**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 November 2024 for each county affected.**

**Case No. 2024CW12 Jess Douglas and Emily Lynn Freel 7257 County Road 112, Mosca, CO. 81146 (719) 588-7051** Freelfarms8245@gmail.com In Alamosa County APPLICATION FOR SIMPLE CHANGE OF WATER RIGHT. Part A – Correct the adjudicated flowrates for Well Nos. 9 and 10, Case No. W-1229 located on Field No. 4 (NW1/4 Section 14, T39N, R10E, NMPM) Decreed water right for which change is sought: Name of structure: Well No. 9, Case No. W-1229, Permit No. 6146-F, WDID 2010353 (Well No. 9) Date of original and all relevant subsequent decrees: July 24, 1975 Court: District Court, Water Division No. 3 Legal description of decreed structure: NW1/4 NW1/4 Section 14, Township 39 North, Range 10 East, NMPM, at a point 1000 feet from the North Section line and 50 feet from the West Section line, in Alamosa County, Colorado. Decreed source of water: Confined Aquifer Note: at a depth of 1,874 feet and perforated casing from 977 feet to 1,874 feet, this well produces from confined aquifer only. This well has 16-inch, 12 3/4-inch, and 8 5/8-inch diameters casing Appropriation Date: September 23, 1964 Total amount decreed to structure: 1,400 GPM, being 3.12 cfs Decreed use: Irrigation Amount of water that applicant intends to change: 1,400 gpm, being 3.12 cfs Decreed water right for which change is sought: Name of structure: Well No. 10, Case No. W-1229, Permit No. 14070-R, WDID 2010354 (Well No. 10) Date of original and all relevant subsequent decrees: July 24, 1975 Court: District Court, Water Division No. 3 Legal description of decreed structure: NW1/4 NW1/4 Section 14, Township 39 North, Range 10 East, NMPM, at a point 1,100 feet from the North Section line and 400 feet from the West Section line, in Alamosa County, Colorado. Decreed source of water: Confined Aquifer Note: at a depth of 2,050 feet and perforated casing from 1,100 feet to 2,050 feet, this well produces from confined aquifer only. This well has 10 3/4-inch diameter casing. Appropriation Date: June 30, 1956, Total amount decreed to structure: 375 GPM, being 0.835 cfs Decreed use: Irrigation Amount of water that applicant intends to change: 375 gpm, being 0.835 cfs Detailed description of proposed change Applicants seek to correct the decreed locations, flowrates, and appropriation dates for Well Nos. 9 and 10, Case No. W-1229. Applicants state the evidence to support the claim that the wells were adjudicated “backwards” of each other: Well registration no. 14070-R was received on April 29, 1960 and again on August 5, 1960 from Fern and Harry E. Smalley to register an existing irrigation well. Mr. Smalley claimed irrigation use on “Sec 14 T39 R10” with 375 gpm. The claimed location was the NW1/4 NW1/4 Section 14, Township 39 North, Range 10 East, NMPM, but no distances from section lines were available on the existing Form F. The “dot” placed on the general map included on the registration placed the well location within the NW1/4 NW1/4 of the grid at a locationfarther south from the NW corner and closer to the west section line of Section 14 than the “dot” on the 6146-F permit. The registration also claimed a well 2050 feet deep with 10 3/4-inch diameter causing that was perforated the bottom 950 feet. Applicants claimed the well was first used during June 1956. An Amendment of Existing Record for well no. R14070 was received by the Office of the State Engineer on February 28, 1972, prior to the date of the Water Court application which was June 12, 1972. On that Amendment, the same applicants, Harry E. and Fern Smalley, claimed the well produces 2000 gpm by artesian flow for irrigation of 320 acres. On the Water Court application, they claimed 1800 gpm. There was an obvious claim to more than the 375 gpm on the original well registration. The well can physically produce 500 gpm. Well permit no. 6146-F was issued on September 15, 1964, to Harry E. Smalley to drill a new confined aquifer irrigation well. Mr. Smalley intended to irrigate 320 acres (unspecified location) with 2000 gpm. The proposed location was the NW1/4 NW1/4 Section 14, Township 39 North, Range 10 East, NMPM, but no distances from section lines were given. The permit application showed intention to drill a well 1900 feet deep with 16-inch, 12 3/4-inch, and 8 5/8-inch diameters casing. The “dot” placed on the general map included on the well permit placed the well location within the NW1/4 NW1/4 of the grid. The Log and History submitted to the Office of the State Engineer indicated the well was completed to a depth of 1874 feet on October 2, 1964. The claimed yield was 1500 gpm. The well had 16-inch, 12 3/4-inch, and 8 5/8-inch diameters casing. The last section of the casing was 8 5/8-inch and was perforated from 977 feet to 1874 feet. The applicant claimed the yield was from “flow” as there was no initial pump installation. A very detailed log was provided. The Applicants continued to claim the use as irrigation of 320 acres. The “dot” placed on the general map included on the Log and History form placed the well location within the NW1/4 NW1/4 of the grid very near the NW corner of the grid – a location too far north to clearly identify which well location. The Application to Water Court by Harry E. and Fern Smalley was filed on June 12, 1972. The application sought to adjudicate a total of 12 wells. The claim for Well No. 9 was a well located on the west side of the reservoir per the included distances from section lines. This application may have improperly referenced permit number “P06146”. The claim for Well No. 10 was a well located on the east side of the reservoir per the included distances from section lines. This application may have improperly referenced permit number “P06146”. Close inspection of the applications for Well Nos. 9 and 10 shows the appropriation dates as March 5, 1956, for Well No. 9 and September 10, 1964 for Well No. 10. The Applicants may have been confused about which well was which and simply put down the wrong location for each well. USGS topographic series map based on 1966 aerial photography shows the reservoir in place, but does not indicate well locations in Section 14 as it does in other portions of the map. The 1955 aerial photograph shows the majority of the N1/2 of Section 14 to be flood irrigated. As this photo pre-dates the first irrigation well, all the irrigation was presumably through surface water rights. There is no established reservoir in the photograph. Current owners have not changed the pumping equipment for either well after purchase of the farm from Harvey Smalley. The west well has a 5-hp pump that produces 500 gpm. The east well has a 30-hp pump that produces 1,400 gpm. An affidavit of Harvey Smalley, son of W-1229 Applicants Harry E. and Fern Smalley, will supplement this application. The Colorado Division of Water Resources conducted a field inspection during October 2024 to investigate this discrepancy. The DWR confirmed the casing sizes of each well to support this application. The N1/2 of Section 14, T39N, R10E, NMPM is within the defined service area of the Prairie Ditch Company. Applicants have shares that are used for direct irrigation and recharge. Applicants to this case claim the details of Well Nos. 9 and 10 of Case No. W-1229 were erroneously switched by the Applicants of Case No. W-1229 and the Court. The first well drilled in 1956 in the NW1/4 NW1/4 Section 14, Township 39 North, Range 10 East, NMPM would have naturally been near the edge of the field for distribution to the entire N½ of Section 14. The second well would naturally be drilled near the edge of the reservoir so that it could fill the reservoir for distribution to the N1/2 of Section 14. It is important to note that the Applicants are seeking additional decreed flowrate from Well No. 10 – increasing the adjudicated flowrate from 375 gpm to 500 gpm, but leaving the 14000 gpm decreed to Well No. 9 intact. Applicants are asking the Court to switch the adjudications, with the additional 125 gpm for Well No. 10, of Well Nos. 9 and 10, Case No. W-1229 so that the historic and current use of the wells can be preserved and confirmed. Yes, see above. Name of owner: Yes, see above Jess Douglas and Emily Lynn Freel 7257 County Road 112, Mosca Co 81146 Freelfarms8245@gmail.com (719) 588-7051

**You are notified that you have until the last day of December 2024, 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.**