

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID
WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of August, 2002, for each County affected.

Case Number: W-1603-76F and Case Number: 02CW85

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA (BUREAU OF INDIAN AFFAIRS, SOUTHERN UTE AND UTE MOUNTAIN UTE INDIAN TRIBES) FOR CLAIMS TO THE ANIMAS RIVER IN DIVISION NO. 7, COLORADO

Attorney: Susan L. Schneider

U.S. Department of Justice

Environment and Natural Resources Division

Indian Resources Section

999 18th Street, Suite 945

Denver, CO 80202

Phone: (303) 312-7308 Fax: 303-312-7379

Attorney Reg. No.: admitted pro hac vice

1. Applicant:

The United States of America for the benefit of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by its attorney, Susan L. Schneider, U.S. Department of Justice, Environment and Natural Resources Division, Indian Resources Section, 999 18th Street, Suite 945, Denver, CO 80202, (303) 312-7308.

2. Proposed Amendment to Consent Decree:

The proposed Amendment to Consent Decree would make certain limited changes to the Consent Decree entered on December 19, 1991 ("1991 Consent Decree"), in case W-1603-76F to modify the Consent Decree to conform to the Colorado Ute Settlement Act Amendments of 2000 (Pub. L. 106-554) ("2000 Settlement Act Amendments"). The proposed amendment is in the form of a Stipulation signed by the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the United States for the benefit of the two Tribes, the State of Colorado, and the Southwestern Water Conservation District. An identical stipulation is also proposed to amend the 1991 Consent Decree in Case Number: W-1603-76J.

EXHIBIT

tabbles

The Stipulations reflect the 2000 Settlement Act Amendments, which provided for an alternative approach to finalize this settlement. In the 2000 Settlement Act Amendments, Congress determined that the Tribes' water rights claims ("Claims") may now be settled by supplying a smaller amount of water from the Animas-La Plata Project ("ALP") through more limited facilities than was required under the 1991 Consent Decrees. In addition and unrelated to the water right, the Stipulations reflect Congress' decision to extend the January 1, 2005 date by which the Tribes may commence litigation over their Claims to January 1, 2012.

3. Application for Change of Water Right:

a. Structure for which change is sought:

Portions of the Animas-La Plata Project ("ALP") (Ridges Basin Reservoir, Durango Pumping Plant and Ridges Basin Inlet Conduit) that supply water for the Ute Mountain Ute Indian Tribe, and others. The Animas-La Plata Project has water rights decreed in Case No. 1751B, as amended in Case No. 80-CW-237, and no change to these decrees is sought.

b. From previous Decree:

- | | | |
|----|-----------------------------|---|
| A. | Date Entered: | Dec. 19, 1991 |
| | Case No.: | W-1603-76F (1991 Consent Decree) |
| | Court: | District Court Water Division 7,
Colorado |
| B. | Decreed point of diversion: | Durango Pumping Plant and Ridges
Basin Inlet Conduit with a POD at a
point whence the SE corner of Section
32, T35N, R9W, bears N 49° 00' W
4,200 ft. |
| C. | Source: | Animas River and its tributaries |
| D. | Priority Date: | March 2, 1868 |
| E. | Amount: | A maximum of 6,000 acre-feet per
annum of municipal and industrial water
and a maximum of 26,300 acre-feet per
annum of agricultural irrigation water. |

c. Requested Change:

The requested change addresses only the decreed water rights of the Ute Mountain Ute Indian Tribe ("Tribe"), which are generally described in Paragraph 6.A of the *Stipulation for Consent Decree* (Nov. 12, 1991) ("1991 Stipulation"). The 1991 Consent Decree incorporated the 1991 Stipulation, which was based on the Colorado Ute Indian Water Rights Settlement Act of 1988 (Pub. L. 100-585, 102 Stat. 2973) ("1988 Settlement Act") and the 1986 Settlement Agreement. Under the 1991 Consent Decree, settlement of the Tribe's claims was based on the construction of certain ALP facilities that, among other things, were to deliver the above-described amounts of water to the Tribe for irrigation, and municipal and industrial ("M&I") uses.

The changes to the Tribe's water rights contained in the 1991 Consent Decree are necessary to comply with the 2000 Settlement Act Amendments. The 2000 Settlement Act Amendments reduce both the size of ALP and the amount of water provided to the Tribe in settlement of its Claims. The 2000 Settlement Act Amendments authorize settlement of the Tribe's Claims by construction of the necessary facilities to provide "an average annual depletion not to exceed 16,525 acre-feet of water to the Ute Mountain Ute Indian Tribe for its present and future needs" 2000 Settlement Act Amendments, Sec. 302(a)(1)(A)(i)(ii)(I). In addition, this water may be used only for municipal and industrial ("M&I") uses. Although the 2000 Settlement Act Amendments reduced the amount of water provided to the Tribe in settlement of its Claims, the reallocation of water to only M&I uses has increased the amount of M&I water.

(1) Location and source: Unchanged; same as in 1991 Consent Decree.

(2) Use: Change to municipal and industrial use only.

(3) Amount: average annual depletion of 16,525 af (which can be increased if the State of Colorado elects not to take its share of ALP water, as described in the 2000 Settlement Act Amendments).

(4) Proposed plan of operation: The ALP water will be initially stored in the reduced Ridges Basin Reservoir authorized for construction under the 2000 Settlement Act Amendments.

c. Name(s) and address(es) of owner(s) of land on which structure(s) is (are) located: U.S. Bureau of Reclamation

The Animas-La Plata Project has water rights decreed in Case No. 1751B, as amended in Case No. 80-CW-237, and no change to these decrees is sought.

Stipulation (8 pages); Application (4 pages). These filings should be consulted for further detail.

Case Number: W-1603-76J and Case Number: 02CW86

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA (BUREAU OF INDIAN AFFAIRS, SOUTHERN UTE AND UTE MOUNTAIN UTE INDIAN TRIBES) FOR CLAIMS TO THE LA PLATA RIVER IN DIVISION NO. 7, COLORADO

Attorney: Susan L. Schneider

U.S. Department of Justice

Environment and Natural Resources Division

Indian Resources Section

999 18th Street, Suite 945

Denver, CO 80202

Phone: (303) 312-7308 Fax: (303) 312-7379

Attorney Reg. No: admitted pro hac vice

Applicant:

The United States of America for the benefit of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by its attorney, Susan L. Schneider, U.S. Department of Justice, Environment and Natural Resources Division, Indian Resources Section, 999 18th Street, Suite 945, Denver, CO 80202, (303) 312-7308.

2. Proposed Amendment to Consent Decree:

The proposed Amendment to Consent Decree would make certain limited changes to the Consent Decree entered on December 19, 1991 ("1991 Consent Decree"), in case W-1603-76J to modify the Consent Decree to conform to the Colorado Ute Settlement Act Amendments of 2000 (Pub. L. 106-554) ("2000 Settlement Act Amendments"). The proposed amendment is in the form of a Stipulation signed by the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the United States on behalf of the two Tribes, the State of Colorado, and the Southwestern Water Conservation District. An identical stipulation is also proposed to amend the 1991 Consent Decree in Case Number: W-1603-76F.

The Stipulations reflect the 2000 Settlement Act Amendments, which provided for an alternative approach to finalize this settlement. In the 2000 Settlement Act Amendments, Congress determined that the Tribes' water rights claims ("Claims") may now be settled by supplying a smaller amount of water from the Animas-La Plata Project ("ALP") through more limited facilities than was required under the 1991 Consent Decrees. In addition and unrelated to the water right, the Stipulations reflect Congress' decision to extend the January 1, 2005 date by which the Tribes may commence litigation over their Claims to January 1, 2012.

3. Application for Change of Water Right:

a. Structure for which change is sought:

Portions of the Animas-La Plata Project ("ALP") (Ridges Basin Reservoir, Durango Pumping Plant and Ridges Basin Inlet Conduit) that supply water for the Ute Mountain Ute Indian Tribe, and others. The Animas-La Plata Project has water rights decreed in Case No. 1751B, as amended in Case No. 80-CW-237, and no change to these decrees is sought.

b. From previous Decree:

A.	Date Entered:	Dec. 19, 1991
	Case No.:	W-1603-76J (1991 Consent Decree)
	Court:	District Court Water Division 7, Colorado
B.	Decreed point of diversion:	Durango Pumping Plant and Ridges Basin Inlet Conduit with a POD at a point whence the SE corner of Section 32, T35N, R9W, bears N 49 00' W 4,200 ft.
C.	Source:	Animas River and its tributaries
D.	Priority Date:	March 2, 1868

E. Amount:

A maximum of 6,000 acre-feet per annum of municipal and industrial water and a maximum of 26,300 acre-feet per annum of agricultural irrigation water.

c. Requested Change:

The requested change addresses only the decreed Ute Indian Tribe ("Tribe"), which are generally described in Paragraph 6.A of the *Stipulation for Consent Decree* (Nov. 12, 1991) ("1991 Stipulation"). The 1991 Consent Decree incorporated the 1991 Stipulation, which was based on the Colorado Ute Indian Water Rights Settlement Act of 1988 (Pub. L. 100-585, 102 Stat. 2973) ("1988 Settlement Act") and the 1986 Settlement Agreement. Under the 1991 Consent Decree, settlement of the Tribe's claims was based on the construction of certain ALP facilities that, among other things, were to deliver the above-described amounts of water to the Tribe for irrigation, and municipal and industrial ("M&I") uses.

The changes to the Tribe's water rights contained in the 1991 Consent Decree are necessary to comply with the 2000 Settlement Act Amendments. The 2000 Settlement Act Amendments reduce both the size of ALP and the amount of water provided to the Tribe in settlement of its Claims. The 2000 Settlement Act Amendments authorize settlement of the Tribe's Claims by construction of the necessary facilities to provide "an average annual depletion not to exceed 16,525 acre-feet of water to the Ute Mountain Ute Indian Tribe for its present and future needs . . ." 2000 Settlement Act Amendments, Sec. 302(a)(1)(A)(i)(ii)(I). In addition, this water may be used only for municipal and industrial ("M&I") uses. Although the 2000 Settlement Act Amendments reduced the amount of water provided to the Tribe in settlement of its Claims, the reallocation of water to only M&I uses has increased the amount of M&I water.

(1) Location and source: Unchanged; same as in 1991 Consent Decree.

(2) Use: Change to municipal and industrial use only.

(3) Amount: average annual depletion of 16,525 af (which can be increased if the State of Colorado elects not to take its share of ALP water, as described in the 2000 Settlement Act Amendments).

(4) Proposed plan of operation: The ALP water will be initially stored in the reduced Ridges Basin Reservoir authorized for construction under the 2000 Settlement Act Amendments.

c. Name(s) and address(es) of owner(s) of land on which structure(s) is (are) located: U.S. Bureau of Reclamation

The Animas-La Plata Project has water rights decreed in Case No. 1751B, as amended in Case No. 80-CW-237, and no change to these decrees is sought.

Stipulation (8 pages); Application (4 pages). These filings should be consulted for further detail.

Case No. 2002CW60

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:
NORMAN E. PUTNAM, JR. REVOCABLE TRUST DATED JULY 8, 1996 AND THE
ANNE Z. PUTNAM REVOCABLE TRUST DATED JULY 8, 1996
IN LA PLATA COUNTY, COLORADO

1. Name, address, telephone number(s) (residence and business) of applicant(s):

Norman E. Putnam, Jr. Revocable Trust Dated July 8, 1996

Anne Z. Putnam Revocable Trust Dated July 8, 1996

107 Crazy Horse Drive

Durango, Colorado 81301

(970) 259-3633

2. Decreed name of structure for which change is sought: (indicate whether ditch, well, springs, reservoir, etc.)

NAME OF DITCH	QUANTITY	ORIG. APPROP.	DECREE	CASE NO.
A. Spring Gulch	2.5 c.f.s.	05/01/1908	11/08/23	1751
B. Beaston	1.33 c.f.s.	05/01/1900	11/08/23	1751

The above water rights were subsequently amended by a change in use in Decree No. 84CW39 dated August 30, 1984 (attached) to include fish production and stock watering.

NAME OF DITCH	QUANTITY	FISH PRODUCTION	STOCK WATER
A. Spring Gulch	2.5 c.f.s.	Jan. 1964	May 1, 1908
B. Beaston	1.33 c.f.s.	Jan. 1964	May 1, 1900

The proposed change is to change the use of up to 0.75 c.f.s. of water at its present location for use at undetermined locations off premises for commercial, industrial, municipal and domestic uses, which use will likely be 100% consumptive. The water will be taken downstream from one of the points of diversion by a metered pump at or near the points of diversion (as per attached map) into mobile water tanks for use off premises. It is anticipated that this use will continue throughout the entire year and not be limited to the irrigation season.

3. Points of Diversion:

A. Spring Gulch is a natural stream which is tributary to the Animas River. The primary source of water for the above diversions are within the zone of percolation of spring waters for which exact points of collection cannot be established. However, they are generally located within the original decreed points of diversion which are as follows: Spring Gulch Ditch is at the north point from the NE Corner of SW 1/4 SW 1/4 of Section 31,

Township 34 North, Range 9 West, N.M.P.M., and bears 5° 37' West 950 feet.

The Beaston Ditch is at a point whence the West Quarter Corner of said Section 31, Township

34 North, Range 9 West, N.M.P.M. bears North 87° 41' West 1788 feet.

In order to reduce the amount of paper in the Court file, the Applicant incorporates by reference the attachments appended to the original application to the extent they are applicable to this Amended Application.

Frank J. Anesi, Reg. 1365
Attorney for Applicants
P. O. Box 2185
Durango, Colorado 81302
(970) 247-9246 (3 pages)

02CW79 Jack Riddle, 8229 C. R. 334, Ignacio, CO 81137: Riddle Pond, SW1/4NW1/4, Section 18, T33N, R6W, N.M.P.M., 2680 ft. from S and 4200 ft. from E; Waste water from Spring Creek Ditch; La Plata County; Date of initiation of appropriation, June 1, 2002; Appropriation initiated by applying for water right; Irrigation and stock; 2 cfs Conditional; Application for Water Rights (Surface) (5 pages)

02CW80 (95CW82) Curtis or Lucy Cowan, 27881 Hwy. 160 East, Cortez, CO 81321: Leighton Ditch #1; NE1/4NE1/4, Section 19, T36N, R15W, N.M.P.M., 1000 ft. from N and 1000 ft. from E; Simon Draw, a tributary to McElmo Creek; Montezuma County; Date of original decree, September 26, 1996; Case No. 95CW82; Appropriation date, August 29, 1995; Date applied to beneficial use, June, 2000; Work performed towards completion of project outlined in detail in application; .5 cfs Absolute and continue 3.5 cfs Conditional; Application for Finding of Diligence and to Make Absolute (2 pages)

02CW81 Steve and Debra Richardson, 8296 C. R. 510, Bayfield, CO 81122: Richardson; SW1/4SW1/4, Section 8U, T34N, R7W, N.M.P.M., 1295 ft. from S and 48 ft. from W; King Ditch waste water; La Plata County; Date of initiation of appropriation, May 18, 1999; Appropriation initiated by ditches being dug by previous owners; Date applied to beneficial use, May 18, 1999; Supplemental irrigation and stock water; ¼ cfs Absolute; Application for Water Rights (Surface) (4 pages)

02CW82 Larry D. Sprague, 1833 Hersch Ave., Pagosa Springs, CO 81147: Green Pond (Application date, April 17, 2002); SE1/4NE1/4, Section 3, T32N, R6W, N.M.P.M., 2790 ft. from S and 680 ft. from E; Groundwater; Archuleta County; Depth, 9 ft.; Date of appropriation, September 16, 2001; Appropriation initiated by surveying work and testing hole; Date applied to beneficial use, March 10, 2002; Irrigation; 225 gpm Absolute; Application for Underground Water Right (5 pages)

02CW83 Gerald Nolan, P. O. Box 71, Lewis, CO 81327: Butts Reservoir and Butts Irrigation Ditch; NE1/4 of the NE1/4NW1/4, Section 8, T37N, R16W, N.M.P.M., 545°42'59" and 361.7 ft. from W of N1/4, Section 8; Spring; Montezuma County; Appropriation date, September 3, 1975; Date of decree, April 15, 1976; Case No.

W1403-75; Stock water and irrigation of 40 acres; Decreed amount, 1.0 cfs and 18.0 af; Amount listed as having been abandoned, .75 cfs and 18.0 af; Former district number and page number where listed on abandonment list, W1403-75, 32-721 and 32-3605; Factual and legal basis for protest outlined in detail in application; Protest to Revised Abandonment List (3 pages)

02CW84; LA PLATA COUNTY, WATER DISTRICT NO. 33:

Applicant: Bill and Jean Huffman, P. O. Box 4976, Odessa, TX 79760; **Attorney:** Janice C. Sheftel, Esq., Maynes, Bradford, Shipps & Sheftel, LLP, P.O. Box 2717, Durango, CO 81302; **Structure:** H & H Pond; **Type of Application:** Water Storage Right - Reservoir; **Source:** "D" Creek, tributary to the Pine River; **Location:** La Plata County Parcel #537720200079, NW1/4, Section 20, T 37 N, R 6 W, NMPM, 2,500' from West and 1,400' from North section lines of Section 20; **Use:** Recreation, domestic, piscatorial, fire fighting; **Quantity:** 0.2 AF (6 pages)

Case No. 2002CW87

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:
NORMAN E. PUTNAM, JR. REVOCABLE TRUST DATED JULY 8, 1996 AND THE
ANNE Z. PUTNAM REVOCABLE TRUST DATED JULY 8, 1996
IN LA PLATA COUNTY, COLORADO

1. Name, address, telephone number(s) (residence and business) of applicant(s)

Norman E. Putnam, Jr. Revocable Trust Dated July 8, 1996

Anne Z. Putnam Revocable Trust Dated July 8, 1996

107 Crazy Horse Drive

Durango, Colorado 81301

(970) 259-3633

1. Name of structure: (ditch, spring) Putnam Spring No. 1

2. Legal description of each point of diversion: (include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate 1/4 1/4, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 13 and NAD27 (CONUS) datum. In urban areas, include street address, lot, block, and subdivision:

Optional Additional Description: GPS location information in UTM format

Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north.

Distance from section lines (section lines are typically not property lines): 1227 feet from South and 375 feet from West.

Street Address: None Assigned

NE Corner of SW 1/4SW 1/4 of Section 31, Township 34 North, Range 9 West, N.M.P.M. and bears 5° 37' West 950 feet.

The water will be taken downstream from the point of diversion by a metered pump at or near the point of diversion as per the map attached to the application (on file with the Court) to mobile water tanks for use off premises. It is anticipated the use will continue throughout the entire year and not be limited to the irrigation season.

3. Source: (tributary and river) A spring and seepage located in Spring Gulch, tributary to the Animas River.

4. Date of initiation of appropriation: June 1, 2002

How appropriation was initiated: Pumping into mobile water tanks

Date water applied to beneficial use: June 1, 2002

5. Amount claimed: A. 1,000,000 gallons Absolute B. 650,000 gallons per day
Conditional

6 Use or proposed use: Commercial, industrial, municipal and domestic for 100% consumptive use

If irrigation, complete the following:

Number of acres historically irrigated ____; proposed to be irrigated ____.

Legal description of acreage:

If non-irrigation, describe purpose fully.

The Applicant has made an agreement with Williams Field Services to supply up to 250,000 gallons of water per day for industrial use in its gas plant (Ignacio plant) located in La Plata County. The Applicant has other parties who have purchased water from her on a random basis by hauling water from the Spring in mobile water tanks to off premise locations. It is anticipated that the total sales of water will reach 650,000 gallons per day or the equivalent of 1+ c.f.s. on a yearly basis.

7. Name(s) and address(es) of owner(s) of the land upon which any structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use:

Norman E. Putnam, Jr. Revocable Trust Dated July 8, 1996

Anne Z. Putnam Revocable Trust Dated July 8, 1996

107 Crazy Horse Drive

Durango, Colorado 81301

(970) 259-3633

Remarks:

/s/ Frank J. Anesi

Frank J. Anesi, Reg. 1365

Attorney for Applicants

P. O. Box 2185

Durango, Colorado 81302

(970) 247-9246 (4 pages)

02CW88 Donald, Kathryn and Andy Weber, dba Weber Ranches of Pagosa, LLC:
Weber Lake; NE1/4SE1/4, Section 22, T36N, R1W, N.M.P.M., 1800 feet from S and 500

feet from E; San Juan River; Archuleta County; Date of initiation of appropriation, June 1, 2002; Appropriation initiated by gravel pit pond; Date applied to beneficial use, June 1, 2002; Irrigation, livestock watering, storage and recreation; .035 Conditional (for evaporation); Application for Water Rights (Surface) (3 pages)

02CW89 Donnie R. and Betty J. Johnson, 26787 Hwy. 50, LaJunta, Co 81050: Old Pagosa Muning Diversion; SE1/4SE1/4, Section 7, T35N, R1W, N.M.P.M., 321' from S and 853' from E; San Juan River; Archuleta County; Date of initiation of appropriation, July 27, 2002; Appropriation initiated by using old headgate, cleaning pipeline and installing wier; Date applied to beneficial use, July 27, 2002; Fish pond; 1 cfs Absolute; Application for Water Rights (Surface) (4 pages)

Case No. 02CW91 APPLICATION FOR WATER STORAGE RIGHTS, SURFACE WATER RIGHTS AND APPROVAL OF PLAN FOR AUGMENTATION

I. Name and address of applicant: Oldcastle Southwest Group, Inc., d/b/a Four Corners Materials, c/o Monte Potter, P.O. Box 2707, Durango, CO 81302. Copies of all pleadings to: Richard A. Johnson, Stephen C. Larson, Johnson & Repucci LLP, 1401 Walnut Street, Suite 500, Boulder, Colorado 80302, (303) 442-1900.

APPLICATION FOR WATER STORAGE RIGHT 2. Name of reservoir: Marine Life Resort Reservoir. 3. Legal description of location of dam: The Marine Life Resort Reservoir is an on-channel reservoir located in the SE1/4 of the NW1/4 of Section 23, T. 36 N., R. 16 W. of the New Mexico Principal Meridian, within 200 feet of a point located approximately 1900 feet from the North section line and 1550 feet from the West section line of Section 23. 4. Source: The source of the Marine Life Resort Reservoir is an unnamed tributary to Hartman Draw, tributary to McElmo Creek. 5. Appropriation Date: July 27, 1990. The appropriation was initiated by filing a Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure with the State Engineer, staking the reservoir site, construction, impoundment and use. 6. Amount claimed: Marine Life Resort Reservoir is claimed for 37.62 acre feet, absolute. 7. Use: Marine Life Resort Reservoir is claimed for commercial, industrial, aggregate and sand washing, dust control, production of concrete, recreational, piscatorial, augmentation, replacement and exchange. 8. Surface area of high water line: 9.17 acres. A. Maximum height of dam: 9 feet. B. Length of dam: 450 feet. 9. Total capacity of reservoir in acre feet: 37.62 acre feet, which is 100% active storage. 10. Name and address of owners upon which structure is located: The storage structure, diversion points and place of use are all on the applicant's property. **II. APPLICATION FOR SURFACE WATER RIGHTS** 11. Name of structure: Oldcastle Diversion. 12. Legal description of point of diversion: The point of diversion for Oldcastle Diversion is located in the SE1/4 of the NW1/4 of Section 23, T. 36 N., R. 16 W. of the New Mexico Principal Meridian, within 200 feet of a point located approximately 1900 feet from the North section line and 1550 feet from the West section line of Section 23. 13. Source: A previously unnamed tributary of

Hartman Draw, tributary to McElmo Creek. 14. Appropriation Date: August, 1990. The appropriation was initiated by diversion and use of the water. 15. Amount claimed: 4 c.f.s., absolute. 16. Use: Oldcastle Diversion is claimed for commercial, industrial, aggregate and sand washing, dust control, production of concrete storage, recreational, piscatorial, augmentation, replacement and exchange. 17. Name and address of owners upon whose land structures are located: Applicant. **III. APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION** 18. Name and legal description of structure to be augmented: Oldcastle Diversion. This surface water right is legally described in paragraph 12 above and is located in the SE1/4 of the NW1/4 of Section 23, T. 36 N., R. 16 W. of the New Mexico Principal Meridian, within 200 feet of a point located approximately 1900 feet from the North section line and 1550 feet from the West section line of Section 23. 19. Water rights to be used for augmentation: Water stored in priority in the Marine Life Resort Reservoir, in the location described in paragraph 3 above. 20. Project depletions. Depletions include evaporative losses from spray bars and from adhesion of sprayed water to the sand and aggregate, which is later evaporated in the drying process. Estimations of depletions from the aggregate and sand washing are based on *General Guidelines for Substitute Water Supply Plan for Sand and Gravel Pits Submitted to the State Engineer Pursuant to SB 89-120 and SB 93-260* (General Guidelines). As provided in the General Guidelines, depletions from washing aggregate and sand are estimated to be 4 percent of the weight of the material, or 0.029 acre feet of water per 1,000 tons of aggregate and sand washed. Aggregate and sand washing operations occur April 1 through October 31 at the Cortez Yard. The potential production rate for Applicant's wash plant is 1,000 tons per day or 30,000 tons per month. The maximum production is thus estimated at about 210,000 tons over the April 1 through October 31 period. This would result in a seven-month depletion of 6.2 acre feet. 21. Statement of plan for augmentation: Applicant will store water in priority in Marine Life Resort Reservoir and shall use such water to replace all out-of-priority depletions described in paragraph 20 above arising from the augmented structure described in paragraph 18 above. Applicant's out of priority depletions hereunder will not exceed the amount capable of being replaced with water stored in priority in Marine Life Resort Reservoir. Applicant will install measuring devices and implement such accounting procedures as may be reasonably required by the Division Engineer to ensure that depletions are fully replaced in amount, timing and location under this plan. 22. Remarks: During times of call on Hartman Draw, applicant will not store water in Marine Life Resort Reservoir. During such times inflows will be released and the reservoir will also be drawn down to reflect actual evaporative losses. (5 pages)

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of October, 2002, to file with the Water Clerk, in quadruplicate, a verified Statement of Opposition, setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP.

(Filing fee: \$45.00; Forms are available through the Office of the Water Clerk) Paula K. Petersen, Clerk of the Water Court, P. O. Box 3340, Durango, CO 81302-3340.

Published: before September 30, 2002

Water Clerk