

**Consent Agenda Item 1.k**

March 20-21, 2019 Board Meeting

Case No. 18CW3077 (Water Division 2); Colorado Division of Parks and Wildlife

**Summary of Water Court Application**

This is an Application for conditional and absolute groundwater rights, water storage rights, appropriative rights of exchange, and approval of a plan for augmentation.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2019 to protect CWCB's instream flow water rights.

**CWCB Instream Flow Water Rights**

The CWCB holds water rights, including the following instream flow water right(s) in Water Division 2 in the Upper Arkansas Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
95CW0233	Fourmile Creek	confl Oil Creek	confl Hay Creek	1.5 (9/15 - 3/14) 3.5 (3/15 - 9/14)	11/06/1995
00CW0101 to 00CW0106	Fourmile Creek	confl Barnard Creek	confl Wilson Creek	2.75-9.5 (dates vary)	01/26/2000

**Potential for Injury**

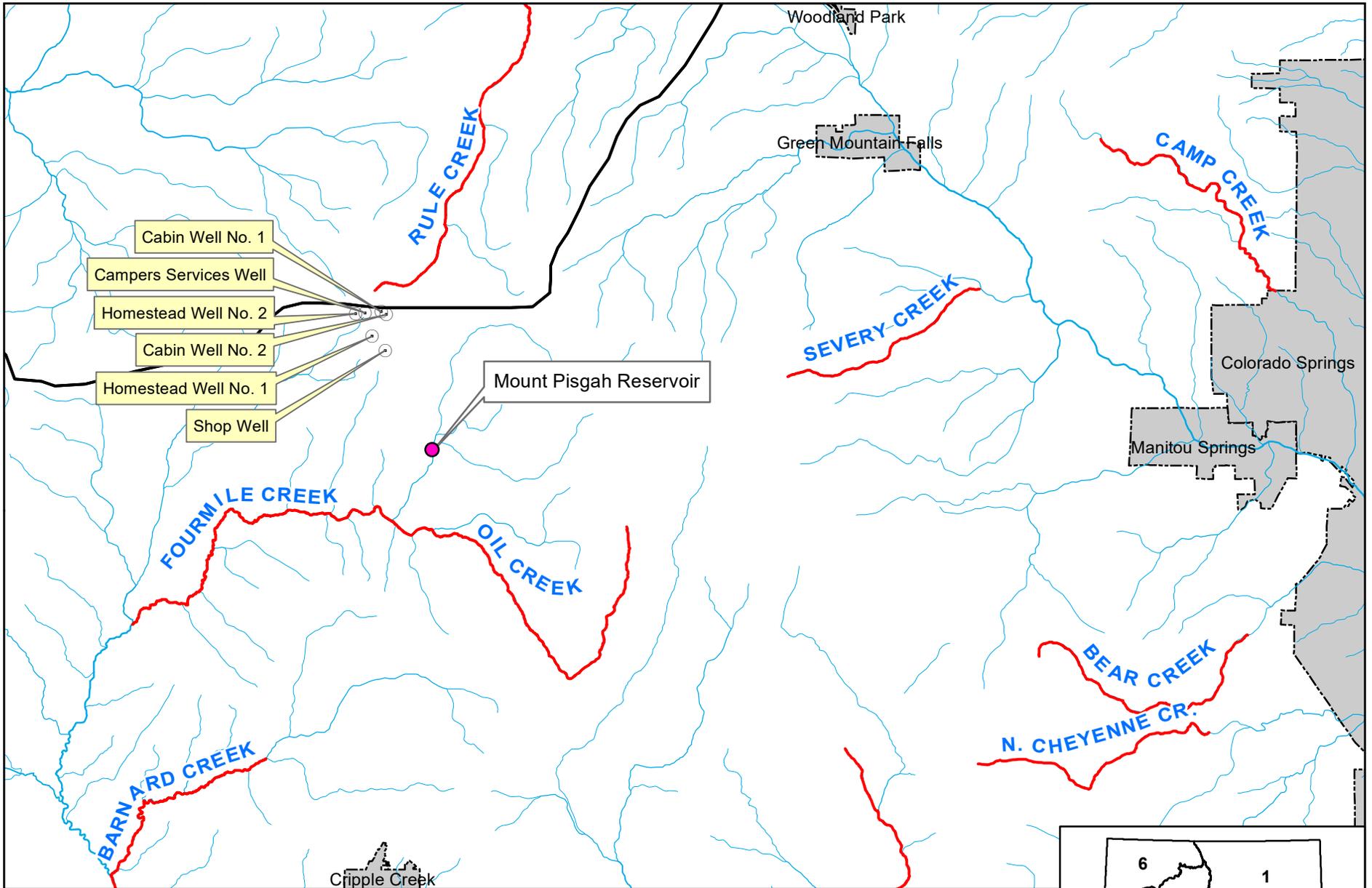
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- Some of the water rights are claimed with senior appropriation dates. The instream flow water rights might be subject to these water rights under C.R.S. 37-92-102(3)(b) if the claimed senior uses are sufficiently documented.
- The administrative exchange under Applicant's proposed augmentation plan should be defined clearly with a reference to intervening instream flow water rights so that the CWCB's instream flow water rights are not injured.
- Any use of book-overs or paper exchanges described in the application should be limited in the same way as a physical exchange and should not occur if instream flows in the intervening stream reach are not met.

**Other Objectors**

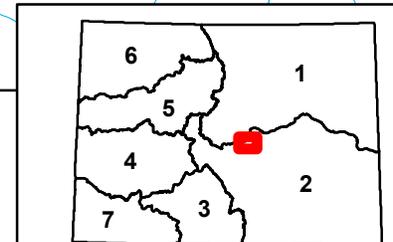
Statements of Opposition were also filed by B Lazy M Ranch Owners Association, Canon Heights Irrigation and Reservoir Company, Catlin Canal Company, Pisgah Reservoir and Ditch Company, City of Aurora, City of Cripple Creek, City of Florence and City of Canon City, and Deer Mountain Ranch Conservation Association.

**Attorney Representing CWCB**

Marc D. Sarmiento, Assistant Attorney General, is assigned to this case and can be contacted at marc.sarmiento@coag.gov, or 720-508-6429.



March 20-21, 2019 CWCB Board Meeting  
 Consent Agenda Item 1.k: Statement of Opposition  
 Case No. 18CW3077 (Water Division 2)  
 Colorado Div. of Parks and Wildlife



DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

RESUME OF CASES FILED AND/OR ORDERED PUBLISHED DURING DECEMBER 2018 AND INVITATION TO JOIN STATE ENGINEER'S SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST AND/OR THE STATE ENGINEER'S PRODUCED NONTRIBUTARY GROUND WATER NOTIFICATION LIST

TO: ALL INTERESTED PARTIES

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following is a resume of applications and certain amendments filed and/or ordered published during December 2018, 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:

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**CASE NO. 2018CW3077 - COLORADO DIVISION OF PARKS AND WILDLIFE AND THE PARKS AND WILDLIFE COMMISSION, 6060 Broadway, Denver, CO 80216**

(Please address all correspondence and inquiries regarding this matter to: Heather A. Warren, (720) 508-6266 heather.warren@coag.gov; Elizabeth M. Joyce, (720) 508-6429 elizabeth.joyce.@coag.gov, Joseph G. Phillips, (720) 508-6265 joe.phillips@coag.gov, Assistant Attorneys General, 1300 Broadway, 7th Floor, Denver CO 80203.)

Application for Conditional and Absolute Ground Water Rights, Water Storage Rights, Appropriative Rights of Exchange, and Approval of Plan for Augmentation

**TELLER AND PUEBLO COUNTIES**

**2. General Description of Application.** CPW owns and manages Mueller State Park, located west of Pikes Peak along State Highway 67, approximately 3.5 miles south of Divide, Colorado. CPW seeks absolute and conditional water rights for recreational, commercial and other beneficial uses for six ground water wells and six ponds at Mueller State Park and approval of a plan for augmentation and conditional appropriative rights

of substitution and exchange to replace out-of-priority depletions resulting from operation of the wells and ponds located in the Park. **FIRST CLAIM – GROUND WATER RIGHTS.**

**3. Application for Ground Water Rights.** CPW seeks absolute and conditional ground water rights for the following wells for uses within Mueller State Park, including for fire protection (referred to collectively as the “Mueller SP Wells”). Mueller SP Wells deplete both Hay Creek and Fourmile Creek; CPW seeks rights to withdraw up to 10 AF annually from those wells depleting Hay Creek, and to withdraw up to 10 AF annually from those wells depleting Fourmile Creek, but CPW will not withdraw more than 10 AF annually from all wells combined. Maps depicting the locations of the Mueller SP Wells are attached to the Application as Exhibit A. The well permits are attached to the Application as Exhibit B. (All exhibits mentioned herein are incorporated by reference and may be inspected at the office of the clerk of this Court.) The Mueller SP Wells are not the subject of or included in any prior decree.

**a. Shop Well:** Well Permit No. 295986. i. Legal description of point of diversion: NWNW Sec. 36, T13S, R70W, 6th P.M., Teller County, Colorado, feet from the Section Line and feet from the Section Line (UTM Coordinates: 1983 Zone 13 E: 484601; N: 4303722). ii. Source: Ground water tributary to Fourmile Creek, tributary to the Arkansas River. iii. Depth of well: 100 feet. iv. Date of appropriation: October 20, 2014. v. How appropriation was initiated: By application of water to commercial use; for livestock watering, by CPW’s formation of the intent to use the water and filing of the application in this case. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE for commercial use; 15.0 g.p.m. CONDITIONAL for livestock watering. vii. Date water applied to beneficial use: October 20, 2014, for commercial use.

**b. Homestead Well No. 1:** Well Permit No. 277383. i. Legal description of point of diversion: SESE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484230.7; N: 4304094.5). ii. Source: Ground water tributary to Hay Creek, tributary to the Arkansas River. iii. Depth of well: 400 feet. iv. Date of appropriation: May 2, 2008. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: May 2, 2008.

**c. Homestead Well No. 2:** Well Permit No. 277385. i. Legal description of point of diversion: NWSE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 483776.5; N: 4304733.4). ii. Source: Ground water tributary to Hay Creek, tributary to the Arkansas River. iii. Depth of well: 150 feet. iv. Date of appropriation: May 2, 2008. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: May 2, 2008.

**d. Cabin Well No. 1:** Well Permit No. 254253. i. Legal description of point of diversion: SENE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484482; N: 4304773). ii. Source: Ground water tributary to Fourmile Creek, tributary to the Arkansas River. iii. Depth of well: 300 feet. iv. Date of appropriation: December 2, 2003. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: December 2, 2003. viii. Other remarks: The well permit for this well erroneously states that the structure is located in Water Division 1; however, based on the UTM coordinates listed on the well permit this well is located in Water Division 2.

**e. Cabin Well No. 2:** Well Permit No. 24250. i. Legal description of point of diversion: NWSW Sec. 25, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484616; N: 4304691). ii. Source: Ground water tributary to Fourmile

Creek, tributary to the Arkansas River. iii. Depth of well: 300 feet. iv. Date of appropriation: December 2, 2003. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: December 2, 2003. viii. Other remarks: The well permit for this well erroneously states that the structure is located in Water Division 1; however, based on the UTM coordinates listed on the well permit this well is located in Water Division 2. f. **Camper Services Well**: No well permit. i. Legal description of point of diversion: SWNE Sec. 26, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484020.6; N: 4304739.5). ii. Source: Ground water tributary to Hay Creek, tributary to the Arkansas River. iii. Depth of well: 150 feet. iv. Date of appropriation: January 5, 2018. v. How appropriation was initiated: By application of water to commercial use. vi. Amount claimed: 15.0 g.p.m. ABSOLUTE. vii. Date water applied to beneficial use: January 5, 2018. viii. Other remarks: This well does not have a well permit. **SECOND CLAIM – WATER STORAGE RIGHTS. 4. Application for Water Storage Rights**. CPW seeks absolute and conditional water storage rights for the following ponds (referred to collectively as the “Mueller SP Ponds”). Maps depicting the locations of the Mueller SP Ponds are attached to the Application as Exhibit A. The Mueller SP Ponds are not the subject of or included in any prior decree. **CLAIM 1**: CPW claims CONDITIONAL water storage rights for each of the Mueller SP Ponds for augmentation and exchange uses in the amount claimed for the capacity of each pond, with an appropriation date of December 31, 2018. Appropriation was initiated by CPW’s formation of the intent to use the water for the claimed conditional uses and filing of the application in this case. **CLAIM 2**: CPW claims ABSOLUTE water storage rights for each of the Mueller SP Ponds for commercial, livestock watering, aesthetic, recreational, wildlife, piscatorial and fire protection uses, with an appropriation date of June 1, 1980. Appropriation was initiated by CPW’s acquisition of the Mueller State Park property and ponds, and use of the ponds for the claimed absolute uses. Water was applied to the claimed absolute beneficial uses as of June 1, 1980. a. **Dragonfly Pond**. i. Location of dam centerline: NENW Sec. 36, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 484964.9; N: 4303608.7). ii. Source: Unnamed tributary to Fourmile Creek, tributary to the Arkansas River. iii. Amount claimed: 1.15 acre-feet, with one refill. iv. Surface area of high water line: 0.41 acres. v. Total capacity: 1.15 AF (active capacity: 1.15 AF; dead storage: 0.00 AF). b. **Geer Pond**. i. Location of dam centerline: NWNW Sec. 35, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 483033.3; N: 4303670.1). ii. Source: Unnamed tributary to East Hay Creek and Hay Creek, tributary to the Arkansas River. iii. Amount claimed: 4.40 acre-feet, with one refill. iv. Surface area of high water line: 1.23 acres. v. Total capacity: 4.40 AF (active capacity: 4.40 AF; dead storage: 0.00 AF). c. **Rock Pond**. i. Location of dam centerline: NESE Sec. 34, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 482642.6; N: 4302911.3). ii. Source: Unnamed tributary to East Hay Creek and Hay Creek, tributary to the Arkansas River. iii. Amount claimed: 2.94 acre-feet, with one refill. iv. Surface area of high water line: 0.58 acres. v. Total capacity: 2.94 AF (active capacity: 2.94 AF; dead storage: 0.00 AF). d. **Brook Pond**. i. Location of dam centerline: NESE Sec. 34, T13S, R70W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 482895.0; N: 4302892.2). ii. Source: Unnamed tributary to East Hay Creek and Hay Creek, tributary to the Arkansas River. iii. Amount claimed: 5.02 acre-feet, with one refill. iv. Surface area of high water

line: 0.84 acres. v. Total capacity: 5.02 AF (active capacity: 5.02 AF; dead storage: 0.00 AF). e. **Entrance Pond – East**. i. Location of dam centerline: SWSW Sec. 30, T13S, R69W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 486257; N: 4304109). ii. Source: Unnamed tributary to Four Mile Creek, tributary to the Arkansas River. iii. Amount claimed: .038 acre-feet, with one refill. iv. Surface area of high water line: 0.041 acres. v. Total capacity: 0.038 AF (active capacity: 0.038 AF; dead storage: 0.00 AF). f. **Entrance Pond – West**. i. Location of dam centerline: SWSW Sec. 30, T13S, R69W, 6th P.M., Teller County, Colorado (UTM Coordinates: 1983 Zone 13 E: 486228; N: 4304114.6). ii. Source: Unnamed tributary to Four Mile Creek, tributary to the Arkansas River. iii. Amount claimed: 0.055 acre-feet, with one refill. iv. Surface area of high water line: 0.051 acres. v. Total capacity: 0.055 AF (active capacity: 0.055 AF; dead storage: 0.00 AF). **THIRD CLAIM – PLAN FOR AUGMENTATION. 5. Description of Plan for Augmentation**. Applicant seeks to augment out of priority depletions arising from use of the Mueller SP Wells, as well as from any replacement wells or supplemental wells, and out of priority depletions arising from the Mueller SP Ponds or other storage structures located at Mueller State Park, to supply water for commercial, livestock watering, aesthetic, recreational, wildlife, piscatorial and fire protection uses at Mueller State Park. a. **Structures to be Augmented**: i. Mueller SP Wells: The Mueller SP Wells are described above in ¶3. ii. Mueller SP Ponds: The Mueller SP Ponds are described above in ¶4. b. **Sources of Replacement Water**. i. Fully consumable Pueblo Reservoir water stored in Mt. Pisgah Reservoir: Through an agreement with the Board of Pueblo Water Works (“PBWW”), Applicant has the right to use fully consumable water stored in Pueblo Reservoir. The PBWW Water Exchange Agreement is attached to the Application as Exhibit C. Applicant also has an agreement to lease 10 acre-feet of storage space in Mt. Pisgah Reservoir from the Catlin Canal Company. The Catlin Canal Company Agreement for Lease of Storage Space is attached to the Application as Exhibit D. Applicant will store up to 10 acre-feet per year of its Pueblo Reservoir water in Mt. Pisgah Reservoir for use in the augmentation plan. Applicant’s Pueblo Reservoir water will be delivered to Mt. Pisgah Reservoir by use of a book-over or paper exchange of water from Pueblo Reservoir. Under the foregoing agreements, Applicant’s water stored in Pueblo Reservoir will be transferred on paper to Mt. Pisgah Reservoir and an equivalent amount of water will be stored in Mt. Pisgah Reservoir. The dam for Mt. Pisgah Reservoir is located across the natural stream bed of Four Mile Creek situated in the E1/2NW1/4 of Section 31, T14S, R70W, 6th P.M., Teller County, Colorado. The Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, in T20S, R66W, and Sections 1, 2, 3, 4, 5, 9, 10 and 11, in T21S, R66W, and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25, in T20S, R67W, 6th P.M., Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, T20S, R66W of the 6th P.M., from which the NE corner of said Section bears N 61° 21' 20" E, a distance of 2,511.05'. ii. Mueller SP Ponds: Mueller SP Ponds are described above in ¶4. iii. Additional replacement sources. Water from additional and alternative sources may be used in this plan for augmentation if such sources are decreed or lawfully available for such use or are part of a substitute water supply plan approved by the State Engineer pursuant to §37-92-308, C.R.S., or an interruptible supply agreement approved under §37-92-309, C.R.S., or other applicable and/or successor statutes. c. **Augmentation Plan**. i. Out-of priority depletions may occur

as a result of: a) operation of the Mueller SP Wells; b) evaporative losses from the Mueller SP Ponds; and/or c) storage of natural inflows into the Mueller SP Ponds. Shop Well, Cabin Well No. 1, Cabin Well No. 2, Dragon Fly Pond, Entrance Pond – West, and Entrance Pond – East are located in the Fourmile Creek drainage basin and will deplete Fourmile Creek in the NW 1/4 of Section 31, Township 13 South, Range 69 West of the 6th P.M., Teller County, Colorado. Camper Services Well, Homestead Well No. 1 and Homestead Well No. 2 are located in the Hay Creek drainage basin and will deplete Hay Creek in the SE 1/4 of Section 26, Township 13 South, Range 70 West of the 6th P.M., Teller County, Colorado. Geer Pond is located on Hay Creek and will deplete Hay Creek in the NW 1/4 of Section 35, Township 13 South, Range 70 West of the 6th P.M., Teller County, Colorado. Rock Pond and Brook Pond are located on a tributary to Hay Creek. Rock Pond and Brook Pond will deplete Hay Creek in the SE 1/4 of Section 34, Township 13 South, Range 70 West of the 6th P.M., Teller County, Colorado. ii. Amount of depletions. Applicant estimated gross depletions (i.e., well pumping and pond evaporation) and gross accretions (i.e., septic disposal system returns) to each drainage basin to determine the net depletive effect to each drainage basin resulting from operation of the Mueller SP Wells and Mueller SP Ponds. Net depletions will be calculated by drainage basin by adding septic return flow accretions to gross well pumping and pond evaporative depletions. Estimates were based on expected future water pumping at Mueller SP of 9.4 acre-feet per year, net depletions equal to approximately 1.0 acre-foot per year, and evaporative losses totaling approximately 8.1 acre-feet per year. Of the total depletion (approximately 9.1 acre-feet per year), approximately 7.1 acre-feet per year will occur to Hay Creek and approximately 2.0 acre-feet per year will occur to Four Mile Creek. iii. Timing of depletions. Monthly depletions from the Mueller SP Wells and the Mueller SP Ponds will be lagged to Hay Creek and Fourmile Creek using Glover Method as contained in the Alluvial Water Accounting System (AWAS) model and site specific parameter values. iv. Replacement of depletions. When calls senior to the priority dates of the water rights decreed herein are located below Mt. Pisgah Reservoir, CPW will release its stored water from Mt. Pisgah Reservoir or from Mueller SP Ponds on a daily basis, or on a frequency as requested by the Division Engineer or Water Commissioner, so as to replace the net depletions. When calls senior to the priority dates of the water rights decreed herein are located above Mt. Pisgah Reservoir on either Hay Creek or Four Mile Creek, Applicant will release water from one or more of the Mueller SP Ponds. More specifically, water stored in Dragonfly Pond, Entrance Pond – East, and Entrance Pond - West can be used to replace depletions on Fourmile Creek upstream of Mt. Pisgah Reservoir. Releases from Geer, Rock and Brook Ponds can be used to replace depletions on Hay Creek upstream of Mt. Pisgah Reservoir. v. Measurement of diversions. Mueller SP Ponds will be equipped with staff gages to determine storage volumes, exposed water surface area, and evaporative losses and structures capable of controlling and measuring outflows from the ponds. Inflows to the Mueller SP Ponds will be calculated using a mass balance approach. vi. Replacement water deliveries. CPW will release water from Mt. Pisgah Reservoir or from the Mueller SP Ponds to replace out of priority depletions. At the end of each year of operation, CPW will provide a report to the Division Engineer showing total diversions in that year and depletions caused by those diversions. vii. Transit losses. When replacement water is released at locations upstream of locations of depletions, transit losses will be assessed at the rate prescribed by the Division Engineer.

viii. Accounting. CPW will account for the depletions and amounts of replacement water under this augmentation plan. An accounting report will be submitted to the Division Engineer no later than February 15 annually. The report will contain monthly summaries of the depletions from the Mueller SP Wells and Mueller SP Ponds. The report will also contain a follow-up Glover analysis, using the actual diversions from each year, specifying the actual depletion volumes and dates on which depletions will occur. During years in which replacement releases are made, an accounting report will be provided to the Division Engineer specifying the location, timing, rate, and volume of replacement water releases. ix. No change of water rights. CPW does not seek a change of water rights with this application. x. Appropriative rights of substitution and exchange. In order to operate the proposed plan of augmentation, exchanges will be necessary to move water from Mt. Pisgah Reservoir to the Mueller SP Ponds for subsequent release. The exchanges are claimed in ¶6 below. **FOURTH CLAIM – APPROPRIATIVE RIGHTS OF EXCHANGE. 6. Application for Conditional Appropriative Rights of Exchange. CLAIM 1:** CPW claims a CONDITIONAL appropriative right of exchange from Pueblo Reservoir to Mt. Pisgah Reservoir. **CLAIM 2:** CPW claims CONDITIONAL appropriative rights of exchange from Mt. Pisgah Reservoir to each of the Mueller SP Ponds. **CLAIM 3:** CPW claims CONDITIONAL appropriative rights of exchange from Pueblo Reservoir to each of the Mueller SP Ponds. The exchange rates below are in CFS:

Exchange From	Exchange To						
	Mt Pisgah Reservoir	Rock Creek Pond	Brook Pond	Geer Pond	Dragon Fly Pond	Entranc e Pond - West	Entranc e Pond - East
Pueblo Reservoir	5.00	6.86	6.86	6.86	6.86	6.86	6.86
Mt Pisgah Reservoir	----	6.86	6.86	6.86	6.86	6.86	6.86

a. **Legal description of the structures from which substitute water supplies will be released (exchange from points) and the structures where water will be stored by exchange for subsequent release for augmentation purposes (exchange to points):**

Description	Structure Name	Lat/Long Coordinates	UTM Coordinates	PLSS Location
Exchange-From Point	Pueblo Reservoir	38.268533 -104.725341	E: 524026.8 N: 4235644.6	SWNE of Sec. 36, T20S, R66W
Exchange-From Point	Mt Pisgah Reservoir	38.793971 -105.271490	E: 476424 N: 4293948	SENE of Sec. 31, T14S, R70W
Exchange-To Point	Mt Pisgah Reservoir	38.793971 -105.271490	E: 476424 N: 4293948	SENE of Sec. 31, T14S, R70W
Exchange-To Point	Dragonfly Pond	38.881219 -105.173351	E: 484964.9 N: 4303608.7	NENE of Sec. 36, T13S, R70W
Exchange-To Point	Brook Pond	38.874720 -105.197199	E: 482895 N: 4302892.2	NESE of Sec. 34, T13S, R70W
Exchange-To Point	Rock Pond	38.874886 -105.200104	E: 482642.6 N: 4302911.3	NESE of Sec. 34, T13S, R70W

Exchange-To Point	Geer Pond	38.881733 -105.195627	E: 483033.3 N: 4303670.1	NWNW of Sec. 35, T13S, R70W
Exchange-To Point	Entrance Pond – East	38.885746 -105.158466	E: 486257 N: 4304109	SWSW of Sec. 30, T13S, R69W
Exchange-To Point	Entrance Pond – West	38.885799 -105.158800	E: 486228 N: 4304114.6	SWSW of Sec. 30, T13S, R69W

**b. Exchange reaches:** The claimed exchange reaches are from Pueblo Reservoir to Mt. Pisgah Reservoir, from Mt. Pisgah Reservoir to the Mueller SP Ponds, and from Pueblo Reservoir to the Mueller SP Ponds described above in ¶6.a. **c. Date of initiation of appropriation for the proposed exchanges:** December 31, 2018. **d. How appropriation was initiated:** By formation of intent to appropriate this right of exchange, by filing of the application, and by public notice of the application. **e. Date exchange exercised:** Not applicable. **f. Physical exchange rate claimed.** The combined exchange amount for all structures identified in ¶8.a. will not exceed a combined maximum flow rate of 6.86 c.f.s., or a combined annual maximum volumetric limit of 37.21 acre-feet per year, CONDITIONAL. The rate is based on the rate at which the combined storage in the Mueller SP ponds could be filled in a single day. The volume is based on a single exchange to Mt. Pisgah Reservoir (10.0 acre-feet), and exchanges to twice fill the Mueller SP ponds (27.21 acre-feet). **g. Use or Proposed Use.** The exchanged water will be used for all beneficial uses and purposes for which the water rights identified in ¶3 and ¶4 above are decreed. The substitute supply that the Applicant delivers to the downstream users becomes the water of the downstream users with the same legal characteristics of the water they would have received had the Applicant not conducted the exchanges. The water diverted by exchange by the Applicant will have the same legal characteristics as the water released by the Applicant at the points described above. **h. Substitute Water.** The substituted water identified herein is of a quality and continuity to meet the requirements for which the water of the senior appropriation normally has been used. **7. Integrated System.** The conditional ground water rights and water storage rights and appropriative exchange rights that are the subject of this Application are part of this integrated water system comprising all water rights decreed and used for operation of the Applicant's water supply system for Mueller State Park. Applicant requests that reasonable diligence in the development of one component of the system comprises reasonable diligence in the development of all components. **8. Names and addresses of owners or reputed owners of land upon which any new or existing 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 pool.** a. Applicant owns the lands upon which the Mueller SP Wells and Mueller SP Ponds are located. b. Mt. Pisgah Reservoir (a/k/a Wrights Reservoir) is located on lands owned by Pisgah Reservoir and Ditch Company, c/o Catlin Canal Company, P.O. Box 328, Rocky Ford, Colorado, 81067. c. Pueblo Reservoir is located on land owned by the U. S. Department of the Interior, Bureau of Reclamation, 11056 W. County Road, 18E, Loveland, Colorado 80537- 9711. WHEREFORE, CPW requests the Court to enter a decree approving the ground water rights, water storage rights, appropriative rights of exchange and plan for augmentation requested herein and

determining that such claims for ground water rights, water storage rights, appropriative rights of exchange and plan for augmentation will not cause injury to any vested water right or decreed conditional water right.

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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 February 2019, (forms available at Clerk's office or at [www.courts.state.co.us](http://www.courts.state.co.us), 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 4th day of January, 2019.

*Marshall P. DiAmerica*

