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

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume inWater Division 3, containing notice of applications and certain amendments filed in theoffice of the Water Clerk during the month of October 2023 for each county affected.

**2023CW12: Concerning the Application of Water Rights of Triple M Properties, LLC; 1796 S County Road 3 East, Monte Vista, CO 81144,** **jeremym32@hotmail.com****, 719-580-1177-Mark 719-580-1176-Mike. Application for Change of Water Right in Rio Grande County. Decreed water right for which change is sought:** Name of structure: Well No. 4, Case No. W-1005, Permit no. 3924-F, WDID 2010023(Well No. 4). Date of original decree: 2/13/1975, Case No.: W-1005, Court: Division 3 Water Court. Legal description of structure: NW1/4 SE1/4 Section 9, Township 38 North, Range 8 East NMPM, at a point 2300 feet from the South Section line and 2620 feet from the East Section line, in Rio Grande County, Colorado.
This well has been GPS’d by the Division of Water resources at UTM Zone 13S NAD 83 coordinates: 402552 Easting, 4156722 Northing. Decreed source of water: Unconfined Aquifer. Appropriation date: March 7, 1963. Total amount decreed to structure: Absolute: 1400 gpm (3.12 cfs). Decreed use: Irrigation. Amount of water applicant intends to change: Absolute 300 gpm (0.67 cfs). **Decreed water right for which change is sought:** Name of structure: Well No. 1-R, Case No. 98CW20, Permit no. 1870-R-R, WDID 2013776. Date of original and all relevant subsequent decrees: April 7, 2000, Case No: 98CW20. Court: Division 3 Water Court. Legal description of structure as described in most recent decree that adjudicated the location: SE1/4 Section 9, Township 38 North, Range 8 East NMPM, in Rio Grande County, Colorado, at a point 2600 feet from South Section line and 2600 feet from East Section line. This well has been GPS’d at UTM Zone 13S NAD 83 coordinates: 402564 Easting, 4156783 Northing. Decreed source of water: Unconfined Aquifer. Appropriation Date: August 31, 1944. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): Absolute 500 gpm (1.11 cfs). Decreed use: Irrigation. Amount of water that applicant intends to change: Absolute: add 300 gpm from Well No. 4 to the existing 500 gpm in Well No, 1-R. Complete statement of change: Applicant requests that 300 gpm be removed from Well No. 4 and added to Well No. 1-R so that it may legally produce more than 500 gpm. Both Well Nos. 4 and 1-R produce from the unconfined aquifer and are decreed to be used on the same lands. Currently. Well Nos. 4 and 1-R combine with Well No. 3, Case No. W-1005, Permit No. 11405-F, WDID 2010022 (Well No. 3) to supply water to a center pivot sprinkler system that irrigates the majority of the SE 1/4Section 9, T38N, R8E, NMPM. These wells are pumped into a common reservoir that supplies the sprinkler and the sprinkler corners. Ditch water from the Monte Vista Canal also fills the reservoir. There would be no expansion of use, the same limits imposed in Case No. 98CW20 would remain in effect. All the irrigation wells are enrolled in Subdistrict #2. Location information: All wells are located within the SE1/4 of Section 9, T38N, R8E, NMPM. Name and address of reputed owners: Triple M Properties, LLC., 1796 South County Road 3 East, Monte Vista, CO 81144.

**2023CW13: Concerning the Application for Water Rights of Randall K. and Linda M. Palmgren; 50026 County Road C, Center, CO 81125, rlpalmgren@earthlink.net, 719-754-2557. Application for Change of Water Right in Saguache County. PART A - APPLICATION FOR A SUPPLEMENTAL IRRIGATION WELL ON THE SE1/4 SECTION 9, TOWNSHIP 41 NORTH, RANGE 8 EAST, NMPM (FIELD NO. 5)**Decreed water right for which change is sought: Name of structure: Well No. 5-R, Case No. 82CW199, WDID 2705122 (Well No. 5-R). Date of original and all relevant subsequent decrees: April 27, 1984, Case No: 82CW199. Court: Water Court Division 3. Legal description of structure as described in most recent decree that adjudicated the location: Center of the SE1/4 of Section 9, Township 41 North, Range 8 East, NMPM, At a point 1,320 Feet from the
South Section Line and 1,320 Feet from the East Section Line, in Saguache County, Colorado. Decreed source of water: Unconfined Aquifer of the Closed Basin. Permit Number: R390-RF (390-R-R). Well Depth: 93 feet. Appropriation Date: June 30, 1955. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): 1,200 GPM, absolute, being 2.67 cubic feet per second of time. Decreed use or uses: Irrigation. Restricted to the irrigation of the SE1/4 of Section 9, Township 41 North, Range 8 East, NMPM, and annual production of not more 375 acre-feet by the Case No. 82CW199 decree. Amount of water that applicant intends to change: 1,200 GPM. Detailed description of proposed change: Applicants request a supplemental irrigation well to Well No. 5-R for irrigation of the SE1/4 of Section 9, Township 41 North, Range 8 East, NMPM (Field No. 5). Well No. 5-R has been pumping more than 1,000 gpm for many years before recent production has dropped off below 800 gpm. Well, No, 5-R has consistently produced from 58 to 266 acre-feet per year for irrigation of Field No, 5. Production from the unconfined aquifer has decreased dramatically in the past several years. Applicants request a supplemental irrigation well to Well No. 5-R to maintain the water supply to the
sprinkler at or below the permitted and decreed flow rate of 1,200 gpm. The supplemental well will be drilled on Field No. 5 to a depth not to exceed the top of the confining clay series.
Applicants are proposing to have the new supplemental well and Well No. 5-R with individual and combined maximum pumping rates of 1,200 gpm and a combined annual volumetric limitation of 375 acre-feet. Well No. 5 is within the Rio Grande Water Conservation District Groundwater Management Subdistrict No. 1 boundary and is enrolled in the annual replacement plan of the Subdistrict. The new supplemental well will contract into Subdistrict No. 1. Field No. 5 lies within the service area of the San Luis Valley irrigation District. Attached Exhibit 1 (available in the Alamosa Court Clerk’s Office) is the pumping history for Well No. 5-R derived from the Colorado Division of Water Resources database. L**ocation information:** Well No. 5-R is located as decreed with a GPS location from the DWR database of: UTM NAD83 403373 mE, 4185312 mN The supplemental irrigation well to Well No. 5-R will be located within the SE1/4 of Section 9, Township 41 North, Range 8 East, NMPM (Field No. 5). **PART B - APPLICATION FOR A SUPPLEMENTAL IRRIGATION WELL ON THE SW1/4 SECTION 9, TOWNSHIP 41 NORTH, RANGE 8 EAST, NMPM (FIELD NO. 6). D**ecreed water right for which change is sought: Name of structure: Well No. 3R, Case No. 82CW198, WDID 2705520 (Well No. 3R). Date of original and all relevant subsequent decrees: April 29, 1987, Case No: 82CW198. Court: Water Court Division 3. Legal description of structure as described in most recent decree that adjudicated the location: SW1/4 SW1/4 of Section 9, Township 41 North, Range 8 East, NMPM, at a point 1,300 Feet from the South Section Line and 1,300 Feet from the West Section Line, in Saguache County, Colorado. Decreed source of water: Unconfined Aquifer of the Closed Basin. Permit Number: R388-RF (388-R-R). Well Depth: 95 feet. Appropriation Date: April 30, 1953. Total amount decreed to structure in gallons per minute (gpm) or cubic feet per second (cfs): 1,200 GPM, absolute, being 2.67 cubic feet per second of time. Decreed use or uses: Irrigation. No further restrictions on area or amount of use in the decree. Amount of water that applicant intends to change: 1,200 GPM. Detailed description of proposed change: Applicants request a supplemental irrigation well to Well No. 3R for irrigation of the SW14 of Section 9, Township 41 North, Range 8 East, NMPM (Field No. 6). Well No. 3R has been pumping more than 1,000 gpm for many years before recent production has dropped off below 800 gpm. Well No. 3R has consistently produced from 56 to 232 acre-feet per year for irrigation of Field no. 6. Production from the unconfined aquifer has decreased dramatically in the past several years. Applicants request a supplemental irrigation well to Well No. 3R to maintain the water supply to the sprinkler at or below the permitted and decreed flow rate of 1,200 gpm. The supplemental well will be drilled on Field No. 6 to a depth not to exceed the top of the confining clay series. Applicants are proposing to have the new supplemental well and Well No. 3R with individual and combined maximum pumping rates of 1,200 gpm as previously decreed. Well No. 3R is within the Rio Grande Water Conservation District Groundwater Management Subdistrict No, 1 boundary and is enrolled in the annual replacement plan of the subdistrict. The new supplemental well will contract into Subdistrict No. 1, Field No. 6 lies within the service area of the San Luis Valley irrigation District. Attached Exhibit 1 (available in the Alamosa Court Clerk’s Office) is the pumping history for Well No. 3R derived from the Colorado Division of Water Resources database. **Location information:**Well No. 3R is located as decreed with a GPS location from the DWR database of: UTM NAD83 402578 mE, 4185324 mN. The supplemental irrigation well to Well No. 3R will be located within the SW14 of Section 9, Township 41 North, Range 8 East, NMPM (Field No. 6). Name and address of reputed owners: Randall K. and Linda M. Palmgren, 50026 County Road C, Center, CO 81125.

**2023CW14: Concerning the Application of Water Rights of Scott Consaul, 0835 E County Road 10 N, Center, CO 81125;** **consaulfarms@gmail.com****; 719-588-6202. Application for Change of Water Right in Saguache County.** Decreed water right for which change is sought:
**A.** Name of structure: WDID 2008039, Permit 24754-F-R, 80CW0029 Well No.7 and WDID 2013837, Permit 42016-F, 00CW15 Well No. 7S. Date of original and all relevant subsequent decrees: 3/30/1981; 7/2/2002 Case Nos: 80CW29; 00CW15. Court: District Court; Water Division 3. Legal description of structure as described in most recent decree that adjudicated the location: Well No.7 (80CW29) Center of the SW 1/4 Section 35, Township 41 N Range 9E NMPM, at a point 1320 feet from the South section line and 1320 feet from the West section line in Saguache County. Well No.7S (00CW15) SW 1/4 of the SW 1/4 Section 35, Township 41 N Range 9E NMPM, at a point 1300 feet from the South section line and 600 feet from the West section line in Saguache County. Decreed source of water: Unconfined Aquifer. Appropriation Date: March 13, 1980. Total amount decreed to structure in gallons per minute: Absolute 1000 GPM. Decreed use: Irrigation Absolute 1000 GPM. Detailed description of proposed change: With this filing we seek approval to construct a 1000 gpm supplemental well to be used in combination with Well No. 7 in 80CW29 (WDID 2008039, Permit 24754-F-R) and Well No. 7S in 00CW15 (WDID 2013837, Permit 42016-F) to irrigate up to 129 acres in the SW 1/4 Section 35, Township 41 North, Range 9 East NMPM. Applicant also seeks to allow 00CW15 Well No 7S to individually and in combination with the other 2 wells withdraw 1000 gpm. All three wells would be able to individually and in combination with each other withdraw 1000 gpm. The new supplemental well will be located in the SW 1/4 of Section 35, Township 41 North, Range 9 East, NMPM. There will be no increase to the current limitation of pumping for the 3 wells
combined nor any increase in area irrigated by the 3 wells. The depth of the new supplemental well will not exceed the depth of the blue clay layer and the well will produce from the same decreed source as well numbers 7 and 7S: the unconfined aquifer. Actual location of new location of structure (PLSS): Saguache County, NW 1/4 of the SW 1/4, Section 35, Township 41 N, Range 9 E, NMPM. Points of diversion: UTM format: Easting 415402 Northing 4178784 Zone 13. Reputed owners: N/A.

**2023CW15: Concerning the Application of Water Rights of Diaz Family Farms, LLLP, 0721 Lane 2 N, Alamosa, CO 81101,** **diaz@martinezfarms-eagleproduce.com****. Application for Change of Water Right in Alamosa County. Decreed water right for which change is sought:** Name of structure: Well No. 3 (W309 and 83CW70) Permit no. 15826 15826 F, WDID 2005684. Date of original and all relevant subsequent decrees: 7/27/1984 Case No: W309
and 83CW70 Court: Division 3 Water Court. Legal description of structure as described in most recent decree that adjudicated the location: SW 1/4 SW 1/4, Section 20, Township 39 North, Range 9 East NMPM, at a point 1280 feet from South Section line and 1300 feet from West Section line, in Alamosa County, Colorado. Decreed source of water: Unconfined. Appropriation Date: October 14, 1971. Total amount decreed to structure: Absolute 1000 gpm. Decreed use or uses: Irrigation and stockwater. Amount of water that applicant intends to change: Absolute 1000 gpm. Name of structure: Well No. 3S (83CW70), Permit no. 26678-F, WDID 2005685. Date of original and all relevant subsequent decrees: 8/24/1984 Case No: 83CW70. Court: Division 3 Water Court. Legal description of structure as described in most recent decree that adjudicated the location: SW 1/4 SW 1/4, Section 20, Township 39 North, Range 9 East NMPM, in Alamosa County, Colorado, at a point 630 feet from South Section line and 1300 feet from West Section line, in Alamosa County, Colorado. Decreed source of water: Unconfined. Appropriation Date: October 14, 1971. Total amount decreed to structure: Absolute 500 gpm. Decreed use or uses: Irrigation. Amount of water applicant intends to change: Absolute 500 gpm. Detailed description of proposed change: Part 1: We request that the locations for both wells (Well No. 3 and Well No, 3-S) be confirmed by the Court. Both wells are located in the NW of the SW 1/4 of Section 20, Twp. 39N, Range 9E NMPM have been GPS’d by DWR staff. Both wells have always been located at these locations. Part 2: Applicant requests that the flow rate of Well No. 3-S be changed from 500 gpm to 1000 gpm. Well No. 3-S will remain decreed as an alternate point of diversion to Well No. 3 (W309). It is requested that both wells be allowed to individually and in combination with each other be allowed to pump 1000 gpm. This request would allow us to qualify for a metering variance through the DWR so that they can be measured using one meter. Both Well Nos. 1 and 2 produce from the unconfined aquifer and are decreed to be used on the SW 1/4 of Section 20, Twp. 39N, Range 9 East, NMPM. The decreed limit of 475 acre feet will remain the same. There would be no expansion of use. Both wells are enrolled in Subdistrict #1
and would continue to do so. If applicant is changing or adding a point of diversion (including the drilling of a replacement well more than 200 feet from the decreed location), please provide the new location of the structure; or if applicant is changing the decreed point of diversion to conform to the actual location, please provide the actual location: Well No. 3/Permit No. 15826-F PLSS: Alamosa County, NW 1/4 of the SW 1/4, Section 20, Township 39N, Range 9E, NMPM. Points of diversion: Location information in UTM format: Easting 410310 Northing 4162722 Zone 13. Location information: Well No. 3-S, Permit No. 26678-F PLSS: Alamosa County, NW 1/4 of the SW 1/4, Section 20, Township 39N, Range 9E, NMPM. Points of diversion: Location in UTM format: Easting 410119 Northing 4162725 Zone 13. Name and address of reputed owners: N/A.

**2023CW16: Concerning the Application of Water Rights of Diaz Family Farms, LLLP, 0721 Lane 2 N, Alamosa, CO 81101,** **diaz@martinezfarms-eagleproduce.com****. Application for Change of Water Right in Alamosa County. Decreed water right for which change is sought:** Name of structure: Well No. 3 (W1000) Permit no. 496-R-R, WDID 2006648. Date of original decree: 1/11/1974. Case no. W1000 and 719CW12. Court: Division 3 Water Court. Legal description of structure as described in most recent decree: SW 1/4 SW 1/4, Section 9, Township 39 North, Range 9 East NMPM in Alamosa County, Colorado. Decreed source of water: Unconfined. Appropriation Date: December 31, 1940. Total amount decreed to structure in gallons per minute (gpm): Absolute 791 gpm. Decreed use or uses: Irrigation. Amount of water that applicant intends to change: Absolute 791 gpm. Decreed water rights for which change is sought: Name of structure: Well No. 4 (W1000) Permit no. 497-R, WDID 2006264. Date of original and all relevant subsequent decrees: 1/11/1974 Case No: W1000 and
79CW12 Court: Division 3 Water Court. Legal description of structure as described in most recent decree: NW 1/4 SW 1/4, Section 9, Township 39 North, Range 9 East NMPM, in Alamosa County, Colorado. Decreed source of water: Unconfined. Appropriation date: December 31, 1950. Total amount decreed to structure in gallons per minute (gps): Absolute 837 gpm. Decreed use: Irrigation. Amount of water applicant intends to change: Absolute 837 gpm. Decreed water rights for which change is sought: Name of structure: Well No. 3 & 4A (79CW12), Permit no. 22877-F, WDID 2005383. Date of original and all relevant subsequent decrees: 12/13/1979 Case No: 79CW12. Court: Division 3 Water Court. Legal description of structure as described in most recent decree: At a point which is 20 feet from South Section line and 1320 feet from West Section line in the center of the SW 1/4, Section 9, Township 39 North, Range 9 East NMPM, in the County of Alamosa County, State of Colorado. Decreed source of water: Unconfined. Appropriation date: December 31, 1950, and December 31, 1940. Total amount decreed to structure in gallons per minute (gps): Absolute 1000 gpm (791 gpm from Well No. 3 and 209 gpm from Well No. 4). Decreed use: Irrigation. Amount of water applicant intends to change: Absolute 1000 gpm (791 gpm from Well No. 3 and 209 gpm from Well No. 4). Detailed description of proposed change: We request to make all 3 wells alternate points of diversion to each other. Well No. 3 &4A is already decreed as an alternate point of diversion to both Well Nos. 3 and 4. We request that each of the 3 wells in this application be able to individually and in combination with each other be allowed to pump 1628 gpm (the
total decreed flow rate to Well Nos. 3 and 4), This request would allow us to qualify for a metering variance through the DWR so that we can use one meter to measure all 3 wells. All three wells are decreed to produce from the unconfined aquifer and are permitted to be used on the SW 1/4 of Section 9, Twp, 39N, Range 9 East, NMPM. There would be no expansion of use. All three wells are enrolled in Subdistrict #1 and would continue to do so. Change in point of diversion or change in decreed point of diversion: Location information: Well No. 4/Permit No. 497-R. PLSS: Alamosa County, NW 1/4 of the SW 1/4, Section 9, Township 39N, Range 9E, NMPM. Points of diversion: Location information in UTM format: Easting 411570 Northing 4165958 Zone 13. Location information: Well No. 3, Permit No. 496-R-R. PLSS: Alamosa County, SW 1/4 of the SW 1/4, Section 9, Township 39N, Range 9E, NMPM. Points of diversion: Location information in UTM format: Easting 411573 Northing 4165786 Zone 13. Location information: Well No. 3 and 4A/Permit No. 22877-F. PLSS: Alamosa County, NE 1/4 of the SW 1/4, Section 9, Township 39N, Range 9E, NMPM. Points of diversion: Location information in UTM format: Easting 411969 Northing 4165901 Zone 13. Name and address of reputed owners: N/A.

**23CW3015 Applicant**: Sustainable Water Augmentation Group, Inc. (“**SWAG**”), Post Office Box 601, Center, CO, 81125 with all correspondence connected herewith being sent to Applicant’s counsel, Bradley C. Grasmick or Ryan M. Donovan, Lawrence Custer Grasmick Jones & Donovan, LLP., 5245 Ronald Reagan Blvd., Suite 1, Johnstown, CO 80534, 970-622-8181. Application for Approval of Plan of Augmentation, Change of Water Rights, and Appropriative Right of Exchange in Saguache, Alamosa, and Rio Grande Counties. 1.1. **Summary of Application**: 2.1. Background: Identification of Structures to be Augmented. Applicant’s members own or otherwise control 267 groundwater wells (“**Member Wells**”) and associated water rights decreed to withdraw groundwater from the Confined Aquifer and Unconfined Aquifer within Response Area No. 1. A table of the Member Wells is attached hereto as **Exhibit 1**. Groundwater withdrawn by Member Wells from the Confined Aquifer in Response Area No. 1 does not constitute “new withdrawal[s] of ground water,” as that term is defined in the Confined Aquifer New Use Rules. As such, the Member Wells are not subject to the Confined Aquifer New Use Rules. Additional Member Wells may be added to the plan for augmentation claimed in this Application pursuant to the terms and conditions of the final decree entered in this matter, and pursuant to Applicant’s bylaws and policies. Member Wells shall include any replacement well or alternate point of diversion well authorized in connection with any of the identified Member Wells. Water diverted pursuant to the decreed water rights at the Member Wells has historically been used to irrigate approximately 17,897 acres and other agricultural-related commercial uses within Saguache, Alamosa, and Rio Grande Counties. Of the 17,897 acres irrigated by the Member Wells 8,436 acres are irrigated solely by water accruing to the Unconfined Aquifer or the Confined Aquifer within Response Area No. 1 from any and all sources other than those which are decreed for recharge of the Unconfined Aquifer or Confined Aquifer which an owner maintains dominion and control pursuant to the water court decree confirming the recharge use of the water, hereinafter “**Native Water**,” which is diverted by the Member Wells pursuant to the decreed water rights for each Member Well, approximately 9,385 acres are irrigated by a combination of Native Water and water derived from the decreed water rights of the San Luis Valley Irrigation District, and 164 acres are irrigated by a combination of Native Water and water derived from the decreed water rights of the Rio Grande Canal Water Users Association. Applicant’s Member Wells are currently enrolled in the plan of water management operated by the Special Improvement District No. 1 of the Rio Grande Water Conservation District (the “**Subdistrict**”). 2.2. Plan for Augmentation. Applicant seeks approval of a plan for augmentation (the “**SWAG Plan**”) pursuant to Colorado law, including but not limited to 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” (hereinafter the “**Rules**”). Capitalized terms not otherwise defined herein will have the same meaning as in the Rules. Rule 6.1.2 specifically recognizes groundwater withdrawals in Water Division 3 can occur pursuant to plans for augmentation. In addition, Rule 6.1.3 permits withdrawals of groundwater in Water Division 3 pursuant to substitute water supply plans approved pursuant to CRS § 37-92-308. The SWAG Plan is an “Alternate Plan” as that term is used in Rule 8.6. Member Wells may continue to operate and be covered in full, or in part, by the Subdistrict’s Annual Replacement Plan (“**ARP**”), both during the pendency of this Application and, at Applicant’s election, upon entry of a decree approving the SWAG Plan. 2.3. Change of Water Rights. Applicant owns water rights decreed to the Atkins Ditch (“**Atkins Ditch Water Right**”) for which the Applicant seeks approval of a change of use from irrigation to augmentation, replacement, either by direct delivery, or following recharge, storage, or exchange, with the right to totally consume the consumable portion of the Atkins Ditch Water Right by first use, reuse, or successive uses. Applicant seeks a decree approving the addition of other water rights to be used for augmentation purposes pursuant to CRS §§ 37-92-305(8)(c) and 308. 2.4. Appropriative Right of Exchange. One of the claimed uses of the changed Atkins Ditch Water Right is recharge. There may be times when recharge credits accrue to the Rio Grande River in excess of Applicant’s replacement requirements and obligations under the Rio Grande Compact. Applicant seeks a decree approving a substitution and exchange whereby that recharge water can be exchanged to the headgate of the Atkins Ditch. 3. **Statement of Plan for Augmentation**: 3.1. Structures to be Augmented. The structures to be augmented pursuant to the SWAG Plan includes the Member Wells described in Exhibit 1, wells added to the SWAG Plan pursuant to the terms and conditions of a decree to be entered in this matter, and any replacement well or alternate point of diversion well authorized in connection with any of the identified Member Wells. 3.2. Rule 10. The SWAG Plan will operate in compliance with Rule 10. 3.3. Determination of the Timing, Location, and Amount of Stream Depletions. 3.1.1. *Applicant’s Proportional Obligation to Replace or Remedy Injurious Stream Depletions*. Rule 5.11 requires that wells operating pursuant to Rules 6.1.1 - 6.1.3 “bear proportionally the obligation to replace or Remedy Injurious Stream Depletions.” Consistent with and in satisfaction of Rule 10.2 and Rule 7, Applicant will utilize the Response Functions for Response Area No. 1 derived from the RGDSS Groundwater Model to determine the timing, location, and amount of Stream Depletions resulting from groundwater withdrawals by the Member Wells, including those Member Wells which have as their decreed supply groundwater from the Confined Aquifer. Stream depletions and SWAG’s proportional obligation to replace or Remedy Injurious Stream Depletions will be calculated using the response function workbook, the most recent version of which is attached as **Exhibit 2**. The timing, amount, and location of Injurious Stream Depletions will be updated during the pendency of this Application to reflect the most current data regarding pumping by all Wells in the Subdistrict and projected recharge of imported water into the Unconfined Aquifer in Response Area No. 1 according to the most current ARP. If application of the Response Functions for all of Response Area No. 1 determines a negative stream depletion (i.e., accretion) for any of the administrative stream reaches, currently defined as RG1, RG2, or RG3, then no replacements shall be required for that reach. If application of the Response Functions for all of Response Area No. 1 determines an accretion in an upstream reach, then such accretion shall, subject to appropriate transit losses, be applied as an offset to Injurious Stream Depletions owed in a downstream reach. Depletions in the months of November, December, January, February, and March are assumed to be owed to New Mexico due to Rio Grande Compact obligations that are defined by the cumulative sum of depletions and accretions in all three administrative reaches, and which must be replaced or Remedied within the calendar year in which the depletions are simulated to occur. 3.3.2. *Location of Stream Depletions*. Based on the most current application of the RGDSS Model and the corresponding Response Functions, Applicant’s Member Wells may cause Stream Depletions to the Rio Grande River in the RG1, RG2, and RG3 administrative reaches. 3.3.3. *Sources available to replace or Remedy Injurious Stream Depletions*. 3.3.3.1. Atkins Ditch Water Right. The Applicant owns the Atkins Ditch Water Right, which is the subject of the change of water rights claim described below. Section 1.12 of the Subdistrict’s plan of water management defines “Non-Benefited Subdistrict Land” to include “land irrigated with groundwater pursuant to, and in compliance with, the provisions of a validly decreed plan for augmentation. Some land irrigated with groundwater may be only partially covered by a plan for augmentation in which case that land will be Subdistrict Land and will only be treated as non-benefited to the extent valid augmentation exists for groundwater withdrawn.” Upon entry of a final decree in this matter, lands included in the SWAG Plan may be treated as Subdistrict Land and Injurious Stream Depletions associated with the irrigation of such lands by groundwater withdrawn by Member Wells may be replaced pursuant to the Subdistrict’s plan of water management and ARPs. 3.3.3.2. Applicant seeks approval to add additional temporary and permanent sources of augmentation, recharge, and replacement water to the SWAG Plan pursuant to CRS §§ 37-92-305(8)(c) and 308. Without limitation, this specifically includes (1) water rights owned by Applicant in the following priorities associated with the Meadow Glen Ditch: 1.2 c.f.s., Priority No. 348, River Height 2119 ft; 1.8 c.f.s. Priority No. 323, River Height 2041 ft, 1.2 c.f.s. Priority No. 1903-21A River Height 2910 ft; 14 c.f.s. Priority No. 1903-57C River Height 5173 ft; 5.33 c.f.s. Priority No. 1916-23, River Height 5266 ft, 20.0 c.f.s. Priority No. 1916-30B, River Height 5307 ft. and (2) water rights owned by Applicant in the Voss Seepage Ditch, Priority No. 1922-1972. 3.3.3.4. Applicant may enter into forbearance agreements with water rights owners on the Rio Grande River as needed. 3.4. SWAG Plan for Achieving and Maintaining a Sustainable Water Supply. Rule 10.4 requires that plans for augmentation contain terms for achieving and maintaining a Sustainable Water Supply in accordance with Rule 8. SWAG’s Plan is an Alternate Plan within the meaning of Rule 8.6, and as such, it may include a method or standard for determining, achieving, and maintaining a Sustainable Water Supply. In addition, pursuant to Rule 8.7, which applies to all plans authorized under the Rules, the SWAG Plan provides for the proportional division of the responsibility for achieving and maintaining a Sustainable Water Supply as between all Well users in each of the Response Areas in which the Wells included in the Plan are located. Rule 8.7 further requires that the proportional division of the responsibility for achieving and maintaining a Sustainable Water Supply “be based upon each Well’s past, present, and future groundwater withdrawals.” 3.4.1. *Sustainable Consumption Level.* Applicant has determined a “**Sustainable Consumption Level**,” or **SCL**, for its Member Wells. The SCL for the Member Wells is based on the historical use of the Member Wells pursuant to their individual groundwater decrees limited by the amount of Native Water recharged to and stored in the Unconfined Aquifer and Confined Aquifers in Response Area No. 1, which is available to satisfy that pumping, as compared to the sustainable historical withdrawals of Native Water from all other wells in Response Area No. 1. The SCL is exclusive of water available to Member Wells by virtue of the surface water recharge decrees decreed in Case Nos. W-3979 (Rio Grande Canal Water Users Association) for Applicant’s members who own shares in the Rio Grande Canal Water Users Association, W-3980 (San Luis Valley Irrigation District) for Applicant’s members who own land within the boundaries of the San Luis Valley Irrigation District, 13CW3002 (Santa Maria Reservoir Company) for Applicant’s members who own shares in Santa Maria Reservoir Company, and any other decree issued by the Water Court in Water Division No. 3 approving the use of water for the purpose of recharging the Unconfined Aquifer and subsequent withdrawal for irrigation and other uses. The SCL is calculated in proportion to the historical pumping of Native Water from all wells in Response Area No. 1. The SCL was determined based on pumping of the Member Wells during observed periods without mining of the Unconfined Aquifer along with analysis of physical measurements of stream flow which were shown to have a high correlation to inflows to the Unconfined Aquifer aquifers and physical measurements of groundwater withdrawals. Applicant’s initial SCL is calculated to be 14,641 acre-feet per year. This SCL value is preliminary and may be adjusted as more information becomes available to Applicant. 3.4.2. *Recovery Consumption Level*. The SWAG Plan incorporates the same recovery objective found in § 3.4.2 of the Subdistrict’s plan of water management, that being the recovery of storage levels in the Unconfined Aquifer between 200,000 and 400,000 acre-feet below the storage level that was projected to exist on January 1, 1976. As of the end of the most recent calendar year, 2022, the storage level in the Unconfined Aquifer was approximately 896,142 acre-feet below the lower limit of the recovery objective. The Member Wells’ proportional obligation of this amount is approximately 92,144 acre-feet, which amount is based on the past use of all wells in Response Area No. 1, including the Member Wells, from the period beginning in the year 2002. This is an estimate of the Member Wells proportional obligation for the recovery of the Unconfined Aquifer which may be refined, and which will be updated annually during the pendency of this application. Applicant will reduce its annual consumption of Native Water to an amount that is sufficiently lower than the SCL to generate sustained and consistent progress towards Applicant’s proportional obligation towards the recovery of the Unconfined Aquifer. This reduced level of consumption of Native Water is referred to as Applicant’s “**Recovery Consumption Limit**” or the “**RCL**.” The total initial RCL for all Member Wells is 11,285 acre-feet per year, on a 5-year rolling average. The difference between the SCL and the RCL represents contributions by Applicant towards its proportional obligation to recover the storage levels in the Unconfined Aquifer. The RCL, and subsequently the SCL, will be implemented by instituting an enforceable pumping limit on Member Wells. The RCL value is preliminary and may be adjusted as more information becomes available to Applicant. 3.4.3. *Retirement of Selected Member Wells*. In addition to reducing consumption of Native Water through a pumping limit, Applicant proposes to retire certain Member Wells (“**Retired Wells**”), which Retired Wells are identified on Exhibit 1 and denoted as proposed to be fallowed. The Retired Wells have historically been used on approximately 39 circles, upon which Applicant controls. The Retired Wells historically resulted in an average annual consumption of Native Water of 5,051 acre-feet over the most recent ten-year period 2013-2022. Applicant may, either during the pendency of this Application or following entry of a decree approving the SWAG Plan, substitute other Member Wells as Retired Wells and vice versa, provided that the pumping limit then in effect (based on either the SCL or RCL) is not increased. Water rights for the Retired Wells shall not be considered abandoned as they are being used to support operations under this Plan and are considered Member Wells under this Plan. At Applicant’s election, retirement of the Retired Wells and the fallowing of the 39 circles will not commence until such time as the SWAG Plan is approved. 3.5. Accounting and Reporting Under Rule 10.5. Applicant’s accounting, projection, and reporting of operations under the SWAG Plan will be in conformance with Rule 10.5. Applicant will provide the information required by Rule 10.5.1 regarding projected operations under the Plan for each year and by Rule 10.5.2 to document the sufficiency of operation under the plan for each year. Applicant may develop appropriate forms to report the information required by Rule 10.5 in a format and layout acceptable to the Division Engineer. 3.6. Participation in Subdistrict ARP. The Applicant’s members reserve the right to operate in whole or in part pursuant to the Subdistrict’s ARP. Applicant may also operate separate from the Subdistrict and pursuant to C.R.S. Section 37-92-308 while this Application is pending. If Applicant operates under the Subdistrict’s ARP, it may utilize some or all the Member Wells historically used on the SWAG Farm such that full retirement of those wells will be delayed until such time as operations under the SWAG Plan begin. 4. **Change of Water Rights**. 4.1. Water Rights to be Changed: Applicant acquired the Atkins Ditch Water Right by deed dated May 10, 2022 and the lands upon which the Atkins Ditch Water Right were historically used by deed of the same date. The Atkins Ditch Water Right subject to this Application include the following priorities: 0.30 c.f.s., Priority No. 57, River Height 126 ft; 0.67 c.f.s., Priority No. 90; and 0.08 c.f.s., Priority No. 143. 4.2. Previous Decrees: Final Decree in the Matter of the Adjudication of the Priorities of Water Rights in Water District 20, Costilla County District Court, entered May 1, 1896; Case No. W-2967, entered January 3, 1974, by the District Court in and for Water Division No. 3. 5.2. 4.3. Point of Diversion: A point on the North Bank of the Rio Grande River whence the North Quarter corner of Section 28, Township 40 North, Range 5 East N.M.P.M., bears North 31°18½’ West 2,125.00 feet distant. 4.4. Historical Use: The Atkins Ditch Water Right has historically been used for irrigation on a property referred to as the “Shadow Ranch”, in Sections 21, 22, and 28, Township 40 North, Range 5 East, N.M.P.M., Rio Grande County, Colorado. 4.5. Proposed Change: In addition to the currently decreed irrigation use, Applicant seeks to add the following uses to the Atkins Ditch Water Right: augmentation, replacement, exchange, with the right to fully consume the consumable portion, either directly, or following storage and/or recharge on the Shadow Ranch, as described in in paragraph 4.4 above. 4.6. Historic Consumptive Use: Over the study period of 1975-2020, the average annual historical consumptive use of the Atkins Ditch Water Right is estimated to be 162.4 acre-feet. This amount is preliminary and may be adjusted as more information becomes available to Applicant. 4.7. Return Flows: Annual return flows associated with the historical use of the Atkins Ditch Water Right on the Shadow Ranch averaged approximately 50.7 acre-feet. This amount is preliminary and may be adjusted as more information becomes available to Applicant. Return flows associated with the historical use of the Atkins Ditch Water Right may consist of surface returns which will accrue to the Rio Grande River in the same month as diversions, and deep percolation returns which will be lagged to the Rio Grande River. The timing of the lagged return flows will be determined using the IDS AWAS software, the bounded alluvial aquifer Glover methodology, and site-specific alluvial aquifer characteristics. Return flows associated with the historical use of the Atkins Ditch Water Right accrued to the Rio Grande River in the NE ¼, Section 28, Township 40 North, Range 5 East, N.M.P.M., Rio Grande County, Colorado. To prevent injury to other decreed water rights, return flows associated with the Atkins Ditch Water Right will be replaced above the calling water right by using a portion of the water associated with the Atkins Ditch Water Right, either directly, or following storage and/or recharge, or with other water rights owned, leased, or otherwise controlled by Applicant and approved for such use. 5. A**ppropriative Right of Exchange**. 5.1. At such times as when recharge water is delivered to the Rio Grande River pursuant to the changed Atkins Ditch Water Right and in accordance with the plan for augmentation requested in this Application in excess of Applicant’s replacement requirements and Rio Gande River Compact obligations, such recharge water may be substituted and exchanged for water diverted at the headgate of the Atkins Ditch. The exchange-to and exchange-from points and the claimed flow rates are set forth below. The substitution and exchange will only operate at such times when there is a live stream between the point of delivery to the Rio Grande River and the Atkins Ditch headgate. Exchange-to Location: The Atkins Ditch headgate described in paragraph 4.3 above. 5.3. Exchange-from Location: Recharge accretions will accrue to a reach of the Rio Grande River in the S ½ of the NW of Section 28, the SW ¼ of the NW ¼, and the NW ¼ of the SW ¼, all in Township 40, Range 5 East N.M.P.M. There are no known decreed water rights which divert from the Rio Grande River in the exchange reach. 5.4. Amount Claimed: 1.0 c.f.s., conditional. 5.5. Appropriation Date: September 29, 2023. 5.6. Uses: Augmentation, replacement, exchange, with the right to fully consume the consumable portion, either directly, or following storage and/or recharge on the Shadow Ranch 6. **Name and Address of Owners of Structures**: The Member Wells, water rights, and other structures referenced in this Application are owned by the following persons or entities: 6.1. Applicant, contact information is described in Paragraph 1 herein. 6.2. Santa Maria Reservoir Company, 147 Washington Street, Monte Vista, CO 81144. 6.3. Rio Grande Water Users Association, 147 Washington Street, Monte Vista, CO 81144. 6.4. San Luis Valley Irrigation District, 296 Miles Street, Center, CO 81125. 6.5. Gunbarrel Road Alamosa, LLC, 1521 Westbranch Drive, Suite 100, McLean, VA 22102. 6.6. 4A Farms LLLP, 50501 County Road C, Center, CO 81125. 6.7.Anaiak Farms, Inc., 50501 County Road C, Center, CO 81125. 6.8. Anaiak Land, LLC, 50501 County Road C, Center, CO 81125. 6.9. Asier Artaechevarria, 50501 County Road C, Center, CO 81125. 6.10. John Artaechevarria, 3632 County Road 60, Center, CO 81125. 6.11. Bartee Ranch LLC, 3015 County Road 52, Center, CO 81125. 6.12. Echeverria Farms LLC, 59101 County Road G, Center CO 81125. 6.13. Elevation Ag, Inc., 0070 Lane 11 N, Center, CO 81125. 6.14. Margaret Dianne Goldman, 4015 N. 78th Street, Unit 106, Scottsdale, AZ 85251. 6.15. JADA Holdings, 5500 Ming Avenue, Suite 350, Bakersfield, CA 93309. 6.16. James M. Ford Estate, 3011 Lane 10 N, Hooper, CO 81136. 6.17. Jim Ford Farms Inc, 3011 Lane 10 N, Hooper, CO 81136. 6.18. Myers Land RLLP, 10516 County Road 100, Center, CO 81125. 6.19. Shirley J. Myers Trust, 10516 County Road 51, Center, CO 81125. 6.20. Ernie Myers, 5642 County Road 53, Center, CO 81125. 6.21. Gerald Myers, 10516 County Road 100, Center, CO 81125. 6.22. Jared Myers, 53943 County Road B, Center, CO 81125. 6.23. Willie Myers, 705 Spruce Street, Del Norte, CO 81132. 6.24. Nevitt Ford 626, LLC, 22128 E. Cloud Road, Queen Creek, AZ 85142. 6.25. Skyline Land Company, LLC, 701 W 16th Street, Suite 101, Yuma, AZ 85364. 6.26. Myers Family Farm, LLC c/o Ernie Myers, 2596 County Road 52, Center, CO 81125. 6.27. Neufeld Farms, 10130 N County Road 104, Hooper, CO 81136. Exhibit 1:

| **WDID** | **Well Name** | **Permit No.** | **Type of Use** | **Decree** | **Appropriation Date** | **PLSS** |
| --- | --- | --- | --- | --- | --- | --- |
| 2705428 | W1843 WELL NO SKY VLY 07 | 25353-F, 48338-F | Irrigation, Commercial, Evaporation | 04CW0025, W1843 | 12/31/1950 | NE-NE-13-41-8 |
| 2008552 | W0140 WELL NO PUMP 05 | 6152-R | Irrigation | W0140 | 5/31/1956 | SW-NE-34-41-8 |
| 2706088 | W2983 WELL NO 109 | 7555- | Stock | W2983 | 12/10/1960 | SW-SW-4-41-9 |
| 2706324 | 07CW17 WELL NO 2-R | 11310-R-R | Irrigation | 07CW0017 | 7/31/1948 | SE-SE-1-41-8 |
| 2705769 | W1365 WELL NO 04 |  | Domestic, Stock | W1365 | 4/30/1910 | SE-SE-1-41-8 |
| 2705087 | W1912 WELL NO 11 | 8937-F | Irrigation | W1912 | 6/23/1958 | SE-NW-20-41-9 |
| 2706144 | W1912 WELL NO 03 | 7719-F | Irrigation | W1912 | 8/28/1957 | SW-NW-17-41-9 |
| 2706325 | 07CW23 WELL NO 5-R | 9346-F-R | Irrigation | 07CW0023 | 12/31/1956 | NW-SE-18-41-10 |
| 2012602 | W2556 WELL NO 07 | 5565-F | Irrigation | W2556 | 7/15/1965 | SW-NW-35-41-8 |
| 2705421 | W1504 WELL NO 09 | 12185-R | Irrigation, Stock | W1504 | 6/30/1955 | SW-SW-14-41-8 |

This application contains ten pages and one exhibit.

**23CW3017 2023CW3017 *IN MINERAL COUNTY* - APPLICATION FOR SURFACE WATER RIGHT** City of Creede c/o Richard J. Mehren, Molly K. Haug, Moses, Wittemyer, Harrison and Woodruff, P.C., 2595 Canyon Blvd., Suite 240, Boulder, CO 80302 1. Name, mailing address, email address, and telephone number of applicant: City of Creede, Colorado (“Creede”) c/o Louis Fineberg, City Manager, 2223 N. Main Street, P. O. Box 457, Creede, CO 81130, (719) 658-2276 2. Name of structure: Creede Hydropower Diversion Structure. 3. Location of structure and point of diversion: The location of the Creede Hydropower Diversion Structure is as follows: 3.1 PLSS description: SE 1/4 SE 1/4, Section 25, Township 42 North, Range 1 West, N.M.P.M., Mineral County, Colorado. 3.2 UTM description: Creede will construct the Creede Hydropower Diversion Structure at one of the following two locations: 3.2.1 330433.63 mE, 4191581.16 mN, Zone 13 South, NAD 83. 3.2.2 330418.00 mE, 4191593.00 mN, Zone 13 South, NAD 83. The two locations for the Creede Hydropower Diversion Structure described in paragraphs 3.2.1 and 3.2.2, above, are within 100 feet from each other and are shown as a single location on the map attached as **Exhibit A**. The source of the UTM coordinates is a handheld GPS unit. 4. Source: Willow Creek, tributary to the Rio Grande. 5. Amount claimed: 18.0 cfs, CONDITIONAL. To the extent Creede diverts and places all or any portion of the claimed water right to beneficial use while this Application is pending before the Water Court, Creede will seek to make absolute in the decree to be entered by the Water Court in this case all or any portion of the water right that is so diverted and placed to the claimed beneficial use. 6. Priority: 6.1 Date of appropriation: October 17, 2023. 6.2 How appropriation was initiated: By forming the intent to appropriate the claimed water right; by filing the application in this case to adjudicate the claimed water right; by the Board of Trustees formally acting to authorize the hydropower project; by planning and hiring consultants to construct the Creede Hydropower Pipeline and hydropower infrastructure. 6.3 Date water first applied to beneficial use: N/A. 7. Use: Hydropower production. 8. Name(s) and address(es) of owner(s) or reputed owner(s) of the land upon which any new or existing 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: 8.1 Creede Hydropower Diversion Structure: Creede. 8.2 Creede Hydropower Pipeline: Creede owns in fee portions of the land that where the Creede Hydropower Pipeline will be constructed. Creede has a prescriptive easement for the Creede Hydropower Pipeline across the land owned by the following landowners: 8.2.1 Aguinco General Partnership, P. O. Box 4389, Aspen, CO 81612 8.2.2 BPOE (Elks Club), P. O. Box 117, Creede, CO 81130 8.2.3 Jimmy and Kathy Adelman, P. O. Box 558, Creede, CO 81130 8.2.4 Terry Wetherill, P. O. Box 143, Creede, CO 81130 8.2.5 Jason Trujillo, P. O. Box 381, Monte Vista, CO 81144 8.2.6 Creede Consolidated School District No. 1, P. O. Box 429, Creede, CO 81130 8.3 Creede Hydropower Return Structure: Creede. 9 Remarks: The use of the water diverted under the claimed water right will be off-channel and non-consumptive. Water will be diverted from Willow Creek at the Creede Hydropower Diversion Structure at the point of diversion described in paragraph 3, above, into a pipeline that will deliver water to Creede’s hydropower generating facility that is planned to be located near the southern end of Creede. The water will be run through Creede’s hydropower generating facility and returned to Willow Creek at the hydropower point of return at a point that is approximately 4,516 to 4,572 feet downstream of the point of diversion of the Creede Hydropower Diversion Structure with no change to the timing, quality or quantity of the creek flows. There are no water rights that divert from Willow Creek in the intervening reach between the Creede Hydropower Diversion Structure’s point of diversion and the point where the diverted water will be returned to Willow Creek and there is no instream flow water right in the intervening reach between the Creede Hydropower Diversion Structure’s point of diversion and the point where the diverted water will be returned to Willow Creek.

You are notified that you have until the last day of December 2023, 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