COLORADO
Division of Water Resources
Department of Natural Resources

January 19, 2022

Walter M. Niccoli, P.E.
Telesto Solutions, Inc.
3801 Automation Way, Suite 201
Fort Collins, CO 80525

**RE: Laporte Operations Substitute Water Supply Plan (WDID 0302532, Plan ID 5958)**
**Knox Pit, DRMS Permit No. M-2017-036 (WDID 0307920)**
**SW ¼ Section 28, T8N, R69W, 6th P.M.**
**Water Division 1, Water District 3, Larimer County**

**Approval Period: January 1, 2022 through December 31, 2022**
*Contact Information for Mr. Niccoli: 970-484-7704; wniccoli@telesto-inc.com*

Dear Mr. Niccoli:

We have reviewed your submittals of December 15 and December 28, 2021, requesting approval of the above referenced substitute water supply plan ("SWSP") in accordance with section 37-90-137(11), C.R.S. The SWSP is requested to cover depletions associated with the Knox Pit sand and gravel mining operation, operated by Loveland Ready-Mix Concrete, Inc. ("LRM" or "Applicant"). The required renewal fee of $257 has been received (receipt no. 10017469). The SWSP for this site was initially approved on April 17, 2020 for operations through December 31, 2021.

**SWSP Operations**

The Knox Pit site consists of approximately 125 acres located just east of Laporte, Colorado. The Larimer County Board of County Commissioners conditionally approved operations at the site in January of 2019; however, prior to the County issuing a building permit, a lawsuit halted all County permit issuances on the project. Currently, groundwater has been exposed in the Water Management Pond, but mining of the site has not yet begun. Mining of the site is anticipated to occur in five phases, consisting of approximately 17 acres each, and be completed over a period of 10 to 12 years. For the purposes of this SWSP, it has been assumed that LRM will receive a County building permit by the end of May 2022, will complete the construction of the Water Management Pond in June of 2022, and will begin mining Phase I in July of 2022. Material will be mined below the groundwater table, and the mining excavations will be dewatered. Water collected by the dewatering system will be pumped to the unlined Water Management Pond and used onsite for dust suppression, aggregate washing, concrete production, and truck washing. Storm water falling on the site is proposed to be captured in a storm water tank and pumped to the Water Management Pond. Water placed in the Water Management Pond that is not pumped for operational uses will be allowed to seep into the ground and will be accounted for as an accretion to the river. The site will also contain a recirculated wash water/reclaim pond to help manage the water supply. This pond will be shallow and will be constructed above the groundwater table. As mining progresses, a compacted liner will

be placed around the perimeter of the mine to seal the post-mining pits from the surrounding ground water system. A perimeter drain will be installed between the compacted liner and the alluvial aquifer concurrent with the placement of the compacted liner to allow for groundwater flow around the site. Upon completion of mining, the site is proposed to be reclaimed to pasture/rangeland. During this plan period, replacement water will be provided pursuant to an agreement with the North Weld County Water District.

**Water Management**

You have developed a numerical groundwater model, calibrated to water level measurements taken from wells located adjacent to and around the proposed Knox Pit, to establish time- and mining-phase-dependent inflow rates, and the relationship between the water level in the Water Management Pond and anticipated groundwater inflows or outflows. The Water Management Pond will effectively act as a recharge pond when receiving dewatering water and/or storm water runoff in excess of the amount needed for operations at the site.

Dewatering at the site is anticipated to commence in July 2022 at an initial rate of over 5,000 gpm. The dewatering rate is anticipated to swiftly decrease to approximately 700 gpm during the irrigation season and 400 gpm during the non-irrigation season. Once the compacted backfill is installed, irrigation season dewatering rates are anticipated to decrease further to approximately 500 gpm. For the purposes of this SWSP, you have used an estimated dewatering rate of 700 gpm for both the irrigation and non-irrigation season. The dewatering discharge from the active mine sump to the Water Management Pond will be measured using a totalizing flow meter.

Storm water falling on the active mine site will be collected in a settling basin and will gravity-flow to the Water Management Pond. A tipping bucket rain gage will be installed onsite to collect daily precipitation data. Storm water inflows into the Water Management Pond must either be directly measured or calculated based on the drainage area and on-site precipitation.

**Depletions**

Currently, 2.08 acres of groundwater surface area are exposed in the Water Management Pond. The amount of surface area is estimated to increase to 3.40 acres when construction of the Water Management Pond recommences, and will reach a final surface area of 4.80 acres after completion of construction. Beginning in June 2022, groundwater will also be exposed in the Reclaim Pond and dewatering trenches. In the first month, you have estimated that the area of groundwater exposed in the Reclaim Pond and dewatering trenches will total 35 acres; for every month thereafter the amount of groundwater exposed in the Reclaim Pond and dewatering trenches will total 1.30 acres. You have estimated evaporation from the exposed groundwater surfaces using a gross annual evaporation of 38.28 inches based on the "free water surface" (FWS) evaporation from NOAA Technical Report NWS 33. The applicant may alternately calculate gross evaporation at the site based on the local evapotranspiration (ET) data published by the Northern Colorado Water Conservancy District for the Fort Collins Central (228) weather station when such data is available. The reported ET for alfalfa will be multiplied by the reported daily pan coefficient to calculate pan evaporation. Pan evaporation will be multiplied by 0.7 to calculate pond evaporation. A factor of 0.7 should <u>not</u> be applied to the "free water surface" (FWS) evaporation obtained from NOAA Technical Report NWS 33. For the purposes of this SWSP, you have assumed that no precipitation will occur at the site. Based on the projected operations and assumptions, the depletion due to

evaporation from exposed groundwater surfaces at the site is projected to total 30.17 acre-feet for this plan period. The applicant may take a credit for the amount of groundwater and precipitation historically consumed by native vegetation on the areas under the free water surface, estimated as 70 percent of the total precipitation measured at the site for each month. This calculated amount would be subtracted from the monthly gross evaporation rate to obtain the monthly net evaporation rate.

Water used for truck washing will be pumped from the Water Management Pond. Truck washing will occur on a concrete pad. The water used for this purpose will be recycled, with any runoff being routed to a storm water pond and discharged in accordance with the stormwater pollution prevention permit/plan for the site. Therefore, the only depletion associated with truck washing will be due to evaporation from the concrete pad. The area of the concrete pad has been included in the calculations for evaporation at the site.

Water for dust control purposes will also be pumped from the Water Management Pond. You have estimated that beginning in June 2022, a monthly amount of 0.17 acre-feet (55,400 gallons) of water will be required for dust control purposes, based on operations at LRM's Johnstown site. All water used for dust control purposes is assumed to be 100% consumed.

The estimated monthly consumptive use due to evaporation from the Water Management Pond, and the combined consumptive use due to evaporation from the Reclaim Pond, dewatering trenches, truck wash pad, and from water used for dust control purposes during this plan period are shown under Evaporation on the attached Table 1. The consumptive use of groundwater for these non-production purposes is estimated to total 31.35 acre-feet for this plan period.

The Water Management Pond will be completely dewatered to allow for completion of its construction. The volume of water that will refill the Water Management Pond was calculated as the sum of the volume of water contained in the pond prior to dewatering (29.65 acre-feet) and the volume of the "first fill" of the newly excavated portion of the pond (23.72 acre-feet). The "first fill" is the water that fills an unlined pit or pond and occupies the volume previously occupied by the removed sand, gravel, or other solid material. The "first fill" volume is estimated as the volume of the pit less the pore volume and the water retained in the mined product.

You have projected 139,625 tons of mined aggregate will be removed from the site during this plan period. The material will be mined below the groundwater table, but in a dewatered state. The material will be washed, therefore the moisture content is considered to be 4% of the mined material by weight, all of which is considered to be a groundwater diversion. This results in a consumptive use of 4.11 acre-feet for the projected 139,625 tons of washed material.

The mined aggregate will be used for the production of an estimated 78,084 cubic yards of concrete at the site during this plan period. A volume of 30 gallons of water is required per cubic yard of concrete produced. Water demands for concrete production are therefore estimated to total 7.19 acre-feet for this plan period. Water used for concrete production is considered to be 100% consumed.

The estimated monthly consumptive use due to water removed with the mined aggregate and water used for concrete batching are shown under Production on the attached Table 1. The consumptive use of groundwater for these production purposes is estimated to total 11.30 acre-feet

for this plan period. Consumptive use due to evaporation (including truck washing and dust control) and production purposes at the site will therefore total 42.65 acre-feet during this plan period.

**Lagged Recharge/Depletions**

The Phase 1 & 2 Sump, as shown on the attached Figure 3, is located closer to the river than the Water Management Pond where dewatering water will be placed for recharge. Therefore, it cannot be assumed that the depletions from dewatering are offset by deliveries to the Water Management Pond. The depletions from pumping of the Phase 1 & 2 Sump for dewatering purposes and the accretions for recharge from the Water Management Pond were calculated using the Alluvial Water Accounting System (AWAS) program developed by the Integrated Decision Support (IDS) Group at Colorado State University with the alluvial aquifer boundary condition.

The monthly groundwater depletions were lagged from the Phase 1 & 2 Sump to the Cache la Poudre River in the SW ¼ of the NW ¼ of Section 32, Township 8 North, Range 69 West, 6$^{th}$ P.M. using the following parameters:

- Distance from the Phase 1 & 2 Sump to the river (X) = 3,270 feet
- Distance from the river to the no-flow boundary (W) = 6,000 feet
- Specific yield (S) = 0.20
- Transmissivity (T) = 50,000 gallons per day per foot

The AWAS model was utilized to develop a unit response function (URF) to estimate monthly lagged depletions to the river.

The monthly groundwater accretions from the Water Management Pond were calculated as the amount of water pumped for dewatering purposes, minus the operational and evaporative consumptive use of water at the site as described above. The volume of the "first fill" associated with the dewatering and completion of excavation of the Water Management Pond was accounted for by subtracting 53.37 acre-feet from the volume of groundwater considered to be recharged to the aquifer for the month of July 2022.

The resulting accretions were lagged from the Water Management Pond to the same point on the Cache la Poudre River in the SW ¼ of the NW ¼ of Section 32, Township 8 North, Range 69 West, 6$^{th}$ P.M. using the following parameters:

- Distance from the Water Management Pond to the river (X) = 4,250 feet
- Distance from the river to the no-flow boundary (W) = 6,000 feet
- Specific yield (S) = 0.20
- Transmissivity (T) = 50,000 gallons per day per foot

The AWAS model was utilized to develop a unit response function (URF) to estimate monthly lagged recharge accretions to the river. After accounting for recharge accretions, you have calculated lagged depletions resulting from operations at the site to total 69.35 acre-feet for this plan period as shown on the attached Figure 7. Using the previously provided URFs, past accounting submittals, and projected depletions/recharge for this plan period, the SEO has calculated lagged depletions to total 76.60 acre-feet for this plan period.

**Replacements**

Replacement water will be provided via a lease with the North Weld County Water District ("NWCWD") with an effective date of October 25, 2019 for up to a maximum of 129 acre-feet of water per calendar year that has been decreed to allow for augmentation use or is otherwise fully consumable, including water from the Overland Trail Reservoir system. On or before October 15 of each year, LRM will provide NWCWD with an estimate of monthly depletions for the period of November through October of the following water year. The term of the lease is for a minimum of five years after exposure of groundwater in Pond 1. The lease agreement limits annual consumptive use associated with Pond 1 (mining Phases 1 & 2) to 54 acre-feet per year.

The Overland Trail Reservoir system (WDID 0303312) consists of a series of existing off-channel lined gravel pits, located in portions of Sections 32 & 33, T8N, and Section 3, T7N, R69W, 6th P.M. as shown in the attached Figure 8. Water is stored in the lined ponds pursuant to the Overland Trail Reservoirs conditional water storage right decreed in case no. 2000CW0251. The liners for Overland Ponds 1-5 and Treiber Lake A have been approved by this office. The Overland Trail Reservoirs may be filled with water diverted from the Cache la Poudre River via the New Mercer Ditch, Larimer County Canal No. 2, the Overland Trail Diversion Structure, Munroe Gravity Canal (a/k/a North Poudre Supply Canal), and/or the Pleasant Valley Pipeline. The total decreed capacity of the Overland Trail Reservoirs is 10,962 acre-feet, conditional. Replacement water from the Overland Trail Reservoirs is proposed to be pumped into the Cache la Poudre River in the SE ¼ of Section 33, Township 8 North, Range 69 West, 6th P.M., approximately one mile downstream of the Knox Pit. There are no intervening surface water diversions along this stretch of the river.

**Long Term Augmentation**

All sand and gravel mining operators must comply with the requirements of the Colorado Reclamation Act and the Mineral Rules and Regulations for the protection of water resources. The Colorado Division of Reclamation, Mining, and Safety ("DRMS") requires that you provide information to demonstrate you can replace long term injurious stream depletions that result from mining-related exposure of groundwater. Loveland Ready-Mix Concrete, Inc. has submitted a financial warranty in the amount of $788,900.00 for the Knox Pit, which the DRMS has determined equals the estimated costs of reclamation to the proposed post-mining land use of pastureland, including the backfilling, grading, and revegetation of the disturbed areas.

**Conditions of Approval**

I hereby approve the proposed SWSP in accordance with section 37-90-137(11), C.R.S., subject to the following conditions:

1. This SWSP shall be valid for the period of January 1, 2022 through December 31, 2022 unless otherwise revoked or superseded. If groundwater depletions associated with this sand and gravel mining operation will extend beyond the expiration date of this SWSP, a renewal request must be submitted to this office with the statutory fee (currently $257) **no later than November 1, 2022.** If a renewal request is received after the expiration date of this plan, it may be considered a request for a new SWSP, in which case the $1,593 filing fee will apply.

2. Well permit no. 84309-F has been obtained in accordance with sections 37-90-137(2) and (11), C.R.S., in conjunction with this plan, for the proposed uses of groundwater at the site, being

evaporation of exposed groundwater, truck washing, dewatering, the "first fill" of the Water Management Pond, dust control, concrete production, and water removed with the mined product. Should additional uses of groundwater be required, a new well permit must be obtained.

3. The maximum annual evaporative loss at the site during this plan period is limited to 31.35 acre-feet. The annual amount of water consumed for dust control purposes, concrete production, and lost with the mined product during this plan period is limited to 11.30 acre-feet. This Applicant must first obtain written approval from this office before exceeding these amounts.

4. After accounting for dewatering depletions and recharge accretions, total lagged depletions resulting from operations at the site shall not exceed 129 acre-feet per year.

5. All diversions shall be measured in a manner acceptable to the division engineer. The Applicant shall install and maintain measuring devices as required by the division engineer for operation of this SWSP.

6. A staff gage must be installed in the Water Management Pond, approved by the water commissioner, and a stage-capacity table provided in order to receive credit for any accretions from dewatering or stormwater delivered to the Pond.

7. The name, address and phone number of the contact person who will be responsible for the operation and accounting of this plan must be provided with the accounting form to the division engineer and water commissioner.

8. The Applicant shall provide daily accounting (including, but not limited to diversions, depletions, replacement sources, and river calls) on a monthly basis. The accounting must be uploaded to the CDSS Online Reporting Tool (https://dwr.state.co.us/Tools/reporting) within 30 days of the end of the month for which the accounting applies. Instructions for using the tool are available on the Division of Water Resources website on the "Services" → "Data & Information" page under the heading of Online Data Submittal. Accounting and reporting procedures are subject to approval and modification by the division engineer. Accounting forms need to identify the WDID number for each structure operating under this SWSP. Additional information regarding accounting requirements can be found in the attached Augmentation Plan Accounting Administration Protocol for Division One. **NOTE:** Monthly accounting, even during the winter non-irrigation season, is required.

   The Applicant shall verify that the entity making replacements (the North Weld County Water District) has included the Applicant on their accounting submitted to this office.

9. All releases of replacement water must be sufficient to cover all out-of-priority depletions in time, place, and amount and must be made under the direction and/or the approval of the water commissioner. Notice must be provided and approval made by the water commissioner at least 48 hours prior to the release of replacement water, or as required by the water commissioner. The release of replacement water may be aggregated to maximize beneficial use. The water commissioner and/or the division engineer shall determine the rate and timing of an aggregated release.

10. Conveyance loss for delivery of augmentation water is subject to assessment and modification as determined by the division engineer.

11. The replacement water which is proposed to be utilized in this SWSP cannot be sold or leased to any other entity during the term of this plan. All replacement water must be concurrent with depletions in quantity, timing and location.

12. Dewatering at this site will produce delayed depletions to the stream system. As long as the site is continuously dewatered, the water returned to the stream system via recharge will be used to partially offset the depletions, thus dewatering is required to continue during the term of this plan. Once dewatering at the site ceases, the delayed depletions must be addressed, including depletions resulting from the gradual refilling of the pit. At least three years prior to completion of dewatering, a plan must be submitted that specifies how the post-pumping dewatering depletions will be replaced, in time, place and amount.

13. The approval of this SWSP does not relieve the Applicant and/or landowner of the requirement to ensure the permanent replacement of all depletions, including long-term evaporation losses and/or lagged depletions after gravel mining operations have ceased. If reclamation of the mine site will produce a permanent water surface exposing groundwater to evaporation, an application for a plan for augmentation must be filed with the Division 1 Water Court at least three (3) years prior to the completion of mining to include, but not be limited to, long-term evaporation losses and lagged depletions. If a lined pond results after reclamation, replacement of lagged depletions shall continue until there is no longer an effect on stream flow.

14. To assure that depletions from groundwater evaporation do not occur in the unforeseen event, or events, which would lead to the abandonment of the pit, the Applicant has obtained a bond in the amount of $788,900.00, which includes the cost of backfilling the pond(s).

15. The state engineer may revoke this SWSP or add additional restrictions to its operation if at any time the state engineer determines that injury to other vested water rights has occurred or will occur as a result of the operation of this SWSP. Should this SWSP expire without renewal or be revoked prior to adjudication of a permanent plan for augmentation, all use of water at the pit must cease immediately.

16. In accordance with amendments to section 25-8-202(7), C.R.S., and Senate Bill 89-181 Rules and Regulations adopted on February 4, 1992, the state engineer shall determine whether the substitute supply is of a quality to meet requirements of use of senior appropriators. As such, water quality data or analysis may be requested at any time to determine if the water quality is appropriate for downstream water users.

17. The decision of the state engineer shall have no precedential or evidentiary force, shall not create any presumptions, shift the burden of proof, or serve as a defense in any pending water court case or any other legal action that may be initiated concerning this plan. This decision shall not bind the state engineer to act in a similar manner in any other applications involving other SWSPs, or in any proposed renewal of this SWSP, and shall not imply concurrence with any findings of fact or conclusions of law contained herein, or with the engineering methodologies used by the Applicant.

Please contact Sarah Brucker in Denver at (303) 866-3581, or Michael Hein in Greeley at (970) 352-8712, if you have any questions concerning this approval.

Sincerely,

*for* Jeff Deatherage, P.E.
Chief of Water Supply

Attachments: Table 1
Figure 3 - Mining Phase 2 and Water Management Features
Figure 7 - Lagged Depletions/Required Replacements
Figure 8 - Approximate Locations of Depletion and Replacement
NWCWD lease agreement
Augmentation Plan Accounting Administration Protocol for Division One

Cc: Michael Hein, Lead Assistant Division Engineer, Michael.Hein@state.co.us
1809 56th Avenue, Greeley, CO 80634

Louis Flink, Tabulation/Diversion Records Coordinator, Louis.Flink@state.co.us

Dawn Ewing, Accounting Coordinator, Dawn.Ewing@state.co.us

Mark Simpson, Water Commissioner, Water District 3, Mark.Simpson@state.co.us

Brock Bowles, Division of Reclamation Mining and Safety, Brock.Bowles@state.co.us

## Table 1 Estimated Consumptive Use and Pumping (AF) Over the Requested SWSP Period

| Item | January | February | March | April | May | June | July | August | September | October | November | December | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Evaporation (af)** | **0.20** | **0.23** | **0.36** | **0.60** | **0.80** | **17.93** | **3.09** | **2.80** | **2.12** | **1.53** | **0.95** | **0.75** | **31.35** |
| WMP (acre) | 2.08 | 2.08 | 2.08 | 2.08 | 2.08 | 3.40 | 4.80 | 4.80 | 4.80 | 4.80 | 4.80 | 4.80 | |
| Reclaim & Conveyance Channels (acre) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 35.00 | 1.30 | 1.30 | 1.30 | 1.30 | 1.30 | 1.30 | |
| **Production (af)** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **0.66** | **1.79** | **1.79** | **1.73** | **1.79** | **1.73** | **1.79** | **11.30** |
| Concrete Production (cy) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 13,155 | 13,155 | 12,731 | 13,155 | 12,731 | 13,155 | 78,084 |
| Water Removed in Concrete (af) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1.21 | 1.21 | 1.17 | 1.21 | 1.17 | 1.21 | 7.19 |
| Washed Aggregate (ton) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 22,500 | 19,733 | 19,733 | 19,097 | 19,733 | 19,097 | 19,733 | 139,625 |
| Water Removed Aggregate (af) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.66 | 0.58 | 0.58 | 0.56 | 0.58 | 0.56 | 0.58 | 4.11 |
| **Pumping** | **0.00** | **0.00** | **0.00** | **0.00** | **0.00** | **106.06** | **95.90** | **95.90** | **92.80** | **95.90** | **92.80** | **95.90** | **675.25** |

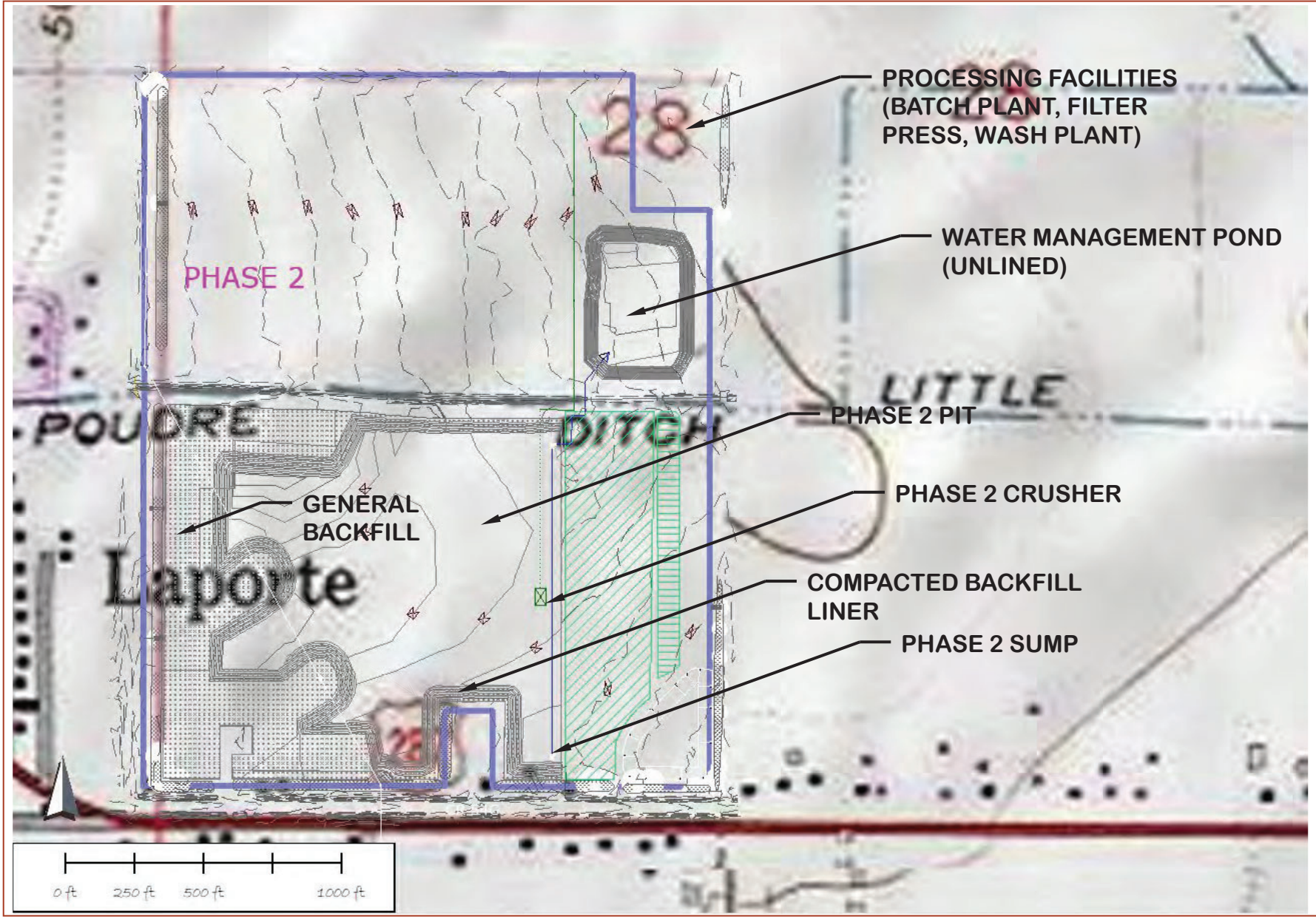


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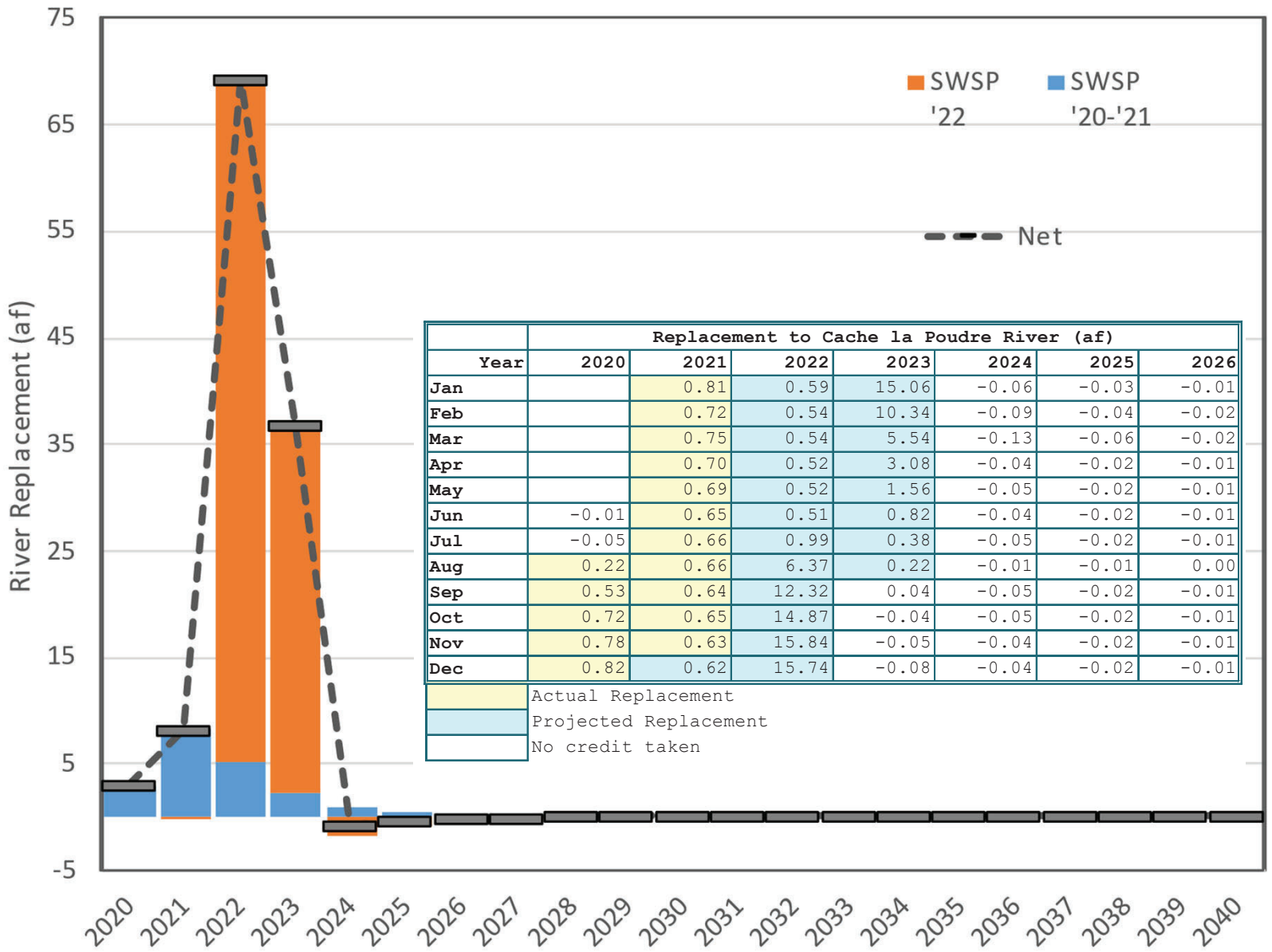
**FIGURE 3**
**MINING PHASE 2 AND WATER MANAGEMENT FEATURES**

PREPARED FOR: LOVELAND READY-MIX CONCRETE




| | Replacement to Cache la Poudre River (af) | | | | | | |
|---|---|---|---|---|---|---|---|
| Year | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 |
| Jan | | 0.81 | 0.59 | 15.06 | -0.06 | -0.03 | -0.01 |
| Feb | | 0.72 | 0.54 | 10.34 | -0.09 | -0.04 | -0.02 |
| Mar | | 0.75 | 0.54 | 5.54 | -0.13 | -0.06 | -0.02 |
| Apr | | 0.70 | 0.52 | 3.08 | -0.04 | -0.02 | -0.01 |
| May | | 0.69 | 0.52 | 1.56 | -0.05 | -0.02 | -0.01 |
| Jun | -0.01 | 0.65 | 0.51 | 0.82 | -0.04 | -0.02 | -0.01 |
| Jul | -0.05 | 0.66 | 0.99 | 0.38 | -0.05 | -0.02 | -0.01 |
| Aug | 0.22 | 0.66 | 6.37 | 0.22 | -0.01 | -0.01 | 0.00 |
| Sep | 0.53 | 0.64 | 12.32 | 0.04 | -0.05 | -0.02 | -0.01 |
| Oct | 0.72 | 0.65 | 14.87 | -0.04 | -0.05 | -0.02 | -0.01 |
| Nov | 0.78 | 0.63 | 15.84 | -0.05 | -0.04 | -0.02 | -0.01 |
| Dec | 0.82 | 0.62 | 15.74 | -0.08 | -0.04 | -0.02 | -0.01 |

Actual Replacement
Projected Replacement
No credit taken

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**FIGURE 7**
**LAGGED DEPLETIONS / REQUIRED REPLACEMENTS**

PREPARED FOR: LOVELAND READY-MIX CONCRETE

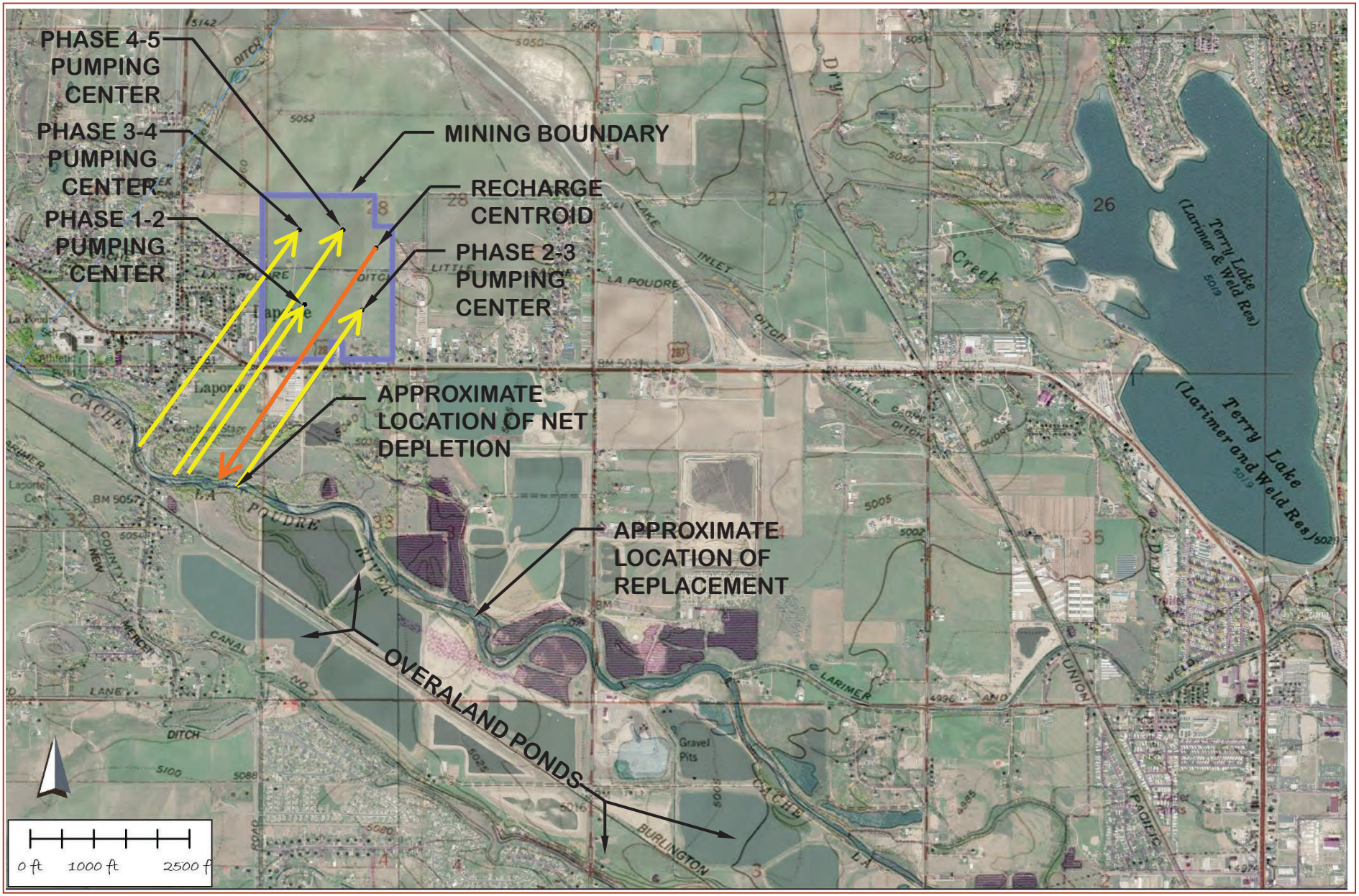


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**FIGURE 8**
**APPROXIMATE LOCATIONS OF DEPLETION AND REPLACEMENT**

PREPARED FOR: LOVELAND READY-MIX CONCRETE

WATER RENTAL AGREEMENT

THIS WATER RENTAL AGREEMENT ("Lease" or "Agreement") is made and entered into this 25th day of October, 2019 ("Effective Date"), by and between NORTH WELD COUNTY WATER DISTRICT, acting by and through the North Weld County Water District Enterprise ("Lessor"), and LOVELAND READY-MIX CONCRETE, INC., a Colorado corporation ("Lessee"), whose address is 644 N Namaqua Ave., Loveland, Colorado 80537. The Lessor and the Lessee are collectively referred to herein as the "Parties".

WHEREAS, the Lessee is the owner of approximately one hundred twenty-five (125) acres of real property legally described on Exhibit A attached hereto and has granted to North Weld County Water District an option to purchase a portion of said real property pursuant to an Option Agreement dated effective as of October 25, 2019, 2019 ("Option Agreement"). As set forth in the Option Agreement, the Lessee will mine portions of the 125-acre parcel to remove sand, gravel and other aggregate products pursuant to Division of Reclamation Mining and Safety Permit No. M2017-036; and

WHEREAS, for convenience of reference, capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Option Agreement; and

WHEREAS, Lessee wishes to lease from the Lessor upon the terms set forth below, certain water rights that may lawfully be used for augmentation purposes, including the replacement of all out-of-priority depletion to the Poudre River resulting from mining operations, including depletions occurring subsequent to the conclusion of mining ("lagged depletions"); all as necessary and sufficient to fulfill its Substitute Water Supply Plan ("SWSP") obligations with the Colorado Division of Water Resources; and

WHEREAS, the Lessor owns certain water rights which may lawfully be used for such augmentation purposes; and

WHEREAS, the Lessor is willing to lease to Lessee a portion of such water rights, pursuant to certain terms and conditions as set forth in this Lease.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. For purposes of this Lease, the following terms shall have the following meanings:

   A. "Augmentation Supply" shall mean and refer to certain water rights owned by the Lessor which may lawfully be used for augmentation purposes.

   B. "Pond 1 Augmentation Supply" shall mean and refer to the Augmentation Supply leased by the Lessor to the Lessee pursuant to the terms of this Lease with respect to Pond 1.

   C. "Pond 2 Augmentation Supply" shall mean and refer to the Augmentation Supply leased by the Lessor to the Lessee pursuant to the terms of this Lease with respect to Pond 2.

   D. "Leased Augmentation Supply" shall mean and refer to the Pond 1 Augmentation Supply and/or the Pond 2 Augmentation Supply, as applicable.

   E. "Pond 1 Augmentation Supply Period" shall mean and refer to the period of time during which the Lessor will be obligated to lease the Pond 1 Augmentation Supply to the Lessee, which period of time shall commence thirty days after Lessee provides notice to Lessor that it has started

mining activities and will be exposing ground water in Pond 1, and continue thereafter until five years after the expiration or termination of the Option with respect to Pond 1 pursuant to the Option Agreement or, in the event of the purchase of Pond 1 by the Lessor, such additional period of time as is necessary and sufficient to fulfill the Lessee's Pond 1 SWSP obligations pursuant to the Option Agreement.

F. "Pond 2 Augmentation Supply Period" shall mean and refer to the period of time during which the Lessor will be obligated to lease the Pond 2 Augmentation Supply to the Lessee, which period of time shall commence thirty days after Lessee provides notice to Lessor that it has started mining activities and will be exposing ground water in Pond 2, and continue thereafter until the expiration or termination of the Option with respect to Pond 2 pursuant to the Option Agreement or, in the event of the purchase of Pond 2 by the Lessor, such additional period of time as is necessary and sufficient to fulfill the Lessee's Pond 2 SWSP obligations pursuant to the Option Agreement.

G. "Lease Expiration" shall mean and refer, unless earlier terminated as provided for herein, to the later to expire of the Pond 1 Augmentation Supply Period and the Pond 2 Augmentation Supply Period, as applicable.

2. Amount and Term: The Lessor hereby leases to the Lessee the right to receive up to a total maximum of 129 acre-feet (AF) of Augmentation Supply, annually, as more fully set forth herein during the period commencing on the Effective Date hereof and continuing thereafter until Lease Expiration.

3. Leased Water: The Lessor shall deliver, as applicable, Pond 1 Augmentation Supply during the Pond 1 Augmentation Supply Period and Pond 2 Augmentation Supply during the Pond 2 Augmentation Supply Period in such amounts and at such times as reasonably agreed to between the parties and in conformance with the SWSP ("Leased Water"). Notwithstanding the foregoing, the combined Augmentation Supply with respect to both Pond 1 and Pond 2, jointly, shall not exceed 54 acre-feet (AF), annually.

4. Payment: In consideration of the right to receive the Leased Augmentation Supply, Lessee shall, during the first water year in which any part of the Augmentation Supply is first delivered to Lessee, pay the Lessor a sum equal to the initial rate of [redacted] per acre-foot of Augmentation Supply leased and delivered. The initial rate for the Leased Water shall be [redacted] per acre-foot of Augmentation Supply leased and delivered, with the fair market value of such Leased Water being adjusted upon every five (5) year anniversary of the Pond Closing with respect to such Pond throughout the applicable Pond Augmentation Supply Period. Notwithstanding the foregoing, the rate for the Leased Water prior to Lease Expiration shall not be less than [redacted] per acre-ft and shall not exceed a per annum increase of [redacted] per year, non-compounded.

   The Lessor shall submit an Invoice to the Lessee on November 15 of each year for Lessee's previous water year's lease, including November 15 of the year following Lease Expiration. The total water leased for each year shall be determined from the monthly releases as documented in Lessee's Monthly accounting reports.

5. Default: If any required payment is not made or tendered as required herein, the Lessor shall provide the Lessee with written notice of the specific default alleged. If the Lessee fails to cure a monetary default within fifteen (15) days after receipt of notice from the Lessor or, if a non-monetary default is not capable of being cured within said fifteen (15) day period, if the Lessee fails to commence such cure within said fifteen (15) day period and diligently prosecute the same to completion, the Lessor may elect to terminate this Agreement in addition to seeking whatever damages and further legal remedies it may be entitled to.

In the event the Lessor defaults in the performance of any condition or covenant to be performed by it, the Lessee shall provide written notice to the Lessor of the specific default alleged. If the Lessor fails to cure a default within fifteen (15) days after receipt of notice from the Lessee or, if a default is not capable of being cured within said fifteen (15) day period, if the Lessor fails to commence such cure within said fifteen (15) day period and diligently prosecute the same to completion, the Lessee may elect to terminate this Agreement and seek damages, or may elect to treat this Agreement as being in full force and effect and thereby retain the right to specific performance.

6. Accounting: The Lessor agrees to cooperate with Lessee with issues related to accounting for deliveries of Leased Augmentation Supply, as the same may be required by the SWSP or personnel from Colorado Division of Water Resources from time to time.

   Lessee shall be responsible for submitting all monthly accounting reports to the Colorado Division of Water Resources Division 1 Accounting Coordinator and the Cache La Poudre River Water Commissioner as required by the SWSP. A copy of the monthly accounting will be provided to the Lessor.

   On or before October 15th of each year, Lessee shall provide the Lessor with an estimate of monthly depletions for November through October of the following water year.

7. Sources of Augmentation Water: In supplying the Leased Water pursuant to this Lease, the Lessor may use only water that has been decreed specifically to allow for augmentation uses or is otherwise considered fully consumable, including water from The Overland Ponds.

8. Delivery Location: Delivery of the Leased Water shall be made at a location on the Cache La Poudre River adjacent to The Overland Ponds, or at such other downstream or upstream location(s) as agreed to by the Lessee and the Lessor, which is in accordance with the SWSP and which is acceptable to the Colorado Division of Water Resources.

9. Lagged Depletions: As requested by Lessee, deliveries of Leased Water shall include replacements for lagged depletions as set forth and described in Lessee's SWSP Request dated February 2019. The parties acknowledge that depletions to the surface stream do not occur simultaneously with evaporation and consumption at the gravel mine, consequently depletions to the surface stream will extend beyond the conclusion of mining activities in 2031. However, as illustrated on the Calculation Documentation attached hereto as Exhibit B, such depletions asymptotically approach zero. Therefore, it is expected that Lessee may be able to satisfy replacement requirements prior to Lease Expiration, if any, by making less frequent replacements and in amounts larger than otherwise required. The parties hereby acknowledge that the term of this Lease, if not sooner terminated as herein provided, will expire on Lease Expiration as defined in Paragraph 1.G. above.

10. Post-Completion Date Replacement: Following the closing of the purchase of each Reservoir Parcel pursuant to the terms of the Option Agreement, the Lessor shall be responsible for replacing the depletions caused by Pond 1 or Pond 2 on and after the date of the closing of the Reservoir Parcel on which such Pond is located and obtaining all replacement water for evaporation and other losses required by any permits relating to Reservoirs to be replaced to the stream system, except for the ongoing lagged depletions due to the Lessee's gravel mining and described above. Nothing stated herein shall alter that requirement or contemplates such replacements.

11. Assignment of Rights to Augmentation Water: Upon thirty (30) days advance written notice, Lessee may assign its interest in this Agreement to any successor for the same augmentation purposes on the same property as provided herein. Similarly, upon thirty (30) days advance written notice, Lessor may assign and delegate all or any part of its obligations under this Agreement to one (1) or

more water districts and/or governmental entities capable of providing suitable augmentation water at the time, place and amount necessary for satisfaction of Lessee's SWSP requirements.

12. Notices: All notices shall be in writing and shall be deemed given (i) on the date and at the time of delivery if delivered personally to the party to whom notice is given at the address specified below; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the party to whom notice is given at the address specified below; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed as specified below; or (iv) on the date and at the time shown on the electronic mail message if sent electronically to the address specified below and receipt of such electronic mail message is acknowledged by the intended recipient thereof:

    If to the Lessor, to:

    North Weld County Water District
    Attention: Eric Reckentine, District Manager
    32825 Weld CR 39
    PO Box 56
    Lucerne, CO 80646
    Telephone: 970.356.3020
    Email: ericr@nwcwd.org

    If to Lessee, to:

    Loveland Ready-Mix Concrete, Inc.
    Attention: Stephanie Fancher English
    PO Box 299
    Loveland, CO 80539
    Telephone: 970.667.2680 ext 4
    Email: stephanief@Lrmconcrete.com

13. Modifications: No alteration or other modification of this Lease shall be effective unless such modification shall be in writing and signed by the parties.

14. Invalidity: In the event any portion of this Lease should become invalid, the remainder of the Lease shall remain in full force and effect.

15. Successors: This Lease shall inure to the benefit of, and be binding upon, the successors in interest of the respective parties.

16. Waiver: A waiver of a breach of any provision of this Agreement shall not waive any subsequent breach of the same or different provision of this Agreement.

17. Governing Law and Construction: This Agreement and the legal relations between the parties hereto shall be governed by and construed in accordance with the laws of the State of Colorado. The parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or Exhibits hereto.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set opposite their respective signatures below.

LESSEE: LOVELAND READY-MIX CONCRETE, INC., a Colorado corporation

DATE: October 25, 2019

By _____

Name Brad Faascher

Title V.P.

LESSOR: NORTH WELD COUNTY WATER DISTRICT, acting by and through the North Weld County Water District Enterprise

DATE: November 12, 2019

By _____

Name Gene Stille

Title President

COLORADO
Division of Water Resources
Department of Natural Resources

# ADMINISTRATION PROTOCOL
## Augmentation Plan Accounting
## Division One - South Platte River
### Revised October, 2021

This protocol establishes the accounting and reporting process required to enable the division engineer's office to determine if depletions from all out-of-priority diversions are being replaced so as to prevent injury to vested water rights. The accounting must follow "cradle to grave" accounting practices that track exactly how the data are manipulated from raw data input (e.g., meter readings) to the resultant impact on the river. While this protocol is subordinate to any decreed language addressing specific accounting requirements, it generally addresses the minimum requirements of such accounting.

The accounting must use the standard convention where a depletion is shown as a negative value and an accretion or other replacement source is shown as a positive value. The difference of depletions and replacements will then result in either a negative or positive impact on the stream.

1. Accounting must be submitted electronically to the division engineer and water commissioner through the online data submittal portal at the following link on our website: https://dwr.state.co.us/Tools/reporting. If not already registered, you will need to create a new account through that link.

   Typically, submittals are due within 30 days of the end of the month for which the accounting is being submitted, unless decreed otherwise. Additional data or more frequent submittals may be required by the water commissioner if required for administration. Accounting submittals not submitted through the online data submittal portal or questions regarding accounting submittals may be emailed to dnr_Div1Accounting@state.co.us.

   The following naming convention must be used for all files submitted via email:
   "PlanWDID_YYMMDD"

   where: PlanWDID is the WDID assigned by the division engineer's office

   YYMMDD corresponds to the date the accounting is submitted.

   As an example, the assigned WDID for the former GASP plan was 0103333. If accounting using Excel® was submitted for that plan on May 15, 2004, the file name would be:
   "0103333_040515.xls"

2. The accounting must include a Contact & Plan Information tab, that includes the 7-digit WDID for the plan for augmentation/SWSP, the 4-digit SWSP ID (if applicable), and contact information (i.e., name, phone number, email address) for the augmentation plan accounting including:
   a. the owner(s) of each augmented structure
   b. the person responsible for submitting the accounting
   c. the plan administrator and/or the plan attorney.

3. All of the raw input data (i.e., meter readings, water pumped from wells, etc.) must be provided and organized in a single location, such as an "Input" worksheet, etc. The accounting must include the following input data listed below, as well as relevant WDIDs and permit numbers.

    a. Diversion data from flumes or weirs and unit of measurement.

    b. The required input data for each well is:
        i. the monthly flow meter reading as shown on the flow meter; date of the meter reading; flow meter multiplier (i.e., 0.001, 10, 1); units of volume (i.e., gallons or acre-feet); the meter serial number; correction factor, if any.
        ii. The total volume pumped, showing the calculations using the information in Item "i" above.
        iii. factors from the decree or SWSP that provide for the well consumptive use and depletions (i.e., presumptive depletion factor (PDF), water balance methodology, lagging parameters, etc.).
        iv. Any well permitted or decreed as an alternate point of diversion (APOD) to a surface water right must report pumping on a daily basis if any of the diversions during the month is claimed as being "in priority". (See Administration Protocol - APOD Wells for more details.)

    c. If applicable, data for each recharge structure must be included and comply with the appropriate decree(s) or SWSP Approval requirements and any applicable current statewide Administration Protocol. At a minimum the following should be reported in the accounting:
        i. 7-digit WDID and name of recharge structure
        ii. daily volume in AF diverted into the site;
        iii. monthly volume in AF released from the site;
        iv. monthly gross evaporative loss in AF;
        v. volume of water in AF remaining at the end of the month.

    d. The accounting must identify each source of replacement water actually delivered to the stream and how replacement water at that location offset the depletions. To demonstrate the water was actually delivered to the required location will require the following information:
        i. the name (water court case, lease, etc.) and WDID of the originating source of the replacement water, date released and volume of water released;
        ii. transit losses from point of release to point of depletion or use, if any, using stream loss factors approved by the water commissioner;
        iii. the volume of water actually delivered on a daily basis past any surface water diversion that was sweeping the river as corroborated by the water commissioner. (See Administration Protocol - Delivery of Water for more details on delivering water).

    For each source of replacement water that has been "changed" for use as a source of augmentation, such as changed reservoir shares, changed rights from a ditch, or credits from dry-up, etc., the following input information must be reported:
        i. the decreed volume of return flow obligation;
        ii. if not specified in the decree or SWSP, the location and timing of the owed return flow on the stream(s).

4. If required by the decree or SWSP, the accounting must include a monthly projection of the plan's operation at least through March 31 of the next calendar year, or as specified in the decree or SWSP.

5. The accounting submittal must include output associated with modeling showing monthly delayed depletions (from well pumping or return flow obligations) and/or accretions (from recharge).

6. All accounting must provide a net impact summary that shows a daily balance of the out-of-priority depletions, accretions from each recharge site, volume of replacement water actually delivered and the resultant net impact. If necessary, a net impact must be shown for each applicable river and reach.

   While modeling may use a monthly step function to determine the depletions from pumping and accretions from recharge, the monthly result must then be divided by the number of days in the month in order to simulate a daily impact, as water rights are administered on a daily and not monthly basis.

   The accounting should indicate that the replacement water is equal to the depletion(s) such that the daily net impact (using the simulated daily numbers from the modeling) is not negative, unless the water commissioner approves less frequent aggregation of replacements without injury to downstream water rights.

   In the instance that aggregation is allowed, replacement is needed only for days with out-of-priority depletions. For example, if a well is out-of-priority for 15 days during a month, replacement must be made only for the 15 days the well is out-of-priority. Likewise, any simulated daily accretions will only count toward replacing the depletion on the days the well is out-of-priority. The accretions that accrue to the river when the well is in priority cannot be applied to different days with out-of-priority depletions.

7. The basis for determining that the depletions are out-of-priority should be data from the Division of Water Resources' Administrative Calls & Analysis Tool (https://dwr.state.co.us/Tools/AdministrativeCalls/Active) and should be included in the accounting along with the relative steps in the determination of a structure being in or out of priority. The analysis may be done, unless otherwise limited by decree, for each well or groups of wells, provided the most junior water right associated with the group of wells is used as the reference water right for the group's out-of-priority status.

8. The accounting shall include all the required information for the month of the submittal in addition to the information submitted from previous months such that the information and monthly submittals are a cumulative report each month throughout the 12 month reporting period.

9. If a well is covered in multiple SWSPs or augmentation plans, the monthly meter readings must be the same in the accounting for each plan covering the subject well. The accounting for every plan covering the well shall state the proportionate and total pumping amount covered by each plan to assure all out-of-priority depletions are replaced.

10. The following additional accounting requirements apply when sources of replacement water are used in more than one plan.
    a. The entity providing replacement water to the stream is responsible for accounting for the total amount of replacement water and how much of the total went to each plan.
    b. The amount of replacement water claimed for a particular augmentation plan must match the amount in the accounting from the entity providing the replacement water to the stream.
    c. The amount of replacement water claimed for use by one or more water users shall not exceed the amount of replacement water physically and legally available. (See Administration Protocol – Use Of Unnamed Sources For Replacement for additional requirements concerning required notice and approval of sources of replacement not specifically described in a SWSP or augmentation plan).