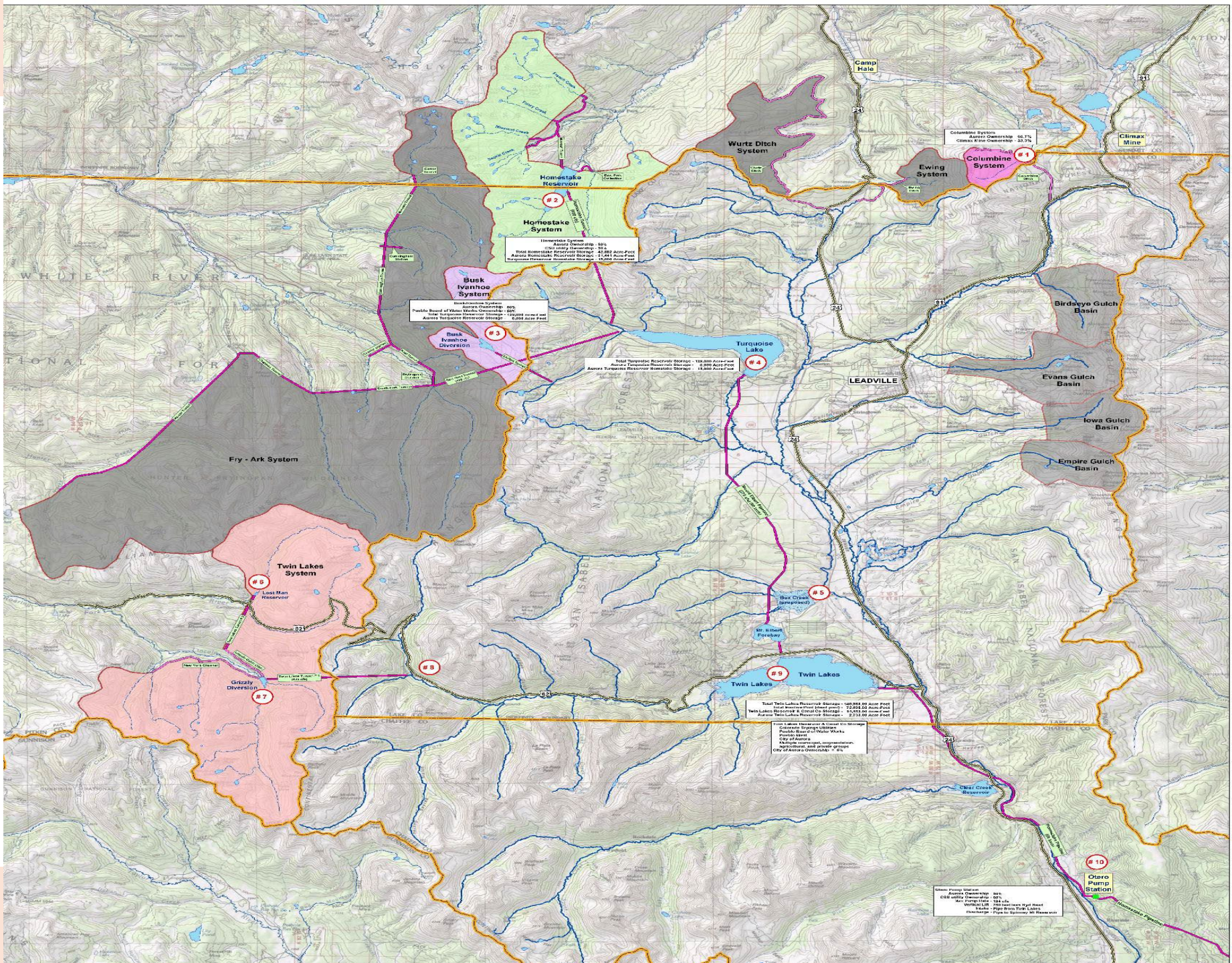
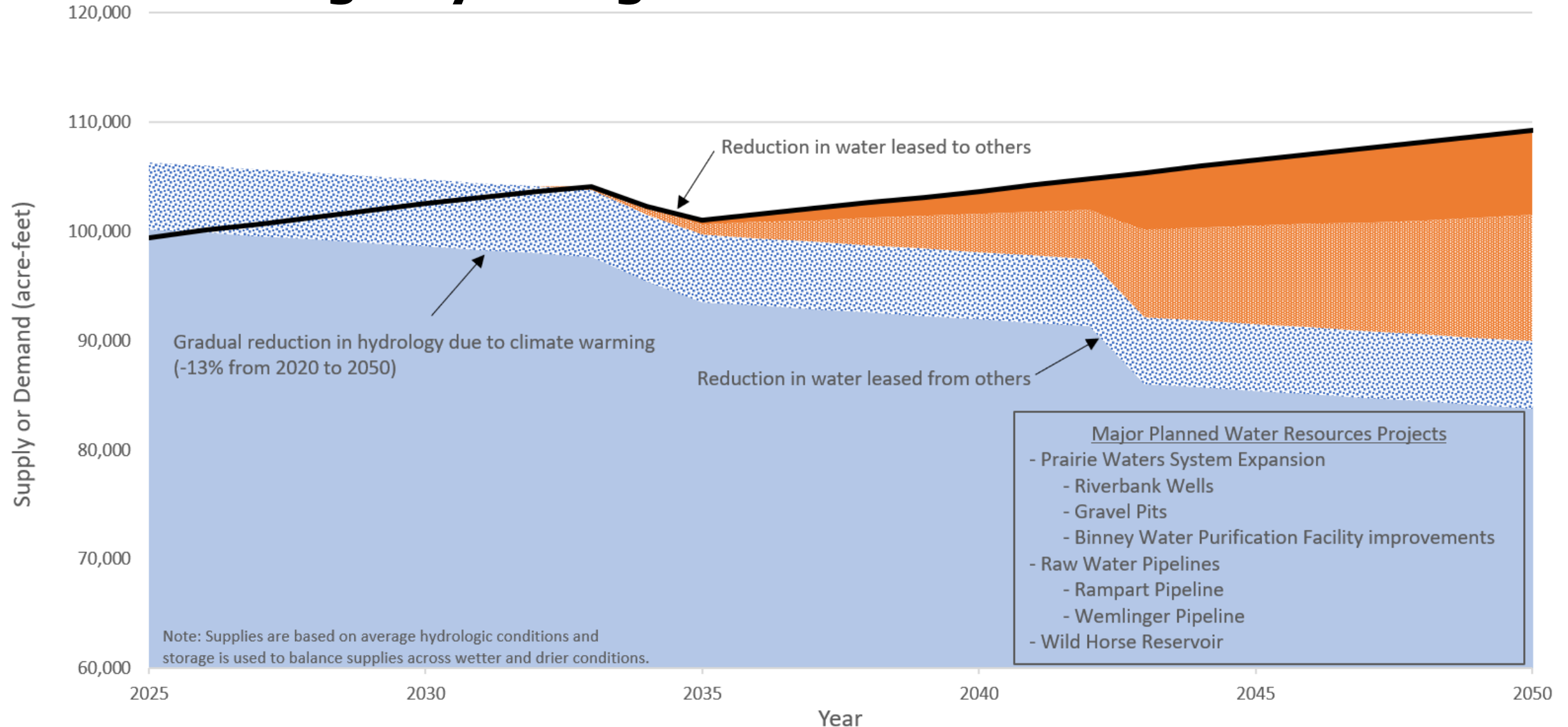


# Upper End of Aurora Water's Infrastructure





# Supply and Demand Projections Under Average Hydrologic Conditions



# Water Conservation Programs

- AMI Leak Notification and Investigations
- Non Functional Turf Ban
- Code/Ordinance Development
- Commercial Washer Rebates
- Community Gardens
- Conservation Education
- Greatscapes – Income Qualified Landscape
- High Use Outreach and Investigations
- Indoor Water Assessments
- Irrigation and Soil Inspections
- Irrigation High-Efficiency Component Rebates
- Irrigation Plans Review
- Know Your Flow
- Large Property Watering Variance Program
- Low-income Water Efficiency Program
- Outdoor Water Assessments
- Smart Irrigation Controller Rebates
- Ultra-high Efficiency Toilet Rebates
- Water Management Plan Enforcement
- Water-wise Landscape Designs
- Water-wise Garden
- Water-wise Landscape Rebates
- Water-wise Neighbors – New 2021
- Z-zone Program

*\* Programs in GREEN are outdoor use focused or inclusive*

## Summary Of Water Rights Owned By Aurora Affected By Shoshone Power Plant Water Rights

### Homestake Project Water Rights

The City of Aurora and Colorado Springs Utilities jointly own the structures and water rights associated with the Homestake Project, diverting from tributaries of the Eagle River. The following table identifies the amounts of water rights originally decreed to the entire Homestake Project by the Eagle County District Court in CA 1193 and delineates amounts that were made absolute and remained conditional by the decree entered in the last diligence case in which a final decree has been entered, Case No. 13CW3045. A subsequent application for a finding of diligence and to make additional portions of some water rights absolute is still pending.

Name of Ditch or Reservoir	Date of Appropriation	Date of Original Decree	Water Allowed A = Absolute C = Conditional
Homestake Conduit*	Sept. 22, 1952	June 8, 1962	181.88 cfs A; 1658.2 cfs C
East Fork Conduit			74.63 cfs A; 185.37 cfs C
Homestake Tunnel			300 cfs A; 10.0 cfs C (10 cfs is seepage & percolation)
Homestake Reservoir			43,504.7 a.f. A; 83,338.98 a.f. C
Eagle-Arkansas Ditch**			530 cfs C

\* The Homestake Conduit includes the following points of diversion:

Stream or Source of Supply	Amounts
Unnamed Creek (near Cross Creek below West Cross Confluence)	60 cfs C
West Cross Creek	200 cfs C
Cross Creek	300 cfs C
East Cross Creek	130 cfs C
Fall Creek	260 cfs C
Peterson Creek	50 cfs C
Unnamed Creek (tributary to Homestake Creek)	50 cfs C
Whitney Creek	80 cfs C

French Creek	62.18 cfs A; 117.82 cfs C
Fancy Creek	38.6 cfs A; 91.4 cfs C
Missouri Creek	39.8 cfs A; 80.2 cfs C
Sopris Creek	41.3 cfs A; 118.7 cfs C
Small unnamed streams, seeps, sheet flows and ground waters along conduit	120 cfs C

\*\* The Eagle Arkansas Ditch includes the following points of diversion:

Stream or Other Source of Supply	Amounts
Cataract Creek	90 cfs C
Sheep Gulch	20 cfs C
East Fork Eagle River	230 cfs C
Jones Gulch	90 cfs C
Fiddler Creek	30 cfs C
Taylor Gulch	20 cfs C
Piney Creek	20 cfs C
Small unnamed streams, springs, seeps & sheet flow along ditch	30 cfs C

### Columbine Ditch Water Rights

The Columbine Ditch diverts from the headwaters of tributaries of the Eagle River, discharging those diversions into the headwaters of the Arkansas River. The Columbine Ditch and its water rights are owned by the Fremont Pass Ditch Company, of which Aurora owns two-thirds of the shares and Climax Molybdenum owns one-third of the shares.

Name of Ditch or Reservoir	Date of Appropriation	Date of Original Decree	Water Allowed A = Absolute C = Conditional
Columbine Ditch	June 21, 1930	Oct. 3, 1936	60.00 cfs A
Columbine Ditch	Dec. 17, 2009	Dec. 31, 2009	60.00 cfs C (may be diverted only after a volumetric limit on senior right has been met)

**Agreement and Intergovernmental Agreement between Aurora, CRWCD,  
Basalt WCD, Eagle County, Pitkin County, Grand Valley Water Users  
Association, Orchard Mesa Irrigation District, and the Ute WCD**

DATE FILED: August 3, 2018 10:07 AM  
FILING ID: A5163D429A3C5  
CASE NUMBER: 2009CW142

This Agreement and Intergovernmental Agreement (the “Agreement”) is entered into as of the Effective Date herein below defined, by and between:

- The City of Aurora, Colorado, a Colorado municipal corporation of the Counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise ("Aurora") and,
- Busk Ivanhoe, Inc., a Colorado mutual ditch company (“B-I Inc.”), and
- The Colorado River Water Conservation District (“CRWCD”) and,
- The Basalt Water Conservancy District (“BWCD”) and,
- The Board of County Commissioners of Eagle County (“Eagle”) and,
- The Board of County Commissioners of Pitkin County (“Pitkin”) and,
- The Grand Valley Water Users Association (“GVWUA”) and,
- Orchard Mesa Irrigation District (“OMID”) and,
- The Ute Water Conservancy District acting by and through the Ute Water Activity Enterprise (“Ute”).

Individually these entities are sometimes hereinafter referred to as a “Party” and collectively as the “Parties.” The CRWCD, BWCD, Eagle, Pitkin, GVWUA, OMID and Ute are collectively referred to as the “West Slope Parties.”

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**WHEREAS** Colorado law authorizes governmental entities to cooperate and enter into Intergovernmental Agreements pursuant to Section 18(2) of Article XIV of the Colorado Constitution and CRS §29-1-203; and,

**WHEREAS**, Parties who are not governmental entities covered by Section 18(2) of Article XIV of the Colorado Constitution and CRS §29-1-203 enter into this Agreement pursuant to their independent authority and ability to contract; and,

**WHEREAS** Aurora is the sole owner of the capital stock of B-I Inc., a Colorado mutual ditch company, and B-I Inc. owns an undivided one-half (1/2) interest in the water rights of the Busk-Ivanhoe System; and,

**WHEREAS** during 2009 B-I Inc. initiated a Water Court action captioned WD-2, 09CW142, wherein the Water Court initially issued a Ruling and Decree on May 27, 2014, and following an appeal to the Colorado Supreme Court as Grand Valley Water Users Association vs. Busk-Ivanhoe Inc., 14SA303, the matter was remanded back to the Water Court on December 5, 2016; and,

**WHEREAS** thereafter the Parties engaged in extensive settlement discussions to address various matters of mutual concern to them and to develop a stipulated agreement amongst themselves regarding a proposed Amended Findings of Fact, Conclusions of Law, Judgment and Decree comporting with the Colorado Supreme Court's opinion.

**NOW THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

## **I. Introduction and General Provisions**

1. **Effective Date.** The "Effective Date" of this Agreement shall be the date on which the Agreement is executed by the last Party to sign.

2. **Subject Areas / Non-severability.** Through this Agreement the Parties address five significant subject areas where the agreements herein set forth will inure to their individual and collective benefit. Although the subject areas may appear to be distinct they were combined for purposes of this Agreement and the Parties agree that regarding this Agreement none of the subject areas are severable from the others. The subject areas are:

- 2.1 Roaring Fork River Water Delivery
- 2.2 Fryingpan River Exchanges and Storage
- 2.3 Shoshone Outage Protocol & Shoshone Permanency
- 2.4 Diligence Detente
- 2.5 Entry of Final Decree in Water Division-2, Case No. 09CW142

These subject areas are considered in sections II–VI of this Agreement. Additionally, other

subjects of agreement appear herein and the Parties agree all such subjects of agreement are also non-severable.

3. Process. Following the Effective Date, the Parties shall enter into a Stipulation to which this Agreement shall be attached and incorporated. The Stipulation will be submitted for approval by the Water Court for Water Division 2. If said Stipulation is approved the Agreement shall be enforceable as an Order of the Court amongst the Parties subject to this paragraph 3 and its subparts. The Parties agree the contemplated Stipulation shall bind and benefit them; however, individuals, including but not limited to other parties appearing in WD-2, 09CW142 and the Cases consolidated therewith (WD-1, 09CW272 and WD-5, 09CW186) other than the Parties are neither bound by nor are they intended to benefit from this Agreement or the contemplated Stipulation. Immediately following approval of the Stipulation, the Parties will jointly seek entry by the Division 2 Water Court of the Draft Decree attached hereto as Exhibit A as the Final Decree in WD-2, 09CW142 providing, *inter alia*, for a 60-year rolling average of 2,416 A-F of diversions per year, a 20-year rolling average of 3,192 A-F per year and an annual maximum 4,064 A-F. Aurora and B-I Inc. agree these diversions are contingent upon continuing compliance with the obligations and requirements of this Agreement by Aurora and B-I Inc. and their successors in interest if any.

3.1 Should the Draft Decree be entered as the Final Decree, and the periods for any appeal or other reconsideration of the entry of said Decree expire without appeal or reconsideration, the Parties will promptly proceed to implement all other agreements contained within this Agreement. If such occurs the Initiation Date is the date after which the Decree becomes final and all appeal and reconsideration periods have ended. Prior to the Initiation Date, the Parties will cooperate in good faith to support the desired completion of the subject areas of this Agreement.

3.2 The Parties acknowledge the Water Court could decline to enter the Draft Decree as submitted and/or there could be further appellate proceedings. If the Draft Decree is not entered as the Final Decree or the Draft Decree is reconsidered or appealed, the Parties will hold in abeyance implementation of all agreements contained in this Agreement until following the conclusion of any reconsideration or appeal proceedings. If, at the conclusion of any reconsideration, appeal or other proceedings, the Draft Decree is entered as the Final Decree the Parties will promptly proceed to implement all agreements contained within this Agreement.

3.3 If at the conclusion of any reconsideration, appeal or other proceedings the Draft Decree is not entered as the Final Decree this Agreement and the Stipulation referenced in this paragraph 3 will terminate and the Parties will be released from all duties and obligations to implement any of the agreements contained in this Agreement unless the Parties unanimously agree in writing as set forth in paragraph 3.4.

3.4 If any Water Court, reconsideration, appeal or other proceedings result in the entry of a changed or modified form of the Draft Decree, the Parties agree to confer within

7-days of the entry of any changed or modified form of decree. After conferral the Parties must unanimously agree in writing among themselves to promptly proceed to implement the agreements contained within this Agreement or to otherwise amend the Agreement. If the Parties do not reach such unanimous agreement within 30-days of entry of a changed or modified form of the Draft Decree, any single Party may, by written notice to the other Parties, terminate this Agreement and the Stipulation referenced in this paragraph 3 no later than 45-days following entry of a changed or modified form of the Draft Decree. Upon such termination, the Parties will be released from all duties and obligations to implement any of the agreements contained in this Agreement and the Stipulation referenced in this paragraph 3 and Aurora agrees it will seek to withdraw the changed or modified form of decree entered. Alternatively, the Parties agree they will move to have the Water Court reconsider and enter a decree consistent with this Agreement and the Stipulation. The West Slope Parties agree to support such withdrawal or reconsideration motion. The Parties agree in the event of the entry and subsequent withdrawal of a decree not unanimously agreed upon that each of them retain their legal positions regarding WD-2, 09CW142 as those positions existed when 14SA303, was remanded back to the Water Court. The Parties agree any invocation of the Water Court's retained jurisdiction as described in paragraph 38 of the Draft Decree will not be considered a reconsideration, appeal or other proceeding as described in this paragraph 3. The Parties further agree that none of them will seek to invoke the referenced Water Court's retained jurisdiction, except as provided for in paragraph 19.1 of the proposed decree, unless there is unanimous agreement among the Parties to do so.

4. Not Precedent. This Agreement and the components thereof are the result of substantial and extensive settlement discussions. It is specifically understood and agreed by the Parties that the acquiescence of the Parties and the components thereof were the result of current specific factual and legal circumstances of the Parties and upon the numerous and interrelated compromises reached by the Parties. Thus the existence of this Agreement and the components thereof shall never give rise to any argument, claim, defense or theory of acquiescence, waiver, bar, merger, stare decisis, res judicata, estoppel, laches or otherwise, nor to any administrative or judicial practice or precedent, by or against any of the Parties in any other agreement, matter, case or dispute, nor shall testimony concerning such agreement or acquiescence of any Party to this Agreement and the components thereof be allowed in any other matter, case or dispute. The Parties agree they do not intend this Agreement and the components thereof to have the effect of precedent or preclusion on any factual or legal issue in any other matter.

5. No Property Transfers. The Parties agree no portion of this Agreement should be construed or interpreted as a transfer of title or a transfer of ownership of any water, water right or any facility for the supply, treatment and distribution of water owned by any of the Parties.

6. Assignability and Delegation, if any. The rights and duties of the Parties under this Agreement and the Stipulation will apply to, bind and obligate any and all successors or delegates in interest of the Parties if any are allowed. Unless specifically set forth herein, none of the Parties may assign their rights nor delegate their duties hereunder without the prior written consent of the other Parties. Further none of the Parties may sell or sublease any of benefits derived hereunder without the permission of the other Parties, which permission individual

Parties may grant or withhold at their discretion. Nevertheless, the prohibition expressed in the previous sentence does not apply to the circumstance of a recipient being able to sell, lease or otherwise fully use in any fashion water derived from any benefit inuring to such recipient.

7. No Waiver of Governmental Immunity. Notwithstanding any provisions of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of the monetary limitations on liability or any of the immunities, rights, benefits or protections provided to any Party under the Colorado Governmental Immunity Act, § 24-10-101, et seq. C.R.S., as amended or as may be amended. The Parties understand and agree liability for claims for injuries to persons or property arising out of the alleged negligence of any Party, their officials and employees may be controlled or limited by said Act, as amended or as may be amended. Any provision of this Agreement, whether or not incorporated herein by reference, shall not be interpreted to control, limit or otherwise modify so as to limit any liability protection of any Party pursuant to the above cited laws.

8. Force Majeure. Subject to the terms and conditions in this paragraph, no Party to this Agreement shall be liable for any delay or failure to perform under this Agreement due solely to conditions or events of *force majeure*; provided that: (i) the non-performing Party gives the other Parties prompt written notice describing the particulars of the occurrence of the *force majeure*; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the *force majeure* event or condition; and (iii) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform and provides weekly progress reports to the other Parties describing the actions taken to remedy the consequences of the *force majeure* event or condition.

9. No Water Quality Objections. The Parties acknowledge the quantity of water that may be stored, delivered and/or exchanged pursuant to various provisions of this Agreement is raw water derived from, and comingled with, water from multiple stream sources. Thus, the Parties agree not to object to the quality of the raw water that may be stored, delivered and/or exchanged pursuant to various provisions of this Agreement.

10. SEO & DEO. The Colorado State Engineer and the Division Engineers for Water Division's 1, 2 and 5 ("SEO & DEO") are Opposers in WD-2, 09CW142, WD-1, 09CW272 and WD-5, 09CW186, and have not previously stipulated to the entry of a decree. The Parties agree to use their best efforts to seek the SEO's & DEO's confirmation that the means for implementing the provisions of this Agreement can be administered by the SEO & DEO and the SEO's & DEO's agreement to the entry of the Draft Decree set forth in Exhibit A. The SEO & DEO are not parties to this Agreement and nothing in this Agreement shall affect the ability of the SEO & DEO to comply with their statutory and administrative duties, including participating in subsequent water court proceedings to ensure their ability to administer any subsequent decrees entered by the water courts.

11. Future Cooperation. A fundamental premise of this Agreement is the Parties will not actively seek to undermine, or encourage others to undermine, the Parties' respective interests and resources committed, compromised, dedicated or otherwise addressed in this Agreement. For

purposes of this paragraph, "Adverse Action" means an action of a legislature, court, administrative agency, regulatory body or other governmental entity that would cause a material adverse impact to a Party's interests or resources committed, compromised or otherwise addressed in this Agreement. In the event that an Adverse Action is proposed or is likely to occur as the result of an action by a Party to this Agreement, the Party whose interests or resources would suffer a material adverse impact will notify the other Parties. The Party affected by the Adverse Action and the Party or Parties whose action caused it to arise will diligently meet and discuss in good faith the potential detrimental effect of such Adverse Action, with the goal of determining whether any action by any one of them could avoid the Adverse Action or mitigate its impact on the affected Party. Each Party to such discussion agrees to evaluate in good faith whether it can implement changes in its operations or undertake other efforts that would achieve this goal, and to implement any such efforts as may be agreed to in such discussion.

11.1 As part of this Agreement the West Slope Parties understand that Aurora seeks to develop two projects, Wild Horse Reservoir in Water Division 1 and Box Creek Reservoir in Water Division 2. Should the West Slope Parties, jointly or individually, determine a need to participate in any of the permitting processes associated with either Wild Horse Reservoir or Box Creek Reservoir, they agree that (a) they will notify Aurora of their concerns as soon as practicable during the NEPA scoping process and diligently work in good faith with Aurora to find a solution; and (b) any participation in the permitting processes by the West Slope Parties will not seek to prevent the project in its entirety and comments or requests may be raised only for the purpose of addressing water related impacts caused directly by either of the two above specified projects on the West Slope (defined as geographic areas west of the Continental Divide).

11.2 Additionally, the West Slope Parties further agree they will not oppose in Water Court or permitting processes 1) the need for any changes in points of diversion for the development of facilities under WD-5, Case Nos. 88CW449, 95CW272 (A) and/or existing Homestake system conditional water rights; 2) Aurora's obtaining permits to rebuild, repair or replace if necessary the Carlton Tunnel to its existing decreed carrying capacity, and/or emergency or temporary use of the Nast and/or Boustead Tunnels through an excess capacity contract with the U.S. Bureau of Reclamation; and 3) Pitkin obtaining a Bureau of Reclamation contract for use of Ruedi Reservoir as described within this Agreement. In the context of this Agreement, "not oppose" means a Party will not take actions to impair or impede the moving party's or parties' ability to obtain necessary certifications, permits, licenses, contracts, decrees and/or authorizations, including county 1041 regulations, needed to complete the identified project as long as such repair or replacement is not an expansion of existing decreed water rights. However, this Agreement shall not preclude any Party from submitting fair comments to governmental entities, including identification of issues of concern not in conflict with the spirit of this Agreement, or participating in any water court proceeding.

11.3 Any Party to this Agreement that is a permitting authority for an identified particular project will be exempt from the provisions of this paragraph 11 for such identified particular project.

12. Future Dialog. The Parties agree to from time to time conduct meetings and conversations about water matters of mutual benefit and of concern to them individually.

13. WD-5, 13CW3109. WD-5, 13CW3109 is a recreational in-channel diversion application by the City of Glenwood Springs. Aurora is an opposer in that case. Aurora agrees to continue to meet in good faith with the Applicant in that case toward the end of resolving contested issues.

14. Enterprise Obligations.

14.1 Sole Obligation of Aurora's Utility Enterprise. This Agreement shall never constitute a general obligation or other indebtedness of the City of Aurora, Colorado ("City") or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City. In the event of a default by Aurora's Utility Enterprise of any of its obligations under this Agreement, the other Parties shall have no recourse for any amounts owed to it against any funds or revenues of the City except for those revenues derived from rates, fees or charges for the services furnished by, or the direct or indirect use of, the Water System and deposited in the Water Enterprise Fund, as the terms "Water System" and "Water Enterprise Fund" are defined in City Ordinance No. 2003-18, and then only after the payment of all operation and maintenance expenses of the Water System and all debt service and reserve requirements of any bonds, notes, or other financial obligations of the Utility Enterprise secured by a pledge of the net revenues of the Water Enterprise Fund. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien upon any revenues of the Utility Enterprise or the City. Aurora represents this Agreement has been duly authorized, executed and delivered by Aurora and constitutes a valid and legally binding obligation of Aurora, enforceable against Aurora in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

14.2 Sole Obligation of Ute Water Activity Enterprise. This Agreement shall never constitute a general obligation or other indebtedness of Ute Water Conservancy District ("Ute District") or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Ute District within the meaning of the Constitution and laws of the State of Colorado. In the event of a default by the Ute Water Activity Enterprise ("Ute Enterprise") of any of its obligations under this Agreement, the other Parties shall have no recourse for any amounts owed to it against any funds or revenues of the Ute District except for the revenues of the Ute Enterprise derived from pursuing, continuing and conducting all of the District's Water Activities, as that term is defined in the resolution creating the Ute Enterprise and any existing and future amendments thereto, and then only after the payment of all operation, maintenance and other expenses related to the District's Water Activities and all debt service and reserve requirements of any bonds, notes, or other financial obligations of the Ute Enterprise secured by a pledge of the net revenues of the Ute Enterprise. Notwithstanding any language herein to the contrary, nothing in this

Agreement shall be construed as creating a lien upon any revenues of the Ute Enterprise or the Ute District. Ute represents that this Agreement has been duly authorized, executed and delivered by Ute and constitutes a valid and legally binding obligation of Ute, enforceable against Ute in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

14.3 Sole Obligation of Basalt Water Activity Enterprise. This Agreement shall never constitute a general obligation or other indebtedness of BWCD or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the BWCD within the meaning of the Constitution and laws of the State of Colorado. In the event of a default by the BWCD of any of its obligations under this Agreement, the other Parties shall have no recourse for any amounts owed to it against any funds or revenues of the BWCD except for the revenues of its Basalt Water Activity Enterprise ("Basalt Enterprise") derived from pursuing, continuing and conducting all of its Water Activities, as that term is defined in any resolution creating or defining the Basalt Enterprise and any existing and future amendments thereto, and then only after the payment of all operation, maintenance and other expenses related to the Basalt Enterprise's Water Activities and all debt service and reserve requirements of any bonds, notes or other financial obligations of the Basalt Enterprise secured by a pledge of the net revenues of the Basalt Enterprise. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien upon any revenues of the Basalt Enterprise or the Basalt District. BWCD represents that this Agreement has been duly authorized, executed and delivered by BWCD and constitutes a valid and legally binding obligation of BWCD, enforceable against BWCD in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

14.4 Sole Obligation of the Colorado River Water Conservation District acting by and through its Colorado River Water Projects Enterprise. This Agreement shall never constitute a general obligation or other indebtedness of the CRWCD or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the CRWCD within the meaning of the Constitution and laws of the State of Colorado. In the event of a default by the CRWCD of any of its obligations under this Agreement, the other Parties shall have no recourse for any amounts owed to it against any funds or revenues of the CRWCD except for the revenues of its Colorado River Water Projects Enterprise ("CRWCD Enterprise") derived from pursuing, continuing, and conducting all of its Water Activities, as that term is defined in the resolution creating the CRWCD Enterprise and any existing and future amendments thereto, and then only after the payment of all operation, maintenance and other expenses related to the CRWCD Enterprise's Water Activities and all debt service and reserve requirements of any bonds, notes or other financial obligations of the CRWCD Enterprise secured by pledge of the net revenues of the CRWCD Enterprise. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien upon any revenues of the CRWCD Enterprise or the CRWCD. CRWCD represents that this Agreement has been duly authorized, executed and delivered by CRWCD and constitutes a valid and legally binding obligation of CRWCD, enforceable

against CRWCD in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

## 15. Miscellaneous

15.1 Intent of Agreement. This Agreement is intended to describe the rights and responsibilities of and between the Parties and is not intended to, and shall not be deemed to confer rights upon any persons or entities not named as Parties or as authorized assigns, nor to limit in any way the powers and responsibilities of the Parties, or any other entity not a Party or assign hereto.

15.2 Entire Agreement. This Agreement represents the entire bargain and contract of the Parties and none of the Parties has relied upon any fact or representation not expressly set forth herein. All prior and contemporaneous conversations, negotiations, possible alleged agreements, representations, covenants and warranties concerning the subject matter hereof, are merged in this Agreement.

15.3 Multiple Originals. This Agreement may be simultaneously executed in any number of counterparts, each one of which shall be deemed an original, but all of which constitute one and the same Agreement.

15.4 Amendment. This Agreement may be amended, modified, changed or terminated in whole or in part only by written agreement duly authorized and executed by the Parties.

15.5 Headings for Convenience. Headings, titles and the table of contents contained herein are intended for the convenience and reference of the Parties only and are not intended to confine, limit or describe the scope of intent of any provision of this Agreement.

15.6 Governing Law. This Agreement and its application shall be construed in accordance with the law of the State of Colorado.

15.7 No Attorney Fees. In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of or related to this Agreement each Party agrees to be responsible for its own attorney and other professional fees, costs and expenses associated with any such proceedings.

15.8 No Construction Against Drafter. This Agreement was drafted by Aurora with review and comment from the attorneys for the other Parties. Accordingly, the Parties agree the legal doctrine of construction against the drafter will not be applied should any dispute arise concerning this Agreement.

15.9 Non-Severability: Effect of Invalidity. Each provision of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties. If any provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be held invalid or unenforceable for any reason by a

Court of competent jurisdiction the Parties shall promptly meet in order to enact a new agreement that as near as possible replicates the provisions hereof.

15.10 Waiver of Breach. Waiver of breach of any of the provisions of this Agreement by any Party shall not constitute a continuing waiver of any subsequent breach by said Party of either the same or any other provision of this Agreement.

15.11 Non-Business Days. If any date for any action under this Agreement or its application falls on a Saturday, Sunday or a day that is a "holiday" as such term is defined in Rule 6 of the Colorado Rules of Civil Procedure, then the relevant date shall be extended automatically until the next business day.

15.12 Recitals. The recitals herein are hereby incorporated into this Agreement.

15.13 No Recordation. The Parties expressly agree this Agreement will not be recorded in any Clerk and Recorder's Office within or outside of Colorado except as may be required for the act of approving this Agreement by any one of the Parties. All Parties expressly agree this unmodified Agreement may be referenced, included or otherwise incorporated in any future or pending Water Court Application or administrative proceeding before the office of the Colorado State Engineer.

15.14 Authority of the Parties. Subject to the terms this Agreement, the Parties each affirm and represent they have the full power and authority to execute this Agreement.

15.15 No Agency Created and No Third Party Beneficiaries. This Agreement is not intended and shall not be construed to create any joint venture, agency relationship or partnership between the Parties. None of the Parties shall have any right or authority to act on behalf of or bind another Party. The agreements herein and the benefits therefrom are solely intended for the Parties hereto and are not for the benefit of, nor may they be claimed as benefits, by third parties.

15.16 Execution of Additional Documents. The Parties agree to execute any further documents reasonably necessary to complete the transactions provided for or contemplated by this Agreement.

15.17 Specific Performance. The Parties hereto are entitled to seek the remedy of specific performance regarding any breaches hereof by another Party.

15.18 Notice. Except as to any operational communications that the Parties may subsequently agree are best handled through electronic or telephonic means, all notices, requests, demands or other communications (collectively, "Notices") hereunder shall be in writing and given by (i) established express delivery service which maintains delivery records requiring a signed receipt, (ii) hand delivery or (iii) certified or registered mail, postage prepaid, return receipt requested to the Parties at the following address, or at such other address as the Parties may designate by Notice in the above manner.

To Aurora and/or B-I Inc.\*

City of Aurora  
15151 East Alameda Parkway, Suite 3600  
Aurora, CO 80012-1555  
Attn: Director, Aurora Water

with copy to City of Aurora  
15151 East Alameda Parkway, Suite 5300  
Aurora, CO 80012-1555  
Attn: City Attorney

with copy to Hamre, Rodriguez, Ostrander & Dingess, PC  
3600 Yosemite Street, Suite 500  
Denver, CO 80237-1829  
Attn: John M. Dingess, Esq.

To CRWCD: Colorado River Water Conservation District  
Attention: General Manager  
P.O. Box 1120  
Glenwood Springs, CO 81602

with copy to: Colorado River Water Conservation District  
Attention: General Counsel  
P.O. Box 1120  
Glenwood Springs, CO 81602

To BWCD: Basalt Water Conservancy District  
P.O. Box 974  
Glenwood Springs, CO 81602

with copy to: Balcomb & Green, P.C.  
P.O. Drawer 790  
Glenwood Springs, CO 81602  
Attn: Christopher L. Geiger, Esq.

To Eagle: Eagle County Attorney  
P.O. Box 850  
500 Broadway  
Eagle, CO 81631-0850

with copy to: Balcomb & Green, P.C.  
P.O. Drawer 790  
Glenwood Springs, CO 81602  
Attn: Christopher L. Geiger, Esq.

To Pitkin: Pitkin County Attorney's Office  
530 East Main Street, Suite 301  
Aspen, CO 81611

with copy to: Pitkin County Manager's Office  
530 East Main Street, Suite 302  
Aspen, CO 81611

To GVVUA: Grand Valley Water Users Association  
Attention: General Manager  
1147 24 Road  
Grand Junction, CO 81505

with copy to: Williams, Turner & Holmes, P.C.  
Attention: Kirsten M. Kurath  
744 Horizon Court, Suite 115  
Grand Junction, CO 81506

To OMID: Orchard Mesa Irrigation District  
Attention: District Manager  
668 38 Road  
Palisade, CO 81526

with copy to: Williams, Turner & Holmes, P.C.  
Attention: Kirsten M. Kurath  
744 Horizon Court, Suite 115  
Grand Junction, CO 81506

To Ute: Ute Water Conservancy District  
Attention: Manager  
2190 H ¼ Road  
Grand Junction, CO 81505

with copy to: Ute Water Conservancy District  
Attention: General Counsel  
2190 H ¼ Road  
Grand Junction, CO 81505

with copy to: Williams, Turner & Holmes, P.C.  
Attention: Kirsten M. Kurath  
744 Horizon Court, Suite 115  
Grand Junction, CO 81506

Notices shall be effective (i) the day of delivery indicated by the delivery receipt when sent by an established express delivery service which maintains delivery records requiring a signed receipt, (ii) upon receipt by the addressee of a hand delivery, or (iii) the day of delivery indicated by the Return Receipt when mailed via Certified or Registered mail, postage prepaid, Return Receipt Requested.

15.19 No Other Agreement or Decree Modified. Unless specifically identified and referenced in this Agreement no other agreement or contract between any of the Parties or between any Party and a third party, or any water decree or stipulation is modified or changed by this Agreement.

15.20 Failure to perform any obligation contained in this Agreement by any Party shall constitute a default. Any Party may seek legal or equitable recourse in any court of competent jurisdiction including suspension of the terms of this Agreement, the Stipulation and the Decree. Failure to enforce any default shall not be construed as a waiver by any Party of the default or remedies for breach. If, for any reason except for failures described in paragraphs 8, 22 and 23 hereof, Aurora fails or is unable to fulfill its obligations under the provisions of this Agreement, Aurora's diversions of the Busk-Ivanhoe water rights that are the subject of this Agreement shall cease until such time as Aurora is again in compliance with this Agreement. Any such cessation of Busk-Ivanhoe diversions by Aurora will not excuse or postpone any other obligations of Aurora set forth in this Agreement.

## **II. Roaring Fork River Water Delivery**

16. Aurora Twin Lakes Ownership. Aurora currently owns 2,488,475 shares of the Twin Lakes Reservoir and Canal Company ("Twin Lakes") representing approximately five percent of the total issue of 49,588,965 shares. The Parties acknowledge Aurora's ability to request the activities of Twin Lakes hereinafter described is limited and subject to its pro rata ownership. Twin Lakes by mention of its name in this Agreement is not made a party hereto; no Party is due any third-party performance from Twin Lakes. If the sale of shares of stock, dilution of the current shares, or changes in the rights represented by Aurora's current shares of stock occur such that Aurora no longer has interest or benefit of Twin Lakes shares of stock as contemplated and described in this Agreement and this change results in an inability of Aurora or its successor to fulfill the obligations of this Agreement then B-I Inc./Aurora are in default pursuant to paragraph 15.20 above until such time as the preexisting stock condition is restored, but Aurora's and B-I Inc.'s other obligations under this Agreement shall remain. This Agreement does not change, modify, revise or amend any other contract or agreement between any of the Parties and Twin Lakes. Aurora agrees that it will not request Twin Lakes to perform any illegal operations or activities. The Parties agree that Twin Lakes assumes no liability for any operations it conducts pursuant to the terms of this Agreement. Further, the Parties agree that in the event operations of Twin Lakes conducted pursuant to the terms of this Agreement result in the initiation of legal proceedings against Twin Lakes then Twin Lakes may immediately cease such operations pending resolution of the said legal proceedings against Twin Lake to its satisfaction.

17. Roaring Fork Delivery Location. As a Twin Lakes shareholder Aurora may call for deliveries and bypasses of its "in priority" water derived from the transbasin component of its

Twin Lakes shares at or near the outlet of Grizzly Reservoir, a facility with an operating volume of approximately 500 A-F, located in Pitkin County within Lincoln Gulch upon Lincoln Creek, a tributary to the Roaring Fork River. Consistent with Twin Lakes operating requirements and requests of Pitkin and the CRWCD, deliveries may also be made from Twin Lakes' facilities located on the Roaring Fork River near Lost Man Creek.

18. Water Deliveries and Bypasses. Subject to the following, pursuant to the Twin Lakes decrees and according to its operating principles and provided Aurora's ownership of Twin Lakes shares yield to Aurora an amount equal to or greater than the bypasses or releases of water from the Independence Pass Trans-mountain Diversion System during the subject year, beginning in the Twin Lakes Water Year (October 1 - September 30 Twin Lakes Water Year) following the Initiation Date, Aurora will cause to be delivered through bypasses or releases to the Roaring Fork River up to a total of 900 A-F of its Twin Lakes water each Twin Lakes Water Year. As used within Section II of this Agreement the term "bypass" means water diverted pursuant to Aurora's Twin Lakes shares under the Twin Lakes' priority and then delivered to the Roaring Fork River at a time when such water is physically and legally available under such right. Annually, designated representatives of Pitkin, CRWCD, Aurora and Twin Lakes will develop, subject to the terms of this Agreement, detailed delivery schedules reasonably considering and reflecting the desired rate, timing, amount, location and ultimate use of the water, as well as the operational needs and constraints upon the Independence Pass Transmountain Diversion System. Pitkin, CRWCD, Aurora and Twin Lakes may consult with other appropriate parties, if any, in developing the delivery schedules. Delivery schedules may be updated from time-to-time throughout the Water Year as warranted by hydrology, operational constraints or other factors. It is recognized by the Parties that deliveries under this paragraph will be conducted in a manner designed to maximize benefits to Roaring Fork River stream flows which is a benefit to the West Slope Parties and the Colorado River basin as stated in paragraph 20. Delivery of this water will be completed by the end of the Twin Lakes Water Year. Aurora will not carry over to following years any undelivered or un-bypassed water. The Parties agree any water provided per the terms of this paragraph 18 and its subparts retains its identity as water derived from the exercise of the Twin Lakes water rights. The water deliveries and bypasses contemplated by this paragraph 18 are not contingent upon the operation of any exchange described in paragraph 19. Other water users may be allowed to operate exchanges or otherwise divert and provide a substitute supply for the Twin Lakes water bypassed, so long as the DEO ensures delivery of the bypassed amount, minus transit losses, to any exchange from point or point of delivery to an actual decreed location of use. The Twin Lakes water will be delivered to the Roaring Fork River as described in 18.1 and 18.2 below:

18.1 Annual Roaring Fork Delivery. 900 A-F will be delivered annually during each Twin Lakes Water Year from or through Grizzly Reservoir, or bypassed from the Twin Lakes System's Roaring Fork diversions. If Aurora's 2,488.475 Twin Lakes shares do not yield 900 A-F as a result of drought or other climatic conditions or the physical capacity of the facilities of Twin Lakes as described in paragraph 22, then such lesser amount supported by the yield of Aurora's 2,488.475 shares will be delivered. 700 A-F of the 900 A-F will be delivered as a bypass of Aurora's Twin Lakes "in priority" water at or near the Twin Lakes diversion points in the Lincoln Creek Drainage near Grizzly Reservoir or its diversion points on the Roaring Fork River near Lost Man Creek. Subject to the forgoing and the following

considerations the remaining 200 A-F of the 900 A-F will be released from Grizzly Reservoir generally at the end of summer and during the fall seasons consistent with the annual delivery schedule as may be modified during the Twin Lakes Water Year and the operational requirements of Twin Lakes. If not physically released from Grizzly Reservoir this remaining 200 A-F will be bypassed instead of released from storage if hydrologic conditions and operational constraints of Twin Lakes warrant. In any event the Parties acknowledge that 200 A-F will be the maximum release to Lincoln Creek that can be made from Grizzly Reservoir storage in any year. The Parties recognize that Twin Lakes operational and infrastructure maintenance needs and stream flow needs of Lincoln Creek and the Roaring Fork River, including but not limited to turbidity, temperature, habitat, flooding, water quality and other environmental constraints, may require that these releases consist of low flows that begin in mid-summer and end in late-summer. Annual delivery of this 200 A-F of released water will be consistent with the considerations used for the 700 A-F of bypassed water described above. Typically the delivery of water to the Roaring Fork River will provide the greatest benefit in the second half of the summer, beginning July 15, through the fall season. Pitkin and Aurora acknowledge that water delivered to the Roaring Fork River by Aurora before this time, during the runoff, is not generally needed and in wet years may exacerbate flood risk. Delivered water, bypasses and releases from Grizzly Reservoir, will normally be Aurora's interest in its yield of the IPTDS. Aurora's yield from its Twin Lake's shares is delivered daily to Aurora and other Twin Lakes shareholders on a prorated basis. Aurora agrees to use best efforts to accommodate desires for late season deliveries and conversely Pitkin recognizes Aurora's delivery of water as bypasses or releases will be based upon Aurora's annual yield as currently reflected by Aurora's ownership of 2488.475 shares in Twin Lakes Reservoir and Canal Company. Nevertheless, while Pitkin and Aurora recognize neither one of them can compel aggregation of deliveries of Twin Lakes water owned by Aurora with Twin Lakes water owned by other shareholders, if circumstances allow Aurora will not require that its deliveries be limited to its daily proration of Twin Lakes yield. The Expression of Mutual Intent between Aurora and Twin Lakes, attached hereto as Exhibit F, and the expectations of Aurora and Twin Lakes contained in that letter agree with Pitkin's expectations and describe satisfaction, without modification, of the water delivery obligations contained in Section II of this Agreement. Delivery of water to the Roaring Fork will be based upon protocol described in Paragraphs 18, 19 and 20 and their subsections.

18.2 Recovery Year Reduction of Annual Water Delivery. Subject to the conditions herein stated, the 900 A-F of annual delivery and/or bypass will be reduced to 800 A-F for the subject year if Aurora's total system storage is at or below sixty percent (60%) of total capacity on any April 1. Aurora's total system storage is described in Exhibit E. Aurora agrees to update its amount of total system storage as changes occur to reflect addition or loss of storage facilities, changes in contract storage capacity, enlargement of facilities or other changes in storage volume. Annually, Aurora will communicate to the West Slope Parties its total system storage quantity on April 1 and express that amount as a percentage of total system capacity and describe the methodology for this calculation. This Recovery Year Reduction allowance will cease once Aurora's total system storage has recovered to eighty percent (80%) of total capacity and delivery of the 100 A-F will once again be subject to temporary suspension should total system storage fall to sixty percent (60%) or below.

Nevertheless, the Recovery Year Reduction described in this paragraph will not apply during any year or years that Aurora's total system storage is at or below sixty percent (60%) of total capacity on any April first as a result of Aurora filling expanded system capacity resulting from construction of additional storage space, the acquisition of additional contract storage space, enlargement of existing facilities, or increase in storage volume.

19. Exchanged Roaring Fork Deliveries. Subject to the conditions stated in this paragraph 19 and the remainder of Section II of this Agreement, in the Twin Lakes Water Years following the Initiation Date Aurora may cause to be delivered for the benefit of the Roaring Fork River up to an additional 100 A-F of water annually during the diversion season that if delivered would make the amount of water delivered or bypassed to the Roaring Fork River in such a year pursuant to paragraphs 18 and 19 and their subparagraphs up to but not exceeding 1,000 A-F. Annually, prior to the initiation of diversions by Twin Lakes designated representatives of Pitkin, CRWCD, Aurora and Twin Lakes will develop subject to the terms of this Agreement detailed delivery schedules for water available under this paragraph 19 reasonably considering and reflecting the desired rate, timing, amount, location and ultimate use of the water, as well as the operational needs and constraints upon Aurora as a Twin Lakes shareholder plus constraints upon the Twin Lakes company and all Twin Lakes facilities. Pitkin, CRWCD, Aurora and Twin Lakes may consult with other appropriate parties, if any, in developing the delivery schedules. Delivery schedules may be updated from time-to-time throughout the Water Year as warranted by hydrology, operational constraints or other factors identified in this Agreement. It is recognized by the Parties that deliveries under this paragraph 19 will be conducted in a manner designed to maximize benefits to Roaring Fork River stream flows which benefits the West Slope Parties and the Colorado River basin as stated in paragraph 20. Those Parties will also invite the U.S. Bureau of Reclamation to participate in such meetings.

19.1 The Exchanged Roaring Fork Delivery will be contingent upon and limited by the following:

19.1.1 Aurora must first obtain an adjudicated right allowing the exchange of up to 900 A-F of Twin Lakes Water over which Aurora has maintained dominion and control in any one year from the confluence of the Roaring Fork and Fryingpan Rivers upstream on the Fryingpan River to Ruedi Reservoir and an additional exchange, as a component subset of the 900 A-F, up to 450 A-F in any one year from Ruedi Reservoir to Ivanhoe Reservoir located upon Ivanhoe Creek. Ivanhoe Reservoir is owned by Pueblo Water and operated by the Busk-Ivanhoe Water System Authority. The Parties acknowledge neither Pueblo Water nor the Busk-Ivanhoe Water System Authority assume any liability for any operations or activities conducted pursuant to the terms of this Agreement. Any storage of exchanged water in Ivanhoe Reservoir must be pursuant to a contract with the owner and operator of Ivanhoe Reservoir; and,

19.1.2 Pitkin must first obtain a continuing contract from the U.S. Bureau of Reclamation for "If-&-When" storage of 900 A-F of water in Ruedi Reservoir. Pitkin agrees to store at Aurora's request any water Aurora is able to exchange pursuant to sub-paragraph 19.1.1 above; and,

19.1.3 Water must be placed into Ivanhoe Reservoir pursuant to the operation of sub-paragraphs 19.1.1 and 19.1.2 above. Thereafter, during the following Twin Lakes Water Year, Aurora will deliver for the benefit of Pitkin and/or the West Slope Parties from facilities owned or controlled by Twin Lakes upon detailed delivery schedules established under paragraph 19 water in a volume equal to one-quarter of the amount of water placed into Ivanhoe Reservoir the previous Twin Lakes Water Year up to a maximum of 100 A-F. The water placed into Ivanhoe Reservoir the previous Twin Lakes Water Year will continue to be recognized as derived from the exercise of Twin Lakes water rights and the property of Aurora. Water deliveries for the benefit of Pitkin and/or the West Slope Parties may not be carried over to succeeding Twin Lakes Water Years.

19.1.4 Aurora will have discretion to not place water into Ivanhoe Reservoir if Aurora in good faith determines 1) such would be detrimental to Busk-Ivanhoe System senior water rights, or 2) such is not in accord with any contract with the operator and owner of Ivanhoe Reservoir.

19.2 Aurora at its discretion may choose to pursue as an alternative to sub-paragraphs 19.1.1 and 19.1.2 above, adjudication of a junior storage decree for up to 450 A-F within Ivanhoe Reservoir. If such a storage right is obtained, a contract with the operator and owner of Ivanhoe Reservoir is obtained and water is stored thereunder within Ivanhoe Reservoir then during the following Twin Lakes Water Year Aurora will deliver water, in accordance with delivery schedules established under paragraph 19, from facilities owned or controlled by Twin Lakes for the benefit of the Roaring Fork River in a volume equal to one-half of the amount of water placed into Ivanhoe Reservoir the previous Twin Lakes Water Year under this junior decree up to but not exceeding a total of 1,000 A-F as pursuant to paragraphs 18 and 19 and their subparagraphs. The balance of the water placed into Ivanhoe Reservoir the previous Twin Lakes Water Year under that junior storage decree will be recognized as the property of Aurora. Water deliveries for the benefit of Pitkin and/or the West Slope Parties may not be carried over to succeeding Twin Lakes Water Years. Any such junior storage right may, at Aurora's discretion, be held jointly with the Pueblo Board of Water Works but Aurora's obligations under this Agreement shall continue.

19.3 The filing and pursuit of applications for the exchange and/or storage water rights described within this paragraph 19 by Aurora will be in its discretion and at its sole cost. If Aurora proceeds with the adjudication of either or both of the exchange or storage rights discussed within paragraph 19 then Pitkin will request and pursue the If-&-When water storage contract within Ruedi Reservoir described within this paragraph 19. Aurora agrees it will be solely responsible for the costs of obtaining any such contract. Should Pitkin successfully obtain an If-&-When water storage contract within Ruedi Reservoir described within this paragraph 19 Pitkin agrees to pay for a proportional amount of the annual costs based upon its yield in the exchange for those years when the exchange produces a benefit for the Roaring Fork River and Aurora agrees to be responsible for the remaining annual costs. Aurora agrees not to seek any exchange right that would be senior to any exchange by BWCD described in Section III, below. Should Aurora decide to pursue an application

for an exchange and/or storage rights, the Parties agree to discuss, in good faith, whether Aurora should include within such application, to the extent legally allowed, the ability to beneficially use water in the Roaring Fork River below Maroon Creek, including but not limited to, use for instream flow purposes in the Roaring Fork River as administered by the Colorado Water Conservation Board ("CWCB"), for delivery to the Pitkin County Recreational In-channel Diversion decreed in Case No. 10CW305, Water Division 5 or for use in the BWCD's augmentation plan(s).

19.4 The Parties agree any water moved into Ivanhoe Reservoir by the exchange procedure described in paragraph 19.1 retains its identity as water derived from the exercise of the Twin Lakes water rights and is not counted against any volumetric limitations of any Busk-Ivanhoe System water right including any and all Busk-Ivanhoe junior rights.

19.5 Water delivered to the Roaring Fork River as a result of an exchange into Ruedi and Ivanhoe Reservoirs pursuant to this paragraph 19 will be made consistent with the deliveries described in paragraph 18 and its subsections.

19.6 All Parties agree to not oppose any Water Court proceeding by Aurora initiated solely to obtain decreed rights of exchange or changes as necessary to move Twin Lakes water or a junior Ivanhoe Reservoir storage right in accordance with the provisions of this paragraph 19. The Parties agree they will not oppose the issuance of an If-and-When contract by the U.S. Bureau of Reclamation for storage of water as herein described. The Parties further agree to reasonably cooperate with Aurora in exploring and possibly implementing alternative locations and methods for Aurora to exchange water delivered at Grizzly Reservoir after it passes the City of Aspen for the benefit of Aurora.

20. Further Cooperation Regarding Roaring Fork Flows. In the event of any unresolved dispute concerning the rate and timing of the Roaring Fork Delivery water pursuant to paragraphs 18 or 19, Aurora, CRWCD and Pitkin, agree amongst themselves that such dispute may be resolved by adjusting the rate and timing of the Roaring Fork Delivery in order to most closely achieve improvement and increases to streamflow in the Roaring Fork River and other consumptive and non-consumptive uses that do not require any change in the character of the water delivered to the Roaring Fork River drainage at times when it is most needed and produces the most benefit for the Roaring Fork River. In the event that, following such consultation process, the CRWCD and Pitkin do not reach agreement amongst themselves regarding any adjustment in flow rate or timing of flows provided under paragraphs 18 and 19, the CRWCD will defer to the position of Pitkin. The Parties recognize that there may be times or entire water years when Pitkin and CRWCD request that no water deliveries be made to the Roaring Fork River as a consequence of substantial or sufficient river flows present in the Roaring Fork or its tributaries or because of a threat of flooding in the Roaring Fork River drainage. At such times, Pitkin and the CRWCD's request for abatement of delivery will be honored and delivery obligations will be resumed later in the year to the extent possible given considerations described in paragraph 18 and 19. The Parties further agree to reasonably cooperate with each other and Pitkin County entities in exploring and possibly implementing alternative locations and methods for increasing Roaring Fork River Flows through the City of Aspen. Should such a project be undertaken, and Aurora agrees at its discretion to financially participate, it will do so in an

amount up to 1,000 A-F if available. If Aurora participates in such project, Aurora's delivery obligations set forth in paragraph 18 and 19 will be reduced by Aurora's volume of participation proportionately. Additionally, the Parties also agree and acknowledge that none of them have any intent to assert, and do not assert, that future activities under this Section II of this Agreement constitute relinquishment or abandonment of any of Aurora's ownership of any Twin Lakes water or water right. Further the Parties agree to cooperate in the future to prevent or combat attempts to allege relinquishment or abandonment of Aurora's ownership of any Twin Lakes water or water right as a result of their activities under this Section II of this Agreement.

21. **CRWCD Delivery Offset.** The CRWCD is the beneficiary of portions of the rights decreed in Twin Lakes' so-called junior decree entered in WD-5, 95CW321. Thereunder, at certain times water is delivered for the benefit of CRWCD. The Parties agree that in years when water is delivered for the benefit of CRWCD pursuant to WD-5, 95CW321 the amount of water so delivered to the Roaring Fork River will reduce by an equal amount Aurora's delivery obligations under paragraph 18, above. Nevertheless, the combined release of stored water from Grizzly Reservoir pursuant to paragraphs 18 and 19 and any Grizzly Reservoir storage release made pursuant to the terms of the decree, stipulation, and implementing agreements related to WD-5, 95CW321 shall not exceed 200 A-F in any year. The Parties acknowledge and agree that this Agreement is not intended to, and does not, interpret, change, modify, revise, amend, replace, displace, supersede or otherwise impact the decree and existing stipulations entered in WD-5, 95CW321, or any existing contract or agreement related to WD-5, 95CW321.

22. **Busk-Ivanhoe or Twin Lakes Facility Failure.** In the event of a Busk-Ivanhoe facility (including but not limited to the Carlton Tunnel) failure or a situation requiring substantial and unusual maintenance that prevents delivery of Busk-Ivanhoe System water to WD-2 or the delivery of water contemplated in paragraphs 18 and 19, the provisions of paragraphs 18 and 19 herein will be suspended until such time as the failed facilities are repaired and operating. This same suspension will also apply if Twin Lakes experiences a failure of its Grizzly Reservoir and/or facilities thereto or planned or unplanned necessary maintenance that prevents the delivery of water contemplated in paragraph 18 and 19.

### **III. Fryingpan River Exchanges and Storage**

23. **BWCD Storage Accounts.** Following the Initiation Date Aurora will provide BWCD, on a permanent basis, a storage account for the storage of up to 50 A-F of water within, and release from, Ivanhoe Reservoir in any one Reservoir Accounting Year (May 1-April 30). This storage account will be pursuant to a contract between Aurora, BWCD and the owner and operator of Ivanhoe Reservoir. BWCD will be allowed to carry over its water in this Ivanhoe Reservoir storage account from one Reservoir Accounting Year to the next but the total amount of BWCD water available for use by BWCD in Ivanhoe Reservoir storage may not exceed 50 A-F in any single Reservoir Accounting Year. Aurora will also provide BWCD on a permanent basis a Non-site Specific storage account not to exceed 50 A-F at a location or locations to be determined by Aurora within one or more storage facilities of the Aurora Water supply system. BWCD will be allowed to carry over its water in this Non-site Specific storage account from one Reservoir Accounting year to the next. Should BWCD deplete its Ivanhoe Reservoir storage

account of its stored water within any one Reservoir / Accounting Year and not be able to refill this space through exchanges or substitute water supply plans, and provided that BWCD has water available to it in the Non-site Specific storage account, Aurora will replace up to 50 A-F within the Ivanhoe Reservoir storage account and take for Aurora's own use an equal amount from the Non-site Specific storage account. Both the Ivanhoe Reservoir and Non-site Specific storage accounts will be initially filled with water available to BWCD through exchanges or substitute water supply plans that BWCD may legally operate into Ivanhoe Reservoir, and may be refilled by BWCD through exchanges or substitute water supply plans that BWCD can operate into Ivanhoe Reservoir at any time during any Reservoir Accounting Year. All storage of water in Ivanhoe Reservoir under this paragraph 23 and other operations involving Ivanhoe Reservoir pursuant to this Agreement will be conducted by Aurora so as not to impact water yields of the Busk-Ivanhoe System to its other owners. In the event of a failure of Ivanhoe Reservoir facilities or a situation requiring planned or unplanned necessary maintenance that prevents storage or releases of water as contemplated in paragraphs 23-28, the provisions of paragraphs 23-28 that cannot be executed in the event that water storage or releases are prevented will be suspended until such time as necessary maintenance, repair or replacement is completed on the failed facility. The Parties acknowledge this Agreement does not change, modify, revise, amend, replace, displace or supersede any currently existing contract or agreement between Pueblo Water and Aurora concerning the Busk-Ivanhoe Water System Authority.

24. BWCD Exchanges. BWCD will move up to 100 A-F of water into Ivanhoe Reservoir storage by adjudicated exchange or administratively approved exchanges, substitute water supply plans and/or contract exchanges that BWCD will have responsibility for obtaining. BWCD agrees to be responsible for all costs associated with any adjudication(s), substitute supply plan(s) or contract(s). Regarding the Non-site Specific storage, so long as such water remains readily available for BWCD's use, Aurora may "place" at its cost some or all of the volume of water in excess of 50 A-F that BWCD has legally and physically moved into Ivanhoe Reservoir in any one Reservoir Accounting Year into the storage facility or facilities of Aurora's choice through its internal accounting procedures or otherwise. If Aurora does not move water into Non-site Specific storage during any Reservoir Accounting Year, the volume available for use by BWCD in Ivanhoe Reservoir storage during said year may still not exceed 50 A-F. Any BWCD water remaining in Ivanhoe Reservoir storage at the end of a Reservoir Accounting Year that Aurora could have placed, but did not, into the Non-site Specific storage account during said year will be carried over into the BWCD storage accounts, and applied first to the Ivanhoe Reservoir account, for the subsequent Reservoir Accounting Year. All Parties agree to non-monetary support and non-opposition regarding any Water Court proceeding by BWCD initiated solely to obtain decreed rights of exchange to move water into Ivanhoe Reservoir, as well as any Water Court proceeding by Aurora initiated solely to obtain decreed rights of exchange to move BWCD water from Ivanhoe Reservoir into the Non-site Specific storage account, for the purpose of this Section III. All Parties further agree to non-monetary support and non-opposition to any administrative request for approval of any exchange or substitute water supply plans by BWCD initiated solely to obtain permitted rights of exchange to move water into Ivanhoe Reservoir, as well as any administrative request for approval of any exchange or substitute water supply plans by Aurora initiated solely to obtain permitted rights of exchange to move BWCD water from Ivanhoe Reservoir into the Non-site Specific storage account, for the purposes of this Section III.

Aurora agrees it will assess on an objective basis any request by BWCD to Aurora for a contract exchange to move water into the storage accounts.

25. BWCD Payments to Aurora. BWCD will annually pay to Aurora the following described portion of Ivanhoe Reservoir's operation and maintenance expenses. The amount will equal one percent (1%) of the annual operations and maintenance budgeted costs for Ivanhoe Reservoir system. This calculation shall include all costs related to Ivanhoe Reservoir and other west slope components of the Busk-Ivanhoe System. This payment will also cover all BWCD's operations and maintenance payment obligations concerning the Non-site Specific storage account. Aurora will provide an invoice to BWCD for all of the charges by November 30 of each year and payment therefor will be due within 90 days. The one percent (1%) of the annual operations and maintenance budgeted costs for Ivanhoe Reservoir system BWCD obligation is proportionate to 50 A-F. By way of example, if BWCD placed a total of five (5) A-F into Ivanhoe Reservoir during a Reservoir Accounting Year, then BWCD would owe ten (10) percent (10%) of the one percent (1%) of the annual operations and maintenance budgeted costs for Ivanhoe Reservoir system. This obligation will become effective when BWCD actually utilizes either storage account, and will lapse if BWCD relinquishes rights to use both storage accounts or upon abandonment or cancellation of BWCD water rights placed into the storage accounts.

26. Accounting Information and Evaporation Charges. As between themselves, BWCD and Aurora agree that: 1) BWCD and Aurora will provide each other with all information known and available to them and needed for accounting of the BWCD water stored in the Ivanhoe Reservoir and Non-site Specific storage accounts; and, 2) BWCD will be responsible for payment of all evaporation charges associated with any water stored in either account; and, 3) the amount of evaporation for the Ivanhoe Reservoir storage space will be proportionally determined by comparing the amount of water BWCD has in storage with the total amount in storage within Ivanhoe Reservoir; and, 4) the amount of evaporation for the Non-site specific storage space will be proportionally determined by comparing the amount of water BWCD has in storage with the total amount in storage within the facility or facilities where Aurora chooses to accommodate said water.

27. Relative Priorities of Exchanges and Storage. As of the Effective Date of this Agreement neither Aurora nor the Busk-Ivanhoe system hold any decreed, permitted or contractual rights of exchange from points on or below the Fryingpan River to Ivanhoe Reservoir. So long as BWCD is reasonably diligent in requesting and prosecuting decreed rights of exchange to move water into Ivanhoe Reservoir storage space, including such amounts as Aurora may "place" into the Non-site Specific storage space, Aurora agrees it will not seek nor operate any adjudicated exchange into Ivanhoe Reservoir, including but not limited to any exchange described in paragraph 19 above, with an administration date senior to that obtained by BWCD if such Aurora exchange would call out the BWCD exchange. Additionally, so long as BWCD is reasonably diligent in requesting and prosecuting decreed rights of exchange to move water into the 50 A-F of Ivanhoe Reservoir storage space and 50 A-F of Non-site specific storage space, Aurora agrees it will not seek nor operate the junior storage decree described in paragraph 19.2 above with an administration date senior to that obtained by BWCD for its exchange if such Aurora junior storage decree would diminish the contemplated yield of the BWCD exchange.

28. BWCD Ivanhoe Reservoir Releases, Studies and Costs. BWCD will utilize its water in the storage accounts for purposes of supplying augmentation or substitute supplies to the Fryingpan River above Ruedi Reservoir or for stream flow support in that stream reach. Absent any agreement with the CWCB for instream flow use, releases solely for stream flow support may be subject to other water users operating exchanges or otherwise diverting the water, or if also being released to replace out-of-priority depletions or for a decreed beneficial use, other water users may operate exchanges or otherwise divert the water and provide a substitute supply for the released water, so long as the DEO ensures delivery of the released amount, minus transit losses, to any decreed point of replacement or use. BWCD may request releases of water from the storage accounts at any time and Aurora will take all reasonable steps to accommodate these requests. Aurora will not object to BWCD's use of the water placed into the storage accounts described in paragraph 23 for any legal beneficial use at any location within its service area. Although the Fryingpan River basin above Ruedi presents the most likely place of use, BWCD may find need for this supply in other locations within its service area, and if so Aurora will not object thereto. BWCD and Aurora acknowledge the Ivanhoe Reservoir is situated at high altitude and winter season releases will pose challenges. Nevertheless BWCD and Aurora agree to reasonably assist one another and to employ temperature appropriate and situationally reasonable methods in overcoming such challenges. Initially, BWCD and Aurora will cooperatively seek agreement with the CWCB that might allow BWCD to avoid winter releases. Concurrently, Aurora and BWCD agree to cooperatively study various methods of accomplishing winter releases if such are necessary and Aurora agrees it will pay for the initial feasibility study up to \$25,000 for such study. In addition to that investigation, BWCD agrees to study the potential for other winter augmentation sources such as releases from other impoundments tributary to the Fryingpan River. BWCD agrees to pay all costs for this investigation. If Ivanhoe Reservoir releases are still determined to be required, then Aurora and BWCD agree to pay one-half each up to a joint total of \$260,000.00 (up to \$130,000 each) for any necessary construction and installation of facilities that, in the exercise of non-arbitrary good faith, both Aurora and BWCD determine are necessitated by the study. Both entities must agree to the development of the project determined from the study and each will pay equal amounts for the project development. BWCD agrees it will pay for the hydrologic modeling of the Fryingpan Basin needed to support the exchange requests for movement of water into Ivanhoe Reservoir. BWCD will share the hydrologic modeling it develops with Aurora. Aurora will conduct and pay for a capacity survey of Ivanhoe Reservoir if needed for this study. Aurora will share the capacity survey with BWCD. As of the Effective Date Aurora and BWCD have identified the following three potential winter-release alternatives: 1) siphon pipeline; 2) small pump station and pipeline; and 3) a jack and bore pipeline conveying water around Ivanhoe Reservoir by gravity flow. These alternatives are listed by way of example and are not meant to exclude other agreed upon methods including, but not limited to, approved slug releases. Aurora and BWCD agree their rights and obligations under this Section III are conditional upon entry of a contract between Aurora, BWCD and the owner and operator of Ivanhoe Reservoir authorizing BWCD's use of Ivanhoe Reservoir as they agree for the purposes of Section III. Aurora and BWCD agree they will actively cooperate in diligent good faith attempts to obtain required authorization for such use of Ivanhoe Reservoir and to implement the provisions of Section III of this Agreement. If despite such efforts such authorization is not obtained Aurora agrees it will pay up to \$130,000.00 discussed above toward alternative solutions to make 50 A-F of water available to BWCD tributary to the Fryingpan River that does not involve use of Ivanhoe Reservoir.

29. BWCD Support of Box Creek Reservoir and No Changes to Busk-Ivanhoe Agreements. In view of the agreements in this Section III, BWCD specifically acknowledges Aurora is working toward developing a water reservoir in Lake County, Colorado referred to as the Box Creek Reservoir, generally described in Exhibit B. BWCD agrees to acknowledge its support for Aurora's development of Box Creek Reservoir in writing in the form of Exhibit C, attached, as may be requested by Aurora. This Agreement does not change, modify, revise or amend any other contract or agreement between any of the Parties and B-I Inc. Aurora agrees that it will not request B-I Inc. to perform any illegal operations or activities. The Parties acknowledge this Agreement does not change, modify, revise, amend, replace, displace or supersede any currently existing contract or agreement between Aurora, B-I Inc., the Busk-Ivanhoe Water System Authority or Pueblo Water concerning the Busk-Ivanhoe System.

#### **IV. Shoshone Outage Protocol & Shoshone Permanency**

30. ShOP Agreement. The Shoshone Power Plant is a mainstem hydroelectricity plant with generation facilities located adjacent to the mainstem of the Colorado River downstream from its confluence with Shoshone Creek and west of Exit 125 of Interstate Highway 70 ("SPP"). The SPP is currently owned and operated by Public Service Company of Colorado, d/b/a Xcel Energy ("PSCo"). The SPP has a senior hydropower water right with a 1902 Appropriation for 1250 cfs ("Senior Hydropower Right") and a junior hydropower water right with a 1929 Appropriation for 158 cfs ("Junior Hydropower Right"). The Senior Hydropower Right and the Junior Hydropower Right are collectively referred to for purposes of this Agreement as the "SPP Water Rights." Several entities,<sup>1</sup> some of whom are parties to this Agreement entered into an Agreement dated June 27, 2016 referred to as the Shoshone Outage Protocol (US Bu Rec Agreement No. 13XX6C0129) ("ShOP Agreement"). The parties to the ShOP Agreement 1) recognized when the SPP is operating its river call it can command the flow of the Colorado River and certain tributaries in certain stream conditions by exercising the Senior Hydropower Right against upstream junior water rights; 2) recognized whenever the SPP is not operating because of repairs, maintenance or other reasons, the SPP river call cannot be exercised and upstream junior water rights would be able to divert water; 3) recognized a desire of some to maintain the flow regimen of the Colorado River as historically influenced by the Senior Hydropower Right; and 4) agreed among themselves to implement certain operating procedures during times when the SPP was not operating. Included within the ShOP Agreement were provisions when certain parties thereto would not divert under their water rights per the operating procedures.

31. Aurora Ownership.

31.1 The Parties acknowledge Aurora is the owner of one-half of the Homestake System which system includes, inter alia, the Homestake water rights first decreed in Eagle County District Court Case No. CA-1193 with Appropriation dates of 1952. The Parties

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<sup>1</sup> US Bureau of Reclamation, Colorado Division of Water Resources, Denver Water Board, CRWCD, Middle Park WCD, Northern Colorado WCD & its Municipal Subdistrict, Grand Valley Water Users Association, Orchard Mesa Irrigation District and the Grand Valley Irrigation Company

further acknowledge that as a one-half owner of the Homestake System Aurora cannot bind, and is not binding, the owner of the other one-half of the Homestake System, Colorado Springs-Utilities, to any of the provisions hereof. In view of the forgoing Aurora agrees that, subject to the further terms and provisions herein stated, it will subject its one-half of the Homestake water rights to the terms herein following. The Parties acknowledge this Agreement does not change, modify, revise, amend, replace, displace or supersede any currently existing contract or agreement between the City of Colorado Springs and Aurora concerning the Homestake System ("Homestake Agreements").

31.2 The Parties acknowledge Aurora is the owner of two-thirds of the outstanding shares of the Fremont Pass Ditch Company ("FPDC") which Company owns Columbine Ditch water rights decreed in Civil Action No. 963, District Court for Eagle County, WD-5, 90CW340, 09CW187 and 09CW188. The Parties further acknowledge that as a two-thirds owner of the FPDC Aurora cannot bind, and is not binding, the owner of the other one-third of the FPDC, the Climax Molybdenum Company ("CMC"), to any of the provisions hereof including anything that may interfere with CMC's rights under any FPDC operating agreement, contracts or practices. Those CMC rights include, inter alia, the right to use all of the water available by the FPDC rights within any given year. In view of the forgoing Aurora agrees that, subject to the further terms and provisions herein stated, it will subject its two-thirds of the FPDC water rights, when the same are not otherwise available to CMC, to the terms herein following.

32. Term of Aurora ShOP Agreement. The initial term of Aurora's agreement regarding its one-half of the Homestake water rights and two-thirds of the FPDC water rights in accordance with the ShOP Agreement as herein specified ("Aurora ShOP") will be until June 27, 2056. This period will commence immediately following the Initiation Date as described in Section I. of this Agreement.

33. Aurora ShOP Agreement. Under this Aurora ShOP, if the SPP is not calling because of repairs, maintenance or other reasons and flow at the Dotsero Gauge is less than or equal to 1,250 cfs (not including Shepherded Stream Flow Reservoir Releases<sup>2</sup>) Aurora agrees to operate its one-half of the Homestake water rights and two-thirds of the FPDC water rights as if the Senior Hydropower Right was calling for a flow of 1,250 cfs at the Dotsero Gauge. Aurora agrees that if it acquires or appropriates any water rights that are junior to and legally and physically subject to the Senior Hydropower Right call, then Aurora will operate such right pursuant to the Aurora ShOP in accordance with the terms of this Agreement.

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<sup>2</sup> The Parties adopt the definition of Shepherded Streamflow Reservoir Releases and considerations thereof as set forth in the ShOP Agreement. In the ShOP Agreement Shepherded Streamflow Reservoir Releases are defined as those reservoir releases made for the reservoir owners' purposes of increasing stream flows either at the Shoshone Power Plant, in the 15-Mile Reach, or at other stream locations at the rates and volumes of the reservoir releases, provided such releases are made for decreed beneficial uses for instream or in-channel purposes at any such locations including, but not limited to, endangered fish species purposes within the 15-Mile Reach. The 15-Mile Reach is the reach of the Colorado River which extends from the point at which the tailrace common to the Grand Valley Power Plant and the Orchard Mesa Irrigation District pumping plant returns to the Colorado River below the Grand Valley Irrigation Company diversion dam, downstream to the confluence of the Colorado River and Gunnison River.

33.1 During Aurora ShOP Operations defined in paragraph 33 above, Aurora agrees that, with respect to its one-half interest in the Homestake Project, the West Slope parties to the 2010 Consolidated Water Exchange Agreement between Aurora, CRWCD and others (the “2010 Consolidated Exchange Agreement”) may operate exchanges into the 4,000 acre foot portion of West Slope credit available pursuant to the 2010 Consolidated Exchange Agreement at Homestake Reservoir. If the 4,000 acre foot West Slope credit available pursuant to the 2010 Consolidated Exchange Agreement at Homestake Reservoir is full or if the West Slope parties to that agreement do not operate under that exchange, then Aurora will operate its one-half of the Homestake water rights and two-thirds of the Fremont Pass Ditch Company water rights as if the Senior Hydropower Right was calling for a flow of 1,250 cfs at the Dotsero Gauge set forth in paragraph 33 above.

33.2 Voluntary Lease During Aurora ShOP operations. If the 4,000 acre foot West Slope credit available pursuant to the 2010 Consolidated Exchange Agreement at Homestake Reservoir is full during Aurora ShOP operations, then Aurora may choose to lease from the CRWCD, on a one-year spot-market basis (i.e., if-available), up to 500 acre feet from the CRWCD’s Wolford Mountain Reservoir water marketing pool for replacement purposes by Aurora. The CRWCD agrees that, due to the unique nature of this Agreement and the mutual compromises included herein, the rate of any such lease shall not be greater than two times the CRWCD’s then-current spot-market lease rate for in-basin municipal use. The form of such lease will be generally consistent with the CRWCD’s then-current standard form contract, the current version of which is attached for example purposes only as Exhibit D attached to this Agreement. The Parties agree to not oppose Aurora’s efforts to use water leased pursuant to this paragraph 33.2 by exchange or substitute supply for replacement purposes in accordance with the priority system.

33.3 Drought Exception to Aurora ShOP. If the following two conditions exist (“Drought Triggers”) as of April 1, and for the duration of such period that both conditions exist, Aurora will not be required to follow the Aurora ShOP: 1) the “most probable” forecast of streamflow prepared by the Natural Resources Conservation Service (or such other forecast as the CRWCD and Aurora agree to use) indicates the April – July undepleted streamflow at the Colorado River near Dotsero Gauge will be less than or equal to the eighty-five percent (85%) of average; and 2) Aurora’s total system storage is at or below sixty percent (60%) of total capacity on April 1 and has not reached eighty (80%) of total capacity at any time thereafter. For purposes of this Agreement, Aurora’s total system storage is defined as set forth on Exhibit E to this Agreement.

33.4 “Paper-fill” Accounting during Aurora ShOP Operation. The Parties acknowledge the Colorado State Engineer’s administrative practice of “Paper-fill” accounting. Generally, under this administrative practice, if a storage facility is in-priority and can store water but the operator(s) thereof choose not to store water, then the State Engineer or his/her designee account for the water storage right as though water was physically placed into storage or otherwise diverted. The Parties acknowledge that pursuant to the Colorado State Engineer’s current administration regarding ShOP Agreement operations, bypasses made in the current year are only accounted for under that year’s storage volume and are not accounted for under the storage volume in the next Homestake Reservoir Water Year (November –

October 31). If future administrative actions by the Colorado State Engineer require that bypasses under the Aurora ShOP made in the then-current year are accounted against the Homestake Reservoir storage decree under both the current year and following years' storage volume, then, if as a result of Aurora's operations under Aurora ShOP, the "Paper-Fill" accounting against Aurora's Homestake water rights exceeds 500 A-F in the then-current storage season, the Aurora ShOP Operation will be excused for the remainder of that storage season and the subsequent year(s) to the extent of and so long as such "Paper-Fill" that exceeds 500 A-F. Alternatively, Aurora may choose to lease from any West Slope supplier or the CRWCD's Wolford Mountain Reservoir water marketing pool, on a one-year spot-market basis (i.e., if-available), up to the amount of any Paper-fill for the then current storage season for exchange and replacement purposes by Aurora so that Aurora may divert and store water at its facilities and so that water will be released from Wolford Mountain Reservoir or other sources as a component of achieving the flow related goals of the Aurora ShOP. The CRWCD agrees that, due to the unique nature of this Agreement and the mutual compromises included herein, the rate of any such lease shall not be greater than two times the CRWCD's then-current spot-market lease rate for in-basin municipal use. The form of such lease will be generally consistent with the CRWCD's then-current standard form contract, the current version of which is attached for example purposes only as Exhibit D attached to this Agreement. The Parties agree to not oppose Aurora's efforts to use water leased pursuant to this paragraph 33.4 by exchange or substitute supply for replacement purposes in accordance with the priority system.

33.5 Aurora agrees that it will not divert or exchange any of the water released or bypassed by any party pursuant to the ShOP Agreement or otherwise operate its system or water rights in a manner that will diminish the benefit of the ShOP Agreement to the stream system of the flows of up to 1,250 cfs at the Dotsero Gauge.

34. Shoshone Permanency. CRWCD, BWCD, Eagle, GVVUA, OMID and Ute (in addition to other western slope entities who are not parties to this Agreement) seek to achieve permanent protection of the flow regime created by operation of the SPP regardless of whether the SPP continues to operate in the future ("Shoshone Permanency"). Aurora agrees to not oppose Shoshone Permanency as follows:

34.1 Aurora will not oppose a sale or other form of transfer of interest by PSCo of its SPP and/or SPP Water Rights, including any contractual interest therein, to the CRWCD or any other West Slope entity or consortium containing West Slope entities for the purpose of achieving Shoshone Permanency.

34.2 Aurora will not seek to acquire or participate in the acquisition of the SPP and/or the SPP Water Rights. Except as may occur with respect to a potential acquisition of the SPP and/or SPP Water Rights or interest therein by a West Slope entity consistent with paragraph 34.1, above, Aurora will not support the acquisition of the SPP and/or the SPP Water Rights itself or by any other entity.

34.3 The Parties recognize the existence of that certain 2007 Agreement Concerning Shoshone Call between the City and County of Denver, acting by and through its Board of

Water Commissioners (“Denver Water”) and PSCo (the “2007 Call Reduction Agreement”). The 2007 Call Reduction Agreement provides, that under certain defined drought conditions, Denver Water is entitled to pay PSCo to reduce (or “relax”) the call of the SPP Water Rights. The Parties further recognize that Article VI.E.2 of the 2012 Colorado River Cooperative Agreement provides that Denver Water, with the support of the West Slope signatories, may request PSCo to amend the 2007 Call Reduction Agreement to “relax” the call of the SPP Water Rights to 704 cfs, during extreme drought conditions, for an expanded period during the winter months subject to certain terms and conditions described in CRCA Article VI.E.2.a-e (“CRCA Winter Call Reduction”). Aurora agrees that it will not seek or support any additional “relaxation” of the SPP Water Rights, except as expressly provided for in paragraphs 34.4.1. and 34.4.2. below.

34.4 Aurora will not oppose an agreement between a West Slope entity or entities, the CWCB, and any other entity entered for the purpose of adding instream flow as an additional use of the Senior Hydropower Right (“CWCB Agreement”). In addition thereto, Aurora will not oppose the entry of a final water court decree for the purpose of adding instream flow as an additional use of the Senior Hydropower Right (“ISF Application”). Aurora’s non-opposition to any such CWCB Agreement and ISF decree shall be contingent on inclusion of the following terms in the CWCB Agreement and ISF Application:

34.4.1 The 2007 Call Reduction Agreement, including any future amendment providing for a CRCA Winter Call Reduction, will be made permanent and made applicable to any ISF use of the Senior Hydropower Right.

34.4.2 In the event of a curtailment, or valid threat or expectation thereof, resulting from a call upon the waters of the State of Colorado resulting from enforcement of the Colorado River Compact and/or the Upper Colorado River Basin Compact, the Parties to the CWCB Agreement will work cooperatively with flexibility among themselves and other water users, including Aurora, toward a goal of minimizing or avoiding desperate adverse impacts to entities on either side of the Continental Divide.

34.5 Aurora recognizes that the West Slope Parties, upon acquiring any interest in the SPP Water Rights, may also request that instream flow uses be added as an additional use to the Junior Hydropower Right. Aurora agrees to participate in good faith discussions and negotiations with the West Slope Parties, the CWCB, and any other parties regarding the addition of instream flow uses to the Junior Hydropower Right. Any agreement with the CWCB and any water court decree adding instream flow uses to the Junior Hydropower Right will at a minimum be subject to the terms identified in paragraphs 34.4.1 and 34.4.2 above. Additionally, the West Slope Parties agree to diligently meet and negotiate in good faith with Aurora regarding the inclusion of Aurora’s Drought Exceptions, described in paragraph 33.3, to any final agreement with the CWCB for any instream uses of the SPP Water Rights in excess of 1,250 cfs.

34.6 After instream flow use has been added as an alternate use of the Senior Hydropower Right and/or Junior Hydropower Right, the CRWCD agrees that, during a drought period that meets the drought conditions described in paragraph 33.3, above, Aurora may choose to lease from any West Slope supplier or the CRWCD's Wolford Mountain Reservoir water marketing pool, on a one-year spot-market basis (i.e., if-available), up to the amount of any shortage in fill for the then current storage season for replacement purposes by Aurora. The CRWCD agrees that, due to the unique nature of this Agreement and the mutual compromises included herein, the rate of any such lease shall not be greater than two times the CRWCD's then-current spot-market lease rate for in-basin municipal use. The form of such lease will be generally consistent with the CRWCD's then-current standard form contract, the current version of which is attached for example purposes only as Exhibit D attached to this Agreement. The Parties agree to not oppose Aurora's efforts to use water leased pursuant to this paragraph 34.6 by exchange for replacement purposes in accordance with the priority system. The lack of water available for lease by the CRWCD to Aurora on a spot-market basis pursuant to this paragraph 34.6 shall not excuse operation of Aurora's water rights in accordance with the priority system as junior to, and subject to, the call of the SPP Water Right being exercised for instream flow purposes.

35. Other Provisions. As hereinafter described the following agreements are made.

35.1 Some of the Parties are among the numerous entities that comprise the Upper Colorado River Wild and Scenic Alternative Management Plan Stakeholder Group ("UPCO SG"). The Parties agree to support the recognition of the ShOP and Shoshone Permanency provisions of this Agreement as a cooperative measure and/or long term protective measure submitted by the Parties that are members of the UPCO SG for the benefit of river Segment 7 (immediately downstream of the confluence of the Eagle and Colorado Rivers to one-half mile east of No Name Creek).

35.2 The Parties, except any Party that is a permitting authority for the Eagle River MOU process<sup>3</sup>, will not to seek as a condition of any Eagle River MOU permitting process minimum base flows in the Colorado River at the current location of the Dotsero Gauge in excess of the total of the SPP water rights described in paragraph 30. However, this provision shall not prevent the Parties from advocating for high flow season channel maintenance and channel flushing flows.

## **V. Diligence Détente**

36. Diligence Cases. The Parties either individually or through association have interests in certain conditionally decreed water rights that arise in Water Division 5 as more thoroughly described as follows:

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<sup>3</sup> The Eagle River MOU is a 1998 agreement between Aurora, Colorado Springs, CRWCD, Cyprus Metals Company (Climax), and the Vail Consortium (Eagle River W&SD, Upper Eagle Regional Water Authority and Vail Associates Inc.) that, *inter alia*, proposes certain joint use projects.

36.1 Aurora:

WATER DIVISION 5

Next Diligence Deadline	Case Number	Applicant	Case Name
	W-1869 (10/2/1979) 82CW151 86CW155 92CW136 00CW228 07CW199 16CW3011 (Pending)	Twin Lakes Reservoir and Canal Company	New York Collection Canal Supplement
	88CW449 (7/16/2002) 08CW111 (2/24/2010) 16CW3022 (9/17/17)	Homestake Partners	Camp Hale
	95CW272(A) (3/16/2011) 17CW3064 (Pending)	Homestake Partners	Homestake II
8/31/2019	09CW188 (8/4/2013)	Fremont Pass Ditch Company	Columbine Ditch Junior Water Right
2/28/2020	CA-1193 (7/10/1968) W-45 (6/14/1971) W-620 (6/14/1973) W-2321 (12/12/1974) W-2321-78 (8/19/1980) 82CW120 (9/27/1984) 86CW141 (3/6/1987) 90CW117 (3/14/1994) 00CW037 (10/2/2000) 06CW225 (9/16/2007) 13CW3045 (2/9/2014)	Homestake Partners	Original Homestake Project
6/30/2023	98CW270 (2/6/2003) 09CW17 (10/11/2010) 16CW3131 (6/13/2017)	Homestake Partners et al	Roaring Fork and Homestake Exchanges
5/31/2015	CA-3082 W-64 W-722 W-722-76 80CW180 84CW162 88CW206 94CW105 01CW057 07CW145 (5/27/2009) 15CW3050 (Pending)	Twin Lakes Reservoir and Canal Company	Roaring Fork Diversion Dam Gulch Collection Canal and Lost Man Diversion Dam, components of IPTDS
5/31/2018	CA-4613	Southeastern Colorado	Roaring Fork and Fryingpan

	W-829 01CW265 09CW40	Water Conservancy District	Project Facilities
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36.2 CRWCD:

Next Diligence Deadline	Case Number	Name of Structure
BASALT PROJECT:		
Aug 2020	CA 4613(58); CA 4613 (66); W-44; W-789(76); 80CW94; 84CW70; 88CW85; 95CW52; 03CW41; 11CW96	Basalt Conduit; Basalt Power Plant & Penstock; Landis Canal; Spring Valley Siphon; Stockmen's Ditch Ext. & Enlargement
BATTLEMENT MESA PROJECT:		
Nov 2018	13368 (Mesa); 05CW8; 11CW172	Brush Creek Canal; Buzzard Creek Dam & Reservoir; Colorado Canal; Harrison Canal; Owens Creek Reservoir
KOBE PROJECT:		
June 2022	C.A. 6404 (Garfield); W- 789(76); 80CW94; 84CW63; 88CW83(88)(92); 94CW187; 01CW17; 07CW119; 15CW3055	Kobe Canal; Kobe Canal Alternate Point; Mount Logan Canal; Mount Logan Dam & Reservoir; Roan Creek Feeder Canal
FRASER VALLEY PROJECT:		
Dec 2019	84CW551; 84CW552; 84CW553; 93CW139; 93CW140; 93CW141; 99CW227; 06CW92; 13CW46	Fraser Feeder Canal; Fraser Pumping Plant & Pipeline; Ranch Creek Reservoir
REDCLIFF PROJECT:		

Next Diligence Deadline	Case Number	Name of Structure
Aug 2018	W-3472; 83CW30; 87CW8; 94CW13; 00CW105; 03CW41; 11CW94	Cross Creek Extension of the Fall & Peterson Creek Conduits
Aug 2018	CA 1193 (62)(65)(66)(68); W-56; W-789(76); 80CW94; 84CW70; 88CW85; 95CW52; 03CW41; 11CW94	Iron Mountain Reservoir, Pando Feeder Canal
Aug 2018	81CW345; 90CW95; 96CW264; 03CW41; 119CW94	Iron Mountain Reservoir, 2 <sup>nd</sup> Filling
EAGLE PINEY PROJECT:		
Dec 2021	CA1548; 02CW125; 13CW3079	Piney River Unit
WEST DIVIDE PROJECT:		
April 2020	CA 4613(58)(66); CA 4954; CA 5584; W-44; W-789(76); W-3888; 79CW308; 79CW315; 80CW94; 84CW70; 88CW85; 95CW52; 03CW41; 11CW93	Avalanche Canal & Siphon; Dry Hollow Feeder Canal; Dry Hollow Reservoir; Four Mile Canal & Siphon; Horsethief Canal; Kendig Reservoir; Kendig Reservoir 1 <sup>st</sup> Enlargement; West Divide Canal; West Mamm Creek Reservoir
WOLCOTT PROJECT (Water Division 5):		
Oct 2018	CA 1529 (Eagle); 80CW94; 84CW70; 88CW85; 95CW52; 03CW41; 11CW95	Wolcott Pumping Pipeline; Wolcott Reservoir
WOLFORD MOUNTAIN RESERVOIR PROJECT (WMR):		
Aug 2020	91CW252; 02CW81; 09CW14	WMR/Green Mtn Substitution

Next Diligence Deadline	Case Number	Name of Structure
April 2023	87CW284; 95CW251; 02CW107; 09CW81; 16CW3082	Gunsight Pass Reservoir Power Right (WMR)
Oct 2020	03CW302	WMR 2 <sup>nd</sup> Enlargement
Jan 2020	98CW237; 06CW146; 13CW3008	WMR Refill Right
June 2023	98CW270; 09CW17; 09CW28; 16CW3131	Homestake Reservoir Exchange
Jan 2024	05CW265; 17CW3100	WMR Moser Exchange

### 36.3 BWCD:

Next Diligence Deadline	Case Number	Applicant	Name of Water Rights
	02CW077 (1 of 2) 17CW3256 (Pending)	BWCD	Any and all conditional water rights, including appropriative rights of exchange
December, 2018	02CW077 (2 of 2)	BWCD	Any and all conditional water rights, including appropriative rights of exchange
July, 2020	11CW096	BWCD / CRWCD	Any and all conditional water rights including: <ul style="list-style-type: none"> <li>- Basalt Conduit</li> <li>- Landis Canal</li> <li>- Spring Valley Siphon</li> <li>- Stockman's Ditch Extension and Enlargement</li> <li>- Basalt Power Plant and Penstock</li> </ul>

36.4 Pitkin:

Next Diligence Deadline	Case Number	Applicant	Name of Water Right
Pending Decree	17CW3204	Pitkin County Board of County Commissioners (PCBOCC)	Pitkin County Airport Exchange
March 2018	11CW35	PCBOCC	Paepcke Well and Pitkin County Airport well field
July 2018	11CW55	PCBOCC	Pitkin County Landfill Ponds
June 2020	10CW305	PCBOCC	White Water Park RICD
July 2022	16CW3016	PCBOCC	Bivert Ditch Second Enlargement

36.5 Eagle:

Next Diligence Deadline	Case Number	Applicant	Name of Water Rights
March, 2018	05CW161	Eagle / Crown Mountain Park and Recreation District	Any and all conditional water rights including: - Mt. Sopris Tree Nursery Well No. 1, First Enl. - Mt. Sopris Tree Nursery Well No. 3, First Enl. - Mt. Sopris Tree Nursery Well No. 4, First Enl. - Mt. Sopris Tree Nursery Well No. 5 - Crown Mountain Pond

36.6 Ute:

36.8.1. The conditional water rights decreed to the following structures, all of which are more specifically described in the diligence decree entered in Case No. 2011CW53, District Court, Water Division No. 5:

- 36.8.1.1 Atwell East Ditch, Supplemental Point of Diversion, Component of the Ute Water Conservancy District Water System, in the amount of 2.82 c.f.s., conditional.
- 36.8.1.2 Atwell Waste & Seep Water Ditch Component of the Ute Water Conservancy District Water System, in the amount of 0.06 c.f.s., conditional.
- 36.8.1.3 Big Park Reservoir Component of the Ute Water Conservancy District Water System, in the amount of 5650 acre feet, conditional.
- 36.8.1.4 Bridges Switch Pumping Plant and Pipeline Component of the Ute Water Conservancy District Water System, in the amount of 30 c.f.s., conditional.

- 36.8.1.5 Coon Creek Pipeline Component of the Ute Water Conservancy District Water System, in the remaining conditional amount of 0.4 c.f.s.
- 36.8.1.6 Coon Creek Pipeline Enlargement, in the amount of 1.5 c.f.s., conditional.
- 36.8.1.7 Jerry Creek Reservoir No. 2 Component of the Ute Water Conservancy District Water System (Jerry Creek Priority), in the amount of 7,791 acre feet, conditional.
- 36.8.1.8 Ute Pumping Station and Pipeline Component of the Ute Water Conservancy District Water System, in the amount of 50 c.f.s., conditional.
- 36.8.1.9 Kirkendall Reservoir, also known as Hunter Reservoir, in the amount of 582.49 acre feet, conditional.
- 36.8.1.10. Kirkendall Reservoir ("Hunter Reservoir"), Ute Water Enlargement, in the amount of 1,340 acre feet, conditional.

A diligence application for all of the above described conditional water rights was filed in March, 2018.

36.8.2 The conditional water right decreed to Monument Reservoir No. 1, Ute Water Enlargement, in Case No. 2009CW30, District Court, Water Division No. 5, in the amount of 4,682 acre feet, conditional. A diligence application for this conditional water right was filed in March, 2018.

36.8.3 The conditional water right decreed to Willow Creek Reservoir in Case No. 2009CW29, District Court, Water Division No. 5, in the amount of 19,448 acre feet, conditional. A diligence application for this conditional water right was filed in March, 2018.

36.8.4 The conditional water rights decreed to the following structures, both of which are more specifically described in the diligence decree entered in Case No. 2011CW172, District Court, Water Division No. 5:

- 36.8.4.1 Owens Creek Reservoir, in the amount of 31,786.1 acre feet, conditional. Ute owns an undivided 22.5% interest in this conditional water right.
- 36.8.4.2 Buzzard Creek Dam and Reservoir, in the amount of 20,000 acre feet, conditional. Ute owns an undivided 22.5% interest in this conditional water right.

The next diligence application for the above described conditional water rights is due to be filed in November, 2018.

37. Non-opposition to Diligence. The Parties agree that they will not oppose any Water Court filing for any of the above listed matters requesting only a finding of reasonable diligence and a continuation of such water right(s) for a period of 15-years following the Initiation Date of this Agreement. Filings, or portions of filings, requesting a determination(s) a water right(s) was (were) made absolute are not subject to these non-opposition provisions. In circumstances when

a diligence request is made in the same case as a request to make absolute is also made, Parties will be free to participate in the portion of such case dealing with any absolute request while not participating in the diligence portion. Regarding cases noted as "Pending" in paragraph 36, all Parties who are existing opposers in such a matter are not restricted as to their continued opposition, if any, in said pending case(s).

## **VI. Entry of Final Decree in WD-2, 09CW142**

38. Motion for Entry of Decree. Pursuant to the provision of paragraph 3 above, the Parties will seek entry of the Draft Decree attached hereto as Exhibit A.

\* \* \* \*

CITY OF AURORA, COLORADO,  
ACTING BY AND THROUGH ITS  
UTILITY ENTERPRISE



Bob LeGare, Mayor

7-31-18

Date

ATTEST:



Michael Lawson, Interim City Clerk

08/01/18

Date

APPROVED AS TO FORM FOR AURORA:



Christine McKenney  
Senior Assistant City Attorney

7/30/2018

Date

18036693  
ACS #



John Dingess, Special Counsel

06/18/2018

Date

STATE OF COLORADO )

) ss

COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of August, 2018,  
by Bob LeGare, Mayor, acting on behalf of the Utility Enterprise of the City of Aurora,  
Colorado.

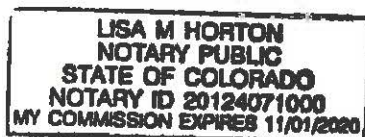
Witness my hand and official seal.



Notary Public

My commission expires: 11/01/2020

(SEAL)



BUSK-IVANHOE, INC.

a Colorado mutual ditch company

By: Tom Simpson  
President

ATTEST:

By: Leiana Baker  
Secretary

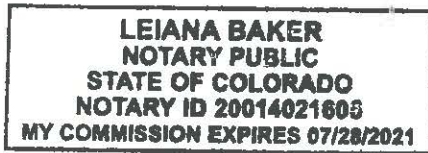
STATE OF COLORADO     )  
  ) ss  
COUNTY OF Arapahoe )

The foregoing instrument was acknowledged before me this 30 day of July, 2018, by Tom Simpson, President of Busk-Ivanhoe Inc.

Witness my hand and official seal. Leiana Baker  
Notary Public

My commission expires: 7.28.21

(SEAL)



COLORADO RIVER WATER CONSERVATION DISTRICT

By: Tom Alvey  
Tom Alvey, President

Attest: Andrew A. Muller  
By: Andrew A. Muller  
Andrew A. Muller, Secretary/General Manager

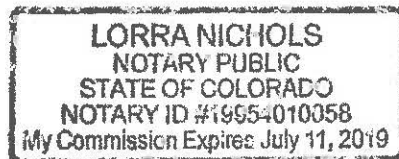
STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF GARFIELD    )

The foregoing instrument was acknowledged before me this 18 day of July, 2018, by Tom Alvey, President of the Colorado River Water Conservation District.

Witness my hand and official seal. Lorra Nichols  
Notary Public

My commission expires: 7-11-2019

(SEAL)



COUNTY OF EAGLE, STATE OF COLORADO,  
By and Through Its  
BOARD OF COUNTY COMMISSIONERS

By: *J. McQueeney*  
Kathy Chandler-Henry, Chair *Pro Tem*  
*Jeannette McQueeney*

Attest:

By: *R. P. L. O'Brien*  
Regina O'Brien, Clerk to the Board



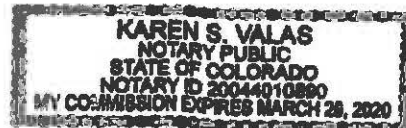
STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF EAGLE     )

The foregoing instrument was acknowledged before me this 17 day of July, 2018,  
by ~~Kathy Chandler-Henry, Chair.~~ *Jeannette McQueeney Chair Pro Tem*

Witness my hand and official seal. *Karen S. Valas*  
Notary Public

My commission expires: 3/29/20

(SEAL)



BASALT WATER CONSERVANCY DISTRICT

By: Don Boyer  
Don Boyer, President

Attest:

By: Scott Leslie  
Scott Leslie, Secretary

STATE OF COLORADO     )  
  ) ss  
COUNTY OF GARFIELD

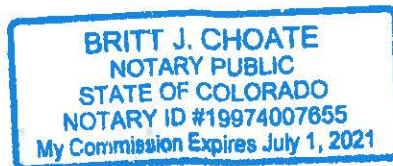
The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of July, 2018,  
by Don Boyer, President of the Basalt Water Conservancy District.

Witness my hand and official seal.

Britt J. Choate  
Notary Public

My commission expires: July 1, 2021

(SEAL)



BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY

By: Patti Clapper  
Patti Clapper, Chair

Date: 06-28-2018

ATTEST

By: Jeanette Jones  
Jeanette Jones  
Deputy County Clerk

APPROVED AS TO FORM:

By: John M. Ely  
John M. Ely  
Pitkin County Attorney

By: Jon Peacock  
Jon Peacock,  
Pitkin County Manager

STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF PITKIN     )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of June, 2018,  
by Patti Clapper, Chair.

Witness my hand and official seal. Jane A. Achey  
Notary Public

My commission expires: August 4, 2019

(SEAL)



GRAND VALLEY WATER USERS ASSOCIATION

By: Joseph C. Bernal  
Joseph C. Bernal, Board President

Attest:

By: D. Kim Albertson  
D. Kim Albertson, Board Secretary

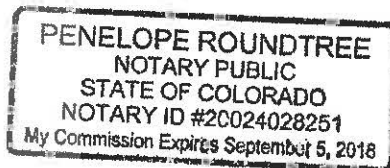
STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF MESA        )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of July, 2018,  
by Joseph C. Bernal, Board President of the Grand Valley Water Users Association.

Witness my hand and official seal. Penelope Roundtree  
Notary Public

My commission expires: 09/05/2018

(SEAL)



ORCHARD MESA IRRIGATION DISTRICT

By: Bruce Talbott  
Bruce Talbott, Board President

Attest:

By: Melvin Rettig  
Melvin Rettig, Board Vice President and Secretary

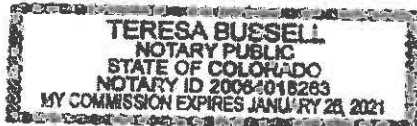
STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF MESA        )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of JULY, 2018,  
by Bruce Talbott, Board President of the Orchard Mesa Irrigation District.

Witness my hand and official seal: Teresa Busse  
Notary Public

My commission expires: 11/25/2021

(SEAL)



**Agreement and Intergovernmental Agreement between Aurora, CRWCD,  
Basalt WCD, Eagle County, Pitkin County, Grand Valley Water Users  
Association, Orchard Mesa Irrigation District, and the Ute WCD**

UTE WATER CONSERVANCY DISTRICT  
Acting by and through the  
UTE WATER ACTIVITY ENTERPRISE

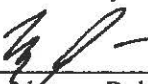
By:   
H. Kenneth Henry, Board President

Attest:

By:   
Gregory L. Green, Board Secretary

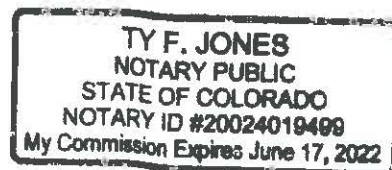
STATE OF COLORADO     )  
                                      ) ss  
COUNTY OF MESA         )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of July, 2018, by H. Kenneth Henry, Board President, and Gregory L. Green, Board Secretary, of the Ute Water Conservancy District, acting by and through the Ute Water Activity Enterprise.

Witness my hand and official seal.   
Notary Public

My commission expires: 6/17/22

(SEAL)



## **Exhibits**

Exhibit A	Decree
Exhibit B	Description of Box Creek Project
Exhibit C	Box Creek Support Letter
Exhibit D	Form of Lease
Exhibit E	Aurora System Storage
Exhibit F	Expression Of Mutual Intent Letter

# ALEXANDRA L. DAVIS

1296 Hawk Ridge Road  
Lafayette, Colorado 80026

303.482.7787  
[alexandralcolon@gmail.com](mailto:alexandralcolon@gmail.com)

## WATER UTILITY- MANAGEMENT & POLICY EXECUTIVE

### Law, Policy, Management & Leadership Background:

*Assistant General Manager Water Supply & Demand, Aurora Water Department*  
*Former Water Resources Manager, Colorado Parks and Wildlife*  
*Former Assistant Director for Water, Colorado Department Natural Resources*  
*Former First Assistant Attorney General in Water Unit, Office of Colorado Attorney General*  
*Former Alternate Commissioner, Upper Colorado River Commission*

**Management and Policy expertise—inclusive successful collaboration—proven ability to communicate, connect, and negotiate with diverse groups — dedicated to resolving water supply issues, with leadership career as government official, litigator, and key participant in issues affecting municipal, agency and statewide water supplies. Big-picture strategist working with and creating processes to elicit and weigh stakeholder input. Ability to resolve conflict and enhance perspective among public/private entities. Fiscally responsible.**

Strategic Planning - Mission Driven - Team Direction & Management - State & National Policy – Water Law  
Municipal Supplies - Asset Management- Local & Regional Water Issues - Climate Considerations  
Water Delivery - Negotiations & Representation - Public Relations - Board Affiliations  
Strong relationships - Deep Commitment- Change Agent

## CAREER HISTORY

Expertise in strategic and operational leadership; short and long term water supply planning and implementation, water resources issues, law, public policy, and legislation; Built, fostered, and maintained effective working relationships with people from all areas impacting water; High ability to create, coordinate and implement plans, goals and objectives; Adept with well-defined skills in diplomacy, tact, and effective communication; Accomplished manager; Skilled at stimulating, encouraging and supporting citizen, staff, agency, and government involvement in key water issues.

<b>Asst General Manager, Water Supply &amp; Demand</b>	Aurora Water Department, City of Aurora 2015-present
<b>Water Resources Section Manager</b>	Colorado Parks and Wildlife 2013-2015
<b>Principal – Water, Natural Resources</b>	GBSM, 2012– 2013
<b>Attorney at Law – Water Rights &amp; Quality</b>	Vranesh and Raisch, 2011– 2012
<b>Director – InterBasin Compact Committee</b>	CO Governor’s Office, 2009 – 2011
<b>Assistant Director for Water</b>	CO Department of Natural Resources, 2007 – 2011
<b>Adjunct Professor</b>	University of Colorado School of Law, Summer 2011
<b>First Assistant Attorney General, Water Unit</b>	CO Office of the Attorney General, 2005 – 2007
<b>Assistant Attorney General, Water Unit</b>	CO Office of the Attorney General, 2001 – 2005 & 1996 – 2000
<b>Special Assistant U.S. Attorney</b>	U.S. Office of the Solicitor, MT, 2000 – 2001

### *Served on:*

CO River Drought Task Force, Senate Bill 20-048 Anti-Speculation Work Group, Upper CO River Commission, CO Ground Water Commission, CO Water Conservation Board, Western States Water Council (CO Rep); Chair Water Resources Committee and Water & Energy Subcommittee, Inter-Basin Compact Committee, Governor Ritter’s South Platte Task Force, CO Foundation for Water Education Board, CO Supreme Court Water Rules Committee.

# ALEXANDRA L. DAVIS ■ WATER LAW, MANAGEMENT, POLICY

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## Aurora Water Department, Aurora, Colorado, June 2015 – Present

### ASSISTANT GENERAL MANAGER WATER SUPPLY & DEMAND

Responsible for the coordinated operation, acquisition, legal and physical protection, development and management of one of the most complicated water resource portfolios in the state of Colorado; Developing and executing water supply and demand policies and strategies; Negotiating and administering regional water agreements, permits, and contracts on behalf of the Department and the City; Key member working collaboratively with and as a member of the Department's Executive Leadership Team to develop and implement Aurora Water's strategic vision.

- **Manage, inspire, grow, and direct** professional staff with engineering, legal, scientific, and technical expertise. Create positive engaged work culture. Develop, allocate and manage multimillion dollar budget. Direct staff assignments and supervise FTEs (hiring, scheduling, performance reviews, management, and corrective actions).
- **Direct development of water resource projects** including innovative storage and supply projects, acquisition strategies and long-term management plans.
- **Represent** Aurora Water in policy-level and technical interactions with federal, state and local agencies (e.g., Bureau of Reclamation, Corps of Engineers, CWCB, DWR, CDPHE, counties, and numerous water users across Colorado) and through public speaking engagements. **Collaborate** with all stakeholders (utilities, farmers, NGOs, citizens, etc.)
- **Recognize** opportunities and **negotiate** cooperative agreements and contracts involving external entities to accomplish programmatic goals and objectives to maximize the use of Aurora's water resources.
- **Influence** regional management and protection of water assets through collaboration and partnership.
- **Coordinate and implement** internal citywide policy and programmatic collaboration with other City departments.
- **Ensure** overall program planning, design, management, and development including staff actions relating to the development and coordination of water data acquisition, data and document management, water data systems, water use information, administrative and judicial actions, water rights aspects of projects (construction and repair), programs and technology.

## Colorado Parks and Wildlife, Denver, Colorado, August 2013 – June 2015

### WATER RESOURCES SECTION MANAGER

Responsible for the **protection, development, and acquisition** for CPW water resources (one of the largest water resource portfolios in Colorado). Create strategies to maximize use of water and infrastructure. Support and negotiate collaborative solutions to complex water resource and quality problems. Integrate matters of water quality and quantity. Oversee water quality data acquisition. Develop and present recommendations to Regional Managers, Director, or Commission.

## GBSM, Inc, Denver, Colorado, June 2012 – July 2013

### PRINCIPAL

*Handled complex water and natural resource issues for municipalities, ditch companies and agencies; facilitated resolution of water supply permitting; provided consulting, strategic and long-term planning services regarding natural resources; guided CEO communication to stakeholders.*

## Vranesh and Raisch, PC, Boulder, Colorado, 2011 – 2012

### ATTORNEY AT LAW – WATER RIGHTS & QUALITY

*Handled cases including county and municipal augmentation plans, municipal water quality, and changes in city water rights from land conversions as attorney on partner track; understanding water resources engineering, leveraged water policy knowledge and analyses to guide clients in water court and water supply planning.*

# ALEXANDRA L. DAVIS ■ WATER LAW, MANAGEMENT, POLICY

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Colorado Department of Natural Resources, Denver, Colorado, 2007 – 2011

## ASSISTANT DIRECTOR FOR WATER

*Led and collaborated on water resource planning, supply, forecasting, and negotiation efforts, created and implemented Governor's and Director's agendas by building consensus amongst diverse interests, facilitating discussion, creating and implementing actionable plans. Coordinated between, established and maintained effective working relationships with the Directors and employees of the nine Department of Natural Resources agencies; addressed conservation, environmental and operational aspects of water use and planning. Successfully negotiated for the State of Colorado with federal agencies, other States, local and county government, municipalities, environmental groups, and agricultural water users.*

- **Created, implemented, and managed statewide water policy**, including addressing the need to meet municipal water needs while protecting agricultural water resources.
- **Assisted the Department, its agencies and Colorado water users in meeting interstate obligations**, — negotiating agreements among the 7 Colorado River Basin states and on the Republican River with Kansas and Nebraska, dealing with wide array of cultural and political perspectives.
- **Prepared and made policy recommendations to the Director, assisted in creation of and implemented Governor and the Director policies and missions**
- Aided in **budget, personnel and other managerial** functions.
- **Resolved conflict** inter-agency; between agencies and public, private or federal entities.
- **Strategized with** federal agencies, citizen groups water districts, environmental entities and water supply providers **regarding critical needs and operations** within major water-using entities, evaluating water rights issues, community needs and related natural resource issues.
- **Ensured collaboration and coordination within and between Department agencies regarding water related issues, policies and projects**, pulled in community and user groups impacted by change, and held public information sessions.
- Spoke at numerous conferences and seminars; addressed groups regarding integrating water into land use plans; integrating water and energy; **potential future crisis and management response ideas**; current water allocation issues and potential solutions. Capitalized on learnings from other states on major water issues; conveyed findings to Executive Director.
- **Led agency interaction and developed support** of Governor's directives—ensuring positive and proactive discussions; creating momentum and support from citizens, local government, municipalities and others. Strategized with state and federal legislators on new laws affecting water; testified before legislative committees.

Office of the Governor, Denver, Colorado, 2010 – 2011

## DIRECTOR INTERBASIN COMPACT COMMITTEE

*Director (February 2010- January 2011) Acting Director (November 2009-January 2010). Led creation of State Water Supply Vision to 2050.*

- Provided leadership to **scenario planning** to 2050 and to **build consensus** among diverse members representing Front Range and West Slope municipal, industry, political, environmental, and governmental groups for multilayered water supply vision.
- Reviewed and refined engineering and technical **data**.
- Facilitated committee work in future scenario analysis; water supply portfolio development; and portfolio implementation frameworks.

**PAGE THREE**

## ALEXANDRA L. DAVIS ■ WATER LAW, MANAGEMENT, POLICY

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### Selected Appointments & Cases

- **Alternate Commissioner, Upper Colorado River Commission:** Protected and negotiated for Colorado's interests in the Colorado River vis a vis the other Colorado River Basin States, the U.S. Government and Mexico.
- **Creator & Manager, Governor Ritter's South Platte Task Force:** Addressed governor data requests involving surface water and groundwater issues; served as litigator for South Platte water rights.
- **Western States Water Council:** Chaired the Water Resources Committee and the Water and Energy Subcommittee. Assisted to implement \$10M grant to Western Governors Association.
- **Arkansas River:** Facilitated meetings among Divisions of Wildlife, Parks, Water resources, and other groups on issues including Voluntary Flow Management Agreement and Water Resources Efficiency Rules.
- **Lead Colorado Negotiator:** Managed Gunnison water rights case settlement with National Park Service Black Canyon, addressing U.S. claim for instream flow.
- **Republican River:** Played instrumental role in and negotiated Compact compliance related to drought/agricultural groundwater pumping, plus complex engineering, modeling and hydrology issues.

### Colorado Office of the Attorney General, Denver, Colorado, 2001 – 2007 & 1996 – 2000

#### **FIRST ASSISTANT ATTORNEY GENERAL, Water Unit, Natural Resources Section** (2005 – 2007)

*Directed unit attorneys representing Colorado Natural Resource Agencies* (Divisions of Wildlife, Parks, and Water Resources, plus Colorado Water Conservation Board); built strategy and implementation crucial to supporting client needs. Oversaw 9 attorneys and 3 administrative staff, with authority for all hiring and management.

- Sought and hired talent dedicated to **big-picture benefits for stakeholders, communities, and state** on water issues; developed leaders moving to Governor's office and Nature Conservancy.
- **Oversaw litigation** activities prepared for agency cases; **mentored** attorneys and reviewed all briefs, motions, trial preparation, and strategic planning.

#### **ASSISTANT ATTORNEY GENERAL, Water Unit** (2001 – 2005 & 1996 – 2000)

*As lead counsel, reviewed and drafted proposed legislation, and took charter to present cases before State District Water Court, Colorado Supreme Court and United States Supreme Court-Special Master, handling agency cases including those regarding municipality and water-sanitation district matters.* Represented state in interstate compact litigation and federal reserved rights negotiations. Developed and assisted in implementing policy and procedures of positive impact to agency relationships and water court cases.

- **Recognized for political and professional acumen** with Appreciation for Contributions to Colorado's ISF and Natural Lake Level Program award from Chief of Water Conservation Board; named Water Unit Attorney of the Year from State Engineer.
- **Led negotiations** with major public interest groups, water users, and federal/state agencies; gained and relied upon expertise in water law, water engineering, and hydrology; aided in drafting legislation.

# ALEXANDRA L. DAVIS ■ WATER LAW, MANAGEMENT, POLICY

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**Office of the Solicitor**, Billings, Montana, 2000 – 2001

**SPECIAL ASSISTANT U.S. ATTORNEY**

*Litigated claims for state appropriative water rights, water right objections, and other cases, representing Bureaus of Reclamation, Land Management, and Indian Affairs, plus Fish and Wildlife Service, in Montana water court.*

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***Volunteer work:***

Foster home for Aurora Animal Shelter, Various voting rights organizations, Colorado Water Trust- Board Member, Sinapu- Board Member, Democracy For Colorado- President, Boulder County Open Space.

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***A few delightful projects I was fortunate to participate in:***

Farm to Faucet PBS February 2022 <https://www.pbs.org/video/farm-to-faucet-fangob/>  
The Great Divide documentary [Watch The Great Divide Online](#) | [Vimeo On Demand on Vimeo](#)  
The Great Divide Book by Stephen Grace, August 2015  
Provided voice for the Headwaters Center, 2016

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## EDUCATION

**JURIS DOCTOR**, 1994

**UNIVERSITY OF COLORADO SCHOOL OF LAW**, Boulder, Colorado  
(*Dean's List of Honor Students*, 1993 – 1994)

Rothgerber Moot Court Competition; President- Doman International Law Society; Member-Environmental Law Society; Member- Student Trial Lawyers Association

*Policy in the Wake of Summitville* (published in Environmental Case Study Working Paper Series, University of Colorado Conflict Resolution Consortium, 1994)

U.S. House of Representatives, Telecommunications & Finance Subcommittee, Intern

**BACHELOR OF ARTS IN PSYCHOLOGY AND ORGANIZATIONAL STUDIES**, 1986

**PITZER COLLEGE**, Claremont, California  
**Minor Concentration in Asian Studies**  
**WASEDA UNIVERSITY** - Tokyo, Japan (Pitzer Exchange Program)

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## LICENSURE

**Colorado State Bar** (Admitted 1994)  
**U.S. Supreme Court, Tenth Circuit Court of Appeals, Federal District Court**

**PAGE FIVE**