

Consent Agenda Item 1.a

May 15-16, 2019 Board Meeting

Case No. 19CW3016 (Water Division 1); Arapahoe County Water and Waste Water Authority, East Cherry Creek Valley Water and Sanitation District, United Water and Sanitation District, and 70 Ranch, LLC.

Summary of Water Court Application

This is an application for change of water rights, conditional appropriation of return flows, and 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 March 2019 to protect CWCB's instream flow water rights. However, Applicant has moved to dismiss this application and to re-file it with additional notice. Staff will recommend whether to file a Statement of Opposition to the new application once it becomes available.

CWCB Instream Flow Water Rights

Instream flow water rights that may be injured cannot be specifically identified because the proposed change in place of use is to undefined extraterritorial locations.

Potential for Injury

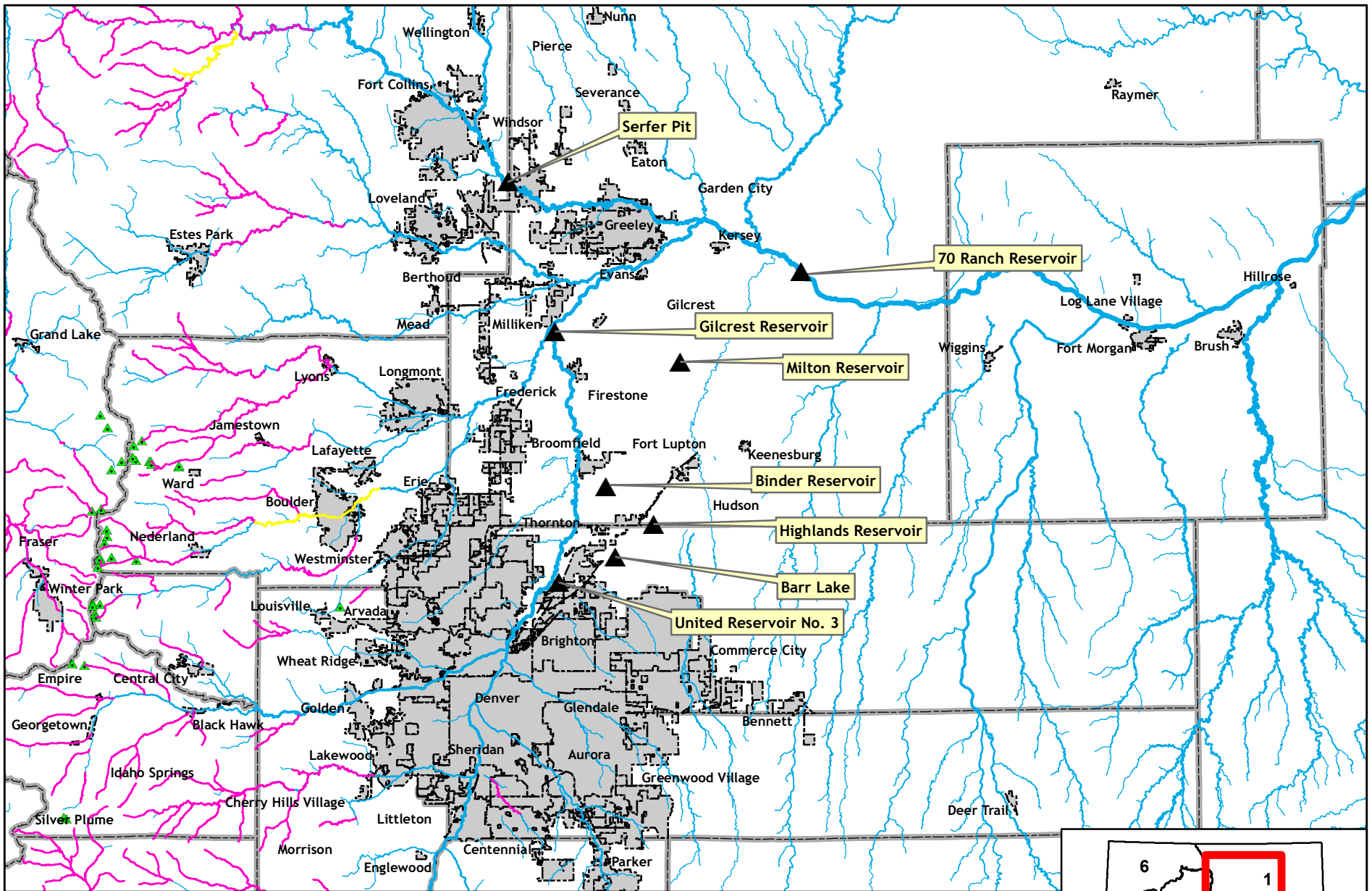
- The extraterritorial uses for the changed water rights cannot be evaluated because the claimed place of storage, type of use, and the place of use include undefined uses and locations. The application includes uses to meet "other return flow obligations that it has agreed to replace by contract or agreement" and a place of use "as necessary to meet contractual water service obligations." These uses and methods of use could injure some of the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by Bijou Irrigation Company and Bijou Irrigation District, Centennial Water and Sanitation District, Central Colorado Water Conservancy District and the Ground Water Management Subdistrict of the Central Colorado Water Conservancy District and the Well Augmentation Subdistrict of the Central Colorado Water Conservancy District, City and County of Denver Board of Water Commissioners, City of Boulder, City of Englewood, City of Greeley Water & Sewer Board, Colorado Division of Parks and Wildlife and Parks and Wildlife Commission, Henrylyn Irrigation District, Lower Latham Reservoir Company, Northern Colorado Water Conservancy District, Platte Valley Irrigation Company, Public Service Company of Colorado, Sorin Natural Resource Partners, LLC, South Adams County Water and Sanitation District, State Engineers Office, The Burlington Ditch, Reservoir and Land Company, The City of Aurora, Colorado, a municipal corporation of the counties of Adams, and The Farmers Reservoir and Irrigation Company.

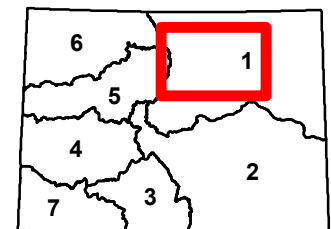
Attorney Representing CWCB

Andrew B. Nicewicz, Assistant Attorney General, is assigned to this case and can be contacted at andy.nicewicz@coag.gov, or 720-508-6259.



May 15-16, 2019 CWCB Board Meeting
 Consent Agenda Item 1a: Statement of Opposition
 Case No. 19CW3016 (Water Division 1)
 East Cherry Creek Valley Water and Sanitation et al.

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**DISTRICT COURT, WATER DIVISION 1, COLORADO
JANUARY 2019 WATER RESUME PUBLICATION**

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIV. 1

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amendments filed in the Office of the Water Clerk during the month of **JANUARY 2019** for each County affected.

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19CW3016 Arapahoe County Water and Wastewater Authority (“ACWWA”), c/o Steve Witter, General Manager, 13031 East Caley Avenue, Centennial, Colorado 80111, Telephone: (303) 790-4830; **East Cherry Creek Valley Water and Sanitation District (“ECCV”)**, c/o David Kaunisto, General Manager, 6201 South Gun Club Road, Aurora, Colorado 80016, Telephone: (303) 693-3800; **United Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado (“United”)**, c/o Robert Lembke, 8301 E. Prentice Avenue, Suite 100, Greenwood Village, Colorado 80111, Telephone: (303) 775-1005; **70 Ranch, LLC (“70 Ranch”)**, c/o Robert Lembke, 8301 E. Prentice Avenue, Suite 100, Greenwood Village, Colorado 80111, Telephone: (303) 775-1005. The above listed parties shall be collectively referred to as the “Applicants.” **APPLICATION FOR CHANGE OF WATER RIGHTS, CONDITIONAL APPROPRIATION OF RETURN FLOWS, AND PLAN FOR AUGMENTATION in ADAMS, LARIMER, AND WELD COUNTIES**. Please send all pleadings and correspondence to: Brian M. Nazareus, Esq., Sheela S. Stack, Esq., William D. Wombacher, Esq., RYLEY CARLOCK & APPLEWHITE, 1700 Lincoln Street, Suite 3500, Denver, Colorado 80203, (Attorneys for ACWWA and ECCV); Tod J. Smith, Esq., The Law Office of Tod J. Smith, LLC, 2919 Valmont Road, Suite 204, Boulder, Colorado 80301, (Attorneys for United and 70 Ranch). 2. Introduction. The purpose of this Application is to change the use of the decreed water rights associated with shares in the Lower Latham Ditch Company for use by ACWWA and ECCCV. 3. Summary of the Subject Water Rights. Applicants seek to change the use of a total of 7 shares out of 200 outstanding shares of the Lower Latham Ditch Company (collectively, “Subject Water Rights” or “Lower Latham Shares”). The Subject Water Rights are currently owned by 70 Ranch, LLC for the benefit of ACWWA and ECCV. 4. Decreed Water Rights for Which Change is Sought and Structure Associated with the Decreed Water Rights. 4.1. Name of Structure. Lower Latham Ditch. 4.2. Decreed Point of Diversion. The Lower Latham Ditch diverts water from the South Platte River in the NE1/4 of Section 31, Township 5 North, Range 65 West of the 6th P.M., Weld County, Colorado. 4.3. Previous Decrees, Appropriation Dates, and Amounts. 4.3.1. Original Adjudication. On April 28, 1883, in an original adjudication in Case No. 6009, the District Court for the County of Arapahoe decreed to the Lower Latham Ditch a direct flow right out of the South Platte River of 20.4 cfs with an appropriation date of May 12, 1869 for irrigation purposes. 4.3.2. First Enlargement. On April 28, 1883, in an original adjudication in Case No. 6009, the District Court for the County of Arapahoe decreed to the Lower Latham Ditch a direct flow right out of the South Platte River of 35.77 cfs with an appropriation date of December 12, 1874. 4.3.3. Second Enlargement. On April 28, 1883, in an original adjudication in Case No. 6009, the District Court for the County of Arapahoe decreed to the Lower Latham Ditch a direct flow right out of the South Platte River of 97.68 cfs with an appropriation date of November 14, 1877. 4.3.4. Third Enlargement. On April 28, 1883, in an original adjudication in Case No. 6009, the District Court for the County of Arapahoe decreed to the Lower Latham Ditch a direct flow right out of the South Platte River of 133.88 cfs with an appropriation date of October 24, 1881. 4.3.5. First Drain Ditch of the Lower Latham Ditch Company. On August 2, 1918, in an unnumbered Decree, the District Court for the County of Weld decreed to the Lower Latham Drain

Ditch a direct flow right out of the South Platte River of 35.0 cfs with an appropriation date of March 1, 1889. The decreed location of the Lower Latham Drain Ditch is Sections 1 and 2, Township 4 North, and Section 36, Township 5 North, Range 66 West; Section 6, Township 4 North, Range 65 West of the 6th P.M., Weld County, Colorado. 4.4. Source. South Platte River. 5. Historical Use. The Subject Water Rights were historically used to irrigate crops on the lands depicted on the map attached as Exhibit 1, as more specifically described below. 5.1. Alles Farm. The Alles Farm is located in portions of the E1/2 of Section 31, Township 5 North, Range 63 West of the 6th P.M., Weld County, Colorado.

Two (2) shares, represented by Share Certificate No. 1565, were used to historically irrigate a mix of corn, alfalfa, and sugar beets on approximately 164 acres. 5.2. Axelson Farm. The Axelson Farm is located in portions of the SW1/4 of Section 18, Township 5 North, Range 64 West of the 6th P.M., Weld County, Colorado. One (1) share, represented by Share Certificate No. 1564, was used to historically irrigate a mix of alfalfa, corn, small grains, and onions on approximately 33 acres. 5.3. Clyncke Farm. The Clyncke Farm is located in portions of the W1/2 of Section 36, Township 5 North, Range 64 West of the 6th P.M., Weld County, Colorado. Two (2) shares, represented by Share Certificate No. 1567, were used to historically irrigate a mix of corn, sugar beets, alfalfa, and small grains on approximately 180 acres. 5.4. Home Farm. The Home Farm is located in portions of the N1/2 of Section 33, Township 5 North, Range 63 West of the 6th P.M., Weld County, Colorado. Two (2) shares, represented by Share Certificate No. 1566, were used to historically irrigate a mix of corn, alfalfa, grass hay, and sugar beets on approximately 137 acres. 6. Proposed Changes to the Subject Water Rights for Use by ACWWA. Applicants seek to change the Subject Water Rights such that they can be used by ACWWA as described below. 6.1. Change in Type of Use. All of the uses described below may occur directly, following storage or recharge, or by exchange. 6.1.1. Use in ACWWA's Plans for Augmentation. ACWWA seeks to use the Subject Water Rights as a source of replacement water in the ACWWA Augmentation Plans approved in the decrees entered in Case Nos. 10CW306 ("306 Decree") and 13CW3026 ("3026 Decree"), and the plan for augmentation sought herein. In addition, ACWWA seeks to use the Subject Water Rights as a source of replacement water in any plans for augmentation decreed in the future. 6.1.2. Use in ACWWA's Recharge Projects, Including Aquifer Storage and Recovery and Aquifer Recharge and Recovery. ACWWA seeks to use the Subject Water Rights for recharge (including aquifer storage and recovery and aquifer recharge and recovery) by delivering the water to the recharge facilities located in the Beebe Draw and on 70 Ranch pursuant to the terms and conditions of the 306 Decree and the facilities described in pending Case No. 16CW3195. In addition, ACWWA seeks to use the Subject Water Rights for recharge (including aquifer storage and recovery and aquifer recharge and recovery) by delivering the water to any recharge facility to which ACWWA is legally permitted to recharge water or may be constructed or decreed in the future, including, but not limited to both alluvial and Denver Basin aquifer recharge. 6.1.3. Use in ACWWA's Exchange. ACWWA seeks to use the Subject Water Rights either directly or following storage, as a source of substitute supply for the appropriative right of exchange approved in the decree entered in Case No. 09CW283 and the exchanges currently pending in Case No. 16CW3195. ACWWA also seeks to use the Subject Water Rights as a source of substitute supply in any future exchanges operated or decreed for use by ACWWA. 6.1.4. Use to Meet Historical Return Flow Obligations. ACWWA seeks to use the Subject Water Rights to meet its historical return flow obligations for its existing, pending, and future acquired and changed water rights in Water Division 1 and any other return flow obligations that it has agreed to replace by contract or agreement. 6.1.5. Storage. ACWWA also seeks to store the Subject Water Rights in any facility in which ACWWA is legally permitted to store water including: 6.1.5.1. 70 Ranch Reservoir, a lined off-channel reservoir that will be located in the S1/2 of Section 3, Township 4 North, Range 63 West of the 6th P.M., and a portion of the NE1/4 of Section 10, Township 4 North, Range 63 West of the 6th P.M., Weld County, Colorado. 6.1.5.2. Milliken Reservoir (a/k/a Gilcrest Reservoir), a lined off-channel reservoir located within a part of Section 2, Township 3 North, Range 67 West and Sections 23, 26, 34, and 35,

Township 4 North, Range 67 West of the 6th P.M., Weld County, Colorado. 6.1.5.3. United Reservoir No. 3, an off- channel reservoir located on the east side of the South Platte River, in the S1/2 of Section 26 and the N1/2 of Section 35, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado. 6.1.5.4. Barr Lake, an off-channel reservoir located in Sections 15, 21, 22, 23, 26, 27, 28, and 33, Township 1 South, Range 66 West of the 6th P.M., Adams County, Colorado. Barr Lake is an enlargement of the original Oasis Reservoir. 6.1.5.5. Milton Lake, an off-channel reservoir located in Sections 10, 11, 14, 15, 22, and 23, Township 3 North, Range 65 West of the 6th P.M., Weld

County, Colorado. 6.1.5.6. Highlands Reservoir, an off-channel reservoir located in the NW1/4 of Section 32, Township 1 North, Range 65 West of the 6th P.M., Weld County, Colorado. 6.1.5.7. Serfer Pit, an off-channel reservoir located in the NE1/4 of the NE1/4 of Section 24, Township 6 North, Range 68 West of the 6th P.M., Larimer County, Colorado. 6.1.5.8. Binder Reservoir, an off-channel reservoir located in the N1/2 of Section 15, Township 1 North, Range 66 West of the 6th P.M., Weld County, Colorado. 6.1.5.9. Any existing or future storage facility in which ACWWA is legally permitted to store water. 6.1.6. All Municipal Uses. ACWWA seeks to use the Subject Water Rights via direct delivery or by exchange including exchange after recharge or storage to ECCV's water treatment plant for treatment and subsequent delivery for all municipal uses, including, but not limited to, domestic, mechanical, manufacturing, commercial, and industrial, within ACWWA's present and future service area and as necessary to meet contractual water service obligations. 6.1.7. Right of Reuse, Successive Use, and Disposition. In addition to the uses described above, ACWWA claims the right to use, reuse, successively use and dispose of, by sale, lease, exchange, augmentation, or otherwise, to extinction, all water exchanged, lawfully diverted and/or impounded pursuant to the decree entered in this case. As such, the Subject Water Rights will be fully consumable water. 6.1.8. Use in ECCV's Augmentation Plans and Delivery to ECCV Recharge Projects. ACWWA may lease and/or trade water attributable to the Subject Water Rights to ECCV for use as a source of augmentation and replacement water in ECCV's augmentation plans either directly, or following delivery to storage or to recharge projects, including those decreed in Case Nos. 02CW403 and 02CW404/03CW442, as amended by the 306 Decree ("403 Decree as Amended"), and the 3026 Decree, pursuant to the terms and conditions of said decrees, including, but not limited to, paragraph 42 of the 306 Decree. This term does not relieve ACWWA of its obligation to satisfy any applicable terms and conditions of its prior decrees in the event that it leases or trades water to ECCV. 6.2. Change in Place of Use. ACWWA seeks to use the water attributable to the Subject Water Rights on lands within ACWWA's present and future service area and in the locations necessary to accomplish the beneficial uses described above and as necessary to meet contractual water service obligations. 7. Proposed Changes to the Subject Water Rights for Use by ECCV. 7.1. Change in Type of Use. Applicants seek to change the Subject Water Rights such that they can be used by ECCV as described below. 7.1.1. Use in ECCV's Augmentation Plans. ECCV seeks to use the Subject Water Rights as a source of replacement water in the ECCV Augmentation Plans approved in the 403 Decree as Amended and the 3026 Decree, and the plan for augmentation sought herein. In addition, ECCV seeks to use the Subject Water Rights as a source of replacement water in any plans for augmentation decreed in the future. 7.1.2. Source for ECCV Recharge Projects, Including Aquifer Storage and Recover and Aquifer Recharge and Recovery. ECCV seeks to use the Subject Water Rights for recharge (including aquifer storage and recovery and aquifer recharge and recovery) by delivering the water to the recharge facilities located in the Beebe Draw and on 70 Ranch pursuant to the terms and conditions of the 306 Decree and the facilities described in pending Case No. 16CW3196. In addition, ECCV seeks to use the Subject Water Rights for recharge (including aquifer storage and recovery and aquifer recharge and recovery) by delivering the water to any recharge facility to which ECCV is legally permitted to recharge water or may be constructed or decreed in the future, including, but not limited to both alluvial and Denver Basin aquifer recharge. 7.1.3. Use in ECCV's Exchanges. ECCV seeks to use the Subject Water Rights either directly or following storage, as a source of substitute supply for the appropriative right of exchange

approved in the decrees entered in Case Nos. 02CW404/03CW442, 09CW283, 11CW285, and the exchanges currently pending in Case No. 16CW3196. ECCV also seeks to use the Subject Water Rights as a source of substitute supply in any future exchanges operated or decreed for use by ECCV. 7.1.4. Use to Meet Historical Return Flow Obligations. ECCV seeks to use the Subject Water Rights to meet its historical return flow obligations for its existing, pending, and future acquired and changed water rights in Water Division 1 and any other return flow obligations that it has agreed to replace by contract or agreement. 7.1.5. Storage. ECCV also seeks to store the Subject Water Rights in any facility in which ECCV is legally permitted to store water, including: 7.1.5.1. 70 Ranch Reservoir, a lined off-channel reservoir that will be located in the S1/2 of Section 3, Township 4 North, Range 63 West of the 6th P.M., and a portion of the NE1/4 of Section 10, Township 4 North, Range 63 West of the 6th P.M., Weld County, Colorado. 7.1.5.2. Milliken Reservoir (a/k/a Gilcrest Reservoir), a lined off-channel reservoir located within a part of Section 2, Township 3 North, Range 67 West and Sections 23, 26, 34, and 35, Township 4 North, Range 67 West of the 6th P.M., Weld County, Colorado. 7.1.5.3. United Reservoir No. 3, an off-channel reservoir located on the east side of the South Platte River, in the S1/2 of Section 26 and the N1/2 of Section 35, Township 1 South, Range 67 West of the 6th P.M., Adams County, Colorado. 7.1.5.4. Barr Lake, an off-channel reservoir located in Sections 15, 21, 22, 23, 26, 27, 28, and 33, Township 1 South, Range 66 West of the 6th P.M., Adams County, Colorado. Barr Lake is an enlargement of the original Oasis Reservoir. 7.1.5.5. Milton Lake, an off-channel reservoir located in Sections 10, 11, 14, 15, 22, and 23, Township 3 North, Range 65 West of the 6th P.M., Weld County, Colorado. 7.1.5.6. Highlands Reservoir, an off-channel reservoir located in the NW1/4 of Section 32, Township 1 North, Range 65 West of the 6th P.M., Weld County, Colorado. 7.1.5.7. Serfer Pit, an off-channel reservoir located in the NE1/4 of the NE1/4 of Section 24, Township 6 North, Range 68 West of the 6th P.M., Larimer County, Colorado. 7.1.5.8. Binder Reservoir, an off-channel reservoir located in the N1/2 of Section 15, Township 1 North, Range 66 West of the 6th P.M., Weld County, Colorado. 7.1.5.9. Any existing or future storage facility in which ECCV is legally permitted to store water. 7.1.6. All Municipal Uses. ECCV seeks to use the Subject Water Rights via direct delivery or by exchange including exchange after recharge or storage to ECCV's water treatment plant for treatment and subsequent delivery for all municipal uses, including, but not limited to, domestic, mechanical, manufacturing, commercial, and industrial, within ECCV's present and future service area and as necessary to meet contractual water service obligations. 7.1.7. Right of Reuse, Successive Use, and Disposition. In addition to the uses described above, ECCV claims the right to use, reuse, successively use and dispose of, by sale, lease, exchange, augmentation, or otherwise, to extinction, all water exchanged, lawfully diverted and/or impounded pursuant to the decree entered in this case. As such, the Subject Water Rights will be fully consumable water. 7.1.8. Use in ACWWA's Augmentation Plans and Delivery to ACWWA Recharge Projects. ECCV may lease and/or trade water attributable to the Subject Water Rights to ACWWA for use as a source of augmentation and replacement water in ACWWA's augmentation plans either directly, or following delivery to storage or to recharge projects, including those in the 306 Decree and 3026 Decree, pursuant to the terms and conditions of said decrees, including, but not limited to, paragraph 42 of the 306 Decree. This term does not relieve ECCV of its obligation to satisfy any applicable terms and conditions of its prior decrees in the event that it leases or trades water to ACWWA. 7.2. Change in Place of Use. ECCV seeks to use the water attributable to the Subject Water Rights on lands within ECCV's present and future service area and in the locations necessary to accomplish the beneficial uses described above as necessary to meet contractual water service obligations. 8.0. Delivery of the Subject Water Rights. The Lower Latham Shares will continue to be diverted at the Lower Latham Ditch headgate, and Applicants will take delivery of the Lower Latham Shares via: (1) existing augmentation stations or future augmentation stations constructed on the Lower Latham Ditch; (2) deliveries into recharge at the Alles Recharge Site, the Clynke Recharge Site, or other recharge sites served from the Lower Latham Ditch or its laterals; (3) deliveries to 70 Ranch Reservoir or other storage sites served from the Lower Latham Ditch or its laterals; or (4) delivery out of the tail of the ditch to the South Platte River. 9. Return Flow Obligations. 9.1. ACWWA's Return Flow Obligations. ACWWA shall meet its return

flow obligations for the Lower Latham Shares by any of the following means: (1) recharge accretions from the Alles Recharge Site, Clynke Recharge Site, or any other existing or future recharge facility to which ACWWA is legally permitted to recharge water; (2) releases from augmentation structures on the Lower Latham Ditch; (3) releases of water stored in United Reservoir No. 3, Milliken Reservoir (a/k/a “Gilcrest Reservoir”), Binder Reservoir, 70 Ranch Reservoir, Highlands Reservoir, SerFer Pit, and/or any other storage facility to which ACWWA is legally permitted to store water; (4) the City of Longmont may release reusable effluent from its WWTP, or release water from Union Reservoir, located in portions of Sections 30, 31, and 31, Township 3 North, Range 68 West of the 6th P.M. and Sections 5 and 6, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado, for delivery to ACWWA pursuant to an agreement; (5) ACWWA may deliver water from other fully consumable sources, either directly or by exchange, owned or controlled by ACWWA or any other available sources including, but not limited to, those sources listed on the attached **Exhibit 2** so long as the sources are decreed for augmentation purposes by the Water Court, or approved for replacement use under a Substitute Water Supply Plan approved by the State Engineer pursuant to sections 37-92-308 or 309 of the Colorado Revised Statutes, or successor statutes, or are otherwise lawfully available for such use; and (6) pursuant to the terms of the plan for augmentation described below.

9.2. ECCV’s Return Flow Obligations. ECCV shall meet its return flow obligations for the Lower Latham Shares by any of the following means: (1) recharge accretions from the Alles Recharge Site, Clynke Recharge Site, or any other existing or future recharge facility to which ECCV is legally permitted to recharge water; (2) releases from augmentation structures on the Lower Latham Ditch; (3) releases of water stored in United Reservoir No. 3, Milliken Reservoir (a/k/a “Gilcrest Reservoir”), Binder Reservoir, 70 Ranch Reservoir, Highlands Reservoir, Serfer Pit, and/or any other storage facility to which ECCV is legally permitted to store water; (4) the City of Longmont may release reusable effluent from its WWTP, or release water from Union Reservoir, located in portions of Sections 30, 31, and 31, Township 3 North, Range 68 West of the 6th P.M. and Sections 5 and 6, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado, for delivery to ECCV pursuant to an agreement; (5) accretions from ECCV’s 70 Ranch Recharge Project; (6) ECCV may use its 40% of the recharge accretions from the Riverside/National Hog Farm Recharge Facility; and (7) ECCV may deliver water from other fully consumable sources, either directly or by exchange, owned or controlled by ECCV or any other available sources including, but not limited to, those sources listed on the attached **Exhibit 3** so long as the sources are decreed for augmentation purposes by the Water Court, or approved for replacement use under a Substitute Water Supply Plan approved by the State Engineer pursuant to sections 37-92-308 or 309 of the Colorado Revised Statutes, or successor statutes, or are otherwise lawfully available for such use; and/or (8) pursuant to the terms of the plan for augmentation described below.

10. Integrated System. Applicants’ use of the Subject Water Rights as described herein comprise a component of an integrated system of water rights and structures under C.R.S. § 37-92-301(4)(b). Work performed and effort or costs expended by Applicants on any water rights or structures which are part of their integrated water systems shall be considered in finding that reasonable diligence has been shown in the development of the conditions water rights for all features of the system as provided in C.R.S. § 37-92-301(4)(b).

11. ACWWA’s and ECCV’s Independent Claim to Appropriate Return Flows Associated with the Lower Latham Shares.

11.1. Name of Structure. Lower Latham Ditch, the decreed point of diversion is described in paragraph 4.1.1, above.

11.2. The Lower Latham Shares. 70 Ranch owns 7 shares out of a total 200 outstanding shares for the Lower Latham Ditch for the benefit of ACWWA and ECCV, as further described in paragraphs 3 and 5, above.

11.3. Claim to Appropriate Return Flows. When the calling right downstream of the point the return flows historically accrued to the South Platte River is junior to January 30, 2019, or there is no call from downstream of the point the return flows historically accrued to the South Platte River, ACWWA and/or ECCV seek the right to use, retain, reuse, successively use, and use to extinction, for all of the purposes described in paragraph 6, above, the historical return flow portion of its irrigation season delivery of the Subject Water Rights and the winter return flow portion of its prior irrigation season deliveries of the Subject Water Rights.

11.4. Appropriation Information.

11.4.1. Date of Appropriation. January 30, 2019.

11.4.2. How

Appropriation was Initiated. The appropriation date is based upon the date the Application in this case was filed. 11.4.3. Date Water First Applied to Beneficial Use. Not Applicable. 11.5. Source. South Platte River. 11.6. Amount Claimed. Any and all amounts of return flows determined to be attributable to the Lower Latham Shares, conditional. 11.7. Claimed Uses. For the same uses as described in paragraphs 6 and 7, above. 12. Plan for Augmentation. 12.1. Purpose of the Plan for Augmentation. Through this augmentation plan, ACWWA and ECCV will provide adequate sources of replacement water to maintain the historical return flow obligations associated with the Subject Water Rights. 12.2. Replacement Sources. ACWWA and ECCV will use water derived from the sources described in paragraphs 9.1 and 9.2, respectively to replace the historical return flow obligations associated with the Subject Water Rights in time, location, and amount in order to prevent injury to any owner of or persons entitled to use water under a vested water right or a decreed conditional water right. 12.3. Future Acquired Sources. Applicants intend to acquire and/or lease additional water supplies in the future for use as a source of replacement in the plan for augmentation described in the application. Those supplies may be acquired and/or leased to replace or supplement water from the sources identified in paragraph 9. Applicants will add future acquired sources to the plan for augmentation claimed in this application pursuant to section 37-92-305(8)(c) of the Colorado Revised Statutes. 13. Bylaw Approval. Paragraph 23 of the Lower Latham Ditch Company's ("LLDC") Bylaws states that no transfer of shares for uses not historically made shall be permitted by the LLDC except by and upon orders and approval of the Company. Article XXV of the Lower Latham Extension Ditch Company (LLEDC) states that no transfer of shares for carriage of water not historically carried in the ditch shall be permitted except by and upon orders and approval of the Directors of the LLEDC. Neither the LLDC nor the LLEDC (collectively "Companies") has yet granted such approvals, but the Companies have agreed to allow this Application to proceed while the Companies review Applicants' proposed transfer of the Subject Water Rights. Applicants understand that authorization to file this Application does not constitute approval under the Companies' respective bylaws. Applicants shall not use water attributable to the Subject Water Rights as a replacement supply in any substitute water supply plan, plan for augmentation, exchange, or recharge project until the Applicants have received the necessary approvals from the Companies and otherwise complied with the Companies' legally applicable requirements and procedures. 14. Name and Addresses of the Owner of the Structures and Diversion Facilities Listed Above. 14.1. Lower Latham Ditch. Lower Latham Ditch Company, 8209 W. 20th Street, Suite A, Greeley, CO 80634. 14.2. Lower Latham Extension Ditch. Lower Latham Extension Ditch Company, 2303 Mountair Lane, Greeley, CO 80634. 14.3. Alles Recharge Site. 70 Ranch, LLC, 8301 E. Prentice Ave Suite 100, Greenwood Village, CO 80111. 14.4. 70 Ranch Reservoir. 70 Ranch, LLC, 8301 E. Prentice Ave Suite 100, Greenwood Village, CO 80111. 14.5. Clynke Recharge Site. 70 Ranch, LLC, 8301 E. Prentice Ave Suite 100, Greenwood Village, CO 80111. 14.6. Box Elder Lateral. Box Elder Lateral Ditch Company, 4455 W 17th Street, Greeley, CO 80634. WHEREFORE, Applicants requests that the Court enter a decree granting the change of water rights, the conditional appropriation of return flows, approving the plan for augmentation, and for such other relief, which it deems proper. (14 pages, 3 exhibits).