

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 10-2023

A RESOLUTION TO AUTHORIZING THE TOWN TO FILE AN APPLICATION FOR FINDING OF REASONABLE DILIGENCE FOR THE CONDITIONAL WATER RIGHT DECREED FOR THE PALMER LAKE MONUMENT CREEK EXCHANGE AND CONFIRMING THE TOWN NEED FOR AND INTENT TO DEVELOP THAT CONDITIONAL WATER RIGHT

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Town of Palmer Lake, (“Town”) obtained a decree in Case No. 87CW69 confirming a conditional right for the Palmer Lake Monument Creek Exchange (“the Exchange”), which allows the Town to divert water at a rate up to 100 gpm from Palmer Lake Well QAL-4 in exchange for delivery to Monument Creek of fully reusable effluent from the use of non-tributary Denver Aquifer groundwater at the outfall of the Tri-Lakes Wastewater Treatment Facility; and

WHEREAS, the Exchange is intended to allow use of additional water in the Town’s municipal water supply system, and the Town needs the conditional water right to serve its present and future customers; and

WHEREAS, the most recent diligence decree requires the Town to file an application on or before January 31, 2023, to continue the conditional water right for the Exchange or to make it absolute, or that right will be cancelled; and

WHEREAS, the Town intends to develop the full amount of this conditional water right and needs additional time to complete this appropriation.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Town hereby authorizes and directs the Town staff, consultants, and water attorneys to conduct such work as necessary to file and prosecute to completion an application in the water court for finding of reasonable diligence on or before January 31, 2023.
2. The Town hereby authorizes and directs the Town staff, consultants, and water attorneys to take such other actions as may be necessary to confirm diligence for the conditional water right and to continue the conditional amount on behalf of the Town.
3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

4. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 12th DAY OF JANUARY 2023.

ATTEST:

TOWN OF PALMER LAKE, COLORADO



Dawn A. Collins
Town Administrator/Clerk

BY: 

Grant Havenar
Mayor

District Court, Water Division No. 2 State of Colorado 501 N. Elizabeth St. Pueblo, CO 81003 (719) 404-8700	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE TOWN OF PALMER LAKE, In Monument Creek IN EL PASO COUNTY	Court Use Only
Steven P. Jeffers, No. 17858 Casey Weaver, No. 56605 Lyons Gaddis, PC Attorneys for Town of Palmer Lake 950 Spruce Street, Suite 1B Louisville, CO 80027 Phone: (720) 726-3671 E-mail: sjeffers@lyonsgaddis.com ; cweaver@lyonsgaddis.com	Case No. 2023CW____ (16CW3043; 09CW28; 02CW35; 95CW137; 87CW069) Water Division No. 2
APPLICATION FOR FINDING OF REASONABLE DILIGENCE	

1. Name, address, telephone number of applicant:

Town of Palmer Lake
P.O. Box 208
Palmer Lake, CO 80133
(719) 481-2953
dawn@palmer-lake.org

Please send pleadings to:
Steven P. Jeffers, Esq.
Casey Weaver, Esq.
Lyons Gaddis, PC
950 Spruce Street, Unit 1B
Louisville, CO 80027

2. Name of water right: Palmer Lake Monument Creek Exchange.

3. Describe the conditional water right from the Judgment and Decree:

A. **Original decree:** The District Court, Water Division No. 2, originally decreed the water right in Case No. 87CW069 on June 21, 1989.

B. **Subsequent decrees awarding findings of diligence:** The Court entered diligence decrees in Case Nos. 95CW137 on March 8, 1996; 02CW35 on

February 7, 2003; 09CW28 on July 7, 2010; and 16CW3043 on January 17, 2017.

- C. **Legal description of the points of the exchange:** The exchange reach is decreed from the outfall of the Tri-Lakes Wastewater Treatment Facility upstream to the Palmer Lake Well QAL-4 as described below. A map showing the location of the exchange points is attached as **EXHIBIT A**.
- i. **Exchange-from point:** A point on Monument Creek at the outfall of the Tri-Lakes Wastewater Treatment Facility in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 27, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado.
- ii. **Exchange-to point:** Palmer Lake Well QAL-4, to be located in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 8, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, at a point approximately 1,500 feet from the east section line and 10 feet from the north section line of Section 8.
- D. **Source:** Monument Creek for water to be diverted by exchange; non-tributary Denver aquifer for water to be exchanged.
- E. **Appropriation:**
- i. **Date:** October 23, 1987.
- ii. **Amount:** 0.223 cfs (100 gpm) **CONDITIONAL**
- F. **Use:** All municipal purposes, including domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, fish and wildlife preservation and propagation, and all other beneficial purposes, including exchange purposes, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to section 37-90-137(9)(b), C.R.S., and all other augmentation purposes.
- G. **Depth:** Palmer Lake QAL-4 will be approximately 50 feet deep.
4. **Detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:**

The Palmer Lake Monument Creek Exchange is a component part of Applicant's integrated water supply system, pursuant to section 37-92-301(4)(b), C.R.S. In support of its claim for diligence, Applicant completed the following activities during the period from January 17, 2017, through the date of the filing of this application:

- A. During the subject diligence period, Applicant constructed and/or replaced approximately 5,500 feet of water lines within its municipal system at a cost of \$ 158,348.
 - B. In 2019, Applicant relocated a portion of its water line to allow construction of a new pedestrian bridge at a cost of \$28,118.
 - C. In 2021, Applicant redrilled Well No. D-2, one of the decreed sources of water for the exchange, at a cost of \$657,601.
 - D. Applicant constructed an underground water storage tank in 2019 at a cost of \$1,600,000.
 - E. From 2018 through 2022, Applicant participated in discussions with Colorado Springs Utilities and other local water providers regarding proposed extension of the North Monument Creek Interceptor to deliver the Town's wastewater from the Tri-Lakes Wastewater Treatment Facility to the J.D. Phillips WWTP, to protect the Town's water rights, including this exchange. The Town paid in excess of \$3,800 in those negotiations.
 - F. Applicant's Board of Trustees passed Resolution No. 10-2023 on January 12, 2023, approving the filing of this application seeking a finding of reasonable diligence in the development of the Palmer Lake Monument Creek Exchange and requesting continuance of the exchange for an additional six-years.
5. **No claim to make the conditional exchange ABSOLUTE: NA.**
6. **Name and address of the owners of any land upon which any new diversion structure will be constructed or modified is located: Applicant.**

WHEREFORE, Applicant requests that the Court enter a decree finding and determining that Applicant has exercised reasonable diligence in the development of the conditional water right and continuing the conditional water right for an additional six-years.

Respectfully submitted this ____ day of January 2023.

LYONS GADDIS, PC

By _____
Steven P. Jeffers, No. 17858
Casey Weaver, No. 56605
**ATTORNEYS FOR APPLICANT,
TOWN OF PALMER LAKE**

VERIFICATION

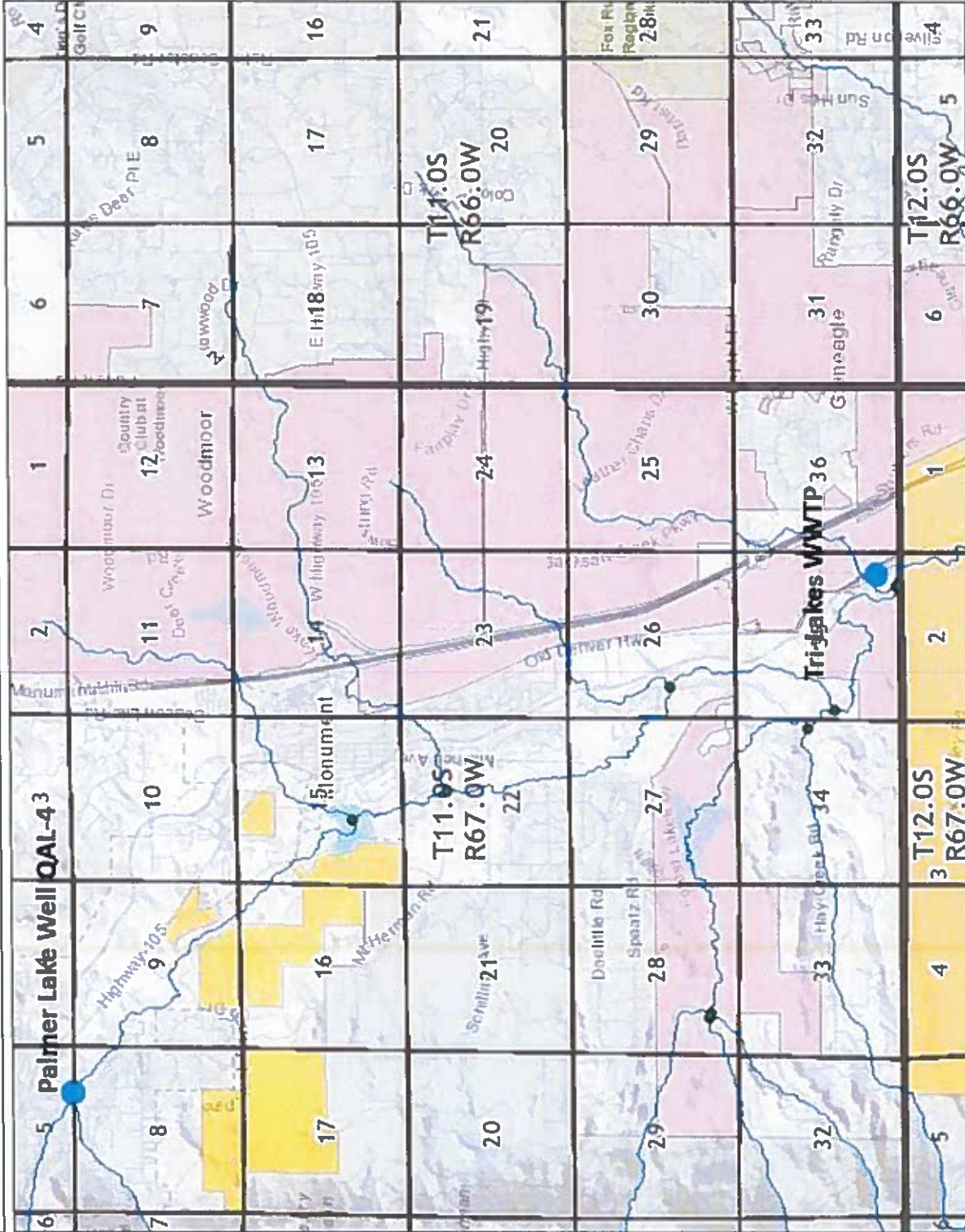
I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on December 12, 2022, at the Town of Palmer Lake, Colorado.



Steve Orcutt, Certified Water Supervisor
Town of Palmer Lake

Map Viewer



Legend

- Confluence Point
- Source Water Route Framework
- ▣ Township
- ▣ Section
- ▣ County

Water Sanitation District Bound

- ▣ WATER AND SANITATION
- ▣ WATER DISTRICT



Notes

EXHIBIT A
Application of Town of Palmer Lake
Case No. 23CW____(87CW069,
16CW3043)



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