

DISTRICT COURT, WATER DIVISION 2, COLORADO Pueblo County Judicial Building 501 N. Elizabeth Street, Suite 116 Pueblo, CO 81003 (719) 404-8832	▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: ANGELVIEW LLC, A TEXAS LIMITED LIABILITY COMPANY, IN LAKE COUNTY	Case No. : 21CW3008 Water Division 2
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF THE WATER COURT	

The Application for Water Storage Right, Appropriative Rights of Exchange of Substitution and Exchange, and Approval of Plan for Augmentation in this case was filed on February 23, 2021, and supplemented by Applicant on March 1, 2021 (the “Original Application”). The Application was referred to the Water Referee for Water Division 2 by the Water Judge of this Court in accordance with C.R.S. 37-92-101, *et seq.*, known as the Water Right Determination and Administration Act of 1969. The Application was rereferred by the Water Referee to the Water Judge on November 19, 2021. The Amended Application for Water Storage Rights, Groundwater Recharge Rights, Appropriative Rights of Substitution and Exchange, and Approval of Plan for Augmentation (“Amended Application”) was filed on December 28, 2022. The Second Amended Application for Water Rights, Groundwater Recharge Rights, Appropriative Rights of Substitution and Exchange, and Approval of Plan for Augmentation (“Second Amended Application”) was filed on July 31, 2023.

The Court, having made such investigations as are necessary to determine whether or not the statements in the Second Amended Application are true and having been fully advised of the subject matter of the Amended Application, does hereby enter the following Findings of Fact, Conclusions of Law, and Decree of the Water Court (the “Decree”) in this matter:

FINDINGS OF FACT

1. The statements in the Amended Application are true, except as may be otherwise stated herein.
2. Name and Address of Applicant:
AngelView LLC (“AngelView”)
5585 Hwy 82
Twin Lakes, CO 81251

3. Resume Notice: Timely and adequate notice of the Original Application, Amended Application, and Second Amended Application were published as required by statute section 37-92-302, C.R.S., and the Court has jurisdiction over the subject matter of this Decree and over all persons who may be affected thereby, whether they have appeared or not.
4. Statements of Opposition: Statements of opposition were timely filed by the City of Aurora, acting by and through its Utility Enterprise (“Aurora”); the State Engineer and the Division Engineer for Water Division No. 2 (“Engineers”); Twin Lakes Reservoir and Canal Company (“Twin Lakes”); David Smith and Mai-Lan Huynh (“Smith-Huynh”); and Lake County Board of County Commissioners (“Lake County”). Collectively, the foregoing are referred to as the “Objectors.” The time for filing statements of opposition has expired.
5. Stipulations: The Objectors entered into stipulations with AngelView approving the form of this Decree and the Court approved said stipulations as follows:
 - 5.1. Aurora, stipulation dated February 29, 2024, approved by the Court on March 1, 2024.
 - 5.2. Engineers, stipulation dated October 10, 2023, approved by the Court on October 12, 2023.
 - 5.3. Twin Lakes, stipulation dated October 11, 2023, approved by the Court on October 12, 2023.
 - 5.4. Smith-Huynh, stipulation dated April 5, 2024, approved by the Court on April 8, 2024.
 - 5.5. Lake County, stipulation dated January 8, 2024, approved by the Court on January 11, 2024.
6. Introduction. The Original Application sought adjudication of three water storage rights for ponds filled by diversions from Bartlett Gulch, conditional appropriative rights of substitution and exchange, and a plan for augmentation. The three ponds are AngelView Lake, AngelView Pond, and AngelView Feeder Pond (collectively, the “Ponds”). The Ponds are located on AngelView’s property located in the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado (“AngelView Property”). A map depicting the AngelView Property and Ponds is attached as **Exhibit A**. While the subject case was originally pending, a dispute arose regarding the location of the natural courses of Bartlett Gulch and associated flows, and that dispute was bifurcated and set for trial among the interested parties in this case. The Bartlett Gulch issues were ultimately resolved by a compromise Settlement Agreement dated November 3, 2022, among AngelView, the Engineers, and Smith-Huynh (“Settlement Agreement”), which was approved as an Order of this Court. The Amended Application was filed per the terms of the Settlement Agreement and included a new point of diversion for the Ponds, a point of administration for the East Fork of Bartlett Gulch, and certain wetland consumption was covered by the augmentation plan. AngelView also included in its Amended Application other necessary changes to the Original

Application reflected in this decree. The Second Amended Application was filed to correct the size of the Ponds, increase the augmentation water supply, and to correct certain legal descriptions including an existing point of diversion for the AngelView Ditch.

7. Names of Water Rights:

- 7.1. AngelView Lake
- 7.2. AngelView Lake Enlargement
- 7.3. AngelView Pond
- 7.4. AngelView Pond Enlargement
- 7.5. AngelView Feeder Pond
- 7.6. Bartlett Gulch Splitter
- 7.7. AngelView Ditch Exchange
- 7.8. AngelView Pipeline Exchange
- 7.9. AngelView Pump Station Exchange

8. Consistent Administration Date Pursuant to Mediation Settlement. Pursuant to the Mediation Settlement agreement between AngelView and Smith-Huynh dated March 19, 2024 (“Mediation Settlement”), all of the water rights named in paragraphs 7.1 – 7.9 above and decreed herein shall be administered as if the application in this case were filed in 2023 and as if all have an appropriation date of July 28, 2023, notwithstanding any other language regarding appropriation and application dates herein. The same administration date shall exist for the Smith-Huynh decree in Case No. 20CW3086 and water will be delivered by AngelView for Smith-Huynh’s use in Case No. 20CW3086 per the terms of the Mediation Settlement.

9. Description of Storage Rights:

9.1. AngelView Lake, WDID 1114899

9.1.1. Legal Description: W ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates for the centroid of the lake are Easting: 381052.67, Northing: 4327532.39, Zone 13. Located using aerial photography, USGS topographic maps and surveys. AngelView Lake is located on a tributary to Lake Creek via Twin Lakes, as depicted on **Exhibit A**.

9.1.2. Source: Bartlett Gulch, a tributary to Lake Creek via Twin Lakes Reservoir, a tributary of the Arkansas River; and an unnamed tributary of Lake Creek via Twin Lakes Reservoir, a tributary to the Arkansas River.

9.1.3. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Lake:

9.1.3.1.Name of Ditch: AngelView Ditch. WDID 1100858

9.1.3.1.1.Legal Description: There are two points of diversion on the East Fork of Bartlett Gulch (“East Fork”), one a historical culvert located at approximately UTM coordinates – Easting: 380758.92, Northing: 4327659.39, Zone 13, and the second point of diversion at approximately UTM coordinates - Easting: 380842.71, Northing: 4327595.05, Zone 13. Located using aerial photography and USGS topographic maps. PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado.

9.1.3.1.2. AngelView Ditch rate of diversion: 6 cfs.

9.1.3.1.3. Remarks: Pursuant to the Mediation Settlement, AngelView is required to construct a new diversion structure for the AngelView Ditch within 200 feet of either point of diversion described above (“New Diversion Structure”). Upon completion of the New Diversion Structure, that New Diversion Structure shall be the only point of diversion for the AngelView Ditch while the Mediation Settlement is in effect. A precise legal description of the point of diversion for the New Diversion Structure shall be identified in a subsequent Water Court application to make absolute and/or retain the conditional status of any of the conditional water rights decreed herein. In the event that the Mediation Settlement is no longer in effect, the Court retains jurisdiction over the issue of the proper location of the AngelView Ditch point(s) of diversion in accordance with paragraph 22.

9.1.3.2.Name of Ditch: AngelView Pipeline. WDID 1102065

9.1.3.2.1.Legal Description: The point of diversion is on the East Fork at approximately UTM coordinates - Easting: 380765.15, Northing: 4327705.45, Zone 13. Located using aerial photography and USGS topographic maps. PLSS: NE ¼ of the SW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado.

9.1.3.2.2. AngelView Pipeline Rate of Diversion: 6 cfs.

9.1.3.3. Name of Ditch: AngelView Pump Station. WDID 1100957

9.1.3.3.1.Legal Description: The point of diversion is on the West

Fork of Bartlett Gulch (“West Fork”) at approximately UTM coordinates - Easting: 380905.78, Northing: 4327168.28, Zone 13. Located using aerial photography and USGS topographic maps. PLSS: SW ¼ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado.

9.1.3.3.2. AngelView Pump Station Rate of Diversion: 1 cfs.

9.1.4. Date of Appropriation: December 31, 1978.

9.1.5. How Appropriation Initiated: Construction of the lake.

9.1.6. Date Water Applied to Beneficial Use: May 26, 1985.

9.1.7. Amount Claimed: 5.0 acre-feet, absolute.

9.1.8. Use: Recreational, piscatorial, and aesthetic (including a waterfall created by diversions pursuant to the structures in Paragraphs 9.1.3.1 – 9.1.3.3 and/or with a pump to use AngelView Lake water for the waterfall).

9.1.9. Surface area of high-water line: 1.77 acres.

9.1.10. Vertical Height of Dam: less than 10 ft.

9.1.11. Length of Dam: 170 ft.

9.1.12. Total Capacity of AngelView Lake in Acre-feet: 10.35 acre-feet.

9.1.13. Remarks. This appropriation shall have an administration date of July 28, 2023 per Paragraph 8, above.

9.2. AngelView Lake Enlargement.

9.2.1. Legal Description and Source: Same as for AngelView Lake. *See* Paragraphs 9.1.1 and 9.1.2, above, as depicted on **Exhibit A**.

9.2.2. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Lake (Enlargement): The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 9.1.3.1 through 9.1.3.3 above will be used at the same diversion rates set forth in said paragraphs for filling and flow through.

9.2.3. Date of Appropriation: May 26, 2020.

9.2.4. How Appropriation Initiated: Construction of dam modifications.

9.2.5. Amount Claimed: 5.35 acre-feet, conditional, with right to continuous refills of the 10.35 acre-feet AngelView Lake capacity, not to exceed 15.00 acre-feet of refills, plus the right to flow through water, which water will flow through all three Ponds including the replacement of evaporation and any seepage in all three Ponds.

9.2.6. Use: Recreational, piscatorial, and aesthetic (including a waterfall created by diversions pursuant to the structures in Paragraphs 9.1.3.1 – 9.1.3.3 and/or with a pump to use AngelView Lake (Enlargement) water for the waterfall).

9.2.7. Remarks: This appropriation shall have an administration date of July 28, 2023 per Paragraph 8, above.

9.3. AngelView Pond. WDID 1114900

9.3.1. Legal Description: N ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates for the centroid of the pond are Easting: 381294.42, Northing: 4327659.30, Zone 13. Located using aerial photography, USGS topographic maps and surveys, as depicted on **Exhibit A**.

9.3.2. Source: Bartlett Gulch, a tributary to Lake Creek via Twin Lakes Reservoir, a tributary of the Arkansas River; and an unnamed tributary of Lake Creek via Twin Lakes Reservoir, a tributary to the Arkansas River.

9.3.3. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Pond: The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 9.1.3.1 through 9.1.3.3 above will be used at the same diversion rates set forth in said Paragraphs for filling and also for flow through pursuant to Paragraph 9.2.5.

9.3.4. Date of Appropriation: December 31, 1978.

9.3.5. How Appropriation Initiated: Construction of the pond.

9.3.6. Date Water Applied to Beneficial Use: May 26, 1985.

9.3.7. Amount Claimed: 1.5 acre-feet, absolute.

9.3.8. Use: Recreational, piscatorial, and aesthetic.

9.3.9. Surface Area of High-Water Line: 0.354 acres.

9.3.10. Vertical Height of Dam: less than 10 ft.

9.3.11. Length of Dam: 60 ft.

9.3.12. Total Capacity of AngelView Pond in Acre-Feet: 2.60 acre-feet.

9.3.13. Remarks. This appropriation shall have an administration date of July 28, 2023 per Paragraph 8, above.

9.4. AngelView Pond (Enlargement).

9.4.1. Legal Description and Source: Same as for AngelView Pond. *See* Paragraphs 9.3.1 and 9.3.2, above, as depicted on **Exhibit A**.

9.4.2. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Pond (Enlargement): The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in Paragraphs 9.1.3.1 through 9.1.3.3 above will be used at the same diversion rates set forth in said paragraphs for filling and flow through pursuant to Paragraph 9.2.5.

9.4.3. Date of Appropriation: May 26, 2020.

9.4.4. How Appropriation Initiated: Construction of dam modifications.

9.4.5. Date Water Applied to Beneficial Use: N.A.

9.4.6. Amount Claimed: 1.10 acre-feet, conditional, with right to continuous refills of the 2.60 acre-feet AngelView Pond capacity, plus the right to flow through water from AngelView Lake and AngelView Lake (Enlargement), including the replacement of evaporation and any seepage.

9.4.7. Use: Recreational, piscatorial, and aesthetic.

9.4.8. Name and Address of Owner of Land on which Structure for Water Right is Located: AngelView.

9.4.9. Remarks: This appropriation shall have an administration date of July 28, 2023 per Paragraph 8, above.

9.5. AngelView Feeder Pond. WDID 1114926

9.5.1. Legal Description: N ½ of the SE ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM

coordinates for the centroid of the pond are Easting: 381303.39, Northing: 4327628.44, Zone 13. Located using aerial photography and USGS topographic maps and surveys, as depicted on **Exhibit A**.

- 9.5.2. Source: Bartlett Gulch, a tributary to Lake Creek via Twin Lakes Reservoir, a tributary of the Arkansas River; and an unnamed tributary of Lake Creek via Twin Lakes Reservoir, a tributary to the Arkansas River.
 - 9.5.3. Name and Capacity of Ditch or Ditches Used to Deliver Water to AngelView Feeder Pond: The AngelView Ditch, AngelView Pipeline and AngelView Pump Station described in 9.1.3.1 through 9.1.3.3 above will be used at the same diversion rates set forth in said Paragraphs for filling and also for flow through pursuant to Paragraph 9.2.5.
 - 9.5.4. Date of Appropriation: September 22, 2020.
 - 9.5.5. How Appropriation Initiated: Construction of the Pond.
 - 9.5.6. Date Water Applied to Beneficial Use: NA.
 - 9.5.7. Amount Claimed: 0.066 acre-feet, conditional.
 - 9.5.8. Use: Recreational, piscatorial, and aesthetic.
 - 9.5.9. Surface Area of High-Water Line: 0.014 acres.
 - 9.5.10. Vertical Height of Dam: 4 ft.
 - 9.5.11. Length of Dam: 15 ft.
 - 9.5.12. Total Capacity of AngelView Feeder Pond in Acre-feet: 0.066 acre-feet.
 - 9.5.13. Remarks. This appropriation shall have an administration date of July 28, 2023 per Paragraph 8, above.
- 9.6. Cumulative Diversion Rate Limit: The cumulative rate of diversions of the structures identified in paragraphs 9.1.3.1 – 9.1.3.3 used to fill the water rights described in paragraphs 9.1 – 9.5 shall not exceed 6.0 cfs total at any one time.
- 9.7. Flow-Through Limit: At such time that all of the water rights described in paragraphs 9.1 – 9.5 are full to their total decreed storage capacities, the cumulative rate of diversion at the structures identified in paragraphs 9.1.3.1 – 9.1.3.3 for delivering flow through water shall be limited to a cumulative 3.0 cfs (“Flow-Through Limit”).

10. Description of Surface Water Right.

10.1. Bartlett Gulch Splitter. WDID 1101051

10.1.1. Legal Description: SW ¼ of the NW ¼ of Section 18, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 380132.25, Northing: 4328156.77, Zone 13. Located using aerial photography and USGS topographic maps and GPS surveys.

10.1.2. Source: Bartlett Gulch, tributary to Lake Creek via Twin Lakes Reservoir, tributary to the Arkansas River.

10.1.3. Date of Appropriation: November 3, 2022.

10.1.4. How Appropriation Initiated: Filing Settlement Agreement with Water Court.

10.1.5. Date Water Applied to Beneficial Use: Water has historically been split into the East Fork and West Fork of Bartlett Gulch at about the location of the proposed Bartlett Gulch Splitter on United States Forest Service property.

10.1.6. Amount Claimed: 6.0 cfs, absolute.

10.1.7. Use: The Bartlett Gulch Splitter is a point of administration for delivery of Bartlett Gulch water into the East Fork and West Fork of Bartlett Gulch. Up to 6 cfs will be placed into the East Fork and used for (a) recharge of groundwater from the East Fork to Lake Creek via Twin Lakes; (b) irrigation of wetlands on AngelView Property; (c) re-diversion and use pursuant to the storage water rights described for the Ponds in Paragraphs 9.1 through 9.5 (i.e. recreational, piscatorial, and aesthetic uses in the Ponds); and (d) use by Smith-Huynh consistent with pending Case No. 20CW3086 (i.e. piscatorial, wildlife habitat, recreation, and aesthetic uses associated with a claimed storage right).

10.1.8. Remarks on Administration. Although water has historically flowed into both the East Fork and West Fork at the location of the Bartlett Gulch Splitter, there was a dispute with the Engineers over the extent to which the East Fork is a natural channel. That issue was not fully resolved by the Settlement Agreement. Instead, the Bartlett Gulch Splitter will be constructed and administered so that any Lake County augmentation releases to Bartlett Gulch of up to 2.0 cfs of its interest in the Derry Ditch No. 3 pursuant to the final decree entered in Case No. 98CW173 (“County Water”), minus transit losses as determined by the Division Engineer’s Office consistent with the decree entered in Case No. 98CW173, will be

delivered to the West Fork, and up to the next 6.0 cfs will be delivered to the East Fork. Flows greater than said amounts will be delivered into the West Fork except as the Division Engineer may determine to be necessary or desirable to avoid flooding along the West Fork from time to time without injury to vested water rights. The East Fork supplies water to the AngelView Ditch and AngelView Pipeline (*See* Paragraphs 9.1.3.1 and 9.1.3.2) and to the Caden & Elysa's Pond described in Smith-Huynh's pending Case No. 20CW3086. Per the Settlement Agreement approved by the Water Court, use of the East Fork will be administered as follows: (a) losses on the East Fork will be considered simultaneous recharge to Lake Creek via Twin Lakes; (b) potential increased consumption of water by wetlands on AngelView Property resulting from groundwater recharge and diversions from the East Fork shall be calculated as equal to 1.5 acres of wetlands and covered under the Augmentation Plan described below; (c) Caden & Elysa's Pond that is the subject of Case No. 20CW3086 must be augmented when out-of-priority in accordance with the terms and conditions of that decree; and (d) water losses associated with other beaver ponds on the Smith-Huynh property may be addressed if they occur pursuant to the terms of the Settlement Agreement.

When the Flow-Through Limit described in Paragraph 9.7 is in effect, the flow rate into the East Fork at the Bartlett Gulch Splitter will be limited to that amount less than or equal to 6.0 cfs that is necessary to deliver up to a cumulative 3.0 cfs at the diversion points described at paragraphs 9.1.3.1 and 9.1.3.2, while also providing the above-described groundwater recharge, irrigation of 1.5 acres of wetlands on AngelView Property, and delivery to Caden & Elysa's Pond as may be decreed in Case No. 20CW3086 and consistent with the Mediation Settlement.

11. Description of Plan for Augmentation:

11.1. AngelView sought approval of a plan for augmentation to augment and replace evaporation losses and out-of-priority diversions to storage in the Ponds that are otherwise not legally exempt from priority administration and to augment certain consumption of water by wetlands. Approval of the plan for augmentation is intended to allow Applicant to continue diverting water and keep its Ponds full at times when curtailment or release would otherwise be required.

11.2. Structures to be Augmented:

11.2.1. Ponds. *See* Paragraphs 9.1 through 9.5, above.

11.2.2. Wetlands. AngelView has wetlands on its property that naturally consume water and for which no replacement is required. Evidence indicates that

one or possibly more wetlands on AngelView Property may obtain part of their water supply from the recharge of groundwater and diversions from the East Fork. As a matter of compromise in the Settlement Agreement approved by the Water Court, AngelView agreed to augment 1.5 acres of wetlands to address the potential for increased wetland consumption on AngelView Property. A map of the structures to be augmented is included as **Exhibit A** hereto.

11.3. Sources of Water to be Used for Augmentation:

11.3.1. Pueblo Water: The water rights or sources of water that will be used for augmentation in this augmentation plan include sources that will be delivered to AngelView by the Board of Water Works of Pueblo, Colorado (“Pueblo Water”), not to exceed 25 acre-feet a year. AngelView currently has a long-term contract with Pueblo Water for 15 acre-feet of fully consumable water a year for a 20-year period commencing April 1, 2021 and terminating March 31, 2041 (“Pueblo Water Contract”), as may be renewed in the future. The Pueblo Water Contract may be increased to 25 acre-feet for a given year under this augmentation plan. AngelView shall promptly notify the Division Engineer for Water Division 2 and all Objectors of any cancellation, termination, or material breach of the Pueblo Water Contract. Pueblo Water Contract sources include:

11.3.1.1. Fully consumable water owned or controlled by Pueblo Water. All water to be used in this augmentation plan provided by Pueblo Water must be decreed or otherwise legally available for augmentation purposes. The Pueblo Water Contract is currently for transmountain or other fully consumable water. The source of such water is unspecified in the lease but may include Pueblo Water’s water stored in Clear Creek Reservoir, Turquoise Reservoir, Twin Lakes Reservoir, from direct flow transmountain water or from any other reservoir or place from which Pueblo Water may deliver water, the sources of which are at the option of Pueblo Water, as long as they are legally available for augmentation purposes, but such sources do not include Fryingpan-Arkansas Project Water. Water deliveries may include, without limitation, water stored in Twin Lakes Reservoir (located in all or portions of Sec. 14,15, 16, 17, 18, 19, 20, 21, 22, 23 and 30 in T.11S., R.81W., 6th P.M., in Lake County), Turquoise Reservoir (located on Lake Fork Creek in Sec. 7, 8, 17, 18, 19, and 20, T.9S., R.80W., 6th P.M. and Sec. 10, 11, 12, 13, 14, and 15, T.9S., R.81W., 6th P.M., in Lake County), Clear Creek Reservoir (located in Sec. 7 and 8, T.12S., R.79W, and Sec. 12, T.12S., R.80W., 6th P.M. in Chaffee County, and reusable return flows.

The sources of such water may include, but are not limited to, the water rights decreed in Case Nos. 84CW177, District Court, Water Div. No. 2; 84CW177(B), District Court, Water Div. No. 2; 90CW340, District Court, Water Div. No. 5; W-1901, District Court, Water Div. No. 5; 95CW321, District Court, Water Div. No. 5; 90CW55, District Court, Water Div. No. 2; and 04CW130, District Court, Water Div. No. 2. At the option of Pueblo Water, such sources may be changed from time to time to suit the operational convenience of Pueblo Water. However, native Twin Lakes water stored pursuant to the final decree entered in Case No. W-1901, District Court, Water Division 5, on May 12, 1976 (“Native Twin Lakes Water”) shall not be used for augmentation unless the decreed right to that water is first changed in water court to allow augmentation.

- 11.4. Statement of Plan for Augmentation. This plan for augmentation is intended to provide for replacement of all out-of-priority evaporative losses from the Ponds and any out-of-priority filling of the Ponds, while allowing for continuous diversions for flow through water and to keep the Ponds full. Excess diversions will be returned to Twin Lakes via overflow outlet structures on the Ponds. Evaporation losses from AngelView Lake are calculated as an on-channel reservoir pursuant to C.R.S. § 37-84-117(5), and the evaporation losses from the other Ponds and for the connecting ditch are calculated as off-channel. In addition, per the compromise Settlement Agreement, AngelView has agreed to dedicate adequate augmentation water to replace evaporation and evapotranspiration associated with 1.5 acres of wetlands on AngelView Property. The monthly depletions from the Ponds at full capacity and of the wetlands are as follows:

**Table 1
Depletions & Augmentation Releases**

Month	Evaporation	Wetland ET	Total w/o Ice Cover Credit		Evaporation w/ Ice Cover Credit	Wetland ET w/ Ice Cover Credit	Total w/ Ice Cover Credit	
	(acre-feet)	(acre-feet)	(acre-feet)	(cfs)	(acre-feet)	(acre-feet)	(acre-feet)	(cfs)
Apr	0.55	0.01	0.56	0.009	0.55	0.00	0.55	0.009
May	0.77	0.19	0.96	0.016	0.77	0.19	0.96	0.016
Jun	0.99	0.92	1.91	0.032	0.99	0.92	1.91	0.032
Jul	0.94	1.05	1.99	0.032	0.94	1.05	1.99	0.032
Aug	0.74	0.89	1.63	0.027	0.74	0.89	1.63	0.027
Sep	0.65	0.72	1.37	0.023	0.65	0.72	1.37	0.023
Oct	0.44	0.12	0.56	0.009	0.44	0.12	0.56	0.009
Nov	0.24	0.00	0.24	0.004	0.00	0.00	0.00	0.000

Dec	0.05	0.00	0.05	0.001	0.00	0.00	0.00	0.000
Jan	0.02	0.00	0.02	0.000	0.00	0.00	0.00	0.000
Feb	0.16	0.00	0.16	0.003	0.00	0.00	0.00	0.000
Mar	0.34	0.00	0.34	0.006	0.00	0.00	0.00	0.000
Total	5.89	3.90	9.79	-	5.08	3.89	8.97	-

AngelView’s plan for augmentation will replace all out-of-priority (a) Pond evaporative depletions shown in Table 1 when the Ponds are full, thus allowing water to be stored to replace said depletions; (b) wetland ET depletions shown in Table 1 when water is being diverted at the Splitter into the East Fork; and (c) filling of the Ponds (not including the replacement of evaporative losses addressed above). If the AngelView Lake (including the Enlargement) and AngelView Pond (including the Enlargement) are less than full, out-of-priority evaporation losses will be reduced to reflect the surface area of those Ponds as shown by their stage-area capacity tables, subject to verification by the Water Commissioner or as otherwise required by the Division Engineer. The AngelView Feeder Pond will always be considered full for evaporation losses unless it is storing no water.

The replacement water will be provided as necessary to meet the lawful requirements of senior diverters at the time and location and to the extent that seniors would be deprived of their lawful entitlement by the aforementioned out-of-priority depletions and filling. No replacement of Pond evaporation shall be owed in the months where the Ponds are ice covered and the wetland ET shall be reduced in months of ice cover as shown in Table 1. AngelView shall monitor the extent of ice cover, and the ice cover credit claimed shall be noted in accounting reports, subject to verification of ice cover by the Water Commissioner. To the extent AngelView has inadequate augmentation water in any year, it shall (a) lower the water level in one or more Ponds as needed to offset the out-of-priority evaporation that is not replaced and shall cease diversions into and through such Ponds during that time if needed to maintain the lowered water level; and (b) shall cease diversions into and through the Ponds from the structures identified in paragraphs 9.1.3.1, 9.1.3.2, and 9.1.3.3 if it has inadequate augmentation water to replace the wetlands ET requirement in Table 1. To the extent AngelView has more augmentation water than needed to fill the Ponds and keep them full by replacing evaporative losses and to replace wetland depletions as required herein, AngelView will allow Smith-Huynh to use that water for augmentation in Case No. 20CW3086.

11.5. No Injury. The Court finds that the operation of AngelView’s plan for augmentation, subject to the terms and conditions hereof, will not injuriously affect the owners of or persons entitled to use water under vested water rights or decreed conditional water rights.

11.6. Party responsible for operating plan for augmentation. AngelView or the

purchasers of the lots located within the AngelView Property shall form a homeowners association, metropolitan district, or similar entity authorized by Colorado law for the purpose of operating the plan for augmentation decreed herein (the “AngelView Successor”). The AngelView Successor’s bylaws or equivalent document shall acknowledge that the AngelView Successor is responsible for operating the plan for augmentation and include a requirement that homeowners comply with all terms and conditions of this Decree. AngelView shall be responsible for operating the plan for augmentation and complying with all terms and conditions of this Decree until such time as AngelView files notice in this case, with service on all Objectors, that the AngelView Successor has assumed responsibility for operating the plan. Such notice shall include proof that the AngelView Successor has registered with the appropriate state regulatory agency, as well as an acknowledgement, executed by an officer of the AngelView Successor, that the AngelView Successor has been provided with a copy of this Decree, understands the AngelView Successor’s obligations under this Decree, and accepts responsibility for operating the plan for augmentation and complying with all terms and conditions of this Decree. The acknowledgment shall also provide an email address and phone number that the Division Engineer may use to contact the AngelView Successor.

12. Description of Conditional Appropriative Rights of Substitution and Exchange: AngelView seeks conditional appropriative rights of substitution and exchange by which fully consumable water will be made available in Twin Lakes at the lower terminus/exchange from locations, and AngelView will claim credit for this water at the upstream terminus/exchange locations on the East Fork and West Fork, all as described in more detail below.

- 12.1. Name of Exchanges.

- 12.1.1. AngelView Ditch Exchange

- 12.1.2. AngelView Pipeline Exchange

- 12.1.3. AngelView Pump Station Exchange

- 12.2. Location of Exchanges: The location of the upstream and downstream extent of the exchanges are depicted in **Exhibit A** hereto and are described as follows:

- 12.2.1. AngelView Ditch Exchange: WDID 1102841 The exchange-from point is the approximate confluence of the East Fork and Twin Lakes Reservoir, which is located in the NE1/4 of the NE1/4 of Section 19, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 381422.96, Northing: 4327008.79, Zone 13. Located using aerial photography and USGS topographic maps. The exchange will then extend up the East Fork to the AngelView Ditch points of diversion

described in Paragraph 9.1.3.1, above.

- 12.2.2. AngelView Pipeline Exchange: WDID 1102842 The exchange-from point is the approximate confluence of the East Fork and Twin Lakes Reservoir described in Paragraph 12.2.1, above. The exchange will then extend up the East Fork to the AngelView Pipeline described in Paragraph 9.1.3.2, above.
- 12.2.3. AngelView Pump Station Exchange: WDID 1102843 The exchange-from point is the approximate confluence of the West Fork and Twin Lakes Reservoir, which is located in the NE1/4 of the NE1/4 of Section 19, Township 11 South, Range 80 West of the 6th P.M., in Lake County, Colorado. UTM coordinates - Easting: 381295.69, Northing: 4326845.50, Zone 13. Located using aerial photography and USGS topographic maps. The exchange will then extend up the West Fork to the AngelView Pump Station described in Paragraph 9.1.3.3, above.
- 12.3. Appropriation Dates: September 15, 2020 for the AngelView Ditch Exchange; February 23, 2021 for the AngelView Pipeline Exchange and AngelView Pump Station Exchange.
- 12.4. How Appropriation Was Initiated: Filing of Substitute Water Supply Plan request with the Office of the State Engineer on September 15, 2020, and providing notification to all parties who have subscribed to the Substitute Water Supply Plan Notification List for Water Division No.2. February 23, 2021, is the date of the Original Application, which included the same exchange reaches or structures.
- 12.5. Water Used for Replacement: The water rights or sources of water that may be used for replacement include:
 - 12.5.1. Pueblo Water. Sources made available by Pueblo Water at Twin Lakes Reservoir as described in Paragraph 11.3.1, above, including water made available pursuant to the Pueblo Water Contract.
 - 12.5.2. Other Sources of Augmentation Water. Other sources of augmentation water as may be made available in Twin lakes Reservoir pursuant to Paragraph 13.7, below.
- 12.6. Amount of Exchange. 6.0 cfs, conditional, for AngelView Ditch Exchange and AngelView Pipeline Exchange, and 1.0 cfs, conditional, for AngelView Pump Station Exchange.
- 12.7. Remarks. These appropriative rights of exchange shall have an administration date of July 28, 2023 per Paragraph 8, above.

12.8. Cumulative Exchange Rate Limit: The cumulative rate of diversions of the exchanges identified in paragraphs 12.2.1 – 12.2.3 shall not exceed 6.0 cfs total at any one time.

12.9. Exchange Matrix. The following is a simplified table summarizing the exchanges:

Exchange	Exchange from point	Exchange to point	Exchange rate
AngelView Ditch Exchange WDID 1102841	Confluence of East Fork and Twin Lakes Reservoir WDID 1103503	AngelView Ditch WDID 1100858	6.0 cfs
AngelView Pipeline Exchange WDID 1102842	Confluence of East Fork and Twin Lakes Reservoir WDID 1103503	AngelView Pipeline WDID 1102065	6.0 cfs
AngelView Pump Station Exchange WDID 1102843	Confluence of West Fork and Twin Lakes Reservoir WDID 1103503	AngelView Pump Station WDID 110957	1.0 cfs

13. Terms and Conditions:

13.1. Notice of Exchanges: AngelView shall provide notice to the Water Commissioner or Division Engineer and obtain their approval prior to operating any of the exchanges decreed herein.

13.2. Exchange Conditions: The exchanges decreed herein shall operate only with prior approval by the Division Engineer or the Water Commissioner and only in priority, without depriving any senior water right that may exist between the exchange-from and exchange-to locations of water to which that senior right would otherwise lawfully be entitled. The exchanges shall also only operate at times when there is a live flow of water between the exchange-to and exchange-from points. For each exchange, the maximum rate of exchange will be limited to the lesser of the applicable rate of exchange identified in Paragraph 12.6 above, or the flow rate legally and physically available at the exchange-to-point.

13.3. Replacements to Twin Lakes Reservoir. At times when Twin Lakes is storing Native Twin Lakes Water under its Lake Creek storage right and AngelView’s plan for augmentation and exchange decreed herein is operating to replace out-of-priority depletions, AngelView will makes replacements to Twin Lakes Reservoir or otherwise account for its replacement water already in said Reservoir, rather than make releases from the Twin Lakes Reservoir, subject to Water Commissioner approval.

13.4. Measurements and Reporting: AngelView shall install and maintain measuring devices with continuous recorders, gauges, or other measuring devices as may be reasonably required by the Division Engineer pursuant to C.R.S. § 37-92-502(5) to

administer the subject water rights and augmentation plan. A measurement device will be required on the West Fork to ensure that any Lake County augmentation releases to Bartlett Gulch are administered consistent with Paragraph 10.1.8, above. The East Fork will also be required to have a measurement structure, which shall be located upgradient from the glacial trough pursuant to the Settlement Agreement. AngelView shall install water measurement devices on the AngelView Ditch, AngelView Pipeline, and AngelView Pump Station before it may use such structures. Water measurements shall be recorded and shall be reported at the frequency reasonably required by the Water Commissioner or Division Engineer. AngelView shall submit monthly accounting by the 10th day of the month summarizing diversions and replacements made under the augmentation plan during the previous month.

- 13.5. Accounting: Although no specific accounting forms are decreed in this case, the accounting forms will include at a minimum the following:
- 13.5.1. Priority call affecting Bartlett Gulch;
 - 13.5.2. Lake County augmentation releases to Bartlett Gulch pursuant to Case No. 98CW173, if any.
 - 13.5.3. Measurement of diversions into the East Fork and West Fork at the Splitter.
 - 13.5.4. Measurement of recorded East Fork flows downstream from the Splitter, if required by the Division Engineer.
 - 13.5.5. Measurement of Diversions made at the AngelView Ditch, AngelView Pipeline, and AngelView Pump Station.
 - 13.5.6. Staff gauge measurements for AngelView Lake, AngelView Pond, and AngelView Feeder Pond, and the amount of any increase in storage associated with filling those Ponds (not including replacement of evaporation losses).
 - 13.5.7. Out-of-priority depletions for Ponds and Wetlands and out-of-priority filling of the Ponds.
 - 13.5.8. Replacement water source (or lowering of water level in one or more Ponds) to replace out-of-priority depletions and out-of-priority filling.
 - 13.5.9. East Fork water applied to recharge.
 - 13.5.10. Rate and volume exchanged under each exchange.
- 13.6. Changes to Accounting. Any change in accounting proposed by AngelView after the date of this decree shall be provided to Objectors, who will be allowed thirty (30) days to provide comments to the Division Engineer before approval. The Division Engineer, at the Division Engineer's reasonable discretion, may approve or reject the proposed changes after expiration of the thirty day comment period. Any approval or rejection of changes by the Division Engineer shall be in writing. Any Objector that claims injury resulting from such approved changes in accounting may initiate a separate action to challenge the Division Engineer

decision.

- 13.7. West Fork Deliveries. County Water deliveries minus transit losses will be delivered down the natural channel of the West Fork, as that natural channel is described in the Settlement Agreement, and shall not be diverted by the AngelView Pump Station located on that channel so that the County Water may pass through to Twin Lakes.
- 13.8. Augmentation Plan Adequacy / Curtailment: The augmentation plan decreed herein is found to be adequate to replace all contemplated out-of-priority depletions to prevent injury to senior vested water rights. Notwithstanding, pursuant to C.R.S. § 37-92-305(8), the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to senior vested water rights.
- 13.9. Additional Sources of Water for Augmentation: Although AngelView has demonstrated an adequate water supply for the augmentation plan decreed herein, AngelView requested in its Amended Application the ability to add additional sources of augmentation water to the augmentation plan. *See* C.R.S. § 37-92-305(8)(c). To add such additional sources, AngelView shall give written notice to the Court, the Division Engineer, and to all Objectors under the retained jurisdiction of this decree requesting an Addendum to this decree allowing the use of such additional augmentation water (“Notice”). Such Notice shall include at a minimum: (A) a description of the additional source, which must be fully consumable or decreed for augmentation; (B) a description of the monthly and annual amounts of water available; (C) the manner in which the augmentation water will be used and included in the augmentation plan, including the location of delivery; (D) any limits on the duration of the additional water supply; (E) the use of any exchanges decreed herein to facilitate the use of the new water supply; (F) evidence that the new source is available for augmentation and will not be used by others; (G) any proposed changes to the accounting to incorporate the new water source; and (H) the proposed Addendum. The Division Engineer and Objectors shall have 90 days to object in writing. If any objections are not resolved by stipulation, the matter may be set for hearing under this Court’s retained jurisdiction to obtain a final resolution regarding the request, including any needed terms and conditions in the Addendum. Use of the additional source shall only be allowed upon approval by the Water Court or pursuant to a substitute water supply plan. *See* C.R.S. § 37-92-305(8)(c).
- 13.10. Storage Structures: AngelView Lake will be lined, which may include clay, bentonite, synthetic liner, or other treatments so long as approved by the Water Commissioner or Division Engineer and properly maintained. In the event groundwater is exposed by construction of the Ponds, any such Pond will also be lined to prevent the interception of groundwater and that lining shall be approved

by the Water Commissioner or Division Engineer and shall be maintained. To the extent the Ponds intercept surface water runoff when the Ponds are not in priority which causes the Ponds to fill, then that out-of-priority storage will either be augmented or released. AngelView shall install a staff gauge or other measuring device for AngelView Lake (including the Enlargement), AngelView Pond (including the Enlargement), and AngelView Feeder Pond and has provided a stage-area capacity table for all Ponds to be used in conjunction with the accounting.

- 13.11. No Precedent. This Decree is the result of substantial negotiations and settlement discussions between Applicant and Objectors and no trial was held; therefore, this Decree is not legally binding upon the parties hereto as a matter of collateral estoppel, res judicata, or other legal doctrines if raised in other proceedings that do not involve the water rights and plan for augmentation decreed herein. By stipulating to entry of this Decree, no party in this case waives any right to assert in negotiations or otherwise that this Decree should or should not be followed as a practical matter in another unrelated case.

CONCLUSIONS OF LAW

14. To the extent they constitute legal conclusions, the foregoing Findings of Fact are incorporated herein.
15. All notices required by law have been properly made, including as required under section 37-92-302(3), C.R.S. The Court has jurisdiction over the Amended Application and over all entities or persons who had standing to appear, even though they did not do so.
16. The Amended Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969. C.R.S. §§ 37-92-101 *et. seq.*
17. The Amended Application is in accordance with Colorado law and is granted as set forth herein.
18. For the plan for augmentation decreed herein, the Court finds that operation and administration of the augmentation plan as described herein and pursuant to the terms and conditions hereof, will replace the out-of-priority depletions of the structures described herein in time, location, and amount as necessary to prevent injury to senior water rights as required under Colorado law. Further, the substitute water provided for in the augmentation plan will be of a quality, quantity, and continuity to meet the requirements of use for which the appropriations receiving such water have normally been used pursuant to section 37-92-305(5), C.R.S.

19. AngelView has fulfilled all legal requirements for a decree for the requested water storage rights, surface water rights, appropriative rights of exchange, and plan for augmentation.

DECREE OF THE WATER COURT

20. The Findings of Fact and Conclusions of Law as set forth above are incorporated herein by reference and are hereby modified as necessary to constitute part of the Final Decree.
21. The Court does, therefore, conclude that the Amended Application should be granted and hereby ORDERS that, subject to the terms and conditions of this decree, (A) the above-described water storage rights for AngelView Lake, AngelView Lake Enlargement, AngelView Pond, AngelView Pond Enlargement, and AngelView Feeder Pond, including the diversion structures for each, are decreed; (B) surface water rights to the Bartlett Gulch Splitter are decreed as described above in Paragraph 10; (C) the augmentation plan is approved as described above in Paragraph 11; and (D) the conditional appropriative rights of substitution and exchange are decreed .
22. Pursuant to section 37-92-304(6), C.R.S., the Court retains jurisdiction to reconsider the question of injury to the vested rights of others with that retained jurisdiction beginning at the signing of this decree and continuing for five years after the date that AngelView provides notice to the parties in this case that it has stored water in the Ponds and is operating under its plan for augmentation. Any party desiring to invoke the Court's retained jurisdiction on the question of injury during that time must file a verified petition with the Court, setting forth with particularity the factual basis upon which the petition is predicated together with proposed decretal language to address the claimed injury. The party lodging the petition shall have the initial burden of proof to establish the facts alleged in the petition. If the Court finds that the petitioner has met its burden, AngelView or its successors shall bear the burden of rebutting the petitioner and/or of proposing a modification to the decree adequate to address the claimed injury. This Court shall also have permanent retained jurisdiction to consider the addition of new augmentation supplies as further described in Paragraph 13.7, above. This Court shall also have permanent retained jurisdiction over the issue of the proper location of the point(s) of diversion of the AngelView Ditch, which Smith-Huynh or their successors or assigns may challenge if the Mediation Settlement is no longer in effect.
23. If AngelView desires to maintain the conditional water rights and appropriative rights of exchange decreed herein, an application for finding of reasonable diligence shall be made on or before the last day of April, 2030, or a showing made on or before such date that said conditional rights have become absolute by reason of completion of the appropriation, or have otherwise been disposed.
24. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water rights decreed herein, the transferee shall file with the Division 2 Water Court a notice of transfer which shall state: (a) the title and

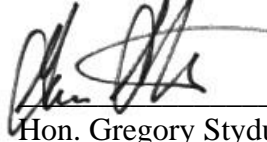
case number of this Case No. 21CW3008; (b) the description of the conditional water right transferred; (c) the name of the transferor; (d) the name and mailing address of the transferee; and (e) a copy of the recorded decree. The owner of said conditional water rights shall also notify the Clerk of the Division 2 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 21CW3008. Further, upon such sale or transfer, the transferee will be subject to the rights and obligations of AngelView as described in this decree.

It is accordingly ORDERED that this Decree shall be filed with the Water Clerk subject to judicial review.

It is further ORDERED that a copy of this Decree shall be filed with the Division Engineer for Water Division No. 2 and with the State Engineer.

Dated this 15th day of April 2024.

BY THE COURT:



Hon. Gregory Styduhar, Water Judge
Water Division 2





Legend

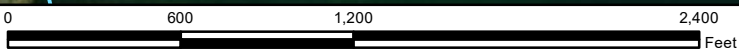
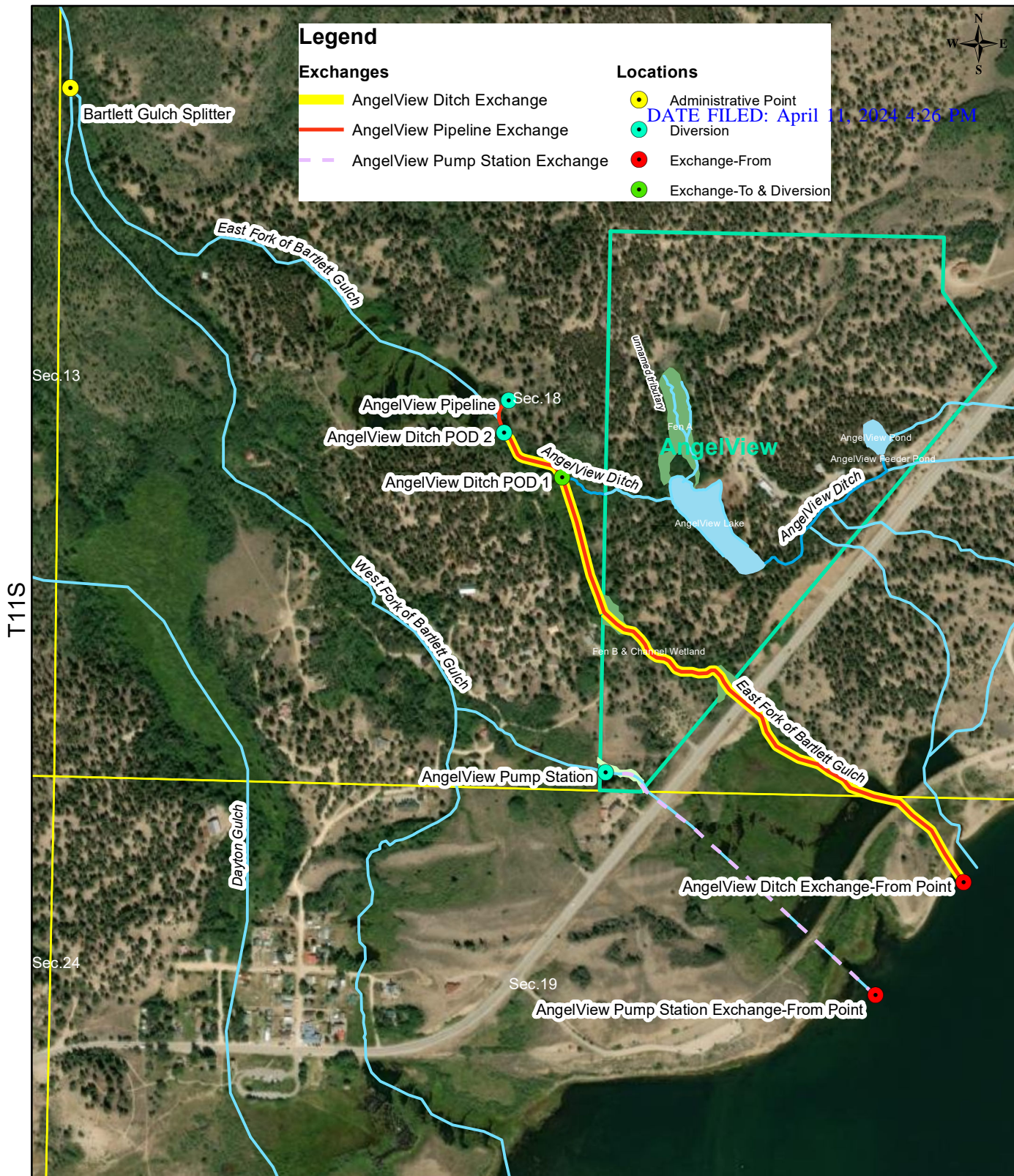
Exchanges

- AngelView Ditch Exchange
- AngelView Pipeline Exchange
- - - AngelView Pump Station Exchange

Locations

- Administrative Point
- Diversion
- Exchange-From
- Exchange-To & Diversion

DATE FILED: April 11, 2024 4:26 PM



Coordinate System: NAD 1983 UTM Zone 13N
 Projection: Transverse Mercator
 Datum: North American 1983
 Scale: 1:8,000

Job No.:	904.3
Date:	7/26/2023
Drawn:	CML
Checked:	

AngelView LLC
 Case No. 21CW3008(A)

Exhibit A
 Site Map



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