

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 September, 2021 for each county affected.

10CW36 SAGUACHE COUNTY. Second Amendment to Application. Applicant: Timothy N. Lovato and Lori S. Lovato, PO Box 268, Saguache, Colorado 81149, (719)655-2563. Attorney: Law Office of John D. Buchanan 2806 N Speer Blvd, Denver, Colorado 80211, (720)413-2773.

2. Summary of amendments to application. The application is being amended to add the replacement water sources for depletions to the Rio Grande and San Luis Creek, as set forth in paragraph five, and to add the Russell Ditch No. 2 water right to the determination requested in paragraph eight. CHANGE OF WATER RIGHTS. 3. Decreed water rights for which change is sought. 3.1. Russell Company Ditch Water Right. 3.1.1. Name of Structure. Russell Company Ditch. 3.1.2. Date of original and all relevant subsequent decrees. Final decree entered on November 23, 1889 by the District Court for Saguache County in the proceedings captioned as *In the Matter of a Certain Petition for the Adjudication of the Priority of Rights to the Use of Water for Irrigation in Water District No. 26* (“1889 Decree”); decree entered on February 1, 1917 in Case No. 288 by the District Court for Saguache County; and the decree entered on September 15, 2014 in this Case No. 10CW36 (“10CW36 Decree”). 3.1.3. Legal description of point of diversion. SW 1/4 of the SW 1/4 of the SE 1/4, Section 12, Township 44 North, Range 7 East, NMPM in Saguache County, Colorado. The GPS location of the headgate is UTM, NAD 83, Zone 13S, at 399050 mE and 4214562 mN (the “Russell Company Ditch Headgate”). 3.1.4. Decreed source of water. Saguache Creek. 3.1.5. Appropriation Dates. May 1, 1869. 3.1.6. Amount. 0.60 cfs. 3.1.7. Use. Irrigation. 3.2. Russell Ditch No. 1 Water Right. 3.2.1. Name of Structure. Russell Ditch No. 1. 3.2.2. Date of original and all relevant subsequent decrees. The 1889 Decree and 10CW36 Decree. 3.2.3. Legal description of point of diversion. The Russell Company Ditch Headgate. 3.2.4. Decreed source of water. Saguache Creek. 3.2.5. Appropriation Dates. April 1, 1874. 3.2.6. Amount. 5.20 cfs. 3.2.7. Use. Irrigation. 3.3. Russell Ditch No. 2 Water Right. 3.3.1. Name of Structure. Russell Ditch No. 2. 3.3.2. Date of original and all relevant subsequent decrees. The 1889 Decree and 10CW36 Decree. 3.3.3. Legal description of structure as described in most recent decree that adjudicated the location. The Russell Company Ditch Headgate. 3.3.4. Decreed source of water. Saguache Creek. 3.3.5. Appropriation Dates. May 1, 1874. 3.3.6. Amount. 3 cfs. 3.3.7. Use. Irrigation. 3.4. Detailed description of proposed change. 3.4.1. Historical Use of the Water Rights. Maps showing the approximate location of the historical use of the water rights are attached as Exhibit A. 3.4.2. Change of Use. Applicants seek to change the use of the water rights to include, in addition to the currently decreed irrigation use, augmentation and replacement, directly and/or by exchange and recharge, and/or following storage with the right to fully consume the consumable portion of the water. 3.4.3. Plan of Operation. Applicants will use the Rio Grande Decision Support System ground water model (“RGDSS Model”) to calculate the amount, timing, and location of depletions associated with withdrawals of ground water from the well described below in the Augmentation Plan

section. Applicants will change all or portions of the Replacement Water Rights in an amount sufficient to ensure that the available fully consumable portion of water is sufficient to replace Applicants' well depletions. Applicants shall replace depletions either by delivering the fully consumable water to recharge ponds or by direct release to the stream, including after storage and/or by exchange. 3.4.4. Return Flows. Applicants shall replace historic return flows either by delivering the fully consumable water to recharge ponds or by direct release to the stream, including after storage and/or by exchange, or through continued application of any water not needed for augmentation to the historic irrigation uses. AUGMENTATION PLAN. 4. Names of structure to be augmented. 4.1. Well Permit No. 25755-F. 4.1.1. Decree. Well No. 3, Case No. W-1241, Water Division 3. 4.1.2. Permitted Location of Well. NW 1/4 SE 1/4 Section 13, Township 44 North, Range 7 East, NMPM at a point 2600 feet from the East Section line and 2600 feet from the South Section line. 4.1.3. Appropriation Date. March 31, 1952. 4.1.4. Amount. 250 gpm. 4.1.5. Source. Unconfined Aquifer. 4.1.6. Decreed uses. Stockwater and irrigation. 5. Water rights to be used for augmentation. 5.1. Depletions on Saguache Creek will be replaced using the water rights identified in paragraph three of this application and any other water rights lawfully available for such use. 5.2. Depletions on the Rio Grande will be replaced through a lease with the Santa Maria Reservoir Company using the water rights adjudicated in Case No. 13CW3002, Water Division 3, and any other water rights lawfully available for such use. 5.3. Depletions on San Luis Creek will be replaced through a lease with the Special Improvement Subdistrict No. 4 of the Rio Grande Water Conservation District using the water rights described in the Subdistrict's 2021 Annual Replacement Plan Approval, available at [https://dnrftp.state.co.us/#/DWR/Division\\_3/Annual\\_Replacement\\_Plans/Subdistrict%204%20ARP/Plan%20Year%202021/](https://dnrftp.state.co.us/#/DWR/Division_3/Annual_Replacement_Plans/Subdistrict%204%20ARP/Plan%20Year%202021/) and any other water rights lawfully available for such use. 6. Complete Statement of Augmentation Plan. The location of the well associated with Well Permit No. 25755-F ("Subject Well") is illustrated on Exhibit A. Applicants will quantify the time, location, and amount of depletions from pumping the Subject Well using the RGDSS Model. Applicants will provide replacement water to Saguache Creek, San Luis Creek, and Rio Grande to replace depletions from pumping the Subject Well to the extent that the call is senior to the water right decreed to the Well. Due to the small monthly and annual depletions calculated by the RGDSS Model, Applicants may aggregate deliveries of replacement water into monthly or annual releases. Applicants may also choose to enter into forbearance agreements with water right owners on the San Luis Creek to allow monetary payments in lieu of providing replacement water for depletions to the San Luis Creek. The augmentation plan will include any necessary terms and conditions such that the augmentation plan will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. Applicants reserve the right to propose additional terms and conditions to ensure non-injury. 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. Applicants. DETERMINATION OF WATER RIGHTS 8. The following water rights have historically been used for livestock watering, enhancement of soil moisture and recharge of the aquifer throughout the calendar year, including during the non-irrigation season, since their respective original dates of appropriation and for their full decreed

flow rates. Therefore, Applicants seek judicial confirmation and a determination pursuant to C.R.S. § 37-92-302(1)(a) that the original beneficial uses of the water rights described below included icing of meadows, livestock watering, and recharge of the aquifer throughout the calendar year, including during the non-irrigation season. 8.1. The Russell Company Ditch water right described in paragraph 3.1. 8.2. The Russell Ditch No. 1 water right, described in paragraph 3.2. 8.3. The Russell Ditch No. 2 water right described in paragraph 3.3.

**2021CW31: Raymond and Sarah Ann Gingerich, 13439 County Road 14, La Jara, CO 81140, 719-843-9535. Application for Change of Water Right in Conejos County, Colorado.**

Name of Structure: Well No. 6, Case No. W-2382, Permit No. None, WDID 2206014 (Well No. 6). Date of original and all relevant subsequent decrees: October 1, 1977 Case No: W-2382 Court: Water Division No. 3. Legal description: Well No. 6 is located by decree at 112 feet from the North section line and 92 feet from the East section line in the NE1/4 NE1/4 Section 30, Township 34 North, Range 9 East, NMPM, Conejos County. Decreed source of water: Unconfined aquifer. Appropriation Date: July 21, 1961. Total amount decreed: Absolute: 200 gpm being 0.446 cfs. Decreed use or uses: Domestic, Irrigation, and commercial. Amount of water that applicants intend to change: 30 gpm, being 0.067 cfs, Absolute, along with 1.0 acre-foot of annual withdrawal and 0.5 acre-foot of annual consumptive use for commercial use. Applicants are contract purchasers of this amount of water from the Well No. 6 water right from owner, Fred J. Cordova. Detailed description of proposed change: Applicants seek to transfer 30 gpm and 0.5 acre-feet of annual consumptive use from Well No. 6 to an existing unconfined aquifer well located in the NE1/4 SE1/4 Section 17, T34N, R9E, NMPM. The existing well was drilled under domestic well permit no. 264656 to a depth of 122 feet in 2005. The well serves the domestic needs of the Gingerich family as well as the water supply for a commercial greenhouse. The estimated size of the irrigated area within the greenhouse is 10,000 square feet (0.23 acre). Estimated annual consumptive use is: 0.23-acre x 2.0 acre-feet / acre for a total of 0.46 acre-foot of annual consumptive use. Assuming an irrigation efficiency of 50% or better, the expected annual withdrawal of water for irrigation within the greenhouse will not exceed 1.0 acre foot. In order to offset the consumptive use for commercial purposes, all current and historic commercial use of Well No. 6 will be transferred to well no. 264656. Owner, Cordova will retain 50 gpm of the Well No. 6 domestic water right in Well No. 6. The remainder of the Well No. 6 water right beyond 50 gpm, domestic use, for Cordova and 30 gpm, commercial use, for Applicants will be abandoned. Applicants wish to retain well permit no. 264656 for exempt domestic use. The commercial use would be a non-exempt use that will be contracted with Groundwater Management Subdistrict No. 3 of the Rio Grande Water Conservation District in order to comply with the Water Division 3 Groundwater Use Rules decreed in Case No. 15CW3024. All water used for commercial purposes will be metered in accordance with the Water Division 3 Well Measurement Rules decreed in Case No. 05CW12. Change or added point of diversion: Well No. 6 is located in the NE1/4 NE1/4 Section 30, T34N, R9E, NMPM. GPS location of Well No. 6 is: 409492 mE, 4113874 mN. Well permit no. 264656 is located in the NE1/4 SE1/4 Section 17, T34N, R9E, NMPM. Approximate GPS location of the 264656 well is: 411130 mE, 4116210 mN. Name and address of owners: Raymond and Sarah Ann Gingerich, 13439 County Road 14, La Jara, CO 81140.

**2021CW32: Estate of Fay McBride by Charles Burd – Executor, 1521 S. County Road 1 E., Monte Vista, CO 81144, [cburd@outlook.com](mailto:cburd@outlook.com) & [shawn.burd@outlook.com](mailto:shawn.burd@outlook.com), 719-580-2888 & 970 640-6658. Application for Finding of Reasonable Diligence and/or to Make Water Rights Absolute in Rio Grande County.** Date of Original Decree: February 4, 1999. Case No. 1996CW47, 1996CW48 & 1996CW49, Court: District Court- Water Division No. 3. All subsequent decrees awarding findings of diligence: Date of Decree: August 20, 2007 Case No. 2005CW4 Court: District Court – Water Division 3. Date of Decree: October 6, 2015 Case No. 2013CW14 Court: District Court – Water Division 3. Name of Structure: Burd Ditch No. 5 (Diversionary Irrigation Ditch). Legal description of each diversion: SW/4 NW/4, Section 20, Township 38 North, Range 6 East, NMPM. UTM: Easting 381009 mE & Northing 4153974 mN, Zone 13. Source: Raton Creek. Date of Appropriation: November 1, 1996. Amount: 0.6 cfs absolute with 1.4 cfs conditional, with reasonable diligence. Uses: Irrigation, Winter Irrigation and stock water. Total number of acres proposed to be irrigated: 40 acres. Legal description of acreage to be irrigated: A portion of the S/2 NW4 of Section 20, Township 38 North, Range 6 East, N.M.P.M. Structure is not located within a subdivision, block, or lot. Source of UTM’s was a hand-held GPS with accuracy of 18 feet (+/-). Description of Use: We have used this ditch since 1996 when it constructed for irrigation use, winter irrigation use and stock watering and have been in use every year since that time. The headgate was realigned and repaired along with ditches being reconstructed on August 21, 2021 and whereas the applicant is asking for the 0.6 cfs absolute and 1.4 cfs conditional request to be continued as “Conditional”, until water becomes available. See Exhibit “A” map for location and Exhibit “B” (1) & (2) pictures of structure. (available in the Water Court Clerk’s Office). Name of Structure: Burd Ditch No. 6 (Diversionary Irrigation Ditch). Legal description of each diversion: SE/4 NW/4, Section 20, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 381172 mE & Northing 4154047 mN, Zone 13. Source: Raton Creek. Date of Appropriation: November 1, 1996. Amount: 0.5 cfs absolute with 0.5 cfs conditional, with reasonable diligence. Uses: To fill pond (Cabin Pond) for Fish, stock water, wildlife, aesthetic, recreational purposes, irrigation, winter irrigation and stock water. Total number of acres to be irrigated: 20 acres. Legal description of acreage: A portion of the S/2 NW/4 of Section 20, Township 38 North, Range 6 East, N.M.P.M. Structure is not located within a subdivision, block, or lot. Source of UTM’s was a hand-held GPS with accuracy of 18 feet (+/-). Description of Use: This water right has been used year-round in priority for filling pond (Cabin Pond) for the uses listed in Subparagraph E. above. The headgate has been realigned and repaired along with ditches being reconstructed on August 21, 2021. The Applicant is respectfully asking for the 0.5 cfs absolute and 0.5 cfs conditional with reasonable diligence request to be continued as “Conditional”, until water becomes available. See Exhibit “A” map for location and Exhibit “B” (3) picture of structure. (available in the Water Court Clerk’s Office). Name of Structure: Meadow Bog Spring (Spring). Legal description of each point of diversion: SW/4 NW/4, Section 20, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 380812 mE & Northing 4153977 mN, Zone 13. Source: Spring Tributary to Raton Creek. Date of Appropriate: November 1, 1996. Amount: 1.0 cfs conditional, with reasonable diligence. Uses: Stock water, fish pond (Meadow Pond) filling, irrigation, winter irrigation and domestic. Total number of acres to be irrigated: 20 acres. Legal description of acreage: A portion of the S/2 NW/4 of Section 19, Township 38 North, Range 6 East of the N.M.P.M. Description

of Use: This water right has been continually used since 1996 as stated in Subparagraph E above. The Meadow Bog Spring has been cleaned and diverted into a catchment basin and put to beneficial use filling pond (Meadow Pond) and irrigation. Due to drought and low water conditions, the Applicant is respectfully asking for the 1.0 cfs conditional with reasonable diligence request to be continued as "Conditional", until water becomes available. See Exhibit "A" map for location and Exhibit "B" (4) picture of structure (available in the Water Court Clerk's Office). Structure is not located within a subdivision, block, or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Name of Structure: Meadow Spring No. 2 (Spring). Legal description of each point of diversion: SE/4 NE/4, Section 19, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 380660 mE & Northing 4153863 mN, Zone 13. Source: Spring Tributary to North Fork to Raton Creek. Date of initiation of Appropriation: December 31, 1990 for stock water use, and November 1, 1996 for domestic use, and irrigation and winter irrigation uses. Amount: 25 gpm or the entire flow of the spring whichever is greater - conditional with reasonable diligence. Uses: Livestock water, domestic, irrigation and water irrigation. Total number of acres to be irrigated: 5 acres. Legal description of acreage to be irrigated: A portion of the SE/4 NE/4 of Section 19, Township 38 North, Range 6 East of the N.M.P.M. Structure is not located within a subdivision, block, or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Description of Use: This spring has been used annually for livestock water, domestic, irrigation and winter irrigation uses. A catchment basin was constructed, and a pipeline installed. Due to drought and low water conditions, the Applicant is respectfully asking for the 25 gpm or the entire flow of the spring (whichever is greater) as conditional request be continued as "Conditional" until water becomes available. See Exhibit "A" map for location and Exhibit "B" (5) picture of structure (available in the Water Court Clerk's Office). Name of Structure: Burd Ditch No. 2 (Diversionary Irrigation Ditch). Legal Description of each diversion: Was originally applied for in the following legal description and UTM location but was later determined to be the incorrect location by 200 feet or more: NE/4SE/4 of Section 24, Township 38 North, Range 6 East, N.M.P.M. UTM: 379243 mE & 4153688 mN, Zone 13. Correct and current legal description and UTM location: SW/4 NW/4, Section 20, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 381009 mE & Northing 4153974 mN, Zone 13. Source: South Fork of the North Fork of Raton Creek. Date of Appropriation: November 1, 1996. Amount: 0.5 cfs absolute with 1.95 conditional, with reasonable diligence. Uses: irrigation, Winter Irrigation and stock water. Total number of acres to proposed to be irrigated: 80 acres. Legal Description of acreage to be irrigated: A portion of the S/2 of Section 19, Township. Structure is not located within a subdivision, block, or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Description of Use: The headgate and flume has been purchased, delivered on-site and awaiting installation as soon as equipment becomes available. Due to drought and low water conditions, the Applicant is respectfully asking for the 0.5 cfs absolute and 1.95 cfs conditional with reasonable diligence request to be continued as "Conditional", until water becomes available. See Exhibit "A" map for correct and current location along with Exhibit "B" (6) & (7) pictures of structure (available at the Water Court Clerk's Office). Name of Structure: Burd Ditch No. 3 (Diversionary Irrigation Ditch) Legal description of each diversion: NW/4 SW/4, Section 20, Township 38 North, Range 6 East, NMPM. UTM: Easting 381009 mE & Northing 4153974 mN, Zone 13. Source: South

Fork of Raton Creek. Date of Appropriation: November 1, 1996. Amount: 0.1 cfs absolute and 1.9 cfs conditional with reasonable diligence. Uses: Irrigation, Winter Irrigation and stock water. Total number of acres to be irrigated: 80 acres. Legal description of acreage to be irrigated: Portions of the N/2 SW/4 and S/2 NW/4 of Section 20, Township 38 North, Range 6 East, N.M.P.M. Structure is not located within a subdivision, block, or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Description of Uses: The ditch has been partially constructed with water being diverted. This ditch will be improved simultaneously as the structures for Burd Ditch No. 4 are installed. Due to drought and low water conditions, the Applicant is respectfully asking for the 0.6 cfs absolute and 1.4 cfs conditional with reasonable diligence request be continued as "Conditional", until water becomes available. See Exhibit "A" map for location. (available at the Water Court Clerk's Office) Name of Structure: Burd Ditch No. 4 (Diversionary Irrigation Ditch) Legal description of each diversion: NW/4 SW/4, Section 20, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 381009 mE & Northing 4153974 mN, Zone 13. Source: South Fork of Raton Creek. Date of Appropriation: November 1, 1996. Amount: 0.1 cfs absolute with 1.9 cfs conditional with reasonable diligence. Uses: Irrigation, Winter Irrigation and stock water. Total number of acres to be irrigated: 80 acres. Legal description of acreage to be irrigated: A portion of the NE/4 SW/4 of Section 19, the SE/4 NE/4 of Section 19, the NW/4 SW/4 of Section 20 and the SW/4 NW/4 of Section 20, all in Township 38 North, Range 6 East of the N.M.P.M. Structure is not located within a subdivision, block or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Description of Uses: The headgate and flume have been purchased, delivered on-site and awaiting installation as soon as equipment becomes available. Due to drought and low water conditions, the Applicant is respectfully asking for the 0.6 cfs absolute and 1.4 conditional with reasonable diligence request be continued as "Conditional", until water becomes available. See Exhibit "A" map for location and Exhibit "B" (8) picture of structure (available at the Water Court Clerk's Office). Name of Structure: Burd Ditch No. 7 (Diversionary Irrigation Ditch). Legal description of each diversion: Was originally applied for in the following legal description and UTM location but was later determined to be in the incorrect location by 200 feet or more: SW/4 NE/4, Section 19, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 381009 mE & Northing 4153974 mN, Zone 13. Correct and current legal description and UTM location: SW/4 NE/4, Section 19, Township 38 North, Range 6 East, N.M.P.M. UTM: Easting 380101 mE & Northing 4154238 mN, Zone 13. Structure is not located within a subdivision, block or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Source: North Fork of Raton Creek. Date of Appropriation: November 1, 1996. Amount: 0.2 cfs absolute with 0.8 cfs conditional, with reasonable diligence. Uses: Irrigation, Winter Irrigation, and stock water. Total number of acres to be irrigated: 20 acres. Legal description for acreage to be irrigated: A portion of the S/2 NE/4 of Section 19, Township 38 North, Range 6 East, N.M.P.M. Structure is not located within a subdivision, block or lot. Source of UTM's was a hand-held GPS with accuracy of 18 feet (+/-). Description of Uses: The headgate and flume were installed along with delivery ditches on August 21, 2021. Water will be diverted and put to beneficial use as soon as water becomes available. Due to drought and low water conditions, the Applicant is respectfully asking for the 0.2 cfs absolute with 0.8 cfs conditional with reasonable diligence request be continued as "Conditional", until water becomes available. See Exhibit "A" map for location and Exhibit "B"

(9) & (10) pictures of structure (available at the Water Court Clerk's Office). Outline of what has been done during the diligence period toward completion of these appropriations, appurtenances and application of water to beneficial use as conditionally decreed: a. This is a 120-year old family owned and operated ranch with 4th & 5th generations involved with the operations of this ranch. The family is constantly maintaining and upgrading road, fences and water structures. Due to high water flows the creek is constantly changing the streambed thus requiring frequent realignment of structures and ditches. The Applicant has maintained all of the structures and other structures for the purpose of using all of the decreed water beneficially. b. All of the ditches, springs, and ponds are components of an integrated system, which are used for one large ranch property and diligence on any of the structures should be included as diligence on all of the structures. c. The Applicant has spent considerable time and effort in constructing the ditches and the ponds; and will continue to improve these structures and ditches with future uses. d. The equipment scheduled to install Burd Ditch #2, Burd Ditch #3, and Burd Ditch #4 structures was delayed due to other priorities. When equipment becomes available these structures will be installed. e. The Applicant reserves the right to amend this outline and to identify additional evidence of diligence.

**2021CW3019; SAGUACHE COUNTY; C.J. Weis a/k/a Cyril J. Weis 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. Irrigation 2: Orig. Decree: 01/08/1976, Water Division 3, Case No. W-1509. WDID: 2705007. Location: the well is situated in the SW 1/4 SE 1/4 Section 23, Township 41 North, Range 7 East N.M.P.M. at a point 2615 feet from East Section Line and 60 feet from South Section Line, in Saguache County, Colorado. *Source:* Unconfined Aquifer. *Appropriation date:* 1) January 20, 1937 for 900 gallons per minute being 2.01 cubic feet of water per second of time, being 4.02 acre-feet of water in a period of 24 hours. 2) January 31, 1948 for 400 gallons per minute being 0.891 cubic feet of water per second of time, being 1.78 acre-feet of water in a period of 24 hours *Detailed description of proposed changes:* Applicant seeks a Replacement Well for Well No. Irrigation 2 at a location in the SW 1/4 of the SE 1/4 of Section 23, Township 41 North, Range 7 East N.M.P.M. near the south section line and almost at the midline of the SE Quarter at UTM Easting 396610 Northing 4181740 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 advice from well driller that the well will be better able to produce the decreed amount in this location. *Land ownership:* Petitioner owns the real property on which the existing Well No. 2, the proposed replacement well and all the other wells located on the SE 1/4 of Section 23, Township 41 North, Range 7 East N.M.P.M.**

**2021CW3020.** Application for Change of Water Right in Rio Grande County **Name, address, email address of applicant:**, Norman W. Slade, 6987 W. County Rd. 8 N, Del Norte, CO 81132 (atty Erich Schwiesow, PO Box 1974, Alamosa, CO 81101 (719) 580-1291 ([erich@erichschwiesowpc.com](mailto:erich@erichschwiesowpc.com))). **Name of structure:** Well No. 2-A, Case No. 84CW19. **Legal description of each point of diversion:** Center of the NW1/4, Section 24, Township 40 North, Range 6 East, NMPM, at a point 1320 feet from the North Section line and 1320 feet from the West Section line, in Rio Grande County, Colorado. **Source, amount, and appropriation date:** 1,000 gpm. from recharge tributary to the confined and unconfined aquifers of the closed basin, appropriation date March 31, 1947. **Decreed use:** Alternate point of diversion for Well No. 2, Case No. W-2472. The combined yield of both wells shall not exceed 1,850 gpm for irrigation of the W1/2 of Section 29, township 40 North, range 6 east, NMPM. **Proposed change:** The place of use as decreed in Case No. 84 CW 19 contains a typographical error in the description. It is and has always been the west half of Section 24, T 40 N, R 6 E, NMPM, where the well is located, rather than the west half of Section 29, as recited in the decree. This application is filed to correct that typographical error. **Name and address of owners of the land upon which points of diversion are located:** Applicant.

**21CW3021: APPLICATION FOR APPROVAL OF CHANGES IN WATER RIGHTS AND PLAN FOR AUGMENTATION INCLUDING RECHARGE IN ALAMOSA, HINSDALE, MINERAL AND RIO GRANDE COUNTIES** 1. Name, Address and Telephone Number of Applicant: McCullough Farms, LLC, Attn: Lynn McCullough, 2544 East Road 4 North, Monte Vista, CO 81144, c/o William H. Caile, Kylie J. Crandall, Hayley K. Siltanen, Holland & Hart LLP, 555 17th St., Ste. 3200, Denver, CO 80202-3921, (303) 295-8000. 2. Overview: A. Applicant owns and operates a potato/grain farm which currently includes 55 irrigation wells and 3 commercial wells, all of which pump from the unconfined aquifer of the Closed Basin. The Closed Basin is the area of the San Luis Valley located north of the Rio Grande that is separated from the Rio Grande by both a topographic and hydraulic divide. Twenty-eight quarter sections are currently irrigated by groundwater. Commercial wells are used for potato storage humidification and a potato packing warehouse. B. Applicant seeks approval of a “one-for-one” recharge and augmentation plan to allow for the continued use of groundwater in compliance with the Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (The Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for All Irrigation Water Rights (“Groundwater Rules”). For wells that are subject to the Groundwater Rules, groundwater withdrawals may occur only if they are made pursuant to a court-approved augmentation plan, a substitute water supply plan, or a groundwater management plan adopted by a Subdistrict. C. Under the approval sought in the Application, fully consumable surface water will be recharged into the aquifer in exchange for the right for Applicant’s wells to pump against the amount recharged. Applicant owns surface water rights decreed for irrigation, including shares in the Rio Grande Canal Water Users Association, the Santa Maria Reservoir Company, the Billings Ditch Company, and the Prairie Ditch Company. All of these companies also have decrees which allow use of water for recharge of the aquifer. To the extent that these approvals do not include Applicant’s intended use for recharge and augmentation pursuant to the Application, Applicant



requests a change of its surface water rights to allow such use. D. Applicant’s wells are currently included in the Annual Replacement Plan (“ARP”) operated by Subdistrict No. 1 of the Rio Grande Water Conservancy District (“District”). Applicant will continue to participate in, and operate under, the Subdistrict No. 1 ARP (and subsequently-approved ARPs) or a substitute water supply plan approved by the State Engineer, while the Application herein is pending. Upon approval of a decree in this matter, Applicant may elect to implement the augmentation plan approved herein upon notice to the District and the Division Engineer, or may continue to operate under the Subdistrict No. 1 ARP for so long as that remains practical and/or desirable. **3. Irrigated Lands:** Applicant currently owns 28 quarter sections that are or will be irrigated by groundwater pursuant to the augmentation plan claimed. The location of Applicant’s fields is depicted on the map attached to the Application as Figure 1. The legal descriptions are further described as follows: SE1/4 Sec. 32 T40N R8E; SW1/4 Sec. 33 T40N R8E; NW1/4 Sec. 4 T39N R8E; NW1/4 Sec. 16, T39N, R8E; SW1/4 Sec. 3, T39N R8E; NE1/4 Sec. 35 T40N R8E; NW1/4 Sec. 12 T39N R8E; NW1/4 Sec. 30, T39N R9E; NE1/4 Sec. 23 T40N R8E; NE1/4 Sec. 4 T39N R8E; SE1/4 Sec. 29 T40N R8E; NW1/4 Sec. 21 T40N R8E; SW1/4 Sec. 14 T40N R8E; SW1/4 Sec. 9 T39N R9E; SE1/4 Sec. 34 T40N R8E; NE1/4 Sec. 32 T40N R8E; NE1/4 Sec. 33 T40N R8E; NW1/4 Sec. 34 T40N R8E; NE1/4 Sec. 16 T39N R8E; NE1/4 Sec. 8 T39N R8E; NE1/4 Sec. 15 T40N R8E; SW1/4 Sec. 10 T40N R8E; SE1/4 Sec. 9 T40N R8E; SW1/4 Sec. 9 T40N R8E; NW1/4 Sec. 9 T40N R8E; SW1/4 Sec. 4 T40N R8E; SW1/4 Sec. 31 T40N R9E; and NW1/4 Sec. 31 T40N R9E. **4. Structures to be Augmented:** A. Applicant currently operates 55 irrigation wells and 3 commercial wells that will be augmented by this plan. These existing wells are listed in the following table. All of the wells pump groundwater from the unconfined aquifer of the Closed Basin. The map attached to the Application as Figure 2 shows the location of each well. The legal description, well permit information, decree information, authorized amounts and uses are specified in the following table.

No.	Case No.	Permit No.	Well Location	Flowrate (gpm)	Vollume (acre-ft)	Use
1	92CW039 Well No 02R	11294-R-R	SE/32/40N/8E/N	1200	480	Irr.
2	W0345 Well No 04	11296-R	NWSE/32/40N/8E/N	1350	480	Irr.
3	W0345 Well No 03	11295-R-R	NWSE/32/40N/8E/N	1340	480	Irr.
4	W3748 Well No 09R	13148-F-R	SW/33/40N/8E/N	1400	400	Irr.
5	W0103 Well No 11	3945-F	NW/SW/33/40N/8E/N	1900	Not Specified	Irr.
6	Permit 24119-F	24119-F	NW/4/39N/8E/N	1100	400	Irr.
7	W0515 Well No 02	7207-R	SW/NW/4/39N/8E/N	1200	534	Irr.
8	W0372 Well No 01	126-R,126-R-R	NW/NW/16/39N/8E/N	1200	480	Irr.
9	W0372 Well No 01	126-R,126-R-R	NW/NW/16/39N/8E/N	1200	480	Irr.
10	W0372 Well No 03	5654-F	NW/NW/16/39N/8E/N	1500	Not Specified	Irr.
11	W3392 Well No 02R	8696-R-R	SW/3/39N/8E/N	1000	480	Irr.
12	W0359 Well No 01	8695-R	NW/SW/3/39N/8E/N	1100	Not Specified	Irr.

13	W3485 Well No 07	18680-F	NE/NE/35/40N/8E/N	1500	480	Irr.
14	W1479 Well No IRR 02	6040-R-R	SW/NE/35/40N/8E/N	2050	500	Irr.
15	81CW006 Well No 04A	25116-F	NW/12/39N/8E/N	1350	400	Irr.
16	W2280 Well No 06	11237-F-R	NW/30/39N/9E/N	1000	480	Irr.
17	W2280 Well No 01	11676-F	NW/NW/30/39N/9E/N	1250	480	Irr.
18	W3797 Well No 03A	22907-F	NE/23/40N/8E/N	1000	480	Irr.
19	W0115 Well No 04	54-R	SW/NE/23/40N/8E/N	1600	Not Specified	Irr.
20	W0320 Well No 06	6218-F	NE/NE/4/39N/8E/N	1400	Not Specified	Irr.
21	W3882 Well No 06A	23183-F	SE/29/40N8E/N	1000	350	Irr.
22	W0471 Well No 06	13551-R	NW/SE/29/40N8E/N	1200	Not Specified	Irr.
23	W3882 Well No 01A	21581-F	NW/21/40N/8E/N	1000	350	Irr.
24	W0508 Well No 02	13553-R	SW/NW/21/40N/8E/N	1100	230	Irr.
25	83CW028 Well No 02R	1966-R	SW/14/40N/8E/N	1145	400	Irr.
26	W0725 Well No 01	1967-R	NW/SW/14/40N/8E/N	1500	1400	Irr.
27	W3424 Well No 01	8693-R-R	SW/9/39N/8E/N	1000	480	Irr.
28	W0340 Well No 02	8694-R	NW/SW/9/39N/8E/N	1100	420.6	Irr.
29	W3437 Well No 01R	11446-R-R	NW/SE/34/40N/8E/N	1000	480	Irr.
30	W0408 Well No 02	11447-R	NW/SE/34/40N/8E/N	2000	Not Specified	Irr.
31	W3797 Well No 06	12781-R-R	NE/32/40N/8E/N	1000	400	Irr.
32	W0115 Well No 06	5463-F	SW/NE/32/40N/8E/N	2000	Not Specified	Irr.
33	99CW011 Well No 2R	139-R-R	NE/33/40N/8E/N	1000	400	Irr.
34	W0137 Well No 03	2512-F	SW/NE/33/40N/8E/N	1350	400	Irr.
35	W3797 Well No 09R	12780-R-R	NW/34/40N/8E/N	1000	350	Irr.
36	W0115 Well No 05	55-R	SW/NW/34/40N/8E/N	2600	Not Specified	Irr.
37	82CW195 Well No 05A	22713-F	NE/16/39N/8E/N	1000	480	Irr.
38	W0372 Well No 05	4223-F	NW/NE/16/39N/8E/N	1300	Not Specified	Irr.
39	79CW083 Well No. 03R	10625-R-R	NW/NE/8/39N/8E/N	1000	400	Irr.
40	W0136 Well No. 01	10627-R	NE/NE/8/39N/8E/N	1800	Not Specified	Irr.
41	W3669 Well No 03A	21395-F	NE/NE/15/40N/8E/N	1000	350	Irr.
42	W0343 Well No 03	12213-R	SW/NE/15/40N/8E/N	2000	Not Specified	Irr.
43	W3669 Well No 04A	21504-F	SW/SW/10/40N/8E/N	1000	350	Irr.
44	W0343 Well No 04	12214-R,12214-R-R	SW/SW/10/40N/8E/N	2000	Not Specified	Irr.

45	W3669 Well No 01A	21369-F	SE/SE/9/40N/8E/N	1000	350	Irr.
46	W0528 Well No 01	12165-R	SW/SE/9/40N/8E/N	1800	Not Specified	Irr.
47	W3246 Well No 03	16674-F	SW/9/40N/8E	1000	400	Irr.
48	W0222 Well No 01	14108-R	NW/SW/9/40N/8E	1000	Not Specified	Irr.
49	W3459 Well No 01	19336-F	NW/NW/9/40N/8E/N	1000	350	Irr.
50	W0564 Well No 01	11297-R	SW/NW/9/40N/8E/N	1100	480	Irr.
51	W3538 Well No 01R	19149-F	SW/4/40N/8E/N	1000	240	Irr.
52	W0435 Well No 01	1482-R,5737-F	SW/SW/4/40N/8E/N	2000	Not Specified	Irr.
53	W3465 Well No 04R	6008-R-R	NW/SW/31/40N/9E/N	1100	480	Irr.
54	W0424 Well No 06	3030-F	SW/SW/31/40N/9E/N	1275	Not Specified	Irr.
55	07CW10 Well No 2-R	21788-F	SW/NW/31/40N/9E/N	1000	400	Irr.
56	W528 Well No 2	12166-R	SW/SE/9/40N/8E/N	2000	302.7/16.22	Irr., Comm.
57	W3421 Well No 01	20434-F-R	SE/SW/9/39N/8E/N	1000	100	Comm.
58	W1461 Well No. 07	59652-F	SE/SW/9/39N/8E/N	50	7.18	Comm.

B. Additional Wells: Applicant requests the right to include additional wells in the plan decreed herein, upon notice to the Division Engineer and upon such other terms and conditions as the Court may determine. **5. Water Rights to be Used for Augmentation:** A. Applicant owns shares in the following mutual ditch and reservoir companies, and water available to Applicant under the below-listed shares will be used for augmentation in the plan decreed herein: i. Rio Grande Canal Water Users Association: 256.7 shares; ii. Santa Maria Reservoir Company: 230 shares; iii. Prairie Ditch Company: 6 shares; and iv. Billings Ditch Company: 30 shares. B. Description of Water Rights: The mutual ditch and reservoir companies' water rights are described as follows: i. Rio Grande Canal Water Users Association: (a) Structure: Rio Grande Canal (WDID 2000812). (1) Source: Rio Grande. (2) Rio Grande Canal water rights listed in the following table:

Priority No.	Amount (c.f.s.)	Appropriation Date	Adjudication Date
176	2.8	08/31/1879	05/01/1896
178	11.2	11/30/1879	05/01/1896
197	20	12/31/1880	05/01/1896
198	19.6	01/01/1881	05/01/1896
216-A	318.4	09/02/1881	05/01/1896
235	0.6	07/01/1882	05/01/1896
276-A	22.8	06/10/1885	05/01/1896
288-A	22.7	06/10/1886	05/01/1896
312-A	26	06/10/1887	05/01/1896
338-1/2A	33.6	06/10/1888	05/01/1896
344	24.4	03/30/1889	05/01/1896
358-A	16.6	06/10/1889	05/01/1896

363-A	43.4	06/10/1890	05/01/1896
363-B	52	07/24/1890	05/01/1896
365	293.7	11/17/1891	05/01/1896
1903-24-C	45	06/30/1891	04/09/1903
1903-30-C	84.96	06/30/1892	04/09/1903
1903-34-C	48.99	06/30/1893	04/09/1903
1903-37-B	38.74	06/30/1894	04/09/1903
1903-41-B	41.34	06/30/1895	04/09/1903
1903-45-C	88.14	06/30/1896	04/09/1903
1903-46-C	81.71	06/30/1897	04/09/1903
1903-49-D	183.6	06/30/1898	04/09/1903
1903-52-C	82.68	06/30/1899	04/09/1903
1903-57-A	44.92	06/30/1900	04/09/1903
1903-61-A	43.62	06/30/1901	04/09/1903

ii. Santa Maria Reservoir Company. (a) Structure: Maria Reservoir (WDID 2003558). (1) Source: North Clear Creek, Bennett Creek, Boulder Creek. (2) Maria Reservoir water rights include: 15,871.21 ac-ft with an 08/11/1896 appropriation date and 09/13/1916 adjudication date; and 21,652.79 ac-ft with an 09/22/1902 appropriation date and 09/13/1916 adjudication date. (b) Structure: Continental Reservoir (WDID 2003536). (1) Source: North Clear Creek. (2) Continental Reservoir water rights include: 8,832.0 ac-ft with an 06/01/1901 appropriation date and 12/15/1934 adjudication date; and 17,884.00 ac-ft with an 05/04/1907 appropriation date and 19/15/1934 adjudication date. iii. Prairie Ditch Company. (a) Structure: Prairie Ditch (WDID 2000798). (1) Source: Rio Grande. (2) Prairie Ditch water rights listed in the following table:

Priority No.	Amount (c.f.s.)	Appropriation Date	Adjudication Date
11	3.00	05/01/1872	05/01/1896
297	105.10	02/09/1887	05/01/1896
308	0.75	04/01/1887	05/01/1896
328	0.75	04/01/1888	05/01/1896
353	2.85	04/01/1889	05/01/1896
1903-17-A	11.07	06/30/1889	04/09/1903
1903-22-C	36.84	06/30/1890	04/09/1903
1903-24-E	59.90	06/30/1891	04/09/1903
1903-30-D	20.18	06/30/1892	04/09/1903
1903-34-E	22.79	06/30/1893	04/09/1903
1903-37-D	20.84	06/30/1894	04/09/1903
1903-41-D	24.74	06/30/1895	04/09/1903
1903-45-E	16.20	06/30/1896	04/09/1903
1903-46-E	15.63	06/30/1897	04/09/1903
1903-49-F	10.42	06/30/1898	04/09/1903
1903-52-E	6.51	06/30/1899	04/09/1903
1903-57-D	6.84	06/30/1900	04/09/1903
1903-61-B	2.61	06/30/1901	04/09/1903

iv. Billings Ditch Company. (a) Structure: Billings Ditch (WDID 2000546). (1) Source: Rio Grande. (2) Billings Ditch water rights are listed in the following table:

Priority No.	Amount (c.f.s.)	Appropriation Date	Adjudication Date
34	1.5	04/30/1874	05/01/1896
209	7.8	04/30/1881	05/01/1896
305	16.7	04/01/1887	05/01/1896
324	4.44	04/01/1888	05/01/1896
349	4.5	04/01/1889	05/01/1896

**6. Recharge:** Applicant has a number of existing recharge basins and drain stretches which can currently be used for surface water recharge. Applicant may also add recharge facilities to the plan decreed herein, subject to the provisions of any decree entered herein. A. Existing Recharge Facilities: The location of the existing recharge basins and drain ditch stretches is shown on Figure 3, attached to the Application. The legal description and surface area specifications of each of the existing facilities listed in the following table.

Field	Legal Address	Area (acres)	Description
1	NW 1/4 SE 1/4 T40N R8E NMPM	0.63	NW Pond
2	NE 1/4 SW 1/4 S33 T40N R8E NMPM	1.66	NE Pond
4	S of NW 1/4 S16 T39N R8E NMPM	0.69	S Drain
5	NE 1/4 SW 1/4 S3 T39N R8E NMPM	1.38	NE Pond
6	N of NE 1/4 S35 T40N R8E NMPM	0.61	N Drain
7	NW 1/4 NW 1/4 S12 T39N R8E NMPM	3.37	NW Pond
7	SW 1/4 NW 1/4 S12 T39N R8E NMPM	3.75	SW Pond
8	NW 1/4 NW 1/4 S30 T39N R9E NMPM	4.08	NW Pond
9	N of NE 1/4 S23 T40N R8E NMPM	0.64	N Drain
10	SW 1/4 NE 1/4 S4 T39N R8E NMPM	2.69	SW Pond
11	NW 1/4 SE 1/4 S29 T40N R8E NMPM	2.37	NW Pond
12	N of NW 1/4 S21 T40N R8E NMPM	0.72	N Drain
13	NW 1/4 SW 1/4 S14 T40N R8E NMPM	4.94	NW Pond
14	Middle of SW 1/4 S9 T39N R9E NMPM	0.61	Mid Drain
15	NW 1/4 SE 1/4 S34 T40N R8E NMPM	7.02	NW Pond
16	SW 1/4 NE 1/4 S32 T40N R8E NMPM	2.5	SW Pond
18	N of NW 1/4 S34 T40N R8E NMPM	0.71	N Drain
19	SW 1/4 NE 1/4 S16 T39N R8E NMPM	3.09	SW Pond
20	NW 1/4 NE 1/4 S8 T39N R8E NMPM	1.34	NW Pond
27	SE 1/4 SW 1/4 S31 T40N R9N NMPM	1.02	SE Pond

	Total	43.82	
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B. Additional Recharge Facilities: Applicant requests the right to include additional recharge facilities in the plan decreed herein, upon notice to the Division Engineer and upon such other terms and conditions as the Court may determine. 7. Complete Statement of Plan for Augmentation: A. Applicant is requesting a one-for-one augmentation plan that will meet the substantive requirements of the Groundwater Rules. Upon approval and implementation of the augmentation plan claimed herein, Applicant will dedicate its surface water rights, described in Paragraph 5, to be annually recharged to the unconfined aquifer of the Closed Basin. The lands that were historically irrigated with Applicant’s surface water will be permanently removed from irrigation with surface water pursuant to Division of Water Resources protocol. B. During each irrigation season, Applicant will measure the deliveries associated with its surface water supplies and deliver this water into the infiltration basins described in Paragraph 6. Applicant will calculate and account for the total amount of fully consumable water recharged to the aquifer. Pursuant to the recharge decrees for the Rio Grande Canal and the Prairie Ditch, Applicant will also claim its pro rata share of canal seepage loss occurring during the delivery of this water to farm headgates. C. The amount of water which may be pumped from Applicant’s wells in any year (“Total Pumping Credit Available”) will be dependent on annual calculated consumptive use credit. Consumptive use credit will be calculated as the amount of surface water delivered to recharge facilities, minus surface water evaporation from the basin, and accounting for any recharge accretion dedicated to meeting sustainability goals. Applicant will have accounting procedures to prevent over-pumping. In the event that pumping in any year exceeds the Total Pumping Credit Available, Applicant will account for and repay any shortage the following year before any pumping occurs under the plan. D. Sustainability: Applicant’s recharge operations will include the historical return flow component of Applicant’s water rights, which will be left in the aquifer. In this manner, Applicant’s augmentation plan will contribute to the sustainability of the aquifer and satisfy Applicant’s pro rata responsibility to recover the aquifer to a sustainable water level. Applicant has also made a significant individual contribution to attainment of sustainability over the last approximately ten years, through participation in the Subdistrict No. 1 ARPs, water conservation efforts, and fallowing and rotational crop selection, that may be considered in the determination of sustainability herein. Applicant may also satisfy the sustainability requirements through other means, including but not limited to dedication of rim inflows. 8. Owners of land upon which any new or modified diversion or storage structure or modification to any existing diversion or storage structure will be located or upon which water is or will be stored, including modification to the existing storage pool: Applicant or its affiliates. (17 incl. exhibits).32

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 November 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.