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## Application for Change of Water Rights, Concerning the Application for Water Rights of Wollert Enterprises, Inc., 136th & Colorado, L.L.C., High Plains A&M, L.L.C., and Magro, L.L.C., in the Arkansas River and its Tributaries in Otero, Bent, Prowers, Crowley, Kiowa, and Pueblo Counties, Colorado.

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**APPLICATION FOR CHANGE OF WATER RIGHTS, CONCERNING THE APPLICATION FOR WATER RIGHTS OF WOLLERT ENTERPRISES, INC., 136TH & COLORADO, L.L.C., HIGH PLAINS A&M, L.L.C., AND MAGRO, L.L.C., IN THE ARKANSAS RIVER AND ITS TRIBUTARIES IN OTERO, BENT, PROWERS, CROWLEY, KIOWA, AND PUEBLO COUNTIES, COLORADO.**

Case No. 2002CW183 (Water Division 2, Dec. 31, 2002). Applicant: Wollert Enterprises, Inc., 136th & Colorado, L.L.C., High Plains A&M, L.L.C., and Magro, L.L.C. (Attys. Harvey W. Curtis, David L. Kueter, Patricia A. Madsen, Harvey W. Curtis & Assoc.).

*1. Application*

Wollert Enterprises, Inc., 136th & Colorado, LLC, High Plains A&M, LLC, and Magro, LLC (“Applicants”) seek to change the points of diversion, storage location, manner and place of use of water rights acquired by the applicants from the Fort Lyon Canal Company, a Colorado mutual ditch company. The Applicants have contracted to purchase 24.41% of the shares of the Fort Lyon Canal Company, including rights to water currently diverted and stored in the following structures: Fort Lyon Canal, Fort Lyon Storage Canal (a.k.a. Fort Lyon Irrigating and Storage Canal), Horse Creek Reservoir (a.k.a. Timber Lake), Horse Creek Supply Ditch (a.k.a. Supply Canal to Horse Creek Reservoir), Adobe Creek Reservoir (a.k.a. Blue Lake), Adobe Creek Supply Ditch (a.k.a. Branch of the Reservoir Canal), Thurston Reservoir (a.k.a. Thurston Lake and Prince Reservoir), Thurston Pipeline, Pueblo Reservoir, John Martin Reservoir and Queen Reservoir (a.k.a. Nee Skah Reservoir), as well as the proportional share of a 20,000 acre-foot storage account the Fort Lyon Canal Company holds in John Martin Reservoir.

The Applicants request a change in place of diversion and storage allowing for additional diversions on the Arkansas River Between Adobe Creek and Purgatorie River, at the Holbrook Canal Headgate, at the Colorado Canal Headgate. The Applicants request additional storage at Holbrook Reservoir, Dye Reservoir, Lake Meredith Reservoir, Lake Henry Reservoir and Pueblo Reservoir.

The Applicants propose new and changed uses of the water rights to be acquired. Currently the water is decreed for irrigation use. The Applicants request a decree designating the water for all beneficial uses, including but not limited to municipal, domestic and household purposes, while retaining the ability to utilize the water for agricultural purposes, including in augmentation.

The Applicants propose new places of use as well. Specifically, the Applicants request that permissive use locales be expanded from the Fort Lyon Canal and underlying lands to any land potentially served from the existing diversion and storage facilities in any of the following counties: Otero, Bent, Prowers, Pueblo, Crowley, Kiowa, Custer, Fremont, Chaffee, Park, Teller, El Paso, Lincoln, Elbert, Douglas,

Jefferson, Lake, Clear Creek, Gilpin, Denver, Arapahoe, Adams, Washington, Boulder, Broomfield, Larimer, Weld, and Morgan.

The Applicants claim that no vested rights will be injured and that no new rights would be created by the requested decree. Additionally, although Applicants propose to attempt to comply with the existing bylaws and rules of the Fort Lyon Canal Company, Applicants reserve the right to contest or amend these rules as needed.

## 2. *Opposition*

No statements of opposition have been filed.

*Chris Cummins*

### WATER COURT DIVISION 3

#### APPLICATION OF VACA PARTNERS, L.P. FOR CHANGE OF WATER RIGHT.

Case No. 2002CW067 (Water Division 3, Dec. 30, 2002) (Original Decree: Mar. 28, 1890). Applicant: Vaca Partners, L.P. (Atty. Timothy R. Buchanan, Timothy R. Buchanan, P.C.).

#### 1. *Application*

Vaca Partners, L.P. ("Vaca") requests a change in the point of diversion for Baca Grant No. 4, Irrigating Ditch No. 7, Priority No. 10 (the "Water Right"). The Water Right was appropriated on May 10, 1870 and subsequently decreed for four cubic feet per second ("c.f.s") absolute on March 28, 1890. North Crestone Creek, tributary to San Luis Creek, supplies the Water Right. The decreed use is for irrigation on Baca Grant No. 4 ("Baca Grant"), servicing 200 acres.

Vaca's predecessor in interest changed the Water Right in Case No. W-2997 on October 2, 1975 from irrigation to municipal uses, including: fire protection; irrigation of lawns, gardens, and a golf course; recreational purposes; clear water retention; temporary storage; sewage disposal; industrial use; and irrigation of lands. An additional decree entered on this date authorized Well No. 26, drawing its water from Crestone Creek alluvium, as an alternate point of diversion for the Baca Grant Water Right, provided the well may not divert more than 1.33 c.f.s., conditional. On November 25, 1980, Case No. W-2997-79 authorized yet another well, Well No. 27, as an alternate point of diversion for the Baca Grant Water Right, provided the well may not divert more than 1.33 c.f.s, conditional.

An Order Canceling Conditional Water Right entered in Case No. 95CW5 on July 17, 2002, canceled the use of Well No. 26 as an alternate point of diversion for the Baca Grant Water Right. The order of cancellation was brought about by a June 28, 1995 Judgment and Decree for a sexennial finding of reasonable diligence. The sexennial finding of reasonable diligence required the Applicant (at that time, American Water Development, Inc.) to file for a finding of