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CASE NUMBER: 2013CW3062

DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 N. Elizabeth Street, , Pueblo, CO 81003 Phone Number: (719) 404-8832	▲ COURT USE ONLY ▲
<b>IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF HUERFANO COUNTY WATER CONSERVANCY DISTRICT</b>  <b>IN HUERFANO COUNTY, COLORADO.</b>	Case No.: 13CW3062  Ctrm.: 406
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT AND DECREE OF THE WATER COURT</b>	

An Application for Changes of Water Right, Plan for Augmentation, and Appropriative Rights of Exchange was filed in the Water Court, Water Division No. 2, by the Huerfano County Water Conservancy District, and the Court, being fully advised in the premises, hereby makes the following findings of fact, conclusions of law, judgment and decree:

### FINDINGS OF FACT

**1. Name, Address and Telephone Number of Applicant.**

Huerfano County Water Conservancy District  
c/o Administrator  
P.O. Box 442  
LaVeta, Colorado 81055  
(719) 746-2413  
("District")

With Notice to:

Monson, Cummins & Shohet, LLC  
319 N. Weber Street  
Colorado Springs, Colorado 80903  
(719) 471-1212

**2. Notice and Jurisdiction.**

The Application was filed with the Water Clerk, Water Division No. 2, on December 23, 2013. Timely and adequate notice of the Application was given in the manner required by law. The Court has jurisdiction over the subject matter of this proceeding and over all persons who have standing to appear as parties, whether they have appeared or not.

**3. Description of Applicant.**

The District is a water conservancy district formed by order of the Huerfano County District Court pursuant to the Water Conservancy Act § 37-45-101, C.R.S. *et seq.*, with all the powers and authority of said act including the right of eminent domain.

**4. Statements of Opposition.**

Timely statements of opposition were filed by the Fort Lyon Canal Company, Charles F. Rowland, District 67 Irrigation Canals Association, Donald and Barbara Andreatta, Colorado State and Division Engineers, Colorado Water Conservation Board, Lucy Hibberd, Growing Roots, LLC, and Stephen and Carolyn Wardell. Therese Martini, Tom and Mary Thayer, and The Castle Ranch, LLC have intervened into this case as parties and have filed a statement of opposition. No other persons or entities sought to intervene. The time for filing statements of opposition and motions to intervene has expired.

**5. Stipulations and Settlements.**

Stipulations were entered into between the Applicant and the Opposers as follows:

5.1. Stipulation of Applicant and Opposer, Fort Lyon Canal Company, dated September 16, 2014, confirmed by order of the Court, dated September 16, 2014.

5.2. Stipulation of Applicant and Opposer, Charles F. Rowland, dated September 9, 2014, confirmed by order of the Court, dated September 9, 2014.

5.3. Stipulation of Applicant and Opposer, District 67 Irrigation Canals Association, dated September 17, 2014, confirmed by order of the Court, dated September 17, 2014.

5.4. The Statement of Opposition filed by Donald and Barbara Andreatta was withdrawn by a filing of Withdrawal of Statement of Opposition with the Division 2 Water Court on August 13, 2014.

5.5. Stipulation of Applicant and Opposer, the Amity Mutual Irrigation Company, dated December 3, 2014, confirmed by order of the Court, dated December 3, 2014.

5.6. Stipulation of Applicant and Opposers, Colorado State and Division Engineers (“Engineers”), dated June 3, 2016, confirmed by order of the Court, dated June 6, 2016.

5.7. Stipulation of Applicant and Opposer, Colorado Water Conservation Board (“CWCB”), dated September 16, 2016, confirmed by order of the Court, dated September 19, 2016.

5.8. Stipulation of Applicant and Opposer, Lucy Hibberd, dated September 21, 2016, confirmed by order of the Court, dated September 21, 2016.

5.9. Stipulation of Applicant and Opposer, Growing Roots, LLC, dated February 4, 2015, confirmed by order of the Court, dated February 4, 2015.

5.10. Stipulation of Applicant and Opposers, Stephen and Carolyn Wardell, dated November 10, 2014, confirmed by order of the Court, dated November 18, 2014.

5.11. Stipulation of Applicant and Opposers, Therese Martini, Tom and Mary Thayer, and The Castle Ranch, LLC dated June 9, 2015, confirmed by order of the Court, dated June 12, 2015.

## **6. Summary of Application.**

The District desires to develop a regional plan for augmentation within its district boundaries for the Huerfano River basin within Huerfano County as such area is shown on the attached **Exhibit A** (“Regional Augmentation Plan”). The District seeks to change its senior water right on the Huerfano River from its historical agricultural use to encompass new uses, including augmentation uses to replace out-of-priority depletions to the Huerfano River basin from multiple types of existing and new beneficial uses made by participants within the boundaries of the Regional Augmentation Plan. Replacements of depletions are to be made by direct use of consumptive use credits, accrual of recharged consumptive use credits to the river, and by releases of consumptive use credits from storage. The District also seeks to exchange its senior water right, as changed, to upstream locations for storage and for replacement of plan depletions by direct exchange. The District will utilize a notice, comment, and hearing procedure for adding new diversions and associated depletions to the Regional Augmentation Plan.

## **7. Change of Water Right.**

7.1. Summary of Change. The District is the owner of a six-sevenths (6/7) interest in the William Craig Ditch water right. This water right has been historically used for agricultural irrigation, and the District seeks to change the uses of this water right to be included in the Regional Augmentation Plan as decreed herein. The Court makes the following findings with respect to this change of water right.

7.2. Name of Structure. The name of the structure for which the water right herein is changed is the William Craig Ditch (“Wm. Craig Ditch”).

7.3. Prior Decree Date. The Wm. Craig Ditch was decreed on June 12, 1889 by the original adjudication of the District Court of Huerfano County (“Read Decree”).

7.4. Decreed Point of Diversion. The decreed point of diversion for the Wm. Craig Ditch, as stated in the Read Decree, is that the headgate is located in the SW1/4 of Section 31, Township 26 South, Range 67 West of the 6<sup>th</sup> P.M. The headgate location within said Section 31 is generally shown on **Exhibit B**.

7.5. Source. The source of water for the Wm. Craig Ditch is the Huerfano River, tributary to the Arkansas River.

7.6. Appropriation Date/Amounts. The appropriation date and decreed amount for the Wm. Craig Ditch is as follows, six-sevenths of which water right is owned by the District and is the subject of this decree (“Subject Water Right”):

Name of Water Right	Adjudication Date	Appropriation Date	Local Priority No.	Full Water Right (c.f.s.)	Subject Water Right (c.f.s.)
Wm. Craig Ditch	June 12, 1889	May 1, 1864	7	2.4	2.06

7.7. Historical Use. The Subject Water Right has historically been used for the irrigation of 92 acres of property within Sections 31 and 32 of Township 26 South, Range 67 West of the 6<sup>th</sup> P.M., as generally shown on **Exhibit B** (“Historically Irrigated Property”). The Historically Irrigated Property is located upon a portion of the 1,056 acre William Craig ranch described in **Exhibit C** (“Wm. Craig Ranch”). During a representative study period of 72 years from 1941 through 2012, the Wm. Craig Ditch in-priority diversions have averaged 470 annual acre feet as shown on attached **Exhibit D**. Diversions associated with the Subject Water Right, being six-sevenths of the Wm. Craig Ditch Water Right diversions, averaged 403 annual acre feet. A summary of the historical diversion records for the Subject Water Right is also shown on the attached **Exhibit D**. Based upon the analysis of consumptive use by the crops upon the Historically Irrigated Property, the historical diversions associated with the Subject

Water Right resulted in average consumptive use of approximately 170 annual acre feet.

7.8. New use. The Subject Water right is changed to new types and places of use within the District's Regional Augmentation Plan, as follows:

7.8.1. Type of Use. The type of use of the Subject Water Right is changed from direct flow for irrigation use to direct flow and storage for the District's uses including continued irrigation, domestic, municipal, commercial, industrial, and recreational uses, and other beneficial uses for which the District was formed and are provided for by the Water Conservancy Act, including augmentation, exchange, recharge, and replacement purposes. The changed historical depletions may be fully consumed, and used, reused, and successively used to extinction by the District for these beneficial uses. Provided, however, except as specifically provided for by this Decree, no other specific plan for the reuse or successive use to extinction of the Subject Water Right is authorized by this decree. The reuse or successive use to extinction of the Subject Water Right, except as specifically provided for by this Decree, may not occur unless and until a detailed plan for reuse or successive use is either approved by this Court or included in this augmentation plan along with a new Participating Diversion consistent with the terms of Paragraph 15.

7.8.2. Place of Use. The Subject Water Right's place of use is changed from the Historically Irrigated Property to use within the existing boundaries of the District's service area of the regional augmentation plan as shown on **Exhibit A** ("Augmentation Plan Area"). In accordance with procedures and requirements described in paragraph 7.16.2 below, the Subject Water Rights may also be used for continued irrigation upon the Historically Irrigated Property to the extent not committed for augmentation uses and withdrawn from irrigation. The place of use can be amended to include additional areas of service in the Huerfano River drainage within District boundaries by amendment to this decree addressing only whether there is any material injury or expansion of use under the existing decree as a result of the expansion of the Augmentation Plan Area.

7.9. Farm Headgate Deliveries. In-priority diversions of the Subject Water Right, subject to the diversion limits of this Decree, can be used by the District to generate consumptive use credits, to meet return flow obligations, and to irrigate the Historically Irrigated Property not subject to dry up. The Subject Water Right will be diverted and measured at its decreed point of diversion as physically and legally available, and all diversions shall be limited to the period of March 1<sup>st</sup> through October 31<sup>st</sup>. Ten percent of all diversions of the Subject Water Right on average will be left in the Wm. Craig Ditch to facilitate deliveries of water under the ditch and to maintain historical ditch loss. "Farm Headgate Deliveries" are deliveries carried in the Wm. Craig Ditch that are (1) delivered to the Augmentation Station (as defined herein) and immediately returned to the stream; (2) delivered to the District's Recharge Facility (as

defined herein); and/or (3) delivered from the ditch to the Historically Irrigated Property not subject to dry up in accordance with procedures and requirements described in Paragraph 7.16.2 below. All surface and subsurface return flow obligations associated with the Farm Headgate Deliveries not used for continued irrigation of the Historically Irrigated Property must be met with Augmentation Station deliveries, recharge accretions, or storage releases of fully consumable water available under the terms of this Augmentation Plan before Farm Headgate Deliveries may be used to generate Consumptive Use Credits, as described herein.

7.10. Delivery Limits. In-priority diversions of the Subject Water Right shall be limited to 2.06 cfs under the May 1, 1864 priority date and to the period of March 1<sup>st</sup> through October 31<sup>st</sup>.

7.10.1. Maximum Annual and Monthly Delivery Limits. Monthly Farm Headgate Deliveries attributable to the Subject Water Right shall be limited to the following annual and monthly maximums, all in acre feet.

Monthly and Annual Maximum Delivery Limits

Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Annual
114	110	114	110	114	114	110	99	820

7.10.2. Twenty Year Rolling Average Monthly and Annual Delivery Limits. Farm Headgate Deliveries attributable to the Subject Water Right shall be limited to the following monthly and annual twenty year rolling averages in acre feet per year.

Twenty Year Monthly and Annual Rolling Average Delivery Limits

Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Annual
9.5	49.3	83.6	70.0	65.0	39.6	29.3	12.2	358.5

7.10.3. Administration of Twenty Year Rolling Average. For the purpose of administering this 20-year rolling average annual limit, Farm Headgate Deliveries for each of the 19 years prior to the entry of this Decree shall be considered to be 334.2 acre feet (which is equal to 358.5 acre feet for 20 years less the maximum annual delivery of 820 acre feet, divided by 19 years).

7.11. Return Flow Obligation. The District shall meet all surface and subsurface return flow obligations associated with the historical diversion and use of the Subject Water Right. Surface return flow obligations associated with Farm Headgate Deliveries

will be determined by applying the following percentages for each month in which the Subject Water Right is diverted to Farm Headgate Deliveries:

Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
32.5%	30.1%	28.3%	24.8%	23.1%	24.0%	26.7%	29.7%

Subsurface return flow obligations associated with Farm Headgate Deliveries will be determined by first applying the following percentages for each month in which the Subject Water Right is diverted to Farm Headgate Deliveries:

Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
32.5%	30.1%	28.3%	24.8%	23.1%	24.0%	26.7%	29.7%

Second, the subsurface return flow obligations shall be lagged to the Huerfano River using the following lagging factors, where month one is the month in which the Subject Water Right is diverted:

Month	1	2	3	4	5	6	7	8	9	10	Sum
Factor	15.1%	28.1%	16.9%	12.0%	8.7%	6.4%	4.7%	3.5%	2.6%	2.0%	100%

7.12. Consumptive Use Credits. For Farm Headgate Deliveries not utilized for continued irrigation of the Historically Irrigated Property not subject to dry up, once all surface and subsurface return flow obligations associated with the Farm Headgate Deliveries have been met pursuant to the terms of this decree, the District shall be entitled to fully consume the remaining portion of the Farm Headgate Deliveries as consumptive use credits available to the District under the terms of this Regional Augmentation Plan (“Consumptive Use Credits”).

7.13. Meeting Return Flow Obligations. The District has constructed an augmentation station located on the Wm. Craig Ranch Property within Section 31, Township 26 South, Range 67 West of the 6<sup>th</sup> P.M., the location of which is shown on the **Exhibit B** map (“Augmentation Station”). The District will meet return flow obligations associated with Farm Headgate Deliveries not used for the continued irrigation of the Historically Irrigated Property by: (i) delivering Farm Headgate Deliveries through the Augmentation Station and returning them to the stream; (ii) recharging the alluvial aquifer by use of the Recharge Facility or other recharge facilities in accordance with the terms of this decree; and (iii) releasing water from the Red Wing Augmentation Facility as decreed in Section 14 or other storage facilities in accordance with the terms of this decree. Replacements may be aggregated at the discretion and upon the approval of Water Commissioner or Division Engineer. To assist in the administration of

the river, the District shall inform the Water Commissioner at such times when storage releases and/or accretions from the Recharge Facility are being utilized to meet any obligations. To the extent the diversions from the Subject Water Right, as changed, are not dedicated for augmentation purposes but are continued to be applied to the irrigation of the Historically Irrigated Property, such continued irrigation will meet District's obligation for return flows attributable to those Farm Headgate Deliveries. All return flows from the Subject Water Right are appropriated by the District as of the filing date of the Application and only need to be replaced when the call below the Wm. Craig Ditch is senior to December 23, 2013, which appropriation will be accomplished by diversion of those return flow amounts by exchange to and diversion at the headgate of the Wilson Ditch for storage and also at the headgate of the Wm. Craig Ditch and delivery to the Augmentation Station or the Recharge Facility for use and exchange in accordance with the terms of this Decree. Any such diversion of return flows shall be made and accounted for under a December 23, 2013, appropriation date and such diversions shall not be made under or considered to be diversions of the Subject Water Right.

7.14. Alternate Point of Diversion. The District is granted an alternate point of diversion of the Subject Water Right at an alluvial well to be located in the NW1/4 of the SW1/4 of Section 31, Township 26 South, Range 67 West of the 6<sup>th</sup> P.M. ("APD Well"). The APD Well must be located and constructed so as to result in instantaneous depletions to the Huerfano River as reasonably determined by the Division Engineer and so as not to injure intervening water rights, if any. The APD Well shall be located upstream of the Augmentation Station shown on **Exhibit B**, which location is also upstream of the accruals to the river from the Recharge Facility. The Subject Water Right may only be diverted at the APD Well when and to the extent the Subject Water Right is physically and legally available for diversion at its originally decreed point of diversion. As an alternate point of diversion, diversions at the APD are considered diversions of the Subject Water Right and are subject to the same terms and conditions of this decree, including the District's obligation to maintain ditch losses.

7.15. Recharge Facility. The District has constructed an infiltration recharge facility upon the Wm. Craig Ranch in the NW1/4 of the NW1/4 of Section 32, Township 26 South, Range 67 West of the 6<sup>th</sup> P.M., as also shown on **Exhibit B** ("Recharge Facility").

7.15.1. Method of Recharge. The current Recharge Facility recharges the alluvial aquifer by pond infiltration, after reduction for evaporation losses. The Recharge Facility can receive Farm Headgate Deliveries for infiltration into the aquifer and replacement of historical return flows and the generation of Consumptive Use Credits at the Huerfano River for use under the Regional Augmentation Plan. The centroid of the accrual location for the Consumptive Use Credits to the Huerfano River is the NW1/4 of the SW1/4 of Section 32, Township 26 South, Range 67 West of the 6<sup>th</sup> P.M. The timing of the accrual of such credits to the Huerfano River from the Recharge



Facility shall be determined using the following lagging factors, where month one is the month of recharge:

Month	1	2	3	4	5	6	7	8	9	10	11	12	Sum
Factor	3.2%	21.0%	21.8%	16.0%	11.5%	8.3%	5.9%	4.3%	3.1%	2.2%	1.6%	1.1%	100%

7.15.2. Net Recharge and Evaporation. Water delivered to the Recharge Facility will be measured by a properly functioning and maintained automated recorder. Monthly net recharge will be determined as the amount of water delivered minus the amount of water lost to evaporation, minus the amount remaining in the pond at the end of the month. Any amount of water remaining in the pond at the end of a month will be counted as water delivered in the following month. The Recharge Facility will be kept clear of vegetation at all times. In any given month in which vegetation is present, the District will apply on a daily basis a reduction to the net recharge for that portion of any month equal to the number of acres of established vegetation multiplied by the consumptive use rate in feet per day shown on the following chart, which is based on pasture grass consumption, to account for consumption by such vegetation:

Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
0.0007	0.0038	0.0083	0.0146	0.0159	0.0129	0.0100	0.0044	0.0007

Evaporation will be determined as the product of the gross evaporation rate shown below, times the number of days of exposed water surface in the pond, times the surface area of the exposed water surface. The following evaporation rates are in feet per day:

Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
0.0067	0.0114	0.0147	0.0183	0.0183	0.0165	0.0126	0.0086	0.0051	0.0037

7.15.3. Future Facility. A future recharge facility may be added by the District to this decree upon an amendment to this decree by the Water Court proving the timing and location of recharge accruals and non-injury to other water rights by the use of the new recharge facility under the Regional Augmentation Plan. Disputes as to the addition of a future recharge facility will be limited only to a review of the impact of the inclusion of a new recharge facility within the existing Regional Augmentation Plan.

## 7.16. Dry Up.

7.16.1. Dry Up Land. Historically Irrigated Property that is removed from irrigation, dried up, and dedicated to this Decree will allow generation of Consumptive Use Credits under the Regional Augmentation Plan (“Dry Up Land”).

7.16.2. Staged Dry Up. The Historically Irrigated Property may be withdrawn from irrigation in stages on an annual basis as the Consumptive Use Credits associated with the Subject Water Right are needed for use within the Regional Augmentation Plan. Diversions of the Subject Water Right and the subsequent generation of Consumptive Use Credits as described in Paragraph 7.12, above, may be made available to the Regional Augmentation Plan on the proportional basis of dry up area compared to the 92 total acres of Historically Irrigated Property. If the Consumptive Use Credits are not needed within the Regional Augmentation Plan, the Historically Irrigated Property not yet implemented as Dry Up Land may continue to be irrigated with the Subject Water Right. The Applicant shall notify the Division Engineer’s Office by March 1<sup>st</sup> of any year in which there will be a partial dry up of the Historically Irrigated Property and will provide mapping of the current dry up area, number of acres to be dried up, and the allocation of the Subject Water Right to be used for continued irrigation and to be used for depletion credits under the Regional Augmentation Plan based upon the above proportioned basis. The proportion of dry up acres compared to the total 92 acres of Historically Irrigated Property shall be used to apply the delivery limits of Paragraph 7.10 on a prorated basis to the deliveries made to the Augmentation Station and the Recharge Facility for the use under the terms of this plan for augmentation and exchange. The District will also place cut off trenches or berming to the satisfaction of the Division Engineer’s Office, to separate the dried up parcels from the continued irrigation so that irrigation of the Dry Up Land does not continue from the Subject Water Right. The District shall provide any other dry up assurances or compliance as necessary for the Division Engineer’s Office to meet Arkansas River Compact compliance obligations to the State of Kansas. Dry up land will be monumented to the satisfaction of the Division Engineer’s Office before credit can be claimed.

7.16.3. Other Irrigation. The Dry Up Land may be irrigated with wells augmented under this Decree (augmented structures), and other water rights authorized for irrigation of the Dry Up Land pursuant to a court approved decree, administratively approved substitute water supply plan, or future equivalent administrative plan. The Dry Up Land must first be certified by the Division Engineer’s Office as being effectively dried up and removed from irrigation under the Subject Water Right.

7.16.4. Administration. These procedures are determined to constitute the effective withdrawal and dry up of the Dry Up Land under the Subject Water Right. This Decree shall be recorded in the offices of the Clerk and Recorder of Huerfano County. To monument the dry up, the District, at the request of the Division Engineer’s

Office, shall provide the Division Engineer's Office with GPS coordinate mapping of the Dry Up Land and shall install on the ground monuments of the Dry Up Area as required by the Division Engineer's Office.

7.17. Revegetation. The Court has considered the revegetation and noxious weed management of the lands removed from irrigation pursuant to § 37-92-305(4.5)(a), C.R.S. It is believed that much of the land will naturally vegetate to native or self-sustaining ground cover. To the extent that such natural revegetation does not occur upon the Dry Up Land as it is withdrawn from irrigation by the Subject Water Right, the Applicant shall revegetate such lands with native grasses or other dry land cover (under the conditions prevailing on the land) until a self-sustaining revegetation is achieved, with noxious weeds adequately controlled in accordance with County ordinances.

7.18. Continuing Call. Subject to the above delivery limits, the District shall be entitled to call in-priority diversions of the Subject Water Right for purposes of generating Consumptive Use Credits and meeting the District's return flow obligations associated with the Subject Water Right, as provided herein.

7.19. Names and Addresses of Owners of Land Upon Which Structures are Located. The District is the owner of the land where the structures for the Subject Water Right are located.

## **8. Plan for Augmentation.**

8.1. Structures to be Augmented. The District shall augment depletions from various groundwater and surface water diversion structures that apply to and are accepted into the District's Regional Augmentation Plan under the terms of this decree ("Participating Diversions"). Participating Diversions and the land where the water will be used must be located within the boundaries of the Augmentation Plan Area, as it may be amended from time to time. Existing Participating Diversions that are included in this decree at this time are as follows:

8.1.1. Gardner Public Improvement District. The District provides augmentation water for out of priority depletions associated with wells used to provide water to customers of the Gardner Public Improvement District ("Improvement District"), which serves the residents of the unincorporated community of Gardner, Colorado from two tributary wells located in the community of Gardner, Colorado. The first well is Gardner Well A, Permit No. 78869-F, (WDID No. 7905005) located in the SW1/4 of the SE1/4 of Section 13, Township 26 South, Range 70 West of the 6<sup>h</sup> P.M., UTM Coordinates Zone 13, NAD 83; Easting: 485353, Northing: 4181832. The second well is Gardner Well 3, Permit No. 78870-F, (WDID No. 7905004) located in the NE1/4 of the NE1/4 of Section 13, Township 26 South, Range 70 West of the 6<sup>h</sup> P.M., UTM Coordinates Zone 13, NAD83; Easting: 485877, Northing: 4181753 ("Gardner Wells"). Gardner Wells were decreed on June 19, 1978 in District Court, Water Division 2 Case

No. W4714. The Improvement District also supplies bulk water to residents of Huerfano County. The Improvement District has constructed a fill station for the distribution of bulk water to Huerfano County residents, and depletions will be augmented pursuant to paragraph 11.1 on behalf of the Improvement District.

8.1.2. CO 61. The District provides augmentation water for out of priority depletions associated with the tributary well used to provide water to the CO 61 Water Association for a water supply to homeowners in the area of Section 27, Township 25 South, Range 70 West of the 6<sup>th</sup> P.M. Division of Water Resources Permit No. 78651-F, (WDID No. 7905044), that is located in the NW1/4 of the NE1/4 of Section 26, Township 25 South, Range 70 West of the 6<sup>th</sup> P.M., UTM Coordinates Zone 13, NAD83; Easting: 483700, Northing: 4189329 ("CO 61 Well").

8.1.3. Paradise Acres HOA. Water is provided to residents in the Paradise Acres Homeowner's Association from the Houchin Well No. 3, Division of Water Resources Well Permit No. 6353-F (WDID No. 7905008) located in the NE1/4 of the SE1/4 of Section 4, Township 28 South, Range 70 West of the 6<sup>th</sup> P.M., UTM Coordinates Zone 13, NAD83; Easting: 480989, Northing: 4165981 ("Houchin Well No. 3"). Houchin Well No. 3 was decreed in District Court, Water Division 2 Case Nos. W613 and 99CW129 and the District provides a supplemental source of augmentation water for Paradise Acres operations under its decreed plan for augmentation in Case No. 99CW129.

8.1.4. Huerfano County. Huerfano County uses water for the maintenance of county roads by means of direct stream withdrawals at three locations as listed below, with replacement water provided by the District under this Regional Augmentation Plan. These direct diversions from the stream shall be coordinated by the County with the Water Commissioner prior to diversions, for purposes of the Water Commissioner's administration of the river. During the irrigation season, except with the express approval of the Water Commissioner, such direct diversions from the stream shall not occur at the locations in Paragraphs 8.1.4.2. and 8.1.4.3 when there is a measured flow of less than 25 c.f.s. at the Badito gage.

8.1.4.1. Water is diverted from the Huerfano River at the point where County Road 560 crosses the Huerfano River in the NW1/4 of the NW1/4 of Section 24, Township 26 South, Range 70 West of the 6<sup>th</sup> P.M, UTM Coordinates Zone 13, NAD83; Easting: 484300, Northing: 4181185.

8.1.4.2. Water is diverted from the Huerfano River near Badito Crossing just upstream of the point where County Road 616 crosses the Huerfano River in the NE1/4 of the SE1/4 of Section 5, Township 27 South, Range 68 West of the 6<sup>th</sup> P.M., UTM Coordinates Zone 13, NAD83; Easting: 498726, Northing: 4175615.

8.1.4.3. Water is diverted from the Huerfano River at a point just under one-half mile east of I-25 in the SW1/4 of the NW1/4 of Section 30, Township 26

South, Range 66 West of the 6<sup>th</sup> P.M., UTM Coordinates Zone 13, NAD83; Easting: 515155, Northing: 4179070.

## **9. Water Rights to be Used for Augmentation.**

9.1. Existing Water Rights. The water rights to be used for augmentation include the Consumptive Use Credits adjudicated for the District's purpose under the Subject Water Right, as decreed herein.

9.2. Other Future Acquired Water Rights. Water rights to be used for augmentation will also consist of (i) other water rights owned, leased, or acquired by District which are already decreed for augmentation and are made available for the replacement of plan depletions in accordance with the procedures of Paragraph 9.3 below, (ii) other water rights that are decreed for augmentation for use under this augmentation plan at the locations, times, and amounts as specified in such future Water Court decrees, whether by independent Water Court case or supplemental decree to this case, (iii) water rights included in a substitute water supply plan approved for use in this case pursuant to § 37-92-308, C.R.S., or future equivalent statute for such administrative approval, (iv) water rights that are part of any interruptible water supply agreement approved for use in this case pursuant to § 37-92-309, C.R.S., or future equivalent statute for such approvals, and (v) water that is not decreed or otherwise lawfully available for augmentation use if Colorado statutes provide a mechanism for using such water right. The District shall furnish the State Engineer's Office with proof of ownership of any additional water right which the District may acquire for use in this plan.

9.3. Additional Replacement Sources. For water rights that are decreed or lawfully available for augmentation or replacement use but are not already approved for such use under this decree, the District under the procedures of this decree shall be able to designate such additional replacement sources for use in this Regional Augmentation Plan. The District shall provide written notice in hard copy and by email to the State Engineer's Office and the Division Engineer's Office, and to Opposers of the manner in which those decreed water rights will be incorporated into this Regional Augmentation Plan, including water resource engineering analyzing the water rights and its incorporation into this decree. Those parties shall have a period of 63 days to file an objection with this court setting forth the basis of its claim to injury as a result of the District's proposal. Disputes as to the addition of the supplemental augmentation water will be resolved by hearing before the Water Court and will be limited only to a review of the impact of the inclusion of the new water source within the existing Regional Augmentation Plan. The District shall bear the burden of proof of no material injury to other water rights as a result of the addition and use of the new source of augmentation water under the existing terms of this decree. The notice provided by the District shall include: (1) the additional water right to be utilized by name and decree; (2) the projected annual and monthly amounts of water available to the District from the water

right; (3) the date of proposed initial use of such water and the proposed duration of use; (4) the location(s) at which the water will be delivered to the stream by the District; (5) how the District will utilize the additional water, including whether such water will be exchanged or introduced to the stream downstream of the location of depletions; (6) any relevant terms and conditions on the use of such water right to prevent injury to other water rights; (7) evidence demonstrating the District's lawful ability to use such additional water supply; and (8) proposed revised accounting forms that include the proposed additional replacement supply.

**10. Operation of Augmentation Plan.** The Subject Water Right, and future acquired water rights included within this plan under the procedures of this decree, may be used in this Regional Augmentation Plan to replace the out-of-priority depletions as determined hereunder associated with diversions from the existing and future Participating Diversions.

10.1. Diversions and Consumptive Use. The District shall apply the presumptive volumes and factors for water use, except where actually measured, and consumption provided in the following subparagraphs in order to calculate consumption by Plan Participants, where applicable. Where metered, diversions will be determined by meter readings of actual use, with the consumption determined under the presumptive consumptive values. Wells within the requirements of the Amended Rules Governing the Measurement of Tributary Groundwater Diversions located in the Arkansas River Basin shall be metered. Presumptive diversion amounts may be used for planning purposes. All diversions by Participating Diversions shall be measured unless the Division Engineer specifically approves otherwise. Consumption attributable to uses from an augmented structure which includes a combination of indoor use, outdoor use, and/or livestock use may be disaggregated and determined by assuming livestock used the presumptive volume, landscape irrigation diverted the presumptive volume at an 85 percent efficiency of application, and the balance of the total measured diversion was used indoors. If measurements are required by the Division Engineer but diversions are not measured, the Division Engineer may curtail such diversions. If measurements are not available or practical, and are not required by the Division Engineer, the presumptive diversion amounts shall be used to calculate depletions to be augmented. In any instance where measurements are required but not provided for any reason, water use shall be determined to be the greater of the presumptive water use rate or the highest past measured water use. For any diversion which creates a depletion at a point above the location where the diversion's return flows, if any, accrete to the stream, the diversion's depletions shall be recognized to be 100 percent of the diversion amount for the stream reach between the point of depletion and the location of return flow accretion. This last provision is made for the purpose of determining the amount of any replacement water that may need to be provided to any water right in the above referenced fully depletive stream reach in order to prevent injury to such water right.

10.1.1. Residential Indoor. Residential year round indoor water use shall be considered to be diversions of 0.27 annual acre feet per residential unit with the depletion of five percent for central wastewater treatment and ten percent for wastewater treatment by septic tank with leach field, with credit for return flows of ninety-five percent and ninety percent of diversions, respectively.

10.1.2. Landscape Irrigation. Irrigation consumptive use for lawns and landscaping shall be determined on a per unit basis according to the table below, in acre feet per acre based upon elevation zones. Where the diversions for irrigation are measured, consumption shall be determined as eighty-five percent of the diversion, with credit for return flows of fifteen percent of diversions, except for drip irrigation, which shall be presumed to be 100% consumptive.

Zone	Apr	May	Jun	Jul	Aug	Sep	Oct	Total Annual c.u.
Below 6,500 ft	0.13	0.35	0.50	0.51	0.42	0.35	0.13	2.38
Above 6,500 ft	0.05	0.35	0.49	0.47	0.40	0.34	0.14	2.25

10.1.3. Livestock. Livestock use shall be determined as twelve gallons per head per day for large animals such as cattle and horses, and as two gallons per head per day for smaller animals such as sheep and goats, which uses shall be one hundred percent consumptive.

10.1.4. Pond Evaporation. Gross and net pond surface evaporation shall be determined, in acre feet per acre, using the Division of Water Resources' AquaMap or other equivalent tool that interpolates to determine the site-specific average annual free water surface evaporation shown in NOAA Technical Report NWS 33 "Evaporation Atlas for the Contiguous 48 United States" and the site-specific average annual precipitation. Gross evaporation is equal to free water surface evaporation; net evaporation is equal to gross evaporation minus 70% of average precipitation. Net surface evaporation, which allows credit for effective precipitation, is allowed only for on-channel ponds and DRMS permitted gravel pits. The annual gross evaporation will be distributed monthly based on the following table, except evaporation may be considered to be zero if and when full ice cover is observed, recorded, and verified by the Water Commissioner.

Ponds above 6500 feet in elevation											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1.0 %	3.0 %	6.0 %	9.0 %	12.5 %	15.5 %	16.0 %	13.0 %	11.0 %	7.5 %	4.0 %	1.5 %
Ponds below 6500 feet in elevation											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3.0 %	3.5 %	5.5 %	9.0 %	12.0 %	14.5 %	15.0 %	13.5 %	10.0 %	7.0 %	4.0 %	3.0 %

10.1.5. Commercial/Industrial. The amount of diversions for all commercial or industrial uses shall be based upon metered diversions and, unless addressed otherwise under Paragraph 10.1.7, will be assumed to be one hundred percent consumptive, provided that depletions and return flows for indoor uses, including drinking water, toilets, showers, sinks, dishwasher, and clothes washers, shall be calculated based upon the method of sewage disposal as set forth in Section 10.1.1. above for residential indoor use and consumptive use for any landscaping use shall be determined under Section 10.1.2. above.

10.1.6. Other Fully Consumptive Uses. Water use for dust suppression, construction, bulk water sales, greenhouses and warehouse agriculture will be metered and will be assumed to be one hundred percent consumptive.

10.1.7. Irrigation and Other Circumstances. Irrigation uses and other uses by Participating Diversions that do not fit within the above presumed diversions will be measured and an applicable depletion factor will be applied to those diversions. A specific diversion and depletion analysis for the incorporation of these types of water users into the Regional Augmentation Plan shall be provided as part of the procedure for adding new plan participants within this category.

## 10.2. Timing of Depletions.

Participating Diversions will create instantaneous or lagged depletions to the stream system depending upon whether the diversion is directly from the stream or from groundwater at a distance from the stream.



10.2.1. Lagged Depletions. The timing of depletions will be determined based on the distance of such groundwater diversions from a normally live stream. For implementation of this term for lagged well depletions, the following streams are normally live: Huerfano River, Pass Creek, and the last two miles of Muddy Creek upstream from its confluence with the Huerfano River.

10.2.2. Method to be Applied. For wells withdrawing water from the Dakota aquifer and the wells withdrawing water from the valley fill aquifer that are not a significantly higher elevation than the affected stream, the timing of monthly stream depletions due to groundwater depletion at a well (or a pond intercepting groundwater) will be determined using the Glover Method. For valley fill wells that are at a significantly higher elevation than the affected stream, the timing of monthly stream depletions due to groundwater depletions will be determined using an extension of the Glover Method established by Mahdi S. Hantush, which accounts for the slope of the groundwater gradient from the well to the location of the stream where depletions accrue as set forth in the Journal of Geophysical Research in a paper titled *Depletions of Storage, Leakage, and River Flow by Gravity Wells in Sloping Sands* (1964) (the "Hantush Method"). The Glover Method is a commonly used method, the calculations for which are incorporated in the Alluvial Water Accounting System (AWAS) developed by the Integrated Decision Support Group at Colorado State University. The methodology for implementing the Hantush Method is provided in **Exhibit E**.

10.2.3 Selection of Glover or Hantush Method. The Hantush Method will be used where the aquifer slope in the direction perpendicular to the river is significant. An upper limit of 0.02 (two percent) will be imposed for the slope variable in application of the Hantush Method. The Glover Method will be used where the influence of that slope is not significant and/or where the influence of an aquifer boundary is significant. The choice of whether to use the bounded Glover Method or the Hantush Method will be dictated by the physical setting. If it is not obvious which factor is more significant (aquifer boundary or aquifer slope perpendicular to river), the method selected will be that method which results in the more significant correction as compared to the base case, i.e., the unbounded Glover Method. A more significant correction is shown by a faster accumulation of unit response factors.

10.2.4. Aquifer Parameters. Location specific data will be determined for the distance from the well to the affected stream and, where applicable, the distance from the well to the aquifer boundary or the vertical difference in water table elevation from the well to the affected stream. Specific yield for valley fill wells is presumed to be 0.2 based on Table 5.2 in "Groundwater and Wells" Second Edition by Driscoll. Hydraulic conductivity for valley fill wells is presumed to be 1,400 gpd/ft<sup>2</sup>. This hydraulic conductivity value is based on the aquifer test of the Mapes Well on the William Craig Ranch included in "Colorado Ground Water Circular No. 11: Pumping Tests in Colorado." Saturated thickness is presumed to be twenty feet based on an analysis of well logs in the Huerfano River Basin. For Dakota Aquifer wells the

transmissivity, T, and the storage coefficient, S, is presumed to be 1,000 gpd/ft and 5 x 10<sup>-5</sup>, respectively. These values are based on USGS Water Resources Investigations Report 85-4186 by Banta and USGS Open File 82-3 by Vinckier. These presumed valley fill aquifer parameters shall be applied for wells that both withdraw water from the valley fill aquifer and are located within the area of the presumed valley fill aquifer as shown on the **Exhibit F** map. For administrative purposes, the District shall provide the DEO with a shapefile specifically defining the location of the boundaries of the presumed valley fill aquifer.

10.2.5. Method to be Applied for Wells in Other Formations. Lagged stream depletions from wells withdrawing groundwater (or ponds intercepting groundwater) from formations other than the Dakota aquifer, or other than the presumed valley fill aquifer locations of **Exhibit F**, or where the Glover Method or the Hantush Method of Section 10.2.2 may not apply, will be evaluated and determined based upon a site specific engineering analysis to be provided with any Notice of Inclusion for the Participating Diversion and processed on a case by case basis as part of the process for admitting new plan participants as set forth in Paragraph 15.

10.2.6. Rounding of Lagging Factors. Lagging factors will be truncated once ninety-five percent of the depletion has accumulated and the remaining less than five percentage points will be proportionately included in the prior lagging factors to achieve one hundred percent replacement.

10.3 Administration of Augmentation Water. The following procedures are provided for the District to meet replacement obligations of Participating Diversions for depletions accruing to the Huerfano River below the headgates for the Bo Boyce Ditch and the Butte Valley Ditch.

10.3.1 Aggregated Replacements. Between April 1 and May 31 and again between September 1 and October 31, the District may replace (at the discretion of the Water Commissioner) to the Huerfano River by means of dedicated releases from the Augmentation Station or from upstream storage, an aggregated amount of the unreplaced depletions from the time since the last replacement for those Participating Diversions.

10.3.2 Special Administrative Considerations. If there is insufficient water so passing the headgate, in the river or through the sand-out, of a calling ditch headgate to make clear confirmation that the entirety of the District's release of replacement water is passing, the District may under the direction of the Water Commissioner and administration and authority of the Division Engineer's Office, elect to pump and meter the released replacement water from the ditch diversion, prior to its measurement, back to the river below the headgate to meet the total required replacement obligation. In the alternative, the District may place a temporary flume in the stream below the ditch headgate to measure the amount of the released replacement water passing the ditch. The District's measurements and documentation

of the water transported by the temporary river flume and pumping around the ditch headgate shall be to the satisfaction of the Division Engineer's Office.

**11. Depletions of Existing Participants.** The plan depletions for existing participants who are included within the Regional Augmentation Plan at this time, as determined by the parameters of this decree, are as follows:

11.1. Gardner Public Improvement District. Water is used for indoor water use, for the irrigation of up to one acre of lawns and gardens, and for bulk water sales. Total water use and bulk water sales shall be metered. Wastewater from indoor water use is collected by sewer pipes and treated centrally resulting in an initial consumptive value of five percent. The wastewater is treated through the use of lagoons, which results in additional consumption due to evaporation which shall be calculated based on a surface area of 0.7 acres which is the present surface area of the lagoons and engineered wetlands, applied to the evaporation rates of Section 10.1.4. Depletions from irrigation of lawns and gardens shall be determined based on actual acreage and application of Section 10.1.2. to that acreage. The installation and use of a filling station in Gardner for bulk water sales as the result of assuming the water supply responsibilities from Malachite Spring will be metered separately and will be one hundred percent consumptive. Indoor water use will be determined by subtraction as the total water use minus the bulk water sales and minus irrigation use calculated as the consumptive irrigation requirement for the actual acreage divided by eighty-five percent efficiency. Lagged depletions shall be determined using the method set forth in Paragraph 10.2.

11.2. CO 61 Water Association. Water is used for indoor water use, residential landscaping irrigation which currently is a total of 1,200 square feet, and the watering of horses. Indoor water use wastewater is delivered to septic tank leach fields. The consumptive value for indoor water use is ten percent, with return flows of ninety percent of diversions. Depletions from residential landscape irrigation shall be determined based on actual acreage and application of Paragraph 10.1.2. to that acreage. The watering of horses is determined pursuant to Paragraph 10.1.3. Water use by CO 61 Water Association will be metered and disaggregated such that the indoor water use will be the amount remaining after subtracting water for horses and for irrigation. Lagged depletions are determined using the method of Paragraph 10.2.

11.3. Paradise Acres HOA. Water is used for indoor water use only. Wastewater is delivered to septic tank leach fields. The water use shall be metered. The consumptive value for indoor water use is ten percent. Water use, depletions, and replacement requirements are determined by Paradise Acres' decreed plan for augmentation in 99CW129.

11.4. Huerfano County. Water is used for road maintenance and dust suppression. This water usage is determined to be one hundred percent consumptive. Depletions to the live stream at the point of diversion are instantaneous.

**12. Replacement Water.** The District shall replace all out-of-priority depletions associated with Participating Diversions in time, place, and amount by utilizing the Consumptive Use Credits generated pursuant to this decree. The Consumptive Use Credits may be (1) stored and released, (2) delivered to the stream through the Augmentation Station, (3) lagged to the stream by operation of the Recharge Facility, and/or (4) exchanged as necessary pursuant to the terms of this decree all in order to provide for replacement of depletions from Participating Diversions in time, place, and amount to prevent material injury. Replacement of depletions may be aggregated as directed by the Water Commissioner or Division Engineer.

For purposes of the following provision, a Bypass Calling Water Right is a decreed water right that is calling for water and diverting, but its in-priority legal entitlement under its decree is not fully satisfied because it is required to bypass a flow of water past its headgate in order to meet the legal in-priority entitlement of a downstream senior water right. A CWCB minimum instream flow right shall not be deemed a Bypass Calling Water Right. In coordination with and upon prior approval from the Water Commissioner, the District may at times operate an exchange through a Bypass Calling Water Right, depleting above a Bypass Calling Water Right and providing augmentation water below the Bypass Calling Water Right, provided the legal in-priority entitlement of that Bypass Calling Water Right is not impaired by such exchange or augmentation and the downstream senior water right requiring the bypass is below the point of replacement by the District and is not injured. The District must prevent injury to the senior water right by providing the required replacement water or substituted water supply above such senior water right requiring the bypass. Should any water right senior to the District's exchange be diminished, curtailed, or otherwise injured by this operation of the District's exchange, the exchange shall be discontinued and may not be operated again until such time as stream conditions change and the exchange can be operated without injury to any senior vested water right(s).

**13. Replacement Water with Regard to Minimum Instream Flow Water Rights.** A map showing minimum instream flow water rights currently held by the CWCB within the Augmentation Plan Area, including decree references and amounts, is attached as **Exhibit G**. The CWCB may adjudicate additional minimum instream flow water rights within the Augmentation Plan Area in the future that will be junior to the change of water right and exchanges within this Decree. If the CWCB places a call on a decreed minimum instream flow reach that would otherwise result in the curtailment of a Participating Diversion, the District will either curtail the diversion, if the diversion does not have lagged depletions, or augment the out-of-priority depletions in time, place, and amount to the extent necessary to prevent injury to the minimum instream flow rights by whatever means available at the time for the call. Those means of augmentation may include, but are not limited to, providing storage releases or other replacement water at or above the CWCB call from any source available to the District at the time of the call so long as the minimum instream flow right is protected. Pursuant to § 37-92-102(3)(b), C.R.S., and upon compliance with Paragraph 15.3 of this Decree, a CWCB call, as

referenced herein, shall only affect the District's or Participating Diversion's out-of-priority diversions that were not being used or were not in existence prior to the date of appropriation of the relevant CWCB minimum instream flow right being called. This paragraph shall be subject to the following express terms and conditions:

13.1. Administration of a Participating Diversion's impact to any minimum instream flow water right call shall be below the Participating Diversion's actual diversion point for surface diversion or point of impact on the stream for groundwater diversions.

13.2. The instream flow water right reach must be actively administered by the Division Engineer.

13.3. The District's replacement obligation within a given minimum instream flow reach shall be limited to the out-of-priority depletion attributable to a Participating Diversion located in that reach, recognizing that for any diversion which creates a depletion at a point above the location where the diversion's return flows accrete to the stream, the diversion's depletions are 100 percent of the diversion amount for the stream reach between the point of depletion and the location of return flow accretion. In the event the location of the depletion by a Participating Diversion is located upstream of the return flows from such Participating Diversion, the District shall make replacements of the amount of diversion or depletion, as appropriate, at a point at or upstream of such depletion to the extent necessary to prevent injury, from any source available to the District as provided above, or the subject Participating Diversion shall be curtailed during the period of the call.

**14. Storage Structures.** The District shall have the right to store water, or may acquire the right to store water, in the following structures. Augmentation water for use in this plan may be stored and/or released from any or all such structures. Future storage structures for storage and release of augmentation water may also be added to this plan for augmentation following the same procedures of Paragraph 9.3 above for the inclusion of additional augmentation sources.

14.1. Red Wing Augmentation Facility ("RWF"). The point of diversion for the RWF is located in the NW1/4 of the SE 1/4 of Section 1, Township 27 South, Range 71 West, 6<sup>th</sup> P.M.

14.2. Paradise Acres Pond. The point of diversion for the Paradise Acres Pond will be on Pass Creek or its tributaries, with the pond located in the NE1/4 of the SE1/4 of Section 4, Township 28 South, Range 70 West, 6<sup>th</sup> P.M. The District will operate an exchange to Paradise Acres Pond to provide replacement water to Paradise Acres for use under its existing decreed plan for augmentation in Case No. 99CW129.

**15. Procedure to Enter Plan.** Participating Diversions may be added to this Regional Augmentation Plan by the following procedure:

15.1. Those owners of wells, pipelines, ponds, springs, ditches, or other diversion structures who wish to participate in this regional plan for augmentation shall submit to the District an application with fees and appropriate supplemental information as to water usage as necessary to fully evaluate their participation within the Regional Augmentation Plan.

15.2. Following the receipt of an application, the District will evaluate the sufficiency of the application which may require investigation on the part of the District or require the applicant to supply further information as requested by the District. Once an application is determined to be complete, the District will process the application and perform the necessary analysis as to whether the proposed diversions and uses fit within this Decree and can be incorporated into the Regional Augmentation Plan. In processing the application, the District shall consult with the Division of Water Resources as to the inclusion of the proposed Participating Diversion and meeting the requirements of this Decree, including, without limitation, the methodology of the timing of lagged well depletions. After this work is completed, the District shall provide notice of the application ("Notice of Inclusion") to the opposers in this case filing statements of opposition ("Opposers") and the State and Division Engineers. The Notice of Inclusion shall include the application submitted, any supplemental information provided or obtained with the application, and the analysis concerning incorporation of the Applicant into the Regional Augmentation Plan, which shall include, at a minimum, sufficient information under the guidelines and requirements of this Decree to identify the proposed: (1) type, location, and place of use of the diversion; (2) time, place, and amount of all associated stream depletions; (3) plan to use, reuse, and/or successively use return flows; and (4) District augmentation of all such depletions. If the inclusion of a new Participating Diversion involves the reuse or successive use to extinction of the Subject Water Right, except as specifically by the terms of this Decree, the Notice of Inclusion shall provide a detailed plan for such reuse or successive use. A summary of the Notice of Inclusion shall also be published one time in a local newspaper, together with a notice of the deadline for submittal of comments by any non-party ("Non-Party Objector"). Opposers and Non-Party Objectors may file any comments within 35 days of receipt of the Notice of Inclusion for applications for domestic use, and within 63 days for all other uses. Provided however, the CWCB shall be given 63 days to provide comments for any domestic use claiming seniority to a decreed CWCB minimum instream flow right pursuant to § 37-92-102(3)(b), C.R.S. These comments shall be provided by the Opposer and Non-Party Objector to the State Engineer, Division Engineer, and the District. Notice of Inclusion shall be provided to Opposers by mail or email as desired, and service shall be at the addresses as listed in **Exhibit H** until any address is changed. To change its address for notice, an Opposer shall provide notice to the District by mail at the address listed in Section 1 herein and also file a change of address with the Court. The Notice of Inclusion will be provided in hard copy and also by email to the State Engineer's Office and the Division Engineer's Office at the email addresses listed in **Exhibit H**, as the same may be updated from time to time. If the District changes its address for comments, notice by the District shall be commensurate

with Opposer requirements. An Opposer may be removed from the mailing list by written request to the District.

15.3. For any new Participating Diversion which claims seniority to a decreed CWCB minimum instream flow right under. § 37-92-102(3)(b), C.R.S, the District shall include in the Notice of Inclusion the nature and extent of the claimed water uses pre-dating the appropriation date for the subject CWCB water right, including the detailed basis justifying the amount, location, and timing of historical uses claimed to pre-date and have seniority over the CWCB water right, including an affidavit, when available, directed to the CWCB from a person with personal knowledge of such matters as to the pre-dated uses. The District shall consult with the CWCB during the CWCB's 63 day comment period to address any § 37-92-102(3)(b), C.R.S., claims. The CWCB may challenge the claimed seniority of the Participating Diversion consistent with the comment and protest provisions of paragraphs 15.5 and 15.6 below.

15.4. For any new Participating Diversion the depletions of which are located within or upstream of a decreed minimum instream flow right decreed prior to this Decree, and which depletions cannot be instantaneously curtailed (i.e., well depletions which are lagged to the stream), the District will also either:

a. Prepare an analysis to determine the amount of available flows in the particular stream reach. The amount of such available flows over and above the decreed minimum instream flow right shall be the maximum amount of water that may be available for exchange potential and augmentation to replace such non-curtable depletions. Once such non-curtable depletions from Participating Diversions junior to the minimum instream flow right are equal to the amount of such computed excess available flows, the District cannot accept any further Participating Diversions causing such non-curtable depletions in this Regional Augmentation Plan that will deplete that particular stream reach without the provision of storage releases at or above the point of depletion.

b. Prepare an analysis to determine the potential for exchanges to storage on the specific stream and/or the availability of augmentation sources the District can add to this augmentation plan that are located at or above the point of depletion that will prevent injury to the applicable senior instream flow right(s).

The District will provide a copy of the relevant analysis, together with the applicable applications for potential Participating Diversions and all supporting documents, to the CWCB for review under the procedures of Paragraph 15. Additionally, for applications for potential Participating Diversions concerning depletions on streams that are not considered normally live under Paragraph 10.2.1 that occur within the minimum instream flow rights decreed in Case Nos. 79CW125, 79CW128, 79CW129, 79CW130, and W-4436, notwithstanding any other provisions of this Decree, the inclusion of the Participating Diversion shall consider the location, timing, and amount of accrual of lagged depletions. The CWCB may provide comments, including

comments regarding live-stream assumptions and both depletions and replacements in time, place, and amount that may impact these minimum instream flow rights. The CWCB may protest the inclusion of such Participating Diversions, and new Participating Diversions will be added to the Regional Augmentation Plan, all consistent with Paragraphs 15.5 and 15.6 below.

15.5. If no comments have been filed for a specific Notice of Inclusion, then the District may approve or deny the application based upon whether the application meets or does not meet the District's requirements and is within the parameters of the Regional Augmentation Plan ("Approval Criteria"). If comments have been filed for a specific Notice of Inclusion, then the District based on the above criteria and consideration of the comments may approve the application, approve the application with conditions, or deny the application based on the Approval Criteria. The District shall provide written notice of the action taken on an application in hard copy and by email to the State Engineer's Office and the Division Engineer's Office at the email addresses listed in **Exhibit H**, as the same may be updated from time to time, and to all Opposers and Non-Party Objectors who filed comments by mail.

15.6. Any Opposer who timely filed comments to a particular Notice of Inclusion and who opposes the District's approval of the application in whole or in part may, within 63 days after the issuance of the approval notice by the District of a new participating diversion, file a protest with the Water Court for a *de novo* hearing of the District's approval. The State and Division Engineers shall have the right to file a protest on behalf of the concerns of a Non-Party Objector. However, the Non-Party Objector shall not have the right on their own behalf to file a protest. Such protest shall be considered under the Court's retained jurisdiction and shall consider the issue of only whether the terms and conditions of this Decree have been met with respect to the inclusion of a new participating diversion. Such *de novo* hearing shall be pursuant to the Water Right Determination and Administration Act of 1969, § 37-92-101, C.R.S. *et. seq.* The District shall have the burden of proof as to whether the application fits within the parameters of the Regional Augmentation Plan and has been properly approved. New diversions and depletions, by either an uncontested or settled approval by the District or by order of the Water Court, shall be made part of this decreed Regional Augmentation Plan.

15.7. New Participating Diversions shall be made part of this Regional Augmentation Plan: (i) automatically by the District's approval of an application for which no comments were timely received; (ii) automatically by the District's approval of an application for which no protests were timely filed; or (iii) by an order of the Water Court for an application for which protests were timely filed.

15.8. For any well added to this Regional Augmentation Plan, which is not operating under an approved substitute water supply plan, no diversions from such wells shall be made until such time as a well permit is issued for uses approved to be



augmented under this Regional Augmentation Plan. The State Engineer shall issue any well permits in accordance with § 37-90-137(2), C.R.S. for approved plan usage.

**16. Procedure to Remove Participating Diversions from the Plan.** The District shall replace all out-of-priority depletions from a Participating Diversion pursuant to the terms of this Decree until the District has removed the Participating Diversion from this Regional Augmentation Plan, and all depletions, including any lagged depletions, by the Participating Diversion have been replaced. A Participating Diversion can be removed from the Regional Augmentation Plan under the following procedures:

16.1. Notice. The District may remove a Participating Diversion from this plan by providing notice in hard copy and by email to the State Engineer's Office and the Division Engineer's Office at the email addresses listed in **Exhibit H**, as the same may be updated from time to time, to all Opposers by mail, and to the Participating Diversion party ("Notice of Removal"). Each Notice of Removal shall identify the structure to be removed and, if the Participating Diversion is a well, shall describe the amount and timing of any post-pumping depletions to still be augmented by the District.

16.2. Structures with no Lagged or Post-Pumping Depletions. If the Participating Diversion to be removed has no lagged or post-pumping depletions, then after the 35 day notice period has ended, the Participating Diversion will no longer be covered by the Regional Augmentation Plan for any future incurred depletions and shall be automatically removed from the Regional Augmentation Plan.

16.3. Structures with Lagged or Post-Pumping Depletions. If the Participating Diversion has post-pumping or lagged depletions, then after the 35 day notice period has ended the Participating Diversion will be removed from the plan and coverage for the already accumulated lagged depletions by the Participating Diversion will be replaced by the District in accordance with the timing of lagged depletions under Paragraph 10.2. The State and Division Engineers can review the Notice of Removal to determine that the lagged depletions from an excluded Participating Diversion are properly included within the administration and accounting for the replacement of future plan depletions as provided in this subsection.

16.4. Participating Diversions. The Participating Diversion removed from the Regional Augmentation Plan shall cease operating until such time as the former participant's depletions are replaced under a court approved plan for augmentation, substitute water supply plan, or other legal means.

16.5. Accounting after Removal. Once a Participating Diversion is removed from this Regional Augmentation Plan, the District's accounting shall reflect the removal and shall show the replacement of any lagged depletions as required above until said depletions are fully replaced.

**17. Measurements.** All diversions by Participating Diversions shall be measured, except for those diversions by indoor residential and livestock uses that are specifically approved otherwise by the Division Engineer. The District shall provide meter readings/diversion records for the Participating Diversions to the Division Engineer on a monthly basis or as otherwise reasonably required by the Division Engineer. If the owner of the Participating Diversion does not provide such meter readings/diversion records to the District, the District shall use procedures established in its rules and regulations to seek to force the owner's compliance with this provision. If the District's efforts to force compliance are unsuccessful, then the Division Engineer may curtail the Participating Diversion and the District may proceed with the procedures to remove the Participating Diversion from this Regional Augmentation Plan. If diversion measurements are required by the Division Engineer but are not provided, the Division Engineer may curtail such diversions. If measurements are not available and are not required by the Division Engineer, the presumptive diversions shall be used to calculate depletions to be augmented. In any instance where measurements are required but not provided for any reason, diversions shall be determined to be the greater of the presumptive water use rate or the highest past measured water use.

**18. Names and Addresses of Owners of Land Upon Which Structures are Located.** The Recharge Facility, Augmentation Station, and the APD Well are located or are to be located upon property currently owned by the District. The Red Wing Augmentation Facility ("RWAFF") is located upon land owned by Growing Roots, LLC, c/o Anna (Christy) Wyckoff, Managing Member, P.O. Box 928, Carmel Valley, CA 93924. The District has an easement agreement in place with Growing Roots, LLC for the RWAFF. The Paradise Acres Pond and Houchin Well No. 3 are located upon land owned by Paradise Acres Homeowners Association, whose address is 41 Houchin Blvd., LaVeta, Colorado 81055. The Gardner Wells are owned by the Gardner Public Improvement District whose address is c/o Huerfano Board of County Commissioners, 401 Main Street, Suite 201, Walsenburg, CO 81089. The direct points of stream diversions identified in paragraph 11.4 lie within Huerfano County road rights of way. The CO 61 Well is owned by CO61 Water Association, c/o Lewis De Laura, whose address is P.O. Box 66, Gardner, Colorado 81040. Notice pursuant to § 37-92-302(2)(b), C.R.S. has been timely provided to all such parties with proof of service made to the Court.

**19. Appropriative Rights of Exchange.** The Court hereby confirms and approves the following conditional and absolute rights of exchange, which exchanges are also shown on the below exchange matrix and map attached as **Exhibit G**. The exchanges of the Subject Water Right are from the point of the Wm. Craig Ditch Augmentation Station return to the Huerfano River and from the point of accrual to the Huerfano River from the Recharge Facility on the Wm. Craig Ranch, to the locations of storage and plan depletions on the Huerfano River and its tributaries. Exchanges are also from releases made from the RWAFF. The exchanges will correspond in the amount and timing with the availability of the Subject Water Right provided as the substitute water

supply for the exchange, including as released from storage and as accrued to the Huerfano River from the Recharge Facility.

### LOCATIONS OF EXCHANGE POINTS

Category	Name	Q40	Q160	Sec.	Town	Range	UTM Coordinates
<b>Lower Terminus Exchange-From Points</b>	Huerfano River at Wm. Craig Augmentation Station	NW	SE	31	26S	67W	506172 Easting 4177344 Northing
	Huerfano River at Centroid of Wm. Craig Recharge Facility Accrual Location	NW	SW	32	26S	67W	507272 Easting 4177270 Northing (approximate)
	Confluence of Huerfano River and RWAF Outlet	SE	NE	1	27S	71W	
	Confluence of Huerfano River and Pass Creek	SE	SW	22	26S	70W	
	Confluence of Huerfano River and Muddy Creek	NE	NW	24	26S	70W	
	Confluence of Huerfano River and Williams Creek	NW	SE	19	26S	69W	
	Confluence of Huerfano River and Turkey Creek	SE	SE	35	26S	69W	
	Confluence of Huerfano River	NW	NW	36	25S	66W	

	and Apache Creek						
<b>Upper Terminus Exchange-To Points</b>	Huerfano River at Inlet to RWAFF	NW	SE	1	27S	71W	475388 Easting  4175720 Northing
	Pass Creek near Paradise Acres Pond	SW	NE	9	28S	70W	480458 Easting  4164747 Northing
	Unnamed Creek near Paradise Acres Pond	SE	SW	4	28S	70W	480017 Easting  4165674 Northing
	Huerfano River at Alti Ditch	SW	NE	27	27S	72W	462530 Easting  4169441 Northing
	Bruff Creek at Caldwell Ditch	NE	SW	25	25S	72W	465341 Easting  4188695 Northing
	North Muddy Creek at Lincoln Ditch No. 3	SW	NW	7	25S	71W	466422 Easting  4193743 Northing
	South Muddy Creek at Hornback Ditch	NE	NE	13	25S	72W	466069 Easting  4192543 Northing
	Williams Creek at	SE	SE	2	25S	70W	483877

J E Diez Ditch							Easting 4194318 Northing
Reveille Canyon at Silva Ditch	SW	NE	7	25S	69W		486659 Easting 4193683 Northing
Custer Creek at Jacques Ditch	SW	NW	16	25S	69W		489174 Easting 4191988 Northing
Turkey Creek at Sisneros Ditch	NW	SW	15	25S	69W		490923 Easting 4191509 Northing
North Apache Creek at McKinley Ditch	SW	NE	24	25S	68W		504576 Easting 4190276 Northing
South Apache Creek at Sedillo-Garcia Ditch	NW	NE	25	25S	68W		504561 Easting 4189132 Northing

## EXCHANGE MATRIX WITH FLOW RATES (CFS) AND VOLUMETRIC LIMITS (ACRE FEET)

		Exchange-To Points												
		Huerfano River at Inlet	Huerfano River at Alti Pass Creek	Near Unnamed Creek	Near Bruff Creek	Near Caldwell Ditch	Near North Muddy Creek	Near South Muddy Creek	Near Williams Creek	Near Reveille Canyon	Near Custer Creek	Near Turkey Creek	Near North Apache Creek	Near South Apache Creek
Exchange-From Points	Huerfano River at Wm Craig	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85
	Huerfano River at Centroid of Wm Craig	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12	1.12
	Confluence of Huerfano River	--	3.0	--	--	--	--	--	--	--	--	--	--	--
	Confluence of Huerfano River	--	--	3.0	3.0	--	--	--	--	--	--	--	--	--
	Confluence of Huerfano River	--	--	--	--	3.0	3.0	3.0	--	--	--	--	--	--
	Confluence of Huerfano River	--	--	--	--	--	--	--	3.0	--	--	--	--	--
	Confluence of Huerfano River	--	--	--	--	--	--	--	--	3.0	3.0	3.0	--	--
	Confluence of	--	--	--	--	--	--	--	--	--	--	--	3.0	3.0
10-year Running Average Annual Volumetric Limit (in		113		10		22			2	11			12	

19.1. Operation of Exchanges. Water may be exchanged from the Lower Termini (exchange from points) up the exchange reaches to the Upper Termini (exchange to points) at rates and volumes not to exceed the maximum exchange rates and volumes identified in the above table. Water may be exchanged to points within the

exchange reaches listed consisting of portions of the entire exchange reach. For any structure for which the District is not the owner, the District must have permission before using the structure to operate the exchanges.

19.2. Uses. The District will use the exchanged water for the beneficial uses under the Regional Augmentation Plan, including augmentation and replacement purposes, and reuse and successive use until extinction, as decreed herein.

19.3. Source of Water Exchanged. The source of water for exchanges is the Consumptive Use Credits adjudicated and generated by the District pursuant to the terms of this Decree associated with the historical consumptive use of the Subject Water Right.

19.4. Maximum Exchange Rates and Volumes. The amount of water adjudicated to the exchanges is equal to the maximum exchange rates and volumes as set forth per reach in the above exchange matrix table.

19.4.1. Conditional Exchanges. The appropriative rights of exchange decreed herein are conditional except for a portion of the appropriative right of exchange identified below in Paragraph 19.4.2, which has been operated and is hereby decreed absolute. The individual conditional appropriative rights of exchange are subject to proof of continued diligence pursuant to § 37-92-301(4)(a)(1), C.R.S. For purposes of proving such diligence, the court shall not consider the exchanges as part of the District's total integrated water system pursuant to § 37-92-3-1(4)(b), C.R.S., but may consider diligence as to any portion of an exchange reach along any one of the Huerfano River tributaries and its branches to be diligence on the entire exchange reach on that Huerfano River tributary and its branches. Specifically, the court may consider diligence in this manner for exchanges on the following identified tributaries and branches: (1) Pass Creek, including the unnamed creek near Paradise Acres Pond; (2) Muddy Creek, including Bruff Creek, North Muddy Creek, and South Muddy Creek; (3) Turkey Creek, including Reveille Canyon and Custer Creek; and (4) Apache Creek, including North Apache Creek and South Apache Creek. As a result, diligence must be independently demonstrated for the exchanges on each individual tributary to the Huerfano River to establish reasonable diligence for that tributary and its branches.

19.4.2. Absolute Exchange. The District operated the exchange listed below on June 7, 2014 and is hereby granted an absolute exchange right for 0.14 cfs for a total of 0.8 acre-feet for the following exchange, with the remaining 1.71 cfs and 9.2 acre-feet to remain conditional and subject to proof of continued diligence pursuant to 19.4.1:

Stream(s)	Lower Terminus	Upper Terminus	Maximum Rate of Exchange	Amount Made Absolute	Amount Made Absolute

			(c.f.s.)	(c.f.s.)	(ac-ft)
Huerfano River, Pass Creek	Huerfano River at Wm. Craig Augmentation Station	Paradise Acres Pond	1.85	0.14	0.8

19.5. Appropriation Date. The appropriation date of the conditional and absolute exchanges is December 2, 2013.

19.6. How Appropriation was Initiated. Appropriation was initiated by public resolution of the District approving these appropriative rights of exchange on December 2, 2013 and the subsequent recording and publication of such resolution confirming, implementing, and demonstrating the District's intent and actions to initiate and appropriate these water rights for the beneficial uses as set forth herein.

19.7. Future Exchanges. Future exchanges may also be added to this plan for augmentation, under future appropriation dates, following the same procedures of Paragraph 9.2 and 9.3 herein for the inclusion of additional decreed augmentation water.

19.8. Operation of Water Rights. The District's conditional water rights shall be subject to physical and legal water availability. The water rights shall be operated as junior in priority to all senior vested water rights, including minimum instream flow water rights as set forth in Paragraph 13, above. The exchanges shall be operated in coordination with and upon the prior approval of the water commissioner to assure that an exchange is operated (a) in-priority in accordance with the terms of this Decree, and (b) to the extent and at the time that the substitute water supply is made available to the river from the Subject Water Right as changed herein.

19.9. Exchange Limits.

19.9.1. Live Stream. The exchanges are only to be operated at times and to the extent that there is a live stream within the entire reach of the exchange.

19.9.2. Intervening Call. An exchange cannot operate at times when there is a valid call, senior to the exchange, within the exchange reach that is diverting the entire available stream flows. The District shall not operate an exchange upstream on a reach in which the CWCB holds a minimum instream flow right, as shown in **Exhibit G**, at times when the minimum instream flow right is not met and the CWCB has placed a call recognized and administered by the Division Engineer pursuant to Paragraph 13, above.



19.9.3. Impact to Intervening Water Right. The Division Engineer shall administer these exchanges so that intervening water rights within the exchange reach that are senior to the exchange shall receive their lawful, decreed, in-priority entitlement to the same extent that each would have received absent the implementation of the exchange. The intent of this administration, without limitation, is that the exchange of the Subject Water Right shall not reduce the in-priority decreed entitlement of such intervening water rights as compared to such entitlement in the absence of the exchange.

19.9.4. CWCB Water Rights. The CWCB minimum instream flow water rights that are senior to the exchange, including consideration of the provisions of C.R.S. §37-92-102(3)(b), shall not be reduced below their lawful decreed entitlement, including any further reductions below the total decreed amount, as a result of the operation of any exchange within or through the minimum instream flow right. The District shall provide written notice to the CWCB of details regarding any administratively approved exchanges operated by the District through any portion of a CWCB instream flow reach as soon as reasonably possible but no later than within 30 days of operating such exchange(s).

19.10. Transit Losses. The District shall be assessed appropriate transit losses, as determined by the Division Engineer, for water delivered under the exchanges decreed herein and included later in this plan.

19.11. Measuring Devices. The District shall install and maintain such water measuring devices as reasonably requested by the State Engineer or Division Engineer necessary to operate the exchanges decreed herein and included later in this plan

**20. Operations Upon Tributaries.** The District shall not exchange water or augment depletions on any tributary of the Huerfano River within or above the location of a CWCB minimum instream flow right senior to the change of water right and exchanges in this Decree, or above the location where a valid calling water right senior to the change of water right and exchanges in this Decree has historically diverted the entire available stream flow ("Tributary Call"), except in the following circumstances where such exchange or augmentation will be allowed under the other terms of this Decree:

(1) upon compliance with Paragraph 15.4, augmentation of depletions from augmented structures and exchanges that will occur when there is water in excess of the CWCB minimum instream flow right and when there is a live stream within the entire reach of the exchange;

(2) augmentation of depletions from augmented structures where depletions are instantaneous to the stream flows and which can and will be curtailed at times of a valid CWCB call or curtailed at times of a valid Tributary Call;

(3) augmentation of depletions from augmented structures when the District has available storage upstream of any applicable CWCB minimum instream flow right and the valid Tributary Call, which storage will release augmentation water to replace the depletions in time and amount when a CWCB call or Tributary Call exists; and

(4) augmentation of depletions from augmented structures when water is provided by any other legal means to replace depletions in time, quantity, and location above a CWCB call or Tributary Call.

Under these terms and provisions augmented structures whose depletions are lagged to the stream, such as well depletions that are not instantaneous to the stream, cannot be covered under this Decree for a Tributary Call unless the provisions of Subparagraphs (3) or (4) above are met.

**21. Transportation Losses.** When releases of augmentation water are made by the District in order to replace downstream depletions from Participating Diversions, the Division Engineer shall assess transportation losses from the point of such augmentation releases downstream to the point of depletion on the stream of a particular Participating Diversion when determining the amount of water available for such uses by the District at the point of depletion.

**22. Burdens of Proof.** Applicant has complied with and met all standards and burdens of proof and is therefore entitled to a decree confirming and approving subject appropriate rights of exchange as described herein.

**23. No Injury.** The change of the Subject Water Rights, Regional Augmentation Plan, and exchanges, if exercised and administered in accordance with the provisions of this Decree, will not cause injury to any owner of or person entitled to use water under any vested water right or decreed conditional water right.

### **CONCLUSIONS OF LAW**

**24. Statutory Authority.** The Application was filed with the Water Clerk in accordance with the provisions of § 37-92-302(1)(a), C.R.S., and this Court has exclusive jurisdiction over these proceedings. §§ 37-92-302(1)(a) and (5), and § 37-92-305, C.R.S.

**25. Authorized by Law.** Subject to the terms of this decree, the change of water right, plan for augmentation, and exchanges described in this decree are authorized by law and meet the requirements of §§ 37-80-120, 37-92-103 (5) and (9), and 37-92-305, C.R.S.

**26. Lawfully Administered.** The District's change of water right, plan for augmentation, and exchanges are administrable by the State and Division Engineers.

**27. Notice and Jurisdiction.** The application in this matter and the resume publication of the application placed such persons on notice of the relief requested by the application and granted by this decree.

### **JUDGMENT AND DECREE**

Now, therefore, it is hereby ordered, adjudged, and decreed as follows:

**28. Incorporation by Reference.** The foregoing Findings of Fact and Conclusions of Law are incorporated herein by this reference as if set forth fully herein, and are to be considered a part of the decretal portion hereof as though fully set forth herein.

**29. Application Granted.** The change of water right, plan for augmentation, and exchanges requested in the Application are approved and granted in accordance with the provisions of this Decree.

**30. Valid Senior Call.** In the event that a valid call is placed and is not fully satisfied after diverting the entire available stream flows to a stream below a Participating Diversion's out-of-priority depletion and above the Districts' replacement sources, and the call is senior to any of the Districts' applicable exchanges, the District shall either: (i) replace the Participating Diversion's depletions at or above the diversion point of the senior calling water right by any source available to the District; (ii) make replacement to the senior calling water right in a manner approved by the senior calling water right owner and the water commissioner; or (iii) curtail the Participating Diversion if it has no lagged depletions. If there are lagged depletions, the District shall continue to replace lagged depletions by using (i) or (ii) above. The District will not commit to replacement of lagged depletions above such senior calling water rights which cannot be replaced by storage releases or other means above such senior calling water right.

**31. Plan Projections.** No later than March 1<sup>st</sup> of each year, and at such other times as the Division Engineer may require, the District shall submit a report to the Division Engineer identifying the following, when applicable: (i) the number of Participating Diversions; (ii) the Participating Diversions' locations; (iii) the Participating Diversions' diversion amount and type of use; (iv) the type of wastewater treatment systems associated with the Participating Diversions; (v) the projected amount, timing, and location of depletions for all current and former Participating Diversions for the following twelve (12) months; (vi) the dates and amounts of planned augmentation releases less transportation losses as determined by the Division Engineer; and (vii) the amount and location of replacement water under this augmentation plan in storage, in transit via recharge, and expected during the upcoming year of diversions. The purpose of such plan projection is to demonstrate the District's ability to meet its augmentation obligations for the coming year.

**32. Conditional and Absolute Water Rights.** The conditional and absolute appropriative rights of exchange filed in the Water Court in the year 2013 shall be

administered as having been filed in that year, and shall be junior to all priorities filed in previous years. As between all water rights filed in the same calendar year of 2013, priority shall be determined by decreed dates of appropriation and not affected by the date of entry of this decree. The conditional appropriative rights of exchange confirmed herein shall be continued in full force and effect for a period of six years from the end of the month in which this Decree is entered. If the District desires to maintain the conditional appropriative rights of exchange, an application for finding of reasonable diligence must be filed within six years at the end of the month in which this Decree is entered or subsequent diligence decreed or issued, unless prior to that time the District has made application to make absolute the conditional appropriative rights of exchange.

### **33. Measuring Devices.**

33.1. Measurement. In addition to the measuring devices expressly required herein, the District shall install and maintain, at the District's expense, such additional meters, gauges, or other measuring devices as are required by the Water Commissioner or Division Engineer for administration of this Decree under their statutory authority. The District shall report the readings of such meters, gauges or other measuring devices pursuant to § 37-92-502(5)(a), C.R.S., as required by this Decree or more frequently as required by the Water Commissioner and/or Division Engineer.

33.2. Faulty Participating Diversion Meter. If the District determines that a meter that measures a Participating Diversion is not working properly, the District shall provide written notice to the owner of the Participating Diversion requiring that the meter be fixed or replaced within sixty-three (63) days. During such time, the District shall make replacements based upon the highest month of metered usage or the presumptive depletion factors, whichever is highest. If the meter is not fixed or replaced within sixty-three (63) days, then the District shall provide written notice to the Water Commissioner that the Participating Diversion is out of compliance with this plan and the District may thereafter exclude that Participating Diversion from the Regional Augmentation Plan consistent with the terms of this decree.

34. **Administration without Curtailment.** Subject to the provisions set forth in this Decree, the use of the Subject Water Right pursuant to this plan for augmentation for replacement of depletions from the Participating Diversions will ensure that the District has provided replacement water necessary to meet the lawful requirements of senior diverters at the time and location and to the extent that seniors would be deprived of their lawful entitlement by the Participating Diversions. So long as such replacement water continues to be provided pursuant to the terms of this Decree, the plan for augmentation decreed herein shall be sufficient to permit the continuation of diversions from the augmented structures when curtailment would otherwise be required to meet a valid senior call for water. Pursuant to § 37-92-305(8), C.R.S. the State Engineer shall curtail all out-of-priority diversions hereunder, the depletions from which are not so

replaced as to prevent injury to vested water rights. The Regional Plan for Augmentation may operate with or without the appropriate rights of exchange.

**35. Accounting.** This Decree does not establish or require any specific accounting form. Upon entry of this Decree and prior to operation of the augmentation plan decreed herein, the District shall prepare accounting forms subject to approval and revision at the direction of the Division Engineer. The accounting format may change from time to time. The accounting form or format should adhere to all applicable policy, guidelines, and protocol established by the State and Division Engineers for such accounting as long as consistent with the terms of this Decree and Colorado law. The accounting shall, without limitation, demonstrate that the sum of (1) return flows replaced through the Augmentation Station, (2) plan depletions replaced through the Augmentation Station, (3) water for exchange delivered through the Augmentation Station, and (4) deliveries to the Recharge Facility, does not exceed the headgate diversions for the William Craig Ditch Water Right. All accounting shall be performed daily and should be submitted monthly, unless required more often at the request of the Division Engineer or Water Commissioner. The Division Engineer requires daily accounting for the month be submitted to the Division Engineer and Water Commissioner no later than the 10<sup>th</sup> day of the month following the month being reported.

**36. Grant of Easements.** The Applicant shall comply with the terms and conditions of the Grant of Easements agreement between Growing Roots LLC and the Applicant for use of the RWAF.

**37. Retained Jurisdiction.** Pursuant to § 37-92-304, C.R.S. the Court shall retain jurisdiction over this case as described below.

37.1. Invoking Retained Jurisdiction. The Court's jurisdiction may be invoked by any existing party to this case or successors-in-interest thereto by petition to the Court and upon proper notice to all other parties. Any such request shall state with particularity the factual basis for requesting that the Court evaluate injury to vested water rights. Unless otherwise stated herein, the party filing the petition shall have the burden of going forward to establish the *prima facie* facts alleged in the petition. If the Court finds those facts to be established, the District shall have the burden of proof to show: (i) that any modification sought by the District will avoid injury to other appropriators; (ii) that any modification sought is not required to avoid injury to appropriators; (iii) that any term or condition proposed by the District in response to the petition does avoid injury to other appropriators.

37.2. Length of Retained Jurisdiction in General. The Court retains jurisdiction of this case for reconsideration of the question of injury to the vested water rights commencing upon entry of this Decree and continuing for a period of five (5) years from the end of the water year when plan depletions replaced under the Regional Augmentation Plan first reach 80 annual acre feet. If no such petition is filed with the

Court within this time frame, and the retained jurisdiction period has not been extended by the Court's decision that the non-occurrence of injury has not been conclusively established in accordance with the provisions of § 37-92-304(6), C.R.S., then this retained jurisdiction period shall automatically expire. The District shall provide notice in hard copy and by email to the State Engineer's Office and the Division Engineer's Office at the email addresses listed in **Exhibit H**, as the same may be updated from time to, and by mail to all Opposers to notify them when plan depletions replaced under the Regional Augmentation Plan first reach 80 annual acre feet.

37.3. Length of Retained Jurisdiction for New Participating Diversions. The Court retains jurisdiction of this case for reconsideration on the question of injury to the vested water rights of others for each new Participating Diversion for a period of five years from the date the District provides notice to Opposers that stream depletions have commenced for the new Participating Diversion within the augmentation plan pursuant to Paragraph 15. If no such petition is filed within this time frame, and the retained jurisdiction period has not been extended by the Court's decision that the non-occurrence of injury has not been conclusively established in accordance with the provisions of § 37-92-304(6), C.R.S., then this retained jurisdiction period shall automatically expire as to such Participating Diversion.

37.4. Retained Jurisdiction for Lagged Well Depletions. The lagging of well depletions to a normally live stream in accordance with the provisions of Paragraph 10.2 above uses presumptive values for hydraulic conductivity, specific yield, and saturated thickness based upon the application of engineering judgment to available information at the time of this Decree. After the entry of this Decree, the District shall assemble and analyze all available information from existing and future wells of Participating Diversions within the Augmentation Plan Area that is relevant to determining hydraulic conductivity, specific yield, saturated thickness, and resulting lagged depletions within the Augmentation Plan Area, such as location of the wells, depth of wells, platting of wells within existing geological mapping and studies, saturated aquifer thickness, and characteristics of the materials within the saturated aquifer materials from the well driller logs. These analyses will be assembled, retained, and organized by the District, including mapping, but will not require the development of groundwater modeling at the District's expense beyond what the District has performed to determine lagged well depletions under Paragraph 10.2. This information shall be shared every other year with the Division of Water Resources and to all Opposers, unless requested otherwise, during this retained jurisdiction period. The District, by its rules and regulations, will require that Participating Diversions drilling new wells require their well driller to log the geologic materials in detail, for the purpose of identifying the specific water bearing and transmitting materials encountered, and to submit that information to the District and the State Engineer in a detailed format as required by the District.

The Court retains jurisdiction concerning the determination that the hydraulic conductivity, saturated thickness, and specific yield of Paragraph 10.2, as well as the

map attached as **Exhibit F** for the determination of lagged well depletions to the stream prevents material injury to other water rights. This retained jurisdiction may be invoked by the Division of Water Resources or the District. As provided in the prior paragraph, the District shall assemble and retain well logs, together with mapping of the location of the wells, for its existing and future plan participants for purposes of assisting in any future retained jurisdiction proceedings as to whether the hydraulic conductivity, saturated thickness, and specific yield factors need to be revised to prevent material injury to other decreed water rights. In the event the hydraulic conductivity, saturated thickness, or specific yield factors are revised, such revision shall only apply to the replacement of future depletions from current Participating Diversions, new Participating Diversions thereafter, and previous Participating Diversions that have already been removed from the Regional Augmentation Plan, as applicable, and there shall not be any retroactive adjustments or duplicative replacements. Credit will be provided for all replacements made to the date of any adjustment and the District shall not have to make total stream replacements exceeding total depletions.

This period of retained jurisdiction shall exist for a period of 10 years from the date of this Decree for the purposes of determining whether based on the data assembled, and other existing geological or engineering studies that may be subsequently available, the presumptive hydraulic conductivity, saturated thickness, specific yield, or **Exhibit F** map of Paragraph 10.2 should be revised. If the Division of Water Resources and the District are able to agree as to whether, at the end of said 10 years, the presumptive hydraulic conductivity, saturated thickness, specific yield, or **Exhibit F** map should be revised, then the District shall itself invoke the Court's retained jurisdiction for purposes of this modification to the decree. If the Division of Water Resources and the District are not able to so agree, then either party may so invoke this retained jurisdiction, and such party invoking the retained jurisdiction shall have the burden of proof in proceeding.

37.5. Perpetual Jurisdiction. The Court shall also retain perpetual jurisdiction of this case for the following purposes:

37.5.1. To alter the boundary of the Augmentation Plan Area covered by this Augmentation Plan.

37.5.2. To admit new Participating Diversions and augmented structures into the Augmentation Plan under procedures of Paragraph 15.

37.5.3. To approve use of new water rights under Paragraphs 9.2 and 9.3, or new exchanges within the Regional Augmentation Plan under Paragraph 19.7.

37.6 Retain Jurisdiction for Legal Determination. The Court retains jurisdiction for a period of 63 days from the final entry of this decree for the objector, Lucy Hibberd, to file a motion for determination of law under C.R.C.P. 56 seeking a determination that the diversion of water to cultivate marijuana is not a beneficial use as that term is

defined in the Water Right Determination and Administration Act of 1969 and that, therefore, the Subject Water Right may not be changed for use for marijuana cultivation and the District may not provide a water supply to marijuana growers for such use either directly, by augmentation, or exchange.

**38. Use Restriction.** The District shall not use the Subject Water Right outside of Huerfano County or contract with anyone for the use of the Subject Water Right outside of Huerfano County.

**39. Final Decree.** This Decree shall become final and appealable upon entry, notwithstanding the retained jurisdiction of the Court herein.

**40. No Precedent.** There was no trial in this matter and no factual issues were litigated. The findings of fact, conclusions of law, and decree were completed as a result of substantial discussions, negotiations, and compromises by, between, and among the Applicant and the objectors pertaining to all parts of the findings, conclusions, and decree. It is specifically understood and agreed by the parties hereto, and found by the Court, that the acquiescence of the parties to a stipulated decree under the specific factual and legal circumstances of this particular matter and upon the numerous and interrelated compromises reached by the parties shall never give rise to any argument, claim, defense, or theory of acquiescence, waiver, bar, merger, stare decisis, res judicata, estoppel, laches, or otherwise nor to any administrative or judicial practice or precedent, by or against any parties hereto in any other matter, case, or dispute. All parties stipulate and agree that they do not intend the findings, conclusions, and decree to have the effect of precedent or preclusion on any factual or legal issue in any other matter.

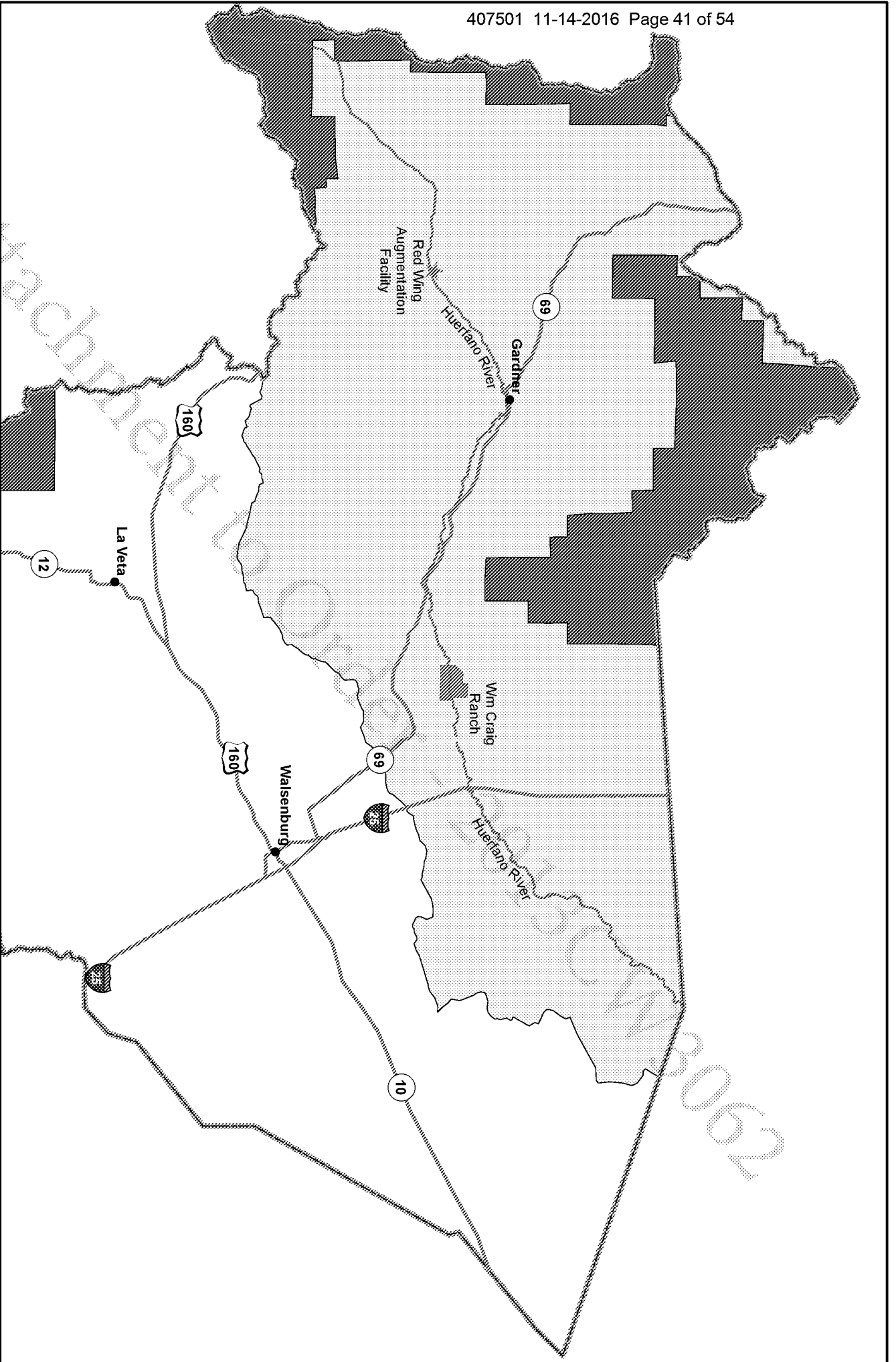
**41. Protective Order.** The protective order entered by the Court on May 31, 2016 relating to engineering methodologies used by Applicant for this Decree does not prevent the use of such engineering methodologies by Opposers in regards to the inclusion of future Participating Diversions or other proceedings related to this Decree's retained jurisdiction.

DATED THIS 14<sup>th</sup> day of November, 2016




BY THE COURT:

  
LARRY C. SCHWARTZ, WATER JUDGE  
WATER DIVISION 2





**Legend**

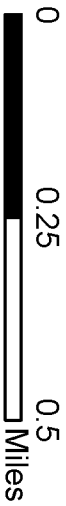
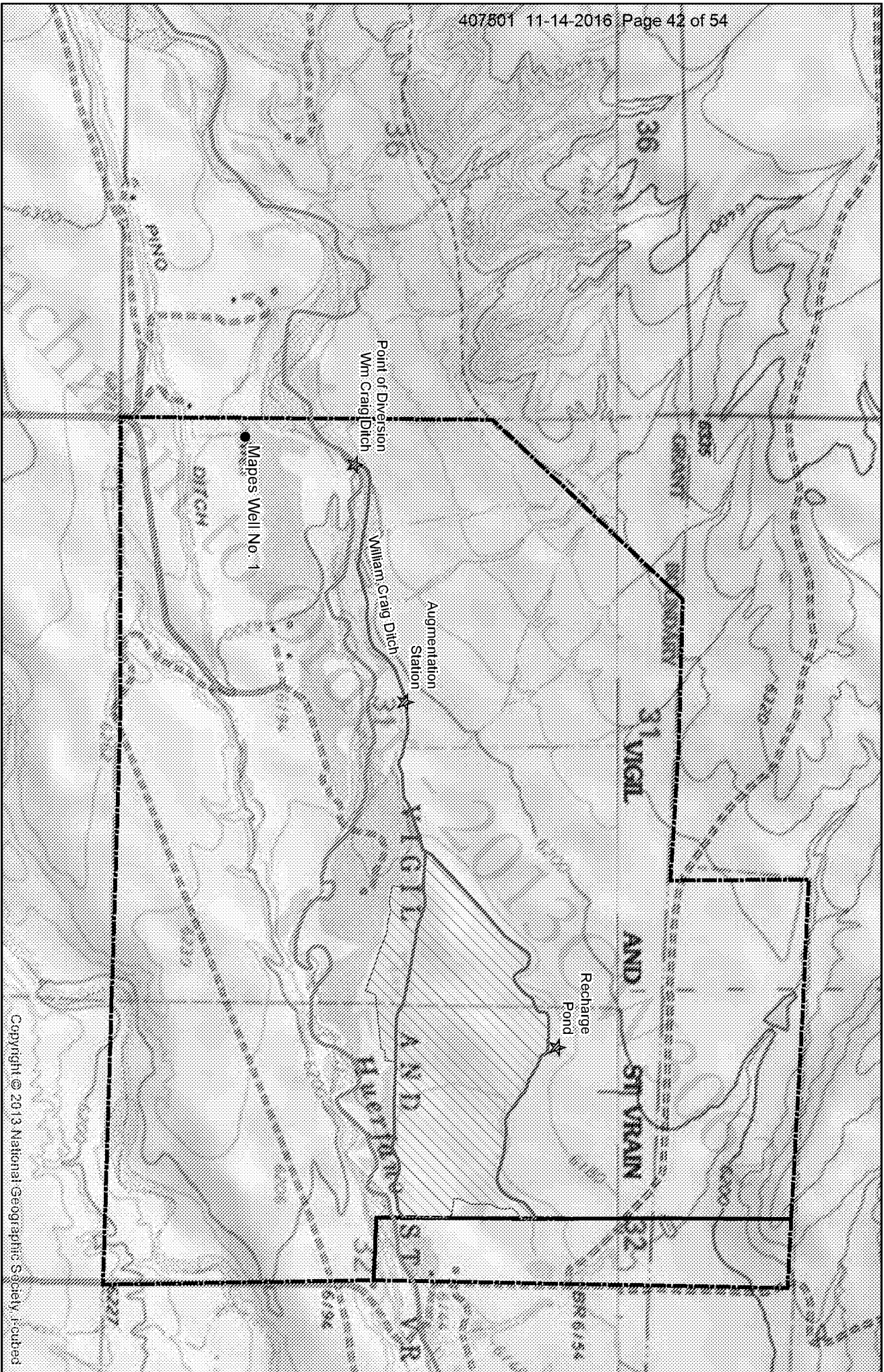
-  Highways
-  National Forest
-  Augmentation Plan Area



**Exhibit A  
General Location Map**



**TZA** Water Engineers  
a Lampson Engineering Company

August 2015



-  Subject Water Right Irrigated Area
-  Wm Craig Ranch Property Boundary

**Exhibit B**  
**Wm Craig Ranch**  
  
 TZA Water Engineers  
 a Campbell Dresser Company  
 June 2014

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# EXHIBIT C

Parcel A:

Township 26 South, Range 67 West of the 6<sup>th</sup> P.M., Huerfano County, Colorado

Section 29: W/2SESW, SWSW

Section 30: SESE

Section 31: A tract of land in the E/2 more particularly describes as follows: Point of beginning is the NE corner of said Section 31; thence North 89°52' West a distance of 1505 feet; thence South 0°32' West a distance of 3,430 feet; thence South 63°30' East a distance of 540 feet; thence South 0°32' West a distance of 1,650 feet; thence South 89°52' East a distance of 1,020 feet said point being the SE corner of Section 31; thence 0°32' East a distance of 5,280 feet to the point of beginning.

Section 32: SWNW, W/2SENW, SW, NWNW, W/2NENW

Parcel B

Township 26 South, Range 67 West of the 6<sup>th</sup> P.M., Huerfano County, Colorado

Section 31: A tract of land in the E/2 more particularly described as follows: Point of beginning is the North Quarter corner of said Section 31; thence South 89°52' East, a distance of 1135 feet; thence South 0°32' West, a distance of 3430 feet; thence South 63°30' East, a distance of 540 feet; thence South 0°32' West, a distance of 1650 feet; thence North 89°52' West, a distance of 1620 feet; thence North 0°32' East, a distance of 5280 feet to the point of beginning.

Section 31: W/2, except a tract of land in the NW of said Section 31, described as follows; Beginning at the northwest corner of said Section 31; thence East 1727 feet; thence South 48° West, 2670 feet; thence North 1890 feet to the point of beginning.

Attachment to Order 13062

Exhibit D  
(1 of 4)

Table 1  
William Craig Ditch Adjusted Diversions\*  
(acre-feet)

Water Year	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Annual
1941	0	0	0	0	0	0	0	43	67	114	0	0	224
1942	0	0	0	0	0	0	0	100	148	71	0	0	319
1943	0	0	0	0	0	38	148	143	148	76	0	0	552
1944	0	0	0	0	0	100	148	143	148	148	143	0	828
1945	0	0	0	0	0	143	148	143	143	0	0	0	576
1946	0	0	0	0	0	143	148	143	61	54	0	0	548
1947	0	0	0	0	0	143	148	143	148	148	143	71	943
1948	0	0	0	0	0	143	148	143	148	148	0	0	728
1949	0	0	0	0	0	143	148	143	148	148	143	0	871
1950	0	0	0	0	148	143	148	143	95	48	0	0	724
1951	0	0	0	0	105	143	148	95	0	0	0	0	490
1952	0	0	0	0	105	143	148	143	148	148	0	0	833
1953	0	0	0	0	105	143	148	143	148	148	0	0	833
1954	0	0	0	0	0	143	148	143	148	81	143	0	805
1955	0	0	0	0	0	52	86	143	148	57	48	0	533
1956	0	0	0	0	0	0	148	143	0	0	0	0	290
1957	0	0	0	0	0	62	148	143	148	62	0	0	562
1958	0	0	0	0	0	62	148	95	138	43	143	48	676
1959	0	0	0	0	0	0	81	100	124	57	0	0	362
1960	0	0	0	0	0	67	148	90	90	99	32	67	593
1961	0	0	0	0	0	52	119	0	148	48	14	129	509
1962	0	0	0	0	0	76	148	143	148	95	0	0	609
1963	119	20	0	0	0	143	148	143	5	0	0	0	577
1964	0	0	0	0	0	38	148	138	138	38	0	0	500
1965	0	0	0	0	0	52	95	0	123	123	119	60	572
1966	0	0	0	0	148	143	148	143	95	0	0	0	676
1967	0	0	0	0	0	143	148	5	0	148	143	71	657
1968	143	0	0	0	0	143	148	143	86	33	143	0	838
1969	0	0	0	0	57	143	148	143	148	148	119	0	904
1970	35	0	0	0	0	10	94	60	45	18	0	0	261
1971	0	0	0	0	0	0	43	84	0	0	7	37	172
1972	0	0	0	0	0	43	95	97	51	7	0	0	293
1973	0	0	0	0	0	0	9	0	0	0	30	67	106
1974	0	0	0	0	0	64	120	63	25	0	0	0	272
1975	0	0	0	0	0	114	119	110	0	0	0	0	342
1976	0	0	0	0	0	28	68	106	81	0	0	0	283
1977	0	0	0	0	0	0	93	77	40	14	0	0	225
1978	0	0	0	0	0	0	100	72	50	0	0	0	222
1979	0	0	0	0	0	13	28	88	97	51	0	0	277
1980	0	0	0	0	0	39	60	56	91	8	0	0	253
1981	0	0	0	0	0	63	100	75	59	0	11	23	331
1982	0	0	0	0	32	40	53	19	50	0	0	0	194
1983	0	0	0	0	0	44	58	0	30	0	0	0	132
1984	0	0	0	0	0	0	0	81	37	0	0	0	118
1985	0	0	0	0	0	109	109	57	71	19	0	0	367
1986	0	0	0	0	0	37	101	43	57	8	0	0	247

Exhibit D  
(2 of 4)

(continued)

Water Year	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Annual
1987	0	0	0	0	0	66	71	57	86	52	29	0	361
1988	0	0	0	0	0	0	133	52	0	0	0	0	186
1989	0	0	0	0	0	0	3	58	60	49	0	0	170
1990	0	0	0	0	0	80	38	53	88	40	0	71	369
1991	0	0	0	0	0	105	129	39	30	0	0	0	303
1992	0	0	0	0	0	95	133	24	76	52	52	0	433
1993	0	0	0	0	0	57	148	67	148	109	100	0	628
1994	0	0	0	0	0	10	148	67	145	69	109	0	548
1995	0	0	0	0	0	0	148	90	124	71	62	0	495
1996	0	0	0	0	0	10	148	93	132	52	0	0	434
1997	0	0	0	0	0	105	86	100	124	48	95	0	557
1998	0	0	0	0	0	52	100	76	90	76	57	10	462
1999	0	0	0	0	0	0	85	109	33	0	0	0	227
2000	0	0	0	0	0	0	62	143	119	60	0	0	383
2001	0	0	0	0	0	67	148	143	148	148	143	114	909
2002	0	0	0	0	0	143	131	2	0	0	0	0	276
2003	0	0	0	90	144	143	148	143	148	90	143	104	1,152
2004	0	0	0	0	0	57	148	143	148	148	86	0	728
2005	0	0	0	0	0	0	33	143	148	57	0	10	390
2006	0	0	0	0	0	43	145	88	24	0	76	0	376
2007	0	0	0	0	0	0	0	0	67	0	0	0	67
2008	0	0	0	0	0	0	124	0	0	0	0	0	124
2009	0	0	0	0	40	143	148	76	0	95	143	105	749
2010	0	0	0	0	0	19	148	143	23	2	100	24	458
2011	0	0	0	0	0	52	148	143	52	71	132	83	681
2012	0	0	0	0	0	5	29	18	43	0	26	43	163
Average	4	0	0	1	12	64	108	91	84	51	38	16	470

\* Limited to decreed rate of 2.40 cfs

Exhibit D  
(3 of 4)

Table 3  
Craig Ranch Property Irrigated by William Craig Ditch  
Prorata Diversions  
(acre-feet)

Water Year	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
1941	0	0	0	0	0	0	0	37	57	98	0	0	192
1942	0	0	0	0	0	0	0	86	126	61	0	0	273
1943	0	0	0	0	0	33	126	122	126	65	0	0	473
1944	0	0	0	0	0	86	126	122	126	126	122	0	710
1945	0	0	0	0	0	122	126	122	122	0	0	0	494
1946	0	0	0	0	0	122	126	122	53	46	0	0	470
1947	0	0	0	0	0	122	126	122	126	126	122	61	808
1948	0	0	0	0	0	122	126	122	126	126	0	0	624
1949	0	0	0	0	0	122	126	122	126	126	122	0	747
1950	0	0	0	0	126	122	126	122	82	41	0	0	620
1951	0	0	0	0	90	122	126	82	0	0	0	0	420
1952	0	0	0	0	90	122	126	122	126	126	0	0	714
1953	0	0	0	0	90	122	126	122	126	126	0	0	714
1954	0	0	0	0	0	122	126	122	126	69	122	0	690
1955	0	0	0	0	0	45	73	122	126	49	41	0	457
1956	0	0	0	0	0	0	126	122	0	0	0	0	249
1957	0	0	0	0	0	53	126	122	126	53	0	0	481
1958	0	0	0	0	0	53	126	82	118	37	122	41	579
1959	0	0	0	0	0	0	69	86	106	49	0	0	310
1960	0	0	0	0	0	57	126	78	78	85	27	58	509
1961	0	0	0	0	0	45	102	0	126	41	12	110	437
1962	0	0	0	0	0	65	126	122	126	82	0	0	522
1963	102	17	0	0	0	122	126	122	4	0	0	0	494
1964	0	0	0	0	0	33	126	118	118	33	0	0	428
1965	0	0	0	0	0	45	82	0	105	105	102	51	490
1966	0	0	0	0	126	122	126	122	82	0	0	0	579
1967	0	0	0	0	0	122	126	4	0	126	122	61	563
1968	122	0	0	0	0	122	126	122	73	29	122	0	718
1969	0	0	0	0	49	122	126	122	126	126	102	0	775
1970	30	0	0	0	0	8	80	52	39	15	0	0	224
1971	0	0	0	0	0	0	36	72	0	0	6	32	147
1972	0	0	0	0	0	37	81	83	43	6	0	0	251
1973	0	0	0	0	0	0	7	0	0	0	26	58	91
1974	0	0	0	0	0	55	102	54	21	0	0	0	233
1975	0	0	0	0	0	97	102	94	0	0	0	0	293
1976	0	0	0	0	0	24	58	91	69	0	0	0	243
1977	0	0	0	0	0	0	80	66	34	12	0	0	193
1978	0	0	0	0	0	0	86	62	43	0	0	0	190
1979	0	0	0	0	0	12	24	76	83	44	0	0	238
1980	0	0	0	0	0	34	51	48	78	7	0	0	217
1981	0	0	0	0	0	54	86	64	51	0	9	20	284
1982	0	0	0	0	27	34	46	17	43	0	0	0	167
1983	0	0	0	0	0	38	50	0	26	0	0	0	113
1984	0	0	0	0	0	0	0	69	32	0	0	0	101
1985	0	0	0	0	0	94	94	49	61	16	0	0	314
1986	0	0	0	0	0	32	87	37	49	7	0	0	212

Exhibit D  
(4 of 4)

Table 3 (continued)

Water Year	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Total
1987	0	0	0	0	0	56	61	49	73	45	24	0	309
1988	0	0	0	0	0	0	114	45	0	0	0	0	159
1989	0	0	0	0	0	0	3	50	51	42	0	0	146
1990	0	0	0	0	0	68	32	46	75	34	0	61	317
1991	0	0	0	0	0	90	111	33	26	0	0	0	260
1992	0	0	0	0	0	82	114	20	65	45	45	0	371
1993	0	0	0	0	0	49	126	57	126	94	86	0	539
1994	0	0	0	0	0	8	126	57	124	59	94	0	469
1995	0	0	0	0	0	0	126	78	106	61	53	0	424
1996	0	0	0	0	0	8	126	80	113	45	0	0	372
1997	0	0	0	0	0	90	73	86	106	41	82	0	477
1998	0	0	0	0	0	45	86	65	78	65	49	8	396
1999	0	0	0	0	0	0	73	93	29	0	0	0	195
2000	0	0	0	0	0	0	53	122	102	51	0	0	328
2001	0	0	0	0	0	57	126	122	126	126	122	98	779
2002	0	0	0	0	0	122	113	2	0	0	0	0	237
2003	0	0	0	77	124	122	126	122	126	78	122	89	987
2004	0	0	0	0	0	49	126	122	126	126	73	0	624
2005	0	0	0	0	0	0	29	122	126	49	0	8	335
2006	0	0	0	0	0	37	124	75	20	0	65	0	322
2007	0	0	0	0	0	0	0	0	57	0	0	0	57
2008	0	0	0	0	0	0	106	0	0	0	0	0	106
2009	0	0	0	0	34	122	126	65	0	82	122	90	642
2010	0	0	0	0	0	16	126	122	20	1	86	20	393
2011	0	0	0	0	0	45	126	122	45	61	114	71	584
2012	0	0	0	0	0	4	24	16	37	0	22	37	140
Average	4	0	0	1	11	55	93	78	72	44	33	14	403

Attachment to Order 2016-01-206

## EXHIBIT E

## Hantush Method

User Defined

Specific yield	$S$	percent
Conductivity	$k$	ft/day
Saturated thickness	$b$	feet
Distance from well to river	$X$	feet
Vertical decline of water table from well to river	$h$	feet
Time	$t$	days

Calculations

$$T = k \cdot b$$

$$\alpha = \arctan(h/X)$$

$$\beta = 2b/\tan(\alpha)$$

$$\alpha_H = \sqrt{\frac{1}{\beta^2}}$$

$$\delta p(t) = \frac{X}{2\sqrt{\frac{T}{S} \cdot t}} + \alpha_H \sqrt{\frac{T}{S} \cdot t}$$

$$\delta(t) = \frac{X}{2\sqrt{\frac{T}{S} \cdot t}} - \alpha_H \sqrt{\frac{T}{S} \cdot t}$$

$$\frac{q(t)}{Q} = \frac{1}{2} \cdot e^{\left(\frac{X}{\beta}\right)} \cdot \left[ e^{(\alpha_H \cdot X)} \cdot \operatorname{erfc}(\delta p(t)) + e^{-\alpha_H \cdot X} \cdot \operatorname{erfc}(\delta(t)) \right]$$

$$\frac{q(t)}{Q} = \text{ratio of rate of depletion, } q, \text{ at river at time } t,$$

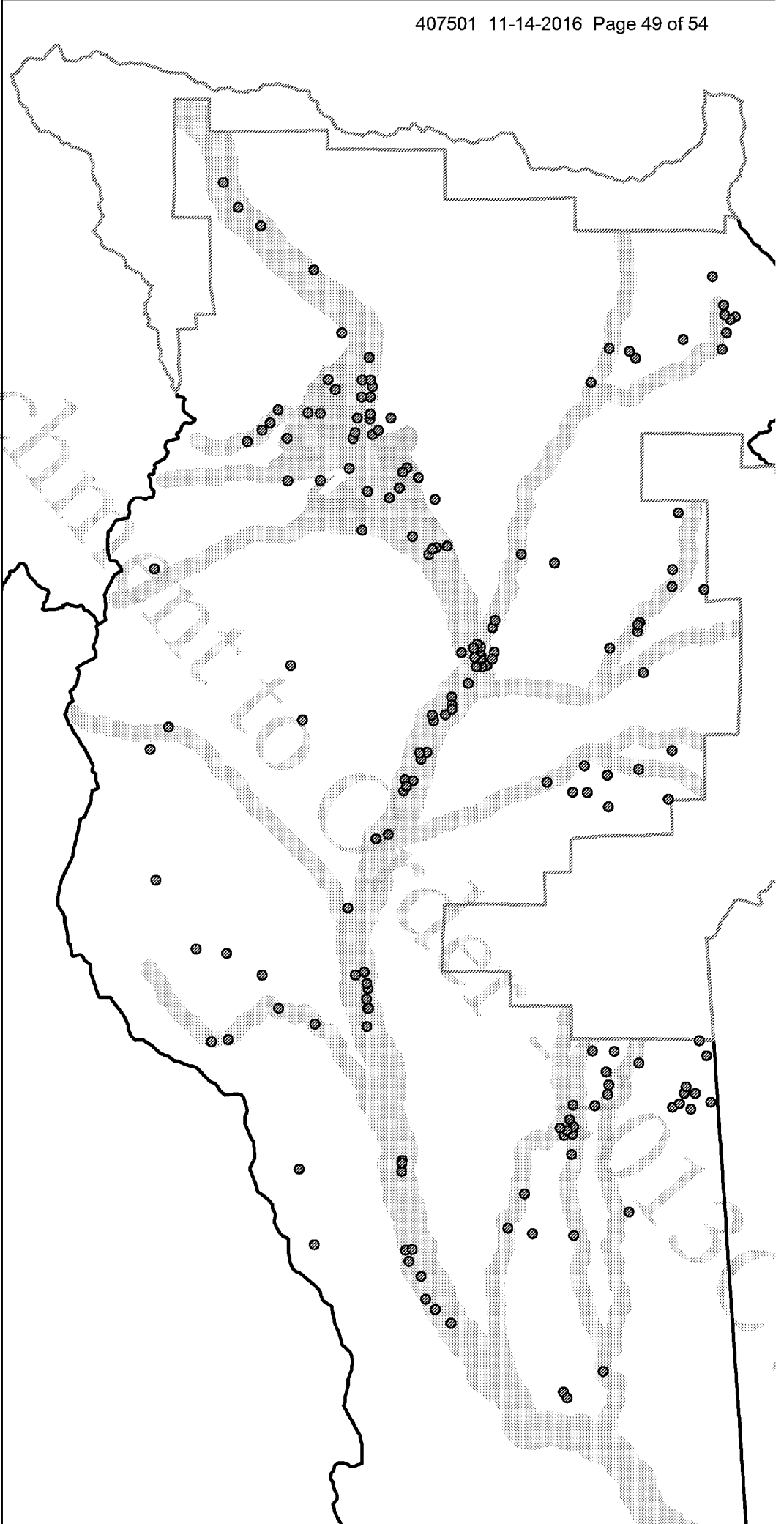
*to rate of pumping from well, at constant rate Q, since time zero*

To calculate monthly lagging factor for month  $i$ , calculate  $q(t)/Q$  at end of month  $i$  and subtract  $q(t)/Q$  at end of month  $i-1$ .

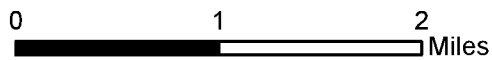
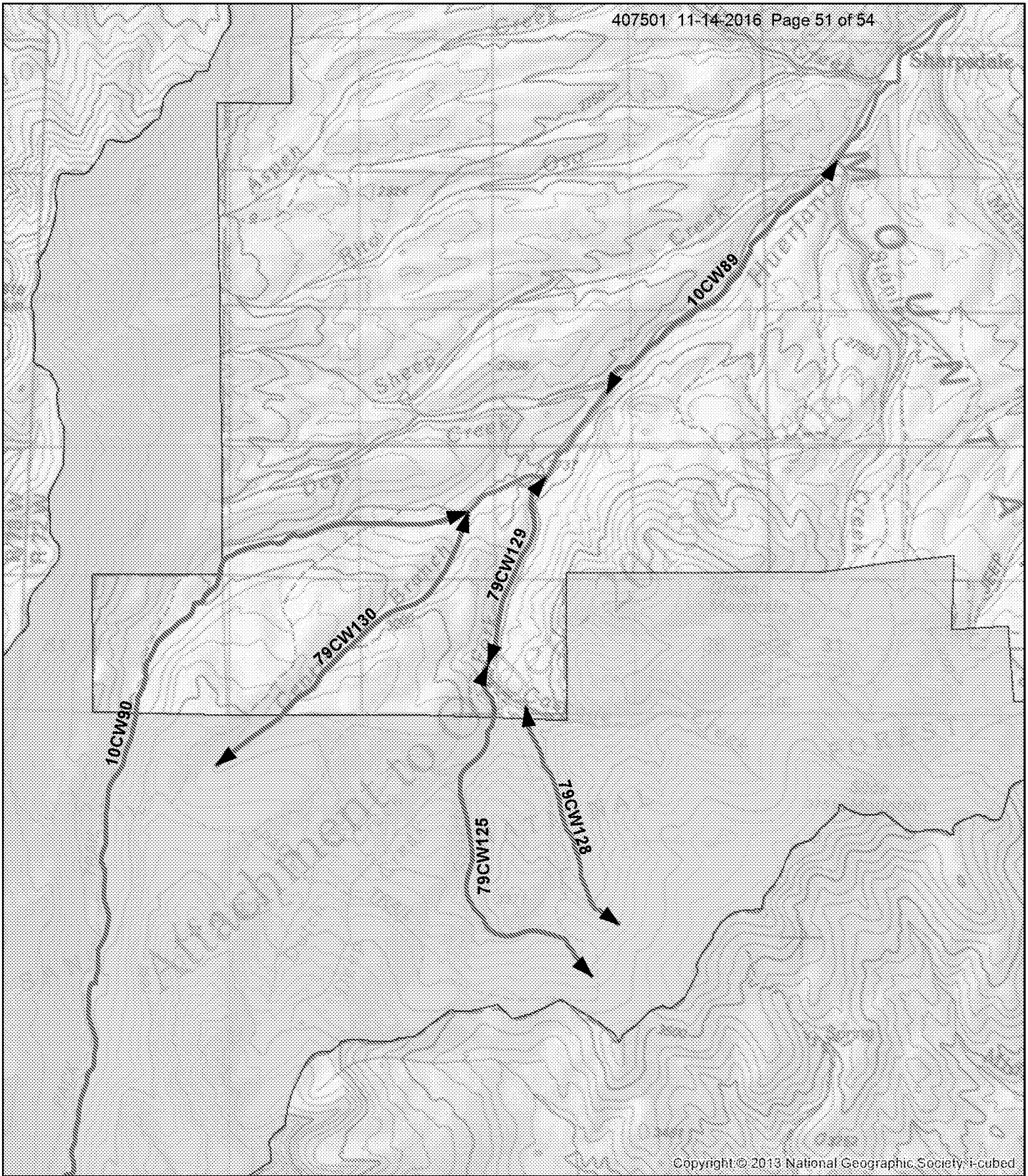




- Wells Finished In Sand & Gravel
- ▨ Presumed Valley-Fill Aquifer (1/2 mile on each side of Huernano River and 1/4 mile on each side of tributaries shown)
- ▨ Presumed Valley-Fill Aquifer near Red Wing







## Exhibit G (2 of 2) CWCB Instream Flow Rights



September 2016

## **EXHIBIT H: NOTICE ADDRESS OF OPPOSERS**

- 1. Stephen Wardell and Carolyn Wardell**  
2955 C.R. 611  
Walsenburg, Colorado, 81089

With notice to:

Cutler Law Office, LLC  
c/o Donald F. Cutler IV  
7990 West Highway 50, Suite E.  
Salida, Colorado, 81201

- 2. Fort Lyon Canal Company**  
750 Bent Avenue  
Las Animas, CO 81054

With notice to:

Lefferdink Law Office, LLC  
c/o John S. Lefferdink  
409 South Main Street, P.O. Box 110  
Lamar, Colorado, 81052

- 3. District 67 Irrigation Canals Assn.**  
c/o Don Higbee, Secretary/Treasurer  
18529 Highways 50 and 285  
Lamar, Colorado, 81052

With notice to:

Shinn, Steerman & Shinn  
c/o Donald L. Steerman  
P.O. Box 390  
Lamar, Colorado, 81052

- 4. Donald Andreatta and Barbara Andreatta**  
1370 County Road 358  
La Veta, Colorado, 81055

With notice to:

Grosscup Balcomb & Green, P.C.  
c/o David C. Hallford and Scott  
Grosscup  
P.O. Drawer 790  
Glenwood Springs, Colorado, 81602

- 5. Colorado Water Conservation Board**

Stream and Lake Protection Section  
1313 Sherman Street, Room 721  
Denver, Colorado, 80203

With notice to:

Don West:  
[don.west@state.co.us](mailto:don.west@state.co.us)

And with notice to:

Office of the Colorado Attorney  
General, Natural Resources and  
Environment Section  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, Colorado, 80203

**6. Growing Roots, LLC**

P.O. Box 874  
Fort Collins, Colorado, 80522

With notice to:

Alperstein & Covell P.C.  
c/o Andrea L. Benson, Cynthia F.  
Covell, and Robert T. Donald  
1600 Broadway, Suite 900  
Denver, Colorado, 80202

**7. Lucy R. Hibberd**

327 S. 7th Street  
Aspen, Colorado, 81611

With notice to:

Law Office of Craig Corona, P.C.  
c/o Craig Corona  
420 Main Street, Suite 203  
Aspen, Colorado, 81611

**8. Colorado State Engineer**

1313 Sherman Street, Room 818  
Denver, Colorado, 80203

With notice to:

Jeff Deatherage:  
[jeff.deatherage@state.co.us](mailto:jeff.deatherage@state.co.us)  
Melissa Peterson:  
[melissa.peterson@state.co.us](mailto:melissa.peterson@state.co.us)  
Caleb Foy:  
[caleb.foy@state.co.us](mailto:caleb.foy@state.co.us)

And with notice to:

Office of the Colorado Attorney  
General, Natural Resources and  
Environment Section  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, Colorado, 80203

**9. Colorado Division 2 Engineer**

310 E. Abriendo Avenue, Suite B  
Pueblo, Colorado, 81004

With notice to:

Steve Witte:  
[steve.witte@state.co.us](mailto:steve.witte@state.co.us)  
Doug Brgoch:  
[doug.brgoch@state.co.us](mailto:doug.brgoch@state.co.us)  
Lenna Rauber:  
[lenna.rauber@state.co.us](mailto:lenna.rauber@state.co.us)

And with notice to:

Office of the Colorado Attorney  
General, Natural Resources and  
Environment Section  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, Colorado, 80203

**10. Charles F. Rowland**

P.O. Box 7  
Gardner, Colorado, 81040

**11. Therese Martini**

P.O. Box 607  
Rye, CO 81069

**12. Tom and Mary Thayer**

4008 C.R. 650  
Rye, CO 81069

Exhibit H to Ruling and Decree  
13CW3062  
Page 3 of 3

**13. The Castle Ranch, LLC**  
5801 E. 6<sup>th</sup> Avenue Pkwy  
Denver, CO 80220

With notice to:

Stephen H. Leonhardt  
Bernard F. Gehris  
Burns, Figa & Will, P.C.  
6400 S. Fiddlers Green Circle  
Suite 1000  
Greenwood Village, CO 80111

Attachment to Order - 2013CW3062