoked retained jurisdiction for any of the aquifers, despite explicit statutory and judicial authority to do so. 3. As a result, existing well owners have suffered aquifer specific injury, including declining water levels, reduced well yields, increased pumping costs, and uncompensated injury to vested water rights. These injuries have occurred aquifer -by-aquifer, not Basin wide, and require aquifer specific judicial correction. 4. The State Engineer's continued approval of new well permits into declining aquifer compounds this injury. New wells are approved into aquifers that cannot support existing pumping, resulting in injury to both senior and junior well owners, violating the no-injury Rule that governs all groundwater administration in Colorado. 5. The Applicants therefore request that the Water Court: a. exercise retained jurisdiction for each aquifer and sub-aquifer within the Denver Basin Aquifer, b. determine actual aquifer characteristics using existing and newly ordered data, c. adjust annual pumping amounts for each aquifer to conform to actual conditions, d. clarify the State Engineer's administrative duties for each aquifer, e. declare administrative non-compliance across multiple State Engineers since 1985, f. protect existing well owners through moratoriums, monitoring, reporting, and injury prevention measures. 6. Judicial intervention is necessary because the statutory and judicial procedures designed to ensure lawful administration of the Denver Basin Aquifer have never been implemented. Only Water Court can correct these long-standing failures and prevent further injury to existing and newly permitted well owners. **SECTION V - REQUESTED RELIEF: A. Exercise of Retained Jurisdiction for Each Aquifer** 1. The Applicant respectfully requests that the Water Court exercise retained jurisdiction for each hydro stratigraphic aquifer within the Denver Basin Aquifer. Retained jurisdiction is necessary because actual aquifer conditions have differed from the 100-year Rule used to calculate annual pumping amounts, and because the State Engineer has never invoked retained jurisdiction for any of the aquifers contained within the Denver Basin Aquifer despite clear statutory and judicial requirements. **B. Determination of Actual Aquifer Characteristics** 1. The Applicant respectfully requests that the Court order the determination of actual aquifer characteristics for each aquifer within the Denver Basin Aquifer, including but not limited to: a. saturated thickness, b. transmissivity, c. decline rates, d. recharge characteristics, where applicable, e. aquifer-specific performance over time. 2. These determinations should be based on existing data and any additional data the Court deems necessary to ensure accurate administration. **C. Adjustment of Annual Pumping Amounts** 1. The Applicant respectfully requests that the Court adjust annual pumping amounts for each aquifer and sub-aquifer as required to conform to actual characteristics. Adjustments may include: a. reductions in annual pumping where declines exceed the 100-year Rule, b. stabilization measures where aquifer conditions require protection, c. any other modifications necessary to prevent further injury to existing well owners and newly approved permit owners. **D. Clarification of the State Engineer's Administrative Duties** 1. The Applicant respectfully requests that the Court clarify the State Engineer's duties for each aquifer contained within the Denver Basin Aquifer, included but not limited to: a. administer each aquifer in conformity with Water Court decrees, b. discontinue reliance on the 100-year Rule where contradicted by actual data, c. notifies well owners when aquifer conditions materially change, d. initiate or participate in retained jurisdiction proceedings when required to prevent injury, e. maintain aquifer-specific monitoring and reporting, f. refrain from issuing permits or approvals that cause or contribute to injury. **E.**

**Declaration of Administrative Non-Compliance** 1. The Applicant respectfully requests that the Court declare that the State Engineer has failed to: a. implement C.R.S. 37-92-305(11), b. conform administration to Water Court decrees, c. adjust pumping to actual aquifer conditions, d. invoke retained jurisdiction. 2. These failures have persisted across multiple State Engineers since 1985, resulting in systemic injury to existing well owners across all affected aquifers. 3. This declaration is necessary to correct long-standing misadministration and to ensure that future administration conforms to law.

**F. Protection of Existing Well Owners, and Newly Approved Permit Owners** 1. The Applicant respectfully requests that the Court enters orders necessary to immediately protect existing well owners and newly approved permit owners from further injury, including but not limited to: a. moratorium on new well permits, ordering the State Engineer to cease and desist the approval of any well permits into any of the aquifers in the Denver Basin Aquifer, until the Court determines whether additional wells will further injure existing well owners, b. moratorium on the construction of already permitted wells, ordering the State Engineer to cease and desist the construction of any new wells into the Denver Basin Aquifer, including wells permitted since January 1, 2026, until the Court determines whether such construction will further injure existing well owners, c. mandatory aquifer specific monitoring, ordering the State Engineer to do quarterly monitoring of saturated thickness, static water levels, and aquifer performance for each aquifer and sub-aquifer, d. mandatory public reporting, ordering the State Engineer to publicly report aquifer specific data to all affected well owners, e. injury prevention thresholds, ordering the State Engineer to establish aquifer specific thresholds that automatically trigger administrative or judicial action, f. prohibition on uncompensated injury, ordering that no administrative action may cause or contribute to uncompensated injury to existing well owners, g. judicial approval for any expansion of pumping, ordering that any proposed increase in pumping, including new subdivisions, commercial wells, or high capacity wells must be approved by the Court after a finding of no injury. 2. These protections are required because approving new wells in already declining aquifers injures both senior and junior well owners and violates the no-injury Rule.

**G. Any Other Relief the Court Deems Just and Proper** 1. The Applicant respectfully requests that the Court grant such additional or alternative relief as may be necessary to: a. protect existing well owners, b. enforce statutory and judicial mandates, c. correct administrative failures, d. ensure lawful administration of each of the aquifers within the Denver Basin Aquifer. 2. Judicial intervention is necessary because the mechanisms designed to ensure lawful administration have never been used in over 40 years. **EXHIBITS: Exhibit IA** - August 5, 1993 Exempt Well Data Sheet 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.) This Sheet contains the well Applicant's Receipt No. (354488) for his well application, which is also attached for verification. **Exhibit 1B** - September 11, 2018 Beerock Aquifer Evaluation Determination Tool Report and well permit, approved September 13, 2018. On the well permit, under Conditions of Approval, the first NOTE under Condition 8.) states: Expired permit no. 171728 was previously issued for this lot. The same permit no. listed on the well application in **Exhibit IA**. **Exhibit IC** - Comparison Table 1993 vs 2018 Included in SECTION 111.A. **Exhibit 2A** - Water Division 1, Case No. 92CW055. Water Division 2, Case No. 92CW98. **Exhibit 2B** - Arrowwood IV Field Inspection Report. **Exhibit 2C** - Division 1 Engineer's Summary of Consultations dated August 27, 1992 and

September 30, 1992. **Exhibit 3A** - Firetree Corporation Decree - Water Division 1 Case No. 93CW147, Water Division 2 Case No. 93CW75. **Exhibit 3B** King's Deer Development, LLC, Foxtail Golf, LLC, King's Deer Highlands HOA, Inc, Decree - Water Division 1 Case No. 94CW144(A) and (B), Water Division 2 Case No. 94CW49(A) and (B). **Exhibit 3C** - the Northgate Company/Great Divide Water Company/Arrowwood Developmental Corporation/Bent Tree Subdivision Decree - Water Division 1 Case No. 96CW225, Water Division 2 Case No. 96CW134. **Exhibit 3D** - Assistant State Engineer letters to the El Paso County Planning Department dated June 2, 1997 about King's Deer Filing #7, and June 25, 1998 about King's Deer Highlands Filing No. 3.

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**CASE NO. 2026CW6; Previous Case Nos. 95CW165, 02CW125, 13CW21, 19CW3 – SALVADOR PERALTA AND SALLY PERALTA, 4650 Grove St., Denver, CO 80211, [sjplaveta@gmail.com](mailto:sjplaveta@gmail.com), 303 913 4158**

Application for Finding of Reasonable Diligence

**HUERFANO COUNTY**

**2. Name of Structure:** Galvez Spring Type: Spring. **3. Describe conditional water right:** **A. Date of Original Decree:** 10/30/96 **Case No:** 95CW165 **Court:** Water Court 2. **B. List all subsequent decrees:** 5/22/07 **Case No:** 02CW125; 8/16/13 **Case No:** 13CW21, 19CW3. **Court:** Water Division 2. **C. Legal description:** SW ¼ NE ¼ Section 36, T28S, R70W, 6<sup>th</sup> P.M., Huerfano County, Colorado approximately 2775 ft east of the west line and 3200 ft north of the south line of Section 36. UTM's: 484911 Easting; 4158212 Northing; NAD83. (All attachments to the application are incorporated by reference and may be inspected at the office of the clerk of this Court.) **D. Source of water:** Tributary to Abeyta Creek **E. Appropriation Date:** N/A. **Amount:** 6.57 gpm **F. Use:** Domestic Residence **G. Depth:** N/A **4. Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed:** Residence built in 2000. 1500 gallon cistern placed at site of spring to capture water with overflow to Abeyta Creek & Arkansas River. **5. Claim to make absolute in whole or in part. A. Date water applied to beneficial use:** Oct 30 1996 **Amount:** 8.57 gpm **Use:** Domestic Residence. **B. The application shall include supporting evidence that applicant diverted water in-priority and applied such water to the beneficial uses claimed in the amounts claimed:** **C. Description of place of use where water is applied to beneficial use:** N/A **6. If actual location of the structure is different from the location in paragraph 3.C. above, provide actual description: A. Public Land Survey System (PLSS):** Huerfano County, SW ¼ NE ¼, Section 36, T28S, R70W, 6<sup>th</sup> P.M. **B. Point of Diversion: 1. Location information in UTM format: UTM coordinates:** Easting 484911, Northing 4158212, **Street Address:** US Hwy 160, CR442, LaVeta Acres, LaVeta, CO **Subdivision:** La Veta Acres, **Lot:** 17 **2. Distance from Section Lines:** 3200 feet from south line and 2775 feet from west line **Source of PLSS Information:** Finding of facts and decree of water ct. Engineers report 4/15/2019 **Street Address:** Lot 17, filing #2, La Veta Acre, Huerfano County **Subdivision:** La Veta Acres; **Lot:** 17 **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:** Applicants. **8. Remarks:** N/A

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**CASE NO. 2026CW3025; STATE ENGINEER AND WATER DIV 2 ENGINEER vs. ALLISON VALLEY DEVELOPMENT COMPANY, LLC and ONE LA PLATA, LLC. –**

Complaint for Injunctive Relief, Costs, and Penalties. This case is being listed in the resume to account for the case number in consecutive order.

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**CASE NO. 2026CW3026; Previous Case Nos. 18CW3055, 22CW3086 – UNITED STATES OF AMERICA, c/o U.S.D.A. Forest Service (“Forest Service or Applicant”), Regional Hydrologist, 1617 Cole Boulevard, Building 17, Lakewood, CO 80401**

(Please address all pleadings and inquiries regarding this matter to Applicant’s attorney: Jeffrey N. Candrian, Trial Attorney, U.S. Department of Justice, Environment and Natural Resources Division, 999 18<sup>th</sup> Street, N. Terrace, Suite 600, Denver, CO 80202, (202) 532-3093)

United States of America’s Amended Application for Finding of Reasonable Diligence  
**PUEBLO AND CUSTER COUNTIES**

**2. Background.** In Case No. 18CW3055, the Water Court entered a decree, dated May 27, 2020, granting and approving 1) a plan for augmentation, and 2) a conditional appropriative right of exchange for 25 c.f.s., called the Lake Isabel St. Charles River Exchange. The decreed source of water for the augmentation and exchange is water leased from Pueblo Board of Water Works (“PBWW”). In Case No. 22CW3086, the Water Court entered a decree, dated August 14, 2023, granting an absolute right for a portion on the exchange, in the amount of 3.18 c.f.s., with 21.82 c.f.s. remaining conditional. Here, Applicant seeks a finding of reasonable diligence for the remaining conditional portion of the exchange, under C.R.S. § 37-92-301(4). Applicant is filing this Amended Application for Finding of Reasonable Diligence based on the Court’s June 1, 2026 Minute Order. Applicant filed the original Application on May 26, 2026. **3. Description of Lake Isabel Water Right.** 3.1. Water Right Decreed to Lake Isabel: The Lake Isabel water right was decreed in Case No. 82CW66, District Court, Colorado Water Division 2. The water right is decreed in the amount of 1,036.9 acre-feet, absolute, with an appropriation date of September 28, 1935, from St. Charles River for recreation, fisheries, flood control, and fire suppression. 3.2. Legal Description of Structure: The dam for Lake Isabel (WDID 1503830) is located at a point whence the southwest corner of Section 6, Township 24 South, Range 68 West, bears south 2 degrees 19 minutes east a distance of 1,066.47 feet, SE ¼ SE ¼ Section 1, Township 24 South, Range 69 West, 6<sup>th</sup> P.M. 100 fee from east section line, 700 feet from south section line. UTM 495619 E, 4204136 N (NAD 83). The surface area at the high water line is approximately 35.7 acres. **4. Description of Conditional Right of Exchange:** 4.1. The Lake Isabel St. Charles River Exchange is operated to refill Lake Isabel during times when water is physically available for storage at Lake Isabel and the Lake Isabel water right is out of priority. A map of Lake Isabel 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.). 4.2. Date of Original Decree. May 27, 2020, Case No. 18CW3055. 4.3. Date of Subsequent Decree. August 14, 2023, Case No. 22CW3086. (This case made 3.18 c.f.s. of the exchange absolute with 21.82 c.f.s. remaining conditional.) 4.4. Downstream Terminus: Confluence of the Saint Charles River and the Arkansas River, located in NE 1/4 SE 1/4, in Section 32, T 20 S, R 63 W, 6<sup>th</sup> P.M. WDID 152800, UTM 546995 E, 4235274 N (NAD 83). 4.5. Upstream Terminus: Lake Isabel, described in Paragraph 3.2. 4.6. Date of Appropriation: September 28, 2018. 4.7. Amount: 25 c.f.s., with 21.82 c.f.s. remaining conditional. 4.8. Source of water: Applicant has negotiated a 30-year lease with PBWW. PBWW agrees to deliver transmountain water or other water that is considered totally consumable or suitable for augmentation and replacement purposes under Colorado law, including but not limited to reusable return flows from transmountain water or other fully-consumable water suitable for augmentation and replacement purposes under Colorado Law when the Applicant's water rights would otherwise be out of priority. The water may be released from any of PBWW's sources, including but not limited to water stored at Pueblo Reservoir (located on the Arkansas River in all or portions of Sec. 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, T.20S., R 66W, 6<sup>th</sup> P.M., Sec. 1, 2, 3, 4, 5, 9, 10 and 11, T.21S., R.66W., of the 6<sup>th</sup> P.M., and Sec. 5, 8, 9, 13, 14, 15, 16, 22, 23 and 25, T.20S, R.67W. of the 6<sup>th</sup> P.M. in Pueblo County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6<sup>th</sup> P.M. in Chaffee County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19 and 20, T.9S., R.80W., 6<sup>th</sup> P.M. and Sec. 10, 11, 12, 13, 14 and 15, T.9S., R.81W., 6<sup>th</sup> P.M. in Lake County), Twin Lakes Reservoir (located in all or portions of Sec. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6<sup>th</sup> P.M. in Lake County) and reusable return flows; from direct flow transmountain water rights or from any other reservoir or place from which PBWW may deliver water, the sources of which are at the option of PBWW, as long as they are legally available for augmentation purposes, but such sources do not include Fryingpan-Arkansas Project Water. The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; 04CW130, District Court, Water Div. No. 2; and water rights decreed in Case No. 17CW3050, District Court, Water Div. No. 2. 4.9. Use. The water exchanged into Lake Isabel shall retain the character of the substitute supplies provided by PBWW. As such, the water stored by exchange shall be considered reusable and available for augmentation uses by the Forest Service as decreed herein and limited by the decrees for the exchanged water. 4.10. Exchange Terms and Conditions: 4.10.1. The exchange shall be operated on a daily basis. 4.10.2. The exchange may be operated only at times when a live stream exists between the exchange-from point(s) and the exchange-to point(s) involved. 4.10.3. The amount of

water diverted at the exchange-to point(s) shall not be greater than the amount of water introduced at the exchange-from point(s). 4.10. 4. The rate of exchange to the exchange-to point shall be limited to the physical storable inflow to Lake Isabel. 4.10.5. Except as provided in Paragraph 9.6 of the 18CW3055 decree, the exchange may be operated only when all other water rights, including other appropriative rights of exchange, located between the exchange-from point and the exchange-to point that are senior (based on appropriation date) are satisfied to the extent of their calls, are out of priority, or are otherwise satisfied pursuant to this decree and the agreements described herein. Water rights and exchanges shall not be deemed to be out of priority if they would be able to divert but for the Applicant's diversion under the subject exchange. 4.10.6. The Applicant shall notify and obtain approval from State water administration officials prior to commencing operation of the exchange. 4.10.7. PBWW will not deliver, and Applicant will not use, Fryingpan-Arkansas Project water as a source of augmentation water available under the lease. 4.10.8. As part of its deliveries from PBWW under the lease, the Applicant may receive non-Project water that has been stored previously by PBWW in Pueblo Reservoir. PBWW's storage of non-Project water in Pueblo Reservoir is subject to the terms of its Contract No. 00XX6C0049 with the U.S. Bureau of Reclamation, any extension or amendment of that contract, any new contract with Reclamation, or any space lawfully contracted for in any Pueblo Reservoir Enlargement. PBWW will not deliver under the lease, and the Applicant may not use, non-Project water stored in Pueblo Reservoir by PBWW pursuant to Contract No. 00XX6C0049 for other than municipal and industrial purposes or for use outside of Southeastern Colorado Water Conservation District boundaries, unless otherwise authorized by the Secretary of the Interior or his duly authorized representative for other purposes or places of use. 4.10.9. At times when the exchange described in Paragraph 10 is operating to refill Lake Isabel, the Applicant will ensure that a minimum of 1 cfs of streamflow, as measured at the outlet of Lake Isabel, is passed without storage. Applicant shall maintain a measuring device and record of flows passed without storage to the satisfaction of the Division Engineer. 4.10.10. The Applicant will only operate the exchange (1) to store water in Lake Isabel to replace evaporative losses; (2) to replace water released to satisfy downstream obligations; or (3) to replace water required to be released for purposes of maintenance or repair of Lake Isabel. Water stored pursuant to this exchange shall be limited to uses in Lake Isabel or pursuant to this plan for augmentation. **5. Evidence of Reasonable Diligence.** In the six years preceding the filing of this Application, the Forest Service performed the following activities toward the development of the conditional right of exchange decreed in Case No. 18CW3055 and continued in Case No. 22CW3086: 5.1. The Forest Service stored, released, and refilled Lake Isabel following the terms outlined in Case No. 18CW3055 in 2020 and 2022-2025. There was no call on the St. Charles River from a senior water right in 2021; therefore, no releases were made to the St. Charles River and no exchanges were necessary. 5.2. The Forest Service, in collaboration with the Colorado Division of

Water Resources, created an accounting spreadsheet that includes the daily administrative call, daily volume of out-of-priority depletions, amount of augmentation required, location and source of the augmentation supplies, reservoir storage, surface area and volume, evaporative losses to be augmented, stored native flows, water stored by exchange, releases of augmentation water previously stored by exchange, and delivery location of the PBWW water being provided as an augmentation source. The spreadsheet is uploaded into the Colorado DNR Portal annually. 5.3. The Forest Service paid PBWW \$384,772 for eight years of augmentation water, which will supply water through 2029. 5.4. The Forest Service communicated with the holder of senior water rights on Dotson Ditch on numerous occasions to discuss the timing and flow rate of releases from Lake Isabel and to communicate when refill operations would occur through exchange once the call was released from the Dotson Ditch. 5.5. The Forest Service obtained approval from the Division 2 Engineer's Office prior to commencing operation of the exchange, as required in Paragraph 10.7.6 of the 18CW3055 decree. 5.6. The Forest Service ensured a minimum of 1 c.f.s. of streamflow, measured at the outlet of Lake Isabel, was passed without storage when the exchange was operating to refill Lake Isabel. 6. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored or delivered to: Lake Isabel is located on land owned and managed by the Applicant. WHEREFORE, the Applicant requests a decree finding that the Applicant has been reasonably diligent in the development of the conditional appropriative right of exchange for Lake Isabel decreed in Case No. 18CW3055 and continued in 22CW3086, and continuing the 21.82 c.f.s. conditional right of exchange in full force and effect for six years from the month in which a final decree is entered in this case.

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**CASE NO. 2026CW3027; Previous Case No. 21CW3042 – CABIN CREEK CONSTRUCTION, Inc., c/o Donman Hart, 10760 Chiming Bell Circle, Peyton, Colorado 80831 (719) 660-1662** (Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Chris D. Cummins, W. James Tilton, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, Colorado 80921 (719) 471-1212)

Application for Amendment of Decree Adjudicating Denver Basin Groundwater

**EL PASO COUNTY**

II. Applicant seeks to amend the decree entered in Case No. 21CW3042, District Court, Water Division 2, dated February 11, 2022 ("21CW3042 Decree") to remove eight (8) annual acre-feet of the adjudicated Arapahoe aquifer groundwater Applicant was conveyed with the land described herein in order to supply up to eight (8) exempt wells on the property. The 21CW3042 Decree adjudicated groundwater rights underlying approximately 850 acres of land. This included land in the E½ SW¼, NW¼ SW¼, and

N½ of Section 17, the S½ NE¼ , SE¼ NW¼ , and the NE¼ SW¼ of Section 19, and the W½ SE¼ of Section 20, all in Township 13 South, Range 60 West of the 6<sup>th</sup> P.M., located in El Paso County, Colorado, and labeled as Parcels A-F, as shown on **Exhibit A** attached to the application (“Decree Property”) (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The 21CW3042 Decree adjudicated all of the Arapahoe and Laramie-Fox Hills aquifer water underlying the Decree Property. The adjudication of the Arapahoe aquifer eliminated the ability to utilize any of the Arapahoe aquifer groundwater for exempt well permits pursuant to § 37-92-602, C.R.S. On November 13, 2025, Applicant purchased approximately 440 acres of land that was a part of the Decree Property, being Parcel A on the attached **Exhibit A**. This parcel is located in the E½ SW¼, NW¼ SW¼, and N½ of Section 17, Township 13 South, Range 60 West of the 6<sup>th</sup> P.M., El Paso County, Colorado, also known as n/a N. Ramah Highway, Yoder, CO 80864 and Ramah Hwy, Yoder, CO 80864, as described in **Exhibit B**, recorded at El Paso County Reception No. 225098981 (“Applicant’s Property”). Included with the purchase of Applicant’s Property was a portion of the groundwater rights in the not-nontributary Arapahoe, the not-nontributary 4% Arapahoe, and the nontributary Laramie-Fox Hills aquifers subject of the 21CW3042 Decree, including the following:

Aquifer	Net Sand (ft)	Total Withdrawal (Acre-Feet)	Annual Withdrawal Over 100 Years (Acre-Feet)	Average
Arapahoe (NNT)	90	4,180	41.7	
Arapahoe (NNT – 4%)	90	2,560	25.5	
Laramie-Fox Hills (NT)	200	13,200	132	

These groundwater rights were transferred to Applicant with the purchase of Applicant’s Property as detailed in the Corrective Quitclaim Deed recorded at El Paso County Reception No. 226042894. **Exhibit C. III. Requested Amendment to 21CW3042 Decree.** Applicant seeks to remove and vacate a total of 800 acre feet, or eight (8) annual acre-feet, of not-nontributary Arapahoe aquifer water underlying the Applicant’s Property from the 41.8 annual acre-feet adjudicated for Applicant’s Property in the 21CW3042 Decree so that exempt well permits may be issued for Applicant’s Property pursuant to § 37-92-602(1)(b), C.R.S. In order for an exempt well permit to be issued, sufficient water has to be made available to supply such well. As all the water is currently locked up in the adjudication of the 21CW3042 Decree, Applicant seeks to remove eight annual acre-feet of the not-nontributary Arapahoe aquifer water deeded to it so that water may be used to supply exempt wells. Pursuant to C.R.C.P. 121, Section 1-15(8), the undersigned counsel certifies that there were no opposers to the underlying Case No. 21CW3042. Applicant was also deeded, as evidenced by **Exhibit C** and the 21CW3042 Decree, 25.6 annual acre-feet of not-nontributary 4% Arapahoe aquifer groundwater, and 132 annual acre-feet of Laramie-Fox Hills aquifer groundwater. Applicant does not seek to amend the 21CW3042 Decree in regard to the not-nontributary 4% Arapahoe or the nontributary

Laramie-Fox Hills groundwater Applicant acquired with the overlying land. Applicant seeks no other amendments to the 21CW3042 Decree. **IV.** Applicant hereby certifies and affirms that there are no lienholders on this property, rendering the lienholder notice provisions set forth in § 37-92-302(2)(b) and § 37-90-137(4)(b.5)(I), C.R.S., inapplicable to this application.

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**CASE NO. 2026CW3028; Previous Case No. 18CW3014 – JOHN AND MELISSA HIGHTOWER, P.O. Box 1000, 232 F St., Salida, CO 81201** (Please address all

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

Application for Findings of Reasonable Diligence

**FREMONT COUNTY**

**2.** Structures and conditional water rights: Water rights adjudicated in Case No. 18CW3014, dated May 13, 2020, Water Div. 2: a. Hightower Barn Pond: 1). Legal description: see Water Structures Location Map attached to the application. (All attachments mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) NW1/4 SE1/4 of Section 27, T.49N., R.9E., N.M.P.M., at UTM coordinates Easting 0416466 m, Northing 4258120 m, Zone 13 S, approximately 1562’ from the South line and 1,428’ from the east line. 2). Source: Bear Creek via the Dewitt Ditch No. 1, which diverts from Bear Creek in the SW1/4SE1/4 of Section 27, T.49N. R.9E., N.M.P.M.; and groundwater tributary to Bear Creek. Hightower Barn Pond is an off-channel structure. 3). Date of appropriation: August 31, 1997. 4). Amount: 0.5743 a.f. conditional, with the right to fill and refill. 5). Uses: fish culture, recreation, and piscatorial purposes. 6). Surface area of high water line: 0.1093 acres. The dam is approximately 4 feet high and 140 feet in length. Total capacity – 0.5743 a.f. all of which is active storage. b. Hightower Cabin Pond: 1). Legal description: SW1/4 SE1/4 of Section 27, T.49N., R.9E., N.M.P.M., at UTM coordinates Easting 0416429 m, Northing 4257950 m, Zone 13 S, which is approximately 1,009’ from the south line and 1,500’ from the east line. 2). Source: unnamed creek fed by a spring that is tributary to Bear Creek, a tributary of the Arkansas River. 3). Date of appropriation: August 31, 1997. The appropriation was initiated by the construction of the pond no later than this date. 4). Amount: 0.1525 a.f. conditional, with the right to fill and refill. 5). Uses: fish culture, recreation, and piscatorial purposes. 6). Surface area of high water line: 0.0386 acres. The dam is approximately 4 feet high and 60 feet in length. Total capacity: 0.1525 a.f., of which 0.0009 a.f. is dead storage. **3.** Outline of what has been done toward completion of the appropriation and application of water to a beneficial: Applicants stored water in the ponds pursuant to a substitute water supply plan approved prior to the entry of the decree in Case No. 18CW3014 and obtained approval of an augmentation plan in Case No. 18CW3014 that will allow out-of-priority storage of water in these ponds. A 2019 wildfire that burnt much

of the property around these ponds and destroyed the structures around the Cabin Pond impacted Applicants' ability to operate the augmentation plan and place the water from these structures to beneficial use pursuant to that augmentation plan. As required by the decree in Case No. 18CW3014, in May through July of 2020 Applicant pursued and obtained well permit number 84545-F for the Hightower Barn Pond. In 2025 John Hightower filed an application in Case No. 25CW3011 and obtained findings of diligence for and made absolute part of the water right for the Hightower Spring No. 1 that supplies the Hightower Cabin Pond. In April 2026 John Hightower visited the structures to re-establish the operation of the augmentation plan. Applicants expended over \$12,000 in legal fees to pursue Case No. 25CW3011 and over \$500.00 to pursue the application in this case. Applicants have maintained their intent to pursue the conditional water rights and place the water to beneficial uses. **4.** Names and addresses of owners or reputed owners of the land upon which water is or will be stored, including any modification to the existing storage pool: Applicants. Applicants request a determination that they have exercised reasonable diligence in the development and completion of the conditional water rights and continuing the water rights.

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**CASE NO. 2026CW3029 - HAVEN EDUCATION, A COLORADO NONPROFIT CORPORATION, c/o Emily Hill, 5490 Burgess Road, Colorado Springs, CO 80908**

(Please address all pleadings and inquiries regarding this matter to Applicant's attorneys: Ryan W. Farr, Sedona E. Chavez, Monson, Cummins, Shohet & Farr, LLC, 13511 Northgate Estates Drive, Suite 250, Colorado Springs, CO 80921 (719) 471-1212) Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation

**EL PASO COUNTY**

**II.** Applicant owns a 27.45-acre parcel of land and seeks 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 SE¼ of Section 13, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M., El Paso County, Colorado ("Applicant's Property") as approximately shown on **Exhibit A** map attached to the application and as more specifically described in attached **Exhibit B**. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The street address for the Applicant's Property is 5490 Burgess Road, Colorado Springs, CO 80908 and the El Paso County Assessor has assigned parcel ID no. 6213000037 to the Applicant's Property. **Existing Wells.** There are two existing wells on the Applicant's Property that are registered with Division of Water Resources Permit Nos. 140831 ("Haven Well No. 1") and 29120-A ("Haven Well No. 2"). Haven Well Nos. 1 and 2 are drilled to depths of approximately 360 and 320 feet, respectively, to the Dawson aquifer. Upon approval of the plan for augmentation requested herein, Haven Well Nos. 1 and 2 will be re-permitted accordingly. The approximate locations of Haven Well Nos. 1 and 2 can be seen on the attached **Exhibit A**. Applicant notes that the actual location of Haven Well No. 2 does not align with its permitted location, which will be corrected when Haven Well No. 2 is re-permitted according to the plan for augmentation requested herein. **Proposed Wells.** 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, Denver, and Arapahoe 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 and Arapahoe aquifers 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 Laramie-Fox Hills aquifer 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. 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:

Upper Dawson (NNT – actual)	144.60	793.85	7.93
Denver (NNT – 4%)	399.50	1864.27	18.64
Upper Arapahoe (NNT – 4%)	262.30	1224.02	12.24
Laramie-Fox Hills (NT)	189.50	780.27	7.80

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; dust suppression; use of water in hot tubs, pools, and/or water features; use of water in kitchen facilities; use of water in schools; 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, Denver, and Arapahoe aquifers pursuant to a decreed augmentation plan entered by this Court, covering the out-of-priority stream depletions caused by the use of such not-nontributary 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, Haven Education. **IV. Structures to be Augmented**. The structures to be augmented are the Haven Well Nos.1 and 2 on Applicant's Property, along with any replacement or additional wells associated therewith, which are completed to the Dawson aquifer, in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 13, Township 12 South, Range 66 West of the 6<sup>th</sup> 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 Dawson aquifer from Haven Well Nos. 1 or 2, along with any additional or replacement wells associated therewith, on Applicant's Property, together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post-pumping depletions. Statement of Plan for Augmentation. Applicant seeks to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer by the Haven Well Nos. 1 and 2 on Applicant's Property described herein. Water use criteria and their consumptive use component for replacement of actual depletions for the Applicant's Property are estimated as follows: Uses. Pumping from the Dawson aquifer will be a maximum of 3.167 acre-feet of water per year total from Haven Well Nos. 1 and 2. Such uses shall be for domestic; commercial; agricultural; irrigation; watering of stock and domestic animals; recreation; dust suppression; use of water in hot tubs, pools, and/or water features; use of water in kitchen facilities; use of water in schools; and for storage and augmentation purposes associated with such uses. Amounts. The Haven Well Nos. 1 and 2 will pump a maximum of 3.167 acre-feet from the Dawson aquifer annually, for the uses described above. An example breakdown of this combination of use is in-school (indoor) use of up to 0.497 acre-feet of water per year (assuming up to 150 students and 20 faculty, at 180 school days per year, with daily water demand per person at 5.29 gallons/day) for the primary school building on Applicant's Property, with current in-school (indoor) use of 0.408 acre-feet per year (130 students and 18 faculty, at 180 school days per year, with daily water demand per person at 5.29 gallons/day). The remaining available Dawson aquifer groundwater under this plan for augmentation, 2.67-2.759 acre-feet, will be available for any other additional, decreed uses. See attached **Exhibit C**, showing an approximate breakdown of annual water uses and demands, which was prepared by Applicant's engineering consultant. Depletions. Withdrawals from the Dawson aquifer by the Haven Well Nos. 1 and 2 require replacement of actual stream depletions, pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(B). It is estimated that maximum stream depletions over the 100-year pumping period for the Dawson aquifer amounts to approximately 11.50% of pumping. Maximum annual depletions for total pumping from the Haven Well Nos. 1 and 2 are therefore 0.364 acre-feet (i.e. 11.50% of pumping). Should Applicant's pumping be less than the 3.167 acre-feet total per year described herein, resulting depletions and

required replacements will be correspondingly reduced. See attached **Exhibit D**, showing estimated depletion rates associated with the proposed Dawson aquifer withdrawals, which was prepared by Applicant's engineering consultant. Augmentation of Depletions During Pumping. Pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(B), Applicant is required to replace actual stream depletions caused by withdrawals of the Dawson aquifer on an annual basis. Depletions during pumping will be effectively replaced by return flows generated by a non-evaporative septic system associated with indoor uses within the primary school building on the Applicant's Property. The annual consumptive use for non-evaporative septic systems is 10%. At an estimated conservative indoor school use rate of 0.408 acre-feet per year, assuming the current school population of 130 students and 18 faculty and no expansion of operations, 0.367 acre-feet is replaced to the stream per year from the primary school building, assuming the use of a non-evaporative septic system. Thus, during pumping, stream depletions (0.364 acre-feet per year) will be adequately augmented. If indoor school use increases, non-evaporative septic return flows during pumping will remain sufficient under the requested plan for augmentation. Augmentation for Post-Pumping Depletions. For the replacement of any injurious post-pumping depletions that may be associated with the use of the Haven Well Nos. 1 and 2, Applicant will reserve up to 316.7 acre-feet of the water from the underlying Laramie-Fox Hills 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 Laramie-Fox Hills 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 new well permits for Haven 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.** This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system, where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter in Water Division 2 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient. Applicant requests a finding that it has complied with C.R.S. § 37-90-137(4), and that the groundwater requested herein is legally available for withdrawal by the nontributary Haven 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.

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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 July 2026, (forms available at Clerk's office or at [www.coloradojudicial.gov](http://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.

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Witness my hand and the seal of this Court this 8<sup>th</sup> day of June 2026.

*Michele Santistevan*

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



(Court seal)  
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