

Consent Agenda Item 1.b

January 25-26, 2021 Board Meeting

Case No. 20CW3014 (Water Division 3);

Blanca Ranch Holdings, LLC and Trinchera Ranch Holdings, LLC

Summary of Water Court Application

Application for water rights, change of water rights, and approval of plan for augmentation.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in December 2020 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water right in Water Division 3 in the Alamosa-Trinchera River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
82CW0230 (Div. 3)	Sangre de Cristo Creek	headwaters in vicinity of lat. 37 deg. 36'56" N, long. 105 deg. 11'35" W	confl Ute Creek	2 (1/1 - 12/31)	10/07/1982

Potential for Injury

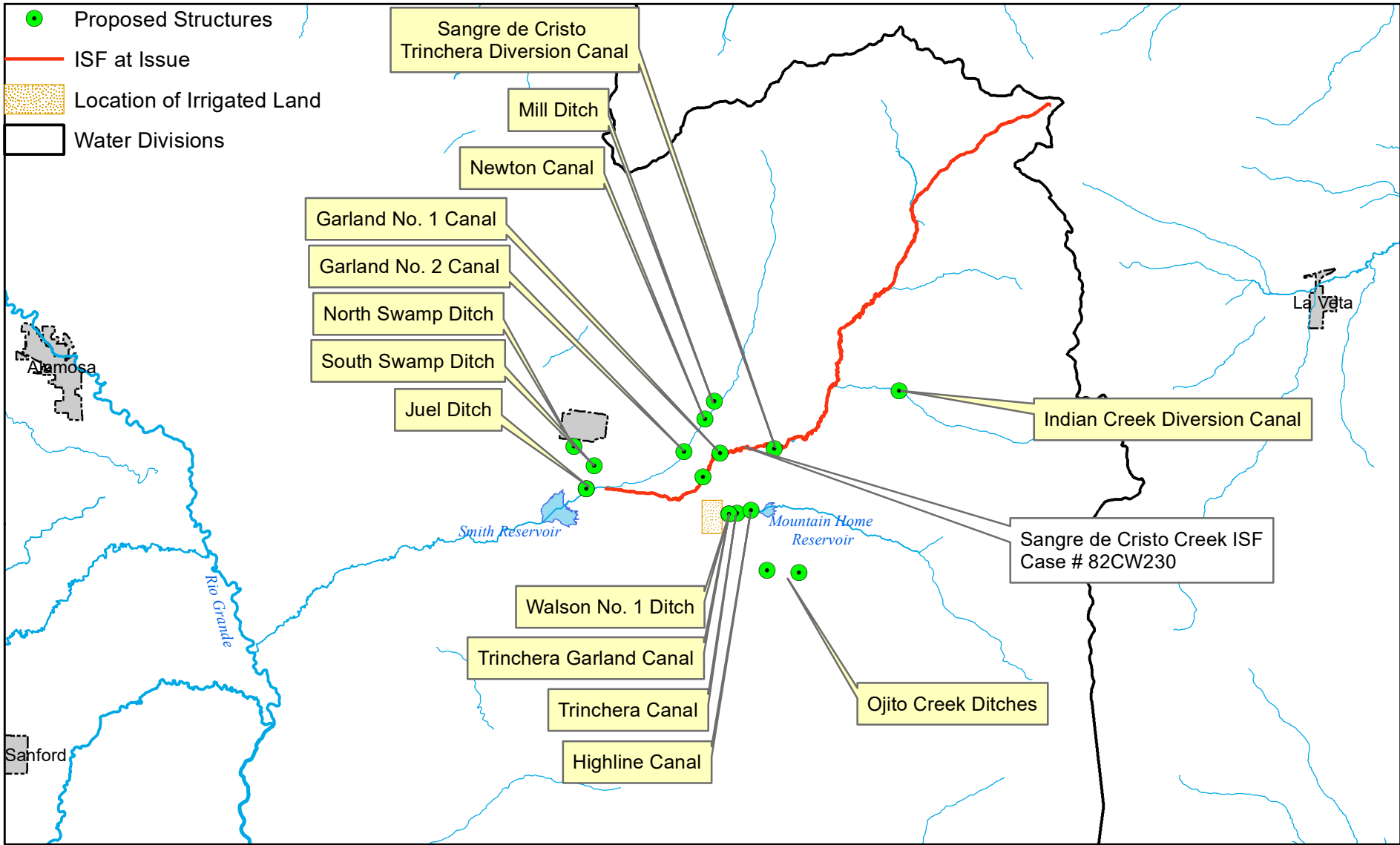
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of historical return flows, which could injure the CWCB's instream flow water rights.
- The proposed plan for augmentation may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.

Other Objectors

Statements of Opposition were also filed by Battle Mountain Resources, Inc., and Trinchera Irrigation Company.

Attorney Representing CWCB

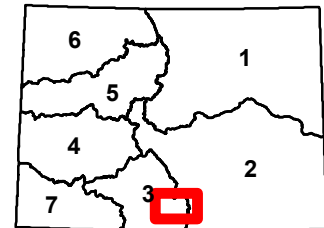
William D. Davidson, Assistant Attorney General, is assigned to this case and can be contacted at will.davidson@coag.gov, or 720-508-6280.



COLORADO
Colorado Water Conservation Board

Department of Natural Resources

January 25-26, 2021 CWCB Board Meeting
 Consent Agenda Item 1.b. Statement of Opposition
 Case No. 20CW3014 (Division 3)
 Blanca Ranch Holdings, LLC and Trincherera Ranch Holdings, LLC



DISTRICT COURT, WATER DIVISION 3, STATE OF COLORADO TO:
 ALL PERSONS INTERESTED IN WATER APPLICATIONS FILED IN
 WATER DIVISION 3.

(This publication can be viewed in its entirety on the state court website at:
www.courts.state.co.us).

Pursuant to C.R.S. 37-92-302(3), you are notified that the following is a resume in Water Division 3, containing notice of applications and certain amendments filed in the office of the Water Clerk during the month of October **2020** in which the court ordered publication.

2020CW3014, Blanca Ranch Holdings, LLC, Trinchera Ranch Holdings, LLC, c/o Shane Lancaster, 24492 Trinchera Ranch Road, Fort Garland, CO 81133, (719) 379-3263. Please direct all communications to counsel for Applicant: Carlson, Hammond & Paddock, LLC, Lee H. Johnson and Mason H. Brown, 1900 Grant Street, Suite 1200, Denver, Colorado 80203, Phone Number: (303) 861-9000, Fax Number: (303) 861-9026, Email: ljohnson@chp-law.com, mbrown@chp-law.com. Application for Water Rights, Change of Water Rights, and Approval of Plan for Augmentation in Costilla County. **2. Decreed water right for which change is sought:** 94 shares of stock in the Trinchera Irrigation Company (“TIC”) historically utilized on a portion of the Trujillo Farm in Section 34, Township 30 South, Range 72 West, 6th P.M. A. Name of Structures: See Table below. The Trujillo Farm takes physical delivery of its TIC entitlement via releases from Mountain Home Reservoir through laterals associated with TIC. B. Date of original and all relevant subsequent decrees: TIC stock entitles the owner to a pro rata share of the various water rights and priorities set forth in the following table:

Structure	Pri. #	Amount (c.f.s.)	Case #	Adjud. Date	Approp. Date	Source	Use
Direct Flow Rights							
Newton Canal	6 1/2	4.0	Original	12/15/1899	5/1/1867	Ute Creek	Irrigation
	18 1/2	9.33	Supp	11/26/1900	5/1/1872		
	35	1.34	Original	12/15/1899	5/31/1880		
	79	47.1	Supp	1/4/1915	8/30/1910		
Garland No. 2 Canal	39	51.0	Original	12/15/1899	10/31/1887	Ute Creek	Irrigation
	71	123.0	Supp	1/4/1915	7/11/1908		
South Swamp Ditch	81	53.0	Supp	1/4/1915	2/10/1911	South Swamp Seepage	Irrigation

North Swamp Ditch	82	53.0	Supp	1/4/1915	2/14/1911	North Swamp Seepage	Irrigation
Mill Ditch	27	0.66	Original	12/15/1899	5/31/1874	Ute Creek	Irrigation
Highline Canal	9	5.33	Original	12/15/1899	5/31/1869	Trinchera Creek	Irrigation
	29	4.0	Original	12/15/1899	5/1/1875		
	80	64.2	Supp	1/4/1915	12/6/1910		
Trinchera Canal	8 1/2	3.33	Supp	11/26/1900	11/15/1867	Trinchera Creek	Irrigation
	40	76.0	Original	12/15/1899	12/10/1887		
	72	212.0	Supp	1/4/1915	9/26/1908		
Ojito Creek Ditches	67 1/2	40	Supp	1/4/1915	11/18/1907	Ojito Creek	Irrigation
	67 1/2	47.05	Supp	1/4/1915	11/18/1907		
Indian Creek Diversion Canal	70	75.0	Supp	1/4/1915	7/11/1908	Indian Creek	Irrigation
Walsen No. 1 Ditch	5	2.66	Original	12/15/1899	5/1/1864	Trinchera Creek	Irrigation
	6	3.0	Original	12/15/1899	5/31/1867		
	34	0.83	Original	12/15/1899	5/31/1879		
Trinchera Garland Canal	74	171.89	Supp	1/4/1915	11/21/1908	Trinchera Creek	Irrigation
Sangre de Cristo No. 3 Canal	3	8.66	Original	12/15/1899	5/31/1863	Sangre de Cristo Creek	Irrigation
	86	45.0	Supp	1/4/1915	4/17/1911		
Sangre de Cristo Trinchera Diversion Canal	39	25.0	Original	12/15/1899	10/31/1877	Sangre de Cristo Creek	Irrigation
	44	3.0	Original	12/15/1899	5/31/1890		
	70	43.0	Supp	1/4/1915	7/11/1908		
Juell Ditch	44	2.0	Original	12/15/1899	5/31/1890	Sangre de Cristo Creek	Irrigation
	45	2.0	Original	12/15/1899	4/20/1895		
Garland No. 1 Canal	38	2.0	Original	12/15/1899	3/2/1886	Sangre de Cristo Creek	Irrigation
	39	26.0	Original	12/15/1899	10/31/1887		
	70	25.7	Supp	1/4/1915	7/11/1908		
Storage Rights							
Mountain Home Reservoir	94	19,150 acre feet	Supp	1/4/1915	12/4/1906	Trinchera Creek	Irrigation

Smith Reservoir	95	5,000 acre feet	Supp	1/4/1915	4/8/1911	Trinchera Creek	Irrigation
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C. Legal description of relevant structures: The Mountain Home Reservoir dam is located across Trinchera Creek in the SW1/4 of Section 36, Township 30 South, Range 72 West, in Costilla County, Colorado. The headgate of the Trinchera-Garland Canal is at or near the center of the SW1/4 of Section 35, Township 30 South, Range 72 West, in Costilla County, Colorado. The in addition to their independent priorities, the Walsen lateral and the Trinchera-Garland Canal (AKA “Feedline Ditch”) are fed by releases of water from Mountain Home Reservoir. Water carried through the Walsen lateral and other unnamed laterals are used for surface deliveries to the relevant Trujillo Farm fields. Additional information regarding the locations of all the TIC structures identified in the table, above, is attached as Exhibit A. D. Decreed source of water: Trinchera Creek and its tributaries. See table in paragraph 2.B., above. E. Appropriation Date: See table in paragraph 2.B., above. F. Total amount decreed to structures: See table in paragraph 2.B., above. G. Decreed use or uses: Irrigation. H. Amount of water that applicants intend to change: As described in Section 3, below, Applicants seek to change the water associated with 94 shares of TIC stock historically used on the Trujillo Farm in Section 34, Township 30 South, Range 72 West, 6th P.M. Applicants intend to use the historical consumptive use credits generated by the dry up of a portion of the Trujillo Farm as a source of augmentation water for the Plan for Augmentation sought herein, or as credit in future augmentation plans. **3. Detailed description of proposed change**: Blanca Ranch Holdings is the owner of 280.0 shares of stock in TIC historically used to irrigate the Trujillo Farms. Applicants have analyzed the historical irrigation practices of the Trujillo Farm. Historically, approximately 203 acres of land were irrigated with the 280.0 shares of stock during the study period. The surface water supply derived from these 280.0 shares of stock served as the primary irrigation supply to these lands, with supplemental irrigation provided through the use of decreed irrigation wells that will be included in the Trinchera Groundwater Management Subdistrict’s Ground Water Management Plan. Of the 280.0 shares associated with the Trujillo Farm, Applicants seek to change the use of 94 shares of stock in the TIC (the “Subject Water Right”). A summary of the relevant use records is attached as Exhibit B. Applicants are not seeking to change the use of any of the supplemental ground water supplies used on the Trujillo Farms in this application, nor do they seek to change the use of the remaining 186 shares of TIC stock associated with the Trujillo Farms. Applicants seek a change in type, time, and place of use of the Subject Water Right to allow uses for augmentation purposes consistent with the Plan for Augmentation contemplated herein. In addition to the existing use for irrigation, Applicants seek to change the Subject Water Right and thereby quantify its historical consumptive use and replicate historical return flows when the call in the Trinchera Creek basin is senior to October 30, 2020. Applicants further intend to use the historical consumptive use “credits” resulting from the dry-up of the historically irrigated lands for augmentation purposes in the Plan for Augmentation contemplated herein. In connection with this change of use proceeding, Trinchera Ranch intends to permanently dry up and remove from future irrigation up to approximately 67.5 acres of lands historically irrigated on the Trujillo Farms. These lands are shown in the attached Exhibit C, and consist of lands in fields referred to as “Trujillo #5” and “Trujillo #1” historically irrigated by the approximately 94 shares of TIC stock that make up the Subject Water Right. Applicants will permanently remove from irrigation approximately 14 acres of lands on the Trujillo Farm to generate consumptive use credits to be used on a permanent basis to augment depletions associated with the Headquarters Wells, the Lodge Ponds, the Lake House Pond, the Trinchera Renewable

Power Right, and cistern deliveries (if any), as contemplated in Section 5, below. Any excess credits will be used for other augmentation purposes in this proceeding, or reserved for use in subsequent augmentation plan filings. Applicants further seek the flexibility to dry up an additional approximately 53.5 acres of lands on the Trujillo Farm as needed to augment depletions associated with irrigation wells described in Section 5, below. **4. Water Right Appropriations.** Applicants seek a decree confirming: (1) a new junior non-consumptive hydropower surface water right diverted at the Hughes Ditch No. 1 headgate on Trinchera Creek; (2) a new fully augmented groundwater water right for cistern deliveries; (3) adjudication of the Lodge Ponds 1 through 3 water rights; and (4) adjudication of the Lake House Pond water right. A map showing the general locations of these structures is attached as Exhibit D. To the extent any of the claimed conditional rights are diverted and placed to beneficial use during the pendency of this proceeding, Applicants reserve the right to seek an absolute decree for those relevant water rights. Details concerning these new junior water rights (the “Trinchera Renewable Power Right”, the “Polo Field Well Cistern Delivery Right”, “Lodge Pond 1, 2, and 3” and “Lake House Pond”) are as follows:

4.1 Trinchera Renewable Power Right

A. Name of Structure: The Trinchera Renewable Power Right. B. Location of Structure: The Trinchera Renewable Power Right is a surface water right diverted at the Hughes Ditch No. 1 headgate on the Trinchera Ranch (WDID No. 3500527). The headgate is located on Trinchera Creek at a point in the NE1/4 SW1/4 of Section 3, Township 31 South, Range 71 West, 6th P.M. whence the NW corner of Section 3 bears N 35°15' W 360 feet. Applicants provide the following UTM coordinates of 472068, 4137157, Zone 13 (meters) to describe the approximate location of the Hughes Ditch No. 1 headgate. C. Source: Trinchera Creek. D. Appropriation Information: October 19, 2020. By concurrence of formation of intent to appropriate and the physical act of installing the power generation equipment. E. Amount claimed: 3.5 c.f.s., Conditional. F. Use: Hydropower purposes for the generation of electricity for use by Applicant. G. Other: Water diverted by the Trinchera Renewable Power Right will return to Trinchera Creek at the existing Hughes Ditch No. 1 Return Flow structure (WDID No. 3502015) at the following UTM coordinates: 469835 East, 4138211 North, Zone 13. Although this is a non-consumptive use water right, Applicants intend to augment any depletions related to the diversion of this water right through the Plan for Augmentation claimed herein. Both the diversion point for the Trinchera Renewable Power Right and the point where diversions are returned to Trinchera Creek are entirely on the Trinchera Ranch and are located upstream of Mountain Home Reservoir. There are no third-party intervening water rights diverting in the stream reach between the point of diversion and the point of return to Trinchera Creek.

4.2 Polo Field Well Cistern Delivery Right

A. Name of Structure: Polo Field Well Cistern Delivery Right. B. Location of Structure: The Polo Field Well Cistern Delivery Right is a groundwater right diverting at the Polo Field Well (Well Permit 7299-R) - an existing well located in the SWNW Section 3, Township 31 South, Range 71 West, 6th P.M. C. Source: Trinchera Creek and its alluvium. D. Appropriation Information: October 30, 2020. By concurrence of formation of intent to appropriate and the physical act of filing the application. E. Amount claimed: 2 acrefeet/year, Conditional, diverted at the Polo Field Well at a rate of flow of up to 550 g.p.m. F. Use: Cistern delivery and drinking water uses. G. Other: All diversions under the Polo Field Well Cistern Delivery Right will be fully augmented by the Plan for Augmentation sought herein.

4.3 Lodge Ponds 1 through 3

A. Name of Structures: Lodge Pond 1, Lodge Pond 2, and Lodge Pond 3. B. Location of Structures: Each of these ponds are filled via the Hughes Ditch No. 1. The headgate of the Hughes Ditch No. 1 is located on Trinchera Creek at a point in the NE1/4 SW1/4 of Section 3, Township 31 South, Range 71 West, 6th P.M. whence the NW corner of Section 3 bears N 35°15' W 360 feet. Applicants provide the following UTM

coordinates of 472068, 4137157, Zone 13 (meters) to describe the approximate location of the Hughes Ditch No. 1 headgate. Lodge Pond 1 is located in the NW1/4 Section 3, Township 31 South, Range 71 West, 6th P.M. Lodge Pond 2 is located in the NE1/4 Section 4, Township 31 South, Range 71 West, 6th P.M. Lodge Pond 3 is located in the SW1/4 Section 33, Township 30 South, Range 71 West, 6th P.M. C. Source: Trinchera Creek. D. Appropriation Information: On information and belief, Lodge Ponds 1 and 2 were constructed prior to September 1, 1979. On information and belief, Lodge Pond 3 was constructed prior to September 6, 1984. Applicants claim an appropriation date of September 1, 1979, for Lodge Ponds 1 and 2 and September 6, 1984, for Lodge Pond 3. E. Amount claimed: Lodge Pond 1 – 5 acre-feet, absolute, Lodge Pond 2 – 10 acre-feet, absolute, Lodge Pond 3 – 3 acre-feet, absolute, and any additional amounts needed to keep the ponds continuously filled to capacity. The Lodge Ponds are filled via diversions through the Hughes Ditch No. 1 at rates of flow up to 6.0 c.f.s. F. Use: Impoundment of water for firefighting and storage for recreational, fishery, and wildlife purposes. G. Reservoir Characteristics: Lodge Pond 1 has a surface area of 1.0 acres at its high-water line. It is a non-jurisdictional dam and the total capacity is estimated to be 5 acre feet. Lodge Pond 2 has a surface area of 1.9 acres at its high-water line. It is a non-jurisdictional dam and the total capacity is estimated to be 10 acre feet. Lodge Pond 3 has a surface area of 0.7 acres at its high-water line. It is a nonjurisdictional dam and the total capacity is estimated to be 3 acre feet. H. Other: Evaporative depletions associated with out of priority storage will be augmented through the Plan for Augmentation claimed herein. On information and belief, Lodge Ponds 1 through 3 were filled during the 1980s in times of free-river and in a manner consistent with the requirements, if any, of the Rio Grande Compact. 4.4 Lake House Pond: A. Name of Structure: Lake House Pond. B. Location of Structure: Lake House Pond is on onstream pond located in the NE1/4 Section 12, Township 29 South, Range 72 West, 6th P.M. Applicants provide the following UTM coordinates of 466045, 4154582 Zone 13, (meters). C. Source: Ute Creek. D. Appropriation: On information and belief, Lake House Pond was constructed prior to August 25, 1966. Applicants claim an appropriation date of August 25, 1966, for the Lake House Pond. E. Amount Claimed: 10.34 acre-feet, absolute. F. Use: Impoundment of water for firefighting and storage for recreational, fishery, and wildlife purposes. G. Reservoir Characteristics: Lake House Pond has a delineated exposed surface area of 2.12 acres at its high-water line. The vertical height of the dam is 20 feet and the length of the dam is 268 feet. The total capacity of Lake House Pond at the elevation of the spillway is 10.34 acre-feet. H. Other: Evaporative depletions associated with out of priority storage will be augmented through the Plan for Augmentation claimed herein. On information and belief, Lake House Pond was filled during the 1980s in times of free-river and in a manner consistent with the requirements, if any, of the Rio Grande Compact. **5. Plan for Augmentation**. Applicants seek approval of a Plan for Augmentation to augment depletions associated with two domestic use wells, evaporation from 4 ponds, the Trinchera Renewable Power Right the Polo Field Well Cistern Delivery Right claimed herein, and 5 irrigation wells all located on the Trinchera Ranch or Blanca Ranch. Depletions will be replaced using the historical consumptive use credits generated by the dry up of acreage on the Trujillo Farms associated with 94 shares of TIC stock as identified in paragraph 3, above, and as changed herein. The structures to be augmented are as follows:

Name	Location	Source	Permit #	Decree
Headquarters East Well	SESW Section 33, Township 30 South, Range 71 West, 6 th P.M.	Trinchera Creek Alluvium	148070	N/A
Headquarters West Well	SWSW Section 33, Township 30 South, Range 71 West, 6 th P.M.	Trinchera Creek Alluvium	148349-A	N/A
Lodge Pond 1	NW1/4 Section 3, Township 31 South, Range 71 West, 6 th P.M.	Trinchera Creek	N/A	N/A
Lodge Pond 2	NE1/4 Section 4, Township 31 South, Range 71 West, 6 th P.M.	Trinchera Creek	N/A	N/A
Lodge Pond 3	SW1/4 Section 33, Township 30 South, Range 71 West, 6 th P.M.	Trinchera Creek	N/A	N/A
Lake House Pond	Approximate UTM coordinates of dam are 466045, 4154582 Zone 13, (meters).	Ute Creek	N/A	N/A
Polo Field Well	SWNW Section 3, Township 31 South, Range 71 West, 6 th P.M.	Trinchera Creek Alluvium	7299-R	W-572
47 Field Well	SENE Section 4, Township 31 South, Range 71 West, 6 th P.M.	Trinchera Creek Alluvium	7300-R	W-572
Middle Vega Well	SESE Section 32, Township 30 South, Range 71 West, 6 th P.M.	Trinchera Creek Alluvium	7297-R	W-572
Bull Pasture Well	SESE Section 32, Township 30 South, Range 71 West, 6 th P.M.	Trinchera Creek Alluvium	7298-R	W-572
Bull Barn Well	SESE Section 26, Township 29 South, Range 72 West, 6 th P.M.	Ute Creek Alluvium	4152-F	W-2294

A map showing the general locations of the augmented structures is attached as Exhibit D. Headquarters East Well, Headquarters West Well, Polo Field Well, 47 Field Well, Middle Vega Well, Bull Pasture Well, and Bull Barn Well (“Augmented Wells”) are all located outside of the RGDSS Model Domain and the Groundwater Management Subdistrict of the Trinchera Water Conservancy District. The depletions associated with structures located on Trinchera Creek all occur upstream of Mountain Home Reservoir and the Trujillo Farm and the depletions associated with structures located in the Ute Creek drainage (Bull Barn Well and Lake House Pond) all occur upstream of the Trinchera Irrigation Company’s Newton Canal and Garland No. 2 Canal. As a result, credits generated by the quantification and change of use of the 94 shares of TIC stock may be used to replace depletions in time, place, and amount at or upstream of the relevant calling water right. Applicants estimate that the total depletions associated with the domestic use wells, pond evaporation, cistern deliveries, and the Trinchera Renewable Power Right will not exceed 25 acre feet annually, or the equivalent of approximately 20 shares of the 94 TIC shares changed herein. Irrigation pumping from the Polo Field Well, 47 Field Well, Middle Vega Well, Bull Pasture Well, and Bull Barn Well (the “Irrigation Wells”) historically has been a supplemental irrigation source, and future irrigation use by these wells, if any, will be replaced using excess HCU credits for the Subject Water Right. Upon entry of the requested change of use and dry up of acreage on the Trujillo Farm as contemplated in paragraph 3, above, Applicants will permanently dry up a portion of the Trujillo Farm irrigated lands in order to generate credits that will be used to fully offset the depletions related to the Headquarters Wells, the Lodge Ponds, the Lake House Pond, the

Trinchera Renewable Power Right and the Polo Field Well Cistern Delivery Right, as described above. To the extent Applicants operate the 5 Irrigation Wells for irrigation purposes, they will use the credits associated with the change of use of the TIC shares, including, as needed, the remaining approximately 74 shares of TIC stock (and the dry up of a corresponding amount of irrigated lands on the Trujillo Farms) to augment depletions associated with the Irrigation Wells. Depletions associated with the irrigation water pumping from the 5 Irrigation Wells must balance with the credits generated by dry up at the Trujillo Farms. This application for a plan for augmentation is designed, in part, to replace or Remedy Injurious Stream depletions attributable to Applicant's Augmented Wells in compliance with the Rules Governing the Withdrawal of Groundwater in Water Division No. 3 (the Rio Grande Basin) and Establishing Criteria for the Beginning and End of the Irrigation Season in Water Division No. 3 for all Irrigation Water Rights adopted by the State Engineer and approved by the Division 3 Water Court in Case No. 15CW3024 ("Groundwater Rules") and sections 37-92-103(9), -302(1)(2), -305(8), C.R.S. The Augmented Wells are located outside of the RGDSS Model Domain and withdraw water from alluvial aquifers with little or no storage capacity. Accordingly, an Alternate Plan to achieve a Sustainable Water Supply as defined by the Groundwater Rules is not required. **6. Name(s) and address(es) of owners(s) or reputed owners of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. The applicant must notify these persons that the applicant is applying for this water right, and certify to the Court that the applicant has done so.** All of the structures to be augmented, the Hughes Ditch No. 1 headgate, the Trujillo Farm, and the structures related to water delivery on said Farm, are all located on lands owned by the Applicants. On information and belief, the relevant headgates, reservoirs and structures associated with the 94 shares of stock are controlled by the Trinchera Irrigation Company. Since there is no need to modify any existing diversion or storage structure on lands not owned by the Applicant, no additional notice under C.R.S. §37-92302 is required.

WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY AND WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.

You are further notified that you have until the last day of December 2020, to file with the Water Clerk, 8955 Independence Way, Alamosa, CO 81101, a verified statement of opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions or a protest to the requested correction. A copy of such a statement of opposition or protest must also be served upon the Applicant or the Applicant's attorney and an affidavit or certificate of such service must be filed with the Water Clerk. A \$192.00 filing fee is required. Forms may be obtained from the Water Clerk's Office or our website at www.courts.state.co.us. Jennifer Pacheco, Water Clerk, Water Division 3, 8955 Independence Way, Alamosa, CO 81101.