



Last Updated: July 2017

## Colorado Water Conservation Board

### Water Plan Grant Application

#### Instructions

To receive funding for a Water Plan Grant, applicant must demonstrate how the project, activity, or process (collectively referred to as “project”) funded by the CWCB will help meet the measurable objectives and critical actions in the Water Plan. Grant guidelines are available on the CWCB website.

If you have questions, please contact CWCB at (303) 866-3441 or email the following staff to assist you with applications in the following areas:

Supply and Demand Gap Projects  
Water Storage Projects  
Conservation, Land Use Planning  
Engagement & Innovation Activities  
Agricultural Projects  
Environmental & Recreation Projects

Gregory.Johnson@state.co.us  
Anna.Mauss@state.co.us  
Kevin.Reidy@state.co.us  
Mara.MacKillop@state.co.us  
Brent.Newman@state.co.us  
Linda.Bassi@state.co.us

Applicants interested in submitting an ‘Intent to Apply’ in the future are encouraged to check here ☐ and fill in all sections with the best information available at the time. Exhibits may be excluded.

This “Intent to Apply” will help CWCB prioritize Projects that are not ready for fully completed Water Plan Grant Application due to the initial timeframe and required deadlines.

**FINAL SUBMISSION:** Submit all application materials to [waterplan.grants@state.co.us](mailto:waterplan.grants@state.co.us) in the original file formats [Application (word); Statement of Work (word); Budget/Schedule (excel)]. Please do not combine documents.

#### Water Project Summary

Name of Applicant	Lower Arkansas Water Management Association (LAWMA)	
Name of Water Project	West Farm Gravel Pit Acquisition	
CWP Grant Request Amount		\$ 1,000,000 (22% of total project cost)
Other Funding Sources <b>CWCB Loan Request</b>		\$ 4,640,950 (minus any grant funds)
Other Funding Sources		\$
Other Funding Sources		\$
Applicant Funding Contribution		\$ 4,640,950 (minus any grant funds)
Total Project Cost		\$ 4,640,950

Last Updated: July 2017

Applicant & Grantee Information	
Name of Grantee(s)	Lower Arkansas Water Management Association (LAWMA)
Mailing Address	P.O. Box 1161
FEIN	84-0637532
Organization Contact	Don Higbee
Position/Title	Manager
Email	lawma@cminet.net
Phone	719.336.9696
Grant Management Contact	Don Higbee
Position/Title	Manager
Email	lawma@cminet.net
Phone	719.336.9696
Name of Applicant (if different than grantee)	
Mailing Address	
Position/Title	
Email	
Phone	

Description of Grantee/Applicant
Provide a brief description of the grantee's organization (100 words or less).
<p>LAWMA is a non-profit, member-owned corporation formed in 1973. LAWMA's primary purpose is to replace out-of-priority depletions caused by its shareholders' well pumping for irrigation and other uses in the lower Arkansas River Basin. LAWMA annually allocates replacement water on a per-share basis to offset shareholders' depletions, allowing shareholders to use Arkansas basin water resources efficiently, economically, and lawfully while keeping the river whole for other water users and while maintaining compliance with the Arkansas River Compact. LAWMA's operations also spur economic development in the region by making water supplies available to new enterprises in the Arkansas basin.</p>

Last Updated: July 2017

Type of Eligible Entity (check one)	
	<b>Public (Government):</b> Municipalities, enterprises, counties, and State of Colorado agencies. Federal agencies are encouraged to work with local entities. Federal agencies are eligible, but only if they can make a compelling case for why a local partner cannot be the grant recipient.
	<b>Public (Districts):</b> Authorities, Title 32/special districts (conservancy, conservation, and irrigation districts), and water activity enterprises.
X	<b>Private Incorporated:</b> Mutual ditch companies, homeowners associations, corporations.
	<b>Private Individuals, Partnerships, and Sole Proprietors:</b> Private parties may be eligible for funding.
	<b>Non-governmental organizations (NGO):</b> Organization that is not part of the government and is non-profit in nature.
	<b>Covered Entity:</b> As defined in <a href="#">Section 37-60-126 Colorado Revised Statutes</a> .

Type of Water Project (check all that apply)	
	Study
	Construction
	Identified Projects and Processes (IPP)
X	Other ( <b>Existing Storage</b> )

Category of Water Project (check all that apply and include relevant tasks)		
	Supply and Demand Gap - Multi-beneficial projects and those projects identified in basin implementation plans to address the water supply and demand gap. <i>Applicable Exhibit A Task(s):</i>	
X	Water Storage - Projects that facilitate the development of additional storage, artificial aquifer recharge, and dredging existing reservoirs to restore the reservoirs' full decreed capacity. <i>Applicable Exhibit A Task(s):</i>	
	Conservation and Land Use Planning - Activities and projects that implement long-term strategies for conservation, land use, and drought planning. <i>Applicable Exhibit A Task(s):</i>	
	Engagement & Innovation - Activities and projects that support water education, outreach, and innovation efforts. Please fill out the Supplemental Application on the website. <i>Applicable Exhibit A Task(s):</i>	
	Agricultural - Projects that provide technical assistance and improve agricultural efficiency. <i>Applicable Exhibit A Task(s):</i>	
	Environmental & Recreation - Projects that promote watershed health, environmental health, and recreation. <i>Applicable Exhibit A Task(s):</i>	
	Other	Explain:

Last Updated: July 2017

Location of Water Project	
Please provide the general county and coordinates of the proposed project below in <b>decimal degrees</b> . The Applicant shall also provide, in Exhibit C, a site map if applicable.	
County/Countries	Prowers County
Latitude	38.100997
Longitude	-102.58269

Water Project Overview
<p>Please provide a summary of the proposed water project (200 words or less). Include a description of the project and what the CWP Grant funding will be used for specifically (e.g., studies, permitting process, construction). Provide a description of the water supply source to be utilized or the water body affected by the project, where applicable. Include details such as acres under irrigation, types of crops irrigated, number of residential and commercial taps, length of ditch improvements, length of pipe installed, and area of habitat improvements, where applicable. If this project addresses multiple purposes or spans multiple basins, please explain.</p> <p>The Applicant shall also provide, in Exhibit A, a detailed Statement of Work, Budget, Other Funding Sources/Amounts and Schedule.</p>
<p>LAWMA seeks to acquire 1,564 acre-feet of storage capacity in the West Farm Gravel Pit (WFGP) for use in LAWMA's augmentation plan and Rule 14 plans. The dedicated storage will increase LAWMA's allocations of water to LAWMA common shares while also re-timing LAWMA's use of its direct-flow supplies to assist in compliance with the Arkansas River Compact. The WFGP's ideal location—on the Arkansas mainstem with an inlet directly off the Lamar Canal—presents a rare opportunity in the lower basin.</p> <p>LAWMA members use share water for irrigation, municipal, industrial, and other purposes. The significantly increased yield to those shares will mean increased security for, and therefore the more likely continuation and flourishing of, irrigated agriculture in the lower Arkansas Valley. The project also will make possible the implementation of LAWMA's innovative water-sharing agreement with Colorado Springs Utilities (CS-U).</p> <p>In benefitting a variety of stakeholder interests, helping ensure compliance with the Compact, demonstrating LAWMA's and CS-U's creative agricultural/municipal collaboration, and maximizing the efficient beneficial use of water in the Arkansas basin, the project will effectuate significant goals of the CWP. LAWMA will use the grant funding to acquire the WFGP without imposing an unworkable financial burden on LAWMA's shareholders.</p>



Last Updated: July 2017

Measurable Results		
To catalog measurable results achieved with the CWP Grant funds, please provide any of the following values as applicable:		
	New Storage Created (acre-feet)	
Approximately 7,900 acre-feet of new pumping or diversions by LAWMA members; uses are consumptive in varying degrees.	New Annual Water Supplies Developed or Conserved (acre-feet), Consumptive or Nonconsumptive	
1,564 acre-feet	Existing Storage Preserved or Enhanced (acre-feet)	
	Length of Stream Restored or Protected (linear feet)	
	Efficiency Savings (indicate acre-feet/year OR dollars/year)	
	Area of Restored or Preserved Habitat (acres)	
2,500 shares/~2,100 AF (5 out of 10 years)	Quantity of Water Shared through Alternative Transfer Mechanisms	
	Number of Coloradans Impacted by Incorporating Water-Saving Actions into Land Use Planning	
	Number of Coloradans Impacted by Engagement Activity	
	Other	Explain:

Water Project Justification
<p>Provide a description of how this water project supports the goals of <a href="#">Colorado's Water Plan</a>, the most recent <a href="#">Statewide Water Supply Initiative</a>, and the applicable Roundtable <a href="#">Basin Implementation Plan</a> and <a href="#">Education Action Plan</a>. The Applicant is required to reference specific needs, goals, themes, or Identified Projects and Processes (IPPs), including citations (e.g. document, chapters, sections, or page numbers).</p> <p>The proposed water project shall be evaluated based upon how well the proposal conforms to Colorado's Water Plan Framework for State of Colorado Support for a Water Project (CWP, Section 9.4, pp. 9-43 to 9-44;)</p>



Last Updated: July 2017

## Water Project Justification

### **Alignment with the Colorado Water Plan and Basin Objectives**

This project meets several key goals and objectives in both the Arkansas Basin Implementation Plan (BIP), the Colorado Water Plan (CWP), and the Statewide Water Supply Initiative (SWSI). All three documents outline the challenges faced by the Arkansas Basin including augmentation water requirements, replacing municipal and industrial (M&I) water supplies, the need for collaborative solutions such as alternative water transfers, the need for regional solutions, and the need to protect and support rural communities.

### **Addresses multiple water supply needs**

This project addresses multiple needs including municipal, agricultural, industrial, storage, alternative water transfers, and compact compliance.

### **Addresses an identified water gap**

This project will provide for reliable augmentation water in the lower Arkansas River basin. The Arkansas BIP recognizes the need for 25,000-30,000 acre-feet of augmentation supply to maintain the current irrigated acreage (Arkansas BIP, Section 2, p. 55). Throughout the Arkansas BIP, augmentation water, especially augmentation water for agriculture, is highlighted as an important need. The Arkansas BIP provides a summary statement of the importance of agricultural augmentation water:

*Agriculture remains the primary user of water when measured by volume diverted. As farm practices become more efficient, additional supplemental water will be needed to meet the requirements of the Arkansas River Compact with Kansas. Currently, most of this augmentation water is leased from municipal suppliers, who have either converted historic farm water to fully-consumable supplies, or have imported new water to the basin, imported from the drainages of the Colorado River under the State of Colorado's entitlement under the Colorado River Compact. The availability of augmentation water for agriculture is expected to diminish as this municipal return flow is reused to meet future urban demands (Executive Summary of Arkansas BIP, p. 4).*

Because it will increase the yields and reliability of augmentation water supplies in the Lower Arkansas River Basin, this project clearly meets the stated goals in protecting and enhancing these supplies through the acquisition of additional storage. In Section 1.6.1. of the Arkansas BIP, the Basin's storage goals include increasing available storage and preserving existing storage for multiple uses as being critical to the future of the Arkansas Basin.

### **Meets criteria identified in the IBCC's No and Low Regrets Scenario Plan**

Specifically, these items include (1) minimizing statewide acres transferred and implementing water sharing projects and (2) preserving existing water supply and storage projects.

### **Demonstrates sustainability in several ways**

- Accommodates the conversion to higher efficiency irrigation methods (e.g., center pivots) by providing necessary augmentation water.
- Helps facilitate an agricultural-municipal water sharing project (LAWMA and Colorado Springs Utilities).
- Firms the yield of existing water supplies.
- Avoids negative economic and social impacts on agricultural and rural communities by increasing the reliability and yield of water delivered to such communities in the Lower Arkansas River Basin.
- Helps ensure compact compliance with Arkansas River Compact.

### **Demonstrated commitment to collaboration**

Throughout the development of this project, LAWMA has involved multiple participants where appropriate. This includes meetings with the County Commissioners, shareholders, citizens, and other community groups to



Last Updated: July 2017

## Water Project Justification

provide opportunities for their input. Through these discussions, this project appears to be widely supported and non-controversial.

### **Fiscal and technical feasibility**

This grant request is accompanied by a CWCB loan request, and the requisite engineering feasibility study for that CWCG loan request demonstrates a high degree feasibility regarding project need and LAWMA's capacity to implement the project and repay the loan. Because over 80% of LAWMA shares are used for agriculture or irrigation, this grant request will be extremely helpful in keeping the assessments to a reasonable level to help ensure profitable farming operations amongst LAWMA shareholders.

### **Helps facilitate an agricultural-municipal water sharing project**

The innovative LAWMA/CS-U water sharing agreement will implement an alternative transfer mechanism (ATM) whereby 2,500 LAWMA shares will be delivered for direct use within CS-U's municipal system in every 5 out of 10 years, and LAWMA will retain the water for its shareholders' use in the other 5 of 10 years. As part of the perpetual agreement, CS-U will purchase 500 acre-feet of the WFGP for LAWMA to offset any potential shortages to LAWMA shareholders caused by operation of the water-sharing agreement in the 5 of 10 years in which CS-U is taking delivery of the water. This collaborative partnership will result in a further increase in LAWMA's allocation to common shares in the 5 of 10 years in which LAWMA retains use of the water, with a resulting additional increase in crop yields for the average shareholder in both wet and dry years.

While this project is not contingent upon the success of the agricultural-municipal water-sharing agreement, upon LAWMA's obtaining a water court decree authorizing the direct delivery to CS-U of 2,500 LAWMA shares, CS-U will pay LAWMA \$1,750,000 for 500 acre-feet of storage in the WFGP. This arrangement comports with the CWP's assumption that storage and other infrastructure are a necessary component of ATMs. LAWMA will apply the CS-U payment to the principal of the requested loan and will seek to restructure the loan agreement to reduce the annual loan payments being financed by LAWMA's shareholders. This reduces share assessments and the financial burden on LAWMA's shareholders.

In Section 6.4 of the CWP and Section 2.2 of the Arkansas BIP, the implementation of agricultural water-sharing agreements is identified as a key objective.

## Related Studies

Please provide a list of any related studies, including if the water project is complementary to or assists in the implementation of other CWCB programs.

Last Updated: July 2017

### Related Studies

This CWP grant request is in conjunction with a CWCB loan request for the same project. As required with all CWCB loan requests, an engineering feasibility study was developed and is attached to this grant application.

### Previous CWCB Grants, Loans or Other Funding

List all previous or current CWCB grants (including WSRF) awarded to both the Applicant and Grantee. Include: 1) Applicant name; 2) Water activity name; 3) Approving RT(s); 4) CWCB board meeting date; 5) Contract number or purchase order; 6) Percentage of other CWCB funding for your overall project.

LAWMA has not requested or received any CWCB grants to date.

### Taxpayer Bill of Rights

The Taxpayer Bill of Rights (TABOR) may limit the amount of grant money an entity can receive. Please describe any relevant TABOR issues that may affect your application.

LAWMA is a private, non-profit corporation organized under the Colorado Non-Profit Corporation Act, as amended, and the Mutual Ditch and Reservoir Company Act, as amended, and therefore is not subject to TABOR.

Last Updated: July 2017

Submittal Checklist	
	I acknowledge the Grantee will be able to contract with CWCB using the <a href="#">Standard Contract</a> .
Exhibit A	
	Statement of Work <sup>(1)</sup>
	Budget & Schedule <sup>(1)</sup>
	Letters of Matching and/or Pending 3 <sup>rd</sup> Party Commitments <sup>(1)</sup>
Exhibit C	
	Map (if applicable) <sup>(1)</sup>
	Photos/Drawings/Reports
	Letters of Support (Support letter from Basin Roundtable encouraged)
	Certificate of Insurance (General, Auto, & Workers' Comp.) <sup>(2)</sup>
	Certificate of Good Standing with Colorado Secretary of State <sup>(2)</sup>
	W-9 <sup>(2)</sup>
	Independent Contractor Form <sup>(2)</sup> (If applicant is individual, not company/organization)
Engagement & Innovation Grant Applicants ONLY	
	Engagement & Innovation Supplemental Application <sup>(1)</sup>

(1) Required with application.

(2) Required for contracting. While optional at the time of this application, submission can expedite contracting upon CWCB Board approval.

## **EXHIBIT A**

### **Lower Arkansas Water Management Association West Farm Gravel Pit Acquisition Water Plan Grant Application**

#### **Statement of Work**

The portion of the West Farm Gravel Pit (“WFGP”) that LAWMA will purchase is fully constructed and operational, with its liner already approved by the Division Engineer. No additional construction is required for LAWMA to incorporate the West Farm Gravel Pit into LAWMA’s operations. However, LAWMA must obtain the approval of the Division 2 water court to use the WFGP to store water available to certain of LAWMA’s direct-flow water rights. In pending Case No. 15CW3067, LAWMA anticipates having such approval for certain of its Lamar Canal Company shares no later than April 7, 2019. In a case to be filed this year for a change of LAWMA’s shares in the Fort Lyon Canal Company, LAWMA anticipates having such approval in approximately July of 2023.

The purchase price for LAWMA to acquire the entire WFGP is \$4,595,000, as evidenced by the Agreement for Lease and Subsequent Purchase and Sale of Water Storage and Carriage Capacity between LAWMA and GP Aggregates, LLC dated July 16, 2018, and by a Binding Term Sheet Option for Purchase of Storage Capacity in West Farm Gravel Pit between the same parties and of the same date. LAWMA’s remaining work to complete the project therefore pertains to financing the purchase price.

## **EXHIBIT A**

### **Letters of Matching and/or Pending 3rd Party Commitments**

#### **WATER SHARING AGREEMENT BY AND BETWEEN THE LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION AND THE CITY OF COLORADO SPRINGS, ACTING BY AND THROUGH ITS ENTERPRISE, COLORADO SPRINGS UTILITIES**

This **WATER SHARING AGREEMENT** (the “Agreement”) is made and entered into effective the **16<sup>th</sup>** day of July, 2018, by and between the **LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**, a Colorado Nonprofit Corporation (“LAWMA”), and the **CITY OF COLORADO SPRINGS**, Colorado, a home rule City and municipal corporation, acting by and through its Enterprise, **COLORADO SPRINGS UTILITIES** (“CS-U”). LAWMA and CS-U are sometimes referred to herein, individually, as a “Party,” and collectively, as the “Parties.”

#### **RECITALS**

**WHEREAS**, LAWMA is a Colorado Nonprofit Corporation organized for, among other things, delivering augmentation and replacement water to irrigators in the Lower Arkansas River Valley;

**WHEREAS**, in December, 2017, the LAWMA shareholders amended their Articles of Incorporation to confirm LAWMA’s authority to directly deliver fully-consumable water to structures on the Arkansas River, including directly delivering water decreed for municipal and industrial purposes;

**WHEREAS**, CS-U is a four-service public municipal utility that provides, among other things, municipal and industrial water service to the City of Colorado Springs, Colorado (“Colorado Springs”), and several other communities within the vicinity of Colorado Springs;

**WHEREAS**, on March 16, 2017, LAWMA and Arkansas River Farms, LLC, a Colorado Limited Liability Company (“ARF”), entered into a Second Amended and Restated Water Rights Exchange Agreement and Reimbursement Agreement (the “Trade Agreement”);

**WHEREAS**, pursuant to the Trade Agreement, LAWMA issued 6,080 shares of LAWMA common stock to ARF in exchange for 6,080 shares of stock in the Fort Lyon Canal Company (the “6,080 Fort Lyon Shares”);

**WHEREAS**, pursuant to the Trade Agreement, LAWMA agreed to initiate a change of water rights proceeding in the Water Court for Water Division 2 to add augmentation and replacement uses to the decreed uses of the 6,080 Fort Lyon Shares and 1,429 additional shares of stock in the Fort Lyon Company that LAWMA intends to acquire from ARF in 2018 (the “ARF/LAWMA Change Case”), and to initiate and pursue certain additional administrative proceedings, including a substitute water supply plan and/or interruptible water supply plan, for ARF’s benefit (the “ARF/LAWMA Administrative Proceedings”);

**WHEREAS**, pursuant to the Trade Agreement, ARF agreed to reimburse LAWMA for its reasonable costs and expenses, including its reasonable legal and engineering costs and expenses, for the ARF/LAWMA Change Case and the ARF/LAWMA Administrative Proceedings;

**WHEREAS**, the 6,080 Fort Lyon Shares have historically been used for irrigation in Bent County, Prowers County, and Otero County, Colorado;

**WHEREAS**, on December 20, 2016, the Board of Directors of the Fort Lyon Canal Company issued an Amended Decision authorizing LAWMA to pursue the ARF/LAWMA Change Case and the ARF/LAWMA Administrative Proceedings on certain terms and conditions (the “ARF/LAWMA Fort Lyon Approval”);

**WHEREAS**, on July 11, 2018, CS-U and ARF executed a Contract for Purchase of Lower Arkansas Water Management Association Stock pursuant to which, provided certain contingencies are satisfied or waived, CS-U will, in July, 2018, close on the purchase of 2,500 of the 6,080 LAWMA Shares (the “2,500 LAWMA Shares”), which are represented by LAWMA Share Certificates Nos. 786 and 826. The share certificate numbers of the 6,080 Fort Lyon Shares, as delivered by ARF and as reissued to LAWMA, are shown in **Exhibit A**;

**WHEREAS**, each year, the LAWMA Board of Directors allocates a certain amount of fully-consumable water to each share of LAWMA common stock under the procedures set forth in LAWMA’s Bylaws and Articles of Incorporation (individually, an “Annual Allocation” and collectively, the “Annual Allocations”);

**WHEREAS**, the Parties desire to use the 2,500 LAWMA Shares to implement an Alternative Transfer Method (“ATM”) pursuant to which CS-U will, in five out of every ten consecutive years, forgo the Annual Allocation to each of its 2,500 LAWMA Shares (“CS-U’s Forgone Allocations”) in exchange for, in the other five out of every ten consecutive years, the direct delivery from LAWMA of fully-consumable water decreed for municipal and industrial uses in CS-U’s existing and future service area in an amount equal to the Annual Allocation to each of CS-U’s 2,500 LAWMA Shares (“CS-U’s Allocation”);

**WHEREAS**, based on independent investigations and analyses, CS-U believes that in the years CS-U takes delivery of CS-U’s Allocation from LAWMA, CS-U’s Allocation will average 2,050 acre-feet of water, although CS-U acknowledges that the amount of water ultimately delivered is subject to hydrological variability and the LAWMA Board of Directors’ discretion to determine the Annual Allocations;

**WHEREAS**, on February 22, 2018, the Parties entered into a Non-Binding Term Sheet concerning this ATM, entitled Colorado Springs Utilities/LAWMA Water-Sharing Agreement (the “Non-Binding Term Sheet”), that set forth some of the basic operating principles of the ATM;

**WHEREAS**, pursuant to the Non-Binding Term Sheet, the Parties intend that CS-U will take direct delivery of CS-U’s Allocation at the locations on the mainstem of the Arkansas River above John Martin Dam where one or more of ARF’s augmentation stations on the Fort Lyon Canal are capable of delivering water (the “Direct Delivery Locations”). The Direct Delivery Locations are shown on the map attached hereto as **Exhibit B**;



**WHEREAS**, pursuant to the Non-Binding Term Sheet, the Parties intend that CS-U's Allocation will be fully consumable and decreed, or otherwise authorized, for municipal and industrial uses in CS-U's existing or future service area;

**WHEREAS**, to implement the ATM, LAWMA and ARF must obtain a 1041 Permit from Bent County that authorizes LAWMA to change the use of certain of the 6,080 Fort Lyon Shares to include municipal and industrial uses within CS-U's existing and future service area ("Contingency No. 1");

**WHEREAS**, to implement the ATM, LAWMA must apply to the Board of Directors of the Fort Lyon Canal Company to approve a change of the type and place of use of a sufficient number of the 6,080 Fort Lyon Shares ("Designated Fort Lyon Shares") to deliver CS-U's Allocation for municipal and industrial uses in CS-U's existing and future service area and to authorize CS-U to exchange CS-U's Allocation to Lake Meredith and/or Pueblo Reservoir ("Contingency No. 2");

**WHEREAS**, to implement the ATM, LAWMA must contract for acquisition of the following "Dedicated Storage and Carriage Capacity" in the West Farm gravel pit reservoir under the Lamar Canal: (1) 500 acre-feet of dedicated, active, and useable storage capacity, (2) sufficient dedicated capacity in the inlet to the reservoir (including carriage in the Lamar Canal), and (3) sufficient dedicated capacity in the outlet of the reservoir (including pumping of water from the reservoir into the outlet canal), and CS-U must agree to reimburse LAWMA for the expense of this acquisition ("Contingency No. 3");

**WHEREAS**, to implement the ATM, LAWMA must include an additional claim in the ARF/LAWMA Change Case to add municipal and industrial uses in CS-U's existing and future service area to the decreed uses of the Designated Fort Lyon Shares ("Contingency No. 4");

**WHEREAS**, to implement the ATM, CS-U, with LAWMA's cooperation, must apply to the Water Court for Water Division 2 for an appropriative right of exchange to exchange CS-U's Allocation from the Direct Delivery Locations to Lake Meredith and/or Pueblo Reservoir ("Contingency No. 5");

**WHEREAS**, to implement the ATM, LAWMA and CS-U must enter into a binding agreement setting forth the operating principles of the ATM ("Contingency No. 6");

**WHEREAS**, to implement the ATM, the LAWMA Board of Directors must approve the operation of the ATM under the procedures set forth in LAWMA's Articles of Incorporation and Bylaws ("Contingency No. 7");

**WHEREAS**, Contingencies No. 1 through No. 7 must be satisfied or addressed before CS-U closes on the purchase of the 2,500 LAWMA Shares;

**WHEREAS**, on April 3, 2018, ARF and LAWMA jointly obtained a 1041 Permit from Bent County, Colorado, permitting the cessation of agriculture on the lands in Bent County, Colorado, that were historically irrigated by certain of the 6,080 Fort Lyon Shares, and authorizing LAWMA to change the use of the Designated Fort Lyon Shares to include municipal and industrial uses (the "Bent County 1041 Permit"), which satisfied Contingency No. 1;

**WHEREAS**, on May 5, 2018, LAWMA applied to the Fort Lyon Canal Company to obtain further approval from the Fort Lyon Canal Company to allow LAWMA to include a claim in the ARF/LAWMA Change Case to add municipal and industrial uses in CS-U's existing and future service area to the decreed uses of the Designated Fort Lyon Shares and to authorize the exchange of the water derived from such shares from the Direct Delivery Locations to Lake Meredith and/or Pueblo Reservoir (the "Further Fort Lyon Approval Application");

**WHEREAS**, the Fort Lyon Canal Company will convene a board meeting or hearing during 2018 to consider the Further Fort Lyon Approval Application, and the Parties anticipate that the Fort Lyon Canal Company will issue a decision on the Further Fort Lyon Approval Application thereafter;

**WHEREAS**, if the Fort Lyon Canal Company approves the Further Fort Lyon Application on terms and conditions acceptable to the Parties, such approval (the "Further Fort Lyon Approval") will satisfy Contingency No. 2;

**WHEREAS**, on July 16, 2018, LAWMA contracted with GP Aggregates, LLC, for the lease and subsequent purchase of the Dedicated Storage and Carriage Capacity, which partially satisfies Contingency No. 3;

**WHEREAS**, by this Agreement, the Parties wish to address by contract what will occur if Contingency No. 2 is not satisfied, and how Contingencies No. 3 through No. 5 will be satisfied; and wish to satisfy Contingencies No. 6 and No. 7, so that CS-U may close on the purchase of the 2,500 LAWMA Shares (the "ARF/CS-U Closing"), and the Parties may establish the ATM; and

**WHEREAS**, by the Agreement, the Parties further wish to provide flexibility so that the operating principles of the ATM may be revised, improved, and/or amended for the mutual benefit of the Parties as they gain experience from operating the ATM.

**NOW THEREFORE**, for good consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

### **TERMS AND CONDITIONS**

The Recitals set forth above are hereby incorporated into the terms and conditions of the Agreement set forth below.

1. **Effective Date.** This Agreement shall become effective on the day that CS-U closes on the purchase of the 2,500 LAWMA Shares (the "Effective Date"). In the event that CS-U does not close on the purchase of the 2,500 LAWMA Shares, for whatever reason, this Agreement shall be null and void, and the Parties shall have no further obligations to each other.
2. **Further Fort Lyon Approval.** The Parties agree that if the Fort Lyon Canal Company fails or refuses to approve the Further Fort Lyon Approval Application; fails or refuses to issue the Further Fort Lyon Approval; issues the Further Fort Lyon Approval with terms and conditions that either Party deems unacceptable; or otherwise fails or refuses to authorize

LAWMA to directly deliver water to CS-U as contemplated by this Agreement, the Parties will work cooperatively to find an alternative method and/or source of water to operate the ATM contemplated by this Agreement for CS-U's Changed Uses, as CS-U's Changed Uses are defined below (an "Alternative ATM"). Accordingly, the Parties agree that if any of the above-stated conditions occur, they will pursue the following steps:

- 2.1 The Parties will, at CS-U's expense, jointly investigate the legal and engineering feasibility of any Alternative ATM proposed by CS-U, including but not limited to the following: (1) the delivery of water attributable to CS-U's Allocation in a manner consistent with the ARF/LAWMA Fort Lyon Approval, such as by augmenting well pumping; (2) the delivery of water attributable to CS-U's Allocation through delivery to CS-U of a portion of the fully consumable water available to LAWMA's Highland Canal water rights changed in Case Nos. 02CW181 or 10CW85, whether such delivery occurs under LAWMA's plan for augmentation, under an interruptible water supply agreement, or otherwise; and (3) changing the type and place of use of such Highland Canal water rights to include direct use by CS-U.
- 2.2 If the Parties reasonably conclude that one or more of the proposed Alternative ATMs (1) is/are consistent with state and federal law; (2) is/are authorized by the Arkansas River Preservation Principles, the Arkansas River Compact, and LAWMA's Articles of Incorporation and Bylaws; and (3) will have no adverse impact on LAWMA and/or its members and shareholders, then CS-U may, pursuant to the provisions of LAWMA's Articles of Incorporation and Bylaws, request LAWMA's approval for the delivery of CS-U's Allocation pursuant to any such Alternative ATM.
- 2.3 CS-U must reimburse LAWMA for any additional costs, fees and/or expenses reasonably incurred for LAWMA to evaluate and implement any Alternative ATM, including any administrative, legal, and engineering fees or expenses, or other out-of-pocket costs to obtain the required approval of the LAWMA Board; to obtain any necessary court, administrative, or other governmental approvals, such as court decrees, 1041 permits or SWSPs; and to effectuate such Alternative ATM, such as costs of dry-up or revegetation ("Alternative ATM Costs"). Before the Parties pursue the development of any Alternative ATM pursuant to this Section 2, the Parties will enter into a reimbursement agreement to provide for CS-U's payment of the Alternative ATM Costs to LAWMA.
- 2.4 In the event that the Parties are unable to identify or otherwise implement an Alternative ATM, or CS-U concludes, in its sole discretion, that, for any reason, it does not want to attempt to implement and/or operate an Alternative ATM, CS-U may invoke the termination provisions under Section 33 of this Agreement.

### **ARF/LAWMA CHANGE CASE PROCEEDING**

3. ARF/LAWMA Change Case. Within 180 days of the Further Fort Lyon Approval in a form that is acceptable to the Parties, LAWMA shall initiate the ARF/LAWMA Change

Case. In addition to the claims that LAWMA is obligated to pursue by the Trade Agreement, LAWMA shall include a claim for the benefit of CS-U to change the decreed use of the Designated Fort Lyon Shares to include use, reuse, successive use and use to extinction, directly, after storage or by exchange, for all beneficial uses, including, without limitation, municipal, industrial, domestic, agricultural, industrial, commercial, irrigation, stock watering, fire protection, recreation, in-reservoir fish and wildlife preservation and propagation, recharge of aquifers, exchange purposes, replacement of historical return flows, replacement of depletions resulting from the use of water from other sources, relinquishment pursuant to Section 37-90-137(9)(b), C.R.S., and all augmentation purposes (“CS-U’s Changed Uses”).

- 3.1 Upon entry of a decree approving a change of use of the Designated Fort Lyon Shares for CS-U’s Changed Uses, the yield to the Designated Fort Lyon Shares will be sufficient to allow LAWMA to directly deliver to CS-U, at one or more of the Direct Delivery Locations, the volume of fully consumable water necessary to supply Annual Allocations to the 2,500 LAWMA Shares.
- 3.2 The Designated Fort Lyon Shares do not include any of the 6,080 Fort Lyon Shares that have been used historically below John Martin Dam or outside of Bent County.
- 3.3 Before circulating to any Opposer or tendering to the Water Court any proposed or final decree in the ARF/LAWMA Change Case, LAWMA shall first provide CS-U with the opportunity to review and comment on a final draft of any such decree. LAWMA agrees that it will not circulate to any Opposer or tender to the Water Court any proposed or final decree that is not acceptable to CS-U, and LAWMA agrees that it will pursue the ARF/LAWMA Change Case through trial and appeal to achieve a final decree that is acceptable to CS-U; provided that CS-U shall not deem unacceptable any proposed or final decree in the ARF/LAWMA Change Case that a municipal utility would conclude reasonably and practically permits use of the Designated Fort Lyon Shares for CS-U’s Changed Uses in CS-U’s existing and future service area.
- 3.4 Before entering into any stipulation with any Opposer in the ARF/LAWMA Change Case, LAWMA shall first provide CS-U with the opportunity to review and comment on a final draft of any such stipulation. LAWMA agrees that it will not enter into any stipulation that is not acceptable to CS-U, and LAWMA agrees that it will pursue the ARF/LAWMA Change Case through trial and appeal if it cannot reach stipulations with all Opposers to the ARF/LAWMA Change Case that are acceptable to CS-U; provided that CS-U shall not deem unacceptable any stipulation that a municipal utility would conclude reasonably and practically permits use of the Designated Fort Lyon Shares for CS-U’s Changed Uses in CS-U’s existing and future service area.
- 3.5 While the ARF/LAWMA Change Case is pending before the Water Referee, the Parties shall meet, by phone or in person, at least quarterly to discuss the ARF/LAWMA Change Case. While the ARF/LAWMA Change Case is pending

before the Water Judge, the Parties shall meet, by phone or in person, at least monthly to discuss the ARF/LAWMA Change Case.

- 3.6 CS-U may file a Statement of Opposition in Support of the ARF/LAWMA Change Case, and participate in any trial and/or appeal in support of the ARF/LAWMA Change Case.
  - 3.7 The ARF/LAWMA Change Case, including any final decree or proposed decrees, and stipulations therein, shall be consistent with the Further Fort Lyon Approval, the Bent County 1041 Permit, the Arkansas River Preservation Principles, and the Arkansas River Compact.
4. SWSP Application. Within a reasonable time after the ARF/LAWMA Change Case has been filed, LAWMA shall initiate and file a substitute water supply plan (“SWSP”) with the Division Engineer for Water Division 2, under Section 37-92-308, C.R.S., to temporarily add CS-U’s Changed Uses in CS-U’s existing service area to the approved uses of the Designated Fort Lyon Shares. For the purposes of this Agreement, the first April 1 after the SWSP is approved by the Division Engineer, is the “Operations Start Date.”
    - 4.1 The SWSP shall be used by LAMWA to support the operation of the ATM while the ARF/LAWMA Change Case is pending.
    - 4.2 LAWMA shall pursue the SWSP on terms and conditions that are identical, or as close as reasonably possible, to the terms and conditions sought in the ARF/LAWMA Change Case for CS-U’s Changed Uses.
  5. Reimbursement for ARF/LAWMA Change Case and SWSP. CS-U shall reimburse LAWMA for the costs and expenses of the ARF/LAWMA Change Case and the SWSP as follows:
    - 5.1 CS-U will reimburse LAWMA for one-half of its reasonable costs, fees, and expenses for the ARF/LAWMA Change Case (“CS-U’s Costs and Expenses for the Change Case”); and ARF will reimburse LAWMA for the other one-half of its reasonable costs, fees and expenses for the ARF/LAWMA Change Case. CS-U will not reimburse LAWMA for any of the costs, fees, and expenses, including the legal and engineering costs and expenses, of the ARF/LAWMA Administrative Proceedings. Before LAWMA executes this Agreement, LAWMA and ARF shall execute an amendment to the Trade Agreement to reflect the above understanding.
    - 5.2 CS-U’s Costs and Expenses for the Change Case shall be limited to only those costs, fees, and expenses necessary to prepare, initiate, and prosecute the ARF/LAWMA Change Case, including any trial and appeal, and shall include reasonable attorneys’ fees, engineering expenses, and administrative expenses.
    - 5.3 CS-U shall reimburse LAWMA for all reasonable costs and expenses, including reasonable legal and engineering costs and expenses, for the SWSP (“CS-U’s Costs and Expenses for the SWSP”).

- 5.4 CS-U's Costs and Expenses for the SWSP shall be limited to only those costs and expenses necessary to prepare, initiate, and prosecute the SWSP, including any hearing and appeal, and shall include reasonable attorneys' fees, engineering expenses, and administrative expenses.
- 5.5 Before beginning any work on the ARF/LAWMA Change Case or the SWSP, LAWMA shall submit a good-faith budget to CS-U detailing CS-U's projected costs and expenses for the ARF/LAWMA Change Case and the SWSP during the remainder of that budgetary year (the first of which runs through December 31 of the first year of this Agreement) and during the upcoming budgetary year (which runs from January 1 through December 31 of the second year of this Agreement) (the "First- and Second-Year Budgets"). By October 1 of the second year of this Agreement, and each October 1 thereafter while the ARF/LAWMA Change Case remains pending, LAWMA shall submit a good-faith budget to CS-U detailing CS-U's projected costs and expenses for the ARF/LAWMA Change Case and the SWSP during the next upcoming budgetary year (which runs from January 1 through December 31 of the third year of this Agreement, and each January 1 through December 31 thereafter) (the "Budget"). During the first and second years of this Agreement, CS-U shall include the First- and Second-Year Budget in its annual requests for appropriations, as necessary; and thereafter, CS-U shall include the Budget in its annual request for appropriations, as necessary. The Parties shall meet and confer each year once LAWMA has incurred CS-U's Costs and Expenses for the Change Case and/or CS-U's Costs and Expenses for the SWSP totaling one-half of the First- and Second-Year Budget or of the Budget to discuss supplemental budgeting, if necessary.
- 5.6 LAWMA shall invoice CS-U in writing by the 15th of every month for CS-U's Costs and Expenses for the Change Case and for CS-U's Costs and Expenses for the SWSP (the "Change and SWSP Invoice"). The Change and SWSP Invoice shall include a description of each cost and expense incurred by LAWMA, including, without limitation, a description of the times, activities, and billing rates of each attorney or engineer who performed work on behalf of LAWMA.
- 5.7 CS-U shall remit payment to LAWMA for each Change and SWSP Invoice within ninety (90) days of receipt of the Change and SWSP Invoice.
- 5.8 In the event that CS-U disputes any costs and/or expenses in the Change and SWSP Invoice, CS-U may invoke the dispute resolution procedures under this Agreement.
6. Termination of the Water Court Proceedings. If, at any time during the pendency of the ARF/LAWMA Change Case, it becomes apparent to CS-U that LAWMA will not be able to obtain a decree approving CS-U's Changed Uses that will be satisfactory to CS-U, or the Parties have irreconcilable differences about the direction or prosecution of the ARF/LAWMA Change Case, CS-U, at CS-U's sole discretion, may direct LAWMA to dismiss CS-U's Changed Uses, with prejudice, from the ARF/LAWMA Change Case application, and invoke the termination procedures under this Agreement. In this event, CS-U shall not be responsible for any costs and expenses incurred by LAWMA for the

ARF/LAWMA Change Case (or the SWSP) after the date on which CS-U's Changed Uses are dismissed with prejudice from the ARF/LAWMA Change Case application ("CS-U Dismissal Date"), or for other payments that would accrue under this Agreement after the CS-U Dismissal Date, such as payments to LAWMA for the Dedicated Storage and Carriage Capacity.

### **EXCHANGE CASE APPLICATION**

7. **Exchange Case Application.** Any time after the Effective Date, CS-U may apply to the Water Court for Water Division 2 for an appropriative right of exchange to exchange CS-U's Allocation from the Direct Delivery Locations to Lake Meredith and/or Pueblo Reservoir (the "Exchange Case Application").
  - 7.1 CS-U shall be solely responsible for the direction and prosecution of the Exchange Case Application, as well as the costs and expenses of the Exchange Case Application.
  - 7.2 LAWMA agrees that the Exchange Case Application may include additional claims to exchange to Lake Meredith and/or Pueblo Reservoir other Temporary Use Agreement Waters that can be made available at the Direct Delivery Locations or other locations in the Lower Arkansas River Valley, under a procedure analogous to the one set forth in the Findings of Fact, Conclusions of Law, Judgment and Decree entered in Case No. 2005CW96, Water Division 2.
  - 7.3 The Exchange Case Application, including any decree and stipulations therein, shall be consistent with the Further Fort Lyon Approval, the Bent County 1041 Permit, and the Arkansas River Compact.
  - 7.4 LAWMA agrees that it will not oppose the Exchange Case Application, except as necessary to ensure compliance with the terms and conditions of this Agreement, and LAWMA will reasonably cooperate with CS-U to pursue the Exchange Case Application, if requested.
  - 7.5 While the Exchange Case Application is pending, CS-U shall seek administrative approvals or substitute water supply plans under Section 37-92-308, C.R.S., to exchange CS-U's Allocation from the Direct Delivery Locations to Lake Meredith and/or Pueblo Reservoir.
8. **Joint Application.** LAWMA agrees that, if requested by CS-U, LAWMA will participate as a joint applicant in the Exchange Case Application. In this event, the Exchange Case Application shall also include a claim for an appropriative right of exchange to exchange CS-U's Forgone Allocations from the Direct Delivery Locations to Lake Meredith and/or Pueblo Reservoir.
  - 8.1 In the event that LAWMA participates as a co-applicant, CS-U shall reimburse LAWMA for all reasonable costs and expenses, including reasonable legal and

engineering costs and expenses, incurred by LAWMA in the Exchange Case Application (“CS-U’s Costs and Expenses for the Exchange Case Application”).

- 8.2 CS-U’s Costs and Expenses for the Exchange Case Application shall be limited to only those costs and expenses necessary to prepare, initiate, and prosecute the Exchange Case Application, including any trial and appeal; and shall include reasonable attorneys’ fees and engineering expenses.
- 8.3 Before beginning any work on the Exchange Case Application, LAWMA shall submit a good-faith budget to CS-U detailing LAWMA’s projected costs and expenses for the Exchange Case Application during the remainder of that budgetary year (the first of which runs through December 31 of the first year of this Agreement) and during the upcoming budgetary year (which runs from January 1 through December 31 of the second year of this Agreement) (the “First- and Second-Year Exchange Budgets”). By October 1 of the second year of this Agreement, and each October 1 thereafter while the Exchange Case Application remains pending, LAWMA shall submit a good-faith budget to CS-U detailing LAWMA’s projected costs and expenses for the Exchange Case Application during the next upcoming budgetary year (which runs from January 1 through December 31 of the third year of this Agreement, and each January 1 through December 31 thereafter) (the “Exchange Budget”). During the first and second years of this Agreement, CS-U shall include the First- and Second-Year Exchange Budget in its annual request for appropriations, as necessary; and thereafter, CS-U shall include the Exchange Budget in its annual request for appropriations, as necessary. The Parties shall meet and confer each year once LAWMA has incurred costs and expenses totaling one-half of the First- and Second-Year Exchange Budget or of the Exchange Budget to discuss supplemental budgeting and appropriation, if necessary.
- 8.4 LAWMA shall invoice CS-U in writing by the 15th of each month for CS-U’s Costs and Expenses for the Exchange Case Application (the “Exchange Invoice”). The Exchange Invoice shall include a description of each cost and expense incurred by LAWMA, including, without limitation, a description of the times, activities, and billing rates of each attorney or engineer who performed work on behalf of LAWMA.
- 8.5 CS-U shall remit payment to LAWMA for the Exchange Invoice within ninety (90) days of receipt of the Exchange Invoice.
- 8.6 In the event that CS-U disputes any costs and/or expenses in the Exchange Invoice, CS-U may invoke the dispute resolution procedures under this Agreement.

#### **PAYMENT FOR DEDICATED STORAGE AND CARRIAGE CAPACITY**

9. Purchase. As set forth in the Recitals, above, LAWMA has contracted with GP Aggregates, LLC (“GP”), to use the Dedicated Storage and Carriage Capacity during the pendency of the ARF/LAWMA Change Case, as well as for an option to purchase the



Dedicated Storage and Carriage Capacity from GP. LAWMA's and GP's "Agreement for Lease and Subsequent Purchase and Sale of Water Storage and Carriage Capacity" is referred to herein as the "LAWMA/GP Agreement." A copy of the executed LAWMA/GP Agreement is attached as **Exhibit C**.

10. Payment. CS-U will pay LAWMA for the cost of using and ultimately purchasing the Dedicated Storage and Carriage Capacity, the principal purchase price of which is \$1.75 million ("Storage Purchase Price"). As described more fully below, such payment will comprise annual payments of \$125,000 to LAWMA while the ARF/LAWMA Change Case is pending ("Annual Storage Payment") and a final payment to LAWMA for that portion of the Storage Purchase Price that remains unpaid as of the date that LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or has implemented an Alternative ATM ("Final Storage Payment").
  - 10.1 As a condition of the LAWMA/GP Agreement, LAWMA paid \$2,941 to GP as an Earnest Money Deposit for purchase of the Dedicated Storage and Carriage Capacity. LAWMA shall include the Earnest Money Deposit as a Reimbursable Expense under the next Monthly Invoice that LAWMA submits to CS-U under the Reimbursement Agreement between the Parties dated June 26, 2018 ("Initial Reimbursement Agreement"), and CS-U shall reimburse LAWMA for its payment of the Earnest Money Deposit in accordance with the terms and conditions of the Initial Reimbursement Agreement.
  - 10.2 Funds sufficient to cover the Storage Purchase Price will be held in CS-U's Restricted Cash general ledger Account No. 100-000000-134010-1006 'Restr Cash – LAWMA Escrow', as reported on the CS-U Statements of Net Position ("Escrow Account") and will only be released to LAWMA when LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or has implemented an Alternative ATM.
  - 10.3 CS-U shall fund the Escrow Account in the amount of \$1.75 million upon the ARF/CS-U closing. The funds held in the Escrow Account shall not be used by CS-U for any purpose other than making the Final Storage Payment in accordance with the terms and conditions of this Section 10.
  - 10.4 Beginning on the Effective Date, and continuing until entry of a final, unappealable water court decree in the ARF/LAWMA Change Case or implementation of an Alternative ATM, CS-U shall make the Annual Storage Payments to LAWMA in the amount of \$125,000.00, as follows:
    - 10.4.1 On the Effective Date, CS-U shall pay LAWMA \$125,000, in immediately available funds, as reimbursement for LAWMA's first annual lease payment to GP, in the amount of the Annual Storage Payment, for use of the Dedicated Storage and Carriage Capacity ("LAWMA Lease Payment").
    - 10.4.2 During the pendency of LAWMA's lease of the Dedicated Storage and Carriage Capacity under the LAWMA/GP Agreement ("LAWMA Lease

Period”), the following terms and conditions will apply to CS-U’s payment to LAWMA of the Annual Storage Payments.

- i. Under the LAWMA/GP Agreement, LAWMA’s Lease Payment is due annually on the date that is twenty-eight days before the anniversary of the effective date of that agreement (“Annual Lease Payment Date”). No earlier than forty-two days in advance of the Annual Lease Payment Date, LAWMA shall deliver to CS-U a written invoice for the Annual Storage Payment (“Annual Storage Payment Invoice”). CS-U shall deliver the Annual Storage Payment to LAWMA within twenty-eight days of receiving such invoice.
- ii. LAWMA shall make the LAWMA Lease Payments to GP, which will apply such payments, both principal and interest, to the Storage Purchase Price in accordance with the Purchase Price Amortization Schedule attached to the LAWMA/GP Agreement as Schedule 2.4 (“GP Amortization Schedule”) and attached hereto as **Exhibit D**. CS-U shall hold in the Escrow Account the amount shown in the “Ending Balance” column of the GP Amortization Schedule (where “Month 1” on the GP Amortization Schedule corresponds to one month after the Effective Date of this Agreement). Escrow Funds in excess of the amount shown in the “Ending Balance” column of the GP Amortization Schedule will be released back to CS-U on a monthly basis.

10.4.3 As of the date of termination of the LAWMA Lease Period (“LAWMA Lease Termination Date”), the GP Amortization Schedule no longer will apply to the Storage Purchase Price, which as of that date will be the “Purchase Price Balance” described in paragraph 2.4.3 of the LAWMA/GP Agreement. Within 7 days of the LAWMA Lease Termination Date, LAWMA will deliver to CS-U the following: (1) written notice of said termination and the amount of the Purchase Price Balance; and (2) a new amortization schedule (“LAWMA Loan Amortization Schedule”) based on the terms of the loan LAWMA will have secured for payment of the Purchase Price Balance to GP. Any loan LAWMA secures for payment of the Purchase Price Balance to GP will be for a term of not more than 30 years and will not be an interest-only loan, and LAWMA will not defer any payments on the loan without CS-U’s prior consent. The LAWMA Loan Amortization Schedule will be substituted as a new **Exhibit D** to this Agreement without the need for amendment of this Agreement. As of the LAWMA Lease Termination Date, and continuing until entry of a final, unappealable water court decree in the ARF/LAWMA Change Case or implementation of an Alternative ATM, CS-U shall hold in the Escrow Account the payoff amount shown on the LAWMA Loan Amortization Schedule (“LAWMA Loan Balance”). Escrow Account funds in excess of the LAWMA Loan Balance will be released back to CS-U. The period between the LAWMA Lease Termination Date and the date of entry of a

final, unappealable water court decree in the ARF/LAWMA Change Case or implementation of an Alternative ATM is referred to herein as the “LAWMA Loan-Carry Period.”

- 10.4.4 During the LAWMA Loan-Carry Period, CS-U shall continue to make the Annual Storage Payments to LAWMA on the Annual Lease Payment Date. No earlier than forty-two days in advance of the Annual Lease Payment Date, LAWMA shall deliver to CS-U the Annual Storage Payment Invoice. CS-U shall deliver the Annual Storage Payment to LAWMA within twenty-eight (28) days of receiving such invoice.
- 10.4.5 Upon entry of a final, unappealable water court decree in the ARF/LAWMA Change Case or implementation of an Alternative ATM, and upon CS-U’s delivery to LAWMA of the Final Storage Payment as described in Section 10.5 below, CS-U’s obligation for Annual Storage Payments shall cease.
- 10.5 CS-U shall pay LAWMA the Final Storage Payment once LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or implemented an Alternative ATM. CS-U’s obligation to make the Final Storage Payment to LAWMA is conditioned upon LAWMA’s delivery to GP of the “LAWMA Exercise Notice” required by the LAWMA/GP Agreement for LAWMA to purchase the Dedicated Storage and Carriage Capacity, and such payment shall not be released to LAWMA if, for whatever reason, LAWMA does not intend to purchase the Dedicated Storage and Carriage Capacity or this Agreement is terminated prior to when LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or implemented an Alternative ATM.
- 10.6 Once LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or implemented an Alternative ATM, LAWMA shall provide notice of same to CS-U. Such notice shall include documentation demonstrating that LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or implemented an Alternative ATM; that LAWMA has delivered the LAWMA Exercise Notice to GP as required by the LAWMA/GP Agreement for LAWMA to purchase the Dedicated Storage and Carriage Capacity; and that LAWMA either has purchased or intends to purchase the Dedicated Storage and Carriage Capacity. Such notice shall also include an invoice for the remaining balance of the Storage Purchase Price, as of the date on which CS-U will deliver to LAWMA the Final Storage Payment (“Final Payment Invoice”). CS-U shall deliver the Final Payment to LAWMA, in immediately available funds, within twenty-eight days of receiving the Final Payment Invoice.
- 10.7 Any time prior to providing CS-U with notice that it has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or implemented an Alternative ATM, LAWMA shall have the right to request that CS-U provide LAWMA with documentation demonstrating that the Escrow

Account balance is equal to (i) during the LAWMA Lease Period, the amount shown in the Ending Balance column for the relevant month of the GP Amortization Schedule; or (ii) during the LAWMA Loan-Carry Period, the LAWMA Loan Balance. CS-U shall provide said documentation within twenty-eight (28) days of receiving notice of LAWMA's request.

- 10.8 CS-U shall include a budget for the Annual Storage Payment in its annual request for appropriations.

11. Reimbursement for Expenses Associated with Loan Acquisition.

- 11.1 CS-U shall reimburse LAWMA for all reasonable costs and expenses, including reasonable legal, engineering, and administrative costs and expenses, incurred by LAWMA in securing any loan necessary for LAWMA to proceed to closing under the LAWMA/GP Agreement ("Storage Loan") before LAWMA has obtained a final, unappealable water court decree in the ARF/LAWMA Change Case or implemented an Alternative ATM ("CS-U's Costs and Expenses for the Storage Loan Application").
- 11.2 CS-U's Costs and Expenses for the Storage Loan Application shall be limited to only those costs and expenses necessary for LAWMA to prepare application materials for and pursue to closing the Storage Loan, and shall include reasonable attorneys' fees, engineering expenses, and administrative expenses. CS-U's Costs and Expenses for the Storage Loan Application expressly exclude LAWMA's costs and expenses necessary for LAWMA to prepare application materials for and pursue to closing any loan or portion thereof pertaining to LAWMA's acquisition of storage and carriage capacity over and above the Dedicated Storage and Carriage Capacity ("Additional Storage Loan"). In the event that LAWMA seeks to combine its application materials for the Storage Loan and any Additional Storage Loan ("Combined Storage Loan"), CS-U's Costs and Expenses for the Storage Loan Application will equal 29.4% of LAWMA's costs and expenses necessary for LAWMA to prepare the application materials for and pursue to closing the Combined Storage Loan, which amount represents the ratio of the Dedicated Storage Capacity to the total storage capacity of the Phase 1 Storage Cell described in the LAWMA/GP Agreement.
- 11.3 LAWMA shall invoice CS-U in writing by the 15th of each month for CS-U's Costs and Expenses for the Storage Loan Application (the "Storage Loan Application Invoice"). The Storage Loan Application Invoice shall include a description of each cost and expense incurred by LAWMA, including without limitation a description of the times, activities, and billing rates of each attorney or engineer who performed work on behalf of LAWMA.
- 11.4 CS-U shall remit payment to LAWMA for the Storage Loan Application Invoice within ninety (90) days of receipt of such invoice.

- 11.5 In the event that CS-U disputes any costs and/or expenses in the Storage Loan Application Invoice, CS-U may invoke the dispute resolution procedures under this Agreement.
12. Payment for Short-Term Excess Capacity Accounts in Pueblo Reservoir. Should the Further Fort Lyon Approval and/or the decree entered in the ARF/LAWMA Change Case require LAWMA and/or CS-U to acquire short-term excess capacity (“STEC”) accounts in Pueblo Reservoir as a condition of LAWMA’s direct delivery of water at the Direct Delivery Locations for CS-U’s Changed Uses (“STEC Requirement”), CS-U shall pay the annual cost of such STEC accounts. At CS-U’s request, and following issuance of any Further Fort Lyon Approval that includes the STEC Requirement, LAWMA shall apply to the Fort Lyon Canal Company for approval of LAWMA’s direct delivery of water at the Direct Delivery Locations for CS-U’s Changed Uses with no STEC Requirement. LAWMA’s third-party legal, engineering, and administrative tasks associated with any such additional application to and/or proceedings before the Fort Lyon Canal Company will be considered Reimbursable Expenses under the Initial Reimbursement Agreement.
13. Future Deliveries. The Parties contemplate that they may seek, upon their mutual agreement, to amend the terms and conditions of this Agreement for LAWMA to deliver CS-U’s Allocation in Lake Meredith or in another manner mutually acceptable to the Parties. In that event, LAWMA agrees that it will work cooperatively with CS-U to obtain all necessary approvals for such delivery, including, without limitation, approval of the Fort Lyon Canal Company.
- 13.1 If the Parties enter into such a future amendment of this Agreement, the Parties will negotiate a mutually acceptable solution to address the water deficit to LAWMA in Allocation Years when CS-U takes such delivery and the Dedicated Storage and Carriage Capacity is insufficient to cover any such deficit LAWMA may incur as a result of its operations under the Agreement. LAWMA acknowledges that the Storage Payment is, in part, consideration for the possibility of future deliveries of CS-U’s Allocation to CS-U in Lake Meredith or otherwise; and that, in the event that CS-U ultimately takes deliveries of CS-U’s Allocation in Lake Meredith or in another manner, LAWMA will use the Dedicated Storage and Carriage Capacity, in part, to offset, to the extent possible, any such deficit incurred as a result of its operations under this Agreement.

### **OPERATING PRINCIPLES**

14. ATM. The Parties acknowledge and agree that this Agreement is intended to create and give rise to an Alternative Transfer Method, as defined in Colorado’s State Water Plan.
15. Start Date. The Parties shall operate the ATM beginning on the Operations Start Date.
16. LAWMA Board to Determine Allocations. For each plan year (April 1 through March 31), the LAWMA Board of Directors determines the Annual Allocation of water to each share of LAWMA common stock. The Annual Allocation is given as a percentage, with an allocation of 100% equivalent to one acre-foot of fully consumable water to each share of

LAWMA common stock. The Annual Allocation to common stock is variable, and shall be made in the sole discretion of LAWMA's Board of Directors based on hydrological conditions, the anticipated yield of LAWMA's water rights, and other considerations; provided, however, that an equal volume of fully-consumable water is allocated to each share of common stock.

17. CS-U's Allocations. Beginning on the Operations Start Date, in five out of each ten consecutive plan years, LAWMA will make CS-U's Allocation available to CS-U at the Direct Delivery Locations following measurement at one or more of the ARF Augmentation Stations. For the purposes of this Agreement, any year in which CS-U takes delivery of CS-U's Allocation will be referred to as an "Allocation Year," or, in the plural, as the "Allocation Years" and any year that CS-U forgoes allocations will be referred to as a "Non-Allocation Year," or in the plural, as the "Non-Allocation Years."
- 17.1 In Allocation Years, LAWMA will make CS-U's Allocation available to CS-U at the Direct Delivery Locations beginning on April 1.
- 17.2 CS-U's Allocation shall be fully consumable and decreed, or otherwise authorized, for CS-U's Changed Uses.
- 17.3 CS-U's Allocation shall qualify as a Temporary Use Agreement Water, as defined in the Findings of Fact, Conclusions of Law, Judgment and Decree entered in Case No. 2005CW96, Water Division 2.
- 17.4 CS-U, at its sole discretion, will be entitled to use, reuse, and successively use to extinction CS-U's Allocation, or store CS-U's Allocation for such use later; provided, however, that any such reuse, successive use, or storage for such purposes will be pursuant to a water court decree or administrative approval, obtained by CS-U and not by LAWMA, quantifying the amount, time, and location of return flows available to CS-U following its first use of CS-U's Allocation.
- 17.5 CS-U shall take dominion and control of CS-U's Allocation, or any fraction thereof, at the Direct Delivery Locations. CS-U will bear any evaporation, seepage, or transit losses occurring after CS-U's Allocation, or any fraction thereof, has been delivered to the Direct Delivery Locations.
- 17.6 LAWMA shall use reasonable efforts to deliver CS-U's Allocation, or fractions thereof, to the Direct Delivery Locations at times that exchange potential usable by CS-U exists into Lake Meredith and/or Pueblo Reservoir. However, the foregoing notwithstanding, CS-U acknowledges that making CS-U's Allocation available at one or more of the Direct Delivery Locations will satisfy LAWMA's delivery obligation under the Agreement, regardless of whether CS-U subsequently is able to make use of CS-U's Allocation in any given plan year.
- 17.7 CS-U shall be responsible for the exchange of CS-U's Allocation to Lake Meredith and/or Pueblo Reservoir, and any subsequent exchange of CS-U's Allocation under CS-U's senior Colorado Canal Exchanges, the Decree in Case No. 2005CW96, or otherwise.

18. CS-U's Forgone Allocations. In Non-Allocation Years, CS-U's Forgone Allocations will be available to LAWMA's shareholders as provided for by Colorado law and LAWMA's Bylaws and Articles of Incorporation; and upon any terms and conditions imposed by the SWSP and/or any decree entered in the ARF/LAWMA Change Case with respect to LAWMA's use of the Dedicated Fort Lyon Shares.
- 18.1 The actual beneficial use of any water attributable to CS-U's Forgone Allocations shall be by LAWMA's shareholders pursuant to the terms and conditions of LAWMA's water rights or other authorizations from the State and Division Engineers and LAWMA's Bylaws and Articles of Incorporation.
- 18.2 LAWMA shall bear all costs and losses, including all costs of administration, associated with use of water attributable to CS-U's Forgone Allocations. CS-U, however, shall be responsible for payment of all assessments on the 2,500 LAWMA Shares levied by the LAWMA Board of Directors as part of assessments on LAWMA common stock.
19. Allocation Years. CS-U, at its discretion, shall be entitled to choose which five out of any ten consecutive years it will take delivery of CS-U's Allocation from LAWMA; provided that LAWMA may request that CS-U forgo delivery of water in any one drought year during any ten consecutive years.
- 19.1 For the purposes of this Agreement, a drought year shall be deemed to occur if both of the following happen: measured inflow to John Martin Reservoir during November through January prior to the start of the plan year is less than 15,000 acre-feet of water, and the February 1 NRCS Arkansas River Basin snowpack report is less than 70% of median.
- 19.2 The obligation that CS-U forgo delivery of CS-U's Allocation in a year that would otherwise be an Allocation Year, but for drought, shall only apply once in any given ten consecutive years.
- 19.3 If the obligation to forgo delivery of CS-U's Allocation in a year that would otherwise be an Allocation Year, but for drought, makes it so that CS-U was only able to take delivery of CS-U's Allocation in four of the ten previous years, then CS-U shall be able to take delivery of CS-U's Allocation in any six of the next consecutive ten years.
20. Exchange of CS-U's Allocation. The exchange of CS-U's Allocation from the Direct Delivery Locations to Colorado Springs' municipal system shall be the sole responsibility of CS-U. Any exchange shall be subject to the terms and conditions of the Further Fort Lyon Approval, as well as the Division 2 Water Court, or the Colorado Division of Water Resources.
21. Annual Operations Meetings. The Parties shall meet at least annually to review and refine the operations of the ATM. For the purposes of these meetings, the Parties acknowledge that they intend: (1) the ATM shall not create an unmitigated burden on LAWMA during Allocation Years; and (2) they will cooperate to enable CS-U to exchange all, or as much

as possible, of CS-U's Allocation into Lake Meredith and/or Pueblo Reservoir; and the Parties agree to work cooperatively to amend the Agreement as necessary to achieve these ends.

22. Designated Fort Lyon Shares. LAWMA shall not transfer to any third party, or otherwise alienate, any of the Designated Fort Lyon Shares subject to CS-U's Changed Uses, unless and until CS-U has certified in writing that LAWMA has adequate decreed water rights or other permanent sources of water to otherwise satisfy LAWMA's obligations under this Agreement. Further, upon completion of the ARF/LAWMA Change Case, LAWMA shall not seek to subsequently change the use of any of the Designated Fort Lyon Shares subject to CS-U's Changed Uses, without CS-U's express written permission, or unless and until CS-U has certified in writing that LAWMA has adequate decreed water rights or other permanent sources of water to otherwise satisfy LAWMA's obligations under this Agreement. CS-U shall not unreasonably withhold any certification or permission required by this Section.
23. 1041 Permits and Other Necessary Approvals. CS-U, and not LAWMA, will have the obligation of obtaining any 1041 permits or other approvals necessary for CS-U's operations under the Agreement in Allocation Years, such as 1041 permits required by any county or any authorizations required to exchange CS-U's Allocation from the Direct Delivery Locations into Lake Meredith and /or Pueblo Reservoir, and/or required under the Decree entered in Case No. 2005CW96. LAWMA, however, shall reasonably cooperate with CS-U to help CS-U obtain any 1041 permits or other necessary approvals. The Parties acknowledge that, if for whatever reason, CS-U is not able to obtain these 1041 permits or other necessary approvals, CS-U reserves the right to invoke the termination procedures under this Agreement.
24. Cooperation. The Parties shall take any and all action under state law, including requesting administration by the State Engineer and/or Division Engineer for Water Division No. 2, and initiating and completing Water Court proceedings, as may be necessary to fully operate this Agreement, including the ATM. The Parties shall retain all available remedies in law and equity necessary to prevent injury to each Party's respective water rights. Except as specifically set forth in this Agreement, either Party may participate in any water court proceeding in order to protect its water rights.
25. Bent County 1041 Permit Compliance. Pursuant to the Bent County 1041 Permit, LAWMA and ARF are jointly responsible to ensure compliance with the Dry-Up Reclamation Certification Process terms and conditions of the Bent County 1041 Permit. In the event that LAWMA and/or ARF fail to comply with their individual or joint responsibilities under the terms and conditions of the Bent County 1041 Permit, or in the event that Bent County deems the Bent County 1041 Permit non-compliant for any reason, CS-U may elect to invoke the termination procedures under this Agreement.
26. Fort Lyon Approval Compliance. In the event that LAWMA fails to comply with any obligations that the Further Fort Lyon Approval imposes solely upon LAWMA, CS-U may elect to invoke the termination procedures under this Agreement.



## **APPROVAL OF THE LAWMA BOARD OF DIRECTORS**

27. No Injury. In accordance with the LAWMA Bylaws, Article VII, Section 6, the LAWMA Board of Directors finds and warrants that CS-U's use of CS-U's Allocation under this Agreement, including the ATM, will not injure LAWMA, other LAWMA members, LAWMA's water rights and other replacement sources, or the integrity or administrability of LAWMA's water rights or plan for augmentation, including LAWMA's Rule 10 Plan and its Rule 14 Plan. By executing this Agreement, the LAWMA Board of Directors acknowledges approval of this Agreement, and finds that CS-U's use of CS-U's Allocation under this Agreement, including the ATM, will not injure LAWMA, other LAWMA members, LAWMA's water rights, or LAWMA's plan for augmentation, its Rule 10 Plan, or its Rule 14 Plan. Further, by executing the Agreement, the LAWMA Board of Directors acknowledges that it has adopted a resolution finding that the transfer of the 2,500 LAWMA Shares from ARF to CS-U will not injure LAWMA, other LAWMA members, LAWMA's water rights, or LAWMA's plan for augmentation, its Rule 10 Plan, or its Rule 14 Plan, and authorizing the transfer of the 2,500 LAWMA Shares from ARF to CS-U.
28. No Undue Burden. In accordance with the LAWMA Bylaws, Article VII, Section 6, the LAWMA Board of Directors finds and warrants that this Agreement, including the ATM, will not violate the terms of any LAWMA water court decree or any administrative order governing the use and administration of LAWMA's water rights, augmentation plan, Rule 10 Plan, or Rule 14 Plan, and will not result in an undue administrative burden on LAWMA, including with respect to accounting. Further, the LAWMA Board of Directors acknowledges that, contingent upon entry of a decree approving a change of use of the Designated Fort Lyon Shares so that they may be used for CS-U's Changed Uses and/or administrative approval of a temporary change of use of the Designated Fort Lyon Shares so that they may be used for CS-U's Changed Uses, the transfer of the 2,500 LAWMA Shares from ARF to CS-U will not violate the terms of any LAWMA water court decree or any administrative order governing the use and administration of LAWMA's water rights, augmentation plan, Rule 10 Plan, or Rule 14 Plan, and will not result in an undue administrative burden on LAWMA, including with respect to accounting.
29. Adequate Water Rights. In accordance with the LAWMA Articles of Incorporation, Article V, Paragraph A, the LAWMA Board of Directors finds and warrants that the LAWMA Board of Directors has determined and documented that the corporation owns or controls sufficient water rights, or other sources of fully-consumable water, to meet LAWMA's delivery operations under this Agreement.
30. Bylaws and Articles. The LAWMA Board of Directors finds and warrants that it is a duly-formed and validly-existing non-profit corporation under the laws of the State of Colorado, and that this Agreement, including the ATM and the transfer of the 2,500 LAWMA Shares from ARF to CS-U, is authorized by and complies with LAWMA's Bylaws and Articles of Incorporation.

## **ENFORCEMENT AND TERMINATION**

31. This Agreement is intended to be perpetual, and may be terminated only for cause as described herein, or upon mutual agreement of the Parties.
32. Breach. It is specifically understood that, by executing this Agreement, each Party commits itself to perform pursuant to the terms and conditions contained herein and that the failure of any Party to fulfill any obligation set forth herein shall constitute a breach of this Agreement. The Parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, as may be available according to the laws and statutes of the State of Colorado.
- 32.1 Any Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to, any incidence of fire, flood, or strike; acts of God; acts of the Government (except the Parties hereto); war or civil disorder; violence or the threat thereof; severe weather; commandeering of material, products, plants, or facilities by the federal, state, or local government (except the Parties hereto); or national fuel shortage, when satisfactory evidence of such cause is presented to the other Parties, and provided further, that such nonperformance is beyond the reasonable control of, and is not due to the fault or negligence of, the Party not performing.
33. Termination by CS-U. It is specifically understood and acknowledged by the Parties that as part of this Agreement, including the ATM, CS-U expects and intends to receive allocations of water that are actually and physically usable for municipal and industrial purposes in CS-U's existing and future service area. If, for whatever reason, including, but not limited to, the breach of this Agreement by LAWMA, the inability or failure to obtain decrees in the ARF/LAWMA Change Case and/or the Exchange Case Application, or the inability or failure to obtain 1041 permits from any county, CS-U shall have cause to terminate this Agreement and all payments that have not yet accrued under this Agreement, and the use of the 2,500 LAWMA Shares shall revert to their original use as a source of augmentation and/or replacement water every year (*i.e.*, in ten out of every ten years).
- 33.1 In the event of such termination, each of the 2,500 LAWMA shares shall be treated as any other share of LAWMA common stock, and shall be entitled to an annual allocation the same as any other share of LAWMA common stock, regardless of the outcome of the ARF/LAWMA Change Case.
- 33.2 In the event of such termination, water available to CS-U's LAWMA Shares will be delivered to the Arkansas River, in accordance with LAWMA's Bylaws, for the use of a LAWMA member that is CS-U's lessee or successor in interest in ownership of the LAWMA Shares; provided, however, that any such use must be for augmentation or replacement of depletions attributable to structures included in LAWMA's decreed plan for augmentation or approved Rule 14 Plan or Rule 10 Plan, or for the LAWMA member's use after direct delivery as approved by the LAWMA Board of Directors.

- 33.3 In the event of such termination, the LAWMA Board of Directors will not unreasonably refuse to approve the sale or lease of the 2,500 LAWMA Shares to a third-party for uses authorized by the LAWMA Bylaws.
- 33.4 In the event of such termination, CS-U shall be responsible for any and all payments that have accrued and are owing under the terms and conditions of this Agreement prior to such termination, and LAWMA will not be obligated to repay any payments made under the terms and conditions of this Agreement, including any Annual Storage Payment for the Dedicated Storage and Carriage Capacity.
34. Dispute Resolution. Before a Party commences any action for enforcement of this Agreement, or in the event the Parties cannot agree on a course of action, the Parties shall make a good-faith effort to resolve their differences in the manner outlined below:
- 34.1 The Parties shall first attempt to resolve any dispute by direct negotiations within 30 days of the notice. If the Parties are unable to resolve the dispute, the aggrieved Party shall issue formal written notice of the dispute to the other Party.
- 34.2 The Parties shall hold a meeting attended by persons with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution. The meeting shall be held promptly, but in no event later than fourteen (14) calendar days after an initial written notice of the dispute by one of the Parties to the other. Such meeting shall not be deemed to reduce or eliminate the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled, unless otherwise agreed to by the Parties in writing.
- 34.3 If, within fourteen (14) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
- 34.4 The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within ten (10) calendar days from the date described in Section 34.3, they shall each select a mediator. The two mediators will then appoint, within five (5) calendar days of their selection, a third mediator who shall, as the sole mediator, conduct mediation for the Parties.
- 34.5 The costs associated with appointing and paying the fees of the mediator shall be divided equally between the Parties.
- 34.6 The Parties will schedule the mediation for a date within thirty (30) calendar days after selection of the mediator(s). The Parties agree to participate in good faith in the mediation and negotiations related thereto for a period of thirty (30) calendar days after the mediation. The substantive and procedural law of the State of Colorado shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to seek other judicial relief.

- 34.7 If undue prejudice would be caused by delay, a Party may seek a preliminary injunction or other judicial relief if, in the judgment of that Party, such action is necessary to avoid irreparable damage or to preserve the status quo. Despite the initiation of such judicial proceedings, the Parties will continue to participate in good faith in the procedures specified in this Section.

### **MISCELLANEOUS**

35. Indebtedness. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon CS-U, shall constitute or create an indebtedness or debt of CS-U or Colorado Springs within the meaning of any Colorado constitutional provision or statutory limitation.
36. Subject to Annual Budget and Appropriation. In accordance with the Colorado Springs City Charter, performance of CS-U's obligations under this Agreement are expressly subject to appropriations of funds by the City Council. In the event funds are not appropriated in whole or in part sufficient for performance of CS-U's obligations under this Agreement, or appropriated funds may not be expended due to City Charter spending limitations, then this Agreement shall thereafter become null and void by operation of law, and CS-U shall thereafter have no liability for compensation or damages to LAWMA in excess of CS-U's authorized appropriation for this Agreement or the applicable spending limit, whichever is less. In such an event, LAWMA will not be obligated to repay any payments made under the terms and conditions of this Agreement, including, but not limited to, Annual Storage Payments for the Dedicated Storage and Carriage Capacity; and the LAWMA Board of Directors' approval of this Agreement and finding that CS-U's use of CS-U's Allocation under this Agreement, including the ATM, will not injure LAWMA, other LAWMA members, LAWMA's water rights, or LAWMA's plan for augmentation, its Rule 10 Plan, or its Rule 14 Plan, likewise will become null and void.
37. Assignment. Neither this Agreement, nor either Party's rights and obligations under this Agreement shall be assignable, except on mutual written agreement of the Parties.
38. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, none of the Parties shall be deemed or constitute a partner, joint venturer or agent of the other Parties. Any actions taken by the Parties pursuant to this Agreement shall be deemed actions as an independent contractor of the other.
39. No Third-Party Beneficiary. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties. It is the express intention of the Parties that any person other than the Parties shall be deemed to be only an incidental beneficiary under this Agreement, including LAWMA's other members and shareholders.
40. No Franchise, Lease, or Use. It is expressly understood and agreed by the Parties that under this Agreement, CS-U neither intends to grant, nor has granted, to LAWMA any franchise, lease or right to use the property of CS-U and/or the City of Colorado Springs.

41. Governmental Immunity. Nothing in this Agreement or in any actions taken by the Parties pursuant to this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time may be amended.
42. Statutory Liability Protection. The Parties may rely on, and do not waive or intend to waive, the liability protections or any other rights, immunities, and protections provided by Section 37-87-104, C.R.S., as from time to time may be amended, or any other law, protection or limitation otherwise available to the Parties and their respective officers, agents, fiduciaries, representatives and employees.
43. Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to a Party by the other Party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the Party to whom it is addressed; or, in lieu of such personal services, when received in the United States mail, first-class postage prepaid, and addressed to:

**If to LAWMA:**

Donald F. Higbee, Manager  
Lower Arkansas Water Management Association  
310 South 6<sup>th</sup> Street  
P. O. Box 1161  
Lamar, Colorado 81052  
[lawma@cminet.net](mailto:lawma@cminet.net)

**If to CS-U:**

Courier Service Address:  
Colorado Springs Utilities  
ATTN: Chief Water Services Officer  
121 S. Tejon St., 5th Floor  
Colorado Springs, CO 80903

United States Postal Service Address:  
Colorado Springs Utilities  
ATTN: Chief Water Services Officer  
P. O. Box 1103  
Colorado Springs, CO 80947-0950

City Attorney's Office - Utilities Division

Courier Service Address:  
City Attorney's Office - Utilities Division  
30 S. Nevada Ave, Suite 501  
Colorado Springs, CO 80903

United States Postal Service Address:  
City Attorney's Office - Utilities Division  
P. O. Box 1575, Mail Code 510  
Colorado Springs, CO 80901-1575

Any Party may change its address for the purpose of this Section by giving written notice of such change to the other Party in the manner provided in this Section.

44. Headings. The headings and captions in this Agreement are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.
45. Controlling Law and Venue. This Agreement shall be construed in accordance with the laws of the State of Colorado (without reference to conflicts of laws) and to the extent necessary to recognize the legal organization of CS-U, the Colorado Springs City Charter, Colorado Springs City Code, City ordinances and resolutions, and City rules and regulations. In the event of litigation, this Agreement shall be enforceable by or against the City of Colorado Springs on behalf of CS-U as provided in Colorado Springs City Code Section 12.1.108. In the event of any dispute over the terms and conditions of this Agreement, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
46. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
47. Binding Contract. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties.
48. Entire Contract. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and sets forth the rights, duties, and obligations of each to the other with respect to that subject matter as of this date. Any prior agreements, promises, negotiations, or representations with respect to the subject matter hereof but not expressly set forth in this Agreement are of no force and effect.
49. Contract Modification. This Agreement may not be amended, altered, or otherwise changed except by a written agreement between the Parties.
50. Severability. The invalidity or unenforceability of any portion or previous version of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and in such event the Parties shall negotiate in good faith to replace such invalidated provision in order to carry out the intent of the Parties in entering into this Agreement.

51. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date first above written. By the signature of its representatives below, each Party affirms that it has taken all necessary action to authorize said representatives to execute this Agreement.

**LOWER ARKANSAS WATER  
MANAGEMENT ASSOCIATION**



Robert Wilger, Vice-President

ATTEST:



Donald F. Higbee, Secretary

**COLORADO SPRINGS UTILITIES**

\_\_\_\_\_  
Earl Wilkinson  
Chief Water Services Officer

APPROVED AS TO FORM:

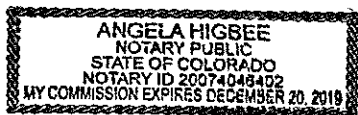
\_\_\_\_\_  
Michael J. Gustafson  
City Attorney, Utilities Division

STATE OF COLORADO )  
 )  
 ) ss.  
COUNTY OF PROWERS )

The foregoing instrument was acknowledged before me this 17 day of July, 2018, by Robert Wilger, Vice-President, and Donald F. Higbee, Secretary, of the Lower Arkansas Water Management Association, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires 12-30-2018



Notary Public

STATE OF COLORADO )  
 )  
 ) ss.  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Earl Wilkinson, Chief Water Services Officer, Colorado Springs Utilities, an enterprise of the City of Colorado Springs, Colorado, a home rule City and municipal corporation.

Witness my hand and official seal.

My commission expires \_\_\_\_\_

Notary Public



51. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date first above written. By the signature of its representatives below, each Party affirms that it has taken all necessary action to authorize said representatives to execute this Agreement.

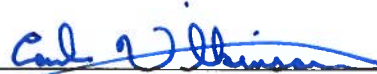
**LOWER ARKANSAS WATER  
MANAGEMENT ASSOCIATION**

\_\_\_\_\_  
Robert Wilger, Vice-President

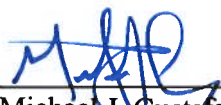
ATTEST:

\_\_\_\_\_  
Donald F. Higbee, Secretary

**COLORADO SPRINGS UTILITIES**

  
\_\_\_\_\_  
Earl Wilkinson  
Chief Water Services Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael J. Gustafson  
City Attorney, Utilities Division

STATE OF COLORADO )  
 )  
 ) ss.  
COUNTY OF PROWERS )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Robert Wilger, Vice-President, and Donald F. Higbee, Secretary, of the Lower Arkansas Water Management Association, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires \_\_\_\_\_.


**Notary Public**

STATE OF COLORADO )  
 )  
 ) ss.  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of July, 2018, by Earl Wilkinson, Chief Water Services Officer, Colorado Springs Utilities, an enterprise of the City of Colorado Springs, Colorado, a home rule City and municipal corporation.

Witness my hand and official seal.

My commission expires September 2, 2018.

  
Notary Public

**EXHIBIT A**

<b>LAWMA Certificate #</b>	<b>ARF Certificate #</b>	<b>Shares</b>	<b>Historical place of use</b>	<b>LAWMA delivery location</b>
10658	10575	144	Coen Farm SW4 of 26 & E2 27-22-48	Farm 53 (Graveyard Creek) Aug Station at Headgate 181
10664	10475	204	Farm 1 NW4 25, NE4 26-22-51, Bent County	Farm 27 (Gageby Creek) Aug Station at Headgate 126
10665	10476	144	Farm 2 SE4 23-22-51, Bent County	Farm 27 (Gageby Creek) Aug Station at Headgate 126
10666	10488	82	Farm 3 Lots 6 & 7 Holbrook Subdivision, Otero County	Farm 60 recharge site
10668	10516	188	Farm 13 N2SE4 29-22-52, Bent County	Horse Creek Aug Station at Headgate 49 D
10671	10506	144	Farm 19 E2E2 17-22-51, Bent County	Horse Creek Aug Station at Headgate 49 D
10672	10507	144	Farm 19 W2E2 17-22-51, Bent County	Horse Creek Aug Station at Headgate 49 D
10673	10438	162	Farm 21 N2SE4 20-22-51, Bent County	Horse Creek Aug Station at Headgate 49 D
10675	10477	101	Farm 22 NE4 of SE4 31-22-51, Bent County	Horse Creek Aug Station at Headgate 49 D
10677	10483	245	Farm 23 S2 of SE4 31-22-51 (full description on back of certificate), Bent County	Horse Creek Aug Station at Headgate 49 D
10678	10505	322	Farm 25 W2NE4NW4 and SE4 11-22-48, Bent County	Farm 25 (Riverview Drain) Aug Station at Headgate 182
10679	10519	144	Farm 27 NE4 35-22-51, Bent County	Farm 27 (Gageby Creek) Aug Station at Headgate 126
10680	10520	216	Farm 27 NW4 26-22-51, Bent County	Farm 27 (Gageby Creek) Aug Station at Headgate 126
10681	10521	156	Farm 27 Lot 1 N2SE4 26-22-51, Bent County	Farm 27 (Gageby Creek) Aug Station at Headgate 126
10682	10522	144	Farm 27 SW4 26-22-51, Bent County	Farm 27 (Gageby Creek) Aug Station at Headgate 126
10683	10473	72	Farm 33 E2 except Lot 4 27-22-51, Bent County	Farm 36 (Gageby Creek) Aug Station at Headgate 125

**EXHIBIT A**

10684	10474	32	Farm 33 Tract of land in 34-22-51, Bent County	Farm 36 (Gageby Creek) Aug Station at Headgate 125
10686	10469	205	Farm 36 SW4 14-22-51, Bent County	Farm 36 (Gageby Creek) Aug Station at Headgate 125
10687	10470	7	Farm 36 SW4 14-22-51, Bent County	Farm 36 (Gageby Creek) Aug Station at Headgate 125
10688	10537	144	Farm 37 NE4 and E 60 acres in SE4 10-22-48, Bent County	Headgate 145D
10689	10534	191	Farm 39N W2 12-22-49, Bent County	Farm 39 (Limestone Creek) Aug Station at Headgate 160
10691	10486	67	Farm 40 Lots 4, 5, 8 Holbrook Subdivision, Otero County	Farm 60 recharge site
10692	10452	79	Farm 41 SE4 24-22-50, Bent County	Headgate 145D
10694	10528	166	Farm 42 E2SW4 & W2SE4 & W2 NW4 28-22-48, Bent County	Farm 64 (McClave Drain) Aug Station at Headgate 166
10695	10498	170	Farm 53 SE4NW4 & S2SW4 & NW4SE4 & Lot 2 27-22-48 & N2NW4 34-22-48, Bent County	Farm 53 (Graveyard Creek) Aug Station at Headgate 181
10696	10471	80	Farm 54B SE4 19-22-49, Bent County	Prowers Arroyo at Headgate 151e
10697	10531	83	Farm 57 E2SW4 6-23-53, Bent County	Farm 60 recharge site
10698	10526	116	Farm 58 S2NE4 & SE4 18-22-49, Bent County	Headgate 145D
10700	10489	144	Farm 59 NW4SW4 & W2, Lot 2 28-22-51, Bent County	Horse Creek Aug Station at Headgate 49 D
10701	10453	21.16	Farm 60A in 14-23-54, Otero County	Farm 60 recharge site
10702	10454	27.96	Farm 60A in 14-23-54, Otero County	Farm 60 recharge site
10703	10455	27.96	Farm 60A in 14-23-54, Otero County	Farm 60 recharge site
10704	10456	27.96	Farm 60A in 14-23-54, Otero County	Farm 60 recharge site
10705	10457	27.96	Farm 60A in 14-23-54, Otero County	Farm 60 recharge site
10706	10538	399	Farm 61 190.1 acres in W2 of 23 & the NW4 of 26-22-52 (desc. on back of certificate), Bent County	Horse Creek Aug Station at Headgate 49 D
10708	10494	144	Farm 63 N2SE4 11-21-48 and SW4NW4 10-22-47, Prowers County	Farm 63 recharge site - headgate 230G
10709	10495	122	Farm 63 N2SE4 11-21-48 and SW4NW4 10-22-47, Prowers County	Farm 63 recharge site - headgate 230G

**EXHIBIT A**

10710	10496	144	Farm 63 N2SE4 11-21-48 and SW4NW4 10-22-47, Prowers County	Farm 63 recharge site - headgate 230
10711	10442	224	Farm 64 N2 of 32, NW4 33-22-48, Bent County	Farm 64 (McClave Drain) Aug Station at Headgate 166
10712	10458	144	Farm 65 SE4 25-22-49, Bent County	Farm 65 recharge site
10713	10492	72	Farm 127 W2SW4 19-22-48, Bent County	Farm 65 recharge site
10715	10560	50	Farm 132/133 SE4 36-22-50, Bent County	Farm 132/133 (Lateral 145) Aug Station at Headgate 145
10732	10463	133	Farm 132/133 SE4 36-22-50, Bent County	delivered at Farm 132/133 (Lateral 145) Aug Station at Headgate 145
10733	10463	82	Farm 132/133 SE4 36-22-50, Bent County	Farm 132/133 (Lateral 145) recharge site at Headgate 145
10736	10451	37	Farm 14, E2SW4 and lots 2, 3, and 4; and SE4NW4 19-22-49, Bent County	Prowers Arroyo at Headgate 151e
10734	10451	40	Farm 14, E2SW4 and lots 2, 3, and 4; and SE4NW4 19-22-49, Bent County	Headgate 145D
10735	10451	41	Farm 14, E2SW4 and lots 2, 3, and 4; and SE4NW4 19-22-49, Bent County	Headgate 145D
10737	10562	110	Farm 15, lots 2 and 3, E2NW4 and NE4SW4 31-22-49, Bent County	Farm 132/133 (Lateral 145) Aug Station at Headgate 145
10738	10562	109	Farm 15, lots 2 and 3, E2NW4 and NE4SW4 31-22-49, Bent County	Farm 132/133 (Lateral 145) recharge site at Headgate 145

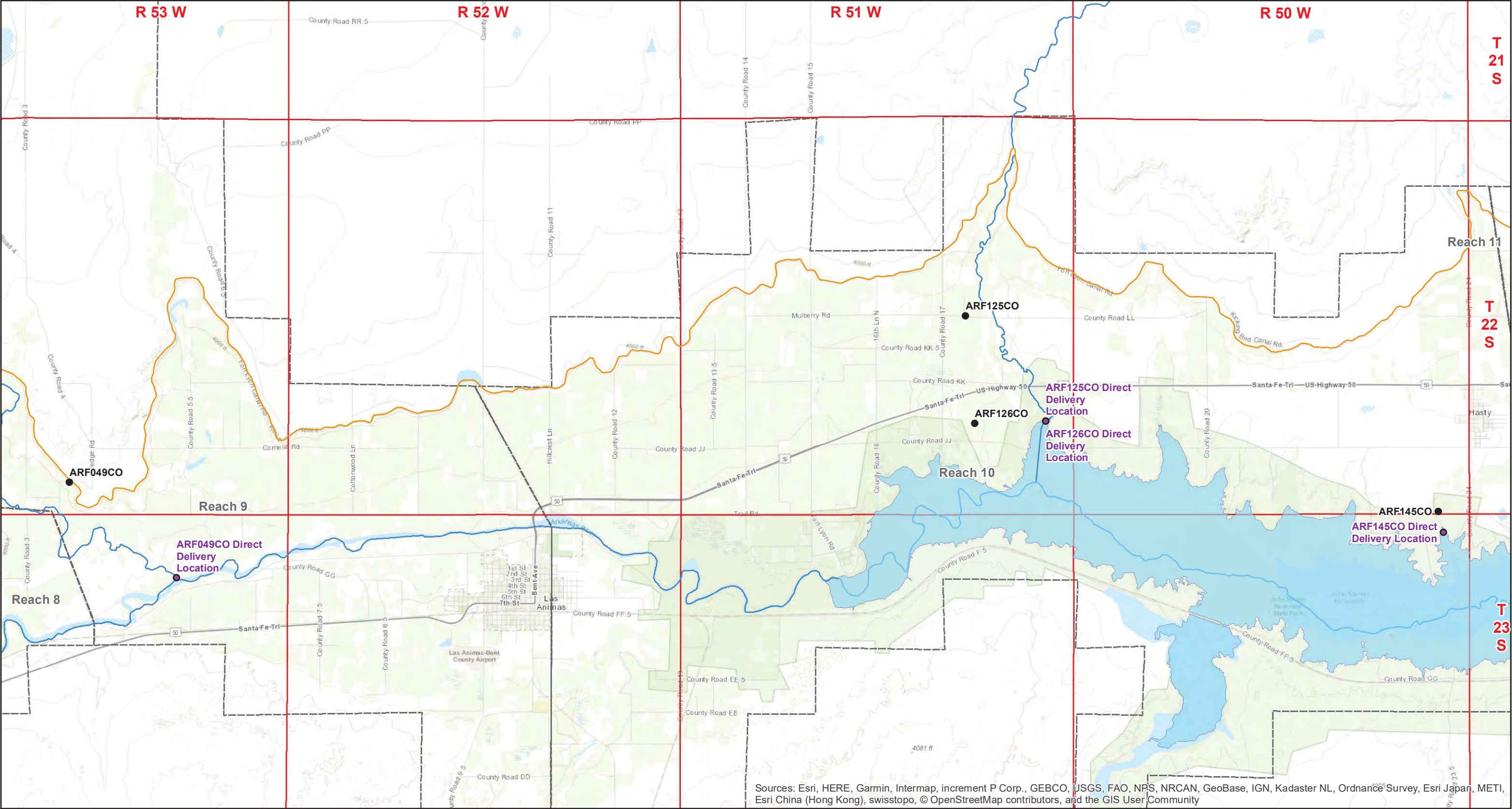
**49**

**6080 Total (out of 6,080 shares acquired)**

Rows shaded in blue are shares to be used for delivery of water to CS-U.

One share from certificate 10735 will be delivered to recharge and is not included in the CS-U operation.





Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community

● Direct Delivery Locations

● Direct Delivery Augmentation Stations

Fort Lyon Canal

Arkansas River

Gageby and Horse Creeks

John Martin Reservoir

H-I Model Reach

00.751.53

Miles

N

W

E

S

Hendrix Wai

Engineering, Inc.

Job No.  
L7507

File:  
Exhibit B.mxd

Date:  
07/13/18

Prepared For:  
LAWMA/C-S-U

Exhibit B

General Location Map

C-S-U Allocation

Direct Delivery Locations

**AGREEMENT FOR LEASE AND SUBSEQUENT PURCHASE AND SALE  
OF WATER STORAGE AND CARRIAGE CAPACITY**

This Agreement for Lease and Subsequent Purchase and Sale of Water Storage and Carriage Capacity (“Agreement”), effective as of July 16<sup>th</sup>, 2018 (the “Effective Date”), is between **GP AGGREGATES, LLC** (“GP”), a Colorado limited liability company whose address is 7991 Shaffer Parkway, Suite 200, Littleton, Colorado 80127, and **LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION** (“LAWMA”), a Colorado non-profit corporation whose address is P.O. Box 1161, Lamar, Colorado 81052 (each a “Party” and together the “Parties”).

**RECITALS**

A. GP is the fee owner of the West Farm, on which is located an aggregate mining site known as the “West Farm Pit,” located in part of the N ½ of Section 33 and part of the SE ¼ of Section 28, T. 22 S., R. 46 W., of the 6<sup>th</sup> P.M., Prowers County, Colorado, as more particularly described on the attached **Exhibit A-1**. The location of the West Farm Pit is also described herein as the “Property.”

B. GP has excavated a portion of the West Farm Pit and installed a slurry wall to create a water storage cell which is referred to as Phase 1 (“Phase 1 Storage Cell”). The Phase 1 Storage Cell has an estimated storage capacity, including in situ storage, of at least 1,700 acre feet. The location of the Phase 1 Storage Cell is depicted on the attached **Exhibit B**.

C. GP has constructed and installed certain infrastructure in the West Farm Pit, including an unlined inlet canal which diverts water from the Lamar Canal and over a concrete spillway into the Phase 1 Storage Cell at a maximum rate of approximately 28 c.f.s. (the “Phase 1 Inlet Canal”); and two pumps in the Phase 1 Storage Cell that discharge water at a maximum combined rate of approximately 22 c.f.s. (the “Phase 1 Pumps”). The Phase 1 Storage Cell, the Phase 1 Inlet Canal, and the Phase 1 Pumps are collectively referred to herein as the “Phase 1 Storage Facilities.”

D. The Phase 1 Pumps discharge to an unlined, open ditch (the “Outlet Channel”) which delivers water into the Arkansas River. The Outlet Channel is located on the West Farm and certain property adjacent to the West Farm (the “Adjacent Property” as described on attached **Exhibit A-2**) for which GP holds an easement granted by GP Irrigated Farms, LLC, permitting the use and operation of the Outlet Channel (the “GP Irrigated Easement”). The GP Irrigated Easement is described in a Water Conveyance Easement Agreement dated January 15, 2015 (the “GP Irrigated Easement Agreement”).

E. A portion of the Phase I Inlet Canal crosses the Adjacent Property for which GP holds the GP Irrigated Easement permitting the use and operation of the Phase I Inlet Canal.

F. There exists an unimproved private road on the West Farm that runs in a north-south direction through the approximate centerline of Section 33, T. 22 S., R. 46 W., 6<sup>th</sup> P.M., and that provides access from County Road HH.5 to the Phase 1 Storage Facilities (the “Access Road”).



G. The locations of the Phase 1 Storage Cell (labeled as the “Phase One Reservoir”), Phase 1 Inlet Canal (labeled as the “Inlet Channel”), Outlet Channel, and Access Road (labeled as the “Access Drive”) are all generally depicted on the attached **Exhibit B**.

H. GP and the Lamar Canal Company entered into an agreement dated June 14, 2017, allowing GP to carry foreign water in the Lamar Canal for delivery to the West Farm Pit (“GP Carriage Agreement”).

I. LAWMA and the City of Colorado Springs, acting by and through its Enterprise Colorado Springs Utilities (“CS-U”), entered into a water-sharing agreement dated July 13, 2018 (“CS-U Agreement”), that requires LAWMA to acquire 500 acre feet of dedicated storage capacity and associated carriage capacity in the Phase 1 Storage Facilities and Outlet Channel.

J. LAWMA intends to file an application in Water Court for Water Division 2 to, among other things, change the use of certain shares in the Fort Lyon Canal Company owned by LAWMA so that they may be used in the CS-U water system (the “Water Court Application”).

K. LAWMA desires to lease from GP, and GP desires to lease to LAWMA, the Leased Interests (as defined in paragraph 1.1 below); and GP further desires to assign to LAWMA, on a temporary basis, a portion of GP’s right to carry foreign water in the Lamar Canal under the GP Carriage Agreement, and a portion of GP’s right to use and operate the Phase 1 Inlet Canal and the Outlet Channel under the GP Irrigated Easement.

L. LAWMA and GP desire to establish the terms and conditions upon which LAWMA may elect to purchase from GP, and GP will sell to LAWMA, the Dedicated Storage Capacity and Dedicated Carriage Capacity, as defined below, along with a permanent easement in the Access Road, a permanent assignment of a portion of GP’s right to carry water in the Lamar Canal under the GP Carriage Agreement, and a permanent assignment of a portion of GP’s right to run water in the Phase 1 Inlet Canal and the Outlet Channel under the GP Irrigated Easement Agreement.

**NOW, THEREFORE**, for and in consideration of the Recitals, which are incorporated into and made a part of this Agreement, and for other good and value consideration as described below, the Parties agree as follows:

## **ARTICLE 1**

### **AGREEMENT FOR LEASE AND TEMPORARY PARTIAL ASSIGNMENTS**

1.1 Leased Interests. GP hereby leases the following property interests (the “Leased Interests”) to LAWMA for the duration of the Lease Period pursuant to the terms and conditions of this Agreement (“Lease”).

1.1.1 The Dedicated Storage Capacity and Dedicated Carriage Capacity, as defined below, for LAWMA’s carriage and storage of water available to LAWMA’s decreed water rights and other supplies of water that LAWMA may acquire from time to time.

1.1.1.1 The “Dedicated Storage Capacity” is the first 500 acre-feet of usable storage within the Phase 1 Storage Cell. The Dedicated Storage Capacity makes up



approximately 29.4% of the estimated capacity of the Phase 1 Storage Cell, including in situ storage.

1.1.1.2 The “Dedicated Carriage Capacity” is made up of (i) the Temporary Partial Carriage Assignment described in paragraph 1.3.1 below; and (ii) the Temporary Partial Easement Assignment described in paragraph 1.3.2 below; and (iii) the first 8.2 c.f.s. of carriage capacity in the Phase 1 Inlet Canal, which is approximately 29.4% of the carriage capacity of the Phase 1 Inlet Canal; and (iv) the first 6.5 c.f.s. of pumping capacity in the Phase 1 Pumps and carriage capacity in the Outlet Channel, which is approximately 29.4% of the pumping capacity of the Phase 1 Pumps.

1.1.2 A non-exclusive temporary easement in the Access Road, for LAWMA’s reasonable use in accessing the Phase 1 Storage Facilities and the Outlet Channel during the Lease Period.

1.2 Lease Term. The term of the Lease will run for the period from the Effective Date to the earlier to occur of the following: (a) the third anniversary of the Effective Date (the “Initial Lease Termination Date”), (b) the date of the Closing described in paragraph 2.8 below, or (c) the date of GP’s or LAWMA’s termination of this Agreement in accordance with its terms (“Lease Period”). If the Lease is terminated as a result of GP’s or LAWMA’s termination of this Agreement in accordance with its terms, then LAWMA shall release any water stored by LAWMA in the Phase I Storage Facilities within 60 days of such termination or the water will be forfeited by LAWMA and deemed transferred to GP, and LAWMA shall deliver such documentation as reasonably required by GP to document such transfer.

### 1.3 Temporary Partial Assignments.

1.3.1 Having first obtained the written approval of the Lamar Canal Company in accordance with paragraph 13 of the GP Carriage Agreement, on a temporary basis and for the duration of the Lease Period, GP shall assign to LAWMA the following rights and shall delegate to LAWMA the following obligations under the GP Carriage Agreement (“Temporary Partial Carriage Assignment”):

1.3.1.1 The right to the first 8.8 c.f.s. of GP’s 50 c.f.s. of Firm Capacity for carriage of foreign water in the Lamar Canal, as the term “Firm Capacity” is defined in paragraph 1.1.1 of the GP Carriage Agreement (“LAWMA’s Firm Carriage Capacity”). The amount of LAWMA’s Firm Carriage Capacity is the amount of LAWMA’s Dedicated Carriage Capacity in the Phase 1 Inlet Canal plus ditch loss in the Lamar Canal plus lateral losses in the Phase 1 Inlet Canal. With LAWMA’s prior written consent, GP may use LAWMA’s Firm Carriage Capacity when it is not being used by LAWMA.

1.3.1.2 In addition to LAWMA’s Firm Carriage Capacity and subject to GP’s prior written consent, LAWMA may use up to an additional 21 c.f.s. of GP’s Firm Capacity under the GP Carriage Agreement for carriage of foreign water in the Lamar Canal when GP is not using such Firm Capacity (“LAWMA’s Excess Capacity”). LAWMA’s Excess Capacity is the carrying capacity of the Phase 1 Inlet Canal plus ditch loss in the Lamar Canal, minus the amount of LAWMA’s Firm Carriage Capacity.

1.3.1.3 The right to carry 1,000 acre-feet per year of the 10,000 acre-feet of foreign water per year that GP is entitled to carry in the Lamar Canal.

1.3.1.4 The obligation to pay to the Lamar Canal Company, or at GP's request, directly to GP, the Carriage Charges described in paragraph 2 of the GP Carriage Agreement attributable to LAWMA's use of LAWMA's Firm Carriage Capacity and LAWMA's Excess Capacity.

1.3.1.5 The right and obligation to make the Carriage Request described in paragraph 3 of the GP Carriage Agreement with respect to LAWMA's use of LAWMA's Firm Carriage Capacity and, subject to GP's prior consent, LAWMA's Excess Capacity.

1.3.1.6 The obligation to perform the accounting described in paragraph 10 of the GP Carriage Agreement with respect to LAWMA's use of LAWMA's Firm Carriage Capacity and LAWMA's Excess Capacity.

1.3.2 GP shall assign to LAWMA the following rights under paragraph 2 and paragraph 9 of the GP Irrigated Easement Agreement ("Temporary Partial Easement Assignment"):

1.3.2.1 The right to run the first 8.2 c.f.s. of water in the Phase 1 Inlet Canal as a Conveyance Structure under the GP Irrigated Easement.

1.3.2.2 The right to run the first 6.5 c.f.s. of water in the Outlet Channel as a Conveyance Structure under the GP Irrigated Easement.

1.4 Lease Payment. LAWMA shall pay GP annually for the Leased Interests and the Temporary Partial Assignments an annual Lease Payment of \$125,000, which represents \$250 per acre-foot of usable storage capacity leased to LAWMA hereunder ("Lease Payment"), as follows:

1.4.1 LAWMA shall pay the Lease Payment in advance for each "Lease Year," which is the twelve-month period that begins on the Effective Date for the first Lease Year and that begins on the anniversary of the Effective Date for each Lease Year thereafter.

1.4.2 LAWMA shall pay GP \$125,000 on the date that is three business days after the Effective Date as the Lease Payment for the first Lease Year.

1.4.3 No later than twenty-eight days before each anniversary of the Effective Date during the Lease Period, LAWMA shall pay GP an additional Lease Payment of \$125,000.

1.5 Pro-Rated Credit or Refund of Lease Payment at End of Lease Period. If the Lease Period ends before the Initial Termination Date or the end of the then-current Lease Year, the Parties shall calculate the percentage of the Lease Year that remains on the date of such termination ("Post-Lease Credit Factor"). For example, if the Effective Date is June 15, 2018, such that each subsequent Lease Year begins on June 15, and if the Closing occurs on August 5, 2019, the Post-Lease Credit Factor would be 86% ( $313/365 = 0.858$ ); and with the same effective date, if the Closing occurs on May 30, 2019, the Post-Lease Credit Factor would be 4% ( $15/365$

= 0.041). The Parties then shall multiply the Post-Lease Credit Factor by the Lease Payment to determine the “Post-Lease Credit” or the “Post-Lease Refund” due to LAWMA, as more fully described in paragraphs 1.5.1 and 1.5.2 below.

1.5.1 If the Lease Period ends by virtue of occurrence of Closing, GP shall apply the Post-Lease Credit to the Purchase Price described in paragraph 2.4 below, so that the Purchase Price is adjusted by the Post-Lease Credit. For example, if the Post-Lease Credit Factor were 86%, the Post-Lease Credit would be \$107,500; and if the Post-Lease Credit Factor were 4%, the Post-Lease Credit would be \$5,000.

1.5.2 If the Lease Period ends by virtue of GP’s or LAWMA’s termination of this Agreement in accordance with its terms, GP shall pay the Post-Lease Refund to LAWMA within twenty-eight days of the end of the Lease Period.

1.6 Operational Costs During Lease Period. During the Lease Period, LAWMA shall not be required to make payments in addition to the Lease Payments to compensate GP for the costs for GP’s operation and maintenance of the Phase 1 Storage Facilities; rather, GP shall operate and maintain the Phase 1 Storage Facilities at GP’s sole cost.

1.7 Accounting. On a daily basis during the Lease Period, GP shall record the volume of water delivered to storage in the Dedicated Storage Capacity, residing in storage in the Dedicated Storage Capacity, and pumped out of the Dedicated Storage Capacity into the Outlet Channel pursuant to this Agreement. GP shall deliver copies of such accounting records to LAWMA weekly, and LAWMA then shall account for its operations hereunder as part of LAWMA’s normal monthly accounting submitted to the Office of the Division Engineer. LAWMA shall obtain any necessary authorizations, approvals, or permits required for its use of the Dedicated Storage Capacity. At the direction of the Division Engineer, GP shall modify or update the stage-area-capacity table for the Phase I Storage Cell to ensure that accounting is accurate for deliveries into and out of the Phase I Storage Cell.

1.8 Operation and Maintenance During Lease Period. GP, and not LAWMA, shall operate, maintain, and repair the Phase 1 Storage Facilities, the Access Road, and the Outlet Channel during the Lease Period, including without limitation performing all maintenance, repairs, and preventative measures required to maintain the Phase 1 Storage Facilities, the Access Road, and the Outlet Channel in good working order; and further including all reading and operation of gauges, meters, valves, and gates.

1.9 Delivery into and Release from Dedicated Storage Capacity. During the Lease Period, LAWMA shall coordinate with and direct the Lamar Canal Company with respect to deliveries into the Dedicated Storage Capacity. Should such deliveries require action by GP staff (e.g., opening a lateral headgate into the Phase 1 Storage Cell), LAWMA shall coordinate with and direct GP with respect to such deliveries. LAWMA also shall coordinate with and direct GP with respect to pumping of water from the Dedicated Storage Capacity into the Outlet Channel. The timing of deliveries to and releases from the Dedicated Storage Capacity will be at LAWMA’s sole discretion; provided, however, that LAWMA’s carriage of foreign water in the Lamar Canal for delivery to the Dedicated Storage Capacity pursuant to the Temporary Partial Carriage Assignment is subject to the terms and conditions of the GP Carriage Agreement.

LAWMA shall give GP at least twenty-four hours' advance written notice of LAWMA's requested release of water from the Dedicated Storage Capacity in accordance with paragraph 5.6 below ("LAWMA Release Notice"), and GP and LAWMA shall cooperate to ensure that deliveries to and releases from the Dedicated Storage Capacity are timely made.

1.10 Losses. To the extent that other water users, including GP, are storing water in the Phase I Storage Cell during the Lease Period, evaporative losses will be assessed on LAWMA's and the other water users' stored water pro-rata, based on each user's volume of water stored in the Phase I Storage Cell on a monthly basis.

1.11 Expiration. The Lease and the Temporary Partial Assignments described in this Section 1 will expire at the end of the Lease Period. After such expiration, the Parties will have no further rights or obligations under this Article 1 except that the Parties shall make all required payments that have accrued but have not yet been paid, and GP shall complete any requested releases of LAWMA's stored water from the Dedicated Storage Capacity and shall deliver to LAWMA all accounting documentation described in paragraph 1.7 above.

1.12 LAWMA Release, Indemnification, and Insurance. During the Lease Period, LAWMA agrees to provide the release and indemnification and to obtain and maintain such insurance as provided for under Section 11 and 12 of the Easement Deed and Agreement.

1.13 GP Release, Indemnification, and Insurance. During the Lease Period, GP agrees to provide the release and indemnification and to obtain and maintain such insurance as provided for under Sections 13 and 14 of the Easement Deed and Agreement.

## **ARTICLE 2**

### **AGREEMENT FOR PURCHASE AND SALE AND PERMANENT PARTIAL ASSIGNMENTS**

2.1 Pre-Condition to Agreement for Purchase and Sale and Permanent Partial Assignments. This Agreement for Purchase and Sale and Permanent Partial Assignments will be made effective only by LAWMA's written notice to GP ("LAWMA Exercise Notice") of LAWMA's intention to purchase the Easements and Permanent Partial Assignments (as defined below and hereinafter, collectively, the "Conveyed Interests"), which notice must be delivered on or before the date that is 45 days prior to the Initial Lease Termination Date unless GP agrees otherwise, in writing. In the LAWMA Exercise Notice, LAWMA shall include its desired date of Closing, which must be no sooner than the date that is 45 days after the LAWMA Exercise Notice and no later than the earlier to occur of (a) the last day of the Lease Period or (b) the date that is 45 days following the Final Decree Date (as defined in paragraph 2.7.2 below). If LAWMA fails to make timely delivery of the LAWMA Exercise Notice, then the Lease Period will end as of the Initial Lease Termination Date, this Article 2 will be null and void, and the Parties will have no rights or obligations hereunder.

2.2 Purchase and Sale. Subject to LAWMA's timely delivery of the LAWMA Exercise Notice, GP shall sell to LAWMA and LAWMA shall purchase from GP the easement interests provided for under the Easement Deed and Agreement attached as Exhibit C and

subject to the Permitted Exceptions (as defined in paragraph 2.5.4 below) (the “Easements”) pursuant to the terms and conditions of this Agreement (“Purchase and Sale”).

2.3 Permanent Partial Assignments. Subject to LAWMA’s timely delivery of the LAWMA Exercise Notice, GP shall assign the following rights and delegate the following obligations to LAWMA on a permanent basis (“Permanent Partial Assignments”):

2.3.1 GP shall assign to LAWMA the rights and shall delegate to LAWMA the obligations under the GP Carriage Agreement attributable to LAWMA’s use of LAWMA’s Firm Carriage Capacity and LAWMA’s Excess Capacity as provided for under the Partial Carriage Assignment and Assumption Agreement attached as **Exhibit D** (the “Permanent Partial Carriage Assignment”). As provided in the Permanent Partial Carriage Assignment, LAWMA shall thereafter be solely responsible for paying those Carriage Charges described in paragraph 2 of the GP Carriage Agreement that are attributable to LAWMA’s use of LAWMA’s Firm Carriage Capacity and LAWMA’s Excess Capacity.

2.3.2 GP shall assign to LAWMA the rights under the GP Irrigated Easement Agreement as provided for under the Partial Easement Assignment Agreement attached as **Exhibit E** (“Permanent Partial Easement Assignment”).

2.4 Purchase Price. The base price for the Conveyed Interests is \$1,750,000.00 (“Base Purchase Price”), which amount GP shall adjust to match the “Ending Balance” shown on the Purchase Price Amortization Schedule attached hereto as Schedule 2.4 for the number of full months following the Effective Date that have elapsed as of the date of the Closing (such amount the “Adjusted Base Purchase Price”), which amount shall be further adjusted and payable at Closing as described below (as thus adjusted, the “Purchase Price”):

2.4.1 On the date that is three business days after the Effective Date, LAWMA shall pay GP \$2,941.00 (the “Earnest Money Deposit”). GP shall apply the Earnest Money Deposit to the Adjusted Base Purchase Price at Closing.

2.4.2 GP shall apply the Post-Lease Credit, if any, to the Adjusted Base Purchase Price at Closing. No later than 14 days before Closing, LAWMA shall deliver to GP LAWMA’s written calculation of the Post-Lease Credit, and GP shall give LAWMA GP’s prompt confirmation of or requested correction to such calculation.

2.4.3 At Closing, LAWMA shall pay GP in cash or other immediately available funds the “Purchase Price Balance,” which is the Adjusted Base Purchase Price minus the Earnest Money Deposit and as otherwise adjusted as provided for under this Agreement.

2.5 Title Review and Objections; Permitted Exceptions.

2.5.1 Within 21 days after the Effective Date, GP shall cause to be furnished to LAWMA an informational title commitment from The Guaranty Abstract Company, 312 S. Main Street, Lamar, CO, 81052, or such other title company as mutually agreed to by the Parties (the “Title Company”), for the Easements (“Initial Title Commitment”), along with copies of all documents referred to in the Initial Title Commitment and a certificate of taxes due (“Initial Title Documents”).

2.5.2 After receipt of the Initial Title Commitment and Initial Title Documents, LAWMA will have a period of 21 days in which to review the Initial Title Commitment and Initial Title Documents (“Initial Title Examination Period”). During the Initial Title Examination Period, LAWMA may give GP written notice of LAWMA’s objection to specified defects in title (“Initial Title Defect Notice”). Within 14 days after GP’s receipt of the Initial Title Defect Notice, GP may, in GP’s sole discretion, give LAWMA notice of those defects in the Initial Title Defect Notice which GP is willing to cure, if any (“Response Notice”). If LAWMA is dissatisfied with the Response Notice, LAWMA may, as its exclusive remedy, elect by written notice given to GP on or before the date that is 7 days after receipt of the Response Notice either (a) to accept the Initial Title Documents with resolution, if any, of LAWMA’s objections as set forth in the Response Notice (or if no Response Notice is tendered, without any resolution of such objections) and without any reduction or abatement of the Purchase Price, or (b) to terminate this Agreement, in which event GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph. Upon receipt of GP’s Response Notice, LAWMA will be deemed to have accepted any title exceptions included in the Initial Title Commitment if LAWMA does not deliver an Initial Title Defect Notice to GP within the Initial Title Examination Period. If LAWMA fails to give notice to terminate this Agreement on or before the end of the 7-day period provided for above, LAWMA shall be deemed to have elected to have approved the Initial Title Documents with resolution, if any, of LAWMA’s objections as set forth in the Response Notice (or if no Response Notice is tendered, without any resolution of such objections).

2.5.3 No earlier than 30 days before Closing and no later than 15 days before Closing, GP shall cause the Title Company to deliver to LAWMA an updated title commitment for the Easements (“Updated Title Commitment”), along with copies of any documents referred to in the Updated Title Commitment that were not Initial Title Documents and along with a certificate of taxes due (“Updated Title Documents”). After receipt of the Updated Title Commitment and Updated Title Documents, LAWMA will have a period of 7 days to review the Updated Title Commitment and Updated Title Documents (“Final Title Examination Period”). During the Final Title Examination Period, LAWMA may give GP written notice of LAWMA’s objection to specified defects in title (“Final Title Defect Notice”); provided, however, that LAWMA may not raise, in any Final Title Defect Notice, objections to title exceptions that were (a) included in the Initial Title Commitment and Initial Title Documents, or (b) caused or created by LAWMA. The Parties will resolve any objections raised in LAWMA’s Final Title Defect Notice, in the same manner as provided for with respect to LAWMA’s Initial Title Defect Notice under paragraph 2.5.2 above.

2.5.4 For purposes of this Agreement, the term “Permitted Exceptions” means:

2.5.4.1 All matters shown in the Title Documents, other than (i) those objections, if any, which GP has agreed to cure pursuant to the Response Notice under this paragraph 2.5; (ii) mechanics’ liens and taxes due and payable with respect to the period preceding Closing, to the extent arising by, through or under LAWMA, and (iii) the standard exception pertaining to taxes, which is limited to taxes and assessments payable in the year in which the Closing occurs and subsequent taxes and assessments; and

2.5.4.2 All other matters caused by or agreed to by LAWMA.

## 2.6 Diligence Period; Diligence Documents.

2.6.1 Within 7 days of the Effective Date, GP shall deliver to LAWMA copies of all documents or reports in its possession and control affecting use and operation of or otherwise relating to the Phase 1 Storage Facilities, the Outlet Channel, and the Access Road, including but not limited to any engineering reports, site plats and plans, stage-area-capacity tables, and existing surveys, leases, carriage agreements, other agreements, permits, licenses, certificates, commitments, or applications filed with governmental agencies or permitting authorities (“Initial Diligence Documents”).

2.6.2 Subject to the terms of this paragraph 2, from the Effective Date to and including the date that is 90 days thereafter (“Initial Diligence Period”) LAWMA shall conduct whatever diligence investigations LAWMA deems necessary in connection with the Conveyed Interests and the Phase 1 Storage Facilities. During the Initial Diligence Period, and upon written notice to GP, LAWMA may terminate this Agreement for any reason in LAWMA’s sole discretion in which case GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of such termination pursuant to this paragraph.

2.6.3 Provided that the LAWMA Exercise Notice includes a request for updated diligence documents referencing this paragraph, then no earlier than 30 days before Closing and no later than 15 days before Closing, GP shall deliver to LAWMA documentation of any and all changes in or to the documents and information provided in the Initial Diligence Documents (“Updated Diligence Documents”). After receipt of the Updated Diligence Documents, LAWMA will have a period of 7 days to review the Updated Diligence Documents (“Final Diligence Period”). During the Final Diligence Period, LAWMA may give GP written notice of LAWMA’s objection to elements of the Easements (“Final Objection Notice”); provided, however, that LAWMA may not raise, in any Final Objection Notice, objections to elements of the Easements that were (a) described in the Initial Diligence Documents or (b) caused or created by LAWMA. Upon receipt of a Final Objection Notice, GP will have a period of 3 business days to cure the objected-to elements of the Easements and to give LAWMA written notice of such cure, or to give LAWMA written notice of GP’s inability to cure (“Final Objection Cure Period”). Upon receipt of GP’s written notice of cure or inability to cure, LAWMA will have a period of 2 business days to accept such notice, in which case LAWMA will be deemed to have waived the objections raised in the Final Objection Notice; or to reject such notice and terminate this Agreement on the basis of LAWMA’s objections to specified elements of the Easements in which case GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph.

2.6.4 During the Initial Diligence Period, LAWMA may have reasonable access to the Phase 1 Storage Facilities for the purpose of conducting due diligence inspections (“Inspections”) subject to the following terms and conditions; provided, however, that in exercising such access, LAWMA shall not unreasonably interfere with GP’s use and enjoyment of the Phase 1 Storage Facilities.

2.6.4.1 LAWMA shall not permit any mechanic’s or materialmen’s liens or any other liens to attach to the Phase 1 Storage Facilities or the property on which they are located by reason of the performance of any work or the purchase of any materials by LAWMA

or any other party in connection with any Inspections conducted by or for LAWMA. LAWMA shall give notice to GP a reasonable time prior to entry onto the Property and shall permit GP to have a representative present during all Inspections conducted at the Property.

2.6.4.2 LAWMA shall indemnify, defend, and hold harmless GP, together with GP's affiliates, parent and subsidiary entities, successors, assigns, partners, managers, members, employees, officers, directors, trustees, shareholders, counsel, representatives, and agents, from any expenses, damages and liabilities, including reasonable attorneys' fees, that GP may suffer or incur arising out of any claims for property damage or personal injury, or claims from materialmen or laborers, that arise solely from and are caused by LAWMA's Inspections. The provisions of this Section 2.6.4.2 will survive any termination of this Agreement.

2.6.4.3 Prior to accessing the Property for the purpose of Inspections hereunder, LAWMA shall provide evidence that LAWMA or its agent conducting such Inspections maintains a policy of commercial general liability insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) annual aggregate, and that GP has been named as an additional insured under such policy.

## 2.7 LAWMA's Water Court Decree.

2.7.1 If LAWMA withdraws its Water Court Application, or the portions thereof relating to use of water by CS-U, prior to delivering its LAWMA Exercise Notice then LAWMA may terminate this Agreement by written notice to GP, in which case GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph.

2.7.2 If LAWMA obtains a final, unappealable decree that includes approval of all claims within the Water Court Application that relate to use of water by CS-U, then LAWMA shall provide its LAWMA Exercise Notice within ten days following the issuance of such decree (the "Final Decree Date"). If the final decree that LAWMA obtains does not include approval of all claims within the Water Court Application that relate to use of water by CS-U, then LAWMA may terminate this Agreement by written notice to GP, in which case GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph.

## 2.8 Closing of Purchase and Sale and Permanent Partial Assignments.

2.8.1 The closing of the Purchase and Sale and Permanent Partial Assignments described in this Article 2 ("Closing") will be held within 7 days of the date provided for in the LAWMA Exercise Notice, or on another date agreed to in writing by the Parties ("Closing Date"). The Closing will be held GP's offices at 7991 Shaffer Parkway, Suite 200, Littleton, Colorado 80127, or at another location agreed to in writing by the Parties.

2.8.2 At the Closing, the Parties shall make the following deliveries, each of which is a condition precedent to the others:



2.8.2.1 GP shall deliver or cause to be delivered to LAWMA an executed counterpart of the Easement Deed and Agreement attached as **Exhibit C** subject to the Permitted Exceptions.

2.8.2.2 GP shall deliver or cause to be delivered to LAWMA an executed counterpart of the Permanent Partial Carriage Assignment and Assumption Agreement attached as **Exhibit D**.

2.8.2.3 GP shall deliver or cause to be delivered to LAWMA a copy of the Lamar Canal Company's written approval of the Permanent Partial Carriage Assignment and Assumption Agreement.

2.8.2.4 GP shall deliver or cause to be delivered to LAWMA an executed counterpart of the Partial Easement Assignment Agreement attached as **Exhibit E**.

2.8.2.5 LAWMA shall deliver or cause to be delivered to GP the Purchase Price Balance.

2.8.2.6 LAWMA shall deliver or cause to be delivered to GP an executed counterpart of the Easement Deed and Agreement attached as **Exhibit C**.

2.8.2.7 LAWMA shall deliver or cause to be delivered to GP an executed counterpart of the Permanent Partial Carriage Assignment and Assumption Agreement attached as **Exhibit D**.

2.8.2.8 LAWMA shall deliver or cause to be delivered to GP an executed counterpart of the Partial Easement Assignment Agreement attached as **Exhibit E**.

2.8.2.9 LAWMA shall deliver or cause to be delivered to GP written notice of LAWMA's waiver or modification, if any, of specified Additional Conditions Precedent as described in paragraph 2.9 below.

2.8.2.10 The Parties shall each execute and deliver such documentation as reasonably required to consummate the Closing and as required by the Title Company to issue the Title Policy, as defined below.

2.8.3 **Recording of Documents**. After consummation of the deliveries described in paragraph 2.8.2 above, LAWMA will be entitled to record the fully-executed Easement Deed and Agreement, the fully-executed Permanent Partial Carriage Assignment and Assumption Agreement, and the fully-executed Permanent Partial Easement Assignment Agreement in the real property records of Prowers County. If required by the Title Company in connection with its issuance of the Title Policy (as defined below), the Title Company will be entitled to record the fully-executed Easement Deed and Agreement.

2.8.4 **Issuance of Title Policy**. At Closing, GP shall cause the Title Company, at GP's expense, to issue to LAWMA a title policy insuring LAWMA's interest in the Easements, subject only to the Permitted Exceptions ("**Title Policy**") with the GP Endorsements, as defined below, and, at LAWMA's expense, the LAWMA Endorsements, as defined below.

The Title Policy must insure marketable, insurable title to the Property in LAWMA in the amount of the Base Purchase Price. At or before the Closing, GP shall satisfy all requirements contained in the Title Commitment or in any update thereof that GP agreed to satisfy in its Response Notice or any updated Response Notice. GP, at GP's expense, shall cause the Title Company to issue any endorsements that GP undertakes in writing to cause to be issued at GP's expense prior to the Closing (collectively, the "GP Endorsements"). LAWMA, at LAWMA's expense, may elect for the Title Company to issue such other endorsements, if any, as LAWMA may determine and that are included in the final update of the Title Commitment issued by the Title Company (collectively, the "LAWMA Endorsements").

2.8.5 Operational Costs Post-Closing. As provided in the Easement Deed and Agreement, upon Closing, LAWMA shall thereafter pay for its share of GP's actual costs for GP's operation and maintenance of the Phase 1 Storage Facilities and Outlet Channel as follows:

2.8.5.1 Operating Costs.

2.8.5.1.1 GP's actual costs of operating the Phase 1 Pumps to deliver water out of the Dedicated Storage Capacity and into the Outlet Channel at LAWMA's direction ("Pumping Costs").

2.8.5.1.2 LAWMA's pro rata share of GP's actual costs incurred in the operation and maintenance of the Phase 1 Storage Facilities and Outlet Channel ("O&M Costs"). For purposes of determining LAWMA's pro rata share of O&M Costs, the Parties agree that LAWMA's pro rata share is equal to 29.4%.

2.8.5.2 Payment. GP shall invoice LAWMA monthly, in arrears, for any applicable Pumping Costs and LAWMA's pro rata share of any O&M Costs, and LAWMA shall pay such invoices within twenty-eight days of receipt.

2.8.6 Closing Costs. GP and LAWMA shall each pay one half of the recording and customary costs for the Closing.

2.9 Additional Conditions Precedent to Closing. Notwithstanding any other provision of this Agreement, the following are additional conditions precedent to LAWMA's obligation to close on the Purchase and Sale and Permanent Partial Assignments ("Additional Conditions Precedent").

2.9.1 All of GP's representations and warranties in paragraph 3.1 below were true and correct as of the dates specified therein.

2.9.2 GP has taken no action between the Effective Date and the Closing Date that materially and detrimentally has affected or will affect the use or value of the Phase 1 Storage Facilities, the Outlet Channel, or the Access Road.

2.9.3 There has been no third-party action or force majeure between the Effective Date and the Closing Date that materially and detrimentally has affected or will affect the use or value of the Phase 1 Storage Facilities, the Outlet Channel, or the Access Road.

2.9.4 GP has performed all covenants, agreements, and obligations required hereunder to be performed before or on the Closing Date.

2.9.5 If any of the Additional Conditions Precedent is not met to LAWMA's satisfaction, LAWMA in its sole discretion may waive the unmet Additional Condition(s) Precedent, agree to modify the unmet Additional Condition(s) Precedent, or terminate this Agreement. At Closing, LAWMA shall give GP written notice of any waiver or modification of specified Additional Conditions Precedent and GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph.

2.10 Casualty Damage. If, before Closing, any portion of the Phase 1 Storage Facilities is substantially damaged by fire, flood, or other casualty, LAWMA may elect either to terminate this Agreement by giving GP prompt written notice of such termination, or to continue to Closing despite such damage. If LAWMA elects to so terminate this Agreement, GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph.

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

3.1 GP's Representations and Warranties: GP represents and warrants to LAWMA as follows:

3.1.1 As of the Effective Date and as of the Closing Date, GP is validly organized, in good standing, and authorized to do business in the State of Colorado.

3.1.2 As of the Effective Date and as of the Closing Date, execution and performance of this Agreement will not violate any agreement, obligation, permit, or order by which GP is bound, nor give rise to any claim by any third party.

3.1.3 As of the Effective Date and as of the Closing Date, GP has full right, power, and authority to perform its obligations hereunder.

3.1.4 As of the Effective Date, the undersigned is duly authorized to bind GP to the terms of this Agreement.

3.1.5 As of the Effective Date and as of the Closing Date, GP has no knowledge of any pending action or claim and has no knowledge of facts that might give rise to any action or claim affecting ownership or use of or vested rights with respect to the Phase 1 Storage Facilities, the Access Road, the Outlet Channel, the GP Irrigated Easement, or the GP Carriage Agreement.

3.1.6 As of the Closing Date, GP has good and marketable title to the Phase 1 Storage Facilities, the Access Road, and the Outlet Channel.

3.1.7 As of the Effective Date and as of the Closing Date, the Phase 1 Storage Cell has a total storage capacity, including in situate storage, of approximately 1,700 acre-feet.

3.1.8 As of the Effective Date and as of the Closing Date, the Phase 1 Inlet Canal has a carriage capacity of approximately 28 c.f.s.

3.1.9 As of the Effective Date and as of the Closing Date, the Phase 1 Pumps can pump water from the Phase 1 Storage Cell at a maximum combined capacity of approximately 22 c.f.s.

3.1.10 As of the Effective Date and as of the Closing Date, the Outlet Channel has a carriage capacity of at least 22 c.f.s.

3.1.11 As of the Effective Date and as of the Closing Date, GP is and will be solely responsible for complying with any and all reclamation requirements associated with GP's mining of the West Farm Pit.

3.1.12 As of the Effective Date and as of the Closing Date, GP has excavated the Phase I Storage Cell in all material respects consistent with the requirements of the applicable mining permits, and the Phase I Storage Cell has been reclaimed consistent with such mining permits.

3.2 LAWMA's Representations and Warranties. LAWMA represents and warrants to GP as follows:

3.2.1 As of the Effective Date and as of the Closing Date, LAWMA is validly organized, in good standing, and authorized to do business in the State of Colorado.

3.2.2 As of the Effective Date and as of the Closing Date, execution and performance of this Agreement will not violate any agreement, obligation, permit, or order by which LAWMA is bound, nor give rise to any claim by any third party.

3.2.3 As of the Effective Date and as of the Closing Date, LAWMA has full right, power, and authority to perform its obligations hereunder.

3.2.4 As of the Effective Date, the undersigned is duly authorized to bind LAWMA to the terms of this Agreement.

#### **ARTICLE 4 DEFAULT AND REMEDIES**

4.1 LAWMA Default. If LAWMA is in default, then GP may elect to terminate this Agreement by written notice to LAWMA, in which case GP shall retain the Earnest Money Deposit; provided, however, that GP may not terminate the Agreement under this paragraph before having given LAWMA written notice of the default and a reasonable period of no less than 28 days to cure. The Parties agree that in the event of termination under this paragraph, the Earnest Money Deposit will be retained by GP as LIQUIDATED DAMAGES and not a penalty, and that the amount of such liquidated damages is fair and reasonable. GP expressly waives the remedies of specific performance and additional damages except as provided for in paragraph 4.4 below.

4.2 GP Default. If GP is in default, then LAWMA may elect to terminate this Agreement by written notice to GP; provided, however, that LAWMA may not terminate the Agreement under this paragraph before having given GP written notice of the default and a reasonable period of no less than 28 days to cure. GP shall refund the Earnest Money Deposit and deliver the Post-Lease Refund, if any, to LAWMA within fourteen days of any termination pursuant to this paragraph. LAWMA expressly waives the remedies of specific performance and additional damages.

4.3 Date and Effect of Termination. The date of termination pursuant to this Article 4 will be the date that the non-terminating Party receives the written notice of termination required hereunder. As of the date of such termination, the Parties will have no further rights or obligations hereunder.

4.4 Exclusive Remedies. The foregoing remedies are the exclusive remedies available to the Parties for default hereunder; provided, however, that GP's election to terminate this Agreement will not prohibit GP from making a claim against LAWMA for amounts otherwise due and payable to GP, but not to the Lamar Canal Company, for LAWMA's use of LAWMA's Firm Carriage Capacity or LAWMA's Excess Capacity.

## **ARTICLE 5 GENERAL PROVISIONS**

5.1 Entire Agreement. This Agreement contains the entire agreement of the Parties, and neither Party has relied upon any fact, statement, or representation not expressly set forth herein. All prior and contemporaneous conversations, negotiations, verbal agreements, representations, covenants, and warranties concerning the subject matter hereof are merged into this Agreement.

5.2 Amendment. This Agreement may be amended in whole or in part only by written agreement authorized and executed by each of the Parties with the same formality as is this Agreement.

5.3 Counterparts. This Agreement may be executed in counterparts, each of which is to be deemed original, but all of which constitute one and the same agreement.

5.4 Joint Draft. The Parties drafted this Agreement jointly, with each having the advice of legal counsel and an equal opportunity to contribute to its content. Therefore, this Agreement is not to be construed for or against a Party on the basis of authorship.

5.5 Governing Law. This Agreement is governed by and to be construed in accordance with the laws of the State of Colorado.

5.6 Notices. With the exception of the LAWMA Release Notice, any notice required to be delivered under this Agreement must be in writing and sent by (a) certified mail, return receipt requested, (b) a recognized overnight delivery service with customer tracking capability, (c) hand delivery, or (d) email, provided the email notice is followed by one of the other delivery methods, to the following addresses:

If to GP: Karl Nyquist  
7991 Shaffer Pkwy, Suite 200  
Littleton, CO 80127  
[karl@cacompanies.com](mailto:karl@cacompanies.com)

with a copy to: Wayne F. Forman  
Brownstein Hyatt Farber Schreck, LLP  
410 17th Street, Suite 2200  
Denver, CO 80202  
[wforman@BHFS.com](mailto:wforman@BHFS.com)

If to LAWMA: Donald F. Higbee, Manager  
Lower Arkansas Water Management Association  
310 South 6<sup>th</sup> Street  
P.O. Box 1161  
Lamar, Colorado 81052  
[lawma@cminet.net](mailto:lawma@cminet.net)

with a copy to: Richard J. Mehren  
Moses, Wittemyer, Harrison and Woodruff, P.C.  
P.O. Box 1440  
Boulder, CO 80306-1440  
[rmehren@mwhw.com](mailto:rmehren@mwhw.com)

The LAWMA Release Notice may be delivered by email, but if so delivered must be addressed to all of the following: [Ron@ProwersAg.com](mailto:Ron@ProwersAg.com); [karl@cacompanies.com](mailto:karl@cacompanies.com); [lawma@cminet.net](mailto:lawma@cminet.net); [bill@grasmickinc.com](mailto:bill@grasmickinc.com); or such other email addresses as GP may provide.

5.7 Assignment. Neither Party may assign any part of this Agreement without the prior written consent of the other Party.

5.8 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

5.9 No Brokers. No Brokers are involved in this transaction. GP and LAWMA each represent to the other that it has not caused any broker's, finder's or similar fee or commission to be due in connection with the transaction contemplated herein, and each of GP and LAWMA hereby agrees to indemnify and hold harmless the other from any claim, expense or cost (including court costs and attorneys' fees, whether suit be brought or not) resulting from any claim caused by or attributable to it for such fee or commission.

*[signatures on following page]*

Agreed to and executed as of the Effective Date.

**GP AGGREGATES, LLC**

By: 

Karl Nyquist  
Its Manager

**LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**

By: \_\_\_\_\_

Robert J. Wilger  
Its Vice President

ATTEST:

By: \_\_\_\_\_

Donald F. Higbee  
Its Secretary

Agreed to and executed as of the Effective Date.

**GP AGGREGATES, LLC**

By: \_\_\_\_\_  
Karl Nyquist  
Its Manager

**LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**

By: Robert J. Wilger  
Robert J. Wilger  
Its Vice President

ATTEST:

By: Donald F. Higbee  
Donald F. Higbee  
Its Secretary





**Exhibit A-1**  
**Legal Description of West Farm**

A PARCEL OF LAND LOCATED IN THE NORTHEAST  $\frac{1}{4}$  AND THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 33, AND THE SOUTH  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN PROWERS COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 33 S01°19'23"E, A DISTANCE OF 2389.37 FEET;

THENCE S50°40'01"W, A DISTANCE OF 256.23 FEET;

THENCE S87°42'04"W, A DISTANCE OF 2325.91 FEET;

THENCE N00°00'00"W, A DISTANCE OF 480.27 FEET;

THENCE ALONG A CURVE WITH A RADIUS OF 806.49 FEET AND LENGTH OF 1266.83 FEET, SAID CURVE HAVING A CHORD BEARING OF N45°00'00"W AND A CHORD LENGTH OF 1140.55 FEET;

THENCE N90°00'00"W FOLLOWING, A DISTANCE OF 328.25 FEET TO A POINT ON THE EAST BOUNDARY LINE OF A PARCEL OF LAND RESERVED FOR FUTURE COLORADO STATE HIGHWAY 50 REALIGNMENT;

THENCE FOLLOWING SAID EAST PARCEL BOUNDARY LINE N09°10'38"W A DISTANCE OF 858.25 FEET;

THENCE N88°15'32"E, A DISTANCE OF 1110.50 FEET;

THENCE N01°25'02"W, A DISTANCE OF 389.76 FEET TO THE NORTH  $\frac{1}{4}$  CORNER OF SAID SECTION 33;

THENCE N00°30'38"W, A DISTANCE OF 966.48 FEET;

THENCE N88°25'35"E, A DISTANCE OF 2639.68 FEET TO A POINT ON THE EAST LINE OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 28 S00°29'53"E, A DISTANCE OF 951.60 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 232.78 ACRES MORE OR LESS.

**BASIS OF BEARING**

BASIS OF BEARING FOR THIS PERMIT BOUNDARY LEGAL DESCRIPTION BEING THE EAST LINE OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN. SAID LINE HAVING A BEARING OF S11°19'23"E, COUNTY OF PROWERS, STATE OF COLORADO.

**Exhibit A-2**  
**Legal Description of Adjacent Property**

The following property, LESS AND EXCEPT the real property described in Exhibit A-1 above.

Parcel No. 1:

Township 22 South, Range 44 West of the Sixth Principal Meridian  
Section 31: SE¼

Section 32: SW¼; SW¼NE¼; SE¼, except a tract described in Warranty Deed recorded October 18, 1995 at Reception No. 470427

Township 23 South, Range 44 West of the Sixth Principal Meridian  
Section 5: NE¼ & NW¼ lying North of U. S. Highway 50

Section 6: NE¼ lying North of U. S. Highway 50

And INCLUDING the following: Lot 1, Borderland Estates Subdivision Filing No. 3, said Subdivision being a part of the E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the W½ of Section 4 and the N½ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

EXCEPT the following three descriptions:

1. Lots 1, 2, 3, 4, 5, 6, 7 and 8, Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W¼SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W¼NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.
2. Lots 1, 2 and 3, Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.
3. Lots 2, 3 and 4, Borderland Estates Subdivision Filing No. 3, being a part of E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W¼ Section 4 and N¼ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 4: Tract 10, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as Recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County Records, said tract being situated in the NW¼, and more particularly described as follows: Beginning at a 2" iron pipe monument which bears S.0°02'W., 100.00 feet from the NW corner of Section 4, Township 23 South, Range 44 West; thence S.89°55'E., 2628.4 feet to a 2" iron pipe monument; thence S.0°03'W., 2004.5 feet to a 2" iron pipe monument; thence N.71°45'W., 121.1 feet to a point; thence N.51°00'W., 507.0 feet to a point; thence N.64°53'W., 796.0 feet to a point; thence N.81°06'W., 129.8 feet to a point; thence S. 72°54'W., 129.0 feet to a point; thence S. 64°47'W., 213.0 feet to a point; thence N.83°28'W., 174.5 feet to a point; thence N.78°38'W., 795.5 feet to a 2" iron pipe monument; thence N.0°02'E., 1245.7 feet to the place of beginning.

Tract 11, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tract being situated in the NW¼, and more particularly described as follows: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 4, Township 23 South, Range 44 West; thence N.0°02'E., 1263.7 feet to a 2" iron pipe monument; thence S.78°38'E., 796.0 feet to a point; thence S.83°28'E., 185.0 feet to a point; thence N.64°47'E., 222.0 feet to a point; thence N.72°54'E., 114.0 feet to a point; thence S.81°06'E., 113.0 feet to a point; thence S.64°53'E., 785.0 feet to a point; thence S.51°00'E., 504.0 feet; thence S.71°45'E., 146.0 feet to a 2" iron pipe monument; thence S.73°26'E., 342.8 feet to a point; thence S.48°52'E., 617.8 feet to a 2" iron pipe monument; thence N.89°58'W., 794.1 feet to a point; thence N.89°57'W., 2628.0 feet to the place of beginning.

except a tract of land described as follows: Beginning at the center of said Section 4; thence N.89°57'W., 100 feet to a point; thence N.0°03'E., 535 feet, more or less, to a point on the South right of way line of the XY Canal; thence S.71°45'E., 103 feet, more or less, to a point, thence S.73°26'E., 342.8 feet to a point; thence S.48°52'E., 617.8 feet to the Southeast corner of said Tract 11; thence along the South line of said Tract 11 N.89°58'W., 794.1 feet to the point of beginning;

except a tract deeded to the County of Prowers recorded January 12, 1927 at Reception No. 149133, and except a tract deeded to the X Y Ditch Company recorded November 11, 1889 in Book 15 at page 289, and all that part of the SW¼ lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, except that tract deeded to Prowers County recorded in Book 187 at Page 303, and except a tract deeded to Prowers County recorded in Book 264 at Page 86 in the Prowers County records.

And

All that part of the SW¼ of Section 4 lying North of the North right of way line of The Atchison, Topeka and Santa Fe Railroad, except that tract deeded to the County of Prowers, recorded February 8, 1928 in Book 187 at Page 303, under Reception No. 155414.

All of Tracts 15, 16, 16A in SW¼ of Section 3, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 15, Beginning at a 2" iron pipe monument which bears S.0°03'E., 410.0 feet from the West Quarter corner of Sec 3, Twp 23S, Rge 44W; thence S.0°03'E., 1180.0 feet to a 2" iron pipe monument; thence S.74°48'E., 1454.3 feet to a point; thence N.0°20'E., 1849.4 feet to a 2" iron pipe monument; thence S.78°28'W., 1445.1 feet to the place of beginning.

Tract 16, Beginning at a 4" iron pipe monument marking the center of Sec 3, Twp 23S, Rge 44W; thence S.0°29'W., 1210.0 feet to a 1½" iron pipe monument; thence West 402.0 feet to a 1½" iron pipe monument; thence S.0°29'W., 872.0 feet to a point; thence West 148.0 feet to a point; thence S.0°29'W., 54.0 feet to a 2" iron pipe monument; thence N.74°48'W., 213.5 feet to a 2" iron pipe monument; thence S.15°12'W., 50.0 feet to a point; thence N.74°48'W., 483.8 feet to a point; thence N.0°20'E., 1849.4 feet to a 2" iron pipe monument; thence N.66°40'E., 113.0 feet to a point; thence N.45°33'E., 134.6 feet to a 2" iron pipe monument; thence N.89°20'E., 1043.8 feet to the place of beginning.

Tract 16A, Beginning at a 1½" iron pipe monument, which bears S.0°29'W., 1210.0 feet from the center of Sec 3, Twp 23S, Rge 44W; thence S.0°29'W., 1075.0 feet to a 2" iron pipe monument; thence N.74°48'W., 568.0 feet to a 2" iron pipe monument; thence N.0°29'E., 54.0 feet to a point; thence East 148.0 feet to a point; thence N.0°29'E., 872.0 feet to a 1½" iron pipe monument; thence East 402.0 feet to the place of beginning.

All of Tracts 31, 32, 33, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as Recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tract being situated in the SE¼ and S½NE¼ of Section 1 and the NE¼NE¼ of Section 12, Township 23 South, Range 44 West of the Sixth P.M., and more particularly described as follows:

Tract 31, Beginning at a 4" iron pipe monument marking the East Quarter corner of Sec 1, Twp 23S, Rge 44W; thence S.89°42'W., 2615.4 feet to a 2" iron pipe monument; thence N.0°05'E., 1318.8 feet to a 2" iron pipe monument; thence S.89°43'E., 2516.0 feet to a point; thence S.63°33'E., 110.8 feet to a 2" iron pipe monument; thence S.0°03'W., 1271.0 feet to the place of beginning.

Tract 32, Beginning at a 4" iron pipe monument marking the East quarter corner of Sec 1, Twp 23S, Rge 44W; thence S.0°03'W., 1320.0 feet to a 4" iron pipe monument; thence N.89°46'W., 2609.7 feet to a 2" iron pipe monument; thence N.0°12'W., 1322.8 feet to a 2" iron pipe monument; thence N.89°42'E., 2615.4 feet to the place of beginning.

Tract 33, Beginning at a 4" iron pipe monument marking the SE corner of Sec 1, Twp 23S, Rge 44W; thence South 198.7 feet to a 2" iron pipe monument; thence N.65°53'W., 491.7 feet to a 2" iron pipe monument; thence N.69°39'W., 176.0 feet to a point; thence N.80°44'W., 235.0 feet to a point; thence S.89°32'W., 475.0 feet to a point; thence N.89°41'W., 1201.0 feet to a 2" iron pipe monument; thence N.31°36'W., 156.5 feet to a 2" iron pipe monument; thence N.0°12'W., 1093.6 feet to a 2" iron pipe monument; thence S.89°46'E., 2609.7 feet to a 4" iron pipe monument; thence S.0°03'W., 1320.8 feet to the place of beginning.

EXCEPT a parcel in Tract 33 in the Southeast Quarter of Section 1, Township 23 South, Range 44 West of the Sixth P.M. described in Warranty Deed to Department of Transportation as recorded March 31, 2003 at Reception No. 499662.

All of Tracts 37, 38, 39, situate in S½NE¼, E½SE¼, SW¼SE¼ of Section 11, Township 23 South, Range 44 West of the Sixth P.M., as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tracts more particularly described as follows:

Tract 37, Beginning at a 4" iron pipe monument marking the East Quarter corner of Sec 11, Twp 23S, Rge 44W; thence S.89°08'W., 125.5 feet to a point; thence N.73°33'W., 100.6 feet to a 2" iron pipe monument; thence S.89°08'W., 2425.0 feet to a 2" iron pipe monument; thence N.0°25'W., 1194.7 feet to a 2" iron pipe monument; thence S.74°48'E., 2750.5 feet to a 2" iron pipe monument; thence S.0°04'E., 463.0 feet to the place of beginning.

Tract 38, Beginning at a 4" iron pipe monument marking the center of the SE¼ of Sec 11, Twp 23S, Rge 44W; thence N.0°31'W., 1292.0 feet to a 2" iron pipe monument; thence N.89°08'E., 1095.8 feet to a 2" iron pipe monument; thence S.72°34'E., 67.7 feet to a point; thence S.54°57'E., 69.0 feet to a point; thence S.48°47'E., 69.3 feet to a point; thence S.28°10'E., 102.1 feet to a 2" iron pipe monument; thence S.0°04'E., 1087.7 feet to a 4" iron pipe monument; thence S.88°52'W., 1306.3 feet to the place of beginning.

Tract 39, Beginning at a 4" iron pipe monument marking the center of the SE¼ of Sec 11, Twp 23S, Rge 44W; thence N.88°52'E., 1306.3 feet to a 4" iron pipe monument; thence S.0°04'E., 1346.0 feet to a 2" iron pipe monument; thence S.88°44'W., 2631.6 feet to a 2" iron pipe monument; thence N.0°24'W., 1352.0 feet to a 4" iron pipe monument; thence N.88°52'E., 1333.0 feet to the place of beginning.

All of Tracts 40, 40A, 41 situate in W½ of Section 11, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Page 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 40, Beginning at a 2" iron pipe monument which bears N.0°24'W. 30.0' from the South Quarter corner of Sec 11, Twp 23S, Rge 44W; thence S.88°47'W., 767.8 feet to a 1½" iron pipe monument; thence North 170.0 feet to a 1½" iron pipe monument; thence S.88°47'W., 1331.3 feet to a point; thence N.45°50'E., 204.0 feet to a 1½" iron pipe monument; thence N.44°10'W., 166.0 feet to a 1½" iron pipe monument; thence N.71°40'E., 176.5 feet to a point; thence N.28°15'E., 361.7 feet to a point; thence N.16°40'W., 639.5 feet to a point; thence N.41°35'W., 380.0 feet to a point; thence N.3°00'W., 892.5 feet to a point; thence N.88°56'E., 2194.7 feet to a 2" iron pipe monument; thence S.0°24'E., 259.00 feet to the place of beginning.

Tract 40A, Beginning at a 4" iron pipe monument marking the SW corner of Sec. 11, Twp 23S, Rge 44W; thence N.35°55'E., 467.4 feet to a point; thence N.71°40'E., 299.0 feet to a 1½" iron pipe monument; thence S.44°10'E., 166.0 feet to a 1½" iron pipe monument; thence S.45°50'W., 204.0 feet to a point; thence N.88°47'E., 1331.3 feet to a 1½" iron pipe monument; thence South 170.0 feet to a 1½" iron pipe monument; thence S.88°47'W., 1434.2 feet to a 2" iron pipe monument; thence South 30.0 feet to a 2" iron pipe monument; thence S.88°47'W., 425.0 feet to the place of beginning.

Tract 41, Beginning at a 2" iron pipe monument which bears N.0°25'W., 30.0 feet from the center of Sec. 11, Twp 23S, Rge 44W; thence S.88°56'W., 2197.3 feet to a point; thence N.3°00'W., 73.7 feet to a point; thence N.9°50'E., 841.2 feet to a point; thence N.34°15'E., 371.1 feet to a point; thence N.14°10'E., 508.2 feet to a 2" iron pipe monument; thence S.74°48'E., 1778.0 feet to a 2" iron pipe monument; thence S.0°25'E., 1194.7 feet to the place of beginning.

All in County of Prowers, State of Colorado.

Parcel No. 2:

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 1: NW¼ and 35 acres, more or less, lying South of the North Granada Lateral Drainage Ditch in the N½NE¼

All of Tracts 28 and 29, situate in the SW¼ of Section 1, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Page 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 28, Beginning at a 4" iron pipe monument marking the West Quarter corner of Sec 1, Twp 23S, Rge 44W, thence S.89°42'E., 1320.0 feet to a 4" iron pipe monument; thence S.89°42'E., 1290.6 feet to a 2" iron pipe monument; thence S.0°12'E., 1323.0 feet to a 2" iron pipe monument; thence N.89°46'W., 1292.2 feet to a 4" iron pipe monument; thence N.89°37'W., 1315.7 feet to a 4" iron pipe monument; thence N.0°18'W., 1323.2 feet to the place of beginning.

Tract 29, Beginning at a 4" iron pipe monument marking the center of the SW¼ of Sec 1, Twp 23S, Rge 44W; thence S.89°46'E., 1292.2 feet to a 2" iron pipe monument; thence S.0°12'E., 1228.1 feet to a 2" iron pipe monument; thence N.89°43'W., 2605.1 feet to a 2" iron pipe monument; thence N.0°18'W., 1230.0 feet to a 4" iron pipe monument; thence S.89°37'E., 1315.7 feet to the place of beginning.

Section 2: NE¼, LESS a tract described by a line drawn as follows: Beginning at the Center of said Section 2, running thence Easterly along the Quarter Section line between the NE¼ and SE¼ of said Section 2, 1038 feet, more or less, to the South boundary line of the right-of-way of the X-Y Canal; thence Northwesterly along the South boundary line of right-of-way of the X-Y Ditch to the Quarter Section line between the NE¼ and NW¼ of said Section 2, running thence Southerly along the Quarter Section line 476 feet, more or less, to the Place of Beginning; and EXCEPT a tract Deeded to the Granada Drainage District by Deed recorded August 25, 1926 in Book 156, Page 478 of the Prowers County Clerk and Recorder records.

Section 2: E½SE¼

AND

A tract of land in the NW¼SE¼ of said Section 2 lying East of the XY Canal and more particularly described as follows: Beginning at the Northeast corner of said NW¼SE¼ of said Section 2; thence South a distance of 1207 feet, more or less, to the East right-of-way line of the XY canal; thence in a Northwesterly direction along the East right-of-way line of said XY Canal to a point on the East-West center line of said Section 2; thence East along the said center line a distance of 222 feet, more or less, to the point of beginning;

Section 11: A tract of land in the NE¼NE¼ of said Section 11, more particularly described as follows: Beginning at the Northeast corner of said Section 11; thence South 0°4' East a distance of 1195.4 feet; thence South 71°3' West a distance of 162 feet; thence North 77°38' West a distance of 672 feet; thence North 66°41' West a distance of 113 feet; thence North 46°57' West a distance of 195 feet; thence North 40°9' West a distance of 161 feet; thence North 17°20' West a distance of 155 feet; thence North 1°45' East a distance of 641.8 feet to a point on the Section line between Sections 2 and 11; thence North 89°17' East a distance of 1183 feet along said Section line to the Place of Beginning; Being that part of Tract No. 27 lying East and North of the XY Canal, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Page 45 to 61, inclusive, records of Prowers County, Colorado.

All of Tracts 13 and 14, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts being situated in the NW¼ and the N½N½SW¼ of Section 3, Township 23 South, Range 44 West, being more particularly described as follows:

Tract 13: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 3, Township 23 South, Range 44 West; thence North 2546.0 feet to a 2" iron pipe monument; thence N.88°41'E., 1334.0 feet to a 2" iron pipe monument; thence S.0°05'W., 2674.0 feet to a 2" iron pipe monument; thence S.78°28'W., 1356.3 feet to a point; thence N.0°03'W., 369.2 feet to the Place of Beginning.

Tract 14: Beginning at a 2" iron pipe monument which bears S.0°17'W., 100.0 feet from the North Quarter corner of Section 3, Township 23 South, Range 44 West; thence S.0°17'W., 1605.0 feet to a 2" iron pipe monument; thence S.86°08'W., 115.0 feet to a point; thence S.45°33'W., 1485.0 feet to a point; thence S.66°40'W., 97.0 feet to a point; thence S.78°28'W., 72.0 feet to a 2" iron pipe monument; thence N.0°05'E., 2674.0 feet to a 2" iron pipe monument; thence N.88°41'E., 1340.0 feet to the Place of Beginning. ALSO Beginning at a 4" iron pipe monument marking the center of said Section 3; thence S.89°20'W., 1043.8 feet to a 2" iron pipe monument; thence N.45°33'E., 1339.0 feet to a point; thence N.86°08'E., 91.7 feet to a point; thence S.0°17'W., 931.5 feet to the Place of Beginning, EXCEPT the right-of-way of the XY Canal.

Tract 17 and that part of Tract 18 lying in the NE¼ of Section 3, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, more particularly described as follows: Beginning at a point S.0°35'W., 100 feet from the Northeast corner of Section 3, Township 23 South, Range 44 West of the Sixth P.M.; thence S.88°41'W., 2674.9 feet to the North and South Quarter line of said Section; thence S.0°17'W., 1605.0 feet; thence S.70°22'E., 72 feet; thence S.50°36'E., 404 feet; thence S.32°35'E., 90 feet; thence S.16°58'E., 339 feet; thence S.27°58'E., 87 feet; thence S.68°13'E., 122 feet; thence S.81°29'E., 360 feet; thence S.47°14'E., 122 feet; thence S.28°23'E., 24 feet to the East and West center line of said Section 3; thence N.89°23'E., 186 feet to a 4 inch iron pipe marking the Southeast corner of the SW¼NE¼ of said Section 3; thence East to a 2 inch iron pipe marking the East Quarter corner of said Section 3; thence N.0°35'E., 2606.8 feet to the point of beginning. Beginning at a 4 inch iron pipe marking the center of Section 3, Township 23 South, Range 44 West of the Sixth P.M.; thence N.0°17'E.,

931.5 feet to the South right-of-way line of the XY Ditch; thence S.70°22'E., 54.8 feet; thence S.50°36'E., 396.0 feet; thence S.32°35'E., 71.4 feet; thence S.16°58'E., 332.8 feet; thence S.27°58'E., 113.8 feet; thence S.68°13'E., 139.4 feet; thence S.81°29'E., 347.8 feet; thence S.47°14'E., 99.8 feet to the East and West center line of said Section 3; thence S.89°23'W., 1099 feet to the Point of Beginning center of said Section 3, containing all of the NE¼ of said Section 3, EXCEPT those portions thereof which have been heretofore conveyed of record by prior owners for the drainage ditch along the North line of said Quarter Section and for the right-of-way of the XY Canal, and subject to the rights-of-way for public roads adjoining the premises.

All of Tracts 19 and 20, according to the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts being situated in the SE¼ of Section 3 and the NE¼/NE¼ of Section 10, Township 23 South, Range 44 West of the Sixth P.M., being more particularly described as follows:

**Tract 19:** Beginning at a 4" iron pipe monument marking the center of said Section 3, Township 23 South, Range 44 West; thence N.89°23'E., 1099.0 feet to a point; thence S.28°23'E., 401.0 feet to a point; thence S.20°06'E., 107.0 feet to a point; thence S.0°20'W., 2257.2 feet to a point; thence N.74°48'W., 173.5 feet to a point; thence N.15°12'E., 50.0 feet to a point; thence N.74°48'W., 1221.5 feet to a 2" iron pipe monument; thence N.0°29'E., 2285.0 feet to the place of beginning.

**Tract 20:** Beginning at a 1½" iron pipe monument which bears S.0°21'W., 691.0 feet from the East Quarter corner of Section 3, Township 23 South, Range 44 West; thence S.0°21'W., 636.5 feet to a 4" iron pipe monument; thence S.0°21'W., 1761.7 feet to a 2" iron pipe monument; thence N.74°48'W., 1376.0 feet to a point; thence N.0°20'E., 2257.2 feet to a point; thence S.20°06'E., 352.0 feet to a point; thence S.42°00'E., 132.0 feet to a point; thence S.73°58'E., 405.0 feet to a point; thence N.86°06'E., 112.0 feet to a point; thence N.65°55'E., 393.0 feet to a point; thence N.59°40'E., 303.0 feet to the place of beginning.

All of Tracts 42, 43 and 43A, according to the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the NE¼ of Section 10 and the W¼/NW¼ of Section 11, Township 23 South, Range 44 West, being more particularly described as follows:

**Tract 42:** Beginning at a 2" iron pipe monument which bears North 30.0 feet from a point which bears N.89°35'E., 1340.3 feet from the SW corner of the SE¼ of the NE¼ of Section 10, Township 23 South, Range 44 West; thence S.89°35'W., 522.0 feet to a 2" iron pipe monument; thence N.74°55'W., 93.9 feet to a point; thence N.56°55'W., 142.8 feet to a point; thence N.44°59'W., 115.3 feet to a point; thence N.29°13'W., 118.2 feet to a point; thence N.14°05'W., 119.0 feet to a point; thence N.9°45'W., 1583.1 feet to a point; thence N.14°47'W., 111.8 feet to a point; thence N.26°58'W., 139.1 feet to a point; thence N.44°14'W., 142.5 feet to a point; thence N.59°33'W., 142.3 feet to a 2" iron pipe monument; thence S.74°48'E., 2493.0 feet to a 2" iron pipe monument; thence S.14°10'W., 508.2 feet to a point; thence S.34°15'W., 371.1 feet to a point; thence S.9°50'W., 841.2 feet to a point; thence S.3°00'E., 73.7 feet to a point; thence S.88°56'W., 451.7 feet to the place of beginning.

**Tract 43:** Beginning at a 4" iron pipe monument marking the SE corner of the SW¼ of the NE¼ of Section 10, Township 23 South, Range 44 West; thence S.89°35'W., 980.0 feet to a 2" iron pipe monument; thence S.89°35'W., 180.5 feet to a 2" iron pipe monument; thence N.0°29'W., 1235.1 feet to a point; thence East 378.5 feet to a point; thence N.0°29'W., 231.3 feet to a point; thence N.89°45'E., 658.5 feet to a 2" iron pipe monument; thence N.0°32'W., 882.5 feet to a 2" iron pipe monument; thence S.56°05'E., 105.2 feet to a point; thence S.44°11'E., 122.2 feet to a point; thence S.27°07'E., 120.9 feet to a point; thence S.14°55'E., 103.9 feet to a point; thence S.9°43'E., 1583.7 feet to a point; thence S.14°28'E., 133.6 feet to a point; thence S.29°30'E., 133.6 feet to a point; thence S.45°09'E., 130.0 feet to a point; thence S.57°07'E., 155.6 feet to a 2" iron pipe monument; thence S.89°35'W., 700.0 feet to the place of beginning.

**Tract 43A:** Beginning at a 2" iron pipe monument which bears N.89°25'E., 2827.0 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.0°29'W., 139.3 feet to a point; thence East 378.5 feet to a point; thence S.0°29'E., 231.3 feet to a point; thence West 378.5 feet to a point; thence N.0°29'W., 92.0 feet to the place of beginning.

All of Tracts 46, 47 and 48B, as shown by the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the W¼/SE¼, SW¼, SE¼/NW¼ and the SW¼/NE¼ of Section 10 and the NE¼/NW¼ and the NW¼/NE¼ of Section 15, Township 23 South, Range 44 West; being more particularly described as follows:

**Tract 46:** Beginning at a 2" iron pipe monument which bears S.89°35'W., 980.0 feet from the NE corner of the NW¼ of the SE¼ of Section 10, Township 23 South, Range 44 West; thence S.10°10'E., 946.0 feet to a point; thence S.4°55'E., 159.0 feet to a point; thence S.0°40'E., 1686.8 feet to a point; thence S.68°50'W., 483.0 feet to a point; thence S.80°52'W., 79.1 feet to a point; thence N.85°20'W., 86.7 feet to a point; thence N.65°10'W., 102.7 feet to a point; thence N.60°55'W., 584.0 feet to a point; thence N.43°05'E., 11.3 feet to a 2" iron pipe monument; thence N.43°05'E., 104.3 feet to a point; thence N.24°12'E., 221.0 feet to a point; thence N.63°15'E., 99.3 feet to a point; thence N.18°45'E., 85.7 feet to a point; thence N.1°15'W., 174.5 feet to a point; thence N.25°07'W., 245.0 feet to a point; thence N.43°32'W., 120.0 feet to a point; thence N.1°50'W., 222.2 feet to a point; thence N.9°20'E., 492.8 feet to a point; thence N.14°00'W., 92.5 feet to a point; thence N.2°45'W., 303.7 feet to a point; thence N.29°03'E., 270.4 feet to a point; thence N.2°50'E., 390.3 feet to a 2" iron pipe monument; thence N.89°35'E., 555.5 feet to a 2" iron pipe monument; thence N.89°35'E., 180.5 feet to the Place of Beginning.

**Tract 47:** Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence N.89°35'E., 2282.5 feet to a 2" iron pipe monument; thence S.2°50'W., 390.3 feet to a point; thence S.29°03'W., 270.4 feet to a point; thence S.2°45'E., 303.7 feet to a point; thence S.14°00'E., 92.5 feet to a point; thence S.9°20'W., 492.8 feet to a point; thence S.1°50'E., 222.2 feet to a point; thence S.43°32'E., 120.0 feet to a point; thence S.25°07'E., 245.0 feet to a point; thence S.1°15'E., 174.5 feet to a point; thence S.18°45'W., 85.7 feet to a point; thence S.63°15'W., 99.3 feet to a point; thence S.24°12'W., 221.0 feet to a point; thence S.43°05'W., 104.3 feet to a 2" iron pipe monument; thence N.60°53'W., 335.7 feet to a point; thence N.19°52'W., 251.8 feet to a point; thence N.31°47'W., 118.4 feet to a point; thence N.54°54'W., 110.5 feet to a point; thence N.64°26'W., 208.5 feet to a point; thence N.75°22'W., 141.8 feet to a point; thence S.87°54'W., 335.6 feet to a point; thence N.66°58'W., 86.8 feet to a point; thence N.39°32'W., 339.1 feet to a point; thence N.16°18'W., 83.4 feet to a point; thence N.1°17'E., 235.7 feet to a point; thence N.15°13'W., 95.1 feet to a point; thence

N.45°06'W., 113.3 feet to a point; thence S.88°31'W., 115.3 feet to a point; thence S.54°34'W., 347.2 feet to a 2" iron pipe monument; thence North 1342.9 feet to the Place of Beginning.

Also Beginning at a 4" iron pipe monument marking the SW corner of said Section 10; thence North 1251.1 feet to a 2" iron pipe monument; thence N.55°42'E., 360.8 feet to a point; thence N.87°59'E., 84.0 feet to a point; thence S.45°39'E., 82.8 feet to a point; thence S.15°26'E., 84.3 feet to a point; thence S.1°09'W., 238.5 feet to a point; thence S.17°17'E., 93.6 feet to a point; thence S.40°05'E., 362.9 feet to a point; thence S.68°14'E., 100.2 feet to a point; thence N.87°58'E., 333.5 feet to a point; thence S.75°49'E., 129.7 feet to a point; thence S.64°39'E., 208.5 feet to a point; thence S.54°37'E., 98.0 feet to a point; thence S.30°52'E., 100.8 feet to a point; thence S.20°06'E., 268.9 feet to a point; thence S.61°05'E., 337.1 feet to a 2" iron pipe monument; thence S.89°48'W., 637.0 feet to a 4" iron pipe monument; thence S.89°48'W., 1343.0 feet to the Place of Beginning, EXCEPT the right-of-way of the Manvel Canal.

Tract 48B: Beginning at a 1½" iron pipe monument which bears N.89°35'E., 2579.0 feet from the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence North 214.0 feet to a 1½" iron pipe monument; thence N.88°10'E., 258.0 feet to a 1½" iron pipe monument; thence S.0°29'E., 221.0 feet to a 2" iron pipe monument; thence S.89°35'W., 259.0 feet to the Place of Beginning.

All of Tracts 48, 48A, 49 and 49A, EXCEPT the West 20 acres, more or less, of Tract No. 48 which lies West of the Farm Lateral No. 2 of the Lamar Manvel Farm Lateral Distribution System, as shown by the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the S½SW¼ of Section 3 and the NW¼ and the W½NE¼ of Section 10, all in Township 23 South, Range 44 West, being more particularly described as follows:

Tract 48: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence N.89°55'W., 302.5 feet to a 2" iron pipe monument; thence N.0°05'E., 530.0 feet to a point; thence N.29°00'W., 164.5 feet to a point; thence N.39°25'E., 187.7 feet to a point; thence N.20°40'W., 239.7 feet to a point; thence N.15°25'E., 285.0 feet to a 2" iron pipe monument; thence N.89°25'E., 271.5 feet to a 2" iron pipe monument; thence N.89°25'E., 2093.1 feet to a 2" iron pipe monument; thence S.0°05'W., 458.0 feet to a point; thence N.89°35'E., 738.3 feet to a 1½" iron pipe monument; thence S.0°29'E., 646.5 feet to a 1½" iron pipe monument; thence S.88°10'W., 258.0 feet to a 1½" iron pipe monument; thence South 214.0 feet to a 1½" iron pipe monument; thence S.89°35'W., 2579.0 feet to the Place of Beginning.

Tract 48A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2093.1 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.89°25'E., 733.9 feet to a 2" iron pipe monument; thence S.0°29'E., 459.6 feet to a 1½" pipe; thence S.89°35'W., 738.3 feet to a point; thence N.0°05'E., 458.0 feet to the Place of Beginning.

Tract 49: Beginning at a 2" iron pipe monument marking the NW corner of Section 10, Township 23 South, Range 44 West; thence N.0°03'W., 832.3 feet to a 2" iron pipe monument; thence S.74°48'E., 1872.1 feet to a 2" iron pipe monument; thence S.15°12'W., 40.0 feet to a 2" iron pipe monument; thence S.74°48'E., 1057.8 feet to a 2" iron pipe monument; thence S.0°29'E., 777.2 feet to a point; thence S.89°20'W., 683.7 feet to a point; thence S.1°33'E., 539.0 feet to a point; thence S.89°25'W., 60.9 feet to a 2" iron pipe monument; thence S.89°25'W., 2093.1 feet to a 2" iron pipe monument; thence N.0°02'W., 1320.0 feet to the Place of Beginning.

Tract 49A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2827.0 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.0°29'W., 539.5 feet to a point; thence S.89°20'W., 683.7 feet to a point; thence S.1°33'E., 539.0 feet to a point; thence N.89°25'E., 673.0 feet to the Place of Beginning.

All in the County of Prowers, State of Colorado

**Parcel No. 3:**

Lot 1 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 4 of Borderland Estates Subdivision Filing No. 3, being a part of E¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W½ Section 4 and N½ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 4:**

Lot 2 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 3 of Borderland Estates Subdivision Filing No. 3, said subdivision being a part of E¼ Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W½ Section 4 and N½ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 5:**

Lot 3 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

**Parcel No. 6:**

Lot 4 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

**Parcel No. 7:**

Lot 5 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 4 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 3 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the N½ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

**Parcel No. 8:**

Lot 6 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 3 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 1 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

**Parcel No. 9:**

Lot 7 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 2 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 2, Borderland Estates Subdivision Filing #3, said Subdivision being a part of the E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the W½ of Section 4 and the N½ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 10:**

Lot 8 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East line of Lot 2 and the West line of Lot 1 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

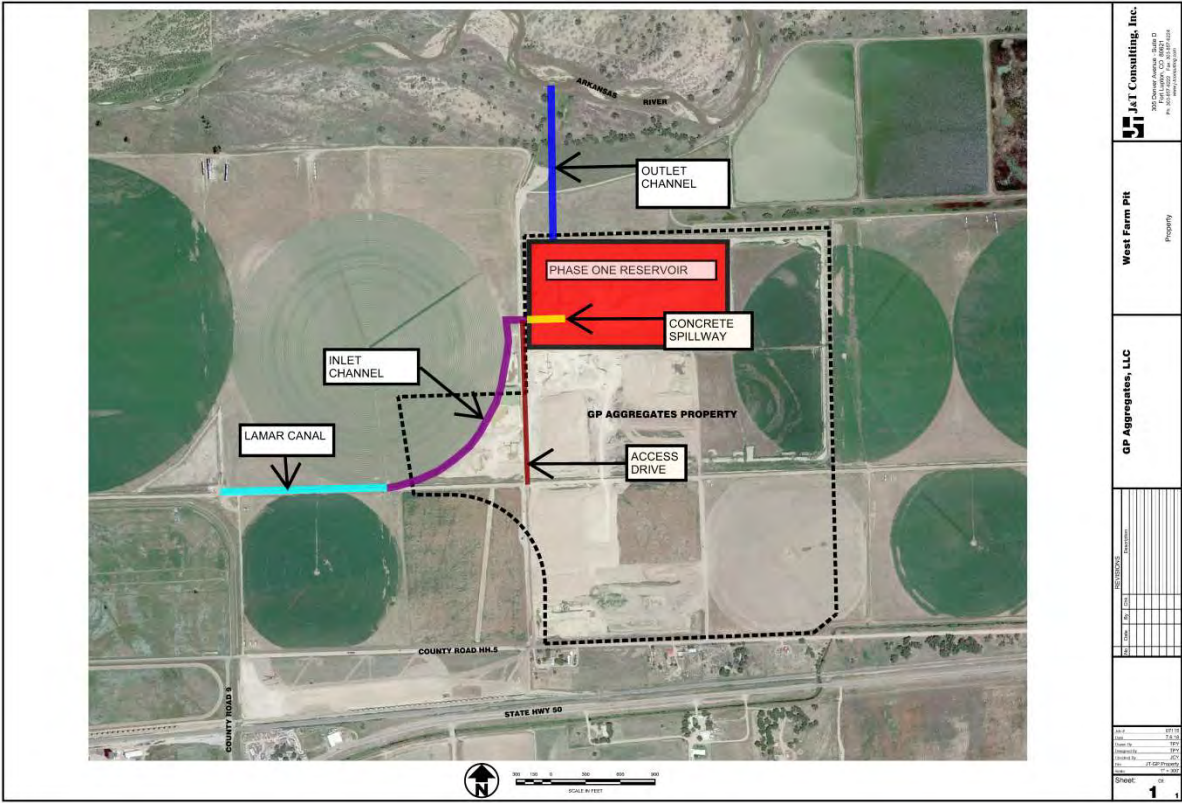
And

Lot 2 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

EXCEPTING from the above described tracts any portion lying within U.S. Highway No. 50, Colorado State Highway No. 385, and any portion lying within Quit Claim to Prowers County from Deed recorded January 12, 1927 in Book 187 at Page 289 as Reception No. 149133.



# **Exhibit B** **Location of Phase 1 Storage Cell, Phase 1 Inlet Canal, Outlet Channel, and Access Road**





## EXHIBIT C

When recorded, return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

### EASEMENT DEED AND AGREEMENT

THIS EASEMENT DEED AND AGREEMENT (this “Agreement”), dated \_\_\_\_\_, 20\_\_, is by and between **GP AGGREGATES, LLC**, a Colorado limited liability company (“GP”), and **LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**, a Colorado non-profit corporation (“LAWMA”) (each a “Party” and together the “Parties”).

### RECITALS

A. GP is the fee owner of the West Farm, on which is located an aggregate mining site known as the “West Farm Pit,” located in part of the N ½ of Section 33 and part of the SE ¼ of Section 28, T. 22 S., R. 46 W., of the 6<sup>th</sup> P.M., Prowers County, Colorado, as more particularly described on the attached Exhibit A-1.

B. GP has excavated a portion of the West Farm Pit and installed a slurry wall to create a water storage cell which is referred to as Phase 1 (“Phase 1 Storage Cell”). The Phase 1 Storage Cell has an estimated storage capacity, including in situate storage, of at least 1,700 acre feet. The location of the Phase 1 Storage Cell is depicted on the attached Exhibit B.

C. GP has constructed and installed certain infrastructure in the West Farm Pit, including an unlined inlet canal which diverts water from the Lamar Canal and over a concrete spillway into the Phase 1 Storage Cell at a maximum rate of approximately 28 c.f.s. (the “Phase 1 Inlet Canal”); and two pumps in the Phase 1 Storage Cell that discharge water at a maximum combined rate of approximately 22 c.f.s. (the “Phase 1 Pumps”). The Phase 1 Storage Cell, the Phase 1 Inlet Canal and the Phase 1 Pumps are collectively referred to herein as the “Phase 1 Storage Facilities.”

D. The Phase 1 Pumps discharge to an unlined, open ditch (the “Outlet Channel”) which delivers water into the Arkansas River. The Outlet Channel is located on the West Farm and certain property adjacent to the West Farm (the “Adjacent Property” as described on attached **Exhibit A-2**) for which GP holds an easement granted by GP Irrigated Farms, LLC, permitting the use and operation of the Outlet Channel (the “GP Irrigated Easement”). The GP Irrigated Easement is described in a Water Conveyance Easement Agreement dated January 15, 2015 (the “GP Irrigated Easement Agreement”).

E. A portion of the Phase I Inlet Canal crosses the Adjacent Property for which GP holds the GP Irrigated Easement permitting the use and operation of the Phase I Inlet Canal.

F. There exists an unimproved private road on the West Farm that runs in a north-south direction through the approximate centerline of Section 33, T. 22 S., R. 46 W., 6<sup>th</sup> P.M., and that provides access from County Road HH.5 to the Phase 1 Storage Facilities (the “Access Road”).

G. The locations of the Phase 1 Storage Cell, Phase 1 Inlet Canal, Outlet Channel, and Access Road are all generally depicted on the attached Exhibit B.

H. Under the Agreement for Lease and Subsequent Purchase and Sale of Water Storage and Carriage Capacity dated July \_\_, 2018, between GP and LAWMA (the “Water Storage Agreement”), GP has agreed to grant to LAWMA easements for use of the Phase 1 Storage Facilities, the Outlet Channel, and the Access Road for water storage and delivery under the terms of this Agreement.

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby admitted, the Parties agree as follows:

1. Grant of Easements.

(a) GP hereby grants perpetual exclusive easements unto LAWMA for the rights of use and rights to capacity more specifically described in paragraphs 2(a) and 2(b) below (collectively, the “Phase 1 Easements”).

(b) GP hereby grants a perpetual non-exclusive easement unto LAWMA for the right of access to the Phase 1 Storage Facilities and the Outlet Channel, in connection with or to facilitate LAWMA’s exercise of the Phase 1 Easements, consistent with the terms of this Agreement (“Facilities Access Easement”).

(c) GP hereby grants to LAWMA a perpetual non-exclusive easement for the right of ingress and egress to the Phase 1 Storage Facilities and Outlet Channel over or across the Access Road (the “Access Road Easement”).

(d) The Phase 1 Easements, Facilities Access Easement, and Access Road Easement are collectively referred to in this Agreement as the “Easements.”

2. Use of Phase 1 Easements and Facilities Access Easements. LAWMA has the right to use the Phase 1 Easements and the Facilities Access Easement for the carriage, storage, and release of water owned or controlled by LAWMA, as follows:

(a) LAWMA has the right to the first 500 acre-feet of usable storage within the Phase 1 Storage Cell (the “Dedicated Storage Capacity”). The Dedicated Storage Capacity makes up approximately 29.4% of the estimated capacity of the Phase 1 Storage Cell, including in situate storage.

(b) LAWMA has the right to the first 8.2 c.f.s. of carriage capacity in the Phase 1 Inlet Canal, which is approximately 29.4% of the carriage capacity of the Phase 1 Inlet

Canal; and the first 6.5 c.f.s of pumping capacity in the Phase 1 Pumps and carriage capacity in the Outlet Channel, which is approximately 29.4% of the pumping capacity of the Phase 1 Pumps.

(c) LAWMA has the right, subject to Section 5 below, to access the Phase 1 Storage Facilities and the Outlet Channel for the purpose of exercising the Phase 1 Easements, including without limitation inspecting the Phase 1 Storage Facilities and the Outlet Channel to ensure that they are being operated and maintained in accordance with industry standards and the terms and conditions of this Agreement.

3. Use of Access Easement. LAWMA has the right to use the Access Road for LAWMA's reasonable use in accessing the Phase 1 Storage Facilities and Outlet Channel. The Parties shall share the cost of maintaining the Access Road based on their relative use of it. LAWMA may pave the Access Road at its own expense.

4. Accounting. On a daily basis, GP shall record the volume of water delivered to storage in the Dedicated Storage Capacity, residing in storage in the Dedicated Storage Capacity, and pumped out of the Dedicated Storage Capacity into the Outlet Channel pursuant to this Agreement. GP shall deliver copies of such accounting records to LAWMA weekly, and LAWMA then shall account for its operations hereunder as part of LAWMA's normal monthly accounting submitted to the Office of the Division Engineer. LAWMA shall obtain any necessary authorizations, approvals, or permits required for its use of the Dedicated Storage Capacity. At the direction of the Division Engineer, GP shall modify or update the stage-area-capacity table for the Phase I Storage Cell to ensure that accounting is accurate for deliveries into and out of the Phase I Storage Cell.

5. Operation and Maintenance. GP, and not LAWMA, shall operate, maintain, and repair the Phase 1 Storage Facilities, the Access Road, and the Outlet Channel, including without limitation performing all maintenance, repairs, and preventative measures required to maintain the Phase 1 Storage Facilities, the Access Road, and the Outlet Channel in good working order; and further including all reading and operation of gauges, meters, valves, and gates.

6. Operational Costs. LAWMA shall pay for its share of GP's actual costs incurred from and after the date of this Agreement for operation and maintenance of the Phase 1 Storage Facilities and Outlet Channel as follows:

(a) GP's actual electrical costs, without mark-up, of operating the Phase 1 Pumps to deliver water out of the Dedicated Storage Capacity and into the Outlet Channel at LAWMA's direction ("Pumping Costs").

(b) LAWMA's pro rata share of GP's actual costs incurred in the operation and maintenance of the Phase 1 Storage Facilities ("O&M Costs"). For purposes of determining LAWMA's pro rata share of O&M Costs, the Parties agree that LAWMA's pro rata share is equal to 29.4%. O&M Costs are defined as the following: (i) reasonable labor costs; (ii) reasonable water accounting and administrative costs; (iii) reasonable accounting and administrative costs other than water accounting; and (iv) reasonable rental and purchase costs of parts, supplies tools and equipment. The following are expressly excluded from O&M Costs:

taxes or assessments of any kind; the cost of capital improvements; depreciation; payments of mortgage and other non-operating debts of GP; the costs of repairs or other work to the extent GP is reimbursed by insurance or condemnation proceeds; or fines, interest, or penalties incurred by GP in connection with GP's operation and maintenance of the Phase 1 Storage Facilities, the Outlet Channel, or the Access Road.

(c) GP shall invoice LAWMA monthly, in arrears, for any applicable Pumping Costs and LAWMA's pro rata share of any O&M Costs, and LAWMA shall pay such invoices within twenty-eight days of receipt.

7. Delivery into and Release from Dedicated Storage Capacity. LAWMA shall coordinate with and direct the Lamar Canal Company with respect to deliveries into the Dedicated Storage Capacity. Should such deliveries require action by GP staff (e.g., opening a lateral headgate into the Phase 1 Storage Cell), LAWMA shall coordinate with and direct GP with respect to such deliveries. LAWMA also shall coordinate with and direct GP with respect to pumping of water from the Dedicated Storage Capacity into the Outlet Channel. The timing of deliveries to and releases from the Dedicated Storage Capacity will be at LAWMA's sole discretion; provided, however, that LAWMA's carriage of foreign water in the Lamar Canal for delivery to the Dedicated Storage Capacity will be pursuant to the Permanent Partial Assignment as provided in the Water Storage Agreement. LAWMA shall give GP at least twenty-four hours' advance written notice of LAWMA's requested release of water from the Dedicated Storage Capacity ("LAWMA Release Notice") in accordance with paragraph 15 below, and GP and LAWMA shall cooperate to ensure that deliveries to and releases from the Dedicated Storage Capacity are timely made.

8. Losses. To the extent that other water users, including GP, are storing water in the Phase I Storage Cell, evaporative losses will be assessed on LAWMA's and the other water users' stored water pro rata, based on each user's volume of water stored in the Phase I Storage Cell on a monthly basis.

9. No Interference. LAWMA shall exercise the Easements so as not to interfere with mining within the West Farm Pit and ongoing farming and other activities on the West Farm. Likewise, GP shall perform its obligations under this Agreement so as not to interfere with LAWMA's exercise of the Easements.

10. No Warranties or Representations. GP makes no warranties or representations, and instead disavows any such warranties or representations, regarding the condition of the Phase 1 Storage Facilities, Outlet Channel and Access Road, or the suitability of them for LAWMA's purposes. LAWMA accepts the Easements and their associated rights to use the Phase 1 Storage Facilities, Outlet Channel, and Access Road AS IS, WHERE IS, WITH ALL FAULTS AND AT LAWMA'S OWN RISK, without any such warranties or representations, express or implied. LAWMA assumes all risks related to the entry upon and use of the Easements, except risks arising from GP's negligence or willful or wanton misconduct.

11. LAWMA Release and Indemnity.

(a) LAWMA, on behalf of itself and its contractors, agents, employees, licensees, successors, and assigns, hereby indemnifies, releases, and holds harmless GP from any and all claims, damages, losses, liens, costs, liabilities, fines, and expenses (including reasonable attorneys' fees and court costs) for damage to or destruction of property, and death of or injury to any person, related to or arising from LAWMA's entry onto and exercise of the Easements, except to the extent such claims, damages, losses, liens, costs, liabilities, fines, and expenses arise from GP's negligence or willful or wanton misconduct.

(b) LAWMA indemnifies, releases, and holds harmless GP, its agents, and its successors and assigns from any and all claims, damages, and causes of action that arise out of and are caused by LAWMA's operations on the Easements and that are asserted by any of LAWMA's agents, employees, subcontractors, and contractors, or by persons exercising the Easements at the request of LAWMA.

12. LAWMA's Insurance. LAWMA shall obtain, keep in force, and maintain, and cause each of its contractors to obtain, keep in force, and maintain, at no cost to GP, commercial general liability, combined single limit, bodily injury and property damage and liability insurance (which insurance shall be primary and non-contributing) insuring LAWMA and GP, to the extent of LAWMA's liability, against all liability arising out of the exercise of the Easements (including LAWMA's contractual indemnity obligation hereunder) in an amount of not less than \$2,000,000.00 per occurrence and \$5,000,000.00 in the aggregate. In addition, LAWMA shall maintain and cause its contractors to maintain workers' compensation insurance in conformity with applicable state law and containing a waiver of subrogation provision in favor of GP. The foregoing policies must all be written by insurance companies authorized to do business in the State of Colorado and having AM BEST ratings of at least "A" and a financial rating of at least "V" or greater in the most current Best's Insurance reports available on the date that the party obtains or renews the insurance policy (or, if such report is no longer published, comparable financial quality of insurance company). LAWMA and its contractors shall provide GP, before the expiration of any certificates of coverage, up-to-date certificates of such coverage and subsequent renewals or replacement thereof evidencing the above-described insurance. Any insurance to be provided hereunder may be effected by a policy or policies of blanket insurance covering additional items or locations or insureds.

13. GP Release and Indemnity.

(a) GP, on behalf of itself and its contractors, agents, employees, licensees, successors, and assigns, hereby indemnifies, releases, and holds harmless LAWMA from any and all claims, damages, losses, liens, costs, liabilities, fines, and expenses (including reasonable attorneys' fees and court costs) for damage to or destruction of property, and death of or injury to any person, related to or arising from GP's operation and maintenance of the Phase 1 Storage Facilities, the Outlet Channel, and the Access Road, except to the extent such claims, damages, losses, liens, costs, liabilities, fines, and expenses arise from LAWMA's negligence or willful or wanton misconduct.

(b) GP indemnifies, releases, and holds harmless LAWMA, its agents, and its successors and assigns from any and all claims, damages, and causes of action that arise out of and are caused by GP's operation and maintenance of the Phase 1 Storage Facilities, the Outlet Channel, and the Access Road and that are asserted by any of GP's agents, employees, subcontractors, and contractors, or by persons operating the Phase 1 Storage Facilities, the Outlet Channel

14. GP's Insurance. GP shall obtain, keep in force, and maintain, and cause each of its contractors to obtain, keep in force, and maintain, at no cost to LAWMA, commercial general liability, combined single limit, bodily injury and property damage and liability insurance (which insurance shall be primary and non-contributing) insuring GP and LAWMA, to the extent of GP's liability, against all liability arising out of the operation and maintenance of the Phase 1 Storage Facilities, the Outlet Channel, and the Access Road (including GP's contractual indemnity obligation hereunder) in an amount of not less than \$2,000,000.00 per occurrence and \$5,000,000.00 in the aggregate. In addition, GP shall maintain and cause its contractors to maintain workers' compensation insurance in conformity with applicable state law and contain a waiver of subrogation provision in favor of LAWMA. GP also shall maintain property insurance in the amount of the replacement value of the Phase I Storage Facilities and the Outlet Channel. The foregoing policies must all be written by insurance companies authorized to do business in the State of Colorado and having AM BEST ratings of at least "A" and a financial rating of at least "V" or greater in the most current Best's Insurance reports available on the date that the party obtains or renews the insurance policy (or, if such report is no longer published, comparable financial quality of insurance company). GP and its contractors shall provide LAWMA, before the expiration of any certificates of coverage, up-to-date certificates of such coverage and subsequent renewals or replacement thereof evidencing the above-described insurance. Any insurance to be provided hereunder may be effected by a policy or policies of blanket insurance covering additional items or locations or insureds.

15. Notices. With the exception of the LAWMA Release Notice, any notice under this Agreement must be in writing and sent by (a) certified mail, return receipt requested, (b) a recognized overnight delivery service with customer tracking capability, (c) hand delivery, or (d) email, provided the email notice is followed by one of the other delivery methods, to the following addresses:

If to GP: Karl Nyquist  
7991 Shaffer Pkwy, Suite 200  
Littleton, CO 80127  
karl@cacompanies.com

with a copy to: Wayne F. Forman  
Brownstein Hyatt Farber Schreck, LLP  
410 17th Street, Suite 2200  
Denver, CO 80202  
wforman@BHFS.com

If to LAWMA: Donald F. Higbee, Manager  
Lower Arkansas Water Management Association  
310 South 6<sup>th</sup> Street  
P.O. Box 1161  
Lamar, Colorado 81052  
lawma@cminet.net

with a copy to: Richard J. Mehren  
Moses, Wittemyer, Harrison and Woodruff, P.C.  
P.O. Box 1440  
Boulder, CO 80306-1440  
[rmehren@mwhw.com](mailto:rmehren@mwhw.com)

The LAWMA Release Notice may be delivered by email, but if so delivered must be addressed to all of the following: [Ron@ProwersAg.com](mailto:Ron@ProwersAg.com); [karl@cacompanies.com](mailto:karl@cacompanies.com); [lawma@cminet.net](mailto:lawma@cminet.net); [bill@grasmickinc.com](mailto:bill@grasmickinc.com); or such other email address(es) as GP may provide.

16. Binding Effect. The Easements and the terms of this Agreement, with the burdens they impose, are binding upon and will run with the Phase 1 Storage Facilities, the Outlet Channel, and the Access Road forever; and will forever bind, inure to the benefit of, and be enforceable by the Parties and their respective agents, successors, or assigns.

17. Merger. This Agreement embodies the entire understanding and agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior negotiations, understandings, or agreements regarding that subject matter for all matters arising from and after the date of this Agreement. All such prior negotiations, understandings, or agreements regarding the subject matter hereof are merged into this Agreement with respect to all matters arising from and after the date of this Agreement.

18. Counterparts. This Agreement may be executed by facsimile or electronic mail, in counterparts, each of which will be considered one and the same agreement enforceable against the Parties.

19. Governing Law and Venue. This Agreement will be governed by, construed, and enforced in accordance with the laws of Colorado. In the event of any litigation over this Agreement, venue will lie in Prowers County.

20. Enforcement Costs. In the event any Party or its representative, successor, or assign seeks to enforce its rights hereunder through litigation, arbitration, or administrative proceeding, the non-prevailing Party shall pay to the prevailing Party, as part of any judgment, order, or award, the prevailing Party's reasonable attorneys' fees and costs.

21. Interpretation. In construing this Agreement, any court, arbitrator, or administrative body is to give no consideration to the fact or presumption that one party has had a greater or lesser hand in drafting this Agreement than any other party.

Agreed to and accepted as of the first date written above.

**GP AGGREGATES, LLC**

By: \_\_\_\_\_  
Karl Nyquist  
Its Manager

STATE OF COLORADO       )  
  ) ss.  
COUNTY OF DENVER       )

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Karl Nyquist, as Manager of GP Aggregates, LLC.

\_\_\_\_\_  
Notary Public

My commission expires on: \_\_\_\_\_ (Seal)



**LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**

By: \_\_\_\_\_  
Robert J. Wilger  
Its Vice President

ATTEST:

By: \_\_\_\_\_  
Donald F. Higbee  
Its Secretary

STATE OF COLORADO       )  
  ) ss.  
COUNTY OF DENVER       )

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Robert J. Wilger as Vice President and Donald F. Higbee as Secretary of Lower Arkansas  
Water Management Association.

\_\_\_\_\_  
Notary Public

My commission expires on: \_\_\_\_\_ (Seal)

**Exhibit A-1 to Exhibit C**  
**Legal Description of West Farm**

A PARCEL OF LAND LOCATED IN THE NORTHEAST  $\frac{1}{4}$  AND THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 33, AND THE SOUTH  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN PROWERS COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 33 S01°19'23"E, A DISTANCE OF 2389.37 FEET;

THENCE S50°40'01"W, A DISTANCE OF 256.23 FEET;

THENCE S87°42'04"W, A DISTANCE OF 2325.91 FEET;

THENCE N00°00'00"W, A DISTANCE OF 480.27 FEET;

THENCE ALONG A CURVE WITH A RADIUS OF 806.49 FEET AND LENGTH OF 1266.83 FEET, SAID CURVE HAVING A CHORD BEARING OF N45°00'00"W AND A CHORD LENGTH OF 1140.55 FEET;

THENCE N90°00'00"W FOLLOWING, A DISTANCE OF 328.25 FEET TO A POINT ON THE EAST BOUNDARY LINE OF A PARCEL OF LAND RESERVED FOR FUTURE COLORADO STATE HIGHWAY 50 REALIGNMENT;

THENCE FOLLOWING SAID EAST PARCEL BOUNDARY LINE N09°10'38"W A DISTANCE OF 858.25 FEET;

THENCE N88°15'32"E, A DISTANCE OF 1110.50 FEET;

THENCE N01°25'02"W, A DISTANCE OF 389.76 FEET TO THE NORTH  $\frac{1}{4}$  CORNER OF SAID SECTION 33;

THENCE N00°30'38"W, A DISTANCE OF 966.48 FEET;

THENCE N88°25'35"E, A DISTANCE OF 2639.68 FEET TO A POINT ON THE EAST LINE OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 28 S00°29'53"E, A DISTANCE OF 951.60 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 232.78 ACRES MORE OR LESS.

**BASIS OF BEARING**

BASIS OF BEARING FOR THIS PERMIT BOUNDARY LEGAL DESCRIPTION BEING THE EAST LINE OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN. SAID LINE HAVING A BEARING OF S11°19'23"E,  
COUNTY OF PROWERS,  
STATE OF COLORADO.

**Exhibit A-2 to Exhibit C**  
**Legal Description of Adjacent Property**

The following property, LESS AND EXCEPT the real property describe in Exhibit A-1 above.

Parcel No. 1:

Township 22 South, Range 44 West of the Sixth Principal Meridian  
Section 31: SE¼

Section 32: SW¼; SW¼NE¼; SE¼, except a tract described in Warranty Deed recorded October 18, 1995 at Reception No. 470427

Township 23 South, Range 44 West of the Sixth Principal Meridian  
Section 5: NE¼ & NW¼ lying North of U. S. Highway 50

Section 6: NE¼ lying North of U. S. Highway 50

And INCLUDING the following: Lot 1, Borderland Estates Subdivision Filing No. 3, said Subdivision being a part of the E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the W½ of Section 4 and the N½ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

EXCEPT the following three descriptions:

1. Lots 1, 2, 3, 4, 5, 6, 7 and 8, Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.
2. Lots 1, 2 and 3, Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.
3. Lots 2, 3 and 4, Borderland Estates Subdivision Filing No. 3, being a part of E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W¼ Section 4 and N¼ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 4: Tract 10, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as Recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County Records, said tract being situated in the NW¼, and more particularly described as follows: Beginning at a 2" iron pipe monument which bears S.0°02'W., 100.00 feet from the NW corner of Section 4, Township 23 South, Range 44 West; thence S.89°55'E., 2628.4 feet to a 2" iron pipe monument; thence S.0°03'W., 2004.5 feet to a 2" iron pipe monument; thence N.71°45'W., 121.1 feet to a point; thence N.51°00'W., 507.0 feet to a point; thence N.64°53'W., 796.0 feet to a point; thence N.81°06'W., 129.8 feet to a point; thence S. 72°54'W., 129.0 feet to a point; thence S. 64°47'W., 213.0 feet to a point; thence N.83°28'W., 174.5 feet to a point; thence N.78°38'W., 795.5 feet to a 2" iron pipe monument; thence N.0°02'E., 1245.7 feet to the place of beginning.

Tract 11, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tract being situated in the NW¼, and more particularly described as follows: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 4, Township 23 South, Range 44 West; thence N.0°02'E., 1263.7 feet to a 2" iron pipe monument; thence S.78°38'E., 796.0 feet to a point; thence S.83°28'E., 185.0 feet to a point; thence N.64°47'E., 222.0 feet to a point; thence N.72°54'E., 114.0 feet to a point; thence S.81°06'E., 113.0 feet to a point; thence S.64°53'E., 785.0 feet to a point; thence S.51°00'E., 504.0 feet; thence S.71°45'E., 146.0 feet to a 2" iron pipe monument; thence S.73°26'E., 342.8 feet to a point; thence S.48°52'E., 617.8 feet to a 2" iron pipe monument; thence N.89°58'W., 794.1 feet to a point; thence N.89°57'W., 2628.0 feet to the place of beginning.

except a tract of land described as follows: Beginning at the center of said Section 4; thence N.89°57'W., 100 feet to a point; thence N.0°03'E., 535 feet, more or less, to a point on the South right of way line of the XY Canal; thence S.71°45'E., 103 feet, more or less, to a point, thence S.73°26'E., 342.8 feet to a point; thence S.48°52'E., 617.8 feet to the Southeast corner of said Tract 11; thence along the South line of said Tract 11 N.89°58'W., 794.1 feet to the point of beginning;

except a tract deeded to the County of Prowers recorded January 12, 1927 at Reception No. 149133, and except a tract deeded to the X Y Ditch Company recorded November 11, 1889 in Book 15 at page 289, and all that part of the SW¼ lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, except that tract deeded to Prowers County recorded in Book 187 at Page 303, and except a tract deeded to Prowers County recorded in Book 264 at Page 86 in the Prowers County records.

And

All that part of the SW¼ of Section 4 lying North of the North right of way line of The Atchison, Topeka and Santa Fe Railroad, except that tract deeded to the County of Prowers, recorded February 8, 1928 in Book 187 at Page 303, under Reception No. 155414.

All of Tracts 15, 16, 16A in SW¼ of Section 3, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 15, Beginning at a 2" iron pipe monument which bears S.0°03'E., 410.0 feet from the West Quarter corner of Sec 3, Twp 23S, Rge 44W; thence S.0°03'E., 1180.0 feet to a 2" iron pipe monument; thence S.74°48'E., 1454.3 feet to a point; thence N.0°20'E., 1849.4 feet to a 2" iron pipe monument; thence S.78°28'W., 1445.1 feet to the place of beginning.

Tract 16, Beginning at a 4" iron pipe monument marking the center of Sec 3, Twp 23S, Rge 44W; thence S.0°29'W., 1210.0 feet to a 1½" iron pipe monument; thence West 402.0 feet to a 1½" iron pipe monument; thence S.0°29'W., 872.0 feet to a point; thence West 148.0 feet to a point; thence S.0°29'W., 54.0 feet to a 2" iron pipe monument; thence N.74°48'W., 213.5 feet to a 2" iron pipe monument; thence S.15°12'W., 50.0 feet to a point; thence N.74°48'W., 483.8 feet to a point; thence N.0°20'E., 1849.4 feet to a 2" iron pipe monument; thence N.66°40'E., 113.0 feet to a point; thence N.45°33'E., 134.6 feet to a 2" iron pipe monument; thence N.89°20'E., 1043.8 feet to the place of beginning.

Tract 16A, Beginning at a 1½" iron pipe monument, which bears S.0°29'W., 1210.0 feet from the center of Sec 3, Twp 23S, Rge 44W; thence S.0°29'W., 1075.0 feet to a 2" iron pipe monument; thence N.74°48'W., 568.0 feet to a 2" iron pipe monument; thence N.0°29'E., 54.0 feet to a point; thence East 148.0 feet to a point; thence N.0°29'E., 872.0 feet to a 1½" iron pipe monument; thence East 402.0 feet to the place of beginning.

All of Tracts 31, 32, 33, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as Recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tract being situated in the SE¼ and S½NE¼ of Section 1 and the NE¼NE¼ of Section 12, Township 23 South, Range 44 West of the Sixth P.M., and more particularly described as follows:

Tract 31, Beginning at a 4" iron pipe monument marking the East Quarter corner of Sec 1, Twp 23S, Rge 44W; thence S.89°42'W., 2615.4 feet to a 2" iron pipe monument; thence N.0°05'E., 1318.8 feet to a 2" iron pipe monument; thence S.89°43'E., 2516.0 feet to a point; thence S.63°33'E., 110.8 feet to a 2" iron pipe monument; thence S.0°03'W., 1271.0 feet to the place of beginning.

Tract 32, Beginning at a 4" iron pipe monument marking the East quarter corner of Sec 1, Twp 23S, Rge 44W; thence S.0°03'W., 1320.0 feet to a 4" iron pipe monument; thence N.89°46'W., 2609.7 feet to a 2" iron pipe monument; thence N.0°12'W., 1322.8 feet to a 2" iron pipe monument; thence N.89°42'E., 2615.4 feet to the place of beginning.

Tract 33, Beginning at a 4" iron pipe monument marking the SE corner of Sec 1, Twp 23S, Rge 44W; thence South 198.7 feet to a 2" iron pipe monument; thence N.65°53'W., 491.7 feet to a 2" iron pipe monument; thence N.69°39'W., 176.0 feet to a point; thence N.80°44'W., 235.0 feet to a point; thence S.89°32'W., 475.0 feet to a point; thence N.89°41'W., 1201.0 feet to a 2" iron pipe monument; thence N.31°36'W., 156.5 feet to a 2" iron pipe monument; thence N.0°12'W., 1093.6 feet to a 2" iron pipe monument; thence S.89°46'E., 2609.7 feet to a 4" iron pipe monument; thence S.0°03'W., 1320.8 feet to the place of beginning.

EXCEPT a parcel in Tract 33 in the Southeast Quarter of Section 1, Township 23 South, Range 44 West of the Sixth P.M. described in Warranty Deed to Department of Transportation as recorded March 31, 2003 at Reception No. 499662.

All of Tracts 37, 38, 39, situate in S½NE¼, E½SE¼, SW¼SE¼ of Section 11, Township 23 South, Range 44 West of the Sixth P.M., as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tracts more particularly described as follows:

Tract 37, Beginning at a 4" iron pipe monument marking the East Quarter corner of Sec 11, Twp 23S, Rge 44W; thence S.89°08'W., 125.5 feet to a point; thence N.73°33'W., 100.6 feet to a 2" iron pipe monument; thence S.89°08'W., 2425.0 feet to a 2" iron pipe monument; thence N.0°25'W., 1194.7 feet to a 2" iron pipe monument; thence S.74°48'E., 2750.5 feet to a 2" iron pipe monument; thence S.0°04'E., 463.0 feet to the place of beginning.

Tract 38, Beginning at a 4" iron pipe monument marking the center of the SE¼ of Sec 11, Twp 23S, Rge 44W; thence N.0°31'W., 1292.0 feet to a 2" iron pipe monument; thence N.89°08'E., 1095.8 feet to a 2" iron pipe monument; thence S.72°34'E., 67.7 feet to a point; thence S.54°57'E., 69.0 feet to a point; thence S.48°47'E., 69.3 feet to a point; thence S.28°10'E., 102.1 feet to a 2" iron pipe monument; thence S.0°04'E., 1087.7 feet to a 4" iron pipe monument; thence S.88°52'W., 1306.3 feet to the place of beginning.

Tract 39, Beginning at a 4" iron pipe monument marking the center of the SE¼ of Sec 11, Twp 23S, Rge 44W; thence N.88°52'E., 1306.3 feet to a 4" iron pipe monument; thence S.0°04'E., 1346.0 feet to a 2" iron pipe monument; thence S.88°44'W., 2631.6 feet to a 2" iron pipe monument; thence N.0°24'W., 1352.0 feet to a 4" iron pipe monument; thence N.88°52'E., 1333.0 feet to the place of beginning.

All of Tracts 40, 40A, 41 situate in W½ of Section 11, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Page 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 40, Beginning at a 2" iron pipe monument which bears N.0°24'W. 30.0' from the South Quarter corner of Sec 11, Twp 23S, Rge 44W; thence S.88°47'W., 767.8 feet to a 1½" iron pipe monument; thence North 170.0 feet to a 1½" iron pipe monument; thence S.88°47'W., 1331.3 feet to a point; thence N.45°50'E., 204.0 feet to a 1½" iron pipe monument; thence N.44°10'W., 166.0 feet to a 1½" iron pipe monument; thence N.71°40'E., 176.5 feet to a point; thence N.28°15'E., 361.7 feet to a point; thence N.16°40'W., 639.5 feet to a point; thence N.41°35'W., 380.0 feet to a point; thence N.3°00'W., 892.5 feet to a point; thence N.88°56'E., 2194.7 feet to a 2" iron pipe monument; thence S.0°24'E., 259.00 feet to the place of beginning.

Tract 40A, Beginning at a 4" iron pipe monument marking the SW corner of Sec. 11, Twp 23S, Rge 44W; thence N.35°55'E., 467.4 feet to a point; thence N.71°40'E., 299.0 feet to a 1½" iron pipe monument; thence S.44°10'E., 166.0 feet to a 1½" iron pipe monument; thence S.45°50'W., 204.0 feet to a point; thence N.88°47'E., 1331.3 feet to a 1½" iron pipe monument; thence South 170.0 feet to a 1½" iron pipe monument; thence S.88°47'W., 1434.2 feet to a 2" iron pipe monument; thence South 30.0 feet to a 2" iron pipe monument; thence S.88°47'W., 425.0 feet to the place of beginning.

Tract 41, Beginning at a 2" iron pipe monument which bears N.0°25'W., 30.0 feet from the center of Sec. 11, Twp 23S, Rge 44W; thence S.88°56'W., 2197.3 feet to a point; thence N.3°00'W., 73.7 feet to a point; thence N.9°50'E., 841.2 feet to a point; thence N.34°15'E., 371.1 feet to a point; thence N.14°10'E., 508.2 feet to a 2" iron pipe monument; thence S.74°48'E., 1778.0 feet to a 2" iron pipe monument; thence S.0°25'E., 1194.7 feet to the place of beginning.

All in County of Prowers, State of Colorado.

Parcel No. 2:

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 1: NW¼ and 35 acres, more or less, lying South of the North Granada Lateral Drainage Ditch in the N½NE¼

All of Tracts 28 and 29, situate in the SW¼ of Section 1, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Page 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 28, Beginning at a 4" iron pipe monument marking the West Quarter corner of Sec 1, Twp 23S, Rge 44W, thence S.89°42'E., 1320.0 feet to a 4" iron pipe monument; thence S.89°42'E., 1290.6 feet to a 2" iron pipe monument; thence S.0°12'E., 1323.0 feet to a 2" iron pipe monument; thence N.89°46'W., 1292.2 feet to a 4" iron pipe monument; thence N.89°37'W., 1315.7 feet to a 4" iron pipe monument; thence N.0°18'W., 1323.2 feet to the place of beginning.

Tract 29, Beginning at a 4" iron pipe monument marking the center of the SW¼ of Sec 1, Twp 23S, Rge 44W; thence S.89°46'E., 1292.2 feet to a 2" iron pipe monument; thence S.0°12'E., 1228.1 feet to a 2" iron pipe monument; thence N.89°43'W., 2605.1 feet to a 2" iron pipe monument; thence N.0°18'W., 1230.0 feet to a 4" iron pipe monument; thence S.89°37'E., 1315.7 feet to the place of beginning.

Section 2: NE¼, LESS a tract described by a line drawn as follows: Beginning at the Center of said Section 2, running thence Easterly along the Quarter Section line between the NE¼ and SE¼ of said Section 2, 1038 feet, more or less, to the South boundary line of the right-of-way of the X-Y Canal; thence Northwesterly along the South boundary line of right-of-way of the X-Y Ditch to the Quarter Section line between the NE¼ and NW¼ of said Section 2, running thence Southerly along the Quarter Section line 476 feet, more or less, to the Place of Beginning; and EXCEPT a tract Deeded to the Granada Drainage District by Deed recorded August 25, 1926 in Book 156, Page 478 of the Prowers County Clerk and Recorder records.

Section 2: E½SE¼

AND

A tract of land in the NW¼SE¼ of said Section 2 lying East of the XY Canal and more particularly described as follows: Beginning at the Northeast corner of said NW¼SE¼ of said Section 2; thence South a distance of 1207 feet, more or less, to the East right-of-way line of the XY canal; thence in a Northwesterly direction along the East right-of-way line of said XY Canal to a point on the East-West center line of said Section 2; thence East along the said center line a distance of 222 feet, more or less, to the point of beginning;

Section 11: A tract of land in the NE¼NE¼ of said Section 11, more particularly described as follows: Beginning at the Northeast corner of said Section 11; thence South 0°4' East a distance of 1195.4 feet; thence South 71°3' West a distance of 162 feet; thence North 77°38' West a distance of 672 feet; thence North 66°41' West a distance of 113 feet; thence North 46°57' West a distance of 195 feet; thence North 40°9' West a distance of 161 feet; thence North 17°20' West a distance of 155 feet; thence North 1°45' East a distance of 641.8 feet to a point on the Section line between Sections 2 and 11; thence North 89°17' East a distance of 1183 feet along said Section line to the Place of Beginning; Being that part of Tract No. 27 lying East and North of the XY Canal, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Page 45 to 61, inclusive, records of Prowers County, Colorado.

All of Tracts 13 and 14, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts being situated in the NW¼ and the N½N½SW¼ of Section 3, Township 23 South, Range 44 West, being more particularly described as follows:

Tract 13: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 3, Township 23 South, Range 44 West; thence North 2546.0 feet to a 2" iron pipe monument; thence N.88°41'E., 1334.0 feet to a 2" iron pipe monument; thence S.0°05'W., 2674.0 feet to a 2" iron pipe monument; thence S.78°28'W., 1356.3 feet to a point; thence N.0°03'W., 369.2 feet to the Place of Beginning.

Tract 14: Beginning at a 2" iron pipe monument which bears S.0°17'W., 100.0 feet from the North Quarter corner of Section 3, Township 23 South, Range 44 West; thence S.0°17'W., 1605.0 feet to a 2" iron pipe monument; thence S.86°08'W., 115.0 feet to a point; thence S.45°33'W., 1485.0 feet to a point; thence S.66°40'W., 97.0 feet to a point; thence S.78°28'W., 72.0 feet to a 2" iron pipe monument; thence N.0°05'E., 2674.0 feet to a 2" iron pipe monument; thence N.88°41'E., 1340.0 feet to the Place of Beginning. ALSO Beginning at a 4" iron pipe monument marking the center of said Section 3; thence S.89°20'W., 1043.8 feet to a 2" iron pipe monument; thence N.45°33'E., 1339.0 feet to a point; thence N.86°08'E., 91.7 feet to a point; thence S.0°17'W., 931.5 feet to the Place of Beginning, EXCEPT the right-of-way of the XY Canal.

Tract 17 and that part of Tract 18 lying in the NE¼ of Section 3, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, more particularly described as follows: Beginning at a point S.0°35'W., 100 feet from the Northeast corner of Section 3, Township 23 South, Range 44 West of the Sixth P.M.; thence S.88°41'W., 2674.9 feet to the North and South Quarter line of said Section; thence S.0°17'W., 1605.0 feet; thence S.70°22'E., 72 feet; thence S.50°36'E., 404 feet; thence S.32°35'E., 90 feet; thence S.16°58'E., 339 feet; thence S.27°58'E., 87 feet; thence S.68°13'E., 122 feet; thence S.81°29'E., 360 feet; thence S.47°14'E., 122 feet; thence S.28°23'E., 24 feet to the East and West center line of said Section 3; thence N.89°23'E., 186 feet to a 4 inch iron pipe marking the Southeast corner of the SW¼NE¼ of said Section 3; thence East to a 2 inch iron pipe marking the East Quarter corner of said Section 3; thence N.0°35'E., 2606.8 feet to the point of beginning. Beginning at a 4 inch iron pipe marking the center of Section 3, Township 23 South, Range 44 West of the Sixth P.M.; thence N.0°17'E.,

931.5 feet to the South right-of-way line of the XY Ditch; thence S.70°22'E., 54.8 feet; thence S.50°36'E., 396.0 feet; thence S.32°35'E., 71.4 feet; thence S.16°58'E., 332.8 feet; thence S.27°58'E., 113.8 feet; thence S.68°13'E., 139.4 feet; thence S.81°29'E., 347.8 feet; thence S.47°14'E., 99.8 feet to the East and West center line of said Section 3; thence S.89°23'W., 1099 feet to the Point of Beginning center of said Section 3, containing all of the NE¼ of said Section 3, EXCEPT those portions thereof which have been heretofore conveyed of record by prior owners for the drainage ditch along the North line of said Quarter Section and for the right-of-way of the XY Canal, and subject to the rights-of-way for public roads adjoining the premises.

All of Tracts 19 and 20, according to the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts being situated in the SE¼ of Section 3 and the NE¼/NE¼ of Section 10, Township 23 South, Range 44 West of the Sixth P.M., being more particularly described as follows:

**Tract 19:** Beginning at a 4" iron pipe monument marking the center of said Section 3, Township 23 South, Range 44 West; thence N.89°23'E., 1099.0 feet to a point; thence S.28°23'E., 401.0 feet to a point; thence S.20°06'E., 107.0 feet to a point; thence S.0°20'W., 2257.2 feet to a point; thence N.74°48'W., 173.5 feet to a point; thence N.15°12'E., 50.0 feet to a point; thence N.74°48'W., 1221.5 feet to a 2" iron pipe monument; thence N.0°29'E., 2285.0 feet to the place of beginning.

**Tract 20:** Beginning at a 1½" iron pipe monument which bears S.0°21'W., 691.0 feet from the East Quarter corner of Section 3, Township 23 South, Range 44 West; thence S.0°21'W., 636.5 feet to a 4" iron pipe monument; thence S.0°21'W., 1761.7 feet to a 2" iron pipe monument; thence N.74°48'W., 1376.0 feet to a point; thence N.0°20'E., 2257.2 feet to a point; thence S.20°06'E., 352.0 feet to a point; thence S.42°00'E., 132.0 feet to a point; thence S.73°58'E., 405.0 feet to a point; thence N.86°06'E., 112.0 feet to a point; thence N.65°55'E., 393.0 feet to a point; thence N.59°40'E., 303.0 feet to the place of beginning.

All of Tracts 42, 43 and 43A, according to the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the NE¼ of Section 10 and the W¼/NW¼ of Section 11, Township 23 South, Range 44 West, being more particularly described as follows:

**Tract 42:** Beginning at a 2" iron pipe monument which bears North 30.0 feet from a point which bears N.89°35'E., 1340.3 feet from the SW corner of the SE¼ of the NE¼ of Section 10, Township 23 South, Range 44 West; thence S.89°35'W., 522.0 feet to a 2" iron pipe monument; thence N.74°55'W., 93.9 feet to a point; thence N.56°55'W., 142.8 feet to a point; thence N.44°59'W., 115.3 feet to a point; thence N.29°13'W., 118.2 feet to a point; thence N.14°05'W., 119.0 feet to a point; thence N.9°45'W., 1583.1 feet to a point; thence N.14°47'W., 111.8 feet to a point; thence N.26°58'W., 139.1 feet to a point; thence N.44°14'W., 142.5 feet to a point; thence N.59°33'W., 142.3 feet to a 2" iron pipe monument; thence S.74°48'E., 2493.0 feet to a 2" iron pipe monument; thence S.14°10'W., 508.2 feet to a point; thence S.34°15'W., 371.1 feet to a point; thence S.9°50'W., 841.2 feet to a point; thence S.3°00'E., 73.7 feet to a point; thence S.88°56'W., 451.7 feet to the place of beginning.

**Tract 43:** Beginning at a 4" iron pipe monument marking the SE corner of the SW¼ of the NE¼ of Section 10, Township 23 South, Range 44 West; thence S.89°35'W., 980.0 feet to a 2" iron pipe monument; thence S.89°35'W., 180.5 feet to a 2" iron pipe monument; thence N.0°29'W., 1235.1 feet to a point; thence East 378.5 feet to a point; thence N.0°29'W., 231.3 feet to a point; thence N.89°45'E., 658.5 feet to a 2" iron pipe monument; thence N.0°32'W., 882.5 feet to a 2" iron pipe monument; thence S.56°05'E., 105.2 feet to a point; thence S.44°11'E., 122.2 feet to a point; thence S.27°07'E., 120.9 feet to a point; thence S.14°55'E., 103.9 feet to a point; thence S.9°43'E., 1583.7 feet to a point; thence S.14°28'E., 133.6 feet to a point; thence S.29°30'E., 133.6 feet to a point; thence S.45°09'E., 130.0 feet to a point; thence S.57°07'E., 155.6 feet to a 2" iron pipe monument; thence S.89°35'W., 700.0 feet to the place of beginning.

**Tract 43A:** Beginning at a 2" iron pipe monument which bears N.89°25'E., 2827.0 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.0°29'W., 139.3 feet to a point; thence East 378.5 feet to a point; thence S.0°29'E., 231.3 feet to a point; thence West 378.5 feet to a point; thence N.0°29'W., 92.0 feet to the place of beginning.

All of Tracts 46, 47 and 48B, as shown by the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the W¼/SE¼, SW¼, SE¼/NW¼ and the SW¼/NE¼ of Section 10 and the NE¼/NW¼ and the NW¼/NE¼ of Section 15, Township 23 South, Range 44 West; being more particularly described as follows:

**Tract 46:** Beginning at a 2" iron pipe monument which bears S.89°35'W., 980.0 feet from the NE corner of the NW¼ of the SE¼ of Section 10, Township 23 South, Range 44 West; thence S.10°10'E., 946.0 feet to a point; thence S.4°55'E., 159.0 feet to a point; thence S.0°40'E., 1686.8 feet to a point; thence S.68°50'W., 483.0 feet to a point; thence S.80°52'W., 79.1 feet to a point; thence N.85°20'W., 86.7 feet to a point; thence N.65°10'W., 102.7 feet to a point; thence N.60°55'W., 584.0 feet to a point; thence N.43°05'E., 11.3 feet to a 2" iron pipe monument; thence N.43°05'E., 104.3 feet to a point; thence N.24°12'E., 221.0 feet to a point; thence N.63°15'E., 99.3 feet to a point; thence N.18°45'E., 85.7 feet to a point; thence N.1°15'W., 174.5 feet to a point; thence N.25°07'W., 245.0 feet to a point; thence N.43°32'W., 120.0 feet to a point; thence N.1°50'W., 222.2 feet to a point; thence N.9°20'E., 492.8 feet to a point; thence N.14°00'W., 92.5 feet to a point; thence N.2°45'W., 303.7 feet to a point; thence N.29°03'E., 270.4 feet to a point; thence N.2°50'E., 390.3 feet to a 2" iron pipe monument; thence N.89°35'E., 555.5 feet to a 2" iron pipe monument; thence N.89°35'E., 180.5 feet to the Place of Beginning.

**Tract 47:** Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence N.89°35'E., 2282.5 feet to a 2" iron pipe monument; thence S.2°50'W., 390.3 feet to a point; thence S.29°03'W., 270.4 feet to a point; thence S.2°45'E., 303.7 feet to a point; thence S.14°00'E., 92.5 feet to a point; thence S.9°20'W., 492.8 feet to a point; thence S.1°50'E., 222.2 feet to a point; thence S.43°32'E., 120.0 feet to a point; thence S.25°07'E., 245.0 feet to a point; thence S.1°15'E., 174.5 feet to a point; thence S.18°45'W., 85.7 feet to a point; thence S.63°15'W., 99.3 feet to a point; thence S.24°12'W., 221.0 feet to a point; thence S.43°05'W., 104.3 feet to a 2" iron pipe monument; thence N.60°53'W., 335.7 feet to a point; thence N.19°52'W., 251.8 feet to a point; thence N.31°47'W., 118.4 feet to a point; thence N.54°54'W., 110.5 feet to a point; thence N.64°26'W., 208.5 feet to a point; thence N.75°22'W., 141.8 feet to a point; thence S.87°54'W., 335.6 feet to a point; thence N.66°58'W., 86.8 feet to a point; thence N.39°32'W., 339.1 feet to a point; thence N.16°18'W., 83.4 feet to a point; thence N.1°17'E., 235.7 feet to a point; thence N.15°13'W., 95.1 feet to a point; thence

N.45°06'W., 113.3 feet to a point; thence S.88°31'W., 115.3 feet to a point; thence S.54°34'W., 347.2 feet to a 2" iron pipe monument; thence North 1342.9 feet to the Place of Beginning.

Also Beginning at a 4" iron pipe monument marking the SW corner of said Section 10; thence North 1251.1 feet to a 2" iron pipe monument; thence N.55°42'E., 360.8 feet to a point; thence N.87°59'E., 84.0 feet to a point; thence S.45°39'E., 82.8 feet to a point; thence S.15°26'E., 84.3 feet to a point; thence S.1°09'W., 238.5 feet to a point; thence S.17°17'E., 93.6 feet to a point; thence S.40°05'E., 362.9 feet to a point; thence S.68°14'E., 100.2 feet to a point; thence N.87°58'E., 333.5 feet to a point; thence S.75°49'E., 129.7 feet to a point; thence S.64°39'E., 208.5 feet to a point; thence S.54°37'E., 98.0 feet to a point; thence S.30°52'E., 100.8 feet to a point; thence S.20°06'E., 268.9 feet to a point; thence S.61°05'E., 337.1 feet to a 2" iron pipe monument; thence S.89°48'W., 637.0 feet to a 4" iron pipe monument; thence S.89°48'W., 1343.0 feet to the Place of Beginning, EXCEPT the right-of-way of the Manvel Canal.

Tract 48B: Beginning at a 1½" iron pipe monument which bears N.89°35'E., 2579.0 feet from the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence North 214.0 feet to a 1½" iron pipe monument; thence N.88°10'E., 258.0 feet to a 1½" iron pipe monument; thence S.0°29'E., 221.0 feet to a 2" iron pipe monument; thence S.89°35'W., 259.0 feet to the Place of Beginning.

All of Tracts 48, 48A, 49 and 49A, EXCEPT the West 20 acres, more or less, of Tract No. 48 which lies West of the Farm Lateral No. 2 of the Lamar Manvel Farm Lateral Distribution System, as shown by the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the S½SW¼ of Section 3 and the NW¼ and the W½NE¼ of Section 10, all in Township 23 South, Range 44 West, being more particularly described as follows:

Tract 48: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence N.89°55'W., 302.5 feet to a 2" iron pipe monument; thence N.0°05'E., 530.0 feet to a point; thence N.29°00'W., 164.5 feet to a point; thence N.39°25'E., 187.7 feet to a point; thence N.20°40'W., 239.7 feet to a point; thence N.15°25'E., 285.0 feet to a 2" iron pipe monument; thence N.89°25'E., 271.5 feet to a 2" iron pipe monument; thence N.89°25'E., 2093.1 feet to a 2" iron pipe monument; thence S.0°05'W., 458.0 feet to a point; thence N.89°35'E., 738.3 feet to a 1½" iron pipe monument; thence S.0°29'E., 646.5 feet to a 1½" iron pipe monument; thence S.88°10'W., 258.0 feet to a 1½" iron pipe monument; thence South 214.0 feet to a 1½" iron pipe monument; thence S.89°35'W., 2579.0 feet to the Place of Beginning.

Tract 48A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2093.1 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.89°25'E., 733.9 feet to a 2" iron pipe monument; thence S.0°29'E., 459.6 feet to a 1½" pipe; thence S.89°35'W., 738.3 feet to a point; thence N.0°05'E., 458.0 feet to the Place of Beginning.

Tract 49: Beginning at a 2" iron pipe monument marking the NW corner of Section 10, Township 23 South, Range 44 West; thence N.0°03'W., 832.3 feet to a 2" iron pipe monument; thence S.74°48'E., 1872.1 feet to a 2" iron pipe monument; thence S.15°12'W., 40.0 feet to a 2" iron pipe monument; thence S.74°48'E., 1057.8 feet to a 2" iron pipe monument; thence S.0°29'E., 777.2 feet to a point; thence S.89°20'W., 683.7 feet to a point; thence S.1°33'E., 539.0 feet to a point; thence S.89°25'W., 60.9 feet to a 2" iron pipe monument; thence S.89°25'W., 2093.1 feet to a 2" iron pipe monument; thence N.0°02'W., 1320.0 feet to the Place of Beginning.

Tract 49A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2827.0 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.0°29'W., 539.5 feet to a point; thence S.89°20'W., 683.7 feet to a point; thence S.1°33'E., 539.0 feet to a point; thence N.89°25'E., 673.0 feet to the Place of Beginning.

All in the County of Prowers, State of Colorado

**Parcel No. 3:**

Lot 1 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 4 of Borderland Estates Subdivision Filing No. 3, being a part of E¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W½ Section 4 and N½ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 4:**

Lot 2 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 3 of Borderland Estates Subdivision Filing No. 3, said subdivision being a part of E¼ Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W½ Section 4 and N½ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 5:**

Lot 3 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

**Parcel No. 6:**

Lot 4 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

**Parcel No. 7:**

Lot 5 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 4 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 3 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the N½ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

**Parcel No. 8:**

Lot 6 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 3 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 1 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

**Parcel No. 9:**

Lot 7 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 2 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 2, Borderland Estates Subdivision Filing #3, said Subdivision being a part of the E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the W½ of Section 4 and the N½ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 10:**

Lot 8 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East line of Lot 2 and the West line of Lot 1 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

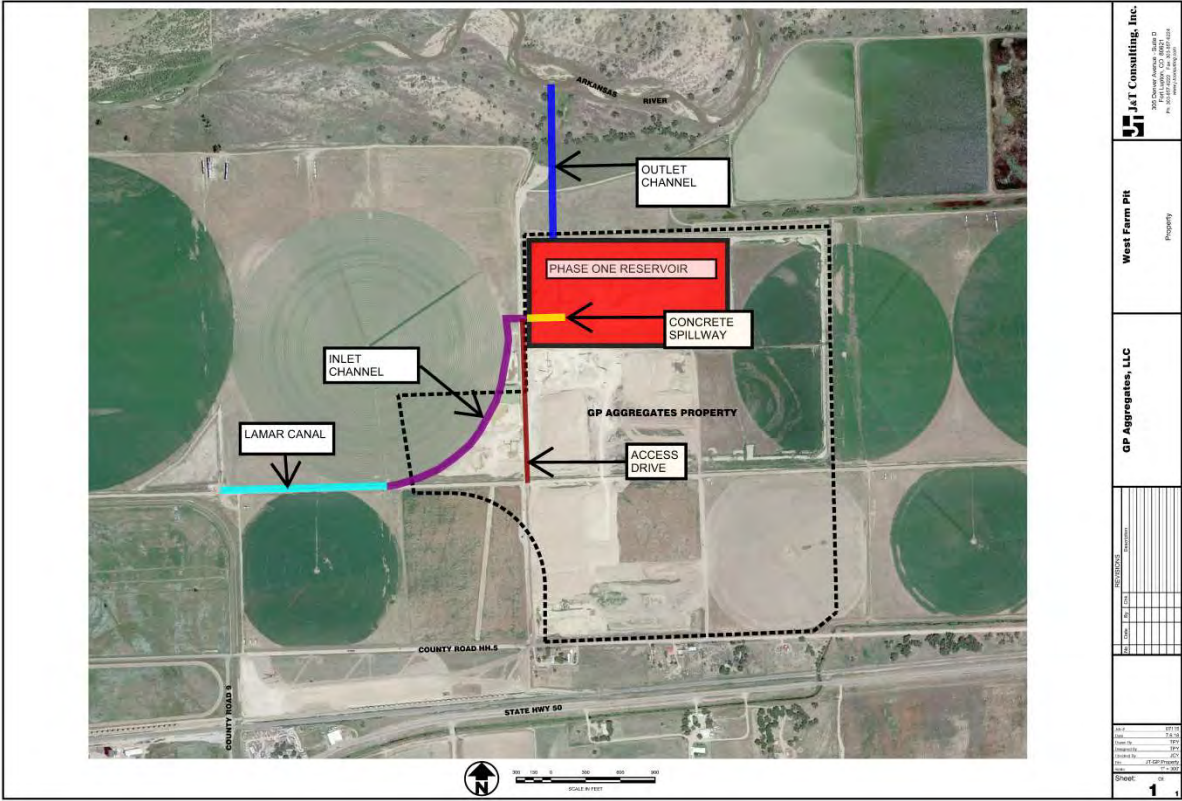
And

Lot 2 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

EXCEPTING from the above described tracts any portion lying within U.S. Highway No. 50, Colorado State Highway No. 385, and any portion lying within Quit Claim to Prowers County from Deed recorded January 12, 1927 in Book 187 at Page 289 as Reception No. 149133.



# **Exhibit B to Exhibit C** **Location of Phase 1 Storage Cell, Phase 1 Inlet Canal, Outlet Channel, and Access Road**



## EXHIBIT D

### PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT

This Partial Assignment and Assumption Agreement ("Agreement") is by and between **GP AGGREGATES, LLC** ("GP"), a Colorado limited liability company whose address is 7991 Shaffer Parkway, Suite 200, Littleton, Colorado 80127, and **LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION** ("LAWMA"), a Colorado non-profit corporation whose address is P.O. Box 1161, Lamar, Colorado 81052 (each a "Party" and together the "Parties").

### RECITALS

A. GP and LAWMA entered into an Agreement for Lease and Subsequent Purchase and Sale of Water Storage and Carriage Capacity ("Lease-Purchase Agreement") on July \_\_\_\_, 2018.

B. The Lease-Purchase Agreement pertains to LAWMA's use of 500 acre-feet of dedicated storage capacity in a gravel pit located on the West Farm ("West Farm Pit"), along with LAWMA's use of dedicated carriage capacity for delivery of water into and out of the West Farm Pit.

C. The Lease-Purchase Agreement obligates GP to assign to LAWMA certain of GP's rights under an agreement dated June 14, 2017, between GP and the Lamar Canal Company, allowing GP to carry foreign water in the Lamar Canal for delivery to the West Farm Pit ("GP Carriage Agreement"); and further obligates GP to delegate to LAWMA and obligates LAWMA to assume from GP certain of GP's obligations under the GP Carriage Agreement. A copy of the GP Carriage Agreement is attached as **Exhibit A**.

D. In fulfillment of certain of their respective obligations under the Lease-Purchase Agreement, GP and LAWMA wish to establish the terms upon which GP will assign to LAWMA GP's below-described rights under the GP Carriage Agreement; and GP will delegate to LAWMA, and LAWMA will assume from GP, GP's below-described obligations under the GP Carriage Agreement ("Partial Assignment and Assumption").

E. As required by paragraph 13 of the GP Carriage Agreement, the Lamar Canal Company has given its written consent to the Partial Assignment and Assumption.

NOW, THEREFORE, for and in consideration of the foregoing and other consideration, the receipt and sufficiency of which are hereby acknowledged, GP and LAWMA agree as follows:

1. Defined terms. Capitalized terms used but not otherwise defined in this Agreement take the meanings ascribed to them in the GP Carriage Agreement or the Lease-Purchase Agreement.
2. Rights assigned to LAWMA by GP. GP hereby transfers, assigns, and sets over to LAWMA the following rights of GP under the GP Carriage Agreement:

- 2.1 The right to use the first 8.8 cfs of GP's 50 cfs of Firm Capacity for carriage of foreign water in the Lamar Canal, as "Firm Capacity" is defined in paragraph 1.1.1 of the GP Carriage Agreement ("LAWMA's Firm Carriage Capacity"). With LAWMA's prior written consent and at GP's sole cost, GP may use LAWMA's Firm Carriage Capacity when it is not being used by LAWMA.
- 2.2 Subject to GP's prior written consent, the right to use up to an additional 21 cfs of GP's Firm Capacity when GP is not using such Firm Capacity ("LAWMA's Excess Carriage Capacity").
- 2.3 The right to carriage of 1,000 acre-feet per year of the 10,000 acre-feet of foreign water per year that GP is entitled to carry in the Lamar Canal.
- 2.4 The right to make the "Carriage Request," as described and defined in paragraph 3 of the GP Carriage Agreement, with respect to LAWMA's use of LAWMA's Firm Carriage Capacity or LAWMA's Excess Carriage Capacity.
- 3. Obligations delegated by GP and assumed by LAWMA. GP hereby delegates, transfers, and sets over to LAWMA, and LAWMA hereby assumes, the following obligations of GP under the GP Carriage Agreement:
  - 3.1 The obligation to pay to the Lamar Canal Company the "Carriage Charges," as described and defined in paragraph 2 of the GP Carriage Agreement, attributable to LAWMA's use of LAWMA's Firm Carriage Capacity or LAWMA's Excess Carriage Capacity.
  - 3.2 The obligation to make the Carriage Request with respect to LAWMA's use of LAWMA's Firm Carriage Capacity or LAWMA's Excess Carriage Capacity.
  - 3.3 The obligation to perform the accounting described in paragraph 10 of the GP Carriage Agreement with respect to LAWMA's use of LAWMA's Firm Carriage Capacity or LAWMA's Excess Carriage Capacity.
- 4. Lamar Canal Company's consent. A copy of the Lamar Canal Company's written consent to this Partial Assignment and Assumption is attached as **Exhibit B**.
- 5. Notice. Any written notice, request, or other communication required or desired to be sent by one Party to the other Party will be deemed validly given if delivered by either electronic mail or United States mail, addressed as follows:

If to GP: Karl Nyquist  
7991 Shaffer Pkwy, Suite 200  
Littleton, CO 80127  
[karl@cacompanies.com](mailto:karl@cacompanies.com)

Wayne F. Forman  
Brownstein Hyatt Farber Schreck, LLP  
410 17th Street, Suite 2200  
Denver, CO 80202  
[wforman@BHFS.com](mailto:wforman@BHFS.com)

If to LAWMA: Lower Arkansas Water Management Association  
Donald F. Higbee, Manager  
310 South 6<sup>th</sup> Street, P.O. Box 1161  
Lamar, Colorado 81052  
[lawma@cminet.net](mailto:lawma@cminet.net)

Richard J. Mehren  
Moses, Wittemyer, Harrison and Woodruff, P.C.  
2595 Canyon Blvd., Suite 300  
Boulder, CO 80302  
[rmehren@mwhw.com](mailto:rmehren@mwhw.com)

6. Execution. This Agreement may be executed in counterparts, each of which will be deemed an original and both of which, together, will be deemed to constitute one and the same document. Electronic or facsimile signatures will be binding and accepted as originals.
7. Successors and assigns. This Agreement, with all rights and obligations of GP and LAWMA hereunder, benefits and binds the Parties and will benefit and bind the Parties' successors and assigns; provided, however, that neither Party may assign its rights or delegate its obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld.
8. Entire agreement. This Agreement, together with the Lease-Purchase Agreement, contains the entire understanding and agreement between the Parties with respect to the subject matter hereof, and all prior negotiations, agreements, and understandings, oral or written, are merged into and superseded by this Agreement and the Lease-Purchase Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

**Signature page follows.**

**GP AGGREGATES, LLC**

By: \_\_\_\_\_  
Karl Nyquist  
Its Manager

Date: \_\_\_\_\_

**LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**

By: \_\_\_\_\_  
Robert J. Wilger  
Its Vice President

ATTEST:

By: \_\_\_\_\_  
Donald F. Higbee  
Its Secretary

Date: \_\_\_\_\_

**CARRIAGE AGREEMENT BETWEEN  
GP AGGREGATES, LLC, AND  
LAMAR CANAL AND IRRIGATION COMPANY**

THIS CARRIAGE AGREEMENT ("Agreement") is made and entered into this 14 day of June, 2017 ("Effective Date"), by and between GP Aggregates, LLC, a Colorado corporation ("GP"), and the Lamar Canal and Irrigation Company ("Canal Company"), a mutual ditch company organized under the laws of the State of Colorado, each a "Party" and collectively the "Parties."

**RECITALS**

WHEREAS, the Canal Company owns, manages, and controls the Lamar Canal and the right-of-way therefor, including all facilities and infrastructure necessary to operate the Canal (collectively, the "Canal"); and

WHEREAS, the Canal diverts water from the Arkansas River at its river headgate located west of Lamar, Colorado, in the SW ¼ of Section 25, Township 22 S., Range 47 W. of the 6th P.M. ("River Headgate"), and at an alternate point of diversion where the pipeline from the steam-electric generating plant of the City of Lamar, Colorado, discharges water from said plant into the Lamar Canal on the South bank of said Canal whence the Northwest corner of Section 31, T22S, R46W of the 6th P.M. bears North 10E44°26' East, 1,342.6 feet; and

WHEREAS, the Canal Company owns certain water rights originally decreed in the Adjudication of Priorities to the Use of Water for Irrigation in District Number 67, Bent County District Court, State of Colorado, dated July 1, 1985, including District 67 Priority No. 3, with an appropriation date of November 30, 1875, for 15.75 cfs; District 67 Priority No. 6-1/2, with an appropriation date of November 4, 1886, for 72.09 cfs; District 67 Priority No. 7-1/2, with an appropriation date of April 16, 1887, for 13.64 cfs; and District 67 Priority No. 13, with an appropriation date of July 16, 1890, Priority No. 13 for 184.27 cfs ("Canal Water Rights"); and

WHEREAS, pursuant to paragraph 25.G of the decree entered in Case No. 02CW181, the Canal also carries water available to the Article II Storage Account associated with the Manvel Canal water right owned by Lower Arkansas Water Management Association ("Manvel Article II Water"); and

WHEREAS, the Canal Company operates the Canal and the Canal Water Rights for the benefit of persons or entities owning or controlling shares of stock in the Canal Company, and carries the Manvel Article II Water for the benefit of Lower Arkansas Water Management Association; and

WHEREAS, GP desires to divert at the River Headgate and carry in the Canal water that is not derived from Canal Company shares ("Foreign Water"), in addition to water derived from its Canal Company shares, for delivery of said Foreign Water into a future gravel pit reservoir that will be located in the S ½ of the SE ¼ of Section 28 and in the NE ¼ and the NE ¼ of the NW ¼

of Section 33, Township 22 South, Range 46 West of the 6th P.M. in Prowers, County, Colorado ("Gravel Pit"); and

WHEREAS, GP will deliver the Foreign Water out of the Canal for storage in the Gravel Pit at the West Farm lateral ("Gravel Pit Delivery Point"); and

WHEREAS, at times, the Canal has carrying capacity in excess of the capacity needed for carriage and delivery of the Canal Water Rights and the Manvel Article II Water ("Excess Capacity"); and

WHEREAS, GP and the Canal Company desire to enter into this Agreement granting to GP a right to divert Foreign Water at the River Headgate and carry said water in and through the Canal to the Gravel Pit Delivery Point for delivery into the Gravel Pit, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants herein, the Parties agree as follows:

1. Right to Use Excess Capacity. Subject to the terms and conditions of this Agreement, GP may divert Foreign Water at the Headgate and use the Excess Capacity of the Canal to carry up to 10,000 acre-feet of Foreign Water per year, as follows:
  - 1.1 Irrigation Season. Between April 1 and October 31 ("Irrigation Season"), GP may carry Foreign Water in the Canal as follows:
    - 1.1.1 Firm Capacity. GP will be entitled to the first 50 c.f.s. of Excess Capacity available in the Canal, subject to any operational constraints imposed on GP's use of the River Headgate and/or the Canal by the Canal Company in its sole discretion, including but not limited to decisions by the Canal Company to operate the River Headgate and/or the Canal at less than the total available carrying capacity of the Canal for safety or maintenance reasons, and further subject to such operational constraints imposed upon the Canal Company by the Division of Water Resources ("Firm Capacity"). GP's Firm Capacity will take priority over any carriage rights that the Canal Company grants in the Canal after the Effective Date of this Agreement.
    - 1.1.2 If and When Capacity. To the extent GP has the need and ability to divert Foreign Water at the River Headgate and to carry such water in the Canal at rates in excess of the Firm Capacity, and to the extent Excess Capacity is available over and above the Firm Capacity, GP will be entitled to divert and carry Foreign Water in the Canal on an "if and when" basis upon the written consent and at the sole discretion of the Canal Company ("If and When Capacity"). GP's If and When Capacity will be subordinate to any Firm Capacity carriage rights that the Canal Company grants in the Canal after the Effective Date of this Agreement, but will take priority over any



If and When capacity carriage rights that the Canal Company grants in the Canal after the Effective Date of this Agreement.

- 1.2 *Non-irrigation Season.* Between November 1 and March 31 ("Non-Irrigation Season"), GP will be entitled to carry Foreign Water in the Canal on an "if and when" basis, upon the prior written consent and at the sole discretion of the Canal Company.
2. Carriage Charges: GP shall pay carriage charges to the Canal Company as follows:
  - 2.1 *Irrigation Season:*
    - 2.1.1 Water Payment. If the Foreign Water that GP is carrying in the Canal during Irrigation Season is legally available for use by the Canal Company, GP shall pay to the Canal Company a carriage fee in the form of water, in an amount equal to 5% of the Foreign Water measured at the Foreign Water Measurement Point described in paragraph 9 below ("Base Water Payment"), plus an additional 1% of such water to compensate the Canal Company for ditch losses on the Base Water Payment ("Water Payment Ditch Loss"). Ditch loss in the Canal amounts to approximately 1.27% per mile, over a Canal length of approximately 20.4 miles from the River Headgate, for total losses of 25.9%; that loss multiplied by the Base Water Payment amounts to approximately 1.3%. The Parties have agreed that an additional water payment of 1% is sufficient and appropriate to compensate the Canal Company for the Water Payment Ditch Loss; accordingly, GP's total Water Payment is 6% of the Foreign Water diverted at the River Headgate and measured at the Measurement Flume ("Total Water Payment"). The same carriage fee will apply regardless of whether the Foreign Water is carried under GP's Firm Capacity or If and When Capacity hereunder. The Total Water Payment may be adjusted annually upon the written agreement of the Parties. Either Party shall notify the other Party in writing no later than December 31 of its request to seek an adjustment beginning on April 1 of the following year.
    - 2.1.2 Money Payment. If the Foreign Water that GP is carrying in the Canal during Irrigation Season is not legally available for use by the Canal Company, GP shall pay the Canal Company a carriage fee of \$10 per acre-foot of Foreign Water measured at the Foreign Water Measurement Point ("Irrigation Season Carriage Fee"). The same Irrigation Season Carriage Fee will apply regardless of whether the Foreign Water is carried under GP's Firm Capacity or If and When Capacity. The Irrigation Season Carriage Fee may be adjusted annually upon the written agreement of the Parties. Either Party shall notify the other Party in writing no later than December 31 of its request to seek an adjustment beginning on April 1 of the following year.



- 2.2 Non-Irrigation Season: GP shall pay the Canal Company a carriage fee of **\$12.50 per acre-foot** of Foreign Water measured at the Foreign Water Measurement Point during the Non-Irrigation Season ("Non-Irrigation Season Carriage Fee"). The Non-Irrigation Season Carriage Fee is intended to compensate the Canal Company for additional operation and maintenance costs it will incur to run water in the Canal during the Non-Irrigation Season, when the Canal Company typically is not delivering water to its shareholders. The Non-Irrigation Season Carriage Fee may be adjusted annually upon the written agreement of the Parties. Either Party shall notify the other Party in writing no later than December 31 of its request to seek an adjustment beginning on April 1 of the following year.
3. Request for Carriage and Delivery of Foreign Water. At least 24 hours in advance of the time that GP desires to begin diverting water into the Canal at the River Headgate for carriage to the Gravel Pit Delivery Point, GP shall submit a written request to the Canal Company to begin diverting Foreign Water at the Headgate ("Carriage Request"). In the Carriage Request, which must be made by email or other writing to the Canal Company's Secretary, GP shall identify the following: (1) the source(s) of Foreign Water; (2) the requested rate of diversion and carriage of Foreign Water; (3) the requested duration of diversion and carriage of Foreign Water ("Carriage Run"); (4) whether the source(s) of Foreign Water is/are legally available for Canal Company use; and (5) the type of and amount of the applicable carriage charge pursuant to paragraph 2 above. The Canal Company shall, as soon as possible after receiving the Carriage Request, determine the amount of Excess Capacity available to GP consistent with the terms of this Agreement, and shall accept, accept with modifications, or deny the Carriage Request in a confirmation that must be made by email or other writing to GP's contact identified in paragraph 18 below.
4. Operation of the Canal. The Canal Company is and will remain solely responsible for all Canal management decisions, including without limitation all decisions as to when GP's Foreign Water may be carried in the Canal. The Canal Company is and will remain responsible for the day-to-day operation of the Canal and the River Headgate. GP is and will remain responsible for the day-to-day operation of the measuring device to be installed at the Foreign Water Measurement Point, and for all infrastructure needed to deliver the Foreign Water from the Canal to the Gravel Pit Delivery Point. GP shall bear any transit loss on the Foreign Water from the point of diversion at the River Headgate to the Foreign Water Measurement Point. The Canal Company and GP agree to coordinate with each other as needed regarding the short-term and long-term use of the Excess Capacity available to GP under the terms of this Agreement.
5. Ownership of Foreign Water Not Delivered to Delivery Point. Any Foreign Water in excess of the Total Water Payment remaining in the Canal at points down-ditch of the Gravel Pit Delivery Point will be deemed relinquished to the Canal Company.
6. Right to Construct Diversion Structures. GP shall have the right to install, construct, and maintain, at its sole cost and expense, any diversion structures or measuring devices ("Structures") needed to divert GP's Foreign Water from the Canal at the Gravel Pit Delivery Point. The Parties shall agree in advance upon the location and size of any new

Structures, which will be subject to the approval of the Board of Directors of the Canal Company. Installation and construction of the Structures may begin only after the Canal Company approves in writing the plans, specifications, and schedule for the construction of any part of the Structures that may or will affect the flow of water or banks of the Canal, and such approval will not be unreasonably withheld. Construction and installation of the Structures must be performed so as not to interfere with the diversion, carriage, and delivery of water through the Canal during the Irrigation Season, unless otherwise approved in writing by the Canal Company. Any Structure installed in the Canal by GP will remain the property of GP, and GP shall be solely responsible for the repair, maintenance and replacement of said Structure. GP, at its sole cost and expense, shall remove any Structure installed by GP and return the Canal to its pre-existing condition if this Agreement is terminated for any reason and if such removal is requested by the Canal Company.

7. Reimbursement of Canal Company Expenses. GP shall reimburse the Canal Company for all reasonable expenses, including without limitation expenses for work by the Canal Company's legal and/or engineering consultants, associated with (i) the Canal Company's negotiation, review, drafting, and execution of this Agreement; and (ii) the Canal Company's review of plans related to construction and installation of the Structures ("Reimbursable Expenses"). GP shall make payment to the Canal Company for the Reimbursable Expenses within thirty days of receiving the Canal Company's invoice for same. In any invoice for Reimbursable Expenses, the Canal Company shall include a brief description of each expense for which reimbursement is claimed, including without limitation the hourly rate for and time billed by each of the Canal Company's attorneys and/or engineering consultants; provided, however, that the Canal Company is not obligated to and will not include privileged and/or confidential information in such descriptions.
8. Enlargement of the Canal. If the Canal Company subsequently enters into any agreement(s) with third parties to enlarge the capacity of the Canal and/or the River Headgate, the Canal Company shall offer GP the opportunity to participate in any such enlargement project. The terms of any such enlargement project will be the subject of a separate agreement(s) between the Parties. This Agreement confers no right on GP to enlarge the Canal unilaterally.
9. Water Delivery Measurement Point. The amount of Foreign Water diverted by GP will be measured by a measuring device that GP constructs at or near the Gravel Pit Delivery Point, at a location to be agreed upon by GP and the Canal Company before the measuring device is installed ("Foreign Water Measurement Point"). Upon the Canal Company's request, GP shall provide the Canal Company GP's records of measurement at the Gravel Pit Delivery Point.
10. Accounting. Each Party is and will continue to be responsible for its own accounting to State Water Officials for diversion and use of the Foreign Water hereunder.
  - 10.1 Within seven days of the end of each Carriage Run, GP shall report to the Canal Company, in writing, the volume of Foreign Water measured at the Foreign Water

Measurement Point during that Carriage Run, and the volume of the Total Water Payment, if any, made to the Canal Company for that Carriage Run.

- 10.2 The Canal Company shall use the reports described in paragraph 10.1 above to determine the Money Payments owed to the Canal Company pursuant to paragraphs 2.1.2 and 2.2 above and paragraph 11 below.
11. Payment of Carriage Charge. In the event the carriage charge is to be paid by a Money Payment, as described in paragraphs 2.1.2 and 2.2 above, the Canal Company shall invoice GP for such carriage charge by the 10th of each month for Carriage Runs in the previous month, and GP shall deliver such Money Payment to the Canal Company within 30 days of delivery of the Canal Company's invoice ("Due Date"). In the event the carriage charge is to be paid by a Water Payment, as described in paragraph 2.1.1 above, such carriage charges will be considered paid on an instantaneous basis when GP bypasses, past the Gravel Pit Delivery Point, Foreign Water in an amount equal to 6% of the amount of Foreign Water measured at the Foreign Water Measurement Point.
12. Non-Payment of Carriage Charge. If full payment of any carriage charge required to be made as a Money Payment is not received by the Canal Company by the Due Date, the Canal Company shall have the right to suspend carriage of water under this Agreement until such time as payment has been brought current or other arrangements satisfactory to the Canal Company are made and documented in a writing signed by both Parties. If an alternative payment agreement is not reached or if full payment is not received within 90 days of the Due Date, the Canal Company may terminate this Agreement without further notice to GP.
13. Transfer of Rights. Upon the prior written approval of the Canal Company, which will not be unreasonably withheld, the rights granted to GP herein may be conveyed, leased, or assigned by GP, in whole or in part, as part of GP's sale, lease, or assignment of storage capacity in the Gravel Pit. Other than as part of a sale, lease, or assignment by GP of storage capacity in the Gravel Pit, the rights granted to GP herein may not be conveyed, leased, or assigned to a third party without the prior written approval of the Canal Company, which may be granted or withheld in the Canal Company's sole discretion.
14. Indemnification. GP shall indemnify and hold the Canal Company harmless from and against (i) any damage that may be caused by GP as a result of the activities of GP under this Agreement; and (ii) any legal claims that may be brought against the Canal Company by third parties as a result of such activities.
15. No Adverse Possession. Acts by GP under this Agreement do not and will not constitute, and are not to be construed or claimed by GP as constituting, adverse possession of the Canal or other property of the Canal Company.
16. Complete Agreement. This Agreement represents the complete agreement of the Parties with respect to the subject matter hereof. No oral modification of this Agreement will be

effective, and any amendments or additions must be made in writing signed by both Parties.

17. Successors, Assigns, and Lessees. Subject to the terms and conditions of paragraph 13 above, this Agreement benefits and is binding on the Parties and their successors, assigns, and lessees.
18. Notice. Any notices, payments, or other communications relating to this Agreement must be in writing. All such notices, payments, and communications will be deemed to have been duly given on the date of service, if delivered and served personally on the recipient or if delivered by email; on the next business day after deposit for overnight delivery by a courier service such as Federal Express; or on the third business day after mailing, if mailed to the recipient by first-class mail, postage prepaid, and properly addressed as follows:

If to GP: GP Aggregates, LLC  
c/o Karl Nyquist  
7991 Shaffer Pkwy, Suite 200  
Littleton, CO 80127  
[karl@cacompanies.com](mailto:karl@cacompanies.com)

If to the Canal Company: Lamar Canal and Irrigation Company  
P.O. Box 287  
Lamar, Colorado 81052  
[lawma@cminet.net](mailto:lawma@cminet.net)

Persons and addresses to which notices, payments, and other communications are to be sent may be changed by written notice given pursuant to this paragraph 18.

19. Term of Agreement. The term of this Agreement is perpetual, unless the Agreement is terminated by the Canal Company pursuant to paragraph 12 above.
20. Canal Company Bylaws. GP's rights and operations hereunder are subject to the By-Laws of the Lamar Canal and Irrigation Company.

IN WITNESS WHEREOF, the Canal Company has, by the authority of its Board of Directors, caused this Agreement to be executed by its President and attested by its Secretary, and GP has, by its authority or those of its agents, caused this Agreement to be executed.

EFFECTIVE AS OF the date and year first written above.

*[Signature Page Follows]*

GP AGGREGATES, LLC

By [Signature] manager  
Name, Title

Attest

[Signature]  
Name

LAMAR CANAL AND IRRIGATION  
COMPANY

By [Signature] Vice President  
Name, Title

Attest

[Signature], Sr.  
Name

15735040



Exhibit B  
to Exhibit D

**CONSENT TO TEMPORARY PARTIAL ASSIGNMENT AND ASSUMPTION  
AGREEMENT**

GP Aggregates, LLC ("GP"), which holds that certain "Carriage Agreement Between GP Aggregates, LLC, and Lamar Canal and Irrigation Company" dated June 14, 2017 ("GP Carriage Agreement"), seeks the Canal Company's prior written consent to the attached proposed "Temporary Partial Assignment and Assumption Agreement" between GP and Lower Arkansas Water Management Association ("LAWMA"). Under the Temporary Partial Assignment and Assumption Agreement, GP will assign to LAWMA, on a temporary basis, certain of GP's rights under the GP Carriage Agreement; and GP will delegate to LAWMA, and LAWMA will assume from GP, on a temporary basis, certain of GP's obligations under the GP Carriage Agreement.

As required by paragraph 13 of the GP Carriage Agreement, the Canal Company hereby gives its written consent to the proposed Temporary Partial Assignment and Assumption Agreement.

LAMAR CANAL AND IRRIGATION COMPANY

By 

Its Sec/Treas

Date 10/12/18

## EXHIBIT E

### PARTIAL ASSIGNMENT AGREEMENT

This Partial Assignment Agreement (“Agreement”) is by and between **GP AGGREGATES, LLC** (“GP”), a Colorado limited liability company whose address is 7991 Shaffer Parkway, Suite 200, Littleton, Colorado 80127, and **LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION** (“LAWMA”), a Colorado non-profit corporation whose address is P.O. Box 1161, Lamar, Colorado 81052 (each a “Party” and together the “Parties”).

### RECITALS

F. GP and LAWMA entered into an Agreement for Lease and Subsequent Purchase and Sale of Water Storage and Carriage Capacity (“Lease-Purchase Agreement”) on July \_\_\_\_, 2018.

G. The Lease-Purchase Agreement pertains to LAWMA’s use of 500 acre-feet of dedicated storage capacity in a gravel pit located on the West Farm (“West Farm Pit”), along with LAWMA’s use of dedicated carriage capacity for delivery of water into and out of the West Farm Pit.

H. The Lease-Purchase Agreement obligates GP to assign to LAWMA certain of GP’s rights under a Water Conveyance Easement Agreement dated January 15, 2015, between GP and GP Irrigated Farms, LLC (“GP Irrigated Easement Agreement”), allowing GP to carry water across GP Irrigated Farms’ property (“GP Irrigated Property”) for delivery into and discharge out of the West Farm Pit. A copy of the GP Irrigated Easement Agreement is attached as **Exhibit A**.

I. In fulfillment of certain of their respective obligations under the Lease-Purchase Agreement, GP and LAWMA wish to establish the terms upon which GP will assign to LAWMA GP’s below-described rights under the GP Irrigated Easement Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and other consideration, the receipt and sufficiency of which are hereby acknowledged, GP and LAWMA agree as follows:

9. Defined terms. Capitalized terms used but not otherwise defined in this Agreement take the meanings ascribed to them in the GP Irrigated Easement Agreement or the Lease-Purchase Agreement.
10. Rights assigned by GP. GP hereby transfers, assigns, and sets over to LAWMA the following rights of GP under the GP Irrigated Easement Agreement:
  - 2.1 The right to run the first 8.2 cfs of water in the Phase 1 Inlet Canal as a Conveyance Structure.
  - 2.2 The right to run the first 6.5 cfs of water in the Outlet Channel as a Conveyance Structure.

- 2.3 All other rights granted to GP in paragraph 2 of the GP Irrigated Easement Agreement that pertain to the rights described in paragraphs 2.1 and 2.2 above, including without limitation the right to access and cross the GP Irrigated Property for the purpose of operating, using, and enjoying the Conveyance Structures as they presently exist and as they may be constructed in the future.
11. Notice. Any written notice, request, or other communication required or desired to be sent by one Party to the other Party will be deemed validly given if delivered by either electronic mail or United States mail, addressed as follows:
- If to GP:
- Karl Nyquist  
7991 Shaffer Pkwy, Suite 200  
Littleton, CO 80127  
[karl@cacompanies.com](mailto:karl@cacompanies.com)
- Wayne F. Forman  
Brownstein Hyatt Farber Schreck, LLP  
410 17th Street, Suite 2200  
Denver, CO 80202  
[wforman@BHFS.com](mailto:wforman@BHFS.com)
- If to LAWMA:
- Lower Arkansas Water Management Association  
Donald F. Higbee, Manager  
310 South 6<sup>th</sup> Street, P.O. Box 1161  
Lamar, Colorado 81052  
[lawma@cminet.net](mailto:lawma@cminet.net)
- Richard J. Mehren  
Moses, Wittemyer, Harrison and Woodruff, P.C.  
2595 Canyon Blvd., Suite 300  
Boulder, CO 80302  
[rmehren@mwhw.com](mailto:rmehren@mwhw.com)
12. Execution. This Agreement may be executed in counterparts, each of which will be deemed an original and both of which, together, will be deemed to constitute one and the same document. Electronic or facsimile signatures will be binding and accepted as originals.
13. Successors and assigns. This Agreement, with all rights and obligations of GP and LAWMA hereunder, benefits and binds the Parties and will benefit and bind the Parties' successors and assigns; provided, however, that neither Party may assign its rights or delegate its obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld.



14. Entire agreement. This Agreement, together with the Lease-Purchase Agreement, contains the entire understanding and agreement between the Parties with respect to the subject matter hereof, and all prior negotiations, agreements, and understandings, oral or written, are merged into and superseded by this Agreement and the Lease-Purchase Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

**GP AGGREGATES, LLC**

By: \_\_\_\_\_  
Karl Nyquist  
Its Manager

Date: \_\_\_\_\_

**LOWER ARKANSAS WATER MANAGEMENT ASSOCIATION**

By: \_\_\_\_\_  
Robert J. Wilger  
Its Vice President

ATTEST:

By: \_\_\_\_\_  
Donald F. Higbee  
Its Secretary

Date: \_\_\_\_\_

WHEN RECORDED RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## WATER CONVEYANCE EASEMENT AGREEMENT

This **WATER CONVEYANCE EASEMENT AGREEMENT** (this "Agreement") is made and entered into on this 15<sup>th</sup> day of JANUARY, 2015, by and between GP IRRIGATED FARMS, LLC ("GP"), a Colorado limited liability company whose address is 7991 Shaffer Parkway, Suite 200, Littleton, Colorado 80127 ("Grantor"), and GP AGGREGATES, LLC ("GP"), a Colorado limited liability company whose address is 7991 Shaffer Parkway, Suite 200, Littleton, Colorado 80127 ("Grantee") (together with Grantor, referred to as the "Parties" and individually a "Party").

### RECITALS

A. Grantor is the owner of that certain real property located in the County of Prowers, State of Colorado, more fully described on Exhibit "A" hereto (the "Property").

B. Grantee is the owner of that certain real property located in the County of Prowers, State of Colorado, more fully described on Exhibit "B" hereto (the "Grantee Property") on which Grantee has constructed a water storage reservoir.

C. Grantee is the owner of that certain outlet and inlet structures currently consisting of open ditches for the conveyance of water from the Lamar Canal to Grantee's Property and from Grantee's Property to the Arkansas River a portion of which structures are located within the Property (such structures as the same may be repaired or replaced from time to time the "Conveyance Structures").

D. Grantee desires easements over the Property for the Conveyance Structures and for the purpose of accessing the Property for the maintenance and management of the Conveyance Structures.

E. Grantor is willing to grant Grantee said easements on the terms and conditions set forth herein over the Property to accomplish the foregoing.

### AGREEMENT

**NOW THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by Grantor to Grantee, the receipt and adequacy of which is hereby acknowledged by Grantee, and as additional consideration, the obligations and agreements of Grantor to be performed hereunder, Grantor and Grantee agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated in and made a part of the Agreement of the Parties.

2. Grant of Easement. Grantor has granted and conveyed and by these presents does grant and convey unto the Grantee, its successors and assigns, a permanent, non-exclusive easement for the Conveyance Structures, for maintenance, repair, operation, improvement, replacement, reconstruction and enlargement of the Conveyance Structures, for access (including, without limitation, vehicular and pedestrian) in and across the Property for the running of water in the Conveyance Structures, and to allow Grantee to do whatever is reasonably necessary for Grantee to fully utilize and enjoy the same (the "Easement"). The Easement described herein includes Grantee's use of the Conveyance Structures, roadway, diversion structures and structural support systems, whether presently existing or constructed in the future.

3. Retained Uses. The Property shall remain in the ownership of the Grantor, its heirs, successors or assigns, and may be used for any and all purposes not inconsistent with the purposes set forth in this Agreement and which will not interfere with or endanger the Grantee's use of the Conveyance Structures, or interfere with the use of any of the rights herein granted. Such reservation by the Grantor shall include the right to dedicate and use the land for cultivation, grazing and other agricultural purposes.

4. No Permanent Structures. Except as otherwise provided herein, the Grantor, its successors and assigns, shall not erect or place any permanent building, structure or obstructive improvement within (5) feet from Conveyance Structures. The restrictions set forth in this Section 3 are not intended to prevent Grantor from utilizing its correlative rights in the Property or to prevent the installation of improvements which do not interfere with Grantee's use of the Easement.

5. Warranty of Title and Insurance. The Grantor does covenant and agree to and with the Grantee that the Grantor is the owner of Grantor's Property, the Grantor has a good and lawful right to convey the Easements to the Grantee and that the Grantor warrants the title thereto, subject to existing easements and rights of way in place or of record.

6. Liability. Grantor shall not be liable for any claim of damages or injury to persons or property which may arise as a result of Grantor's use of the Easement except for negligent acts of Grantor.

7. Notice. Any notice required or desired to be given by any Party shall be in writing and may be personally delivered; sent by certified mail, return receipt requested; or sent by a nationally recognized receipted overnight delivery service, including the United States Postal Service, United Parcel Service, Federal Express, or Airborne Express, for earliest delivery the next day. Any such notice shall be deemed to have been given and received as follows: when personally delivered to the Party to whom it is addressed; when mailed, three delivery (3) days after deposit with the United States Postal Service, postage prepaid; and when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses for the mailing or delivering of notices shall be those set forth in the introductory paragraph of this Agreement or such other address as provided pursuant to this Section.

8. Binding Nature/Covenant Running with Land. This Agreement shall be binding upon, inure to the benefit of and be enforceable by, the Parties hereto, their successors or assigns. The Easement and the terms of this Agreement shall burden and run shall run with the Grantor's Property and shall be recorded at the clerk of the recorder's office in the County of Prowers, Colorado.

9. Assignment. This Agreement may not be assigned, in whole or part, by any party hereto without the express written consent of the other party hereto, which consent may be granted or withheld in the sole discretion of any such party; provided, however that Grantee shall have the right to assign all or any portion of the rights herein granted, provided the assignment does not contain any provisions that would change the substantive terms of this Agreement in a manner that increases the burden on Grantor..

10. No Third Party Beneficiaries. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party to this Agreement or a permitted assignee of a Party hereto.

11. Sections and Headings. Sections and headings herein contained are for organization purpose only and shall not affect the interpretation of this Agreement.

12. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

**[The remainder of this page is intentionally blank.]**

IN WITNESSETH WHEREOF, the parties hereto have executed this Agreement on the day and year of the last signature below set forth.

GP IRRIGATED FARMS, LLC

  
\_\_\_\_\_  
Jay Houtsma  
Managing Member

~~STATE OF COLORADO~~ KANSAS )  
COUNTY OF HAMILTON ) ss

~~STATE OF COLORADO~~ KANSAS )  
COUNTY OF HAMILTON ) ss



Ross A. Gaubelle  
Notary Public  
State of Kansas  
My Appt. Expires 5.26.2021

The above and foregoing instrument was subscribed and sworn before me this 6<sup>th</sup> day of JULY, 2018, by Jay Houtsma as Managing Member of GP Irrigated Farm, LLC a Colorado limited liability company.

My Commission expires:

5.26.2021

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public

**Exhibit A**  
**PROPERTY**

[see attached]

**Parcel No. 1:**

**Township 22 South, Range 46 West of the Sixth Principal Meridian, County of Prowers, State of Colorado**

A parcel of land being a part of Sections 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, being more particularly described as follows:

(All bearings used herein are based on the assumption that the North line of the SW¼ of the SE¼ of Section 35 of said Township and Range, monumented on both ends with a 4" concrete filled pipe, bears, S.89°54'46"W.)

Beginning at a point which bears N.0°14'04"W., 30.00 feet from the W¼ corner of said Section 33;

1. Thence N.0°14'04"W., along the West line of the NW¼ of said Section 33, a distance of 1267.65 feet to the Southeast corner of the NE¼ of the NE¼ of said Section 32;
  2. Thence S.89°51'59"W., along the South line of the N¼ of the NE¼ and the South line of the N¼ of the NW¼ of said Section 32, a distance of 2766.79 feet;
  3. Thence N.0°50'58"W., a distance of 177.83 feet to the Southeast corner of that parcel of land described in that document recorded in Book 536 at Page 196 in the records of the Prowers County Clerk and Recorder;
- (The next five courses are along the East boundary of said recorded description)
4. Thence continuing N.0°50'58"W., a distance of 344.21 feet
  5. Thence N.17°25'40"E., a distance of 48.67 feet;
  6. Thence N.1°48'06"W., a distance of 1651.65 feet;
  7. Thence N.22°48'20"E., a distance of 469.48 feet;
  8. Thence N.89°47'09"W., a distance of 18.09 feet to a point on the North-South centerline of said Section 29;
  9. Thence N.0°45'26"E., along said North-South centerline, a distance of 850.78 feet to a point in the South line of Indian Claim No. 27;
- (The next three courses are along the South line of Indian Claim No. 27)
10. Thence S.70°25'04"E., a distance of 186.89 feet;
  11. Thence N.84°56'56"E., a distance of 2931.72 feet;
  12. Thence N.47°25'56"E., a distance of 397.84 feet to a point on the East-West centerline of said Section 28;
  13. Thence N.89°38'12"E., along said East-West centerline, a distance of 3239.09 feet to the Northeast corner of the W¼ of the SE¼ of said Section 28;
  14. Thence S.0°43'07"W., along the East line of said W¼ of the SE¼, a distance of 1650.00 feet;
  15. Thence N.89°38'58"E., along the South line of the North 1650.00 feet of the E¼ of the SE¼ of said Section 28, a distance of 1319.84 feet to a point on the West line of said Section 27;
  16. Thence N.89°43'55"E., along the South line of the North 1650.00 feet of the SW¼ of said Section 27, a distance of 2670.79 feet to a point on the North-South centerline of said Section 27;
  17. Thence N.0°34'32"E., along said North-South centerline, a distance of 2082.64 feet to the South line of the North 220 feet of the S¼SW¼NE¼ of said Section 27;
  18. Thence N.89°46'23"E., along the North line of said 220 foot tract, a distance of 2665.49 feet to the East line of the NE¼ of said Section 27;
  19. Thence S.0°25'42"W., along said East line, a distance of 430.59 feet to the W¼ corner of said Section 26;
  20. Thence N.89°50'46"E., along the East-West centerline of said Section 26, a distance of 3955.46 feet to the Southwest corner of the SE¼ of the NE¼ of said Section 26;
  21. Thence N.1°10'02"E., along the West line of said SE¼ of the NE¼, a distance of 1295.41 feet to the Northwest corner of said SE¼ of the NE¼;
  22. Thence N.89°57'19"E., along the North line of said SE¼ of the NE¼, a distance of 1323.96 feet to a point on the West line of said Section 25;
  23. Thence S.1°24'57"W., along said West line, a distance of 415.78 feet to the Northwest corner of Lot 3 of said Section 25;
- (The next three courses are along the boundary of said Lot 3)
24. Thence S.61°42'35"E., a distance of 1246.98 feet;
  25. Thence S.52°32'35"E., a distance of 480.76 feet;
  26. Thence N.89°45'23"W., a distance of 173.96 feet to the Northwest corner of the NE¼ of the SW¼ of said Section 25;
  27. Thence S.1°09'53"W., along the West line of said NE¼ of the SW¼, a distance of 1309.75 feet to the Southwest corner of said NE¼ of the SW¼;
  28. Thence S.89°55'22"E., along the South line of said NE¼ of the SW¼, a distance of 1333.23 feet to the North-South centerline of said Section 25;
  29. Thence S.0°54'45"W., along said North-South centerline, a distance of 1305.79 feet to the S¼ corner of said Section 25;
  30. Thence S.89°50'52"E., along the South line of said Section 25, a distance of 1102.20 feet to a point on the South line of Indian Claim No. 29;
  31. Thence S.55°59'13"E., along said South line, a distance of 726.12 feet;
  32. Thence S.51°36'13"E., along said South line, a distance of 1206.11 feet to a point on the East line of said Section 36;
  33. Thence S.0°40'43"W., along the East line of said Section 36, a distance of 1327.01 feet to the Northerly right-of-way line of the B.N.S.F. Railway;
  34. Thence N.89°26'24"W., along said railway Right-of-Way, a distance of 7520.03 feet;
  35. Thence along said right-of-way on a curve to the left whose radius is 11559.16 feet, an arc distance of 803.62 feet;
  36. Thence S.86°34'15"W., along said Right-of-Way, a distance of 2256.50 feet to the East line of Section 34;

37. Thence N.0°47'16"E., along the East line of said Section 34, a distance of 30.39 feet to the Northerly right-of-way of County Road;

38. Thence S.86°33'36"W., along said County Road, a distance of 1444.80 feet;

39. Thence S.89°45'31"W., along said County Road, a distance of 3865.11 feet;

40. Thence S.89°37'33"W., along said County Road, a distance of 5278.29 feet to the point of beginning.

AND

41. Beginning at a point which bears S.45°50'57"E., a distance of 42.78 feet from the W1/4 corner of said Section 33;

42. Thence N.89°37'33"E., a distance of 2612.55 feet;

43. Thence S.0°11'39"E., a distance of 326.97 feet;

44. Thence S.86°33'36"W., a distance of 2616.30 feet;

45. Thence N.0°14'04"W., a distance of 466.65 feet to the point of beginning.

Excepting therefrom all that part of that parcel described in that document recorded at Reception No. 141931 in the records of the Prowers County Clerk and Recorder that is not vacated by that document recorded at Reception No. 471604 in the records of the Prowers County Clerk and Recorder

And further excepting therefrom that parcel described in that document recorded at Reception No. 471610 in the records of the Prowers County Clerk and Recorder,

All according to that certain Land Survey Plat prepared by Petersen Surveying, Inc. and recorded June 4, 2004 at Reception No. 504489 in the Prowers County Clerk and Recorder records, County of Prowers, State of Colorado.

**INCLUDING** the following: Lots 1, 2, 3, 4, 5, 6, 7, and 8 of Tract 2, and Lots 9, 10 and 11 of Tract 1 of GP Ranches Subdivision, all as further described in the plat recorded December 3, 2004 at Reception No. 306127 of the Prowers County Clerk and Recorder records, County of Prowers, State of Colorado.



EXHIBIT A (6 PAGES)

Parcel No. 1:

Township 22 South, Range 44 West of the Sixth Principal Meridian

Section 31: SE¼

Section 32: SW¼; SW¼NE¼; SE¼, except a tract described in Warranty Deed recorded October 18, 1995 at Reception No. 470427

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 5: NE¼ & NW¼ lying North of U. S. Highway 50

Section 6: NE¼ lying North of U. S. Highway 50

And INCLUDING the following: Lot 1, Borderland Estates Subdivision Filing No. 3, said Subdivision being a part of the E¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the W¼ of Section 4 and the N¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

EXCEPT the following three descriptions:

1. Lots 1, 2, 3, 4, 5, 6, 7 and 8, Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W¼SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W¼NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.
2. Lots 1, 2 and 3, Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.
3. Lots 2, 3 and 4, Borderland Estates Subdivision Filing No. 3, being a part of E¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W¼ Section 4 and N¼ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 4: Tract 10, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as Recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County Records, said tract being situated in the NW¼, and more particularly described as follows: Beginning at a 2" iron pipe monument which bears S.0°02'W., 100.00 feet from the NW corner of Section 4, Township 23 South, Range 44 West; thence S.89°55'E., 2628.4 feet to a 2" iron pipe monument; thence S.0°03'W., 2004.5 feet to a 2" iron pipe monument; thence N.71°45'W., 121.1 feet to a point; thence N.51°00'W., 507.0 feet to a point; thence N.64°53'W., 796.0 feet to a point; thence N.81°06'W., 129.8 feet to a point; thence S. 72°54'W., 129.0 feet to a point; thence S. 64°47'W., 213.0 feet to a point; thence N.83°28'W., 174.5 feet to a point; thence N.78°38'W., 795.5 feet to a 2" iron pipe monument; thence N.0°02'E., 1245.7 feet to the place of beginning.

Tract 11, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tract being situated in the NW¼, and more particularly described as follows: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 4, Township 23 South, Range 44 West; thence N.0°02'E., 1263.7 feet to a 2" iron pipe monument; thence S.78°38'E., 796.0 feet to a point; thence S.83°28'E., 185.0 feet to a point; thence N.64°47'E., 222.0 feet to a point; thence N.72°54'E., 114.0 feet to a point; thence S.81°06'E., 113.0 feet to a point; thence S.64°53'E., 785.0 feet to a point; thence S.51°00'E., 504.0 feet; thence S.71°45'E., 146.0 feet to a 2" iron pipe monument; thence S.73°26'E., 342.8 feet to a point; thence S.48°52'E., 617.8 feet to a 2" iron pipe monument; thence N.89°58'W., 794.1 feet to a point; thence N.89°57'W., 2628.0 feet to the place of beginning.

except a tract of land described as follows: Beginning at the center of said Section 4; thence N.89°57'W., 100 feet to a point; thence N.0°03'E., 535 feet, more or less, to a point on the South right of way line of the XY Canal; thence S.71°45'E., 103 feet, more or less, to a point, thence S.73°26'E., 342.8 feet to a point; thence S.48°52'E., 617.8 feet to the Southeast corner of said Tract 11; thence along the South line of said Tract 11 N.89°58'W., 794.1 feet to the point of beginning;

except a tract deduced to the County of Prowers recorded January 12, 1927 at Reception No. 149133, and except a tract deduced to the X Y Ditch Company recorded November 11, 1889 in Book 15 at page 289, and all that part of the SW¼ lying North of the North right of way line of the Atchison, Topeka and Santa Fe Railroad, except that tract deduced to Prowers County recorded in Book 187 at Page 303, and except a tract deduced to Prowers County recorded in Book 264 at Page 86 in the Prowers County records.

And

All that part of the SW¼ of Section 4 lying North of the North right of way line of The Atchison, Topeka and Santa Fe Railroad, except that tract deduced to the County of Prowers, recorded February 8, 1928 in Book 187 at Page 303, under Reception No. 155414.

All of Tracts 15, 16, 16A in SW¼ of Section 3, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 15, Beginning at a 2" iron pipe monument which bears S.0°03'E., 410.0 feet from the West Quarter corner of Sec 3, Twp 23S, Rge 44W; thence S.0°03'E., 1180.0 feet to a 2" iron pipe monument; thence S.74°48'E., 1454.3 feet to a point; thence N.0°20'E., 1849.4 feet to a 2" iron pipe monument; thence S.78°28'W., 1445.1 feet to the place of beginning.

Tract 16, Beginning at a 4" iron pipe monument marking the center of Sec 3, Twp 23S, Rge 44W; thence S.0°29'W., 1210.0 feet to a 1½" iron pipe monument; thence West 402.0 feet to a 1½" iron pipe monument; thence S.0°29'W., 872.0 feet to a point; thence West 148.0 feet to a point; thence S.0°29'W., 54.0 feet to a 2" iron pipe monument; thence N.74°48'W., 213.5 feet to a 2" iron pipe monument; thence S.15°12'W., 50.0 feet to a point; thence N.74°48'W., 483.8 feet to a point; thence N.0°20'E., 1849.4 feet to a 2" iron pipe monument; thence N.66°40'E., 113.0 feet to a point; thence N.45°33'E., 134.6 feet to a 2" iron pipe monument; thence N.89°20'E., 1043.8 feet to the place of beginning.

Tract 16A, Beginning at a 1½" iron pipe monument, which bears S.0°29'W., 1210.0 feet from the center of Sec 3, Twp 23S, Rge 44W; thence S.0°29'W., 1075.0 feet to a 2" iron pipe monument; thence N.74°48'W., 568.0 feet to a 2" iron pipe monument; thence N.0°29'E., 54.0 feet to a point; thence East 148.0 feet to a point; thence N.0°29'E., 872.0 feet to a 1½" iron pipe monument; thence East 402.0 feet to the place of beginning.

All of Tracts 31, 32, 33, as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as Recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tract being situated in the SE¼ and S½NE¼ of Section 1 and the NE¼NE¼ of Section 12, Township 23 South, Range 44 West of the Sixth P.M., and more particularly described as follows:

Tract 31, Beginning at a 4" iron pipe monument marking the East Quarter corner of Sec 1, Twp 23S, Rge 44W; thence S.89°42'W., 2615.4 feet to a 2" iron pipe monument; thence N.0°05'E., 1318.8 feet to a 2" iron pipe monument; thence S.89°43'E., 2516.0 feet to a point; thence S.63°33'E., 110.8 feet to a 2" iron pipe monument; thence S.0°03'W., 1271.0 feet to the place of beginning.

Tract 32, Beginning at a 4" iron pipe monument marking the East quarter corner of Sec 1, Twp 23S, Rge 44W; thence S.0°03'W., 1320.0 feet to a 4" iron pipe monument; thence N.89°46'W., 2609.7 feet to a 2" iron pipe monument; thence N.0°12'W., 1322.8 feet to a 2" iron pipe monument; thence N.89°42'E., 2615.4 feet to the place of beginning.

Tract 33, Beginning at a 4" iron pipe monument marking the SE corner of Sec 1, Twp 23S, Rge 44W; thence South 198.7 feet to a 2" iron pipe monument; thence N.65°53'W., 491.7 feet to a 2" iron pipe monument; thence N.69°39'W., 176.0 feet to a point; thence N.80°44'W., 235.0 feet to a point; thence S.89°32'W., 475.0 feet to a point; thence N.89°41'W., 1201.0 feet to a 2" iron pipe monument; thence N.31°36'W., 156.3 feet to a 2" iron pipe monument; thence N.0°12'W., 1093.6 feet to a 2" iron pipe monument; thence S.89°46'E., 2609.7 feet to a 4" iron pipe monument; thence S.0°03'W., 1320.8 feet to the place of beginning.

EXCEPT a parcel in Tract 33 in the Southeast Quarter of Section 1, Township 23 South, Range 44 West of the Sixth P.M. described in Warranty Deed to Department of Transportation as recorded March 31, 2003 at Reception No. 499662.

All of Tracts 37, 38, 39, situate in S½NE¼, E½SE¼, SW¼SE¼ of Section 11, Township 23 South, Range 44 West of the Sixth P.M., as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Pages 45-61, Prowers County records, said tracts more particularly described as follows:

Tract 37, Beginning at a 4" iron pipe monument marking the East Quarter corner of Sec 11, Twp 23S, Rge 44W; thence S.89°08'W., 125.5 feet to a point; thence N.73°33'W., 100.6 feet to a 2" iron pipe monument; thence S.89°08'W., 2425.0 feet to a 2" iron pipe monument; thence N.0°25'W., 1194.7 feet to a 2" iron pipe monument; thence S.74°48'E., 2750.5 feet to a 2" iron pipe monument; thence S.0°04'E., 463.0 feet to the place of beginning.

Tract 38, Beginning at a 4" iron pipe monument marking the center of the SE¼ of Sec 11, Twp 23S, Rge 44W; thence N.0°31'W., 1292.0 feet to a 2" iron pipe monument; thence N.89°08'E., 1095.8 feet to a 2" iron pipe monument; thence S.72°34'E., 67.7 feet to a point; thence S.54°57'E., 69.0 feet to a point; thence S.48°47'E., 69.3 feet to a point; thence S.28°10'E., 102.1 feet to a 2" iron pipe monument; thence S.0°04'E., 1087.7 feet to a 4" iron pipe monument; thence S.88°52'W., 1306.3 feet to the place of beginning.

Tract 39, Beginning at a 4" iron pipe monument marking the center of the SE¼ of Sec 11, Twp 23S, Rge 44W; thence N.88°52'E., 1306.3 feet to a 4" iron pipe monument; thence S.0°04'E., 1346.0 feet to a 2" iron pipe monument; thence S.88°44'W., 2631.6 feet to a 2" iron pipe monument; thence N.0°24'W., 1352.0 feet to a 4" iron pipe monument; thence N.88°52'E., 1333.0 feet to the place of beginning.

All of Tracts 40, 40A, 41 situate in W¼ of Section 11, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Page 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 40, Beginning at a 2" iron pipe monument which bears N.0°24'W. 30.0' from the South Quarter corner of Sec 11, Twp 23S, Rge 44W; thence S.88°47'W., 767.8 feet to a 1½" iron pipe monument; thence North 170.0 feet to a 1½" iron pipe monument; thence S.88°47'W., 1331.3 feet to a point; thence N.45°50'E., 204.0 feet to a 1½" iron pipe monument; thence N.44°10'W., 166.0 feet to a 1½" iron pipe monument; thence N.71°40'E., 176.5 feet to a point; thence N.28°15'E., 361.7 feet to a point; thence N.16°40'W., 639.5 feet to a point; thence N.41°35'W., 380.0 feet to a point; thence N.3°00'W., 892.5 feet to a point; thence N.88°56'E., 2194.7 feet to a 2" iron pipe monument; thence S.0°24'E., 259.00 feet to the place of beginning.

Tract 40A, Beginning at a 4" iron pipe monument marking the SW corner of Sec. 11, Twp 23S, Rge 44W; thence N.35°55'E., 467.4 feet to a point; thence N.71°40'E., 299.0 feet to a 1½" iron pipe monument; thence S.44°10'E., 166.0 feet to a 1½" iron pipe monument; thence S.45°50'W., 204.0 feet to a point; thence N.88°47'E., 1331.3 feet to a 1½" iron pipe monument; thence South 170.0 feet to a 1½" iron pipe monument; thence S.88°47'W., 1434.2 feet to a 2" iron pipe monument; thence South 30.0 feet to a 2" iron pipe monument; thence S.88°47'W., 425.0 feet to the place of beginning.

Tract 41, Beginning at a 2" iron pipe monument which bears N.0°25'W., 30.0 feet from the center of Sec. 11, Twp 23S, Rge 44W; thence S.88°56'W., 2197.3 feet to a point; thence N.3°00'W., 73.7 feet to a point; thence N.9°50'E., 841.2 feet to a point; thence N.34°15'E., 371.1 feet to a point; thence N.14°10'E., 508.2 feet to a 2" iron pipe monument; thence S.74°48'E., 1778.0 feet to a 2" iron pipe monument; thence S.0°25'E., 1194.7 feet to the place of beginning.

All in County of Prowers, State of Colorado.

Parcel No. 2:

Township 23 South, Range 44 West of the Sixth Principal Meridian

Section 1: NW¼ and 35 acres, more or less, lying South of the North Granada Lateral Drainage Ditch in the NW¼NE¼

All of Tracts 28 and 29, situate in the SW¼ of Section 1, Township 23 South, Range 44 West of the Sixth P.M. as shown by the tract maps of Lamar Manvel Farms of The American Beet Sugar Company, as recorded March 5, 1927 in Book 2, Page 45-61, Prowers County records, said tracts being more particularly described as follows:

Tract 28, Beginning at a 4" iron pipe monument marking the West Quarter corner of Sec 1, Twp 23S, Rge 44W, thence S.89°42'E., 1320.0 feet to a 4" iron pipe monument; thence S.89°42'E., 1290.6 feet to a 2" iron pipe monument; thence S.0°12'E., 1323.0 feet to a 2" iron pipe monument; thence N.89°46'W., 1292.2 feet to a 4" iron pipe monument; thence N.89°37'W., 1315.7 feet to a 4" iron pipe monument; thence N.0°18'W., 1323.2 feet to the place of beginning.

Tract 29, Beginning at a 4" iron pipe monument marking the center of the SW¼ of Sec 1, Twp 23S, Rge 44W; thence S.89°46'E., 1292.2 feet to a 2" iron pipe monument; thence S.0°12'E., 1228.1 feet to a 2" iron pipe monument; thence N.89°43'W., 2605.1 feet to a 2" iron pipe monument; thence N.0°18'W., 1230.0 feet to a 4" iron pipe monument; thence S.89°37'E., 1315.7 feet to the place of beginning.

Section 2: NE¼, LESS a tract described by a line drawn as follows: Beginning at the Center of said Section 2, running thence Easterly along the Quarter Section line between the NE¼ and SE¼ of said Section 2, 1038 feet, more or less, to the South boundary line of the right-of-way of the X-Y Canal; thence Northwesterly along the South boundary line of right-of-way of the X-Y Ditch to the Quarter Section line between the NE¼ and NW¼ of said Section 2, running thence Southerly along the Quarter Section line 476 feet, more or less, to the Place of Beginning; and EXCEPT a tract Deeded to the Granada Drainage District by Deed recorded August 25, 1926 in Book 156, Page 478 of the Prowers County Clerk and Recorder records.

Section 2: E½SE¼

AND

A tract of land in the NW¼SE¼ of said Section 2 lying East of the XY Canal and more particularly described as follows: Beginning at the Northeast corner of said NW¼SE¼ of said Section 2; thence South a distance of 1207 feet, more or less, to the East right-of-way line of the XY canal; thence in a Northwesterly direction along the East right-of-way line of said XY Canal to a point on the East-West center line of said Section 2; thence East along the said center line a distance of 222 feet, more or less, to the point of beginning;

Section 11: A tract of land in the NE¼NE¼ of said Section 11, more particularly described as follows: Beginning at the Northeast corner of said Section 11; thence South 0°4' East a distance of 1195.4 feet; thence South 71°3' West a distance of 162 feet; thence North 77°38' West a distance of 672 feet; thence North 66°41' West a distance of 113 feet; thence North 46°57' West a distance of 195 feet; thence North 40°9' West a distance of 161 feet; thence North 17°20' West a distance of 155 feet; thence North 1°45' East a distance of 641.8 feet to a point on the Section line between Sections 2 and 11; thence North 89°17' East a distance of 1183 feet along said Section line to the Place of Beginning; Being that part of Tract No. 27 lying East and North of the XY Canal, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Page 45 to 61, inclusive, records of Prowers County, Colorado.

All of Tracts 13 and 14, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts being situated in the NW¼ and the NW¼SW¼ of Section 3, Township 23 South, Range 44 West, being more particularly described as follows:

Tract 13: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 3, Township 23 South, Range 44 West; thence North 25°46.0 feet to a 2" iron pipe monument; thence N.88°41'E., 1334.0 feet to a 2" iron pipe monument; thence S.0°05'W., 2674.0 feet to a 2" iron pipe monument; thence S.78°28'W., 1356.3 feet to a point; thence N.0°03'W., 369.2 feet to the Place of Beginning.

Tract 14: Beginning at a 2" iron pipe monument which bears S.0°17'W., 100.0 feet from the North Quarter corner of Section 3, Township 23 South, Range 44 West; thence S.0°17'W., 1605.0 feet to a 2" iron pipe monument; thence S.86°08'W., 115.0 feet to a point; thence S.45°33'W., 1485.0 feet to a point; thence S.66°40'W., 97.0 feet to a point; thence S.78°28'W., 72.0 feet to a 2" iron pipe monument; thence N.0°05'E., 2674.0 feet to a 2" iron pipe monument; thence N.88°41'E., 1340.0 feet to the Place of Beginning. ALSO Beginning at a 4" iron pipe monument marking the center of said Section 3; thence S.89°20'W., 1043.8 feet to a 2" iron pipe monument; thence N.45°33'E., 1339.0 feet to a point; thence N.86°08'E., 91.7 feet to a point; thence S.0°17'W., 931.5 feet to the Place of Beginning, EXCEPT the right-of-way of the XY Canal.

Tract 17 and that part of Tract 18 lying in the NE¼ of Section 3, as shown by Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, more particularly described as follows:

Beginning at a point S.0°35'W., 100 feet from the Northeast corner of Section 3, Township 23 South, Range 44 West of the Sixth P.M.; thence S.88°41'W., 2674.9 feet to the North and South Quarter line of said Section; thence S.0°17'W., 1605.0 feet; thence S.70°22'E., 72 feet; thence S.50°36'E., 404 feet; thence S.32°35'E., 90 feet; thence S.16°58'E., 339 feet; thence S.27°58'E., 87 feet; thence S.68°13'E., 122 feet; thence S.81°29'E., 360 feet; thence S.47°14'E., 122 feet; thence S.28°23'E., 24 feet to the East and West center line of said Section 3; thence N.89°23'E., 186 feet to a 4 inch iron pipe marking the Southeast corner of the SW¼NE¼ of said Section 3; thence East to a 2 inch iron pipe marking the East Quarter corner of said Section 3; thence N.0°35'E., 2606.8 feet to the point of beginning. Beginning at a 4 inch iron pipe marking the center of Section 3, Township 23 South, Range 44 West of the Sixth P.M.; thence N.0°17'E.,

931.5 feet to the South right-of-way line of the XY Ditch; thence S.70°22'E., 54.8 feet; thence S.50°16'E., 396.0 feet; thence S.32°35'E., 71.4 feet; thence S.16°58'E., 332.8 feet; thence S.27°58'E., 113.8 feet; thence S.68°13'E., 139.4 feet; thence S.81°29'E., 347.8 feet; thence S.47°14'E., 99.8 feet to the East and West center line of said Section 3; thence S.89°23'W., 1099 feet to the Point of Beginning center of said Section 3, containing all of the NE¼ of said Section 3, EXCEPT those portions thereof which have been heretofore conveyed of record by prior owners for the drainage ditch along the North line of said Quarter Section and for the right-of-way of the XY Canal, and subject to the rights-of-way for public roads adjoining the premises.

All of Tracts 19 and 20, according to the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts being situated in the SE¼ of Section 3 and the NE¼/NE¼ of Section 10, Township 23 South, Range 44 West of the Sixth P.M., being more particularly described as follows:

Tract 19: Beginning at a 4" iron pipe monument marking the center of said Section 3, Township 23 South, Range 44 West; thence N.89°23'E., 1099.0 feet to a point; thence S.28°23'E., 401.0 feet to a point; thence S.20°06'E., 107.0 feet to a point; thence S.0°20'W., 2257.2 feet to a point; thence N.74°48'W., 173.5 feet to a point; thence N.15°12'E., 50.0 feet to a point; thence N.74°48'W., 1221.5 feet to a 2" iron pipe monument; thence N.0°29'E., 2285.0 feet to the place of beginning.

Tract 20: Beginning at a 1½" iron pipe monument which bears S.0°21'W., 691.0 feet from the East Quarter corner of Section 3, Township 23 South, Range 44 West; thence S.0°21'W., 636.5 feet to a 4" iron pipe monument; thence S.0°21'W., 1761.7 feet to a 2" iron pipe monument; thence N.74°48'W., 1376.0 feet to a point; thence N.0°20'E., 2257.2 feet to a point; thence S.20°06'E., 352.0 feet to a point; thence S.42°00'E., 132.0 feet to a point; thence S.73°58'E., 405.0 feet to a point; thence N.86°06'E., 112.0 feet to a point; thence N.65°53'E., 393.0 feet to a point; thence N.59°40'E., 303.0 feet to the place of beginning.

All of Tracts 42, 43 and 43A, according to the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the NE¼ of Section 10 and the W¼/NE¼ of Section 11, Township 23 South, Range 44 West, being more particularly described as follows:

Tract 42: Beginning at a 2" iron pipe monument which bears North 30.0 feet from a point which bears N.89°35'E., 1340.3 feet from the SW corner of the SE¼ of the NE¼ of Section 10, Township 23 South, Range 44 West; thence S.89°35'W., 522.0 feet to a 2" iron pipe monument; thence N.74°53'W., 93.9 feet to a point; thence N.56°55'W., 142.8 feet to a point; thence N.44°59'W., 115.3 feet to a point; thence N.29°13'W., 118.2 feet to a point; thence N.14°03'W., 119.0 feet to a point; thence N.9°45'W., 1583.1 feet to a point; thence N.14°47'W., 111.8 feet to a point; thence N.26°58'W., 139.1 feet to a point; thence N.44°14'W., 142.5 feet to a point; thence N.59°33'W., 142.3 feet to a 2" iron pipe monument; thence S.74°48'E., 2493.0 feet to a 2" iron pipe monument; thence S.14°10'W., 508.2 feet to a point; thence S.34°15'W., 371.1 feet to a point; thence S.9°50'W., 841.2 feet to a point; thence S.3°00'E., 73.7 feet to a point; thence S.88°56'W., 451.7 feet to the place of beginning.

Tract 43: Beginning at a 4" iron pipe monument marking the SE corner of the SW¼ of the NE¼ of Section 10, Township 23 South, Range 44 West; thence S.89°35'W., 980.0 feet to a 2" iron pipe monument; thence S.89°35'W., 180.5 feet to a 2" iron pipe monument; thence N.0°29'W., 1235.1 feet to a point; thence East 378.5 feet to a point; thence N.0°29'W., 231.3 feet to a point; thence N.89°45'E., 658.5 feet to a 2" iron pipe monument; thence N.0°32'W., 882.5 feet to a 2" iron pipe monument; thence S.56°03'E., 105.2 feet to a point; thence S.44°11'E., 122.2 feet to a point; thence S.27°07'E., 120.9 feet to a point; thence S.14°55'E., 103.9 feet to a point; thence S.9°43'E., 1583.7 feet to a point; thence S.14°28'E., 133.6 feet to a point; thence S.29°30'E., 133.6 feet to a point; thence S.45°09'E., 130.0 feet to a point; thence S.57°07'E., 155.6 feet to a 2" iron pipe monument; thence S.89°35'W., 700.0 feet to the place of beginning.

Tract 43A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2827.0 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.0°29'W., 139.3 feet to a point; thence East 378.5 feet to a point; thence S.0°29'E., 231.3 feet to a point; thence West 378.5 feet to a point; thence N.0°29'W., 92.0 feet to the place of beginning.

All of Tracts 46, 47 and 48B, as shown by the Tract Maps Lamar Manvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the W¼/SE¼, SW¼, SE¼/NW¼ and the SW¼/NE¼ of Section 10 and the NE¼/NW¼ and the NW¼/NE¼ of Section 15, Township 23 South, Range 44 West; being more particularly described as follows:

Tract 46: Beginning at a 2" iron pipe monument which bears S.89°35'W., 980.0 feet from the NE corner of the NW¼ of the SE¼ of Section 10, Township 23 South, Range 44 West; thence S.10°10'E., 946.0 feet to a point; thence S.4°53'E., 159.0 feet to a point; thence S.0°40'E., 1686.8 feet to a point; thence S.68°50'W., 483.0 feet to a point; thence S.80°52'W., 79.1 feet to a point; thence N.85°20'W., 86.7 feet to a point; thence N.65°10'W., 102.7 feet to a point; thence N.60°55'W., 584.0 feet to a point; thence N.43°05'E., 11.3 feet to a 2" iron pipe monument; thence N.43°05'E., 104.3 feet to a point; thence N.24°12'E., 221.0 feet to a point; thence N.63°15'E., 99.3 feet to a point; thence N.18°45'E., 85.7 feet to a point; thence N.1°15'W., 174.5 feet to a point; thence N.25°07'W., 245.0 feet to a point; thence N.43°32'W., 120.0 feet to a point; thence N.1°50'W., 222.2 feet to a point; thence N.9°20'E., 492.8 feet to a point; thence N.14°00'W., 92.3 feet to a point; thence N.2°45'W., 303.7 feet to a point; thence N.29°03'E., 270.4 feet to a point; thence N.2°50'E., 390.3 feet to a 2" iron pipe monument; thence N.89°35'E., 555.5 feet to a 2" iron pipe monument; thence N.89°35'E., 180.5 feet to the Place of Beginning.

Tract 47: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence N.89°35'E., 2282.5 feet to a 2" iron pipe monument; thence S.2°50'W., 390.3 feet to a point; thence S.29°03'W., 270.4 feet to a point; thence S.2°45'E., 303.7 feet to a point; thence S.14°00'E., 92.5 feet to a point; thence S.9°20'W., 492.8 feet to a point; thence S.1°50'E., 222.2 feet to a point; thence S.43°32'E., 120.0 feet to a point; thence S.25°07'E., 245.0 feet to a point; thence S.1°15'E., 174.5 feet to a point; thence S.18°45'W., 85.7 feet to a point; thence S.63°15'W., 99.3 feet to a point; thence S.24°12'W., 221.0 feet to a point; thence S.43°05'W., 104.3 feet to a 2" iron pipe monument; thence N.60°53'W., 335.7 feet to a point; thence N.19°52'W., 251.8 feet to a point; thence N.31°47'W., 118.4 feet to a point; thence N.54°54'W., 110.5 feet to a point; thence N.64°26'W., 208.5 feet to a point; thence N.75°22'W., 141.8 feet to a point; thence S.87°54'W., 335.6 feet to a point; thence N.66°58'W., 86.8 feet to a point; thence N.39°32'W., 339.1 feet to a point; thence N.16°18'W., 83.4 feet to a point; thence N.1°17'E., 235.7 feet to a point; thence N.15°13'W., 95.1 feet to a point; thence

N.45°06'W., 113.3 feet to a point; thence S.88°31'W., 115.3 feet to a point; thence S.54°34'W., 347.2 feet to a 2" iron pipe monument; thence North 1342.9 feet to the Place of Beginning.

Also Beginning at a 4" iron pipe monument marking the SW corner of said Section 10; thence North 1251.1 feet to a 2" iron pipe monument; thence N.55°42'E., 360.8 feet to a point; thence N.87°59'E., 84.0 feet to a point; thence S.45°39'E., 82.8 feet to a point; thence S.15°26'E., 84.3 feet to a point; thence S.1°09'W., 238.5 feet to a point; thence S.17°17'E., 93.6 feet to a point; thence S.40°05'E., 362.9 feet to a point; thence S.68°14'E., 100.2 feet to a point; thence N.87°58'E., 333.5 feet to a point; thence S.75°49'E., 129.7 feet to a point; thence S.64°39'E., 208.5 feet to a point; thence S.54°37'E., 98.0 feet to a point; thence S.30°52'E., 100.8 feet to a point; thence S.20°06'E., 268.9 feet to a point; thence S.61°05'E., 337.1 feet to a 2" iron pipe monument; thence S.89°48'W., 637.0 feet to a 4" iron pipe monument; thence S.89°48'W., 1343.0 feet to the Place of Beginning, EXCEPT the right-of-way of the Marvel Canal.

Tract 48B: Beginning at a 1½" iron pipe monument which bears N.89°35'E., 2579.0 feet from the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence North 214.0 feet to a 1½" iron pipe monument; thence N.88°10'E., 258.0 feet to a 1½" iron pipe monument; thence S.0°29'E., 221.0 feet to a 2" iron pipe monument; thence S.89°35'W., 259.0 feet to the Place of Beginning.

All of Tracts 48, 48A, 49 and 49A, EXCEPT the West 20 acres, more or less, of Tract No. 48 which lies West of the Farm Lateral No. 2 of the Lamar Marvel Farm Lateral Distribution System, as shown by the Tract Maps Lamar Marvel Farm, American Beet Sugar Company, filed March 5, 1927 and recorded in Book 2, Pages 45-61, inclusive, said tracts situated in the S½SW¼ of Section 3 and the NW¼ and the W½NE¼ of Section 10, all in Township 23 South, Range 44 West, being more particularly described as follows:

Tract 48: Beginning at a 4" iron pipe monument marking the West Quarter corner of Section 10, Township 23 South, Range 44 West; thence N.89°55'W., 302.5 feet to a 2" iron pipe monument; thence N.0°05'E., 530.0 feet to a point; thence N.29°00'W., 164.5 feet to a point; thence N.39°25'E., 187.7 feet to a point; thence N.20°40'W., 239.7 feet to a point; thence N.15°25'E., 285.0 feet to a 2" iron pipe monument; thence N.89°25'E., 271.5 feet to a 2" iron pipe monument; thence N.89°25'E., 2093.1 feet to a 2" iron pipe monument; thence S.0°05'W., 458.0 feet to a point; thence N.89°35'E., 738.3 feet to a 1½" iron pipe monument; thence S.0°29'E., 646.5 feet to a 1½" iron pipe monument; thence S.88°10'W., 258.0 feet to a 1½" iron pipe monument; thence South 214.0 feet to a 1½" iron pipe monument; thence S.89°35'W., 2579.0 feet to the Place of Beginning.

Tract 48A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2093.1 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.89°25'E., 733.9 feet to a 2" iron pipe monument; thence S.0°29'E., 459.6 feet to a 1½" pipe; thence S.89°35'W., 738.3 feet to a point; thence N.0°05'E., 458.0 feet to the Place of Beginning.

Tract 49: Beginning at a 2" iron pipe monument marking the NW corner of Section 10, Township 23 South, Range 44 West; thence N.0°03'W., 832.3 feet to a 2" iron pipe monument; thence S.74°48'E., 1872.1 feet to a 2" iron pipe monument; thence S.15°12'W., 40.0 feet to a 2" iron pipe monument; thence S.74°48'E., 1057.8 feet to a 2" iron pipe monument; thence S.0°29'E., 777.2 feet to a point; thence S.89°20'W., 683.7 feet to a point; thence S.1°33'E., 539.0 feet to a point; thence S.89°25'W., 60.9 feet to a 2" iron pipe monument; thence S.89°25'W., 2093.1 feet to a 2" iron pipe monument; thence N.0°02'W., 1320.0 feet to the Place of Beginning.

Tract 49A: Beginning at a 2" iron pipe monument which bears N.89°25'E., 2827.0 feet from the NW corner of the SW¼ of the NW¼ of Section 10, Township 23 South, Range 44 West; thence N.0°29'W., 539.5 feet to a point; thence S.89°20'W., 683.7 feet to a point; thence S.1°33'E., 539.0 feet to a point; thence N.89°25'E., 673.0 feet to the Place of Beginning.

All in the County of Prowers, State of Colorado

**Parcel No. 3:**

Lot 1 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 4 of Borderland Estates Subdivision Filing No. 3, being a part of E¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W¼ Section 4 and N¼ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 4:**

Lot 2 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 3 of Borderland Estates Subdivision Filing No. 3, said subdivision being a part of E¼ Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of W¼ Section 4 and N¼ Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

**Parcel No. 5:**

Lot 3 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

Parcel No. 6:

Lot 4 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

Parcel No. 7:

Lot 3 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 4 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 3 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the N¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

Parcel No. 8:

Lot 6 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 3 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 1 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

Parcel No. 9:

Lot 7 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East and West lines of Lot 2 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 2 of Borderland Estates Subdivision Filing #3, said Subdivision being a part of the E½ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the W¼ of Section 4 and the N¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 4, 2007 at Reception No. 516414 of the Prowers County Clerk and Recorder records.

Parcel No. 10:

Lot 8 of Borderland Estates Subdivision, said Subdivision being a part of the SE¼ of Section 31 and the W½SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian and a part of the NE¼ of Section 6 and the W½NW¼ of Section 5, Township 23 South, Range 44 West of the Sixth Principal Meridian, TOGETHER WITH a 15 foot access easement along the East line of Lot 2 and the West line of Lot 1 of said Subdivision, County of Prowers, State of Colorado, according to the plat recorded November 8, 2004 at Reception No. 505897 of the Prowers County Clerk and Recorder records.

And

Lot 2 of Borderland Estates Subdivision Filing No. 2, being a part of the SW¼ of Section 32, Township 22 South, Range 44 West of the Sixth Principal Meridian, County of Prowers, State of Colorado, according to the plat recorded December 14, 2006 at Reception No. 513232 of the Prowers County Clerk and Recorder records.

EXCEPTING from the above described tracts any portion lying within U.S. Highway No. 50, Colorado State Highway No. 385, and any portion lying within Quit Claim to Prowers County from Deed recorded January 12, 1927 in Book 187 at Page 289 as Reception No. 149133.

LESS AND EXCEPT THE FOLLOWING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST ¼ AND THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 33, AND THE SOUTH ¼ OF THE SOUTHEAST ¼ OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN PROWERS COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 33 S01°19'23"E, A DISTANCE OF 2389.37 FEET;

THENCE S50°40'01"W, A DISTANCE OF 255.23 FEET;

THENCE S87°42'04"W, A DISTANCE OF 2325.91 FEET;

THENCE N00°00'00"W, A DISTANCE OF 480.27 FEET;

THENCE ALONG A CURVE WITH A RADIUS OF 806.49 FEET AND LENGTH OF 1266.83 FEET, SAID CURVE HAVING A CHORD BEARING OF N45°00'00"W AND A CHORD LENGTH OF 1140.55 FEET;

THENCE N90°00'00"W FOLLOWING, A DISTANCE OF 328.25 FEET TO A POINT ON THE EAST BOUNDARY LINE OF A PARCEL OF LAND RESERVED FOR FUTURE COLORADO STATE HIGHWAY 50 REALIGNMENT;

THENCE FOLLOWING SAID EAST PARCEL BOUNDARY LINE N09°10'38"W A DISTANCE OF 858.25 FEET;

THENCE N88°15'32"E, A DISTANCE OF 1110.50 FEET;

THENCE N01°25'02"W, A DISTANCE OF 389.76 FEET TO THE NORTH ¼ CORNER OF SAID SECTION 33;

THENCE N00°30'38"W, A DISTANCE OF 866.48 FEET;

THENCE N88°25'35"E, A DISTANCE OF 2539.68 FEET TO A POINT ON THE EAST LINE OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 28 S00°29'53"E, A DISTANCE OF 951.50 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 232.78 ACRES MORE OR LESS.

BASIS OF BEARING  
BASIS OF BEARING FOR THIS PERMIT BOUNDARY LEGAL DESCRIPTION BEING THE EAST LINE OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN. SAID LINE HAVING A BEARING OF S11°19'23"E,  
COUNTY OF PROWERS,  
STATE OF COLORADO.

**Exhibit B**  
**GRANTEE'S PROPERTY**

**EXHIBIT "B"**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ¼ AND THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 33, AND THE SOUTH ½ OF THE SOUTHEAST ¼ OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN PROWERS COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 33 S01°19'23"E, A DISTANCE OF 2389.37 FEET;

THENCE S60°40'01"W, A DISTANCE OF 256.23 FEET;

THENCE S87°42'04"W, A DISTANCE OF 2326.91 FEET;

THENCE N00°00'00"W, A DISTANCE OF 480.27 FEET;

THENCE ALONG A CURVE WITH A RADIUS OF 806.49 FEET AND LENGTH OF 1266.83 FEET, SAID CURVE HAVING A CHORD BEARING OF N45°00'00"W AND A CHORD LENGTH OF 1140.66 FEET;

THENCE N90°00'00"W FOLLOWING, A DISTANCE OF 328.25 FEET TO A POINT ON THE EAST BOUNDARY LINE OF A PARCEL OF LAND RESERVED FOR FUTURE COLORADO STATE HIGHWAY 50 REALIGNMENT;

THENCE FOLLOWING SAID EAST PARCEL BOUNDARY LINE N09°10'38"W, A DISTANCE OF 868.25 FEET;

THENCE N88°15'32"E, A DISTANCE OF 1110.60 FEET;

THENCE N01°25'02"W, A DISTANCE OF 389.76 FEET TO THE NORTH ¼ CORNER OF SAID SECTION 33;

THENCE N00°30'38"W, A DISTANCE OF 966.48 FEET;

THENCE N88°25'35"E, A DISTANCE OF 2639.68 FEET TO A POINT ON THE EAST LINE OF SECTION 28, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE FOLLOWING THE EAST LINE OF SAID SECTION 28 S00°29'53"E, A DISTANCE OF 951.60 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 232.78 ACRES MORE OR LESS.

BASIS OF BEARING

BASIS OF BEARING FOR THIS PERMIT BOUNDARY LEGAL DESCRIPTION BEING THE EAST LINE OF SECTION 33, TOWNSHIP 22 SOUTH, RANGE 46 WEST OF THE SIXTH PRINCIPAL MERIDIAN. SAID LINE HAVING A BEARING OF S11°19'23"E,  
COUNTY OF PROWERS,  
STATE OF COLORADO.



**Schedule 2.4**  
**Purchase Price Amortization Schedule**

Amount: 1,750,000.00  
Rate: 5.0%  
Amortization (yrs): 25.00  
Annual Payment: \$124,166.80

Month	Beginning Balance	Interest	Principal	Ending Balance
1	1,750,000.00	7,408.57	\$2,938.66	1,747,061.34
2	1,747,061.34	7,396.33	\$2,950.90	1,744,110.44
3	1,744,110.44	7,384.03	\$2,963.20	1,741,147.24
4	1,741,147.24	7,371.69	\$2,975.55	1,738,171.69
5	1,738,171.69	7,359.29	\$2,987.94	1,735,183.75
6	1,735,183.75	7,346.84	\$3,000.39	1,732,183.36
7	1,732,183.36	7,334.34	\$3,012.90	1,729,170.46
8	1,729,170.46	7,321.78	\$3,025.45	1,726,145.01
9	1,726,145.01	7,309.18	\$3,038.05	1,723,106.96
10	1,723,106.96	7,296.52	\$3,050.71	1,720,056.24
11	1,720,056.24	7,283.81	\$3,063.42	1,716,992.82
12	1,716,992.82	7,271.04	\$3,076.19	1,713,916.63
13	1,713,916.63	7,258.23	\$3,089.01	1,710,827.62
14	1,710,827.62	7,245.36	\$3,101.88	1,707,725.75
15	1,707,725.75	7,232.43	\$3,114.80	1,704,610.94
16	1,704,610.94	7,219.45	\$3,127.78	1,701,483.16
17	1,701,483.16	7,206.42	\$3,140.81	1,698,342.35
18	1,698,342.35	7,193.33	\$3,153.90	1,695,188.45
19	1,695,188.45	7,180.19	\$3,167.04	1,692,021.41
20	1,692,021.41	7,167.00	\$3,180.24	1,688,841.18
21	1,688,841.18	7,153.75	\$3,193.49	1,685,647.69
22	1,685,647.69	7,140.44	\$3,206.79	1,682,440.89
23	1,682,440.89	7,127.08	\$3,220.16	1,679,220.74
24	1,679,220.74	7,113.66	\$3,233.57	1,675,987.17
25	1,675,987.17	7,100.19	\$3,247.05	1,672,740.12
26	1,672,740.12	7,086.66	\$3,260.58	1,669,479.55
27	1,669,479.55	7,073.07	\$3,274.16	1,666,205.38
28	1,666,205.38	7,059.43	\$3,287.80	1,662,917.58
29	1,662,917.58	7,045.73	\$3,301.50	1,659,616.08
30	1,659,616.08	7,031.97	\$3,315.26	1,656,300.82
31	1,656,300.82	7,018.16	\$3,329.07	1,652,971.75
32	1,652,971.75	7,004.29	\$3,342.94	1,649,628.80
33	1,649,628.80	6,990.36	\$3,356.87	1,646,271.93
34	1,646,271.93	6,976.37	\$3,370.86	1,642,901.07
35	1,642,901.07	6,962.33	\$3,384.90	1,639,516.17
36	1,639,516.17	6,948.22	\$3,399.01	1,636,117.16

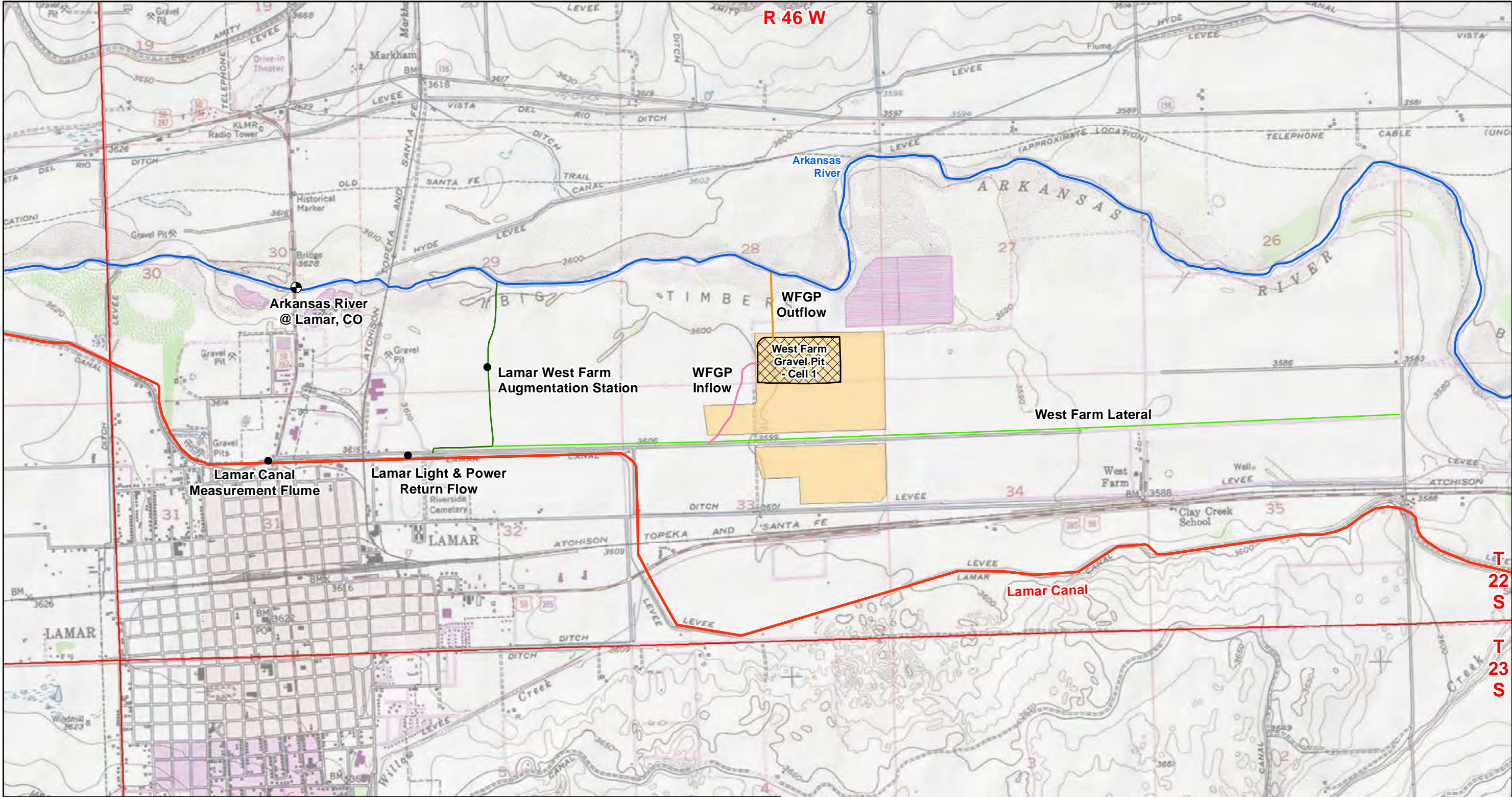
## EXHIBIT D

### Schedule 2.4 Purchase Price Amortization Schedule

Amount: 1,750,000.00  
Rate: 5.0%  
Amortization (yrs): 25.00  
Annual Payment: \$124,166.80

Month	Beginning Balance	Interest	Principal	Ending Balance
1	1,750,000.00	7,408.57	\$2,938.66	1,747,061.34
2	1,747,061.34	7,396.33	\$2,950.90	1,744,110.44
3	1,744,110.44	7,384.03	\$2,963.20	1,741,147.24
4	1,741,147.24	7,371.69	\$2,975.55	1,738,171.69
5	1,738,171.69	7,359.29	\$2,987.94	1,735,183.75
6	1,735,183.75	7,346.84	\$3,000.39	1,732,183.36
7	1,732,183.36	7,334.34	\$3,012.90	1,729,170.46
8	1,729,170.46	7,321.78	\$3,025.45	1,726,145.01
9	1,726,145.01	7,309.18	\$3,038.05	1,723,106.96
10	1,723,106.96	7,296.52	\$3,050.71	1,720,056.24
11	1,720,056.24	7,283.81	\$3,063.42	1,716,992.82
12	1,716,992.82	7,271.04	\$3,076.19	1,713,916.63
13	1,713,916.63	7,258.23	\$3,089.01	1,710,827.62
14	1,710,827.62	7,245.36	\$3,101.88	1,707,725.75
15	1,707,725.75	7,232.43	\$3,114.80	1,704,610.94
16	1,704,610.94	7,219.45	\$3,127.78	1,701,483.16
17	1,701,483.16	7,206.42	\$3,140.81	1,698,342.35
18	1,698,342.35	7,193.33	\$3,153.90	1,695,188.45
19	1,695,188.45	7,180.19	\$3,167.04	1,692,021.41
20	1,692,021.41	7,167.00	\$3,180.24	1,688,841.18
21	1,688,841.18	7,153.75	\$3,193.49	1,685,647.69
22	1,685,647.69	7,140.44	\$3,206.79	1,682,440.89
23	1,682,440.89	7,127.08	\$3,220.16	1,679,220.74
24	1,679,220.74	7,113.66	\$3,233.57	1,675,987.17
25	1,675,987.17	7,100.19	\$3,247.05	1,672,740.12
26	1,672,740.12	7,086.66	\$3,260.58	1,669,479.55
27	1,669,479.55	7,073.07	\$3,274.16	1,666,205.38
28	1,666,205.38	7,059.43	\$3,287.80	1,662,917.58
29	1,662,917.58	7,045.73	\$3,301.50	1,659,616.08
30	1,659,616.08	7,031.97	\$3,315.26	1,656,300.82
31	1,656,300.82	7,018.16	\$3,329.07	1,652,971.75
32	1,652,971.75	7,004.29	\$3,342.94	1,649,628.80
33	1,649,628.80	6,990.36	\$3,356.87	1,646,271.93
34	1,646,271.93	6,976.37	\$3,370.86	1,642,901.07
35	1,642,901.07	6,962.33	\$3,384.90	1,639,516.17
36	1,639,516.17	6,948.22	\$3,399.01	1,636,117.16

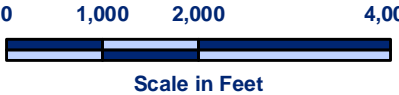




Copyright:© 2013 National Geographic Society, i-cubed

**Legend**

- |                                  |                                  |
|----------------------------------|----------------------------------|
| ● Lamar Canal Features           | — West Farm Lateral              |
| ⊙ Arkansas River Gaging Stations | — West Farm Augmentation Station |
| — Arkansas_River                 | — Lamar Canal                    |
| — West Farm Gravel Pit Inflow    | ▨ West Farm Gravel Pit Cell 1    |
| — West Farm Gravel Pit Outflow   | ■ West Farm Gravel Pit           |



**Hendrix Wai  
Engineering, Inc.**

Job No. L7510
File: WFGP GLM.mxd
Date: 01/31/2019
Prepared For: LAWMA

**EXHIBIT C  
LAWMA Water Plan Grant**

**West Farm Gravel Pit Storage  
and related facilities**





**COLORADO**

Colorado Water  
Conservation Board

Department of Natural Resources

## Colorado Water Conservation Board

### Water Plan Grant - Exhibit B Budget and Schedule

**Prepared Date: February 1, 2019**

**Name of Applicant: Lower Arkansas Water Management Association**

**Name of Water Project: West Farm Gravel Pit Acquisition**

**Project Start Date: August 1, 2019**

**Project End Date: N/A**

Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total
1	Purchase West Farm Gravel Pit storage reservoir.	1-Aug-19	N/A	\$1,000,000	\$3,595,000	\$4,595,000
<b>Total</b>				<b>\$1,000,000</b>	<b>\$3,595,000</b>	<b>\$4,595,000</b>

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

Re: Lower Arkansas Water Management Association request for funding

Dear Mr. Yahn:

The Lower Arkansas Water Management Association (LAWMA) has requested funding to complete their West Farm Gravel Pit storage. LAWMA is applying for a CWCB Water Project Loan and grant for the construction of this project. The West Farm Pit is existing gravel lakes storage located on the Lamar Canal. This added storage space would support more flexible operations and provide LAWMA shareholders water security for their water supply, augmentation, and other uses.

I use LAWMA shares on some of my farm acres. In addition, as an owner of Fort Lyon Canal Company stock and the current President of the canal, I know how important new storage can be for agricultural water use. Our canal had the opportunity to store water in this gravel pit last year in a cooperative program that worked well for all parties involved. I enthusiastically support the development of additional storage in the Arkansas Basin and believe this project aligns with the initiatives outlined in the Colorado Water Plan. Please consider funding the West Farm Gravel Pit storage project in order to benefit water users in this area.

Sincerely,



Dale Mauch



# J-S Farms, Inc.



April 8, 2019

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

 COPY

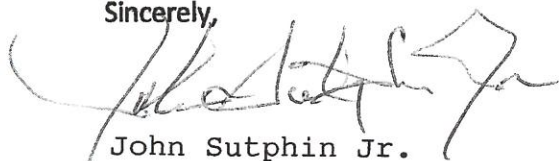
Re: Lower Arkansas Water Management Association request for funding

Dear Mr. Yahn:

The Lower Arkansas Water Management Association (LAWMA) has requested funding to complete their West Farm Gravel Pit storage. LAWMA is applying for a CWCB Water Project Loan and grant for the construction of this project. The West Farm Pit is existing gravel lakes storage located on the Lamar Canal. This added storage space would support more flexible operations and provide LAWMA shareholders water security for their water supply, augmentation, and other uses.

I am a shareholder in LAWMA and use my shares for my large agricultural enterprise. I support the development of additional storage in the Arkansas Basin and believe this project aligns with the initiatives outlined in the Colorado Water Plan. Please consider funding the West Farm Gravel Pit storage project in order to benefit their 207 members to include irrigators, rural water associations, municipal entities, industry, schools, construction companies and wildlife interests that use LAWMA water in the Lower Arkansas Basin.

Sincerely,



John Sutphin Jr.  
J-S Farms, Inc.

---

P.O. BOX 226  
LAMAR, COLORADO 81052  
800-541-1562 PH 719-336-9006 FX 719-336-2402  
email: semcopumphoist@gmail.com

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

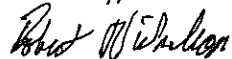
Re: Lower Arkansas Water Management Association request for funding

Dear Mr. Yahn:

The Lower Arkansas Water Management Association (LAWMA) has requested funding to complete their West Farm Gravel Pit storage. LAWMA is applying for a CWCB Water Project Loan and grant for the construction of this project. The West Farm Pit is existing gravel lakes storage located on the Lamar Canal. This added storage space would support more flexible operations and provide LAWMA shareholders water security for their water supply, augmentation, and other uses.

I own LAWMA shares for use on of my farm. In addition, as the President of Fort Bent Ditch, I know how important new storage can be for agricultural water users. Our Board has agreed to support this project and supports the development of additional storage in the Arkansas Basin. Please consider funding the West Farm Gravel Pit storage project in order to benefit water users in this area.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Nicholson".

Robert Nicholson, President  
Fort Bent Ditch Company

Mr Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

Re: Lower Arkansas Water Management Association request for funding

Dear Mr. Yahn:

I am a shareholder on the Fort Lyon Canal Company and am involved in a Irrigation Supply and Pivot irrigation company, in the Arkansas Valley.

The Lower Arkansas Water Management Association is requesting funding from CWCB to purchase an existing Gravel Pit Storage Vessel in the Lamar area. The project is very important to the water users in the Arkansas Valley. It will add more badly needed storage and increase the flexibility to the use of the limited water supply in the valley.

Any storage in the Arkansas Valley helps all of the many different entities along the Arkansas River Including: canal companies, cities, schools, cemeteries, gravel pits, feedlots, farmers and all the citizens of Colorado.

Please fund this very important project to add additional storage to the Arkansas Basin.

Sincerely

A handwritten signature in black ink, appearing to read "Br M Johnson", written in a cursive style.

Brad Johnson





March 1, 2019

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

Re: Lower Arkansas Water Management Association request for funding

Dear Mr. Yahn;

The Lower Arkansas Water Management Association (LAWMA) has requested funding to complete their West Farm Gravel Pit storage. LAWMA is applying for a CWCB Water Project Loan for the construction of this project. The West Farm Pit is existing gravel lakes storage located on the Lamar Canal. This added storage space would support more flexible operations and provide LAWMA shareholders water security for their water supply, augmentation, and other uses.

Colorado Springs supports the development of additional storage in the Arkansas Basin and believes this project aligns with the initiatives outlined in the Colorado Water Plan. Please consider funding the West Farm Gravel Pit storage project in order to benefit their 207 members to include irrigators, rural water associations, municipal entities, industry, schools, construction companies and wildlife interests that use LAWMA water in the Lower Arkansas Basin.

Thank you,

Abigail Ortega, PE  
Water Resources Manager – Colorado Springs Utilities

cc: Anna Mauss, CWCB Water Project Loan Program  
Jack Goble, CWCB Member  
Don Higbee, LAWMA Manager  
Richard Mehren, LAWMA attorney

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

Re: Lower Arkansas Water Management Association request for funding

Dear Mr. Yahn:

The Lower Arkansas Water Management Association (LAWMA) has requested funding to complete their West Farm Gravel Pit storage. LAWMA is applying for a CWCB Water Project Loan and grant for the construction of this project. The West Farm Pit is existing gravel lakes storage located on the Lamar Canal. This added storage space would support more flexible operations and provide LAWMA shareholders water security for their water supply, augmentation, and other uses.

We own LAWMA shares for use on our large agricultural enterprise. In addition, as a Director on the Board of the Lamar Canal & Irrigation Company, I know how important new storage can be for agricultural water users. We support this project and support the development of additional storage in the Arkansas Basin. Please consider funding the West Farm Gravel Pit storage project in order to benefit water users in this area.

Sincerely,



Doug Geubelle

Granada Farms

# Board of County Commissioners

## Prowers County

301 South Main, Suite 215  
Lamar, Colorado 81052-2857  
(719) 336-8025 FAX: (719) 336-2255

THOMAS GRASMICK  
FIRST DISTRICT

RON COOK  
SECOND DISTRICT

WENDY BUXTON-ANDRADE  
THIRD DISTRICT

JANA COEN  
CLERK TO THE BOARD

DARLA SCRANTON SPECHT  
COUNTY ATTORNEY

April 1, 2019

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, Colorado 80203

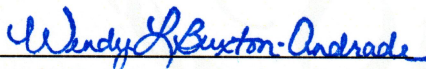
Re: Lower Arkansas Water Management Association request for funding

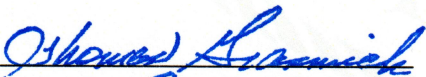
Dear Mr. Yahn;

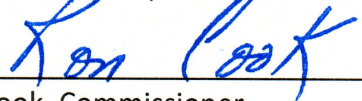
The Lower Arkansas Water Management Association (LAWMA) has requested funding to complete their West Farm Gravel Pit storage. LAWMA is applying for a CWCB Water Project Loan and grant for the construction of this project. The West Farm Pit is existing gravel lakes storage located on the Lamar Canal. This added storage space would support more flexible operations and provide LAWMA shareholders water security for their water supply, augmentation, and other uses.

Prowers County is a shareholder in LAWMA and supports the development of additional storage in the Arkansas Basin and believes this project aligns with the initiatives outlined in the Colorado Water Plan. Please consider funding the West Farm Gravel Pit storage project in order to benefit their 207 members to include irrigators, rural water associations, municipal entities, industry, schools, construction companies and wildlife interests that use LAWMA water in the Lower Arkansas Basin

Sincerely,  
PROWERS COUNTY BOARD OF COMMISSIONERS

  
Wendy Buxton-Andrade, Chairman

  
Thomas Grasmick, Vice-Chairman

  
Ron Cook, Commissioner



***March 11, 2019***

***Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman St., Room 718  
Denver, CO 80203***

***RE: LAWMA request for funding***

***Dear Mr. Yahn:***

***Kiowa County Economic Development Foundation (KCEDF) is a member of the Lower Arkansas Water Management Association (LAWMA). It has come to our attention that LAWMA is requesting funding for additional storage by way of a CWCB Water Project loan.***

***As an economic development foundation, it is always our pleasure to support requests such as this one that will be of benefit to our municipalities, schools, producers, Colorado Parks & Wildlife, etc. by a collaborative means.***

***The West Farm Gravel Pit storage project will assure shareholders of continued water security through LAWMA in the Lower Arkansas Basin.***

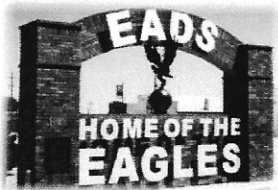
***KCEDF is pleased to put itself behind LAWMA's efforts toward the future of water in our area.***

***Thanks much,***

***Sincerely,***

A handwritten signature in cursive script that reads "Jan Richards".

***Jan Richards  
Economic Developer/  
Community Coordinator***



# Town of Eads

P.O. Box 8  
110 W. 13<sup>th</sup> Street  
Eads, CO 81036-0008  
Phone (719) 438-5590  
Fax (719) 438-5652  
townofeads10@gmail.com

**Mayor**

Joe Shields

**Trustees**

Dennis Pearson  
Meghan Buck  
Justin McCloud  
Terry Riley  
Kathy McCracken  
Lisa Trigilio

**Director of****Public Works**

Van Brown, Jr.

**Town Clerk**

Robin Fox

**Assistant Clerk**

Shealynn  
McCracken

March 11, 2019

Mr. Jim Yahn, Chairman  
Colorado Water Conservation Board  
1313 Sherman St., Room 718  
Denver, CO

RE: LAWMA request for funds

Dear Mr. Yahn:

The Town of Eads is a shareholder in the Lower Arkansas Water Management Association (LAWMA). We are therefore supporting LAWMA's request for additional West Farm Gravel Pit storage through a CWCB Water Project Loan.

As a municipality, we would like to collaborate with our fellow shareholders in securing the future of our area water in the Lower Arkansas Basin.

Please look favorably on LAWMA's request, knowing that not only municipalities, but producers, schools, industries, Colorado Parks & Wildlife, etc. appreciate their efforts to help all of us.

Thanks much,

Van Brown, Jr.  
Director of  
Public Works



March 25, 2019

Anna Mauss  
Chief Operating Officer  
Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, CO 80203

RE: Lower Arkansas Water Management Association  
West Farm Gravel Pit Project

Dear Ms. Anna Mauss:

The Lower Arkansas Valley Water Conservancy District (LAVWCD) cannot support, at this time, the Lower Arkansas Water Management Association (LAWMA) grant and loan request for the West Farm Gravel Pit. The Colorado Water Plan states that there is a requirement for collaboration and though LAWMA represents a collaboration, LAWMA failed to have a conversation with LAVWCD about this project or the grant and loan request.

The Lower Arkansas Valley Water Conservancy District recently conversed with Dallas May, a Lower Arkansas Water Management Association shareholder and one of many shareholders who will be paying back the debt for the loan. Mr. May has had no such conversation with LAWMA about the gravel pit and was not aware of the project or loan. LAVWCD believes this could be a valuable and viable storage project but cannot support it at this time because there has been no communication or collaboration involved with other entities and LAWMA shareholders.

Best Wishes,

Lynden Gill  
Chairman  
Lower Arkansas Valley Water Conservancy District





# Bent County Board of County Commissioners

April 25, 2019

Re: LAWMA Water Plan Grant Application

Dear Ms. Mauss,

Bent County understands that, at its May meeting, the CWCB will consider a loan application submitted by the Lower Arkansas Water Management Association (LAWMA). Specifically, LAWMA seeks an approximately \$4.6 million loan for the acquisition of 1,564 acre-feet of storage capacity in the West Farm Gravel Pit (WFGP). Bent County previously identified several concerns regarding this loan request, by letter dated April 5, 2019 (copy attached). Because these concerns have not yet been fully resolved, Bent County requests that the CWCB defer taking any action on the loan request at its May meeting.

While Bent County generally supports the development and acquisition of additional water storage capacity in the lower Arkansas River Basin, there are certain questions that should be answered before approving the requested loan. Fully understanding any relationships between principals of the seller and LAWMA is central to answering these questions. At the Arkansas Basin Roundtable meeting on April 23, 2019, LAWMA's counsel could not provide any details regarding the seller entity, GP Resources, when asked. This leads one to wonder how the value of the gravel storage pit was determined between the parties. An independent appraisal must be provided to support the WFGP purchase price. Bent County is a shareholder in LAWMA and will bear a pro rata portion of any debt repayment burden for purchase of the WFGP. LAWMA has not specifically sought shareholder ratification of the proposed WFGP purchase or the requested CWCB loan.

Another issue that ties in to fully understanding the relationship between the principals of the seller and LAWMA concerns the potential for the WFGP to serve as a future conduit to export water from the Lower Arkansas River to the Front Range. The WFGP was previously part of a proposed water export plan. More recently, as part of a transaction involving LAWMA and at least one of the assumed principals of GP Aggregates, LAWMA and its co-applicant failed to disclose to Bent County, in the context of a 1041 permit application, plans to share the water at issue with Colorado Springs Utilities. The irrigated acreage at issue in the 1041 permit, which is being permanently dried up, represents approximately 9% of the land historically irrigated in Bent County. Thus, Bent County seeks to ensure that the WFGP will be used solely for the benefit of water users in the Lower Arkansas Basin, now and in the future.

In light of the issues outlined above (and in the attached) Bent County urges the CWCB to take the time to carefully evaluate the LAWMA loan application, and fully understand and study the total impact it may have on the Lower Arkansas River Basin.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jean Sykes", is written over a horizontal line.

Jean Sykes, Chair  
Bent County Commissioners





# Bent County Board of County Commissioners

April 5, 2019

Re: Comments to LAWMA Water Plan Grant Application

Dear Ms. Mauss,

Bent County has reviewed the Water Plan Grant Application submitted by the Lower Arkansas Water Management Association (LAWMA) seeking a grant and/or loan to acquire 1,564 acre-feet of storage capacity in the West Farm Gravel Pit (WFGP), and submits the following comments for consideration:

1. No use of storage for export of water from the Lower Arkansas River Basin. Per the attached 2011 article from the Lamar Ledger, Bent County understands that the WFGP was previously a component part of a proposal to export water from the Lower Arkansas River basin to the Front Range. LAWMA recently obtained a 1041 permit from Bent County related to dry-up of approximately 4434 acres of land in Bent County historically irrigated under the Fort Lyon Canal. Subsequent to issuance of the permit, Bent County learned of an agreement entered into between LAWMA and Colorado Springs-Utilities whereby water attributable to the lands dried up under the Fort Lyon Canal would be used, in part, by CS-U for municipal purposes. An important objective of the Colorado Water Plan is to avoid the permanent removal of irrigation water from rural areas. Accordingly, given the prior association of the WFGP with an export plan, and LAWMA's failure to disclose to Bent County as part of the 1041 permit process the plan to share water with CS-U, any loan or grant should include terms and conditions ensuring that LAWMA's interests to be acquired in the WFGP will not be used, directly or indirectly, to facilitate the removal of water from the Lower Arkansas River Basin to the Front Range.
2. Failure to notify LAWMA shareholders. Bent County owns shares in LAWMA; however, as a shareholder, the County does not believe it was adequately informed of LAWMA's intentions to obtain a loan for the WFGP. Given the size of the debt proposed to be incurred, LAWMA should provide confirmation that the proposed indebtedness has been approved by its shareholders.

3. Appraisal. Bent County understands that the principals of GP Resources, the entity selling the WFGP interest to LAWMA, are also owners of substantial shares in LAWMA, and may have a seat on LAWMA's Board of Directors. The extent of prior transactions and relationships between GP Resources' principals and LAWMA's officers and counsel should be fully disclosed and evaluated as to any potential conflicts of interest. Further, given the apparent close relationship between the WFGP seller and LAWMA, it is critical that an objective independent appraisal be provided as part of the materials reviewed for consideration of the loan/grant.

Sincerely,

A handwritten signature in dark ink, appearing to read "Calvin Feik", is written over a horizontal line.

Calvin Feik, Bent County Administrator



# Bent County Board of County Commissioners

April 5, 2019

Re: Comments to LAWMA Water Plan Grant Application

Dear Ms. Mauss,

Bent County has reviewed the Water Plan Grant Application submitted by the Lower Arkansas Water Management Association (LAWMA) seeking a grant and/or loan to acquire 1,564 acre-feet of storage capacity in the West Farm Gravel Pit (WFGP), and submits the following comments for consideration:

1. No use of storage for export of water from the Lower Arkansas River Basin. Per the attached 2011 article from the Lamar Ledger, Bent County understands that the WFGP was previously a component part of a proposal to export water from the Lower Arkansas River basin to the Front Range. LAWMA recently obtained a 1041 permit from Bent County related to dry-up of approximately 4434 acres of land in Bent County historically irrigated under the Fort Lyon Canal. Subsequent to issuance of the permit, Bent County learned of an agreement entered into between LAWMA and Colorado Springs-Utilities whereby water attributable to the lands dried up under the Fort Lyon Canal would be used, in part, by CS-U for municipal purposes. An important objective of the Colorado Water Plan is to avoid the permanent removal of irrigation water from rural areas. Accordingly, given the prior association of the WFGP with an export plan, and LAWMA's failure to disclose to Bent County as part of the 1041 permit process the plan to share water with CS-U, any loan or grant should include terms and conditions ensuring that LAWMA's interests to be acquired in the WFGP will not be used, directly or indirectly, to facilitate the removal of water from the Lower Arkansas River Basin to the Front Range.
2. Failure to notify LAWMA shareholders. Bent County owns shares in LAWMA; however, as a shareholder, the County does not believe it was adequately informed of LAWMA's intentions to obtain a loan for the WFGP. Given the size of the debt proposed to be incurred, LAWMA should provide confirmation that the proposed indebtedness has been approved by its shareholders.

3. Appraisal. Bent County understands that the principals of GP Resources, the entity selling the WFGP interest to LAWMA, are also owners of substantial shares in LAWMA, and may have a seat on LAWMA's Board of Directors. The extent of prior transactions and relationships between GP Resources' principals and LAWMA's officers and counsel should be fully disclosed and evaluated as to any potential conflicts of interest. Further, given the apparent close relationship between the WFGP seller and LAWMA, it is critical that an objective independent appraisal be provided as part of the materials reviewed for consideration of the loan/grant.

Sincerely,



---

Calvin Feik, Bent County Administrator