

Huerfano County Land Use Department
401 Main Street, Suite 304
Walsenburg, Colorado 81089
719-738-1220, Ext. 506



Huerfano County Planning Commission
Staff Report – Permit #24-008 Mace Campground
Meeting Type– Public Hearing

Meeting Date: May 14, 2024

Request:

With this Application, Amos Mace and his representative Sky Tallman (the Applicant), requests the following:

Conditional Use Permit pursuant to LUR Section §1.06 to establish a permanent 10-unit RV campground as well as an additional 10 sites for tent and car/van camping on his property. The site is addressed at 8055 County Road 570 (Parcel Number 29097).

The subject property is zoned Agricultural. Zoning standards for this district are set forth in LUR Section §1.03.

Key Questions to Consider:

Code References

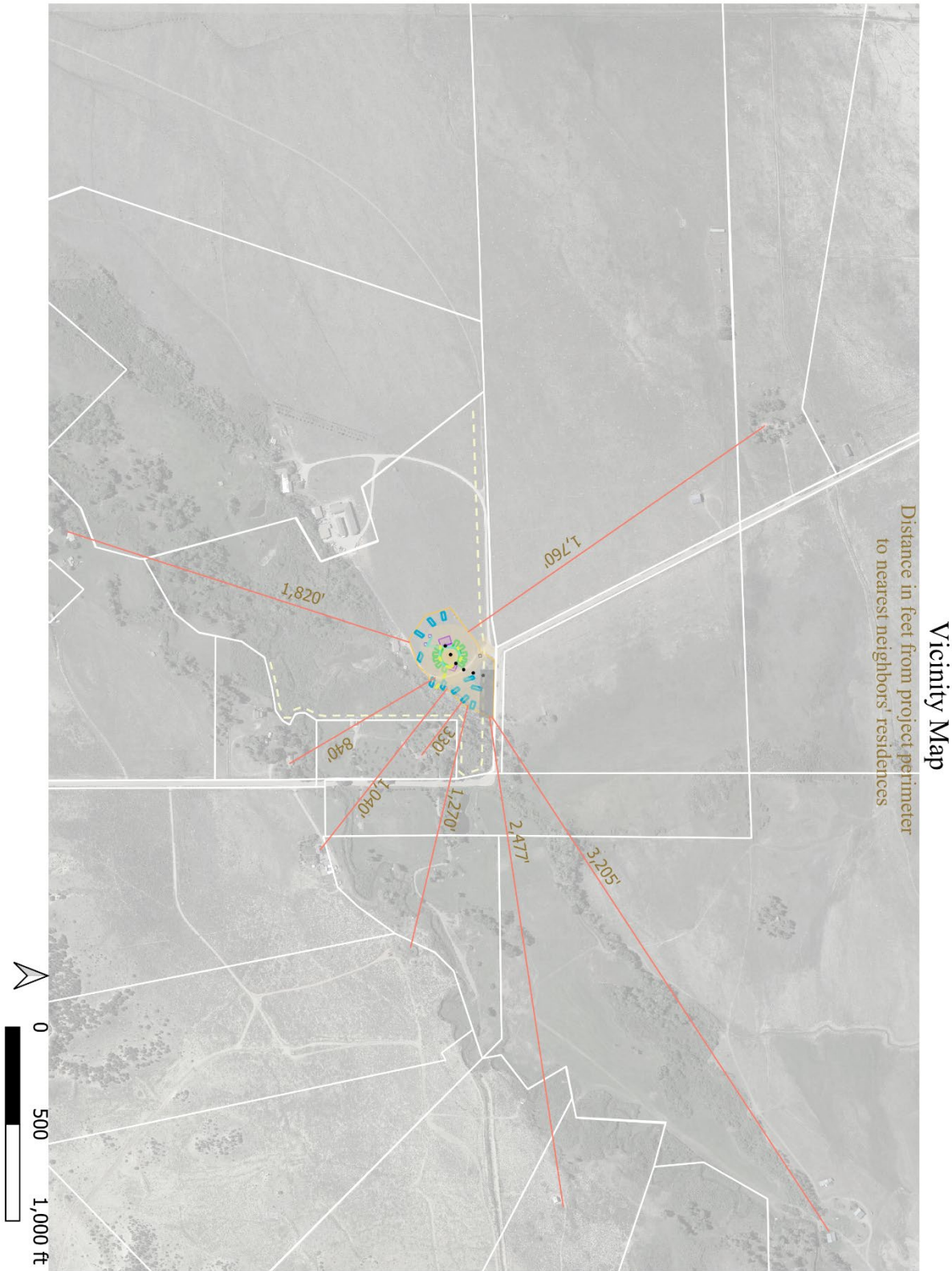
The following Code Sections are applicable to this application and may be referenced by the Planning Commission in their evaluation of the request:

- §1.05.36– Camping areas and campgrounds, conditional use for agricultural zoning
- §1.06– Conditional Use Approval and Approval Amendment Provisions
- §1.06.01– Letter of Intent Requirements
- §1.06.02– Site Plan Requirements
- §8.02– General Process Summary for Land Use Applications
- §9.01– The County Planning Commission

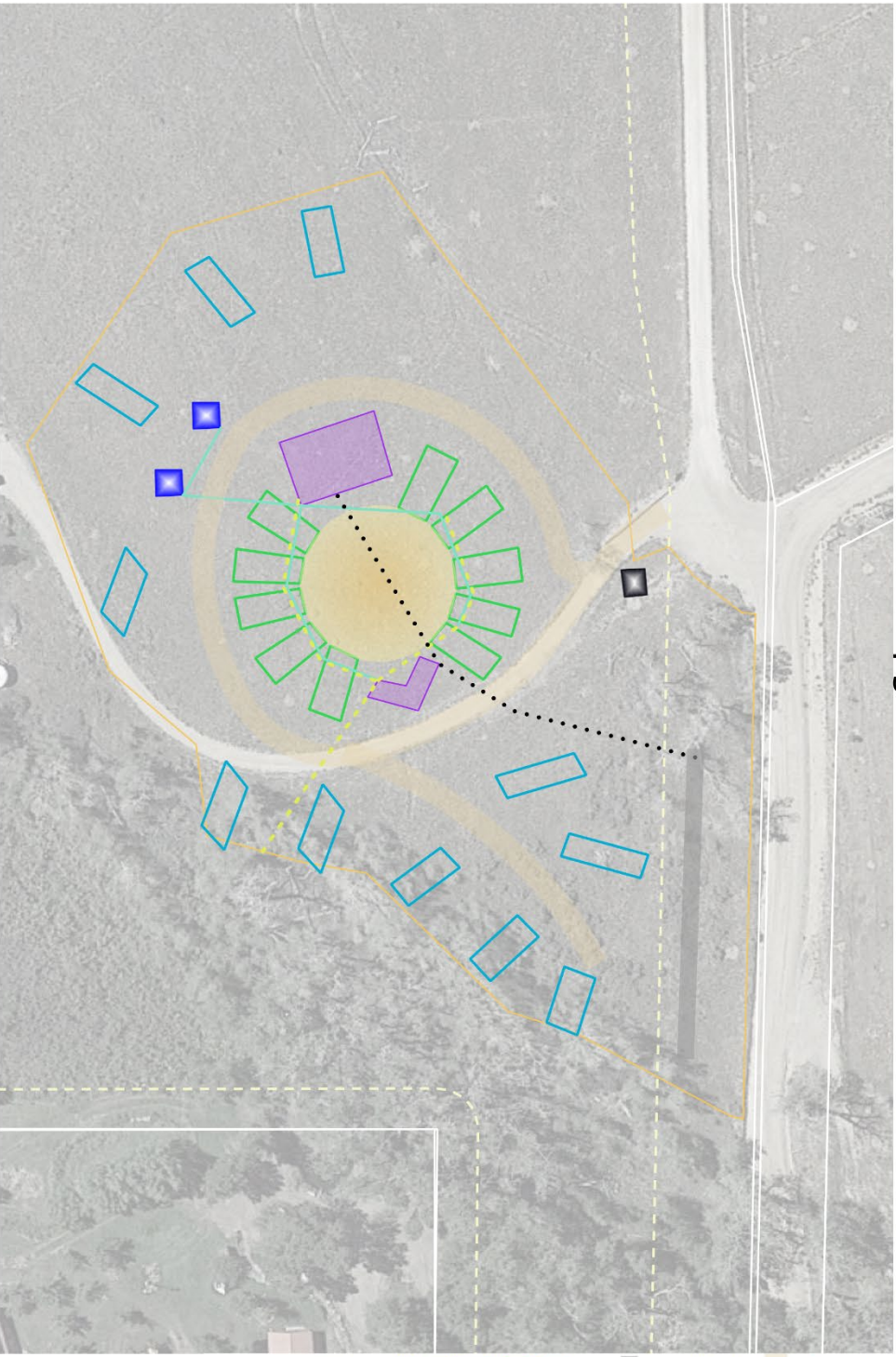
Background

On February 19, 2024, an Application (Conditional Use Permit), Application Fees, site plan, letter of intent, and submittals were received by the County. The Application was determined to be complete on April 10, 2024.

Site Map/Vicinity Map:



Mace Campground Site Plan



- Mace Campground 3
- Water Line
- Road
- Setback
- Electric
- Sewer
- Leach Field
- Mace Campground 3
- Campsites
- Printave Sites
- Buildings
- Campground perimeter
- Well/Fill station
- Dump Station
- Plaza
- Parcels Huertano
- Google Satellite

Length of water pipe 400 ft.
 Campsites 20'x40' organized around circular 'plaza' or common space with a radius of 48 ft.
 Additional 10-12 printave campsites on periphery, spaced farther apart.
 Two potential buildings. Northern building could be showers/bathroom and communal kitchen. Larger building to south could be cartaker/attendant house; could include CS Woods gallery.
 "Plaza" concept to encourage community interaction, shared fireplace... Buildings and camper spaces arranged to break wind.
 Fill station near attendant house; dump station near entry.
 60' front setback, 20' side setback
 Perimeter area: 3.4 acres

Referral agencies contacted:

Huerfano County School District
San Isabel Electric
Division of Water Resources
Parks and Wildlife
Huerfano County Health Department
Upper Huerfano Fire Protection District
Huerfano County Economic Development
Huerfano County Tourism
Huerfano County Sheriff
Spanish Peaks Regional Health Center
Forest Service
Southern Colorado COG
Upper Huerfano Soil Conservation District
Huerfano County Water Conservancy District
Noxious Weeds

Please see attached comments from referral agencies and citizens.

Commission Action: On April 25, 2024 the Huerfano County Planning Commission voted unanimously to recommend to the Huerfano County Board of County Commissioners for approval of the Malachite/Mace Campground with the following conditions:

- A groundwater permit authorizing commercial uses issued by the Colorado Division Water Resources, received to the CDWR Division 2 Office by email and
- Documentation that said commercial -use permit, once issued, has been included and able to operate within Huerfano County Water Conservancy District's Regional Augmentation Plan, operating under Case number 13W3062, received to the CDWR Division 2 Office, by email.

To follow all the requirements as set forth by the Las Animas-Huerfano County Health Department which includes:

1. The bulk water station that will serve water to the public and also the water provided for the campers must meet the requirements of: CDPHE Regulation WQCD Regulation 11.
2. The OSWT for this commercial use must be designed by a Registered Professional Engineer as required in regulation 43 (43.8L.1.a) If the total volume of the sewage should exceed 2,000 gallons per day, it shall be under the jurisdiction of CDPHE and Regulation 22.
3. The Dump Station-Must be designed and constructed such that it has adequate volume (2000 gallons or more) and is also equipped with a visible and audible alarm (Regulation 43, 43.12.C.9) There shall be a written agreement between facility and a licensed wastewater pumping company to assure that pumping will be conducted on a routine basis. Although not mentioned in this narrative, if food is prepared or dispensed to the patron's restaurant/snack bar or grocery store (retail food establishment), the jurisdiction falls under the authority of the Las Animas-Huerfano Counties Health Department and the appropriate paperwork, licensing and inspections shall be required.

These requirements are the minimum required for this type of proposal, there may be more as the project unfolds.

Have the Huerfano County Noxious Weed Manager evaluate the proposed campsite and make any recommendations if needed.

Recommendation:

1. **Approval**- without any special conditions.
2. **Conditional**- Approval with a description of the special conditions.
3. **Denial**- indicating for the record the reason(s) for such action with reference to the criteria set forth in the Land Use Code.
4. **Continuation**- until a future date to gather more information or obtain clarification or for any other relevant cause.

Enclosures

- Application Materials:
 1. Site Plan
 2. Vicinity Map
 3. Letter of Intent
 4. Deed of Trust
 5. Notice of Inclusion

Land Use Application #24-008
Campground Conditional Use Permit
Attachment 1 - Application



Huerfano County, CO
Huerfano County Land Use and Building Department

401 Main St
 Ste 304
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PERMIT

LU-24-008

CONDITIONAL USE PERMIT

SITE ADDRESS: CO RD 570 UNKNOWN
PRIMARY PARCEL: 29097
PROJECT NAME: MACE CAMPGROUND

ISSUED:
EXPIRES:

APPLICANT: Tallman, Sky
 403 S Animas
 Trinidad, CO 81082
 505-265-0673

OWNER: MACE, AMOS
 8055 COUNTY ROAD 570
 GARDNER, CO 81040-0000

Detail Name	Detail Value
Conditional Use Permit Type	General Permit
Detailed project description	RV campground with ten sites with hookups and ten sites without hookups for tents or vans.
Number of Spaces (Mobile/Manufacture Home Park Only)	10
Do you want to schedule a pre-application conference?	No
Parcel (Schedule) Number (Available from Assessor):	29097
Please enter Parcel Area (Acres)	38.27
Zoning	AGRICULTURAL
Land Owner's Phone Number (if applicable or enter N/A)	970-309-1799
Applicant's Phone Number (if different from above or enter N/A)	N/A
Description of the current land use(s) on the property, the characteristics of the land within the property boundaries, and any current land uses on all adjoining property.	Property has one dwelling connected with a driveway. A second driveway connects to the applicant's home on the adjacent parcel. There is a ~30-foot drop in elevation on the east side of the property.
Is your project in one of the HOA/POAs listed?	1-MY HOA/POA IS NOT LISTED
I understand that this permit does not relieve me of any obligation to follow all legally binding subdivision rules, regulations, and covenants as adopted by my property owners' association, if applicable. All documents submitted may be subject to internet publishing.	I acknowledge
Is all or part of the proposed project in a 100-year flood zone?	No
Are there slopes in excess of 20% in the project area?	No
Will project require any state or federal permits?	No



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Is an H.B. 1041 Permit Required? (Applies to site selection for: airports, mass transit, highways/interchanges/collector highways, public utility facilities, new communities, municipal/industrial water projects, and use of geothermal resources.)

No

I hereby certify that this Application is made with full knowledge of the design standards, all fees, procedures, public hearing and meeting requirements contained in the Huerfano County Land Use Regulations. Furthermore, I understand that all land use permits are non-transferable, unless specifically approved by the Huerfano County Board of County Commissioners.

I Certify

The Board of County Commissioners may impose permit transfer fees as it deems appropriate. I also understand that issuance of a permit does not relieve me of the requirement to comply with all federal, state, and local laws as well as all relevant subdivision regulations, declarations, and covenants. All documents submitted may be subject to internet publishing.

I Certify

CONDITIONS

* Below are descriptions of the requirements for the Site Plan and Letter of Intent listed in the "submittals" section:

* Letter of Intent:

1. A description of the proposed conditional use of the property and project activities, including all utility sources and supplies, needed to bring about that use.
2. A statement of the impacts of the proposed use on items such as roads, traffic and public safety protection services on the features of the subject property and the neighboring environment including but not necessarily limited to flora, fauna, critical wildlife habitat, wildlife migration corridors and the quantity and quality of surface and ground water resources.
3. A statement demonstrating that the proposed conditional use would be in compliance with the comprehensive plan.
4. Current land use(s), characteristics of the land, and current land use on all adjoining property.
5. Zoning of adjoining property.
6. Comprehensive Plan Compliance Statement.

* Site Plan:

1. Map drawn to scale.
2. Location, height and approximate dimensions or envelope location of each existing and proposed structure in the proposed conditional use area.
3. Uses to be contained within existing and proposed structures; Existing and proposed building setbacks.
4. Property lines, rights-of-way, easements watercourses and other natural and historic features of the site.
5. Parking/loading plan.
6. Access Plan (roads, streets, footpaths, traffic devices, driveways and curb cuts).
7. Right-of-way dedication plan.
8. Signs, Lighting and Landscaping.
9. Utilities plan for water, sewage/septic, electrical, telephone and other utilities and facilities needed to develop the proposed conditional use.
10. Grading, storm water runoff and re-vegetation plans.
11. Phases.

FEES:	<u>Paid</u>	<u>Due</u>
Public Noticing		\$20.00
Administrative Fee		\$84.60
Conditional Use Application / Manufactured Home Park or Campground		\$50.00
Conditional Use Permit Fee		\$300.00
Totals :		\$454.60



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20 February 2024

To: Sky Tallman

From: Amos Mace

RE: Application for Campground CUP on my behalf

Hello Sky,

Thank you for the planning work you've done associated with my proposed campground. I'm very happy to get this project into its next steps. Please start the process of applying for the Huerfano County Condition Use Permit as my representative. Let me know if there is any further documentation that I need to provide you to facilitate the application process.

Thank You! – Amos Mace

Malachite RV Park

This proposal is for a 10-space RV-campground on a property near Malachite/Gardner off of County Road 570, zoned Agricultural. In the Agricultural zone, a campground requires a conditional use permit (see: 1.05.36). There will be ten RV sites equipped with electric and water hookups, and an additional ten sites with no hookups to be used for tent and van camping. There will be a separate structure for bathrooms, showers and a common kitchen area for guests. The project will create one seasonal job, employing an on-site manager who will occupy a 1,200 square-foot dwelling to be constructed as part of this project, with the potential for an attached gallery space to display CS Woods products.

The campground will be situated on roughly 3.4 acres in the northeast portion of a 38.27-acre parcel. The campground will be located on an open field at the edge of the cottonwood forest that forms part of the riparian area along the Huerfano River.

The campground will be marketed to visitors who are coming to the area to visit the wolf sanctuary and/or hike over Mosca Pass. Currently, the wolf sanctuary is unable to accommodate campers, which discourages many people from visiting the site. Providing a campground for those who want to experience the wolves will help to support that project and generally bring more tourism to the Gardner area. The second activity that will be promoted is for groups who want to hike the Mosca Pass. The operator will arrange for a shuttle to drop off and/or pick up visitors on either side of the pass, which can include visits to the Sand Dunes or hot springs, and then bring visitors back to Huerfano County to camp.

Property History:

The main residence on the adjacent property, owned by the applicant, was built between 1886-1892 by the Sharp family. The family raised cattle and ran a trading post where he traded tobacco and clothing in the valley on what was known as the Buzzard Roost Ranch.

The property has been owned by the Mace family since 1976, when Stuart Mace came from Aspen and settled on the site to start the non-profit Malachite Farm School intended to keep alive and teach organic farming techniques. The school lasted for about 15 years. While in operation, there were often 60 to 70 people on site, working, learning and visiting the site. The applicant's residence adjacent to this parcel was the former school building, built as an extension onto the original Sharp residence. The family established Malachite Inc., which was later re-established in the late '90s as a wood mill that has grown into a successful business that supplies high-end milled wood to furniture makers and carpenters. The mill employs between 8 to 10 people and is a significant economic activity in the area, making CS Woods a significant consistent source of employment in this part of the County since 1976.

Wheat was once grown on the site before the topsoil blew away during the Dust Bowl in the 1930s. The topsoil has never recovered and still to this day, the soil will not support such crops. There are the remnants of a former grist mill on the site.

Comprehensive Plan Compliance

This project supports goals outlined in the 2018 Comprehensive Plan that specifically encourage the development of RV camping as an economic development activity.

The following excerpts from the 2018 Comprehensive Plan relate to this project.

- GOAL PSA.2: ENCOURAGE TOURISM AND RECREATIONAL OPPORTUNITIES IN THE COUNTY TO MEET THE NEEDS OF THE CITIZENS AND VISITORS.

- Economic Development – Introduction:

The County will ensure that businesses are appropriately located to prevent land use conflicts and are well-designed with a focus on sustainability. Ultimately, the County seeks to find a balance between economic vitality and its rural character to preserve the natural environment and high quality of life.

The appropriate location of businesses should be determined primarily by business developers themselves, subject to the rights of neighbors, and only secondarily by county regulations. Forcing businesses to locate in pre-determined business or industrial parks should be a last resort.

- GOAL ED.1: ENCOURAGE THE RETENTION AND EXPANSION OF EXISTING BUSINESSES AND THE ATTRACTION OF NEW BUSINESSES THAT WILL BENEFIT THE COUNTY.
 - Policy ED.1.3.: Encourage tourism-oriented businesses and organizations and branding (including “Spanish Peaks Country”) in the County.
 - Policy ED.1.10: Encourage development of well maintained RV parks throughout the County.
- GOAL ED.4: ENCOURAGE RECURRING RECREATIONAL AND ARTISTIC EVENTS WHICH ENHANCE LIFE IN HUERFANO COUNTY AND CREATE BUSINESS GROWTH IN OTHER ECONOMIC SECTORS
 - Policy ED.4.2: Develop and promote outdoor recreation and tourism opportunities throughout Huerfano County including but not limited to hiking and historic trails, historic sites, birding, virtual tours, reopening Grandote Golf Course, non-motorized outdoor sports, endurance rides, and clays courses

Potential Impacts and Mitigation

Within ¼ mile of the proposed campground along County Road 570, there are seven properties that border on the road, three of which contain dwellings. The closest neighbors to this project, Manuel and Sara Garcia, have a home that is about 330 ft from the perimeter of the project. Between the Garcia residence and the proposed camp sites and buildings, there is a thick grove of cottonwoods and a significant elevation change. In the winter, when there are no leaves on the trees, the Garcia residence is not visible from the proposed campsites (see photo to the right from proposed campsite in the direction of the Garcia residence). Additionally, there



is a vertical elevation difference of about 30 ft between the Garcia residence and the proposed campground, with the campground on the high plain above the river valley. This elevation difference along with the cottonwood forest will help to reduce the amount of sound traveling from the campsite to the Garcia property.

We anticipate that the impact of noise, light or other potential nuisances to adjacent properties will be minimal. To the north and east, the distance to the nearest neighbors is nearly or slightly more than a quarter mile, and to the west is the home where the applicant lives and the CS Woods mill. To the south and southeast are a number of homes, including the Garcia residence as the closest residence, but the separation between these and the proposed campsite by a thick ribbon of cottonwoods as well as the distance from the project, should make any impacts marginal.

To help residents in the county live according to the tradition of rugged individualism, Huerfano County has also included the Code of the West in its Comprehensive Plan, which states that “the surrounding properties will probably not remain as they are indefinitely.” ... “The view from your property may change.” The Code of the West explicitly states that adjoining agricultural uses may be expected to disturb the peace and quiet, and while a campsite is not an agricultural use, the occasional disturbance that may arise might be analogous to that of occasional disturbances caused by agricultural activities.

Each campsite will be equipped with water and electrical hookups. Electrical hookups will mitigate the need for RVs to run generators. The primitive campsites will be primitive campsites reserved for tent and van camping, and would not permit the use of generators.

The type of tourism this campground intends to support will be for visitors hiking Mosca Pass and visiting the wolf sanctuary. It is anticipated that the average length of stay will be two nights. To help mitigate impacts on the surrounding area, the campground will implement the following rules:

- Lights out after 10:00 PM – to be able to appreciate the dark skies, outdoor artificial lights must be turned off by 10:00 PM.
- Noise Curfew: No music or other noise audible across campground permitted after dark. On site attendant will monitor noise and ensure that loud parties or late-night noise does not disturb the neighborhood.
- No Generators: RVs will be prohibited from running generators on site. Electrical hookups will be provided to mitigate the need to run generators.
- No open camp fires at individual campsites. A communal fire pit will be constructed in the common area where fires may be allowed when conditions allow.
- Pets: All dogs must be on leash at all times.

Septic/Water Use

Leach fields must be at least ten (10) feet from the property line.

5 CCR 1002-43 delegates to local health departments the authority to regulate OWTS systems under 2,000 gallons per day. In Table 6-2, it outlines the average use in gallons per day for different types of

uses; campsites or Travel trailer park without individual water and sewage hookup per unit use an estimated 50 gallons per day; a Travel trailer park with individual water and sewage hookup per unit should be calculated at 100 gallons per day. Since this site will have water hookups, but the dump station will not be connected to the OWTS system, and will instead be a separate vault system that will be emptied as needed, a camp site with communal showers, toilets and kitchen for ten camp sites plus a single permanent residence, calculated at 75 gallons per day, should be expected to produce a flow of up to 575 gallons per day through the OWTS.

(A shower is calculated at 14.5 gpd, a toilet at 24.8 gpd)

Traffic: It is anticipated that guests will stay an average of two nights. If the campground is 70% full through the summer, which will generate 10-15 trips per day.

Dump Station: While campers will have access to facilities that should minimize the need to dump their septic tanks, a septic vault will also be constructed so that RVs can dump there for a fee. This will be a service offered to those who camp at the site, as well as to the community at large. Currently, there are no other options in the area for campers to dump their waste, and providing this service will help to reduce illegal dumping and encourage RV tourism in the area.

Drainage: The site is relatively flat with a slight slope toward the northeast. In the northeast corner of the property, there are some natural ponding areas where surface flows could be caught after a storm, but water does not pond here, as it infiltrates too quickly.

USGS defines the soil type on the site as Willowman gravelly sandy loam, 3 to 8 percent slopes. This soil is comprised of cobbly, gravelly alluvium and is well drained. This project will not create any additional runoff at the property line.

Bulk Water Station:

Independently from the campground proposal, the applicant holds the water rights to dispense _____ acre-feet of water. Included on this site plan is a plan to install a bulk water station. Many people in the area depend on bulk water for residential uses, and offering an additional station will take some pressure off of the Gardner station and offer a valuable service to the community.

The water rights to this are attached to the Huerfano County Water Conservancy District Notice of Inclusion in the Tier 1 Water Augmentation Program.

Thank you in advance for taking the time to consider this application.

Amos Mace

Land Use Application #24-008
Campground Conditional Use Permit

Attachment 2 – Proof of Ownership

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, 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.

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

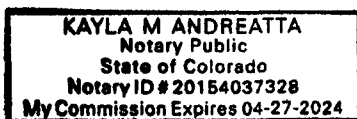
Grantor will pay the expense thereof; that all the covenants and agreements herein contained shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular,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

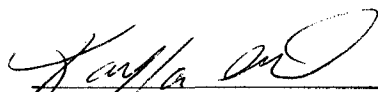

Amos Mace

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.




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

Land Use Application #24-008
Campground Conditional Use Permit

Attachment 3 – Proof of Water

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 For further information please visit 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, $\frac{1}{4}$ of the $\frac{1}{4}$ 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 $\frac{1}{4}$ of the $\frac{1}{4}$ 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 108th Meridian (longitude). West of the 108th Meridian is UTM Zone 12 and east of the 108th Meridian is UTM Zone 13. The 108th 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 for general information, additional forms, and access to state rules or statutes.

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 6th 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

Steven T. Monson
Ryan W. Farr
Monson, Cummins & Shohet, LLC
13511 Northgate Estates Drive, Suite 250
Colorado Springs, CO. 80921
stm@cowaterlaw.com; 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

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

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

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

Dated this 12th day of July, 2021

MONSON, CUMMINS & SHOHEIT, 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 ²
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.

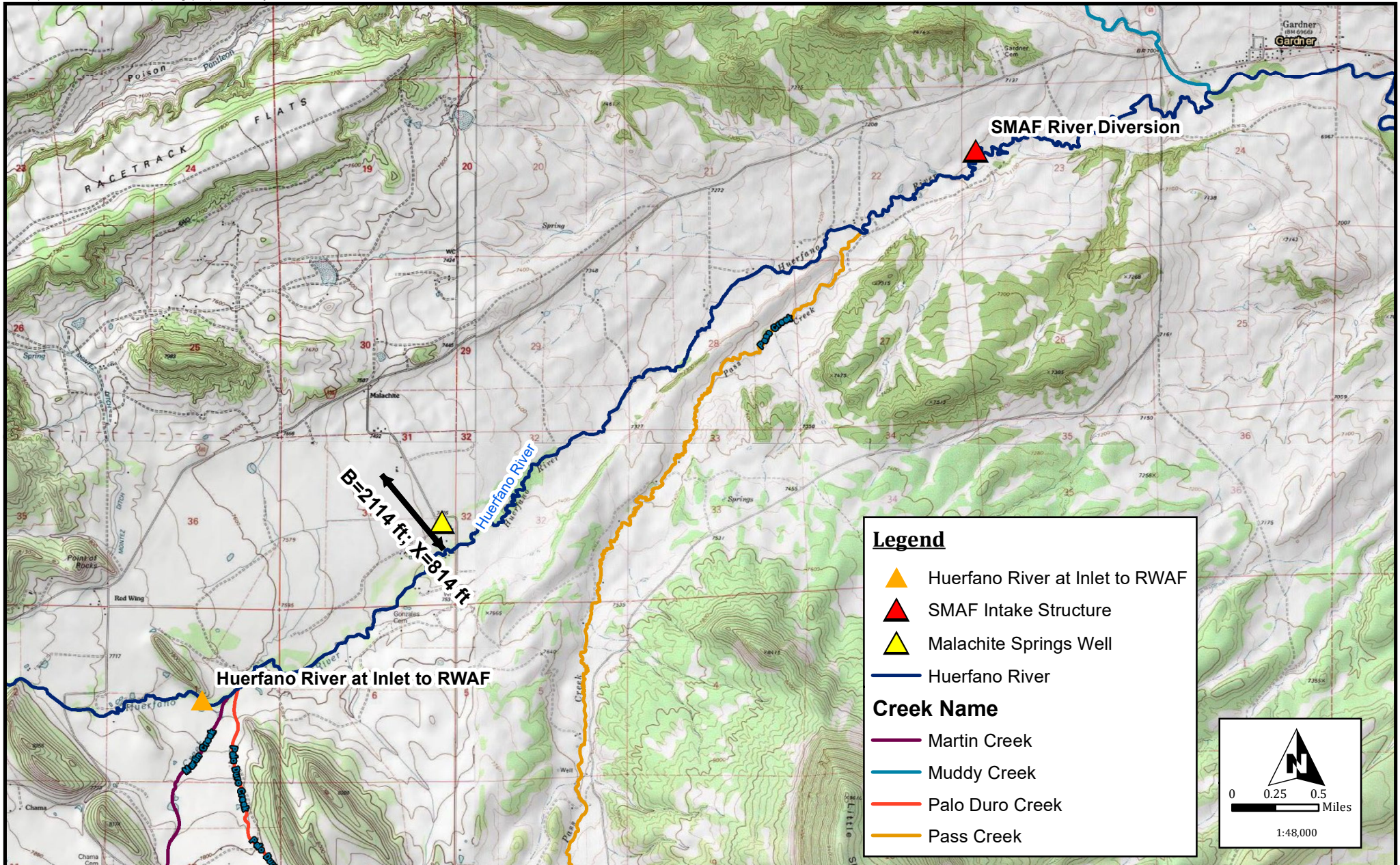
Signature

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 12th 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

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
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

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

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, 7th Floor
Denver, Colorado, 80203
Jen Mele 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

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

8. Colorado State Engineer

1313 Sherman Street, Room 818
Denver, Colorado, 80203

and with notice to:

Jeff Deatherage:
jeff.deatherage@state.co.us

Melissa van der Poel

melissa.vanderpoel@state.co.us

And with notice to:

Office of the Colorado Attorney
General, Natural Resources and
Environment Section
1300 Broadway, 7th 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
Doug Brgoch: doug.brgoch@state.co.us
Lenna Rauber: lenna.rauber@state.co.us

and with notice to:

Office of the Colorado Attorney
General, Natural Resources and
Environment Section
1300 Broadway, 7th Floor
Denver, Colorado, 80203
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. 6th 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

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
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

Land Use Application #24-008
Campground Conditional Use Permit

Attachment 4 – Agency Comments



COLORADO

Parks and Wildlife

Department of Natural Resources

Pueblo Service Center
600 Pueblo Reservoir Road
Pueblo, CO 81005
P 719.561.5300 | F 719.561.5321

April 11, 2024

Cheri Chamberlain
401 Main Street Suite 304
Walsenburg, CO 81089

RE: Application 24-008 Malachite RV Park

Dear Cheri Chamberlain,

Colorado Parks and Wildlife (CPW) has received and appreciates the request for comments on the proposed Malachite RV Park located off of County Road 570. CPW has prepared a list of potential impacts to local wildlife and recommendations to avoid, minimize, and mitigate those impacts.

CPW has a statutory responsibility to manage all wildlife species in Colorado; as such we encourage protection for Colorado's wildlife species and habitats through responsible energy development and land use planning. Protection of core wildlife areas, quality fisheries and habitat, big game winter range and seasonal migration corridors, and raptor nesting locations are of extreme importance. CPW recommends that all proposed projects be assessed to avoid, minimize, or mitigate impacts to sensitive wildlife habitats and species. That includes species of concern as well as Federal and/or State listed species, big game wildlife (migration corridors, winter range, parturition areas), breeding and nesting habitats for sensitive ground-nesting birds, and nests of raptors sensitive to development in order to prevent loss of habitat or fragmentation of habitat. US Fish and Wildlife Service (USFWS) should be consulted on any Federally-listed Endangered and Threatened Species that might be present at the location.

Raptors and Migratory Birds: There is suitable habitat for nesting raptors and migratory birds on the proposed site. To avoid impacts to the nesting efforts of migratory birds CPW recommends that proposed development of the site, construction and vegetation clearing activities occur outside of the breeding season (March 15th-October 31st). If construction must occur during the breeding season, surveys for active nests should be conducted prior to groundbreaking. All migratory birds are protected under the Migratory Bird Treaty Act and removal or disturbance of any active migratory bird nest would require consultation with CPW and USFWS prior to disturbance. CPW also recommends the use of preconstruction surveys to



Jeff Davis, Director, Colorado Parks and Wildlife

Parks and Wildlife Commission: Dallas May, Chair • Richard Reading, Vice-Chair • Karen Bailey, Secretary • Jessica Beautieu
Marie Haskett • Jack Murphy • Gabriel Otero • Duke Phillips, IV • James Jay Tutchtton • Eden Vardy

identify raptor nest within the project area and the implementation of appropriate restrictions.

Mule Deer Severe Winter Range: Mule deer severe winter range is defined as that part of overall range where 90% of the individuals are located when the annual snowpack is at its maximum and/or temperatures are at a minimum in the two worst winters out of ten. Mule deer winter ranges are considered high priority for protection from disturbance associated with development and critical to sustain mule deer populations across Colorado. For parcels or portions of parcels, that overlap mule deer severe winter range, CPW recommends a timing limitation for no permitted or authorized human activities from December 1 to April 30. The proposed project is located within an area that is classified as severe winter range for mule deer in Huerfano County.

Elk Severe Winter Range: Elk severe winter range is defined as that part of the overall range where 90% of the individuals are located when the annual snowpack is at its maximum and/or temperatures are at a minimum in the two worst winters out of ten. Elk winter ranges are considered a high priority for protection from disturbance associated with development, and are critical to sustain elk populations across Colorado. For parcels or portions of parcels, that overlap elk severe winter range, CPW recommends a timing limitation to preclude any permitted or authorized human activities from December 1 to April 30. The proposed project is located within an area that is classified as severe winter range for elk in Huerfano County.

Invasive and Nuisance Species: CPW recommends the development and implementation of a noxious weed control plan for the site. It is recommended that all disturbed soils in the area be monitored for noxious weeds. Noxious weeds should be actively controlled until native plant revegetation and reclamation is achieved. It is recommended that all areas disturbed by the development be revegetated with native plant species.

Other considerations: Huerfano County is well known for its black bear population. To reduce any wildlife conflicts involving black bears, CPW recommends and encourages the use of bear resistant trash containers in the campground. The use of a bear resistant dumpster located behind a permanent enclosure such as fencing/brick, or other type of enclosure is highly advised. Food like trash is another bear attractant that results in human bear conflicts. Placement of bear resistant food storage boxes or containers in the primitive campground for use by tent campers to secure food away from human tents/other temporary dwellings is recommended.

CPW would appreciate the implementation of a dog leash rule in the campground. A campground rule requiring all pets must be leashed and appropriate signage for such a rule will reduce human wildlife conflicts including pets chasing/harassing wildlife. Furthermore bear aware and ethical wildlife viewing information is encouraged to be posted and communicated to guests.

Construction of a bathroom facility at the campground is encouraged by CPW to prevent waste and litter from entering the surrounding habitat and riparian areas. Implementation of the lights out policy after dark, no generators, single communal fire pit, and noise curfew will all aid in minimizing impacts to wildlife.



Furthermore CPW encourages that riparian areas and mature native trees not be impacted or disturbed on the property to minimize impacts to wildlife.

In areas where ground disturbing activities are anticipated, CPW recommends reclamation with native grass and/or plant species. Proper reclamation, from a wildlife perspective, involves both soil stabilization and ground cover establishment. Reclamation seed mixes should be suited for on-site soil types and mirror both existing and native plant communities. Specific seed mixtures may be specified and or obtained by the Natural Resources Conservation Service (USDA).

A thorough noxious weed control program is also essential in proper reclamation to prevent disturbed areas from being invaded by non-native vegetation that can be detrimental to existing wildlife habitat. This may be achieved via a noxious weed management plan.

CPW appreciates this opportunity to review the proposed Malachite RV Park on County Road 570. Economic developments such as this project are understood to be important to the local communities and Huerfano County as a whole.

Impacts to local wildlife can be minimized through all of the following; The use of bear resistant storage/trash receptacles, pet leash rules, bathroom facilities to contain waste, reseeding of disturbed areas, and minimizing disturbance while avoiding riparian areas. Please feel free to contact our office at (719)-561-5300 if you have any questions and or comments regarding this letter or any other wildlife matter.

Sincerely,



Michael D Brown
Area Wildlife Manager
Area 11-Pueblo





April 23, 2024

Huerfano County - Land Use
401 Main St.
Walsenburg, Colorado 81089

RE: Land Use Permit 24-008_Malachite Campground_Mace

Dear Sir/Madam,

This letter is provided as a courtesy comment as this proposal does not involve a subdivision requiring comment by the State Engineer's Office pursuant to C.R.S. 30-28-101(10)(a). Therefore, pursuant to the State Engineer's March 4, 2005 memorandum to county planning directors, this office will only perform a cursory review of the referral information and provide comments. The comments provided herein cannot be used to guarantee a viable water supply plan or infrastructure, the issuance of a well permit, or physical availability of water.

The submittal indicates the above-proposed Land Use Permit on behalf of Amos Mace in seeking approval for a proposed commercial operation, summarily described, when complete to include:

- *A 10-space RV-campground ... equipped with electric and water hookups*
- *10-12 primitive tent sites with no hookups to be used for tent and van camping.*
- *Separate structure(s) for bathrooms, showers, and a common kitchen area for guests.*
- *A Bulk Water Dispensing Station for public use*
- *A seasonal, live-on-site manager who will occupy a 1,200 square-foot dwelling*

Said proposed project to be located upon Tract B-1 of *Lot Line Rearrangement of Tracts B and C of Boundary Survey of Tracts A-G Survey 17-S-293, 17-S-523*, within the Official Records of Huerfano County, Colorado. Said approximately 38.27± acre parcel is owned by Amos Mace and located primarily within the SE1/4 of Section 31, Township 26 South, Range 70 West of the Sixth P.M., Fremont County, State of Colorado, also known as 8055 County Road 570, Gardner, CO 81212, and being further designated as Huerfano County Parcel ID 29097.

History:

According to our records, the Colorado Division of Water Resources shows the following administered features upon the aforementioned parcel:

- A groundwater well, permitted under State Engineer's Office Permit No. 153904.
 - This permit does not confer a decreed water right
 - The use of ground water from this well is limited to fire protection, ordinary household purposes inside three (3) single-family dwellings, the irrigation of not more than one acre of home gardens and lawns, and the watering of domestic animals.
 - **This permit does not allow for any commercial uses**
- Pond WDID 7903312, Malachite Lower Pond
 - Subject to Water Court Case 05CW0102



- Pond WDID 7903313, Malachite Upper Pond
 - Subject to Water Court Case 04CW0127

Compliance:

This action involves an expanded or changed use of ground or surface water, requiring further action by applicant(s) to fully secure a legal source of groundwater able to serve a proposed commercial operation. Therefore, the DWR recommends disapproval of this application, based solely on a lack of a legal source of water, only until remedied. Evidence of remedy shall include:

- A groundwater permit authorizing commercial uses issued by the Colorado Division of Water Resources, received to the CDWR Division 2 Office, by email at dnr_div2ground.water@state.co.us in pdf format, AND
- Documentation that said commercial-use permit, once issued, has been included and able to operate within Huerfano County Water Conservancy District's Regional Augmentation Plan, operating under Case No. 13CW3062, received to the CDWR Division 2 Office, by email at dnr_div2ground.water@state.co.us in pdf format.

Upon receipt and review of evidentiary items, the CDWR Division 2 Office shall issue a revision to this letter towards Huerfano County Planning and Zoning.

Please reach out with questions or concerns by email to dnr_div2ground.water@state.co.us.

Sincerely,

Ivan Valles
Data Analyst - GIS Specialist, CDWR Division 2

ec: Christine Sednek, P.E., Water Resources Engineer
Jeff Montoya - South Lead Water Commissioner, Division 2
Lenna Rauber - District 79 Water Commissioner, Division 2
Dan DiRezza - Groundwater Enforcement Lead, Division 2
Russ Dash - District 79 Groundwater Commissioner, Division 2
Monica Long - Research Scientist - Lead GIS Specialist, Division 2



to me ▾

Hello. The only comment I have in this from the Forest Service's standpoint is that if any shuttles are conducted that deliver individuals to the National Forest (as mentioned in their application), a permit will be necessary. Therefore the entity will need to apply for a permit and then we would make a determination as to whether or not a permit will be issued.

Please let me know if you need further information. Thank you for the opportunity to provide input.

Destiny Chapman
District Ranger
Forest Service
Pike-San Isabel National Forests
& Cimarron and Comanche
National Grasslands
San Carlos Ranger District

p: 719-269-8701

c: 719-429-0032

destiny.chapman@usda.gov

3028 East Main Street

Canon City, CO 81212

www.fs.fed.us

**Caring for the land and serving
people**

Rauber - DNR, Lenna <lenna.rauber@state.co.us>

to me ▾

Cheri,

I just received application.

Thanks,

Lenna Rauber

Water Commissioner, District 79



COLORADO

Division of Water Resources

Department of Natural Resources

P 719.542.3368 | C 719.568.0489

310 E. Abriendo Ave., Suite B, Pueblo, CO 81004

lenna.rauber@state.co.us | <https://dwr.colorado.gov>



hcwcdistrict@gmail.com

to me, Scott ▾

Hello Cheri,

The HCWCD board reviewed this application at its meeting this evening and had no questions or comments for your office.

Kind regards,

Carol Dunn

Carol S Dunn

Administrator

Huerfano County Water Conservancy District

hcwcdistrict@gmail.com

(719) 742-5581 (home office)

PO Box 442

La Veta, CO 81055

Re: Land Use Permit 24-008

External

Inbox x



darrell adler <darrelladler@yahoo.com>

Wed, Mar 13, 12:34 PM



to me ▾

i do believe this is a smart business idea and would promote tourism and help bring some money to the county i do i have some questions and concerns regarding public health and safety.

1. In the plans it says their will be a communal fire pit. will this be considered "commercial" and be exempt under burn ban restrictions?
2. evacuation routes? impact of traffic to evacuate on to the county road?
3. Landing Zone for medical. we have experince with the camping with the star gazers and see a increase in medical calls with the added people in the community and have had to have flight for life, it makes it easier to perform these task if their is already a prepared LZ and with it being year round camping and the distance i think it may be a smart thing to look at.

Thank you.



Kay Whitley <kwhitley@sprhc.org>

Tue, Mar 12, 11:16 AM



to me, Michael, Royce, mike.brown@state.co.us, spencer.gerk@state.co.us, Robin, Aaron, GF02, Carlton, Robert, Bruce, Ryan, dennis.page@usda.gov, lking, upperhuerfanocd@gmail.com, hcwcdistrict@gmail.com, Charles, dnr_dnr.edoassist@st

Received, no questions or concerns. Thank you!

Respectfully,

Kay

Kay L. Whitley

President and CEO

kwhitley@sprhc.org

719-738-5100 x 135 | FAX: 719-738-5138

23500 U.S. Hwy. 160 | Walsenburg, CO 81089



Re: Land Use Permit 24-008 External Inbox x



Robin Sykes <rsykes@la-h-health.org>

to me, Aaron ▾

Tue, Mar 12, 1:46 PM ★ ↶ ⋮

Hello Cheri

Thank you for getting this information to our Department. I have reviewed the proposal and have these comments/requirements.

1. The bulk water station that will serve water to the public and also the water water provided for the campers must meet the requirements of: CDPHE Regulation WQCD Regulation 11: <https://www.coloradosos.gov/CCR/GenerateRulePdf.do?ruleVersionId=11290&fileName=5%20CCR%201002-11>.
2. The OWTS (Onsite wastewater treatment systems) for this commercial use must be designed by a Registered Professional Engineer as required in Regulation 43 (43.8.L.1.a): <https://www.coloradosos.gov/CCR/GenerateRulePdf.do?ruleVersionId=7543&fileName=5%20CCR%201002-43>. If the total volume of the sewage should exceed 2,000 gallons per day, it shall be under the jurisdiction of CDPHE and Regulation 22.
3. The Dump Station - Must be designed and constructed such that it has adequate volume (2000 gallons or more) and is also equipped with a visible and audible alarm (Regulation 43, 43.12.C.9.) There shall be a written agreement between facility and a licensed wastewater pumping company to assure that pumping will be conducted on a routine basis.

Although not mentioned in this narrative, if food is prepared or dispensed to the patrons restaurant/snack bar or grocery store (Retail Food Establishment), the jurisdiction falls under the authority of the Las Animas-Huerfano Counties District Health Department and the appropriate paperwork, licensing and inspections shall be required.

These requirements are the minimum required for this type of proposal, there may be more as the project unfolds.

Thank you

Robin

Land Use Application #24-008
Campground Conditional Use Permit

Attachment 5 – Public Comments

Received after PC Decision

5/7/2024

Huerfano County Commissioners:

RE: Proposed RV Park on County Road 570

We would like to express some concerns about the proposed RV Park on County Road 570 in Gardner, CO.

We are not in disagreement that a RV Park would be successful in the Gardner area. Many people enjoy travelling to our area.

Currently there is very limited availability for short term housing and/or places to park a RV.

Our concern is that it is intended to be placed very close to existing neighbors. People live in this area for the rural environment that it provides. By placing a RV park directly behind the closest neighbor is very disrespectful of rural living.

If a RV park is approved it should be stipulated to be placed back to the far west of the property where existing neighbors would have the least impact.

Respectfully,

Dan and Corey Gomez
1022 County Road 572
Gardner CO 81040
719-250-3858



Kyla Witt <kwitt@huerfano.us>

Fwd: Urgent Protest Against Proposed RV Park Construction in Huerfano County

1 message

Carl Young <cyoung@huerfano.us>
To: landuse <landuse@huerfano.us>

Tue, May 7, 2024 at 8:04 AM

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

From: **Doreen Martinez** <dmartinezjlp@gmail.com>
Date: Mon, May 6, 2024 at 7:37 PM
Subject: Urgent Protest Against Proposed RV Park Construction in Huerfano County
To: <John@huerfano.us>

May 6, 2024

Dear Huerfano County Commissioner Galusha,

I am writing to express my deep concerns and strong opposition to the proposed construction of an RV park in our beloved Huerfano County. As a resident who cherishes our area's natural beauty and tranquility, I urge you to reconsider this development and its potential negative impacts on our community.

First and foremost, I would like to address the lack of adequate emergency resources in our county. Like many rural areas, Huerfano County already faces challenges in providing timely emergency services. Adding an RV park would only exacerbate this issue by increasing the population density and placing additional strain on our already limited resources. In an emergency, such as a medical crisis or natural disaster, the presence of an RV park could significantly hinder our ability to respond effectively and ensure the safety of residents and visitors alike.

Furthermore, the construction of an RV park would inevitably lead to increased traffic in our area. Our roads are not designed to accommodate large volumes of vehicles, especially during peak tourist seasons. The influx of RVs and other vehicles associated with the park would not only disrupt the flow of traffic but also pose risks to resident safety and further degrade the condition of our already strained infrastructure.

Perhaps most concerning is the potential disruption of serenity for those who purposefully purchased land in Huerfano County to escape overcrowded urban areas and enjoy the peace and quiet of rural living. The construction and operation of an RV park would introduce noise, light pollution, and a constant influx of strangers into our community, undermining the very reasons why many of us chose to call this place home.

Moreover, the proposed RV park would undoubtedly strain our limited resources, including water and electricity. Huerfano County already faces challenges in managing these resources, particularly during drought or high demand. The additional demand from an RV park could further deplete our water supply and strain our electrical grid, leading to potential shortages and increased costs for residents.

Lastly, the construction of an RV park would significantly increase the risk of wildfires in our area. With our county's dry climate and abundant vegetation, the threat of wildfires is already a major concern for residents. The presence of RVs, which often rely on flammable fuels such as propane and inherently include campfires, would pose a significant fire risk, endangering both our property and our lives.

In light of these concerns, I urge the county commissioners to reject the proposed construction of the RV park and instead focus on preserving the natural beauty and quality of life that make Huerfano County such a special place to live. Our community deserves better than to be overrun by developments that prioritize profit over the well-being of its residents.

Thank you for considering my concerns, and I trust that you will make the right decision for the future of Huerfano County.

Sincerely,

Doreen Garcia Martinez

719-406-3645

--

John Galusha
Huerfano County Commissioner
719-248-4541