

DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 Phone Number: (719) 404-8700	DATE FILED: July 6, 2017 8:26 PM CASE NUMBER: 2013CW3062
IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF HUERFANO COUNTY WATER CONSERVANCY DISTRICT IN HUERFANO COUNTY	▲ COURT USE ONLY ▲ Case No.: 13CW3062 Ctrm.: 406
ORDER GRANTING MOTION BY HUERFANO COUNTY WATER CONSERVANCY DISTRICT TO ADD STORAGE STRUCTURE TO EXISTING DECREED PLAN FOR AUGMENTATION	

This matter comes before the Court on Huerfano County Water Conservancy District's Motion to Add Storage Structure to Existing Decreed Plan for Augmentation ("Motion"), and the Court having reviewed said Motion and being fully advised, hereby **FINDS AND ORDERS** as follows:

1. Huerfano County Water Conservancy District ("HCWCD") obtained a November 14, 2016 Findings of Fact, Conclusions of Law, and Judgment and Decree of the Water Court ("Augmentation Plan Decree") that adjudicated a regional plan for augmentation for HCWCD for the Huerfano River drainage ("Regional Augmentation Plan").
2. Paragraph 14 of the Augmentation Plan Decree provides that future additional structures for the storage and release of augmentation water may be added to the Regional Augmentation Plan following the procedures set forth in Paragraph 9.3 of the Augmentation Plan Decree in the same manner for adding additional sources of augmentation water.
3. HCWCD now motions this Court to add an augmentation reservoir known as the Sheep Mountain Augmentation Facility ("SMAF") to operate within the terms of the Regional Augmentation Plan.
4. The SMAF is to constitute the initial reservoir storage site for HCWCD under the Regional Plan for Augmentation. The construction and operation of the SMAF will precede the construction and operation of the Red Wing Augmentation Facility that is already included within the Regional Plan for Augmentation.
5. Paragraph 9.3 of the Augmentation Plan Decree, applied to the addition of a

reservoir site, requires that HCWCD shall provide notice to all objectors in the case of the manner in which the additional water storage site will be incorporated into the Regional Augmentation Plan, including water resource engineering analyzing the water storage to be incorporated into the Regional Augmentation Plan without injury to other water rights from the additional storage.

6. By the filing and service of the Motion, HCWCD has provided notice to objectors of the addition of SMAF to the Regional Augmentation Plan as required by the terms of the Augmentation Plan Decree. Additionally, notice was provided to all Objectors by certified mail and by email where requested as set forth in Exhibit H of the Augmentation Plan Decree.

7. The details of the SMAF to be included into the Augmentation Plan Decree are as follows:

A. Name of Structure. The name of the storage structure is the Sheep Mountain Augmentation Facility.

B. Amount of Storage. The storage capacity of SMAF will be forty-nine (49) acre feet of active capacity.

C. Initial Use. The initial filling of the SMAF is to be upon completion of construction expected in May of 2019. The SMAF period of use is for the duration of the Regional Augmentation Plan unless ordered otherwise by the Court.

D. Location. The SMAF will be located upon the Huerfano County property within the NE1/4 of Section 22, Township 26 South, Range 70 West, 6th P.M, and as shown on the attached **Exhibit A**, and adjoins the Huerfano River approximately two miles upstream from the unincorporated town of Gardner, Colorado. The point of diversion (exchange-to point) from where water will be pumped from the Huerfano River to fill the SMAF and the point of replacement from the SMAF to the Huerfano River, being the same location, is in the SW1/4 of the NW1/4 of Section 23, Township 26 South, Range 70 West, 6th PM, at UTM coordinates 482598.8 North, 4180847.5 East, as shown on **Exhibit A**.

E. Utilization of Stored Water. HCWCD will be entitled to use the SMAF for the storage and release of augmentation water, as already adjudicated in the Regional Augmentation Plan, in order to replace stream depletions of Participating Diversions under the terms and conditions of the Regional Augmentation Plan. The SMAF is within the reach of existing decreed exchanges of the Regional Augmentation Plan upon the Huerfano River, and existing decreed augmentation water can be exchanged into the SMAF and released therefrom under the terms, conditions, and limitations of the Regional Augmentation Plan without causing injury. The Regional Augmentation Plan allows for water to be exchanged to points within the decreed exchange reaches, constituting portions of the entire exchange reach. The exchange from points and the augmentation water to be exchanged are already decreed and described in the Augmentation Plan Decree.

F. Terms and Conditions to Prevent Injury. Subsequent to the construction of

and prior to storage in the Sheep Mountain Augmentation Facility in Division 2 Water Court Case No. 13CW3062, HCWCD shall obtain written confirmation from the Division 2 Engineer that the structure was designed and constructed such that (1) the structure does not intercept ground water and (2) the structure does not intercept surface runoff.

G. Evidence of Legal Use of Facility. HCWCD has entered into a February 16, 2017 First Amendment and Restatement of Grant of Easements for Reservoir and Water Transmission Pipelines with the property owner where SMAF is located. This Grant authorizes HCWCD to construct and operate the SMAF.

H. Proposed Revised Accounting. The existing accounting forms for the Regional Augmentation Plan shall be revised to include the amount of diversion by exchange at the SMAF diversion point, the storage amount in SMAF, and the amount of release of water from SMAF to the Huerfano River.


8. The addition of the SMAF to the Augmentation Plan Decree, when operated under the terms and conditions of the Decree, will help fulfill and implement the Regional Augmentation Plan and will not cause injury to other vested water rights.

WHEREFORE, the Court, under its retained jurisdiction pursuant to Paragraph 37.5 of the Augmentation Plan Decree, hereby grants HCWCD's Motion and the incorporation of the SMAF into the existing Regional Augmentation Plan Decree for the use of this reservoir for the exchange, storage, and release of augmentation water all pursuant to the terms of the Regional Augmentation Plan.

Dated this 6th day of July, 2017.

BY THE COURT:




LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2

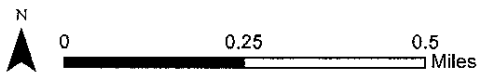
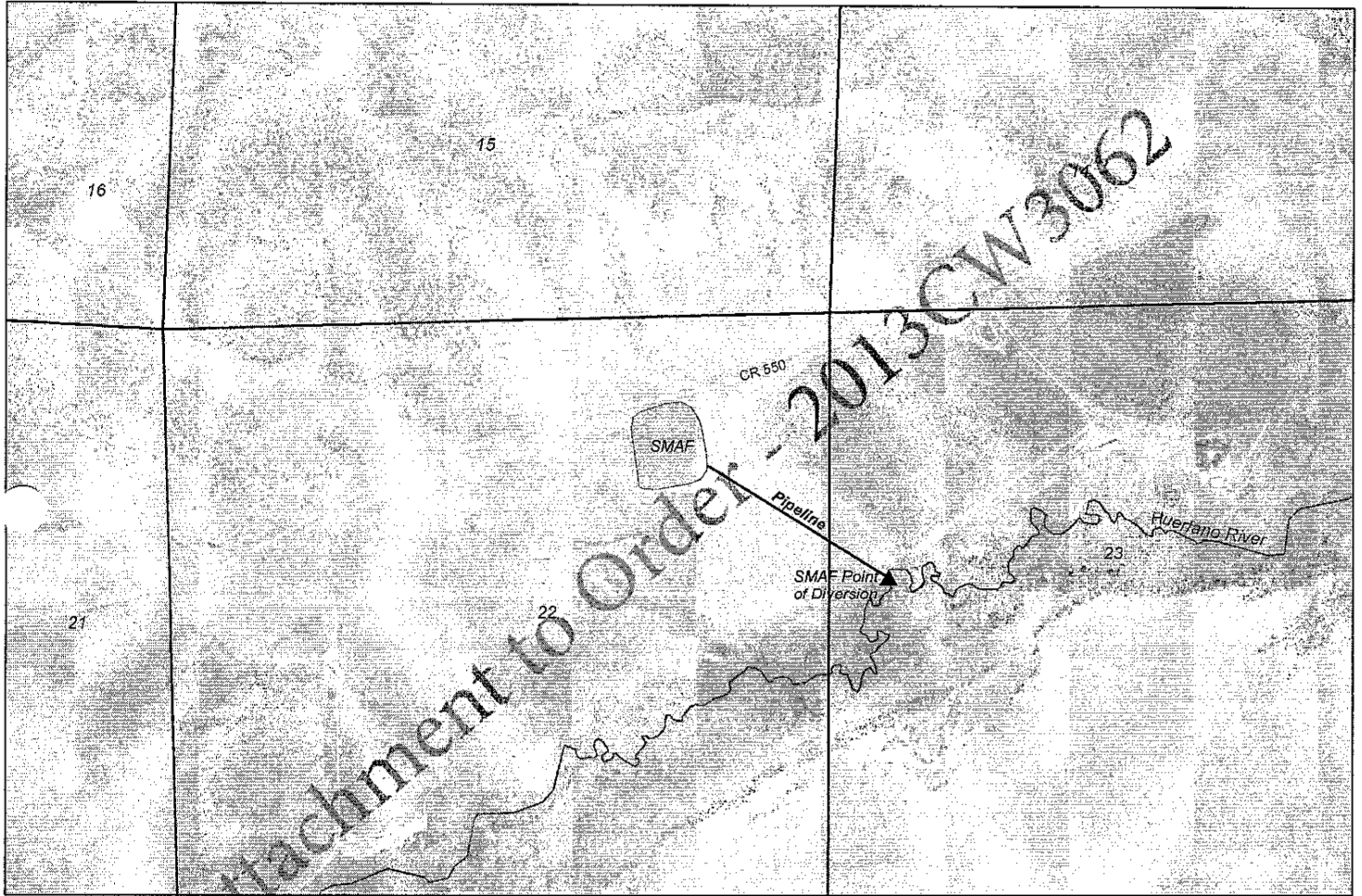



Exhibit A
Preliminary Construction Plan



TZA Water Engineers
a TerraRemediation Company

April 2017