

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 January, 2022 for each county affected.

2022CW1: Darrin Mitchell and Jason Mitchell, 5518 E Road 4N, Monte Vista, CO 81144, darrinmitchell1@gmail.com, jason.mitchell22@hotmail.com, 719-850-2137, 719-588-0977.

Application for Change of Water Right in Rio Grande County. Structure name: A: Well #9, W99; Permit 8565-R, WDID 2006262 (AKA Main Cellar and Office Well) and B: Well #8, W0872; Permit 152171-A; WDID 2009804; (AKA Seed Cellar on Field 14). Date of original decree(s): A: April 14, 1971 B: May 7, 1974 Case No: A: W-99 and B: W0872 both in District Court in and For Division No. 3. State of Colorado. Legal description: A: NW 1/4 of NE 1/4 S13 T39N R8E, NMPM at a point 75 feet from North Section Line and 2655 feet from West Section Line. Rio Grande County. Colorado. B: NE 1/4 of the NE 1/4 Section 18 Township 39 North Range 9 East NMPM at a point 20 Feet from the North section line and 510 Feet from the East Section Line. Decreed source of water: A: Unconfined aquifer and B: Confined aquifer. Appropriation date: A: August 10, 1935 and B: January 10, 1990. Amount: Absolute A: 1600 GPM being 3.56 Cubic ft per second being 7.12 Acre Feet in 24 hours and B: 50 Gallons per minute being 0.111 cubic feet per second being 0.222 acre feet in 24 hours. Decreed uses: A: Irrigation and B: Domestic and stockwater. Amount applicant intends to change: Absolute A and B: 50 GPM. being 0.111 cfs, being 0.222 acre feet in 24 hours. Proposed changes: A. Applicants seek to remove 50 gallons per minute absolute from WDID 2006263; Permit 23572- F; 79CW006 #9A; APD to W-99 #9 (recipient well for this transfer); located at the center of the NE 1/4 S13 T39N R8E NMPM and adjudicated for 1000 GPM from the unconfined aquifer (Decree available for viewing at the Clerk's Office) and transfer the flowrate and historic use to Well #9, W99; Permit 8564-R; WDID 2006262 (AKA Main Cellar and Office Well; Decree attached) located in the NW 1/4 of NE 1/4 S13 T39N R8E, NMPM (see map available at the Clerk's Office). Applicants seek to change the decreed use of the 50 GPM transfer from Irrigation to Commercial use for the humidification of adjacent potato storage facilities and for washing of storages and farm equipment. Currently the storage capacity at this location is 260,000 cwt of potatoes with a maximum consumptive use of $0.67 \times 2.6 = 1.74$ acre feet for humidification and 1.5 acre feet for washing of storage facilities and of farm equipment, a total of 3.24 acre feet. Water use has been metered and reported since 2009 at both wells. Annual diversion records are attached for both the donor well and the recipient well. Consumptive use calculations for this transfer are attached. B: Applicants seek to remove 50 gallons per minute absolute from WDID 2008436; Permit 10997- F; W-99 #10; located in the NW 1/4 of NE 1/4 S13 T39N R8E NMPM and adjudicated for 2400 GPM from the confined aquifer (Decree Attached) and transfer the flowrate and historic use (Confined aquifer portion) to Well #8, W0872; Permit 152171-A; WDID 2009804; Seed Cellar on Field 14 located in the NE 1/4 of the NE 1/4 Section 18 Township 39 North Range 9 East NMPM, also a confined well (See Map). Both wells are currently metered in accordance to Division 3 well metering rules, but there are no records of

diversions for WDID 2009804 as the meter was installed in February of 2021. Diversion Records for WDID 2008346 are attached. Well Meter certification attached for the new meter on WDID 2009804. Applicants seek to change the decreed 50 GPM on WDID 2009804 (Seed Cellar on Field 14) to Commercial from Domestic and Stockwater (WDID 2009804) / Irrigation (2008436) for the humidification of currently 30,000 cwt potato seed cellar in addition to wash water for the cellars and farm equipment. Consumptive use at this location is estimated at a maximum of $0.67 \times 0.3 = 0.201$ Acre feet plus 0.75 acre feet for washing for a total of 0.95 acre feet. Consumptive use calculations are attached for WDID 2008436, the confined irrigation well in the NW of the NE 1/4 S13 T39 N R8E (Field #3). WDID 2008436; Permit 10997-F; W-99 #10; located in the NW 1/4 of NE 1/4 S13 T39N R8E NMPM (the donor well) is perforated in both the confined and the unconfined. Colorado Division of Water Resources calculates that 30% of the water pumped from this well comes from the unconfined, so the calculations provided include diversion records for the confined aquifer withdrawals. In order to offset consumptive use of approximately 4.75 acre feet for commercial purposes at these 2 locations (WDID 2006262 and WDID 2009804), applicants will limit the irrigated acreage on Mitchell Ag Production FLP Field #3 to 140 acres and will permanently dry up 20 acres all 4 corners of the field, located in the NE 1/4 of S13 T39N R8E, NMPM, historically flood irrigated from 1961 to 1976. 20 acres of flood irrigated corners will generate a reduction of 1.42 acre ft/Acre X 20 acres = 28.4 acre feet. Location information: PLSS:

A. Donor Well WDID: 2006263 Legal Description: County Rio Grande	C of the	NE 1/4	Section 13	Township 39 N N or S ☒ ☐	Range 8 E E or W ☒	Principal Meridian New Mexico (NMPM)
A. Recipient Well WDID: 2006262 Legal Description: County Rio Grande	NW 1/4 of the	NE 1/4	Section 13	Township 39 N N or S ☒ ☐	Range 8 E E or W ☒	Principal Meridian New Mexico (NMPM)
B. Donor Well WDID: 2008436 Legal Description: County Rio Grande	NW 1/4 of the	NE 1/4	Section 13	Township 39 N N or S ☒ ☐	Range 8 E E or W ☒	Principal Meridian New Mexico (NMPM)
B. Recipient Well WDID: 2009804 Legal Description: County Alamosa	NE 1/4 of the	NE 1/4	Section 18	Township 39 N N or S	Range 9 E E or W	Principal Meridian New Mexico (NMPM)

UTM Coordinates: A: Donor Well: Easting 407891 Northing 4165138 WDID 2006263
 A: Recipient Well: Easting 407517 Northing 4165542 WDID 2006262 B: Donor Well: Easting 407519 Northing 4165420 WDID 2008436 B: Recipient Well: Easting 409831 Northing 4165524 WDID 2009804. Zone 13. Street address: A: 5500 County Road 4N, Monte Vista, CO 81144, B: 2-1478 Fourmile Lane, Monte Vista, CO 81144. Source of UTM's: A: Handheld Garmin B: RGDSS map. Accuracy of location displayed on GPS device: 10 ft. Names and addresses of owners: Darrin Mitchell 5518 E 4 N, Monte Vista, CO 81144. Jason Mitchell 5518 E 4 N, Monte Vista, CO 81144.

2022CW2: Loren and Rayleen Strahm, 2605 Holt Road, Holtville CA 92250, raystrahm@gmail.com, 760-960-4210. Application for Change of Water Right in Saguache County. Name of structure: Well No. 2 Case No. W-3516, Permit No. 019338-F, WDID No. 2706118. Date of original and all relevant subsequent decrees: November 4, 1976, Court: Division 3. Legal description of structure: SW 1/4 NW 1/4 Section 7, Township 41 North, Range 8 East, NMPM at a point 1700 feet from the North Section line and 100 feet from the West section line in Saguache County. Decreed source of water: Unconfined Aquifer of the Closed Basin. Appropriation Date: May 5, 1975. Total amount decreed to structure: 1800 gpm (being 4.01 cfs) Decreed use or uses: Irrigation of the NW 1/4 Section 7, Township 41 North, Range 8 East, NMPM (160 Acres). Amount of water that applicant intends to change: 1800 gpm. Proposed change: This filing seeks approval to construct a supplemental well to be used in combination with Well No. 2 to irrigate the historically irrigated land within the NW 1/4 Section 7, Township 41 North, Range 8 East, NMPM. The supplemental well will be located near the center of the NW 1/4 Section 7, Township 41 North, Range 8 East, NMPM. There will be no increase to the current limitation on pumping or area of use for Well No. 2. Current limitations are 1,800 gpm for irrigation use on the NW 1/4 Section 7, Township 41 North, Range 8 East, NMPM. The depth of the supplemental well will not exceed 110 feet or the top of the confining clay series. If applicant is correcting the location of a well in an existing decree where the actual location of the well is more than 200 feet from the decreed location, or drilling a replacement well more than 200 feet from the decreed location, provide legal descriptions of decreed location and actual or new location of well. This application is to obtain a supplemental well to Well No. 2, Case No. W-3516. If a change in point of diversion, provide legal descriptions of decreed location and actual or new location of structure: See above. Name and address of owners: Loren and Rayleen Strahm, 2605 Holt Road, Holtville, CA 92250. raystrahm@gmail.com. 760-960-4210.

2022CW3000, Applicant: Kunugi Farms, Inc. (“Applicant”) c/o Alvin Kunugi, 29169 County Rd 16, Blanca, CO 81123. (719) 580 5310. Please send all future correspondence and pleadings connected herewith being sent to Applicant’s counsel: Brad Grasmick and Ryan Donovan, Lawrence Custer Grasmick Jones & Donovan, LLP, 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO 80534, (970) 622-8181. **APPLICATION FOR CHANGE OF WATER RIGHT** in Costilla and Alamosa Counties. 2. **Water Rights to be Changed:** 2.1. W1472 Well No. 2 (“Well 2”). 2.1.1. *Prior Decree:* W-1472, Water Division 3, January 8, 1976. 2.1.2. *Location:* NW 1/4 SW 1/4 of Section 20, Township 30 South, Range 72 West, 6th P.M., at a point 2600 feet from South section line and 1300 feet from West Section line, in Costilla County. 2.1.3. *Source:* Unconfined aquifer. 2.1.4. *Appropriation Date:* March 27, 1953. 2.1.5. *Amounts:* 1200 gallons per minute (g.p.m.) or 2.67 cubic feet per second (c.f.s.). 2.1.6. *Decreed Use:* Irrigation. 2.1.7. *Permit/Registration No.:* 12052-R. 2.1.8. *WDID:* 3505368. 2.1.9. *Detailed Description of Requested Change in Use:* Applicant owns and operates commercial potato storage facilities which include humidification. Such facilities are located in the (i) SE 1/4 SE 1/4 of Section 6, Township 31 South, Range 72 West of the 6th P.M. (Refrigerated and Divided Storage) and (ii) SE 1/4 SE 1/4 of Section 24, Township 30 South, Range 73 West of the 6th P.M. (Seed Storage). Applicant requests approval to change the use of Well No. 2 from irrigation to irrigation and commercial associated with the potato storage humidification and cooling. The amount of water historically consumed by Well No. 2 and not applied to the commercial uses will continue to be used for irrigation. 2.2. W1969 Well No. 12 (“Well 12”). 2.2.1. *Prior Decree:* W-1969, Water Division 3,

July 1, 1976. 2.2.2. *Location*: NE 1/4 NE 1/4 of Section 14, Township 37 North, Range 12 East, NMPM, at a point 300 feet from North section and 150 feet from East section line, in Alamosa County. 2.2.3. *Source*: Confined aquifer. 2.2.4. *Appropriation Date*: March 5, 1948. 2.2.5. *Amounts*: 1250 g.p.m., or 2.78 c.f.s. 2.2.6. *Decreed Use*: Irrigation. 2.2.7 *Permit/Registration No.*: 22260-F. 2.2.8 *WDID*: 3505412. 2.2.9. *Detailed Description of Requested Change in Use*: Applicant owns and operates a commercial potato storage facility which includes humidification located in the NE 1/4 NE 1/4 of Section 14, Township 37 North, Range 12 East NMPM (Mumm Storage). Applicant requests approval to change the use of Well No. 12 from irrigation to irrigation and commercial associated with potato storage humidification and cooling. The amount of water historically consumed by Well No. 12 and not applied to the commercial uses will continue to be used for irrigation. 3.1. **Remarks**: 3.1 Well No. 2 and Well No. 12 are within the Trinchera Response Area and the Trinchera Subdistrict boundaries. Applicant will enter into a contract with the Groundwater Management Subdistrict of the Trinchera Water Conservancy District for the commercial uses claimed in this Application. The irrigation use associated with Well No. 2 and Well No. 12 have already been petitioned into the Subdistrict. 3.2 Applicant's engineering consultant, Agro Engineering, has conducted a historical use analysis associated with the irrigation use of Well No. 2 and Well No. 12, as well as a water demand analysis for the commercial uses claimed herein. 3.2.1. Agro calculates the historical consumptive use of Well No. 2 to be 82.65 acre-feet per year, and further estimates that 2.45 acre-feet of such historical consumptive use will be needed for the commercial uses associated with Well No. 2. Diversion for commercial uses will be limited to 2.95 acre-ft. After approval of the change in use claimed herein, Applicant will limit the diversions and consumptive use for the irrigation water right from Well No. 2 to 93.61 acre-feet and 80.2 acre-feet, respectively, assuming an 83% efficiency factor. 3.2.2. Agro calculates the historical consumptive use of Well No. 12 to be 411.81 acre-feet per year, and further estimates that 1.06 acre-feet of such historical consumptive use will be needed for the commercial uses associated with Well No. 12. Diversion for commercial uses will be limited to 1.25 acre-ft. After approval of the change in use claimed herein, Applicant will limit the diversions and consumptive use for the irrigation water right from Well No. 12 to 494.88 acre-feet and 410.75 acre-feet, respectively, assuming an 83% efficiency factor. 3.2.3. The values provided in this paragraph are estimates and subject to change. Applicant shall not be required to republish this Application by reason of changes to the values provided in this paragraph. 3.3 All wells will be equipped with a totalizing flow meter. 4. **Name and Address of Owners of Structures**: Well No. 2 and Well No. 12 and the other structures referenced in this Application are owned by Applicant. This application consists of five pages.

2022CW3001: CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE RIO GRANDE WATER CONSERVATION DISTRICT IN ALAMOSA COUNTY, COLORADO. 1. Name, mailing address, and telephone number of Applicant: Rio Grande Water Conservation District, c/o Cleave Simpson, General Manager, 8805 Independence Way, Alamosa, Colorado 81101, Telephone: 719-589-6301; c/o David W. Robbins, Esq., Peter J. Ampe, Esq., Matthew A. Montgomery, Esq., Hill & Robbins, P.C., 1660 Lincoln Street, Suite 2720, Denver, Colorado 80264, Telephone (303) 296-8100. APPLICATION FOR FINDING OF DILIGENCE. 2. **Name of Structure:** San Luis Lake. 3. **Describe conditional water right, as to each structure, giving the following from the Referee's Ruling and Judgment and Decree:** A. Date of Original Decree: May 12, 1989. B. Case No.: 08CW18 (02CW3 95CW17; 87CW14). C. Court: Water Referee, Water Division 3, State of Colorado. D. Location: 1. A natural lake located in portions

of Sections 25, 26, 35, and 36, T40N, R11E, of the N.M.P.M. within Alamosa County. The northwest corner of Section 19, T. 40 N., R. 12 E., bears N 44°56'55" E, a distance of 10,261.42 feet from the inlet of said lake and N 30°44'18" E, a distance of 15,764.45 feet from the outlet. 2. San Luis Lake is an off-channel reservoir. The following described structures, having points of diversion on the Main Conveyance Channel for the Closed Basin Project may be used to fill San Luis Lake: a. San Luis Lake Feeder Canal, which has a capacity of 135 cfs, is located on a parcel of land in SW1/4 of Section 26, T40N, R11E, N.M.P.M., Alamosa County, Colorado, being more particularly described as follows: Beginning with a strip of land 400 feet wide having a uniform width of 200 feet on each side of the following described centerline: Beginning at a point whence the NW corner of Section 26 bears N 01°59' W, 1,325.5 feet, N 35°26' W 2,385.5 feet, and N 01°59' W, 1,325.5 feet; thence S 83°34'07" E 1,194 feet; thence continuing S 83°34'07" E, with a strip of land 160 feet wide with a uniform width of 80 feet on each side of centerline, 815 feet; thence N 67°33'26" E, 37.99 feet; thence N 67°33'26" E, with a strip of land 80 feet wide with a uniform width of 40 feet on each side of centerline, 116 feet to San Luis Lake. b. Head Lake Pipeline, which has capacity of 10 cfs, is located on a parcel of land in Section 15, T40N., R11E., N.M.P.M., Alamosa County, Colorado, being more particularly described as follows: A strip of land 80 feet wide with a uniform width of 40 feet on each side of the following described centerline: Beginning at a point whence the W1/4 corner of Section 15 bears N 45°34' W, 975.53 feet and N 00°19' E, 1349.3 feet; thence N 61°13'47" E, 3,831.64 feet. E. Source: The tributary ground water produced by the Closed Basin Project and transported via the Main Conveyance Channel and the San Luis Lake Feeder Canal and/or the Head Lake Pipeline. F. Appropriation Date: November 25, 1986. G. Amount: 130 cfs (12,655 acre-feet annually), of which 30.5 cfs (5,762.7 acre-feet annually) has been made absolute, with 99.5 cfs (6902.3 acre-feet annually) remaining conditional. H. Use: All uses specified in the decree of this Court in Case No. W-3038, being the decree for the Closed Basin Project. Such uses include, but are not limited to, irrigation, domestic, industrial, recreational, fish culture, and wildlife uses by exchange and sale. I. Depth (if well): N/A. 4/ **Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** A. During the diligence period, the San Luis Lake has been operated as a feature of the Closed Basin Project. Operation of the San Luis Lake occurred in cooperation with Colorado Parks and Wildlife and the U.S. Bureau of Reclamation. Because of the ongoing drought, insufficient water has been produced from the Closed Basin Project to make additional amounts of the water rights herein absolute. B. During the diligence period, the Applicant has coordinated efforts with the U.S. Bureau of Reclamation and the Colorado Parks and Wildlife utilizing a joint operating plan for the Lake that was developed by these agencies. Additional efforts include improvements to the campground at San Luis Lake as well to manage streamflow for the benefit of wetlands around the lake. C. During the diligence period, the Applicant has spent in excess of \$50,000.00 on administrative, engineering, and legal expenses associated with activities related to the Lake and its storage facilities. D. The Lake and its appurtenant facilities were constructed and additional storage therein is dependent upon hydrologic conditions beyond the Applicant's control. In consideration of the foregoing activities directed to the diligent operation of the San Luis Lake as a feature of the Closed Basin Water Salvage Project, the Applicant respectfully

requests that the Court enter a judgment and decree finding that the Applicant has exercised reasonable diligence in the development of the conditional water right for San Luis Lake.

2022CW3002 (90CW45, 00CW20, 09CW021); ALAMOSA, CONEJOS, COSTILLA, HINSDALE, MINERAL, RIO GRANDE, SAGUACHE, AND SAN JUAN COUNTIES; RIO GRANDE WATER USERS ASSOCIATION c/o Mason H. Brown and Sarah B. Wiedemann, Carlson, Hammond & Paddock, L.L.C., 1900 N. Grant Street, Suite 1200, Denver, Colorado 80203; 303-861-9000, mbrown@chp-law.com, swiedemann@chp-law.com. APPLICATION FOR FINDING OF REASONABLE DILIGENCE. **I. Name, mailing address, email address, and home telephone number of applicant(s):** Rio Grande Water Users Association (“RGWUA”), Greg Higel, President, P.O. Box 288, Monte Vista, Colorado 81144, greg.higel@gmail.com, pleasant@gojade.org, (719) 852-3556. **II. Name of structure:** Closed Basin Project outfall. The appropriative right of substitution that is the subject of this application operates on the Rio Grande both upstream and downstream from the Closed Basin Project’s outfall where water is delivered to the Rio Grande. **III. Describe conditional water right:** A. Date of Original Decree: August 12, 1994. Case No. 90CW45, District Court, Water Division No. 3. B. Subsequent decrees awarding findings of diligence: Case No. 00CW20, entered August 18, 2003; Case No 09CW021, Amended Decree entered January 28, 2016. **IV. Legal description:** A. The outfall of the Main Conveyance Channel of the Closed Basin Project is located on the east side of the Rio Grande in Alamosa County, at a point whence the northeast corner of Section 16, Township 36 North, Range 11 East, N.M.P.M. bears north 60° east 900 feet. B. The downstream segment of the substitution operates from the outfall of the Main Conveyance Channel, downstream to the Colorado-New Mexico state line as measured by the Rio Grande Compact gaging station currently located near Lobatos, Colorado. C. The upstream segment of the substitution operates from outfall of the Main Conveyance Channel upstream to the headwaters of the Rio Grande in Township 40 North, Range 6 West of the N.M.P.M, and each of its tributaries except Trinchera Creek, La Jara Creek, and the Alamosa River. Surface water rights diverting from drains in the Alamosa River and La Jara Creek basins, which drains normally flow to the Rio Grande, are also entitled to participate in the appropriative right of substitution. **V. Source of water:** The structure providing the substitute water supply is the Closed Basin Project (the “CBP”), originally decreed in this Court’s Case No. W-3038, dated April 21, 1980, for a maximum withdrawal of 117,000 acre-feet, with a total maximum pumping rate of 277 c.f.s. On May 23, 2003, in Case No. 02CW4, this Court entered a ruling determining that an additional portion of the conditional water right had been made absolute, making a total of 43,520 acre-feet absolute. The Court also recognized that the Rio Grande Water Conservation District voluntarily abandoned 32,000 acre-feet of its conditional water right. The Court continued in full force and effect the remaining portion of the conditional water right in the amount of 41,480 acre-feet. On August 2, 2016, in Case No. 2014CW3022, the Court found that the Rio Grande Water Conservation District had exercised reasonable diligence in the development of the remaining conditional water right for the CBP and continued its conditional water rights for an additional six years. As a result, the CBP water right is decreed for a total of 85,000 acre-feet per year at a rate of 277 c.f.s; 43,520 acre-feet absolute and 41,480 acre-feet conditional. **VI. Appropriation Date:** July 31, 1963. **VII. Amount:** A. In its prior decrees this court has made the RGWUA’s appropriative right of substitution absolute in the annual amount of 31,198 acre-feet, with an absolute downstream substitution rate of 69.6 c.f.s., and an

absolute upstream rate of substitution of 269 c.f.s. By this application the RGWUA seeks a finding that it has been reasonably diligent in the development of the following remaining conditional amounts: 1. Annual volume: 43,502 acre-feet conditional; 2. Downstream segment flow rate: 207.4 c.f.s. conditional; and 3. Upstream segment flow rate: 2,731 c.f.s. conditional. **B. Use:** The appropriative right of substitution makes water available to surface water rights that (1) are within both the Rio Grande Water Conservation District and divert in former Water District 20; (2) are decreed pursuant to applications filed prior to February 19, 1985; and (3) divert water from the Rio Grande and its tributaries (except the Alamosa River, La Jara Creek, and Trinchera Creek) on which surface water rights are subject to Compact administration. Surface water rights diverting from drains in the Alamosa River and La Jara Creek basins, which drains normally flow to the Rio Grande, are also entitled to participate in the appropriative right of substitution. These water rights are collectively referred to as the “Benefitted Water Rights.” The particular water rights that are benefitted depend upon the extent to which the substituted water supply reduces Compact curtailment on the Rio Grande, the manner of Compact administration by the state water officials, the then-existing stream flows, and the surface water rights lawfully entitled to divert as a result of a reduction in Compact curtailment. For general reference, the Benefitted Water Rights are included in the State Engineer’s Tabulation of Water Rights for Water District No. 20, Division 3, prepared pursuant to C.R.S. § 37-92-401 et seq., which is incorporated herein by this reference. The place of beneficial use is the land served by the Benefitted Water Rights. A map of the total irrigated acreage in the Rio Grande Basin is attached hereto as Exhibit A. The lands proposed to be irrigated in relation to this conditional appropriative right of substitution are those served by the Benefitted Water Rights. **VIII. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures:** A. The RGWUA worked to exercise the appropriative right of substitution to the greatest extent feasible under the existing conditions. A representative of the RGWUA participated in the Allocation Committee meetings where CBP production was discussed and allocated annually between the Rio Grande and Conejos River. The owners of the Benefitted Water Rights paid property taxes to the Rio Grande Water Conservation District, the local sponsor of the CBP. B. The RGWUA Board of Directors and its members met regularly and discussed with the Division Engineer river administration, including Compact curtailment. Annual goals were established for Compact deliveries and decisions were made about the amount of water that would be available to the Rio Grande from the Project. The quantity of Project water anticipated to be available was applied into the Rio Grande’s estimated annual delivery requirement under the Compact. The needed curtailment of water rights on the Rio Grande was then reduced to account for the substitute supply made available from the Project and Benefitted Water Rights were able to divert in priority the additional water made available thereby. C. For purposes of intrastate accounting, the RGWUA allocated a portion of its share of the CBP production as a credit to offset well depletions that deplete the flows of the Rio Grande under plans of water management of Groundwater Management Subdistricts in Water Division No. 3. This use of CBP production “serves a dual purpose of replacing injurious depletions and meeting Compact obligations. In other words, Closed Basin Project water can simultaneously replace water diverted out of priority and meet Colorado’s obligations under the Rio Grande Compact.” *San Antonio, Los Pinos and Conejos River Acequia Preservation Association et al., v. Special Improvement District*

No. 1 of The Rio Grande Water Conservation District, 351 P.3d 1112, 1123 (Colo. 2015). Crediting CBP production to offset well depletions does not diminish the operation of the appropriative right of substitution nor reduce the benefit received by the Benefitted Water Rights.

D. The ability to exercise the appropriative right of substitution and the amount of water beneficially used depends, in large part, on (1) the annual yield of the CBP pursuant to Section 104(b)(1) of the Reclamation Project Authorization Act of 1972 (as amended), (2) the Rio Grande's separate delivery obligation under Article III of the Compact, and (3) the timing and duration of flow into the Rio Grande and its tributaries in former Water District No. 20. Each of these factors is largely beyond the control of the RGWUA. The plan of substitution was carried out to the full extent of the Project water available each year. This practice increased the amount of water available for in-priority diversions by the Benefitted Water Rights.

E. During the Diligence Period (January 2015 to January 2022), the following amounts of water were available to and used as the Rio Grande's share of CBP production: 2015 – 4,056 acre-feet; 2016 – 4,247 acre-feet; 2017 – 4,728 acre-feet; 2018 – 3,934 acre-feet; 2019 – 4,307 acre-feet; 2020 – 4,208 acre-feet; 2021 – 5,079 acre-feet. During the diligence period the amount of CBP production was not sufficient to allow additional portions of the conditional water right to be made absolute.

F. During the Diligence Period, the RGWUA has acted to preserve and protect its water rights and the water rights of its members by filing statements of opposition to water rights applications and participating in numerous other judicial proceedings in Water Division 3, including the trial on the protests to the 2015 groundwater regulations of the State Engineer. The RGWUA have also undertaken engineering studies of water rights administration, continued their work with the Division of Water Resources on the RGDSS groundwater model, and work to assist in the formation and operation of groundwater management subdistricts responsible for replacement injurious stream depletions to the Rio Grande.

G. The work performed and actions taken by the RGWUA during the Diligence Period demonstrate the RGWUA's continuing intent to develop the conditional rights originally decreed in Case No. 90CW45. Applicant has shown that it can and will beneficially use the conditional appropriative right of substitution, and that the conditional water rights can and will be completed and exercised with diligence and within a reasonable time.

IX. Names(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. Not Applicable.

X. Remarks or any other pertinent information: The RGWUA requests that the Court find that it has exercised reasonable diligence in developing and implementing the conditional appropriative right of substitution originally decreed in Case No. 90CW45 and that it is entitled to a decree continuing the conditional rights in good standing and fixing a date when the next application for a finding of reasonable diligence is required to ' 37-92-301(4), C.R.S.

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 March 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 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. Jennifer Pacheco, Water Clerk, Water Division 3, 8955 Independence Way, Alamosa, CO 81101.