

Consent Agenda Item 1.b

March 10-11, 2021 Board Meeting

Case No. 20CW3208 (Water Division 1); HF2M, Inc., A Texas Corporation

Summary of Water Court Application

Application for water rights, change of water rights, plan for augmentation, and appropriate rights of exchange.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2021 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights in Water Division 1 in the Cache La Poudre River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
87CW0270 (Div. 1)	Cache la Poudre River	confl La Poudre Pass Creek	confl Joe Wright Creek	16 (11/1 - 3/31) 32 (4/1 - 10/31)	12/11/1987
85CW0419 (Div. 1)	Cache la Poudre River	confl Joe Wright Creek	Wild & Scenic terminus	Varies 20-55 (1/1 - 12/31)	11/08/1985
W-9255(1978) (Div. 1)	Trap Creek	headwaters in vicinity	confl Chambers Lake	3 (1/1 - 12/31)	01/19/1978

Potential for Injury

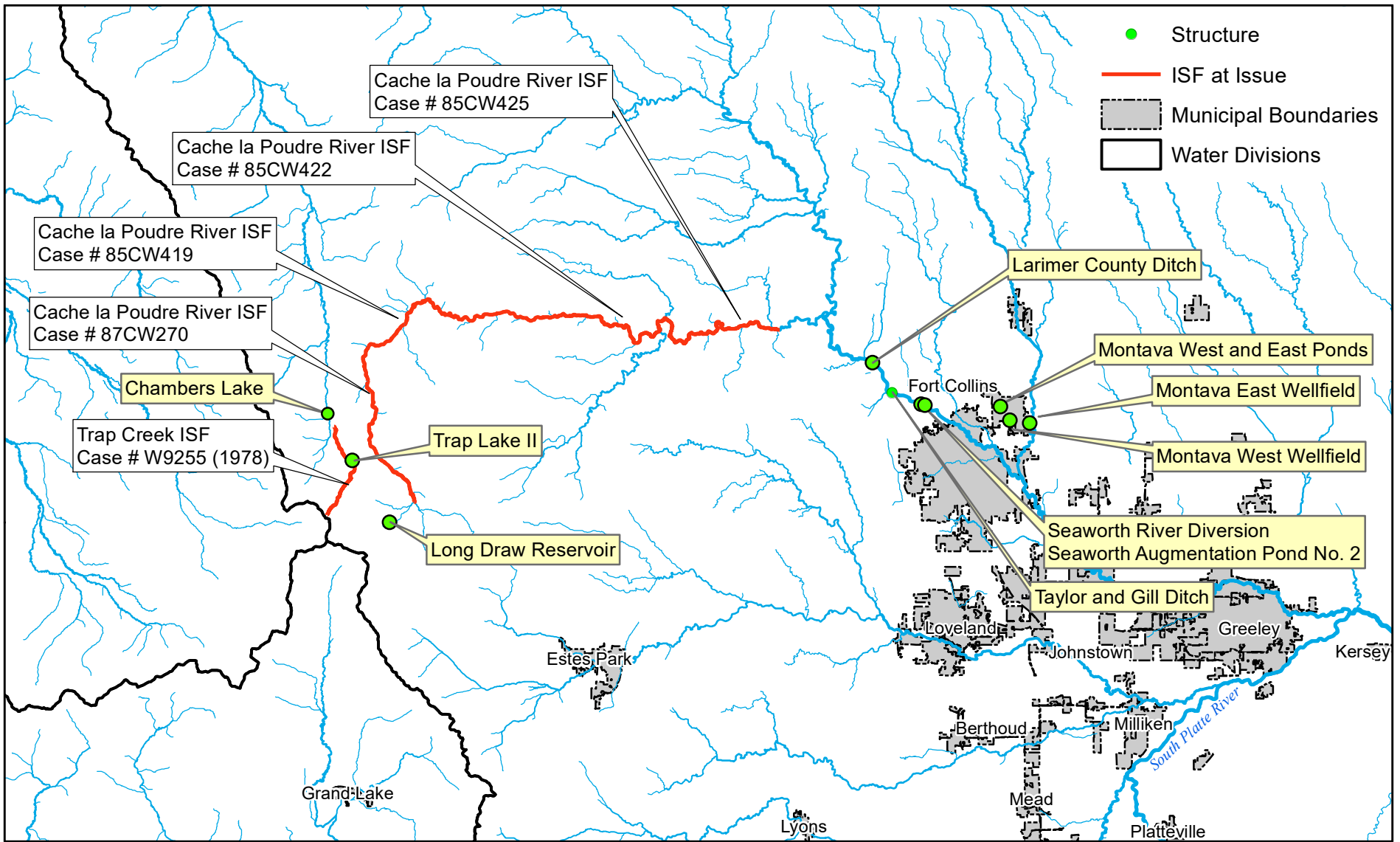
- The proposed change of water rights could cause an expansion of use, resulting in increased diversions to storage at reservoirs located upstream of the CWCB's instream flow water rights, which could injure the CWCB's instream flow water rights.
- The proposed change in places of storage and points of diversion to upstream locations could injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition (as of February 24, 2021) were also filed by City of Fort Collins, City of Thornton, Colorado, Larimer and Weld Irrigation Company, Larimer and Weld Reservoir Company, Cache La Poudre Irrigating Ditch Company, Seaworth Augmentation, LLC, William O. Seaworth and Paulette M. Seaworth, Fort Collins - Loveland Water District, East Larimer County Water District, North Poudre Irrigation Company, GWIP, LLC, K&M Company, LLLP, Poudre School District, and The Box Elder Ditch Company.

Attorney Representing CWCB

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



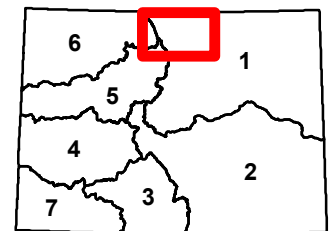
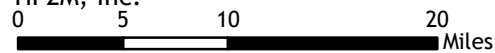
- Structure
- ISF at Issue
- Municipal Boundaries
- Water Divisions



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 18-19, 2015 CWCB Board Meeting
 Consent Agenda Item 1.b. Statement of Opposition
 Case No. 20CW3208 (Division 1)
 HF2M, Inc.



**DISTRICT COURT, WATER DIVISION 1, COLORADO
DECEMBER 2020 WATER RESUME PUBLICATION**

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

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amendments filed in the Office of the Water Clerk during the month of **DECEMBER 2020** for each County affected.

20CW3208 IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF HF2M, INC., A TEXAS CORPORATION, IN LARIMER COUNTY, COLORADO. APPLICATION FOR WATER RIGHTS, CHANGE OF WATER RIGHTS, PLAN FOR AUGMENTATION, AND APPROPRIATIVE RIGHTS OF EXCHANGE. 1. Name, Address, and Telephone Number of Applicant: HF2M, Inc., a Texas Corporation (“Applicant”), 430 N. College Ave., Suite 410, Fort Collins, CO 80524, (512) 507-5570. Direct All Pleadings to: Steven J. Bushong, Cassidy L. Woodard, Porzak Browning & Bushong LLP, 2120 13th Street, Boulder, CO 80302. 2. Overview: Applicant is developing a traditional neighborhood-style development on approximately 1,000 acres in Fort Collins, which already has an approved Planned Unit Development and Master Plan (referred to as “Montava”) to be located on the lands depicted in Exhibit A hereto. Applicant seeks ground water rights that will principally supply potable water for the Montava development and intends to replace out-of-priority depletions associated with the use thereof through a plan for augmentation, all of which it intends will be operated by a quasi-governmental entity. In connection with the Montava water supply and plan for augmentation, Applicant also requests certain water rights to divert and store water from the Cache la Poudre River, appropriative rights of exchange, an alternate place of storage for already quantified shares in the Taylor and Gill Ditch Company, and a change of up to 1 ½ shares in the Water Supply & Storage Company (“WSSC”). I. Request for Ground Water Rights. 3. Names of Structures: A. Montava West Wellfield; and B. Montava East Wellfield. 4. Legal Descriptions: A. Montava West Wellfield: The Montava West Wellfield will contain two or more wells to be located anywhere in the NE1/4 of Section 4, Township 7 North, Range 68 West of the 6th P.M, B. Montava East Wellfield: The Montava East Wellfield will contain two or more wells to be located anywhere in the NW1/4 of the SE1/4 of Section 3, Township 7 North, Range 68 West of the 6th P.M. 5. Source: The source for the Montava West Wellfield and Montava East Well Field (collectively the “Wellfields”) is the unconfined alluvial aquifer of Boxelder Creek, tributary to Boxelder Creek, tributary to the Cache la Poudre River, tributary to the South Platte River, 6. Amount: 900 gallons per minute, conditional, as the maximum collective rate from one or both Wellfields, 7. Appropriation Date: September 15, 2020, 8. How Appropriation was Initiated: Through noticed public meetings regarding the proposed Montava water supply, including but not limited to a meeting with the East Larimer County Water District, 8. Uses: The ground water will be treated and used for all indoor municipal uses and certain incidental outdoor municipal uses. Claimed municipal uses include, but are not limited to, domestic, commercial, industrial, construction, potable storage, and related municipal uses. Further, Applicant claims the right to use and reuse to extinction and otherwise dispose of the effluent associated with the indoor use within Montava for any and all beneficial uses including, but not limited to, the purposes described in Paragraphs 12.H and 13.A.vi. In addition, the ground water (with or without treatment) will be used to fill and replace evaporation losses in two ponds, and water stored therein will be used for recreation, piscatorial, aesthetics, and irrigation uses within Montava. The two ponds are identified below: A. Montava West Pond: an irrigation pond within the Montava Property located in the NW1/4 of the SE1/4 of Section 32, Township 8 North, Range 68 West of the 6th P.M, B. Montava East Pond: an irrigation pond within the Montava Property located in the SW1/4 of the NW1/4 of Section 33, Township 8 North, Range 68 West of the 6th P.M. 10. Remarks: Montava West Pond and Montava East Pond (the “Ponds”) will be lined and constructed with the ability to release any out-of-priority storage. The Ponds will receive water during the irrigation season for irrigation use from supplies that are not the subject of this Application. The Wellfields will be limited to filling the Ponds when needed and replacing evaporation, which water will then be applied to uses within the Ponds and may be used for irrigation as described in Paragraph 9, above. The Wellfields are depicted on Exhibit B. 11. Depth: The estimated depth of individual wells in the Wellfields is estimated

at 30 – 60 feet, subject to verification upon drilling and confirmation upon making absolute. II. Request for Storage Right with Two Filling Structures. 12. Name of Junior Storage Right: Seaworth Augmentation Pond No. 2. A. Legal Description: The Seaworth Augmentation Pond No. 2 is located in the NW1/4 of the SE1/4 of Section 33, Township 8 North, Range 69 West of the 6th P.M. B. Source: Cache la Poudre River, C. Points of Diversion for Filling Seaworth Augmentation Pond No. 2: i. Taylor and Gill Ditch. An existing ditch which diverts from the Cache la Poudre River in the SW 1/4 of the SW 1/4 of Section 29, Township 8 North, Range 69 West of the 6th P.M. ii. Seaworth River Diversion. A diversion point and/or pump station on the Cache la Poudre River, at a point in the W1/2 of the SE1/4 of Section 33, Township 8 North, Range 69 West of the 6th P.M. The Seaworth River Diversion will be used to fill the Seaworth Augmentation Pond No. 2 under this appropriation, D. Diversion Rates for Filling Structures: i. Taylor and Gill Ditch. 13.81 cfs., ii. Seaworth River Diversion. 5.0 cfs., E. Appropriation Date: December 30, 2020, F. How Appropriation was Initiated: By the filing of this Application, G. Amount: 140 acre-feet, conditional, with the right to fill and refill whenever water is available in priority. The precise amount will be determined when this water right is made absolute. This claimed amount includes any storage between the open water surface and the slurry wall liner, H. Uses: Storage, augmentation, including augmentation use for replacing depletions from structures on the adjacent lands owned by William O. and Paulette M. Seaworth and Ronny and Billy LLC and augmentation use for replacing depletions associated with Montava, replacement, exchange, commercial, in-reservoir recreation, piscatorial and fish propagation, and wildlife watering, I. Delivery Point: For the purposes of delivering water from the Seaworth Augmentation Pond No. 2 to the Cache la Poudre River for subsequent uses such as augmentation, replacement, and exchange, a structure will be constructed at a point in the W1/2 of the SE1/4 of Section 33, Township 8 North, Range 69 West of the 6th P.M. that releases water directly to the Cache la Poudre River, J. Surface Area at High Water Line: Approximately 7.2 open surface acres (not including any storage between the open water surface and the slurry wall liner), K. Active Storage: 140 acre-feet, L. Remarks: Seaworth Augmentation Pond No. 2 is an existing gravel pit that will be improved and lined. The claimed storage right includes any water stored between the slurry wall and the open pit. The Seaworth River Diversion will also be used to fill Seaworth Augmentation Pond as described in Section III hereof. The structures described in this Section II of the Application are shown in Exhibit C. III. Request for New Water Right for Existing Reservoir. 13. Request for New Appropriation: Applicant requests a new appropriation to use the Seaworth River Diversion, described above in Paragraph 12.C.ii, as another point of diversion for the existing Seaworth Augmentation Pond originally decreed by the District Court in and for Water Division 1, State of Colorado (“Water Court”) in Case No. 16CW3093, on November 1, 2018 (“16CW3093 Decree”) as described below in Paragraph 13.A.i., A. New Appropriation: i. Legal Descriptions: a. Seaworth River Diversion. See Paragraph 12.C.ii, above, b. Seaworth Augmentation Pond. As described in Paragraph 7.1 of the 16CW3093 Decree, the Seaworth Augmentation Pond is located in the NW1/4 of the SE1/4 of Section 33, Township 8 North, Range 69 West of the 6th P.M. with the center of the as-built location being 2,585 feet north of the south line and 1,708 feet west of the east line of said Section 33. The entire pond is located in part of the NW1/4 of the SE1/4 and part of the SW1/4 of the NE1/4 of Section 33, Township 8 North, Range 69 West of the 6th P.M., ii. Source: Cache la Poudre River, iii. Amount. 5 cfs at the Seaworth River Diversion with the right to fill and refill the existing Seaworth Augmentation Pond whenever water is available in priority, iv. Date of Appropriation: December 30, 2020, v. How Appropriation was Initiated: Based upon filing this Application, vi. Uses: Storage in Seaworth Augmentation Pond for augmentation, including augmentation use for replacing depletions from structures on the adjacent lands owned by William O. and Paulette M. Seaworth and Ronny and Billy LLC and augmentation use for replacing depletions associated with Montava, replacement, commercial (fishing and hunting business), in-reservoir recreation, fish propagation, and wildlife watering purposes, vii. Remarks: The water right decreed to the Seaworth Augmentation Pond in the 16CW3093 Decree may only be diverted at the headgate of the Taylor and Gill Ditch. This request claims a new appropriation and water right for filling and refilling the Seaworth Augmentation Pond using the Seaworth River Diversion. The structures described in this Section III of the Application are shown in Exhibit C. IV. Alternate Place of Storage. 14. Water Right to be Alternately Stored: The previously changed and quantified Taylor and Gill Ditch water right described in the

16CW3093 Decree will be alternatively stored in Seaworth Augmentation Pond No. 2 as described below, A. Original Decree: The Taylor and Gill Ditch was originally decreed in Civil Action 320, District Court, Larimer County, dated April 11, 1882 for 18.48 cfs out of the Cache la Poudre River for irrigation use. The originally decreed legal description was the north side of the Cache la Poudre River, one-half mile above the Town of La Porte with a general southeasterly course, B. Prior Change Decree: 4.0 shares of the 64.375 shares in the Taylor and Gill Ditch Company, were quantified and changed in the 16CW3093 Decree, in which the use of that portion of the Taylor and Gill Ditch water right was changed from direct use for irrigation to direct use and storage in the Seaworth Augmentation Pond for augmentation, replacement, commercial (a hunting and fishing business), in-reservoir fish propagation, and in-reservoir wildlife watering, all as more specifically described in the 16CW3093 Decree, C. Legal Descriptions: i. Taylor and Gill Ditch Diversion Point: See Paragraph 12.C.i, above. This diversion point was described as the actual legal description for the Taylor and Gill Ditch in the 16CW3093 Decree, ii. Seaworth Augmentation Pond No. 2. See Paragraph 12.A, above. D. Source: Cache la Poudre River, E. Amount: 1.145 cfs., F. Appropriation Date: April 15, 1866, G. Uses: In addition to those uses and places of use identified in the 16CW3093 Decree, direct use and storage in the Seaworth Augmentation Pond No. 2 for augmentation, replacement, commercial (a hunting and fishing business), in reservoir fish propagation, and in-reservoir wildlife watering, H. Remarks: All terms and conditions applicable to the changed Taylor and Gill Ditch water right described in the 16CW3093 Decree shall remain in effect except that the consumptive use component and return flow component thereof, as defined in the 16CW3093 Decree, will alternatively be stored in Seaworth Augmentation Pond No. 2. That water right is not subject to re-quantification pursuant to C.R.S. § 37-93-305(3)(e). The structures described in this Section IV of the Application are shown in Exhibit C. V. Change of Water Right. 15. Water Right to be Changed: Applicant has under contract 1.5 shares of the capital stock in Water Supply and Storage Company (“WSSC”) out of 600 outstanding shares, which 1.5 shares are included in Certificate Nos. 6573 and 6464 (“WSSC Shares”). By this Application, Applicant gives notice that it intends to change its proportionate share of the WSSC water rights represented by the WSSC Shares, as further described in Exhibit D and explained below. Applicant does not seek to change WSSC’s interest in the water rights in the Jackson Ditch Company and Colorado-Big Thompson Project, which Applicant will continue to use when available for irrigation in Montava which is in the WSSC service area. Thus, the water rights attributable to the WSSC Shares that are subject to this requested change consist of (1) water native to the Cache la Poudre River (the “WSSC Native Water”) and (2) imported water from the basins of the Laramie River, the Michigan River, and the Colorado River (the “WSSC Transmountain Water”) as further described below and in Exhibit D. The information from Exhibit D is included at the end of this resume. A. Decrees: The decreed water rights of the WSSC Native Water and the WSSC Transmountain Water are described on the attached Exhibit D, B. Legal Description: The legal descriptions of the WSSC Native Water and the WSSC Transmountain Water are described on the attached Exhibit D. C. Source: The decreed sources of water of the WSSC Native Water and the WSSC Transmountain Water are described on the attached Exhibit D. D. Appropriation Date: The appropriation dates for the WSSC Native Water and the WSSC Transmountain Water are listed on the attached Exhibit D. E. Amount: The total amounts decreed to each structure used for the WSSC Native Water and the WSSC Transmountain Water are listed on the attached Exhibit D. F. Use: Water associated with the WSSC Shares was decreed for irrigation of land under the WSSC system as described in the decrees referenced in the attached Exhibit D. 16. Historical Use: Applicant will quantify the historical use of the WSSC Shares that it seeks to change using the same or similar methodology used in other change cases involving WSSC. The WSSC Shares were historically used to irrigate lands in Weld County located in the SW1/4 of Section 8, Township 7 North, Range 67 West, of the 6th P.M. and in the NW1/4 and part of the NE1/4 of Section 28, Township 7 North, Range 67 West of the 6th P.M. and in the E1/2 of the NW1/4 of Section 21, Township 7 North, Range 67 West of the 6th P.M. The lands are depicted in Exhibit E. Applicant will also quantify the historical return flows associated with the WSSC Native Water and those historical return flows will be maintained if and when the WSSC Native Water is applied to the changed uses described below. Applicant shall rely upon the publicly available diversion records maintained by the Colorado Division of Water Resources for the WSSC water rights described in Exhibit D and any summaries thereof. 17. Change of Use: Applicant seeks to change the type, location, and manner of use of the WSSC Shares from the historical

irrigation uses to irrigation, storage, augmentation, exchange, replacement, commercial, in-reservoir recreation, piscatorial and fish propagation, and wildlife watering. 18. Storage of Changed WSSC Shares. Storage of the changed WSSC Shares may occur in any or all of the following facilities or other storage facilities to which HF2M has or obtains a contractual right to store water: A. Seaworth Augmentation Pond No. 2. Described in Paragraph 12, above, via diversion out of the Cache la Poudre through the Seaworth River Diversion or the Taylor and Gill Ditch as described in Paragraphs .12.C.i and 12.C.ii, above, B. WSSC Storage Reservoirs. See Exhibit D. 19. WSSC Native Water. Although Applicant intends to quantify the WSSC Native Water and WSSC Transmountain Water associated with the WSSC Shares, it intends to continue using that WSSC Native Water for irrigation within the WSSC service area on lands shown in Exhibit A until such time that Applicant requires the WSSC Native Water for the changed uses. Once the WSSC Native Water is used for the changed non-irrigation uses, Applicant will install the necessary infrastructure or use its augmentation sources described in Paragraph 23, below, to replicate or replace return flows associated with that part of the WSSC Native Water for which the change of use has occurred. VI. Request for Nontributary Ground Water Determination. 20. Montava Nontributary Ground Water: Applicant seeks to utilize the non-tributary ground underlying the contiguous 999.25 acres of the Montava property depicted in Exhibit A, which property is further described in Exhibit F (“Montava Property”). Applicant has a pending well permit application for use of the non-tributary ground water located underlying the Montava Property. A. Source and Depth: The source of the nontributary groundwater is the Dakota Formation aquifer, which includes both the “Muddy J” sandstone, the “Dakota sandstone,” and the “J Silt,” and is approximately 5,200 - 6,000 feet deep, B. Estimated Amounts and Rate of Withdrawal: Applicant claims the right to withdraw all of the nontributary groundwater in the Dakota Formation and the J Silt formation underling the Montava Property at an average rate not to exceed 1% of the total decreed entitlement each year, but with the right to exceed that average annual withdrawal in any given year as allowed by law. The thickness of the Dakota Aquifer underlying the Montava Property is 288 feet and with a conservatively estimated specific yield of 10% based upon core samples, the total recoverable volume is 28,778 acre-feet from that formation. The J Silt formation is 53 feet thick underlying the Montava Property and at a specific yield of at least 5%, adds another 2,648 acre-feet of total recoverable volume from that related formation. Thus, the total anticipated volume of nontributary groundwater is 31,426 acre-feet with an average annual pumping equal to 314 acre-feet per year, C. Nontributary Wells and Well Fields. Applicant reserves the right to drill one or more nontributary wells anywhere on the Montava Property. The location of the proposed well for the pending application is located in the SW1/4 of the SE1/4 of Section 32, Township 8 North, Range 68 West of the 6th P.M. at a point approximately 1,300 feet from the south line and 2,550 feet from the east line of said Section 32 at a proposed depth of 5,520 feet. As additional wells are required, well permit applications for each will be filed and issued in accordance with C.R.S. § 37-90-137(10). Applicant requests that all wells, including additional wells, located on the Montava property that are completed in the same aquifer be allowed to operate as a “well field” as that term is described in the Statewide Nontributary Ground Water Rules, 2 CCR 402-7:4.A(13), D. Proposed Uses. Domestic, industrial, municipal, irrigation, commercial, livestock watering, storage, recreational, aesthetic ponds and water features, fish and wildlife, fire protection, storage, augmentation, replacement, exchange, recharge, and any and all other beneficial purposes, E. Ownership. Applicant has the Montava Property under firm contracts by which Applicant will close upon said lands when it has developed an adequate water supply. Although Applicant will not use the nontributary groundwater claimed herein until it owns the Montava Property, it is obtaining consent of the current owners for purposes of adjudicating this Section of the Application. VII. Request for Plan for Augmentation. 21. Structures to be Augmented: A. Montava West Wellfield, described in Paragraph 4.A, above; B. Montava East Wellfield, described in Paragraph 4.B, above; 22. Points of Depletion from the Wellfields: A. Montava West Wellfield: Depletions from the Montava West Wellfield will principally impact Boxelder Creek, but some depletions on the Cache la Poudre River are also predicted, at approximately the following locations: i. Boxelder Creek: at a point in the NE1/4 of Section 3, Township 7 North, Range 68 West of the 6th P.M., ii. Cache la Poudre River: at a point in the NW1/4 of the NW1/4 of Section 17, Township 7 North, Range 68 West of the 6th P.M., B. Montava East Wellfield: Depletions from the Montava East Wellfield will impact Boxelder Creek at a point approximately in the NW1/4 of the SE1/4 of Section 3, Township 7 North,

Range 68 West of the 6th P.M. 23. Water Rights to be Used for Augmentation: A. Fully Consumable Water from the City of Fort Collins: Fully consumable water from the City of Fort Collins (“City”) is a potential augmentation source. Applicant is negotiating a permanent contractual right for 25 acre-feet of fully consumable water from the City that will be lawfully available for augmentation, replacement, and exchange uses. Applicant may also lease such water from the City in the future. Such augmentation water would be available at one of two delivery points: i. The confluence of the Foothills Outfall Channel and the Cache la Poudre River in the NW1/4 of the NW1/4 of Section 34, Township 7 North, Range 68 West of the 6th P.M. (just below Rigden Reservoir); or ii. The Fossil Creek Reservoir Inlet Ditch at the location where the City of Fort Collins is able to pump water from Rigden Reservoir into that ditch in the SW1/4 of Section 28, Township 7 North, Range 68 West of the 6th P.M., if and when Applicant owes water to that Inlet Ditch. B. Water Supply & Storage Company: Water from the changed WSSC Shares as described in Section V, above. Fully consumable water from the changed WSSC Shares will be released directly to the Cache la Poudre for augmentation and/or will be stored and re-released to the Cache la Poudre River as needed for augmentation. C. Seaworth Augmentation Pond No. 2 and Seaworth Augmentation Pond: Pursuant to an agreement, Applicant has a 40-acre-foot storage account in Seaworth Augmentation Pond No. 2 and a lease for other augmentation water in Seaworth Augmentation Pond and Seaworth Augmentation Pond No. 2 (collectively the “Seaworth Augmentation Ponds”). Any water stored in the Seaworth Augmentation Ponds that is decreed for augmentation use may be released to the Cache la Poudre River for use in this augmentation plan in a manner consistent with the aforementioned agreement. D. Seaworth Taylor and Gill Ditch Shares: Pursuant to an agreement, consumptive use water quantified in the 16CW3093 Decree will be released to the Cache la Poudre River on a direct basis or after storage for use in this plan for augmentation. E. Wellington Water Works Water: By agreement, Applicant has the right to acquire nontributary ground water from Wellington Water Works (“3W”). The 3W nontributary groundwater consists of rights in and to the Muddy Sandstone, Entrada Sandstone, and Dakota Sandstone formations underlying approximately 4,760 acres as depicted in Exhibit G, and as determined and decreed in the Judgment and Decree of the Water Court in Water Court Case No. 05CW343, dated April 8, 2008 (“05CW343 Decree”), including the subset of those lands referred to in the 05CW343 Decree as “Consent Lands.” The 3W nontributary water is currently the subject of the following well permits: 61879-F, 67456-F, 67457-F, 67458-F, 67459-F, 67460-F, 67461-F, 67462-F, 67463-F, 67464-F, 67465-F, 67466-F, 67467-F, 67468-F, 67470-F, 67472-F, 67474-F, 67477-F, 67478-F, i. Delivery: The 3W nontributary water is permitted to be treated and discharged into the alluvium of Boxelder Creek by use of rapid infiltration basins (“RIBs”) that is delivered to Boxelder Creek and/or the Cache la Poudre River over time. Applicant shall provide evidence in this case on the timing of that delivery, ii. Decreed Uses of the 3W water: Pursuant to the 05CW343 Decree, the 3W nontributary water may be used for domestic, industrial, municipal, irrigation, commercial, livestock watering, recreational, aesthetic ponds and water features, fish and wildlife, fire protection, storage, augmentation, replacement, exchange, recharge, and any and all other beneficial purposes. The 05CW343 Decree also grants the right to use, reuse, successively use, lease, sell or otherwise dispose of to extinction. F. Montava Nontributary Groundwater: See Section VI, above. The nontributary ground water will be treated and discharged to Boxelder Creek and/or the Cache la Poudre. Potential deliver points include, but are not limited to, a point near the Montava East Wellfield, a point at the Cache la Poudre River near the NW1/4 of Section 17, Township 7 North, Range 68 West of the 6th P.M., and the Boxelder Sanitation District outfall location in the NE1/4 of the NE1/4 of Section 28, Township 7 North, Range 68 West of the 6th P.M., including through existing water conveyance systems. G. New Augmentation Sources. In addition to the above-described augmentation sources, Applicant requests the right to add new augmentation sources to this plan in the future after providing notice to the Water Court in this case, and to the State and Division Engineer (“Engineers”) and any parties in this case, with an opportunity for the Engineers and all parties to comment upon and/or oppose such sources. 24. Statement of Plan for Augmentation: By this Application, Applicant seeks to augment out-of-priority lagged depletions caused by diversions at the Wellfields described in Section I, above, by using the augmentation sources described in Paragraph 23, above, after taking credit for return flows from the indoor use of the water pumped at the Wellfields. More specifically, depletions from the Wellfields will principally accrue to Boxelder Creek but a small percentage of the Montava West Wellfield depletions are expected to

occur on the Cache la Poudre River as depicted in Exhibit B. Return flows from indoor use within Montava will be transported to the Boxelder Sanitation District for treatment and discharge at an outfall location in the NE1/4 of the NE1/4 of Section 28, Township 7 North, Range 68 West of the 6th P.M., to the Cache la Poudre River near the confluence of Boxelder Creek. Metered water deliveries to the indoor potable system will be considered 5% consumptive, with 95% considered to be treated return flows, unless a more detailed analysis of the indoor consumption is performed. Any treatment loss prior to distribution through the Montava potable water supply system, or any use associated with the Ponds, will be metered and considered 100% consumptive. There are no intervening water rights between the point of depletion on Boxelder Creek and the confluence with the Cache la Poudre River. When a lawful administrative call is placed downstream of the confluence of the Cache la Poudre River and Boxelder Creek, Applicant will replace the difference between the Wellfield depletions and the Boxelder Sanitation District return flows with any one or more of its augmentation sources described herein. A lawful administrative call upstream of the confluence of Boxelder Creek and the Cache la Poudre River, but downstream of the point of depletion on the Cache la Poudre River caused by the Montava West Wellfield, will be replaced with an upstream augmentation source or directly to the Fossil Creek Reservoir Inlet Ditch if it is the calling water right, and without offset for treated return flows at Boxelder Sanitation District. Further, as described above, the augmentation sources may be used to replace return flow obligations associated with the proposed change of the WSSC Native Water associated with the WSSC Shares if and when that water is used for changed, non-irrigation purposes. At times when credit for some or all of the Wellfield return flows through the Boxelder Sanitation District is not needed to offset Wellfield depletions, that portion of the effluent for which such credit is not claimed may be used and reused to extinction and otherwise disposed of as claimed in Paragraph 9, above. Many components of this Augmentation Plan are depicted in Exhibit B hereto. VIII. Request for Appropriative Rights of Exchange. 25. Appropriative Right of Exchange: Applicant requests the right to deliver the 3W nontributary water and reusable effluent after a first use of the Wellfield water to the Cache la Poudre River and then exchange it up to the diversion structures for the Seaworth Augmentation Pond No. 2 for storage. A. Upstream Termini: i. Seaworth River Diversion, described in Paragraph 12.C.ii, above, ii. Taylor and Gill Ditch headgate, described in Paragraph 12.C.i, above. B. Downstream Terminus: the confluence of Boxelder Creek and the Cache la Poudre River, or immediately upstream thereof at the Boxelder Sanitation District outfall described in Paragraph 24, above. C. Appropriation Date: December 30, 2020. D. How Appropriation was Initiated: by the filing of this Application. E. Amount: 1.0 cfs., F. Uses: Storage, augmentation, replacement, exchange, commercial, in-reservoir recreation, piscatorial and fish propagation, and wildlife watering. G. Remarks. The proposed exchanges are depicted in Exhibit H. 26. Owners of land upon which any new diversion or storage structure or modification to any existing diversion or storage structure or existing storage pool is or will be constructed or upon which water is or will be stored: A. Applicant; B. William O. and Paulette M. Seaworth, 2305 N. Taft Hill Road, Fort Collins, Colorado 80524-1028; C. Slash V LLC, 23 Alles Drive, Greeley, CO 80631-6828; D. Anheuser-Busch Foundation, 1 Busch Place, Saint Louis, MO 63118-1849; E. Poudre R-1 School District, 2407 La Porte Avenue, Fort Collins, CO 80521-2211; F. Water Supply and Storage Company, P.O. Box 1584, Fort Collins, CO 80522; G. The Taylor and Gill Ditch Company, 2711 N. Overland Trail, P.O. Box 526, LaPorte, CO 80535; and H. Little Cache Ditch, c/o The Larimer & Weld Irrigation Company, 106 Elm Avenue, Eaton, CO 80615. WHEREFORE, Applicant respectfully requests the Court enter a ruling that: (1) grants Applicant's request for ground water rights as described in Section I; (2) grants Applicant's request for storage right with two filling structures as described in Section II; (3) grants Applicant's request for a water right for the Seaworth Augmentation Pond as described in Section III; (4) grants Applicant's request for an alternate place of storage as described in Section IV; (5) grants Applicant's request for a change of water right as described in Section V; (6) grants Applicant's request for a nontributary ground water determination as described in Section VI; (7) grants Applicant's request for a plan for augmentation as described in Section VII; (8) grants Applicant's request for appropriative rights of exchange as described in Section VII; and (9) grants such other and further relief as the Court deems appropriate. This Application is fifteen pages and contains eight exhibits. The information from Exhibit D regarding the WSSC Shares is included in the below tables for resume publication:

**Water Supply and Storage Company Water Rights
Direct Flow (District 3)**

Name	Amount	Source	Location Section Township Range	Appropriation Date	Adjudication Date	Judicial Proceeding
Larimer County Canal	10.76 cfs	CLP	SW SE SW 13-8N-70W	1862/03/01	1882/04/11	Case 320 Original (1423 TT)
Larimer County Canal	13.89 cfs	CLP	SW SE SW 13-8N-70W	1864/09/15	1882/04/11	Case 320 Original (1423 TT)
Larimer County Canal	2.00 cfs	CLP	SW SE SW 13-8N-70W	1868/03/15	1882/04/11	Case 320 Original (2406 TT)
Larimer County Canal	2.67 cfs	CLP	SW SE SW 13-8N-70W	1868/03/15	1882/04/11	Case 320 Original (2818 TT)
Larimer County Canal	4.00 cfs	CLP	SW SE SW 13-8N-70W	1873/03/20	1882/04/11	Case 320 Original (2406 TT)
Larimer County Canal (Henry Smith)	7.23 cfs	CLP	SW SE SW 13-8N-70W	1878/04/01	1882/04/11	Case 320 Original
Larimer County Canal	463.00 cfs	CLP	SW SE SW 13-8N-70W	1881/04/25	1882/04/11	Case 320 Original
Larimer County Canal	246.45 cfs	CLP	SW SE SW 13-8N-70W	1914/09/28	1945/12/18	Case 5362 (84CW204) Supp.

Note: CLP - Cache la Poudre River

**Water Supply and Storage Company Water Rights
Storage (District 3)**

Name	Amount	Source	Location Section Township Range	Appropriation Date	Adjudication Date	Judicial Proceeding
Chambers Lake Reservoir	3080.0 AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1882/07/12	1886/10/12	Case 320 Original
WSSC Res. No. 2, 3	689.0 AF	CLP	NE SE SW 14-8N- 69W	1882/10/01	1904/12/09	Case 1591 Original
WSSC Res. No. 4	574.0 AF	WSSC Res. No. 2, 3	SE NE SW 23-8N- 69W	1882/10/01	1904/12/09	Case 1591 Original
WSSC Res. No. 1 (Rocky Ridge)	4726.0 AF	CLP	SW SE SW 11-8N- 69W	1891/09/01	1904/12/09	Case 1591 Original
WSSC Res. No. 5 (Long Pond)	4037.0 AF	CLP	SW SE NW 31-8N- 68W	1891/09/01	1904/12/09	Case 1591 Original
Lindemeier Lake	608.0 AF	Long Pond Res.	SW NW NE 6-7N-68W	1892/02/16	1904/12/09	Case 1591 Original
WSSC Res. No. 4	310.0 AF	Long Pond Res.	23-8N- 69W	1892/02/16	1904/12/09	Case 1591 7821-74) Original (W-
WSSC Res. No. 4	422.0 AF	WSSC Res. No. 2, 3	SE NE SW 23-8N- 69W	1900/12/12	1904/12/09	Case 1951 Original
Black Hollow Res.	6428.0 AF	CLP	SE SE SE 34-8N- 67W	1906/02/20	1922/04/22	Case 2031 Supp.
Chambers Lake Reservoir	3577.0 AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1910/05/28	1922/04/22	Case 2031 Supp.
Kliver Res.	1562.0 AF	CLP	SW NE NW 23-8N- 69W	1911/05/01	1945/12/18	Case 5362 Supp.
Black Hollow Res.	2158.0 AF	CLP	SE SE SE 34-8N- 67W	1918/10/05	1945/12/18	Case 5362 Supp.

Name	Amount	Source	Location Section Township Range	Appropriation Date	Adjudication Date	Judicial Proceeding
Long Draw Res.	4201.0 AF	Long Draw Creek	NE NW SE 11-6N- 75W	1922/06/05	1945/12/18	Case 5362 Supp.
Chambers Lake Reservoir	2197.0 AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1922/12/03	1945/12/18	Case 5362 Supp.
WSSC Res. No. 2, 3	3615.0 AF	CLP	NE SE SW 14-8N- 69W	1943/10/04	1953/09/10	Case 11217 Supp.
WSSC Res. No. 2, 3	445.9 AF	CLP	NE SE SW 14-8N- 69W	1943/10/04	1953/09/10	Case 11217 (W-112-74) Supp.
WSSC Res. No. 2, 3	138.0 AF	CLP	NE SE SW 14-8N- 69W	1943/10/04	1977/12/31	W-112-77 Supp.
Long Draw Res.	6600.0 AF	CLP	NE NW SE 11-6N- 75W	1965/08/31	1977/12/31	W-9322-78 (83CW126) Supp.
Trap Lake II	3800.0 AF	Trap Creek	NW NW SW 21-7N- 75W	1982/06/16	1982/12/31	82CW289 Supp. - Cond.

Note: CLP - Cache la Poudre River

Water Supply and Storage Company Water Rights Transmountain

Name	Amount	Source	Location Section Township Range	Appropriation Date	Adjudication Date	Judicial Proceeding
Chambers Lake Reservoir	11478.0 AF	Big Laramie River	6-7N-75W	1891/08/07	1896/10/30	Case 1247 Original
Laramie River Ditch (Skyline Ditch)	300 cfs	West Branch Laramie River	NE NE SW 14- 8N-76W	1891/08/07	1896/10/30	Case 1247 Original (84CW204) Supp.
Cameron Pass Ditch	10.0 cfs	Michigan River	SE 2-6N-76W	1882/07/30	1902/04/23	Case 1519 Original
Cameron Pass Ditch	18.0 cfs	Michigan River	NW SE 2-7N- 76W	1898/07/07	1902/05/23	Case 1519 Original

Name	Amount	Source	Location Section Township Range	Appropriation Date	Adjudication Date	Judicial Proceeding
Cameron River Ditch Alternate Point Alternate Point	524.6 cfs	Colorado River	NE SW NW 21-6N-75W NW NE NW 28-5N-76W NW NE SE 29-6N-75W	1890/09/01	1906/08/11	Case 112 Original
Laramie River Tunnel*	300.0 cfs	Big Laramie River	NE SW 7-8N-75W	1902/08/25	1914/02/20	Case 2725 Case 5993 (84CW204) Supp.
Rawah Ditch*	225.0 cfs	Rawah Creek	NE NE SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Rawah and Lower Supply Ditch*	275.0 cfs	Rawah Creek	SE SE SW 14-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
McIntyre Ditch*	40.0 cfs	McIntyre Creek	SE NE NE 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 1*	1050.0 AF	Rawah Creek	SE 7-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 2*	1400.0 AF	Rawah Creek	SW 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 3*	525.0 AF	Rawah Creek	NW 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 4*	592.0 AF	Rawah Creek	SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 5*	700.0 AF	Rawah Creek	NE 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 6*	300.0 AF	Rawah Creek	SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 7*	440.0 AF	Rawah Creek	NE 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 8*	2000.0 AF	Rawah Creek	SW 4-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 9*	574.0 AF	Rawah Creek	NE 6-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 10*	425.0 AF	McIntyre Creek	NE 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 11*	1148.0 AF	McIntyre Creek	SW 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.

Name	Amount	Source	Location Section Township Range	Appropriation Date	Adjudication Date	Judicial Proceeding
Link Lake No. 12*	138.0 AF	Rawah Creek	NW 4-8N- 76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 13*	597.0 AF	Rawah Creek	NE 29-9N- 76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 14*	597.0 AF	Rawah Creek	NE 29-9N- 76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Laramie Lake	340.0 AF	Drainage	SE NW 32- 8N- 75W	1890/07/01	1944/09/11	Case 5993 Supp.
Lost Lake	288.0 AF	Drainage	SW SE 31-8N- 75W	1890/07/02	1944/09/11	Case 1993 Supp.
Lilly Lake	178.00 AF	Drainage	SE NW 29- 8N- 78W	1912/07/01	1944/09/11	Case 5993 Supp.

Note: * Partial Ownership

**Water Supply and Storage Company Water Rights
Seepage (District 3)**

Name	Amount	Source	Location 10 40 160 Sect Twn Rge	Appropriati on Date	Adjudicati on Date	Judicial Proceeding
Lind Reservoir*	54.9 AF	Seepage	SE NE SE 35- 8N- 68W	1881/04/21	1972/12/31	W-1748 W-1877- Supp.
WSSC Seepage A	2.0 cfs	Seepage	NE NE NW 20- 8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage B	2.0 cfs	Seepage	SE SE SE 17-8N- 69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 1	5.0 cfs	Seepage	SW NW SW 4- 8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2	12.0 cfs	Seepage	SW NW NE 3- 8N- 69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2A	4.0 cfs	Seepage	NE NE SW 3- 8N- 69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2B	2.0 cfs	Seepage	NW SW SE 17- 8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 3	20.0 cfs	Seepage	NE SW NW 14- 8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 4	1.0 cfs	Seepage	NE NW SW 14- 8N-68W	1881/04/21	1972/12/31	W-1877 Supp.

Name	Amount	Source	Location 10 40 160 Sect Twn Rge	Appropriation Date	Adjudication Date	Judicial Proceeding
WSSC Seepage 6	2.0 cfs	Seepage	NW NW SW 31- 8N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7	2.0 cfs	Seepage	NW SW SE 6-7N- 67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7A	0.1 cfs	Seepage	SW NE SW 8-7N- 76W	1881/04/21	1972/12/31	W-1977 Supp.
WSSC Seepage 7B	0.3 cfs	Seepage	SW SW SE 8-7N- 67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7C	2.0 cfs	Seepage	NW NW SW 13- 7N-67W	1960/06/01	1972/12/31	W-1877 Supp.
WSSC Seepage 8	0.62 cfs	Seepage	NE SE SE 5-7N- 66W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 9	1.0 cfs	Seepage	SE NE SE 5-7N- 66W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 10	0.9 cfs	Seepage	SW NW SW 4- 7N-66W	1881/04/21	1972/12/31	W-1877 Supp.

Note: * Partial Ownership