

District Court, Water Division No. 1 State of Colorado 901 9 th Ave. Greeley, CO 80631 (970) 475-2400	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF APPLICANT THE TOWN OF CASTLE ROCK IN MORGAN, LOGAN, WASHINGTON, AND DOUGLAS COUNTIES	Court Use Only
Madoline Wallace-Gross – No. 32255 Anthony J. Basile – No. 43782 Attorneys for Applicant, Town of Castle Rock Lyons Gaddis Kahn Hall Jeffers Dworak & Grant, PC P.O. Box 978 Longmont, CO 80502-0978 Telephone: (303) 776-9900 E-mail: mwg@lyonsgaddis.com ; abasile@lyonsgaddis.com	Case No. 2021CW____ Water Division No. 1
APPLICATION FOR CONDITIONAL WATER STORAGE RIGHTS	

1. **Name, mailing address, email address and telephone number of Applicant.**

The Town of Castle Rock (“Applicant”)
 Attn: Mark Marlowe, Director of Castle Rock Water
 175 Kellogg Court
 Castle Rock, Colorado 80109
 (720) 733-6001
mmarlowe@crgov.com

Serve all pleadings on:

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2. **Background.** Applicant seeks a conditional water storage right in Prewitt Reservoir via the Prewitt Inlet Canal and a conditional water storage right in Fremont Butte Reservoir via a pump and pipeline from the Prewitt Reservoir. A delivery pipeline from Prewitt Reservoir to Fremont Butte Reservoir will be used to convey water to storage in Fremont Butte Reservoir and to deliver water back to Prewitt Reservoir for delivery to

a pipeline from Prewitt Reservoir to Rueter-Hess Reservoir for Applicant's use. A map showing the location of the relevant structures is attached hereto as **EXHIBIT A**.

CONDITIONAL STORAGE RIGHTS

3. **Name of Structure:** Prewitt Reservoir.

- A. **Legal description of location of reservoir:** Storage space within the existing off-channel Prewitt Reservoir which is located in all or parts of Sections 1, 2, 10, 11, 12, 13, 14, and 15 in Township 5 North, Range 54 West of the 6th P.M. and in parts of Sections 5, 6, and 7 in Township 5 North, Range 53 West of the 6th P.M., in Washington County, Colorado and in part of Section 31, Township 6 North, Range 53 West of the 6th P.M. and part of Section 36, Township 6 North, Range 54 West of the 6th P.M. in Logan County, Colorado. The center of the outlet works in the dam of Prewitt Reservoir is located at: SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2, Township 5 North, Range 54 West of the 6th P.M. in Washington County, Colorado.
- B. **Source:** South Platte River.
- C. **Name, capacity and point of diversion of ditch used to fill reservoir:** Prewitt Inlet Canal, which has an intake in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, Township 5 North, Range 55 West of the 6th P.M. in Morgan County, Colorado, at a point approximately 1470 feet from the west line and 520 feet from the south line of said Section 24; the present capacity is estimated to be 695 cfs, but it may be capable of carrying 1,000 cfs.
- D. **Date of Appropriation:** January 17, 2017.
- E. **How appropriation was initiated:** Applicant initiated this appropriation by: investigating junior storage opportunities on the lower South Platte River for its long term renewable water supply; discussing joint junior storage projects with Parker Water and Sanitation District ("Parker"); budgeting monies in the long-term water utilities budget approved by Town Council for lower South Platte junior storage projects operated in conjunction with Parker; passing of Resolution No. 2017-012, by Town Council, which accepted the 2016 Water Resources Strategic Master Plan wherein the Town described a project with Parker; conducting engineering studies to support the appropriation of new water supplies; passing a director's resolution evidencing the appropriation; and approving and the filing the application.
- F. **Date water applied to beneficial use:** Not applicable.
- G. **Volume claimed:** 722 acre-feet, conditional, with the right to one refill, for storage and as a forebay for conveyance to and from storage in Fremont Butte Reservoir.

- H. **Flow rate claimed:** 111 cfs via the Prewitt Inlet Canal. This flow rate is cumulative for diversion to storage in Prewitt Reservoir and Fremont Butte Reservoir described in paragraph 4.
 - I. **Capacity and surface area of reservoir:** 32,300 acre-feet, with a current restriction of approximately 28,600 acre-feet.
 - J. **Proposed Uses:** All municipal purposes including augmentation, replacement and exchange, with the right to use, reuse and successively use the return flows to extinction within Applicant's service area boundaries by direct use, after storage and by exchange.
 - K. **Place of Use:** Lands within Applicant's water service area boundaries, as such boundaries currently exist or may exist in the future, and lands outside such boundaries by contract as of the filing of this application. A map of the Applicant's current service area is attached hereto as **EXHIBIT B**.
 - L. **Reuse and Successive Use Operations:** Applicant intends to fully consume water diverted pursuant to this storage right, and Applicant is appropriating the sewered and nonsewered return flows generated from the water right that accrues to Plum Creek and Cherry Creek and their respective tributaries. Sewered effluent attributable to this water right will be discharged at the Plum Creek Water Reclamation Authority Wastewater Treatment Plant Outfall located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21, Township 7, Range 67 West, 6th P.M., at a point 770 feet from the south section line and 100 feet from the west section line. The UTM coordinates are NAD 83, Zone 13, Easting 508185, Northing 4363729. Sewered effluent attributable to this water right will also be discharged to Cherry Creek at the Pinery Wastewater Treatment Plant Outfall, located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ Section 10, Township 7 South, Range 66 West of the 6th P.M. at a point 200 feet from the north section line and 1,440 feet from the west section line of said Section 10, or any location where the discharge may be relocated in the future. The sewered effluent and non-sewered return flows will be used, reused and successively used by direct use and exchange on Plum Creek and Cherry Creek.
 - M. **Operations:** Water stored in Prewitt Reservoir will be released, delivered and/or transported via reservoirs (including Fremont Butte Reservoir), outlets, pumps and pipelines for ultimate delivery to storage in Rueter-Hess Reservoir, which intercepts Newlin Gulch at a point in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 6 South, Range 66 West, 6th PM in Douglas County Colorado.
4. **Name of reservoir:** Fremont Butte Reservoir.
- A. **Legal description of location of dam centerline:** An on-channel reservoir where the dam axis crosses the thread of an unnamed draw at a point located in the NW $\frac{1}{4}$, Section 35, Township 4 North, Range 53 West, 6th P.M. on the northern section line of Section 35 and is 885 feet from the west section line, in Washington County, Colorado. The western abutment will be in the SE $\frac{1}{4}$,

Section 27, Township 4 North, Range 53 West, 6th P.M., approximately 2,200 ft. from the east line and 200 ft. from the south line; the eastern abutment will be in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 4 North, Range 53 West, 6th P.M., approximately 800 ft. from the east line and 700 ft. from the north line. Applicant anticipates that Fremont Butte Reservoir will be located in all or parts of Sections 27, 33, 34, and 35, Township 4 North, Range 53 West, 6th P.M. and Sections 2, 3, 4, 10, and 11, Township 3 North, Range 53 West, 6th P.M.

- B. **Sources:** South Platte River.
- C. **Surface area of high-water line:** 1,870 acres.
- D. **Vertical height of dam:** 105 feet.
- E. **Length of dam:** Approximately 7,000 feet.
- F. **Total capacity of reservoir:** 72,000 acre-feet. Active capacity: 72,000 acre-feet. Dead storage: none (0 acre-feet).
- G. **Volume claimed:** 8,000 acre-feet, conditional, with the right to one refill.
- H. **Name, capacity and point of diversion of ditch used to fill reservoir:** Prewitt Inlet Canal, described in paragraph 3.C.
- I. **Flow Rate Claimed:** 111 cfs. This flow rate is cumulative for diversion to storage in Prewitt Reservoir and Fremont Butte Reservoir described in paragraph 3.
- J. **Date of Appropriation:** January 17, 2017.
- K. **How appropriation was initiated:** Applicant initiated this appropriation by: investigating junior storage opportunities on the lower South Platte River for its long term renewable water supply; discussing joint junior storage projects with Parker; budgeting monies in the long-term water utilities budget approved by Town Council for lower South Platte junior storage projects operated in conjunction with Parker; passing of Resolution No. 2017-012, by Town Council, which accepted the 2016 Water Resources Strategic Master Plan wherein the Town described a project with Parker; conducting engineering studies to support the appropriation of new water supplies; passing a director's resolution evidencing the appropriation; and approving and the filing the application.
- L. **Date water applied to beneficial use:** Not applicable.
- M. **Proposed Uses:** See paragraph 3.J.
- N. **Place of Use:** See paragraph 3.K.
- O. **Reuse and Successive Use Operations:** See paragraph 3.L.

- P. **Operations:** Water will be diverted at the Prewitt Inlet Canal on the South Platte River, delivered into space in Prewitt Reservoir, pumped at a rate of up to 250 cfs from Prewitt Reservoir (at the Fremont Butte Pumping Works and Pipeline), and delivered via pipeline to Fremont Butte Reservoir.
5. **Integrated Water Supply Plan.** The storage water rights described herein are components of Applicant's integrated water supply system, which consists of underground water rights, storage water rights, appropriative rights of exchange, surface water rights, non-tributary groundwater rights and plans for augmentation. Pursuant to C.R.S. § 37- 92-301(4)(B), work on one feature of the integrated system shall be considered in finding that reasonable diligence has been shown for all features of the integrated system.
6. **Owners of land upon which structures are or will be located.** Names and addresses of owners 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 storage pool.
- A. **Prewitt Inlet Canal and Diversion Structure.** State of Colorado, Dept. of Natural Resources, 122 E. Edison St., Brush, CO 80723 and Dixier Water LLC 400 Poydras St., Ste 2100, New Orleans, LA 70130,
- B. **Prewitt Reservoir.** Prewitt Reservoir Land Co. and/or Logan Irr. Dist., Iliff Irr. Dist., and Morgan-Prewitt Res. Co., PO Box 333, Sterling, CO 80751; and Patrick J. and Luann August Gebauer, c/o Luann August, 15488 Co. Rd. 57, Hillrose, CO 80733; Brundage Family Limited; Partnership Rlllp7837 South Perry Park Road, Larkspur, CO 80118; Colorado Board of Land Commissioners, 1127 Sherman Street, Denver, CO 80203; Colorado Division Of Wildlife & Wildlife Commission, 6060 Broadway, Denver, CO 80216; DBG Farms, LLC, 3300 South Parker Road, Ste 300, Aurora, CO 80014; Fritzler Andrew S Sub Trust; Ua Dtd 2-5-16 Created Under Harold Fritzler Living Trust; 16226 County Road 59.5, Merino, CO 80741; Fritzler Brian Douglas Sub Trust; Ua Dtd 2-5-2016 Created Under Harold Fritzler Living Trust; 15998 County Road 59.5, Merino, CO 80741; Fritzler Donna, 43205 Co Rd AA, Akron, CO 80720; Gebauer Patrick J. & Luan August, c/o Luan August, 15488 Co Rd 57, Hillrose, CO 80733; Gen3 Farms LLC, PO Box 178, Merino, CO 80741; Kaiser Hilde Gill & Jerald R Kaiser, 11213 West Asbury Avenue, Lakewood, CO 80227, Thompson Jeanne Gill, 3623 East Geddes Drive, Centennial, CO 80122; and 22 Ranch, 15355 US Highway 6, Rt 1, Box 86G, Merino, CO 80741.
- C. **Fremont Butte Reservoir.** Gary R. & Judith A. Anderson, 20750 Co. Rd. 46, Akron, CO 80720; Michael P. & Kendra A. Anderson, 46043 Co. Rd. Y, Akron, CO 80720; Vickie L. Armstrong, 678 W. 11th St., Akron, CO 80720; Arthur D. Cline, 46667 Co. Rd. AA, Akron, CO 80720; Colorado State Land Board, Department of Natural Resources, 1313 Sherman St., Rm. 620, Denver, CO 80203; Phyllis E. Covey, 15267 S. Co. Rd. 21, Blair, OK 73526; Fincher Land Company LLC, 45997 Co. Rd. U, Akron, CO 80720; David E. Garcia, 309 Bocage

Drive, Cheyenne, WY 82009; Kory A. & Shanan Nicole Kessinger, 21250 Co. Rd. 50, Akron, CO 80720; Lila L. Kessinger, PO Box 414, Akron, CO 80720; and Ellen W. Stratton, c/o Jill Dreher, PO Box 248, Akron, CO 80720.

WHEREFORE, Applicant respectfully requests the Court enter a decree approving Applicant's conditional storage rights described herein.

DATED:

**LYONS GADDIS KAHN HALL
JEFFERS DWORAK & GRANT, PC**

By _____
Madoline Wallace-Gross
Anthony J. Basile
**ATTORNEYS FOR APPLICANT
TOWN OF CASTLE ROCK**

DRAFT

EXHIBIT LIST

- A. Map of structures
- B. Town of Castle Rock service area

DRAFT

**VERIFICATION AND ACKNOWLEDGMENT OF APPLICANT OR OTHER PERSON HAVING
KNOWLEDGE OF THE FACTS STATED IN THIS APPLICATION**

I, Gary Thompson, being first duly sworn, hereby state that I have read this application, that I have personal knowledge of the facts stated and, that I verify its contents to the best of my knowledge, information, and belief.

Signature

Date

The foregoing instrument was acknowledged before me in the County of Arapahoe, State of Colorado, this ____day of _____, 20____, by the person whose signature appears above.

My Commission Expires: _____

Notary Public

The person signing this verification is an engineer for Applicant.

