

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 94CW 268

APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION, INCLUDING CHANGE
OF WATER RIGHTS, AND FOR ADJUDICATION OF EXCHANGE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF LAKEVIEW VILLAGE,
INC., THE CITY OF BOULDER, AND THE COLORADO WATER CONSERVATION
BOARD

IN BOULDER AND WELD COUNTIES.

1. Names, addresses, and telephone numbers of applicants.

Lakeview Village, Inc.
c/o Joshua Samuel
1615 Pearl Street
Boulder, Colorado 80302
(303) 449-0153

Colorado Water Conservation
Board
c/o Executive Director
Daries C. Lile
1313 Sherman Street, Room
721
Denver, Colorado 80203

City of Boulder
c/o Carol Ellinghouse
P.O. Box 791
Boulder, Colorado 80306
(303) 441-3200

2. Names of structures to be augmented:

Lakeview Reservoir No. 1 is located on an unnamed tributary of St. Vrain Creek and the drop outlet structure for said reservoir is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, Township 2 North, Range 68 West, 6th P.M., Weld County, Colorado, at a point approximately 1,064 feet south of the north line and 2,459 feet west of the east line of said Section 13.

Lakeview Reservoir No. 2 is constructed on and between two unnamed tributaries of St. Vrain Creek and the drop outlet structure for said reservoir is located in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, Township 2 North, Range 68 West, 6th P.M., Weld County, Colorado, at a point approximately 948 feet south of the north line and 2,315 feet west of the east line of said Section 13.

The source of water for these two reservoirs is surface water from two unnamed tributaries to St. Vrain Creek and surface water from unnamed springs originating on the Lakeview

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subdivision property located in the NE¼ of Section 13, Township 2 North, Range 68 West of the 6th P.M. in Weld County, Colorado.

The reservoirs were conditionally decreed in Case No. 85CW443 entered on August 29, 1986 and were made absolute in Case No. 92CW045 entered on September 24, 1992 in the amount of 40 acre feet for Lakeview No. 1 and 55 acre feet for Lakeview No. 2. The date of appropriation for both structures is January 31, 1985.

Are there other water rights diverted from these structures?

No.

3. Previous decrees for water rights to be changed and to be used for augmentation and exchange:

Lakeview Village, Inc. is the lessee of 100 acre feet of water annually from Boulder during the months of April through October. The leased water is water that is available to Boulder or its lessees after the first use of the water rights described below for instream flow purposes by the Colorado Water Conservation Board ("CWCB"). The portions of the below-described water rights that are reusable after their first use for instream flow purposes were quantified by this Court in Case No. 90CW193 by decree entered on December 20, 1993.

A. Date decrees entered, Case Nos. and Courts, amount, appropriation date, decreed use:

- (1) Anderson Ditch: 9.5833 shares (2.23 cfs) of the Anderson Ditch. The Anderson Ditch is owned and operated by the New Anderson Ditch Company, a mutual ditch company with 100 shares. The Anderson Ditch was decreed a water right for 25.0 cfs for irrigation use, with an appropriation date of October 1, 1860, by the District Court in and for Boulder County on June 2, 1882.
- (2) Farmers Ditch: 90% of 24.602 shares (12.17 cfs) of the Farmers Ditch. The Farmers Ditch is owned and operated by the Farmers Ditch Company, a mutual ditch company with 100 shares. The Farmers Ditch was decreed a water right for 73.29 cfs for irrigation use, with an appropriation date of October 1, 1862, by the District Court in and for Boulder County on June 2, 1882.

- (3) Harden Ditch: 1.8 cfs of the Harden Ditch. The Harden Ditch was decreed a water right for 21 cfs for irrigation use, with an appropriation date of June 1, 1862, by the District Court in and for Boulder County on June 2, 1882.
- (4) McCarty Ditch: 295 shares (0.643 cfs) of the McCarty Ditch. The McCarty Ditch is owned and operated by the McCarty Ditch Company, with 666.5 shares of stock authorized. The McCarty Ditch was decreed a water right for 5 cfs for irrigation use, with an appropriation date of June 1, 1862, by the District Court in and for Boulder County on June 2, 1882.
- (5) Smith and Goss Ditch: 83.25 shares (0.451 cfs) of the Smith and Goss Ditch. The Smith and Goss Ditch is owned and operated by the Smith and Goss Ditch Company, a mutual ditch company with 218.375 shares of stock outstanding. The Smith and Goss Ditch was decreed a water right for 44.3 cfs for irrigation use, with an appropriation date of November 15, 1859, by the District Court in and for Boulder County on June 2, 1882.
- (6) The water rights described in paragraphs (1)-(5) above were the subject of decrees entered by the District Court, Water Division No. 1 on May 31, 1989 in Case Nos. W-7569, W-7570 and W-8520-77, and on December 20, 1993 in Case No. 90CW193. By those decrees, the point of diversion and type and place of use of the above-described water rights were changed to allow use by Boulder in its municipal water supply system, use by the CWCB for instream flow purposes and use by lessees of Boulder for irrigation purposes after their use for instream flow purposes by the CWCB.
- (7) The water rights described in paragraphs (1)-(5) above are owned by the CWCB, subject to the retention of certain rights by Boulder, including the right to reuse under certain conditions.

B. Decreed points of diversion:

- (1) The decreed points of diversion for the subject Anderson Ditch, Harden Ditch, McCarty Ditch and Smith and Goss Ditch water rights are as follows:

- a. Lakewood Pipeline: The pipeline intake from Lakewood Reservoir also known as Headgate No. 1 of the Boulder City Pipeline (Lakewood Pipeline), located at a point whence the SE corner of Section 1, Township 1 South, Range 73 West of the 6th P.M. bears S30°15'E a distance of 2300 plus/minus feet;
 - b. Silver Lake Pipeline: Headgate No. 3 of the Boulder City Pipeline, located at a point whence the NW Corner of Section 34, Township 1 North, Range 73 West of the 6th P.M. bears N77°35'W a distance of 1076 plus/minus feet;
 - c. Barker Pipeline: The pipeline intake from Barker Reservoir, located at a point whence the NW corner of Section 17, Township 1 South, Range 72 West of the 6th P.M. bears N16°04'W a distance of 1920 plus/minus feet. (This pipeline supplies the Boulder City Pipeline #2, which diverts from the Public Service Company penstock located in Section 34, Township 1 North, Range 71 West of the 6th P.M.)
- (2) The decreed point of diversion for the Farmers Ditch water right described above is on the north bank of Boulder Creek in the NW¼ NW¼ of Section 36, Township 1 North, Range 71 West of the 6th P.M.; the location of the actual point of diversion for the Farmers Ditch is on the north bank of Boulder Creek approximately 250 feet south and 126 feet east of the NW corner of Section 36, Township 1 North, Range 71 West of the 6th P.M.
 - (3) In addition, all of the water rights described above are decreed for diversion at various ditches on Boulder Creek downstream of 75th Street. The location of these ditches is fully described in paragraph 5.2 of the decree in Case No. 90CW193.

C. Source: Boulder Creek

D. The uses decreed in Case No. 90CW193 shall remain unaffected and Lakeview Village's proposed use of the leased water will be in addition to and not in substitution for the uses previously decreed in Case No. 90CW193.

4. Description of proposed changes and statement of plan for augmentation.

The water rights described in paragraph 3 above are currently decreed for various uses, including use for irrigation by lessees of Boulder after their use for instream flow has been completed. By this application, the water rights are proposed to be changed to add use by Lakeview Village for augmentation and exchange purposes as an alternate use to the currently decreed uses. Such use will be made by Lakeview Village downstream of the terminus of Segment C of Boulder Creek, described as follows:

That segment of Boulder Creek in Boulder County from a point immediately below the discharge of Public Service Company of Colorado's hydroelectric plant at Orodell in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, Section 34, Township 1 North, Range 71 West of the 6th P.M., to the 75th Street Bridge near the center of Section 13, Township 1 North, Range 70 West of the 6th P.M.

Boulder will deliver the leased water to Lakeview Village in Boulder Creek at or near the intersection of Boulder Creek and 75th Street at a point in Section 13, Township 1 North, Range 70 West of the 6th P.M., approximately 950 feet from the west section line and 1,700 feet from the south section line of said Section 13, which is the location of Boulder's wastewater treatment plant outfall. From this point, the starting point of the exchange reach, Lakeview Village will allow its leased water to remain in Boulder Creek and St. Vrain Creek; this leased water will continue to be transported down St. Vrain Creek to its confluence with the unnamed tributaries in Section 36, Township 3 North, Range 68 West, 6th P.M. The leased water will then be exchanged up the unnamed tributaries to, or provide augmentation for cut-of-priority depletions resulting from evaporation from Lakeview Reservoirs No. 1 and No. 2. Lakeview proposes this exchange or plan for augmentation in order to maintain water levels at the reservoirs. Lakeview will keep the diversion gate open to its reservoirs whenever the exchange or plan for augmentation is operating. The exchange or plan for augmentation will be operated only when the leased water is available from Boulder. The maximum rate of exchange will be 2.0 cfs, and the appropriation date for the exchange is May 26, 1993.

5. Annual evaporation losses for the reservoirs are estimated to be 63 acre-feet of water when the maximum amount of decreed

storage water is maintained in the reservoirs.

Stream losses in Boulder Creek and St. Vrain Creek associated with the conveyance of the leased water from the point of delivery, described in paragraph 4 above, to the location of the unnamed tributary on St. Vrain Creek, assessed by the State water administration officials, will be borne by Lakeview Village.

6. Names and addresses of owners of land on which structures are located:

A. Lakeview Reservoirs No. 1 and No. 2:

Applicant Lakeview Village, Inc.

B. Lakewood Pipeline, Silver Lake Pipeline, Barker Pipeline:

Applicant City of Boulder

C. Farmers Ditch:

Farmers Ditch Company
c/o Boyd Sheets
3016 Kalmia Avenue
Boulder, Colorado 80302

WHEREFORE, Applicants pray the Court for the following relief:

1. That the Court enter a decree granting the Application for Approval of Plan for Augmentation, including Change of Water Rights, and confirming the exchange described herein; and

2. Such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of December, 1994.

COLLINS AND COCKREL, P.C.



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ATTORNEYS FOR LAKEVIEW VILLAGE, INC.

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ATTORNEYS FOR COLORADO WATER
CONSERVATION BOARD

VERIFICATION

STATE OF COLORADO)
) ss
COUNTY OF BOULDER)

Josh Samuel, being first duly sworn upon oath, deposes and states he is a stockholder of Lakeview Village, Inc. and is authorized to execute, verify and file this Application for Approval of Plan for Augmentation, including Change of Water Rights, and for Adjudication of Exchange; that he has read the foregoing and that the matters set forth therein are true to the best of his knowledge and belief.

Josh Samuel
Josh Samuel

Subscribed and sworn to before me this 28th day of December, 1994.

Witness my hand and official seal.

James H. Haggan

My commission expires: _____

My Commission Expires June 2, 1995
P.O. Box 1440
Boulder, Colorado 80506-1440