

**FILED Document – District Court  
2009CW86  
CO Pueblo County District Court 10th JD  
Filing Date: Jun 30 2009 9:59AM MDT  
Filing ID: 25891029  
Review Clerk: Mardell Didomenico**

DISTRICT COURT, WATER DIVISION NO.  
2, COLORADO  
320 W. 10th Street  
Pueblo, CO 81003

CONCERNING THE APPLICATION FOR  
WATER RIGHTS OF UPPER ARKANSAS  
WATER CONSERVANCY DISTRICT IN  
TEXAS CREEK AND ITS TRIBUTARIES

in Chaffee, Custer, Fremont and Pueblo  
Counties

**Applicant's Attorneys:**

Bratton Hill Wilderson & Lock, LLC  
John R. Hill, Jr., Atty. Reg. No. 10214  
Marcus J. Lock, Atty. Reg. No. 33048  
Rufus O. Wilderson, Atty. Reg. No. 14361  
232 West Tomichi Avenue, Suite 232  
Gunnison, CO 81230  
Telephone: (970) 641-1903  
Facsimile: (970) 641-1943  
E-mail: [jrhill@brattonhill.com](mailto:jrhill@brattonhill.com)  
[mlock@brattonhill.com](mailto:mlock@brattonhill.com)  
[rwilderson@brattonhill.com](mailto:rwilderson@brattonhill.com)

**▲ COURT USE ONLY ▲**

Case No. 09CW\_\_\_\_

Div: Ctrm:

**APPLICATION FOR APPROPRIATIVE RIGHTS OF EXCHANGE AND FOR  
APPROVAL OF PLAN FOR AUGMENTATION**

1. Name, address and telephone number of applicant: Upper Arkansas Water Conservancy District (UAWCD), P.O. Box 1090, Salida, CO 81201, (719) 539-5425. (Send all pleadings and correspondence to John R. Hill, Jr., 232 West Tomichi Avenue, Suite 232, Gunnison, CO 81230.

**NATURE AND PURPOSE OF APPLICATION**

2. Applicant is a water conservancy district organized under the provisions of the Water Conservancy Act, now in C.R.S. §§ 37-45-101 et seq. As such, UAWCD has broad powers to facilitate the beneficial use of water within its boundaries. To that end, this is an application for a plan for augmentation for a part of the lands within UAWCD, specifically the Texas Creek drainage basin in western Fremont County and Custer County. The objective of the

plan for augmentation is to protect water rights and increase the supply of water available for beneficial use within the plan area.

3. This proposed plan for augmentation will use decreed replacement supplies to replace out-of-priority depletions caused by, for example, tributary wells (including augmentation wells to augment all beneficial uses) reservoirs, ponds, springs and surface diversions thereby offsetting or replacing out-of-priority depletions in time, place and amount which will prevent injury to vested water rights.

4. The following tables and maps are included with and made a part of this application:

- a. Table 1. Description of Exchange Reaches.
- b. Table 2. Augmentation Storage Reservoirs.
- c. Map showing exchange reaches and reservoir locations (Exhibit A).
- d. Map showing H2O Ranch water rights historically irrigated land (Exhibit B).
- e. Map showing Johnson Ranch water rights historically irrigated land (Exhibit C).
- f. Map showing A. Katzenstein Ditch No. 1 historically irrigated land (Exhibit D).

**FIRST CLAIM**  
**(Application for Conditional Appropriative Right of Exchange)**

5. Pueblo Reservoir-Texas Creek Exchange.

- a. Location of exchange structures or points.

(1) Lower terminus is Pueblo Reservoir which is located: in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 in Township 20 South, Range 66 West, and Sections 1, 2, 3, 4, 5, 9, 10 and 11, in Township 21 South, Range 66 West, and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25, in Township 20 South, Range 67 West, all in the 6th P.M. in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section bears

North 61° 21' 20" East, a distance of 2,511.05 feet, all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado, in Pueblo County.

(2) Upper terminus is mouth of Texas Creek located at a UTM 449053E 4251488N WD NAD83.

b. Amount claimed: 20 cfs conditional.

c. Appropriation date: June 30, 2009.

d. How appropriation was initiated: By UAWCD Board of Directors resolution dated November 8, 2007, field reconnaissance in the Texas Creek drainage, engineering studies, planning, meetings in Custer County with Board of County Commissioners and interested persons, Power Point presentation posted on UAWCD web site, posting of signs at locations reasonably calculated to give interested persons actual notice of the proposed appropriations, Board direction to file this application by resolution made on June 25, 2009 and filing of this application on June 30, 2009. These exchanges are in Custer and Fremont Counties.

## **SECOND CLAIM**

### **(Application for Conditional Appropriative Rights of Exchange in Texas Creek Drainage)**

6. Applicant claims conditional appropriative rights of exchange in Texas Creek and its tributaries in the amount of 20 cfs for Texas Creek and the amounts for each tributary listed in and described in Table 1 with appropriation date of June 30, 2009. The upstream and downstream termini and exchange amounts are listed and described in Table 1. UAWCD claims the right to exchange to any point within the described reaches of the respective streams, the inlet (feeder structure) of any reservoir listed and described in Table 4 or any other reservoir to be constructed later the inlet (feeder structure) of which is within a described reach or to any on stream reservoir within the respective described reach. The appropriation was initiated by UAWCD Board of Directors resolution dated November 8, 2007, field reconnaissance in the Texas Creek drainage, engineering studies, planning, meetings in Custer County with Board of County Commissioners and interested persons, Power Point presentation posted on UAWCD web site, posting of signs at locations reasonably calculated to give interested persons actual notice of the proposed appropriations, Board direction to file this application by resolution made on June 25, 2009 and filing of this application on June 30, 2009. These exchanges are in Custer and Fremont Counties.

**THIRD CLAIM**  
**(Application for Approval of Plan for Augmentation)**

7. Areas to be augmented are in the Texas Creek drainage in Fremont and Custer Counties. See map attached hereto as Exhibit A and made a part hereof.

8. Structures to be augmented are tributary wells, on-stream reservoirs or ponds, off-stream reservoirs or ponds, direct flow surface diversions, tributary springs or seepage and structures requiring additional augmentation located in the areas described in paragraph 7. These structures shall be referred to as “Augmented Structures” and may be augmented for any and all beneficial uses.

9. Previous decrees for water rights to be used for augmentation:

a. Hermit Basin Lodge rights. Applicant is in the process of acquiring approximately 70 acre-feet firm annual yield of the following water rights:

(1) A. Katzenstein Ditch No. 1, originally decreed by the Fremont County District Court on May 13, 1893 and April 16, 1894, for 1.86 c.f.s. for irrigation use on 75 acres with an appropriation date of March 30, 1873 (Priority No. 51), and 1.86 c.f.s. for irrigation use on an additional 60 acres with an appropriation date of July 1, 1878 (Priority No. 207B), and as changed in Case No. W-4320, Case No. 95CW10, and Case No. 00CW42. The A. Katzenstein Ditch No. 1 diverts on the left bank of Middle Taylor Creek at a point whence the West quarter corner of Section 20, Township 22 South, Range 73 West of the 6th Principal Meridian bears North 58° 15' West at a distance of 2,900 feet.

(2) Water rights originally decreed by the District Court for Water Division No. 2 on August 1, 1978, in Case No. W-4320 to Conquistador Reservoir No. 1, for 150 acre feet for municipal, domestic, industrial, irrigation, recreation, fish and wildlife propagation, snow making, and augmentation and exchange purposes, with an appropriation date of July 28, 1975, and as changed in Case No. 86CW67, Case No. 95CW10, and Case No. 00CW42. The place of storage was changed by decree entered in Case No. 86CW67 on January 9, 1987, to the SE $\frac{1}{4}$  of Section 21, Township 22 South, Range 73 West of the 6th P.M. The decreed source of water for this reservoir is Middle Taylor Creek at the A. Katzenstein Ditch No. 1 head gate, local surface runoff and groundwater infiltration.

(3) All other rights of Seller by virtue of any of the aforementioned decrees, including but not limited all of Seller’s rights under the augmentation plan approved in Case No. 95CW10 and amended in Case No. 00CW42, such as the average annual consumptive for the A. Katzenstein Ditch No. 1, which the Court in Case No. 95CW10 determined to be 106 acre-feet, and all available stream depletion credits attributable to the A. Katzenstein Ditch No. 1 by virtue of the decree entered in Case No. 95CW10.

(4) Applicant will file a separate application for change of place of use to the areas to be augmented in this plan for augmentation upon receiving title to the rights described in this paragraph 9.a.

b. Twin Lakes Reservoir and Canal Company (TL). Applicant owns shares in TL and also acquires TL water from other TL shareholders or other entities through leases with terms from one to several years. Such water consists of storage and direct flow rights for water diverted from another basin which are available for 100 percent consumptive use and reuse and are available for augmentation. This water will be used directly or released from storage for replacement of out-of-priority depletions above the controlling call or by exchange with the water rights described in paragraph 9.e. The water rights producing the pro rata interest of Applicant are:

(1) Colorado River Water Rights: Case No. 3802, District Court, Garfield County, August 25, 1963 and Case No. W-1901, District Court, Water Div. No. 5, May 12, 1976; priority: August 23, 1930, No. 431; source: Roaring Fork River and its tributaries, all tributaries of the Colorado River in Water Div. No. 5; use: direct flow and storage purposes for irrigation, domestic, commercial, industrial, municipal, and all beneficial uses; amount: direct flow amount for diversions through transmountain tunnels of 625 c.f.s., with an annual limit of 68,000 acre-feet, a running ten year limit of 570,000 acre-feet; and

(2) Arkansas River Water Rights: Case No. 2346, District Court, Chaffee County, July 14, 1913 as modified in Case No. W-3965, District Court, Water Div. No. 2, April 19, 1974; priorities: December 15, 1896, No. 3 and March 25, 1897, No. 4; source: Lake Creek and its tributaries, tributary to the Arkansas River; use: storage for irrigation, domestic, commercial, industrial, and municipal purposes on any site in the Arkansas River Basin of Colorado below the Twin Lakes Reservoir which are capable of being served by water by diversion from said Arkansas River; amount: 54,452 acre-feet (20,645.3 acre-feet for Priority No. 3 and 33,806.7 acre-feet for Priority No. 4.

(3) Twin Lakes Reservoir is located in all or portions of Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in Township 11 South, Range 81 West of the 6th P.M., in Lake County, Colorado. The Twin Lakes dam axis and the centerline of Lake Creek intersect at a point whence the Southeast corner of Section 23, Township 11 South, Range 81 West of the 6th P.M., bears South 54° 13'08" East a distance of 3,803.10 feet, all as more particularly described in the decree in Civil Action No. 5141 (District Court, Chaffee County, Colorado).

(4) Historic use: Irrigation, domestic, commercial, industrial, municipal and other beneficial uses in the Arkansas River Basin.

c. Pueblo Board of Water Works Lease. Applicant has entered into a lease of 202 acre-feet of fully consumable water with Pueblo Board of Water Works (PBWW) for a term of 40 years. With respect to the source of the water to be provided the lease provides in pertinent part that PBWW “will deliver water derived from the Board's shares in the Twin Lakes Reservoir and Canal Co. to the extent that such water is available to the Board. If Board does not have sufficient water from the Twin Lakes Reservoir and Canal Co. to satisfy its delivery obligations under this lease, then the Board may deliver water from other sources of fully consumable water available to the Board including, but not limited to, stored water at Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, Pueblo Reservoir, from direct flow transmountain water or transmountain return flows by exchange.” This water will be used directly or released from storage for replacement of out-of-priority depletions above the controlling call or by exchange with the water rights described in paragraph 9.e. The Twin Lakes water rights are described in paragraph 9.b., above. Water rights in which PBWW owns or has the right to use which may also be used to deliver water under the lease are, including but not limited to: the Ewing Placer Ditch decreed on November 13, 1911, with appropriation date of June 1, 1906, by the District Court, Eagle County, Civil Action No. 507; the Columbine Ditch decreed on October 3, 1936, with an appropriation date of June 21, 1930, by the District court, Eagle County, Civil Action No. 963; the Warren E. Wurtz Ditch (aka the Warren E. Wurts Ditch ) decreed on October 3, 1936, with an appropriation date of June 8, 1929, by the District Court, Eagle County, Civil Action No. 963; the Wurtz Extension Ditch decreed on October 21, 1982, with an appropriation date of October 26, 1953, by the District Court, Water Division No.5, Case No. 80CW505; the Busk-Ivanhoe System decreed by absolute decree of the District Court, Garfield County, in Civil Action No. 2621 dated January 9, 1928, with appropriation dates differing for various components of the system as more fully set forth in the referenced decree, other absolute decrees were entered in Civil Actions Nos. 3082 and 4033 in by the District Court, Garfield County; the Homestake Project conditionally decreed in Civil Action No. 1193 by the District Court, Eagle County on June 8, 1962 with appropriation date of September 22, 1952; the Independence Pass Transmountain Diversion decreed in Civil Action No. 3082 by the District Court, Garfield County dated August 25, 1936, and were modified by a Decree in Case No. W-1901 by the District Court, Water Division No. 5, dated May 12, 1976. The Busk-Ivanhoe System, the Columbine Ditch, the Ewing Ditch and the Wurtz Ditch are all subject to a change of water rights decree in Case No. 90CW340, District Court, Water Division No. 5 (consolidated with Case No. 90CW52, District Court, Water Division No. 2. The points of diversion of the foregoing water rights are located in the Colorado River drainage basin.

d. Round Mountain Water and Sanitation District's Johnson Ranch water rights. Pursuant to a letter agreement dated November 17, 2008, Applicant and Round Mountain Water and Sanitation District are negotiating the terms of an agreement for use of Round Mountain's excess Johnson Ranch water rights as changed Case No. 02CW186. That case determined, *inter alia*, the historic consumptive use of the following described water rights which are described with reference to their original decreed locations in Section 8, Township 23 South, Ranch 72 West of the 6<sup>th</sup> P.M. in Custer County:

(1) Benoni Jarvis Ditch, with 0.60 cfs, with the priority date of May 15, 1872, adjudicated in the 1896 Decree as being on the North side of Macey Creek at a point whence the South Quarter Corner of Section 8 bears South 2°15' East 1584 ft, being in the NW¼SE¼ of said Section 8, and changed in Case 99CW25 to the headgate of the Vannier ditch described below.

(2) Lane Ditch, with 1.75 cfs, with the priority date of May 15, 1872, and with 0.86 cfs with the priority date of June 5, 1878, and with 0.64 cfs, with the priority date of June 10, 1888, on the southeast side of Macey Creek at a point whence the SW corner of said Section 8 bears South 81°20' West 172 ft, being in the SW¼SW¼ of said Section 8.

(3) Vannier Ditch, with 0.56 cfs, with the priority date of June 10, 1872, and 1.19 cfs with the priority date of June 10, 1875, on the west side of Macey Creek, at a point whence the SW corner of said Section 8 bears South 74°30' West 172 feet, being in the SW¼SW¼ of said Section 8, and described in the said decree in Case 99CW25 as approximately 150 feet east of the west line and 30 feet north of the south line of said Section 8.

(4) Helen Ditch, with 0.585 cfs, with the priority date of June 11, 1875, adjudicated in the 1896 Decree as being on the northwest side of the North Branch of Macey Creek, at a point whence the SW corner of said Section 8 bears South 1° West 1075 feet, being in the SW¼SW¼ of said Section 8, and changed in Case 99CW25 to the headgate of the Vannier Ditch described above.

e. City of Fountain's and Widefield Water and Sanitation District's H20 Ranch water rights. Applicant is in the process of acquiring a variable amount of the consumptive use component of these water rights which are currently the subject of a pending application for change of water rights in Case No. 08CW47, District Court, Water Division No. 2 to wit: the W.A. Bell Ditch Nos. 1, 2 and 3 that were originally adjudicated pursuant to the Findings and Decree dated August 26, 1893 by the District Court of the 11th Judicial District of the State of Colorado, in and for the County of Fremont, In the Matter of the General Adjudication of Water Rights in Water District No. 13, Water Division No. 2. These water rights, as changed from time to time, have been used to irrigate approximately 486 acres of land sometimes known as the H20 Ranch located in the N½ of Section 24 and the NE¼ of Section 23, Township 22 South, Range 73 West of the 6th P.M. in Custer County, Colorado. As proposed in the Application in Case No. 08CW47, the water rights will continue to be diverted and measured at their currently decreed points of diversion and then returned to the stream at such times as those rights are legally and physically available. In this manner, the historic consumptive use attributable to the water rights as they will be quantified in Case No. 08CW47 would then be delivered via Alvarado and Venable Creeks to Grape Creek, then to the Arkansas River for delivery to Pueblo Reservoir, which reservoir is located in Section 36, Township 20 South, Range 66 West of the 6th P.M. in Pueblo County, Colorado for use by Fountain and the Widefield Water and Sanitation District either on a direct flow basis through the Fountain Valley

Conduit, or for storage and later use. UAWCD, Fountain and Widefield Water and Sanitation District may utilize these water rights as part of a contract exchange to exchange UAWCD augmentation water stored in Pueblo Reservoir to the point of diversion decreed in the pending Case No. 08CW47. By this action, UAWCD will exchange its replacement water stored in Pueblo Reservoir to Venable and/or Alvarado Creek.

f. Furthermore, UAWCD will acquire the H2O water rights through lease or purchase of consumptive use credits in Venable or Alvarado Creeks.

g. In addition, Applicant may augment out-of-priority depletions from “Augmented Structures” in the areas to be augmented with any other water and water rights that Applicant has or may acquire that legally can be used to augment or replace out-of-priority depletions, provided the amounts of such water available for such uses have been adjudicated or otherwise administratively approved and quantified for such use. Applicant will obtain changes of water rights and/or administrative approvals so as to allow for use of these waters for such purposes, where appropriate, prior to such use. Applicant shall provide such notice as may be required of any such additional water prior to use within this plan.

h. Water and water rights acquired on a temporary basis pursuant to leases and interruptible supply agreements pursuant to C.R.S. § 37-92-309.

10. Statement of Plan for Augmentation:

a. Out-of-priority depletions attributable to augmented structures including augmentation wells will be replaced to the Arkansas River and Texas Creek and its tributaries depending upon the location of the controlling call and point of impact of the depletion using one of the sources of replacement water described in this plan. The replacement may be made directly from the water rights listed in paragraph 9, by release from one of the reservoirs listed in Table 4 or by exchange using one of the appropriate rights of exchange described herein depending upon the specific situation. Releases or exchanges of replacement water will be coordinated with the Division Engineer or water commissioner.

b. For purposes of this plan the controlling call occurs when:

(1) a water right is not receiving its full legal entitlement at its point of diversion;

(2) the priority date of that water right is senior to any downstream water right that may be calling or has placed an order with the Water Commissioner.

c. When the controlling call is located on a tributary of Texas Creek, replacement will be made directly to the tributary upstream of the point of diversion of the controlling call or directly to said structure.

d. When the controlling call is located on Texas Creek, the replacement will be provided to Texas Creek or to a Texas Creek tributary upstream of the controlling call or directly to the calling structure.

e. Augmentation wells: Wells which will be designated as augmentation wells will be used to deliver replacement or augmentation water to ditches or streams. These wells will be located hydraulically down-gradient of the ditch or stream that is receiving its discharge. The location of these wells will be such that pumping the well will not impact or deplete the stream or ditch that receives its discharge.

f. This plan for augmentation will be implemented over a period of time according to the following procedures:

(1) Persons needing augmentation water who desire to participate in this plan for augmentation will be required to submit to UAWCD an application setting forth *inter alia* the type of structure to be augmented, its location, the type of use, any water right decreed to the structure, the type of wastewater treatment system and the proposed beneficial uses of the water. The form may be supplemented or amended from time to time to meet continuing requirements of the state Engineer, and Division Engineer. That application shall identify this plan for augmentation as the source of replacement water which will prevent injury to other vested water rights or decreed conditional rights.

(2) Upon receipt of the application, fees and appropriate supplemental material, UAWCD shall submit to the Division Engineer the application and attachments. The Division Engineer will then determine whether the diversion can be administered under this plan. If the application is to augment a surface diversion or storage facility, the Division Engineer shall forward the application to the State Engineer for final approval. If the application is to augment a well, the Division Engineer shall give UAWCD a written determination of his findings, which shall be submitted to the State Engineer with a well permit application for evaluation pursuant to this plan and C.R.S. 37-90-137.

(3) Upon application to the State Engineer by UAWCD to include an authorized diversion located in the augmentation plan area within this plan for augmentation, UAWCD shall give notice to the parties to this case and the State and Division Engineers. Such notice shall include the application for augmentation water filed with the UAWCD and such supplemental information as may be submitted with such application.

(4) In addition to the foregoing notice, UAWCD shall, on a monthly basis, publish in a newspaper of general circulation in the area in which the augmentation water will be used the names of applicants for augmentation water, together with street or county road address or other brief description of the diversion location, including therein notice that such applications are available for review by interested parties in the offices of UAWCD during

normal business hours. Any affected person may file comments with the State Engineer within thirty days of the date of publication of such monthly notice, except that comments may be filed within sixty days for applications for commercial or industrial use. Any affected person not satisfied by the State Engineer's determination, may then apply to the District Court, Water Division No. 2 for a *de novo* hearing, under the court's retained jurisdiction, whether the terms and conditions of the decree approving this plan for augmentation have been met with respect to a particular application before the State Engineer. Such *de novo* hearing shall be pursuant to Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 *et seq.* Diversions located within the augmentation plan areas included in the plan for augmentation, by either an uncontested approval by the State Engineer or Order of the court, shall become part of the decree ultimately entered approving this plan for augmentation.

(5) Applicant will maintain records of augmented structures, amount and times of augmentation releases and other data as may be required by the Division Engineer for administration of this plan and provide same to the Division Engineer periodically.

g. Storage reservoirs listed at Table 2 are off-stream reservoirs which will be filled by exchange from the Arkansas River, Grape Creek, Texas Creek, Pueblo Reservoir, DeWeese Reservoir or any other reservoir listed in Table 2, or the water rights to be used for augmentation described in paragraph 9, above. Therefore, Applicant does not intend to claim any storage rights for the reservoirs in Table 2 this application.

11. Remarks:

a. Applicant does not seek to establish or change any water rights by the plan for augmentation detailed above.

b. No diversion records or summaries are being submitted with this application because Applicant is acquiring, or in the process of acquiring, water rights to be used for augmentation, the consumptive use of which has already been determined in a judicial proceeding. Applicant is relying on the *res judicata* effect of the previous determinations. Consequently, Applicant is not relying upon such underlying diversion records in this case.

c. No claim in this application involves the use of Fryingpan-Arkansas Project water. The authority for UAWCD to use Pueblo Reservoir is a an excess capacity contract with the United States which is renewed annually and is for storage of non Fryingpan-Arkansas Project water.

12. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing pool:

a. Geroux Reservoir will be on land owned by the Jack Geroux Family, LLP whose address is 329 County Road 182, Westcliffe, CO 81232 and by Harvey Geroux, whose address is 269 County Road 182, Westcliffe, CO 81232.

b. Geroux Reservoir No. 2 and No. 3 will be on land owned by Darell & Twila Geroux, whose address is 1100 County Road 160, Westcliffe, CO 81252.

c. Seegers Texas Creek Reservoir and Seeger Spruce Creek Reservoir will be on land owned by Paul Seegers, whose address is Seegers Enterprises, Trails End Ranch, LLC, 12720 Hillcrest Road, Ste 530, Dallas, TX 75230.

d. Conquistador Reservoir No. 1 is on land owned by Hermit Basin Lodge, LLC, 1699 Camino Road, Westcliffe, Colorado 81252, Attn: Paul Zeller, Managing Member.

e. DeWeese Reservoir is owned by DeWeese-Dye ditch and Reservoir Company is 1411 Walnut Street, Canon City, CO 81212.

f. Pueblo Reservoir is owned by the United States of America and managed by the Bureau of Reclamation, U.S. Department of the Interior, Eastern Colorado Area Office, 11056 W. County Road 18-E, Loveland, CO 80537.

THIS SPACE INTENTIONALLY LEFT BLANK



**TABLE 1  
UPPER ARKANSAS WATER CONSERVANCY DISTRICT  
WATER DISTRICT 13 AUGMENTATION PLAN  
DESCRIPTION OF EXCHANGE REACHES IN THE TEXAS CREEK DRAINAGE**

| <b>Exch No.</b> | <b>Name</b>   | <b>Amount (cfs)</b> | <b>Terminus</b> | <b>Terminus Description</b>           | <b>Legal Description</b>             | <b>UTM X</b> | <b>UTM Y</b> | <b>Distance from Section Line</b>                     |
|-----------------|---------------|---------------------|-----------------|---------------------------------------|--------------------------------------|--------------|--------------|---|
| TC-1            | Texas Creek   | 6                   | Lower           | Confluence with Arkansas River        | T19S R73W, Sec 7 SE/4 SW/4, 6th PM   | 449080       | 4251520      | 1020' from South Sec. Line, 2190' from West Sec. Line |
|                 |               |                     | Upper           | Texas Creek at USDA FS Boundary       | T45N R12E, Sec 1 SW/4 NW/4, 23rd PM  | 446960       | 4225240      | 1120' from South Sec. Line, 0' from West Sec. Line    |
| TC-2            | Lake Creek    | 2                   | Lower           | Confluence with Texas Creek           | T47N R12E, Sec 23 SE/4 SE/4, 23rd PM | 447190       | 4239690      | 750' from South Sec. Line, 770' from East Sec. Line   |
|                 |               |                     | Upper           | Lake Creek at USDA FS Boundary        | T46N R12E, Sec 4 NW/4 SW/4, 23rd PM  | 442440       | 4235500      | 2450' from South Sec. Line, 0' from West Sec. Line    |
| TC-3            | Duckett Creek | 2                   | Lower           | Confluence with Lake Creek            | T47N R12E, Sec 34 NE/4 NE/4, 23rd PM | 445650       | 4237580      | 900' from North Sec. Line, 290' from East Sec. Line   |
|                 |               |                     | Upper           | Duckett Creek at USDA FS Boundary     | T46N R12E, Sec 8 NE/4 SW/4, 23rd PM  | 441180       | 4233720      | 1790' from South Sec. Line, 1320' from West Sec. Line |
| TC-4            | Spruce Creek  | 2                   | Lower           | Confluence with Texas Creek           | T47N R12E, Sec 35 SE/4 SE/4, 23rd PM | 447260       | 4236570      | 1140' from South Sec. Line, 270' from East Sec. Line  |
|                 |               |                     | Upper           | Spruce Creek at USDA FS Boundary      | T46N R12E, Sec 9 NW/4 SE/4, 23rd PM  | 443250       | 4233890      | 2520' from South Sec. Line, 2450' from East Sec. Line |
| TC-6            | Brush Creek   | 2                   | Lower           | Confluence with Texas Creek           | T46N R12E, Sec 1 NW/4 SW/4, 23rd PM  | 447420       | 4235150      | 1900' from South Sec. Line, 300' from West Sec. Line  |
|                 |               |                     | Upper           | North Brush Creek at USDA FS Boundary | T46N R12E, Sec 13 NW/4 NW/4, 23rd PM | 447280       | 4232650      | 1170' from North Sec. Line, 200' from West Sec. Line  |
|                 |               |                     |                 |                                       |                                      |              |              |   |

FILED Document - District Court  
 District Court 10th JD  
 O'Neil County, Missouri  
 Filed Dec 10 2009 9:59AM MDT  
 File ID: 25891029  
 Review Clerk: Arden D. Romanico

**TABLE 1  
UPPER ARKANSAS WATER CONSERVANCY DISTRICT  
WATER DISTRICT 13 AUGMENTATION PLAN  
DESCRIPTION OF EXCHANGE REACHES IN THE TEXAS CREEK DRAINAGE**

| <b>Exch No.</b> | <b>Name</b>       | <b>Amount (cfs)</b> | <b>Terminus</b> | <b>Terminus Description</b>           | <b>Legal Description</b>             | <b>UTM X</b> | <b>UTM Y</b> | <b>Distance from Section Line</b>                    |
|-----------------|-------------------|---------------------|-----------------|---------------------------------------|--------------------------------------|--------------|--------------|--|
| TC-8            | South Brush Creek | 2                   | Lower           | Confluence with Brush Creek           | T46N R12E, Sec 13 NW/4 NW/4, 23rd PM | 447280       | 4232650      | 1170' from North Sec. Line, 230' from West Sec. Line |
|                 |                   |                     | Upper           | South Brush Creek at USDA FS Boundary | T46N R12E, Sec 33 NE/4 NE/4, 23rd PM | 443840       | 4227960      | 1030' from North Sec. Line, 40' from East Sec. Line  |
| TC-9            | North Brush Creek | 2                   | Lower           | Confluence with Brush Creek           | T46N R12E, Sec 13 NW/4 NW/4, 23rd PM | 447280       | 4232650      | 1170' from North Sec. Line, 230' from West Sec. Line |
|                 |                   |                     | Upper           | North Brush Creek at USDA FS Boundary | T46N R12E, Sec 22 SW/4 SW/4, 23rd PM | 443880       | 4230170      | 1000' from South Sec. Line, 0' from West Sec. Line   |
| TC-10           | Greenleaf Creek   | 2                   | Lower           | Confluence with Texas Creek           | T21S R73W, Sec 21 NW/4 SW/4, 6th PM  | 451500       | 4229300      | 1660' from South Sec. Line, 950' from West Sec. Line |
|                 |                   |                     | Upper           | Greenleaf Creek at USDA FS Boundary   | T46N R12E, Sec 35 SE/4 SW/4, 23rd PM | 445970       | 4226560      | 0' from South Sec. Line, 1940' from West Sec. Line   |

**Table 2  
AUGMENTATION STORAGE RESERVOIRS - Texas Creek Drainage**

| Name                                  | Location   | Capacity (ac-ft) | Fill Rate (cfs) | Location of Intake   | Location of Outlet Discharge   |
|---------------------------------------|--|------------------|-----------------|--|--|
| <b>Geroux Reservoir</b>               | Custer County, S/2, Sec 17, T21 S, R73 W, 6 <sup>th</sup> PM               | 540              | 5               | Pipeline from Well located adjacent to Texas Creek SE/4, NE/4, Sec 17, T21 S, R73 W, 6 <sup>th</sup> PM  | Pipeline from Reservoir to Texas Creek   |
| <b>Seegers Texas Creek Reservoir</b>  | Fremont County, W/2, Sec 36, T47 N, R12 E, 23 <sup>rd</sup> PM             | 60               | 2               | Pipeline from Well located adjacent to Texas Creek W/2, Sec 36, T47 N, R12 E, 23 <sup>rd</sup> PM Or Delivered thru the Howard Ditch No. 1, whose headgate is located in SE/4, NE/4, Sec. 2, T46 N, R12 E, 23 <sup>rd</sup> PM | Pipeline from Reservoir to Texas Creek, W/2, Sec 36, T47 N, R12 E, 23 <sup>rd</sup> PM                         |
| <b>Seegers Spruce Creek Reservoir</b> | Custer County, NW/4, Sec 10, T46 N, R12 E, 23 <sup>rd</sup> PM             | 60               | 2               | Pipeline or Ditch from Spruce, NW/4, Sec 10, T46 N, R12 E, 23 <sup>rd</sup> PM   | Pipeline from Reservoir to Spruce Creek, NW/4, Sec 10, T46 N, R12 E, 23 <sup>rd</sup> PM                       |
| <b>Geroux Reservoir No. 2</b>         | Custer County, SE/4 NE/4 Sec 19, T22 S, R72 W, 6 <sup>th</sup> PM          | 200              | 5               | Ditch or pipeline from Grape Creek, or Well tributary to Grape Creek SE/4 NE/4 Sec 19, T22 S, R72 W, 6 <sup>th</sup> PM  | Reservoir outlet or pipeline from Reservoir to Grape Creek, SE/4 NE/4 Sec 19, T22 S, R72 W, 6 <sup>th</sup> PM |
| <b>Geroux Reservoir No. 3</b>         | Custer County, SE/4 Sec 19 & SW/4 Sec 20, T22 S, R72 W, 6 <sup>th</sup> PM | 200              | 5               | Ditch or pipeline from Grape Creek, or Well tributary to Grape Creek SE/4 Sec 19, T22 S, R72 W, 6 <sup>th</sup> PM   | Reservoir outlet or pipeline from Reservoir to Grape Creek, SE/4 Sec 19, T22 S, R72 W, 6 <sup>th</sup> PM      |

FILED Document - District Court  
 289CW86  
 Pueblo County District Court 10th JD  
 Filing Date: Jun 30 2009 9:59AM MDT  
 Filing ID: 25891029  
 Review Clerk: Mardell Didomenico

# Exhibit A

## Augmentation Area, Exchange Reaches, and Augmentation Storage Reservoirs Texas Creek Drainage



**Augmentation Area Boundaries**

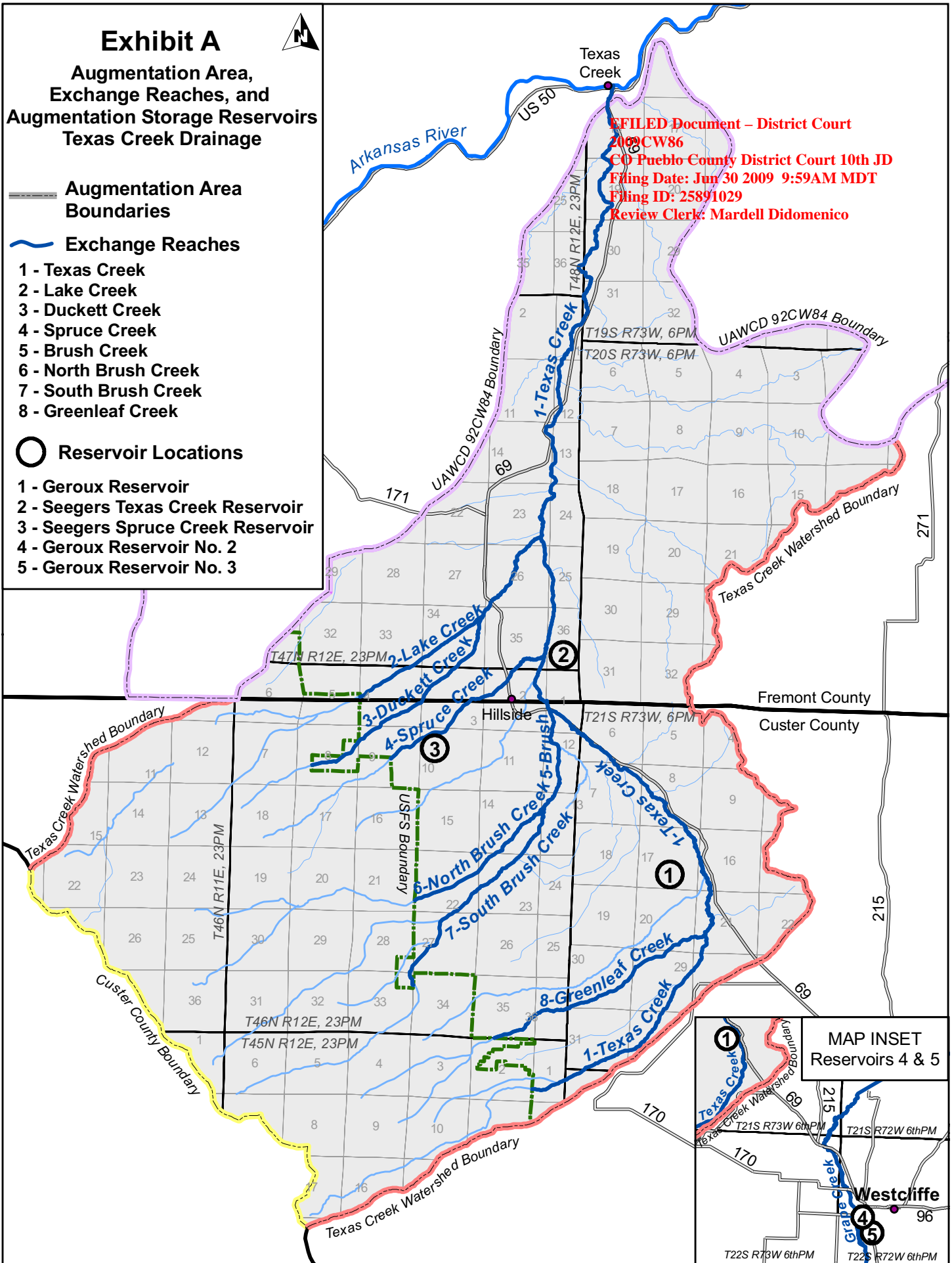
**Exchange Reaches**

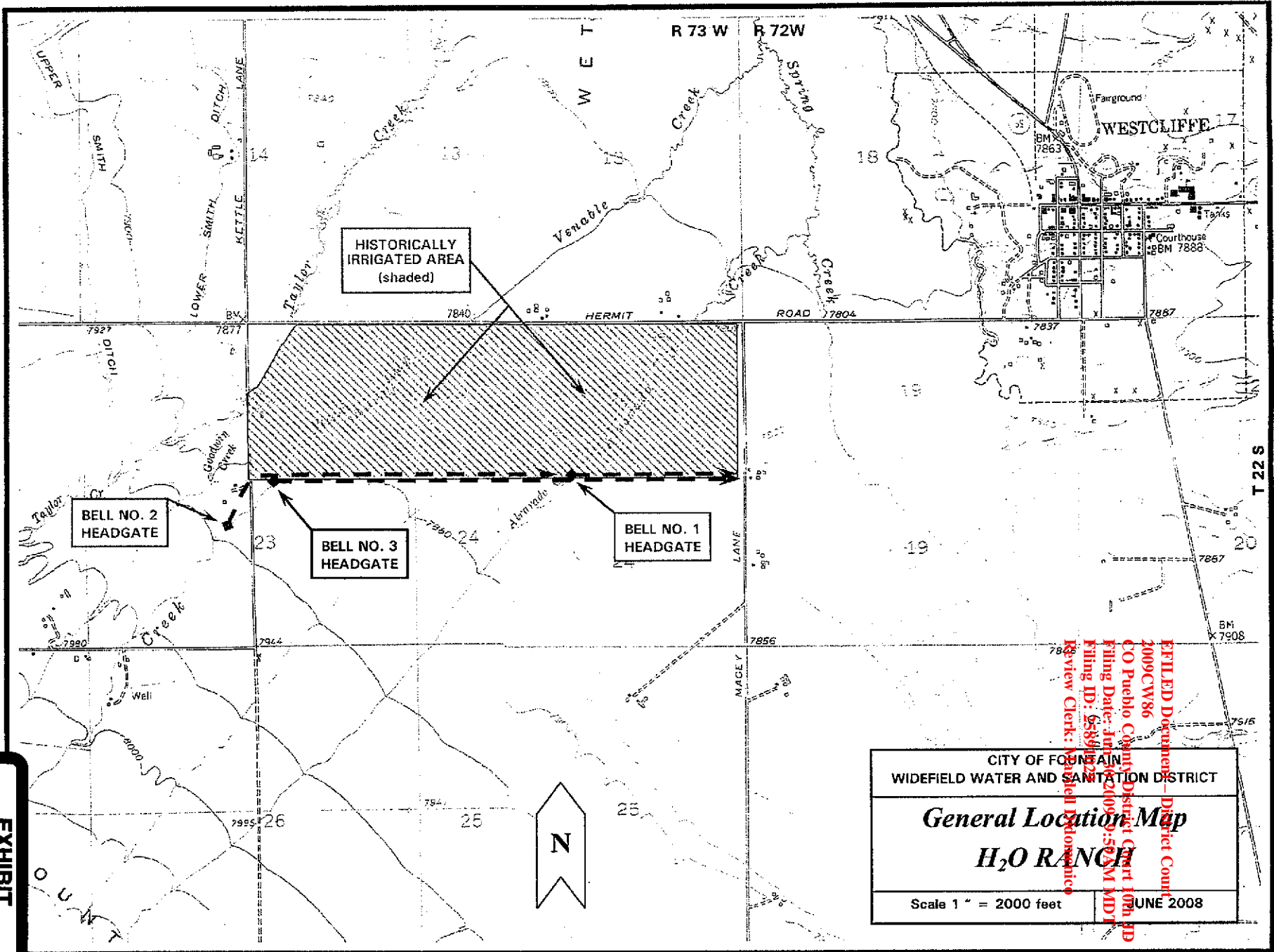
- 1 - Texas Creek
- 2 - Lake Creek
- 3 - Duckett Creek
- 4 - Spruce Creek
- 5 - Brush Creek
- 6 - North Brush Creek
- 7 - South Brush Creek
- 8 - Greenleaf Creek

**Reservoir Locations**

- 1 - Geroux Reservoir
- 2 - Seegers Texas Creek Reservoir
- 3 - Seegers Spruce Creek Reservoir
- 4 - Geroux Reservoir No. 2
- 5 - Geroux Reservoir No. 3

**FILED Document – District Court**  
**2009 CW86**  
**CO Pueblo County District Court 10th JD**  
**Filing Date: Jun 30 2009 9:59AM MDT**  
**Filing ID: 25891029**  
**Review Clerk: Mardell Didomenico**

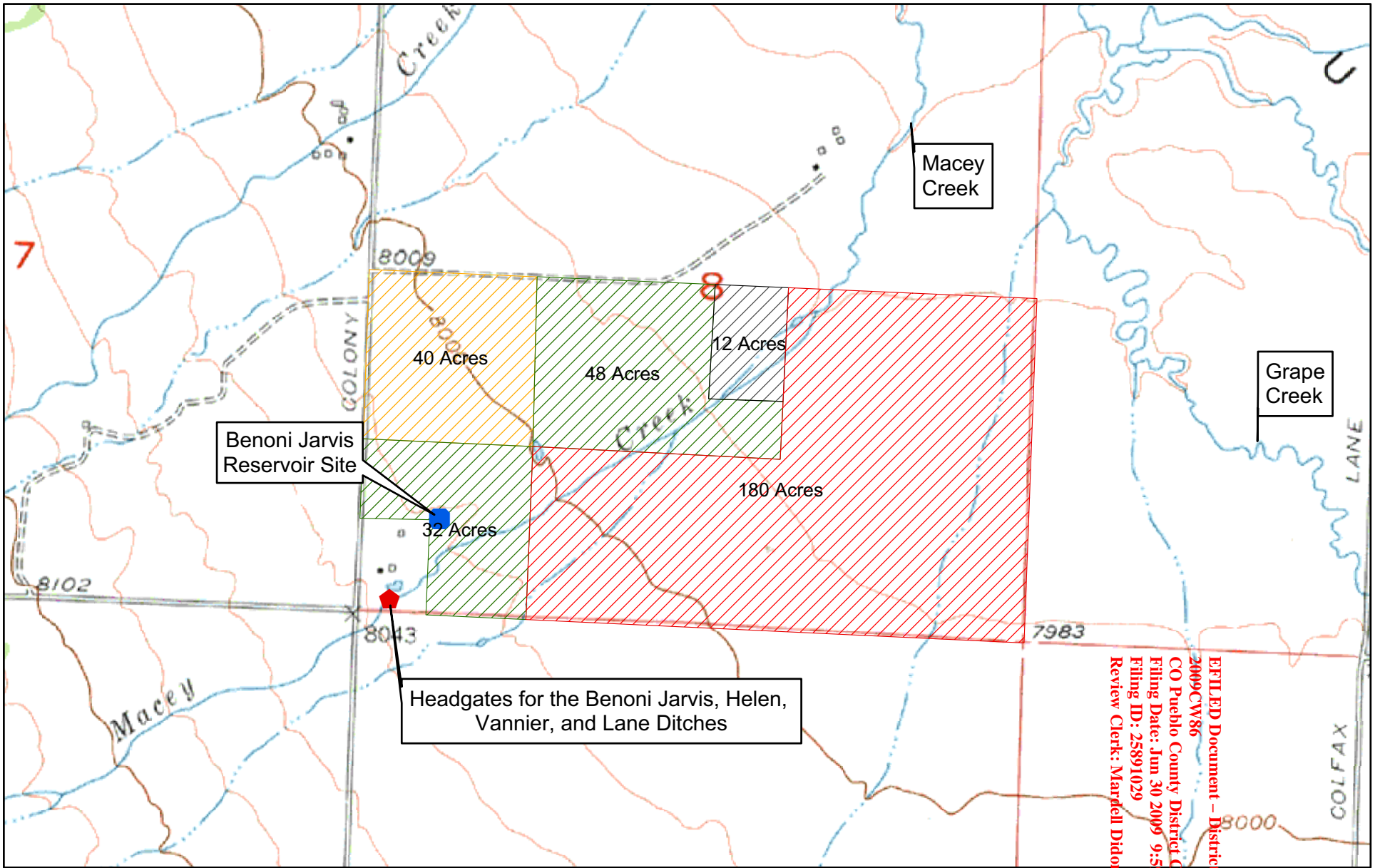




FILED Document - District Court  
 2009CW86  
 CO Pueblo County District Court 10th JD  
 Filing Date: Jun 16/2009 9:58 AM MDT  
 Filing ID: 5889122  
 Review Clerk: Michael R. Stornico

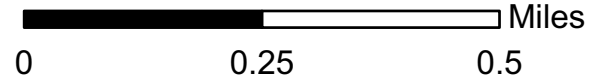
|   |           |
|---|-----------|
| CITY OF FOUNTAIN<br>WIDEFIELD WATER AND SANITATION DISTRICT |           |
| <b>General Location Map</b><br><b>H<sub>2</sub>O RANCH</b>  |           |
| Scale 1" = 2000 feet  | JUNE 2008 |





tabbles®  
**EXHIBIT**  
 B



FILED Document - District Court  
 2009CW86  
 CO Pueblo County District Court  
 Filing Date: Jun 30 2009 9:55AM  
 Filing ID: 25891029  
 Review Clerk: Mardell Didonemico

**Figure 3-1**  
**Irrigated Area Map**  
**Case No. 02WC186**



- Legend**
- Areas Historically Irrigated by**
-  Benoni Jarvis Ditch
  -  Helen Ditch
  -  Lane Ditch
  -  Vannier Ditch

