

DISTRICT COURT, WATER DIVISION 3, STATE OF COLORADO  
TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS FILED IN  
WATER DIVISION 3.

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume in Water Division 3, containing notice of applications and certain amendments filed in the office of the Water Clerk during the month of August, 2021 for each county affected.

**2020CW22: Amended Application for Change of Water Right in Rio Grande County** Peter D. McCatham; 2011 Embarcadero Court, Belen, NM 87002; 505-864-3386. Decreed water right for which change is sought: Name of structure: Well No. 8-R, Case No. W-3895, Registration No. 3885-RF, WDID 2013611. Date of original and all relevant subsequent decrees: June 28, 1979, Court: District Court, Water Division 3. Legal description of structure: Center SE1/4 Section 15, Township 38 North, Range 8 East, NMPM in Rio Grande County Colorado, GPS location by the Division of Water Resources at UTM NAD83 Zone 13S 404532 mE, 4154778 mN. Decreed source of water: Unconfined Aquifer. The existing well is 51 feet deep. Appropriation date: February 14, 1963. Total amount decreed to structure: 500 gpm = 1.11 cfs. Decreed uses: Irrigation. The location of land to be irrigated was not detailed in the decree. The registration (no. 3885-RF) stated irrigation limited to the SE1/4 Section 15, T38N, R8E, NMPM. Amount of water that applicant intends to change: 500 gpm to a new well location. Detailed description of the proposed change: A replacement well was drilled pursuant to the application pending in case no. 20CW22. However, the completed well did not produce as we hoped for. With this amended application we request to make the new well (permit no 85393-F) a supplemental well to the original (permit no. 3885-RF). The new well has been assigned WDID 2014056 and was completed to a depth of 55 feet. The UTM coordinates of the new well are NW1/4 SE1/4, section 15, Twp 38N, Range 8E, NMPM. New location information: Rio Grande County NW1/4 of the SE1/4, Section 15, Township 38 North, Range 8 East, NMPM. Name and address of owner: Peter D. McCatham; 2011 Embarcadero Court, Belen, NM 87002; 505-864-3386.

**2021CW27: The Jorie S. Scott Living Trust, Application for Change of Water Right, in Rio Grande County.** The Jorie S. Scott Living Trust, Jorie S. Scott, Trustee. 8490 North Highway 285, Center, CO 81125, [ibarsranch@gojade.org](mailto:ibarsranch@gojade.org), 719-754-2508. Decreed water right for which change is sought: Structure name: Well No. Irrigation 5, Case No. W-2551, WDID 2005427, Registration No. 6998-R. Date of original decree: January 22, 1976 Case No. W-2551, Court: District Division 3. Legal description: SW1/4 SE1/4 of Section 20, Township 40 North, Range 8 East, NMPM at a point 145 feet from the South section line and 2670 feet from the West section line in Rio Grande County Colorado. Decreed source of water: Unconfined aquifer. Appropriation date: September 20, 1955. Amount: 1,200 gpm being 2.67 cfs. Use: Irrigation. Amount Applicant intends to change: 1,200 gpm (2.67 cfs). Proposed change: The JORIE S. SCOTT LIVING TRUST, dated October 18, 2004 (Applicant), owns the subject underground water right: Well No. Irrigation 5, Case No. W-2551, WDID 2005427, Registration No. 6998-R (Well No. 5). The existing Well No. 5 is located in the southwest sprinkler corner of the SE1/4 of Section 20, Township 40 North, Range 8 East, NMPM. Permit No. 47688-F was issued by the

Office of the State Engineer on December 16, 1996 for extended use of the existing Well No. 5. The permit allowed the use of the existing well for irrigation of a portion of the historical service area and added commercial use for potato humidification. Permitted limits on future use of Well No. 5 included: • a maximum pumping rate of 1,200 gpm individually and in combination with well no. 25016-F (the pivot well adjudicated as an alternate point of diversion to Well No. 5); • a maximum annual appropriation of 308 acre-feet of which 3.23 acre-feet is limited to potato humidification; • the irrigation of not more than 150.35 acres within the SE1/4 of Section 20, Township 40 North, Range 8 East, NMPM, individually and in combination with well no. 25016-F; • and a statement that the well would be junior to all vested water rights until such time as a change was approved by the Division 3 Water Court. To date, that change was never applied for. This application seeks to confirm the terms and conditions of use of permit no. 47688-F. However, the well cannot produce enough water for the permitted uses. The Applicant requests the right to drill the replacement well anywhere on the southwest corner of the SE1/4 of Section 20, Township 40 North, Range 8 East, NMPM and to a depth not to exceed 100 feet (depth of the confining clay series per the State Engineer) or to the top of the confining clay series, whichever comes first. Note: Well No. 5 is a currently petitioned well in Subdistrict No. 1 of the Rio Grande Water Conservation District. Applicant will install measurement devices as needed to measure separately all water withdrawn from the well for irrigation and commercial uses. Change in or additional point of diversion: N/A - Applicant seeks to confirm the terms and conditions of Permit No. 47688-F and re-drill the well on the same quarter-quarter section on which it is currently located. Name and Address of owner: The Jorie S. Scott Living Trust, Jorie S. Scott, Trustee. 8490 North Highway 285, Center, CO 81125, [lbarsranch@gojade.org](mailto:lbarsranch@gojade.org), 719-754-2508.

**2021CW28: JM Farmland, LLC. Application for Change of Water Right in Rio Grande County.** JM Farmland, LLC; 5500 E. County Road 5 N, Monte Vista, CO 81144; [jimmcculloughfarmsllc@gmail.com](mailto:jimmcculloughfarmsllc@gmail.com). 719-852-2070. Decreed water right for which change is sought: Structure name: Permit No. 5160-F (WDID 2009212, W0510 Well No 03). Date of original decree: October 4, 1973; Case No: W0510; Court: Water Division 3. Legal description: The existing well is located 2160 feet from the North section line and 20 feet from the West section line in the NE1/4 NW1/4 Section 32, Township 40 North, Range 8 East, NMPM, Rio Grande County. Decreed source of water: Unconfined aquifer. Appropriation date: March 23, 1964. Amount: Absolute 1700 gpm. Use: Irrigation. Amount Applicant intends to change: Absolute 50 gpm being .111 cfs. Proposed change: Applicant seeks to remove 50 gpm (0.111 cfs) from W0510 Well No. 3 (Permit 5160-F) - irrigation, and transfer the flowrate and historic consumptive use to well permit no. 85301-F - commercial, located 100 feet from the North section line and 2200 feet from the West section line in the NE1/4 NW1/4 Section 32, Township 40 North, Range 8 East, NMPM, Rio Grande County that also produces from the unconfined aquifer. Applicant intends to use the transferred 50 gpm for commercial use in a potato storage facility, with total storage capacity of 60,000 cwt potatoes along with washing, fluming, and other associated commercial uses. 60,000 cwt for typically 8 months per year along with the necessary washing of the equipment and facility. Estimated consumptive use is  $0.67 \text{ af/yr} \times 8 \text{ mos}/12 \text{ mos} = .45$  acre feet per year for humidification plus 0.55 af/year for washing at the facility for a total of up to 4

acre-feet of annual withdrawal and consumptive use. In order to offset the consumptive use for commercial purposes, Applicant will permanently dry- up the acreage covered by the sprinkler end gun from groundwater use on the NE1/4 NW1/4 Section 32, Township 40 North, Range 8 East. This field is irrigated in conjunction with Rio Grande Canal and Santa Maria shares and 1333-R-R, Well No. 2-R of Case 82CW002 and 5160-F, Well no. 3 of Case W0510. Permit No. 4025-F is also available. The acreage was irrigated by the end gun until 2016, and totals approximately 8.87 acres (75-100 gpm). The dry-up of 8.87 acres will generate approximately 14.19 acre-feet of average annual consumptive use from well water. Applicant will limit future commercial use to not more than 4 acre-feet of consumptive use. All water used for commercial purposes will be metered in accordance with the Division 3 Well Measurement Rules. Applicants will limit the use of groundwater on the NE1/4 NW1/4 Section 32, Township 40 North, Range 8 East to irrigation of the sprinkler area. The surface water rights will continue to be applied to the whole quarter-section for irrigation or recharge purposes. Location information: PLSS legal description: Rio Grande County NE1/4 of the NW1/4 Section 32, Township 40, Range 8, NMPM. Point of diversion UTM coordinates: Easting 400296.6 Northing 4169697.7; Street address: 1214 E. County Road 7 N.; Monte Vista, CO 81144. Source of UTMs: CDSS Map viewer.

**2021CW29: JM Farmland, LLC.; Application for Change of Water Right in Rio Grande County.** JM Farmland, LLC; 5500 E. County Road 5 N.; Monte Vista, CO 81144. [jimmcculloughfarmsllc@gmail.com](mailto:jimmcculloughfarmsllc@gmail.com). 719-852-2070. Decreed water right for which change is sought: Structure name: W-509 Well No. 01, Permit 7043-R, WDID 2009206. Date of original decree: September 4, 1978; Case No.: W-509; Court: Water Division 3. Legal description: Well No. 1 is located by decree at 2310 feet from the South section line and 2625 feet from the East section line in the NW1/4 SE1/4 Section 33, Township 40 North, Range 8 East, NMPM, Rio Grande County. Decreed source of water: Unconfined Aquifer. Appropriation date: December 31, 1934. Amount: Absolute 1400 gpm being 3.12 cfs. Use: Irrigation. Amount Applicant intends to change: 50 gpm being 0.111 cfs. Proposed change: **Dixie Storage** Applicant seeks to move 50 gpm, (0.111 cfs) from W-509 Well No. 01, Permit 7043-R to be utilized for a 240,000 cwt commercial potato storage. The assumed consumptive use factor for potato storage provided by DWR is 0.67 acre-feet per year per 100,000 cwt of storage with 12 months of storage. The use will typically be 8 months per year along with the necessary washing of the facility. Estimated annual consumptive use is:  $0.67 \text{ af/yr} \times 8 \text{ mos}/12 \text{ mos} \times 2.4 \text{ cwt factor} = 1.07 \text{ acre-feet per year}$  for humidification plus 0.21 af/year for washing at the facility for a total of 1.28 acre-feet of consumptive use. The Applicant will retire sufficient historically irrigated acreage within the service area of Well No. 1 to offset the current and future consumptive use of Well No. 1. Applicant will limit future commercial use to not more than 1.28 acre-feet of consumptive use. All water used for commercial purposes will be metered in accordance with the Division 3 Well Measurement Rules. Change in point of diversion: N/A – Applicant to use existing well. Location information: PLSS Legal description: Rio Grande County; NW1/4 of the SE1/4 Section 33, Township 40, Range 8, NMPM. Point of diversion UTM coordinates: Easting 402920.5 Northing 4169396.1 Zone 13. Source of UTMs: CDSS Map viewer.

**2021CW3015; ALAMOSA COUNTY;** Esperanza Farms, LLC c/o Karl Kuenhold, Esq., Law Office of Karl Kuenhold, LLC, 719-589-3688, [karl@kuenholdlaw.com](mailto:karl@kuenholdlaw.com) . APPLICATION FOR A CHANGE OF WATER RIGHTS (REPLACEMENT WELL). *Decreed water rights for changes are sought:* (1) Well No. 3: Orig. Decree: 03/06/1975, Water Division 3, Case No. W-1715. WDID: 2011230. Location: the well is situated in the SW 1/4 NW 1/4 Section 18, Township 36 North, Range 9 East N.M.P.M. at a point 2390 feet from North Section Line and 75 feet from West Section Line, in Alamosa County, Colorado. *Source:* Confined Aquifer. *Appropriation date:* July 31, 1953 *Amounts:* 2000 gallons per minute, being 4.46 cubic feet of water per second of time, being 8.92 acre feet of water in a period of twenty-four hours. *Detailed description of proposed changes:* Applicant seeks a Replacement Well for Well No. 3 at a location in the SW 1/4 of the NW 1/4 of Section 18, Township 36 North, Range 9 East N.M.P.M. on the southeast corner of the reservoir at UTM Easting 408164 Northing 4135823 Zone 13. A Replacement Well is sought because the existing well is failing, and a replacement well is necessary to continue the historic irrigation from this well. The change requested in this application will not result in injury to any water right and will not result in any increase in diversions or consumptive use. The proposed replacement well location is more than 200 feet from the existing well due to the proximity of South County Road 100 (State Highway 371) just west of the well, the proximity of another well and the size of the reservoir that sits in the southwest corner of the SW 1/4 NW 1/4 of Section 18, Township 36 North, Range 9 East N.M.P.M. *Land ownership:* Petitioner owns the real property on which the existing Well No. 3, the proposed replacement well and all the other wells located on the NW 1/4 Section 18, Township 36 North, Range 9 East N.M.P.M.

**2021CW3016 (2007CW54) ORIENT LAND TRUST** P. O. Box 65, Villa Grove, Colorado 81155-0065 (c/o Richard J. Mehren, Joshua B. Boissevain, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302 (303) 443-8782 **APPLICATION FOR FINDING OF REASONABLE DILIGENCE OR TO MAKE ABSOLUTE IN SAGUACHE COUNTY** 1. Name, mailing address, telephone number, and email address of Applicant: Orient Land Trust, Attn: Doug Bishop, Executive Director, P. O. Box 65, Villa Grove, Colorado 81155-0065 2. Description of conditional water right: OLT Hot Springs Creek Exchanges. 2.1 Original decree: The OLT Hot Springs Creek Exchanges were decreed on August 2, 2015 in Case No. 07CW54 in the District Court, Water Division No. 3, as amended by Order of the District Court, Water Division No. 3 on December 7, 2015 (“Case No. 07CW54”). 2.2 Subsequent decrees granting findings of reasonable diligence for the OLT Hot Springs Creek Exchanges: N/A. 2.3 Description of the OLT Hot Springs Creek Exchanges: Out-of-priority depletions from the Everson Ranch Pond (“Pond”) and the Hot Springs Creek Wildlife Oxbows (“Oxbows”), as described in Paragraphs 10.B.i and ii, respectively, of the 07CW54 Decree, may be augmented by operation of the OLT Hot Springs Creek Exchanges with consumptively usable water available under Applicant’s changed Hot Springs Creek Ditch water right delivered to Hot Springs Creek at a downstream location in accordance with the Plan for Augmentation approved in Case No. 07CW54. 2.3.1 OLT Hot Springs Creek Exchanges: 2.3.1.1 Sources of exchange water: Consumptive use credits delivered to Hot Springs Creek under the Hot Springs Creek Ditch

water right changed by the 07CW54 Decree, as described in paragraph 8 of that decree. 2.3.1.2 Legal description of exchange reach: 2.3.1.2.1 Exchange-to point: The upstream most extent of the Oxbows, as described in paragraph 10.B.ii of the 07CW54 Decree. These oxbows are located on Hot Springs Creek in the N1/2 of Section 3 and the S1/2 NE1/4 of Section 4, all in Township 45 North, Range 10 East, N.M.P.M., Saguache County, Colorado. The general locations of the Oxbows are depicted on **Exhibit A**. 2.3.1.2.2 Exchange-from point: The point of diversion of the Hot Springs Creek Ditch from Hot Springs Creek described in Paragraph 8.A.ii of the 07CW54 Decree. Specifically, a point on Hot Springs Creek in the NE1/4 of Section 4, Township 45 North, Range 10 East, N.M.P.M., Saguache County, Colorado, which is approximately 2,400 feet South and 1,100 feet West of the Northeast corner of said Section 4, as decreed in Case No. 88CW8. The Hot Springs Creek Ditch structure has been assigned WDID No. 2500606. 2.4 Date of appropriation: October 17, 2009. 2.5 Rate of exchange: 0.01 cfs, CONDITIONAL. 2.6 Use of exchanged water: Piscatorial, fish and wildlife uses in and around the Oxbows, and recreation, including, without limitation, educational demonstrations, field trips and tours. The uses will be year-round. 3. Detailed outline of work and expenditures toward completion of the appropriation and application of the water to beneficial use: 3.1 Between August 2015 and August 2021 (“Diligence Period”), the Orient Land Trust worked diligently to develop the OLT Hot Springs Creek Exchanges, complete the appropriations, and place the water to beneficial use, as demonstrated by the following representative but non-exhaustive list of activities and expenditures: 3.1.1 During the Diligence Period, Orient Land Trust expended approximately \$1,870 related to operations, repair and maintenance work, including labor and materials on Hot Springs Creek, Everson Ranch Pond, and the Oxbows. The maintenance work on Hot Springs Creek, Everson Ranch Pond, and the Oxbows included, but was not limited to, work to fix leaks from the watercourse, work to remove invasive trees and brush, and work to repair and prevent breeches of the water way. 3.1.2 During the Diligence Period, Orient Land Trust has expended approximately \$763 on legal consulting costs related to development and protection of its water rights, including the OLT Hot Springs Creek Exchanges. Legal activities included, without limitation, evaluating legal questions related to the operation and delivery of the Hot Springs Ditch water right. 4. Claim to make absolute: 4.1 OLT Hot Springs Creek Exchanges: 4.1.1 Dates water diverted in priority and placed to beneficial use: The beginning of the 2010 irrigation season to Present. 4.1.2 Place of beneficial use: The upstream most extent of the Oxbows, as described in Paragraph 2.3.1.2.1, above, and shown on the map attached as **Exhibit A**. 4.1.3 Evidence of in-priority diversion and beneficial use: Once the Pond and Oxbows were full and running water, the plan for augmentation decreed in Case No. 07CW54 began operating. The exchange, which is a component of that plan for augmentation, also began operating at a rate of 0.01 cfs at that time. 4.1.4 Rate claimed as absolute: 0.01 cfs. 4.1.5 Use: All uses described in Paragraph 2.6. 5. Name(s) and address(es) of owner(s) 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: Applicant. Based on the foregoing, the Orient Land Trust respectfully requests the Court to enter a decree (i) granting this Application; (ii) finding that the Orient Land Trust has exercised reasonable diligence in developing and completing the appropriations of the OLT Hot Springs Creek Exchanges during the Diligence Period; and (iii) making the water rights decreed

to the OLT Hot Springs Creek Exchanges fully-absolute as set forth in paragraph 4 above, or in the alternative continuing as conditional any portion of those water rights not made absolute in full force and effect for an additional diligence period.

**2021CW3017 WOLF CREEK SKI CORPORATION**, P.O. Box 2800, Pagosa Springs, CO 81147 (c/o Jennifer M. DiLalla, John E. Peckler, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302 (303) 443-8782) **APPLICATION FOR FINDING OF REASONABLE DILIGENCE AND TO MAKE ABSOLUTE IN MINERAL COUNTY.**

**2. Description of conditional water rights:** The water rights described in this paragraph 2 and in paragraphs 3 and 4 below are referred to collectively as the “Subject Water Rights.”

**2.1 Original decree:** July 21, 2000, Case No. 96CW44, in the District Court for Water Division No. 3.

**2.2 Subsequent decrees awarding findings of diligence and making portions absolute:** March 24, 2008, Case No. 06CW15; August 2, 2015, Case No. 14CW3008; both in the District Court for Water Division No. 3 (“Division 3”).

**2.3 Other relevant decree:** The decree entered in Division 3 Case No. 96CW32 on July 21, 2000, approved an alternate point of diversion for the Ski Area Pipeline as described in paragraph 3.1.2 below.

**2.4 Remark:** Under the terms of the Special Use Permit for Wolf Creek Ski Area accepted and approved on January 16, 1997, Wolf Creek acknowledges and agrees that the Subject Water Rights are jointly owned by Wolf Creek and the United States of America.

**3. Direct-flow and storage water rights:**

**3.1 Legal description of points of diversion:** The approximate locations of the decreed points of diversion and places of storage are shown on the map labeled as **Ex. A.**

**3.1.1 Snowmaking Diversion Point 1 (“Ski Area Pipeline”):** Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap marked A.P. 5, with all bearings contained herein relative thereto; thence South 57° West, 2,340 feet more or less.

**3.1.2 Ski Area Pipeline alternate point of diversion decreed in Case No. 96CW32:** Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap marked A.P. 5, with all bearings contained herein relative thereto; thence South 45° 06' West, 2,750 feet, more or less.

**3.1.3 Snowmaking Diversion Point 2:** Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap marked A.P. 5, with all bearings contained herein relative thereto; thence South 56° West, 3,350 feet more or less.

**3.1.4 Snowmaking Diversion Point 3:** Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap, marked A.P. 5, with all bearings contained herein relative thereto; thence South 03° 46' West, 3,060 feet more or less.

**3.1.5 Snowmaking Water Tank 1:** Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37



to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap, marked A.P. 5, with all bearings contained herein relative thereto; thence South 57° 30' West, 3,020 feet more or less. The as-built location is in the SW1/4 NE1/4 of Section 8, T37N, R2E of the N.M.P.M., in Mineral County, as shown on **Ex. A.** 3.1.6 Snowmaking Water Tank 2: Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap, marked A.P. 5, with all bearings contained herein relative thereto; thence South 57° West, 3,090 feet more or less. 3.1.7 Snowmaking Water Tank 3: Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap, marked A.P. 5, with all bearings contained herein relative thereto; thence South 6° 45' West, 3,080 feet more or less. 3.1.8 Snowmaking Water Tank 4: Commencing at the Northwest corner of Tract 37, T37N, R2E, N.M.P.M., as monumented by a 2-3/8 inch aluminum pipe with cap marked A.P. 4 and considering the West line of said Tract 37 to bear South to the Southwest corner of said Tract 37 as monumented by a 2-3/8 inch pipe with cap, marked A.P. 5, with all bearings contained herein relative thereto; thence South 5° 45' West, 3,050 feet more or less. 3.1.9 Alternate points of diversion: Snowmaking Diversion Points 1, 2, and 3 are decreed as alternate points of diversion for each other. 3.2 Sources: Unnamed tributaries of Pass Creek, a tributary of the South Fork of the Rio Grande River. 3.3 Appropriation dates: 3.3.1 November 18, 1995, for snowmaking use. 3.3.2 September 24, 1996, for commercial, domestic and fire protection uses. 3.4 Amounts: 3.4.1 Ski Area Pipeline: 0.03 cfs absolute and 0.97 cfs conditional for snowmaking; 1.0 cfs conditional for all other purposes. 3.4.2 Snowmaking Diversion Point 2: 1.0 cfs conditional. 3.4.3 Snowmaking Diversion Point 3: 1.0 cfs conditional. 3.4.4 Snowmaking Water Tank 1: 1.534 acre-feet conditional. 3.4.5 Snowmaking Water Tank 2: 1.534 acre-feet conditional. 3.4.6 Snowmaking Water Tank 3: 1.534 acre-feet conditional. 3.4.7 Snowmaking Water Tank 4: 1.534 acre-feet conditional. 3.5 Uses: Snowmaking, commercial, domestic, and fire protection uses at the Wolf Creek Ski Area (“Ski Area”). 3.6 Remark: Wolf Creek intends to file a change of water rights application to correct the decreed location of Snowmaking Water Tank 1, and to combine a portion or all of the decreed volumes of Snowmaking Water Tanks 2, 3, and 4 into a single decreed volume for Snowmaking Water Tank 2, and to change the decreed location of Snowmaking Water Tank 2. 4. Appropriative rights of exchange: 4.1 First appropriative right of exchange: 4.1.1 Legal description: The location of the exchange reach is shown on the map labeled as **Ex. B.** 4.1.1.1 Exchange-from point: The confluence of the Rio Grande and the South Fork in Section 34, T40N, R3E of the N.M.P.M. 4.1.1.2 Exchange-to points: Snowmaking Diversion Points 1-3 and Snowmaking Water Tanks 1-4 as described in paragraphs 3.1.1 through 3.1.8 above. 4.1.2 Source of substitute supply: Subject to accounting for snowmaking depletions and transportation charges and credits assessed by the Division Engineer, up to 2 acre-feet of water in the Rio Grande River made available to Wolf Creek by the San Luis Valley Water Conservancy District (“SLVWCD”). 4.1.3 Use: Replacement of depletions occasioned by the out-of-priority use or storage of tributary waters at the Ski Area for snowmaking, commercial, domestic, and fire protection uses. 4.1.4 Amount: 0.089 cfs absolute; 1.911 cfs conditional. 4.2 Second appropriative right of exchange: 4.2.1 Legal

description: The location of the exchange reach is shown on the map labeled as **Ex. B.** 4.2.1.1 Exchange-from points: Locations of accrual of return flows from snowmaking, commercial, domestic, and fire protection uses at the Ski Area, in Sections 5, 8, and 9, T37N, R2E, N.M.P.M. 4.2.1.2 Exchange-to points: Snowmaking Diversion Points 1-3 and Snowmaking Water Tanks 1-4 as described in paragraphs 3.1.1 through 3.1.8 above. 4.2.2 Source of substitute supply: Return flows from snowmaking, commercial, domestic, and fire protection uses at the Ski Area. 4.2.3 Uses: As described in paragraph 3.5 above. 4.2.4 Amount: 0.089 cfs absolute; 1.911 cfs conditional. 4.3 Combined exchange rate: The maximum combined exchange rate for the First and Second Appropriative Rights of Exchange is 2 cfs. 4.4 Appropriation date: November 18, 1995.

5. Outline of work and expenditures during the diligence period toward completion of the appropriations and application of water to beneficial use: 5.1 The Subject Water Rights are components of Wolf Creek’s integrated water supply system. “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of the water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). 5.2 The diligence period for the Subject Water Rights is August 2015 through August 2021 (“Diligence Period”). During the Diligence Period, Wolf Creek has worked diligently to develop the Subject Water Rights, complete the appropriations, and place the water to beneficial use, as demonstrated by the following representative but non-exhaustive list of activities and expenditures: 5.2.1 Ski Area operations: The Ski Area is located on the Continental Divide in southwestern Colorado, at the headwaters of the South Fork of the Rio Grande. While the Ski Area receives a consistent and generally abundant snowfall (averaging 430" per year), there are nonetheless times when it is necessary to supplement the natural snowfall with artificial snow. The Subject Water Rights are critical components of the snowmaking capabilities that Wolf Creek relies on to operate each ski season. 5.2.2 Ski Area Master Development Plan: In 2015, the United States Forest Service (“USFS”) accepted Wolf Creek’s Master Development Plan (“MDP”) for the San Juan National Forest, including all future proposed projects. (USFS accepted the MDP for the Rio Grande National Forest in 2012, before the beginning of the Diligence Period.) USFS requires all ski areas operating on federal land under a Special Use Permit to have an accepted MDP. The Wolf Creek MDP documented to USFS’s satisfaction that the Subject Water Rights are those needed for snowmaking operations out of Snowmaking Water Tanks 1-5. Wolf Creek spent \$150,000 for planning, engineering, and legal work related to the MDP. 5.2.3 Snowmaking Water Tank 2: In the summer of 2021, Wolf Creek spent \$1,100,000 working on construction of Snowmaking Water Tank 2, along with associated pumps and water line connections. Wolf Creek also spent approximately \$700,000 during the Diligence Period to install the snowmaking pipelines and power lines necessary for use of Tank 2. 5.2.4 Payments to SLVWCD: Wolf Creek paid SLVWCD \$6,950 for replacement water used as the substitute supply described in paragraph 4.1.2 above. 5.2.5 Snowmaking infrastructure: Wolf Creek spent roughly \$195,000 purchasing 6 fan guns for making snow, 2 high-pressure booster pumps, and various power lines and snowmaking hoses to operate the new snowmaking guns. Wolf Creek also spent approximately \$25,000 to purchase and install various filters and pumps related to its snowmaking and water treatment facilities. 5.2.6 Internal controls: In 2016, Wolf Creek adopted internal controls to ensure that Wolf Creek can deliver to the Water Commissioner and SLVWCD timely and accurate information regarding Wolf Creek’s snowmaking operations.



5.2.7 GIS mapping program: To assist with its planning and operations, Wolf Creek spent \$35,00 on a sophisticated GIS mapping program. Wolf Creek pays \$4,000 annually in licensing fees for the program. 6. Claim to make absolute: 6.1 Snowmaking Water Tank 1. 6.1.1 Date water was diverted to storage: Fill began on May 23, 2018, at the rate of 40 gallons per minute, and continued until the tank was full. Snowmaking Water Tank 1 was empty when the fill began. 6.1.2 Amount: 1.534 acre-feet. 6.1.3 Use: Section 37-92-301(4)(e), C.R.S., provides that “a decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure.” Accordingly, the uses claimed as absolute are all decreed uses, as described in paragraph 3.5 above. 6.1.4 Evidence that water was diverted and placed to beneficial use: Consistent with Division of Water Resources Written Instruction 2020-01, Wolf Creek may make absolute a conditional water right diverted out of priority under a decreed plan for augmentation or exchange. Beginning on May 23, 2018, Wolf Creek diverted to storage in Snowmaking Water Tank 1 a total of 1.534 acre-feet under the absolute portion of the decreed exchanges described in paragraph 4 above: 400,000 gallons of recaptured snowmaking return flows and 100,000 gallons of replacement water from the SLVWCD. All 1.534 acre-feet (500,000 gallons) were captured, possessed, and stored in Tank 1 and subsequently put to beneficial use for snowmaking. 6.1.5 Place of beneficial use: The Ski Area. 7. 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: U.S. Forest Service, Rio Grande National Forest, 1803 W. Highway 160, Monte Vista, Colorado, 81144. WHEREFORE, Wolf Creek requests that the Court enter a decree (i) granting this Application; (ii) finding that Wolf Creek has exercised reasonable diligence in developing and completing the appropriations of the Subject Water Rights during the Diligence Period; (iii) making Snowmaking Water Tank 1 fully absolute as described in paragraph 6 above; and (iv) continuing those portions of the Subject Water Rights that remain conditional in full force and effect for six years from the month in which a final decree is entered in this case. (9 pages with 2 exhibits)

**2021CW3018 (2014CW3019, 07CW38, 00CW25, 90CW47) APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN CONEJOS COUNTY**

1. Name, address and telephone number of Applicant: Conejos Water Conservancy District (“District”), P. O. Box 550, Manassa, Colorado 81141, c/o Richard J. Mehren, Joshua B. Boissevain, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 300, Boulder, Colorado 80302 2. Description of conditional water right: Norton Drain Exchange, Closed Basin Project Exchange, and Closed Basin Project Substitution (“Subject Water Rights”). 2.1 Original Decree: The Subject Water Rights were decreed on August 12, 1994 in Case No. 90CW47 in the District Court, Water Division No. 3, as amended by Order of the District Court, Water Division No. 3 on September 5, 1996 (“Case No. 90CW47”). The decree entered in Case No. 90CW47 also determined that a portion of the Closed Basin Project Substitution conditional water right had been made absolute in the amount of 14,471 acre-feet annually. 2.2 Subsequent decrees granting findings of reasonable diligence for the Subject Water Right: 2.2.1 Case No. 00CW25: The decree entered on June 4,

2001 in Case No. 00CW25, District Court, Water Division No. 3: (a) determined that a portion of the Norton Drain Exchange conditional water right had been made absolute in the amount of 140.83 acre-feet and continued in full force and effect the remaining portion of the conditional water right in the amount of 6,859.17 acre-feet; (b) continued in full force and effect the Closed Basin Project Exchange conditional water right in an average amount of 24,000 acre-feet in any 15 consecutive years up to 106,700 acre-feet in any one year; and (c) determined that an additional portion of the Closed Basin Project Substitution conditional water right had been made absolute in the amount of 1,302 acre-feet for a total absolute amount of 15,773 acre-feet and continued in full force and effect the remaining portion of the conditional water right in the amount of 90,927 acre-feet. 2.2.2 Case No. 07CW38: The decree entered on July 28, 2008 in Case No. 07CW38, District Court, Water Division No. 3: (a) reduced the maximum annual volume of the Closed Basin Project Exchange water right from 106,700 acre-feet in any one year to 85,000 acre-feet in any one year; and (b) reduced the maximum annual volume of the Closed Basin Project Substitution water right from 106,700 acre-feet in any one year to 85,000 acre-feet in any one year. The decree continued all of the remaining conditional portions of the Subject Water Rights, subject to the above-stated reductions, in full force and effect. 2.2.3 Case No. 2014CW3019: The decree entered on December 7, 2014 in Case No. 2014CW3019, District Court, Water Division No. 3 continued all of the remaining conditional portions of the Subject Water Rights in full force and effect. 2.3 Norton Drain Exchange: 2.3.1 Location: The downstream terminus of the exchange reach is the confluence of the Conejos River and the Rio Grande near the Los Sauces gauges (two channels), approximately in the SE1/4 of Section 2, and the SW1/4 of Section 13, Township 35 North, Range 11 East, N.M.P.M. The upstream terminus of the exchange reach is Platoro Reservoir located generally in Sections 21, 22, 28 and 29, Township 30 North, Range 4 East, N.M.P.M. 2.3.2 Source: Fifty percent (50%) of amount of water delivered to the upper gauge of the Norton Drain, located approximately in the W1/2 NW1/4 NW1/4 of Section 11, Township 35 North, Range 10 East, N.M.P.M., as decreed in Case No. W-4, Water Division No. 3. Such water is salvaged water and is not subject to claims of prior appropriators in the Rio Grande and Conejos River systems pursuant to the decree in Case No. W-4. 2.3.3 Appropriation date: April 17, 1990. 2.3.4 Amount: 7,000 acre feet annually (6,859.17 acre feet, conditional, and 140.83 acre feet, absolute). 2.3.5 Uses: The uses are the same as those decreed uses in Case No. W-4, and include irrigation, mining, manufacturing, domestic, municipal, recreational, and other purposes. 2.3.6 Remarks: This application does not seek to make any additional amount of the Norton Drain Exchange water right absolute. This application does seek to continue as conditional the entire portion of the Norton Drain Exchange water right that remains conditional. 2.4 Closed Basin Project Exchange: 2.4.1 Location: The downstream terminus of the exchange reach is the confluence of the Conejos River and the Rio Grande near the Los Sauces gauges (two channels), approximately in the SE1/4 of Section 2 and the SW1/4 of Section 13, Township 35 North, Range 11 East, N.M.P.M. The upstream terminus of the exchange reach is Platoro Reservoir located generally in Sections 21, 22, 28 and 29, Township 30 North, Range 4 East, N.M.P.M. 2.4.2 Source: Water delivered from the Closed Basin Project for the benefit of the Conejos River system pursuant to the decree entered in Case No. W-3038, Water Division No. 3. 2.4.3 Appropriation date: July 31, 1963. 2.4.4 Amount: 85,000 acre feet in any one year, conditional, no more than an average of 24,000 acre feet annually in any 15 consecutive years. 2.4.5 Uses: The uses are the same as those decreed uses of the Closed

Basin Project in Case No. W-3038, and include irrigation, domestic, industrial, recreational, fish culture and wildlife uses by exchange and sale, regulation and maintenance of minimum stream flows, and to provide supplemental water to meet Colorado's obligation under the Rio Grande Compact and to accomplish maximum utilization of Colorado's share of Rio Grande waters under the compact. 2.4.6 Remarks: This application does not seek to make any additional amount of the Closed Basin Exchange water right absolute. This application does seek to continue as conditional the entire portion of the Closed Basin Exchange water right that remains conditional. 2.5 Closed Basin Project Substitution: 2.5.1 Structures for which substitution will be made: All surface water rights on the Conejos River system with decreed appropriation dates prior to February 19, 1985, based on applications filed prior to 1986 used for diversion and beneficial use of water within the Rio Grande Water Conservation District. 2.5.2 Source of substituted water: Water delivered from the Closed Basin Project for the benefit of the Conejos River system pursuant to the decree entered in Case No. W-3038, Water Division No. 3. 2.5.3 Appropriation date: July 31, 1963. 2.5.4 Amount: 85,000 acre feet in any one year (15,773 acre feet, absolute, and 69,227 acre-feet, conditional), no more than an average of 24,000 acre feet annually in any 15 consecutive years. 2.5.5 Uses: The proposed uses are the same as the decreed uses of the Closed Basin Project in Case No. W-3038 described above. 2.5.6 Remarks: This application does not seek to make any additional amount of the Closed Basin Project Substitution water right absolute. This application does seek to continue as conditional the entire portion of the Closed Basin Project Substitution water right that remains conditional. 3. Detailed outline of work and expenditures toward completion of the appropriation and application of the water to beneficial use: 3.1 The entire remaining conditional portions of the Subject Water Rights described in paragraph 2, above, that are sought by this application to be continued for an additional diligence period are referred to collectively herein as the "Subject Water Rights." 3.2 The Subject Water Rights all depend upon existing facilities at Platoro Reservoir, the Norton Drain and the Closed Basin Project. No new construction is required. The extent of operation of the Subject Water Rights depend each year on operational decisions made by the District through its Board of Directors and the Colorado Division of Water Resources Division Engineer. These operational decisions depend upon a number of factors that vary from year to year, including administration of the State of Colorado's obligation to meet the Rio Grande Compact. The opportunity to conduct such operations depends upon the variability of the annual production of either the Norton Drain or the Closed Basin Project, the particular year's allocation of Closed Basin Project water to the District, and the potential benefit in that year to be derived from any of the Subject Water Rights when considered together with other operational opportunities of Platoro Reservoir and the Rio Grande Compact. 3.3 Between August 2015 and August 2021 ("Diligence Period"), the District worked diligently to develop the Subject Water Rights, complete the appropriations, and place the water to beneficial use, as demonstrated by the following representative but non-exhaustive list of activities and expenditures: 3.3.1 During the Diligence Period, drought conditions experienced in the Conejos River basin and in the Rio Grande basin have prevented operation of the Subject Water Rights in amounts that exceed the currently decreed absolute amounts. The District intends to continue the operation of the Subject Water Rights in coordination with the Division Engineer as opportunities arise in the future and as deemed prudent for the benefit of water users of the District. 3.3.2 During the Diligence Period, the District spent approximately \$1,596,061.40 in expenditures and grant

funds related to operations, repair and maintenance work, including labor and materials on Platoro Reservoir. The maintenance work on Platoro Reservoir included, but was not limited to, an upgrade to the communication and the controls system. Platoro Reservoir is an integral facility for operation of the Subject Water Rights. 3.3.3 During the Diligence Period, the District continued to evaluate and undertake activities beneficial to its water users related to the District's water rights, including the Subject Water Rights, and the water rights owned by landowners within the District. In particular, the District incurred expenses on four key partnership projects. Under the first project, the District partnered with other water districts in the San Luis Valley to bring a permanent weather radar facility to the San Luis Valley, which will be used to improve streamflow forecasting across the San Luis Valley. Under the second project, the District replaced and automated 3 diversion structures on the Conejos River, the Richfield, the Salazar, and the 6 & 10 headgates; it also created a new gauging mechanism at the bifurcation of the Conejos River and the North Branch of the Conejos River to improve the efficiency and accuracy of Compact water deliveries from the Conejos River basin under low flow conditions. Under the third project, the District worked with weather scientists to both develop and improve weather and streamflow forecasting tools for the Conejos River basin. Finally, under the fourth project the District partnered to create and construct a network of 12 Confined Aquifer monitoring wells to monitor groundwater conditions in the Confined Aquifer, the data from which goes directly to the Division of Water Resources and to the lead developers of the Rio Grande Decision Support System. During this period, the District also began a study investigating the feasibility of constructing additional storage reservoirs in the Conejos River Basin, particularly on the San Antonio River. The District also distributed funds to the Las Mesitas, the Martinez, the Mogote/Northeastern, and the Senicero Ditch Companies to facilitate the replacement of headgates damaged during the high-water events in 2019. 3.3.4 During the Diligence Period, the District expended approximately \$88,837.27 in engineering fees related to statements of opposition it filed to water court applications of others and other work related to protecting and enhancing the District's and its constituents' water rights, including the Subject Water Rights. 3.3.5 To protect and maintain the Subject Water Rights, the District has expended in excess of \$261,111.00 in legal fees during the Diligence Period. These fees have covered activities such as filing statements of opposition to water court applications of others to protect the District's water rights, including the Subject Water Rights, work related to the RGDSS groundwater model, and other general work related to the District's water rights, including the Subject Water Rights. 4. Name(s) and address(es) of owner(s) 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: 4.1 Platoro Reservoir: Bureau of Reclamation, Albuquerque Area Office, 555 Broadway NE, Suite 100, Albuquerque, NM 87102-2352. Based on the foregoing, the Conejos Water Conservancy District respectfully requests the Court to enter a decree (i) granting this Application; (ii) finding that the District has exercised reasonable diligence in developing and completing the appropriations of the Subject Water Rights during the Diligence Period; and (iii) continuing the Subject Water Rights in full force and effect for an additional diligence period.

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.

You are notified that you have until the last day of October 2021, to file with the Water Clerk 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 or a protest to the requested correction. A copy of such a statement of opposition or protest must also be served upon the Applicant or the Applicant's attorney and an affidavit or certificate of such service must be filed with the Water Clerk. The filing fee for the Statement of Opposition is \$192.00. Forms may be obtained from the Water Clerk's Office or our website at [www.courts.state.co.us](http://www.courts.state.co.us). Jennifer Pacheco, Water Clerk, Water Division 3, 8955 Independence Way, Alamosa, CO 81101.