

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of February 2022, for each county affected.

**22CW3005 APPLICATION FOR FINDING OF REASONABLE DILIGENCE IN LA PLATA COUNTY.** 1. Name, address and telephone number of Applicant: Southwestern Water Conservation District; c/o Steve Wolff, General Manager; 841 East Second Avenue, Durango, Colorado 81301; Telephone: (970) 247-1302. Please address all correspondence to: Peggy E. Montano, Esq.; Bennett W. Raley, Esq.; TROUT RALEY; 1120 Lincoln St., Suite 1600, Denver, Colorado, 80203; Telephone: (303) 861-1963; pmontano@troutlaw.com, braley@troutlaw.com. 2. Description of Application: The Application seeks a finding of reasonable diligence as to the Southwestern Water Conservation District Water Rights (“SWCD Water Rights”). 3. Description of Water Rights: The SWCD Water Rights were separated from the water rights decreed to fulfill the purposes of the Animas-La Plata Project (“ALP Project Water Rights”) in Case No. 13CW3011. The SWCD Water Rights remain as conditional rights for irrigation, domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control, and other beneficial uses. The SWCD Water Rights, as described below, are consistent with the terms of the Settlement Agreement entered by SWCD, and filed with the Water Court on November 23, 2015, in Case No. 13CW3011. The SWCD Water Rights consist of the following water rights which are subject to the terms of the Settlement Agreement including but not limited to seasonal limitations, a stipulated priority date and certain provisions concerning the Federal Bypass Requirements: A. La Plata River Direct Flow Water Right. The La Plata River Direct Flow Water Right is decreed for diversion from the La Plata River via the La Plata Diversion Dam and Canal. i. Original Decree: #807-C, (March 21, 1966), District Court, La Plata County, Colorado ii. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court, La Plata County, Colorado. iii. Location of Point of Diversion, aka the La Plata Diversion Dam and Canal: At a point whence the SE corner of Section 7U, T34N, R11W, N.M.P.M., bears S 16° 04' E, 2,150.0 ft. iv. Alternate Point of Diversion: From the SW Corner of Section 13, T34N, R12W, bear N 88° 00' E, 6,100 ft.). v. Source: La Plata River and its tributaries. vi. Appropriation Date: September 3, 1938. vii. Amount: 400.0 cfs., conditional. viii. Uses: Irrigation, domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control, and other beneficial uses. B. Animas River Direct Flow Water Right aka SWCD Teft Water Right. The Animas River Direct Flow Water Right, also referred to as the Animas Diversion Canal - Teft Diversion Dam Water Right, is decreed for diversion from the Animas River via the Teft Diversion Dam. i. Original Decrees: #1751-B (March 21, 1966); #807-C (March 21, 1966), District Court, La Plata County, Colorado ii. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court, La Plata County, Colorado. iii. Source: Animas River and its tributaries iv. Appropriation Date: September 3, 1938. v. Amount: 600 cfs., conditional. SWCD’s diversions for direct delivery and/or storage are limited to the following maximum seasonal amounts: 100 cfs. from April 1 to June 30; 230 cfs. from July 1 to August 31; 260 cfs. from September 1 to March 31. vi. Uses: Irrigation, domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control, and other beneficial uses vii. Location of Point of Diversion: At a point whence the NW corner of Section 1, T38N, R9W, N.M.P.M., bears N 79° 45' W, 11,150.0 ft. viii. Alternate Point of Diversion: Durango Pumping Plant

and Ridges Basin Inlet Conduit, decreed in Case No. 80CW237. ix. Pump Location: From SE Corner of Section 32, T35N, R9W, Bearing N 49°-00' W, 4,200 ft. C. Animas Mountain Reservoir Storage Right. i. Original Decree: #1751-B (March 21, 1966), District Court, La Plata County, Colorado. ii. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court, La Plata County, Colorado. iii. Sources: Falls Creek, Junction Creek, Animas River and its tributaries. iv. Appropriation Date: September 3, 1938. v. Amount: 4,643 acre feet, conditional for the initial storage with the right to fill and refill as described below in paragraph 3.C.ix. vi. Uses: Irrigation, domestic, municipal, industrial, recreation stock, fish and wildlife, flood control, and other beneficial uses. vii. Location: In portions of Sections 28, 29, 32 and 33, T36N, R9W, N.M.P.M., and Sections 4 and 5, T35N, R9W, N.M.P.M. Initial point of survey of the high water line of the Reservoir is located at a point from whence the NW corner of Section 4, T35N, R9W, N.M.P.M., bears N 29° 29' W, a distance of 2,230.0 ft. The axis of Dam No. 1 extends N 9° 17' E, from a point on the right abutment at Station 0+00 from whence the NW corner of Section 4, T35N, R9W, N.M.P.M., bears N 30° 58' W, a distance of 2,430.0 ft. The axis of Dam No. 2 extends S 6° 00' E, from a point on the right abutment at Station 0+00 from whence the NE corner of Section 5, T34N, R9W, N.M.P.M., bears N 72° 57' E, a distance of 3,690.0 ft. viii. Alternate Place of Storage: Ridges Basin Reservoir. Located in portions of Section 6 and 7, T34N, R9W, N.M.P.M. and Sections 1,2,3,4,9,10,11,12, 2U and 3U, T34N, R10W, N.M.P.M., and Section 36, T34N, R10W N.M.P.M. ix. Conditions: Initial storage 4,643 acre feet, annual first fill 4,596 acre feet, and 4,596 acre feet to refill. D. Howardsville Reservoir Storage Right. i. Original Decree: #1751-B (March 21, 1966), District Court, La Plata County, Colorado. ii. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court, La Plata County, Colorado. iii. Source: Animas River and its tributaries. iv. Appropriation Date: September 3, 1938. v. Amount: 24,661 acre feet, conditional for the initial storage with the right to fill and refill as described below in paragraph 3.D.viii. vi. Uses: Irrigation, domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control, and other beneficial uses. vii. Location: About 2 miles upstream from the town of Silverton in an unsurveyed area. Probable projections would place the reservoir in Sections 29, 30, and 31, T42N, R6W; Section 36, T42N, R7W; Section 6, T41N, R6W; Sections 1, 11, 12, T41N, R7W, all N.M.P.M. Initial point of survey of high water line located at a point whence U.S. Mineral Monument Uncle Sam bears S 84° 15' W, 26,300 ft. Axis of dam extends S 15° 08' E, from point on right abutment at Station 0+00, whence U.S. Mineral Monument Uncle Sam, bears N 56° 01' W, 16,400.0 ft. viii. Alternate Place of Storage: Ridges Basin Reservoir. Located in portions of Section 6 and 7, T34N, R9W, N.M.P.M. and Sections 1,2,3,4,9,10,11,12, 2U and 3U, T34N, R10W, N.M.P.M., and Section 36, T34N, R10W N.M.P.M. ix. Conditions: Initial storage 24,661 acre feet, annual first fill 24,614 acre feet, and 24,614 acre feet to refill. E. Hay Gulch Reservoir Storage Right. i. Original Decrees: #1751-B (March 21, 1966); #807-C (March 21, 1966); District Court, La Plata County, Colorado. ii. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court, La Plata County, Colorado. iii. Sources: La Plata River and its tributaries, including but not limited to Hay Gulch, a tributary of the La Plata River, and Animas River and its tributaries. iv. Appropriation Date: September 3, 1938. v. Amount: 14,825 acre feet, conditional for the initial storage with the right to fill and refill as described below in Paragraph 3.E. viii. vi. Uses: Irrigation, domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control, and other beneficial uses. vii. Location: In portions of Sections 6 and 7, T34N, R11W, N.M.P.M.; Sections 1, 2, 3, 11 and 12, T34N, R12W, N.M.P.M.; Section 31, T35N, R11W, N.M.P.M.; Sections 35 and 36, T35N, R12W, N.M.P.M. Initial point of survey of the high water line of the Reservoir is located at a point whence the South Quarter corner of Section 12, T34N, R12W, N.M.P.M., bears S 80° 31' E, a distance of 1,200.0 ft. The axis of Hay Gulch Dam is described as follows: From Station 10+00, a point on the axis of the dam, the South Quarter corner of Section 12, T34N, R12W, N.M.P.M., bears S 86° 58' E, a distance of 3,970.0

ft. and, from said Station 10+00, the axis of the dam bears S 89° 15' E. viii. Conditions: Initial storage 14,825 acre feet, annual first fill 14,785 acre feet, and 7,795 acre feet to refill. F. Red Mesa Canal. i. Original Decrees: #1751-B (March 21, 1966); District Court, La Plata County, Colorado. ii. Sources: Animas River and its tributaries diverted from Animas Diversion Canal. iii. Appropriation Date: September 3, 1938. iv. Amount: 235 cfs, conditional. v. Uses: Irrigation, domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control, stock and other beneficial uses. vi. Location: Water from the Animas Diversion Canal, at a point whence the SW corner of Section 17, T34N, R11W, N.M.P.M. bears S85° 56' W, 575.0 ft. vii. The 235 cfs decreed to the Red Mesa Canal is supplied by and subsumed within the limits of SWCD's Teft Water Right. 4. Detailed Outline of What Has Been Done Toward Completion of Appropriation, Including Expenditures during the Diligence Period: Applicant has exercised reasonable diligence, as described below, in the development of the appropriation of the SWCD Water Rights. A. Applicants expended in excess of \$100,000 during the diligence period on legal, expert and engineering costs toward the development of the SWCD Water Rights, including but not limited to: i. In July 2016, Applicant expended in excess of \$35,000 to sponsor a workshop for SWCD board members, the executive director, experts, legal counsel, tribal members, and other members of the public to discuss the development of the SWCD Water Rights, including using those rights for irrigation in the La Plata River Basin and for compact compliance purposes. Presentations by experts in the technical fields of engineering, permitting, economics and others were made. SWCD incurred additional in-kind costs for SWCD staff time and expenses associated with planning and executing the workshop. ii. In October 2016, SWCD's special counsel conducted a meeting with the Bureau of Reclamation's Area Manager and Reclamation staff to discuss the basis for a federal Warren Act contract. iii. In April 2017, SWCD's executive director, special counsel, and others attended a meeting with the Ute Mountain Ute Tribe to discuss using the SWCD Water Rights jointly with the Tribe in the La Plata River Basin. iv. In January 2019, SWCD and SWCD's special counsel participated in and presented at a scoping meeting with the Ute Mountain Ute Tribal Council. B. SWCD supports programs that help ensure the quality and availability of water that would source the SWCD Water Rights: i. SWCD has expended approximately \$5,000 each year for water quality monitoring at the USGS gage below Silverton. ii. SWCD has expended in excess of \$58,000 annually to support stream gauges on the Animas River, including Cement Creek, Mineral Creek and Hermosa Creek among others. iii. SWCD has expended at least \$2,400 annually to support operations of the Colorado Division of Water Resources satellite monitoring gages on Long Hollow and Cherry Creeks in the La Plata River basin. iv. SWCD has expended approximately \$5,000 each year in support of the Bonita Peak Community Advisory Group who engages with the Environmental Protection Agency over the Superfund site near Silverton. Specifically, these expenditures support data collection and proposals to the EPA regarding Superfund cleanup. v. SWCD has also expended grant funds to support other water quality monitoring efforts in response to the 416 Fire and macroinvertebrate studies on the Animas River. vi. SWCD has expended an average of \$49,000 annually to support the Water Development Committee of the San Juan River Basin Recovery Implementation Program and additional annual estimated staff and consultant costs of \$14,000. vii. SWCD expends an average of \$28,000 annually to support the cloud seeding program to augment the supply of water in the Animas River Basin. C. The SWCD Water Rights have been identified as a component of the San Juan River Basin's future development and SWCD's efforts toward their development have been acknowledged. i. The SWCD Water Rights have been an "Identified Project and Process" in the Southwest Basin Implementation Plan, which is part of Colorado's Water Plan. ii. In August 2016, the La Plata Water Conservancy District acknowledged SWCD's efforts in developing the SWCD Water Rights by letter to the SWCD Board. D. SWCD pursued diligence for its associated exchange project in water court Case No. 20CW3035 and sought to protect the SWCD Water Rights from potentially injurious water court applications: i. The SWCD Water Rights serve as one of the sources of supply for the La Plata Exchange Plan and together are part of an integrated project. SWCD filed a diligence application in Case No. 20CW3035 for the La Plata Exchange Plan and received a finding of diligence in a decree entered March 15th, 2021. ii. SWCD staff and its general counsel reviewed the resume of the water court for Division 7 each month to evaluate whether any applications potentially injured the SWCD Water Rights. E. The Board of Directors for SWCD has expended time and resources discussing the SWCD Water Rights and

incorporating the SWCD Water Rights within SWCD's planning documents: i. SWCD has developed a draft strategic plan to identify SWCD's areas of focus and objectives. The La Plata Exchange Plan and the SWCD Water Rights, among the other rights within the SWCD's water rights portfolio, are a subject of that plan. ii. During the diligence period, SWCD's board of directors discussed the SWCD Water Rights during its board meetings for various issues. iii. The above list is not intended to be all inclusive. SWCD reserves the right, during the proceedings for this application, to provide more detailed information regarding the above-described actions or evidence of other work done and costs incurred over the subject diligence period. 5. Additional Comments: Through this Application, SWCD seeks a decree for diligence for the SWCD Water Rights and to continue these water rights, in their entirety, for an additional diligence period. Any decree entered in this matter will recognize that the SWCD Water Rights are and will continue to be subject to the terms and conditions of the decree entered in Case No. 13CW3011 and the Settlement Agreement referenced therein. (10 pages)

**22CW3006** APPLICATION FOR SIMPLE CHANGE IN SURFACE POINT OF DIVERSION PURSUANT TO § 37-92-305(3.5), C.R.S., in MONTEZUMA COUNTY. 1. Gerald and Carla Koppenhafer ("Applicants") 7388 Road 41, Mancos, CO 81328, [kopp\\_g\\_c@yahoo.com](mailto:kopp_g_c@yahoo.com), (970) 749-0262, Attorneys: John P. Justus, Karoline M. Henning, HOSKIN FARINA & KAMPF, Professional Corporation, 200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502. 2. Decreed water right for which change is sought: The Wattles & Freeman Ditch. a. Name of structure: **The Wattles & Freeman Ditch**. b. Date of original and all relevant subsequent decrees: Decree entered on February 1, 1892, by the District Court in and for Montrose County, Colorado in CA 473; Decree of Adjudication entered in CA 0967 on December 18, 1933, by the District Court in and for the County of Montezuma, and Decree entered in Case No. W-294 on April 20, 1971, by the District Court in and for Water Division No. 7. c. Legal description of structure as described in most recent decree that adjudicated the location: A Headgate located "on the South Bank of Turkey Creek, tributary to the Dolores River, in the NE ¼ of Section 4, T37N, R12W, N.M.P.M., 610 ft. S79°35' E of the N1/4 corner." d. Decreed source of water: Turkey Creek, tributary to the Dolores River. e. Appropriation Date: September 20, 1888. f. Total amount decreed to structure in cubic feet per second (cfs): 3.5 cfs, Absolute. g. Decreed use or uses: Irrigation. h. Amount of water that applicants intend to change: 2.0 cfs, Absolute. 3. Detailed description of proposed change in a surface point of diversion: a. Applicants are the owners of 2.0 cfs, absolute, of the Turkey Creek Priority No. 2 water right decreed to the Wattles & Freeman Ditch for diversion from Turkey Creek, tributary to the Dolores River, as described in paragraph 2 above (the "Subject Water Right"). Applicants propose to change the decreed point of diversion of the Subject Water Right, to a location approximately 3,145 feet downstream to the West of the currently decreed point of diversion. There are no intervening points of inflows from a surface stream or decreed in-stream flows in the affected reach. There are not any "intervening surface diversion point" meaning there will not be any ditch diversion or other point of diversion for a decreed surface water right, point of replacement or point of diversion by exchange that is part of an existing decreed exchange, well or well field that is decreed to operate as a surface diversion. b. Location of the new surface point of diversion: i. Public Land Survey System (PLSS): NE ¼ of the NE ¼ of Section 5, Township 37 North, Range 12 West of the N.M.P.M. ii. Point(s) of Diversion: UTM Zone 13, Easting 217465, Northing 4155239. 4. Name(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion structure, or modification to any existing diversion structure is or will be constructed: Applicants are the owners of the land on which the new point of diversion will be located. (5 pages including exhibit)

**22CW3007 (13CW3011). APPLICATION FOR FINDING OF REASONABLE DILIGENCE FOR CONDITIONAL WATER RIGHTS OF ANIMAS-LA PLATA OPERATION MAINTENANCE AND REPLACEMENT ASSOCIATION.** 1. Name, Address, and Telephone Number of Applicant: Animas-La Plata Operation, Maintenance and Replacement Association, 125 Smelter Place, Durango, Colorado 81303 (970) 385-7140. Please direct all correspondence or inquiries regarding this matter to the attorneys for the Applicant: Carolyn F. Burr, Esq., James M. Noble, Esq., Jens Jensen, Esq.

WELBORN SULLIVAN MECK & TOOLEY, P.C. 1401 Lawrence Street, Suite 1800, Denver, Colorado 80202. Telephone: (303)830-2500. 2. Summary of Application. This application for reasonable diligence concerns the conditional portion of the Animas-La Plata Operation, Maintenance and Replacement Association's ("Association") Animas-La Plata Project direct flow and storage rights, which were decreed to fulfill the purposes of the Animas-La Plata Project ("ALP Project Water Rights"). The Association's ALP Water Rights, originally decreed to the Southwestern Water Conservation District ("SWCD") by the La Plata County District Court in 1966 in Civil Action Nos. 1751-B and 807-C (the "1966 Decrees"), were separated from the water rights retained by the SWCD in Case No. 13CW3011. The ALP Project Water Rights are subject to the terms and conditions contained in the diligence decree entered by the District Court for Water Division No. 7 in Case No. 13CW3011, and the settlement agreement entered by the Association, the Ute Mountain Ute Tribe, the Southern Ute Indian Tribe, the San Juan Water Commission and SWCD attached as Exhibit A to the 13CW3011 Decree. The Association's portion of the ALP Project Water Rights were changed in Case No. 17CW3002, entered on May 16, 2018 by the District Court for Water Division No. 7.

3. Description of Water Rights. The ALP Project Water Rights consist of the following water rights, 3.1. **Animas River Direct Flow Water Right**. The Animas River Direct Flow Water Right, also known as the Teft Water Right, was originally decreed for diversion from the Animas River via the Teft Diversion Dam.

3.1.1. Original Decrees: Civil Action 1751-B and Civil Action 807-C, entered by the La Plata County District Court on Mar. 21, 1966. 3.1.2. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court, La Plata County, Colorado. 3.1.3. Change Decrees: 3.1.3.1. Case No. 80CW237. The Water Court, Water Division No. 7, entered a decree on August 9, 1984 that authorized the Durango Pumping Plant and Ridges Basin Inlet Conduit as an alternate point of diversion for the Teft Water Right. 3.1.3.2. Case No. 17CW3002. The Water Court, Water Division No. 7 entered a decree on May 16, 2018 that authorizes the Association's Teft Water Right to be diverted on a direct flow basis at any point on the Animas River downstream of the Animas River Below the Durango Pumping Plant Gage, including deliveries to the New Mexico state line. 3.1.4. Source: Animas River and its tributaries. 3.1.5. Appropriation Date: Sept. 3, 1938. 3.1.6. Amount: In Case No. 13CW3011, the Association's portion of the Teft Water Right was limited to the following maximum seasonal diversion rates: 3.1.6.1. 500 cfs from April 1 to June 30; 3.1.6.2. 370 cfs from July 1 to August 31; 3.1.6.3. 340 cfs from September 1 to March 31. The 13CW3011 Decree also determined that 287 cfs of the Association's Teft Water Right had been made absolute. This application seeks a finding of reasonable diligence on the 213 cfs of the Association's Teft Water Right that remains conditional. 3.1.7. Uses: Domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control and other beneficial uses as contemplated by the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000, Title III of Pub. L. 106-554 (the "2000 Amendments"). 3.1.8. Locations of Points of Diversion and Alternate Points of Diversion: 3.1.8.1. Teft Diversion Dam: At a point whence the NW corner of Section 1, T38N, R9W, N.M.P.M., bears N 79°45' W, 11,150.0 feet. 3.1.8.2. Durango Pumping Plant and Ridges Basin Inlet Conduit – decreed as an alternate point of diversion in Case No. 80CW237, Water Division No. 7 at a point from the SE corner of Section 32, T35N, R9W bears N 49°00' W, 4,200 feet by means of a pump and pipeline from the Durango Pumping Plant which bears SSW 2,000 feet, West 1,600 feet, WSW 1,100 feet, SSW 1,300 feet, thence WSW 4,600 feet to the point of inlet into Ridges Basin Reservoir a/k/a Lake Nighthorse. 3.1.8.3. Alternate Points of Direct Flow Delivery – decreed in Case No. 17CW3002, Water Division No. 7, at one or more points located at any point on the Animas River downstream of the Below Durango Pumping Plant Gage, including deliveries to the New Mexico state line. 3.2. **Animas River Storage Water Rights**. Pursuant to the 13CW3011 Decree, the Association is entitled to store the following portions of the storage rights originally decreed to the Howardsville, Animas Mountain and Hay Gulch Reservoirs in the 1966 Decrees: 3.2.1. Original Decrees: Civil Action 1751-B and Civil Action 807-C, entered by the La Plata County District Court on Mar. 21, 1966. 3.2.2. Subsequent Diligence Decrees: W-190 (Sept. 15, 1970); W-577 (Aug. 11, 1976); 80CW101 (Aug. 12, 1981); 84CW59 (Nov. 28, 1984); 88CW48 (Sept. 25, 1989); 94CW51 (Aug. 2, 1995); 01CW54 (Nov. 9, 2006); 07CW55 (Jan. 16, 2008); and 13CW3011 (Nov. 10, 2016), all in Division 7 Water Court,

La Plata County, Colorado. 3.2.3. Change Decree: the 80CW237 Decree, described in paragraph 3.1.3.1 above authorized Ridges Basin Reservoir (a.k.a. Lake Nighthorse) as an alternate place of storage for the Howardsville Reservoir, Animas Mountain Reservoir and Hay Gulch Reservoir rights. 3.2.4. Source: Animas River and its tributaries. 3.2.5. Appropriation Date: Sept. 3, 1938. 3.2.6. Amount: 123,541 acre feet initial fill, which includes a dead pool capacity of 8,466 acre feet. Ridges Basin Reservoir is decreed an annual first fill of 115,075 acre feet and an annual refill of 115,075 acre feet. Pursuant to the 13CW3011 Decree, the full amount of the 123,541 acre foot first-fill right have been made absolute. This application seeks a finding of reasonable diligence on the 115,075 acre foot refill right, which remains conditional. 3.2.7. Uses: Domestic, municipal, industrial, recreation, stock, fish and wildlife, flood control and other beneficial uses as contemplated by the 2000 Amendments. 3.2.8. Location of Points of Diversion and Storage: 3.2.8.1. Ridges Basin Reservoir is an off-stream reservoir and is filled by diverting the Association's Teft Water Right at the Durango Pumping Plant and through the Ridges Basin Inlet Conduit, the locations being described in paragraph 3.1.8.2 and 3.1.8.3, above. 3.2.8.2. Ridges Basin Reservoir is located in portions of Sections 6 and 7, T34N, R9W, N.M.P.M., and Sections 1, 2, 3, 4, 9, 10, 11, 12, 2U and 3U, T34N, R10W, N.M.P.M., and Section 36, T35N, R10W, N.M.P.M. 4. Evidence of Reasonable Diligence Towards Completing Appropriations: The following activities undertaken since February of 2016 demonstrate reasonable diligence towards full development of the Teft Water Right and the Animas River Storage Water Rights: 4.1. The Association has delivered 1,074.4 acre feet of water from the reservoir and 7,190 acre feet of water from the river to ALP Project members. 4.2. The Association adjudicated a change of its Teft Water Right in Case No. 17CW3002 to enable it to be used on a direct flow basis and after storage consistent with the original intent of the ALP Project authorization. The Association spent in excess of \$32,000.00 to adjudicate this change of its Teft Water Right. 4.3. The Association spent in excess of \$17,800.00 to participate as an opposer in water rights proceedings in order to protect its ALP Water Rights. 4.4. The Bureau of Reclamation, in coordination with the Association, redesigned, engineered, and rebuilt the intake gates at the Durango Pumping Plant point of diversion over a period of 21 months at a cost of over \$7,000,000.00. The rebuilt gates will enable the Association to maximize diversions of the ALP Project Water Rights as necessary to operate the Project for the benefit of its members. 4.5. The Association coordinated with the Lake Durango Water Authority and the La Plata West Water Authority to construct an outlet from Lake Nighthorse capable of delivering members' ALP Project water to the La Plata basin. The cost of construction of the delivery system was in excess of \$11,000,000.00. 4.6. The Association has worked cooperatively with the City of Durango to bring recreation to Lake Nighthorse. The City of Durango has established numerous recreational amenities, including a swim beach, boat ramp, parking, trails and boat inspection station at Lake Nighthorse. The Association has consulted with Durango, the Bureau of Reclamation, the Colorado Department of Parks and Wildlife, as well as other members of the ALP Project regarding recreation at Lake Nighthorse and has provided in-kind services to facilitate recreational use of the ALP Project. 4.7. In 2021, the Association, in coordination with the San Juan Water Commission and the Division Engineer, performed a test release of water from Lake Nighthorse from March 16-20, 2021. A total of 413.74 acre feet was released and was used beneficially. 4.8. The Association has spent \$8,745,936.00 over the course of the diligence period on operation, maintenance and replacement projects for the ALP Project facilities. The Association also spent an additional \$319,625.00 on pumping costs. 4.9. The Association has participated in funding USGS gages on the Animas River to facilitate water rights administration at a cost of \$8,305.50. The Association will continue to support the maintenance for the USGS 09361500 Animas River at Durango, CO gage. 4.10. The Association has coordinated with the Bureau of Reclamation to complete a weather station and stream flow gage on Basin Creek to better determine Basin Creek inflows into Lake Nighthorse at a cost of \$3,682.00 to the Association, along with providing in-kind assistance in the installation. 5. Names and Addresses of 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. The structures are located on land owned by the Bureau of Reclamation. WHEREFORE, the Association requests that the Court enter a decree finding that the statutory standard of steady application of effort to complete the appropriation in a reasonably expedient and efficient manner

under all the facts and circumstances has been satisfied, that reasonable diligence was performed during the diligence period in development of the conditional portion of the Association's ALP Project Water Rights, being 213 cfs of the Association's Teft Water Right, and the Association's 115,075 acre foot refill right of Ridges Basin Reservoir, that the Association can and will complete diligence on the remaining conditional portion of the Association's ALP Project Water Rights within a reasonable time; and that 213 cfs of the Association's Teft Water Right and the Association's 115,075 acre foot Ridges Basin Reservoir refill right remain conditional. (8 pages)

**22CW3008 Archuleta County**, Application for a Finding of Reasonable Diligence. Applicant, Fawn Gulch, LLC, P.O. Box 81200, Albuquerque, NM 87198. Please direct all correspondence to Amy N. Huff, Colorado Water & Land Law, LLC, 679 E. 2<sup>nd</sup> Ave, Ste 11B, Durango, CO 81301 (970) 403-1770, [amy@waterland-law.com](mailto:amy@waterland-law.com). **Structure: FAWN GULCH LAKE (Reservoir)**. Date of Original Decree: 2/24/2016, Case No.13CW3042, District Court for Water Division No. 7. Description: NW¼ SE¼ S26, T36N, R 1W, NMPM, at a point 1594' from the S Section line and 1349' from the E Section line of said Section 26. UTM: Northing 413252 Easting 330172, Zone 13, NAD 83. Source: Coal Creek, tributary to the San Juan River, and tributaries of Coal Creek upstream of the proposed Fawn Gulch Lake. App Date: 12/31/2013. Amt: 150 AF, Conditional. Uses: Domestic, stock water, piscatorial, firefighting, supplemental irrigation of approximately 500 acres, freshening flows, recreation, and incidental wildlife and aesthetic purposes. Description of what has been done toward completion of the appropriation: During the last diligence period, Applicant worked toward improving the real property at issue and due to several factors, including a limitation on resources, Applicant was unable to construct the Fawn Gulch Lake. Applicant fully intends to construct the structure to hold the water right decreed to the Fawn Gulch Lake as soon as practical. Landowners: Applicant owns the land on which the Fawn Gulch Lake will be constructed. Remarks: Additional details about Applicant's activities and expenditures during the last diligence period will be provided upon request. See application for maps. (5 pages including exhibits)

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 HEREBY NOTIFIED THAT YOU HAVE until the last day of April 2022, 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. A copy of such Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$192.00; Forms are available through the Office of the Water Clerk or on the Judicial web site at [www.courts.state.co.us](http://www.courts.state.co.us); Kandi McCoy, Clerk of Court, 1060 E. 2<sup>nd</sup> Ave., Room 106, Durango, CO 81301; 970-247-2304)

Published: before March 31, 2022

/s/Kandi McCoy  
Clerk of Court