



Carl Young <cyoung@huerfano.us>

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## Fw: Malachite Campground - Mace Commercial Well Permit Application

1 message

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**Sky Tallman** <skytallman@hotmail.com>  
Reply-To: skytallman@hotmail.com  
To: "building@huerfano.us" <building@huerfano.us>

Wed, Apr 24, 2024 at 1:11 PM

Greetings,

Please see attached application to DWR for a commercial well on the property. While it was just submitted yesterday and has not yet been approved, please include in staff report that it has been applied for. The recommendation by DWR on this application hinged on the fact that a commercial well had not yet been applied for or approved, and if this application is approved, it is assumed that DWR will amend its recommendation and affirm that all water rights necessary for the project have been secured.

See you tomorrow,

Sky

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**From:** Amos Mace <amos@cswoods.com>  
**Sent:** Tuesday, April 23, 2024 7:38 PM  
**To:** Sky Tallman <skytallman@hotmail.com>  
**Subject:** Fwd: Malachite Campground - Mace Commercial Well Permit Application

----- Forwarded message -----

From: **Amos Mace** <amos@cswoods.com>  
Date: Tue, Apr 23, 2024 at 7:31 PM  
Subject: Malachite Campground - Mace Commercial Well Permit Application  
To: <DWRPermitsOnline@state.co.us>  
Cc: <ivan.valles@state.co.us>

To Whom it May Concern,  
Please see 2 attachments for GWS-45 Well Permit Application and Supplemental Documentation.

From - Amos Mace  
cell# 970-309-1799  
[amosmace@cswoods.com](mailto:amosmace@cswoods.com)

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### 2 attachments

 **Supplement Documentation\_Mace\_4-23-24.pdf**  
5182K

 **GWS-45 General Purpose Water Well Permit Application\_Mace\_4-23-24.pdf**  
189K

**GENERAL PURPOSE**  
**Water Well Permit Application**

Review instructions on reverse side prior to completing form.  
 The form must be computer generated, typed or in black or blue ink.

**1. Applicant Information**

Name of applicant

Amos Mace

Mailing address

8055 County Road 570

City State Zip code  
 Gardner Co 81040

Telephone # (area code & number) E-mail (online filing required)  
 970-309-1799 amosmace@cswoods.com

**2. Type Of Application (check applicable boxes)**

- Construct new well  Use existing well  
 Replace existing well  Change or increase use  
 Change source (aquifer)  Reapplication (expired permit)  
 COGCC Well  Other: See Exhibit 3 - Change

**3. Refer To (if applicable)**

Well permit # Water Court case #  
 Designated Basin Determination # Well name or #  
 13CW3062

**4. Location Of Proposed Well**

County  
 Huerfano County NE 1/4 of the SE 1/4

Section Township N or S Range E or W Principal Meridian  
 31 26  N  S 70  E  W S

Distance of well from section lines (section lines are typically not property lines)  
 2340 Ft. from  N  S 895 Ft. from  E  W

For replacement wells only – distance and direction from old well to new well  
 feet direction

Well location address (Include City, State, Zip)  Check if well address is same as in Item 1.

8053 County Road 570, Gardner Co. 81040

**Optional:** GPS well location information in UTM format You must check GPS unit for required settings as follows:

Format must be UTM  
 Zone 12 or  Zone 13  
 Units must be Meters  
 Datum must be NAD83  
 Unit must be set to true north  
 Was GPS unit checked for above?  YES  
 Easting 477503  
 Northing 4177287  
 Remember to set Datum to NAD83

**5. Parcel On Which Well Will Be Located**  
 (PLEASE ATTACH A CURRENT DEED FOR THE SUBJECT PARCEL)

A. Legal Description (may be provided as an attachment):

Please see Legal Description

within attached HCWCD Notice of Inclusion

B. # of acres in parcel C. Owner  
 38 Amos Mace

D. Will this be the only well on this parcel?  YES  NO (if no list other wells)

Residential Well Permit # 153904

E. State Parcel ID# (optional):

**6. Use Of Well (check applicable boxes)**

Attach a detailed description of uses applied for.

- Industrial  Dewatering System  
 Municipal  Geothermal (production or reinjection)  
 Irrigation  Other (describe): \_\_\_\_\_  
 Commercial

**7. Well Data (proposed)**

Maximum pumping rate Annual amount to be withdrawn  
 80 gpm up to 9 acre feet acre-feet  
 Total depth Aquifer  
 85' feet Alluvial

**8. Land On Which Ground Water Will Be Used**

Legal Description of Land (may be provided as an attachment):

Please see Attached HCWCD Notice of Inclusion

(If used for crop irrigation, attach a scaled map that shows irrigated area.)

A. # Acres B. Owner

C. List any other wells or water rights used on this land:

**9. Proposed Well Driller License #(optional):**

**10. Sign or Entered Name Of Applicant(s) Or Authorized Agent**

The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104 (13)(a). I have read the statements herein, know the contents thereof and state that they are true to my knowledge.

Sign or enter name(s) of person(s) submitting application Date (mm/dd/yyyy)

If signing print name and title

**Office Use Only**

USGS map name DWR map no. Surface elev.

Receipt area only

AQUAMAP  
 WE  
 WR  
 CWCB  
 TOPO  
 MYLAR  
 SB5

DIV \_\_\_\_ WD \_\_\_\_ BA \_\_\_\_ MD \_\_\_\_

## GENERAL PURPOSE WELL PERMIT APPLICATION INSTRUCTIONS

**Applications must be computer generated on-line, typewritten or printed in BLACK or BLUE INK. ALL ITEMS in the application must be completed. Incomplete applications may be returned to the applicant for more information. Applications are evaluated in chronological order. Please allow approximately six weeks for processing.** This form may be reproduced by photocopying or computer generation. Reproductions must retain margins and print quality of the original form. If filing online see online filing instructions! You may also save, print, scan and email the completed form to: [dwrpermitsonline@state.co.us](mailto:dwrpermitsonline@state.co.us) For further information please visit [dwr.colorado.gov](http://dwr.colorado.gov)

**FEES:** This application requires a nonrefundable \$100.00 filing fee. Please visit [DWR's Online Form Submittal](#) web page for acceptable payment information or contact DWR at (303) 866-3581.

**USES:** This form (GWS-45) is to be used to apply for commercial, industrial, municipal, irrigation, feed lot, geothermal (see Geothermal Rules for fee requirements), recovery wells, and other uses not otherwise noted in the following list:

RESIDENTIAL use wells – Use of form GWS-44 is required  
LIVESTOCK watering on a farm, ranch, range or pasture (not feedlots) – Use form GWS-44  
MONITORING/OBSERVATION wells – Use form GWS-46  
GRAVEL PITS – Use form GWS-27  
REGISTRATION of an existing well – Use form GWS-12 (must have been in use prior to May 8, 1972)  
GEOEXCHANGE SYSTEM LOOP FIELDS – Use form GWS-72  
REPLACEMENTS OF WELLS FOR THE ABOVE USES

### **ITEM INSTRUCTIONS: (numbers correspond with those on the front of this form)**

1. The applicant is the entity for whom the permit is to be issued. Provide the applicant name and the mailing address where all correspondence will be sent.
2. Check all boxes that apply.
3. Complete all boxes that apply. If the permit is to be issued pursuant to a water court decree or a Designated Basin determination of water right, the case number or determination number must be indicated. If applying to replace or change the use of an existing well, the permit number of the existing well must be indicated.
4. The county, ¼ of the ¼ section designation, section #, township, range, principal meridian, and distances from section lines for the proposed well must be provided. (An option to providing distances from section lines and the ¼ of the ¼ section designation is to provide an accurate GPS location in UTM format. The required GPS unit settings must be as indicated on this form.) Colorado contains two (2) UTM zones. Zone 13 covers most of Colorado. The boundary between Zone 12 and Zone 13 is the 108<sup>th</sup> Meridian (longitude). West of the 108<sup>th</sup> Meridian is UTM Zone 12 and east of the 108<sup>th</sup> Meridian is UTM Zone 13. The 108<sup>th</sup> Meridian is approximately 57 miles east of the Colorado-Utah state line. On most GPS units, the UTM zone is given as part of the Easting measurement, e.g. 12T0123456. Check the appropriate box for the zone. Provide the property address of the well location if one exists. If it is the same as the mailing address, check the box next to the well location address.
5. **Please attach a current deed for the subject parcel.** Complete all boxes and provide a complete legal description of the parcel of land on which the well will be located. **If filing online please see online filing instructions for how to submit deed and or legal description attachments.**
6. Check all boxes that apply and attach a detailed description of the uses applied for.
7. Complete all boxes.
8. Complete all boxes and provide a legal description of the land areas on which ground water from the proposed well will be used. If agricultural irrigation is a proposed use, provide a map of the land area with proposed irrigated areas accurately drawn, including section numbers and section lines. A list of all other wells or water rights used on the described land must be provided.
9. The well must be constructed by a Colorado licensed well driller, an authorized individual in accordance with the Water Well Construction Rules, 2 CCR 402-2, or under the "private driller" provision as defined in CRS 37-91-102(12). A listing of licensed well drillers/pump installers is available [here](#).
10. The individual signing the application or entering their name and title must be the applicant or an officer of the corporation/company/agency identified as the applicant or their attorney. An authorized agent may also sign the application, if a letter signed by the applicant or their attorney is submitted with the application authorizing that agent to sign or enter their name on the applicant's behalf. If you filled the form out on-line you may save or print, sign, scan and email the form to the Division of Water Resources. Payment must be received via phone, fax or mail prior to processing the application.

**IF YOU HAVE ANY QUESTIONS** regarding any item on the application form, please call the Division of Water Resources Ground Water Information Desk (303-866-3587), or the nearest Division of Water Resources Field Office located in Greeley (970-352-8712), Pueblo (719-542-3368), Alamosa (719-589-6683), Montrose (970-249-6622), Glenwood Springs (970-945-5665), Steamboat Springs (970-879-0272), or Durango (970-247-1845), or refer to our web site at [dwr.colorado.gov](http://dwr.colorado.gov) for general information, additional forms, and access to state rules or statutes.

# **Supplement Documentation**

**Exhibit 1. Notice of Inclusion – Mace 07-12-2021**

## NOTICE OF INCLUSION

This Notice of Inclusion is provided on behalf of the Huerfano County Water Conservancy District (“HCWCD”) pursuant to the terms of Paragraph 15 of the November 14, 2016 Findings of Fact, Conclusions of Law, and Judgment and Decree of the Water Court in Case No. 13CW3062, District Court, Water Division 2, State of Colorado (“Regional Augmentation Plan”).

This Notice of Inclusion concerns the requested addition of a new Participating Diversion into the Regional Augmentation Plan, whose depletions would then be included into and replaced under the terms and provisions of the Regional Augmentation Plan. The applicant seeking the inclusion of the requested Participating Diversion is Kent Mace and Amos Mace, 8055 County Road 570, Gardner, Colorado 81040 (“Mace”).

Included with and attached to this Notice of Inclusion are the following:

1. May 25, 2021 letter from Steve Smith, P.E., of Applegate Group, Inc. (“Applegate”), to HCWCD concerning completeness of the Mace application to include a Participating Diversion within the Regional Augmentation Plan.
2. May 25, 2021 engineering report from Applegate (“Applegate Report”) containing the analysis of whether Mace’s proposed uses and depletions fit within the terms of the Decree in Case No. 13CW3062 and whether Mace’s diversions can be included within the Regional Augmentation Plan as a Participating Diversion. The Applegate Report concludes that Mace’s proposed water use and depletions can be included and augmented pursuant to the terms of the Regional Augmentation Plan.
3. The application for Augmentation of Commercial Water User Diversions submitted by Mace, dated March 22, 2021, is attached to the Applegate Report.

The requested Participating Diversion for Mace is a well to be constructed upon approval of the Application for inclusion into the Regional Augmentation Plan. The well is to be located in the NE1/4 of the SE1/4 of Section 31, Township 26 South, Range 70 West of the 6<sup>th</sup> P.M.

As an opposer in Case No. 13CW3062, you have 63 days from the date of this Notice of Inclusion, for a commercial user, to file comments to the requested inclusion of Mace into the Regional Augmentation Plan as a Participating Diversion (“Comment Period”). Any comments to the Mace inclusion as a Participating Diversion must be in writing and received by the District within the Comment Period. Comments after such date may not be considered by the District. Any comments are to be submitted to all of the following:

Huerfano County Water Conservancy District  
Attn: Carol Dunn  
P.O. Box 442  
La Veta, Colorado 81055  
[hcwcdistrict@gmail.com](mailto:hcwcdistrict@gmail.com)

Steven T. Monson  
Ryan W. Farr  
Monson, Cummins & Shohet, LLC  
13511 Northgate Estates Drive, Suite 250  
Colorado Springs, CO. 80921  
[stm@cowaterlaw.com](mailto:stm@cowaterlaw.com); [rwf@cowaterlaw.com](mailto:rwf@cowaterlaw.com)

Rachel Zancanella  
Supervisor for Decreed Augmentation Plan Coordinator  
Office of the Division Engineer for Division 2  
210 E. Abriendo Ave., Ste. B  
Pueblo, CO 81004  
[rachel.zancanella@state.co.us](mailto:rachel.zancanella@state.co.us)

Lori Lest  
Assistant Division Engineer  
Office of the Division Engineer for Division 2  
210 E. Abriendo Ave., Ste. B  
Pueblo, CO 81004  
[lori.lest@state.co.us](mailto:lori.lest@state.co.us)

Melissa van der Poel  
Colorado Division of Water Resources  
1313 Sherman St., Rm 818  
Denver, CO 80203  
[melissa.vanderpoel@state.co.us](mailto:melissa.vanderpoel@state.co.us)

HCWCD will take action on the Application following the expiration of the Comment Period.

Dated this 12<sup>th</sup> day of July, 2021

MONSON, CUMMINS & SHOHET, LLC

/s/ Ryan W. Farr

Steven T. Monson, #11329

Ryan W. Farr #39394

Attorneys for Huerfano County Water Conservancy  
District



*Water Resource Advisors for the West*

May 25, 2021

Carol Dunn, Administrator  
Huerfano County Water Conservancy District  
P.O. Box 442  
LaVeta, CO 81055

**RE: Application of Proposed Malachite Springs Well for Inclusion in the Regional Augmentation Plan Decreed for Huerfano County Water Conservancy District in Case No. 13CW3062**

Dear Carol:

The Huerfano County Water Conservancy District (“District”) has received an application from Kent Mace of Gardner requesting inclusion in the District’s regional augmentation plan decreed in Case No. 13CW3062 (“Augmentation Plan”). After consultation with the District’s legal counsel, Steve Monson, it has been determined that the Malachite application is complete and that, Malachite’s proposed diversions and uses fit within the Augmentation Plan and can be incorporated into the Augmentation Plan per its terms. Attached is the completed application and supporting analysis.

Sincerely,  
**Applegate Group, Inc.**

Steve Smith, P.E.  
Vice President

SS/tmk

cc: Steve Monson

Attachment: Analysis Summary Letter for Malachite Springs Well

AG#:21-107



*Water Resource Advisors for the West*

May 25, 2021

Mr. Scott King, President  
Huerfano County Water Conservancy District  
c/o Administrator  
P.O. Box 442  
LaVeta, CO 81055

**RE: Application of Malachite Springs Well for Inclusion in the Regional Augmentation Plan  
Decreed in Case No. 13CW3062**

Dear Scott:

The Huerfano County Water Conservancy District (“District”) has received an application from Kent Mace (“Applicant”) requesting inclusion in the District’s regional augmentation plan decreed in Case No. 13CW3062. That application is included as Attachment A. Pursuant to the requirements of the decree in Case No. 13CW3062, this letter describes the amount, timing and location of water use and stream depletions associated with Applicant’s proposed water use and the amount, timing and location of depletion replacement proposed to be provided by the District’s augmentation plan. If this proposal is acceptable to the District Board, the next step in inclusion of Applicant into the augmentation plan would be consultation with the Division Engineer’s Office followed by public notice per the terms of the decree.

**Applicant’s Proposed Water Use**

Applicant has prepared an application for a well permit to drill a well and to use water from that well for two purposes: sanitary facilities, cleaning, and operations of a small 4 to 6 site developed campground with no irrigated areas; and non-domestic use water tanks for general water haulage. Water use would be 10% depletive for use at the sanitary and cleaning facilities, based on onsite treatment via a non-evaporative septic system. Non-domestic water use for general water haulage is assumed to be 100% depletive. The well will be located in the NE ¼ SE ¼ Section 31, T26S, R70W, 6th P.M. Figure 1 shows the location of the well and the proposed campground. The well will be located within the Augmentation Plan Area as shown in Exhibit A to the decree in Case No. 13CW3062.

The Applicant anticipates drilling the well in the valley-fill aquifer surrounding the Huerfano River. Exhibit F to the decree for Case No. 13CW3062 indicates typical valley-fill aquifers are presented as a ½-mile buffer around the Huerfano River with additional aquifer width in the area of the proposed Malachite Well. The Malachite Well is located within the Huerfano River valley-fill aquifer. Typical parameters for valley-fill aquifers are presented in paragraph 10.2.4 of the decree for Case No. 13CW3062 and are summarized in Table 1. The aquifer width, W, was measured as the distance from the Huerfano River centerline to the edge of the alluvial aquifer and glacial moraine near the old Malachite School.



| Parameter                                | Value  | Unit                |
|--|--------|---------------------|
| Distance from well to river, X           | 814    | ft                  |
| Distance from river to boundary, W       | 2,928  | ft                  |
| Distance from well to boundary, B        | 2,114  | ft                  |
| Elevation difference, well to river      | 14     | ft                  |
| Water table slope                        | 1.7%   | %                   |
| Saturated Thickness, b                   | 20     | ft                  |
| Hydraulic Conductivity, k                | 1,400  | gpd/ft <sup>2</sup> |
| Specific Yield (aka Storage Coefficient) | 20     | %                   |
| Transmissivity, T (= b x k)              | 28,000 | gpd/ft              |

Table 1. Aquifer Parameters for Proposed Malachite Springs Well

Applicant has estimated its water use at approximately 1 acre-foot per year at full development that will be phased-in over the course of several years. Water use will be for sanitary facilities, cleaning, and operations of a small 4 to 6 site developed campground that will have no irrigated areas. Water use will generally be in the summer months, and it was assumed that water use will occur from April through October, which is a period consistent with anticipated camping at the site. It will also be used to fill non-domestic use water tanks for general water haulage applications. Haulage purpose water use will be 100% consumptive. The place of use will be the Malachite Springs Campground, shown on Figure 1.

### Depletions

The terms of the decree in Case No. 13CW3062 provide direction for the determination of the timing of ground water depletions. Applicant's well will be completed in a valley-fill aquifer and is not a significantly higher elevation than the river. As a result, the Glover Method will be used to determine the timing of groundwater depletions at the Huerfano River due to water pumped from Applicant's well. The point of depletion to the Huerfano River due to withdrawals from the valley-fill aquifer by this well is taken to be in the SE ¼ NE ¼ of Section 31, T26S, R70W. Figure 1 shows the distance from the well to the point of depletion on the Huerfano River (referred to as the X distance). Figure 1 also shows the distance from the well to the boundary of the aquifer (referred to as the B distance) where it is bounded by the edge of the alluvial aquifer and the glacial moraine near the old Malachite School. The Glover X distance is 814 feet. The Glover B distance is 2,114 feet.

The unit response function (URF) for this well was calculated using the Glover Method using the parameters in Table 1. The URFs were truncated once 95% of the depletion accumulated, and the remaining 5% of the depletion was proportionately included in the prior lagging factors to achieve 100% replacement. The resulting URF is provided as Attachment B. Month one is the month of pumping. The URFs peak in month 2 after which they slowly taper down with approximately 90% of depletions accruing to the Huerfano River within the first year. Depletions will impact the Huerfano River about 3 miles upstream of its confluence with Muddy Creek.

### Augmentation Plan

The District has developed and operated the regional augmentation plan since 2014, originally under approved Substitute Water Supply Plans and then as decreed in Case No. 13CW3062. The augmentation plan uses the District's ownership in the William Craig Ditch, priority number seven on the Huerfano River,

to make replacements for depletions. At this stage of implementation, full dry-up of the historical irrigated acreage has been completed, allowing 100% of the water right changed in Case No. 13CW3062 to be used for augmentation purposes.

An augmentation station has been built on the William Craig ranch to deliver a portion of the priority number seven water back to the river. Also, a recharge facility has been constructed adjacent to the William Craig Ditch to generate accretions to the river during the non-irrigation season. Total deliveries through the augmentation station, total net recharge at the recharge facility, and total depletions of plan participants that were augmented during 2020 are summarized as follows. There were 14 ac-ft of surplus credits in 2020 operations, which included approximately 35% dry-up of the HCWCD’s William Craig water right. It is noted that HCWCD could use up to its full William Craig water right, which would generate an additional 120 ac-ft of historical consumptive use credits that would be available for augmentation of participants in the umbrella augmentation plan decreed in Case No. 13CW3062.

| Water Year 2020 Operations      | Ac-Ft |
|---------------------------------|-------|
| Augmentation station deliveries | 24    |
| Recharge accretions             | 26    |
| Return flow replacement         | 26    |
| Depletions augmented            | 10    |
| Surplus credits                 | 14    |

The existing facilities have been sufficient during the last seven years to provide year-round replacement of depletions attributable to the water users included in the regional augmentation plan. To further increase the capability of the augmentation plan, the District constructed a reservoir of about 46 acre-feet capacity upstream of the community of Gardner and adjacent to the Huerfano River, called the Sheep Mountain Augmentation Facility. Consumptive use credits from the William Craig Ditch will be exchanged upstream and stored in this reservoir for later release when needed to make replacement under the augmentation plan.

There were four water users included in the regional augmentation plan by decree. They were Gardner Public Improvement District, Huerfano County Road and Bridge, CO61 Water Association, and Paradise Acres Homeowners Association. Four participants have joined subsequent to the signing of the decree pursuant to paragraph 15 of the decree. The level of participation of the eight water users in 2020, that is, the acre-feet of annual consumption for which they arranged for augmentation by the District, is as follows.

| Participant                         | Annual Consumption Contracted (AF) |
|-------------------------------------|------------------------------------|
| Gardner Public Improvement District | 5.0                                |
| Huerfano County Road & Bridge       | 3.0                                |
| CO61 Water Assn                     | 0.5                                |

|                                |      |
|--------------------------------|------|
| Paradise Acres Homeowners Assn | 0.5  |
| Cummings                       | 2.0  |
| NuGro                          | 2.0  |
| SCG                            | 3.0  |
| Acme                           | 1.0  |
| Total                          | 17.0 |

The average annual consumption by all users in the HCWCD system are as follows.

| Participant                         | 2020 Annual Consumption (AF) |
|-------------------------------------|------------------------------|
| Gardner Public Improvement District | 4.98                         |
| Huerfano County Road & Bridge       | 2.95                         |
| CO61 Water Assn                     | 0.36                         |
| Paradise Acres Homeowners Assn      | 0.23                         |
| Cummings                            | 0.00                         |
| NuGro                               | 0.72                         |
| SCG                                 | 0.35                         |
| Acme                                | 0.25                         |
| Total                               | 9.61                         |

Because the newer participants are start-ups and the long lag times associated with well pumping, the participants' total depletion at the river in 2020 (9.61 acre-feet) was less than the contracted amount (17 acre-feet)

The Malachite consumption and depletion will also ramp up over a 3-year period. The Malachite application indicates the well will be developed sometime in 2021 and the sanitary and water haulage location and the campground will be built in 2022.

As noted in the decree, the average historical consumptive use associated with the District's ownership of the William Craig water right was approximately 170 acre-feet per year. The challenge is providing augmentation water on a year-round basis. For this reason, the recharge pond on William Craig Ranch was constructed and the Sheep Mountain Augmentation Facility (a 46-AF storage reservoir) was constructed. An analysis of the ability of the augmentation plan with these facilities to provide year-round augmentation through severe drought was previously conducted and the firm yield of the project, upon full dry-up, was

calculated to be 52 acre-feet per year. The participants' total depletions will remain within the firm yield of the augmentation plan.

The District is aware that other water users may apply or intend to apply to be included in the regional plan for augmentation. There are currently seven well users and one surface diverter requesting a total of 17 acre-feet. The proposed water use is summarized as follows:

| Water Balance                                 | AF/yr |
|---|-------|
| Existing Participants' Contracted Depletions  | 17    |
| Applicants' Requested Water Use               | 1     |
| Total Proposed Water Use with Applicants' Use | 18    |
| Firm Yield                                    | 52    |

#### Method of Replacement

Depletions attributable to Applicant's well will affect the Huerfano River approximately five miles upstream of the town of Gardner (Figure 1). The decree in Case No. 13CW3062 allows for exchanges from the William Craig augmentation station and recharge pond upstream to the Huerfano River at Inlet to the Red Wing Augmentation Facility. This reach includes the Applicant's well depletion point, and this exchange can be used to exchange upstream of the Applicant's well depletion point to replace depletions in the appropriate time, place, and amount. Exchanges from the SMAF outlet to the Huerfano River at the Red Wing Augmentation Facility can also be used during winter months to make replacements to the Applicant's well depletion point when accretions are not available from William Craig recharge or from the William Craig augmentation station deliveries.

#### Conclusion

It is my opinion that the Applicant's proposed water use, and depletions can be augmented pursuant to the terms and conditions of the decree in Case No. 13CW3062 which authorized the District's regional augmentation plan. Please let me know if you have any questions.

Sincerely,

**Applegate Group, Inc.**



Steve Smith, P.E.  
Vice President

cc: Steve Monson

Attachments: Malachite Springs Well Application to Join HCWCD Regional Augmentation Plan  
Malachite Springs Well URF

AG#:21-107

**HUERFANO COUNTY WATER CONSERVANCY DISTRICT**  
**APPLICATION FOR AUGMENTATION OF COMMERCIAL WATER USER DIVERSIONS**  
**HUERFANO RIVER SUBSTITUTE WATER SUPPLY PLAN AND REGIONAL AUGMENTATION PLAN**  
**Case No. 13CW3062**

1. Applicant's name, address, phone number and email:

Kent Mace  
8055 County Road 570  
Gardner, Co. 81040  
(719) 989-1221  
kent@cswoods.com

2. Name and description of diversion structure used to obtain water:

A new well will be drilled on the same property as, and in close proximity to, The Malachite Spring (DWR Structure ID 7902339). The new well will serve as a new point of diversion for The Malachite Spring and the water right diverted from it (CW 05CW0011)

2.1 If the structure is a well, provide the well permit number.

Well permit number will be provided upon well application submission.

2.2 If the structure is a well, attach a copy of the well permit to the application

Well Permit will be provided upon receipt of permit

2.3 Provide copies of all Water Court decrees concerning the diversion structure(s)

Will be provided once well is completed

3. Provide history, if any, of water use at this structure:

Water has been diverted from Malachite Spring for stock and domestic purposes for over a century. Diversion records as recent as 2014 are on file and available from the DWR.

4. Name, address, phone number and email of **each** owner of the diversion structure(s) and the property to be served by the structure or diversion:

Amos Mace  
8055 CR 570  
Gardner, Co. 81040  
(970) 309-1799  
amosmace@cswoods.com

5. Provide legal descriptions of **each** property to be served by the structure or diversion:

Tract "B-1" of Lot Line Rearrangement of Tracts "B" and "C" of Boundary Survey of Tracts A-G, recorded October 15, 1998 Reception No. 336204, Map No. 17-S-293 in Pocket 24 and Folder 1; Huerfano County Records. Said Lot Line Rearrangement having been recorded May 30, 2002, Reception No. 354140, Map No. 17-S-523 in Pocket No. 29 and Folder No. 1; Huerfano County Records, tract "B-1" being located in the SE 1/4, Section 31, Township 26 South, Range 70 West, 6th P.M., Huerfano County, Colorado being more particularly described as follows:



Beginning at the E 1/4 corner of said Section 31; thence S 00° 08' 17" E, along the East line of said Section 31, a distance of 181.50 feet; thence S 89° 51' 43" W, a distance of 330.00 feet; thence S 00° 08' 17" E, a distance of 772.24 feet, to a point on the northerly bank of the Huerfano River; thence S 48° 36' 53" W, along the said northerly bank, a distance of 1274.28 feet; thence N 07° 58' 41" W, a distance of 728.27 feet; thence N 48° 15' 53" E, a distance of 300.48 feet; thence N 18° 03' 02" W, a distance of 237.72 feet; thence S 73° 25' 56" W, a distance of 309.98 feet; thence N 33° 33' 25" W, a distance of 794.68 feet to a point on the North line of the said SE 1/4; thence N 87° 47' 43" E, along the said North line a distance of 1972.12 feet, to the Point of Beginning. SAID PARCEL OF LAND CONTAINS 38.27 ACRES, MORE OR LESS.

6. Location of structure or diversion (include quarter quarter, section, township, and range, and approximate feet from section lines; include a map of the location showing the diversion structure(s)):

New well will be located approximately 400' West of current Malachite Spring location. Exact location of the new well will be determined upon completion and provided to the HCWCD then.

7. GPS coordinates for structure or diversion (if available):

8. Provide a detailed description of proposed water uses for **each** property and the basis and calculation whereby you have estimated your water. Also, answer the applicable questions:

Water diverted from the new well will be used for two purposes. It will be used in sanitary facilities, cleaning, and operations of a small 4-6 site developed campground that will have no irrigated areas. It will also be used to fill non-domestic use water tanks for general water haulage applications.

- 8.1 For hotel, motel, lodge, guest ranch, cabins **with** kitchenettes– How many guest rooms and staff rooms? \_\_\_\_\_ What is the expected annual occupancy rate? \_\_\_\_\_
- 8.2 For hotel, motel, lodge, guest ranch, cabins **without** kitchenettes– How many guest rooms and staff rooms? \_\_\_\_\_ What is the expected annual occupancy rate? \_\_\_\_\_
- 8.3 For laundromats, how many washing machines? \_\_\_\_\_
- 8.4 For restaurants, with table/bar service, what is the expected average number of customers per year? \_\_\_\_\_
- 8.5 For restaurants with paper service only, what is the expected average number of customers per year? \_\_\_\_\_
- 8.6 For kennels, what is the expected average number of dogs boarded per year? \_\_\_\_\_
- 8.7 For offices, what is the square footage of finished floor space? \_\_\_\_\_
- 8.8 For campgrounds and RV parks with central public toilet and shower facility, how many campsites?  
6
- 8.9 For campgrounds and RV parks with water/sewer hookups only, how many campsites? \_\_\_\_\_
- 8.10 For warehouses, what is the square footage of floor space? \_\_\_\_\_
- 8.11 For schools without cafeteria, gym and showers, how many students? \_\_\_\_\_
- 8.12 For schools with cafeteria, gym and showers, how many students? \_\_\_\_\_

- 8.13 For automobile service station without car wash, how many pumps? \_\_\_\_\_
- 8.14 For all commercial enterprises, how many square feet of irrigated lawn and garden? \_\_\_\_\_
- 8.15 For any other type of commercial enterprise, describe the number of employees, and the types of water use.

For the water haulage portion of the commercial enterprise all diversions will be counted as 100% consumptive use. The haulage of water will primarily be for use by campground users, local small scale agricultural and construction industrial water haulers, and to supplement non-domestic commercial water haulage users of the GPID water system. All water haulage will occur from an individually metered filling point.

- 8.16 For non-commercial enterprise related use, how many square feet of lawn and/or garden irrigation: \_\_\_\_\_
- 8.17 Number of single family dwellings: \_\_\_\_\_
- 8.18 Number and type of livestock and other animals: \_\_\_\_\_
- 8.19 Surface area of ponds (in square feet): \_\_\_\_\_

9. If one or more ponds are or will be present, please answer the following questions:  
Location(s) of the pond(s).

- 9.1 Location of each pond: \_\_\_\_\_
- 9.2 Surface area of each pond: \_\_\_\_\_
- 9.3 Depth of each pond: \_\_\_\_\_
- 9.4 Sources used to fill each pond: \_\_\_\_\_
- 9.5 Use of water or destination after release from each pond, if any: \_\_\_\_\_

10. Type of wastewater treatment (e.g. septic tank and leach field, evapotranspiration system, sewer line to wastewater treatment plant):

Campground will include a septic tank and a leach field for its own sanitary facilities. No general purpose black water dump will be available on site.

11. If water use will be phased-in, please describe expected timing of projected water uses:

Water usage will be phased-in over the course of a number of years. The new well will be developed sometime during 2021. Sanitary facilities and water haulage location will be built in 2022. Campground development will start in 2022 and continue.

12. If able, provide projection of volume of water use on a monthly basis for upcoming year: \_\_\_\_\_

13. What is the date the structure was first used to divert water for **each** beneficial use:

New structure to serve as point of diversion for the Malachite Spring Water Right has not been built, and thus has not yet diverted any water.

14. Does the activity for which water use is requested require permits to legally conduct operations?



Yes, business permits from the state and county will be required.

15. If the commercial activity requires permits to legally conduct operations, please list and describe what permits you currently have and what, if any, permits of which you are still in need. If there are still needed permits to be obtained, please describe why they have not yet been obtained, a description of the steps necessary to obtain them, and an estimated timeframe to obtaining such permits:

This commercial activity will require permits. The complete list of permits has not yet been determined. This activity will take a minimum of 12 months to fully plan and permit.

16. Provide a detailed description, with relevant documentation, of any existing dispute or controversy involving the diversion structure(s) or property that is the subject of this application, including any outstanding matters in dispute with the Colorado Division of Water Resources:

There are no unresolved disputes associated with the Malachite Spring Structure or its associated water rights.

17. Indicate whether you are seeking a lease (provided depletion lagging is less than 6 years) or a purchase or a lease/purchase:

Kent Mace is seeking to purchase 1 full acre foot of augmentation water to support current and future commercial activities in the Upper Huerfano Drainage area.

I understand that the Board of Directors ("Board") of the Huerfano County Water Conservancy District ("HCWCD") will rely upon the statements I have made in this Application and that such statements are subject to the provisions of § 18-8-503, C.R.S. § 18-8-503, C.R.S. states that a person commits Second Degree Perjury if he/she makes a materially false statement (*i.e.*, one that he/she does not believe to be true) while under oath with the intent to mislead a public servant in the performance of the servant's duty. I further understand such statements are subject to the provision of § 18-8-306, C.R.S. § 18-8-306, C.R.S. states that a person commits the crime of Attempting to Influence a Public Servant if he/she attempts to influence a public servant by means of deceit, with the intent to alter the public servant's decision, vote, opinion, or action concerning any matter which is to be considered or performed by him/her or the agency or body of which he/she is a member.

I understand that the Board's approval of this Application may be rescinded, whether or not the Board institutes civil or criminal proceedings against the Applicant, if it is determined that one or more of my statements herein are materially false or misleading.

The Applicant further acknowledges and understands the following:

A. HCWCD charges a non-refundable application fee for processing this Application, the amount of which is determined on a case-by-case basis; subject to paragraph G below.

B. The amount of the actual application fee will be predicated upon the fees and costs incurred by HCWCD in determining if and how to incorporate my request for water into HCWCD's substitute water supply plan or regional augmentation plan.

C. These fees and costs are the result of administrative, legal, engineering, and miscellaneous fees and costs associated with proper application processing.

D. HCWCD will provide to me an estimated application fee subsequent to my submission of this Application. After being provided the estimated application fee I may choose to decline to have the Application processed, thereby avoiding payment of any application fee.



E. If I choose to have HCWCD process my application I must pay the entire estimated application fee set forth by HCWCD before HCWCD will conduct any application processing activities.

F. That HCWCD will endeavor to provide an accurate estimate; however, I understand in some circumstances, the estimated application fee may not be the same amount as the actual application fee. The amount of the actual application fee will be determined after the completion of the application processing. By authorizing the processing of this Application, I agree to pay the actual application fee which shall be the total of all reasonable administrative costs, engineering fees and costs, legal fees and costs, and any other fees and costs incurred by HCWCD in the processing of my Application. I agree to pay the actual application fee whether or not HCWCD ultimately approves my application, or whether or not I ultimately lease or purchase water from HCWCD.

G. Any amount of the estimated application fee paid by me that is over and above the actual application fee will be returned to me upon approval or denial of my application by HCWCD. Alternatively, any amount of the actual application fee that is over and above the estimated application fee is due by me upon the completion of the Application processing.

H. If I choose to proceed with the application process there is no guaranty or representation of success or the timeliness of inclusion into the HCWCD plan. I understand that if measuring devices or other equipment are necessary for the administration or acceptance of my diversions into the HCWCD plan, that I will be responsible for such costs. Such costs will be separate and in addition to the actual application fee.

I. If my application is successfully processed to include my diversions as augmented under the HCWCD's substitute water supply plan or the regional augmentation plan, I will be required to pay the difference between the estimated application fee and the actual application fee, if any, and to sign a purchase or lease agreement with HCWCD for the provision of the temporary or permanent replacement water, as the case may be under the circumstance. This lease or purchase agreement shall set forth the lease or purchase price and the terms and provisions for inclusion within HCWCD's plan.

J. Such lease or purchase agreement shall be upon terms satisfactory to HCWCD, and I have been encouraged to inquire as to the expected terms and prices for the provision of replacement water by HCWCD.

K. All water uses and the augmentation water supplied to me by HCWCD is subject to the HCWCD legally enacted rules and regulations as they now exist and as they may be added, amended, or supplemented in the future, and I agree to be bound by and comply with all such applicable HCWCD rules and regulations.

Applicant: KENT MACE  
Title: OWNER  
Date: 3-22-21

APPLICANT:

Kent Mace

Signature

KENT MACE , OWNER  
PRINT Name Title

STATE OF COLORADO )  
COUNTY OF HUERFANO ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by

Witness my hand and official seal.  
My commission expires:

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

**This section to be completed after Applicant is provided an estimated application fee:  
Please mark and sign only one selection.**

I hereby authorize Huerfano County Water Conservancy District to process this application, and thereby agree to pay the actual application fee.

\_\_\_\_\_  
Signature

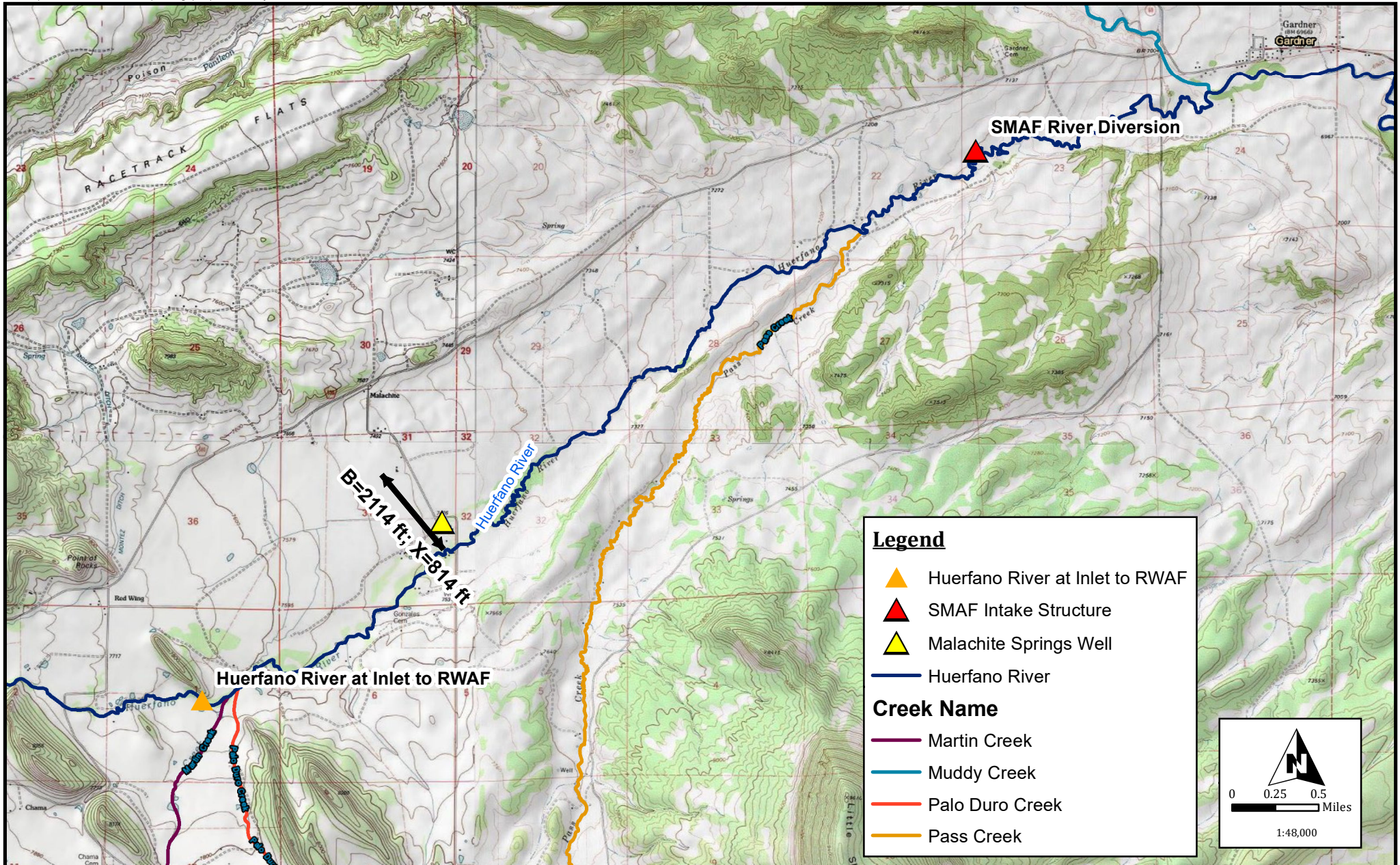
I hereby cancel my request for Huerfano County Water Conservancy District to process this application and thereby do not incur any fees or costs.

\_\_\_\_\_  
Signature

Attachment B – Malachite Springs Well URF

| Month | URF    |
|-------|--------|
| 1     | 0.267  |
| 2     | 0.278  |
| 3     | 0.113  |
| 4     | 0.059  |
| 5     | 0.039  |
| 6     | 0.027  |
| 7     | 0.022  |
| 8     | 0.018  |
| 9     | 0.014  |
| 10    | 0.013  |
| 11    | 0.011  |
| 12    | 0.011  |
| 13    | 0.009  |
| 14    | 0.007  |
| 15    | 0.008  |
| 16    | 0.007  |
| 17    | 0.007  |
| 18    | 0.006  |
| 19    | 0.006  |
| 20    | 0.006  |
| 21    | 0.005  |
| 22    | 0.005  |
| 23    | 0.005  |
| 24    | 0.005  |
| 25    | 0.005  |
| 26    | 0.004  |
| 27    | 0.004  |
| 28    | 0.004  |
| 29    | 0.004  |
| 30    | 0.004  |
| 31    | 0.003  |
| 32    | 0.003  |
| 33    | 0.003  |
| 34    | 0.003  |
| 35    | 0.003  |
| 36    | 0.003  |
| 37    | 0.003  |
| 38    | 0.002  |
| 39    | 0.002  |
| 40    | 0.002  |
| Total | 1.0000 |







## CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 12<sup>th</sup> day of July, 2021, a true and correct copy of the foregoing, Notice of Inclusion on Application of Kent Mace and Amos Mace, 8055 County Road 570, Gardner, Colorado 81040 (“Mace”) for a Participating Diversion was sent in accordance with Exhibit H of the Decree in 13CW3062, District Court, Water Division 2, via regular mail and electronic mail, as indicated, to the following:

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

With notice to:

Chip Cutler  
Cutler Law Office, LLC  
P.O. Box 743  
329 W. Hwy 50  
Salida, Colorado 81201  
[chip@cutlerlaw.org](mailto:chip@cutlerlaw.org)

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

With notice to: Grosscup Balcomb & Green, P.C.  
c/o David C. Hallford  
Sara M. Dunn  
P.O. Drawer 790  
Glenwood Springs, Colorado, 81602  
[dhallford@balcombgreen.com](mailto:dhallford@balcombgreen.com)  
[sarad@balcombgreen.com](mailto:sarad@balcombgreen.com)

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

With notice to:

Shinn, Steerman & Shinn  
c/o Donald L. Steerman  
P.O. Box 390  
Lamar, Colorado, 81052  
[shinnsteermanlaw@centurytel.net](mailto:shinnsteermanlaw@centurytel.net)

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

With notice to:

Grosscup Balcomb & Green, P.C.  
c/o David C. Hallford and Scott Grosscup  
P.O. Drawer 790  
Glenwood Springs, Colorado, 81602  
[dhallford@balcombgreen.com](mailto:dhallford@balcombgreen.com)

5. **Colorado Water Conservation Board**  
Stream and Lake Protection Section  
1313 Sherman Street, Room 721  
Denver, Colorado, 80203

and with notice to:

Office of the Colorado Attorney General, Natural Resources and Environment Section  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, Colorado, 80203  
Jen Mele [jennifer.mele@coag.gov](mailto:jennifer.mele@coag.gov)

**6. Growing Roots, LLC**

P.O. Box 928  
Carmel Valley, CA 93924

With notice to:

Alperstein & Covell P.C.  
c/o Andrea L. Benson, Cynthia F.  
Covell, and Robert T. Donald  
1600 Broadway, Suite 1070  
Denver, Colorado, 80202  
[alb@alpersteincovell.com](mailto:alb@alpersteincovell.com)

**7. Lucy R. Hibberd**

327 S. 7th Street  
Aspen, Colorado, 81611

With notice to:

Corona Water Law  
c/o Craig Corona  
420 E. Main Street, Suite 203  
Aspen, Colorado, 81611  
[cc@craigcoronalaw.com](mailto:cc@craigcoronalaw.com)

**8. Colorado State Engineer**

1313 Sherman Street, Room 818  
Denver, Colorado, 80203

and with notice to:

Jeff Deatherage:  
[jeff.deatherage@state.co.us](mailto:jeff.deatherage@state.co.us)

Melissa van der Poel

[melissa.vanderpoel@state.co.us](mailto:melissa.vanderpoel@state.co.us)

And with notice to:

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

**9. Colorado Division 2 Engineer**

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

With notice to:

Bill Tyner: [bill.tyner@state.co.us](mailto:bill.tyner@state.co.us)  
Doug Brgoch: [doug.brgoch@state.co.us](mailto:doug.brgoch@state.co.us)  
Lenna Rauber: [lenna.rauber@state.co.us](mailto:lenna.rauber@state.co.us)

and with notice to:

Office of the Colorado Attorney  
General, Natural Resources and  
Environment Section  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, Colorado, 80203  
[paul.benington@coag.gov](mailto:paul.benington@coag.gov)

**10. Charles F. Rowland**

P.O. Box 7  
Gardner, Colorado, 81040

**11. Tom and Mary Thayer**

4008 C.R. 650  
Rye, CO 81069

**12. The Castle Ranch, LLC**

5801 E. 6<sup>th</sup> Avenue Pkwy  
Denver, CO 80220

With notice to:

Stephen H. Leonhardt  
Bernard F. Gehris  
Burns, Figa & Will, P.C.  
6400 S. Fiddlers Green Circle  
Suite 1000  
Greenwood Village, CO 80111  
[sleonhardt@bfwlaw.com](mailto:sleonhardt@bfwlaw.com)

and

Roger T. Castle, # 7621 Roger T.  
Castle, P.C. 1580 Lincoln St, Suite 500  
Denver, CO 80203 Phone: (303) 839-  
8251 E-mail:

[rtcpc@earthlink.net](mailto:rtcpc@earthlink.net)  
[roger@rtcastlelaw.com](mailto:roger@rtcastlelaw.com)

MONSON, CUMMINS & SHOHET, LLC

/s/ Ryan W. Farr

Steven T. Monson, #11329  
Ryan W. Farr, #39394  
Counsel for Applicant, Huerfano County  
Water Conservancy District

# **Supplement Documentation**

## **Exhibit 2. Deed of Trust**



**DEED OF TRUST**

**THIS INDENTURE** made this 31 day of December 2020, between **Amos Mace**, whose address is **8055 C.R. 570 Gardner, Colorado 81040**, hereinafter referred to as Grantor, and the Public Trustee of the County of Huerfano, State of Colorado, hereinafter referred to as Public Trustee; for the benefit of **Alan Eric Mace (Beneficiary)**.

**WITNESSETH THAT Amos Mace** has executed a Promissory Note, of even date for the principal sum of \$60,000.00, payable to the order of **Alan Eric Mace** whose address is 8053 C.R. 570 Gardner, Colorado 81040 after the date hereof, with interest thereon from the date thereof at the rate of 2% per annum, payable in 240 equal consecutive monthly installments of principal and interest in the amount of \$303.53 commencing January 1, 2021 and due and payable on the 1st day of each month thereafter until paid in full with a final payment due on or before December 1, 2041. Provided the outstanding balance of the Promissory Note secured by this Deed of Trust at my death shall be forgiven.

**AND WHEREAS** the Grantor is desirous of securing payment of the principal and interest of said Promissory Note in whose hands soever the said Note may be.

**NOW THEREFORE** the Grantor, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said Public Trustee in trust forever, the following described property, situate in the County of Huerfano, State of Colorado, to wit:

Tract "B-1" of Lot Line Rearrangement of Tracts "B" and "C" of Boundary Survey of Tracts A-G, recorded October 15, 1998 Reception No. 336204, Map No. 17-S-293 in Pocket 24 and Folder 1; Huerfano County Records. Said Lot Line Rearrangement having been recorded May 30, 2002, Reception No. 354140, Map No. 17-S-523 in Pocket No. 29 and Folder No. 1; Huerfano County Records, tract "B-1" being located in the SE 1/4, Section 31, Township 26 South, Range 70 West, 6<sup>th</sup> P.M., Huerfano County, Colorado being more particularly described as follows:

Beginning at the E 1/4 corner of said Section 31; thence S 00° 08' 17" E, along the East line of said Section 31, a distance of 181.50 feet; thence S 89° 51' 43" W, a distance of 330.00 feet; thence S 00° 08' 17" E, a distance of 772.24 feet, to a point on the northerly bank of the Huerfano River; thence S 48° 36' 53" W, along the said northerly bank, a distance of 1274.28 feet; thence N 07° 58' 41" W, a distance of 728.27 feet; thence N 48° 15' 53" E, a distance of 300.48 feet; thence N 18° 03' 02" W, a distance of 237.72 feet; thence S 73° 25' 56" W, a distance of 309.98 feet; thence N 33° 33' 25" W, a distance of 794.68 feet to a point on the North line of the said SE 1/4; thence N 87° 47' 43" E, along the said North line a distance of 1972.12 feet, to the Point of Beginning. SAID PARCEL OF LAND CONTAINS 38.27 ACRES, MORE OR LESS.

LESS: The Right-of-Way of county Road No. 570

**TO HAVE AND TO HOLD** the same, together with all and singular the privileges and appurtenances thereunto belonging, in trust nevertheless, that in case of default in the payment of said Note or any part thereof, or in the payment of the interest thereon, according to the tenor and effect of said Note, or in the payment of any prior encumbrances, principal or interest, if any, or in case default shall be made in or in case of violation or breach of any of the terms, conditions, covenants or agreements herein contained, the Beneficiary hereunder or the legal holder of the indebtedness secured hereby may declare a violation of any of the covenants herein contained and may elect to advertise said property for sale, and demand such sale by filing a notice of election and demand for sale with the Public Trustee. Upon receipt of such notice of election and demand for sale, the Public Trustee shall cause a copy of the same to be recorded in the recorder's office of the county in which said property is situated. The Public Trustee shall then give public notice of the time and place of sale by advertisement to be published for four weeks (once each week for five successive weeks) in some newspaper of general circulation at that time published in the county or counties in which said property is located. A copy of such notice shall be mailed within ten days after the date of the first publication thereof to the Grantor at the address given herein, to such persons appearing to have acquired a subsequent record interest in said property at the address given in the recorded instrument, and to any other persons as may be

provided by law. It shall and may then be lawful for the Public Trustee to sell said property for the highest and best price the same will bring in cash and to dispose of the same (en masse or in separate parcels, as the said Public Trustee may think best), together with all the right, title and interest of the Grantor therein, at public auction at any place as may be specified by statute and designated in the notice of sale. The Public Trustee shall make and give to the purchaser of such property at such sale, a certificate in writing containing a description of such property purchased, the sum paid therefor, a statement that said purchaser shall be entitled to a deed therefor, unless the same shall be redeemed as is provided by law; and in the event of a continuance of the sale, a recital that the sale was duly continued. The Public Trustee shall, upon demand by the person holding the said Certificate of Purchase, when said demand is made or upon demand by the person entitled to a Deed to and for the property purchased at the time such demand is made, the time for redemption having expired, make and execute to such person a Confirmation Deed to the said property purchased. Said Confirmation Deed shall be in the ordinary form of a conveyance and shall be signed, acknowledged and delivered by the said Public Trustee and shall confirm the foreclosure sale and sell and convey to such person entitled to such Confirmation Deed, the property purchased as aforesaid and all the right, title, interest, benefit and equity of redemption of the Grantor therein. The Public Trustee shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges and costs of making said sale, pay to the Beneficiary hereunder or the legal holder of said Note, the principal and interest due on said Note according to the tenor and effect thereof, and all moneys advanced by such Beneficiary or legal holder of said Note for insurance, taxes and assessments, with interest thereon at 8% per annum, rendering the overplus, if any, unto those persons entitled thereto as a matter of law. Said sale and said Confirmation Deed so made shall be a perpetual bar, both in law and equity, against the Grantor and all other persons claiming the said property, or any part thereof, by, from, through or under the Grantor. The holder of said Note may purchase said property or any part thereof; and it shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

The Grantor covenants and agrees to and with the Public Trustee that at the time of the ensembling of and delivery of these presents he is well seized of the said land and tenements in fee simple and has good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid; hereby fully and absolutely waiving and releasing all rights and claims he may have in or to said lands, tenements and property as a Homestead Exemption, or other exemption, under and by virtue of any act of the General Assembly of the State of Colorado, or as any exemption under and by virtue of any act of the United States Congress, now existing or which may hereafter be passed in relation thereto and that the same are free and clear of all liens and encumbrances whatever except taxes for 2020 and subsequent years, easements, reservations and restrictions of record, and the above bargained property in the quiet and peaceable possession of the Public Trustee, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the Grantor shall and will warrant and forever defend.

**Until payment in full of the indebtedness, the Grantor shall timely pay all taxes and assessments levied on the property;** any and all amounts due on account of principal and interest or other sums on any senior encumbrances, if any; and will keep all improvements that may be on said lands insured against any casualty loss, including extended coverage, in a company or companies meeting the net worth requirement of the Beneficiary hereof in an amount which will yield to the holder of the indebtedness, after reduction by co-insurance provisions of the policy, if any, not less than the then total indebtedness. Each policy shall contain a loss payable clause naming the Beneficiary as mortgagee and shall further provide that the insurance may not be canceled upon less than ten (10) days written notice to the Beneficiary. At the option of the Beneficiary, the original policy or policies of insurance shall be delivered to the Beneficiary as further security for the indebtedness. Should the Grantor fail to insure and deliver the policies or to pay taxes or assessments as the same fall due, or to pay any amounts payable upon senior encumbrances, if any, the Beneficiary may make any such payments or procure any such insurance, and all monies so paid with interest thereon at the rate of 8% per annum shall be added to and become a part of the indebtedness secured by this Deed of Trust and may be paid out of the proceeds of the sale of the property if not paid by the Grantor. In addition, and at its option, the Beneficiary may declare the indebtedness secured hereby and this Deed of Trust to be in default for failure to procure insurance or make any of the payments required by this paragraph.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor and Beneficiary agree that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Deed of Trust, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49, U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Grantor represents and warrant to Beneficiary that: (a) During the period of Grantor' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Beneficiary in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on, under, about or from the Property by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Beneficiary in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Beneficiary and their agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Beneficiary may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Beneficiary shall be for Beneficiary's purposes only and shall not be construed to create any responsibility or liability on the part of Beneficiary to Grantor or to any other person. The representations and warranties contained herein are based on Grantor due diligence in investigating the Property for hazardous waste and hazardous substances. Grantor hereby (a) releases and waives any future claims against Beneficiary for indemnity or contribution in the event Grantor become liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Beneficiary against any and all claims, losses, liabilities, damages, penalties, and expenses which Beneficiary may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed of Trust, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Deed of trust and shall not be affected by Beneficiary' acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of the Beneficiary.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without the prior written consent of Beneficiary. As a condition to the removal of any Improvements, Beneficiary may require Grantor to make arrangements satisfactory to Beneficiary to replace such Improvements with Improvements of at least equal value.

**Beneficiary' Right to Enter.** Beneficiary and their agents and representatives may enter upon the Real Property at all reasonable times to attend to Beneficiary' interests and to inspect the Property for purposes of Grantor' compliance with the terms and conditions of this Deed of Trust.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Beneficiary in writing prior to doing so and so long as, in Beneficiary' sole opinion, Beneficiary' interests in the Property are not jeopardized. Beneficiary may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Beneficiary, to protect Beneficiary' interest.

**Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.


If all or any part of the property or an interest therein is sold or transferred by the Grantor without Beneficiary's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Beneficiary may, at Beneficiary' option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Beneficiary shall have waived such option to accelerate if, prior to the sale or transfer, Beneficiary and the person to whom the property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Beneficiary and that the interest payable on the sums secured by this Deed of Trust shall be at such rate as Beneficiary shall request.

**IN CASE OF ANY DEFAULT** whereby the right of foreclosure occurs hereunder, the holder of said Note or Certificate of Purchase shall at once become entitled to the possession, use and enjoyment of the property aforesaid, and to the rents, issues and profits thereof, from the accruing of such right and during the pendency of foreclosure proceedings and the period of redemption, if any there be; and such possession shall at once be delivered to the holder of said Note or Certificate of Purchase on request, and on refusal, the delivery of such possession may be enforced by the holder of said Note or Certificate of Purchase by any appropriate civil suit or proceeding, and the holder of said Note or Certificate of Purchase, or any thereof, shall be entitled to a Receiver for said property, and of the rents, issues and profits thereof, after such default, including the time covered by foreclosure proceedings and the period of redemption, if any there be, and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of the Grantor or of the then owner of said property and without regard to the value thereof, and such Receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice - notice being hereby expressly waived - and all rents, issues and profits, income and revenue therefrom shall be applied by such Receiver to the payment of the indebtedness hereby secured, according to the law and the orders and directions of the court.

**IN CASE OF DEFAULT** in any of said payments of principal or interest, according to the tenor and effect of said Promissory Note or any part thereof, or of a breach or violation of any of the covenants or agreements herein, by the Grantor, then and in that case the whole of said principal sum hereby secured and the interest thereon to the time of the sale may at once, at the option of the legal holder thereof, become due and payable, and the said property be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the Public Trustee, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the Public Trustee as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

**IT IS FURTHER UNDERSTOOD AND AGREED** that if a release of this Deed of Trust is required, the

Grantor will pay the expense thereof; that all the covenants and agreements herein contained shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

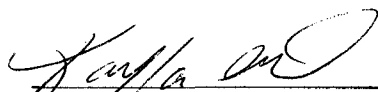
  
Amos Mace

STATE OF COLORADO )  
 ) SS.  
COUNTY OF HUERFANO )

The foregoing document was acknowledged before me this 31 day of December 2020, by Amos Mace.

Witness my hand and official seal.

**KAYLA M ANDREATTA**  
Notary Public  
State of Colorado  
Notary ID # 20154037328  
My Commission Expires 04-27-2024

  
Notary Public  
My Comm. Exp. 4/27/2024

I hereby certify that this instrument was filed for record in my office and is duly recorded.

CLERK AND RECORDER

By \_\_\_\_\_  
Deputy

# Supplement Documentation

## Exhibit 3. Change Point of Diversion explanation

Change point of diversion of surface water right of Malachite Spring - Structure ID 7902339 to new commercial well being proposed in application.