

DISTRICT COURT, WATER DIVISION 7, COLORADO

WATER RESUME

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications filed in the Office of the Water Clerk during the month of February 2026, for each county affected.

2026CW2 Archuleta County, Application for Conditional Water Rights (Surface), Applicant: Floyd McKee, PO Box 1732. Arboles, CO 81121. Structure: Crazy Annie (ditch). Legal Description: In the SW1/4, NW1/4, Sec. 12, Township 34N, Range 5W, N.M.P.M., UTM. Coordinates: Easting 292239, Northing 4120818, N.A.D. 83, Zone 13. Source: Buckskin Nailor Ditch WDID 7800513, tributary to Piedra River. Appropriation Date: 7/1/1974. Amount: 2.0 cfs Conditional. Use: Irrigation, Fire, Wildlife. See Applications for further details. (9 pages including exhibit)

2026CW3000 La Plata County, (19CW3015) DISTRICT COURT, WATER DIVISION SEVEN, STATE OF COLORADO, La Plata County Courthouse, 1060 East Second Ave., Suite 106, Durango, CO 81301, (970) 247-2304, IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF: ROBERT EDMONDS AND BRIDGET EDMONDS, IN LA PLATA COUNTY, COLORADO. **APPLICATION TO MAKE ABSOLUTE AND FOR FINDINGS OF REASONABLE DILIGENCE.**

1. Name, Address, Telephone Number, and Email Address of Applicant: Robert Edmonds and Bridget Edmonds (“Applicants”) 1672 Purple Sage Road, Durango, CO 81301, Telephone: (845) 754-3681 Email: robjedmonds@gmail.com Direct All Pleadings to: Bushong & Holleman PC, Steven J. Bushong, Lesley Lawrence-Hammer, Cassidy L. Woodard, 1966 13th Street, Suite 270, Boulder, CO 80302, Email: sbushong@BH-lawyers.com; cwoodard@BH-lawyers.com 2. Name of Structure: Edmonds Pond. 3. Overview: This Application concerns a request to make the junior water storage right decreed to Edmonds Ponds absolute for its current as-built capacity. Edmonds Pond is used in conjunction with the Anesi Ditch No. 1 and Anesi Ditch No. 2 changed water rights (collectively, the “Anesi Ditch Water Rights”), as further described below. Edmonds Pond was constructed and filled with water subsequently placed to beneficial uses on Applicants’ property described as Parcel 15, Redtail Mountain Ranch, Parcel No. 537320400082, located in La Plata County (“Applicants’ Property”). 4. Descriptions of Conditional Water Right: 4.1. Original Decree: Case No. 19CW3015, District Court in and for Water Division No. 7, State of Colorado (the “Water Court”), dated February 19, 2020 (the “19CW3015 Decree”). 4.2. Legal Description: The approximate location of the dam is in the Anesi Ditch, located in the NE1/4, SE1/4, Section 20, Township 37 North, Range 8 West, of the New Mexico P.M., at a location 2,050 feet from the South section line and 467 feet from the East section line. *See Exhibit A*, 4.3. Source: 4.3.1. Anesi Ditch No. 1; 4.3.2. Anesi Ditch No. 2; and 4.3.3. All natural flows intercepted by and collected in the Anesi Ditches, including all springs and seeps upstream of Edmonds Pond, all tributary to the Animas River, 4.4. Appropriation Date: March 27, 2019, 4.5. Amount: 0.6 acre-feet, conditional, with the continuous right to fill and refill as needed to supply the intended beneficial uses, 4.6. Uses: storage and subsequent use for irrigation, domestic, stock watering, and incidental wildlife purposes. Irrigation and domestic uses will occur by withdrawal of water from storage for use on Applicants’ Property, 4.7. Surface Area: 0.10 surface acres, 4.8. Dam Dimensions: 4.8.1. Vertical Height: less than 10 feet, 4.8.2. Length: estimated at 50 feet, 4.9. Remarks: 4.9.1. The Anesi Ditch Water Rights were originally decreed for irrigation, domestic, and stock watering by the District Court in and for La Plata County in Case No. 1751-B on March 21, 1966, and the location of use was changed in the 19CW3015 Decree to Applicant’s Property. Erroneously described points of diversion for the Anesi Ditch Water Rights were corrected by the Water Court decree entered in Case No. 20CW3025 on November 5, 2020, 4.9.2. The Edmonds Pond water right allows permanent storage while the Anesi

Ditch Water Rights are only temporarily stored (less than 72 hours) in Edmonds Pond on a pass-through basis before being withdrawn for use on Applicants' Property. Withdrawals from storage under the Edmonds Pond water right for use on Applicant's Property may be utilized when adequate water is not available under the Anesi Ditch Water Rights. 5. Request to Make Absolute: Edmonds Pond was constructed during this diligence period and filled to its maximum as-built capacity with the Edmonds Pond water right. Water stored in the Edmonds Pond has been subsequently placed to decreed beneficial uses. Pursuant to C.R.S. § 37-92-301(4)(e), "[a] decreed conditional water storage right shall be made absolute for all decreed purposes to the extent of the volume of the appropriation that has been captured, possessed, and controlled at the decreed storage structure." Therefore, Applicants request that the Edmond Pond water right be made absolute for 0.60 acre-feet for all decreed uses. 6. Request for Finding of Reasonable Diligence: For any portion of the Edmonds Pond water right not made absolute as requested in Paragraph 5 above, Applicants request findings that they have exercised reasonable diligence in the development of the remaining conditional amounts and uses and that said conditional amounts and uses continue in full force and effect. 7. Diligence Activities: Applicants constructed Edmonds Pond over two phases in 2020 and 2021. In Fall 2020, all excavation and other dirt work were performed. In Spring 2021, the pumping and irrigation systems were installed. By Summer 2021, Edmonds Pond was fully complete and filled to its as-built capacity with the Edmonds Pond water right. Edmonds Pond is part of an integrated water supply system for Applicants' Property, along with the Anesi Ditch Water Rights. As such, under C.R.S. § 37-92-301(4)(b), "[w]hen a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." Applicants conducted a multitude of activities showing that they have exercised reasonable diligence. All such activities, including pond construction, are estimated at an expense of \$197,079. Additional activities supporting Applicants' request to make absolute or for findings of reasonable diligence include: 7.1. In 2021, Applicants started planting fruit trees on Applicants' Property. Today, the orchard contains approximately fifty-five trees, consisting of apples and other fruits, and a series of raised garden beds used to grow vegetables and berries. The pump installed in 2021 pumps water uphill from Edmonds Ponds to the orchard for subsequent irrigation use, 7.2. Applicants periodically clean out Anesi Ditch Nos. 1 and 2 to ensure that a proper flow of water is maintained into Edmonds Pond and minimize silting and other debris build up in Edmonds Pond, 7.3. On Anesi Ditch No. 1, Applicants completed a project in 2025 to enclose the spring that serves as a source of water and pipe water to a livestock trough on lands owned by the State of Colorado, 7.4. On Anesi Ditch No. 2, Applicants also completed a project in 2023 to enclose the spring that serves as a source of water in a pipe to prevent contamination from livestock, 7.5. The Anesi Ditch No. 1 is located, in part, on lands owned by the United States Forest Service. In 2021, Applicants obtained a transfer of the Agricultural Irrigation and Livestock Watering System Easement to their names. 8. Land Ownership: Edmonds Pond is located on land owned by Applicants. WHEREFORE, Applicants respectfully request that the Court enter an order (1) granting Applicants' request to make the Edmond Ponds water right absolute as described in Paragraph 5 above; (2) granting Applicants' request for findings of reasonable diligence for any remaining conditional portions decreed to the Edmonds Pond not made absolute as requested in Paragraph 6 above and continuing said conditional water rights in full force and effect; and (3) granting such other and further relief as deemed appropriate. (6 pages including exhibit)

2026CW3001 RULES GOVERNING THE REVIEW OF A SUBSTITUTE WATER SUPPLY PLAN FOR THE LEASE, LOAN, OR TRADE OF A DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT

The State Engineer and Director of Colorado Division of Water Resources, 1313 Sherman Street, 8th Floor, Denver, CO 80203 (please forward all correspondence and pleadings to the attention of Trevor D. Rogan, Assistant Attorney General, and Derek L. Turner, First Assistant Attorney General, Colorado Attorney General, Natural Resources & Environment Section, 1300 Broadway, 10th Floor, Denver, CO 80203, Telephone: 720-508-6865 (Rogan), 720-508-6926 (Turner); E-mail: trevor.rogan@coag.gov, derek.turner@coag.gov) respectfully requests the publication of the following proposed Rules in every

county in Water Division 7 and in the resume of applications filed with the Water Clerk for Water Division 7.

TITLE The title of these rules is “Rules Governing the Review of a Substitute Water Supply Plan for the Lease, Loan, or Trade of a Decreed Agricultural Water Protection Water Right.” The short title of these rules is “Agricultural Water Protection Right Rules,” and in this document, the rules may be referred to as “Rules.”

AUTHORIZATION In order to comply with the requirements of section 37-80-123, C.R.S., it is necessary to adopt rules governing the review of a substitute water supply plan pursuant to section 37-92-308(12), C.R.S. The State Engineer’s authority to promulgate these Rules is based on section 37-80-102(1)(g), C.R.S., which vests rulemaking authority for the Division of Water Resources in the State Engineer; section 37-80-123, C.R.S., which requires the promulgation of these rules according to the State Engineer’s own rule-making process; and section 37-92-501, C.R.S., which authorizes the State Engineer to adopt rules and regulations to assist in the performance of administration, distribution, and regulation of the waters of the state in accordance with the constitution of the State of Colorado and other applicable laws.

ORDER OF THE STATE ENGINEER IT IS ORDERED that the following Rules governing the review of a substitute water supply plan for the lease, loan, or trade of a decreed agricultural water protection water right are adopted by the State Engineer. These Rules replace and supersede the “Rules Governing the Review of a Substitute Water Supply Plan for the Lease, Loan, or Trade of a Decreed Agricultural Water Protection Water Right” made effective by Order of the District Court for Water Division 1 on April 22, 2019 in Case No. 2017CW3152 (Consolidated Case No. 17CW3057, Div. 2).

RULE 1 SCOPE These Rules apply to all applications for substitute water supply plans pursuant to section 37-92-308(12), C.R.S.

RULE 2 DEFINITIONS The following definitions are applicable to these Rules:

2.1 “Agricultural Water Protection Water Right” means a water right changed by a water court decree to allow the lease, loan, or trade of up to fifty percent of the amount of water so decreed, subject to the allowances and limitations described in section 37-92-305(19), C.R.S. The Agricultural Protection Water Right is the total amount of the water right that was changed by the water court for agricultural water protection use. A portion of the Agricultural Protection Water Right may be Lease Water, as defined in Rule 2.6.

2.2 “Change Decree” means the water court decree for the change of water right from an absolute decreed irrigation water right used for agricultural purposes to an Agricultural Water Protection Water Right.

2.3 “Criteria and Guidelines” means the document developed by the Colorado Water Conservation Board for the establishment of Agricultural Water Protection Programs pursuant to section 37-92-305(19)(b)(IV)(B), C.R.S., to assure sufficient protection and monitoring of Agricultural Water Protection Water Rights.

2.4 “Final Decision” means the approval or denial of a substitute water supply plan, as defined in Rule 2.9, which is issued after the reconsideration period, as described in Rule 6.

2.5 “Initial Decision” is the State Engineer’s initial approval or denial of a substitute water supply plan, as defined in Rule 2.9, which may be reconsidered upon request as described in Rule 6.

2.6 “Lease Water” means the portion of the historical consumptive use described in the Change Decree that is requested for lease, loan, or trade in the substitute water supply plan. The amount may be up to fifty percent of the quantified historical consumptive use portion of the Agricultural Water Protection Water Right described in the Change Decree.

2.7 “Person” means an individual, a partnership, a corporation, a municipality, the state of Colorado, the United States, or any other legal entity, public or private. See section 37-92-103(8), C.R.S.

2.8 “Point of Diversion” means either (a) the decreed location where the Lease Water will be diverted from the natural stream or (b) the decreed upstream location of a reach of the natural stream where the Lease Water will be put to beneficial use.

2.9 “Substitute water supply plan” or “SWSP” means a one-year plan for the use of Lease Water at a Point of Diversion, which is administratively approved by the State Engineer pursuant to section 37-92-308(12), C.R.S.

2.10 “SWSP Parties” means applicant, all parties commenting on the SWSP application, and all parties to the Change Decree.

RULE 3 APPLICATION REQUIREMENTS AND CRITERIA THAT THE STATE ENGINEER WILL CONSIDER IN REVIEW OF A SUBSTITUTE WATER SUPPLY PLAN APPLICATION

Rule 3 describes requirements for information to be included in any SWSP application and, as directed by section 37-80-123(1)(b)(II), C.R.S., criteria the State Engineer will consider in reviewing all applications. Much of the information included in the application will be information found in the Change Decree but will be necessary in the application to provide a complete picture of the proposed operation. Applications should be submitted no later than January 15 to allow for review prior to the irrigation season. Applications should be submitted as early as possible to allow adequate time for evaluation.

3.1 Information that must be included in the application. Rather than transcribing long sections of the Change Decree, references to the decree paragraph and/or page number may be sufficient to fulfill requirements in Rule 3.1; however, language from the Change Decree may be included in the application for clarity.

3.1.1 Applicant name and evidence that applicant is the owner of the Agricultural Water Protection Water Right.

3.1.2 Evidence of written notice to the SWSP notification list, as required by section 37-92-308(12)(b)(I)(A), C.R.S.

3.1.3 Case number for the Change Decree.

3.1.4 Person to whom the Lease Water will be leased, loaned, or traded.

3.1.5 Copy of written lease, loan, or trade with end user of water. Confidential information, which is commonly related to price, may be redacted from application materials as long as essential information such as term, renewal/termination dates, and any special operation clauses are shown.

3.1.6 Proposed use of Lease Water:

3.1.6.1 The amount of Lease Water as a percentage (50 percent or less) of the Agricultural Water Protection Water Right and other amount limitations described in the Change Decree. Such limitations may include volumetric limits, which may vary by the percent of the Agricultural Water Protection Water Right being used, or limits that are a result of return flow percentages.

3.1.6.2 The Point of Diversion of the Lease Water, case number and paragraph or page number where the Point of Diversion is decreed, and any WDIDs assigned by the Division of Water Resources.

3.1.6.3 For a Point of Diversion that is upstream of the decreed point of diversion of the Lease Water, identify intervening water rights and describe how the upstream diversion can occur without injury.

3.1.6.4 Type and place of use of Lease Water. If an augmentation plan allows for the temporary addition of replacement sources, Lease Water may be added only pursuant to the provisions of that augmentation plan and must be diverted at a previously decreed Point of Diversion and returned to the stream for credit.

3.1.7 Opt out of SWSP operation: If applicant desires an SWSP with the option to opt out before the irrigation season begins, describe in detail the terms and conditions applicant requests. The Division Engineer must be notified no later than March 31 and before any diversions under the SWSP occur if the applicant elects to opt out.

3.1.8 Information on dry up and ongoing irrigation:

3.1.8.1 A description of where the Agricultural Water Protection Water Right water that is not being leased, loaned, or traded will continue to be used for agricultural purposes consistent with 37-92 305(19)(b)(III).

3.1.8.1.1 If requesting to rotate irrigated/dry-up acres in year 1, year 2 (under a renewal), and year 3 (under a renewal) of SWSP operation, describe the requested irrigated and dried up lands for each year in the initial application so that terms and conditions of the SWSP approval can remain unchanged (see Rule 4.1.2).

3.1.8.1.2 If requesting alternative irrigation approaches, rather than drying up a portion of the historically irrigated land, provide a description of the request and information supporting how such an operation prevents injury.

3.1.8.2 A description of the historically irrigated land associated with the Lease Water that will not be irrigated by the Lease Water, if any, for the duration of the SWSP.

3.1.8.3 A description of the method to ensure any necessary dry up of the irrigated land associated with the Lease Water, any plans to irrigate with alternative water sources, and any additional dry up terms and conditions from the Change Decree.

3.1.9 Historical return flow obligations:

3.1.9.1 Restatement of return flow obligations by time, place, and amount from the Change Decree. Obligations are typically described as fractions of farm headgate deliveries, flow rates, or volumetric amounts.

3.1.9.2 The amount of return flow obligation associated with the Lease Water. The amount of return flow obligation may vary with the percentage of the Agricultural Water Protection Water Right exercised (50 percent or less) and other limitations described in the Change Decree.

3.1.9.3 The source(s) of water to be used to meet return flow obligations.

3.1.9.4 Documentation of permission to use replacement water (copy of lease or contract) if not owned.

3.1.9.5 The location(s) at which replacement water will be placed in the river to meet return flow obligations, and the river distance from the location water is placed in river to the location of the return flow obligation for calculating transit loss.

3.1.9.6 For the use of return flow replacement sources downstream of the historical return flow location, an explanation of how downstream replacement can prevent injury, and under what conditions available upstream sources will be used. Explanation of any exchange or water exchange project to be used to meet return flow obligations, the exchange rate, and exchange potential.

3.1.9.7 For replacement provided through recharge accretions:

3.1.9.7.1 Description of the timing, amounts, and locations of delayed accretions to the receiving stream.

3.1.9.7.2 Table of estimated monthly deliveries, evaporation, other losses, releases, and accretions for the recharge facility.

3.1.9.8 Table of monthly return flow obligations, available replacement water from each replacement source, and transit losses associated with each replacement source. The table should include all ongoing obligations as described in the Change Decree and available replacement water from each replacement source used to meet those obligations.

3.1.10 Required Maps. All maps shall have scale, section, township, and range clearly identified.

3.1.10.1 Map 1: All water infrastructure involved in the SWSP (streams, ditches, historical return flow location, Point of Diversion, measuring structures, replacement sources, etc.).

3.1.10.2 Map 2: Lands that will not be irrigated by the Lease Water for the SWSP.

3.1.10.3 Map 3: Lands included in a conservation program or Agricultural Water Protection Program where the water decreed for agricultural water protection use but not leased, loaned, or traded will continue to be used for agricultural purposes.

3.1.11 A GIS shapefile outlining the land area that will not be irrigated by the Lease Water must be submitted to the Division of Water Resources before an approval can be issued. The shapefile shall include the Change Decree case number, the name of the SWSP application, and any accompanying metadata. In addition, the datum must be NAD83 and the UTM projection must be Zone 13.

3.1.12 Proof of permission (If permission is pending, an explanation on the status may be provided) to use any structures required for the operation of the SWSP but not owned by applicant.

3.1.13 Evidence of enrollment in a conservation program identified in section 37-92-305(19)(b)(IV)(A), C.R.S. or an Agricultural Water Protection Program for the lands identified in Map 3.

3.1.13.1 Applicant shall verify that use of the water under an SWSP does not conflict with water requirements of the conservation program or Agricultural Water Protection Program.

3.1.14 Detailed draft accounting table consistent with any applicable Division of Water Resources accounting guidance.

3.1.15 Contact information (including phone number and email address) for the party that will be submitting accounting for the SWSP and the party(ies) who will be coordinating daily operations with the water commissioner(s).

3.2 Criteria that the State Engineer will consider in reviewing an application, as directed by section 37-92-308(12)(c), C.R.S. The State Engineer must:

3.2.1 Verify that the proposed amount of Lease Water is

consistent with the quantification and terms and conditions in the Change Decree and is no more than 50 percent of the historical consumptive use.

3.2.2 Verify that the Point of Diversion is subject to an existing water court decree.

3.2.3 Verify that the SWSP has correctly quantified the amount of replacement water associated with the Lease Water and that the SWSP will meet the return flow obligations in time, place, and amount to prevent material injury to other vested water rights and decreed conditional water rights in accordance with the Change Decree.

3.2.4 Verify that the operation of the SWSP does not facilitate the diversion of water between water divisions by direct diversion, exchange, replacement, or other means.

3.2.5 Consider written comments provided on the application in accordance with section 37-92-308(12)(b)(II), C.R.S.

3.2.6 Verify that, with appropriate terms and conditions, the SWSP will prevent injury to vested water rights and complies with the Change Decree

RULE 4 TERMS AND CONDITIONS THAT THE STATE ENGINEER MAY IMPOSE THROUGH AN APPROVED SUBSTITUTE WATER SUPPLY PLAN As required by section 37-80-123(1)(b)(I), C.R.S., Rule 4 describes the terms and conditions that the State Engineer may impose on SWSP approvals pursuant to these Rules. Sections 37-92-308(12)(c)(VI) and (VII), C.R.S., specifically require SWSP terms and conditions for the use of Lease Water, including the return flow obligations in time, place, and amount, that prevent material injury to other vested water rights and decreed conditional water rights and allow delivery to the Point of Diversion. All terms and conditions of the Change Decree apply to the SWSP. All SWSP terms and conditions shall be consistent with the Change Decree to the extent the Change Decree addresses any aspect of the operation. Should a conflict arise between the Change Decree and the SWSP, the terms and conditions of the Change Decree supersede any conflicting Standard SWSP Terms and Conditions or other conflicts between the SWSP and Change Decree.

4.1 The following Standard Terms and Conditions shall be included in every SWSP approval, but can be modified by the State Engineer in an SWSP approval. Applicants may suggest modifications to Standard Terms and Conditions in the application if necessary.

4.1.1 This SWSP shall be valid for the period of one year, as specified in the Final Decision unless otherwise revoked or superseded. Any change in the use of the Lease Water, return flow replacement, or operations of the SWSP requires submittal of a new application pursuant to section 37-92-308(12), C.R.S.

4.1.2 If the terms and conditions of the SWSP remain unchanged, the applicant may renew the SWSP two times within three years of the original beginning date by notifying the State Engineer by electronic mail or first-class mail (to the State Engineer's Office) that the terms and conditions remain unchanged. The notice must describe the requested period of renewal (beginning date through end date), not to exceed one year, and a copy of the renewed lease, loan, or trade agreement, if applicable. Notice should be provided at least 35 days prior to the requested beginning date.

4.1.3 The State Engineer may revoke this SWSP or add additional restrictions to its operation if at any time the State Engineer determines that injury to other vested water rights has occurred or will likely occur as a result of the operation of this SWSP or if the applicant fails to comply with the SWSP conditions of approval. Should this SWSP expire without renewal or be revoked, all use of water under this SWSP must cease immediately. However, all ongoing obligations from operation under this SWSP, such as historical return flow replacements, must continue to be fulfilled.

4.1.4 Approval of this SWSP is contingent on the non-irrigation of the specified portion of the applicant's property as shown on Map 2.

4.1.5 This SWSP is only valid if the lands shown on Map 3 continue to participate in a program as required in section 37-92-305(19)(b)(IV), C.R.S.

4.2 Pursuant to section 37-92-308(12)(c)(VI), C.R.S., additional terms and conditions not listed in Rule 4.1 will be included in each SWSP approval to allow for administration and prevention of injury based on the specific operation of each SWSP.

4.3 The State Engineer may include terms and conditions submitted by commenting parties pursuant to section 37-92-308(12)(b)(II), C.R.S.

RULE 5 ADDITIONAL INFORMATION TO BE INCLUDED IN THE DECISION OF THE STATE ENGINEER The decision of the State Engineer, either an approval or denial of the SWSP application, must include the following information as required by section 37-92-308(12)(f), C.R.S.:

5.1 Detailed statement of the basis and rationale for the decision. If the decision is an approval, the approval must include a complete explanation of the terms and conditions imposed to prevent injury to other water rights (see Rule 4) and why the terms and conditions are imposed.

5.2 Description of the consideration given to any written comments that were filed by other parties

RULE 6 RECONSIDERATION AND APPEAL OF STATE ENGINEER'S DECISION Section 37-80-123(1)(b)(IV), C.R.S., requires that the Rules provide procedures for the State Engineer to reconsider a decision and section 37-92-308(12)(h), C.R.S., describes the SWSP appeal process. Reconsideration and appeal of the State Engineer's decision shall be in accordance with the following:

6.1 Initial Decision and Reconsideration

6.1.1 The State Engineer shall serve a copy of the Initial Decision, whether an approval or denial, on all SWSP Parties. The Initial Decision may be reconsidered within 14 days of the date of service of the Initial Decision.

6.1.2 Any party may request that the State Engineer reconsider the Initial Decision during the 14-day reconsideration period by providing information not available to the State Engineer when the Initial Decision was made, by identifying or explaining information the State Engineer failed to consider, or by identifying clerical errors in the Initial Decision. The requesting party shall serve a copy of the request on all SWSP Parties and the State Engineer.

6.1.2.1 The State Engineer will review the information provided by the party requesting reconsideration and will provide a response to all SWSP Parties within a reasonable time.

6.1.3 If no reconsideration is requested, the State Engineer will issue a Final Decision 14 days after the Initial Decision. If any party requests reconsideration, the State Engineer will issue the Final Decision after reconsideration. The State Engineer will serve a copy of the Final Decision on all SWSP Parties. The SWSP may be operated only after the State Engineer issues the Final Decision.

6.2 Appeal of State Engineer's Final Decision

6.2.1 Any appeal of the Final Decision must be made within thirty-five days of the date of service of the Final Decision. Any appeal must be filed under the Change Decree case number.

6.2.2 Only an SWSP Party or a party that requested reconsideration under Rule 6.1 may appeal a Final Decision. This rule does not limit which parties may then participate in the Court's appeal proceeding, which follows the process described in section 37-92-308(12)(h), C.R.S.

RULE 7 AGRICULTURAL WATER PROTECTION WATER RIGHT SUBSTITUTE WATER SUPPLY PLAN DATABASE Rule 7 establishes procedures for creating a database that tracks and inventories SWSPs and for making that information available to the public as required by section 37-80-123(1)(b)(V), C.R.S.

7.1 Database creation:

7.1.1 The existing database used to track SWSP status will be modified to include the information listed in Rule

7.2. Database information requirements:

7.2.1 Change Decree case number.

7.2.2 SWSP name.

7.2.3 Approved date of operation for the original SWSP: the date that operation may begin for the first SWSP pursuant to an application, as opposed to a request for a renewal.

7.2.4 SWSP recent renewal date: the date that operation may begin for the one-year renewal of the SWSP, as allowed by section 37-92-308(12)(d), C.R.S.

7.2.5 Status (approved, denied, pending, etc.).

7.2.6 Decreed beneficial use(s) of the Lease Water prior to the Change Decree.

7.2.7 Type of SWSP: "308(12) – Agricultural Water Protection," which also describes the decreed beneficial use of the water under the Change Decree.

7.2.8 Beneficial use of the Lease Water in the SWSP.

7.2.9 Amount of Lease Water in the SWSP.

7.2.10 Location(s) of use of the Lease Water in the SWSP including water division, water district, and section, township, and range.

7.3 Database accessibility:

7.3.1 The public will have access to the information in Rule 7.2 through the Colorado Information Marketplace.

RULE 8 SEVERABILITY If any portion of these rules is found to be invalid, the remaining portion of the rules shall remain in force and in effect.

IT IS FURTHER ORDERED that these rules shall take effect sixty days after publication in accordance with section 37-92-501, C.R.S., and will thereafter remain in effect until amended as provided by law. In the event that protests are filed with respect to these Rules pursuant to section 37-92-501, C.R.S., the effective date of these Rules is the date on which the Court enters a judgment confirming resolution of all protests to these rules. Any person desiring to protest these rules may do so in the manner provided in section 37-92-501, C.R.S. Any such protest to these rules must be filed by the end of the month following the month in which these rules are published. (27 pages including exhibits)

2026CW3002 La Plata County, (15CW3001, 07CW92) TWIN BUTTES OF DURANGO, INC. (“Applicant”) c/o Scott Strand, 690 Twin Buttes Ave., Durango, Colorado 81301; (970) 318-6614. **APPLICATION FOR FINDINGS OF REASONABLE DILIGENCE IN THE ANIMAS RIVER WATERSHED IN LA PLATA COUNTY.** Twin Buttes of Durango Inc. was formerly Twin Buttes of Durango LLC, which was the successor name to Lightner Creek Ranch, LLC, the original applicant in Case No. 07CW92. Direct all pleadings to: John P. Justus; Kate A. Bosh; CURTIS, JUSTUS, & ZAHEDI, LLC, 1333 W. 120th Ave., Suite 302, Westminster, CO 80234; (303) 595-9441. Email: johnj@cjzwaterlaw.com; kateb@cjzwaterlaw.com. **Name and Type of Water Rights.** a. Surface Water Rights: Rudy Ditch Enlargement, Twin Buttes POD # 1, Twin Buttes POD # 2, Twin Buttes POD # 3. b. Groundwater Rights: Twin Buttes Well # 1, Twin Buttes Well # 2, Twin Buttes Well # 3. c. Storage Right: Twin Buttes Ponds, which include Pauls Park Pond. i. Applicant is entitled to construct up to 4 surface acres of ponds and storage facilities on the property under the Twin Buttes Ponds storage right, as described in greater detail below. The Applicant built and made absolute the Pauls Park Pond. d. Comment on Maximum Combined Simultaneous Rate of Diversion: In Case No. 07CW92, the Surface Water Rights and Groundwater Rights listed in Paragraphs 2(a) and 2(b) above and further described in detail in Paragraphs 3 and 4 below, were decreed a maximum combined simultaneous diversion rate of 1.83 cfs which may be diverted at a combination of all structures. The Surface Water Rights and Groundwater Rights are collectively referred to herein as the “Diversion Rights.” Exhibit A to the Application is a map of the subject water rights. 3. **Description of Conditional Surface Water Rights.** a. Rudy Ditch Enlargement. i. Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: The point of diversion for the Rudy Ditch was originally decreed as 20 rods East of the NW Corner of the SW1/4 NW1/4, Section 23, T35N, R10W, NMPM; and further described as the SE1/4 NW1/4 NW1/4, Section 23, T35N, R10W, NMPM, 854 feet from the North Section line and 767 feet from the West Section line of said Section 23. iv. Source: Lightner Creek, tributary to the Animas River. v. Appropriation Date: July 1, 2005. vi. Amount: 1.83 cfs conditional, subject to the maximum combined simultaneous diversion rate for the Diversion Rights. vii. Uses: Irrigation of 31 acres (including lawn and garden, and landscaping) within the area described as "New Irrigated Acres" in Exhibit B to the Application ("the 31 Acres"); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of storage ponds and storage facilities, described in Paragraph 3(h) ("the Ponds") for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use. The Ponds will be located and the uses will occur on the property shown on Exhibit A to the Application ("the Property"). viii. Comment: This water right for the Rudy Ditch Enlargement is in addition to the 0.33 cfs absolute decreed to the Rudy Ditch in Civil

Action 1751, La Plata County District Court. The acreage to be irrigated under this new water right is in addition to the acreage served under the existing Rudy Ditch water rights on the Property. Exhibit B to the Application shows the approximate acreage currently served under the existing 0.33 cfs Rudy Ditch water right and the new 31 Acres.

b. Twin Buttes POD # 1.

i. Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: SW1/4 NW1/4 NW1/4, Section 23, T35N, R10W, NMPM, 1242 feet from North Section line and 514 feet from West Section line of said Section 23. The legal description for the Twin Buttes POD # 1 is a proposed location and may change to conform to the actual as built location, provided that the final location will be located on the Property. The actual location will be provided when Applicant files for absolute water rights on the structure. iv. Source: Lightner Creek, tributary to the Animas River. v. Appropriation Date: July 1, 2005. vi. Amount: 1.83 cfs conditional, subject to the maximum combined simultaneous diversion rate for the Diversion Rights. vii. Uses: Irrigation of the 31 Acres (including lawn and garden, and landscaping); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of the Ponds for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use.

c. Twin Buttes POD # 2.

i. Original Decree: Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: The same point of diversion as the Shields No. 1 Ditch, which has a decreed legal description as follows: At a point which bears North 53° 53" West 1672 feet from the South Quarter Corner of Section 23, T35N, R10W, NMPM. Also described approximately as follows: SE1/4 SW1/4 Section 23, T35N, R10W, NMPM; UTM Zone 13, NAD83 Easting 240087 Northing 4129144. iv. Source: Lightner Creek, tributary to the Animas River. v. Appropriation Date: July 1, 2005. vi. Amount: All Diversion Rights were decreed a maximum combined simultaneous diversion rate of 1.83 cfs, which may be diverted through any combination of the Diversion Rights. 0.30 cfs has been made absolute at the Twin Buttes POD # 2. leaving 1.53 cfs conditional for further diversion by use of Twin Buttes POD #2. vii. Uses: Irrigation of the 31 Acres (including lawn and garden, and landscaping); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of the Ponds for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use.

d. Twin Buttes POD # 3.

i. Original Decree: Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: NW1/4 NW1/4 NE1/4, Section 26, T35N, R10W, NMPM, 127 feet from North Section line and 2018 feet from East Section line of said Section 26. The legal description for the Twin Buttes POD # 3 is a proposed location and may change to conform to the actual as built location, provided that the final location will be located on the Property. The actual location will be provided when Applicant files for absolute water rights on the structure. iv. Source: Lightner Creek, tributary to the Animas River. v. Appropriation Date: July 1, 2005. vi. Amount: 1.83 cfs conditional, subject to the maximum combined simultaneous diversion rate for the Diversion Rights. vii. Uses: Irrigation of the 31 Acres (including lawn and garden, and landscaping); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of the Ponds for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use.

4. Description of Conditional Groundwater Rights.

a. Twin Buttes Well # 1.

i. Original Decree: Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: NW1/4 SW1/4 NW1/4, Section 23, T35N, R10W, NMPM, 1567 feet from North Section line, 529 feet from West Section line of said Section 23.. The legal description for the Twin Buttes Well # 1 is a proposed location and may change to conform to the actual as

built location, provided that the final location will be located on the Property. The actual location will be provided when Applicant files for absolute water rights on the structure. iv. Source: Groundwater tributary to the Lightner Creek, tributary to the Animas River. v. Depth: This well will be drilled to any depth necessary to obtain a sufficient water supply. vi. Appropriation Date: July 1, 2005. vii. Amount: 1.83 cfs conditional, subject to the maximum combined simultaneous diversion rate for the Diversion Rights. viii. Uses: Irrigation of the 31 Acres (including lawn and garden, and landscaping); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of the Ponds for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use. b. Twin Buttes Well # 2. i. Original Decree: Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Well Permit No. 79294-F iv. Legal Description: SE1/4 SW1/4 Section 23, T35N, R10W; UTM Zone 13, NAD83 Easting 240407 Northing 4128870. v. Source: Groundwater tributary to the Lightner Creek, tributary to the Animas River. vi. Depth: This well will be drilled to any depth necessary to obtain a sufficient water supply. vii. Appropriation Date: July 1, 2005. viii. Amount: All Diversion Rights were decreed a maximum combined simultaneous diversion rate of 1.83 cfs, which may be diverted through any combination of the Diversion Rights. 10 gpm (0.02 cfs) has been made absolute at the Twin Buttes Well # 2, leaving 1.81 cfs conditional. ix. Uses: Irrigation of the 31 Acres (including lawn and garden, and landscaping); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of the Ponds for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use. c. Twin Buttes Well # 3. i. Original Decree: Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: NE1/4 NW1/4 NE1/4, Section 26, T35N, R10W, NMPM, 380 feet from North Section line, 1624 feet from East Section line of Section 26. The legal description for the Twin Buttes Well # 3 is a proposed location and may change to conform to the actual as built location, provided that the final location will be located on the Property. The actual location will be provided when Applicant files for absolute water rights on the structure. iv. Source: Groundwater tributary to the Lightner Creek, tributary to the Animas River. v. Depth: This well will be drilled to any depth necessary to obtain a sufficient water supply. vi. Appropriation Date: July 1, 2005. vii. Amount: 1.83 cfs conditional, subject to the maximum combined simultaneous diversion rate for the Diversion Rights. viii. Uses: Irrigation of the 31 Acres (including lawn and garden, and landscaping); recreation; incidental aesthetics; fire protection; stockwatering and incidental wildlife habitat; piscatorial uses; and filling and refilling in priority of no more than 4 surface acres of the Ponds for the aforementioned uses. Aesthetic and piscatorial direct flow use will be via flow-through water features, except when the water is used to fill the Ponds for storage for incidental aesthetic use and piscatorial use. 5. **Description of Conditional Water Storage Rights.** a. Twin Buttes Ponds. i. Original Decree: Original Decree: Case No. 07CW92, District Court, Water Division 7, entered January 29, 2009. ii. Subsequent Diligence Decrees: Case No. 15CW3001, District Court, Water Division 7, entered February 19, 2020. iii. Legal Description: Applicant is entitled to construct up to 4 surface acres of ponds and storage facilities ("Ponds") on the Property, to be generally located in the NW1/4, SW1/4, and SE1/4 of Section 23; NE1/4 of Section 26, NW1/4 of Section 25, and SW1/4 of Section 24, T35N, R10W, NMPM, or other areas within the Property. The Applicant built and made absolute Pauls Park Pond as one of the Twin Buttes Ponds, as recognized in Case No. 15CW3001. Pauls Park Pond is located in SE1/4SW1/4 Section 23, T35N, R10W, NMPM. UTM coordinates are Easting 240399, Northing 4128889, NAD 83 Zone 13. The location of Pauls Park Pond is depicted on Exhibit C to the Application. Pauls Park Pond is filled by the Twin Buttes POD # 2. More specific locations of the remaining Ponds will be provided when Applicant files to make the storage water rights absolute for these Ponds. iv. Source: Lightner Creek, through the various points of diversion for the Diversion Rights, described above; and springs and surface flows arising on or entering the Property.

Collection systems will be designed in a manner that allows water to return to Lightner Creek when it is placed on call by downstream senior water users. Applicant shall not operate the Ponds until a collection system(s), with bypass flow mechanisms, approved by the Division Engineer, have been installed. v. Appropriation Date: July 1, 2005. vi. Amount: 0.54 acre-feet absolute, attributable to Pauls Park Pond, leaving 19.46 acre-feet conditional, with the right to fill and make successive refills in priority, not to exceed an annual storage volume of 232.2 acre-feet, calculated as follows: 20 af initial fill + 85.6 af outdoor water demand + 126.6 af indoor water demand = 232.2 acre-feet. vii. Uses: Irrigation of the 31 Acres (including lawn and garden); stockwatering; recreation; incidental aesthetics; landscaping water features; fire protection; incidental wildlife habitat; and piscatorial uses. The uses will occur on the Property. viii. Surface Area: The combined surface area of the Ponds shall not exceed 4 surface acres. The surface area of Pauls Park Pond is 7,800 square feet. 6. **Outline of what has been done toward completion, including expenditures.** Applicant performed the following work and incurred the following costs in the development of the Conditional Water Rights, including work on specific structures integral to the diversion and use of the Conditional Water Right and in further development of Applicant's integrated water supply system within which the water right will be placed to beneficial use. The work done and costs incurred set forth below are illustrative and not exhaustive and Applicant reserves the right to present evidence of additional activities and costs in support of this application. a. Applicant expended approximately \$6.5 million toward the continued development of the Twin Buttes of Durango residential project. These costs specifically relate to the construction of essential infrastructure for 49 single-family home sites (Phase 1, Filings 2 and 4), including: i. Installation of water delivery mains and service lines. ii. Construction of sewer and stormwater management infrastructure. iii. Road construction. b. Applicant successfully transitioned a significant portion of the project from the planning phase to active water use: approximately 90 certificates of occupancy have been issued within the Property, and 8 additional homes are currently under active construction. c. Applicant increased the physical application of water to beneficial use by increasing the irrigated acreage of the Twin Buttes Well # 2 for lawns, gardens, and landscaping from 0.05 acres to 0.91 acres, and the irrigated acreage of the Twin Buttes POD #2/ Pauls Park Pond for lawns, gardens, and landscaping from 3.90 acres to 4.24 acres as depicted in Exhibit C to the Application. d. Applicant secured approvals for an additional 39 home sites in Phase 1, Filing 3. e. Applicant has maintained substantial accounting and development records documenting expenditures and construction activities undertaken during the diligence period, demonstrating continuous and systematic efforts to complete the appropriations. f. The water rights that are the subject of this application are part of an integrated water supply system designed to serve the Twin Buttes of Durango residential development. Pursuant to C.R.S. § 37-92-301(4)(b), work on one feature of an integrated system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire system. Consequently, the infrastructure expenditures and development activities necessary for making use of the water rights for decreed purposes as described in this application constitute diligence for all conditional water rights decreed to this system. 7. **Names(s) and address(es) of owner(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** Twin Buttes Metropolitan District No. 1, 692 Twin Buttes Ave.. Durango CO 81301; Colorado Department of Transportation, 3803 N. Main Ave. #306, Durango, CO 81301; Beverly Dawn and Berford Guy Jr. Tomberlin, 120 CR 207, Durango, CO 81301. (14 pages including exhibits)

THE WATER RIGHTS CLAIMED BY THE FOREGOING APPLICATION(S) MAY AFFECT IN PRIORITY ANY WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT AND PROTEST WITHIN THE TIME PROVIDED BY STATUTE, OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of April 2026, to file with the Water Clerk, a verified Statement of Opposition, setting forth facts as to why a certain application

should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing fee: \$192.00; Forms are available through the Office of the Water Clerk or on the Judicial web site at www.coloradojudicial.gov; Jason Poyer, Water Court Specialist, 1060 E. 2nd Ave., Room 106, Durango, CO 81301; 970-247-2304)

Published: before March 31, 2026

/s/ Jason Poyer
Water Court Specialist