

<p><b>DISTRICT COURT, WATER DIVISION 4, COLORADO</b></p> <p>Court Address: 1200 North Grand Avenue, Bin A Montrose, Colorado 81401-3146 Phone Number: (970) 252-4304</p>	<p>DATE FILED February 27, 2024 2:45 PM FILING ID: 98CB8606B79B1 CASE NUMBER: 2017CW3071</p> <p>COURT USE ONLY</p>
<p><b>IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE SAN MIGUEL WATER CONSERVANCY DISTRICT IN SAN MIGUEL RIVER, IN SAN MIGUEL AND MONTROSE COUNTIES</b></p>	<p>Case Number: 17CW3071</p> <p>Div: 4                  Ctrm:</p>
<p>Attorneys for San Miguel Water Conservancy District:</p> <p>Adam T. Reeves, #26230 Maynes, Bradford, Shipp &amp; Sheftel, LLP 835 E. 2<sup>nd</sup> Ave., #123 Durango, CO 81301 Phone: (970) 247-1755 Fax: (970) 247-8827 E-mail: areeves@mbssllp.com</p> <p>Attorneys for San Miguel County Board of County Commissioners:</p> <p>Mark E. Hamilton, #24585 Susan M. Ryan, #36695 Holland &amp; Hart LLP 600 East Main Street, Suite 104 Aspen, Colorado 81611-1991 Phone: (970) 925-3476 Fax: (970) 925-9367 E-mail: mehamilton@hollandhart.com; smryan@hollandhart.com</p> <p>Attorneys for Sheep Mountain Alliance:</p> <p>Jennifer Russell, #22047 Jennifer Russell, PC P.O. Box 2673 Telluride, Colorado 81435 Phone: (970) 708-1052 Fax: (844) 269-6876 E-mail: jenny.russell@lawtelluride.com</p>	<p><b>STIPULATION AMONG APPLICANT, OBJECTOR SAN MIGUEL COUNTY BOARD OF COUNTY COMMISSIONERS, AND OBJECTOR SHEEP MOUNTAIN ALLIANCE</b></p>

Applicant, San Miguel Water Conservancy District (the “District”), and Objectors, San Miguel County Board of County Commissioners (the “County”) and Sheep Mountain Alliance (“SMA”), by and through their undersigned attorneys, hereby stipulate and agree as follows:

1. The County and SMA each filed a timely Statement of Opposition to the District’s Application for a Finding of Reasonable Diligence in this Case No. 17CW3071.

2. The County and SMA consent to the entry of a decree in this case provided that it is no less restrictive on Applicant and no less protective of SMA and the County than the Proposed Decree attached as Exhibit A.

3. The District will abandon and the water court will cancel all of the water rights associated with the San Miguel Project as described in the Application except the following:

- a. 9,000 acre-feet, conditional, decreed to Saltado Reservoir; and
- b. 5.0 c.f.s., conditional, decreed to the Norwood Canal and Lateral.

These water rights are collectively referred to hereinafter as the “Remaining Appropriations.”

4. Within 60 days following the Water Court’s entry of a final decree in this matter, the District shall transfer to the County all of its interests in the Remaining Appropriations for no cost, subject to the limitations and requirements of this Stipulation. This transfer shall be by Bargain & Sale Deed.

5. The following terms and conditions shall apply to future development and use of the Remaining Appropriations by the County or any permitted transferee(s) or lessee(s):

- a. Allowable types of use
  - municipal/domestic: (including lawn/garden irrigation from municipal water systems);
  - augmentation/replacement/exchange; and/or
  - environmental enhancement/recreation.
- b. Volumetric limitations per type of use:
  - municipal/domestic: 4,000 acre-feet maximum annual storage volume, with an annual 1,000 acre-foot municipal water service yield limit;
  - augmentation/replacement/exchange: 500 acre-feet maximum annual storage volume; and
  - environmental enhancement/recreation: 4,500 acre-feet maximum annual storage volume.

c. Locations of diversion/storage/use:

All diversion and/or storage shall occur within San Miguel County and/or the boundaries of the District;

All direct municipal/domestic uses shall be made by or for the benefit of the Town of Norwood or the Norwood Water Commission for use within the Norwood Water Commission service area, with all diversions to occur at or below the current decreed diversion point for the Norwood Canal and Lateral;

Only augmentation/replacement/exchange and/or environmental enhancement/recreation uses and their associated diversion/storage locations may occur upstream of the current point of diversion for the Norwood Canal and Lateral; and

Saltado Reservoir shall not be developed on the main channel of the San Miguel River as previously decreed.

Environmental enhancement/recreation uses shall occur by the exercise of storage water rights only, including but not limited to the subsequent release of stored water into the San Miguel River or its tributaries to support or enhance other then-existing water rights. The County shall consult with SMA prior to its development of the Remaining Appropriations for environmental enhancement/recreation uses.

d. Permitted Transferees/Lesseees:

Subject to all other requirements of this Stipulation, the County may transfer or lease the Remaining Appropriations (or portions thereof) to other public entities to include the Town of Norwood, the Norwood Water Commission, the Southwestern Water Conservation District, and/or the Colorado Water Conservation Board. SMA shall have the right to review and approve any proposed transfer or lease of the environmental enhancement/recreation component of the conditional water right for Saltado Reservoir, provided that (1) SMA's consent shall not be unreasonably withheld; and (2) if SMA does not respond to any request for such consent within 90 days of receipt of notice of the same, SMA shall be deemed to have approved the transfer or lease. The County may transfer all or any portion of the conditional water right for Saltado Reservoir allocated for environmental enhancement/recreation use to SMA. Notwithstanding the foregoing, the County or any eligible successor owner(s) of the augmentation/replacement/exchange component of the Remaining Appropriations may contract or lease augmentation/replacement/exchange supplies to third party water users pursuant to a public umbrella plan for

augmentation, or in support of other plans for augmentation, including as an additional replacement water source for existing plans for augmentation.

6. Except to the extent that the Remaining Appropriations are abandoned, on or before the second diligence application deadline following entry of a final decree in this matter, the County and/or any eligible successor(s) must:

- a. Determine a new location or locations for the Remaining Appropriations, or portions thereof, subject to the limitations set forth above in Section 5 of this Stipulation.
- b. Obtain an engineering analysis of the proposed change(s) to the new location(s); and
- c. File a water rights application to change the Remaining Appropriations or portions thereof to the new location(s) and any proposed new places of use.

If the County or any eligible successor(s) fails to complete these actions prior to the second diligence application deadline, except the 4,500 acre-feet of the Saltado Reservoir water right or any portion thereof allocated for environmental enhancement/recreation use, the Remaining Appropriations will be automatically canceled. If the County or any eligible successor(s) timely completes these actions with respect to a portion of the Remaining Appropriations, that portion of the Remaining Appropriations will not be canceled automatically.

7. To the extent that the steps set forth above in sub-sections 6.a, 6.b and 6.c are not completed by the County or any eligible successor (s) prior to six (6) months before the first diligence deadline for the Remaining Appropriations for any portion of the 4,500 acre-feet of the Saltado Reservoir water right allocated for environmental enhancement/recreation uses, the County shall convey by Bargain and Sale Deed any such remaining unallocated interest in the environmental enhancement/recreation component of such water right to SMA for no cost at SMA's option, subject to all other terms and conditions of this Stipulation. If SMA declines to exercise its option pursuant to this Section 7, the County may proceed to develop, transfer, or cancel such unallocated interest in the County's discretion, subject to all other terms of this Stipulation.

8. The County and SMA shall remain parties to this proceeding and shall receive copies of all pleadings, subsequent proposed decrees and any final decree approved in this matter.

9. Upon approval by the Court, this Stipulation shall be enforceable as an order of the Court and as an agreement between the District, the County, and SMA, and shall be binding upon their respective successors and assigns. The District shall not oppose any future water court application(s) to change the decreed uses of the Remaining Appropriations consistent with the terms of this Stipulation.

10. The District, the County, and SMA shall each bear their own attorney's fees and costs.

11. Within seven days of the date on which the last of the parties have signed this stipulation, Applicant, the District, shall file a motion requesting that the District Court in and for Water Division No. 4 enter an order approving this stipulation and entering a decree consistent with the terms of the draft attached hereto as Exhibit A.

12. The terms and conditions of this Stipulation shall be binding upon the parties and their respective authorized successors and assigns.


DATED this 8<sup>th</sup> day of February, 2024.

HOLLAND & HART LLP

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Mark E. Hamilton, #24585  
Susan M. Ryan, #36695  
Attorneys for San Miguel County  
Board of County Commissioners

JENNIFER RUSSELL, PC

By:   
Jennifer Russell, #22047  
Attorneys for Sheep Mountain Alliance

MAYNES, BRADFORD, SHIPPS &  
SHEFTEL LLP

By: 

Adam T. Reeves, #26230  
Attorneys for San Miguel Water  
Conservancy District

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