

Planning Commission Public Hearing

Riverbend PUD Amendment

Coal Ridge PUD Revocation

Nutrient Farms PUD Zoning

File No. PUAA-05-23-8963

File No. PUAA-05-23-8898

File No. PUDA-05-22-8899

Applicant: Nutrient Holdings LLC.

January 29, 2025

Exhibit Number	Exhibit Description
1	Public Hearing Notice Information Form & Attachments
2	Garfield County Land Use and Development Code, as amended
3	Garfield County Comprehensive Plan of 2030
4	Application
5	Staff Report and Staff Presentation
6	Public Comments
7	Referral Agency Comments
8	Applicant Referral Response
9	Supplemental Exhibits, Water Quality Division. NC Comp Plan Excerpt
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CERTIFICATION OF MINERAL OWNER RESEARCH

*This form is to be completed and submitted with **any** application for a Land Use Change Permit.*

Mineral interests may be severed from surface right interests in real property. C.R.S. § 24-65.5-101, *et seq*, requires notification to mineral owners when a landowner applies for an application for development from a local government. As such, the landowner must research the current owners of mineral interests for the property.

The Garfield County Land Use and Development Code of 2013 ("LUDC") Section 4-101(E)(1)(b)(4) requires written notice to owners of mineral interests in the subject property in accordance with C.R.S. § 24-65.5-101, *et seq*, "as such owners can be identified through the records in the office of the Clerk and Recorder or Assessor, or through other means." This form is proof of applicant's compliance with the Colorado Revised Statutes and the LUDC.

The undersigned applicant certifies that mineral owners have been researched for the subject property as required pursuant to C.R.S. § 24-65.5-101, *et seq*, and Section 4-101 (E)(1)(b)(4) of the Garfield County Land Use and Development Code, as amended. As a result of that research, the undersigned applicant certifies the following (*Please initial on the blank line next to the statement that accurately reflects the result of research*):

I own the entire mineral estate relative to the subject property; or

Minerals are owned by the parties listed below

The names and addresses of any and all mineral owners identified are provided below (attach additional pages as necessary):

Name of Mineral Owner	Mailing Address of Mineral Owner
Michael Webster O' Shaughnessy	260 Josephine St., Ste 400, Denver CO 80206
Michael Webster O'Shaughnessy	PO Box 29, Denver CO 80201
Daniel J. O'Shaughnessy	1110 E Layton Ave., Englewood CO 80113-7036
Gerald E. O'Shaughnessy	851 N. Tara Ln, Wichita KS 67206
Robert E. Zimmerman	6200 Valley Forge Dr., Houston TX 77057
ZRC Minerals, LP	1616 S. Voss Rd., Ste 875, Houston TX 77057-2631
ZRC Minerals, LP	PO Box 570174, Houston TX 77257-0174

I acknowledge I reviewed C.R.S. § 24-65.5-101, *et seq*, and I am in compliance with said statute and the LUDC.

Sally Wagner
Applicant's Signature

10/09/2024
Date

EXHIBIT 1

Name of Mineral Owner, cont'd.	Mailing Address of Mineral Owner
Sherri Kay T. Thueson & Greg B. Thueson	1876 W. Crooked Stick Dr., Eagle ID 83616-6742
Lana Tuttle Nielson & Kay Nielson	4263 S. Jummer Way, Apt 319, Murray UT 84107
Lana Tuttle Nielson & Kay Nielson	PO Box 25787, Salt Lake City UT 84125
Tim M. Tuttle & Ruth Ann C. Tuttle	4573 W. 500 N, Fillmore UT 84631-5567
Earl J. Tuttle & Ellis A. Tuttle	449 E. 500 S., Manti UT 84642
Wayne K. Tuttle & Ruth J. Tuttle	823 S. Carterville Rd., Orem UT 84097-6643
Vessels Carbon Solutions, Inc. f/n/a Vessels Coal Gas, Inc.	c/o Christopher Michael Caskey 1660 Lincoln St., Ste 2200, Denver CO 80264

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<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage	
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Sent To Nutrient Holdings LLC
 Street and Apt. No., or PO Box No. 143 Glen Eagle Circle
 City, State, ZIP+4® New Castle, CO 81647

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<input type="checkbox"/> Certified Mail Restricted Delivery \$	
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Sent To Timothy Lindstrom
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<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage	
\$	
Total Postage and Fees	
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Sent To Riverbend Filing #2 Homeowners Assn, Inc
 Street and Apt. No., or PO Box No. PO Box 1989
 City, State, ZIP+4® Glenwood Springs, CO 81647

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Sent To Micah Anthony & Marilyn Castana
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Postage	\$
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 Matthew Ryan Cook, Holly Elizabeth Rodgers
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Postage	\$
Total Postage and Fees	\$

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
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Postage	\$
Total Postage and Fees	\$

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 Leann Bilodeau
 Street and Apt. No., or PO Box No.
 230 Glen Eagle Circle
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
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Postage	\$
Total Postage and Fees	\$

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Postage	\$
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<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To **Guadalupe Esparza & Julius Vazquez**
 Street and Apt. No., or PO Box No. **349 Glen Eagle Circle**
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To **Alan L. Williams & Rachel Newman**
 Street and Apt. No., or PO Box No. **364 Glen Eagle Circle**
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Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To Jay A & Tinker E J Ducla
 Street and Apt. No., or PO Box No. 48 Pinar Run
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Adult Signature Restricted Delivery \$

Postage \$

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Sent To Juvenal Ledezma Sandoval
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Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To Brian Lee & September Shaw
 Street and Apt. No., or PO Box No. 41 Pinar Run
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Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To William L & Wendy S. McFarlin
 Street and Apt. No., or PO Box No. 11 Riverboat Drive
 City, State, ZIP+4® New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6899

GLENWOOD SPRINGS CO
 Postmark Here
 DEC 19 2024
 81601

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 206
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To Jan Robert & Leslie Sean Krick
 Street and Apt. No., or PO Box No. 91 Riverband Drive
 City, State, ZIP+4® New Castle, CO 81647-9177

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6976

GLENWOOD SPRINGS CO
 Postmark Here
 DEC 19 2024
 81601

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 205
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To Garfield County School District RE-2
 Street and Apt. No., or PO Box No. 839 Whiteriver Ave
 City, State, ZIP+4® Rifle, CO 81650-3515

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6952

GLENWOOD SPRINGS CO
 Postmark Here
 DEC 19 2024
 81601

EXHIBIT 1
207

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To *Wryan & Tiana Heikkila*
 Street and Apt. No., or PO Box No. *12 Riverboat Drive*
 City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7034

7018 2290 0001 9285 7003

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To *Craig A. & Tina M. Cook*
 Street and Apt. No., or PO Box No. *31 Riverboat Drive*
 City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™
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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To *Stephen Welker*
 Street and Apt. No., or PO Box No. *1 B Cranker Street*
 City, State, ZIP+4® *Bluffton, SC 29910*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7072

7018 2290 0001 9285 7050

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To *Roger A. & Holly D. Pihl*
 Street and Apt. No., or PO Box No. *24 Pinnon Run*
 City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™
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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To *Pavlina Chavez & Herman-Pavan Estacio*
 Street and Apt. No., or PO Box No. *34 Riverboat Drive*
 City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7119

7018 2290 0001 9285 7102

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To *Patrick & Victoria MacFarlane*
 Street and Apt. No., or PO Box No. *178 Riverboat Drive*
 City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7133

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 214
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To
 James Charles & Gertrude Davidson
 Street and Apt. No., or PO Box No.
 9478 County Road 335
 City, State, ZIP+4®
 New Castle, CO 81647-9654

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7126

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 213
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To
 Loreto Ayala Villamen
 Street and Apt. No., or PO Box No.
 55 Riverboat Ave
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7157

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 216
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To
 Ryan & Rebekka Hilborn
 Street and Apt. No., or PO Box No.
 9496 County Road 335
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7140

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 215
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To
 Jared & Molly Hanson
 Street and Apt. No., or PO Box No.
 152 Riverboat Drive
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6631

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 218
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To
 Philip & Jeannette Pacheco
 Street and Apt. No., or PO Box No.
 21 Riverboat Dr
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7171

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 217
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To
 David S. & Jeannette E. Bottorf
 Street and Apt. No., or PO Box No.
 181 Riverboat Drive
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7164

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 220
 Domestic Mail Only

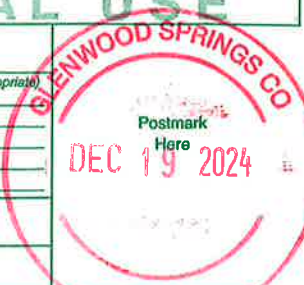
For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Riverbend Filing #5 HOA
 Street and Apt. No., or PO Box No.: PO Box 1789
 City, State, ZIP+4®: Greenwood Spgs Co 81602

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6655

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 219
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: RB Homes INC
 Street and Apt. No., or PO Box No.: PO Box 1789
 City, State, ZIP+4®: Greenwood Spgs, Co 81602

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6693

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 224
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Wendy & Glen Kuntze
 Street and Apt. No., or PO Box No.: 9552 County Rd 335
 City, State, ZIP+4®: New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6679

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 222
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Phyllis C. & Bertha Garcia
 Street and Apt. No., or PO Box No.: 151 Riverboat Dr
 City, State, ZIP+4®: New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 7188

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 226
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Riverboat Drive lot 8 LLC
 Street and Apt. No., or PO Box No.: PO Box 1989
 City, State, ZIP+4®: Greenwood Spgs CO 81602

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6716

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 225
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Crystal & Jacob Hammen
 Street and Apt. No., or PO Box No.: 151 Riverboat Dr.
 City, State, ZIP+4®: New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6747

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 230
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark Here
DEC 19 2024

81601

Sent To
 Douglas + Shilee Worton
 Street and Apt. No., or PO Box No.
 7100 County Rd 335
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6730

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 229
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark Here
DEC 19 2024

81601

Sent To
 Guisela Guevedo + Samuel Elliot
 Street and Apt. No., or PO Box No.
 7100 County Rd 335
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6778

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 232
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark Here
DEC 19 2024

81601

Sent To
 Christopher Heiberger
 Street and Apt. No., or PO Box No.
 7100 County Road 335
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6754

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 231
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark Here
DEC 19 2024

81601

Sent To
 Josiah Peole + Menedelina
 Street and Apt. No., or PO Box No.
 7100 County Rd 335
 City, State, ZIP+4®
 New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6785

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 238
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark Here
DEC 19 2024

81601

Sent To
 State of Colorado Dept of Hays
 Street and Apt. No., or PO Box No.
 4201 E Arkansas Ave
 City, State, ZIP+4®
 Denver, CO 80222

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7201

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 233
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Postmark Here
DEC 19 2024

81601

Sent To
 Ruerbernd Water + Sewer
 Street and Apt. No., or PO Box No.
 PO Box 1982
 City, State, ZIP+4®
 Silverwood Jags CO 81602

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

240

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$



Postage
\$

Total Postage and Fees
\$ 81601

Sent To
Jan + Gayle Romain
Street and Apt. No., or PO Box No.
32 Glen Eagle Cir.
City, State, ZIP+4®
New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6822

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

239

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$



Postage
\$

Total Postage and Fees
\$ 81601

Sent To
Farm New Castle LLC
Street and Apt. No., or PO Box No.
2427 County Rd 39
City, State, ZIP+4®
New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6808

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

242

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$



Postage
\$

Total Postage and Fees
\$ 81601

Sent To
Rachel Kuznak
Street and Apt. No., or PO Box No.
24 Glen Eagle Cir
City, State, ZIP+4®
New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6852

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

241

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$



Postage
\$

Total Postage and Fees
\$ 81601

Sent To
Alex K Felty
Street and Apt. No., or PO Box No.
192 Riverbend Dr.
City, State, ZIP+4®
New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6846

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

244

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$



Postage
\$

Total Postage and Fees
\$ 81601

Sent To
Melano Gallegos
Street and Apt. No., or PO Box No.
376 Glen Eagle Cir
City, State, ZIP+4®
New Castle, CO 81647

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Adult Signature Required \$

Adult Signature Restricted Delivery \$



Postage
\$

Total Postage and Fees
\$ 81601

Sent To
Jillney + Brenda Kaiser
Street and Apt. No., or PO Box No.
220 Riverbend Dr.
City, State, ZIP+4®
New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 6872

7018 2290 0001 9285 6914

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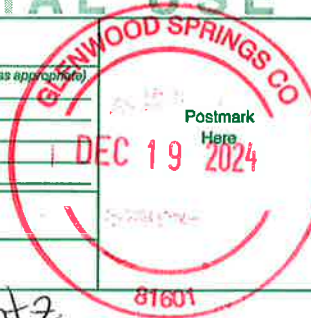
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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Kirk Leintz
Street and Apt. No., or PO Box No.: 265 Riverbend Dr.
City, State, ZIP+4®: New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: David & Catherine Van Rookel
Street and Apt. No., or PO Box No.: 271 Riverbend Dr.
City, State, ZIP+4®: New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Steven Spandler
Street and Apt. No., or PO Box No.: 214 8th St Stev 304
City, State, ZIP+4®: Greenwood Sprs Co 81601

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6938

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 247
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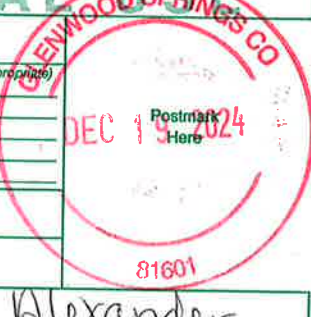
For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Mark & Susan Alexander
Street and Apt. No., or PO Box No.: Great County Rd 335
City, State, ZIP+4®: New Castle, CO 81647

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7018 2290 0001 9285 6983

U.S. Postal Service™
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: BF & ME LLP Porter
Street and Apt. No., or PO Box No.: 51975 Amber Rd
City, State, ZIP+4®: Delta, CO 81416

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Hagback LLC
Street and Apt. No., or PO Box No.: 107 Shawano Dr.
City, State, ZIP+4®: Aspen, CO 81611

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To: *Kalen & Wesley Colby*

Street and Apt. No., or PO Box No. *600 Riverbend Dr*

City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here
 81601
 DEC 19 2024

7018 2290 0001 9285 7096

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT 261
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Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To: *Jeremiah & Julia Bjork*

Street and Apt. No., or PO Box No. *23 Pinon Run*

City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here
 81601
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7018 2290 0001 9285 7089

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OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To: *Mary Pacheco*

Street and Apt. No., or PO Box No. *84 Riverbend Dr*

City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here
 81601
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7018 2290 0001 9285 7065

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CERTIFIED MAIL® RECEIPT 263
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OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To: *204 Haycock*

Street and Apt. No., or PO Box No. *50 Riverbend Dr*

City, State, ZIP+4® *New Castle, CO 81647*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here
 81601
 DEC 19 2024

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OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To: *Leri Nelson*

Street and Apt. No., or PO Box No. *2605 Oakhurst Ct unit 34*

City, State, ZIP+4® *Glenwood Springs CO 81602*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To: *Riverbend Dr Lot 7 LLC*

Street and Apt. No., or PO Box No. *PO Box 1989*

City, State, ZIP+4® *Glenwood Springs CO 81602*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here
 81601
 DEC 19 2024

7018 2290 0001 9285 7027

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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: William M & William L Bering 81601
 Street and Apt. No., or PO Box No. 102 County Rd. 335
 City, State, ZIP+4® New Castle, CO 81647

Postmark Here
 DEC 19 2024

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 2290 0001 9285 7010

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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: Michael D & Eveina 81601
 Street and Apt. No., or PO Box No. 102 Riverbend Dr.
 City, State, ZIP+4® New Castle, CO 81647

Postmark Here
 DEC 19 2024

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

Sent To: CDOT Region 3 Office
 Street and Apt. No., or PO Box No. 1025 6th St. # 317
 City, State, ZIP+4® Grand Jct, CO 81501

Postmark Here
 DEC 19 2024

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

See Proof on Next Page

Ad #: 7NA4X1h3CNjCTMjbeiJD
Customer: Cassie Coppersmith**AFFIDAVIT OF PUBLICATION**

State of Pennsylvania, County of Lancaster, ss:

Bo Xiang, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Rifle Citizen Telegram, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 19 Dec 2024 in the issue of said newspaper. That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$250.36*Bo Xiang*

(Signed) _____

VERIFICATIONState of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: 12/19/2024

Nicole Burkholder

Notary Public

Notarized remotely online using communication technology via Proof.

PUBLIC NOTICE

EXHIBIT 1

TAKE NOTICE that Nutrient Holdings LLC, represented by Daniel Teodoru, Timberline Partners, has applied on behalf of Nutrient Holdings, LLC to Garfield County Planning Commission, to request Rezoning for a Planned Unit Development (PUD), Nutrient Farm PUD, located on the subject properties located in County of Garfield, State of Colorado; to-wit:

Legal Description: Please See Exhibit A

Practical Description: Properties located approximately 1 mile southeast of the Town of New Castle and south of the Colorado River.

Description of Request: The Applicant is requesting a rezoning of approximately 1,136 acres of land located adjacent to County Road 335 (aka Colorado River Road), with a commonly known address of 9115 Colorado River Road, to a Planned Unit Development to include an operational farm and ranch with a greenhouse, and agricultural, residential, educational, recreational, and retail/commercial related activities. Eight development areas and four open space tracts are proposed.

The file number for this request is PUDA-05-22-8899.

All persons affected by the proposed Nutrient Farm PUD are invited to appear before the Planning Commission and state their views, protests or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter or email (GHartmann@Garfield-County.com and jleybourne@garfield-county.com. The Planning Commission will give consideration to the comments of surrounding property owners, and others affected, in deciding whether to recommend approval, approval with conditions or denial of the request. The application may be reviewed in the Community Development Department located at 108 8th Street, Suite 401, Garfield County Administration Building, Glenwood Springs, Colorado between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Please contact the Community Development Department at (970) 945-8212 if you would like to view the application in person or if there are any questions regarding this notice. The application can be found at the Garfield County Community Development Applications Under Review website and viewed directly at: https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty&cr=1

A public hearing on the application has been scheduled for 29th day of January 2025, at 6:00 P.M. in the County Commissioners Meeting Room, Garfield County Administration Building, 108 8th Street, Glenwood Springs, Colorado, 81601.

Community Development Department
Garfield County

EXHIBIT A

Nutrient Holdings LLC, a Colorado limited liability company
Legal description according to the title Insurance commitment Issued by Commonwealth Title Company of Garfield County, Inc., File No. 2103068, having an effective date of November 30, 2022:

Parcels A and C

Township 5 South, Range 90 West, 8th P.M.:

Section 35: That portion of the N½SE¼, NE¼SW¼ lying Southerly of the centerline of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 6: All that part of Lot 4, lying southerly of the centerline of the Colorado River as described in deed recorded May 26, 1974 in Book 459 at Page 535 in the office of the Clerk and Recorder of Garfield County, Colorado.

Excluding the following parcels of property described in the Rule and Order entered in the District court for Garfield County, Colorado, in Civil Action No. 6635, entitled Board of County Commissioners, et al, v. Daryl Gean Richardson, et al., recorded November 8, 1982 in Book 437 at Page 383 as Reception No. 255941

Parcel No. 143-B

A tract or parcel of land No. 143-B of the State Department of Highways, Division of Highways, State of Colorado, Project No. 1 70-1 (12), 89 Sec. 2 in the SW¼ of the NW¼, in the SE¼ of the NW¼ and in the NE¼ of the SW¼ of Section 35, Township 5 South, Range 90 West of the Sixth Principal Meridian, in Garfield County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the centerline of the Colorado River from which point the NW corner of Section 35, Township 5 South, Range 90 West of the 6th P.M. bears North 27°13'30" West a distance of 2,615.7 feet; thence North 73°59' East along the centerline of the Colorado River, a distance of 162.8 feet; thence South 70°43' East along the centerline of the Colorado River, a distance of 640.8 feet; thence South 48°26' East, along the centerline of the Colorado River, a distance of 223.6 feet; thence South 33°52' East along the centerline of the Colorado River, a distance of 119.8 feet; thence along the arc of a curve to the left having a radius of 4,483.7 feet, a distance of 1,080.9 feet, more or less, to the POINT OF BEGINNING (the chord of this arc bears North 67°23'30" West a distance of 1,078.3 feet)

PARCEL No. 143-C

A tract or parcel of land No. 143-C of the State Department of Highways Division of Highways, State of Colorado, Project No. 1 70-1 (12) 89 Section 2, in the NE¼ of the SW¼ of Section 35, Township 5 South, Range 90 West of the 6th P.M. in Garfield County, Colorado, said tract or parcel being more particularly described as follows: Beginning at a point on the thread of the Colorado River in the NE¼ of the SW¼ of Section 35, Township 5 South, Range 90 West, 6th P.M. from which point the S¼ corner of Section 35 bears South 21°36'30" East a distance of 2,796.8 feet; thence South 11°47' West a distance of 104.9 feet; thence South 59°02' East a distance of 176.3 feet; to the thread of the Colorado River; thence North 33°52' West along the thread of the Colorado River, a distance of 232.9 feet, more or less, to the Point of Beginning.

Parcel B

Township 5 South, Range 90 West, 8th P.M.:

Section 33: All that portion of the SE¼SE¼ lying Southerly of the centerline of the Colorado River;

Section 34: All that portion of the S½ and SE¼NE¼ lying Southerly of the centerline of the Colorado River;

Section 35: W½SW¼, that portion of the SW¼NW¼ lying Southerly of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 5: Lot 4

Section 6: Lots 1, 2, 3 and the Northerly 15 acres of the SE¼NW¼.

EXCEPTING FROM THE ABOVE DESCRIBED LANDS the following:

1. All that portion platted as Riverbend Subdivision Filing No. 1 as shown on Reception No. 281326
 2. All that portion platted as Riverbend Subdivision Filing No. 2 as amended as shown on Reception No. 281329 and No. 299710
 3. All that portion platted as Riverbend Ranchettes Final Plat as shown on Reception No. 290481
 4. All that portion conveyed to the Board of County Commissioners of Garfield County, Colorado, by Deed recorded August 31, 1979 in Book 534 at Page 416 as Reception No. 297140
 5. All that portion platted as Riverbend Subdivision Filing No. 5 as shown on Reception No. 517550
 6. All that portion platted as Cedar Ridge Subdivision as shown on Reception No. 501840
 7. All those portions described as Parcel No. 143; Parcel No. 143-A; and Parcel No. 143-B in the Rule and Order of the Garfield County District Court in Civil Action No. 6635 and recorded in Book 437 at Page 383 as Reception No. 255941
 8. All that portion of the lands described in the deeds recorded in Book 906 at Page 790 as Reception No. 464984, Book 863 at Page 424 as Reception no. 447796, and Book 1712 at Page 990 as Reception No. 679354.
- All as recorded in the office of the Clerk and Recorder of Garfield County, Colorado.

Parcel D

Township 6 South, Range 90 West, 6th P.M.:

Section 5: S $\frac{1}{2}$ SW $\frac{1}{4}$

Section 6: Lot 5 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), Lot 6 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), SE $\frac{1}{4}$ NW $\frac{1}{4}$ except the North 15 acres, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 8: N $\frac{1}{2}$ N $\frac{1}{2}$

PUBLISHED IN THE RIFLE CITIZEN TELEGRAM ON THURSDAY, DECEMBER 19, 2024.

See Proof on Next Page

Ad #: bwUJi89gMTXgVXOkEu1b
Customer: Cassie Coppersmith**AFFIDAVIT OF PUBLICATION**

State of Pennsylvania, County of Lancaster, ss:

Bo Xiang, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Rifle Citizen Telegram, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 19 Dec 2024 in the issue of said newspaper. That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$114.84*Bo Xiang*

(Signed) _____

VERIFICATIONState of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: **12/19/2024***Nicole Burkholder*

Notary Public

Notarized remotely online using communication technology via Proof.

PUBLIC NOTICE

EXHIBIT 1

TAKE NOTICE that **Nutrient Holdings LLC, represented by Daniel Teodoru, Timberline Partners, has applied on behalf of Nutrient Holdings, LLC** to Garfield County Planning Commission, to request to vacate the **Coal Ridge Planned Unit Development (PUD)**, located on the subject properties located in County of Garfield, State of Colorado, to-wit:

Legal Description: Please See **Exhibit A**

Practical Description: Properties located approximately 1 mile southeast of the Town of New Castle and south of the Colorado River.

Description of Request: The Applicant is requesting to vacate the Coal Ridge PUD approved by Resolution No. 84-261 at Reception Number 358633. The property within the vacated Coal Ridge PUD will be replaced with the Nutrient Farm PUD Zoning.

The file number for this request is **PJAA-05-23-8896**.

All persons affected by the proposed Coal Ridge PUD Vacation are invited to appear before the Planning Commission and state their views, protests or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter or email (GHartmann@Garfield-County.com and jleybourne@garfield-county.com). The Planning Commission will give consideration to the comments of surrounding property owners, and others affected, in deciding whether to recommend approval, approval with conditions or denial the request. The application may be reviewed in the Community Development Department located at 108 8th Street, Suite 401, Garfield County Administration Building, Glenwood Springs, Colorado between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Please contact the Community Development Department at (970) 945-8212 if you would like to view the application in person or if there are any questions regarding this notice. The application can be found at the Garfield County Community Development Applications Under Review website and viewed directly at <https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbId=0&repo=GarfieldCounty&cr=1>

A public hearing on the application has been scheduled for 29 th day of January 2025, at 6:00 P.M. in the County Commissioners Meeting Room, Garfield County Administration Building, 108 8th Street, Glenwood Springs, Colorado, 81601.

Community Development Department
Garfield County

EXHIBIT A

Legal Description according to Coal Ridge Planned Unit Development, Resolution No. 84-261 recorded at Reception No. 358633:

A parcel of land beginning at the Section corner found in place at the southeast corner of Section 34, T5S, R90W, 6 P.M., County of Garfield, Colorado, thence westerly along the south section line of Section 34, T5S, R90W, 6 P.M., being a bearing of N89°45'28" W, for a distance of 1980 feet to the northeast corner of lot A, which is also the northeast corner of Section 6, T6S, R90W, 6 P.M., thence due south along the east section line of said Section 6, for a distance of 2550 feet to a point on the east-west centerline of said Section 6. Thence westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.76 feet to the center of said Section 6. Thence continuing westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.73 feet to a point on the west section line of Section 6. Thence due north for a distance of 1532 feet to a point on the centerline of the Colorado River. Thence northeasterly along the centerline of the Colorado River, on a bearing of N63°45'00" E, for a distance of 460 feet, thence on a bearing N56°35'00" E, for a distance of 345 feet along the River centerline, thence on a bearing of N50°35'00" E for a distance of 690 feet along River centerline, thence on a bearing of N53°18'00" E, for a distance of 312.48 feet, thence easterly along the north section line of Section 6, on a bearing of S89°45'28" E, for a distance of 3827.44 feet.

PUBLISHED IN THE RIFLE CITIZEN TELEGRAM ON THURSDAY, DECEMBER 18, 2024.

See Proof on Next Page

Ad #: LwyuMgqhk4TeAIMj0Tuo
Customer: Cassie Coppersmith**AFFIDAVIT OF PUBLICATION**

State of Pennsylvania, County of Lancaster, ss:

Bo Xiang, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Rifle Citizen Telegram, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 19 Dec 2024 in the issue of said newspaper. That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$280.28*Bo Xiang*

(Signed) _____

VERIFICATIONState of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: **12/19/2024***Nicole Burkholder*

Notary Public

Notarized remotely online using communication technology via Proof.

PUBLIC NOTICE

EXHIBIT 1

TAKE NOTICE that **Nutrient Holdings LLC, represented by Daniel Teodoru, Timberline Partners, has applied on behalf of Nutrient Holdings, LLC to Garfield County Planning Commission, to request to Amend the Riverbend Planned Unit Development (PUD)**, located on the subject properties located in County of Garfield, State of Colorado, to-wit:

Legal Description: Please See Exhibit A

Practical Description: Properties located approximately 1 mile southeast of the Town of New Castle and south of the Colorado River.

Description of Request: The Applicant is requesting to Amend a portion of the Riverbend PUD approved by Resolution No. 77-2. The Amended Riverbend PUD portion will be rezoned to the Nutrient Farm PUD Zoning.

The file number for this request is **PUAA-05-23-8963**.

All persons affected by the proposed Amendment to the Riverbend PUD are invited to appear before the Planning Commission and state their views, protests or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter or email (GHartmann@Garfield-County.com and jleybourne@garfield-county.com). The Planning Commission will give consideration to the comments of surrounding property owners, and others affected, in deciding whether to recommend approval, approval with conditions or denial of the request. The application may be reviewed in the Community Development Department located at 108 8th Street, Suite 401, Garfield County Administration Building, Glenwood Springs, Colorado between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Please contact the Community Development Department at (970) 945-8212 if you would like to view the application in person or if there are any questions regarding this notice. The application can be found at the Garfield County Community Development Applications Under Review website and viewed directly at: <https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty&cr=1>
A public hearing on the application has been scheduled for 29th day of January 2025, at 6:00 P.M. in the County Commissioners Meeting Room, Garfield County Administration Building, 108 8th Street, Glenwood Springs, Colorado, 81601.

Community Development Department
Garfield County

EXHIBIT A

Nutrient Holdings LLC, a Colorado limited liability company
Legal description according to the title insurance commitment issued by Commonwealth Title Company of Garfield County, Inc., File No. 2103066, having an effective date of November 30, 2022.
EXCEPTING FROM THE ABOVE:
Legal description according to Coal Ridge Planned Unit Development, Resolution No. 84-281 recorded at Reception No. 358633.

Parcels A and C

Township 5 South, Range 90 West, 6th P.M.:

Section 35: That portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying Southerly of the centerline of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 6: All that part of Lot 4, lying southerly of the centerline of the Colorado River as described in deed recorded May 26, 1974 in Book 459 at Page 535 in the office of the Clerk and Recorder of Garfield County, Colorado.

Excluding the following parcels of property described in the Rule and Order entered in the District court for Garfield County, Colorado, in Civil Action No. 6635, entitled Board of County Commissioners, et al. v. Daryl Gean Richardson, et al., recorded November 8, 1982 in Book 437 at Page 383 as Reception No. 255941

Parcel No. 143-B

A tract or parcel of land No. 143-B of the State Department of Highways, Division of Highways, State of Colorado, Project No. 1 70-1 (12) 89 Sec. 2 in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 5 South, Range 90 West of the Sixth Principal Meridian, in Garfield County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the centerline of the Colorado River from which point the NW corner of Section 35, Township 5 South, Range 90 West of the 6th P.M. bears North 27°13'30" West a distance of 2,615.7 feet; thence North 73°59' East along the centerline of the Colorado River, a distance of 162.8 feet; thence South 70°43' East along the centerline of the Colorado River, a distance of 640.8 feet; thence South 48°26' East, along the centerline of the Colorado River, a distance of 223.6 feet; thence South 33°52' East along the centerline of the Colorado River, a distance of 119.8 feet; thence along the arc of a curve to the left having a radius of 4,483.7 feet, a distance of 1,080.9 feet, more or less, to the POINT OF BEGINNING (the chord of this arc bears North 67°23'30" West a distance of 1,078.3 feet)

PARCEL No. 143-C

A tract or parcel of land No. 143-C of the State Department of Highways Division of Highways, State of Colorado, Project No. 1 70-1 (12) 89 Section 2, in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 5 South, Range 90 West of the 6th P.M. in Garfield County, Colorado, said tract or parcel being more particularly described as follows: Beginning at a point on the thread of the Colorado River in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 5 South, Range 90 West, 6th P.M. from which point the S $\frac{1}{4}$ corner of Section 35 bears South 21°36'30" East a distance of 2,796.8 feet; thence South 11°47' West a distance of 104.9 feet; thence South 59°02' East a distance of 176.3 feet; to the thread of the Colorado River; thence North 33°52' West along the thread of the Colorado River, a distance of 232.9 feet, more or less, to the Point of Beginning.

Parcel B

Township 5 South, Range 90 West, 6th P.M.:

Section 33: All that portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying Southerly of the centerline of the Colorado River;

Section 34: All that portion of the S $\frac{1}{2}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ lying Southerly of the centerline of the Colorado River;

Section 35: W $\frac{1}{2}$ SW $\frac{1}{4}$, that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ lying Southerly of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 5: Lot 4

Section 6: Lots 1, 2, 3 and the Northerly 15 acres of the SE $\frac{1}{4}$ NW $\frac{1}{4}$.

EXCEPTING FROM THE ABOVE DESCRIBED LANDS the following:

1. All that portion platted as Riverbend Subdivision Filing No. 1 as shown on Reception No. 281326
 2. All that portion platted as Riverbend Subdivision Filing No. 2 as amended as shown on Reception No. 281329 and No. 299710
 3. All that portion platted as Riverbend Ranchettes Final Plat as shown on Reception No. 290481
 4. All that portion conveyed to the Board of County Commissioners of Garfield County, Colorado, by Deed recorded August 31, 1979 in Book 534 at Page 416 as Reception No. 297140
 5. All that portion platted as Riverbend Subdivision Filing No. 5 as shown on Reception No. 517550
 6. All that portion platted as Cedar Ridge Subdivision as shown on Reception No. 501840
 7. All those portions described as Parcel No. 143; Parcel No. 143-A; and Parcel No. 143-B in the Rule and Order of the Garfield County District Court in Civil Action No. 6635 and recorded in Book 437 at Page 363 as Reception No. 255941
 8. All that portion of the lands described in the deeds recorded in Book 906 at Page 790 as Reception No. 464954, Book 863 at Page 424 as Reception No. 447796, and Book 1712 at Page 990 as Reception No. 679354.
- All as recorded in the office of the Clerk and Recorder of Garfield County, Colorado.

Parcel D

Township 6 South, Range 90 West, 6th P.M.:

Section 5: S $\frac{1}{2}$ SW $\frac{1}{4}$

Section 6: Lot 5 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), Lot 6 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), SE $\frac{1}{4}$ NW $\frac{1}{4}$ except the North 15 acres, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 8: N $\frac{1}{2}$ N $\frac{1}{2}$

EXCEPTING FROM THE ABOVE DESCRIBED LAND

Coal Ridge Planned Unit Development, Resolution No. 84-261 recorded at Reception No. 358633.
A parcel of land beginning at the Section corner found in place at the southeast corner of Section 34, T5S, R90W, 6 P.M., County of Garfield, Colorado, thence westerly along the south section line of Section 34, T5S, R90W, 6 P.M., being a bearing of N89°45'28" W, for a distance of 1980 feet to the northeast corner of lot A, which is also the northeast corner of Section 6, T6S, R90W, 6 P.M., thence due south along the east section line of said Section 6, for a distance of 2550 feet to a point on the east-west centerline of said Section 6. Thence westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.78 feet to the center of said Section 6. Thence continuing westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.73 feet to a point on the west section line of Section 6. Thence due north for a distance of 1532 feet to a point on the centerline of the Colorado River. Thence northeasterly along the centerline of the Colorado River, on a bearing of N63°45'00" E, for a distance of 460 feet, thence on a bearing N56°35'00" E, for a distance of 345 feet along the River centerline, thence on a bearing of N50°35'00" E for a distance of 690 feet along River centerline, thence on a bearing of N53°18'00" E, for a distance of 312.48 feet, thence easterly along the north section line of Section 6, on a bearing of S89°45'28" E, for a distance of 3627.44 feet.

PUBLISHED IN THE RIFLE CITIZEN TELEGRAM ON THURSDAY, DECEMBER 10, 2024.

EXHIBIT 1

OBJECTID	PARCELNB	Label	ACCOUNTNB	OWNER	TEOFN	OWNERADDRESS	OWNERCITY	ERS	OWNERZ
175	21830910095	Owner Listed	R170320	BUREAU OF LAND MANAGEMENT	COLO	2300 RIVER FRONTAGE ROAD SILT, CO 81652	SILT	CO	81652
176	21830520006	Owner Listed	R170298	NUTRIENT HOLDINGS LLC		143 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
178	21233440400	Owner Listed	R017045	LINDSTROM, TIMOTHY		182 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
179	21233440500	Owner Listed	R017044	MOORE, DELBERT L		198 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647-9412	NEW CASTLE	CO	8164794
180	21233440300	Owner Listed	R017126	CASTORINA, MICAH ANTHONY & MARILYN		161 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
181	21233440501	Owner Listed	R082776	RIVERBEND FILING #2 HOMEOWNERS ASSN, INC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
182	21233440300	Owner Listed	R017107	NUTRIENT HOLDINGS LLC		PO BOX 560 NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
183	21233440400	Owner Listed	R017122	RODGERS, MATTHEW RYAN & COOK, HOLLY ELIZABETH		156 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
184	21233440400	Owner Listed	R017035	HUNTER, TODD ALLEN & JULIE ANN		227 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
185	21233440500	Owner Listed	R017043	BLODEAU, LEANN		230 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
186	21233440300	Owner Listed	R017125	HANCHETT, KEVIN E & ANNETTE M		113 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647-9446	NEW CASTLE	CO	81647-9
187	21233440401	Owner Listed	R017121	HEISER, ALLEN J & DALICE L		128 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
188	21233440400	Owner Listed	R017034	SEYMOUR, JOHN A & LOPEZ HARBURU, MARIA V		277 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
189	21233440500	Owner Listed	R017042	WALTENBURG, JESSICA		278 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
190	21233440300	Owner Listed	R017124	PRICE, RONALD TODD & MCKINNIE, PAUL THOMAS		95 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
191	21233440401	Owner Listed	R017120	COLLINGE, ZACHARY A & JENNA		100 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
192	21233440400	Owner Listed	R017033	HOLSTEIN, ARIEL ALYSSA		305 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
193	21233440500	Owner Listed	R017041	COWAN, JESSE & SHELBY		306 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
194	21233440401	Owner Listed	R017119	MILLER, JASON L & TIFFANIE R		72 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
195	21233440300	Owner Listed	R017123	VAN ENGELBURG, RANDY & VICTORIA A		59 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647-9767	NEW CASTLE	CO	81647-9
196	21233440400	Owner Listed	R017032	COLORADO KINGDOM BUILDERS LLC		406 EAGLES NEST DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
197	21233440300	Owner Listed	R017040	JONES, THOMAS W & DINA M		PO BOX 620 NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
199	21233440500	Owner Listed	R017039	WILLIAMS, ALAN LYNDDLEY & NEWMAN, RACHAEL		364 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
200	21233440400	Owner Listed	R017031	ESPARZA, GUADALUPE & VAZQUEZ, JULIUS		349 GLEN EAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
201	21233440100	Owner Listed	R017007	SANDOVAL, JUVENAL LEDEZMA		64 PINION RUN NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
202	21233440100	Owner Listed	R017078	DUCLIO, JAY A & TINKER E J		48 PINON RUN NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
203	21233440300	Owner Listed	R170389	MCFARLIN, WILLIAM L & WENDY S		11 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
204	21233440100	Owner Listed	R017004	SHAW, BRIAN LEE & SEPTEMBER		41 PINION RUN NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
205	21233440000	Owner Listed	R017243	GARFIELD COUNTY SCHOOL DISTRICT RE-2		839 WHITERIVER AVENUE RIFLE, CO 81650-3515	RIFLE	CO	81650-3
206	21233440101	Owner Listed	R017053	KRICK, JON ROBERT & LESLIE JEAN		91 RIVER BEND DRIVE NEW CASTLE, CO 81647-9777	NEW CASTLE	CO	81647-9
207	21233433001	Owner Listed	R170401	HEIKKILA, WRYAN & ILIANA		12 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
208	21233433000	Owner Listed	R170390	CROOK, CRAIG A & TINA M		31 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
209	21233440100	Owner Listed	R017136	PHIL, ROGER A & HOLLY D JOINT REV LIVING TRUST		24 PINON RUN NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
210	21233440100	Owner Listed	R017062	WELLER, STEPHEN LIVING TRUST DTD 04/11/2023		18 CROAKER STREET BLUFFTON, SC 29910	BLUFFTON	SC	29910
211	21233433001	Owner Listed	R170402	MACFARLANE, PATRICK & VICTORIA		178 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
212	21233433001	Owner Listed	R170404	CHAVEZ, PAULINA & PAVON ESTACIO, HERNAN		34 RIVER BOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
213	21233433000	Owner Listed	R170391	AYALA VILLAMAN, LORETO		55 RIVERBOAT AVENUE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
214	21233440100	Owner Listed	R017027	DAVIDSON, JAMES CHARLES & GERTRUDE		9478 COUNTY ROAD 335 NEW CASTLE, CO 81647-9654	NEW CASTLE	CO	81647-9
215	21233433001	Owner Listed	R170403	HANSON, JARED & MOLLY		152 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
216	21233440100	Owner Listed	R017094	HILBORN, RYAN & REBEKKA		9496 COUNTY ROAD 335 NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
217	21233433001	Owner Listed	R170400	BOTTROFF, DAVID S & JEANNE E		181 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
218	21233440100	Owner Listed	R017102	PACHECO, PHILLIP A & JEANNETTE M		21 RIVER BEND DRIVE NEW CASTLE, CO 81647-9777	NEW CASTLE	CO	8164797
219	21233433000	Owner Listed	R170392	RB HOMES, INC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
220	21233433001	Owner Listed	R170409	RIVERBEND FILING #5 HOMEOWNERS ASSN, INC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
221	21233433000	Owner Listed	R170393	RB HOMES, INC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
222	21233433001	Owner Listed	R170399	GARCIA, ANGEL C & BERTHA E		159 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
223	21233433000	Owner Listed	R170394	RB HOMES, INC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
224	21233440200	Owner Listed	R017106	KUNKLE, WENDY C & GLENN H		9552 COUNTY ROAD 335 NEW CASTLE, CO 81647-9654	NEW CASTLE	CO	81647-9
225	21233433001	Owner Listed	R170398	GARRISON, CRYSTAL M & JACOB		139 RIVERBOAT DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
226	21233443001	Owner Listed	R083306	RIVERBOAT DRIVE LOT 8 LLC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
227	21233443002	Owner Listed	R083307	RIVERBOAT DRIVE LOT 8 LLC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
228	21233433000	Owner Listed	R170397	RB HOMES, INC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
229	21233440200	Owner Listed	R017016	QUEVEDO, GUSTAVO EDILBERTO & ELLIOTT, SAMUEL MARTIN		9602 COUNTY ROAD 335 NEW CASTLE, CO 81647-9686	NEW CASTLE	CO	8164796
230	21233440200	Owner Listed	R017110	WORTON, DOUGLAS SCOTT & WORTON, SHEILA VICTORIA		9620 COUNTY ROAD 335 NEW CASTLE, CO 81647-9654	NEW CASTLE	CO	81647-9
231	21233440600	Owner Listed	R017055	RUPLE, JOSIAH COLLINS III & MEREDITH ANNA & MARINA DONA		9573 COUNTY ROAD 335 NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
232	21233440700	Owner Listed	R170345	HEIBERGER, CHRISTOPHER P		9680 COUNTY ROAD 335 NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
233	21233433001	Owner Listed	R170405	RIVERBEND WATER & SEWER COMPANY		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
234	21233620002	No Owner Listed							
235	21830430096	Owner Listed	R080934	BUREAU OF LAND MANAGEMENT	COLO	2300 RIVER FRONTAGE ROAD SILT, CO 81652	SILT	CO	81652
236	21830530095	Owner Listed	R170317	BUREAU OF LAND MANAGEMENT	COLO	2300 RIVER FRONTAGE ROAD SILT, CO 81652	SILT	CO	81652
237	21233630095	Owner Listed	R080933	BUREAU OF LAND MANAGEMENT	COLO	2300 RIVER FRONTAGE ROAD SILT, CO 81652	SILT	CO	81652
238	21233620002	Owner Listed	R080595	STATE OF COLORADO DEPARTMENT OF HIGHWAYS		4201 E ARKANSAS AVENUE DENVER, CO 80222-3406	DENVER	CO	80222-3
239	21233430005	Owner Listed	R030071	FARM NEW CASTLE LLC		2429 COUNTY ROAD 39 MEEKER, CO 81641	MEEKER	CO	81641
240	21233440401	Owner Listed	R017118	ROMAIN, IAN M & GAYLE A		32 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
241	21233440400	Owner Listed	R017029	FELLER, ALEX KEYTH		192 RIVERBEND DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
242	21233440300	Owner Listed	R017105	RUSNAK, RACHEL		29 GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
243	21233440400	Owner Listed	R017030	KAISER, JEFFREY R & BRENDA S		220 RIVER BEND DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
244	21233440500	Owner Listed	R017038	GALLEGOS, MELIANO JOE		370GLENEAGLE CIRCLE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
245	21233440500	Owner Listed	R017036	VAN ROEKEL, DAVID J & CATHLEEN C		291 RIVER BEND DRIVE NEW CASTLE, CO 81647-9777	NEW CASTLE	CO	81647-9
246	21233440500	Owner Listed	R017037	LEINTZ, KIRK A		263 RIVERBEND DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647-9
247	21233440700	Owner Listed	R170346	ALEXANDER, J MARK & SUSAN M		9681 COUNTY ROAD 335 NEW CASTLE, CO 81647-9655	NEW CASTLE	CO	81647-9
248	21233440700	Owner Listed	R170347	SPANGLER, STEVEN		214 8TH STREET SUITE 304 GLENWOOD SPRINGS, CO 8	GLENWOOD SF	CO	8160133
250	ROW	GIS Defined as ROW							
251	ROW	GIS Defined as ROW							
252	ROW	GIS Defined as ROW							
253	21810140023	Owner Listed	R084816	HOGBACK LLC		109 SHAVANO DRIVE ASPEN, CO 81611	ASPEN	CO	81611
254	21831710006	Owner Listed	R170309	PORTER, B F & M E LLLP		51975 AMBER ROAD DELTA, CO 81416	DELTA	CO	81416
256	21233330002	Owner Listed	R013202	FARM NEW CASTLE LLC		2429 COUNTY ROAD 39 MEEKER, CO 81641	MEEKER	CO	81641
258	21233540006	No Owner Listed							
259	ROW	GIS Defined as ROW							
260	ROW	No Owner Listed							
261	21233440100	Owner Listed	R017076	BJORK, JEREMIAH & JULIA		23 PINION RUN NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
262	21233440200	Owner Listed	R017022	COLBY, KALEN J & WESLEY J		68 RIVER BEND DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
263	21233440200	Owner Listed	R017101	HAYCOCK, ROY A		50 RIVERBEND DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
264	21233440200	Owner Listed	R017144	PACHECO, MARY		84 RIVER BEND DRIVE NEW CASTLE, CO 81647	NEW CASTLE	CO	81647
265	21233433000	Owner Listed	R170395	RIVERBOAT DRIVE LOT 7 LLC		PO BOX 1989 GLENWOOD SPRINGS, CO 81602	GLENWOOD SF	CO	81602
266	21233440200	Owner Listed	R017003	NELSON, LORI D		2600 S OAKHURST COURT, UNIT 34 GLENWOOD SPRING	GLENWOOD SF	CO	81601
267	21233440400	Owner Listed	R017028	SCOTT, MICHAEL D & EVELINA A		162 RIVER BEND DRIVE NEW CASTLE, CO 81647-9776	NEW CASTLE	CO	8164797
268	21233440600	Owner Listed	R017054	BENNING, WILLIAM MCCARTY & WILLIAM LUTHER		9682 COUNTY ROAD 335 NEW CASTLE, CO 81647	NEW CASTLE	CO	81647

Mail to: CDOT Region 3 Office
 222 S. 6th St., #317
 Grand Junction, CO 81501-2769
 970-243-2368



PUBLIC HEARING NOTICE INFORMATION

Please check the appropriate boxes below based upon the notice that was conducted for your public hearing. In addition, please initial on the blank line next to the statements if they accurately reflect the described action.

My application required written/mailed notice to adjacent property owners and mineral owners.

X Mailed notice was completed on the 18 day of December , 20 24 .

X All owners of record within a 200 foot radius of the subject parcel were identified as shown in the Clerk and Recorder’s office at least 15 calendar days prior to sending notice.

X All owners of mineral interest in the subject property were identified through records in the Clerk and Recorder or Assessor, or through other means [list] _____
 See October 9, 2024 list from Balcomb & Green .

- Please attach proof of certified, return receipt requested mailed notice.
Hard copy and scanned receipts previously provided to GarCO

My application required Published notice.

X Notice was published on the 19 day of December , 20 24 .

- Please attach proof of publication in the Rifle Citizen Telegram.
See attached affidavits

My application required Posting of Notice.

X Notice was posted on the 23 day of December , 20 24 .

See attached 12/23/24 email from Andy Bruno

X Notice was posted so that at least one sign faced each adjacent road right of way generally used by the public.

I testify that the above information is true and accurate.

Name: David M. Kotz

Signature: 

Date: December 27, 2024



CERTIFICATION OF MINERAL OWNER RESEARCH

*This form is to be completed and submitted with **any** application for a Land Use Change Permit.*

Mineral interests may be severed from surface right interests in real property. C.R.S. § 24-65.5-101, *et seq*, requires notification to mineral owners when a landowner applies for an application for development from a local government. As such, the landowner must research the current owners of mineral interests for the property.

The Garfield County Land Use and Development Code of 2013 ("LUDC") Section 4-101(E)(1)(b)(4) requires written notice to owners of mineral interests in the subject property in accordance with C.R.S. § 24-65.5-101, *et seq*, "as such owners can be identified through the records in the office of the Clerk and Recorder or Assessor, or through other means." This form is proof of applicant's compliance with the Colorado Revised Statutes and the LUDC.

- The undersigned applicant certifies that mineral owners have been researched for the subject property as required pursuant to C.R.S. § 24-65.5-101, *et seq*, and Section 4-101 (E)(1)(b)(4) of the Garfield County Land Use and Development Code, as amended. As a result of that research, the undersigned applicant certifies the following (*Please initial on the blank line next to the statement that accurately reflects the result of research*):

I own the entire mineral estate relative to the subject property; or

Minerals are owned by the parties listed below

The names and addresses of any and all mineral owners identified are provided below (attach additional pages as necessary):

Name of Mineral Owner	Mailing Address of Mineral Owner
Michael Webster O' Shaughnessy	260 Josephine St., Ste 400, Denver CO 80206
Michael Webster O'Shaughnessy	PO Box 29, Denver CO 80201
Daniel J. O'Shaughnessy	1110 E Layton Ave., Englewood CO 80113-7036
Gerald E. O'Shaughnessy	851 N. Tara Ln, Wichita KS 67206
Robert E. Zimmerman	6200 Valley Forge Dr., Houston TX 77057
ZRC Minerals, LP	1616 S. Voss Rd., Ste 875, Houston TX 77057-2631
ZRC Minerals, LP	PO Box 570174, Houston TX 77257-0174

I acknowledge I reviewed C.R.S. § 24-65.5-101, *et seq*, and I am in compliance with said statute and the LUDC.

Sally Wagner
Applicant's Signature

10/09/2024

Date

EXHIBIT 1

Name of Mineral Owner, cont'd.	Mailing Address of Mineral Owner
Sherri Kay T. Thueson & Greg B. Thueson	1876 W. Crooked Stick Dr., Eagle ID 83616-6742
Lana Tuttle Nielson & Kay Nielson	4263 S. Jummer Way, Apt 319, Murray UT 8107
Lana Tuttle Nielson & Kay Nielson	PO Box 25787, Salt Lake City UT 84125
Tim M. Tuttle & Ruth Ann C. Tuttle	4573 W. 500 N, Fillmore UT 84631-5567
Earl J. Tuttle & Ellis A. Tuttle	449 E. 500 S., Manti UT 84642
Wayne K. Tuttle & Ruth J. Tuttle	823 S. Carterville Rd., Orem UT 84097-6643
Vessels Carbon Solutions, Inc. f/n/a Vessels Coal Gas, Inc.	c/o Christopher Michael Caskey 1660 Lincoln St., Ste 2200, Denver CO 80264

See Proof on Next Page

Ad #: 7NA4X1h3CNjCTMjbeiJD
Customer: Cassie Coppersmith**AFFIDAVIT OF PUBLICATION**

State of Pennsylvania, County of Lancaster, ss:

Bo Xiang, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Rifle Citizen Telegram, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 19 Dec 2024 in the issue of said newspaper. That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$250.36*Bo Xiang*

(Signed) _____

VERIFICATIONState of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: 12/19/2024

Nicole Burkholder

Notary Public

Notarized remotely online using communication technology via Proof.

PUBLIC NOTICE

EXHIBIT 1

TAKE NOTICE that Nutrient Holdings LLC, represented by Daniel Teodoru, Timberline Partners, has applied on behalf of Nutrient Holdings, LLC to Garfield County Planning Commission, to request Rezoning for a Planned Unit Development (PUD), Nutrient Farm PUD, located on the subject properties located in County of Garfield, State of Colorado; to-wit:

Legal Description: Please See Exhibit A

Practical Description: Properties located approximately 1 mile southeast of the Town of New Castle and south of the Colorado River.

Description of Request: The Applicant is requesting a rezoning of approximately 1,136 acres of land located adjacent to County Road 335 (aka Colorado River Road), with a commonly known address of 9115 Colorado River Road, to a Planned Unit Development to include an operational farm and ranch with a greenhouse, and agricultural, residential, educational, recreational, and retail/commercial related activities. Eight development areas and four open space tracts are proposed.

The file number for this request is PUDA-05-22-8899.

All persons affected by the proposed Nutrient Farm PUD are invited to appear before the Planning Commission and state their views, protests or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter or email (GHartmann@Garfield-County.com and jleybourne@garfield-county.com. The Planning Commission will give consideration to the comments of surrounding property owners, and others affected, in deciding whether to recommend approval, approval with conditions or denial of the request. The application may be reviewed in the Community Development Department located at 108 8th Street, Suite 401, Garfield County Administration Building, Glenwood Springs, Colorado between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Please contact the Community Development Department at (970) 945-8212 if you would like to view the application in person or if there are any questions regarding this notice. The application can be found at the Garfield County Community Development Applications Under Review website and viewed directly at: https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty&cr=1

A public hearing on the application has been scheduled for 29th day of January 2025, at 6:00 P.M. in the County Commissioners Meeting Room, Garfield County Administration Building, 108 8th Street, Glenwood Springs, Colorado, 81601.

Community Development Department
Garfield County

EXHIBIT A

Nutrient Holdings LLC, a Colorado limited liability company
Legal description according to the title Insurance commitment issued by Commonwealth Title Company of Garfield County, Inc., File No. 2103068, having an effective date of November 30, 2022:

Parcels A and C

Township 5 South, Range 90 West, 8th P.M.:

Section 35: That portion of the N½SE¼, NE¼SW¼ lying Southerly of the centerline of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 6: All that part of Lot 4, lying southerly of the centerline of the Colorado River as described in deed recorded May 26, 1974 in Book 459 at Page 535 in the office of the Clerk and Recorder of Garfield County, Colorado.

Excluding the following parcels of property described in the Rule and Order entered in the District court for Garfield County, Colorado, in Civil Action No. 6635, entitled Board of County Commissioners, et al, v. Daryl Gean Richardson, et al., recorded November 8, 1982 in Book 437 at Page 383 as Reception No. 255941

Parcel No. 143-B

A tract or parcel of land No. 143-B of the State Department of Highways, Division of Highways, State of Colorado, Project No. 1 70-1 (12), 89 Sec. 2 in the SW¼ of the NW¼, in the SE¼ of the NW¼ and in the NE¼ of the SW¼ of Section 35, Township 5 South, Range 90 West of the Sixth Principal Meridian, in Garfield County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the centerline of the Colorado River from which point the NW corner of Section 35, Township 5 South, Range 90 West of the 6th P.M. bears North 27°13'30" West a distance of 2,615.7 feet; thence North 73°59' East along the centerline of the Colorado River, a distance of 162.8 feet; thence South 70°43' East along the centerline of the Colorado River, a distance of 640.8 feet; thence South 48°26' East, along the centerline of the Colorado River, a distance of 223.6 feet; thence South 33°52' East along the centerline of the Colorado River, a distance of 119.8 feet; thence along the arc of a curve to the left having a radius of 4,483.7 feet, a distance of 1,080.9 feet, more or less, to the POINT OF BEGINNING (the chord of this arc bears North 67°23'30" West a distance of 1,078.3 feet)

PARCEL No. 143-C

A tract or parcel of land No. 143-C of the State Department of Highways Division of Highways, State of Colorado, Project No. 1 70-1 (12), 89 Section 2, in the NE¼ of the SW¼ of Section 35, Township 5 South, Range 90 West of the 6th P.M. in Garfield County, Colorado, said tract or parcel being more particularly described as follows: Beginning at a point on the thread of the Colorado River in the NE¼ of the SW¼ of Section 35, Township 5 South, Range 90 West, 6th P.M. from which point the S¼ corner of Section 35 bears South 21°36'30" East a distance of 2,796.8 feet; thence South 11°47' West a distance of 104.9 feet; thence South 59°02' East a distance of 176.3 feet; to the thread of the Colorado River; thence North 33°52' West along the thread of the Colorado River, a distance of 232.9 feet, more or less, to the Point of Beginning.

Parcel B

Township 5 South, Range 90 West, 8th P.M.:

Section 33: All that portion of the SE¼SE¼ lying Southerly of the centerline of the Colorado River;

Section 34: All that portion of the S½ and SE¼NE¼ lying Southerly of the centerline of the Colorado River;

Section 35: W½SW¼, that portion of the SW¼NW¼ lying Southerly of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 5: Lot 4

Section 6: Lots 1, 2, 3 and the Northerly 15 acres of the SE¼NW¼.

EXCEPTING FROM THE ABOVE DESCRIBED LANDS the following:

1. All that portion platted as Riverbend Subdivision Filing No. 1 as shown on Reception No. 281326
 2. All that portion platted as Riverbend Subdivision Filing No. 2 as amended as shown on Reception No. 281329 and No. 299710
 3. All that portion platted as Riverbend Ranchettes Final Plat as shown on Reception No. 290481
 4. All that portion conveyed to the Board of County Commissioners of Garfield County, Colorado, by Deed recorded August 31, 1979 in Book 534 at Page 416 as Reception No. 297140
 5. All that portion platted as Riverbend Subdivision Filing No. 5 as shown on Reception No. 517550
 6. All that portion platted as Cedar Ridge Subdivision as shown on Reception No. 501840
 7. All those portions described as Parcel No. 143; Parcel No. 143-A; and Parcel No. 143-B in the Rule and Order of the Garfield County District Court in Civil Action No. 6635 and recorded in Book 437 at Page 383 as Reception No. 255941
 8. All that portion of the lands described in the deeds recorded in Book 906 at Page 790 as Reception No. 464984, Book 863 at Page 424 as Reception no. 447796, and Book 1712 at Page 990 as Reception No. 679354.
- All as recorded in the office of the Clerk and Recorder of Garfield County, Colorado.

Parcel D

Township 6 South, Range 90 West, 6th P.M.:

Section 5: S $\frac{1}{2}$ SW $\frac{1}{4}$

Section 6: Lot 5 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), Lot 6 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), SE $\frac{1}{4}$ NW $\frac{1}{4}$ except the North 15 acres, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 8: N $\frac{1}{2}$ N $\frac{1}{2}$

PUBLISHED IN THE RIFLE CITIZEN TELEGRAM ON THURSDAY, DECEMBER 19, 2024.

See Proof on Next Page

Ad #: bwUJi89gMTXgVXOkEu1b
Customer: Cassie Coppersmith**AFFIDAVIT OF PUBLICATION**

State of Pennsylvania, County of Lancaster, ss:

Bo Xiang, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Rifle Citizen Telegram, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 19 Dec 2024 in the issue of said newspaper. That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$114.84*Bo Xiang*

(Signed) _____

VERIFICATIONState of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: **12/19/2024***Nicole Burkholder*

Notary Public

Notarized remotely online using communication technology via Proof.

PUBLIC NOTICE

EXHIBIT 1

TAKE NOTICE that **Nutrient Holdings LLC, represented by Daniel Teodoru, Timberline Partners, has applied on behalf of Nutrient Holdings, LLC** to Garfield County Planning Commission, to request to vacate the **Coal Ridge Planned Unit Development (PUD)**, located on the subject properties located in County of Garfield, State of Colorado, to-wit:

Legal Description: Please See **Exhibit A**

Practical Description: Properties located approximately 1 mile southeast of the Town of New Castle and south of the Colorado River.

Description of Request: The Applicant is requesting to vacate the Coal Ridge PUD approved by Resolution No. 84-261 at Reception Number 358633. The property within the vacated Coal Ridge PUD will be replaced with the Nutrient Farm PUD Zoning.

The file number for this request is **PJAA-05-23-8896**.

All persons affected by the proposed Coal Ridge PUD Vacation are invited to appear before the Planning Commission and state their views, protests or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter or email (GHartmann@Garfield-County.com and jleybourne@garfield-county.com). The Planning Commission will give consideration to the comments of surrounding property owners, and others affected, in deciding whether to recommend approval, approval with conditions or denial the request. The application may be reviewed in the Community Development Department located at 108 8th Street, Suite 401, Garfield County Administration Building, Glenwood Springs, Colorado between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Please contact the Community Development Department at (970) 945-8212 if you would like to view the application in person or if there are any questions regarding this notice. The application can be found at the Garfield County Community Development Applications Under Review website and viewed directly at <https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbId=0&repo=GarfieldCounty&cr=1>

A public hearing on the application has been scheduled for 29 th day of January 2025, at 6:00 P.M. in the County Commissioners Meeting Room, Garfield County Administration Building, 108 8th Street, Glenwood Springs, Colorado, 81601.

Community Development Department
Garfield County

EXHIBIT A

Legal Description according to Coal Ridge Planned Unit Development, Resolution No. 84-261 recorded at Reception No. 358633:

A parcel of land beginning at the Section corner found in place at the southeast corner of Section 34, T5S, R90W, 6 P.M., County of Garfield, Colorado, thence westerly along the south section line of Section 34, T5S, R90W, 6 P.M., being a bearing of N89°45'28" W, for a distance of 1980 feet to the northeast corner of lot A, which is also the northeast corner of Section 6, T6S, R90W, 6 P.M., thence due south along the east section line of said Section 6, for a distance of 2550 feet to a point on the east-west centerline of said Section 6. Thence westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.76 feet to the center of said Section 6. Thence continuing westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.73 feet to a point on the west section line of Section 6. Thence due north for a distance of 1532 feet to a point on the centerline of the Colorado River. Thence northeasterly along the centerline of the Colorado River, on a bearing of N63°45'00" E, for a distance of 460 feet, thence on a bearing N56°35'00" E, for a distance of 345 feet along the River centerline, thence on a bearing of N50°35'00" E for a distance of 690 feet along River centerline, thence on a bearing of N53°18'00" E, for a distance of 312.48 feet, thence easterly along the north section line of Section 6, on a bearing of S89°45'28" E, for a distance of 3827.44 feet.

PUBLISHED IN THE RIFLE CITIZEN TELEGRAM ON THURSDAY, DECEMBER 18, 2024.

See Proof on Next Page

Ad #: LwyuMgqhk4TeAIMj0Tuo
Customer: Cassie Coppersmith

AFFIDAVIT OF PUBLICATION

State of Pennsylvania, County of Lancaster, ss:

Bo Xiang, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Rifle Citizen Telegram, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 19 Dec 2024 in the issue of said newspaper. That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$280.28

Bo Xiang

(Signed) _____

VERIFICATION

State of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: **12/19/2024**

Nicole Burkholder

Notary Public

Notarized remotely online using communication technology via Proof.

PUBLIC NOTICE

EXHIBIT 1

TAKE NOTICE that **Nutrient Holdings LLC, represented by Daniel Teodoru, Timberline Partners, has applied on behalf of Nutrient Holdings, LLC** to Garfield County Planning Commission, to request to **Amend the Riverbend Planned Unit Development (PUD)**, located on the subject properties located in County of Garfield, State of Colorado, to-wit:

Legal Description: Please See Exhibit A

Practical Description: Properties located approximately 1 mile southeast of the Town of New Castle and south of the Colorado River.

Description of Request: The Applicant is requesting to Amend a portion of the Riverbend PUD approved by Resolution No. 77-2. The Amended Riverbend PUD portion will be rezoned to the Nutrient Farm PUD Zoning.

The file number for this request is **PJAA-05-23-8963**.

All persons affected by the proposed Amendment to the Riverbend PUD are invited to appear before the Planning Commission and state their views, protests or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter or email (GHartmann@Garfield-County.com and jleybourne@garfield-county.com). The Planning Commission will give consideration to the comments of surrounding property owners, and others affected, in deciding whether to recommend approval, approval with conditions or denial of the request. The application may be reviewed in the Community Development Department located at 108 8th Street, Suite 401, Garfield County Administration Building, Glenwood Springs, Colorado between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Please contact the Community Development Department at (970) 945-8212 if you would like to view the application in person or if there are any questions regarding this notice. The application can be found at the Garfield County Community Development Applications Under Review website and viewed directly at: <https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty&cr=1>

A public hearing on the application has been scheduled for 29th day of January 2025, at 6:00 P.M. in the County Commissioners Meeting Room, Garfield County Administration Building, 108 8th Street, Glenwood Springs, Colorado, 81601.

Community Development Department
Garfield County

EXHIBIT A

Nutrient Holdings LLC, a Colorado limited liability company
Legal description according to the title insurance commitment issued by Commonwealth Title Company of Garfield County, Inc., File No. 2103066, having an effective date of November 30, 2022.
EXCEPTING FROM THE ABOVE:
Legal description according to Coal Ridge Planned Unit Development, Resolution No. 84-281 recorded at Reception No. 358633.

Parcels A and C

Township 5 South, Range 90 West, 6th P.M.:

Section 35: That portion of the N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying Southerly of the centerline of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 6: All that part of Lot 4, lying southerly of the centerline of the Colorado River as described in deed recorded May 26, 1974 in Book 459 at Page 535 in the office of the Clerk and Recorder of Garfield County, Colorado.

Excluding the following parcels of property described in the Rule and Order entered in the District court for Garfield County, Colorado, in Civil Action No. 6635, entitled Board of County Commissioners, et al. v. Daryl Gean Richardson, et al., recorded November 8, 1982 in Book 437 at Page 383 as Reception No. 255941

Parcel No. 143-B

A tract or parcel of land No. 143-B of the State Department of Highways, Division of Highways, State of Colorado, Project No. 1 70-1 (12) 89 Sec. 2 in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 5 South, Range 90 West of the Sixth Principal Meridian, in Garfield County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the centerline of the Colorado River from which point the NW corner of Section 35, Township 5 South, Range 90 West of the 6th P.M. bears North 27°13'30" West a distance of 2,615.7 feet; thence North 73°59' East along the centerline of the Colorado River, a distance of 162.8 feet; thence South 70°43' East along the centerline of the Colorado River, a distance of 640.8 feet; thence South 48°26' East, along the centerline of the Colorado River, a distance of 223.6 feet; thence South 33°52' East along the centerline of the Colorado River, a distance of 119.8 feet; thence along the arc of a curve to the left having a radius of 4,483.7 feet, a distance of 1,080.9 feet, more or less, to the POINT OF BEGINNING (the chord of this arc bears North 67°23'30" West a distance of 1,078.3 feet)

PARCEL No. 143-C

A tract or parcel of land No. 143-C of the State Department of Highways Division of Highways, State of Colorado, Project No. 1 70-1 (12) 89 Section 2, in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 5 South, Range 90 West of the 6th P.M. in Garfield County, Colorado, said tract or parcel being more particularly described as follows: Beginning at a point on the thread of the Colorado River in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 5 South, Range 90 West, 6th P.M. from which point the S $\frac{1}{4}$ corner of Section 35 bears South 21°36'30" East a distance of 2,796.8 feet; thence South 11°47' West a distance of 104.9 feet; thence South 59°02' East a distance of 176.3 feet; to the thread of the Colorado River; thence North 33°52' West along the thread of the Colorado River, a distance of 232.9 feet, more or less, to the Point of Beginning.

Parcel B

Township 5 South, Range 90 West, 6th P.M.:

Section 33: All that portion of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying Southerly of the centerline of the Colorado River;

Section 34: All that portion of the S $\frac{1}{2}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ lying Southerly of the centerline of the Colorado River;

Section 35: W $\frac{1}{2}$ SW $\frac{1}{4}$, that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ lying Southerly of the Colorado River.

Township 6 South, Range 90 West, 6th P.M.:

Section 5: Lot 4

Section 6: Lots 1, 2, 3 and the Northerly 15 acres of the SE $\frac{1}{4}$ NW $\frac{1}{4}$.

EXCEPTING FROM THE ABOVE DESCRIBED LANDS the following:

1. All that portion platted as Riverbend Subdivision Filing No. 1 as shown on Reception No. 281326
 2. All that portion platted as Riverbend Subdivision Filing No. 2 as amended as shown on Reception No. 281329 and No. 299710
 3. All that portion platted as Riverbend Ranchettes Final Plat as shown on Reception No. 290481
 4. All that portion conveyed to the Board of County Commissioners of Garfield County, Colorado, by Deed recorded August 31, 1979 in Book 534 at Page 416 as Reception No. 297140
 5. All that portion platted as Riverbend Subdivision Filing No. 5 as shown on Reception No. 517550
 6. All that portion platted as Cedar Ridge Subdivision as shown on Reception No. 501840
 7. All those portions described as Parcel No. 143; Parcel No. 143-A; and Parcel No. 143-B in the Rule and Order of the Garfield County District Court in Civil Action No. 6635 and recorded in Book 437 at Page 363 as Reception No. 255941
 8. All that portion of the lands described in the deeds recorded in Book 906 at Page 790 as Reception No. 464954, Book 863 at Page 424 as Reception No. 447796, and Book 1712 at Page 990 as Reception No. 679354.
- All as recorded in the office of the Clerk and Recorder of Garfield County, Colorado.

Parcel D

Township 6 South, Range 90 West, 6th P.M.:

Section 5: S $\frac{1}{2}$ SW $\frac{1}{4}$

Section 6: Lot 5 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), Lot 6 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), SE $\frac{1}{4}$ NW $\frac{1}{4}$ except the North 15 acres, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{2}$ SE $\frac{1}{4}$

Section 8: N $\frac{1}{2}$ N $\frac{1}{2}$

EXCEPTING FROM THE ABOVE DESCRIBED LAND

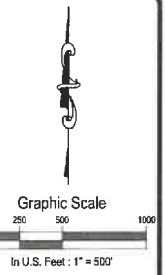
Coal Ridge Planned Unit Development, Resolution No. 84-261 recorded at Reception No. 358633.
A parcel of land beginning at the Section corner found in place at the southeast corner of Section 34, T5S, R90W, 6 P.M., County of Garfield, Colorado, thence westerly along the south section line of Section 34, T5S, R90W, 6 P.M., being a bearing of N89°45'28" W, for a distance of 1980 feet to the northeast corner of lot A, which is also the northeast corner of Section 6, T6S, R90W, 6 P.M., thence due south along the east section line of said Section 6, for a distance of 2550 feet to a point on the east-west centerline of said Section 6. Thence westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.78 feet to the center of said Section 6. Thence continuing westerly along said centerline on a bearing of N89°49'44" W, for a distance of 2655.73 feet to a point on the west section line of Section 6. Thence due north for a distance of 1532 feet to a point on the centerline of the Colorado River. Thence northeasterly along the centerline of the Colorado River, on a bearing of N63°45'00" E, for a distance of 460 feet, thence on a bearing N56°35'00" E, for a distance of 345 feet along the River centerline, thence on a bearing of N50°35'00" E for a distance of 690 feet along River centerline, thence on a bearing of N53°18'00" E, for a distance of 312.48 feet, thence easterly along the north section line of Section 6, on a bearing of S89°45'28" E, for a distance of 3627.44 feet.

PUBLISHED IN THE RIFLE CITIZEN TELEGRAM ON THURSDAY, DECEMBER 10, 2024.

Nutrient Farm Planned Unit Development Plan Map

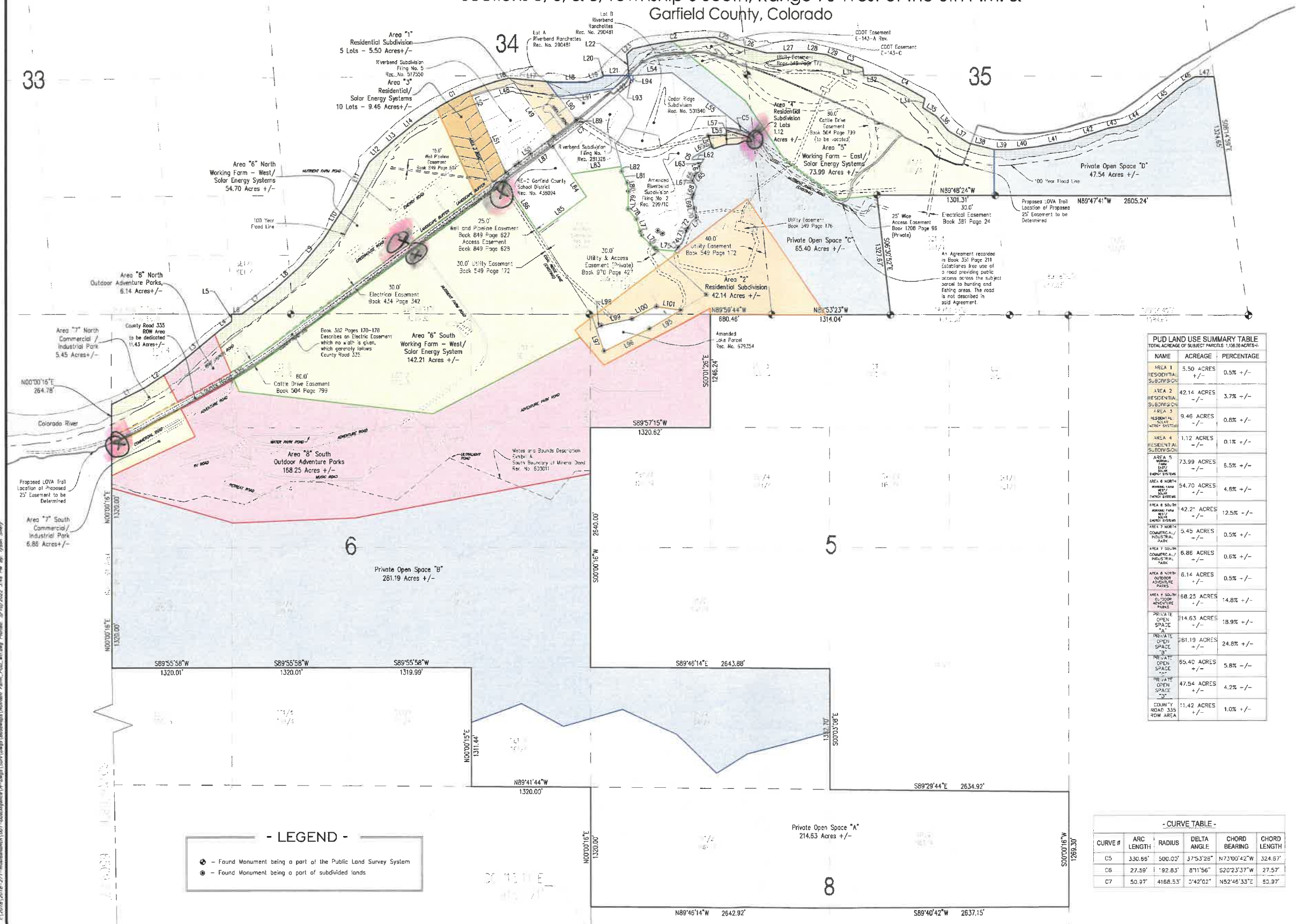
Parcels of Land Situated in
Sections 33, 34, & 35, Township 5 South, Range 90 West of the 6th P.M. &
Sections 5, 6, & 8, Township 6 South, Range 90 West of the 6th P.M. &
Garfield County, Colorado

5



SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgm-inc.com

Nutrient Farm
Garfield County, Colorado



PUD LAND USE SUMMARY TABLE
TOTAL ACREAGE OF SUBJECT PARCELS: 1,138.00 ACRES +/-

NAME	ACREAGE +/-	PERCENTAGE
AREA 1 RESIDENTIAL SUBDIVISION	5.50 ACRES +/-	0.5% +/-
AREA 2 RESIDENTIAL SUBDIVISION	42.14 ACRES +/-	3.7% +/-
AREA 3 RESIDENTIAL SUBDIVISION	9.46 ACRES +/-	0.8% +/-
AREA 4 RESIDENTIAL SUBDIVISION	1.12 ACRES +/-	0.1% +/-
AREA 5 WORKING FARM - EAST SOLAR ENERGY SYSTEM	73.99 ACRES +/-	6.5% +/-
AREA 6 NORTH WORKING FARM - WEST SOLAR ENERGY SYSTEM	54.70 ACRES +/-	4.8% +/-
AREA 6 SOUTH WORKING FARM - WEST SOLAR ENERGY SYSTEM	42.21 ACRES +/-	3.7% +/-
AREA 7 NORTH COMMERCIAL/INDUSTRIAL PARK	5.45 ACRES +/-	0.5% +/-
AREA 7 SOUTH COMMERCIAL/INDUSTRIAL PARK	6.88 ACRES +/-	0.6% +/-
AREA 8 NORTH OUTDOOR ADVENTURE PARKS	6.14 ACRES +/-	0.5% +/-
AREA 8 SOUTH OUTDOOR ADVENTURE PARKS	68.25 ACRES +/-	6.0% +/-
PRIVATE OPEN SPACE "A"	14.63 ACRES +/-	1.3% +/-
PRIVATE OPEN SPACE "B"	261.19 ACRES +/-	23.0% +/-
PRIVATE OPEN SPACE "C"	65.40 ACRES +/-	5.7% +/-
PRIVATE OPEN SPACE "D"	47.54 ACRES +/-	4.2% +/-
COUNTY ROAD 335 ROW AREA	11.43 ACRES +/-	1.0% +/-

- LINE TABLE -

LINE #	BEARING	DISTANCE
L48	N72°50'39"E	489.35'
L49	S36°23'55"E	733.23'
L50	S53°07'34"W	655.91'
L51	N24°12'05"W	744.41'
L52	N24°12'05"W	173.25'
L54	N86°03'26"E	431.27'
L55	S52°17'28"E	1145.78'
L57	S01°56'48"E	79.97'
L58	S88°22'53"W	199.51'
L59	S17°17'27"E	119.98'
L60	S59°42'35"W	245.00'
L62	N88°07'36"E	137.38'
L63	S32°32'10"W	97.08'
L64	S13°02'55"E	49.80'
L65	S49°40'44"W	87.23'
L66	S22°47'18"W	58.34'
L67	S37°51'51"E	80.19'
L68	S23°03'12"W	132.40'
L69	S10°41'26"E	101.84'
L70	S12°54'47"E	123.41'
L71	S80°39'03"W	71.51'
L72	S29°43'54"W	115.27'
L73	S18°44'32"W	130.64'
L74	S39°51'11"W	128.13'
L75	N84°37'20"W	202.78'
L76	N46°00'48"W	220.19'
L77	N17°26'13"W	189.20'
L78	N40°05'54"W	141.75'
L79	S01°37'38"E	193.12'
L80	N10°21'42"W	97.88'
L81	N25°51'28"W	139.90'
L82	N03°00'26"W	55.08'
L83	S81°25'33"W	580.92'
L84	S33°52'20"E	300.00'
L85	S03°07'34"W	650.00'
L86	N33°52'26"W	665.00'
L87	N53°07'34"E	990.00'
L89	N37°34'29"W	80.00'
L90	N37°34'29"W	319.00'
L91	N81°20'34"E	618.96'
L92	N49°58'11"E	210.00'
L93	S40°04'08"E	80.00'
L94	N01°03'06"W	68.67'
L95	S58°52'41"W	394.16'
L96	S63°33'22"W	566.96'
L97	N19°38'31"W	263.80'
L98	N60°14'57"E	64.14'
L99	N77°27'34"E	347.15'
L100	N52°07'02"E	293.85'
L101	S81°18'49"E	273.63'

- CURVE TABLE -

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C5	330.66'	500.00'	37°53'28"	N73°00'42"W	324.67'
C6	27.59'	192.83'	81°15'6"	S20°23'37"W	27.57'
C7	50.97'	4168.53'	0°42'02"	N52°46'33"E	50.97'

- LEGEND -

- Found Monument being a part of the Public Land Survey System
- Found Monument being a part of subdivided lands

Job No. 2018-271-001
Drawn By: Jm
Date: 6/10/21
Approved By: PLS
File: Nutrient Farm PUD.vcf

Title: P.U.D. Plan Map

Sheet No. 2

of 2

6/10/21 10:16:27 - Riverbend Ranchettes (2018-271-001) - Nutrient Farm PUD - Utility Easement - 2/10/2022 - 3:48 PM - Mr. Ryan Shroy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sheri Kay T. Thueson
 Ann Thueson
 16 W. Crooked Stick Dr.
 Eagle, ID 83616



9590 9402 7048 1225 3577 85

2. Article Number (Transfer from service label)

7018 2290 0001 9285 6402

COMPLETE THIS SECTION ON DELIVERY

EXHIBIT 1

A. Signature

X *[Handwritten Signature]*

- Agent
- Addressee

B. Received by (Printed Name)

GREG THUESON

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below: Yes No

*16 W. CROOKED STICK
 Eagle, ID 83616*

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Restricted Delivery

USPS TRACKING#



EXHIBIT

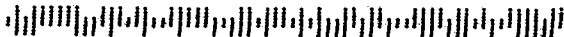
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 7048 1225 3577 85

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

SEW
118 W. Center St, Ste 200
Greenwood Spgs. CO 81601



14 NetStamps at \$9.64 each



Printed

Wednesday, December 18, 2024 08:29 AM
81601

Create Return Label

Reprint

Services **\$134.96** ▾

Amount Paid **\$134.96** ▾

Stamp Qty: 14

Carrier: USPS

Service: USPS First-Class Mail® **\$9.66**

Insurance: None

Tracking: USPS Tracking

Extra Services: Certified Mail **\$4.85**

Return Receipt **\$4.10**

Weight: 0 lbs. 1 oz.

Payment Type: Prepaid

Quoted Amount **\$134.96** >

Reference ▾

Cost Code:

User: SGM.1986.inc

Printed On: NetStamps

Printed

Wednesday, December 18, 2024 10:31 AM
81601

Create Return Label

Reprint

Services **\$60.94** ▾

Amount Paid **\$60.94** ▾

Stamp Qty: 11

Carrier: USPS

Service: USPS First-Class Mail® **\$7.59**

Insurance: None

Tracking: USPS Tracking

Extra Services: Certified Mail **\$4.85**

Weight: 0 lbs. 1 oz.

Payment Type: Prepaid

Quoted Amount **\$60.94** >

Reference ▾

Cost Code:

User: SGM.1986.inc

Printed On: NetStamps

25 NetStamps at \$5.54 each



Printed

Wednesday, December 18, 2024 10:37 AM
81601

Create Return Label

Reprint

Services **\$138.50** ▾

Amount Paid **\$138.50** ▾

Stamp Qty: 25

Carrier: USPS

Service: USPS First-Class Mail® **\$17.25**

Insurance: None

Tracking: USPS Tracking

Extra Services: Certified Mail **\$4.85**

Weight: 0 lbs. 1 oz.

Payment Type: Prepaid

Quoted Amount **\$138.50** >

Reference ▾

Cost Code:

User: SGM.1986.inc

Printed On: NetStamps

25 NetStamps at \$5.54 each



Printed

Wednesday, December 18, 2024 10:38 AM
81601

Create Return Label

Reprint

Services **\$138.50** ▾

Amount Paid **\$138.50** ▾

Stamp Qty: 25

Carrier: USPS

Service: USPS First-Class Mail® **\$17.25**

Insurance: None

Tracking: USPS Tracking

Extra Services: Certified Mail **\$4.85**

Weight: 0 lbs. 1 oz.

Payment Type: Prepaid

Quoted Amount **\$138.50** >

Reference ▾

Cost Code:

User: SGM.1986.inc

Printed On: NetStamps

25 NetStamps at \$5.54 each



Printed

Wednesday, December 18, 2024 10:38 AM
81601

Create Return Label

Reprint

Services **\$138.50** ▾

Amount Paid **\$138.50** ▾

Stamp Qty: 25

Carrier: USPS

Service: USPS First-Class Mail® **\$17.25**

Insurance: None

Tracking: USPS Tracking

Extra Services: Certified Mail **\$4.85**

Weight: 0 lbs. 1 oz.

Payment Type: Prepaid

Quoted Amount **\$138.50** >

Reference ▾

Cost Code:

User: SGM.1986.inc

Printed On: NetStamps

14 NetStamps at \$5.54 each



Printed

Wednesday, December 18, 2024 10:44 AM
81601

Create Return Label

Reprint

Services **\$77.56** ▾

Amount Paid **\$77.56** ▾

Stamp Qty: 14

Carrier: USPS

Service: USPS First-Class Mail® **\$9.66**

Insurance: None

Tracking: USPS Tracking

Extra Services: Certified Mail **\$4.85**

Weight: 0 lbs. 1 oz.

Payment Type: Prepaid

Quoted Amount **\$77.56** >

Reference ▾

Cost Code:

User: SGM.1986.inc

Printed On: NetStamps



LAND USE AND DEVELOPMENT CODE

EFFECTIVE JULY 15, 2013

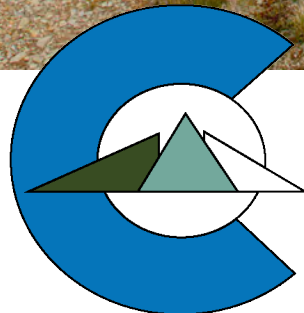


Last Amended September 9, 2024

COMPREHENSIVE PLAN 2030

2020 UPDATE

Full Version of the Comprehensive Plan is available here: <https://www.garfield-county.com/community-development/comprehensive-plan-2030/>



GARFIELD COUNTY

Adopted: November 10, 2010

Last Amended: February 26, 2020

EXHIBIT 5

Planning Commission February 26, 2025,

Glenn Hartmann – Director

John Leybourne – Planner III

Nutrient Farms PUD Zoning Coal Ridge PUD Revocation Riverbend PUD Amendment

Type of Review	PUD Zoning, File # PUDA-05-22-8899 PUD Amendment, File # PUAA-05-23-8963 PUD Revocation, File # PUAA-05-23-8898
Owners - Applicant	Nutrient Holdings LLC.
Applicant - Representative	Danny Teodoru, Timberline Partners
Applicant Planners	Mathews Leidal, LLC.
Parcel Numbers	2123-353-00-081, 2183-061-00-057, 2123-344-00-007, 2123-344-00-005, and 2183-053-00-086
Practical description	A large area located approximately a half mile to the east of the Town of New Castle.
Lot sizes	Total – 1,137.766 Acres (based on Assessor Data) 2123-353-00-081 – 236.939 Acres 2183-061-00-057 – 255.38 Acres 2123-344-00-005 – 23.7 Acres 2123-344-00-007 – 36.667 Acres 2183-053-00-086 – 585.08 Acres
Zoning	PUD
Comprehensive Plan	Residential Medium High, 2-6 Units Per Acre

I. BACKGROUND AND OVERVIEW

Nutrient Holdings LLC. is requesting zoning for a Planned Unit Development (PUD) to the east of the Town of New Castle and to the South of the Colorado River and I-70. The proposed PUD is located on 5 parcels totaling approximately 1,137 acres. The proposed PUD main focus is on agricultural uses and agritourism with a myriad of additional uses ranging from a restaurant, outdoor events center, RV Park and outdoor recreation facilities and activities. The Applicant

EXHIBIT 5

Planning Commission February 26, 2025,

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also has also applied to revoke the entirety of the Coal Ridge PUD and an application to amend the Riverbend PUD so that the undeveloped portions of the Riverbend PUD can be included in the Nutrient Farms PUD. The Coal Ridge PUD, originally part of the Riverbend PUD approved in 1984 by Resolution N0. 84261 as an amendment to the Riverbend PUD encompassing approximately 292 acres for industrial uses associated with coal mining operations.

SITE OVERVIEW

Nutrient Farm is located between the Town of New Castle and Glenwood Springs, and to the south of Interstate-70 and the Colorado River. It is bisected by County Road 335. The property has historically been used for crop production and grazing. The Vulcan Ditch runs through the property and other agricultural improvements such as fences, gates, ditches, and dirt roads exist. There is one existing single-family home to the south of Riverbend Filing 2. The property extends from the Colorado River from the north across CR 335 up the steep slopes of the Hogback to the south. The easternmost portion of the property consists of steep slopes to the east of the Riverbend PUD to gentle grazing areas associated with grazing operations along the Colorado river to the north and extending to the steep slopes south of the CPW office and Canyon Creek interchange and where Canyon Creek flows into the Colorado River.

The site includes the developed portions of the Riverbend PUD that are developed and those portions that have not been developed.

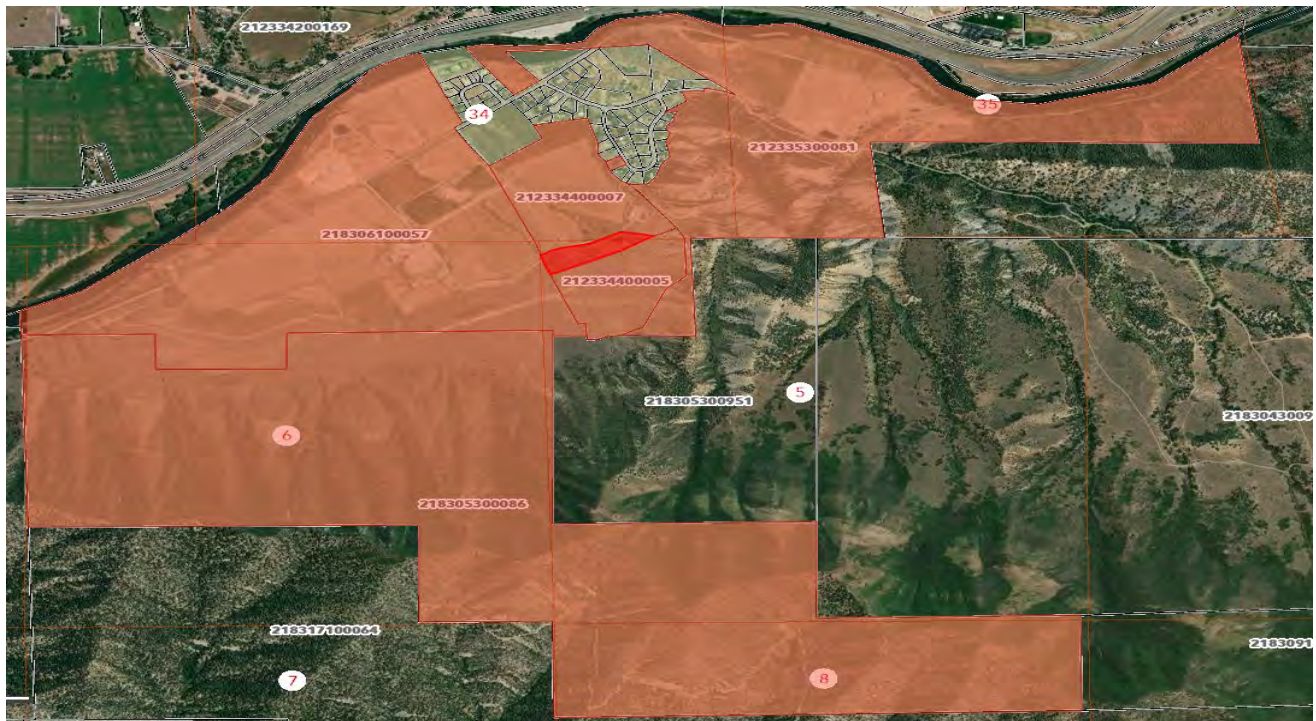


EXHIBIT 5

Planning Commission February 26, 2025,

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PROPOSAL OVERVIEW

Nutrient Holdings LLC is requesting approval to establish the Nutrient Farm Planned Unit Development and concurrently vacate the entirety of the existing Coal Ridge PUD and the remaining undeveloped portions of the Riverbend PUD.

The vacation request is a separate application as well as the request of the modification of the Riverbend PUD and will require separate action by the Planning Commission and BOCC from the action taken on the proposed Nutrient Farms PUD. The vacation and modification applications are being heard concurrently and are represented to be contingent on approval of the Nutrient Farms PUD.

The Applicant intends to develop the Nutrient Farm PUD as a “cohesive community and has no intention of selling off any portions of it to others to develop.” The proposed PUD is indicated to operate as a “experiential biodynamic working farm—in other words a fully functional and operational biodynamic farm, employing the high standards of that category, while also inviting visitors to experience agricultural, residential, and recreational and retail/commercial related activities thereon—essentially “agritourism.”

Specific land uses and development standards have been proposed in the Nutrient Farm PUD Guide to “foster the compatible and orderly development of Nutrient Farm so that it blends into the nearby residential development pattern and the natural landscape and presents an exemplary operation for the community.”

The range of uses in the proposed PUD range from agritourism to a restaurant, outdoor events center, RV Park and outdoor recreation facilities and activities with activities running year-round. The proposed land use table ranges from by right uses to administrative review, limited impact review and major impact review by the County LUDC.

HISTORY OF RIVERBEND AND COAL RIDGE APPROVALS

As noted in the application, the Riverbend PUD went through Sketch Plan Review that was approved in June of 1973 with Preliminary Plat approval in 1974. When modifications to the site plan and plat were requested, the County required that the applicant go through a PUD process and the County had adopted land use regulations. The PUD at that time was approved for 118 single family units and 80 multi-family units. This change was approved in 1977 by Resolution No. 77-2. Only a few of the areas of the approval were eventually developed with some being sold off and represent the current makeup of the Riverbend PUD.

EXHIBIT 5

Planning Commission February 26, 2025,

Glenn Hartmann – Director

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In 1984 Storm King Mines was approved to modify the Riverbend PUD for 292 acres to become the Coal Ridge PUD. This PUD allowed agricultural uses as by right and Heavy Industrial uses as well as transition zones and common open space area. Single Family Residential uses were by right in the transitional district. Some exploratory mining operations were conducted in 1986 but were ceased in 1987 as they did not find a coal seam. No other operations occurred with the areas being reclaimed to the standards of the Colorado Division of Reclamation, Mining and Safety. No other activity has occurred on within the PUD. Several amendments took place to the Riverbend PUD with the last being in 1996 to correct a parcel being illegally sold off.

The Riverbend PUD operates its own water and sanitation district for the developed areas/phases and the district is in good standing with the Department of Public Health and Environment.

II. APPLICABLE REGULATIONS

The following is a list of the general provisions applicable to this application.

- Garfield County Comprehensive Plan 2030 as amended
- Article 4, Description of Submittal Requirements & Rezoning Criteria
- Section 6-202 PUD Zoning
- Section 6-203 PUD Zoning Amendments
- Section 6-203(B)(1)(a) Process & Section 6-203(C) Review Criteria
- Table 6-201 Common Review Procedures and Required Notice
- Table 6-301 and Section 6-302 Application Submittal Requirements
- Applicable provisions of Article 7 Standards

SECTION 6-202

The following is the review criteria for an application for PUD zoning.

C Review Criteria. *An application for PUD Zoning shall meet the following criteria:*

1. *Purpose and Applicability. The PUD meets the purpose and applicability of this Code, as provided in section 6-101.A. and B.*
2. *Development Standards. The PUD meets the Development Standards as provided in section 6-401.*
3. *Standards, Article 7. The PUD meets the standards within Article 7, Division 1, excluding 7-101.*
4. *Rezoning Criteria. The PUD meets the Rezoning Review Criteria in section 4-113.C.*

EXHIBIT 5

Planning Commission February 26, 2025,

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5. *Established Zoning Standards. The PUD Plan adequately establishes uses and standards governing the development, density, and intensity of land use by means of dimensional or other standards.*

VACATION OF A PUD AND PUD AMENDMENTS (SECTION 6-203)

The amendments to the Riverbend PUD are Substantial and well beyond the scope of a Minor Modification. As a result, the Application for amendment was determined to be a Substantial Modification is being heard concurrently with a new PUD Application for the Nutrient Farms.

Vacation of a PUD also requires processing consistent with the original process to approve a PUD. In this case the vacation of the Coal Ridge PUD is being heard concurrently with the Nutrient Farms Application and has included completing of required public noticing consistent with the requirements for approving a PUD.

Both processes have been coordinated with the County Attorney's Office. Final approvals will require formal documentation and approval resolutions and may be further addressed in a Development Agreement with the Applicant, all subject to final direction from the County Attorney's Office.

C. Review Criteria. *Major Modifications to a PUD are those that deviate from previously approved standards or rearrange/reconfigure elevations, structures, parking areas, landscape areas, utilities, or other site improvements in an approved PUD, and that meet all of the following criteria as applicable:*

1. *Conform to the Comprehensive Plan;*
2. *Is consistent with the efficient development and the preservation of the character of the development;*
3. *Do not increase the density;*
4. *Do not decrease the amount of dedicated Open Space;*
5. *Do not affect, in a substantially adverse manner, either the enjoyment of the land abutting upon or across the road from the PUD or the public interest;*
6. *Do not change the use category of the PUD between residential, commercial, or industrial uses; and*

EXHIBIT 5

Planning Commission February 26, 2025,

Glenn Hartmann – Director

John Leybourne – Planner III

7. *Will not be granted solely to confer a special benefit upon any person; and*
8. *Shall not affect the rights of the residents, occupants, and owners of the PUD to maintain and enforce those provisions at law or in equity.*

SUBMITTAL REQUIREMENTS

SUBMITTAL REQUIREMENTS

Section 4-203.B General Application Materials -

Section 4-203.C Vicinity Map -

Section 4-203.D Site Plan -

Section 4-203.G Impact Analysis -

Section 4-203.H Rezoning Justification Report -

Section 4-203.J Development Agreement -

Section 4-203.L Traffic Study -

Section 4-203.O Floodplain Analysis -

Section 6-302.A PUD Plan - including phasing, technical information on water and wastewater, fire protection & legal access

Section 6-302.A.3 & 4 PUD Plan Map and PUD Guide

Section 6-302.B Amendment Justification Report -

ADDITIONAL SUBMITTAL REQUIREMENTS

Due to the complexity of some PUDs or PUD Amendment proposals, the following submittal requirements were required as well.

Section 4-203.K Improvements Agreement -

Section 4-203.M Water Supply and Distribution Plan -

Section 4-203.N Wastewater Management -

Article 7 Specific Responses to Standards

III. COMMENTS

REFERRAL AGENCIES

1. Middle Colorado Watershed Council:
 - Concerned that there is adequate water that stays in Canyon Creek during low-flow conditions.

EXHIBIT 5

Planning Commission February 26, 2025,

Glenn Hartmann – Director

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- Suggests an alternative solution instead of rebuilding the Vulcan Ditch at its current historic location. Would like to see detail plans of construction and permitting the ditch as it crosses the highway, river, and railroad tracks.
2. US Army Corps of Engineers:
 - Provided standards for the discharge of dredged or fill materials into US waters according to the Clean Water Act.
 3. CDOT, Brian Killian:
 - Developer must submit the TIS and access permit application for review and approval.
 4. Garfield County Public Health, Ted White:
 - A detailed analysis of water rights to be provided for adequate supply of potable water for proposed use be required.
 - OWTS permits required for each new OWTS or alteration to OWTS. Reverse Osmosis should not be introduced and if generated, it must be reviewed and permitted by the Colorado Department of Public Health and Environment Water Quality Control Division.
 - All food distributions (farm store, food truck, bakery, restaurant) uses be property reviewed, licensed, and inspected by County Public Health.
 - Campground must adhere to all applicable federal, state, and local regulations.
 - Recommends control measures are implemented for fugitive dust. Also recommends that use-specific noise study be conducted as each development area is proposed with specific times and noise limits during construction. Recommends radon-resistant new construction and can provide free-radon kits.
 - We concur with the County's engineer comments with water and wastewater. Staff cannot make more specific recommendations related to any food production without concrete plans. Grease, water and waste water requirements are dependent on food production processes.
 5. Colorado River Fire Rescue, Orrin Moon:
 - Concerned about the fire protection irrigation water since it only runs during spring and summer and there isn't a plan for fall and winter.
 - All roads must have a minimum width of 20' and a have all weather surface. Require a fire truck turnaround for any dead-end roads longer than 150'. Each road must have an approved road name and addresses for all sites and buildings and be approved by the CRFR.

EXHIBIT 5

Planning Commission February 26, 2025,

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- Fire hydrants may need to be relocated or added as need and be for year-round use unless special arrangements are made with CRFR. Dry fire hydrants must install CRFR required adaptors.
 - Any open burning is subjected by IFC regulations and local burn permits/restrictions. Need more information to thoroughly review the Adventure Park area.
6. Colorado Parks and Wildlife, Travis Bybee:
- Noted that significant loss of mule deer and elk habitat. Area is used by mule deer all year round while elk use is during winter and early spring. Habitats would be affected by the proposed areas of a large agricultural field (Area 6), Outdoor Adventure Park (Area 8), residential subdivision (Area 2), and working farm east (Area 5) including the solar farm on a portion of that area. Potential conflict with wildlife so mitigation suggestions are offered such as wildlife friendly exclusionary fencing and bear-proof trash receptacles.
 - Concerned with conflict with humans in the Outdoor Adventure Park area, recommends working with CPW to further mitigate safety measures during recreational activities. This can include seasonal closures, employing predatory mitigation such as foxlights, guard dogs, permanent ranch employees and educating guests on site to minimize mountain lion and black bear conflicts.
 - Concerned with creating new trails in the open space, recommend season closure for mule deer and elk and buffer zone for active bald eagle nesting sites.
 - Biggest concern is public access impacts to the BLM property located on the east side of the PUD. It's year-round space for wildlife and the private road for BLM employees to access may create new trails from established trails and degrade its value for wildlife. Concern for other entities to enter the property on the Eastern side.
 - Recommend the reevaluation the need for having a proposed boat ramp since it's 200 yards away from an established easy access public boat ramp area with restrooms.
 - Concerned for wildlife habitat impacts in the Colorado River with more construction and development. Doesn't support the proposed LOVA trail layout that goes through the CPW property and Nutrient Farms.
7. Colorado Geological Survey, Jill Carlson:
- Would like to review the preliminary plat to ensure that proposed lots and building envelopes are set back a sufficient distance from the Colorado River 100-year floodplain to minimize risk of damage to homes and yards due to erosion, scour, and undercutting.
 - Recommends lot-specific subsurface investigations and site-specific recommendations for driveways, floor systems, drainage etc... prior to building permits.
8. Consulting Engineering, Chris Hale:

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- Noted that the development will be on a dead-end road with one access for emergencies. Should evaluate interior roadway circulation so it allows for alternative roads in case of emergency. Grading of the roads should be limited to 10% and construction plans and profiles must be submitted to County for obtaining grading permits. CDOT access permits are required. Applicant should explain why they don't need CDOT access permits and how traffic will be decreased below permit thresholds.
 - Site-specific Geotech analysis should be conditions of building permits. Site-specific grading and drainage should be also required for building permits with the drainages be identified in the PUD map and easements. Recommends applicant to have setback restrictions for porches, decks, slabs should drainage or easements are anticipated.
 - Should discuss winter provision of water when Vulcan Ditch isn't in use. Provide water quality analysis and verify that the applicant is in good standing with Riverbend Water and Sewer Company. Will serve letter should be reviewed by County Legal Staff to determine the legal water supply and demonstrate with pump and water quality tests that water supply is sufficient for the PUD.
 - Must address how the fire flow storage from the storage tanks is inadequate from the RWSC standards.
 - Applicant should go into more detail regarding the OTWS for Areas 6-2, 6-3, for the pool system, restaurant, and if connection to the RWSC wastewater treatment plant is feasible.
 - The bunkhouse should address the adequacy of sewer, water and traffic. With scheduled small or large events, the applicant must address noise, traffic, water and waste facilities.
 - The protection of the drainages should be regionally considered and be congruent with overall site grading and drainage. Concerned that drainage ways may not be adequately sized and protected in the setbacks during construction.
 - Applicant must clarify temporary parking plan and traffic control requirements to be reviewed and approved by the County.
9. Town of New Castle:
- Town council mostly supports the application. Identified that the PUD has 2 main aspects of agri-tourism with residential development and accessory commercial/industrial uses.
 - New Castle Comprehensive Plan identifies large lot single family, working ranch/farms, ranchettes, open pastures and rural qualities for the property. They consented that the accessory commercial/industrial use doesn't align with the comp plan that much but were intrigued by the commercial aspects as an amenity. Concerns about the industrial

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portion on the west side of the property due to surrounding properties being zoned Rural. Doesn't want expanding the Rural Zone District to Industrial Zone District.

- Would like further review with an extended study of CR 335 impacts to road capacity around the I-70 interchange and emergency egress for the development. Review any submittal to make sure alignments and/or utilities matched the Town's. Concern with congestion at interchange and security during events, emergency calls and increase maintenance cost to the town and county. Request full traffic impact study.
- OWTS reviews will require a watershed permit at the time of design. Will review in concert with CDPHE.
- Encourage applicant and county to minimize light trespass from property due to Comp Plan goal of preserving a dark night sky.
- New development shall plan and provide for TOD and light level of connectivity in on-street and off-street trail/sidewalk systems to accommodate motorized and non-motorized traffic.
- 2018 MOU LoVa Trail temporary construction easement has expired but would like to complete a trail network from town to Nutrient Farms. Using the LoVa Trail Emergency Access Easement over the bridge will not likely be allowed. The intent of the bridge was to carry trail users (hikers/bikers only) and design capacity of 10,000 lbs.

10. Aspen Valley Land Trust, Bud Tymczyszyn:

- Noted the PUD application incomplete and lacking critical information regarding the project's extent and impacts in Canyon Creek. Concerned about development in the delicate riparian ecosystem in Canyon Creek and the Vulcan Ditch Pipeline Easement Agreements/engineering documents. Require Applicant to present an adequate analysis of environmental impacts to Canyon Creek to AVLTL.
- AVLTL currently has 12 conservation easements across 8 properties. Require that the applicant must engage AVLTL as a Conservation Easement and property interest holder. Must provide current and future requested information regarding the proposal. Any new easements must be reviewed and approved by AVLTL. Applicant must demonstrate that any proposed projects or easements do not have adverse impacts through the encumbered properties.
- AVLTL recommends to the planning commission to deem the PUD Application incomplete due to the following reasons: 1) Require approvals from AVLTL, SWR and consent from landowners along the proposed pipeline. 2) Submit a complete Water Supply Adequacy Report with all pertinent information regarding the Vulcan Ditch Pipeline project. 3) Submit a complete Environmental Impact Analysis of critical information on impacts to Canyon Creek and properties impacted by Vulcan Ditch Pipeline project.

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11. Matrix Design Group, Inc., Robert Krehbiel:

- Noted that water and wastewater infrastructure is adequate but concerned about the water and wastewater infrastructure at full build out in the proposed commercial development.
- Recommends exploring a process treatment plant for water and wastewater that is operated and maintained by a licensed professional and centralized wastewater treatment plant over an on-site wastewater treatment system.
- Must work with the state to obtain a well permit for the exempt well on the 1-acre parcel in Area 5.
- Concerned with the proposed public water uses in Areas 6, 7, and 8 due to the intensive uses of water and wastewater loading. Also concerned with water quality and surface water contamination.
- Design of the OTWS system in Area 6 may not be allowed with minimum bed requirements. Recommends promoting infiltration of stormwater and implementing a full spectrum stormwater detention.
- Any proposed earthwork with the floodplain must be document to show there isn't any adverse impact of floodplain elevations.

12. Colorado Trout Unlimited, Nancy Johnson and Richard Van Gytenbeek:

- Been working with agricultural irrigation diverters in Elk and Canyon Creek to upgrade infrastructure to improve diversion efficiency and to ensure dams are fish friendly. Concerned with flow rates during low flow periods from October to December since brown trout uses the area to spawn fish and diversion would be devastating to the trout.
- If Vulcan Ditch structure is built, the design may not be sufficient consider fish passage at all flows. The ditch structure should be designed by an engineer and fish biologist experience in fish passage design and reviewed by CPW.
- Encourages the Planning Commission to explore with Applicant in making Colorado River points of diversion permanent and protect Canyon Creek from additional diversions. Canyon Creek is an important perennial, free stone stream that plays a critical role in the aquatic balance of this reach of the Colorado River system.
- Would like more information why Peak Daily demands were calculated using residential multipliers for agricultural water use.

13. LOVA Trails.

Would like to continue to work with the applicant for an easement to connect the proposal to the Town. LOVA would also like to see that the owners commit to constructing the trail to the existing pedestrian bridge at Bruce Road and CR 335.

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PUBLIC COMMENTS

A significant number of public comments were received. Comments were detailed and covered a wide range of topics that included concerns with water, traffic, noise and loss of wildlife habitat. Public comments are included as exhibits.

IV. STAFF ANALYSIS

CODE ANALYSIS

ARTICLE 7 STANDARDS

Section 7-101 Zone District Use Regulations

Section 7-102 Compliance with Comprehensive Plan and IGA's

Garfield County has an Intergovernmental Agreement (IGA) for Development Review with the Town of New Castle as signed on May 7th, 2001 (Reception number 580572). Consistent with the IGA, County staff referred the initial application to the Town to receive comments. These complete comments are included in the referral exhibit.

As the subject property is within the Town of New Castles Urban Growth Area, the County Comprehensive Plan of 2030 defers to the Town of New Castle Comprehensive Plan of 2009 for guidance.

The applicant provided a Comprehensive Plan Analysis as part of the application.

The New Castle Comprehensive Plan designates the properties as Rural Low Density.

The types of uses in the designation are “large lot single family, working ranches/farms, ranchettes, open pastures and rural qualities characterize this area.”

The design characteristics of this designation are as follows:

Large lot single-family and rural agricultural uses characterize these areas. Roads may be gravel or have paved surfaces but typically do not include curb/gutter or sidewalks. Rural trail systems such as the LoVA Trail may support non-motorized access, but lower traffic volumes in most locations allow non-motor access on roadways. Open space is on private and public lands. Active parks are usually not found in rural areas.

The Town also provided the following comments pertaining to the Comprehensive Plan in their referral later dated January 21, 2025.

The Town of New Castle prides itself on providing a variety of interconnecting trail networks, the Town's Comprehensive Plan provides policies that address the following:

- New development shall plan and provide for Transit Oriented Development.

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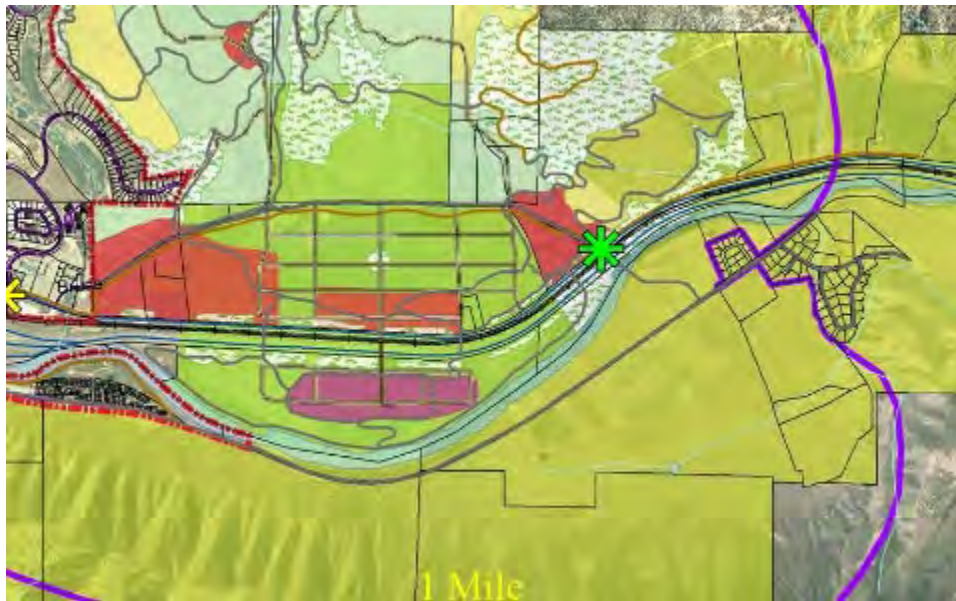
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- New development shall ensure a high level of connectivity in on-street and off-street trail/sidewalk systems to accommodate both motorized and non-motorized traffic within and connecting to areas outside of the development.

Based on the stated goals of the Town's Comprehensive plan it would be the Town's desire to see Nutrient Farms work to ensure that a trail between the Town of New Castle and Nutrient Farms is considered as part of the Nutrient Farms project.

New Castle Future land use Map



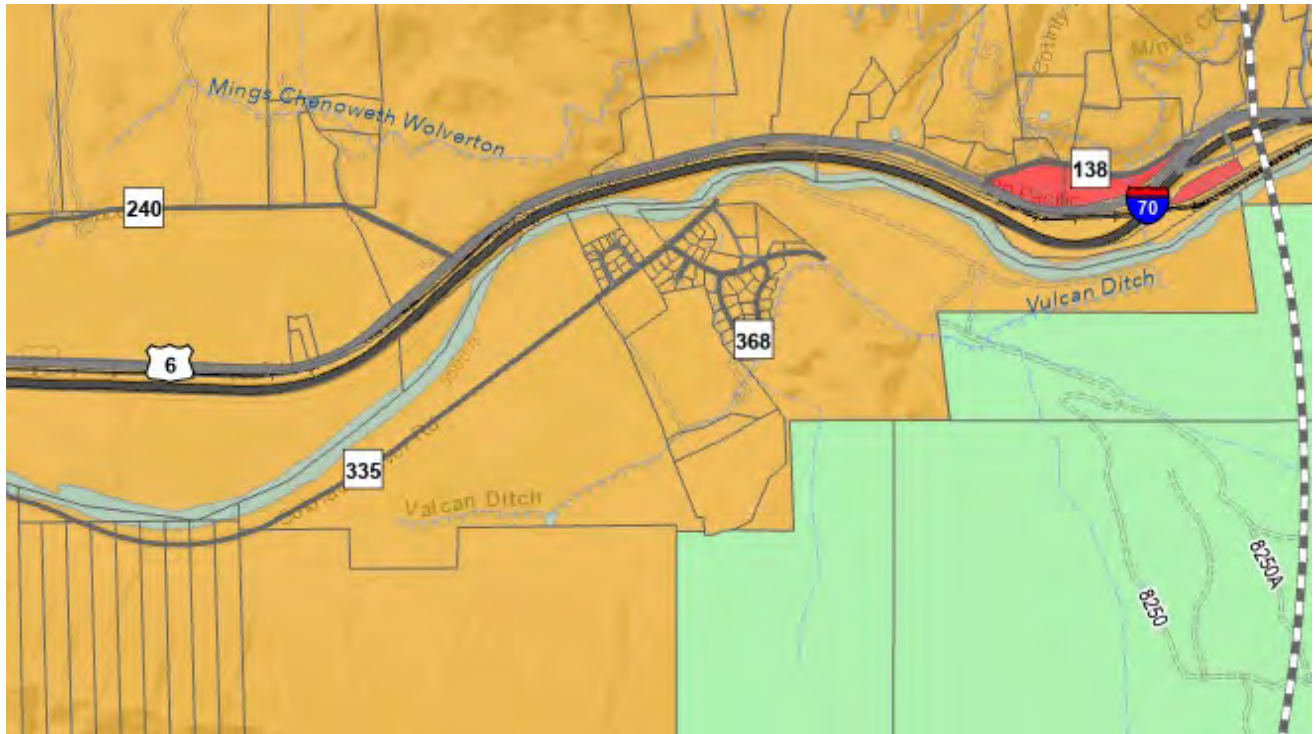
Garfield County Comprehensive Plan 2030

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The Garfield County Comprehensive Plan designates the subject properties as Residential Medium High with a density of 2-6 acres per dwelling unit. This designation includes small farms, estates, residences and clustered residential subdivisions.

The Application materials provide a comprehensive explanation of conformance with the County Comprehensive Plan of 2030.

While the agricultural uses do appear to be in conformance with the County Plan, the recreational uses could be seen as a benefit to the Town of New Castle as long as the impacts of those non-agricultural uses are mitigated properly.

Section 7-103 Compatibility

The application proposes predominantly agricultural uses in areas that have been used in the past as agricultural land or have remained as open space. The proposal is surrounded by the partially developed Riverbend PUD to the east and to the west of a portion of the proposed PUD currently being used for cattle operations. To the south of the site exist steep slopes continuing over the hogback to BLM land. To the North over the Colorado River are agricultural properties. To the east are 35-acre parcels that extend over the hogback to New Castle Town Limits and Condo's within Town. While the nature of the agricultural uses are compatible with the portions of the surrounding uses, industrial area to the east could lead to a proliferation of

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industrial uses along CR 335 adjacent to New Castle Town limits. The Town has indicated that this is a concern in their referral comments.

Staff feels that the application is in general conformance with the surrounding uses but that the industrial zone is not compatible with the surrounding uses.

Section 7-104 Source of Water

Proposed residential areas that are located near the Riverbend PUD are planned to be served by the Riverbend existing water and sanitation district. The applicant holds water rights to the Vulcan Ditch and is proposing to utilize these rights as well as the Colorado River diversion for irrigation and domestic use. Detailed analysis of the source of water and associated uses by the consulting engineers is provided in the referral comments.

Section 7 -105 Adequate Central Water Distribution and Wastewater systems

The applicant plans to be developing an internal water distribution system and wastewater facilities for the majority of the uses located in Area 2, Area5, farm areas and the commercial and adventure locations. OWTS systems will require permitting from the County and possibly the Ste Departments of Public Health and the Environment.

Section 7-106 Public Utilities

A will serve letter has been submitted by Xcel Energy. The project will also be generating electricity through a series of proposed solar systems.

Section 7-107 Access and Roadways

The proposed PUD is served by CR 335 coming from the intersection of Bruce Road through the Town of New Castle to the CR 335 then to the PUD. A looped system of private internal roads is proposed to serve the PUD with access off of CR 335. Road and Bridge and the Town of New Castle as well as the County Consulting Engineer, Chris Hale have provided referral comments that are included as exhibits.

- 2024 Buildout Traffic will approximately increase by 4 times over existing (500 – 2300)
- Referral Comments from County Road and Bridge recommend bringing CR 335 up to standards as part of this development's impacts. This included Town of New Castle Town Limits to the existing Riverbend Subdivision with new asphalt driving surface 24' wide, 2' gravel shoulders and including a 6 ft. asphalt walking path on the north side of the north shoulder. This recommendation is supported by LUDC Standards including Section 7-107, 7-306 and applicable sections of the Comprehensive Plan

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- Final Trail design, improvements, easements, and maintenance provisions can be further developed in coordination with LOVA trail plans and proposals within the Development Application.
- Traffic Study does not recommend improvements to CR 335 while acknowledging that Minor Collector Traffic Volumes will be exceeded. The Study refers to upgrades to CR 335 to be accommodated through Traffic Impact Fees. This is not consistent with LUDC provisions and County Policies. Impact fees are directed toward a development's increased demand on the overall County Road system with impacts specifically associated with a development typically mitigated directly by the Developer.
- Improvements to CR 335 need to be provided by the Applicant but can be addressed in the phasing plan and triggered by increased traffic associated with each phase. Credit for future payment of impacts fees can be considered as part of the PUD/Development Agreement.
- Traffic Study does not recommend improvements to CR 335 and Bruce Rd. (Town Street/CDOT Access Road serving I-70 and the Town on the north side of the Colorado River). Staff review of the estimated traffic generation and turning movements appears to support requiring right turn lanes (CR 335 west bound) and left turn lanes (Bruce Road south bound) serving the proposed development. This is based on the criteria reference in the Study (pg. 16) and the turning movements estimated in Appendix B of the report.
- Secondary Emergency access is a significant consideration for properties served by CR 335. Staff recommends that in lieu of boring under the Colorado River an elevated bridge structure over the river, serving the water infrastructure needs of the PUD be considered. This would be similar to the historic irrigation flum that served the south side of the river in the past and could be constructed in conjunction with a single lane emergency accessway adequate for emergency service vehicles to access the site and for public exiting in times of an emergency. Staff recognized this option may require additional evaluation and preliminary engineering assessments by the Applicant and their team.

Section 7-108 Land Subject to Natural Hazards -

The applicant supplied an impact analysis report that included a Soils and Geotechnical Evaluation. This report was focused on areas that were intended for development. Further soil evaluation would be required at the time of building permit. The Chris Hale, Consulting Engineer made the following comments,

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“The protection of the drainages should be regionally considered and be congruent with overall site grading and drainage. The concern being that without regional consideration at the outset in the PUD, the required detention, sedimentation, drainage ways may not be adequately sized and protected in setbacks when it comes time for future construction.”

While the applicant has indicated that no construction will occur on slopes of 30% but recreational amenities would be allowed after review per 7-207.F1 of the LUDC.

Section 7-109 Fire Protection

The applicant has indicated that they have been working with Orrin Moon, Fire Marshal for the Colorado River Fire Protection District and will meet all of the district’s requirements to include road design and all other Fire district requirements and standards.

Fire hydrants and a 150,000-gallon water tank are to be installed to provide fire water storage as well as dry hydrants and cisterns located on the property.

The applicant has also indicated that they will comply with CRFD wildfire requirements.

The Fire District provided referral comment that are included as an exhibit.

Section 7-201 Agricultural Lands

The predominant proposed use is agricultural in nature although the multitude of uses proposed are not agricultural in nature.

Section 7-202 Wildlife Habitat Areas

Colorado Parks and Wildlife provided referral comments on June 12, 2023. Staff have met with CPW as well as the applicant since those comments were submitted. The referral Comments can be found in the referral exhibits.

To summarize the CPW comments.

1. The PUD will have impacts on the existing wildlife severe winter range and will degrade these areas. While the property will not be lost entirely the development will be a significant loss to the habitat of deer and elk winter range.
2. The proposed agricultural field will be enclosed by the proposed outdoor adventure park and proposed residential subdivision. This area has been historically important for elk and mule deer. This type of fragmentation will inhibit wildlife from utilizing the area. This is the case in other areas indicated to be working farm areas.
3. The proposed agricultural and recreation areas have the potential to create conflict with ungulates, both mule deer and elk.
4. The orchards will also create areas of conflict by placing wildlife friendly fencing around these areas will prevent conflict but will also exclude the habitat from ungulates. The

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placement of the orchards will need to allow movement, access and pathways through the property.

5. Concerns with the outdoor recreation area that may create potential wildlife collisions with humans utilizing the area. This as well may keep ungulates away from the area. CPW have seen an increase of conflicts in the area in recent years.
6. Nutrient Farms should remain in contact with CPW field staff to evaluate mitigation measures as they are implemented to ensure human safety during recreation activities.
7. Seasonal restrictions should be implemented from December 1st to April 30th.
8. All guests and residents and employees of the property shall be educated on mountain lion presence and how to interact in case they are encountered.
9. Black bear education and bear/wildlife friendly fencing should be located around the orchards. Bear-friendly trash practices should be implemented.
10. The private trails should also observe the winter closure from December 1st to April 30th
11. Seasonal closures of the trails should also be implemented to coincide with the bald eagle nesting sites.
12. Access to the BLM property of the east portion of the property should be limited. Access to this area should be limited to BLM staff as it is now. Nutrient Farms should not allow public access.
13. The boat ramp proposed should be reevaluated as there appears to be no need for one as there is a ramp 200 yards to the east and another to the west. This ramp may cause additional disturbance in the river system and have a possible negative impact on several species of concern.
14. PW does not support the alignment of the LOVA trail and has commented on the proposed alignment through the CPW office property.
The applicant responded to the referral comments that a wildlife mitigation plan will be developed and implemented in cooperation with CPW after the review and approval of the PUD.

Section 7-203 Protection of Wetlands and Waterbodies

The applicant

Section 7-204 Drainage and Erosion

The applicant provided a Soils and Geohazards Evaluation.

Chris Hale, Consulting Engineer provided comments in his referral response in the exhibits.

Section 7-206 Wildfire Hazards –

Garfield County has a history of severe wildfires, including the infamous Storm King Mountain and recent Grizzle Creek Fire. Recent periods of drought have exasperated conditions for wildfires. The Coal Seam Fire has in recent years sparked fires directly adjacent to the

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proposal. The applicant has indicated that they will comply with all CRFPD standards for wildfire.

Section 7-207 Natural and Geologic Hazards –

See section 7-108

Section 7-208 Reclamation –

At the time of building permit or grading permit the applicant may be required to submit a reclamation plan.

Section 7-301 Compatible Design –

Residential areas are located adjacent to existing residential areas, recreational areas are located to the south of the property and buffered by the agricultural areas of the project.

There is concern that the industrial/commercial area on the western edge of the property is not compatible with surrounding uses.

Section 7-302 Off Street Parking –

The applicant has included parking specifications in the PUD guide.

Section 7-303 Landscape Plan –

Landscape, trail and reclamation standards are included in the PUD guide.

Section 7-304 Lighting –

The PUD guide indicates that all lighting is to be downcast and fully shielded with a maximum height of 40ft.

Section 7-305 Snow Storage –

LUDC standards will be met for snow storage.

Section 7-306 Trails and Walkways

Trail and walkway standards are outlined in the PUD guide. Other than the proposed easement for the LOVA trail, all other trails are private and not for public use.

ARTICLE 6, PUD REVIEW CRITERIA (SECTION 6-202) AND STANDARDS (SECTION 6-401)

Section 6-202

1. Purpose and Applicability. The PUD meets the purpose and applicability of this Code, as provided in section 6-101.A. and B.

Excerpts from these sections include that “The general purpose of PUD Zoning is to permit greater design flexibility....” and the “PUD’s must be in general conformance with the

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Comprehensive Plan”. Applicability includes “Any single parcel of land or contiguous parcels of land sufficient to accommodate an integrally planned environment to be developed through a unified plan”

Staff position is that the Application meets the Purpose and Applicability Section of the PUD Regulations.

2. Development Standards. The PUD meets the Development Standards as provided in section 6-401.

Compliance with specific standards is outlined in the following Sections with compliance based in part on meeting all conditions of approval.

3. Standards, Article 7. The PUD meets the standards within Article 7, Division 1, excluding 7-101.

Compliance with Article 7 Standards is a critical component especially in regard to key topics including Water Supply, Wastewater Management, Fire Protection/Wildfire Mitigation, Access and Traffic, and Impact Analysis. Compliance with conditions of approval including for future Land Use Permitting anticipated in the PUD Guide/Use Table is a key consideration in meeting this standard.

4. Rezoning Criteria. The PUD meets the Rezoning Review Criteria in section 4-113.C.

The review criteria is outlined below. Subject to compliance with Conditions of approval including edits to the PUD Map, PUD Guide, and PUD Use Table compliance with the Rezoning Criteria can be achieved. Key considerations include:

- Amendments to the PUD Submittals are appropriate to ensure a logical pattern of development.
- Vacation of Coal Ridge PUD and Amendments to the Riverbend PUD which are a reflection of the changing conditions for the area.
- Demonstration of Community needs is reflected in referral comments including those from the Town of New Castle.
- General Compliance with the Comprehensive Plan includes consideration of the Town of New Castle’s Comprehensive Plan and the need to further review permitted uses and provisions for future Land Use Change Permitting.

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C. Review Criteria.

An application for rezoning shall demonstrate that the following criteria has been met:

1. The proposed rezoning would result in a logical and orderly development pattern and would not constitute spot zoning;
2. The area to which the proposed rezoning would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area;
3. The proposed rezoning addresses a demonstrated community need with respect to facilities, services, or housing; and
4. The proposed rezoning is in general conformance with the Comprehensive Plan and in compliance with any applicable intergovernmental agreement.

5. Established Zoning Standards. The PUD Plan adequately establishes uses and standards governing the development, density, and intensity of land use by means of dimensional or other standards.

The PUD proposal includes detailed dimensional standards for uses within the PUD. Pursuant to County review and recommended conditions additional details and/or future review requirements for higher impact uses anticipated for Agricultural Areas and Adventure Parcel Zones.

Section 6-401 Development Standards

Subject to compliance with Conditions of approval including edits to the PUD Map, PUD Guide, and PUD Use Table compliance with the Development Standards can be achieved.

A. Permitted Uses

Permitted Uses are well documented with some key edits required to ensure compatibility of uses within particular zones. In particular Agricultural Processing Uses and Details on Adventure Zone, Area 8 are needed.

B. Off-Street Parking

Detailed Parking plans including provisions for special events and Temporary Parking provisions are included in the PUD>

C. Density

Density of Development is addressed in the PUD Guide including limited residential development and dimensional standards for non-residential development. The potential for the project to be maintained in one ownership may simplify some density considerations however, the potential lack of a subsequent subdivision review is noted.

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D. Housing Types

A variety of housing types are proposed and permitted in the PUD including ADU's, employee housing, and single-family residential uses. Article 8 Affordable Housing regulations are not applicable in this portion of Garfield County.

E. Transportation and Circulation System

While the PUD includes detailed mapping on the circulation and roadway layout, based on referral comments and additional assessment by County Staff, significant upgrades are needed to the Street System serving the development. These are documented in Conditions of Approval and include County Road 335 and the intersection with Bruce Rd. south of the I-70 Interchange. In addition, secondary access considerations and connections, fire truck turnaround areas and limitations on the lengths of dead-end streets pursuant to LUDC Standards are all necessary. This standard specifically calls out provisions to "...accommodate emergency vehicles and other vehicular, pedestrian and bicycle traffic." Compliance with these standard warrants provision of a pedestrian/bicycle path along County Road 335 as recommended by referral agencies and County Staff.

F. Recreational Amenities

The Applicant's PUD proposals include extensive private trails, open space amenities, potential for river front access, a wide range of activities and amenities in the Adventure Zone – Parcel 8, and opportunities for Agricultural Tours and Experiences in the Working Farm Agricultural Zone Area 6. The creation of a pedestrian/bicycle path serving the development is a critical recreational amenity that benefits the public and provides a needed safety improvement.

G. Building Height

The PUD Guide and Standards include detailed provisions establishing building height limitations generally consistent with typical agricultural and residential uses.

H. Lots

Dimensional Standards included in the PUD Guide address lot size and related issues including lot coverage and setbacks. Future Subdivision review will be required if the developer chooses to create smaller individual lots. The size of the PUD and the PUD Plan Mapping reflect adequate areas within each zone for building envelopes and avoidance of natural hazards and other constraints.

I. Phasing

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The Phasing Plan will require updating to reflect new dates and timing for different phases. The PUD generally anticipates significant flexibility for the owner/developer in implementing particular uses and activities with Development Parcels.

ADDITIONAL STAFF ANALYSIS

1. Staff continues to analyze key issues and referral comments and may provide additional information/updates as appropriate at the public hearing.
2. Coordination with the County Attorney's Office continues to identify the need to merge the Applicant's separate parcels as part of the PUD Approval Process. While the Application submittals were not in support of this requirement, a condition requiring the merger concurrent with any final PUD Rezoning Approvals is being recommended by Staff. This is an important step to ensuring compliance with the LUDC PUD provisions including that the PUD be integrally planned and developed through a unified plan. Future Subdivision Applications, if proposed by the Applicant will serve to properly create lots and parcels consistent with the approved PUD Plan and Zone Districts/Development Areas. The current parcels do not reflect consistency with the PUD Plan

V. STAFF RECOMMENDATION AND FINDINGS FOR COAL RIDGE REVOCATION

Recommended Motion

I move that the Planning Commission recommends approval of the Vacation of the Coal Ridge PUD Application subject to the 5 Findings and 3 Conditions contained in the Staff Report.

The Motion can include, subject to the following edits/changes (if any).

SUGGESTED FINDINGS

1. That proper public notice was provided as required for the hearing before the Planning Commission.
2. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted or could be submitted and that all interested parties were heard at that meeting.

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2. That for the above stated and other reasons, the request for Vacation of the Coal Ridge PUD is in the best interest of the health, safety, convenience, order, prosperity and welfare of the citizens of Garfield County.
3. That the application subject to compliance with all Conditions of Approval is generally in conformance with the Garfield County 2030 Comprehensive Plan as amended.
4. Subject to compliance with all Conditions of Approval including the concurrent approval of the Nutrient Farms PUD, rezoning the property including a PUD Guide and PUD Plan Map, the Application has adequately met the requirements of the Garfield County Land Use and Development Code of 2013, as amended.

RECOMMENDED CONDITIONS

1. That all representations of the Applicant shall be considered conditions of approval.
2. That the vacation shall only become effective upon the concurrent rezoning of the property in accordance with the Nutrient Farms PUD.
3. That all final documentation for the Vacation shall be subject to final review and approval by the County Attorney's Office.

VI. STAFF RECOMMENDATION AND FINDING FOR RIVERBEND PUD AMENDMENT

Recommended Motion

I move that the Planning Commission recommends approval of the Riverbend Substantial PUD Modification – Amendment Application subject to the 5 Findings and 3 Conditions contained in the Staff Report.

The Motion can include, subject to the following edits/changes (if any)

SUGGESTED FINDINGS

1. That proper public notice was provided as required for the hearing before the Planning Commission.

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2. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted or could be submitted and that all interested parties were heard at that meeting.
3. That for the above stated and other reasons, the request for a Substantial Modification – Amendment to the Riverbend PUD is in the best interest of the health, safety, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. That the application subject to compliance with all Conditions of Approval is generally in conformance with the Garfield County 2030 Comprehensive Plan as amended.
5. Subject to compliance with all Conditions of Approval including the concurrent approval of the Nutrient Farms PUD, rezoning the property including a PUD Guide and PUD Plan Map, the Application has adequately met the requirements of the Garfield County Land Use and Development Code of 2013, as amended.

RECOMMENDED CONDITIONS

1. That all representations of the Applicant shall be considered conditions of approval.
2. That the vacation shall only become effective upon the concurrent rezoning of the property in accordance with the Nutrient Farms PUD.
3. That all final documentation for the PUD Modification – Amendment shall be subject to final review and approval by the County Attorney's Office.

VII. STAFF RECOMMENDATION AND FINDINGS FOR THE NUTRIENT FARMS PUD

Recommended Motion

I move that the Planning Commission recommends approval of the Nutrient Farms PUD Application subject to the 5 Findings and 53 Conditions as contained in the Staff Report.

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Planning Commission February 26, 2025,

Glenn Hartmann – Director

John Leybourne – Planner III

The Motion can include, subject to the following edits/changes (if any)

SUGGESTED FINDINGS

1. That proper public notice was provided as required for the hearing before the Planning Commission.
2. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted or could be submitted and that all interested parties were heard at that meeting.
3. That for the above stated and other reasons, the request for the Nutrient Farms PUD is in the best interest of the health, safety, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. That the application subject to compliance with all Conditions of Approval is generally in conformance with the Garfield County 2030 Comprehensive Plan as amended.
5. Subject to compliance with all Conditions of Approval including revisions to the PUD Plan, PUD Guide and PUD Map and approval of requested waivers associated with the PUD Submittals and PUD Rezoning, the Application has adequately met the requirements of the Garfield County Land Use and Development Code of 2013, as amended.

Recommended Conditions

1. That all representations of the Applicant shall be considered conditions of approval.
2. That the PUD Rezoning is subject to the concurrent approval of the Vacation of the Coal Ridge PUD and Substantial Modification – Amendment to the Riverbend PUD.
3. That all final PUD documentation including a Development Agreement shall be subject to final review and approval by the County Staff including the County Attorney's Office.

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4. Uses permitted pursuant to the PUD Zoning shall be limited to domestic water service from the existing relocated point of diversion on the Colorado River. Compliance with all CDPHE Regulations and permitting requirements shall be required including standards for public water systems as applicable. The PUD Guide shall be updated to include the above provision and restrictions.
5. Use of water for PUD uses other than irrigation purposes that utilize points of diversion on Canyon Creek shall require approval through an amended PUD process including additional Water Supply Plan Analysis, further documentation of legal water rights, and assessment of impacts on stream flows in Canyon Creek. It is recommended that said analysis include a collaborative stream management plan in conjunction with other water rights holders on Canyon Creek.
6. No approvals for banked units transferred from Riverbend PUD shall be permitted. PUD Guide and Development Agreements shall reflect this restriction. Water Supply plans did not address these units including available rights from the Vulcan Ditch. Future inclusion of additional density in the Nutrient Farms PUD shall require a PUD Amendment.
7. PUD Guide shall include requirements that unless documented through a subdivision process, all building permits including those for permitted uses shall include demonstration of legal and adequate water including pump testing and water quality testing for individual wells consistent with Article 7 of the LUDC. Where central systems are utilized, said demonstration may include supplemental will serve agreements, Water Court Decrees, or other similar documentation. Referrals to the Division of Water Resources may be required.
8. Residential Development to be served by the Riverbend Water and Sewer Company shall require formal inclusion and commitment documentation at the time of Subdivision and/or Building Permit.
9. Water rights for irrigation for agricultural uses shall remain subject to all applicable Division of Water Resources and Water Court determinations and decisions.

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10. Proliferation of larger OWTS systems and associated leach fields shall be avoided in order to protect the integrity of on-site wells, other wells in proximity to the development and municipal intake facilities for the Town of New Castle. Therefore, the use OWTS to serve uses permitted pursuant to the PUD Zoning shall be limited as follows:

- One OWTS system serving no more than 2,000 gallons per day in Area 6 North.
- One OWTS system serving no more than 2,000 gallons per day in Area 6 South.
- One standard residential size system for an existing home and potential ADU in Area 2.
- One standard residential size system for a residence and potential ADU in Area 5.

11. Watershed Protection Permits from the Town of New Castle shall be required for any new OWTS facilities if located within the Town's Watershed Protection Zone.

12. Centralized Water Treatment Systems shall be required for demand higher than those noted above and in any case shall be required for the Adventure Park Uses in Area 8 including Campground RV Park, Water Park, Performance Venues and for commercial uses including restaurants in Area 6 North and South.

13. Connection to the Riverbend Wastewater Treatment facility shall be required for development within 400 ft. of the facility or sewer mains serving the facility.

14. The Access and Circulation section of the PUD Guide needs to be revised and rewritten as follows:

- a. Reference to no record of dedication of the County Road puts forth a legal position not appropriate for a PUD Guide. Prescriptive easements for County Road are common and provide legal access to many properties including the applicants.
- b. The statement assuming that no improvements are warranted by the Owner/Developer is not consistent with County Road and Bridge Department assessments and referral comments and not consistent with other representations of the Applicant in the submittals.
- c. All new roads serving proposed residential areas will be private roads with private maintenance. The County is not accepting new roads serving residential developments into the County Road System.

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15. County Road 335 shall be improved and upgraded to Road and Bridge Standards including but not limited to a minimum of 24 ft. of width prior to initiation of any non-agricultural uses within the PUD. This shall include RV Campground Uses, Outdoor Recreation/Adventure Park Uses and other Commercial Uses including restaurants, breweries and similar high traffic generating uses.
 16. Prior to construction testing of the roadway section including boring core samples shall be completed to ensure the integrity of the road cross section.
 17. A six ft. wide pedestrian and/or bike path shall also be required along that section of County Road 335 between the Town limits and through the Nutrient Farms PUD. This trail improvements should be coordinated with the LOVA Trail easement dedication and related MOU Agreements with the Town of New Castle and LOVA regarding and including construction costs/contributions and grant funding opportunities.
 18. Additional review of the Conceptual Circulation and Parking Plan needs to be completed with the following revisions/conditions:
 - d. Secondary access roads shall be a minimum of 20 ft. in width with an all weather driving surface.
 - e. The PUD Plan Map shall be updated to delineate the roadway system including looped roads and secondary access should portions of County Road 335 being inaccessible.
 - f. Dead end roads longer than 150 ft. shall include fire truck turnaround built to meet CRFR and IFC specifications. Dead end roads longer than 600 ft. shall not be permitted.
- (Staff Comment) As Nutrient Farms PUD essentially encompasses all remaining developable properties along this section of County Road 335, costs for road improvements and significant contributions to the trail development from the Developer of Nutrient Farms are appropriate.
19. The Applicant shall obtain an updated CDOT Access Permit and a Town of New Castle Access Permit for the intersection at Bruce Rd. and CR 335 and shall comply with all conditions or requirements of said permits including but not limited to

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- improved curve radius and line of sight, curb and drainage improvements, and improved pedestrian crossings.
20. All hydrants shall be certified as operational year-round, with no seasonal hydrants.
 21. Secondary access roads shall be a minimum of 20 ft. in width with an all weather driving surface.
 22. The PUD Preliminary Road System Mapping shall be updated to delineate looped road system and secondary access available for emergency access. An additional link between Adventure Park Rd. and Coal Ridge Lane needs to be included in the plan.
 23. Dead end roads longer than 150 ft. shall include fire truck turnaround built to meet CRFR and IFC specifications. Dead end roads longer than 600 ft. shall not be permitted.
 24. Addressing shall be required to meet CRFR standards.
 25. Un-regulated or unpermitted agricultural burning shall not be permitted in the PUD with the restriction documented in the PUD Guide.
 26. Area 8 Adventure Park Uses shall require additional review and approval by CRFR which may include additional fire protection requirements and access requirements/improvements. The PUD Land Use Table shall be updated to ensure either Administrative or Limited Impact Review for Adventure Park Uses.
 27. Prior to final PUD approvals, the Applicant shall provide a detailed Wildfire Mitigation Plan for County Review and Approval which shall requirements for fuel mitigation and evacuation plans for the proposed uses.
 28. Removal of the Industrial Commercial Zone at the west end of the project. The area shall be reclassified as either Part of Area 8, Outdoor Adventure or Area B Private Open Space.

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29. Final Review of the PUD Plan Map to ensure compliance with all mapping requirements included in Section 6-302.
30. PUD Guide shall be updated to require that no development is permitted in the 100 Year Floodplain other than outdoor recreation – River & Water Activities subject to requirements for review and approval of Floodplain Development Permits.
31. All future plats shall include additional delineation of the 100 Year Floodplain.
32. Additional Floodplain Analysis may be required at the time of Subdivision or Building Permits in close proximity to the delineated 100 Year Floodplain.
33. A Preliminary Drainage and Stormwater Management Plan/Study shall be developed for the entire PUD, prior to final PUD approvals and shall become the basis for PUD Guide requirements for detailed stormwater, grading, and drainage plans at the time of building permits or Subdivision Review. Ephemeral drainage areas including appropriate restrictions and provisions for conveyance of stormwater shall be part of the Preliminary Drainage Plan.
34. A wetlands delineation/study is required prior to final PUD approval or the PUD Guide shall be updated to required said study at the time of Subdivision or Building Permit.
35. The PUD Guide Exhibit E needs to be updated to include additional details and definitions for Adventure Park Uses. The definition section does not appear to address the wide range of potential uses within this zone.
36. Final review of the PUD Guide and PUD Use Table is needed to confirm consistency between definitions, descriptions, and the use table.
37. The Use Table shall be edited as follows:
 - Agricultural Uses should not be permitted in Residential Zones, this is in part due to the broad range of agricultural uses within the PUD definition including processing.

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- Public Gathering which are by definition events larger than 350 people should require at a minimum Administrative (A) type review.
- A broad range of commercial and Assembly uses are proposed in Area 3, immediately adjacent to residential uses within the Riverbend PUD. These uses should be removed from this zone or require at a minimum Administrative (A) type.
- Ultra Light Aircraft Operations should be limited to Agricultural and Adventure Zones and not included in other zones such as residential zones.
- Food Trucks are proposed for any location within the PUD. They should be limited to non-residential areas.
- General Service and Retail uses are included in several zones as Permitted Uses. Without any type of review these use raise significant questions regarding compatibility and impacts.
- Lodging facilities which can include a hotel or motel should require at a minimum Administrative (A) type review.

38. Engineered foundations and site specific soils studies are required at time of building permit.

39. Restaurants and retail food establishments shall require water quality testing per CDPHE and County Environmental Health requirements.

40. Water Park, spa, bath house, campsites shall be provided with central water systems that comply with all CDPHE water quality and testing requirements.

41. Prior to treating, distributing, or reusing process water, the Applicant shall present a permit from the CDPHE Water Quality Control Division.

42. Reverse Osmosis wastewater shall not be introduced into OWTS.

43. All food distribution uses shall be properly reviewed , licensed and inspected by GCPH Consumer Protection Staff and any federal, state, and local agencies with jurisdiction over these facilities prior to operation.

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44. Campground RV Park shall be operated in compliance with all federal, state and local regulations including 6 CCR 1010-9.
45. Fugitive Dust mitigation (watering and discontinuation of operations when wind speeds exceed 30 mph.
46. Radon resistant construction recommended for new construction.
47. Revise PUD Plan to provide protection for wildlife migration corridors.
48. Include seasonal restrictions on the Adventure Park recreational park use.
49. Bear proof trash containers – prohibitions on other black bear attractants
50. Wildlife friendly fencing outside of agricultural production areas
51. Seasonal closure from 12/1 to 4/30 on trails within Severe Winter Range.
52. Creation of an appropriate sized Bald Eagle protection zone on the PUD Plan for the existing perch tree located at the northeast portion of the PUD.
53. Prior to final PUD Approvals – Rezoning preparation of a comprehensive Wildlife Mitigation Plan in coordination with CPW, to address the above issues and those identified in the CPW Referral Comments. Said plan shall be subject to review and acceptance by the County and CPW.

VIII. **SAMPLE MOTION & OPTONS FOR COMMISSION ACTION**

OPTION A

EXHIBIT 5

Planning Commission February 26, 2025,

Glenn Hartmann – Director
John Leybourne – Planner III

Approval of all three requests subject to conditions.

Three separate motions will be needed the order of Coal Ridge Vacation, Riverbend Substantial Modification – Amendment, and then Nutrient Farms PUD

OPTION B

Motion to continue the public hearing to _____ (insert date certain). The motion can contain additional direction such as to allow additional public comments, allow applicant response to technical issues, based on request to staff for additional information/analysis, or to allow further deliberation by the Commission.

Nutrient Farms PUD (File PUDA-05-22-8899) Public Comment Exhibits

Exhibit #	Public Comment, Name and Date Received
6-1	Sonja Linman – August 12, 2023; September 11, 2023
6-2	Sonja Linman and Friends of Canyon Creek – November 13, 2023; October 25, 2024
6-3	Darcy Gaechter – October 22, 2024
6-4	Terrell Tankersley – October 22, 2024; January 10, 2025
6-5	Patricia Tankersley – October 22, 2024; January 10, 2025
6-6	Cindy Stillman – October 22, 2024
6-7	Ann Gaechter – October 22, 2024
6-8	Don Beveridge – October 23, 2024
6-9	Carole Turtle – October 26, 2024
6-10	Royle Stillman – October 31, 2024
6-11	Dave Turtle – November 2, 2024
6-12	Bear Wallow Ranch, William Kell – November 4, 2024
6-13	Creekside Company LLC, William Kell – November 4, 2024
6-14	Rock N Pine Ranch, William Kell – November 4, 2024
6-15	Mike Goscha – November 4, 2024
6-16	Patty Grace – November 5, 2024
6-17	JVAM – November 5, 2024
6-18	Stig Svedberg – November 6, 2024
6-19	Connie Engeler – November 6, 2024
6-20	Richard Wernsmann – December 16, 2024
6-21	Dave Temple – January 20, 2025
6-22	Rachel Rusnak – January 22, 2025
6-23	Devin MacRostie – January 22, 2025
6-24	Rachael Newman – January 22, 2025
6-25	John Seymour & Victoria Lopez Harburu – January 23, 2025
6-26	

Glenn Hartmann

From: Sonja Linman <7thelder@gmail.com>
Sent: Monday, September 11, 2023 6:15 PM
To: Glenn Hartmann
Subject: Re: Friends of Canyon Creek

You don't often get email from 7thelder@gmail.com. [Learn why this is important](#)

Hi Glenn,

I've been sending out emails all day, and reread the one I sent to you about an hour ago. Although the content is the same, the tone certainly didn't need to be so formal or firm. We are obviously frustrated with the efforts Nutrient Farms is making to "over use" Canyon Creek. You didn't need to catch that ball, and I apologize for the tone. I do hope to talk soon so we can feel heard in this conversation.

Thanks again, I know you guys are super busy.
Sonja

On Mon, Sep 11, 2023 at 5:20 PM Sonja Linman <7thelder@gmail.com> wrote:
Hi Glenn,

It's Sonja Linman

I imagine you have been very busy with the move into your position. **I still look forward to hearing back from you. Please note that there are quite a few folks BCC'd on this email.**

Again, we are very concerned about Nutrient Farms and their PUD. Most importantly, we are clearly in opposition to their presentations found in the "Water Supply Adequacy Report." It is our understanding that Dave Kotz of SGM is continuing to meet with landowners along the creek with the assumption that they will be moving forward on the water acquisition. Please respond to this email as we are organizing and would like to reiterate our request from the last email:

"Thank you for letting me introduce our purpose. Please consider this a formal request for information and updates if and when we may be impacted."

I look forward to hearing from you,
Sonja Linman

----- Forwarded message -----
From: **Sonja Linman** <7thelder@gmail.com>
Date: Sat, Aug 12, 2023 at 2:58 PM
Subject: Friends of Canyon Creek
To: <ghartmann@garfield-county.com>

Hello Glenn,

My name is Sonja Linman, and I see you have been ccd on a few emails I have sent. My most recent communication with Sheryl Bower indicated that you are the contact person regarding any questions or concerns we may have for

Nutrient Farms PUD. Lucky you! I am aware of the process for public input, but also want to be proactive enough that we create opportunities for communication rather than conflict and confusion.

Quick history: there is a group of concerned citizens who are first and foremost committed to the preservation and wellbeing of "Canyon Creek From Headwaters to Confluence." This mission has encouraged us to research possible development, communicate and collaborate on community projects and mainly, take care of, and watch out for each other and this highly balanced ecosystem. As you know, CC has a complex and vulnerable history, and we are committed to tending to this sacred and pristine watershed.

We have read and reviewed the current as well as historic Nutrient Holdings PUDs, and have been very strategic in communicating with other stakeholders and land owners regarding the development. In addition we have created a fluid document with notes, maps, links and research that is relevant to the project as well as future impacts that may be considered. There are many of us in the neighborhood who are intrigued by the vision behind Nutrient Farms but very concerned about the process of application and progress. We have reached out to Mr Bruno, and Mr Kotz, his primary engineer with SGM, and have met with them both. I feel that we have had productive and hopeful conversations.

Our "Friends of Canyon Creek" group is significantly concerned about the potential damage to the creek if Nutrient Farms pursues reactivation of the Vulcan Ditch headgate. We have research and documentation to dispute the data and impact found in the PUD, 1.36 "Water Supply Adequacy Report" document. We have proposed to both Andy Bruno and Dave Kotz, an optional access point at the Confluence of Canyon Creek and think a "Confluence Park" could actually support a public/private solution to CDOT issues in South Canyon as well.

However, for now, we understand the complexity of the PUD, and will focus on the Canyon Creek Water Supply for our purposes.

Our data show that Nutrient Farms is requesting 8.7 CFS for use from the Vulcan Ditch. By accessing water from the wells on the property (.67 per well) and through the current Point of Diversion (2 cfs) for all water except necessary "Organic" water, Mr Bruno could effectively reduce the irreversible damage to Canyon Creek that is currently proposed. We hope that Nutrient Farms will recognize their stated commitment to eco-stewardship, and consider the possibility of changing the point of diversion to the confluence area. The complexity of the Vulcan Ditch history in the least, demands a more cautious and thorough approach than currently proposed.

Our suggested point of access at the confluence is owned by CDOT, CPW, and the Railroad, and it seems like a perfect public/private partnership that could result in many benefits and a win-win situation for all involved if the community were to vision together for a long-term plan.

A solar pump house at the confluence could have the following benefits:

Maintain fish passage from the Colorado to up creek spawning grounds

Preserve water in the creek bed resulting in a protected ecosystem.

Maintain Fire Mitigation in a highly vulnerable corridor.

In addition:

Possible collaboration for a community Confluence Park that would include bathrooms and safety connections to the eventual LOVA Trail - especially in times of I-70 South/Glenwood Canyon Closures, is also an intriguing opportunity. In fact, It could be a partnership model that could work to encourage other projects throughout Garfield County and perhaps the country. Saving our tributaries is a critical focus for many of us in the Upper Basin, and as water becomes more scarce, maintaining our local management is even more critical.

I understand that this email carries a lot of information and suggestions.

Please note that we continue to reach out to Mr Bruno as well as Dave Kotz. To be honest, if the development pursues the possibility of "Sweeping the Creek," we will be too late for a robust and creative round table. Our intentions are truly to work together to maintain the vibrant and pristine Canyon Creek watershed in perpetuity. In these times of

increased drought, private water investments, climate change and outdated water law protocol, we are working to protect our most valuable resource for generations to come. Building relationships and pursuing creative solutions will build community and sustainability. Hey- how can that be anything but positive!?!?

Thank you for letting me introduce our purpose. Please consider this a formal request for information and updates if and when we may be impacted.

Truly, With Best Intentions.
Sonja Linman- 970-379-9246

November 13, 2023
Community Exhibit 1a Submitted by Friends of Canyon Creek Committee
Re: Nutrient Farms PUD
In Reference to Water Adequacy Report for Proposed Development

Dear Mr. Hartmann, Community Development Department and Garfield County Board of County Commissioners,

This letter is to reference the "Water Adequacy Report for Proposed Development of Nutrient Farms. We are a group of concerned citizens and home owners, "Friends of Canyon Creek," whose mission statement is: "To Educate, Inform and Advocate for Canyon Creek from Headwaters to Confluence."

Canyon Creek is part of a pristine watershed that is being threatened by a claim that has the potential to "Sweep the Creek" of water before it reaches the confluence with the Colorado River. Our group of neighbors believes the Creek must be protected as a viable ecosystem that serves riparian, fish passage, natural sustainability and fire mitigation purposes.

We believe that Nutrient Farm's intention to claim 8.7 CFS from the Vulcan Ditch Head-gate would empty the creek during vulnerable parts of the year, and is opposable. We also believe that an opportunity exists for Nutrient Farms to access their water rights from the Colorado River- either at the Coal Ridge Pump and Pipeline access or through an access point at the confluence of the Colorado River and Canyon Creek. Further, we are curious about the lack of accurate data presentation as published by the Colorado Decision Support Systems CWCB / DWR mapping system, and have further questions regarding the submitted Historical Consumptive Use Analysis for the existing PUD. We believe that a Collaboration between Nutrient Farms, CDOT, The Railroad and CPW could provide an alternative access / diversion point for Vulcan Ditch as well as a "Confluence Park" to mitigate current safety concerns on I-70 at South Canyon.

This submittal is primarily concerned with the Water Adequacy Report and references Garfield County code 4-203M. We believe that the Water Adequacy Report does not accurately address Garfield County code requirements nor does it accurately reflect the data required for approval. It is our understanding that the applicant bears the responsibility to adequately and accurately respond to these requests for clarity and concerns.

(Garfield County Land Use Code 4-203M)

(2) In the alternative, an Applicant shall not be required to provide a letter if the water for the proposed development is to be provided by a Water Supply Entity that has a water supply plan that: (a) Has been

reviewed and updated, if appropriate, within the previous 10 years by the governing board of the Water Supply Entity; (b) Has a minimum 20-year planning horizon; (c) Lists the water conservation measures, if any, that may be implemented within the service area; (d) Lists the water demand management measures, if any, that may be implemented within the development; (e) Includes a general description of the Water Supply Entity's water obligations; (f) Includes a general description of the Water Supply Entity's water supplies; and (g) Is on file with the local government.

(3) The demand for irrigation water shall be based upon the type of vegetation to be maintained, soil characteristics, the historic yield of the property, and available water rights. (5) Water conservation measures, if any, that may be implemented within the development. (6) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability. (7) Evidence of ownership or right of acquisition of or use of existing and proposed water rights. (8) Such other information as may be required by the BOCC. d. Development That is a Division of Land. If the development is a division of land and is not served by a Water Supply Entity, the plan shall include all the information required in section 4-203.M.1.b. or GARFIELD COUNTY LAND USE AND DEVELOPMENT CODE 4-42 section 4-203.M.1.c. depending on SFE, as well as the following evidence required by C.R.S. § 30-28-133(3)(d): (1) Historic use and estimated yield of claimed water rights; (2) Amenability of existing rights to a change of use; (3) Evidence that private water owners can and will supply water to the proposed Subdivision stating the amount of water available for use within the Subdivision and the feasibility of extending service to that area; and (4) Evidence concerning the potability of the proposed water supply for the Subdivision.

Nutrient Farms (NF) presents an Eco-Tourism vision that originally garnered enthusiastic support from our community, but in effect would damage Canyon Creek in perpetuity if allowed access to 8.7 cfs as requested through the PUD Water Analysis Report. **The Vulcan Ditch has not used 8.7 cfs from the head gate for over two decades, if ever. Access to the head-gate would add a NEW pull from the creek that would irreparably harm the eco system, and we strongly request a permanent agreement to access any Vulcan Ditch water rights from a point of diversion located at the confluence of the Colorado River or beyond.** Our greatest concern is that NF will begin construction on the original Vulcan Ditch Head-gate prior to PUD Approval and will "Fly Under the Radar" of our community concerns. This action could be irreversible and could damage the watershed before community comments and alternate options have been explored.

Most importantly, we are concerned about the fragile ecosystem that is present in Canyon Creek. We are not alone in paying attention to the protection of this area. The Vulcan Ditch has never been a reliable or viable ditch structure. It leaked and damaged property for decades until the point of diversion was changed to the Colorado River in approximately 1999. Even then, we have no verification that the Vulcan Ditch water rights from Canyon Creek were used at a rate of 8.7 cfs on the current Nutrient Farm location. The old Vulcan Ditch location on the upper west side of Canyon Creek, above the road, is through rugged and highly sloped burn scar and dirt flow area. This was the original reason for the diversion, however, since the change in diversion point, the historic siphon and piping has deteriorated even further, and has not been in use or repaired for over two decades. In addition, the canyon is home to numerous wild species and the disruption of this area has been intentionally minimized by the connecting conservation easements secured by Aspen Valley Land Trust; and their investment is also continually monitored. As true stewards of the land, we recognize

that access to the head-gate, and the disruption of the original ditch line is incredibly difficult and destructive. Just accessing the head-gate with large machinery would require irreversible damage to the ecosystem. The US Forest Service participates in studies along the creek, with a *Forest Inventory Analysis* completed just one year ago. At the very least, further Environmental Impact Studies would be necessary to even discuss access to the ditch with machinery and increased piping. These very fragile plants, animals, birds, reptiles and fish would not survive a disruption of this magnitude. This ditch was diverted for numerous reasons, and to simply begin construction without further discussion, studies and review is not an option.

In addition, the following concerns are viable enough to at least delay the development of the Vulcan Ditch Head-gate and allow for further analysis prior to construction. Although we are currently a community based committee, we are pursuing further legal support if there is indication that the Vulcan Ditch Head-gate would be used for access to water. Historic documents exist to support the change in diversion point and were filed by Balcomb and Green, and recorded at the State.

1- Consumptive Use Analysis of the Vulcan Water from either the head-gate or the Coal Ridge Pump and Pipeline access from the Colorado River has not equalled 8.7 of historical usage for the last 10+ years. We wonder why Second/Junior water rights were not declared "Abandoned" by the state. Although Senior Water Rights / Pre 1922 are protected, full Vulcan Ditch water rights have not been used on the Nutrient Farm property in the required last 10+ years. If maintaining these rights was determined to result in better water management for our region, we would be interested in the documentation. However, accessing those rights from the original Head-gate would not be supported as the additional water usage would stress the creek beyond historical use.

2- The State Water Rights Mapping is incorrect from our perspective. For example, the Vulcan Ditch, Mings Chenoweth and Johnson Wolverton Ditch are incorrectly mapped on the current website. Nutrient Farms indicates that "Competing Diversions" would not be affected by opening the Vulcan Ditch. There is no accurate data to support this claim, especially with inaccurate mapping and a lack of historical records at the state level. Historic water levels as determined by the efforts of Trout Unlimited to protect fish passage, indicate that there would not be sufficient water in the creek to support the spawning fish populations, let alone competing water rights from the Cameo / Colorado River calls and Johnson Wolverton senior water rights- especially during increasing drought years.

State Water Rights Map- INCORRECT MAPPING

3- The original Vulcan Ditch was diverted due to a lawsuit following massive damage to personal property. The ditch has been further damaged due to fire scars and the hillside is vulnerable and inaccessible for recovery. In addition, we believe that the historic ditch siphon ran under I-70 and is now within CDOT regulated access that rejects personal easements. The suggested permanent diversion to the Colorado River allows for

CDOT, the Railroad and The Army Corps of Engineers to avoid personal damage to infrastructure that can be preserved through access at the confluence. (This solution seems much more financially viable for NF as well.) C-DOT maintains two accessible culverts beneath the highway at the confluence. The Railroad also maintains an over pass to allow Canyon Creek to flow beneath existing tracks. These simple structures already provide access to the Colorado at the confluence that would be far easier to access with less damage to the creek than the current engineered request to use the old Vulcan Ditch. In fact, this location could be used to build a pump house with bathrooms and a small Confluence Park for assistance when South Canyon is closed due to accidents.

Garco Ownership Map From Balcomb Property - Major Ditch damage - No Access From Vulcan Ditch to Nutrient Farm Property for Over 10 years.

4- We disagree that the proposed water usage for Nutrient Farms from the Vulcan Ditch during rapidly changing climate and water legislation is adequate for the requested application. 4.2.1 Vulcan Ditch Physical Water Supply document indicates that there is no accurate gage to determine water flow. However, both USGS and Trout Unlimited have provided analysis that disputes the amount of water available in the creek at especially vulnerable times for trout spawning. In fact, during spawn season, it is prohibited to fish at the confluence due to fish passage protection. Accessing this waterway would certainly disrupt the fish protection that exists right up from the mouth of the Canyon Creek watershed. Trout Unlimited can provide historic data that contradicts the amount of water NF claims is available in the creek especially during drought years. Reports indicate ten year low flows that could drop to less than 3 cfs; - clearly a number unable to support a request for 8.7 cfs. On an even more alarming level, NF also claims access to Year Round Rights. These rights, including State website listed "Trans Basin" rights are disputable, and during increasing drought, place the watershed and all of its inhabitants at great risk for fire, and is unconscionable; especially as we read of intended use including swimming pools and water parks. Historic Consumptive Use Analysis indicates a very very limited use of Vulcan Ditch Water for the last decades, and again, this NEW access would cause great harm to the water shed. All of these discussions and requests in this document could result in contracted agreements to protect our fragile watershed, and options for permanent and alternate points of diversion could be agreed upon.

Nutrient Farm PUD App Current

5- Suggestions- Water piping and quality reports are also insufficient. Piping costs using gravity from the historic head-gate have not been adequately compared through cost analysis to the option of providing a pump house fueled by solar or perhaps even hydro-electricity. Again, a cooperative agreement between CDOT, CPW, the Railroad, LOVA and other entities could offer a combined pump house that could also provide bathrooms for stranded motorists during South Canyon closures. Using proposed technology for transporting water and for purifying could work as an educational model as we seek to protect our clean and clear Colorado River Basin Tributaries. Minimally,

using Rifle water quality reports for the Colorado at Canyon Creek is another inaccuracy at best. This pristine water shed must be protected as a Garfield County Treasure. (See Silt, CO water treatment issues, upstream of Rifle). These alternatives to using the head-gate should be provided by SGM and other interested parties prior to beginning any construction on the historic Vulcan Ditch.

Nutrient Farms Adequacy Report

6- Our Western Slope Water and pristine tributaries are being purchased at alarming rates. These "Water Grabs" position those of us who wish to protect the eco-system against developers and investors with deep pockets. We are researching In Stream Programs, Fire Safety options, Riparian and Fish Protections as we seek to maintain the wild wellbeing of our few remaining tributaries from Headwaters to Confluence. We hope to at least encourage or require better communication and opportunity for compromise than we have received thus far. Following numerous requests for meetings, we hear very little from NF except that they plan to begin work in the spring of 2024 and have all rights to do so. We disagree, and would appreciate opportunities to support NF's vision IF it included protection of the Creek. Then, we could perhaps get behind a true "Eco-Farm" proposal.

Trout Unlimited has secured significant funding as they work to maintain fish passage in Canyon Creek, and a personal "sweep" to build a proposed "Eco- Farm" is incongruent. In fact, as the owners researched options for the proposed development, they seemed to look for ways to JUSTIFY using scarce water rather than ways to conserve our precious resources, which is also in direct conflict with County Code 4-203M. Over the years, misused and wasted water rights have pushed our natural resources to the brink, and we must recognize a new way of conserving and protecting. The laws will change, and in the meantime, as we work to collaborate for sustainability, we ask that we slow the process while we review and discuss additional options for access to accurate Vulcan Ditch water rights.

As we know, "Unintended Consequences" can cause dire and irreversible damage. Please help us to buy some time, build some relationships, and agree to a vision that will protect the creek from Headwaters to Confluence in perpetuity. Our greatest hope would be that NF uses its vast resources to protect our water shed by accessing it from the confluence of the creek or from the Colorado River diversion point. This simple solution could save the creek and maintain its flow to the Colorado. As further development threatens our waterways, we must use every option within our power to avoid catastrophic destruction of our fragile eco-systems. If Nutrient Farms builds an Eco-Tourism community vision, while accessing water from the confluence or west, we will be the first to ride our bikes over the LOVA bridge and to the restaurant. We hope they will chose to be heroes in our fight to protect our beautiful water sheds.

Gratefully, and Respectfully Submitted,
Sonja Linman and The Friends of Canyon Creek Wellness Committee

From: Sonja Linman <7thelder@gmail.com>
Sent: Friday, October 25, 2024 3:45 PM
To: Glenn Hartmann
Subject: Submission Regarding Nutrient Farms PUD Hearing, November 13, 2024

You don't often get email from 7thelder@gmail.com. [Learn why this is important](#)

Hello Mr Hartmann,

Thank you for your work in reviewing the Nutrient Farm PUD and for accepting the concerns of the community regarding its massive and incomplete proposal.

We are a large group of stakeholders who continue to build a community swell of concern regarding Nutrient Farms and their effort to expand their options for development. Their public documents are clearly inconsistent with local community planning and values, and the developers have not been available nor supportive of community input regarding our numerous concerns. The controlled communication style eliminates potential for building relationships as we seek to understand the intention and specifics of the PUD.

Although the public PUD review process will now give neighbors the visibility to request clarity regarding the many proposed possibilities for development, our most urgent concern is in regards to the immediate threat to the Canyon Creek Watershed and the affiliated Water Adequacy Report, that as far as we can see, has not been updated since 2020.

Clearly, Nutrient Farms *already has alternate points of diversion from the Colorado River*, and with a PUD overview that includes RV parking, an event center to hold 350 people, on-site processing of livestock and other agricultural production, on-site employee housing, large electric power generation facilities, guest lodging facilities, outdoor music and entertainment festival grounds, mining and energy development, a public gathering events center, a recording studio, wineries, breweries, distilleries and, unbelievably, a Motor Sports Center (Off Highway Vehicle), it is difficult to trust that the proposal is focused on the sustainability of the environment, the elevation of organic or biodynamic farming, and the need for "pure water" from the Canyon Creek watershed.

In fact, NF has not demonstrated historic use of the water rights they do have. The historic consumptive use and access to the North Vulcan Ditch structure is in question, and the old and leaky ditch has not carried ANY water to the south side of the Colorado for decades- (and, it has never moved anything near 9 cfs.) Diversion records for District 39 do not reflect the transport of water from the Vulcan Headgate to the South Side of the River nor do they reflect District 45 Consumptive Use Records that delineate the River Bend Wells from the 1-2 CFS Pumps that occasionally provided water following the 1999 ditch "blowout" on both the North and South Side Ditch Structures.

We have filed opposition in water court and recognize that discussing issues concerning the consumptive historic use of almost 440 acre feet of water from a tributary of the Colorado River is a complicated and complex discussion to have. This NEW draw and proposed pipe on the North Side of the River would damage protected AVLT Conservation Easements, increase fire risk, destabilize a burn-scarred hillside, increase mud and rock fall on a vulnerable county road and decrease the safety and security of residents on the creek and surrounding areas.

Further, Nutrient Farms already has alternative access to the Colorado River and is positioned to develop and utilize filtration systems that many many organic farmers downstream on the Colorado River use daily. We hope the County will provide a water adequacy report, as was completed for the recent Spring Valley water review. The plan for CDOT and the Railway to allow private boring beneath their structures during a time when accidents in South Canyon and affiliated traffic issues would add to congestion seems irrational; especially since alternate points of diversion are already available. We also understand the concerns the current BOCC will have regarding fire mitigation in Canyon Creek following our tragic history and continuing wildfire challenges. These, and many more challenges are listed in the letters you will receive prior to the hearing, and we hope the P&Z folks as well as the BOCC will recognize the critical need to table this request and eventually require through terms and conditions, a permanent point of diversion from the Colorado River for any new uses from the Historic North Vulcan ditch structure. We believe there are many qualified and interested stakeholders who will help evaluate the future plans for the Nutrient Farm location through the development process, and once we are sure that Canyon Creek is no longer threatened, we can concentrate on working together to build a beautiful vision for that neighborhood.

We have secured legal representation, met with numerous stakeholders and continue to fight for the protection of our precious and fragile Canyon Creek watershed. We will be submitting letters and additional resources for the November 13 Planning Commission Hearing that will include environmental concerns, questions regarding fire mitigation and protection for all of us who rely on a healthy creek basin. Although this protection is centered on the environmental and historic wellbeing of the creek, we also recognize the inseparable connection of the PUD review process, and look forward to hearing additional community input into the larger expectations to align with community values and plans for the future of the neighborhood.

Thank you for being available for further submissions. We are organized and hopeful for a positive outcome.

Respectfully,
Sonja and The Friends of Canyon Creek

From: [Glenn Hartmann](#)
To: [John Leybourne](#)
Cc: [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Tuesday, October 22, 2024 10:32:23 AM

From: noreply@formstack.com <noreply@formstack.com>
Sent: Tuesday, October 22, 2024 7:47 AM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Opposition to Nutrient Holdings PUD application

Name: Darcy Gaechter

Email: darcygaechter@gmail.com

Phone Number: 9709871104

Message: Dear {name of county planner or commissioner}

I'm writing to express my opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on November 13th, 2024. From a community perspective, NF's project has several issues that I feel will cause direct harm to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

My opposition stems from these points of concern:

1. As an indispensable component of their development, NF hopes to take 8.93 cfs (cubic feet per second) out of Canyon Creek via the Vulcan Ditch which has never been used in that capacity.
2. If the creek is diminished by 8.93 cfs it will cause severe damage to the watershed. It would have catastrophic impacts on the wildlife in Canyon Creek (including the bear, elk, mountain lions, bobcats, deer, fish populations, and so much more). It would irreparably harm the creek and riparian ecosystems. People who live in Canyon Creek would lose their effective fire mitigation and drought mitigation. Not to mention the negative impact it would have on property values. We will also face issues with impacts to the water table and peoples' home wells (most of which are

near the creek). Our insurance costs could go up, and every single person living on and relying on water from Canyon Creek will be negatively impacted. It could also impact other peoples' water rights—it may mean that the Mings Chenoweth and Johnson Wolverton ditches will no longer have adequate water for their needs since they are downstream of NF's proposed diversion point.

3. I believe that for many months of the year, Canyon Creek does not have 8.93 cfs in the creek. SGM Engineering, employed by NF, did a water adequacy report in 2020 when the USGS Canyon Creek gauge was not up and running (when there was insufficient data), and I believe the water adequacy report is flawed.

4. The location of the Vulcan Ditch headgate and the "alternate points of diversion" are currently in the que to be debated in water court. These problems should be settled in water court before the county approves a project reliant on taking water from Canyon Creek. In addition to this, there are serious questions about the data on the Department of Water Resources, Division 5 office's website. Much of the data on the website contradicts itself and is not up to date.

5. I feel that Nutrient Farms has not been transparent in explaining their development to us. The project was pitched to Canyon Creek neighbors as a sustainable organic and biodynamic farm, but in this PUD application we are reading about concert venues, a motorsports center, water park, a facility for "brewing, packing, and distribution of beverages," and so much more that goes far beyond the scope of an organic farm and would have negative impacts on the area in terms of increased noise, increased traffic, and negative land impacts.

6. SGM—Nutrient Farms' engineering firm—has sent out new easement agreements to all the property owners who have the Vulcan Ditch running through their land. These new easement agreements change and enlarge the prescriptive easement. We believe this prescriptive easement has been abandoned; and I suspect that SGM believes this as well which is why they are trying to get us to sign new easement agreements. For those of us who have conservation easements with the Aspen Valley Land Trust, these new agreements would be in violation of our conservation easements with AVL T.

NF is currently taking their water out of an alternate diversion point on the Colorado River. If you do decide to approve this application, I hope you will mandate that NF must continue taking their water from the Colorado River rather than going forward with their plans to take the water out of Canyon Creek which will undoubtedly cause permanent damage to the Canyon Creek watershed and ecosystem.

Thank you for your consideration,

Darcy Gaechter, Canyon Creek neighbor.

From: [Glenn Hartmann](#)
To: [John Leybourne](#)
Cc: [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Tuesday, October 22, 2024 10:33:06 AM

From: noreply@formstack.com <noreply@formstack.com>
Sent: Tuesday, October 22, 2024 8:41 AM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Nutrient Farms PUD

Name: Terrell Tankersley

Email: terrell.tankersley@gmail.com

Phone Number: 9709871191

Message:

Dear Community Development Director,

I'm writing to express my strong opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on November 13th, 2024. From a community perspective, NF's project has several issues that I feel will cause direct harm to Garfield County and to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

My opposition stems from these points of concern:

1. As a component of their development, NF hopes to take 8.93 cubic feet per second, (cfs) out of Canyon Creek via the Vulcan Ditch. Vulcan Ditch has never diverted that much water, and certainly not to location being considered. For decades, the historic Vulcan Ditch headgate and pipe has only provided historic use of 0.13 cfs through a 3-inch pipe to the Temple's property. The ditch has not been used since the 90's. More importantly, it was never used in the capacity that NF is planning.
2. For many months of the year, there is not likely 8.93 cfs of water in Canyon Creek. SGM Engineering, employed by NF, did a water adequacy report in 2020, at a time

when the USGS Canyon Creek water gauge was not up and running, and I believe the water adequacy report is flawed. Currently, the USGS Canyon Creek gauge is reading the “gage height, feet.” The gauge is not calibrated to provide a reading of capacity (cfs) and hasn’t been since it came back online in April of 2022. This means that there is no daily cfs reading. Because of this, no one really knows how much water is in the creek. A project of this magnitude should not go forward based on a speculative water adequacy report.

3. If the creek is diminished by 8.93 cfs it will cause severe damage to the watershed. It could cause catastrophic impacts on the wildlife in Canyon Creek. It could irreparably harm the creek and riparian ecosystems. Trout use Canyon Creek for spawning from the Colorado River, and without sufficient flow, that spawning will not occur. That could have significant impact on the trout population on the Colorado River as well as Canyon Creek. Trout Unlimited recognizes the significance of Canyon Creek, and has recently made improvements to the creek to improve access for trout. Those improvements would become a wasted resource without sufficient water. Wildfire mitigation and property values would be impacted. We will also face issues with impacts to the water table and wells supplying water to homes in the area. Our insurance costs could go up. It could also impact other water rights, for example, the Williams Canal and the legitimate agricultural interests supported by that ditch.

4. The location of the Vulcan Ditch headgate and the “alternate points of diversion” are currently in the que to be debated in water court. These problems should be settled in water court before the county approves a project reliant on taking water from Canyon Creek.

5. NF has not been transparent about their plans. The project was pitched to Canyon Creek neighbors as a sustainable organic and biodynamic farm, but in this PUD application we are reading about concert venues, a motorsports center, water park, a facility for “brewing, packing, and distribution of beverages,” and so much more that goes far beyond the scope of an organic farm and would have negative impacts on the area in terms of increased noise, increased traffic, and negative land impacts.

In summary, NF’s proposed piping of Canyon Creek water would harm us by diminishing water in the creek, harming wildlife and trout populations, impacting fire mitigation. Taking that amount of water out of the creek could cause homeowners wells to run dry, impact our property values, and our insurance costs.

I am not opposed to a well-managed organic farm development which limits the impact on surrounding residents. Currently NF is taking their water out of an alternate diversion point on the Colorado River. Taking their water from the Colorado makes perfect sense – it would preclude the need for the water to be piped through properties in Canyon Creek, as well as preventing the need to move the water across County Road 137, State Highway 6, US I-70, the railroad, and the Colorado River.

I encourage the county planners to either reject the Nutrient Farms PUD in its current form, or to require that conditional approval of their future project be based on the

non-destructive, simple option of taking the water from the Colorado River, as they are currently doing.

Thank you for your consideration,

Terrell Tankersley
Canyon Creek property owner

From: noreply@formstack.com
Sent: Friday, January 10, 2025 8:44 AM
To: Glenn Hartmann; Brooke Winschell
Subject: Garfield County website inquiry - Community Development



Subject: Nutrient Farms development

Name: Terrell Tankersley

Email: terrell.tankersley@gmail.com

Phone Number: 9709871191

Message: Dear Mr. Hartman,

I'm writing to express my strong opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on January 29. From a community perspective, NF's project has several issues that I feel will cause direct harm to Garfield County and to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

My opposition stems from these points of concern:

1. As a component of their development, NF hopes to take 8.93 cubic feet per second, (cfs) out of Canyon Creek via the Vulcan Ditch. Vulcan Ditch has never diverted that much water, and certainly not to location being considered. For decades, the historic Vulcan Ditch headgate and pipe has only provided historic use of 0.13 cfs through a 3-inch pipe to the Temple's property. The ditch has not been used since the 90's. More importantly, it was never used in the capacity that NF is planning.
2. For many months of the year, there is not likely 8.93 cfs of water in Canyon Creek. SGM Engineering, employed by NF, did a water adequacy report in 2020, at a time when the USGS Canyon Creek water gauge was not up and running, and I believe the water adequacy report is flawed. Currently, the USGS Canyon Creek gauge is reading the "gage height, feet." The gauge is not calibrated to provide a reading of capacity (cfs) and hasn't been since it came back online in April of 2022. This means that there is no daily cfs reading. Because of this, no one really knows how much water is in the creek. A project of this magnitude should not go forward based on a speculative water adequacy report.
3. If the creek is diminished by 8.93 cfs it will cause severe damage to the watershed. It could cause catastrophic impacts on the wildlife in Canyon Creek. It could irreparably harm the creek and riparian ecosystems. Trout use Canyon Creek for spawning from the Colorado River, and without sufficient flow, that spawning will not occur. That could have significant impact on the trout population on the Colorado River as well as Canyon Creek. Trout Unlimited recognizes the significance of Canyon Creek, and has recently made improvements to the creek to improve access for trout. Those

improvements would become a wasted resource without sufficient water. Wildfire mitigation and property values would be impacted. We will also face issues with impacts to the water table and wells supplying water to homes in the area. Our insurance costs could go up. It could also impact other water rights, for example, the Williams Canal and the legitimate agricultural interests supported by that ditch.

4. The location of the Vulcan Ditch headgate and the "alternate points of diversion" are currently in the que to be debated in water court. These problems should be settled in water court before the county approves a project reliant on taking water from Canyon Creek.

5. NF has not been transparent about their plans. The project was pitched to Canyon Creek neighbors as a sustainable organic and biodynamic farm, but in this PUD application we are reading about concert venues, a motorsports center, water park, a facility for "brewing, packing, and distribution of beverages," and so much more that goes far beyond the scope of an organic farm and would have negative impacts on the area in terms of increased noise, increased traffic, and negative land impacts.

In summary, NF's proposed piping of Canyon Creek water would harm us by diminishing water in the creek, harming wildlife and trout populations, impacting fire mitigation. Taking that amount of water out of the creek could cause homeowners wells to run dry, impact our property values, and our insurance costs.

I am not opposed to a well-managed organic farm development which limits the impact on surrounding residents. Currently NF is taking their water out of an alternate diversion point on the Colorado River. Taking their water from the Colorado makes perfect sense – it would preclude the need for the water to be piped through properties in Canyon Creek, as well as preventing the need to move the water across County Road 137, State Highway 6, US I-70, the railroad, and the Colorado River.

I encourage the county planners to either reject the Nutrient Farms PUD in its current form, or to require that conditional approval of their future project be based on the non-destructive, simple option of taking the water from the Colorado River, as they are currently doing.

Thank you for your consideration,

Terrell Tankersley
Canyon Creek property owner

From: [Glenn Hartmann](#)
To: [John Leybourne](#)
Cc: [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Tuesday, October 22, 2024 10:33:30 AM

From: noreply@formstack.com <noreply@formstack.com>
Sent: Tuesday, October 22, 2024 8:43 AM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Nutrient Farms PUD

Name: Patricia Tankersley

Email: patricia.s.tankersley@gmail.com

Phone Number: (970) 987-7880

Message:

Dear Community Development Director,

I'm writing to express my strong opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on November 13th, 2024. From a community perspective, NF's project has several issues that I feel will cause direct harm to Garfield County and to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

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non-destructive, simple option of taking the water from the Colorado River, as they are currently doing.

Thank you for your consideration,

Patricia Tankersley
Canyon Creek property owner

From: noreply@formstack.com
Sent: Friday, January 10, 2025 8:46 AM
To: Glenn Hartmann; Brooke Winschell
Subject: Garfield County website inquiry - Community Development



Subject: Nutrient Farms development

Name: Patricia Tankersley

Email: patricia.s.tankersley@gmail.com

Phone Number: (970) 987-1191

Message: Dear Mr. Hartman,

I'm writing to express my strong opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on January 29. From a community perspective, NF's project has several issues that I feel will cause direct harm to Garfield County and to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

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improvements would become a wasted resource without sufficient water. Wildfire mitigation and property values would be impacted. We will also face issues with impacts to the water table and wells supplying water to homes in the area. Our insurance costs could go up. It could also impact other water rights, for example, the Williams Canal and the legitimate agricultural interests supported by that ditch.

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I encourage the county planners to either reject the Nutrient Farms PUD in its current form, or to require that conditional approval of their future project be based on the non-destructive, simple option of taking the water from the Colorado River, as they are currently doing.

Thank you for your consideration,

Patricia Tankersley
Canyon Creek property owner

From: [John Leybourne](#)
To: [Glenn Hartmann](#); [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Tuesday, October 22, 2024 4:19:28 PM
Attachments: [image001.png](#)

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Brooke Winschell <bwinschell@garfield-county.com>
Sent: Tuesday, October 22, 2024 4:19 PM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: FW: Garfield County website inquiry - Community Development

Here is another one.

Thanks,

Brooke A. Winschell



Community Development Administrative Specialist
Community Development Department
bwinschell@garfield-county.com
Direct 970-945-1377 Ext. 4212
T: 970-945-8212 | F: 970-384-3470
108 8th St, Suite 401 | Glenwood Springs, CO 81601

From: noreply@formstack.com <noreply@formstack.com>
Sent: Tuesday, October 22, 2024 4:18 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Canyon Creek vs Andy Bruno

Name: Cindy Stillman

Email: clstilly@gmail.com

Phone Number: (970) 379-4026

Message: Dear Mr Hartman,

I am writing to express my strong opposition to the water extraction plans proposed by Andy Bruno and Nutra Farms in the Canyon Creek area. As a resident since 1990, I have witnessed the beauty and ecological significance of this historic creek and the surrounding watershed.

It has come to my attention that Mr. Bruno intends to extract a substantial amount of water from the creek, despite the potential negative impact on our local environment, wildlife, and community. The existing natural watershed supports various fish species and other wildlife that depend on the creek for their survival. This extraction threatens their habitat and disrupts the delicate balance of our ecosystem.

I understand that Mr. Bruno holds water rights that had been abandoned for several years. However, I question the rationale behind his choice to draw water from the creek when he has access to other water sources directly in front of his property. It appears to be an unnecessary and reckless decision that prioritizes personal gain over community well-being.

Our community, including my neighbor Sonja Linman, has actively engaged in efforts to protect this watershed. We believe it is imperative to consider the long-term consequences of these actions, not just for our local wildlife but for the residents who cherish this area.

I urge the commission to take a stand on this issue and protect the natural resources that define our community. We need solutions that consider the needs of both the environment and the people who live here.

Thank you for your attention to this matter. I hope you will advocate for our community and the integrity of our cherished watershed.

Sincerely,

Cindy Stillman
970 379-4026

From: [John Leybourne](#)
To: [Glenn Hartmann](#); [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Wednesday, October 23, 2024 9:24:26 AM
Attachments: [image001.png](#)

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Brooke Winschell <bwinschell@garfield-county.com>
Sent: Wednesday, October 23, 2024 9:23 AM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: FW: Garfield County website inquiry - Community Development

Thanks,

Brooke A. Winschell



Community Development Administrative Specialist
Community Development Department
bwinschell@garfield-county.com
Direct 970-945-1377 Ext. 4212
T: 970-945-8212 | F: 970-384-3470
108 8th St, Suite 401 | Glenwood Springs, CO 81601

From: noreply@formstack.com <noreply@formstack.com>
Sent: Tuesday, October 22, 2024 5:07 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Concerns about Nutrient Holdings' PUD application

Name: Ann Gaechter

Email: anngaechter@hotmail.com

Phone Number: 9709280600

Message: Dear Community Development Director,

I'm writing to express my opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on November 13th, 2024. From a community perspective, NF's project has several issues that I feel will cause direct harm to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

My opposition stems from these points of concern:

1. As an indispensable component of their development, NF hopes to take 8.93 cfs (cubic feet per second) out of Canyon Creek via the Vulcan Ditch which has never been used in that capacity.
2. If the creek is diminished by 8.93 cfs it will cause severe damage to the watershed. It would have catastrophic impacts on the wildlife in Canyon Creek (including the bear, elk, mountain lions, bobcats, deer, fish populations, and so much more). It would irreparably harm the creek and riparian ecosystems. People who live in Canyon Creek would lose their effective fire mitigation and drought mitigation. Not to mention the negative impact it would have on property values. We will also face issues with impacts to the water table and peoples' home wells (most of which are near the creek). Our insurance costs could go up, and every single person living on and relying on water from Canyon Creek will be negatively impacted. It could also impact other peoples' water rights—it may mean that the Mings Chenoweth and Johnson Wolverton ditches will no longer have adequate water for their needs since they are downstream of NF's proposed diversion point.
3. I believe that for many months of the year, Canyon Creek does not have 8.93 cfs in the creek. SGM Engineering, employed by NF, did a water adequacy report in 2020 when the USGS Canyon Creek gauge was not up and running (when there was insufficient data), and I believe the water adequacy report is flawed.
4. The location of the Vulcan Ditch headgate and the "alternate points of diversion" are currently in the queue to be debated in water court. These problems should be settled in water court before the county approves a project reliant on taking water from Canyon Creek. In addition to this, there are serious questions about the data on the Department of Water Resources, Division 5 office's website. Much of the data on the website contradicts itself and is not up to date.

5. I feel that Nutrient Farms has not been transparent in explaining their development to us. The project was pitched to Canyon Creek neighbors as a sustainable organic and biodynamic farm, but in this PUD application we are reading about concert venues, a motorsports center, water park, a facility for “brewing, packing, and distribution of beverages,” and so much more that goes far beyond the scope of an organic farm and would have negative impacts on the area in terms of increased noise, increased traffic, and negative land impacts.

6. SGM—Nutrient Farms’ engineering firm—has sent out new easement agreements to all the property owners who have the Vulcan Ditch running through their land. These new easement agreements change and enlarge the prescriptive easement. We believe this prescriptive easement has been abandoned; and I suspect that SGM believes this as well which is why they are trying to get us to sign new easement agreements. For those of us who have conservation easements with the Aspen Valley Land Trust, these new agreements would be in violation of our conservation easements with AVL T.

NF is currently taking their water out of an alternate diversion point on the Colorado River. If you do decide to approve this application, I hope you will mandate that NF must continue taking their water from the Colorado River rather than going forward with their plans to take the water out of Canyon Creek which will undoubtedly cause permanent damage to the Canyon Creek watershed and ecosystem.

Thank you for your consideration,

Ann Gaechter, Canyon Creek neighbor.

From: [John Leybourne](#)
To: [Glenn Hartmann](#); [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Wednesday, October 23, 2024 9:24:39 AM
Attachments: [image001.png](#)

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Brooke Winschell <bwinschell@garfield-county.com>
Sent: Wednesday, October 23, 2024 9:23 AM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: FW: Garfield County website inquiry - Community Development

Thanks,

Brooke A. Winschell



Community Development Administrative Specialist
Community Development Department
bwinschell@garfield-county.com
Direct 970-945-1377 Ext. 4212
T: 970-945-8212 | F: 970-384-3470
108 8th St, Suite 401 | Glenwood Springs, CO 81601

From: noreply@formstack.com <noreply@formstack.com>
Sent: Wednesday, October 23, 2024 8:47 AM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: I oppose the Nutrient Holdings PUD application

Name: Don Beveridge

Email: donbytheriver@gmail.com

Phone Number: (970) 948-2918

Message: Hi Community Development Director

I'm writing to express my opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on November 13th, 2024. From a community perspective, NF's project has several issues that I feel will cause direct harm to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

My opposition stems from these points of concern:

1. As an indispensable component of their development, NF hopes to take 8.93 cfs (cubic feet per second) out of Canyon Creek via the Vulcan Ditch which has never been used in that capacity.
2. If the creek is diminished by 8.93 cfs it will cause severe damage to the watershed. It would have catastrophic impacts on the wildlife in Canyon Creek (including the bear, elk, mountain lions, bobcats, deer, fish populations, and so much more). It would irreparably harm the creek and riparian ecosystems. People who live in Canyon Creek would lose their effective fire mitigation and drought mitigation. Not to mention the negative impact it would have on property values. We will also face issues with impacts to the water table and peoples' home wells (most of which are near the creek). Our insurance costs could go up, and every single person living on and relying on water from Canyon Creek will be negatively impacted. It could also impact other peoples' water rights—it may mean that the Mings Chenoweth and Johnson Wolverton ditches will no longer have adequate water for their needs since they are downstream of NF's proposed diversion point.
3. I believe that for many months of the year, Canyon Creek does not have 8.93 cfs in the creek. SGM Engineering, employed by NF, did a water adequacy report in 2020 when the USGS Canyon Creek gauge was not up and running (when there was insufficient data), and I believe the water adequacy report is flawed.
4. The location of the Vulcan Ditch headgate and the "alternate points of diversion" are currently in the que to be debated in water court. These problems should be settled in water court before the county approves a project reliant on taking water from Canyon Creek. In addition to this, there are serious questions about the data on the Department of Water Resources, Division 5 office's website. Much of the data on the website contradicts itself and is not up to date.

5. I feel that Nutrient Farms has not been transparent in explaining their development to us. The project was pitched to Canyon Creek neighbors as a sustainable organic and biodynamic farm, but in this PUD application we are reading about concert venues, a motorsports center, water park, a facility for “brewing, packing, and distribution of beverages,” and so much more that goes far beyond the scope of an organic farm and would have negative impacts on the area in terms of increased noise, increased traffic, and negative land impacts.

6. SGM—Nutrient Farms’ engineering firm—has sent out new easement agreements to all the property owners who have the Vulcan Ditch running through their land. These new easement agreements change and enlarge the prescriptive easement. We believe this prescriptive easement has been abandoned; and I suspect that SGM believes this as well which is why they are trying to get us to sign new easement agreements. For those of us who have conservation easements with the Aspen Valley Land Trust, these new agreements would be in violation of our conservation easements with AVL T.

NF is currently taking their water out of an alternate diversion point on the Colorado River. If you do decide to approve this application, I hope you will mandate that NF must continue taking their water from the Colorado River rather than going forward with their plans to take the water out of Canyon Creek which will undoubtedly cause permanent damage to the Canyon Creek watershed and ecosystem.

Thank you for your consideration,

Don Beveridge, Canyon Creek

From: c.turtle@icloud.com
Sent: Saturday, October 26, 2024 8:53 AM
To: John Martin; Tom Jankovsky; Mike Samson; Glenn Hartmann
Subject: Nutrient Farm PUD Application

You don't often get email from c.turtle@icloud.com. [Learn why this is important](#)

Dear Commissioners Martin, Jankovsky, Samson and Director Hartmann,

We moved to our house in Canyon Creek 32 years ago, in 1992. We knew nothing of irrigation ditches at the time, though the Mings Chenoweth flowed through our property. Back then, many neighbors walked on the road and we all knew each other. A frequent topic of concern was the Vulcan Ditch, which was across the road and above us. Frequently, I'd meet Liz and Michelle on the road while walking past their house and I can remember the joy we all shared when that ditch was finally abandoned and Mr. Porter turned it off for good. Our good neighbor Rue Balcomb had serious damage caused on her property, but that is her story to tell. There are others. All were relieved that finally, the leaky and unmaintained Vulcan Ditch was closed and we would not have to live in fear about damage to our properties because of it. Over the years, we relied on the abandonment and believed it to be a 'done deal.'

Andy Bruno entered the picture in June of 2018 with a warm letter of introduction stating that his intention was to reopen the abandoned ditch and that he and his family intended to be good neighbors. The letter is attached. A few years later, I ran into him and SGM one cold morning while they were on the Vulcan Ditch and asked him who he was. He said he owned the rights to the water on the Vulcan and that he was going to reopen the ditch. I said something like he couldn't do that because it was abandoned. He assured me gruffly that he had THE BEST attorneys and that he, in fact, could. The alarm went out.

Fast forward to today. The project Mr. Bruno described to us in his 2018 letter has grown into an Agri-tourism city and he wants Canyon Creek water even though he has another source. In spite of a 10' AVLT Conservation Easement, he is pressuring neighbors to give him a 50' easement. He is proceeding in spite of the realistic concerns of neighbors whose fears have not been considered or resolved, and in spite of him originally saying he wanted to be a good neighbor. A good neighbor does not come in and up-end a whole community and put an eons-old riparian eco-system at risk by taking water that will lessen the vitality of the creek by putting the wildlife at risk that lives there. He has walked a pristine part of the ditch with neighbors so they could share and he could understand what is at risk, and still he proceeds. There are Bald Eagles and Golden Eagles, Blue Herons, several varieties of

trout, bears, mountain lions, bobcats, ermine, pine martins, deer and elk, and coyotes, to name just a few. We all have pictures of them. They are a part of our lives.

We have lived through a fire when we were evacuated for 5 days. Grateful doesn't describe the relief we felt when the firefighters saved our canyon and we could go home. Then came the horrific mudslide. We survived that. However, I don't think the canyon can survive a straight out *water grab* from an outsider who does not appreciate or understand these things like we do, like you, the Commissioners and Director do. Nutrient Farm already has all the water they need without putting a whole community at risk. A diversion point from the Colorado River was in place *when he bought the property*, along with an abandoned ditch. A small dose of good old common sense will reveal that Mr. Bruno can have his development (ironically one with an ecological theme!) without taking any water from Canyon Creek. Why would he even want to do that knowing what is at risk? And while there are many things of value his development will add to the surrounding community, he can do all of that without putting Canyon Creek at risk!

It would seem to me that one of the most important responsibilities of Planners and County Commissioners is to protect those who are not able to protect themselves. I believe the Canyon Creek Riparian Eco-system falls squarely into this category. Without water and the AWE of nature and wildlife, what do we have, really? Isn't that why we all live here? You have an opportunity to save the Canyon Creek Riparian Ecosystem-system. Let him have his development, just not the water from Canyon Creek. Please protect Canyon Creek.

Thank you.

Carol Turtle

From: noreply@formstack.com
Sent: Thursday, October 31, 2024 9:18 AM
To: Glenn Hartmann; Brooke Winschell
Subject: Garfield County website inquiry - Community Development



Subject: Urgent Support Needed for Canyon Creek Watershed

Name: Royle Stillman

Email: roylestillman@hotmail.com

Phone Number: (970) 379-4027

Message: Dear Mr. Hartman,

I hope this message finds you well. I am writing to seek your support on an urgent issue concerning the Canyon Creek watershed. My family and I have owned property along Canyon Creek since 1990, where we have built our home and raised our children amidst its beauty for the past 34 years.

Over the decades, we have witnessed a significant decline in water flows, and it is deeply concerning to consider the potential for further depletion to accommodate the wishes of a few. Such actions could irreparably harm the habitat we have worked hard to protect.

We take great pride in being stewards of our land and its wildlife, and we implore you to consider the long-term impacts of allowing more water to be taken from Canyon Creek, especially since Mr. Bruno already has water from the Colorado River. Once this precious resource from Canyon Creek is gone, there will be no way to restore it.

Thank you for your time and consideration. I urge you to prioritize the health of Canyon Creek for the sake of our community and the environment.

Sincerely,
Royle Stillman

From: [Brooke Winschell](#)
To: [John Leybourne](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Monday, November 4, 2024 9:13:18 AM
Attachments: [image001.png](#)

Another Nutrient Farms response.

Thanks,

Brooke A. Winschell



Community Development Administrative Specialist
Community Development Department
bwinschell@garfield-county.com
Direct 970-945-1377 Ext. 4212
T: 970-945-8212 | F: 970-384-3470
108 8th St, Suite 401 | Glenwood Springs, CO 81601

From: noreply@formstack.com <noreply@formstack.com>
Sent: Saturday, November 2, 2024 4:31 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Nutrient Farm PUD

Name: David Turtle

Email: davidturtle48@icloud.com

Phone Number: (970) 945-7008

Message: As a Garfield County Resident who has resided at 0840 County Road 137 for 32 years, I am strongly opposed to the Nutrient Farm request to move its point of diversion from the Colorado River to the Vulcan Ditch North which is supplied by Canyon Creek. Vulcan Ditch North was abandoned and moved to the Colorado River in 1999. To protect the vitality of the Canyon Creek Watershed, I request that Nutrient Farms access their water from the longstanding point of diversion on the Colorado

River that was in place at the time of purchase.

Exhibit
6-11

FRANKLIN MOUNTAIN GLENWOOD SPRINGS II, LLC
123 W. Mills Ave. Suite 600
El Paso, Texas 79901

Exhibit
6-12

November 4, 2024

Mr. Keith Lammey, Chair
Garfield County Planning Commission
108 8th Street
Glenwood Springs, CO. 81601

Re: Nutrient Farms PUD

Dear Chair Lammey:

As the owner of record of the Bear Wallow Ranch, we are writing to express serious concern regarding elements of the proposed Nutrient Farms PUD currently scheduled for Planning Commission consideration on November 14, 2024.

For the reasons outlined below, we respectfully request the Garfield County Planning Commission postpone any final decision on the Nutrient Farms PUD rezoning request until further information, evaluation and analysis is conducted regarding the source of water for the proposed development project. As proposed, the PUD has substantial impacts and implications for our ranch and other property owners adjacent to and reliant upon Canyon Creek. In particular, the source of water identified in the PUD raises serious practical, logistical, and legal questions which require further analysis and evaluation prior to advancing the PUD application.

Based on our review, we believe the PUD fails to satisfy – and may be in direct conflict with - critical review criteria for approval, including conformance with the Garfield County Comprehensive Plan and the Garfield County Land Use and Development Code. The proposed diversion and source of water has not yet been sufficiently or adequately analyzed for its negative effects on nearby and adjacent properties and property owners.

Garfield County Comprehensive Plan

Section 7 of the Comprehensive Plan, Water and Sewer Services, requires an applicant to show that “...legal, adequate, dependable, and environmentally sound water can be provided.” (Policy 2). The exhibits prepared and submitted by the Nutrient Farms applicant fall well short of this requirement. The applicant’s proposed water source raises significant legal questions which will likely be subject to water court and other formal proceedings. Furthermore, the practical impacts of the proposed changes in water diversion are not environmentally sound and could potentially deplete to exhaustion an existing longstanding tributary creek to the Colorado River.

Section 7 further encourages “...planning for conservation and drought conditions”, and monitoring of “...water supply and legal water rights issues in Colorado River Basin and potential

impacts on water providers including local jurisdictions, special districts, private water systems and individual well owners.” (Policy 5, Policy 7). Section 8 of the Comprehensive Plan, Natural Resources, Habitat and Wildlife encourages the protection and preservation of critical wildlife habitat (Policy 2). The potential impacts of the proposed changes of water diversion will neither protect nor preserve the critical fish, waterfowl and other wildlife and habitat associated with Canyon Creek tributary to the Colorado River.

The PUD application must not be approved until it is in full compliance with Garfield County Comprehensive Plan.

Garfield County Land Use and Development Code

The review criteria in the Code requires the application to conform to the Comprehensive Plan and, “... not affect in a substantially adverse manner, either the enjoyment of the land abutting upon or... the public interest.” 6-203C. PUD Zoning Amendment, Review Criteria

The threat of substantial harm to an existing Colorado River tributary makes the PUD’s proposed water source and change of diversion inconsistent with the public interest. The Nutrient Farms PUD application must not be approved until direct conflicts with the Land Use and Development Code are favorably resolved. Until then, the proposed PUD fails to meet the County’s required review criteria for approval.

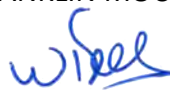
Summary

As proposed, the PUD rezoning does not support the promotion of the public health, safety or welfare of the citizens of Garfield Country. The proposed PUD application fails to conform to the Comprehensive Plan and threatens in a substantially adverse manner the public interest and lands adjacent to the proposed project. Accordingly, we request that final decisions on this rezoning application be postponed and continued to allow further analysis and examination of the impacts on Canyon Creek and nearby property owners.

Thank you for your attention to these concerns.

Sincerely,

FRANKLIN MOUNTAIN GLENWOOD SPRINGS II, LLC



William Kell
Chief Operating Officer

cc: Planning Commission
John Leybourne, Community Development Planner III

**CREEKSIDE COMPANY, LLC
123 W. Mills Ave. Suite 600
El Paso, Texas 79901**

**Exhibit
6-13**

November 4, 2024

Mr. Keith Lammey, Chair
Garfield County Planning Commission
108 8th Street
Glenwood Springs, CO. 81601

Re: Nutrient Farms PUD

Dear Chair Lammey:

As the owner of record of the Canyon Creek Ranch, we are writing to express deep concern regarding elements of the proposed Nutrient Farms PUD currently scheduled for Planning Commission consideration on November 14, 2024.

For the reasons outlined below, we respectfully request the Garfield County Planning Commission postpone any final decision on the Nutrient Farms PUD rezoning request until further information, evaluation and analysis is conducted regarding the source of water for the proposed development project. As proposed, the PUD has substantial impacts and implications for our ranch and other property owners adjacent to and reliant upon Canyon Creek. In particular, the source of water identified in the PUD raises serious practical, logistical, and legal questions which require further analysis and evaluation prior to advancing the PUD application.

Based on our review, we believe the PUD fails to satisfy – and may be in direct conflict with - critical review criteria for approval, including conformance with the Garfield County Comprehensive Plan and the Garfield County Land Use and Development Code. The proposed diversion and source of water has not yet been sufficiently or adequately analyzed for its negative effects on nearby and adjacent properties and property owners.

Garfield County Comprehensive Plan

Section 7 of the Comprehensive Plan, Water and Sewer Services, requires an applicant to show that “...legal, adequate, dependable, and environmentally sound water can be provided.” (Policy 2). The exhibits prepared and submitted by the Nutrient Farms applicant fall well short of this requirement. The applicant’s proposed water source raises significant legal questions which will likely be subject to water court and other formal proceedings. Furthermore, the practical impacts of the proposed changes in water diversion are not environmentally sound and could potentially deplete to exhaustion an existing longstanding tributary creek to the Colorado River.

Section 7 further encourages "...planning for conservation and drought conditions", and monitoring of "...water supply and legal water rights issues in Colorado River Basin and potential impacts on water providers including local jurisdictions, special districts, private water systems and individual well owners." (Policy 5, Policy 7).

Section 8 of the Comprehensive Plan, Natural Resources, Habitat and Wildlife encourages the protection and preservation of critical wildlife habitat (Policy 2). The potential impacts of the proposed changes of water diversion will neither protect nor preserve the critical fish, waterfowl and other wildlife and habitat associated with Canyon Creek tributary to the Colorado River.

The PUD application must not be approved until it is in full compliance with Garfield County Comprehensive Plan.

Garfield County Land Use and Development Code

The review criteria in the Code requires the application to conform to the Comprehensive Plan and, "... not affect in a substantially adverse manner, either the enjoyment of the land abutting upon or... the public interest." 6-203C. PUD Zoning Amendment, Review Criteria

The threat of substantial harm to an existing Colorado River tributary makes the PUD's proposed water source and change of diversion inconsistent with the public interest. The Nutrient Farms PUD application must not be approved until direct conflicts with the Land Use and Development Code are favorably resolved. Until then, the proposed PUD fails to meet the County's required review criteria for approval.

Summary

As proposed, the PUD rezoning does not support the promotion of the public health, safety or welfare of the citizens of Garfield Country. The proposed PUD application fails to conform to the Comprehensive Plan and threatens in a substantially adverse manner the public interest and lands adjacent to the proposed project. Accordingly, we request that final decisions on this rezoning application be postponed and continued to allow further analysis and examination of the impacts to Canyon Creek and nearby property owners.

Thank you for your attention to these concerns.

Sincerely,

CREEKSIDE COMPANY, LLC



William Kell

Chief Operating Officer

cc: Planning Commission
John Leybourne, Community Development Planner III

FRANKLIN MOUNTAIN GLENWOOD SPRINGS, LLC
123 W. Mills Ave. Suite 600
El Paso, Texas 79901

Exhibit
6-14

November 4, 2024

Mr. Keith Lammey, Chair
Garfield County Planning Commission
108 8th Street
Glenwood Springs, CO. 81601

Re: Nutrient Farms PUD

Dear Chair Lammey:

As the owner of the Rock N Pine Ranch, we are writing to express our concern regarding elements of the proposed Nutrient Farms PUD currently scheduled for Planning Commission consideration on November 14, 2024.

For the reasons outlined below, we respectfully request the Garfield County Planning Commission postpone any final decision on the Nutrient Farms PUD rezoning request until further information, evaluation and analysis is conducted regarding the source of water for the proposed development project. As proposed, the PUD has substantial impacts and implications for our ranch and other property owners adjacent to and reliant upon Canyon Creek. In particular, the source of water identified in the PUD raises serious practical, logistical, and legal questions which require further analysis and evaluation prior to advancing the PUD application.

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The PUD application must not be approved until it is in full compliance with Garfield County Comprehensive Plan.

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The threat of substantial harm to an existing Colorado River tributary makes the PUD’s proposed water source and change of diversion inconsistent with the public interest. The Nutrient Farms PUD application must not be approved until direct conflicts with the Land Use and Development Code are favorably resolved. Until then, the proposed PUD fails to meet the County’s required review criteria for approval.

Summary

As proposed, the PUD rezoning does not support the promotion of the public health, safety or welfare of the citizens of Garfield Country. The proposed PUD application fails to conform to the Comprehensive Plan and threatens in a substantially adverse manner the public interest and lands adjacent to the proposed project. Accordingly, we request that final decisions on this rezoning application be postponed and continued to allow further analysis and examination of the impacts to Canyon Creek and nearby property owners.

Thank you for your attention to these concerns.

Sincerely,

FRANKLIN MOUNTAIN GLENWOOD SPRINGS, LLC



William Kell
Chief Operating Officer

cc: Planning Commission
John Leybourne, Community Development Planner III

November 4, 2024

Planning Commissioners
Garfield County
108 8th Street
Glenwood Springs, CO. 81601
Via email: jleybourne@garfield-county.com

RECEIVED
NOV 04 2024
GARFIELD COUNTY
COMMISSIONER'S OFFICE

Re: Nutrient Farms rezoning

Dear Commissioners:

I am the ranch manager for the Bear Wallow Ranch located north of Glenwood Springs on Canyon Creek.

The rezoning request above has been brought to my attention. While I fully support the application and new uses for the land, I am opposed to the proposed change of diversion and source of water for the rezoning. The change to the water diversion point and proposed re-use of the long-abandoned Vulcan Ditch has the potential to deplete the Canyon Creek tributary to the Colorado River to exhaustion. This has serious negative consequences for the ranch I manage and the wildlife and habitat that depend on Canyon Creek water flows.

The water source aspect of the rezoning proposal raises serious questions and requires more analysis prior to approval. This possibly includes review by the water courts. Consequently, I urge the Planning Commission to table further consideration of this matter until such time as the necessary evaluation is completed and/or the project developer submits alternative sources of water.

Please do not approve the PUD until the source of water matter is resolved in a way that does not harm Canyon Creek.

Thank you for the opportunity to comment. I am happy to discuss this in further detail. My contact information is below.

Sincerely,



Mike Goscha
970-274-3223

mikegoscha@gmail.com

Copies: Commissioner John Martin
Commissioner Tom Jankovsky
Commissioner Mike Samson

From: [John Leybourne](#)
To: [Heather MacDonald](#); [Glenn Hartmann](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Tuesday, November 5, 2024 11:19:28 AM
Attachments: [image001.png](#)

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Brooke Winschell <bwinschell@garfield-county.com>
Sent: Tuesday, November 5, 2024 11:15 AM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: FW: Garfield County website inquiry - Community Development

Here's another one.

Thanks,

Brooke A. Winschell



Community Development Administrative Specialist
Community Development Department
bwinschell@garfield-county.com
Direct 970-945-1377 Ext. 4212
T: 970-945-8212 | F: 970-384-3470
108 8th St, Suite 401 | Glenwood Springs, CO 81601

From: noreply@formstack.com <noreply@formstack.com>
Sent: Monday, November 4, 2024 7:29 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Canyon Creek preservation

Name: Patty Grace

Email: 4pawslover@gmail.com

Phone Number: (970) 379-3783

Message: Dear Glen,

I have lived in this valley for 40 years and in those 40 years there has been incredible change and growth. I believe it has moved so fast that sometimes our foresight into the future can be overlooked and the implications it creates. We then later discover it's too late, and we should have taken other measures.

If you have ever had the pleasure of seeing Canyon Creek, you would know it's a valuable resource and an important contributing waterway to the Colorado River. It is a creek literally filled with spawning trout and countless other species of wildlife. And most of all water, the flow of this creek is vital for the wildlife and the environment. Nutrient Farms is threatening the health of this creek, wanting to take 9cfs of water year round. The impacts will be devastating.

Though they have water rights to the creek, they currently have a water resource for their operation, the Colorado River. I please ask all those involved in deciding this very important decision, seriously look at these impacts.

If he is granted what he is asking for there is no going back. Locals probably won't take to kindly to him or support his business if he decimates Canyon Creek for his own profit. There is no monetary value of precious waterways such as Canyon Creek.



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Exhibit
6-17

Ryan Jarvis
305 Gold Rivers CT, STE 200
Basalt, CO, 81621
(970) 366-4733
Ryan@jvamlaw.com

November 4, 2024

Via Email

Garfield County Planning Commission
c/o Glenn Hartmann and John Leybourne
ghartmann@garfield-county.com
jleybourne@garfield-county.com

Re: Nutrient Farm PUD

Dear Planning Commission:

I represent Rue Balcomb, Kirstie Steiner, and Sonja Linman, who are concerned citizens who live on Canyon Creek and, like others who live and rely on Canyon Creek, will be directly and negatively impacted by Nutrient Farm's ("NF") proposal.

A PUD must meet all development standards in LUDC Article 7. LUDC 6-202(c). Among the various things that NF must demonstrate is an "adequate, reliable, physical, long term, and legal water supply to serve the use." LUDC 7-104. Environmental impacts must also be considered. *See, e.g.*, LUDC Article 7, Division 2.

As explained below, there are many concerns surrounding the proposed legal and physical water supply that is premised on diverting nearly 9 cfs from Canyon Creek from a point approximately 1.5 miles upstream of its confluence with the Colorado River and running that water in a pipe to the proposed development on the south side of the Colorado River. Similarly, there are serious, negative

Aspen

Basalt

Buena Vista

Glenwood Springs

Salida

P.O. Box 878, Glenwood Springs, CO 81602



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environmental impacts to Canyon Creek caused by NF's proposed plan that have not been considered or evaluated.

NF proposes an agricultural mixed-use community revolving around a biodynamic working farm. The PUD application is full of statements about the desire to focus on sustainability and responsible stewardship of the environment.¹ However, there are various fatal defects in NF's proposal to take water from Canyon Creek, which unnecessarily externalizes harm caused by the proposed development to Canyon Creek and its community.

Fortunately for NF and Canyon Creek, NF already has the legal right to divert its water from the Colorado River and various wells on NF's property. The Planning Commission should recommend denial of the proposed development and require NF to develop a plan to take water from the Colorado River and/or the wells. If the Planning Commission ultimately decides to recommend approval of the proposed development, it should be expressly conditioned on NF addressing all the issues described in this letter and taking its water from the Colorado River and/or the wells in order to prevent completely unnecessary harm to Canyon Creek and its community.

1. Overview of NF's Water Proposal

As the Planning Commission considers NF's proposal, it is very important that it fully understand what NF proposes to do. NF claims to own 8.93 cubic feet per second ("cfs") of the Vulcan Ditch² and the right to consume 393 acre feet ("af") per year.³ It proposes diverting the water from a headgate on Canyon Creek

¹ See, e.g., NF PUD Narrative at p. 49, "Nutrient Farm values the natural environment and prioritizes responsible stewardship of the land. Ecology will guide Nutrient Farm's agricultural practices and the property's natural resources will be managed appropriately."

² The Vulcan Ditch has been decreed three priorities. The first priority was decreed in CA1319 for 6 cfs. The second priority was decreed in CA4004 for 4 cfs. NF claims ownership of 89.3% of those priorities, totaling 8.93 cfs. A third priority is decreed to the Vulcan Ditch for 0.13 cfs (known as the "Temple Enlargement"), which NF does not own and is irrelevant to its proposal.

³ In Case No. W-2127, the former owner of the Vulcan Ditch first two priorities adjudicated a change case in which the consumptive use was quantified to be 440 af/year. NF claims to own 393 af of the 440 af. The decree in Case No. W-2127 is attached as **Exhibit A**.

approximately 1.5 miles upstream of the confluence with the Colorado River and running that water all the way to the south side of the Colorado River. Below is Table 2-1 from the Water Adequacy Report NF submitted with its PUD application, which shows the location of the headgate that NF proposes to use, the approximate course of the old ditch, and the proposed development area.

Nutrient Farm

September 2020

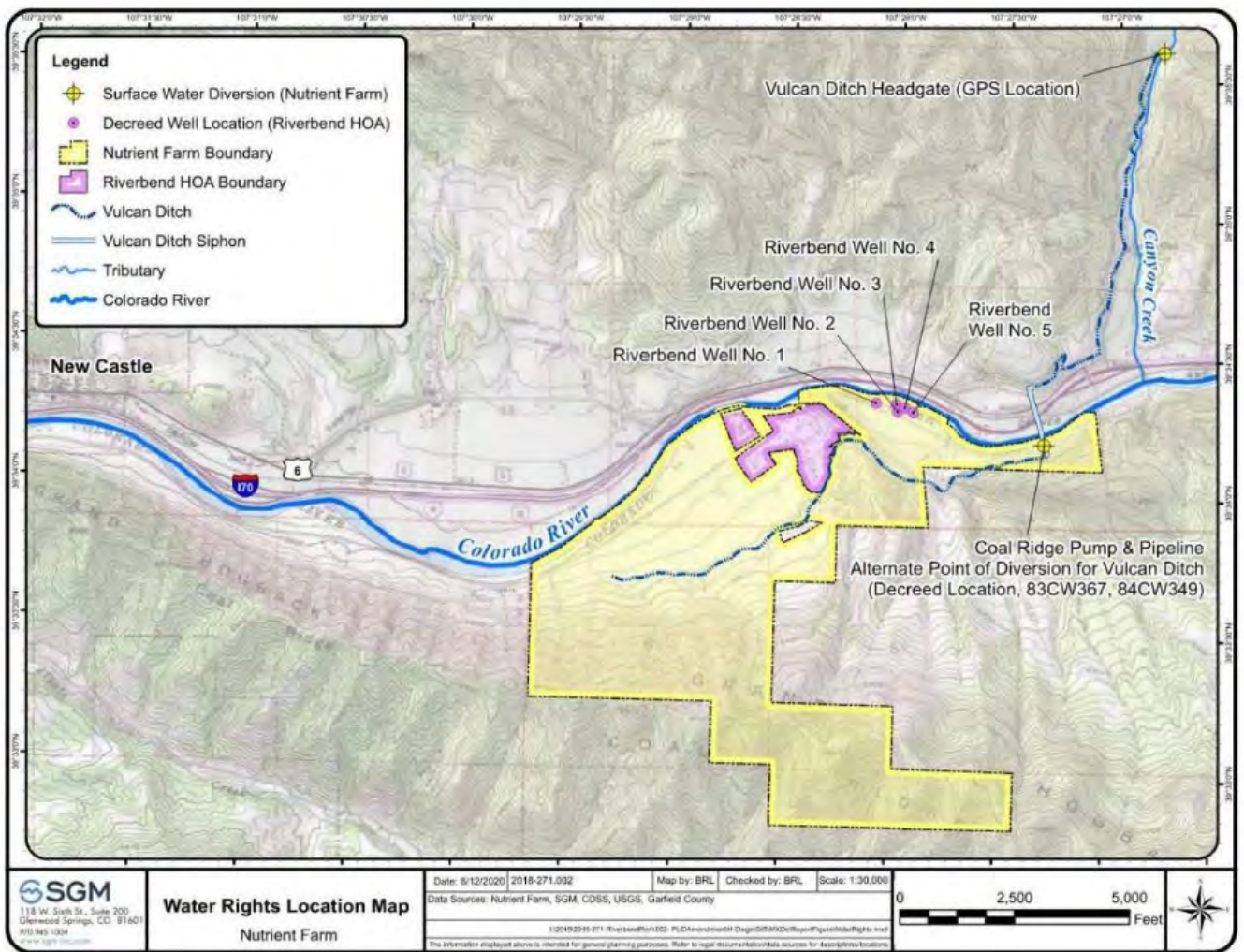


Figure 2-1: Nutrient Farm Water Rights Location Map





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The old ditch crosses no less than 9 private properties on the north side of the Colorado River, and NF's proposal communicated to those owners is to bury a 24-inch pipeline under the old ditch **See Exhibit B, NF Vulcan Ditch Pipeline Design.**

NF proposes to take up to 8.93 cfs from Canyon Creek, with total diversions from Canyon Creek of 622.82 af/year (27.45 af for potable indoor demands and 595.37 af for non-potable outdoor demands) and total consumptive use of 391.76 af/year (2.75 af for potable indoor demands and 389.01 af for non-potable outdoor demands).⁴

Investigation is still ongoing, but it appears that NF and its predecessors have not diverted its water from Canyon Creek nor used the old ditch since as far back as 1974; therefore, the proposed draw from Canyon Creek of up to 8.93 cfs and 622.82 af would be a new draw not experienced by Canyon Creek community, its water users, and its environment for decades, if ever.

The Water Adequacy Report's physical supply analysis (see pp. 21-24) shows the extreme negative impact that NF's proposal will have on Canyon Creek. The Report states that in wet, normal, and dry years, there is enough water in Canyon Creek for the Vulcan Ditch's first two priorities to be fully exercised, but Figure 4-2 shows that during April, that would result in diversions of all or nearly all available water in Canyon Creek. The Report goes on to say that during the late irrigation season (August-October) in wet and normal years, there is enough water to allow the first two priorities to fully divert. Again, Figure 4-2 shows that would result in diversion of all or nearly all water in Canyon Creek during those times. The Report then acknowledges that during a dry year there is not enough water in Canyon Creek to allow NF to exercise its second priority, which necessarily means that NF would be taking all available water in the Canyon Creek when it is exercising its first priority.

It is important to note that as described in the Wright Water Engineers technical memorandum (attached as **Appendix 1**) the averaging of dry years results

⁴ NF also owns two junior water rights, the Coal Ridge Pump and Pipeline, which diverts on the Colorado River, and the Coal Ridge Reservoir. The Water Adequacy Report at p. 3 indicates that does not rely on those junior rights to demonstrate legal physical supply for the proposed development.



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in a conclusion that overlooks the fact that in very dry years (e.g., 1977), there is no physical supply available to the Vulcan Ditch during substantial parts of the irrigation season. For example, in 1977, there would have been no water available for NF to divert at the Vulcan Ditch in August and September. Similarly, under Colorado water law, NF could not divert its Vulcan Ditch rights at the pump or wells on its property because such diversion would be limited to the legal and physical availability of water at the Vulcan Ditch headgate. Therefore, NF has presented only an unreliable (i.e., interruptible) water supply for its proposed development, not an “adequate, reliable, physical, long term, and legal water supply.”

2. The Division of Water Resources (“DWR”) has not evaluated NF’s proposal.

As the Planning Commission evaluates NF’s proposal, it must recognize that DWR has not actually evaluated the proposal. DWR is statutorily mandated to provide “an opinion regarding material injury likely to occur to decreed water rights by virtue of diversion of water necessary or proposed to be used to supply the proposed subdivision and adequacy of proposed water supply to meet requirements of the proposed subdivision.” C.R.S. § 30-28-136(1)(h)(I). Unfortunately, DWR’s referral comment dated July 17, 2024, expressly states that it did not do that.

In the second paragraph of DWR’s referral comment, the DWR water resource engineer wrote:

“...we have performed a cursory review and are providing informal comments, instead of an opinion pursuant to Section 30-28-136(1)(h)(I), C.R.S., regarding the proposed water supply. The comments do not address the adequacy of a water supply plan for this project or the ability of a water supply plan to satisfy any County regulations or requirements. In addition, 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.”

[Emphasis added].



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After saying that DWR is not evaluating the adequacy of the water plan, it largely discusses what NF's consultant says.

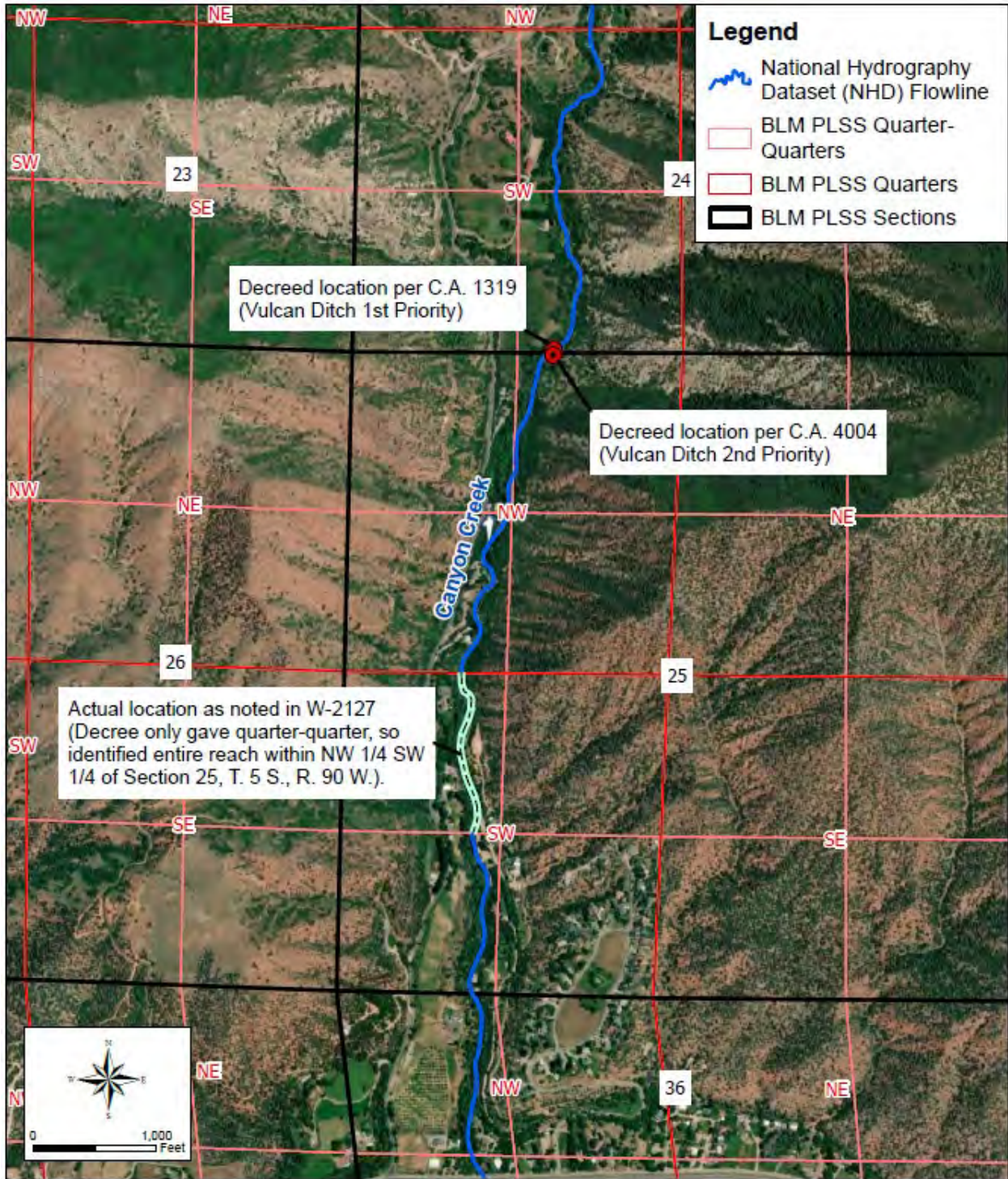
The Planning Commission cannot approve NF's proposal when DWR, the agency charged with formally evaluating NF's proposed water plan, has not actually evaluated NF's proposed water plan. NF's proposal should be tabled until DWR can properly review, analyze and opine on NF's proposal.

3. There are serious technical concerns with the Water Adequacy Report and NF's proposed water use as described in Wright Water Engineer's technical memorandum attached as Appendix 1.

See the attached technical memorandum from Wright Water Engineers. Among other things, it demonstrates that NF's proposal does not demonstrate an "adequate, reliable, physical, long term, and legal water supply". At best, it has presented an interruptible supply of water that would not be reliable in dry years. Also, it describes various the proposed uses that are inconsistent with express terms of the decree entered in Case No. W-2127. For that reason, the Planning Commission should recommend denial of the proposal.

4. NF does not have the legal right to divert its Vulcan Ditch rights at the headgate it proposes using on Canyon Creek.

NF does not have the legal right to divert its Vulcan Ditch rights from Canyon Creek at the point where it plans to divert. The first two priorities were decreed to divert at a point at or near where NF intends to divert. However, the decree in W-2127 changed the point of diversion and identified a stretch of Canyon Creek in the NW1/4 SW1/4, Section 25, Township 5 South, Range 90 West of the 6th P.M. where NF's Vulcan Ditch is legally allowed to be diverted. The map below shows these points (also attached as **Exhibit C**).





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DWR has identified this issue and, after consultation with the Colorado Attorney General's Office, determined that the diversion of NF's interests in the Vulcan Ditch where NF wants to divert will not be deemed a diversion at their decreed location. **See Exhibit D, August 27, 2024 email from the Assistant Division Engineer to NF's Consultant.** Because NF has no right to divert on Canyon Creek where it intends to divert, the Planning Commission should recommend denial of NF's proposal.

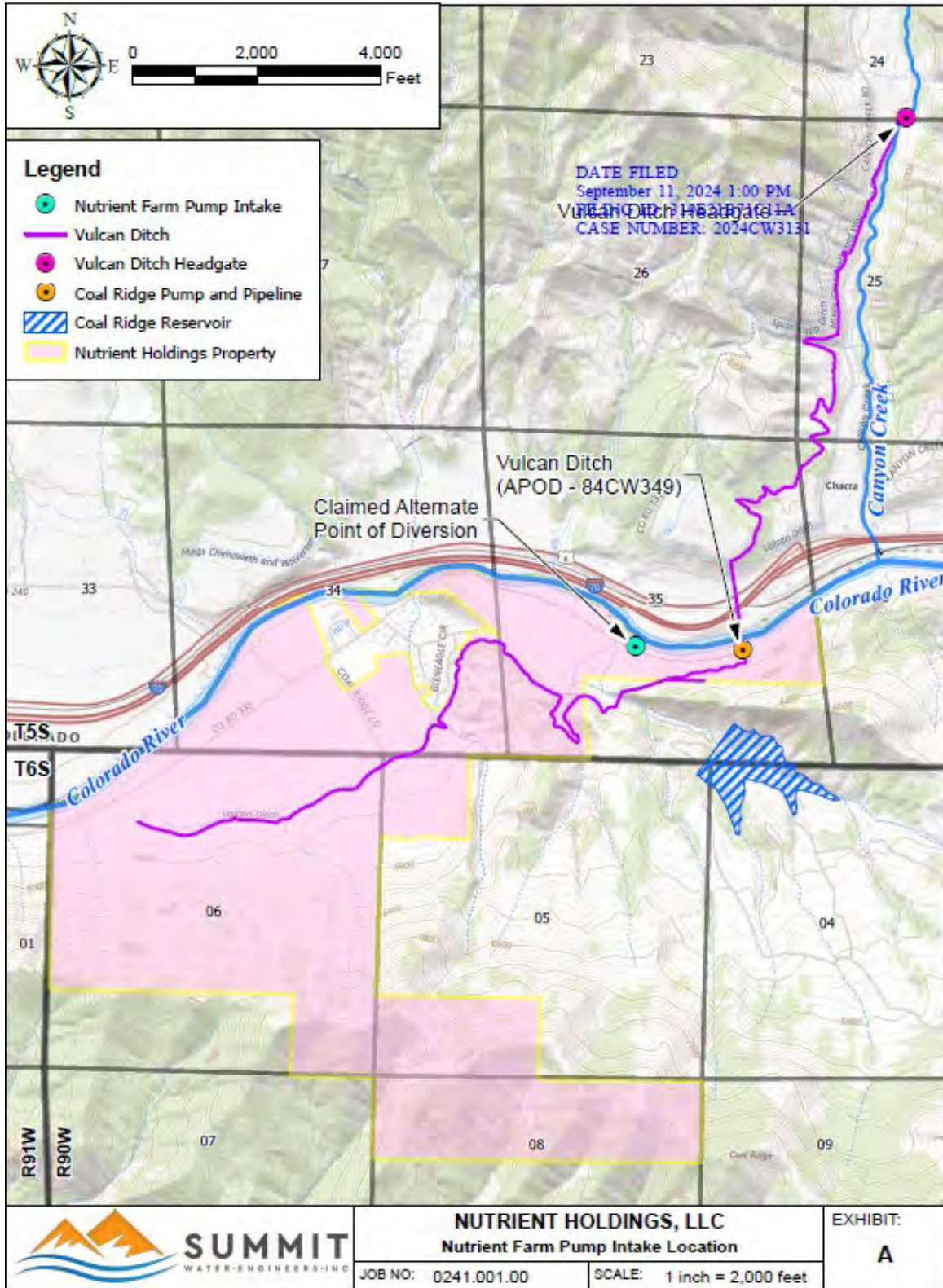
5. NF has the legal right to take its water from the Colorado River.

While NF has no legal right to divert on Canyon Creek where it intends to divert, it has the right to divert its water rights from the Colorado River and various wells on its property. That means that NF's proposed diversion from Canyon Creek is wholly unnecessary.

In Case No. 84CW349 (decree attached as **Exhibit E**), NF's predecessor obtained the right to divert the NF's Vulcan Ditch water rights at a point on the south side of the Colorado River on what is now NF property. This point is referred to as the Coal Ridge Pump and Pipeline. Also, in an active water rights case that NF filed in September 2024 (Case No. 24CW3131), NF is seeking the legal right to use a second point of diversion on its property called the Nutrient Farm Pump Intake to divert its Vulcan Ditch water rights. Below is the map NF filed in Case No. 24CW3131 (also attached as **Exhibit F**) that shows the point of diversion on Canyon Creek and the two points of diversion on NF property on the Colorado River.



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Also, pursuant to the decree entered in Case No. W-2127, the Court authorized the exercise of the Vulcan Ditch's first two priorities through the Riverbend Wells 1-5, which are shown in Table 2-1 of the Water Adequacy Report (see page 3 above).

With the existing legal right to divert its Vulcan Ditch water rights from the Colorado River and through wells on its properties, there is no reason why NF needs to divert its water from Canyon Creek. The harm that will be suffered by the Canyon Creek environment and the community is completely avoidable if NF simply diverted the water from the Colorado River or the wells.

6. It appears that NF's water rights decreed to the Vulcan Ditch have been abandoned.

An investigation has revealed a very long history of non-use of the NF's water rights. Abandonment of a water right requires two things: (1) evidence of non-use and (2) intent to abandon. C.R.S. § 37-92-103; *Archuleta v. Gomez*, 200 P.3d 333, 344 (Colo. 2009). Without getting into all the facts and circumstances that would support a finding of abandonment, portions of the 440 af (of which NF claims to own 393 af) have been abandoned because of extended non-use.

In 2002, DWR raised a serious concern in a Water Court case that the 440 af of consumptive use decreed in Case No. W-2127 has not been used for a long time and, potentially as far back as 1974. More specifically, in a 2003 case concerning 20 af of the 440 af (again, NF claims to own 393 of the 440 af), the Division Engineer wrote the following.⁵

5. The change of water right proposes to move 20AFCU of the 440AFCU under the Vulcan Ditch decreed in W-2127. The majority of the 440AF, at least all of the 20AF, has not been used for many years, possibly since the W-2127 decree was entered in 1974.

In that case, based on the Division Engineer's comments, the applicant agreed to a 29.5% reduction of in its interest of the 440 af after acknowledging there was at

⁵ See *Report of the Division Engineer/Summary of Consultation*, at Comment 5, filed in Case No. 02CW400, attached **Exhibit G**.



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least 28 years of non-use.⁶ In the final decree the Water Court imposed that reduction resulting from non-use.⁷

Regarding NF's interest in the consumptive use credits, the same concern exists regarding the legal effect of decades of non-use. Furthermore, compounding the concerns of non-use raised by DWR in Case No. 02CW400, the old inverted siphon that was apparently used at some point in decades past to deliver NF's water across the Colorado River fell down and/or was removed in approximately the early 2000s and has not been replaced. That necessarily means there could have no use of the Vulcan Ditch since collapse/removal of the siphon.

There are serious abandonment concerns regarding NF's rights in the Vulcan Ditch, and the Water Court has already reduced the entitlements of others in the 440 af because of extended non-use. For this reason, the Planning Commission should recommend denial or, at minimum, table the proposal until issues of abandonment can be fully reviewed and opined on by DWR.

7. NF has no legal right to install the proposed pipeline under the Vulcan Ditch.

NF has no written easement for the old ditch or proposed pipeline. It has approached the property owners over which the old ditch runs, and the new pipeline is proposed to run, with draft easements but our understanding is that to date no one has signed an easement.

AVLT conservation easements encumber at least four of the properties over which the old ditch runs, including that owned by our client Rue Balcomb (Parcel No. 21232530004).⁸ All four AVLT conservation easements contain language prohibiting

⁶ See *Response to Uniform Local Rules for All State Water Court Divisions Rule 6 Request*, Case NO. 02CW400, at paragraph 6, attached as **Exhibit H**.

⁷ See, *Ruling of Referee, Findings of Fact, Judgement and Decree*, Case No. 02CW400, Finding of Fact paragraph 24.B, attached as **Exhibit I**. NF's predecessor, who also participated in the water case, also agreed to the 29.5% reduction to the applicant's portion of the 440 af. See paragraph 17.B of Exhibit A to NCIG Financial's Stipulation and Agreement in Case No. 02CW400, attached as **Exhibit J**.

⁸ The other three parcels are Parcels Nos. 212324300116, 212325200141, and 212325200142.



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property owners from granting new easements without AVLT's express approval. AVLT has indicated that it will not approve granting easements to NF because AVLT's conservation easements are, at least in part, intended to protect the riparian habitat of Canyon Creek and NF's proposal appears likely to harm that habitat.

NF has indicated to property owners that should easements not be signed NF will try to rely on claimed prescriptive easements and install the pipeline over landowners' (and apparently AVLT's) objections.

As an initial matter, NF cannot have a prescriptive easement to divert its interest in the Vulcan Ditch in an old ditch without the legal right to actually divert that water at the ditch headgate. As described in paragraph 4 above, that right doesn't exist today because the decreed point of diversion is decreed to a point much further south on Canyon Creek. Additionally, any prescriptive easement for the ditch wouldn't exist if NF is deemed to have abandoned its Vulcan Ditch water rights.

Additionally, even if NF still retained some sort of easement for the old ditch, the Colorado Supreme Court has been clear that a ditch easement only "extends to the bed of the ditch," and no further. *Arthur Irr. Co. v. Strayer*, 115 P. 724, 725 (Colo. 1911). Again, NF proposes to install the pipeline multiple feet under the existing ditch, which constitutes a new and additional burden on the properties.

Serious doubts exist about whether NF has the right to use the old ditch or install the pipeline under the old ditch. Without NF demonstrating a legal right to proceed with use of the ditch and the ground under the ditch, the Planning Commission should recommend denial.

8. NF has not demonstrated a right to bore under the County road, railroad, interstate and Colorado River, as proposed.

NF's proposal requires that is somehow convey Canyon Creek water to the southside of the Colorado River. NF's proposal, as currently understood, is that it will bore under County Road 138, US Highway 6, the railroad, Interstate 70, and the Colorado River. NF's proposal does not appear to include any documentation indicating that such a boring project is economically or physically feasible or that NF has obtained any permission from relevant local, state and federal agencies with



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jurisdiction over such a project or from the owner of the railroad. Therefore, the Planning Commission should recommend denial.

9. No consideration of environmental impact or wildfire risk on Canyon Creek

NF's Environmental Impact Analysis Report is devoid of any discussion about environmental impacts on Canyon Creek caused by its proposal to divert up to 8.93 cfs and 622.82 af/year from Canyon Creek or install a 24-inch pipe for over a mile on a steep hillside below an old ditch. As discussed above, the Water Adequacy Report makes clear that NF's plans will result in NF taking all or nearly all water from Canyon Creek during various times of the year at a point approximately 1.5 miles above the confluence with the Colorado River.

Based on DWR's statements about non-use since the 1970s and the fact that there has been no physical way to get water across the Colorado River since the early 2000s, Canyon Creek has not experienced NF's proposed draw from Vulcan Ditch in many decades—the draw would be new. There are genuine concerns about environmental harm caused by NF's proposal to start taking such a large amount of water from Canyon Creek.

Many animals that rely on Canyon Creek and surrounding environs such as bears, cougars, bobcats, bald and golden eagles, owls, herons, fish, moose, and various smaller animals. There has been no analysis of what dewatering Canyon Creek would do to these species and the broader environment. Trout Unlimited, which has spent years and hundreds of thousands of public dollars on Canyon Creek infrastructure to support fish, indicates in its November 1 comment letter that NF's diversion of water from Canyon Creek, in whole or in part, during low flow periods "would be devastating to spawning fish and their progeny."

Additionally, wildfire risk must be considered when evaluating NF's proposal. Under LUDC 7-206(B), NF's development cannot increase the wildfire risk or adversely affect wildfire behavior. NF's proposal does not address the impact of the substantial new draw from Canyon Creek and the potential dewatering of Canyon Creek on wildfire risk for Canyon Creek or its community.



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Because of the complete lack of any analysis of environmental and wildfire impacts on Canyon Creek, the Planning Commission should recommend denial of NF's proposal.

10. Conclusion

As described above, there are many problems with NF's proposal to divert 8.93 cfs and 622.82 af/year from Canyon Creek and the proposed installation of a 24-inch pipeline under an old ditch without landowner and AVLTT consent. The plan does not demonstrate an "adequate, reliable, physical, long term, and legal water supply to serve the use", it is inconsistent with the water court decree in W-2127, and it seeks to externalize harm caused by its development to Canyon Creek and its community.

Fortunately, because of NF's existing right to divert its Vulcan Ditch water rights at a point on the Colorado River located on NF property and from wells on NF's property, there is a simple solution—NF can and should divert its water from the Colorado River and/or those wells.⁹

The Planning Commission should recommend denial of the proposed development and require NF to develop a plan to take water from the Colorado River and/or the wells. If the Planning Commission ultimately decides to recommend approval of the proposed development, it should be expressly conditioned on NF addressing all the issues described in this letter and taking its water from the Colorado River and/or the wells in order to prevent completely unnecessary harm to Canyon Creek and its community.

⁹ It is important to note that as described on pages 4 and 5 above and in the Wright Water Engineers technical memorandum, even if NF takes its Vulcan Ditch water from the pump on its property or the wells on its property, that water would not be available in very dry years.



Exhibit
6-17

A Mountain Law Firm

Sincerely,

JVAM PLLC

By: _____

Ryan Jarvis, Partner

Enclosures

Cc: Clients (via email)
Jonathan Kelly (via email)
Charles Simon (via email)

WWE
MEMORANDUM

To: Glenn Hartmann
Director of Community Development
Garfield County
Via Email: ghartmann@garfield-county.com

From: Wright Water Engineers, Inc.
Jonathan Kelly, P.E.

Date: November 4, 2024

Re: Nutrient Farm—Water Adequacy Report

Wright Water Engineers, Inc. (WWE) has been asked to review the Water Adequacy Report for Proposed Development—Nutrient Farm prepared by SGM in September 2020 on behalf of several property owners in the Canyon Creek drainage basin.

The comments in this letter are based upon a review of the documents listed below:

1. Colorado District Court, Water Division 5. March 21, 1974. Decree and Supporting Documents for Case Nos. W-2125 and W-2126.
2. Colorado District Court, Water Division 5. June 26, 1974. Decree and Supporting Documents for Case No. W-2127.
3. Colorado District Court, Water Division 5. November 16, 2007. Decree and Supporting Documents for Case No. 02CW400.
4. Colorado Division of Water Resources. July 17, 2024. Nutrient Farm PUD Comments.
5. Matrix Design Group, Inc. September 13, 2024. Nutrient Farm PUD Application – Review of Water Related Issues.
6. Nutrient Holdings LLC. March 2023. Nutrient Farm Planned Unit Development Narrative.
7. SGM. September 2020. Nutrient Farm Water Adequacy Report for Proposed Development.
8. SGM. January 6, 2023. Nutrient Farm PUD Vicinity Map.

Change of Use Case No. W-2127

In Case No. W-2127, the Riverbend Development Corporation changed the use of the historical Vulcan Ditch irrigation rights to allow them to be used to serve residential units. As part of the case, the historical consumptive use (HCU) of the water rights was quantified to be 440 acre-feet (AF). There were also 5 wells decreed as alternate points of diversion for the HCU credits. While some of those HCU credits have been applied to the existing Riverbend subdivision and other properties, the remaining 393 AF are controlled by Nutrient Farm.

The decree allowed for the changed water rights to have limited uses, including in-house domestic, irrigation of lawns, landscaping and 120 acres of meadow, and evaporation from the effluent pond

surface area. While the decree did allow for variability in the number of residential equivalents, acres of lawns and landscaping, and pond surface area, it specified the consumptive rates associated with the uses.

Nutrient Farm PUD Application

SGM prepared a water supply report for the Nutrient Farm PUD application in September 2020. A key table presented in their report is Table 3-1 showing the water demand at full buildout. The portion relative to the demand sourced from the Vulcan Ditch is reproduced below.

Table 3-1: Nutrient Farm Buildout Demand Summary

		Served by Vulcan Ditch (Areas 2, 5, 6, 7, 8)
Total Annual Consumptive Use		391.7 AF/year
Indoor	Annual Consumptive Use	2.7 AF/year
	Annual Demand	27.5 AF/year
	Average Day Demand	0.075 AF/day
	Max Day Demand ¹	0.226 AF/day 0.114 cfs
	Peak Hour Demand ²	0.23 cfs
Outdoor	Annual Consumptive Use	389.0 AF/year
	Annual Demand	595.4 AF/year
	Average Day Demand	2.78 AF/day
	Peak Month (July) Average Day Demand	5.75 AF/day
Non- Irrigation Season (Nov-Mar)	Average Day Demand	0.087 AF/day 0.044 cfs
Irrigation Season (April - October)	Average Day Demand	2.86 AF/day 1.44 cfs
	Max Day Demand ¹	8.570 AF/day 4.32 cfs
	Peak Hour Demand ²	8.64 cfs
Notes: AF - acre-feet; cfs - cubic feet per second Peaking factors are from Garfield County Land Use and Development Code, Section 4-203: 1. Maximum daily demand is calculated as 3.0 times the average daily demand. 2. Peak hour demand is calculated as 6.0 times the average day demand.		

Table 3-1 cites the Garfield County Land Use and Development Code, Section 4-203 as the basis for the peaking factors applied to the water demand from the Vulcan Ditch. The relevant subsection is excerpted below for reference:

2. *Water Distribution. For a water supply that serves 15 or more taps, or 25 people, or is located within 400 feet of an existing Central Water System and connection is practicable and feasible, a Central Water Distribution System is required. The system shall be designed by a qualified professional engineer licensed by the State of Colorado and shall be approved by the CDPHE and the County.*

a. *Sized for Initial and Future Demand. The water Distribution System shall be sized to meet both the initial and future demands of the proposed development.*

b. *Sized for Maximum Day Demand. The system shall be sized for maximum day demand plus fire or peak hour demand, whichever is greater.*

(1) *Unless otherwise approved by the County Engineer, maximum day demand shall be 3.0 times average day demand, and maximum hour demand shall be 6.0 times average day demand.*

The section upon which SGM relies to justify the peaking factor of 6 times the average daily demand to get the maximum hour demand is in reference to water distribution design, not irrigation demands. These peaking factors are appropriate for such systems as they need to account for times of day (e.g., morning hours when people are getting ready for work) when the water demand significantly exceeds the daily average. As a result, water systems should be designed to account for the peak daily demand and peak hourly demand, not just the average daily demand.

Elsewhere in the Code, the reference to the water demand for irrigation is based simply on the crop, soil, etc. without mention of peaking factors as shown below:

(3) *The demand for irrigation water shall be based upon the type of vegetation to be maintained, soil characteristics, the historic yield of the property, and available water rights.*

However, these peaking factors do not apply to irrigation systems that are either flood irrigated at a relatively constant rate or are on sprinklers, which are typically programmed to avoid peak indoor use when using the same supply. It is our understanding that Nutrient Farm plans to deliver the Vulcan Ditch water to ponds on the property from which up to 200 acres will be sprinkler irrigated. In such an operation, the ditch flows would be relatively constant in delivering the water to the pond(s) as they would be diverted from Canyon Creek via gravity. The irrigation pond levels would drop when the irrigation system was operating, then refill once the sprinklers were turned off. If Nutrient Farm was using either the wells or the Coal Ridge Pump & Pipeline, then it would be appropriate to operate the pumped systems during a portion of the day for more efficient operation of the pumps.

While the water supply plan claims that the Vulcan Ditch will be used to supply a portion of in-house water demand, this represents a small fraction of the overall water demand from the ditch. Applying

the peaking factor to the irrigation demand may have been viewed as conservative for purposes of comparing the demand to the ownership of decreed ditch rights. However, it is not appropriate for evaluating what the actual ditch diversion will need to be to meet the irrigation demands as it distorts the peak diversions necessary at the ditch headgate. Therefore, if the peaking factor was only applied to the in-house uses, then the irrigation season demand via the Vulcan Ditch would be reduced from 8.64 cfs to less than 1.5 cfs.

Available Flow in Canyon Creek

WWE evaluated the available flow in Canyon Creek at the Vulcan Ditch headgate to analyze the potential impact of reinitiating diversions to serve the Nutrient Farm PUD.

Currently there are not any stream gages located within the Canyon Creek drainage basin above the Vulcan Ditch Headgate. Historically there were 3 stream gages within the Canyon Creek watershed above the Vulcan Ditch Headgate with data available from 1969 to 1982. One is located further up the Canyon Creek watershed, and the other two are located along the larger two of the three tributaries to Canyon Creek, namely East Canyon Creek and Possum Creek. To determine available flow in Canyon Creek, WWE pulled available USGS historical stream gage data from 1969 to 1982 for Canyon Creek, East Canyon Creek, and Possum Creek. The sum of these stream gages adds up to a conservative approximate flow rate due to the third tributary below the Canyon Creek stream gage but above the headgate, Bearwallow Creek, not being accounted for.

Table 1 shows the approximate monthly flow rate of Canyon Creek at the Vulcan Ditch Headgate from 1969 to 1982. This table gives us 14 years of information to help determine the amount of water available in Canyon Creek at the Vulcan Ditch Headgate. The irrigation season starts in April and goes through October, with the lowest flows typically observed at the end of the irrigation season in October. WWE did not account for surface diversions between these stream gages and the Vulcan Ditch headgate when developing the approximate flow rates in Table 1, which would result in less water in Canyon Creek available for diversion at the Vulcan Ditch headgate.

Table 1. Canyon Creek Monthly Flows at Vulcan Ditch Headgate, Not Accounting for Senior Diversions

Month	1969	1970	1971	1972	1973	1974	1975	1976	1977*	1978	1979	1980	1981*	1982	Average
January		25	23	24	23	16	17	18	15	14	17	16	17	16	19
February		23	20	20	19	16	15	18	14	12	16	15	15	19	17
March	17	23	23	31	21	21	18	19	15	21	16	19	16	22	20
April	78	25	62	43	25	31	23	26	29	49	32	46	79	39	42
May	446	313	207	279	289	397	107	274	103	200	256	203	210	236	251
June	206	347	431	305	469	210	656	244	58	699	443	471	175	406	366
July	90	78	82	55	123	52	316	44	19	162	129	93	37	111	99
August	38	32	36	24	39	28	46	27	12	34	36	36	21	37	32
September	29	31	31	27	28	23	28	20	11	23	26	25	18	28	25
October	38	33	35	52	24	23	23	18	14	27	22	23	33		26
November	35	27	27	35	19	21	21	14	15	28	18	22	27		22
December	29	25	26	27	17	18	20	15	15	22	17	18	20		19

*Designates dry years during the gage period of record.

In SGM’s Water Adequacy Report for Proposed Development (2020), Figure 4-2 shows the average Canyon Creek streamflow above the Vulcan Ditch headgate as the sum of the three stream gages at Canyon Creek, East Canyon Creek, and Possum Creek for the average of wet, normal, and dry years. This figure also shows the other senior diversions on Canyon Creek that might compete with the Vulcan Ditch. Per SGM’s analysis, a total of 11.2 cfs of flows in Canyon Creek are attributed to diversions that are senior to the Vulcan Ditch and divert off of Canyon Creek between the three gages and the confluence of the Colorado River and Canyon Creek. In order to show the legally and physically available flows to Nutrient Farm via the Vulcan Ditch, WWE subtracted these 11.2 cfs from the average monthly streamflow shown in Table 1, above, during the irrigation season from April through October. The resulting flows available to the Vulcan Ditch are shown in Table 2, below.

Table 2. Canyon Creek Streamflows Legally and Physically Available to Nutrient Farm via the Vulcan Ditch¹

Month	1969	1970	1971	1972	1973	1974	1975	1976	1977*	1978	1979	1980	1981*	1982	Average
January		25.2	22.5	24.4	23.3	16.4	17.4	18.2	15.4	14.5	17.0	16.2	17.4	16.2	18.8
February		22.8	20.1	20.5	19.1	15.7	15.1	17.6	13.7	12.4	15.8	15.5	15.4	19.0	17.1
March	17.2	22.7	22.8	31.1	20.6	21.5	17.7	18.6	15.1	20.6	16.4	18.9	16.3	21.7	20.1
April	67.1	13.3	50.9	31.4	13.3	19.6	12.2	14.6	17.5	38.1	20.8	35.1	67.5	27.6	30.7
May	434.8	301.3	196.2	267.4	278.1	385.5	95.8	263.3	91.4	188.6	244.9	191.4	198.3	225.0	240.1
June	195.0	336.0	419.4	294.2	458.0	198.6	645.0	233.1	46.8	688.0	432.2	459.7	164.0	395.3	354.7
July	78.8	66.7	71.1	43.4	112.3	40.3	304.6	32.9	7.6	150.4	117.9	82.0	26.1	99.7	88.1
August	26.6	21.2	24.8	12.4	28.2	17.1	35.3	15.5	0.4	23.2	24.8	24.6	10.3	25.4	20.7
September	17.5	19.5	20.1	15.8	16.3	12.0	16.4	8.8	0.3	11.7	14.3	13.8	6.8	16.9	13.6
October	26.8	22.1	23.8	41.2	12.7	11.6	11.8	7.2	2.6	15.8	10.8	12.0	21.6		16.9
November	35.3	26.7	27.3	35.0	19.2	21.0	20.9	13.7	15.1	27.9	18.3	21.8	26.9		23.8
December	28.6	25.5	26.2	27.0	17.2	18.2	20.3	15.4	14.8	21.7	16.7	18.5	20.1		20.8

*Designates dry years during the gage period of record.

¹There is an additional 5.4 cfs in downstream water rights that are senior to the junior priority in the Vulcan Ditch.

As shown in Table 2, there are dry years in which the flows on Canyon Creek are low enough that there will not be any water left to divert at the Vulcan Ditch headgate. For example, in August and September of 1977, the flows that could have been available for diversion at the Vulcan Ditch headgate were at 0.4 and 0.3 cfs, respectively, after accounting for the senior 11.2 cfs on Canyon Creek. This demonstrates that in very dry years, Nutrient Farm will not have a physically and legally available supply of water, particularly in the late irrigation season. It is important to note that HCU credits cannot be used during periods when water is not legally and physically available at the headgate.

InError! Reference source not found. Figure 1, below, WWE recreated SGM’s Figure 4-2 from their Water Adequacy Report for Proposed Development (2020) for Nutrient Farm and updated the figure to include actual stream gage data for the dry years of 1977 and 1981, per Table 1, above. This figure shows an overlay of the competing water rights, as presented by SGM in their Figure 4-2. As shown, 11.2 cfs are senior to the Vulcan Ditch 1st Priority of 6 cfs, with an additional 5.4 cfs of flows being senior to the Vulcan Ditch 2nd Priority of 4 cfs. This demonstrates that in dry years, there will likely be limited or no flow available for diversion at the Vulcan Ditch headgate, particularly in the late irrigation season. Therefore, the Canyon Creek physical and legal supply is not sufficient to provide for Nutrient Farm’s demands during the late irrigation season in dry years. Another important consideration is that the late irrigation season, particularly the months of September and October, are the primary months during which fish spawning occurs on tributaries to major rivers, including Canyon Creek. It should be noted that the design flow rate for the fish passage project recently completed underneath I-70 is 17 cfs. Maintaining flows in Canyon Creek during September and

October is critical for the riverine ecosystem and should be considered when evaluating the impacts of diverting all flows in Canyon Creek during these months.

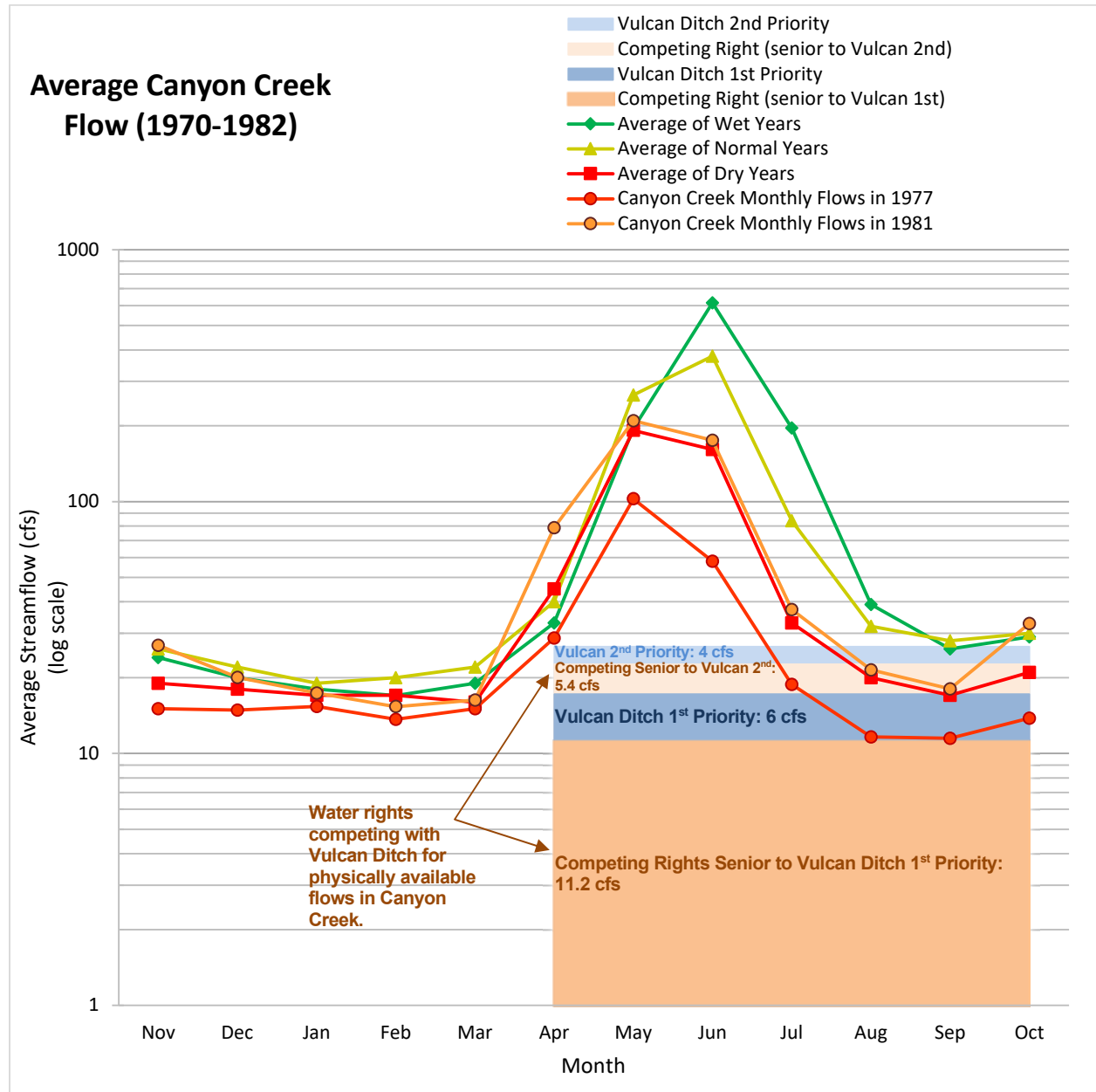


Figure 1. Canyon Creek Stream Flow Analysis Above Vulcan Ditch Headgate, as Developed by SGM, Including Dry Year Stream Gage Data for the Years 1977 and 1981

Alternate Points of Diversion

The primary focus in the Report is on the HCU value of 440 AF per year, of which Nutrient Farm owns 393 AF per year, associated with the Vulcan Ditch quantification in Case No. W-2127. The Report also documents that Nutrient Farm controls 8.93 cfs in the first two priorities of the Vulcan Ditch out of the original 10.0 cfs. The Riverbend Wells Nos. 1 through 5 were decreed as alternate points of diversion in Case No. W-2127 with each well capable of diverting up to 0.67 cfs. In a worst-case scenario, this means that the wells could legally divert up to 3.35 cfs, which would require a corresponding reduction in the Vulcan Ditch headgate diversion from Canyon Creek.

In order to administer the decrees, the Division Engineer's Office will need to have flow measurements at the Vulcan Ditch headgate and all of the alternate points of diversion, including the Coal Ridge Pump & Pipeline. In addition, the amount that can be diverted at all of the points is limited to the rate that is physically and legally available at the original point of diversion. For example, if there is adequate flow at the Vulcan Ditch headgate, but there are senior rights downstream that are not satisfied, then a call may require the flow to be bypassed. The combined diversion rate would be limited to that portion that remained in priority during the local call on Canyon Creek.

Pond Evaporation Rate

The SGM report identifies that the proposed development will have 11.46 acres of ponds. To calculate the evaporation from the pond surfaces, SGM relies upon the value included in the W-2127 decree of 1.0 foot—a value that is perplexing given that evaporation for the property is approximately 45 inches, or 3.75 feet. Careful reading of the W-2127 decree indicates that the effluent pond for which the evaporation was estimated was intended to fill over the winter months and be used for irrigation until the pond *empties*. The only logical conclusion is that the pond was only anticipated to be full for part of the year resulting in an evaporation total that was prorated for the months that the pond was expected to contain water.

If Nutrient Farm wishes to use the evaporation of 1.0 foot for its ponds, then it should be prepared to empty the ponds during the early summer consistent with the decree. Otherwise, the engineering should be based on a more realistic evaporation of 3.75 feet if the ponds are to remain full throughout the year. Applying this evaporation rate to the 11.46 acres of ponds results in a total annual evaporation of 42.98 AF, or 31.52 AF more than shown in the Report.

Historical Transit Losses

The original Vulcan Ditch water rights were decreed based on the conveyance of the water through over 3.5 miles of unlined, open ditches to the property. These losses would have required significantly more water diverted at the ditch headgate to ensure that an adequate supply made it to the fields to be irrigated. In the water resources field, we refer to this as the difference between headgate efficiency and field efficiency. The decree in Case No. W-2127 quantified 224 acres irrigated by the 10 cfs in the Vulcan Ditch, which translates to a duty of 22.4 acres per cfs. Typical flood irrigation duties of water are 1 cfs for 40 to 50 acres based on field efficiencies. These values imply that the ditch

historically lost roughly half of its water supply en route to the irrigated fields. It is WWE's understanding that Nutrient Farm plans to pipe the ditch from the headgate to the property, in which case these historical transit losses would not be incurred. As a result, the headgate diversion from Canyon Creek could be reduced by half in a piped system and still get the same amount of water delivered to the property as historically occurred.

Effect of Non-Use of Vulcan Ditch

There has been considerable discussion about the use of the Vulcan Ditch water rights over recent decades and whether the water rights should have been abandoned, at least in part. While that topic is beyond the scope of this evaluation, the effect of the lack of diversions on the HCU credits available to the project is relevant. In Case No. 02CW400, a portion of the 440 AF of annual HCU decreed in W-2127 was subject to a change case. The Division Engineer stated that the 20 AF of annual HCU needed to factor in the, at the time, 28 years of non-use of the ditch. The applicant agreed and the HCU credits were reduced from 20 to 14.1 AF per year, nearly a 30 percent reduction. The decree stated:

The consumptive use rate as decreed in Civil Action 4004 is 440 a.f. for 224 acres, or approximately 1.96 a.f. per acre. The period of historic use for this portion of the Vulcan Ditch water rights owned by applicant is 67 years (1907 to 1974) followed by twenty-eight years of non-use (1974 through 2003). Discounted consumptive use credit for the augmentation in 70.5 percent of the 20 a.f. or a total of 14.1 a.f. The equivalent consumptive use rate for the water rights changed herein is 1.38 a.f. per acre.

Given the lack of use of the Vulcan Ditch water rights in the period since that decree (2004 to present), WWE would be curious if the Division Engineer and the Water Court would take a similar approach to reducing the HCU credits, especially if a change case were needed.

Conformance of Nutrient Farm Proposal to W-2127 Decree

There are several elements of the proposed development that do not appear to be in conformity with the decree in Case No. W-2127. A few examples:

1. The ponds are not contemplated to be emptied, but rather remain full year-round. The decree explicitly anticipates that the effluent pond would be emptied through use of the water for irrigation, after which time the ditch water would need to be used for the meadow irrigation. The proposed development wants to use the partial year evaporation rate for ponds that are going to remain full.
2. In Table 3-6 of the Report, SGM uses different annual consumptive use (C.U.) rates for the various crops proposed under the plan. However, it is unclear that the decree provides for this flexibility as the only C.U. rate included in the 2.0 AF per acre. Furthermore, the combined effect of using the variable C.U. rates is approximately 30 AF less in annual C.U. than if the decree value of 2.0 AF per acre were used.

3. Per Table 3-6, Nutrient Farm is proposing 12.67 acres of lawn and then 189.5 acres of other outside irrigation (hay/native grass, orchard, tree nursery, and corn and vegetables) but the decree says there will be an unspecified amount of yard irrigation and then 120 acres of historic pasture. It appears that the project is proposing irrigation of more land than is contemplated in the decree.
4. The decree specifies that the “Applicant shall operate its development by means of a central water and sewer system;” however, Nutrient Farm is proposing the use a series of onsite wastewater treatment systems (OWTSs). The decree specifies a C.U. rate of 3 percent for the wastewater system, a value that SGM relies upon, but is inconsistent with the development plan. The standard C.U. rate of an OWTS is ten percent.

These inconsistencies between the Project and the decree in Case No. W-2127 question whether a change in water rights is necessary.

IN THE DISTRICT COURT IN AND FOR
WATER DIVISION NO. 5
STATE OF COLORADO
CASE NO. W-2127

IN THE MATTER OF THE APPLICATION) FINDINGS OF FACT, CONCLUSIONS
FOR WATER RIGHTS OF RIVERBEND) OF LAW AND DECREE APPROVING
DEVELOPMENT CORPORATION IN) CHANGE OF WATER RIGHTS
GARFIELD COUNTY)

THIS MATTER, having come on for hearing upon the applica-
tion of Riverbend Development Corporation for approval of a change
of water rights which was filed on December 3, 1973, and the Court
having considered the pleadings, the files herein, and the evidence
presented, FINDS:

1. That this matter was re-referred to the Water Judge
on February 27, 1974; that timely and adequate notice of this pro-
ceeding has been given in the manner required by law; and that the
Water Judge sitting in this Court has jurisdiction over the subject
matter of this proceeding and over all parties affected hereby,
whether they have appeared or not. The Colorado River Water Con-
servation District has timely entered an appearance in this
proceeding; the City and County of Denver, acting by and through its
Board of Water Commissioners, has timely filed a statement of
opposition; and the time for the filing of additional statements
of opposition has expired.

2. Applicant owns approximately 1.5 square miles in Town-
ships 5 and 6 South, Range 90 West of the 6th P.M., of which it intends
to develop approximately 600 acres for residential and recreational
purposes. The development will eventually contain approximately
650 dwelling units and approximately 120 acres of irrigated meadow.
Applicant has filed this application for change of water rights in
order to provide a water supply for this development on a year-
round basis.

3. Applicant owns the following water rights:

- a. Vulcan Ditch, Basin Rank No. 1473 in October 10, 1973 Revised Priority List for Water Division 5, Priority No. 175, Ditch No. 106 in District No. 39, for 6.0 cfs., appropriation date April 1, 1907, adjudicated by Decree of the District Court in and for Garfield County, entered September 14, 1908.

Vulcan Ditch First Enlargement, Basin Rank No. 3729 in October 10, 1973 Revised Priority List for Water Division 5, Priority No. 242, being Ditch No. 106 in District No. 39, for 4.0 cfs., appropriation date October 8, 1942, adjudicated by Decree of the District Court in and for Garfield County, entered September 5, 1952.

The decreed point of diversion is from Canyon Creek at a point on the West bank thereof whence the corner common to Sections 23, 24, 25 and 26, Township 5 South, Range 90 West bears South 89°06' West 1632.7 feet, variation 15° East. The actual point of diversion is and apparently always has been at a point on the West bank of Canyon Creek in the NW1/4 SW1/4 Section 25, Township 5 South, Range 90 West of the 6th P.M.

- b. The following wells, as conditionally decreed by the Water Court in and for Water Division No. 5 by the Referee's Ruling of March 21, 1974, in Case Number W-2125, for 0.67 cfs. each, appropriation date June 1, 1973, located as follows:

Riverbend Well No. 1: At a point whence the Southwest Corner of Section 35, Township 5 South, Range 90 West of the 6th P.M. bears South 02°30' West 2680 feet.

Riverbend Well No. 2: At a point whence the Southwest Corner of Section 35, Township 5 South, Range 90 West of the 6th P.M., bears South 10°30' West 2600 feet.

Riverbend Well No. 3: At a point whence the Southwest Corner of Section 35, Township 5 South, Range 90 West of the 6th P.M., bears South 18°00' West 2610 feet.

Riverbend Well No. 4: At a point whence the Southwest Corner of Section 35, Township 5 South, Range 90 West of the 6th P.M., bears South 26°00' West 2590 feet.

Riverbend Well No. 5: At a point whence the Southwest Corner of Section 35, Township 5 South, Range 90 West of the 6th P.M. bears South 34°30' West 2675 feet.

4. The source of supply for the domestic water service for applicant's development will be water diverted from the Colorado River alluvium. This water will be directly applied to municipal-type purposes to supply the development through a central water supply system. The means of diversion of such water will be through Riverbend Wells 1, 2, 3, 4 and 5. In order to provide water service through its central system during times of the year when its

wells will be out of priority, applicant proposes to use said wells as alternate points of diversion for part of its Vulcan Ditch rights, while continuing to divert through Vulcan Ditch for irrigation purposes, to the extent permitted. As long as the total amount of water diverted through wells and ditch does not exceed the amount of water decreed to Vulcan Ditch, and as long as the combined depletion to the river system from the Riverbend wells and Vulcan Ditch is not greater than the historic depletion from Vulcan Ditch, no vested rights will be injured by applicant's change of point of diversion of part or all of the Vulcan Ditch rights.

5. The total consumptive use of the Vulcan Ditch rights has been approximately 440 acre feet per year in dry years. Since the precise allocation of water among the several uses to which applicant proposes to put its rights in connection with its project is not fixed, the amount of the annual depletions to the Colorado River and Canyon Creek caused by water use in applicant's development cannot presently be ascertained. However, the 440 acre feet consumed historically is available for consumption in applicant's development without injuriously affecting other water rights. The amount of consumptive use associated with each aspect of applicant's development has been calculated as follows. For residences, all of which will be connected to a central water and sewer system, household consumptive use, not including yard irrigation, will be 3% of the water supplied thereto. Although there may be certain other forms of consumers on the central water system than single-family domestic dwelling units, such as multi-family or light commercial, the total consumptive use can adequately be expressed as a function of "residential equivalent units." Each residential equivalent unit will require the diversion for in-house purposes of 0.3920 acre-feet per year, based upon a per capita demand of 100 gallons per day, and an occupancy of 3.5 persons per dwelling unit. At 3% consumptive use, this results in an annual consumptive use of 0.0118 acre-feet per residential equivalent unit. Applicant's

sewage treatment program contemplates reuse of the effluent produced by its sewage treatment plant for irrigation of approximately 120 acres of pasture and hay meadow historically irrigated by water diverted through Vulcan Ditch. This program will require construction of a pond in which to store effluent during the winter period when no land is being irrigated. This pond will be emptied each succeeding summer by means of the said land treatment program, so that storage space will be available for the storage of effluent during the following winter. This will result in there being no carryover storage from one year to another. The exact size of the effluent pond has not been determined, but it is expected to have a surface area of between four and twenty acres. The evaporation of water from the surface of this pond is calculated to be 1.0 acre feet per acre of water surface per year calculated at the design high water level. Applicant will supplement the irrigation of the pasture as required for a full supply thereon by the direct diversion of water through the Vulcan Ditch or the Riverbend wells. For the historic hay meadow, regardless of whether it is irrigated by this effluent or by water diverted through Vulcan Ditch or the Riverbend wells, consumptive use is calculated to be 2.0 acre feet per acre per year. The consumptive use of irrigation water for lawn and landscape purposes is also calculated to be 2.0 acre feet per acre per year.

6. The total yearly consumptive use resulting from the several purposes envisaged by applicant may be conveniently expressed by the following formula:

$$[0.0118 \text{ acre-feet} \times A] + [1.0 \text{ acre feet/acre} \times B] + [2.0 \text{ acre feet/acre} \times C] + D = 440 \text{ acre feet}$$

where A is the total number of residential equivalent units; B is the surface area in acres calculated at the design high water level of the sewage effluent storage pond; C is the total number of acres of lawn, landscape or other irrigation supplied by the central water system and the number of acres of historic hay meadow continued in irrigation, each year; and D is the total yearly amount, in acre feet, of any other consumptive uses.

The use of this formula limits the amount of water which may be consumptively used to an amount which will prevent injury to other

water users, while permitting applicant flexibility in determining the allocation of its water resources. So long as applicant's uses conform to this formula and net depletions of the Colorado River system do not exceed 440 acre feet per year, then no injury will occur to the rights of other water users.

7. Applicant's proposed change of water right involves moving the point of diversion of the Vulcan Ditch priorities from a tributary to the mainstem river. Such a change could have the effect of enhancing the physical supply of water available to applicant, to the detriment of rights on the mainstem river and the river system as a whole. In addition, water left in Canyon Creek, to the extent of water taken through the wells, may be subject to interception by junior water rights prior to reaching the Colorado River mainstem, where it is required in order to avoid injury to users thereon. If applicant is required to install a measuring device in Canyon Creek or on the Vulcan Ditch headgate to insure that its supply of water would not exceed the amount that would have been available to it at the historic point of diversion, and means to insure the delivery of water to the Colorado River in such amount as is being diverted from the alternate point of diversion, proper administration can be facilitated.

CONCLUSIONS OF LAW

The Court finds as a matter of law:

1. The change of water rights proposed by applicant is one contemplated by law, and if administered in accordance with this decree, there will be no adverse effects on any vested water rights on the Colorado River system.

2. The State Engineer may be lawfully required to administer the priority in the manner set forth herein.

DECREE

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. The change of water rights contemplated by applicant herein is hereby approved subject to the following conditions:

a. That the total amount of water diverted through all of applicant's points of diversion at any time not exceed the amount decreed to the Vulcan Ditch.

b. Applicant shall operate its development by means of a central water and sewer system, supplemented by Vulcan Ditch diversions as described in paragraph 5 of the Findings of Fact hereof.

c. That applicant's depletion of the Colorado River and Canyon Creek, pursuant to the exercise of the rights described herein, not exceed 440 acre feet per year, and that applicant's consumptive use of water for all purposes be determined by the following formula:

$$[0.0118 \text{ acre-feet} \times A] + [1.0 \text{ acre feet/acre} \times B] + [2.0 \text{ acre feet/acre} \times C] + D = 440 \text{ acre feet}$$

where A is the total number of residential equivalent units; B is the surface area in acres calculated at the design high water level of the sewage effluent storage pond; C is the total number of acres of lawn, landscape or other irrigation supplied by the central water system and the number of acres of historic hay meadow continued in irrigation, each year; and D is the total yearly amount, in acre feet, of any other consumptive uses.

At the request of the Division Engineer, the Denver Water Board or the Colorado River Water Conservation District, applicant shall supply evidence establishing the values of the variables used in the said equation.

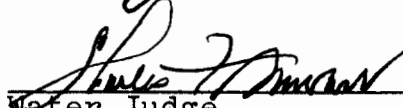
d. Applicant shall not divert more water at any time at its new alternate points of diversion and at its historic points of diversion combined than would have been available to it at the historic point of diversion. Applicant shall install measuring devices, continuous recorders and ditch turnouts in the headgate of the Vulcan Ditch or in Canyon Creek just upstream therefrom, sufficient in the opinion of the Division Engineer to permit the administration with respect to historic availability, and sufficient to guarantee the delivery of water to the mainstem of the Colorado River in the amount of the water being pumped at the alternate points of diversion.

2. It is hereby specifically ordered, adjudged and decreed that applicant may continue to use the present point of diversion of Vulcan Ditch, the location of which is at a point on the west bank of Canyon Creek in the NW1/4 SW1/4 Section 25, Township 5 South, Range 90 West of the 6th P.M.

3. Further, it is hereby ordered, adjudged and decreed that applicant may also use alternate points of diversion for part or all of the Vulcan Ditch rights at Riverbend Wells 1, 2, 3, 4 and 5, located as described in Finding 3(b).


4. Further, it is hereby ordered, adjudged and decreed that applicant's water rights above-described may hereafter be used for year-round municipal use (including commercial, industrial, domestic, irrigation incident thereto, and sewage treatment including land disposal), irrigation, recreation, fish and wild-life propagation, and all other beneficial purposes, including storage for each of the above purposes.

Dated this 26th day of June, 1974.

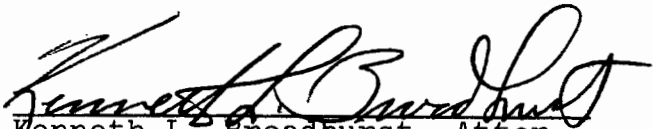


Water Judge
Water Division No. 5
State of Colorado

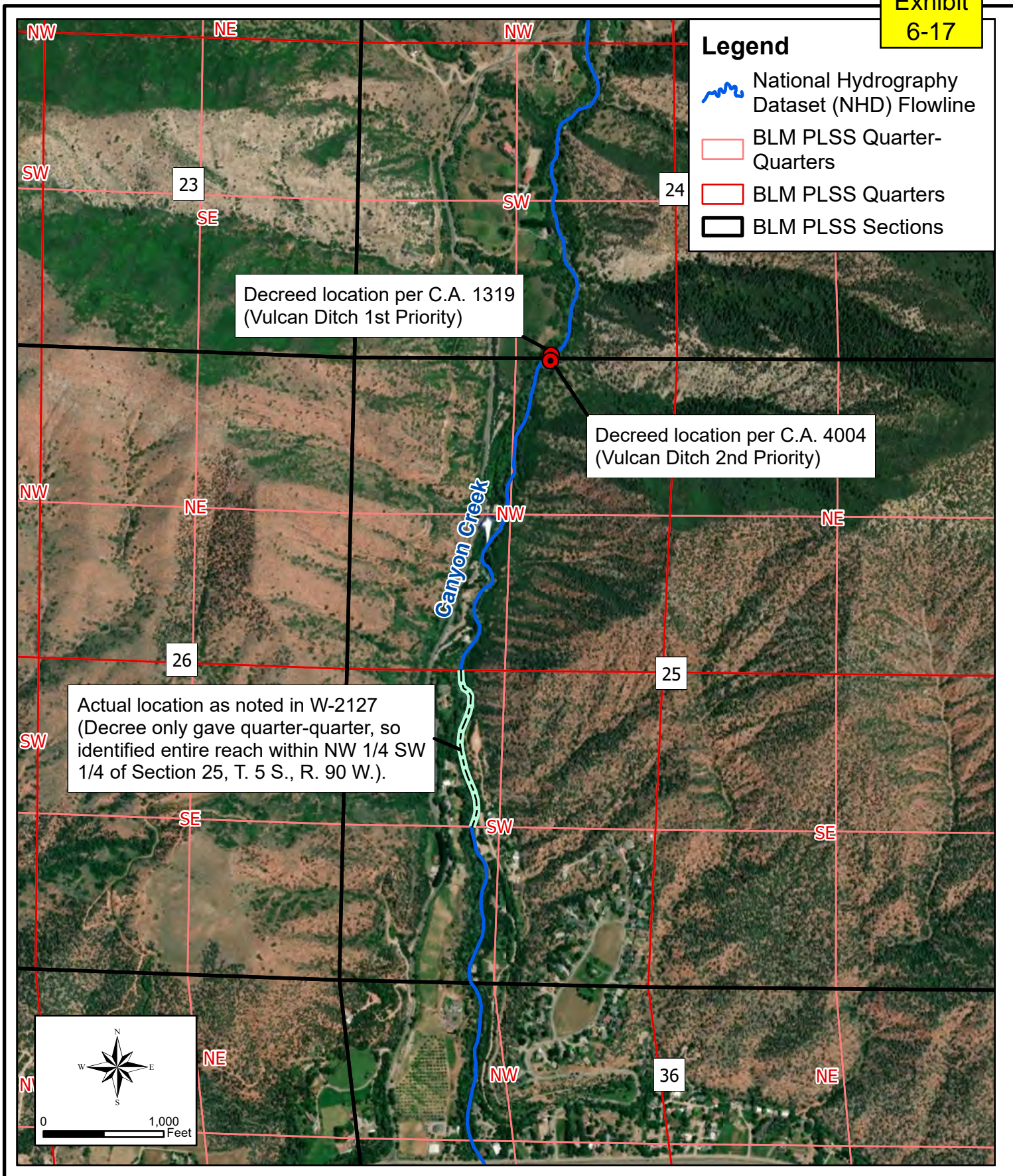
APPROVED:



Kenneth Balcomb, Attorney for
Colorado River Water Conser-
vation District



Kenneth L. Broadhurst, Attor-
ney for City and County of
Denver, acting by and through
its Board of Water Commis-
sioners



Path: G:\WWE\GPS\Vulcan Ditch Decreed Locations 2024\Vulcan Ditch Decreed Locations 2024.aprx



GARFIELD COUNTY, COLORADO
VULCAN DITCH DECREEED LOCATIONS
 TOWNSHIP 5 SOUTH RANGE 90 WEST OF THE 6TH P.M.

PROJECT NO. 241-018.010

FIGURE 1

Ryan Jarvis

From: Foy - DNR, Caleb <caleb.foy@state.co.us>
Sent: Wednesday, September 4, 2024 3:43 PM
To: Ryan Jarvis
Subject: Fwd: Vulcan Ditch Decreed Point of Diversion on Canyon Creek

Caleb Foy, P.E.
Deputy Division Engineer
Water Division 5



COLORADO
Division of Water Resources
Department of Natural Resources

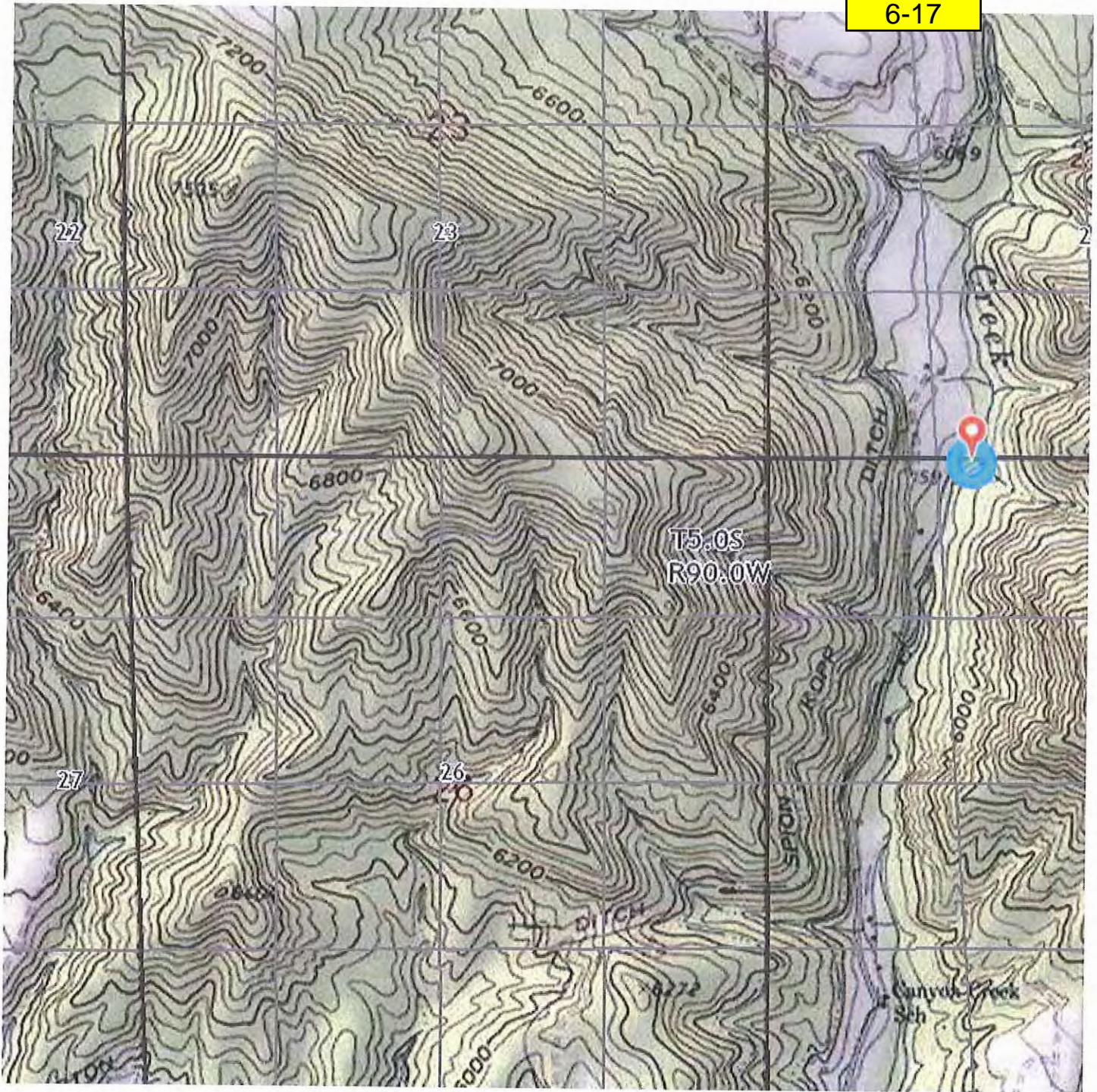
P 970-945-5665 x5017
202 Center Drive, Glenwood Springs, CO 81601
caleb.foy@state.co.us | dwr.colorado.gov

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

From: Foy - DNR, Caleb <caleb.foy@state.co.us>
Date: Tue, Aug 27, 2024 at 12:24 PM
Subject: Vulcan Ditch Decreed Point of Diversion on Canyon Creek
To: <DaveK@sgm-inc.com>
Cc: Hale - DNR, Dave <dave.hale@state.co.us>, Glen Lund - DNR <glen.lund@state.co.us>, William West - DNR <williame.west@state.co.us>

Afternoon Dave,

I'm writing in regard to the 6.0 cfs and 4.0 cfs water rights adjudicated to the Vulcan Ditch in Cases Nos. CA-1319 and CA-4004, respectively, which I understand your client, Nutrient Farms, may intend to divert from the existing point of diversion on Canyon Creek with UTM coordinates E: 289918, N: 4385498, identified below, and convey to the south side of the Colorado River for beneficial use pursuant to Case No. W-2127.



Vulcan Ditch Priority Nos. 175 and 242 were decreed with points of diversion identified in Case Nos. CA-1319 and CA-4004, respectively, copied below.

CA-1319

claim to be the owners of the Vulcan Ditch taking water from Canon Creek at a point on the west thereof whence the corner common to Sections 23, 24, 25 and 26, Twp. 5 S., R. 90 West bears south 89 deg. 06 mins. West 1632.7 feet variation 15 deg. East and from thence said ditch extends in a southerly and westerly direction a distance of about five miles to a point in the S.W. 1/4 N.W. 1/4 Sec. 6 S., R. 90 West, and that the construction of said

CA-4004

Said ditch is used for irrigation purposes and takes its supply of water from Canon Creek in Garfield County, Colorado. The headgate is located at a point on the west bank of Canon Creek whence the corner common to Sections 23, 24, 25 and 26, Township 5 South, Range 90 West bears North 89°06' West 1632.7 feet, variation 15 degrees East.

Vulcan Ditch Priority Nos. 175 and 242 were subject to a change of water rights decreed in Case No. W-2127 that ordered, in part, the following:

2. It is hereby specifically ordered, adjudged and decreed that applicant may continue to use the present point of diversion of Vulcan Ditch, the location of which is at a point on the west bank of Canyon Creek in the NW1/4 SW1/4 Section 25, Township 5 South, Range 90 West of the 6th P.M.

3. Further, it is hereby ordered, adjudged and decreed that applicant may also use alternate points of diversion for part or all of the Vulcan Ditch rights at Riverbend Wells 1, 2, 3, 4 and 5, located as described in Finding 3(b).

4. Further, it is hereby ordered, adjudged and decreed that applicant's water rights above-described may hereafter be used for year-round municipal use (including commercial, industrial, domestic, irrigation incident thereto, and sewage treatment including land disposal), irrigation, recreation, fish and wild-life propagation, and all other beneficial purposes, including storage for each of the above purposes.

Per consultation with staff in the Attorney General's Office on this matter, the DEO has determined that diversion of Vulcan Ditch Priority Nos. 175 and 242 at the existing point of diversion on Canyon Creek (E: 289918, N: 4385498) cannot be deemed to be diverting at their decreed location, pursuant to C.R.S. § 37-92-305(3.6)(b)(I), given that the physical point of diversion is not within five hundred feet of the decreed location (the location as decreed in Case No. W-2127 is a point on the west bank of Canyon Creek in the NW 1/4 SW 1/4, Section 25, Township 5 South, Range 90 West of the Sixth P.M.).

Given the above and Nutrient Farms' potential interest in diverting Vulcan Ditch Priority Nos. 175 and 242 at the existing point of diversion on Canyon Creek (E: 289918, N: 4385498), the DEO requests that Nutrient Farms provide a written response to this email that outlines its intention to correct/revise/amend the location of Vulcan Ditch Priority Nos. 175 and 242 decreed in Case No. W-2127 such that diversions at the existing point of diversion on Canyon Creek (E: 289918, N: 4385498) can be deemed to be diverting at their decreed location pursuant to C.R.S. § 37-92-305(3.6)(b)(I).

Please feel free to contact me directly with any questions related to the above.

Thanks,

Caleb Foy, P.E.
Deputy Division Engineer
Water Division 5



COLORADO
Division of Water Resources
Department of Natural Resources

P 970-945-5665 x5017
202 Center Drive, Glenwood Springs, CO 81601
caleb.foy@state.co.us | dwr.colorado.gov

Exhibit E

CENTRAL FILES

RECEIVED
APR 8 1985
WATER RESOURCES
ENGINEER
D.M.A.

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Application No. 84CW349

RULING OF REFEREE

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF STORM KING MINES, INC., IN THE COLORADO RIVER, OR ITS TRIBUTARIES, TRIBUTARY INVOLVED: CANON CREEK, IN GARFIELD COUNTY

The above entitled application was filed on October 31, 1984, and was referred to the undersigned as Water Referee for Water Division No. 5, State of Colorado, by the Water Judge of said Court on the 13th day of November, 1984, in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as The Water Right Determination and Administration Act of 1969.

And the undersigned Referee having made such investigations as are necessary to determine whether or not the statements in the application, and statements of opposition are true and having become fully advised with respect to the subject matter of the application does hereby make the following determination and ruling as the Referee in this matter, to-wit:

1. The statements in the Application are true. The statements in the Statements of Opposition are also true and have been addressed in this Ruling of Referee.

2. The names of the structures involved are:

- (a) Vulcan Ditch, and
- (b) Coal Ridge Pump and Pipeline.

3. The name of the claimant and address is: Storm King Mines, Inc.; c/o Charles M. Stoddard; P. O. Box 697; Glenwood Springs, Colorado.

4. The decreed source of water for the Vulcan Ditch is Canon Creek, tributary to the Colorado River.

The Source of water for the Coal Ridge Pump and Pipeline is the Colorado River.

5. (a) The point of diversion of the Vulcan Ditch, as decreed, is located on the West bank of Canon Creek at a point whence the corner common to Sections 23, 24, 25 and 26, T. 5 S., R. 90 W. of the 6th P.M. bears S. 89° 06' W. 1,632.7 feet.

Storm King Mines, Inc. 84CW349
Ruling of Referee
Page No. 2

(b) The point of diversion of the Coal Ridge Pump and Pipeline is located on the South bank of the Colorado River in Section 35, T. 5 S., R. 90 W. of the 6th P.M. at a point 1,260 feet West of the East line and 1,840 feet North of the South line of said Section 35.

6. On October 31, 1984, the Claimant filed, in Water Court for Water Division No. 5, an Application for Change of Water Right in which it is requested that an alternate point of diversion be established for the water previously decreed to the Vulcan Ditch, at the point of diversion of the Coal Ridge Pump and Pipeline at the location as described in paragraph 5(b) above.

In support of this request the Applicant has submitted a detailed outline of the procedures which will be followed to use the water in compliance with the Decree in Case No. W-2127.

In Case No. W-2127, the Court determined that the total consumptive use of the Vulcan Ditch rights has been approximately 440 acre feet per year in dry years, and that the 440 acre feet consumed historically is available for consumption in Applicant's development without injuriously affecting other water rights. The Court also finds that the Applicant's water rights in the Vulcan Ditch as above described may be used for year-around municipal use (including commercial, industrial, domestic, irrigation incident thereto, and sewage treatment including land disposal) irrigation, recreation, fish and wildlife propagation, and all other beneficial purposes, including storage for each of the above purposes.

In the same proceeding the Court established alternate points of diversion for the Vulcan Ditch water rights at Riverbend Wells No. 1 through No. 5.

By Warranty Deed, dated May 2, 1983, and recorded in Book 626 at page 563, of the Garfield County records, Hamilton R. Duncan, Jr. conveyed to Storm King Mines, Inc., the Applicant herein, the right to 395 acre feet of the annual consumptive use previously decreed to the Vulcan Ditch water right in Case No. W-2127.

In order to comply with the Decree in Case No. W-2127, the Applicant herein has described the locations along the Vulcan Ditch at which points of use will be established for the purpose of monitoring and measuring the quantities of water and places of use of the Vulcan Ditch water right which is the property of the Applicant, to-wit:

A. A pumping station will be established on the Vulcan Ditch for the purpose of pumping into Coal Ridge Reservoir, said point being described as follows:

Storm King Mines, Inc. 84CW349
Ruling of Referee
Page No. 3

Beginning at the Southeast Corner of Section 34, T. 5 S., R. 90 W. of the 6th P.M. thence Westerly along the South line of said Section 34 a distance of 3,559 feet; thence S. $00^{\circ} 14' 42''$ W. 1,105 feet to said pumping station on the Vulcan Ditch.

B. There are four existing takeout points on the Vulcan Ditch for irrigation purposes located as follows:

(1) Beginning at the Southwest corner of Section 35, T. 5 S., R. 90 W. of the 6th P.M., thence Easterly along the South line of said Section 35 a distance of 915 feet, thence No. $00^{\circ} 06' 28''$ W. a distance of 960 feet, to a gate valve on a steel pipe in place on the Vulcan Ditch.

(2) Beginning at the Southeast corner of Section 34, T. 5 S., R. 90 W. of the 6th P.M., thence Westerly along the South line of said Section 34 a distance of 1,283 feet, thence N. $00^{\circ} 14' 32''$ E. a distance of 450 feet to a point on the Vulcan Ditch.

(3) Beginning at the Southeast corner of Section 34, T. 5 S., R. 90 W. of the 6th P.M., thence Westerly along the South line of said Section 34, a distance of 1,770 feet, thence S. $00^{\circ} 14' 32''$ W. a distance of 58 feet to a point on the Vulcan Ditch.

(4) Beginning at the Southeast corner of Section 34, T. 5 S., R. 90 W. of the 6th P.M., thence Westerly along the South line of said Section 34 a distance of 4,402 feet, thence S. $00^{\circ} 14' 32''$ W. a distance of 1,132 feet to a point on the Vulcan Ditch.

At all of the above described take out points on the Vulcan Ditch, and at the above described pumping station, an approved measuring device and recording device will be installed and maintained for the purpose of administering the Vulcan Ditch water right.

8. Statements of Opposition were timely filed by Riverbend Homeowners Association, and by Jill C. McKinnis.

9. On February 13, 1985, the Applicant and Opposer, Riverbend Homeowners Association filed the following Stipulation and Argument:

COMES NOW the Applicant STORM KING MINES, INC., by and through its counsel, CHARLES M. STOODARD, ESQ. and Objectors, RIVERBEND HOMEOWNERS ASSOCIATION, ET. AL., by and through its attorneys, LEAVENWORTH, PATRICK & LOCHHEAD, P.C., and respectfully stipulate and agree as follows:

Storm King Mines, Inc. 84CW349
Ruling of Referee
Page No. 4

A. Upon the incorporation of the terms and conditions of this stipulation and agreement within any decree granted herein, the Objectors' Statement of Opposition shall be deemed withdrawn.

B. Objectors and Applicant agree that the interests of Applicant in the water rights sought to be changed shall be subordinate to the consumptive use and administration requirements of the Riverbend Subdivision, Garfield County, as beneficiary of the decree in Case No. W-2127, Water Division No. 5. Nothing herein shall be decreed which interferes, impedes or adversely affects the administration requirements of said plan and the change of water rights requested shall specifically recognize and be subordinated to the consumptive use requirements set forth in Case No. W-2127.

C. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

10. The following terms and conditions, which are hereby incorporated in this Ruling of Referee, will satisfy the concerns of Opposer Jill C. McKinnis:

A. Nothing in this Decree shall permit an increase in the amount of water historically consumptively used in excess of the Vulcan Ditch Priorities as approved by the Court in Case No. W-2127.

B. Measuring devices and recording devices as required will be installed and maintained to insure that the use of water as Decreed to the Vulcan Ditch is not increased or expanded.

C. Nothing in this Decree shall change the administration of the water rights of the Canon Creek System in Priority.

The Referee does therefore conclude that the above-entitled Application should be approved and that an alternate point of diversion may be established at the point of diversion of the Coal Ridge Pump and Pipeline at the location as described in paragraph 5(b) above; subject, however, to the terms and conditions of the Stipulation and Agreement as set forth in paragraph 9 above; and further subject to the conditions as set forth in paragraph 10 above.

The Court approves the proposed plan for operation of the Vulcan Ditch water right as set forth herein, insofar as it is in compliance with the Decree in Case No. W-2127.

CENTRAL FILES

Storm King Mines, Inc. 04CW349
Ruling of Referee
Page No. 5

RECEIVED

MAY 02 1985

DIVISION ENGINEER
STATE ENGINEER

It is accordingly ORDERED that this ruling shall be filed with the Water Clerk, subject to judicial review.

It is further ORDERED that a copy of this ruling shall be filed with the appropriate Division Engineer and the State Engineer.

Dated MARCH 28, 1985.

BY THE REFEREE:

Jean Cole
Water Referee
Water Division No. 5
State of Colorado

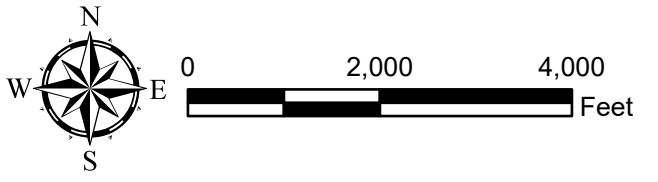
No protest was filed in this matter, and accordingly the foregoing ruling is confirmed and approved, and is made the Judgement and Decree of this court; provided however, that the approval of this change of water right shall be subject to reconsideration by the Water Judge on the question of injury to the vested rights of others during any hearing commencing in the two calendar years succeeding the year in which this decision is rendered.

Dated April 30, 1985

Thomas W. ...
Water Judge

Copy of the foregoing mailed to all
Divisions of record Water
Division PI: Engineer and
State Engineer Date 4-5-85
S. ...
Deputy Clerk, Water Div. No. 5

Exhibit
6-17



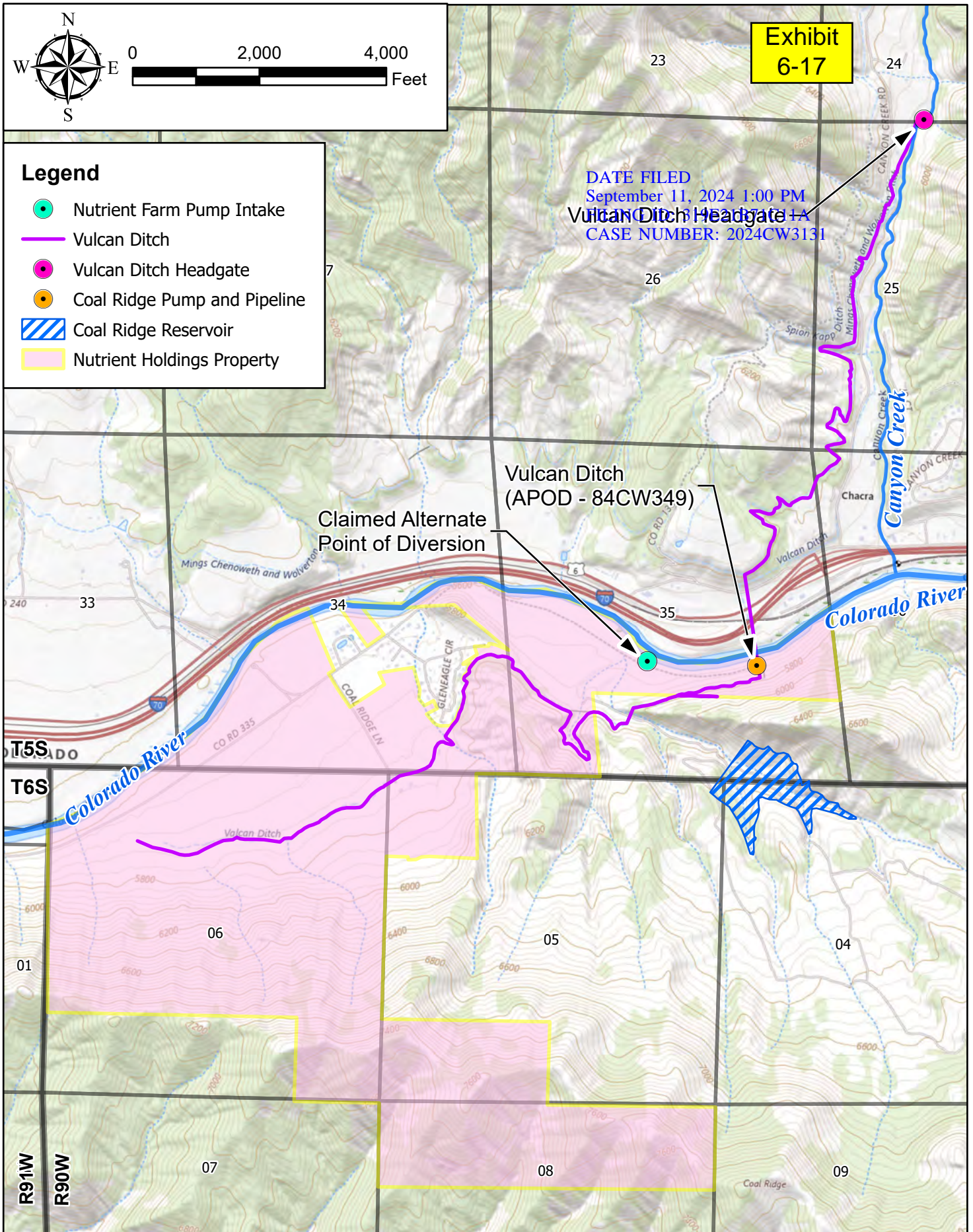
Legend

- Nutrient Farm Pump Intake
- Vulcan Ditch
- Vulcan Ditch Headgate
- Coal Ridge Pump and Pipeline
- Coal Ridge Reservoir
- Nutrient Holdings Property

DATE FILED
September 11, 2024 1:00 PM
Vulcan Ditch Headgate 1A
CASE NUMBER: 2024CW3131

Claimed Alternate
Point of Diversion

Vulcan Ditch
(APOD - 84CW349)



NUTRIENT HOLDINGS, LLC
Nutrient Farm Pump Intake Location

JOB NO: 0241.001.00 SCALE: 1 inch = 2,000 feet

EXHIBIT:
A

STATE OF COLORADO

GENERAL FILES

DIVISION OF WATER RESOURCES
WATER DIVISION 5

Office of the State Engineer
Department of Natural Resources
P.O. Box 396 (50633 U.S. Hwy 6 & 24)
Glenwood Springs, CO 81602
Phone (970) 945-5665
FAX (970) 945-8741 (call first)
www.water.state.co.us

REPORT OF THE DIVISION ENGINEER
SUMMARY OF CONSULTATION

Bill Owens
Governor
Greg E. Walker
Executive Director
Hal D. Simpson, P.E.
State Engineer
Alan C. Martellaro, P.E.
Division Engineer

Case No: 02CW400

Applicants: Peter and Patrice Knobel

Structures Applied For: Lewis Ditch No 1, Warner Ditch, Lewis Ditch No 2, and Vulcan Ditch

Application For: New Surface Water Rights and Change of Water Rights

COMMENTS

1. The application was filed on December 31, 2002.
2. The application does provide a map of the total historic irrigated land under the Lewis Ditch No 2 and the Warner Ditch, but does not identify the acreage associated with each. This attached map plots less than 30 acres of irrigated land. The Division of Water Resources GIS mapping from 1993 has 7.8 acres under the Warner Ditch, 8 acres under the Lewis No 2, and 24.9 acres under the Lewis No 1 (No 1 is on Possum Creek). The application claims the new irrigation rights will supplement the irrigation of 137 acres.
3. Generally, aesthetic use is incidental to other uses but in this claim appears to be the primary purpose of the rights. The aesthetic claim for a flow-through water feature is vague. Such a feature could include losses associated with evaporation, or riparian creation, and may dewater the natural channel or a significant distance or may be in channel.
4. The pending water court application 02CW252 changes a portion of the Warner Ditch. This pending application has not provided a map of dry-up or support for historic use claims. The dry-up and engineering in 02CW252 may impact the administration of the change proposed in this case, or the need for a new irrigation right.
5. The change of water right proposes to move 20AFCU of the 440AFCU under the Vulcan Ditch decreed in W-2127. **The majority of the 440AF, at least all of the 20AF, has not been used for many years, possibly since the W-2127 decree was entered in 1974.**
6. In using the Vulcan Ditch at additional points of diversion, W-2127 included terms and conditions that prevent injury to water rights on the mainstem of the Colorado. The terms include: limiting diversions at all points to the amount decreed at the Vulcan Ditch, limiting consumption to 440AF, and requiring "...measuring devices, continuous recorders and ditch turnouts ... to permit the administration with respect to historic availability, and sufficient to guarantee the delivery of water to the mainstem of the Colorado River..." This ensured that upstream rights on Canyon Creek did not divert historic return flows to the Colorado River.
7. The application does not propose any terms and conditions to protect water rights on the mainstem of the Colorado River, and on Canyon Creek upstream of the Vulcan Ditch. Calling the *pro rata* diversion rate of the Vulcan Ditch at upstream structures will allow reuse of Vulcan Ditch water on Canyon Creek. To prevent this enlargement, the direct flow rate should be broken down into consumption and return flow components. At least the return flow component should be called to the Vulcan Ditch and bypassed to the Colorado River.

RECOMMENDATIONS


1. The claim for a new irrigation right must be supported with additional evidence, otherwise this claim must be denied. This additional evidence must include a map separating the land under each ditch, the availability of existing rights, and identification of shortage of supply.

2. Details of the aesthetic water feature should be included in a ruling to address the intended impacts to the stream and the extent of the beneficial use.
3. The applicants must provide proof of ownership of the 0.27cfs and 0.18cfs in the Vulcan Ditch decreed as 20AFCU in W-2127.
4. The past 29 years of non-use under the Vulcan Ditch must be averaged into the historic use of this 20AFCU.
5. Any ruling must include the terms and conditions of W-2127, and additional terms and conditions that protect water rights on Canyon Creek. The ruling should include language that allows the change of water only when all terms and conditions are satisfied.
6. Adequate accounting language must be included as follows: "The applicant shall install measuring devices and recorders, provide accounting, and supply depletion calculations as required by the Division Engineer. The applicant shall also file an annual report with the Division Engineer by November 15th following each preceding irrigation year (November 1 through October 31) summarizing diversions, depletions, and returns administered to the Colorado River. **The Division Engineer may require the accounting and annual report to be incorporated into all other accounting and reporting associated with the 440AFCU of W-2127.**"

The Division Engineer respectfully requests the Water Court not rule in this matter until the above issues are addressed.

DATE: March 27, 2003

SIGNED: _____


Alan C. Martellaro, PE, Division Engineer

CRS 1973, Section 37-92-302(4), signed into law May 17, 1988, provides that the applicant or his attorney shall mail or deliver a copy of this consultation to all parties of record who filed a Statement of Opposition to this application, if any, and the statute also requires that the applicant or his attorney shall file a certification of mailing with the Water Clerk of Water Division No. 5 if this consultation is mailed to opposing parties.

CERTIFICATE OF MAILING

I hereby certify that on this 28th day of March, 2003, a true and correct copy of this REPORT OF THE DIVISION ENGINEER - SUMMARY OF CONSULTATION was mailed to:

SCOTT BALCOMB ESQ
DAVID P JONES ESQ
BALCOMB & GREEN PC
P O DRAWER 790
GLENWOOD SPRINGS CO 81602



Exhibit H

<p>DISTRICT COURT, WATER DIVISION 5, COLORADO 109 8TH STREET, SUITE 104 GLENWOOD SPRINGS, CO 81601 PHONE NUMBER: (970) 945-5075</p>	<p>FILED Document C O Garfield County District Court 9th JD Filing Date: Jul 20 2007 9:12AM BDDV Filing ID: 15650196 Review Clerk: Kathy Hall</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF: PETER AND PATRICE KNOBEL</p> <p>IN GARFIELD COUNTY, COLORADO.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>ATTORNEYS FOR APPLICANTS SCOTT M. BALCOMB, ATTY. REG. # 1376 SCOTT A. GROSSCUP, ATTY. REG. # 35871 BALCOMB & GREEN, P.C. POST OFFICE DRAWER 790 GLENWOOD SPRINGS, CO 81602 TELEPHONE: (970) 945-6546 FACSIMILE: (970) 945-8902 E-MAIL: SCOTT@BALCOMBGREEN.COM, SGROSSCUP@BALCOMBGREEN.COM</p>	<p>CASE NO. 02CW400</p>
<p>RESPONSE TO UNIFORM LOCAL RULE FOR ALL STATE WATER COURT DIVISIONS RULE 6 REQUEST</p>	

Applicants, Peter and Patrice Knobel, by and through undersigned counsel, hereby submit this Response to Uniform Local Rule for all State Water Court Divisions Rule 6 Request, issued by the Referee on July 2, 2007 in response to the Ruling of Referee submitted on January 29, 2007. The following responses correspond to the questions raised by the Referee after review of the Proposed Ruling previously submitted to the Court ("Ruling"). Filed with this Response is a revised Ruling of Referee ("Revised Ruling").

1. **Caption.** As requested, Applicants have changed the caption for the Revised Ruling to state: "Ruling of Referee, Findings of Fact, Judgment and Decree."
2. **Can and Will.** The Referee requests additional information that the claims for conditional surface water rights for the Lewis Ditch No. 1, 2nd Enlargement and the Warner Ditch, 2nd Enlargement can and will be diverted and put to beneficial use within a reasonable time. According to call records, only during the recent drought years have

calls been made on Canyon Creek. Thus, there is water that is available for appropriation.

Additionally, the uses claimed for the Lewis Ditch No. 1, 2nd Enlargement are for filling the Knobel Pond Nos. 1 and 2, aesthetics, and fire protection. This enlargement right is not for irrigation uses, rather it is used to fill and supply water to the junior ponds and for fire protection; uses that are not attributed to the senior Lewis Ditch No. 1 water right.

With respect to the Warner Ditch, 2nd Enlargement, this water will be used, in part, to irrigate lands previously irrigated by the Warner Ditch, irrigation of new lands not historically irrigated, and for supplemental irrigation on the lands described in the revised Figure 1 attached to the proposed Ruling and for fire protection uses. We have added a condition in Section III, paragraph 2, to state that a map of the area irrigated by this right shall be provided upon the application to make this right absolute.

In sum, water is available for use. Through the various improvements presently being undertaken at the property, Applicants assert that they can and will divert the water for beneficial use and that the project can be completed with diligence within a reasonable time and that the new water rights are necessary for the new uses contemplated. See the Engineering Letter Report attached hereto as **Exhibit A**.

3. **Pond Information.** The typographical errors describing the size of the Knobel Pond Nos. 1 and 2 have been corrected to state "surface" area, a holdover from the original application. Additionally, the dates of appropriation have been modified to state June 30, 2003, as a more specific date had not been claimed in the Application as Amended.

4. **Well Permit Information.** The legal description for the Main House Well, Permit No. 252419, has been changed in the Revised Ruling from the location referenced in the Application as Amended to reflect the permitted location for this well. A copy of the well permit is attached hereto as **Exhibit B**. This location is within 200 feet of the location requested in the Application as Amended and republication or amendment is not required. See Uniform Local Rules for All State Water Court Divisions, Rule 4.

The permitted location for the Guest House Well, Permit No. 252420 is 500 feet from the east section line as claimed in the Application as Amended and as referenced in the Ruling previously submitted. Attached as **Exhibit C** hereto is a copy of the well permit for the Guest House Well. The Ruling and Revised Ruling contain the location for the Guest House Well as permitted.

The Barn Well was previously issued Permit No. 251012 on June 12, 2003. However, this initial permitted location for the Barn Well was incorrect. A new permit was applied for and issued on December 18, 2003, for the Barn Well with the correct location. Condition number 5 of Permit No. 254421 expressly cancels the previously issued Permit No. 251012. *See Exhibit D.* The Ruling previously submitted to the Court referenced Permit No. 254421 for the Barn Well. While the Application as Amended erroneously references Permit No. 251012, the legal description is the same as the legal description for Permit No. 254421 and is the same legal description as found in the Ruling and Revised Ruling. The Ruling and Revised Ruling both reference Permit No. 254421 as the valid permit for the Barn Well – the present permit and permitted location.

5. **Augmentation of Well Use.** The plan for augmentation only considers augmenting uses from the Barn Well in the event that the uses from the Barn Well are determined to be non-exempt. *See* Section I, paragraph 21 of the Revised Ruling. This is for a conditional water right and in the event the actual uses exceed the criteria for exempt uses, or exceed allowable uses under the existing well permit, then these uses will be augmented in their entirety. In other words, the Ruling takes the conservative approach of augmenting all uses from the Barn Well. Thus, the plan arguably augments uses not otherwise required to be augmented, increasing the amount of water available for use by others.

6. **Historical Use of Possum No. 1 Ditch and Vulcan Ditch First Enlargement.** Attached to **Exhibit A** are diversion records for the Possum No. 1 Ditch. This ditch ultimately flows into the Lewis No. 1 Ditch as indicated in **Exhibit A**. There will be no change in the place of use for the Possum No. 1 Ditch. The following language has been added to the Revised Ruling in paragraph 15(I) to indicate that the place of use for the Possum No. 1 Ditch will not change as a result of the change in point of diversion: “Applicants will continue to irrigate those lands historically irrigated by the Possum Ditch as shown depicted in **Exhibit B.**”

The consumptive use attributable to the Vulcan Ditch rights was quantified in Case No. W-2127 and changed to allow for augmentation uses. This case seeks a change in the place of use of these rights to augment evaporative losses, the Barn Well (if necessary), and livestock. *See* Sec. I ¶¶ 19 and 24(A) of Ruling and Revised Ruling. Section I, paragraph 24(B) of the Ruling and Revised Ruling states that in determining the consumptive use of the Vulcan Ditch water rights as a result of the change in place of use, Applicant has discounted these credits for 28 years of non-use, or 29.5 percent (20 AF (owned) X 70.5% (discounted) = 14.1 AF of available consumptive use).

7. **Administration of Vulcan Ditch Water Rights.** As shown in the contract attached as Exhibit C to the Response to Summary of Consultation filed on December

12, 2006, Applicants are the contract purchasers of up to 20 AF of the 440 AF historical consumptive use credits attributed to the Vulcan Ditch water rights quantified in Case No. W-2127. This amounts to proportionate share of approximately 0.45 cfs of the 10 cfs decreed to the ditch.

Section I, paragraphs 16(F) and 17(F) of the Revised Ruling now provide the amounts changed by the application for the respective priorities and equal to 0.27 for the Vulcan Ditch and 0.18 cfs for the 1st Enlargement. This language also appears in paragraph 19(D) of the Ruling and Revised Ruling. Paragraph 19(c) of the Ruling also describes how the Vulcan Ditch rights are to be changed and states that of the 0.45 c.f.s., 0.405 c.f.s. (0.243 c.f.s. and 0.162 c.f.s. respectively) will be used to irrigate 6.48 acres of the land previously irrigated by the Warner Ditch. The remainder of Applicants' interest in the Vulcan Ditch, 0.027 c.f.s, will be by-passed at the headgate of the Vulcan Ditch (0.027 c.f.s. and 0.018 c.f.s. respectively). This language also appears in the Revised Ruling.

In other words, of the 14.1 acre feet of the 20 acre feet available after discounting for non-use, 1.39 AF are dedicated to the plan for augmentation to offset depletions from the Barn Well, and evaporative losses, and the remaining 12.71 AF will be used to irrigate the historically irrigated lands. See Sec. I, ¶ 24(B).

Additionally, the Ruling recognized the period of non-use for the Vulcan Ditch Water Rights in Section 1, paragraph 24(B). As described in this paragraph, Case No. W-2127 decreed a consumptive use rate of 1.96 AF per acre. This decreed consumptive use rate was subsequently discounted in this case for years of non use to 14.1 AF, or 1.38 AF per acre. Of this 14.1 AF, the Ruling recognizes that 12.71 AF will be used to irrigate the 6.48 Acres previously irrigated by the Warner Ditch or 1.96 AF per acre. The remaining 1.39 AF of consumptive use credits will be used to augment depletions from the ponds, water features and Barn Well (if ultimately required).

8. **Plan of augmentation.** This plan for augmentation augments out-of-priority depletions attributable to the uses from the Barn Well and from the evaporative depletions from the various water features. This plan does not augment irrigation uses. The intent behind the provisions of Section I, paragraph 24, is to indicate that Applicants' irrigation rights will be administered in priority. In the event of a call, irrigation uses will be curtailed, as the water rights that are covered by the plan for augmentation do not have an irrigation component associated with them, with the exception of the Warner Ditch Enlargement.

9. **Baseline assumptions.** Section I, paragraph 24, incorporates the assumptions provided in Exhibit D, Tables 1-3 of the proposed Ruling. As indicated,

the plan for augmentation accounts for domestic uses from the Barn Well, livestock uses, and evaporative losses from the storage water rights. Total depletions are estimated to be 2.128 AF. A portion of these depletions, 1.39 AF, will be augmented using the dry-up credits associated with the Vulcan Ditch rights. This leaves 12.71 AF for irrigation uses on lands previously irrigated by the Warner Ditch.

10. **WDWCD Releases.** Paragraph 24(D) of Section I has been revised to clarify that WDWCD Releases will only be made in the month of November in an amount equal to 0.013 AF to augment out of priority depletions.

11. **Allotment Contract.** Pursuant to Applicants' water supply contract with the West Divide Water Conservancy District, Applicants are to make annual payments to the District for deliveries in the following year. This is accomplished by an invoice and subsequent payment to the District. Applicants do not execute a new contract each year, rather the contract is "automatically renewed" upon payment of the annual payment. This contract also provides that in the event the Applicants do not make payment, the contract may be cancelled at which point the District will notify the Division of Water Resources of the cancellation of the contract. In this manner, the Division Engineer is notified whether the Applicants have a valid contract. See paragraph 6 of the Allotment Contract attached as Exhibit E to Applicants' Response to the Summary of Consultation.

12. **Retained Jurisdiction.** Applicants included the retained jurisdiction period requested by the Division Engineer in his Summary of Consultation dated July 15, 2004. This period is "five years after the plan becomes operational."

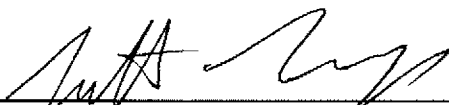
Under the terms of the proposed Ruling, the Applicants are to provide yearly accounting summarizing diversions and accounting associated with the Vulcan Ditch rights in Case No. W-2127. The opposers will have an opportunity to review these periodic reports for determining whether the plan for augmentation has become operational. Furthermore, the Opposers have consented to the proposed language, or less restrictive terms, in stipulations filed with the court indicating their consent and notice of the period of retained jurisdiction.

13. **Revised Tables.** The Revised Ruling includes the tables to indicate the amount in acre feet.

In the event the Referee finds this information does not respond to the Court's concerns, Applicants' counsel would request an opportunity to meet with the Referee to address any outstanding matters.

Respectfully submitted this 19th day of July 2007.

BALCOMB & GREEN, P.C.

By  _____
Scott M. Balcomb, Atty. Reg. # 1376
Scott A. Grosscup, Atty. Reg. # 35871

Attorneys for Applicants

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the above and foregoing RESPONSE TO ULR 6 REQUEST via electronic filing upon the following:

Michael F. Browning, Esq.
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929 Pearl Street, Suite 300
Boulder, CO 80302

Mark Hermundstad, Esq.
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410 17th Street, 22nd Floor
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Done: July 20, 2007.


Elaine L. Benson, Paralegal

THIS DOCUMENT WAS FILED ELECTRONICALLY. AN ORIGINAL SIGNATURE COPY IS AVAILABLE FOR INSPECTION AT THE OFFICE OF THE ORIGINATING ATTORNEY, PURSUANT TO COLORADO RULE OF CIVIL PROCEDURE 121, § 1-26.

DB

RECEIVED

Exhibit I

NOV 19 '07

Exhibit
6-17

WATER RESOURCES
STATE ENGINEER
GLENWOOD

DISTRICT COURT, WATER DIVISION 5, COLORADO GARFIELD COUNTY COURTHOUSE 109 8TH ST., SUITE 104, GLENWOOD SPRINGS, CO 81601 (970) 945-5075	did not review JTS 12/7/07 COURT USE ONLY CASE No.: 02CW400 WATER DIVISION 5
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: PETER AND PATRICE KNOBEL IN GARFIELD COUNTY, COLORADO.	
RULING OF REFEREE, FINDINGS OF FACT, JUDGMENT AND DECREE	

This matter came before the Court upon Application, and subsequent Amended Application, of Peter and Patrice Knobel for Surface Water Rights, Storage Water Rights, Underground Water Rights, Change of Water Rights and Approval of Plan for Augmentation.

The Water Judge referred the Application, as amended, to the undersigned as Water Referee for Water Division 5, State of Colorado, in accordance with Article 92 of Title 37, Colorado Revised Statutes 1973, known as the Water Right Determination and Administration Act of 1969.

The undersigned Referee has made such investigations as are necessary to determine whether or not the statements in the Application, as amended, are true, has become fully advised with respect to the subject matter of the Application, as amended, and has consulted with the Division Engineer for Water Division 5. The Referee hereby makes the following determination and ruling in this matter.

I. FINDINGS OF FACT

1. Applicants are Peter and Patrice Knobel whose address is 329 Mill Creek, Vail, CO 81657. Applicants own approximately 540 acres known as the Okanela Ranch in Garfield County, CO.

2. Applicants filed an Application for Surface Water Rights and Change of Water Rights on December 31, 2002. An Amended Application was filed on October 31, 2003, to add claims for storage water rights, underground water rights, and additional change of water rights and approval of plan for augmentation. By Order of the Court, dated November 6, 2003, the Amended Application was amended *nunc pro tunc* as of October 31, 2003, to correct typographical errors, and to add, *inter alia*, the name of the landowner on which the Possum No.

1 Ditch is located. Said changes were included in the Amended Application and published in the October resume. The Amended Application, as amended, consolidated all claims and replaced the original Application in its entirety.

3. The Application and Amended Application were properly published. All notices required by law have been made, and the Court has jurisdiction over the Application, and Amended Application, and over all of the parties in this case. Applicants have paid all publication costs.

4. Timely Statements of Opposition to the original Application were filed by Waterstone Canyon, LTD; Greg McKennis both individually and as Trustee of the Alice Kathryn McKennis Trust and of the Kendra Colleen McKennis Trust; and U.S. Bank National Association as Trustee for the Eric C. Williams Trust. Greg McKennis, both individually and as Trustee, and the U.S. Bank National Association, each withdrew their Statements of Opposition as of December 29, 2003. The Williams Canal Company and NCIG Financial, Inc. filed Statements of Opposition to the Amended Application. Said Objectors have consented to entry of this decree by way of Stipulations with the Applicants on file and approved by the Court. No other Statements of Opposition were filed. The time for filing such statements has expired.

5. The Court finds that the relief requested herein is consistent with the relief sought in the Amended Application and for which notice was provided.

CLAIM FOR SURFACE WATER RIGHTS

6. Name of Structure: Lewis Ditch No. 1, 2nd Enlargement

A. Location: The headgate is located on the North bank of Possum Creek in the NW 1/4 SW 1/4, of Section 19, Township 5 South, Range 89 West, of the 6th P.M.; at a point 1,400 feet from the South line and 60 feet from the West line of said Section 19.

B. Source: Possum Creek, tributary to Canyon Creek, tributary to the Colorado River.

C. Date of initiation of appropriation: July 15, 2002

D. How appropriation was initiated: construction of water structure and formation of intent to appropriate water

E. Date water applied to beneficial use: n/a

F. Amount claimed: 0.27 c.f.s., conditional

G. Use or proposed use: water will be used in an aesthetic flow-through water feature in conjunction with the Knobel Pond Nos. 1 and 2 and for fire protection.

7. Name of Structure: Warner Ditch, 2nd Enlargement
- A. Location: The headgate is located on the West bank of the East Fork of Canyon Creek in the NE 1/4 NE 1/4 of Section 24, Township 5 South, Range 90 West, of the 6th P.M.; at a point 805 feet from the North line and 530 feet from the East line of said Section 24. See Water Rights Location Map attached as **Exhibit "A"** hereto.
- B. Source: East Fork of Canyon Creek, tributary to the Colorado River.
- C. Date of initiation of appropriation: November 11, 2002
- D. How appropriation was initiated: By location of place of use and formation of intent to appropriate water
- E. Date water applied to beneficial use: n/a
- F. Amount claimed: 0.4 c.f.s., conditional
- G. Use or proposed use: Proposed use is irrigation and fire protection
- i. Irrigation: Water will be used as supplemental irrigation on up to 40 acres in the NE 1/4, Section 24, Township 5 South, Range 90 West of the 6th P.M. as shown in **Exhibit A** via a sprinkler irrigation system.
 - ii. Non-irrigation: The water will be used for fire protection.

CLAIM FOR STORAGE WATER RIGHTS

8. Name of Reservoir: Knobel Pond No. 1
- A. Legal Description: SE1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M.; at a point 1,980 ft. from the N. line and 1,280 ft. from the E. line of said Sec. 24.
- B. Name and capacity of ditch used to fill reservoir: The pond is off channel and will be filled by Lewis No. 1 Ditch, 2nd Enlargement which has a capacity of 0.27 c.f.s.
- C. Source: Possum Creek, tributary to Canyon Creek, tributary to Colorado River.
- D. Date of appropriation: June, 2003.
- E. How appropriation was initiated: By construction and filling of pond.

F. Date water applied to beneficial use: June, 2003.

G. Amount claimed: 0.72 a.f., absolute

I. Use: The pond is and will be used for fire protection and an aesthetic flow-through water feature in conjunction with the Lewis No. 1 Ditch, 2nd Enlargement.

J. Dam information:

- i. Surface area of high water line: 0.15 acres
- ii. Maximum height of dam: 6 ft.
- i. Length of dam: 75 ft.
- ii. Storage capacity
 - a) Active: 0 a.f.
 - b) Dead Storage: 0.72 a.f.

9. Name of Reservoir: Knobel Pond No. 2

A. Legal Description: Located in the SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M.; at a point 2,030 ft. from the N. line and 1,400 ft. from the E. line of said Sec. 24.

B. Name and capacity of ditch use to fill reservoir: Pond is off channel and will be filled by Lewis No. 1 Ditch, 2nd Enlargement which has a capacity of 0.27 c.f.s.

C. Source: Possum Creek, tributary to Canyon Creek, tributary to Colorado River.

D. Date of appropriation: June 30, 2003.

E. How appropriation was initiated: By construction and filling of pond.

F. Date water applied to beneficial use: June 30, 2003.

G. Amount claimed: 0.2 a.f., absolute

I. Use: The pond is and will be used for fire protection and an aesthetic flow-through water feature in conjunction with the Lewis No. 1 Ditch, 2nd Enlargement.

J. Dam information:

- i. Surface area of high water line: 0.08 acres
- ii. Maximum height of dam: 4 ft.
- iii. Length of dam: 50 ft.
- iv. Storage capacity

- a) Active: 0 a.f.
- b) Dead Storage: 0.20 a.f.

10. Name of Reservoir: Bullock Pond

A. Legal Description: Located in the NW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6 P.M.; at a point 1,200 ft. from the N. line and 1,750 ft. from the E. line of said Sec. 24.

B. Name and capacity of ditch use to fill reservoir: The pond is located off channel and will be filled by the Warner Ditch, 2nd Enlargement, which has a capacity of 0.4 c.f.s.

C. Source: East Canyon Creek, tributary to Canyon Creek, tributary to Colorado River.

D. Date of appropriation: October 1, 2003.

E. How appropriation was initiated: Location of pond and formation of intent to appropriate water.

F. Date water applied to beneficial use: n/a

G. Amount claimed: 0.5 a.f., conditional

H. Use: Water will be used for fire protection and aesthetic flow-through water feature in conjunction with the Warner Ditch, 2nd Enlargement.

I. Dam information:

- i. Maximum height of dam: 9 ft.
- ii. Length of dam: 100 ft.
- iii. Storage capacity
 - a) Active: 0.5 a.f.
 - b) Dead Storage: 0 a.f.

CLAIM FOR UNDERGROUND WATER RIGHTS

11. Name of Well: Main House Well, Permit No. 252419.

A. Legal Description: SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M., 2,000 ft. from the N. line and 1,340 ft. from the E. line of said Sec. 24.

B. Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.

- C. Depth: 100 ft.
- D. Date of initiation of appropriation: August 16, 1991, by issuance of Permit No. 161861.
- E. How appropriation was initiated: Construction of well and intent to put water to beneficial use.
- F. Date water applied to beneficial use: October 1, 1991.
- G. Amount Claimed: 15 g.p.m. (0.033 c.f.s.), absolute
- H. Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
- i. Irrigation: Irrigation of not more than one acre of lawn and gardens.
 - ii. Non-irrigation: Domestic use inside a single family dwelling and fire protection.
12. Name of Well: Guest House Well, Permit No. 252420
- A. Legal Description: SE1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M. at a point 2,111 ft. from the N. Line and 500 ft. from the E. line of said Sec. 24.
- B. Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.
- C. Depth: 100 ft.
- D. Date of initiation of appropriation: May 23, 2003.
- E. How appropriation was initiated: By application for well permit in formation of intent to appropriate water.
- F. Date water applied to beneficial use: n/a
- G. Amount Claimed: 15 g.p.m. (0.033 c.f.s.), conditional
- H. Proposed Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
- i. Irrigation: Irrigation of not more than one acre of lawn and gardens.

- ii. Non-irrigation: fire protection and ordinary household uses inside not more than three single family dwellings, and watering of domestic animals.

13. Name of Well: Barn Well, Permit No. 254421

- A. Legal Description: SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M., at a point 1,643 ft. from the N. line and 1,757 ft. from the E. line of said Sec. 24.
- B. Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.
- C. Depth: 100 ft.
- D. Date of initiation of appropriation: May 23, 2003.
- E. How appropriation was initiated: By application for well permit and intent to put water to beneficial use.
- F. Date water applied to beneficial use: n/a
- G. Amount Claimed: 15 g.p.m. (0.033 c.f.s.), conditional
- H. Proposed Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
 - i. Irrigation: One acre of lawn and gardens
 - ii. Non-irrigation: Ordinary household uses inside three single family dwellings, fire protection and watering of domestic animals and livestock.

14. Name of Well: Cabin Well, Permit No. 254519

- A. Legal Description: NE1/4 NE1/4 Sec. 24, T. 5 S., R. 89 W., 6th P.M., at a point 1,253 ft. from the N. line and 1,249 ft. from the E. line of said Sec. 24.
- B. Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.
- C. Depth: 50 ft.
- D. Date of initiation of appropriation: July 15, 1951.
- E. How appropriation was initiated: By construction of well and placement of water to beneficial use.

- F. Date water applied to beneficial use: July 15, 1951.
- G. Amount Claimed: 15 g.p.m. (0.033 c.f.s.), absolute
- H. Proposed Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
- i. Irrigation: Irrigation of not more than 2,000 square feet of lawn and gardens.
 - ii. Non-irrigation: Domestic uses inside a single family residence.

CLAIM FOR CHANGE OF WATER RIGHTS
POSSUM NO.1 DITCH

15. Decreed Name of Structure for which changes are sought: Possum No. 1 Ditch

Information From Previous Decree:

- A. Date entered: November 10, 1966
- B. Case No.: C.A. 4914, District Court, Water Division 5, Garfield County, Colorado.
- C. Decreed point of diversion: located on the N. bank of Possum Creek whence the N1/4 corner of Sec. 20, T. 5 S., R. 89 W., 6th P.M., bears N. 51 deg. 50 minutes E. a distance of 6,396.6 ft. (See map **Exhibit A** hereto).
- D. Source: Possum Creek, tributary to Canyon Creek, tributary to the Colorado River.
- E. Date of appropriation: June 1, 1920
- F. Amount: 2.14 c.f.s.
- G. Historic use: Irrigation (See Irrigation Map, attached as **Exhibit B**, hereto).
- H. Proposed change: Applicants propose to change the point of diversion of its Possum No. 1 Ditch water right to the Lewis No. 1 Ditch headgate located: on the N. bank of Possum Creek in the NW1/4 SW1/4 Sec. 19, T. 5 S., R. 89 W., 6th P.M., at a point 1,400 ft. from the S. line and 60 ft. from the W. line of said Sec. 19. See **Exhibit A**.

I. Terms & Conditions: In order to prevent injury to other water rights, Applicants will limit its diversions at the Lewis No. 1 Ditch headgate to those times when water is physically and legally available at the original point of diversion. Applicants will continue to irrigate those lands historically irrigated by the Possum Ditch as shown depicted in **Exhibit B**.

CLAIM FOR CHANGE OF WATER RIGHTS
VULCAN DITCH AND VULCAN DITCH 1st ENLARGEMENT

16. Decreed Name of Structure for which changes are sought: Vulcan Ditch

Information From Previous Decree:

- A. Date entered: September 14, 1908.
- B. Case No.: C.A. 1319 District Court, Water Division 5, Garfield County
- C. Decreed point of diversion: A point on the W. side of Canyon Creek whence the corner common to Secs. 23, 24, 25 and 26, T. 5 S., R. 90 W., bears S. 89 deg. 6 minutes W., a distance of 1,632.7 ft., variation 15 deg. E. Re-surveyed location: a point described as the NW1/4 SW1/4, Sec. 25, T. 5 S., R. 90 W., 6th P.M.; 2,200 ft. from the S. line and 1,000 ft. from the W. line of said Sec. 25.
- D. Source: Canyon Creek, tributary to the Colorado River
- E. Date of appropriation: April 1, 1907
- F. Amount: 6.0 c.f.s. Amount to be changed: 0.27 c.f.s.
- G. Historic use: Irrigation.

17. Decreed Name of Structure for which changes are sought: Vulcan Ditch, 1st
Enlargement

Information From previous decree:

- A. Date entered: September 5, 1952
- B. Case No.: C.A. 4004, District Court, Water Division 5, Garfield County
- C. Decreed point of diversion: See description above
- D. Source: Canyon Creek, tributary to the Colorado River

- E. Date of appropriation: October 8, 1942
- F. Amount: 4.0 c.f.s. Amount to be changed: 0.18 c.f.s.
- G. Historic use: Irrigation.

18. Remarks. In Case No. W-2127 decreed in District Court, Water Division 5 on June 26, 1974, the Court fixed the historic dry year consumptive use associated with the Vulcan Ditch water rights at 440 a.f. per year and made that amount of consumptive use available for transfer.

19. Description of Change: Applicants request a change in point of diversion, a change in place of use, and a change of nature of use of the Vulcan Ditch water rights.

A. New Points of Diversion: See **Exhibit A**.

- i. Lewis No. 1 Ditch, 2nd Enlargement as described above.
- ii. Warner Ditch, 2nd Enlargement, as described above.
- iii. Lewis Ditch No. 2: located on the East bank of the East Fork of Canyon Creek in the NE 1/4 NE 1/4 of Sec. 24, T. 5 S., R. 90 W., 6th P.M.; at a point 460 ft. from the N. line and 325 ft. from the E. line of said Sec. 24.

B. New Place of Use: Sec. 19, T. 5 S., R. 89 W., 6th P.M.; and Sec. 24, T. 5 S., R. 89 1/2 W., and R. 90 W., 6th P.M.; Garfield County, Colorado. (See **Exhibits A and C**, hereto).

C. Use: Water will be used to augment depletions associated with domestic, stock watering, and evaporation from pond and water feature surface area, as more fully described under the plan for augmentation applied for herein. Excess credits not needed for these uses will be diverted at one or the other new points of diversion described above and used for irrigation of up to 6.48 acres as shown on **Exhibit C**. Use of the Vulcan Ditch water shall be subject to the applicable terms and conditions of the decree in District Court, Water Division 5, Case W-2127 and may only occur once all terms and conditions of that and the present Decree related to this change, as contemplated below, have been satisfied.

A proportionate share of the Vulcan Ditch water rights will be bypassed at the Vulcan Ditch headgate in the amount of 0.027 c.f.s. from the original right and 0.018 c.f.s. from the First Enlargement described in Paragraph 13 above for augmentation releases. The remaining 0.405 c.f.s., of the 0.45 c.f.s. changed herein, will be used to irrigate the 6.48 acres depicted on **Exhibit "C"** in an amount of 0.243 c.f.s. from the original right and 0.162 c.f.s. from the First Enlargement.

D. Amount: 0.27 c.f.s. of the original priority and 0.18 c.f.s. of the 1st Enlargement of the Vulcan Ditch.

CLAIM FOR APPROVAL OF PLAN FOR AUGMENTATION

21. Names of Structures to be Augmented: Barn Well, Lewis No. 1 Ditch 2nd Enlargement, Warner Ditch 2nd Enlargement, Knobel Pond No. 1, Knobel Pond No. 2, and Bullock Pond.

22. Are there other water rights diverted from the structures? No

23. Previous Decrees for Water Rights to be Used for Augmentation: Vulcan Ditch and Vulcan Ditch 1st Enlargement as described herein; and water provided under contract with West Divide Water Conservancy District ("WDWCD"), contract No. 040219PK(a). The WDWCD water rights that may be used under this plan are as follows:

(i) Ruedi Reservoir: WDWCD has contracted with the U.S. Bureau of Reclamation for the release of up to 100 a.f. per year for augmentation and other uses.

1. Source: Frying Pan River, tributary of Colorado River
2. An on-channel reservoir located in Secs. 7, 8, 9, 11, and 14 through 18, T. 8 S., R. 84 W., 6th P.M. The reservoir is located in portions of Eagle and Pitkin Counties.
3. Adjudication Date: June 20, 1958
4. Appropriation Date: July 29, 1957
5. Case No.: C.A. 4613
6. Court: Garfield County District Court
7. Decree Amount: 102,639 a.f. (Originally decreed for 140,697.3 a.f. reduced to 102,369 a.f. in Case No. W-789076)
8. Decreed Uses: generation of electric energy, domestic, municipal, industrial, irrigation and stock watering
9. By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of

101,280 a.f., conditional. In Water Court Case No. 95CW95, 44,509 a.f. was made absolute.

ii. Green Mountain Reservoir: WDWCD has contracted with the United States for the release of up to 150 a.f. per year for municipal and domestic uses and 50 a.f. per year for Category B industrial uses.

1. Source: Blue River, tributary of Colorado River
2. Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Secs. 11, 12, 13, 14, 15, and 25 of T. 2 S., R. 80 W. and in Secs. 17, 18, 19, 20, 21, 28, 29, and 34, T. 2 S., R. 79 W., 6th P.M.
3. Adjudication Date: October 12, 1955
4. Appropriation Date: August 1, 1935
5. Case No.: 2782, 5016, and 5017
6. Court: United States District Court, District of Colorado
7. Decree Amount: 154,645 a.f.
8. Decree Uses: In accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80.

24. Statement of Plan for Augmentation: This augmentation plan will replace out-of-priority stream depletions associated with domestic, livestock watering and evaporation from Applicants' ponds and water features. This plan does not augment irrigation uses upon the property. When any of Applicants' irrigation rights are out-of-priority and not otherwise protected by Green Mountain Reservoir releases, diversion under the out-of-priority water rights for irrigation will cease and lands will be removed from irrigation. A map showing the sequence of lands to be removed from irrigation will be provided to the Division Engineer upon request.

A. Water Demands and Depletions. Total estimated diversions under the plan are projected at 3.513 a.f. with a resultant consumptive use of 2.128 a.f. The diversion and depletion estimates are based on the following assumptions:

- i. Potential estimated in-house uses will approximate 1,455 gallons per day with total yearly diversions of 1.63 AF. The plan assumes year-round occupancy.

Wastewater treatment will be by septic tank leach field resulting in depletions equal to 15 percent of diversions.

ii. Livestock watering for thirty head of horses at 11 gallons per day, per head, which is assumed to be 100 percent consumptive for total depletions of 0.37 AF per year.

iii. Total open water surface area for ponds and water features will be 0.5 acres. Evaporation is calculated based upon the State Engineer's Office methodology for ponds and lakes and is calculated at 3.03 feet and totals 1.514 acre feet for the 0.5 acre of water features.

iv. Total depletions from the domestic uses, evaporation losses and livestock watering are calculated at 2.128 AF per year, of which 1.403 AF may be out-of-priority during the irrigation season from April through November. Historically, calls have not occurred in the non-irrigation season.

Remarks: The Barn Well is included in this augmentation plan in the event that future uses exceed those for an exempt domestic well.

B. Consumptive Use Credits. Applicants have acquired 20 a.f. of consumptive use credit available under the Vulcan Ditch Water Rights. The consumptive use rate as decreed in Civil Action 4004 is 440 a.f. for 224 acres, or approximately 1.96 a.f. per acre. The period of historic use for this portion of the Vulcan Ditch water rights owned by applicant is 67 years (1907 to 1974) followed by twenty-eight years of non-use (1974 through 2003). Discounted consumptive use credit for the augmentation is 70.5 percent of the 20 a.f. or a total of 14.1 a.f. The equivalent consumptive use rate for the water rights changed herein is 1.38 a.f. per acre. A Blaney-Criddle analysis was performed to determine the monthly distribution of this historic consumptive use credit and is reflected in Tables 1, 2, and 3 attached as Exhibit "D." The analysis contained in this paragraph is limited to applicants' portion of the Vulcan Ditch water rights.

C. Net Domestic and Evaporative Depletions: Monthly domestic, livestock, and evaporative depletions in excess of the Vulcan Ditch historical consumptive use credits represent a new depletion to the stream. To the extent that these new depletions are out-of-priority and needed by other water users they must be augmented. Table 3 of Exhibit D conservatively assumes that during the month of November depletions may be out-of-priority and needed by other water users and makes the following assumptions:

D. Augmentation Releases: Of the 14.1 AF of historical consumptive use credits available to Applicants under the Vulcan Ditch rights, 1.39 AF will be used to replace out-of-priority depletions and will be bypassed to the stream. This will be sufficient to replace out-of-priority depletions from April 1 through October 31 of each year.

For the month of November, Applicants propose to release water provided under contract with WDWCD. Total estimated releases from the WDWCD contract equal 0.013 a.f. The amount and timing of releases specified by this plan and the augmentation requirements table in **Exhibit D** hereto may be modified with approval of the Division Engineer to reflect actual conditions.

E. Excess Consumptive Use Credits: Vulcan Ditch consumptive use credits not needed under this plan are estimated at 12.71 a.f. To the extent any such credits are not needed for augmentation, Applicants will utilize these credits for the direct irrigation of up to 6.48 acres as described herein under the claim for change of water rights.

F. Administration: In order to allow for appropriate administration, the Applicants shall install and maintain appropriate measuring devices and provide accounting as required by the Division Engineer.

II. CONCLUSIONS OF LAW

1. The foregoing Findings of Fact are fully incorporated herein, to the extent they contain conclusions of law.
2. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3). The Court has jurisdiction over the Application and over all persons or entities who had standing to appear, even though they did not do so.
3. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 through 602.
4. The Court has given due consideration to the Division Engineer's Summary of Consultation dated March 27, 2003 and the Summary of Consultation for the Second Amended Application, dated July 15, 2004. See C.R.S. § 37-92-302(4). Copies of the Summaries of Consultation were properly served on all parties to the case.
5. Applicants have fulfilled all legal requirements for a decree for the requested conditional surface water rights including C.R.S. §§ 37-92-302 and 305.
6. Applicants have fulfilled all legal requirements for a decree for the requested conditional and absolute storage water rights including C.R.S. §§ 37-92-302 and 305.
7. Applicants have fulfilled all legal requirements for a decree for the requested conditional and absolute underground water rights including C.R.S. §§ 37-92-302 and 305.

8. Applicants have fulfilled all legal requirements for a decree for the requested change of water rights and plan for augmentation including C.R.S. §§ 37-92-302 and 305.
9. The change of water rights described herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. *See* C.R.S. § 37-92-305(3).
10. The Court hereby concludes that the Applicants have established that water can and will be diverted under the subject conditional water rights and will be beneficially used, and that this water supply project can and will be completed with diligence and within a reasonable time.
11. The conditional water rights decreed herein are individual components of Applicants' integrated water supply system. Consequently, in subsequent diligence proceedings work on any one feature of Applicants' supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicants' water supply system. *See* C.R.S. § 37-92-301(4)(b).
12. Pursuant to C.R.S. § 37-92-305(8), the plan for augmentation is sufficient to permit the continuation of diversions when curtailment would otherwise be required to meet a valid senior call for water, because the Applicants will provide adequate replacement water necessary to meet the lawful requirements of a senior diverter at the time and location and to the extent that the senior would be deprived of his or her lawful entitlement by the Applicants' diversion.
13. If operated in accordance with the terms and conditions of this decree, the plan for augmentation described herein will prevent injury to senior vested or decreed conditional water rights.
14. The subject application is in accordance with Colorado law. Applicants have fulfilled all legal requirements for entry of a decree in this case.

III. JUDGMENT AND DECREE

1. The foregoing Findings of Fact and Conclusions of Law are incorporated herein.
2. The Court hereby confirms and decrees conditional water rights for the Lewis No. 1 Ditch, 2nd Enlargement and the Warner Ditch, 2nd Enlargement, as described herein. Applicants will provide the Court and Division Engineer, Water Division 5, with a map of the area irrigated by the Warner Ditch 2nd Enlargement upon an application to make this water right absolute.
3. The Court hereby confirms and decrees conditional storage water rights for the Bullock Pond and absolute water rights for the Knobel Pond No. 1 and Knobel Pond No. 2, as described herein.

4. The Court hereby confirms and decrees conditional underground water rights for the Guest House Well and the Barn Well and absolute underground water rights for the Main House Well and Cabin Well, as described herein. Use of the Guest House Well, Barn Well, Main House Well and Cabin Well shall be limited to the uses of an exempt well as defined in C.R.S. § 37-92-602 (2005) and as provided herein.
5. The Court hereby approves and decrees the change of water rights for the Possum No. 1 Ditch, as described herein.
6. The Court hereby approves and decrees the change of water rights for the Vulcan Ditch and Vulcan Ditch 1st Enlargement, as described herein.
7. The Court hereby approves and decrees the plan for augmentation, as described herein.
8. In consideration of specific findings and conclusions made herein, and in conformance with C.R.S. § 37-92-304(6) (2003), the change of water rights and augmentation plan decreed herein shall be subject to reconsideration by the Water Judge on the question of injury to the vested water rights of others for a period of five years after the augmentation plan becomes operational. If no petition for reconsideration is filed within said five years, retention of jurisdiction for this purpose shall automatically expire. Any party who wants the Court to reconsider the question of injury must file a verified petition with the Court, setting forth the facts that cause such injury and explaining the claimed injury. The party filing the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition. If the Court finds those facts to be established, the Applicants shall thereupon bear the burden of proof to show (a) that any modification sought by the Applicants will avoid injury to other water rights, or (b) that any modification sought by the petitioner is not required to avoid injury to other water rights, or (c) that any term or condition proposed by Applicants in response to the petition does avoid injury to other water rights.
9. Applicant shall install measuring devices, continuous recorders and ditch turnouts in Canyon Creek sufficient in the opinion of the Division Engineer to permit the administration of the subject consumptive use credits associated with the Vulcan Ditch with respect to historic availability and sufficient to guarantee no expansion of use will result from the change in point of diversion of the Vulcan Ditch consumptive use credits.
10. The Applicant shall install measuring devices and recorders, provide accounting and supply depletion calculations as required by the Division Engineer. The Applicant shall also file an annual report with the Division Engineer by November 15th following each preceding irrigation year (November 1 through October 31) summarizing diversions, depletions and returns administered to the Colorado River. The Division Engineer may require the accounting and annual report to be incorporated into all other accounting and reporting associated with the 440 af/cu from the Vulcan Ditch, as quantified in Case W-2127.

11. In conformance with C.R.S. § 37-92-305(8), the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

12. Review of determinations made by the Division Engineer or the State Engineer in administration of the subject water rights is a "water matter" over which the Water Court has exclusive jurisdiction.

13. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water rights, the transferee shall file with Division 5 Water Court a notice of transfer which shall state:

- A. The title and case number of this Case No. 02CW400;
- B. The description of the conditional water right transferred;
- C. The name of the transferor;
- D. Name and mailing address of the transferee; and
- E. A copy of the recorded deed.

The owner of said conditional water rights shall also notify the Clerk of Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 02CW400 and in the case file (if any) in which the Court first made its finding of reasonable diligence.

It is accordingly ordered that this ruling of Referee and judgment and decree shall be filed with the Water Clerk and shall become effective upon such filing, subject to judicial review pursuant to C.R.S. § 37-92-304, as amended.

Done at the City of Glenwood Springs, Colorado this 14th day of November 2007.

BY THE REFEREE:

Copy of the foregoing mailed to all Council of Record, Water Referee, Div. Engineer and State Engineer Date 11-16-07

[Signature]
Deputy Clerk Water Div. 5

[Signature]
A. Lain Leoniak, Water Referee
Water Division No. 5
State of Colorado

[Signature]
Browning, Forman,
Hermundstad, & Balsam

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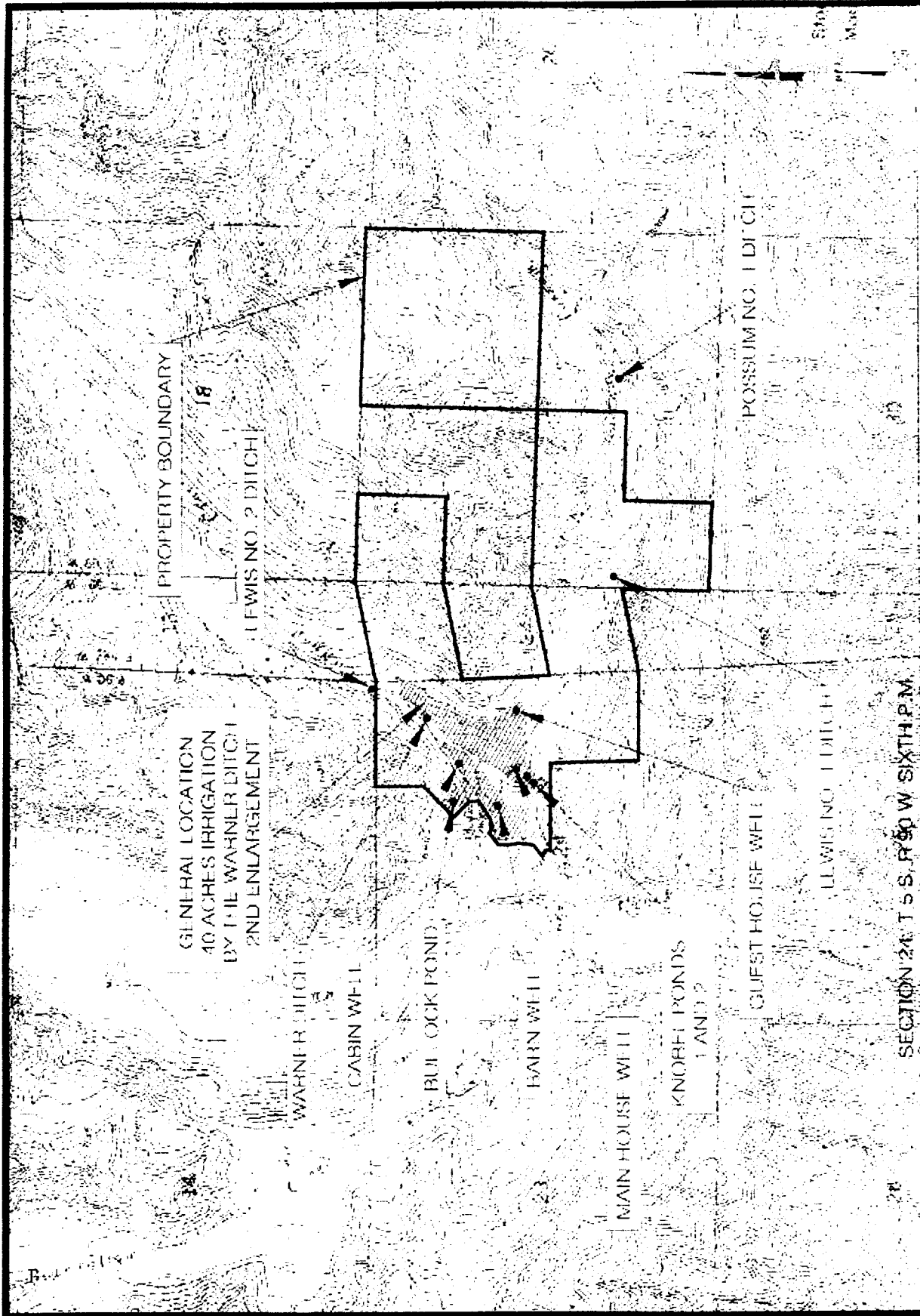
No protest was filed in this matter. The foregoing Ruling of the Referee is confirmed and approved, and is made the Judgment and Decree of this Court. The conditional water rights decreed herein shall be in full force and effect until January 31, 2014. If the Applicants wish to maintain the conditional water rights thereafter they shall file an application for finding of reasonable diligence on or before that date, or make a showing on or before then that the conditional water rights have become absolute water rights by reason of the completion of the appropriation.

Done this 21st day of January 2008.

BY THE COURT:



Daniel B. Petre, Water Judge
Water Division No. 5
State of Colorado



SCALE 1" = 2000'

CHECKED BY MJE

DRAWN BY FFM

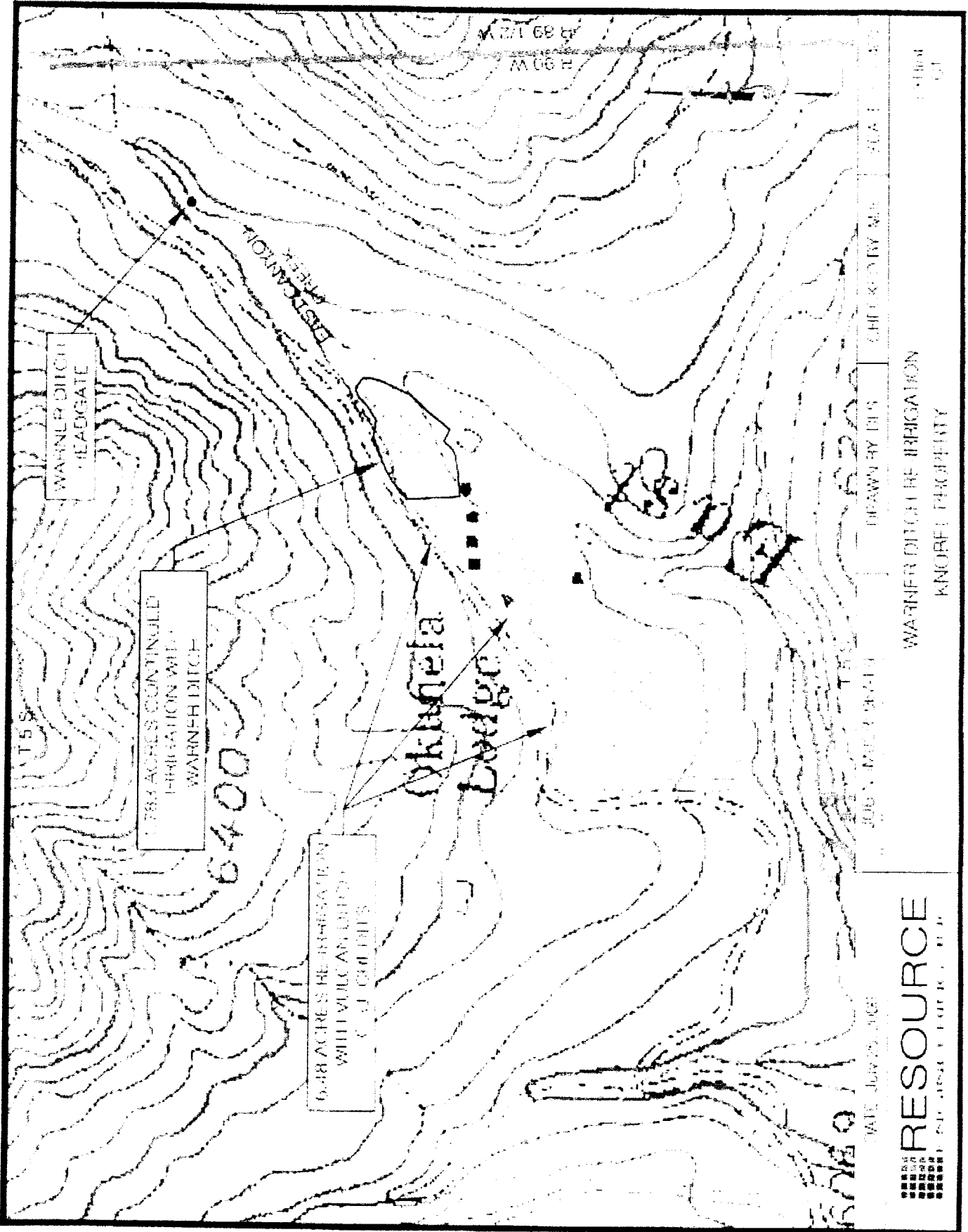
JOB NUMBER 967-10
WWW.WORLD.COM

DATE JULY 13, 2007

FIGURE
1

KNOBEL PROPERTY - OKANELA RANCH
CASE NO. 02CW400 LOCATION MAP

RESOURCE
ENGINEERING, INC.



RESOURCE
 CONSULTANTS, INC.
 1000 WEST 10TH AVENUE, SUITE 100
 DENVER, COLORADO 80202

TABLE 1
WATER REQUIREMENTS
KNOBEL PROPERTY - CASE NO. 02CW400
(all values in acre feet)

MONTH	DIVERSIONS			DEPLETIONS				TOTAL
	DOMESTIC (1)	STOCK WATER (2)	WATER FEATURE (3)	DOMESTIC (5)	STOCK WATER (6)	WATER FEATURE (7)	TOTAL (8)	
JAN	0.138	0.031	0.000	0.021	0.031	0.000	0.052	
FEB	0.125	0.028	0.000	0.019	0.028	0.000	0.047	
MAR	0.138	0.031	0.096	0.021	0.031	0.096	0.148	
APR	0.134	0.030	0.158	0.020	0.030	0.158	0.208	
MAY	0.138	0.031	0.210	0.021	0.031	0.210	0.262	
JUN	0.134	0.030	0.254	0.020	0.030	0.254	0.304	
JUL	0.138	0.031	0.263	0.021	0.031	0.263	0.315	
AUG	0.138	0.031	0.236	0.021	0.031	0.236	0.288	
SEP	0.134	0.030	0.175	0.020	0.030	0.175	0.225	
OCT	0.138	0.031	0.123	0.021	0.031	0.123	0.175	
NOV	0.134	0.030	0.000	0.020	0.030	0.000	0.050	
DEC	0.138	0.031	0.000	0.021	0.031	0.000	0.052	
TOTAL	1.630	0.370	1.514	0.244	0.370	1.514	2.128	

- (1) 1455 GPD IN-HOUSE USES. ASSUMES FULL OCCUPANCY YEAR-ROUND.
- (2) 30 HORSES AT 11 GPD/HORSE
- (3) EVAPORATION FROM 0.5 ACRES OF WATER SURFACE
- (4) SUM OF COLS. 1 THROUGH 3
- (5) 15 % OF COL. 1 BASED ON SEPTIC TANK/LEACH FIELD
- (6) 100 % OF COL. 2
- (7) 100 % OF COL. 3
- (8) SUM OF COLS. 5 THROUGH 7

TABLE 3
AUGMENTATION SCHEDULE

MONTH	DOMESTIC DEPLETIONS AND EVAPORATION (1)	AUGMENTATION SOURCES	
		VULCAN DITCH (2), (4)	WDWCD CONTRACT (3), (4)
January	0.052	No Call	No Call
February	0.047	No Call	No Call
March	0.148	No Call	No Call
April	0.208	0.104	0.000
May	0.262	0.131	0.000
June	0.304	0.152	0.000
July	0.315	0.315	0.000
August	0.288	0.288	0.000
September	0.225	0.225	0.000
October	0.175	0.175	0.000
November	0.050	0.000	0.013
December	0.052	No Call	No Call
Total	2.128	1.390	0.013

NOTES:

- (1) From Table 1, Column 8
- (2) C.U Credits from Vulcan Ditch, equals Column (1) or partial month as noted
- (3) Includes 5% transit loss
- (4) Out-of-priority depletions are assumed for 15 days in April, May and June ; July through October, and 7 days in November.

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<p>DISTRICT COURT, WATER DIVISION 5, COLORADO 109 8TH STREET, GLENWOOD SPRINGS, CO 81601 PHONE: (970) 945-5075</p>	<p>Review Clerk: Kathy Hall</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF APPLICANT: PETER KNOBEL AND PATRICE KNOBEL</p> <p>IN GARFIELD COUNTY, COLORADO.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>ATTORNEYS FOR APPLICANTS SCOTT BALCOMB, ATTY. REG. NO. 1376 SCOTT GROSSCUP, REG. NO. 35871 BALCOMB & GREEN, P.C. POST OFFICE DRAWER 790 GLENWOOD SPRINGS, CO 81602 TELEPHONE: (970) 945-6546 FACSIMILE: (970) 945-8902</p>	<p>CASE No.: 02CW400</p>
<p>ATTORNEY FOR OBJECTOR NCIG FINANCIAL, INC. WAYNE F. FORMAN, ATTY. NO. 14082 BROWNSTEIN, HYATT & FARBER, P.C. 410 SEVENTEENTH STREET TWENTY-SECOND FLOOR DENVER, CO 80202-4437 TELEPHONE: (303) 223-1100 FACSIMILE: (303) 223-1111</p>	<p>WATER DIVISION 5</p>
<p>STIPULATION AND AGREEMENT</p>	

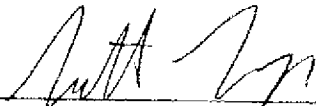
Applicants Peter and Patrice Knobel and Objector, **NCIG Financial, Inc.**, through their respective attorneys hereby agree and stipulate as follows:

1. Objector, NCIG Financial, Inc., filed an Unopposed Motion to Intervene in this case on January 6, 2004. The Motion was granted and NCIG Financial's Statement of Opposition was accepted for filing on January 21, 2004.
2. **NCIG Financial, Inc. hereby agrees and consents to the Court's entry of a Ruling and/or decree in this matter** containing terms and conditions with no less restrictive on the Applicant than those contained in the proposed Ruling of the Referee dated July 14, 2006, attached hereto as **Exhibit "A"**.
3. This Stipulation shall be binding on the parties, their successors and assigns.

4. Each party shall be responsible for their own attorney fees and costs in this proceeding.
5. Following execution by the parties and approval of this stipulation by the Court, NCIG Financial, Inc. shall remain a party to this case until such time as a final Decree is entered and shall continue to receive all pleadings and other materials filed with the Court in this case.

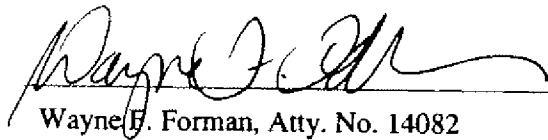
Respectfully submitted this 11th day of December, 2006.

BALCOMB & GREEN, P.C.



Scott Balcomb, Atty. No. 1376
Scott Grosscup, Atty. No. 35871
Attorneys for Applicants
Peter and Patrice Knobel

BROWNSTEIN, HYATT & FARBER, P.C.



Wayne F. Forman, Atty. No. 14082
Attorneys for Objector
NCIG Financial, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a true and correct copy of the foregoing **STIPULATION AND AGREEMENT** via Lexis/Nexis electronic filing upon the following:

Via E-mail to: mbrowning@pbblaw.com

Michael F. Browning, Esq.
Porzak Browning & Bushong, LLP
929 Pearl Street, Suite 300
Boulder, CO 80302

Via E-mail to: mherm@wth-law.com

Mark Hermundstad, Esq.
Williams Turner & Holmes
200 North 6th Street, Suite 103
Grand Junction, CO 81502

Via E-mail to: wforman@bhf-law.com

Wayne F. Forman, Esq.
Brownstein Hyatt & Farber, P.C.
410 17th Street, 22nd Floor
Denver, CO 80202

Done this 11th day of December 2006.


Elaine L. Benson, Paralegal

NOTE: This document was filed electronically via Lexis/Nexis File and Serve. An original signature copy is available for inspection at the office of the originating attorney, pursuant to Colorado Rule of Civil Procedure 121, § 1-26.

Exhibit
A

DISTRICT COURT, WATER DIVISION 5, COLORADO GARFIELD COUNTY COURTHOUSE 109 8TH ST., SUITE 104, GLENWOOD SPRINGS, CO 81601 (970) 945-5075	▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: PETER AND PATRICE KNOBEL IN GARFIELD COUNTY, COLORADO.	
CASE No.: 02CW400 WATER DIVISION 5	
RULING OF REFEREE	

This matter came before the Court upon Application, and subsequent Amended Application, of Peter and Patrice Knobel for Surface Water Rights, Storage Water Rights, Underground Water Rights, Change of Water Rights and Approval of Plan for Augmentation.

The Water Judge referred the Application, as amended, to the undersigned as Water Referee for Water Division 5, State of Colorado, in accordance with Article 92 of Title 37, Colorado Revised Statutes 1973, known as the Water Right Determination and Administration Act of 1969.

The undersigned Referee has made such investigations as are necessary to determine whether or not the statements in the Application, as amended, are true, has become fully advised with respect to the subject matter of the Application, as amended, and has consulted with the Division Engineer for Water Division 5. The Referee hereby makes the following determination and ruling in this matter.

I. FINDINGS OF FACT

1. Applicants are Peter and Patrice Knobel whose address is 329 Mill Creek, Vail, CO 81657. Applicants own approximately 540 acres known as the Okanela Ranch in Garfield County, CO.
2. Applicants filed an Application for Surface Water Rights and Change of Water Rights on December 31, 2002. An Amended Application was filed on October 31, 2003, to add claims for storage water rights, underground water rights, an additional change of water rights and approval of plan for augmentation. By Order of the Court, dated November 6, 2003, the Amended Application was amended *nunc pro tunc* as of October 31, 2003, to correct typographical errors, and to add, *inter alia*, the name of the landowner on which the Possum No. 1 Ditch is located. Said changes were included in the Amended Application and published in the October resume. The Amended Application, as amended, consolidated all claims and replaced the original Application in its entirety.

3. The Application and Amended Application were properly published. All notices required by law have been made, and the Court has jurisdiction over the Application, and Amended Application, and over all of the parties in this case. Applicants have paid all publication costs.

4. Timely Statements of Opposition to the original Application were filed by Waterstone Canyon, LTD; Greg McKennis both individually and as Trustee of the Alice Kathryn McKennis Trust and of the Kendra Colleen McKennis Trust; and U.S. Bank National Association as Trustee for the Eric C. Williams Trust. Greg McKennis, both individually and as Trustee, and the U.S. Bank National Association, each withdrew their Statements of Opposition as of December 29, 2003. The Williams Canal Company and NCIG Financial, Inc. filed Statements of Opposition to the Amended Application. [Said Objectors have consented to entry of this decree by way of Stipulations with the Applicants on file and approved by the Court.] No other Statements of Opposition were filed. The time for filing such statements has expired.

5. The Court finds that the relief requested herein is consistent with the relief sought in the Amended Application and for which notice was provided.

CLAIM FOR SURFACE WATER RIGHTS

6. Name of structure: Lewis Ditch No. 1, 2nd Enlargement
- A. Location: The headgate is located on the North bank of Possum Creek in the NW 1/4 SW 1/4, of Section 19, Township 5 South, Range 89 West, of the 6th P.M.; at a point 1,400 feet from the South line and 60 feet from the West line of said Section 19.
- B. Source: Possum Creek, tributary to Canyon Creek, tributary to the Colorado River.
- C. Appropriation information:
- 1) Date of initiation of appropriation: July 15, 2002
 - 2) How appropriation was initiated: construction of water structure and formation of intent to appropriate water
 - 3) Date water applied to beneficial use: n/a
- D. Amount claimed: 0.27 c.f.s., conditional
- E. Use or proposed use: water will be used in an aesthetic flow-through water feature in conjunction with the Knobel Pond Nos. 1 and 2 and for fire protection.
7. Name of Structure: Warner Ditch, 2nd Enlargement

- A. Location: The headgate is located on the West bank of the East Fork of Canyon Creek in the NE 1/4 NE 1/4 of Section 24, Township 5 South, Range 90 West, of the 6th P.M.; at a point 805 feet from the North line and 530 feet from the East line of said Section 24. See Water Rights Location Map, attached as **Exhibit A**, hereto.
- B. Source: East Fork of Canyon Creek, tributary to the Colorado River.
- C. Appropriation information:
- 1) Date of initiation of appropriation: November 11, 2002
 - 2) How appropriation was initiated: By location of place of use and formation of intent to appropriate water
 - 3) Date water applied to beneficial use: n/a
- D. Amount claimed: 0.4 c.f.s., conditional
- E. Use or proposed use: Proposed use is irrigation and fire protection
- 1) Irrigation: Water will be used as supplemental irrigation on up to 40 acres in the NE 1/4, Section 24, Township 5 South, Range 90 West of the 6th P.M. via a sprinkler irrigation system.
 - 2) Non-irrigation: The water will be used for fire protection.

CLAIM FOR STORAGE WATER RIGHTS

8. Name of Reservoir: Knobel Pond No. 1
- A. Legal Description: SE1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M.; at a point 1,980 ft. from the N. line and 1,280 ft. from the E. line of said Sec. 24.
- B. Name and capacity of ditch used to fill reservoir: The pond is off channel and will be filled by Lewis No. 1 Ditch, 2nd Enlargement which has a capacity of 0.27 c.f.s.
- C. Source: Possum Creek, tributary to Canyon Creek, tributary to Colorado River.
- D. Appropriation information:
- 1) Date of appropriation: June, 2003.
 - 2) How appropriation was initiated: By construction and filling of pond.
 - 3) Date water applied to beneficial use: June, 2003.

- E. Amount claimed: 0.72 a.f., absolute
- F. Use: The pond is and will be used for fire protection and an aesthetic flow-through water feature in conjunction with the Lewis No. 1 Ditch, 2nd Enlargement.
- G. Dam information:
- 1) Service area of high water line: 0.15 acres
 - 2) Maximum height of dam: 6 ft.
 - 3) Length of dam: 75 ft.
 - 4) Storage capacity
 - a. Active: 0 a.f.
 - b. Dead Storage: 0.72 a.f.
9. Name of Reservoir: Knobel Pond No. 2
- A. Legal Description: Located in the SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M.; at a point 2,030 ft. from the N. line and 1,400 ft. from the E. line of said Sec. 24.
- B. Name and capacity of ditch use to fill reservoir: Pond is off channel and will be filled by Lewis No. 1 Ditch, 2nd Enlargement which has a capacity of 0.27 c.f.s.
- C. Source: Possum Creek, tributary to Canyon Creek, tributary to Colorado River.
- D. Appropriation information:
- 1) Date of appropriation: June, 2003.
 - 2) How appropriation was initiated: By construction and filling of pond.
 - 3) Date water applied to beneficial use: June, 2003.
- E. Amount claimed: 0.2 a.f., absolute
- F. Use: The pond is and will be used for fire protection and an aesthetic flow-through water feature in conjunction with the Lewis No. 1 Ditch, 2nd Enlargement.
- G. Dam information:
- 1) Service area of high water line: 0.08 acres
 - 2) Maximum height of dam: 4 ft.
 - 3) Length of dam: 50 ft.
 - 4) Storage capacity
 - a. Active: 0 a.f.

b. Dead Storage: 0.20 a.f.

10. Name of Reservoir: Bullock Pond

- A. Legal Description: Located in the NW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6 P.M.; at a point 1,200 ft. from the N. line and 1,750 ft. from the E. line of said Sec. 24.
- B. Name and capacity of ditch use to fill reservoir: The pond is located off channel and will be filled by the Warner Ditch, 2nd Enlargement, which has a capacity of 0.4 c.f.s.
- C. Source: East Canyon Creek, tributary to Canyon Creek, tributary to Colorado River.
- D. Appropriation information:
 - 1) Date of appropriation: October 1, 2003.
 - 2) How appropriation was initiated: Location of pond and formation of intent to appropriate water.
 - 3) Date water applied to beneficial use: n/a
- E. Amount claimed: 0.5 a.f., conditional
- F. Use: Water will be used for fire protection and aesthetic flow-through water feature in conjunction with the Warner Ditch, 2nd Enlargement.
- G. Dam information:
 - 1) Service area of high water line: 0.15 acres
 - 2) Maximum height of dam: 9 ft.
 - 3) Length of dam: 100 ft.
 - 4) Storage capacity
 - a. Active: 0.5 a.f.
 - b. Dead Storage: 0 a.f.

CLAIM FOR UNDERGROUND WATER RIGHT

11. Name of Well:

- A. Main House Well, Permit No. 252419.
 - 1) Legal Description: SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M., 2,000 ft. from the N. line and 1,340 ft. from the E. line of said Sec. 24.

- 2) Source:
 - 3) Depth: 100 ft.
 - 4) Appropriation information:
 - a. Date of initiation of appropriation: August 16, 1991, by issuance of Permit No. 161861.
 - b. How appropriation was initiated: Construction of well and intent to put water to beneficial use.
 - c. Date water applied to beneficial use: October 1, 1991.
 - 5) Amount Claimed: 15 g.p.m. (0.033 c.f.s.), absolute
 - 6) Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
 - a. Irrigation: Irrigation of not more than one acre of lawn and gardens.
 - b. Non-irrigation: Domestic use inside a single family dwelling and fire protection.
- B. Guest House Well, Permit No. 252420
- 1) Legal Description: SE1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M. at a point 2,111 ft. from the N. Line and 500 ft. from the E. line of said Sec. 24.
 - 2) Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.
 - 3) Depth: 100 ft.
 - 4) Appropriation information:
 - a. Date of initiation of appropriation: May 23, 2003.
 - b. How appropriation was initiated: By application for well permit in formation of intent to appropriate water.
 - c. Date water applied to beneficial use: n/a
 - 5) Amount Claimed: 15 g.p.m. (0.033 c.f.s.), conditional
 - 6) Proposed Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
 - a. Irrigation: Irrigation of not more than one acre of lawn and gardens.

- b. Non-irrigation: fire protection and ordinary household uses inside not more than three single family dwellings, and watering of domestic animals.

C. Barn Well, Permit No. 254421

- 1) Legal Description: SW1/4 NE1/4 Sec. 24, T. 5 S., R. 90 W., 6th P.M., at a point 1,643 ft. from the N. line and 1,757 ft. from the E. line of said Sec. 24.
- 2) Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.
- 3) Depth: 100 ft.
- 4) Appropriation information:
 - a. Date of initiation of appropriation: May 23, 2003.
 - b. How appropriation was initiated: By application for well permit and intent to put water to beneficial use.
 - c. Date water applied to beneficial use: n/a
- 5) Amount Claimed: 15 g.p.m. (0.033 c.f.s.), conditional
- 6) Proposed Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
 - a. Irrigation: One acre of lawn and gardens
 - b. Non-irrigation: Ordinary household uses inside three single family dwellings, fire protection and watering of domestic animals and livestock.

D. Cabin Well, Permit No. 254519

- 1) Legal Description: NE1/4 NE1/4 Sec. 24, T. 5 S., R. 89 W., 6th P.M., at a point 1,253 ft. from the N. line and 1,249 ft. from the E. line of said Sec. 24.
- 2) Source: Alluvium, tributary to Canyon Creek, tributary to Colorado River.
- 3) Depth: 50 ft.
- 4) Appropriation information:
 - a. Date of initiation of appropriation: July 15, 1951.

- b. How appropriation was initiated: By construction of well and placement of water to beneficial use.
- c. Date water applied to beneficial use: July 15, 1951.
- 5) Amount Claimed: 15 g.p.m. (0.033 c.f.s.), absolute
- 6) Proposed Use: Applicants seek confirmation that this is an exempt domestic well with the following uses:
 - a. Irrigation: Irrigation of not more than 2,000 square feet of lawn and gardens.
 - b. Non-irrigation: Domestic uses inside a single family residence.

CLAIM FOR CHANGE OF WATER RIGHTS

12. Decreed Name of Structure for which changes are sought: Possum No. 1 Ditch

A. Information from previous decree:

- 1) Date entered: November 10, 1966
- 2) Case No.: C.A. 4914
- 3) Court: District Court, Water Division 5, Garfield County
- 4) Decreed point of diversion: located on the N. bank of Possum Creek whence the N1/4 corner of Sec. 20, T. 5 S., R. 89 W., 6th P.M., bears N. 51 deg. 50 minutes E. a distance of 6,396.6 ft. (See map **Exhibit A**, hereto).
- 5) Source: Possum Creek, tributary to Canyon Creek, tributary to the Colorado River
- 6) Date of appropriation: June 1, 1920
- 7) Amount: 2.14 c.f.s.
- 8) Historic use: Irrigation (See Irrigation Map, attached as **Exhibit B**, hereto).

B. Proposed change: Applicants propose to change the point of diversion of its Possum No. 1 Ditch water right to the Lewis No. 1 Ditch headgate located: on the N. bank of Possum Creek in the NW1/4 SW1/4 Sec. 19, T. 5 S., R. 89 W., 6th P.M., at a point 1,400 ft. from the S. line and 60 ft. from the W. line of said Sec. 19. See **Exhibit A**.

C. Terms & Conditions: In order to prevent injury to other water rights, Applicants will limit its diversions at the Lewis No. 1 Ditch headgate to those times when water is physically and legally available at the original point of diversion.

13. Decreed Name of Structure for which changes are sought:

A. Vulcan Ditch

- 1) Information from previous decree:
 - a. Date entered: September 14, 1908
 - b. Case No.: C.A. 1319
 - c. Court: District Court, Water Division 5, Garfield County
 - d. Decreed point of diversion: A point on the W. side of Canyon Creek whence the corner common to Secs. 23, 24, 25 and 26, T. 5 S., R. 90 W., bears S. 89 deg. 6 minutes W., a distance of 1,632.7 ft., variation 15 deg. E. Re-surveyed location: a point described as the NW1/4 SW1/4, Sec. 25, T. 5 S., R. 90 W., 6th P.M.; 2,200 ft. from the S. line and 1,000 ft. from the W. line of said Sec. 25.
 - e. Source: Canyon Creek, tributary to the Colorado River
 - f. Date of appropriation: April 1, 1907
 - g. Amount: 6.0 c.f.s.
 - h. Historic use: Irrigation.

B. Vulcan Ditch, 1st Enlargement

- 1) Information from previous decree:
 - a. Date entered: September 5, 1952
 - b. Case No.: C.A. 4004
 - c. Court: District Court, Water Division 5, Garfield County
 - d. Decreed point of diversion: See description above
 - e. Source: Canyon Creek, tributary to the Colorado River
 - f. Date of appropriation: October 8, 1942
 - g. Amount: 4.0 c.f.s.
 - h. Historic use: Irrigation.

Remarks: In Case No. W-2127, decreed in District Court, Water Division 5 on June 26, 1974, the Court fixed the historic dry year consumptive use associated with the Vulcan Ditch water rights at 440 a.f. per year and made that amount of consumptive use available for transfer.

14. Description of Change: Applicants request a change in point of diversion, a change in place of use, and a change of nature of use of the Vulcan Ditch water rights.

A. New Points of Diversion: See Exhibit A.

- 1) Lewis No. 1 Ditch, 2nd Enlargement as described above.
- 2) Warner Ditch, 2nd Enlargement, as described above.

- 3) Lewis Ditch No. 2: located on the East bank of the East Fork of Canyon Creek in the NE 1/4 NE 1/4 of Sec. 24, T. 5 S., R. 90 W., 6th P.M.; at a point 460 ft. from the N. line and 325 ft. from the E. line of said Sec. 24.
- B. Place of Use: Sec. 19, T. 5 S., R. 89 W., 6th P.M.; and Sec. 24, T. 5 S., R. 89 1/2 W., and R. 90 W., 6th P.M.; Garfield County, Colorado. (See **Exhibits A and C**, hereto).
- C. Use: Water will be used to augment depletions associated with domestic, stock watering, and evaporation from pond and water feature surface area, as more fully described under the plan for augmentation applied for herein. Excess credits not needed for these uses will be diverted at one or the other new points of diversion described above and used for irrigation of up to 6.48 acres as shown on **Exhibit C**. Use of the Vulcan Ditch water shall be subject to the applicable terms and conditions of the decree in District Court, Water Division 5, Case W-2127 and may only occur once all terms and conditions of that and the present Decree related to this change, as contemplated in Paragraphs 41 and 42, below, have been satisfied.

A proportionate share of the Vulcan Ditch water rights will be bypassed at the Vulcan Ditch headgate in the amount of 0.027 c.f.s. from the original right and 0.018 c.f.s. from the First Enlargement described in Paragraph 13 above for augmentation releases. The remaining 0.405 c.f.s., of the 0.45 c.f.s. changed herein, will be used to irrigate the 6.48 acres depicted on **Exhibit C** in an amount of 0.243 c.f.s. from the original right and 0.162 c.f.s. from the First Enlargement.

- D. Amount: 0.27 c.f.s. of the original priority and 0.18 c.f.s. of the 1st Enlargement of the Vulcan Ditch (Approximately 20 a.f. of the 440 a.f. quantified in Case No. W-2127).

CLAIM FOR APPROVAL OF PLAN FOR AUGMENTATION

15. Names of Structures to be Augmented: Barn Well, Lewis No. 1 Ditch 2nd Enlargement, Warner Ditch 2nd Enlargement, Knobel Pond No. 1, Knobel Pond No. 2., and Bullock Pond.

- A. Are there other water rights diverted from the structures? Yes

16. Previous Decrees for Water Rights to be Used for Augmentation: Vulcan Ditch and Vulcan Ditch 1st Enlargement as described herein; and water provided under contract with West Divide Water Conservancy District ("WDWCD"), contract No. 040219PK(a). The WDWCD water rights that may be used under this plan are as follows:

- A. Ruedi Reservoir: WDWCD has contracted with the U.S. Bureau of Reclamation for the release of up to 100 a.f. per year for augmentation and other uses.

- 1) Source: Frying Pan River, tributary of Colorado River
 - 2) An on-channel reservoir located in Secs. 7, 8, 9, 11, and 14 through 18, T. 8 S., R. 84 W., 6th P.M. The reservoir is located in portions of Eagle and Pitkin Counties.
 - 3) Adjudication Date: June 20, 1958
 - 4) Appropriation Date: July 29, 1957
 - 5) Case No.: C.A. 4613
 - 6) Court: Garfield County District Court
 - 7) Decreed Amount: 102,369 a.f. (Originally decree for 140,697.3 a.f.; reduced to 102,369 a.f. in Case No. W-789076)
 - 8) Decreed Uses: generation of electric energy, domestic, municipal, industrial, irrigation and stock watering
 - 9) By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 a.f., conditional. In Water Court Case No. 95CW95, 44,509 a.f. was made absolute.
- B. Green Mountain Reservoir: WDWCD has contracted with the United States for the release of up to 150 a.f. per year for municipal and domestic uses and 50 a.f. per year for Category B industrial uses.
- 1) Source: Blue River, tributary of Colorado River
 - 2) Located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Secs. 11, 12, 13, 14, 15, and 25 of T. 2 S., R. 80 W. and in Secs. 17, 18, 19, 20, 21, 28, 29, and 34, T. 2 S., R. 79 W., 6th P.M.
 - 3) Adjudication Date: October 12, 1955
 - 4) Appropriation Date: August 1, 1935
 - 5) Case No.: 2782, 5016, and 5017
 - 6) Court: United States District Court, District of Colorado

- 7) Decree Amount: 154,645 a.f.
- 8) Decree Uses: In accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80.

17. Statement of Plan for Augmentation: This augmentation plan will replace out-of-priority stream depletions associated with domestic, livestock watering and evaporation from Applicants' ponds and water features. When any of Applicants' irrigation rights are out-of-priority and not protected by Green Mountain Reservoir releases, diversion under the out-of-priority water rights for irrigation will cease and lands will be removed from irrigation. A map showing the sequence of lands to be removed from irrigation will be provided to the Division Engineer upon request.

- A. Water Demands and Depletions. Total estimated diversions under the plan are projected at 3.513 a.f. with a resultant consumptive use of 2.128 a.f. The diversion and depletion estimates are based on the following assumptions:
 - 1) Potential estimated in-house uses will approximate 1,455 gallons per day. The plan assumes year-round occupancy. Wastewater treatment will be by septic tank leach field resulting in depletions equal to 15 percent of diversions.
 - 2) Livestock watering for thirty head of horses at 11 gallons per day, per head, which is assumed to be 100 percent consumptive.
 - 3) Total open water surface area for ponds and water features will be 0.5 acres. Evaporation is calculated based upon the State Engineer's Office methodology for ponds and lakes and is calculated at 3.03 feet and totals 1.514 acre feet for the 0.5 acre of water features.

Remarks: The Barn Well is included in this augmentation plan in the event that future uses exceed those for an exempt domestic well.

- B. Consumptive Use Credits. Applicants have acquired 20 a.f. of consumptive use credit available under the Vulcan Ditch Water Rights. The consumptive use rate as decreed in Civil Action 4004 is 440 a.f. for 224 acres, or approximately 1.96 a.f. per acre. The period of historic use for this portion of the Vulcan Ditch water rights owned by applicant is 67 years (1907 to 1974) followed by twenty-eight years of non-use (1974 through 2003). Discounted consumptive use credit for the augmentation is 70.5 percent of the 20 a.f. or a total of 14.1 a.f. The equivalent consumptive use rate for the water rights changed herein is 1.38 a.f. per acre. A Blaney-Criddle analysis was performed to determine the monthly distribution of this historic

consumptive use credit and is reflected in Table 1, 2, and 3 attached as **Exhibit D**. The analysis contained in this paragraph is limited to applicants' portion of the Vulcan Ditch water rights.

- C. Net Domestic and Evaporative Depletions: Monthly domestic, livestock, and evaporative depletions in excess of the Vulcan Ditch historical consumptive use credits represent a new depletion to the stream. To the extent that these new depletions are out-of-priority and needed by other water users they must be augmented. Table 3 of **Exhibit D** conservatively assumes that during the month of November depletions may be out-of-priority and needed by other water users.
- D. Augmentation Releases: Historical consumptive use credits under the Vulcan Ditch which are available to the Applicants to replace out-of-priority depletions will be bypassed to the stream. For the month of November, Applicants propose to release water provided under contract with WDWCD. Total estimated releases equal 0.013 a.f. The amount and timing of releases specified by this plan and the augmentation requirements table in **Exhibit D** hereto may be modified with approval of the Division Engineer to reflect actual conditions.
- E. Excess Consumptive Use Credits: Vulcan Ditch consumptive use credits not needed under this plan are estimated at 12.71 a.f. To the extent any such credits are not needed for augmentation, Applicants will utilize these credits for the direct irrigation of up to 6.48 acres as described herein under the claim for change of water rights.
- F. Administration: In order to allow for appropriate administration, the Applicants shall install and maintain appropriate measuring devices and provide accounting as required by the Division Engineer.

II. CONCLUSIONS OF LAW

18. The foregoing Findings of Fact are fully incorporated herein, to the extent they contain conclusions of law.

19. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3). The Court has jurisdiction over the Application and over all persons or entities who had standing to appear, even though they did not do so.

20. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969, C.R.S. §§ 37-92-101 through 602.

21. The Court has given due consideration to the Division Engineer's Summary of Consultation dated March 27, 2003 and the Summary of Consultation for the Second Amended Application, dated

July 15, 2004. *See* C.R.S. § 37-92-302(4). Copies of the Summaries of Consultation were properly served on all parties to the case.

22. Applicants have fulfilled all legal requirements for a decree for the requested conditional surface water rights including C.R.S. §§ 37-92-302 and 305.

23. Applicants have fulfilled all legal requirements for a decree for the requested conditional and absolute storage water rights including C.R.S. §§ 37-92-302 and 305.

24. Applicants have fulfilled all legal requirements for a decree for the requested conditional and absolute underground water rights including C.R.S. §§ 37-92-302 and 305.

25. Applicants have fulfilled all legal requirements for a decree for the requested change of water rights and plan for augmentation including C.R.S. §§ 37-92-302 and 305.

26. The change of water rights described herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. *See* C.R.S. § 37-92-305(3).

27. The Court hereby concludes that the Applicants have established that water can and will be diverted under the subject conditional water rights and will be beneficially used, and that this water supply project can and will be completed with diligence and within a reasonable time.

28. The conditional water rights decreed herein are individual components of Applicants' integrated water supply system. Consequently, in subsequent diligence proceedings work on any one feature of Applicants' supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicants' water supply system. *See* C.R.S. § 37-92-301(4)(b).

29. Pursuant to C.R.S. § 37-92-305(8), the plan for augmentation is sufficient to permit the continuation of diversions when curtailment would otherwise be required to meet a valid senior call for water, because the Applicants will provide adequate replacement water necessary to meet the lawful requirements of a senior diverter at the time and location and to the extent that the senior would be deprived of his or her lawful entitlement by the Applicants' diversion.

30. If operated in accordance with the terms and conditions of this decree, the plan for augmentation described herein will prevent injury to senior vested or decreed conditional water rights.

31. The subject application is in accordance with Colorado law. Applicants have fulfilled all legal requirements for entry of a decree in this case.

III. JUDGMENT AND DECREE

32. The foregoing Findings of Fact and Conclusions of Law are incorporated herein.
33. The Court hereby confirms and decrees conditional water rights for Lewis No. 1 Ditch, 2nd Enlargement and the Warner Ditch, 2nd Enlargement, as described herein.
34. The Court hereby confirms and decrees conditional storage water rights for the Bullock Pond and absolute water rights for the Knobel Pond No. 1 and Knobel Pond No. 2, as described herein.
35. The Court hereby confirms and decrees conditional underground water rights for the Guest House Well and the Barn Well and absolute underground water rights for the Main House Well and Cabin Well, as described herein. Use of the Guest House Well, Barn Well, Main House Well and Cabin Well shall be limited to the uses of an exempt well as defined in C.R.S. § 37-92-602 (2005) and as provided herein.
36. The Court hereby approves and decrees the change of water rights for the Possum No. 1 Ditch, as described herein.
37. The Court hereby approves and decrees the change of water rights for the Vulcan Ditch and Vulcan Ditch 1st Enlargement, as described herein.
38. The Court hereby approves and decrees the plan for augmentation, as described herein.
39. In consideration of specific findings and conclusions made herein, and in conformance with C.R.S. § 37-92-304(6) (2003), the change of water rights and augmentation plan decreed herein shall be subject to reconsideration by the Water Judge on the question of injury to the vested water rights of others for a period of five years after the augmentation plan becomes operational. If no petition for reconsideration is filed within said five years, retention of jurisdiction for this purpose shall automatically expire. Any party who wants the Court to reconsider the question of injury must file a verified petition with the Court, setting forth the facts that cause such injury and explaining the claimed injury. The party filing the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition. If the Court finds those facts to be established, the Applicants shall thereupon bear the burden of proof to show (a) that any modification sought by the Applicants will avoid injury to other water rights, or (b) that any modification sought by the petitioner is not required to avoid injury to other water rights, or (c) that any term or condition proposed by Applicants in response to the petition does avoid injury to other water rights.
40. The conditional water rights decreed herein shall be in full force and effect until _____, 201___. If the Applicants wish to maintain the conditional water rights thereafter they shall file an application for finding of reasonable diligence on or before that date, or make a showing on or before then that the conditional water rights have become absolute water rights by reason of the completion of the appropriation.

41. Applicant shall install measuring devices, continuous recorders and ditch turnouts in Canyon Creek sufficient in the opinion of the Division Engineer to permit the administration of the subject consumptive use credits associated with the Vulcan Ditch with respect to historic availability and sufficient to guarantee no expansion of use will result from the change in point of diversion of the Vulcan Ditch consumptive use credits.

42. The Applicant shall install measuring devices and recorders, provide accounting and supply depletion calculations as required by the Division Engineer. The Applicant shall also file an annual report with the Division Engineer by November 15th following each preceding irrigation year (November 1 through October 31) summarizing diversions, depletions and returns administered to the Colorado River. The Division Engineer may require the accounting and annual report to be incorporated into all other accounting and reporting associated with the 440 af/cu from the Vulcan Ditch, as quantified in Case W-2127.

43. In conformance with C.R.S. § 37-92-305(8), the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

44. Review of determinations made by the Division Engineer or the State Engineer in administration of the subject water rights is a “water matter” over which the Water Court has exclusive jurisdiction.

45. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water rights, the transferee shall file with Division 5 Water Court a notice of transfer which shall state:

- A. The title and case number of this Case No. 02CW400;
- B. The description of the conditional water right transferred;
- C. The name of the transferor;
- D. Name and mailing address of the transferee; and
- E. A copy of the recorded deed.

The owner of said conditional water rights shall also notify the Clerk of Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 02CW400 and in the case file (if any) in which the Court first made its finding of reasonable diligence.

It is accordingly ordered that this ruling of Referee and judgment and decree shall be filed with the Water Clerk and shall become effective upon such filing, subject to judicial review pursuant to C.R.S. § 37-92-304, as amended.

It is further ordered that a copy of this ruling of Referee and judgment and decree shall be filed with the State Engineer and the Division Engineer for Water Division 5.

Done at the City of Glenwood Springs, Colorado, this ____ day of _____, 200__.

BY THE REFEREE:

A. Lain Leoniak, Water Referee

No protest was filed in this matter. The foregoing Ruling of the Referee is confirmed and approved, and is made the Judgment and Decree of this Court.

Done this ____ day of _____, 200__.

BY THE COURT:

Water Judge

Exhibit
6-17

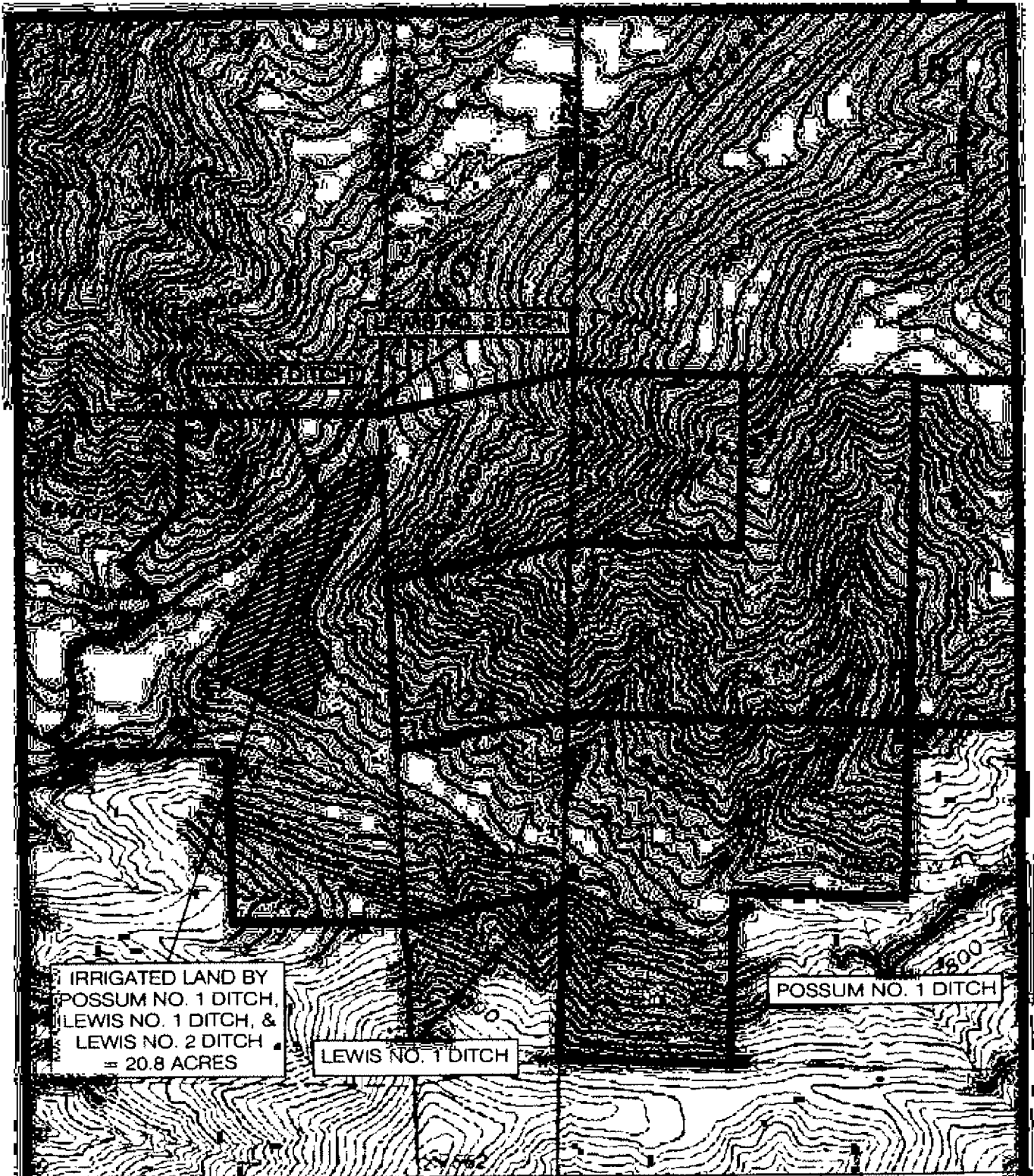


DATE: OCTOBER 28, 2003 JOB NUMBER: 96710 DRAWN BY: DLS CHECKED BY: PSB SCALE: 1" = 2000'

RESOURCE
ENGINEERING, INC.

OKANELA RANCH
LOCATION MAP

Exhibit
A

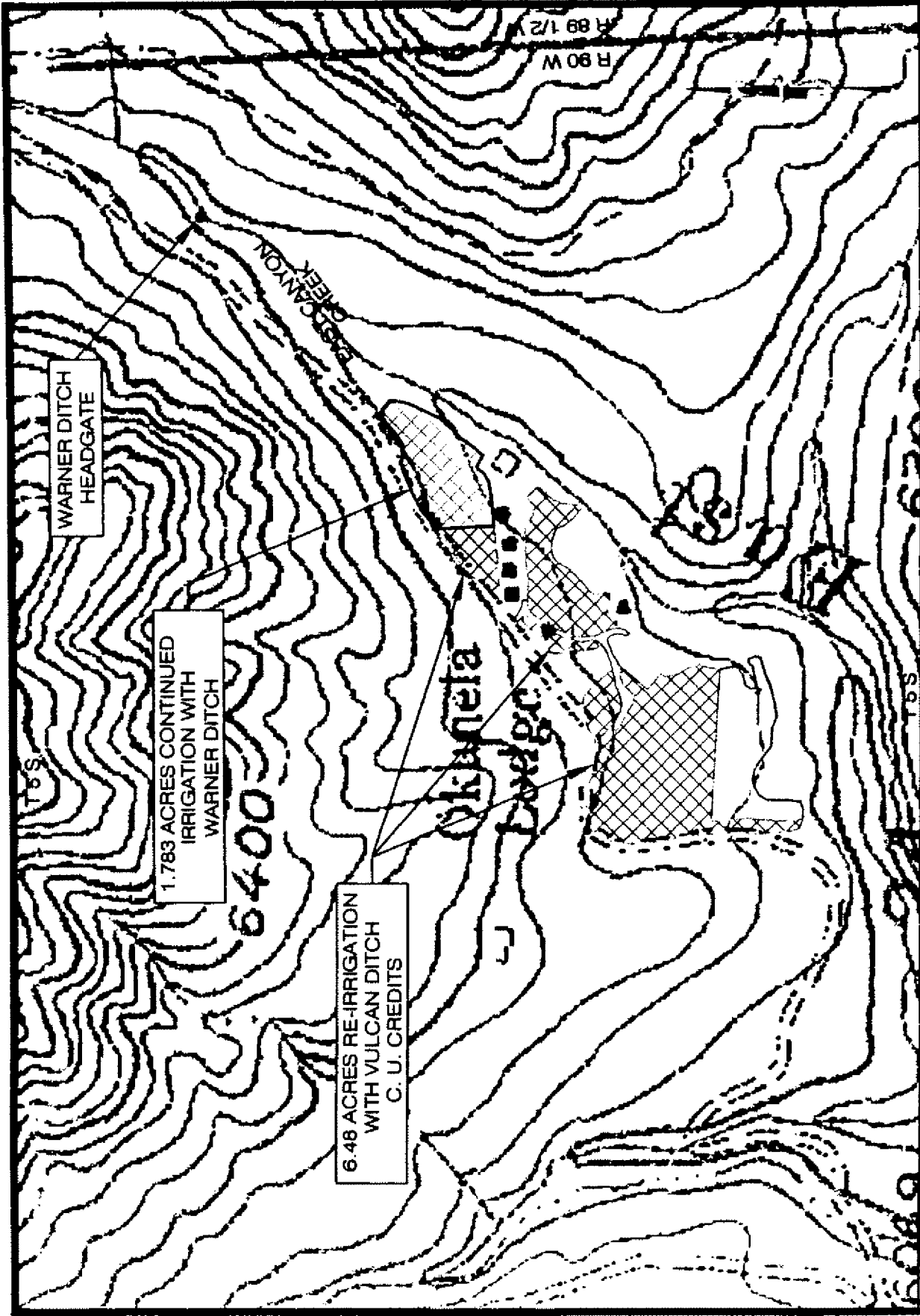


DATE: SEPTEMBER 21, 2006	JOB NUMBER: 967-1.0	CHECKED BY: MJE	SCALE: 1" = 1000'
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RESOURCE
ENGINEERING, INC.
400 COLLEGE AVE. • CEDAR SPRING, TX 77601
9376 348-8777 • FAX 9376 348-1137

KNOBEL PROPERTY - CASE NO.
POSSUM NO. 1 DITCH IRRIGAT

Exhibit
B



DATE: July 25, 2006
JOB NUMBER: 967-1.0
DRAWN BY: DLS
CHECKED BY: MJE
SCALE: 1" = 400'

RESOURCE
ENGINEERING, INC.

WARNER DITCH RE-IRRIGATION
KNOBEL PROPERTY

Exhibit
C

**TABLE 1
WATER REQUIREMENTS
KNOBEL PROPERTY - CASE NO. 02CW400**

MONTH	DIVERSIONS			DEPLETIONS				TOTAL
	DOMESTIC	STOCK WATER	WATER FEATURE	TOTAL	DOMESTIC	STOCK WATER	WATER FEATURE	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
JAN	0.138	0.031	0.000	0.170	0.021	0.031	0.000	0.052
FEB	0.125	0.028	0.000	0.153	0.019	0.028	0.000	0.047
MAR	0.138	0.031	0.096	0.266	0.021	0.031	0.086	0.148
APR	0.134	0.030	0.158	0.322	0.020	0.030	0.158	0.208
MAY	0.138	0.031	0.210	0.380	0.021	0.031	0.210	0.262
JUN	0.134	0.030	0.254	0.418	0.020	0.030	0.254	0.304
JUL	0.138	0.031	0.263	0.432	0.021	0.031	0.263	0.315
AUG	0.138	0.031	0.236	0.406	0.021	0.031	0.236	0.288
SEP	0.134	0.030	0.175	0.339	0.020	0.030	0.175	0.225
OCT	0.138	0.031	0.123	0.292	0.021	0.031	0.123	0.175
NOV	0.134	0.030	0.000	0.164	0.020	0.030	0.000	0.050
DEC	0.138	0.031	0.000	0.170	0.021	0.031	0.000	0.052
TOTAL	1.630	0.370	1.514	3.513	0.244	0.370	1.514	2.128

- (1) 1455 GPD IN-HOUSE USES. ASSUMES FULL OCCUPANCY YEAR-ROUND.
- (2) 30 HORSES AT 11 GPD/HORSE
- (3) EVAPORATION FROM 0.5 ACRES OF WATER SURFACE
- (4) SUM OF COLS. 1 THROUGH 3
- (5) 15 % OF COL. 1 BASED ON SEPTIC TANK/LEACH FIELD
- (6) 100 % OF COL. 2
- (7) 100 % OF COL. 3
- (8) SUM OF COLS. 5 THROUGH 7

Exhibit
6-17

Exhibit
D

TABLE 2

POND AND LAKE EVAPORATION

NAME: KNOBEL WATER FEATURES JOB NO. 987-1.0
 ELEVATION: 6040 FEET
 MEAN ANNUAL EVAPORATION: 42 INCHES
 POND (RESERVOIR) SURFACE AREA: 0.5 ACRES

MONTH	GROSS EVAP. RATE (1) (INCHES)	AVERAGE PRECIP. (2) (INCHES)	EFFECTIVE PRECIP. (3) (INCHES)	NET EVAP. RATE (4) (INCHES)	POND EVAP. (5) (A.F.)
JANUARY	1.26	1.44	ICE	0.00	0.000
FEBRUARY	1.47	1.10	ICE	0.00	0.000
MARCH	2.31	1.40	0.00	2.31	0.098
APRIL	3.78	1.52	0.00	3.78	0.158
MAY	5.04	1.50	0.00	5.04	0.210
JUNE	6.09	1.25	0.00	6.09	0.254
JULY	6.30	1.31	0.00	6.30	0.263
AUGUST	5.67	1.31	0.00	5.67	0.236
SEPTEMBER	4.20	1.67	0.00	4.20	0.175
OCTOBER	2.94	1.70	0.00	2.94	0.123
NOVEMBER	1.68	1.19	ICE	0.00	0.000
DECEMBER	1.26	1.48	ICE	0.00	0.000
TOTAL	42.00	16.85	0.00	38.33	1.514

- (1.) MONTHLY DISTRIBUTION OF GROSS ANNUAL EVAPORATION RATE IN ACCORDANCE WITH SEO GENERAL CRITERIA.
- (2.) MONTHLY PRECIPITATION FROM GLENWOOD WEATHER STATION.
- (3.) 70% OF COLUMN 2 FOR GRAVEL PIT POND, ZERO FOR OFF CHANNEL POND. ICE COVER FOR TEMPERATURE LESS THAN 32 F WHICH OCCURS IN NOVEMBER, DECEMBER, JANUARY AND FEBRUARY.
- (4.) GROSS EVAPORATION LESS EFFECTIVE PRECIPITATION. (1.) - (3.)
- (5.) TOTAL RESERVOIR EVAPORATION. ZERO IN WINTER MONTHS WHEN WATER FEATURES NOT OPERATING

TABLE 3
AUGMENTATION SCHEDULE

MONTH	DOMESTIC DEPLETIONS AND EVAPORATION (1)	AUGMENTATION SOURCES	
		VULCAN DITCH (2), (4)	WDWCD CONTRACT (3), (4)
January	0.052	No Call	No Call
February	0.047	No Call	No Call
March	0.148	No Call	No Call
April	0.208	0.104	0.000
May	0.262	0.131	0.000
June	0.304	0.152	0.000
July	0.315	0.315	0.000
August	0.288	0.288	0.000
September	0.225	0.225	0.000
October	0.175	0.175	0.000
November	0.050	0.000	0.013
December	0.052	No Call	No Call
Total	2.128	1.390	0.013

NOTES:

- (1) From Table 1, Column 8
- (2) C.U Credits from Vulcan Ditch, equals Column (1) or partial month as noted
- (3) Includes 5% transit loss
- (4) Out-of-priority depletions are assumed for 15 days in April, May and June ; July through October; and 7 days in November.

From: [John Leybourne](#)
To: [Heather MacDonald](#)
Subject: FW: Garfield County website inquiry - Community Development
Date: Wednesday, November 6, 2024 8:52:02 AM
Attachments: [image001.png](#)

And another one

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Brooke Winschell <bwinschell@garfield-county.com>
Sent: Wednesday, November 6, 2024 8:51 AM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: FW: Garfield County website inquiry - Community Development

Here is another Nutrient Farms one

Thanks,

Brooke A. Winschell



Community Development Administrative Specialist
Community Development Department
bwinschell@garfield-county.com
Direct 970-945-1377 Ext. 4212
T: 970-945-8212 | F: 970-384-3470
108 8th St, Suite 401 | Glenwood Springs, CO 81601

From: noreply@formstack.com <noreply@formstack.com>
Sent: Tuesday, November 5, 2024 5:55 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; Brooke Winschell <bwinschell@garfield-county.com>
Subject: Garfield County website inquiry - Community Development



Subject: Planning Commission Meeting for Nutrient Farms PUD

Name: Stig Svedberg

Email: SSVEDBERG@COMCAST.NET

Phone Number: 9257878744

Message: Dear Glenn Hartman,

I'm writing to express my opposition to the Nutrient Farms/Nutrient Pathways/Nutrient Holdings (referred to below as NF) PUD application which is up for review at the planning commission hearing on November 13th, 2024. From a community perspective, NF's project has several issues that I feel will cause direct harm to NF's neighbors, particularly to those neighbors who live along Canyon Creek.

I feel that it is unnecessary to pull water directly from the creek. The devastating consequences to the creek ecosystem would be permanent and irreversible. The water pulled straight from the Colorado river meets the requirements for organic farming, so there is no sound reason to pull it from the creek.

The amount of disruptive construction for the proposed pipeline would also cause immense damage to surrounding sensitive habitats. I do not see how having water rights would allow a developer onto private land and the likely destruction of private property.

There are also the large quantities of water that will not be used for farming but for human consumption or other purposes (e.g. water park). Some of this water would have to be additionally treated, so any advantages of pulling it from the creek directly would be nullified because of the requirements to make it safe for drinking.

It is also distressing that Nutrient Farms wants to tunnel under the railroad tracks and I70. What real assurances does the public have that this could be done safely without risking damage to these two vital pieces of infrastructure?

I am not opposed to NF's overall business plan as long as they continue to pull water directly from the Colorado river.

Thank you for your consideration,

Stig Svedberg, Canyon Creek resident
277 JB Ct.
Glenwood Springs, CO 81601

From: noreply@formstack.com
Sent: Wednesday, November 6, 2024 10:00 AM
To: Glenn Hartmann; Brooke Winschell
Subject: Garfield County website inquiry - Community Development



Subject: Nutrient Farms/Pathway PUD

Name: connie engeler

Email: laconstance@gmail.com

Phone Number: (970) 945-0474

Message: Dear Glenn and planning commissioners,

I am writing regarding the PUD application for Nutrient Farms/Pathway up for review on November 13th, 2024, a meeting which I plan on attending as well as putting in writing my concerns.

My property is on Canyon Creek where NF would like to take water (8.93 cfs) to serve, not just a small organic farm as mentioned in their 'friendly, neighborly' letter of years ago, but to feed a huge multi-use project.

Taking water from Canyon Creek would seriously de-water the Canyon Creek watershed. Only 1% of the western United States is considered riparian, yet it serves a much larger significant habitat for wildlife and fish - and is disappearing exponentially.

NF and it's water use from the Vulcan Ditch are currently being debated in water court and these matters should be settled before any PUD application is approved or furthered. As a resident along Canyon Creek for the past 34 years I can tell you that the farm across the Colorado River (now owned by NF) has not taken water from the Vulcan Ditch North for over two decades now as they abandoned the use. Creating a new, all-inclusive easement of 30 - 50 foot width through ecologically sensitive properties is destructive and unacceptable for a ditch that has been essentially put to rest for it's use across the Colorado River.

The water adequacy report in NF's application is flawed citing old data which is in need of careful review and oversight. Please mandate that NF continue taking water from the Colorado River at it's current alternate point of diversion rather than imposing irreparable damage to the Canyon Creek watershed.

Thank-you,
Connie Engeler

Subject: Canyon Creek Water

Name: Richard Wernsmann

Email: diner19thst@yahoo.com

Phone Number: 9706183026

Message: I am writing to appose the draining of Canyon Creek water by Nutrient Farms reopening the old Vulcan ditch. We need the water that our rights provide to irrigate our land to mitigate fire hazards. They still have access to the same water pulled right out of the Colorado river, as they have for 10+ years.

January 20, 2025

Dear Planning and Zoning and Garfield County Commissioners,

My name is Dave Temple. I was a volunteer firefighter in Glenwood Springs for years before we bought our land at the entrance to Canyon Creek in 1980. I am really worried about fire on our creek, and already have lived through two fires here plus the Storm King, Coal Seam and New Castle Fires. We need our water to protect our homes and our safety all the way up the creek, and with so many people on I-70 with chains and cigarettes, we can't lose our water or our ability to fight fires.

When we bought our land, the Spion Kopp Ditch and the Vulcan Ditch structures ran through our yard. The Spion Kopp Ditch was consolidated into the Williams Canal before we began to build our house. I walk these ditches almost every day in the summer and have been for decades.

When we bought our property, the old Vulcan Ditch which ran from the old head gate along the creek, under the road, across the mountain and through canyons and unstable terrain didn't and couldn't carry much water, or the old rock and dirt ditch would leak and blow out across the road. Since I lived here, it hasn't run more than 5cfs before leaking, and no more than .13cfs since 1999.

Historically, measurements at the weir and the water that made it over to the South Side, was not the same due to evaporation and leakage. The reason why other owners moved their point of diversion to the Colorado, was because it was easier to access and they needed more than they could get from the old Vulcan Ditch. As years passed, they became less and less interested in using the old Vulcan Ditch and pumped from the Colorado for irrigation instead.

When we bought our land I knew that the new owners on the South Side wanted to use water to put out the fire in the mines so they could mine coal. So they planned to use the points of diversion on the Colorado. But they never did. Then, every time there was a new sale or lease, people thought they could get water from over here because it was cheaper to use gravity. Well, until they walked the ditch and saw how hard it was to get enough irrigation water across, and how much easier it was to take it from the Colorado.

When we built our house in the 80s, we filed and were awarded .13cfs for irrigation and fire mitigation and I started to work on the ditch by hand with my kids to try to maintain water flow to my property. This was through the late 80s and into the 90s.

Peter Mathias, and then Eric and Bill Porter, from the Ruston Backer Ranch, NCIG? came over to work on the Vulcan Ditch, but during their time on the ranch (1997), they flooded out the houses in River Bend and then came over to tell me to shut the ditch off and drain the siphon pipe back into the river. A few years later in 1999, the pipe backed up and flooded Rue Balcomb's property.

Scott Balcomb, Rue's dad sued the ranch owners and us and the settlement was paid and the results were filed in court. I just kept taking care of the ditch from the head gate to our property by hand. I was really worried about having water up at my place to fight fires. I walked the ditch almost every day, and after the 1999 law suit, the ranch didn't want to get water from this side of the river and told me to only take care of my rights, and that was it. Nobody ever took care of the ditch from my property to the river after that, or took any water from this side of the Colorado.

Of course by 2007, when the New Castle Fire burned the west side of Canyon Creek, the firefighters used the ditch to put out the fire, and we opened it as high as it could go, almost to 5 cfs but it still didn't cross the Colorado River, the siphon was opened and it drained the excess water.

From 1999 to the fire in 2007, only my water rights went through the Vulcan on Canyon Creek. Opening it up for the firefighters saved the creek, but after the rains, the Williams Canal blew out and the burn scarred hillside couldn't hold anything back. There was huge flood that closed the road and damaged houses and other properties all the way into the creek. It was in the paper and everyone knew about the flood.

The Vulcan Ditch was filled with mud and debris and I opened a small trench to get my water back down to the house. We had just survived another fire. When Balcomb only sued me again to make sure no further damage would occur to Rue's property we agreed to put my rights in a 3" pipe. The other side of the river had no interest in this side. This allowed us the ability to fight fires on our property, and along with the AVLT conservation, we all believed that the ditch to the other side was long since abandoned.

Sincerely,

Dave Temple

From: [John Leybourne](#)
To: [Glenn Hartmann](#); [Heather MacDonald](#)
Subject: FW: Concerns Regarding the Nutrient Farm Planned Unit Development - PUDA-05-22-8899
Date: Wednesday, January 22, 2025 9:25:09 PM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Rachel Rusnak <rachel@realitasgroup.com>
Sent: Wednesday, January 22, 2025 7:43 PM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: Concerns Regarding the Nutrient Farm Planned Unit Development - PUDA-05-22-8899

You don't often get email from rachel@realitasgroup.com. [Learn why this is important](#)

Dear Mr. Leybourne,

As a resident of Riverbend, the community within New Castle, Colorado, I am writing to express significant concerns regarding the proposed Nutrient Farm Planned Unit Development (PUD). While the project presents an array of plans and promises, the documentation reveals glaring gaps and unresolved issues that pose serious risks to our community's safety, environment, and quality of life.

Many aspects of the proposal remain speculative, lacking concrete strategies or actionable solutions, leaving critical questions unanswered.

I urge you to carefully evaluate these concerns, as the potential negative implications for our community, environment, health, and safety are profound and far-reaching.

Fire Safety and Evacuation Risks

The wildfire risks associated with the Nutrient Farm Planned Unit Development (PUD) cannot be overstated. This project introduces significant fire safety challenges, particularly in a region prone to wildfires, steep terrain, and limited access routes.

Recent catastrophic fires in Southern California, such as the Palisades and Eaton fires, and the infamous Camp Fire in Paradise, California, highlight the devastating consequences of inadequate fire safety planning and tragic evacuations on congested roads. This is especially concerning given that

the Riverbend community currently has only one way in and one way out.

The PUD's proposed developments—including campgrounds, music venues, and motorized vehicle tracks—pose additional fire risks. Campgrounds may increase fire hazards due to unattended campfires, while music venues raise concerns about improper cigarette disposal. If motorized vehicles are permitted on tracks, sparks generated during operation could further heighten the risk of wildfire.

Increased Traffic and Evacuation Challenges

The PUD's proposed developments—including a music venue, Adventure Farm, and other high-traffic facilities—will significantly increase the number of vehicles in the area (as outlined in the *Level III Traffic Impact Study*). This creates a bottleneck risk during emergencies. The narrow local roads, including CR 335, are not equipped to handle large-scale evacuations, especially during peak visitor hours or simultaneous events. In a wildfire scenario, delayed evacuations could mirror the tragic consequences of previous disasters.

Reliance on Private Fire Suppression Measures

The PUD heavily relies on private fire suppression strategies, which are insufficient for a development of this scale. Without integration into robust public firefighting infrastructure, these measures lack the coordination, resources, and oversight needed for effective wildfire response. This reliance leaves both residents and wildlife vulnerable to fast-moving fires, particularly during the windy spring months when fire risk is at its peak.

Lack of Fire Flow Assurance

Adding to the fire safety concerns is the policy outlined in the Riverbend Water & Sewer Company Water & Sewer Service Policy, Rules, and Regulations, which states:

"The Company makes no representation or warranty concerning the adequacy of the flows available, from fire hydrants, to the Residence for fire protection purposes."

This lack of assurance regarding water availability for firefighting further exacerbates the fire safety risks associated with the PUD. Inadequate fire hydrant flows could severely hinder firefighting efforts, compounding the risks during an emergency.

Lessons from Recent Fires

The Southern California fires and the Camp Fire in Paradise underscore the catastrophic consequences of inadequate fire safety measures and poor

evacuation planning. Both disasters revealed the critical need for reliable infrastructure, robust fire safety plans, and accessible water resources. The inclusion of campgrounds, music venues, and motorized vehicle tracks further amplifies these concerns for the Nutrient Farm PUD.

Without proactive planning, robust fire safety measures, and adequate infrastructure, the Nutrient Farm PUD presents unacceptable risks to the safety and well-being of the community and surrounding environment.

A False Front of Sustainable Farming

Despite being marketed as a sustainable farming initiative, less than a quarter of the PUD's land is dedicated to farming activities. The remainder is allocated for commercial, residential, and recreational uses. Additionally, current operations at the farm reveal significant mismanagement: cows frequently escape due to poor fencing, customers report being overcharged because of malfunctioning systems, and [former employees cite the owners' inability to manage operations effectively](#). Scaling up such a flawed system is a recipe for disaster.

Furthermore, the farming activities outlined in the plan appear to be geared more toward agritourism than genuine agricultural production. This undermines the credibility of the project's claims of sustainability and community benefit.

Wildlife Impacts and Habitat Disruption

The proposed development site is a vital habitat for abundant wildlife, including mule deer, elk, and various bird species. Daily observations in this area reveal groups of mule deer—sometimes as large as 40—relying on these lands for grazing and migration.

The Grand Hogback serves as a critical corridor for seasonal migration, with parts of the development encroaching on areas designated as Severe Winter Range for both elk and mule deer. Disruption to these corridors will have far-reaching consequences, fragmenting ecosystems and forcing animals into less suitable habitats, increasing risks of vehicle collisions and other conflicts.

A bald eagle nest, located one mile from the site, adds an additional layer of concern. Bald eagles, a species protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), depend on quiet, undisturbed areas for nesting and hunting. The increased noise, light pollution, and human activity from the PUD could deter bald eagles from the area, with no clear mitigation strategies outlined in the plan. (U.S. Fish & Wildlife Service, *Bald Eagle Management Guidelines*, 2007).

The property also intersects prime black bear habitats. Bear-human

conflicts are already a known issue in the region, with bears frequently attracted to trash cans in residential areas. The introduction of apple and berry farming will exacerbate this problem, increasing the likelihood of dangerous encounters between residents and bears. Nutrient Farm's wildlife mitigation plan does not adequately address these risks or offer solutions for reducing human-wildlife conflicts.

The report indicates a lack of comprehensive impact studies on wildlife. While the PUD mentions the development of a Wildlife Mitigation Plan with Colorado Parks and Wildlife (CPW), specific strategies remain vague or absent. Recommendations to limit human encroachment during sensitive times (e.g., nesting or migration) are not sufficiently detailed, leaving significant gaps in planning.

Additionally, the proposed recreational facilities, such as the outdoor adventure park and music venues, will introduce significant light and noise pollution, further disturbing nocturnal wildlife and diminishing the area's ecological integrity. Indirect impacts, including habitat degradation from increased foot traffic, trail development, and motorized activities, will extend beyond the immediate boundaries of the development.

Meat Processing Facility Concerns

The proposed Nutrient Farm Planned Unit Development (PUD) includes plans for an on-site livestock processing facility. While the PUD guide describes activities such as cleaning, sorting, grading, packaging, and freezing for both on-site and off-site distribution, significant concerns arise due to a lack of detail and analysis in the documentation.

- 1.
- 2.
3. **Scale and Compliance:**
4. The facility allows for processing of agricultural products but mandates that only a fraction
5. of the processed products must originate from on-site production. This low threshold indicates that the majority of processing operations could involve livestock sourced from other locations, effectively making this a commercial-scale operation rather than
6. a sustainable farming initiative.
- 7.
- 8.
- 9.

10. **Environmental Risks:**

11.

- o
- o
- o Livestock processing facilities are notorious for generating substantial wastewater requiring advanced
- o treatment. With the PUD relying on on-site wastewater systems, the risk of contamination to surrounding water sources, including the Colorado River, is significant.
- o
- o
- o
- o Odor management is inadequately addressed, leaving nearby communities vulnerable to persistent smells
- o from livestock waste and processing activities.
- o

12.

13.

14. **Operational Concerns:**

15. The farm has struggled with smaller-scale operations, including issues with malfunctioning equipment

16. and frequent livestock escapes. Expanding to include a meat processing facility raises serious questions about the competency to manage such a complex and environmentally sensitive operation.

17.

18.

19.

20. **No Impact Study Conducted:**

21. One of the most glaring omissions is the absence of a comprehensive impact analysis specifically

22. for the meat processing facility. The PUD does not provide any detailed evaluation of:

23.

- o
- o
- o Potential environmental impacts, such as odor, runoff, and wastewater contamination.
- o
- o
- o
- o Increased noise and traffic from transporting livestock to and

from the facility.

- o
- o
- o
- o Effects on community safety and public health. This lack of analysis is deeply concerning, as it leaves
- o significant risks unexamined and unaddressed.
- o

24.

25.

26. **Impact on Nearby Communities:**

27. The noise, smell, and increased traffic associated with transporting livestock and processing

28. operations could disrupt the peace and quality of life for nearby residents.

29.

Without safeguards, the meat processing facility poses a significant risk to the environment, public health, and the well-being of the surrounding community.

Traffic and Infrastructure Concerns

The Level III Traffic Impact Study projects substantial increases in traffic along County Road (CR) 335 and Bruce Road due to the development. Proposed uses, including a music festival, Adventure Farm, and retreat center, will overwhelm the area's infrastructure, leading to congestion and safety concerns. The study indicates that during peak hours, the CR 335 and Bruce Road intersection will degrade to Level of Service (LOS) C, with large events exacerbating the problem.

Additionally, the strain on emergency response capacity has not been adequately addressed. With increased population density and visitors, local fire and medical services will be under-resourced to meet the area's needs. These findings underscore the lack of thorough traffic mitigation planning. The doubling of traffic volumes, paired with vague or non-existent solutions, raises serious questions about the development's readiness to manage the impacts it will impose on local residents and infrastructure.

Riverbend Residents and Water

The Riverbend Water and Sewer Company (RWSC and RBWS), which

services Riverbend, recorded in its February 10, 2024, meeting minutes: “We currently do not have any more taps and no more room in the septic ponds.” The same document noted that “SGM, EPC, and attorneys are working on water rights applications and permits.”

Despite these acknowledged limitations, RWSC and RBWS [proceeded to sell shares](#) to the Nutrient Farm PUD, prioritizing the development over the needs of existing homeowners.

RWSC and RBWS have left homeowners vulnerable to potential water shortages and service disruptions, casting doubt on the feasibility and sustainability of this large-scale project.

This decision raises significant concerns about RWSC and RBWS’ governance, transparency, and commitment to addressing the water needs of its current residents.

I urge you to closely review RWSC and RBWS’ agreement with Nutrient Farm, focusing on [RWSC and RBWS governance practices and decision-making processes](#). The needs of Riverbend residents must remain a priority, and greater transparency and accountability are essential to safeguard the community’s future, wellbeing, and access to vital resources.

Closing

I fully support sustainable farming, or farming of any type for that matter, but the Nutrient Farm PUD, as currently proposed, poses significant risks to public safety, infrastructure reliability, and the long-term sustainability of our region.

It is the duty of the Garfield County Commissioners to ensure the safety, quality of life, and well-being of their constituents.

I respectfully urge the Commissioners to deny approval of this proposal in its current form to safeguard our community’s future, uphold responsible planning principles, and prevent avoidable strain on our resources and infrastructure.

Thank you for your attention to this matter.

Sincerely,
Rachel Rusnak

From: [John Leybourne](#)
To: [Glenn Hartmann](#); [Heather MacDonald](#)
Subject: FW: Concerns Regarding the Nutrient Farm Planned Unit Development (PUD)
Date: Wednesday, January 22, 2025 9:24:56 PM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Devin MacRostie <dmacrostie@gmail.com>
Sent: Wednesday, January 22, 2025 9:13 PM
To: John Leybourne <jleybourne@garfield-county.com>
Subject: Concerns Regarding the Nutrient Farm Planned Unit Development (PUD)

You don't often get email from dmacrostie@gmail.com. [Learn why this is important](#)

Dear Mr. John Leybourne,

As a Riverbend resident, I am writing to express my deep concern regarding the proposed Nutrient Farm Planned Unit Development (PUD).

While development can offer valuable opportunities for growth and progress, the Nutrient Farm PUD, as currently proposed, raises several issues that require careful consideration. If left unaddressed, these concerns could have significant and lasting impacts on the character, environment, and overall well-being of our community. It is essential to thoroughly evaluate these potential consequences to ensure that any development aligns with the values and needs of Riverbend, New Castle, and Garfield County residents.

With extensive experience in sustainability, energy, and infrastructure development, I have a deep understanding of the complexities and potential risks inherent in projects of this scale. Unfortunately, the current proposal fails to adequately address critical safety, environmental, and infrastructure concerns, such as the risks of radioactive contamination and vulnerabilities to geohazards. This oversight reflects a concerning lack of comprehensive planning and foresight.

These gaps in planning raise serious questions about the long-term impacts this development could have on our community, its resources, and its residents. I respectfully urge you to carefully evaluate these concerns, as the risks to the safety, health, and well-being of our community are too significant to ignore.

Water Resources and Waste Management

The proposed water management strategy for Nutrient Farm is fragmented and heavily reliant on outdated infrastructure, raising significant concerns about its adequacy and environmental impact.

Reliance on the Vulcan Ditch and Coal Ridge Pump Systems

The Vulcan Ditch, a key water source for the development, has not been operational for decades and requires substantial repairs. Historically, the ditch served hay fields but is now being repurposed for diverse uses such as irrigation, potable water, and recreational activities. In dry years, the PUD acknowledges that irrigation may need to be curtailed, further demonstrating the vulnerability of this resource.

Surface Runoff and Contamination Risks

The development anticipates significant surface water runoff from initial flood irrigation practices, potentially transporting sediments and nutrients into the Colorado River. Although the plan mentions transitioning to more efficient irrigation methods, no timeline or funding details are provided, leaving the risk of water contamination unmitigated.

Colorado River Dependency

While the Vulcan Ditch is the primary water source, the Coal Ridge Pump system connected to the Colorado River serves as a backup. This approach raises concerns about long-term sustainability, especially given the ongoing over-allocation of Colorado River resources across multiple states.

Wastewater and Septic Systems

The PUD proposes 10 on-site wastewater treatment systems (OWTS) to handle approximately 25,000 gallons per day from commercial activities. The reliance on decentralized systems increases the risk of groundwater contamination, particularly in areas with high water tables near the Colorado River.

Dust and Air Quality Impacts

Construction and increased traffic will generate dust and vehicle emissions, degrading air and water quality. These emissions can have adverse health effects on residents and harm local ecosystems.

Implications for Riverbend Residents

The Riverbend Water and Sewer Company (RWSC), which serves nearby residential developments, is already operating at or near capacity, based on my understanding from documentation provided by RWSC. Despite this, the company sold shares to the Nutrient Farm PUD, prioritizing the development over the needs of existing homeowners. It was claimed that the sale of these shares would fund infrastructure upgrades; however, shortly after the sale, the water bill increased by 30% without any explanation or justification. Current residents have been explicitly told they cannot have an additional tap, even as the PUD plans to connect more lots and continue to overburden the system.

This decision highlights a troubling lack of consideration for the community's existing water needs. By selling shares to the PUD without securing necessary infrastructure upgrades, RWSC has effectively left current homeowners vulnerable to water shortages and service limitations, exacerbating concerns about the feasibility and sustainability of this large-scale development.

Geohazard and Resource Concerns

The Nutrient Farm PUD site presents several geohazard risks and resource-related concerns, as highlighted in the soils and geohazard evaluation. These factors raise significant questions about the feasibility and safety of the proposed development.

Identified Geohazards

The site evaluation identified a range of geohazards that pose risks to construction and long-term safety:

- **Collapsible and Expansive Soils:** Portions of the site contain low-density alluvial soils and shale formations prone to collapse or swelling, which could lead to structural instability during and after development.
- **Debris Flows and Landslides:** The southern section of the property is mapped as a debris flow hazard area, particularly during heavy precipitation. Additionally, two older landslides are located near the base of slopes, with potential for reactivation due to excavation or changes

in groundwater conditions.

- Erosive Soils: Large sections of the site exhibit moderate to high erosion potential, characterized by gullying, sheet erosion, and rapid topographical changes that could undermine infrastructure.

Infrastructure and Resource Strain

The development's reliance on outdated and inadequate infrastructure exacerbates these geohazard concerns. Without thorough mitigation strategies, the combination of geohazards and resource mismanagement could lead to long-term safety and sustainability issues for the community.

These concerns emphasize the critical need for comprehensive geotechnical investigations and environmental impact assessments before moving forward with any large-scale development on this site.

Light and Noise Pollution

The introduction of large-scale recreational and commercial facilities, including a music venue and motorized activity park, poses significant risks of noise and light pollution. The Sound Modeling and Testing Report for the Nutrient Farm PUD presents several critical flaws and omissions that undermine its conclusions about the project's impact:

1. Inadequate Baseline Measurements:
The report fails to establish accurate baseline ambient noise levels for the area, making it impossible to assess the true impact of proposed activities on the surrounding environment.
2. Limited Scope of Noise Sources:
The analysis focuses almost exclusively on music events while neglecting other significant noise contributors such as motorized activities, construction noise, and increased vehicular traffic. This narrow focus results in an incomplete assessment of the project's overall noise impact.
3. Questionable Mitigation Effectiveness:
While the report suggests mitigation measures like berms and vegetation to minimize noise, it lacks empirical evidence or modeling data to demonstrate their effectiveness in reducing noise to acceptable levels.
4. Absence of Cumulative Impact Analysis:
The report fails to account for the cumulative noise impact of simultaneous activities or events. The combined effects of multiple noise sources could greatly exacerbate disturbances for residents and wildlife alike.
5. Disregard for Nighttime Noise Implications:
The report does not adequately consider the heightened sensitivity to noise during nighttime hours, which would severely disrupt nocturnal wildlife and residents seeking a quiet, rural environment.

In addition to disrupting the natural environment, this increased noise will have a direct economic impact on residents.

Many people in the area work remotely or run home-based businesses, relying on a quiet and stable environment to conduct their work. Sustained noise levels above acceptable residential standards—especially during events like music festivals and motorized activities—will compromise their ability to focus, attend virtual meetings, or deliver services effectively, ultimately threatening their ability to earn a living.

Furthermore, light pollution from the development's large-scale recreational and commercial

facilities will disrupt the natural night sky and degrade the environment for nocturnal species. Combined with noise, this pollution creates an untenable situation for the community and wildlife.

The Sound Modeling and Testing Report fails to meet the rigorous standards needed to ensure the project's compatibility with the area. These flaws must be addressed before the PUD can move forward, as the consequences extend beyond environmental disruption to affect the livelihoods and well-being of residents.

Presence of Uranium Deposits and Risk of Radioactive and Contamination

According to the USGS World Topographical Map sourced from the Esri Online Server, uranium deposits are present on the Nutrient Farm PUD property. The Nutrient Farm PUD documentation acknowledges the potential for radioactive emissions and contamination risks but fails to provide detailed mitigation strategies or a comprehensive monitoring and enforcement plan. This oversight raises significant concerns about the long-term health and environmental safety of the community, wildlife, and local ecosystems.

The disturbance of these deposits introduces potential environmental, health, and regulatory challenges, as improper handling or extraction could pose significant risks to the surrounding community and ecosystem. Proper evaluation and mitigation are essential to address these risks comprehensively.

The PUD documentation does not outline specific mechanisms for tracking the disturbance of radioactive deposits or ensuring compliance with safety standards. Similar developments have faced significant scrutiny for failing to adequately address contamination risks, leading to significant cleanup costs and public health crises. Nutrient Farm risks becoming another example of a poorly managed project without clear guidelines and enforcement mechanisms. Given these factors, it is imperative that the developer provide a transparent and comprehensive plan for managing uranium deposits.

For the reasons outlined in this letter, the Nutrient Farm PUD, as currently proposed, fails to adequately address the significant risks it poses to our community. Without detailed mitigation plans, transparent monitoring strategies, and a commitment to protecting public health and environmental integrity, this development jeopardizes the safety, resources, and quality of life for current and future residents.

I urge you to prioritize the well-being of our community and deny approval of this project in its current form. Responsible and sustainable development must include thorough planning, adequate safeguards, and clear accountability. Thank you for your thoughtful consideration and commitment to ensuring the safety and future of our region.

Thank you.

Devin MacRostie

740-541-3100

From: [John Leybourne](#)
To: [Heather MacDonald](#)
Subject: FW: Letter of Opposition Re: Nutrient Farm PUD
Date: Thursday, January 23, 2025 8:00:00 AM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Rachael Newman <newmanrarr@gmail.com>
Sent: Wednesday, January 22, 2025 11:44 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; John Leybourne <jleybourne@garfield-county.com>
Subject: Letter of Opposition Re: Nutrient Farm PUD

Some people who received this message don't often get email from newmanrarr@gmail.com. [Learn why this is important](#)

Dear Garfield County Representatives,

I am writing as a resident of the Riverbend subdivision to express my strong opposition to the proposed Nutrient Farm Planned Unit Development. The plan to establish a music venue, motocross/OHV course, and a fabrication facility for industrial livestock processing presents significant environmental, wildlife, and public health risks.

These impacts are incompatible with the well-being of the surrounding community and the ecological integrity of this area.

Objection to the Sound Modeling and Testing Report

Nutrient Farm's 1.26 Sound Modeling and Testing Report contains several flaws and omissions that underestimate the true noise impact on the Riverbend neighborhood. To fully grasp the potential impacts of Nutrient Farm's proposed OHV course and music venue, it is important to understand the science of sound and how decibels (dB) are measured. Decibels are a logarithmic unit of sound measurement, which means that each 10 dB increase represents a tenfold increase in sound intensity. For example, a sound measuring 60 dB is 10 times louder than one at 50 dB, and 70 dB is 100 times louder than 50 dB. Small increases in decibel levels—such as the 9 dB(A) exceedance recorded during Nutrient Farm's music venue tests—represent a significant increase in perceived loudness and intensity.

Nutrient Farm's 1.26 report excludes major noise contributors, such as crowd noise and the simultaneous use of multiple facilities, including the music venue, motocross course, and other operational areas. This is a significant oversight because these elements are likely to produce substantial noise during peak activity periods. Omitting them from the modeling fails to account for the cumulative noise impacts, which are critical to understanding the true extent of disturbance to nearby residents.

Second, the report placed a single sound recording device in the lowest part of the Riverbend neighborhood, an area that does not account for the varied topography and elevation changes across the subdivision. Noise levels, especially from the proposed music venue and motorized activities, are likely to travel differently to homes situated at higher elevations or closer to direct line-of-sight paths. Limiting measurements to one location severely underrepresents the geographic variability of noise propagation and the potential impacts on all areas of the neighborhood.

Furthermore, the report suggests that planting trees or bushes will act as an effective sound barrier to mitigate noise pollution. However, research shows that "trees and bushes are very poor noise barriers. Sound can usually propagate directly through a bush or a line of trees with negligible attenuation" (*Principles of Environmental Noise*, Murphy & King, 2014). This reliance on vegetation as a mitigation strategy demonstrates a lack of understanding of acoustic science and further undermines the efficacy of the sound mitigation measures proposed.

A proper sound study should include multiple measurement locations at varied elevations and distances within the Riverbend neighborhood to capture the full range of noise impacts. It should also model combined noise from all proposed facilities, including crowd noise and simultaneous activities, to accurately assess cumulative impacts. Additionally, mitigation strategies should reflect best practices in acoustic science rather than rely on ineffective measures such as foliage barriers. Until these deficiencies are addressed, the conclusions of the report cannot be considered reliable or sufficient to justify approval of the proposed development.

Objection to the Proposed Meat Processing Fabrication Facility

The proposed meat processing fabrication facility within the Nutrient Farm PUD poses significant environmental, residential, and strategic concerns. First, the facility's operations are likely to produce considerable waste, including animal byproducts and wastewater, which could contaminate local water sources, including the nearby Colorado River. This is especially concerning given that residents of the nearby Apple Tree community, downstream of the proposed facility, are already experiencing polluted water. The addition of a meat processing facility could exacerbate these issues by introducing additional contaminants, further jeopardizing the health and safety of the local population.

Additionally, meat processing facilities are known to emit odors and particulate matter that can negatively affect air quality. Residents in the surrounding neighborhoods, including Riverbend, would be subject to persistent odors and potential health hazards from airborne pollutants. This proximity to a residential area makes the location highly inappropriate for such an industrial operation.

The facility would also place increased strain on local infrastructure, particularly water and sewer systems. The water required for cleaning, processing, and disposal would demand significant resources, potentially reducing capacity for existing Riverbend residents and leading to higher utility rates. The area's sewer infrastructure may not be equipped to handle the volume and type of waste generated, increasing the risk of overflows and pollution.

Furthermore, the addition of a fabrication facility directly contradicts Nutrient Farm's stated goal of attracting tourists through its adventure farm, motocross course, and music venue. The industrial nature of a meat processing plant is incompatible with the image of a vibrant, family-friendly destination. Instead of drawing visitors, the facility's odors, truck traffic, and environmental risks would likely deter tourists and undermine Nutrient Farm's broader vision for a tourism-oriented development.

Finally, the presence of a meat processing facility is incompatible with the character of the surrounding area, which is primarily residential and agricultural. Such an industrial

operation risks lowering property values in Riverbend and creating ongoing conflict between the needs of residents and the demands of the facility.

Given these substantial environmental, health, residential, and strategic contradictions, the proposed meat processing fabrication facility should not be approved. A more thorough assessment of these risks is necessary to ensure the safety and well-being of the community and the preservation of the local environment.

Major Impact Designation

The identification of these projects as having a “major impact review use” in document 1.33 Exhibit D underscores the critical need for unbiased, gold-standard comprehensive environmental and community health assessments. The proposed music venue, motocross track, and meat processing fabrication facility collectively represent significant risks to the environment, public health, and quality of life for nearby residents. A development of this scale and proximity to sensitive areas demands rigorous evaluation to fully understand the cumulative impacts and ensure compliance with federal and state environmental protections. Only through such thorough assessments can the true risks and feasibility of these projects be determined.

Environmental Concerns and Impact on Bald Eagles

The Nutrient Farm property is located near critical habitat for bald eagles, a species federally protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) and the Migratory Bird Treaty Act (MBTA). These eagles are already subjected to elevated noise levels from Interstate 70 and the adjacent railway. The additional noise pollution generated by the proposed music venue and motocross course, combined with the environmental risks posed by the meat processing fabrication facility, would further disrupt their nesting and foraging behaviors. Excessive disturbances of this nature are well-documented to increase the likelihood of nest abandonment and reduced productivity, jeopardizing the nearby (and well documented) bald eagle population.

The Act prohibits any actions that would "disturb" bald eagles. According to 50 CFR § 22.6, "disturb" is defined as actions that "agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." The cumulative noise and environmental impacts from Nutrient Farm's development would likely exacerbate disturbances, increasing the risk of reduced eagle productivity or nest abandonment. Such outcomes may constitute a violation of federal protections under the Act.

Additionally, per the U.S. Fish & Wildlife Service's Bald Eagle Management Guidelines, even human-induced alterations initiated when eagles are not present—such as construction or infrastructure expansions—can agitate or bother eagles upon their return, substantially interfering with breeding, feeding, or sheltering habits, and causing nest abandonment or loss of productivity. These disruptions are considered violations of the Act and carry steep penalties, including criminal fines of up to \$100,000 for individuals (\$200,000 for organizations) and imprisonment for a first offense, with increased penalties for repeat offenses.

The proposed meat processing fabrication facility also presents a significant environmental threat through the potential dispersal of contaminants associated with agricultural runoff, and hazardous waste. As noted by the U.S. Fish & Wildlife Service, these contaminants pose direct risks to eagles and their food sources, especially in watersheds where

bioaccumulating toxins have been documented or reproduction rates are already poor. The proximity of the proposed facility to bald eagle habitat and the Colorado River magnifies these risks, threatening both the local eagle population and downstream ecosystems. The combined impacts of the music venue, motocross track, and processing facility demonstrate an unacceptable level of risk to bald eagles and their habitat. Approval of the Nutrient Farm PUD could result in violations of federal protections, significant harm to local wildlife, and irreversible damage to sensitive ecosystems.

Request for Action

I respectfully urge the Garfield County Commissioners to deny approval of Nutrient Farm's PUD proposal.

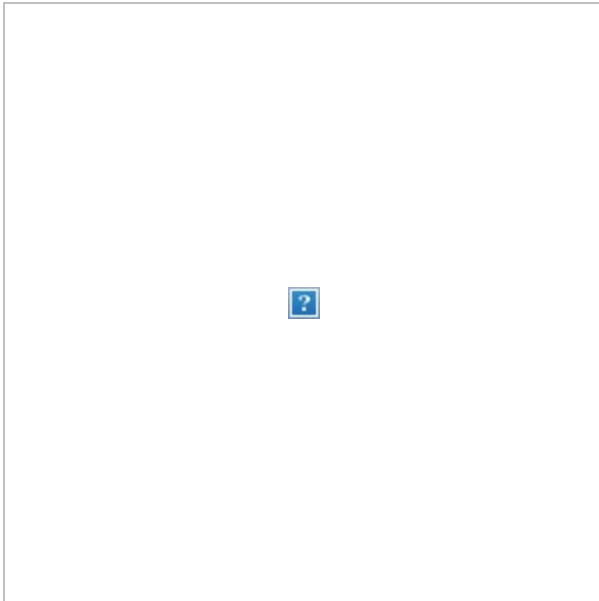
The music venue, motocross course, and fabrication building are incompatible with the ecological sensitivity of the area, the health and safety of nearby residents, and the long-term sustainability of our community. Effective noise mitigation and pollution control measures are not addressed, and the risks to wildlife, water resources, and public health are significant.

Thank you for your time and thoughtful consideration of this matter. I would welcome the opportunity to provide additional information or testimony at the upcoming meeting.

Sincerely,
Rachael Newman

364 Glen Eagle Circle,
New Castle, Colorado

From: noreply@formstack.com
To: [Heather MacDonald](#)
Subject: Garfield County website inquiry - Senior Planner
Date: Thursday, January 23, 2025 10:13:48 AM



Subject: Nutrient Farm PUD

Name: John Seymour

Email: seymour4hockey@gmail.com

Phone Number: (720) 255-8138

Message: Good Morning Heather,
I am writing in regards to the Nutrient Farm PUD proposal. I live at 277 Glen Eagle Circle in the Riverbend subdivision and have lived here for 4 years. We purchased this home to retire in a few years and have a peaceful place to call home. It was just what my wife and I were looking for. Hence my trepidation regarding this project.

Concerns:

1. Our county road 335 is narrow and has no relief on either side and in winter this road can be extremely treacherous. This road barely supports our traffic much less 2500 more cars a day.

County road 335 is our only egress out in an emergency! Adding residences, restaurants, amphitheater, RV camping & playlands adds a lot more people to a one way exit. In addition, I feel the mass exodus during an emergency would block first responders from arriving in a timely manner.

2. With that said, Fire Danger is a huge concern as is the water suppression that is available. More traffic means more people and more risk of carelessness. Music venue means people smoking, ATV track is at risk of sparks from rocks and or batteries overheating, even exploding. We are already a fire hazard waiting to happen and I am certain we all recall the Storm King Fire and that is only a few miles down the road.

3. Wildlife... How about the mouse that feeds the Bald Eagle, Golden Eagle, numerous breeds of hawks, owls and other predatory birds, The coyote, fox, bobcat, bears ermine mink and wild animals that live and feed in those fields. Where will the mouse go with all that is being built. Where will all the wildlife go. The deer are already feeling the squeeze from the cattle and they were here long before all of us.

4. I question the integrity of the owner whom I have never met. I have only received a note attached to my door telling me of his rights to open range for his cattle. Who by the way got out and damaged and defecated on our property and we heard nothing. Nutrient Farm operated their business out of a residential home in our neighborhood for 4 years. Increased traffic in our home area with speeding and reckless driving employees. No concern for our kids or pets. Not to mention the road to the back farm with semi trailers full of equipment, hay and supplies roaring through the neighborhood. No impact.... Hardly.

5. Integrity. charge us to walk to the BLM open space as they have leased it and closed it off to the neighborhood who have walked and hiked back there for years. They say they are using it for open range, False. A trail to the river that has been a regular dog walk for all for years. Now you must pay. Lastly, I see a sign that say NO CITY SALES TAX as advertisement. A great way to beat providing dollars that help build communities.

I ask, what kind of neighbor is that? What kind of neighbor are you going to be?

6. Open space that is the entrance to South Canyon and welcomes all to New Castle will be gone, turned into a mini city. Nutrient Farm Neverland

In closing... like many of my neighbors we enjoy the ranch, the cows and the greenhouse are all great things. A working farm in a rural area is right where it belongs. Throw in a restaurant for farm to table and You leading the way for new ways to consume and purchase food. Bravo! The other gimmicks, they just are not right for the area. My opinion and I hope yours too. Thanks!

John Seymour & Victoria Lopez Harburu

Nutrient Farms PUD (File PUDA-05-22-8899) Referral Comments

Exhibit #	Public Comment, Name and Date Received
7-1	Army Corps of Engineers – May 25, 2023; September 18, 2023
7-2	CDOT – June 5, 2023; September 19, 2023
7-3	Colorado Parks and Wildlife – June 12, 2023
7-4	Middle Colorado Watershed Council – July 27, 2023; November 7, 2024
7-5	Colorado Geological Survey – October 17, 2023
7-6	Colorado River Fire Protection District – October 17, 2023; November 4, 2024
7-7	Mountain Cross Engineering – October 17, 2023; January 21, 2025
7-8	Garfield County Public Health - October 19, 2023; January 23, 2025
7-9	Town of New Castle – October 23, 2023; February 12, 2024; January 21, 2025, January
7-10	CO Division of Water – July 17, 2024
7-11	Matrix – September 12, 2024
7-12	Garfield County Road and Bridge – October 2024, January 21, 2025
7-13	Colorado Trout Unlimited – November 1, 2024
7-14	Aspen Valley Land Trust – November 5, 2024
7-15	Garfield County Vegetation Management – January 23, 2025
7-16	LoVa – January 23, 2025
7-17	
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7-23	
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7-26	

Glenn Hartmann

From: Liebmann, Morgan J CIV CESA <Morgan.J.Liebmann@usace.army.mil>
Sent: Thursday, May 25, 2023 9:00 AM
To: Glenn Hartmann
Subject: RE: Nutrient Farms PUD Referral Request

You don't often get email from morgan.j.liebmann@usace.army.mil. [Learn why this is important](#)

Thank you for requesting comments from our office regarding the proposed subject project that may have the potential to impact aquatic resources. We appreciate that you are considering our potential regulatory role in the project, but we do not currently have the ability to provide project-specific comments. If the activity should have the potential to result in the discharge of dredged or fill material into waters of the United States, then the project proponent should work directly with our office to acquire necessary Corps permits, if applicable, as described in the following general comment:

Section 404 of the Clean Water Act requires a permit from us for the discharge of dredged or fill material into waters of the United States. Waters of the United States may include, but are not limited to, rivers, streams, lakes, ponds, wetlands, wet meadows, seeps, and some irrigation ditches. To ascertain the extent of waters on the project site, the applicant should prepare a delineation of aquatic resources, in accordance with the applicable standards, including the 1987 Wetland Delineation Manual and appropriate regional supplements. These standards can be found on our website at: <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Jurisdiction/>.

An aquatic resource delineation should be evaluated prior to designing a project to ensure the project proponent avoids and minimizes impacts to waters of the United States to the greatest practicable extent. The range of alternatives considered for this project should include alternatives that avoid and minimize impacts to wetlands, streams, or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to discharging dredged or fill material into waters of the United States, compensatory mitigation may be required.

For more information about our program or to locate a list of consultants that prepare aquatic resource delineations and permit application documents, please visit our website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits>.

U.S. Army Corps of Engineers
Albuquerque District - Regulatory Division
4101 Jefferson Plaza, NE
Albuquerque, New Mexico 87109-3435



<https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/>

From: Glenn Hartmann <ghartmann@garfield-county.com>
Sent: Wednesday, May 24, 2023 4:38 PM
To: Kelly Cave <kcave@garfield-county.com>; Casey Lawrence <clawrence@garfield-county.com>; Chris Bornholdt <cbornholdt@garcosheriff.com>; Ted White <twhite@garfield-county.com>; DJ Ridgeway <djridgeway@garfield-county.com>; Dan Goin <dgoi@garfield-county.com>; Harry Shiles <hshiles@garfield-county.com>; Dale Stephens <dstephens@garfield-county.com>; Levy Burris <lburris@garcosheriff.com>; Steve Anthony <santhony@garfield-county.com>; Brian Killian - CDOT <brian.killian@state.co.us>; dnr_drmsminadmin@state.co.us; Sullivan - DNR, Megan <megan.sullivan@state.co.us>; CGS_LUR <CGS_LUR@mines.edu>; dnr_dmg_web@state.co.us; Matt Yamashita <matt.yamashita@state.co.us>; John Groves (John.Groves@State.co.us) <john.groves@state.co.us>; Boyatt - DNR, Peter <peter.boyatt@state.co.us>; samantha.canetti@state.co.us; SPA-RD-CO <SPA-RD-CO@usace.army.mil>; RLSnyder@blm.gov; lsandoval@blm.gov; nyla_murphy@fws.gov; Paul Smith <psmith@newcastlecolorado.org>; Lauren Prentice <lprentice@newcastlecolorado.org>; Chris Hale <Chris@mountaincross-eng.com>; Orrin Moon <orrin.moon@crfr.us>; hgrumley@garfieldre2.net; Paula Stepp <pstepp@midcowatershed.org>; Tammy Keenan <water@wdwcd.org>; Samantha Wakefield (samantha.l.wakefield@xcelenergy.com) <Samantha.l.wakefield@xcelenergy.com>
Subject: [URL Verdict: Neutral][Non-DoD Source] Nutrient Farms PUD Referral Request

Referral Agencies:

Attached is a referral request form for the Nutrient Farms PUD Application located east of the Town of New Castle off of County Road 335, south of the Colorado River. The form includes information on the application and links to the submittals. The Application is a PUD Rezoning request on approximately 1,036 acres and includes 8 Development Areas and multiple PUD Zone Districts. Proposed uses include Working Farms, Residential Areas, Residential/Solar Areas, Recreational/Entertainment/Lodging - Campground Uses, a Health and Wellness Retreat, a Restaurant, and Commercial/Industrial Areas.

The direct link to the submittal is also noted below:

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Your review and comments are most appreciated and an important part of the review process.

Comments are requested by June 14th and can be submitted directly to my email, ghartmann@garfield-county.com

The Application is being reviewed concurrently with an Amendment/Revocation Applications for the Coal Ridge PUD and an Amendments Application for the Riverbend PUD necessary to establish the Nutrient Farms PUD.

Please feel free to contact us with any questions or if any details warrant clarification. Thanks very much for your assistance.

Sincerely,
Glenn Hartmann
Principal Planner
970-945-1377 x1570
Ghartmann@garfield-county.com

Glenn Hartmann

From: SPA-RD-CO <SPA-RD-CO@usace.army.mil>
Sent: Monday, September 18, 2023 2:11 PM
To: Glenn Hartmann
Subject: RE: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

Thank you for requesting comments from our office regarding the proposed subject projects that may have the potential to impact aquatic resources. We appreciate that you are considering our potential regulatory role in the project, but we do not currently have the ability to provide project-specific comments. If the activity should have the potential to result in the discharge of dredged or fill material into waters of the United States, then the project proponent should work directly with our office to acquire necessary Corps permits, if applicable, as described in the following general comment:

Section 404 of the Clean Water Act requires a permit from us for the discharge of dredged or fill material into waters of the United States. Waters of the United States may include, but are not limited to, rivers, streams, lakes, ponds, wetlands, wet meadows, seeps, and some irrigation ditches. To ascertain the extent of waters on the project site, the applicant should prepare a delineation of aquatic resources, in accordance with the applicable standards, including the 1987 Wetland Delineation Manual and appropriate regional supplements. These standards can be found on our website at: <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Jurisdiction/>.

An aquatic resource delineation should be evaluated prior to designing a project to ensure the project proponent avoids and minimizes impacts to waters of the United States to the greatest practicable extent. The range of alternatives considered for this project should include alternatives that avoid and minimize impacts to wetlands, streams, or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to discharging dredged or fill material into waters of the United States, compensatory mitigation may be required.

For more information about our program or to locate a list of consultants that prepare aquatic resource delineations and permit application documents, please visit our website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits>.

U.S. Army Corps of Engineers
Albuquerque District - Regulatory Division
4101 Jefferson Plaza, NE
Albuquerque, New Mexico 87109-3435



From: Glenn Hartmann <ghartmann@garfield-county.com>

Sent: Monday, September 18, 2023 12:55 PM

To: Kelly Cave <kcave@garfield-county.com>; Casey Lawrence <clawrence@garfield-county.com>; Chris Bornholdt <cbornholdt@garcosheriff.com>; Ted White <twhite@garfield-county.com>; Jannette Whitcomb <jwhitcomb@garfield-county.com>; DJ Ridgeway <djridgeway@garfield-county.com>; Dan Goin <dgoin@garfield-county.com>; Harry Shiles <hshiles@garfield-county.com>; Dale Stephens <dstephens@garfield-county.com>; Scott Aibner <saibner@garfield-county.com>; Steve Anthony <santhony@garfield-county.com>; Brian Killian - CDOT <brian.killian@state.co.us>; dnr_drmsminadmin@state.co.us; Sullivan - DNR, Megan <megan.sullivan@state.co.us>; CGS_LUR <CGS_LUR@mines.edu>; Localreferral - CDPHE, CDPHE <cdphe_localreferral@state.co.us>; Matt Yamashita <matt.yamashita@state.co.us>; John Groves (John.Groves@State.co.us) <John.Groves@State.co.us>; Boyatt - DNR, Peter <peter.boyatt@state.co.us>; Canetti - DNR, Samantha <samantha.canetti@state.co.us>; SPA-RD-CO <SPA-RD-CO@usace.army.mil>; RLSnyder@blm.gov; Larry Sandoval <lsandoval@blm.gov>; nyla_murphy@fws.gov; joseph.fazzi@usda.gov; Hannah Klausman <hannah.klausman@cogs.us>; Paul Smith <psmith@newcastlecolorado.org>; Lauren Prentice <lprentice@newcastlecolorado.org>; Chris Hale <Chris@mountaincross-eng.com>; Orrin Moon <orrin.moon@crfr.us>; hgrumley@garfieldre2.net; Cox, Jason <jason.cox@blackhillscorp.com>; rwinder@holycross.com; Samantha Wakefield (samantha.l.wakefield@xcelenergy.com) <Samantha.l.wakefield@xcelenergy.com>

Cc: christie@mathewsleidal.com; danny@timberlinelaw.com

Subject: [Non-DoD Source] Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

REFERRAL AGENCIES

Attached is a referral request for the Nutrient Farms PUD and the associated applications for the Coal Ridge PUD Amendment/Revocation and the Riverbend PUD Amendment. The Development is located east of the Town of New Castle, south of and adjacent to the Colorado River, and accessed off of County Road 335. The request form includes additional information on the Application and a links to access the three separate submittals electronically.

The Applicant's Nutrient Farms PUD proposal includes a wide variety of PUD Zone Districts to include an experiential working farm with related agricultural, residential, recreational and commercial activities. Eight Development Areas and four Private Open Space Tracts are planned. The overall PUD is approximately 1,136 acres in size. The Coal Ridge PUD Amendment is to revoke the existing PUD and the Riverbend PUD Amendment is to remove portions of the Applicant's property from the PUD, all to allow the new Nutrient Farm PUD/Development.

Please submit your comments directly to my email, ghartmann@garfield-county.com We are requesting comments by October 9th. Additional time for review can be requested based on the size of the proposal.

The Links to the Application are also noted below:

Nutrient Farms PUD

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Coal Ridge PUD Amendment - Revocation

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Riverbend PUD Amendment

<https://records.garfield-county.com/WebLink/browse.aspx?id=3994171&dbid=0&repo=GarfieldCounty>

Please note that the Applications will be considered concurrently.

From: [Killian - CDOT, Brian](#)
To: [Glenn Hartmann](#)
Cc: [Kandis Aggen - CDOT](#)
Subject: Re: Nutrient Farms PUD Referral Request
Date: Monday, June 5, 2023 2:06:12 PM

Glenn,

This development is big enough that they will need to coordinate with CDOT and submit a traffic study to CDOT. CDOT may also require the developer to obtain a CDOT access permit, depending on the impacts to the CDOT system.

Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety



P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Wed, May 24, 2023 at 4:41 PM Glenn Hartmann <ghartmann@garfield-county.com> wrote:

Referral Agencies:

Attached is a referral request form for the Nutrient Farms PUD Application located east of the Town of New Castle off of County Road 335, south of the Colorado River. The form includes information on the application and links to the submittals. The Application is a PUD Rezoning request on approximately 1,036 acres and includes 8 Development Areas and multiple PUD Zone Districts. Proposed uses include Working Farms, Residential Areas, Residential/Solar Areas, Recreational/Entertainment/Lodging - Campground Uses, a Health and Wellness Retreat, a Restaurant, and Commercial/Industrial Areas.

The direct link to the submittal is also noted below:

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Your review and comments are most appreciated and an important part of the review process.

Comments are requested by June 14th and can be submitted directly to my email, ghartmann@garfield-county.com

The Application is being reviewed concurrently with an Amendment/Revocation Applications for the Coal Ridge PUD and an Amendments Application for the Riverbend PUD necessary to establish the Nutrient Farms PUD.

Please feel free to contact us with any questions or if any details warrant clarification. Thanks very much for your assistance.

Sincerely,

Glenn Hartmann

Principal Planner

970-945-1377 x1570

Ghartmann@garfield-county.com

Glenn Hartmann

From: Killian - CDOT, Brian <brian.killian@state.co.us>
Sent: Tuesday, September 19, 2023 1:00 PM
To: Glenn Hartmann
Cc: Kandis Aggen - CDOT
Subject: Re: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

Glenn,

Please have the developer submit the TIS and access permit applications to CDOT for review and approval.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety



P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Mon, Sep 18, 2023 at 12:56 PM Glenn Hartmann <ghartmann@garfield-county.com> wrote:

REFERRAL AGENCIES

Attached is a referral request for the Nutrient Farms PUD and the associated applications for the Coal Ridge PUD Amendment/Revocation and the Riverbend PUD Amendment. The Development is located east of the Town of New Castle, south of and adjacent to the Colorado River, and accessed off of County Road 335. The request form includes additional information on the Application and a links to access the three separate submittals electronically.

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Please submit your comments directly to my email, ghartmann@garfield-county.com We are requesting comments by October 9th. Additional time for review can be requested based on the size of the proposal.

Exhibit
7-2

The Links to the Application are also noted below:

Nutrient Farms PUD

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Coal Ridge PUD Amendment - Revocation

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Riverbend PUD Amendment

<https://records.garfield-county.com/WebLink/browse.aspx?id=3994171&dbid=0&repo=GarfieldCounty>

Please note that the Applications will be considered concurrently.

Your review and comments are an essential part of our review process and are most appreciated. Please contact me with any questions or if you have any difficulty accessing the Applications.

Sincerely,

Glenn Hartmann

Interim Director

970-945-1377 x1570

Ghartmann@garfield-county.com



COLORADO

Parks and Wildlife

Department of Natural Resources

Grand Junction (Area 7) Service Center
Northwest Regional Office
711 Independent Ave.
Grand Junction, CO, 81505

June 12th, 2023

Glenn Hartmann
Garfield County Community Development Department
108 8th street, Suite 401
Glenwood Springs, CO 81601

RE: Nutrient Farms PUD
File Number: PUDA-05-22-8899

Dear Mr. Hartmann,

Thank you for allowing Colorado Parks and Wildlife (CPW) the opportunity to review and make comments on the proposed Nutrient Farms Planned Unit Development (PUD). CPW has reviewed the application for the proposed development located near the Riverbend housing development south and east of the town of New Castle. CPW has a statutory responsibility to manage all wildlife species in the State of Colorado. CPW embraces and fulfills this through our mission to protect, conserve, enhance, and manage all wildlife within the State of Colorado for the use and enjoyment by all current and future generations of Colorado residents as well as the visitors of the State of Colorado. Given this responsibility CPW has reviewed the application for the PUD of the property and has the following comments for the several proposed uses of the property:

Cumulative Loss of Wildlife Habitat

While CPW would like to commend Nutrient Farms LLC. for its preemptive engagement with CPW field staff, its recognition and evaluation of the surrounding natural environment, and its considerations for the existing wildlife in the area CPW staff would still like to acknowledge that that the proposed PUD in its entirety will still likely have impacts on the existing wildlife. Severe Winter Range is one of the most limiting factors for mule deer and elk in the County and the development of areas in this Severe Winter Range continue to degrade, fragment, and eliminate this space for ungulates in the hardest time of the year for them. While this property will not be lost to wildlife entirely, the proposed development of approximately 515 acres is still considered to be a significant loss of habitat for elk and mule deer by CPW. This proposed area is used by elk in the winter and early spring as well as frequently by mule deer on a year-round basis.

The supplied proposed map of venues depicts a large agricultural field (labelled as Area 6 on the supplied Vicinity Map) in the northwest portion of the property. This field has historically been very important for elk and especially for mule deer. CPW would like to point out that the proposed location of this field will be entirely enclosed by a proposed "Outdoor Adventure Park" (labelled as Area 8 on the supplied Vicinity Map) on the south and a proposed "Residential Subdivision" (labeled as Area 2 on the supplied Vicinity Map) to the southeast. It



is this type of habitat fragmentation that will inhibit wildlife from utilizing this area, even though the area of the supplied Vicinity Map (labeled as “Private Open Space) will be left intact in its natural condition and available for wildlife use.

In the supplied Vicinity Map the “Working Farm-East” (labelled as Area 5) will have similar issues. This area is utilized almost exclusively by mule deer in the winter time and early spring. Even though this area is depicted as a working farm that will be available as space for mule deer, there will be a portion, it is not clear on the total acreage, of the parcel that will be turned into a working solar farm. CPW recognizes that there is potential for impacts from solar developments in regards to wildlife. When Nutrient Farms LLC develops a formal design and implementation plan for this solar portion of the PUD, CPW should be consulted.

Potential for Ungulate Conflict and Game Damage

In this PUD there is a multitude of proposed agricultural and recreational activities that may have potential for creating conflict with ungulates (elk and mule deer). When Nutrient Farms LLC. has started growing a hay crop in the agricultural fields outlined in the PUD it is very likely that there will be some damage on the crop caused by mule deer and potentially some damage caused by elk as well. While elk will more than likely have moved out of the area as the growing season commences mule deer remain in the area on a year round basis. This growing crop will serve as an attractant and food source for local mule deer. CPW would recommend Nutrient Farms LLC. to contact local CPW field staff for some mitigation techniques and tools when this time arises.

In regards to the proposed fruit bearing orchards CPW recognizes that these will also be a point of conflict with ungulates. Both mule deer and elk can be hard on growing fruit bearing trees both from a forage standpoint as well as physical destruction (i.e. male ungulates rubbing antlers on growing trees). CPW would recommend placing wildlife friendly exclusionary fencing around the growing orchards to prevent these conflicts. However, the placement of these orchards is also important. By placing exclusionary fencing around the orchards this will in fact take the existing habitat away from the ungulates utilizing the area. Placement of the orchards should be made in such a way as to allow ungulates access and pathways throughout the property so they can utilize the portions of the property that Nutrient Farms LLC. is keeping in either agricultural or natural status.

In regards to the proposed “Outdoor Adventure Park” there are some concerns from CPW that this recreation has potential to create wildlife collisions with humans travelling on smaller motorized vehicles. The new human activity in the area may startle and keep ungulates away from the area. However the ungulates, particularly mule deer, in the area have become habituated to people and do not show the same fear of human activities. In the nearby neighborhood of the Riverbend Subdivision mule deer no longer flee from moving motor vehicles, barking dogs, human activities, etc. In the past few years CPW staff has noticed an increase in human and mule deer conflicts in the neighborhood (mule deer getting entangled in hammocks, being aggressive with domestic pets, entanglement with seasonal yard

decorations, etc.) CPW would recommend that Nutrient Farms LLC. remains in contact with CPW field staff during the implementation of this portion of the PUD to further evaluate what mitigation measures are needed to ensure human safety during the recreational activities whatever they may be. CPW would also recommend a seasonal timing restriction from December 1st through April 30th to the “Outdoor Adventure Park” so as to not have any additional disturbance during the winter months when elk are also going to be present in the area and the local ungulates are enduring harsh winter conditions.

Potential for Mountain Lion Conflict

The area where Nutrient Farms LLC. is proposing for agricultural cattle production is also an area that is frequented by mountain lions. Since there is an abundance of local mule deer, a main food source for mountain lions, that do not move out of the area there is also an increased presence of mountain lions in the area. Sightings are common in the Riverbend Subdivision as well as the Riverbend Apartments located approximately 2 miles to the west. For the production of livestock in the area CPW would recommend Nutrient Farms employ some sort of predatory mitigation such as foxlights, guard dogs, or permanent ranch employees in the near vicinity of the livestock, particularly during the calving season. All guests and residents of the property should be educated on mountain lion presence and how to interact in the case a mountain lion is encountered.

Potential for Black Bear Conflict

Of all of the wildlife that this PUD is likely to have conflicts with black bears will be the most common. Black bears also frequent the area as the Hogback is a very productive habitat for them. Black bears are opportunistic omnivores that have shown a willingness to interact with humans to meet yearly caloric needs. The introduction of multiple human produced food sources in the area will be an attractant to black bears and likely cause them to leave their natural forage on the Hogback in favor of these food sources.

The previously mentioned fruit bearing orchards will be a large attractant for black bears in the area. As previously mentioned for ungulates, CPW would recommend wildlife friendly exclusionary fencing around these orchards. However this tactic will not prove to be as effective for black bears as they are proficient climbers. CPW would recommend additional mitigation techniques around these areas (electric fencing, foxlights, etc.) to protect the growing agricultural crops from black bear damage.

Black bears also have potential to predate on livestock similar to mountain lions. CPW would recommend the same mitigation techniques described for mountain lion conflicts to be used for black bears.

One of the most likely sources of attractants for black bears will be human produced trash. All of the proposed activities on the property will produce trash which will in turn serve as an attractant for black bears. CPW would recommend that all new residences built on the property have a bear-resistant trash receptacle that is capable of locking the lid. It is also

important that new property owners do not overfill their receptacles and properly lock their receptacles whenever it is used. It would be even better to have areas at each residence where trash receptacles can be securely locked inside a structure so that bears can not access them. The proposed "Outdoor Adventure Park" should also be supplied with bear-resistant trash receptacles that are placed throughout the park so as to encourage visitors to use them. The proposed restaurant and outdoor venue are most likely to produce human food waste. CPW would recommend that these venues be supplied with bear-resistant dumpsters that are capable of being securely locked and are routinely emptied. All food items at these facilities should be stored in an area that can be securely locked and inaccessible to black bears.

All areas of the property mentioned in the PUD should refrain from producing other black bear attractants such as bird feeders, bbq grills, etc. At the local residences pet food should be fed inside of residences and not stored outside or at a location that is accessible to black bears. All dogs on the property should remain on a leash to prevent conflict with not only black bears but all wildlife previously mentioned in this letter.

All residents and visitors of the property have a chance of observing and/encountering a black bear while on the property. CPW would recommend that Nutrient Farms LLC. make all residents and visitors aware of black bear presence and inform them on how to interact with black bears if an encounter is made.

Impacts of Additional Recreation of the Nutrient Farms PUD

It is an increasing concern of CPW that increasing recreational activities are having an adverse effect on the State's wildlife. There are several recreational activities included in the Nutrient Farms PUD that CPW would like to comment on to minimize as many adverse effects as possible.

In regards to the addition of private trails on the property, CPW would recommend that these trails which are built or established in Severe Winter Range for mule deer and elk follow a seasonal closure December 1st through April 30th. This will help prevent any extra caloric expenditures of ungulates near the trails during the winter months.

In regards to the bald eagle perch located near the extreme Northeastern portion of the property CPW would like to comment that while there is no bald eagle nest there at this time, the bald eagle population in the immediate vicinity is growing and it is a possibility that this perch is utilized by local bald eagles as a future nesting site. If this were to occur CPW would recommend that there be seasonal closures put into place on the trails that comply with the buffer area CPW recommends to all other active bald eagle nesting sites (1/4 mile for developed areas from December 1st through July 31st).

One of CPW's biggest concerns is increasing public access to the BLM property located to the East of Nutrient Farms LLC. which is locally referred to as "the Vulcan". This parcel of BLM is a critical piece of property that is hard to access and has very minimal human presence or

impacts. The solitude of this parcel makes it a very important year round space for wildlife including but not limited to mule deer, elk, black bear, and mountain lion. Additionally there are no public trails located on this parcel. There is a road accessible from the Nutrient Farms LLC. parcel however this is not a public access road which is the common misconception. This road is an “authorized access only” road intended to be used by BLM staff and not for public use. CPW’s concern is that if other private or public trails border close enough to this parcel that unauthorized use or “pirate trails” will begin to develop on this parcel and degrade its value for wildlife. There are also occasional proposals to enter onto this property from the Eastern side, owned by the City of Glenwood Springs, in which CPW has concerns.

In regards to the proposed boat ramp on Nutrient Farms LLC. CPW would recommend re-evaluating the need for such a development. This proposed boat ramp would be constructed within 200 yards of an already established and publicly open boat ramp located at the truck rest area locally referred to as “Dino Point”. This rest area/boat ramp has adequate parking, permanent restroom facilities, and is easily accessible off of 1-70 Eastbound. Additional disturbance in the river system will have possible impacts on several species of concern including but not limited to river otter and roundtail chub. River otters are increasing in population in the near area. Sightings have occurred in the Colorado River near the Riverbend apartments located approximately 2 miles downstream. Adding more development to the Colorado River in this area will reduce potential denning sites and additional activity will deter river otters from using this stretch of the river. Roundtail Chub are a fish species of special concern in the State of Colorado. This fish species can be found in this stretch of the river and is often confused for rainbow trout by inexperienced anglers. Additional construction, use, and development in this stretch of the Colorado River will have potential to negatively impact the fish found there by increasing sedimentation of the river, increasing human traffic, unintentional harvest, and potentially adding unwanted construction materials into the Colorado River system if a boat ramp were to be constructed.

In regards to the LOVA trail mentioned in the application CPW would like to reference comments that it supplied to CDOT back in August of 2021. The maps supplied by Nutrient Farms LLC. it appears that the LOVA trail route runs through CPW property at the Glenwood Springs office (CPW Area 8). CPW has previously commented on LOVA applications and referrals for this trail route and does not support this route. The Glenwood Springs office does not have the parking capacity, restroom facilities, or space to accommodate such a trail through this area. CPW has previously commented that it has concerns with LOVA trail applications not having a fully connected trail layout and does not seem to have a full plan for trail connectivity from Glenwood Springs to New Castle. CPW again does not support this proposed trail layout supplied by Nutrient Farms LLC. in its PUD application to Garfield County.

CPW would like to thank Garfield County for the opportunity to comment on the Nutrient Farms PUD application. Due to the size and scope of this application CPW would like to mention that it is likely that events concerning wildlife are likely to occur and CPW would

encourage Nutrient Farms LLC. to contact local field staff to help mitigate any of these situations. If there are any questions or concerns with this comment letter please contact Travis Bybee, CPW District Wildlife Manager, at 970-985-5882.

Sincerely,



Travis Bybee, District Wildlife Manager

Cc. Kirk Oldham, Area Wildlife Manager (Area 7)
Matt Yamashita, Area Wildlife Manager (Area 8)
Molly West, Land Use Specialist (Northwest Region)
File

Nutrient Farm PUD Comments
Middle Colorado Watershed Council
July 27, 2023

The Middle Colorado Watershed Council works with Colorado Parks and Wildlife, Trout Unlimited, Bureau of Land Management and others to invest in modifying agriculture diversion structures to make them fish passable and protect the environmental health of the watershed. There has been significant investment in stream connectivity for habitat conservation in the Canyon Creek drainage. The culvert under I-70 was recently modified at a cost of \$250,000 to accommodate spawning of rainbow and brown trout during the spring and fall. A current infrastructure and fish passage project being planned for the Mings Chenoweth and Wolverton Ditch includes cost estimates reaching \$850,000.

MCWC is encouraged by Nutrient Farms position of the importance of the environment in their plans to provide recreation, housing, agricultural use, and business-related projects in their development. We hope that Nutrient Farms will make their best effort to make sure adequate water stays in Canyon Creek during low flow conditions. The benefits of fish passage structures and ditch enhancement projects will be reduced if stream connectivity is lost. Rebuilding the Vulcan Ditch at its historical location with full use of the available water rights could divert instream flows out of Canyon Creek and impact the creek aquatic ecosystem and the drainage watershed.

MCWC encourages Nutrient Farms to provide voluntary bypass flows of half the water rights during low flow conditions to mitigate the potential impacts of restarting the Vulcan Ditch. Full use of the Nutrient Farms' Vulcan Ditch water right at the current headgate location has the potential to dry up and create a connectivity gap in Canyon Creek. During low water year conditions, Nutrient Farms could consider switching to the existing Coal Ridge Pump and Pipeline as an alternate point of diversion on the mainstem Colorado. Relocating the Vulcan Ditch headgate to a new point of diversion on Canyon Creek downstream of the culvert fish passage structure under Interstate 70 would also retain the stream connectivity and keep a minimum flow of 17 cubic feet per second (CFS) to protect the aquatic environment essential for spawning and juvenile fish.

Using the Coal Ridge point of diversion does not affect Canyon Creek instream flow, fish passage structure or watershed health. Moving the Vulcan Ditch headgate and ditch to a lower point of diversion on Canyon Creek below the fish passage structure would preserve a longer reach of stream, but could possibly disconnect Canyon Creek from having connectivity with the mainstem Colorado. There are currently no instream flow protections for Canyon Creek.

MCWC is concerned about the practicality of Vulcan Ditch serving domestic users in their development during the winter months. Freezing and snowy conditions will make it difficult to pass relatively small amounts of water through a ditch. Nutrient Farms might consider serving these needs by drawing from the alluvium of the river from an expansion of one of the existing wells.

MCWC would like to see a detailed plan for construction and permitting for the ditch as it must cross the highway, river, and railroad tracks.



Nutrient Farm PUD Comments
Middle Colorado Watershed Council
November 7, 2024

The Middle Colorado Watershed Council (MCWC) works with Colorado Parks and Wildlife, Trout Unlimited, Bureau of Land Management and others to modify agricultural diversion structures to make them fish-passable and to improve the watershed's environmental health. There has been significant investment in stream connectivity for habitat conservation in the Canyon Creek drainage. The culvert under I-70 was recently modified at a cost of \$250,000 to accommodate spawning rainbow and brown trout in spring and fall. A current infrastructure and fish passage project being planned for the Mings Chenoweth and Wolverton Ditches includes cost estimates reaching \$850,000.

MCWC is encouraged by Nutrient Farms' statements regarding the importance of the environment in their plans to incorporate recreation, housing, agricultural use and business-related elements in their development. We request Garfield County require Nutrient Farms ensure adequate water flows remain in Canyon Creek especially during low flow conditions. The benefits of fish passage structures and ditch enhancement projects will be reduced or eliminated if stream connectivity is lost. Rebuilding the Vulcan Ditch at its historical location with full use of the available water rights could divert instream flows out of Canyon Creek and impact the creek's aquatic ecosystem and drainage watershed. Full use of the Nutrient Farms' Vulcan Ditch water right at the current headgate location has the potential to dry up and create a connectivity gap in Canyon Creek. During low water year conditions, Nutrient Farms should consider switching to the existing Coal Ridge Pump and Pipeline as an alternate point of diversion on the mainstem Colorado. Relocating the Vulcan Ditch headgate to a new point of diversion on Canyon Creek downstream of the culvert fish passage structure under Interstate 70 would also retain the stream connectivity and maintain an adequate flow to protect the aquatic environment essential to spawning and juvenile fish.

Using the Coal Ridge point of diversion does not affect Canyon Creek instream flow, fish passage structure or watershed health. Moving the Vulcan Ditch headgate and ditch to a lower point of diversion on Canyon Creek below the fish passage structure would preserve a longer reach of stream but could possibly disconnect Canyon Creek from having connectivity with the mainstem Colorado. There are currently no instream flow rights on Canyon Creek.

MCWC is concerned about the practicality of Vulcan Ditch serving domestic users in the Nutrient Farms development during the winter months. Freezing and snowy conditions will make it difficult to pass relatively small amounts of water through the ditch. Nutrient Farms might consider serving these needs by drawing from the alluvium with an expansion of one of the existing wells or a new well. Further, MCWC would like to see a detailed plan for construction and permitting for the ditch as it must cross the highway, river and railroad tracks.

Middle Colorado Watershed Council appreciates this opportunity to share our concerns and pledges its continued involvement and constructive assistance to Garfield County and Nutrient Farms, as the latter addresses the always-challenging water issues in the arid West.

COLORADO GEOLOGICAL SURVEY

1801 Moly Road
Golden, Colorado 80401



Matthew L. Morgan
State Geologist and
Director

October 17, 2023

Glenn Hartmann, Interim Director
Garfield County Community Development
ghartmann@garfield-county.com

Location:
39.5668, -107.4797

Subject: Nutrient Farm PUD (PUDA-05-22-8899)
Coal Ridge PUD Amendment/Revocation (PUAA-05-23-8898)
Riverbend PUD Amendment (PUAA-05-23-8963)
Garfield County, CO; CGS Unique No. GA-23-0007

Dear Glenn:

The Colorado Geological Survey has reviewed the Nutrient Farm PUD referral. I understand the applicant proposes to establish the Nutrient Farm Planned Unit Development by concurrently vacating the entirety of the existing Coal Ridge PUD and amending the remaining unsubdivided portions of the Riverbend PUD. The project involves 1136 acres located approximately 2 miles east of the Town of New Castle, south of and adjacent to the Colorado River. Eighteen new residential lots are proposed, in addition to commercial/ industrial uses, outdoor recreational activities, a music/entertainment area, campground, lodging facilities, and a Health and Wellness Retreat. The available referral documents include:

- Nutrient Farm Planned Unit Development Plan Map (SGM, January 17, 2023),
- Soils and Geohazard Evaluation, Riverbend PUD in Garfield County, Colorado (RJ Engineering & Consulting Project No. 18-050G-C1, October 17, 2018), and
- other documents.

The 18 proposed residential lots shown on the 1/17/2023 SGM PUD Plan Map in Area 1 (five lots), Area 3 (10 lots), Area 4 (two lots), and Area 2 (one lot) do not appear to be exposed to slope-related hazards. The general recommendations in RJ Engineering & Consulting's Soils and Geohazard Evaluation are valid but preliminary.

CGS would like to review the preliminary plat for proposed new residential lots, when available, to ensure that proposed lots or building envelopes are set back a sufficient distance (30 to 40 feet) from the Colorado River 100-year flood hazard limits to minimize risk of damage to homes and yards due to erosion, scour, and undercutting.

Additionally, lot-specific subsurface investigation, consisting of drilling, sampling, lab testing and analysis, will be needed on each lot, once building locations have been identified and prior to building permit application, to develop site-specific recommendations for foundation(s), floor system(s), surface and subsurface drainage, pavements, etc.

Thank you for the opportunity to review and comment on this project. If you have questions or need further review, please call me at (303) 384-2643, or email carlson@mines.edu.

Sincerely,

Jill Carlson, C.E.G.
Engineering Geologist

A handwritten signature in black ink, appearing to read "Jill Carlson".

Glenn Hartmann

From: Orrin Moon <Orrin.Moon@Crfr.us>
Sent: Tuesday, October 17, 2023 10:09 PM
To: Glenn Hartmann
Subject: RE: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

Glenn,

I have been working on this referral for Nutrient Farms, so far after reviewing pages and pages of information, the only thing that I have found that I have an issue with is the fire protection irrigation water. The question I have is will this system be in service year around? They don't say one way or the other. Irrigation water only runs in the spring and summer. We can still have fires in the winter. I have not found anything about seasonal use on the tourist side of the farm. They have made comments that they have met with me, Yes, a couple of years ago, I told them what I would be looking for. Before I could see the plans. They also advised that they would adhere to my requirements.

I am still working on this referral and going through all the documents. Please let me know when you need my referral on this project. I am already late.

From: Glenn Hartmann <ghartmann@garfield-county.com>
Sent: Monday, September 18, 2023 12:55 PM
To: Kelly Cave <kcave@garfield-county.com>; Casey Lawrence <clawrence@garfield-county.com>; Chris Bornholdt <cbornholdt@garcosheriff.com>; Ted White <twhite@garfield-county.com>; Jannette Whitcomb <jwhitcomb@garfield-county.com>; DJ Ridgeway <djriddgeway@garfield-county.com>; Dan Goin <dgoi@garfield-county.com>; Harry Shiles <hshiles@garfield-county.com>; Dale Stephens <dstephens@garfield-county.com>; Scott Aibner <saibner@garfield-county.com>; Steve Anthony <santhony@garfield-county.com>; Brian Killian - CDOT <brian.killian@state.co.us>; dnr_drmsminadmin@state.co.us; Sullivan - DNR, Megan <megan.sullivan@state.co.us>; CGS_LUR <CGS_LUR@mines.edu>; Localreferral - CDPHE, CDPHE <cdphe_localreferral@state.co.us>; Matt Yamashita <matt.yamashita@state.co.us>; John Groves (John.Groves@State.co.us) <John.Groves@State.co.us>; Boyatt - DNR, Peter <peter.boyatt@state.co.us>; Canetti - DNR, Samantha <samantha.canetti@state.co.us>; SPA-RD-CO <spa-rd-co@usace.army.mil>; RLSnyder@blm.gov; Larry Sandoval <lsandoval@blm.gov>; nyla_murphy@fws.gov; joseph.fazzi@usda.gov; Hannah Klausman <hannah.klausman@cogs.us>; Paul Smith <psmith@newcastlecolorado.org>; Lauren Prentice <lprentice@newcastlecolorado.org>; Chris Hale <Chris@mountaincross-eng.com>; Orrin Moon <Orrin.Moon@Crfr.us>; hgrumley@garfieldre2.net; Cox, Jason <jason.cox@blackhillscorp.com>; rwind@holycross.com; Samantha Wakefield (samantha.l.wakefield@xcelenergy.com) <Samantha.l.wakefield@xcelenergy.com>
Cc: christie@mathewsleidal.com; danny@timberlinelaw.com
Subject: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

REFERRAL AGENCIES

Attached is a referral request for the Nutrient Farms PUD and the associated applications for the Coal Ridge PUD Amendment/Revocation and the Riverbend PUD Amendment. The Development is located east of the Town of New Castle, south of and adjacent to the Colorado River, and accessed off of County Road 335. The request form includes additional information on the Application and a links to access the three separate submittals electronically.

The Applicant's Nutrient Farms PUD proposal includes a wide variety of PUD Zone Districts to include an experiential working farm with related agricultural, residential, recreational and commercial activities. Eight Development Areas and four Private Open Space Tracts are planned. The overall PUD is approximately 1,136 acres in size. The Coal Ridge PUD

Amendment is to revoke the existing PUD and the Riverbend PUD Amendment is to remove portions of the Applicant's property from the PUD, all to allow the new Nutrient Farm PUD/Development.

Please submit your comments directly to my email, ghartmann@garfield-county.com We are requesting comments by October 9th. Additional time for review can be requested based on the size of the proposal.

The Links to the Application are also noted below:

Nutrient Farms PUD

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Coal Ridge PUD Amendment - Revocation

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Riverbend PUD Amendment

<https://records.garfield-county.com/WebLink/browse.aspx?id=3994171&dbid=0&repo=GarfieldCounty>

Please note that the Applications will be considered concurrently.

Your review and comments are an essential part of our review process and are most appreciated. Please contact me with any questions or if you have any difficulty accessing the Applications.

Sincerely,

Glenn Hartmann

Interim Director

970-945-1377 x1570

Ghartmann@garfield-county.com

From: [Orrin Moon](#)
To: [John Leybourne](#)
Cc: [Kurt Lundin](#)
Subject: RE: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request
Date: Monday, November 4, 2024 1:58:44 PM
Attachments: [image001.png](#)
[image002.png](#)

John,

After reviewing my notes and concerns from October 17, 2023, to Glenn Hartmann I have additional comments, requirements, and questions on Nutrient Farms PUD. See the following comments.

1. All roads shall be minimum of 20' in width and be all weather driving surface. All dead-end road longer than 150' shall have a fire truck turnaround build to meet Colorado River Fire Rescue (CRFR) and 2015 International Fire Code (IFC) specifications.
2. Fire hydrant locations may need to be relocated or added to as required by CRFR. Dry Fire hydrants as noted in Central Water Dist., specifications shall have CRFR required adaptors installed. All fire hydrants will be for year around use or special arrangements will be made with CRFR to ID special fire hydrants that may be seasonal.
3. All roads in PUD shall have an approved road name and addresses to all sites and buildings shall be approved by CRFR.
4. More review will be needed for Adventure Park area. We will need more information to adequately review adventure park, water park, RV camping, cabins, stage, and campgrounds.
5. Any open burning will be regulated by IFC and Local burn permits/ restrictions. This may mean no unregulated Agriculture Burning status in this PUD.

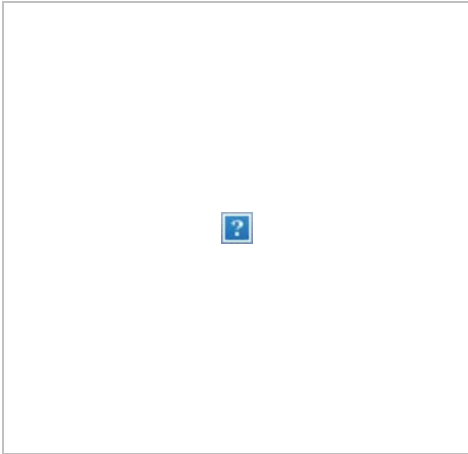
This is a general review of this PUD and if approved then further review will need done on each building and facility for Code review and compliance. Please feel free to contact me with any questions.

Thank You,

Orrin D. Moon
Prevention Division Chief/Fire Marshal
Colorado River Fire Rescue

970-625-1243

orrin.moon@crfr.us



From: Orrin Moon

Sent: Tuesday, October 17, 2023 10:09 PM

To: Glenn Hartmann <ghartmann@garfield-county.com>

Subject: RE: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

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Cc: christie@mathewsleidal.com; danny@timberlinelaw.com

Subject: Nutrient Farms PUD, Coal Ridge PUD Amendment/Revocation, Riverbend PUD Amendment Referral Request

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Nutrient Farms PUD

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Coal Ridge PUD Amendment - Revocation

<https://records.garfield-county.com/WebLink/browse.aspx?id=3949981&dbid=0&repo=GarfieldCounty>

Riverbend PUD Amendment

<https://records.garfield-county.com/WebLink/browse.aspx?id=3994171&dbid=0&repo=GarfieldCounty>

Please note that the Applications will be considered concurrently.

Your review and comments are an essential part of our review process and are most appreciated. Please contact me with any questions or if you have any difficulty accessing the Applications.

Sincerely,

Glenn Hartmann

Interim Director

970-945-1377 x1570

Ghartmann@garfield-county.com



October 17, 2023

Mr. Glenn Hartmann
Garfield County Planning
108 8th Street, Suite 401
Glenwood Springs, CO 81601

**RE: Review of the Nutrient Farm PUD, the Coal Ridge PUD Amendment/Revocation, and the Riverbend PUD Amendment:
PUDA-05-23-8899, PUA-05-23-8898, & PUA-05-23-8963**

Dear Glenn:

This office has performed a review of the documents provided for the Nutrient Farm PUD, the Coal Ridge PUD Amendment/Revocation, and the Riverbend PUD Amendment applications. The submittals were found to be thorough and well organized. The review generated the following comments:

Specific to the Nutrient Farm PUD:

1. The development will essentially be on a dead-end road with only one access for emergencies. The Applicant should evaluate interior roadways circulation to allow for alternative routes in cases of emergency.
2. The Applicant proposes 12% maximum grade however this is generally too steep for fire and emergency vehicles. Maximum grade should be limited to 10% especially considering that most of the roads are proposed to be gravel. Roadway construction plans and profiles should be submitted to Garfield County for review to obtain grading permits for road construction.
3. The Applicant should provide the required CDOT Access permit for increased traffic.
4. The Vulcan Ditch is proposed to be a potable water source delivered across the river in a suspended pipeline. The Applicant should better discuss provisions for winter. Typically, ditches are shut-down during the winter. Is the river crossing proposed to be used through-out the year? Are there provisions for heating the pipe to prevent freezing? Alternatively, is the pond to be filled in the fall to last through the winter? How large will the pond need to be to provide sufficient volume for potable water and fire storage?
5. The geo-hazard letter suggests that geo-hazards can be mitigated through engineering but stops short of recommending mitigation measures. Site specific, geotechnical, geo-hazard, and slope analysis should be conditions of building permits.
6. The site will need to obtain a stormwater permit from the CDPHE for discharges associated with construction. A copy of the permit should be provided to Garfield County once obtained.

7. The application materials identify that there are ephemeral drainages that bisect the proposed PUD. These drainages should be identified on the PUD map and a drainage easement placed on them to protect them from disturbance.
8. The application materials propose to treat storm water prior to discharge per the Impact Analysis provided although neither a drainage plan nor an erosion control plan was provided. Site specific grading and drainage plans for building permits should be conditions of building permit. A regional drainage plan should be considered to coordinate drainage and erosion control from multiple potential building sites.
9. The noise study proposes that mitigation measures will be in place prior to events. During the first events that are scheduled, the Applicant should verify the actual sound levels against the assumptions that were used in the noise study. Mitigation measures should be verified and/or revised based on actual noise levels.
10. The Traffic Study recommends that parking and traffic control be employed for larger events but does not distinguish between small and large events. The Applicant should provide better guidelines for distinguishing between small events and those that require traffic control.
11. The PUD guidelines propose no setback restrictions for porches, decks, slabs, etc. These items are often constructed and conflict with drainage features or easements that are intended to be in the setbacks. The Applicant should restrict these items in the setbacks or five feet from the property line when easements or drainage is anticipated.
12. The application materials do not provide a water quality analysis nor a four-hour pump test for the well for the farm house. This should be provided to Garfield County for review.
13. The Applicant should verify that the Riverbend Water and Sewer Company (RWSC) is in good standing with CDPHE.
14. The Applicant provides a will serve letter from the RWSC but an agreement still needs to be negotiated and finalized between the parties. Evidence that the parties have reached an agreement should be provided.
15. Fire flow storage is inadequate from the water storage tanks of the RWSC by current standards. The Applicant should verify how this will be addressed.
16. The Onsite Wastewater Treatment System (OWTS) for Areas 6-2 and 6-3 will be very large and require CDPHE approvals. It appears that the RWSC waste water treatment plant (WWTP) is nearby. The Applicant should discuss if connection to the WWTP is feasible.
17. The OWTS flows assumes a restaurant that is open for 1 or 2 meals but with tent and RV camping nearby and the many uses proposed, it is feasible that the restaurant would also serve breakfast. The size of the OWTS should be verified based on these flows.
18. There is an OWTS proposed for the swimming pool. Typically, pool disinfection is an issue for bacteria valuable for a healthy OWTS. The Applicant should discuss if an OWTS is the best method for disposing of the pool wastewater or discuss measures to be employed for protecting the OWTS.
19. The proposed bunkhouses will require approvals from Garfield County and submittals will need to address adequacy of sewer, water, and traffic.
20. The application materials do not address potable water usage and sewer facilities for the large events. The Applicant should discuss what is anticipated.

Specific to the Coal Ridge PUD Amendment/ Revocation:

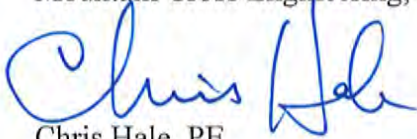
- No comments were generated.

Specific to the Riverbend PUD Amendment:

- No comments were generated.

Feel free to call if you have any questions or comments.

Sincerely,
Mountain Cross Engineering, Inc.



Chris Hale, PE

From: [John Leybourne](#)
To: [Heather MacDonald](#)
Subject: FW: Nutrient Farms Comment Responses
Date: Wednesday, January 22, 2025 2:29:46 PM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Chris@mountaincross-eng.com <Chris@mountaincross-eng.com>
Sent: Tuesday, January 21, 2025 5:12 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; John Leybourne <jleybourne@garfield-county.com>
Subject: Nutrient Farms Comment Responses

John and/or Glenn:

I have reviewed the Applicant's response to previous comments. The review generated the following:

Concerning #1: The road will still remain a long dead-end road. The Applicant seems to be volunteering that internal roads may be used during an emergency. My comment was intended more that the Applicant should setup interior roads to allow circulation so that when there is an emergency there are already established, known alternative routes.

Concerning #3: The traffic generated from the uses proposed and identified in the traffic study would require a CDOT access permit. The Applicant states, that after discussion with CDOT, CDOT will not require an access permit. The Applicant should better explain the discrepancy and how traffic will be decreased below permit thresholds.

Concerning #4, #12, & #13: It is required for land use applications to provide evidence of a legal and physical supply of water. The will serve letter should be reviewed with County Legal Staff to determine if this is sufficient enough to be considered a legal supply. No pump tests have been provided from the wells that are proposed to be used, nor have water quality results been provided. The Vulcan ditch construction has not yet been permitted and has some significant challenges to both permitting and construction. A physical supply of water sufficient for the proposed PUD does not appear to have been demonstrated.

Concerning #7, #8, & #11: The protection of the drainages should be regionally considered and be congruent with overall site grading and drainage. The concern being that without regional consideration at the outset in the PUD, the required detention, sedimentation,

drainage ways may not be adequately sized and protected in setbacks when it comes time for future construction.

Concerning #10: The Applicant will provide new language in the PUD Guide to clarify the temporary parking plan and traffic control requirements. These revisions should be provided to Garfield County for review once completed.

Concerning #15: The Applicant proposes to provide sufficient water storage for fire flow. Building permits should be issued only after sufficient fire storage has been provided.

Feel free to call or email with any questions or comments.

Sincerely,
Mountain Cross
Engineering, Inc.
Chris Hale, P.E.
826 1/2 Grand Avenue
Glenwood Springs, CO 81601
Ph: 970.945.5544
Fx: 970.945.5558



195 W. 14th Street
Rifle, CO 81650
(970) 625-5200

2014 Blake Avenue
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(970) 945-6614

Garfield County Community Development
108 8th Street
Glenwood Springs, CO 81601
Attn: Glenn Hartmann, Interim Director

RE: Nutrient Farm PUD, Coal Ridge PUD & Riverbend PUD Amendment/Revocations
Parcel ID Nos.: 212335300081, 218306100057, 212334400007, 212334400005, & 218305300086
County Road 335
New Castle, Colorado
File # PUDA-05-22-8899 & PUAA-05-23-8898 & PUAA05-23-8963

October 19, 2023

Glenn,

Garfield County Public Health (GCPH) has reviewed the application for the Nutrient Farms PUD, Coal Ridge PUD & Riverbend PUD Amendment/Revocations, and we have the following comments.

1. Drinking Water: The applicant provided a Water Adequacy Report for Proposed Development prepared by SGM, Inc. Seventeen of the proposed eighteen new residences will be served water by the Riverbend Water and Sewer Company (RWSC) facilities. RWSC has provided a "Will-Serve" letter (dated February 10, 2021) for these residences. The remaining residence and other Nutrient Farm uses will be served by the water rights afforded to Nutrient Farms in the Vulcan Ditch. The Water Adequacy report stated that "Based on comparison of the Farm's water rights to anticipated demands and consumptive use, the Farm's legal supply is sufficient." However, several of the Retail Food Establishments (RFEs) that are proposed for the PUD will have specific water quality testing requirements from the Colorado Department of Public Health and Environment (CDPHE). Further, the spa and bath house, water park, and campsite all have specific regulations that must be followed related to water quality and quantity.

Staff recommends that as a condition of approval of the PUD that all water quality and quantity testing requirements of federal, state, and local agencies with jurisdiction shall be followed for all uses. Further, GCPH staff recommends that as the property is developed with the various uses, a detailed analysis of the water rights (quantity) be provided to show that the property can adequately supply potable water for the proposed use.

2. Wastewater: The applicant proposes that wastewater generated by residences at the PUD will be collected and treated by the RWSC facilities and other facilities at the PUD will be serviced by Onsite Wastewater Treatment Systems (OWTSs). The applicant provided a "will serve" letter from RWSC for the residences proposed at the PUD. The applicant also provided an "OWTS Engineering Report" prepared by SGM which addressed several issues of multiple OWTSs on a single property, including total design volume served by the OWTSs, Class V injection wells (as

classified by the EPA), and water reuse. The report states that "5,000 gallons of water per day (Process Water) will be used in the process building for cleaning floors, tables, and food preparation. This water will not be treated by any of the OWTs but will be treated by a separate system for reuse as landscape and agricultural irrigation. Treatment of the process water for water quality will meet the requirements of Colorado's Regulation No. 84, Reclaimed Water Control Regulation prior to its use."

Staff recommends as condition of approval that OWTs permits shall be applied for each new OWTs or alteration to existing OWTs as development progresses and that Reverse Osmosis (R/O) wastewater shall not be introduced into the Onsite Wastewater Treatment Systems. It appears from the OWTs Engineering Report that GCPH will have jurisdiction in the review of these systems. R/O wastewater, if generated, requires a different treatment/disposal system than an OWTs, and is regulated by the Colorado Department of Public Health and Environment (CDPHE) Water Quality Control Division. Please contact the WQCD at cdphe_wqcd_permits@state.co.us to obtain the proper permit to dispose of R/O wastewater.

Regulation No. 84, Section 86.4 (A) states "To treat and distribute reclaimed water, Treater shall submit a complete Treater Application to the Division and provide a Division approved copy of the Treater Authorization to the local health authority, using a form established by the Division..." Staff recommends that as a condition of approval for the PUD to treat and reuse process water that the applicant be required to present a permit from the Colorado Department of Public Health and Environment Water Quality Control Division to Garfield County to treat and distribute this process water.

3. Farm Store/Food Truck/Bakery/Restaurant: The applicant indicates that there will be a farm store that sells produce, a food truck that will serve prepared food to the public, as well as a bakery and restaurant that will "serve healthy products grown and raised on Nutrient Farm and other local sources." Each of these uses requires a plan review and licensure by Garfield County Public Health.

Staff recommends that as a condition of approval for the PUD that all food distribution uses shall be properly reviewed, licensed, and inspected by GCPH Consumer Protection staff and any appropriate federal, state, and local agencies that have jurisdiction over these facilities.

4. Campsite/RV spots: The applicant intends to develop a portion of the PUD with a "total of 67 campsites, cabins, and RV spots."

Staff recommends that as a condition of approval for the PUD that all applicable federal, state, and local regulations regarding campgrounds (specifically 6 CCR 1010-9) shall be followed.

5. Fugitive dust: The applicant intends to use sufficient water on roadways to mitigate fugitive dust from normal farm operations on the property.

Staff recommends as condition of approval that fugitive dust is not permitted offsite and if wind speeds are greater than 30 mph that control measures include operations cease until wind speed reduces to a level that can control fugitive dust.

6. Noise: The applicant presented a "Sound Modeling and Testing Report" for the Nutrient Farm PUD by SGM, Inc. dated December 9, 2020. The report provided a sound analysis of anticipated noise from the proposed Music Venue and Moto Park at the PUD. The report indicates that noise levels from the PUD can be mitigated to not exceed CRS 25-12-103 Sound Standards.

Staff recommends condition of approval to include noise limits at property line not exceed 55 dBA from 7:00 AM to 7:00 PM and not exceed 50 dBA from 7:00 PM to 7:00 AM. Staff also recommends that a use-specific noise study be conducted as each development area is proposed, with a review of the study by GCPH.

7. Radon: It is recommended that any new buildings constructed on the site in the future utilize radon-resistant new construction (RRNC) practices to prevent radon gas exposure, which is the leading cause of lung cancer among non-smokers in Colorado. After construction, a radon test should be conducted, and a fan installed on the pre-installed passive system if necessary. Free radon test kits are available at Garfield County Public Health offices in Rifle and Glenwood Springs and at the Clean Energy Economy for the Region (CLEER) located at the Third Street Center in Carbondale.

Thank you,



Edward R. "Ted" White, P.E.
Environmental Health Specialist III
Garfield County Public Health
2014 Blake Avenue
Glenwood Springs, CO 81601
(970) 665-6383
twhite@garfield-county.com

From: [Jannette Whitcomb](#)
To: [Heather MacDonald](#)
Subject: RE: Nutrient Farms
Date: Thursday, January 23, 2025 9:41:56 AM

We concur with the County's engineer comments with water and wastewater. Staff cannot make more specific recommendations related to any food production without concrete plans. Grease, water and waste water requirements are dependent on food production processes.

Jannette Whitcomb, REHS
Environmental Health Manager
Garfield County Public Health
970-665-6373

From: Heather MacDonald <hmacdonald@garfield-county.com>
Sent: Thursday, January 23, 2025 7:52 AM
To: Jannette Whitcomb <jwhitcomb@garfield-county.com>
Subject: Nutrient Farms

Hi Jannette,

We were wondering if you plan to send a referral this morning. We have packets due by noon and would like to include your latest referral comments.

Heather MacDonald
Planner I
Garfield County Community Development
108 8th Street, Suite 401 Glenwood Springs, CO 81601
o: 970.945.1377 x1605
hmacdonald@garfield-county.com www.garfield-county.com



Town of New Castle
450 W. Main Street
PO Box 90
New Castle, CO 81647

Administration Department
Phone: (970) 984-2311
Fax: (970) 984-2716
www.newcastlecolorado.org

To: Glenn Hartmann

Date: 10/23/2023

Re: Town of New Castle referral comments regarding proposed PUD amendments for Nutrient Farm

Glenn,

Thank you for the opportunity to provide comment on the Nutrient Farm PUD amendments submitted to the town of New Castle on September 19th, 2023. As you know, Garfield County and the town of New Castle share a commitment to intergovernmental cooperation in development within the Town's Urban Growth Boundary. Land use within this area can greatly affect the local community and so it is reasonable that the Town comment on any anticipated projects and their potential impacts. Because of the overall size of the PUD and the proposed change-in-use of the property, the standard staff review was supplemented with Town Council consideration at a public meeting on October 17th, 2023.

The goal of the combined review was to assess the consistency between the proposed uses of the PUD and the Town's Comprehensive Plan. As presented by the owner Andy Bruno and his development team, the revised PUD will have two general aspects:

- 1) Agri-tourism with residential development;
- 2) Accessory commercial/industrial uses;

The New Castle Comprehensive Plan projects the following use for the property:

- 3) "Large lot single-family, working ranches/farms, ranchettes, open pastures and rural qualities";

Staff's initial consensus was that **1)** and **3)** generally correspond while questions remain with the level of agreement between **2)** and **3)**. During the public meeting Council's response to the application was overall supportive. Though the uses proposed, particularly with respect to **2)**, were not perfectly matched with the Comprehensive Plan, the commercial aspects were considered intriguing amenities that would likely compensate for any perceived shortcomings. In sum, no uses were disputed.

Importantly, Council understood some uses to be still inchoate and requested that the county solicit further review from the Town as site specific land use applications progress. In time, the Town would like to see extended study of CR 335 impacts specifically with respect to road capacity around the I-70 interchange and the sufficiency of emergency egress from the development. For further questions or to receive the audio file, please contact the Planning Department.

Thank you,
Paul Smith
New Castle Town Planner

From: [John Leybourne](#)
To: [Heather MacDonald](#)
Subject: FW: CR335 & CDOT spur (Bruce Rd)
Date: Wednesday, January 22, 2025 3:30:42 PM
Attachments: [image001.png](#)

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Paul Smith <psmith@newcastlecolorado.org>
Sent: Monday, February 12, 2024 2:17 PM
To: Glenn Hartmann <ghartmann@garfield-county.com>; John Leybourne <jleybourne@garfield-county.com>
Subject: CR335 & CDOT spur (Bruce Rd)

I was able to speak with Jeff Simonson: The actual intersection is controlled by CDOT. Termination to the east is near a cattle guard on 335. To the west, there is an adjacent property boundary where it terminates (he would need to research where exactly). Hence, CDOT would be the primary referral for that intersection. Jeff (the Town) would also review any submittal to make sure alignments and/or utilities matched the Town's.

Thank you,
Paul Smith
Town Planner/Inspector
psmith@newcastlecolorado.org
(970) 984-2311 #108





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January 21, 2025

Glen and John,

Thank you for taking time on January 15th to meet and further discuss the Nutrient Farms zoning application. As a general review of our conversation, I've captured some thoughts on the various topics that we discussed and have confirmed with our Town Council that our discussion was in line with their positions and thoughts regarding the Nutrient Farms application.

LoVa Trail:

We reviewed the MOU regarding the LoVa Trail dated July 31, 2018, and concluded the following:

- Because the intent of the 2018 MOU was to memorialize the common interests of the Prospective Landowner (Nutrient Farms) and the Town of New Castle regarding the conditions of construction of the LoVa Trail. And, because various obstacles that were beyond the control of the landowner, the Town, and the LoVa partnership delayed the project, escalated the costs, and ultimately put the project on hold; the LoVa Trail Easement across Nutrient Farms property has yet to be formalized.
- It is reasonable to say that, despite the project setback, the Town of New Castle, the LoVa Trail Partners, and the landowners still see value in completing a trail network to the Nutrient Farms property.
- Because the timeline for a temporary construction easement has long since expired, and because years have passed since the 2018 MOU was developed, and because a permanent LoVa Trail Easement has never been formalized, it is reasonable to conclude that the 2018 MOU has for all practical purposes expired. Future efforts to establish the "LoVa Trail" in this area would need to be revisited by the Town Council.
- Based on a response statement by the applicant, a question was asked about the use of the LoVa Trail as an Emergency Access Easement for public use as a bridge crossing over the Colorado River during times of an emergency. It is important to know that neither the Town of New Castle, nor the LoVa Partnership ever planned to construct a river crossing that would accommodate vehicular traffic. The intent of the LoVa Trail bridge was to carry *trail* users which included hikers and bikers only. Per CDOT guidelines, the proposed

bridge had a design capacity of approximately 10,000 lbs. and would be capable of supporting a single maintenance or emergency vehicle not to exceed that limit.

General Trail Use:

The Town of New Castle prides itself on providing a variety of interconnecting trail networks, the Town's Comprehensive Plan provides policies that address the following:

- New development shall plan and provide for Transit Oriented Development.
- New development shall ensure a high level of connectivity in on-street and off-street trail/sidewalk systems to accommodate both motorized and non-motorized traffic within and connecting to areas outside of the development.

Based on the stated goals of the Town's Comprehensive plan it would be the Town's desire to see Nutrient Farms work to ensure that a trail between the Town of New Castle and Nutrient Farms is considered as part of the Nutrient Farms project.

Waste Water Discharge:

At this time the Town does not have a complete understanding of how wastewater discharge will be managed relative to the Nutrient Farms Project. As plans are finalized for wastewater management within the property, the town would like the opportunity for our engineers to review and comment. It is important to note the Nutrient Farms is subject to a Watershed permit for each non-agricultural phase of development. The OWTS reviews will require a watershed permit at the time of design. The project will be reviewed in concert with CDPHE requirements from Regulation 43.

County Road 335 Traffic:

The Town remains concerned that spikes in traffic flow during Nutrient Farms events may cause congestion at the I-70 interchange area. The town is also concerned that heavy use of County Rd. 335 will increase maintenance costs to the town and county. The Town would request that a full traffic impact study be conducted that accounts for traffic loads at full buildout and full capacity of the project.

Lighting:

One of New Castle's stated goals in its' Comprehensive Plan is to preserve a dark night sky. As Nutrient Farms further develops their site plans, the Town of New Castle would encourage the applicant and the county to do all they can to minimize light trespass from the property.

Police Coverage and Response:

Because of Nutrient Farms location on CR 335 just beyond the New Castle town border, it is reasonable to have concern that emergency calls from the property may put an added burden on

the New Castle Police Department. As this application moves forward, New Castle would like to gain a better understanding of how the applicant plans to handle security at events, and responses to emergency calls across the various types of venues on the property.

Industrial Zone District:

The Town of New Castle has concerns about the western portion of the Nutrient Farms Development Plan which is currently designated for Industrial Use. Because zoning change approvals are often considered under a standard of demonstrating compatibility with neighboring properties, and because the proposed Industrial Use District directly borders on Rural Zoned lands to the west, New Castle is concerned that, if approved as proposed, the Industrial Zoning could open the door to neighboring properties wanting to rezone to more of an industrial use. The Town’s position on the location of an Industrial Use District within the Nutrient Farms project is that it needs to be in a position that does not open the door to neighboring properties wishing to expand from a Rural District to an Industrial District.

Thank you for affording the time for our meeting, please feel free to reach out with any questions that you may have.

David Reynolds
Town Administrator
New Castle, Colorado



July 17, 2024

Glenn Hartmann, Director
Garfield County Community Development
Transmission via email: ghartmann@garfield-county.com

RE: Nutrient Farms PUD, Coal Ridge PUD & Riverbend PUD Amendment/Revocations
PUDA-05-8899 & PUA-05-23-8898 & PUA-05-23-8963
Sec 34 and 35, Twp 5 S., Rng 90 W., and Sec 5, 6 and 8, Twp 6 S., Rng 90 W.
Water Division 5, Water District 45

Dear Mr. Hartmann,

We have reviewed the water supply information provided for the above referenced planned unit development (PUD) applications for the applicant Nutrient Holdings LLC. According to the information included in the reference material, the Nutrient Farms PUD proposal includes a wide variety of PUD Zone Districts to include an experiential working farm with related agricultural, residential, recreational and commercial activities. Potential uses include campground RV park, trails/outdoor recreation, agritourism, greenhouses, food service, and music entertainment areas. The Nutrient Farm PUD requires the vacation of the Coal Ridge PUD and an amendment of the remaining unsubdivided portions of the Riverbend PUD to remove portions of the Applicant's property from the Riverbend PUD, all to allow the new Nutrient Farm PUD/Development.

It is our understanding that a PUD application is a zoning approval process for a comprehensive plan for a property that includes a mix of possible uses within the development, but is not a preliminary plan for a subdivision. In addition, we understand that not all uses proposed for the Nutrient PUD may be realized and therefore the water supply plan for all the potential uses at this phase is not finalized. In light of this, we have performed a cursory review and are providing informal comments, instead of an opinion pursuant to Section 30-28-136(1)(h)(I), C.R.S., regarding the proposed water supply. The comments do not address the adequacy of a water supply plan for this project or the ability of a water supply plan to satisfy any County regulations or requirements. In addition, 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.

From information provided, Nutrient Farm is located between the Town of New Castle and Glenwood Springs, and to the south of Interstate-70 and the Colorado River. It is bisected by County Road 335/Colorado River Road. The property consists of four parcels containing approximately 1,136 acres located on a benched area between the Colorado River and the Grand Hogback. (Assessor's records Parcel ID Numbers are: 2123-353-00-081, 2183-061-00-057, 2123-344-00-007, 2123-344-00-005, and 2183-053-00-086.



As described in the narrative included in the referral materials, the proposed development includes limited residential development (18 lots-where 17 are single family with each eligible to develop an ADU for a total of 34 units, and one Farm Lot with a single family dwelling and guest house), a working farm with irrigated crops and livestock, several farm-related tourism businesses (such as a farm store, adventure farm, and a u-pick orchard), commercial and professional buildings, several other tourist attractions (such as an offroad adventure park, campground, water pond park, music and performing arts venues, and a retreat), and open spaces. The property also includes an existing ranch house that, according to the narrative, is not included in the PUD application.

The proposed water supply for the Nutrient Farm PUD is water provided by the Riverbend Water and Sewer Company (RWSC) facilities for the new 17 residential lots, water from the applicant's water rights in the Vulcan Ditch (5.36 cfs of the 6 cfs water right originally decreed in case no. CA-1319 and 3.57 cfs of 4 cfs water right originally decreed in case no. CA-4004), and a well to serve a proposed single family dwelling and accessory dwelling unit (ADU) for the "Working Farm East Farmhouse". The Vulcan Ditch water rights will be used for the other indoor and outdoor uses in the rest of the development areas.

The RWSC currently supplies 73 units in the existing Riverbend subdivisions through the Riverbend Wells decreed in case no. W-2125 by the Division 5 Water Court. In case no. W-2127, the court approved a change of water rights for the Vulcan Ditch (6 cfs water right originally decreed in case no. CA-1319 and 4 cfs water right originally decreed in case no. CA-4004) to allow the Riverbend Wells to be alternate points of diversion for the Vulcan Ditch water rights and to use the Vulcan Ditch water rights for year-round municipal use (including commercial, industrial, domestic, irrigation incident thereto, and sewage treatment including land disposal), irrigation, recreation, fish and wildlife propagation, and all other beneficial purposes, including storage for each of the above purposes. According to the decree, the water right owner may use the Riverbend Wells and continue to divert through the Vulcan Ditch for irrigation purposes as long as the depletion to the Colorado River and Canyon Creek does not exceed 440 acre-feet per year.

According to the included Central Water Distribution and Wastewater Systems and Water Supply Adequacy reports, the RWSC currently supplies the existing Riverbend subdivisions through Riverbend Well Nos. 3 and 4. The wells currently operate under Well Permit Nos. 18146-F and 18147-F with a maximum permitted pumping rate of 300 gallons per minute (gpm). The applicant's consultant indicated that Well Nos. 3 (10 hp) and 4 (7 ½ hp) have proved to be very reliable wells with current pumping rates of about 65 gpm and 50 gpm, respectively. From the included letter regarding the Riverbend system, the RB Water and Sewer Co. (RBWS) owns the excess water rights for the Riverbend system as RBWS retained these rights upon conveyance of the facilities to the RWSC. The RWSC owns the water and sewer facilities and only those water rights which are in use and supply service to the existing Riverbend subdivisions. The supply from the RBWS excess rights and the RWSC facilities for the proposed 17 residential lots is subject to formal inclusion and commitment at the time of lot subdivision. However, the applicant indicated that if it is later

determined to be physically or financially unfeasible to connect to these systems, or a formal agreement cannot be reached between RBWS and RWSC and the applicant, these residential units may be relocated to other areas of the Nutrient Farm PUD and served by other means.

Nutrient Farm proposes to develop its own potable system to serve all uses other than the residential lots. The applicant indicates that they own 393 acre-feet of the 440 acre-feet of the Vulcan Ditch water rights quantified and changed in case no. W-2127. The original point of diversion for the Vulcan Ditch is on Canyon Creek and historically water was carried over the Colorado River to the property through an inverted siphon. Currently the siphon is in need of repair and the applicant indicates that they will eventually replace the siphon with an overpass to carry the ditch water over the Colorado River. Until the siphon is repaired/replaced, the applicant can utilize the Coal Ridge Pump and Pipeline as an alternate point of diversion for the Vulcan Ditch water rights. The pump and pipeline diverts from the Colorado river and can supply raw water to Nutrient Farm via the existing 18" HDPE pressurized pipeline. In case no. 84CW0349, the court approved an alternate point of diversion for 395 acre-feet of the 440 acre-feet of Vulcan Ditch water rights subject case no. W-2127 to divert the water rights at the Coal Ridge Pump and Pipeline, which diverts from the Colorado River downstream of Canyon Creek.

Surface water from the Vulcan Ditch will be routed to settling ponds, and then filtered and treated to supply potable water to the two farm areas, commercial/industrial areas, and for all of the outdoor adventure parks activities. Storage will be provided in lined farm ponds linked to the raw water pressurized system and open channel ditches that will deliver water to various points of use throughout the ranch. Initially, this potable water system will serve only the agricultural operations and facilities as well as the owner's personal residence, and then converted to a public water system as needed when required operationally. The Vulcan Ditch water supply will also serve all outdoor uses such as agricultural crop and livestock watering, landscaping, sound mitigation landscaping, open space areas, grass fields, recreational ponds and the construction of any animal water ponds in cooperation with the Colorado Parks and Wildlife ("CPW").

The applicant has proposed to supply the Working Farm East Farmhouse (one single family dwelling and one ADU) with a well that is exempt from administration in Colorado's water rights priority system. The applicant should be aware that in order to qualify for an exempt well, at the time of application and permit issuance the parcel where the well would be located cannot be included in subdivision of land approved after the Colorado River was determined to be over-appropriated (May 22, 1981) and, in order to serve more than one single family dwelling, the parcel must be more than 35 acres in size. If an exempt well permit is obtained and a well is constructed before the parcel on which the well is located is subdivided, the well could possibly be allowed to continue to operate under the exempt well permit. Given the commercial activities planned for the property, use of an exempt residential well would be subject to the limitations identified in items 2.1

and 3-6 of [Guideline 2023-1](#). Additionally, the applicant indicated that the home may derive a water connection from the Vulcan Ditch pipeline instead of a well.

In the water supply adequacy report, the applicant’s consultant provided estimated water demands for both the potable and non-potable systems.

System	Estimated Annual Demand (Acre-Feet)	Estimated Annual Consumptive Use (Acre-Feet)	Uses
Riverbend System (Indoor)	12	0.360	17 residential lots each with 1 single family dwelling and 1 ADU
Riverbend System (Outdoor)	2.6	1.95	Total of 0.98 acres
Treated Vulcan Ditch (Indoor)	27.45	2.75	*see below for uses
Vulcan Ditch (Outdoor)	595.37	389.01	irrigation, pond evaporation, and stock watering
Well	.71	0.071	1 single family dwelling and 1 ADU

*The uses listed included the following: farmhouse, working farm and U- Pick orchard, farm store, adventure farm, restaurant, utilities building, greenhouse, processing building, commercial, professional retail buildings, off road park, concessions, water park, campground and cabins, campground pool, music festival, performing arts center, and retreat.

The total annual consumptive use estimated for the Vulcan Ditch for the Nutrient Farms PUD would be 391.71 acre-feet. The applicant has indicated they own 393 acre-feet of the 440 acre-feet quantified for the Vulcan Ditch water right in case no. W-2127. The applicant also indicated that if they do not obtain an agreement to supply the residential lots through the Riverbend System they possibly would use treated Vulcan Ditch water instead. For this situation, the applicant would need to reduce other uses of the Vulcan Ditch within the PUD so as to not exceed the 393 acre-feet of the Vulcan Ditch water right the applicant owns. In addition, the applicant indicated that none of the 99 units of reserved residential density or any on-site employee housing or bunkhouse dwelling units were included in the water supply adequacy report.

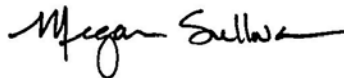
July 17, 2024

Garfield County Community Development
Nutrient Farms PUD
Page 5 of 5

The Vulcan Ditch has three water right priorities, of which the applicant's ownership is 5.36 cubic feet per second (cfs) of the 6 cfs for the first, senior priority originally decreed in case no. W-1319, and 3.57 cfs of the 4 cfs of the second, junior priority originally decreed in case no. CA-4004. The applicant's consultant performed an analysis of the historical administration of Canyon Creek water rights. From the analysis, the consultant concluded the Canyon Creek physical and legal supply is sufficient to provide for the demands during all months in wet and normal years, and during November through July of dry years. During the late irrigation season of dry years, the Canyon Creek physical and legal supply is sufficient to provide for the peak hour potable demands. However, dry year supply available for non-potable demands may be limited to the 5.36 cfs in the Vulcan Ditch first priority. This 5.36 cfs is sufficient to meet max day demand but may require some irrigation reductions or storage to meet peak hour demand. Diversion and use of applicant's ownership of Vulcan Ditch water rights is subject of the decrees entered by the Division 5 Water Court in case nos. CA-1319, CA-4004, W-2127, and 84CW0349.

If you, or the Applicant, have any questions please contact me at 303-866-3581 x8212.

Sincerely,



Megan Sullivan, P.E.
Water Resource Engineer

ec: Referral No. 32414

September 13, 2024

Glenn Hartmann
Director of Community Development
Garfield County
108 8th St, Suite 401
Glenwood Springs, CO 81601

RE: Nutrient Farm PUD Application - Review of Water Related Issues

Dear Mr. Hartmann:

Matrix Design Group, Inc, (Matrix), is pleased to assist Garfield County with the development review for the proposed Nutrient Farm development. The development review was limited to peer review of application submittals and technical reports related to:

- Water Rights Issues
- Water Supply Plans
- Aquifer Recharge Studies
- Other related water supply and water impact topics/issues including irrigation considerations.

The comments in this letter are based upon a review of the documents listed below:

1. *Nutrient Farm Planned Unit Development Narrative*, dated March 2023 by Nutrient Holdings LLC.
2. *Pre-Application Conference Summary*, dated February 12, 2021 by Garfield County Community Development Department.
3. *Nutrient Farms PUD Revocation and PUD Application*, dated November 22, 2022 by Garfield County Community Development Department.
4. *Nutrient Farm PUD Vicinity Map*, dated January 6, 2023 by SGM.
5. *Impact Analysis Report Nutrient Farm PUD*, dated December 14, 2020 by SGM.
6. *Soils and Geohazard Evaluation, Riverbend PUD*, dated October 17, 2018 by RJ Engineering & Consulting, Inc.
7. *Preliminary Floodplain Mapping*, dated December 2, 2022 by SGM.
8. *Nutrient Farm Water Adequacy Report for Proposed Development*, dated September 2020 by SGM.
9. *Nutrient Farm Central Water Distribution and Wastewater Systems*, February 2021 by SGM.
10. *Nutrient Farm Water and Sewer Plan, March 24, 2022* by SGM.
11. *Nutrient Farm OWTS Engineering Report*, September 2021 by SGM.
12. *Special Warrantee Deed Water Rights*, January 26, 2021 filed with Garfield County.
13. *Provision of Water and Sanitary Sewer Service to the Nutrient Farm*, February 10, 2021 by Riverbend Water and Sewer Company.
14. *Nutrient Holdings LLC Overlay Map*, January 16, 2023 by SGM.
15. *Nutrient Farms PUD Comments*, July 17, 2024 by Colorado Division of Water Resources.

Water Resources - General Comments

In general, the proposed **residential** development has been sufficiently demonstrated that it can be served by the water and wastewater infrastructure (Areas 1 through 5). There is concern, however, about the proposed **commercial development** (Areas 6 through 8) being served by the proposed basic water and wastewater systems that do not require a treatment plant operator. The proposed commercial uses are significant enough at full build-out that they warrant exploration of process treatment plants for water and wastewater that are regularly operated and maintained by a licensed professional.

The commercial uses trigger the need for a “public” water supply to protect the health of the public, and regular testing along with advanced treatment may be necessary. There is concern over the shallow nature of the wells and close proximity to the Colorado River. The portion of the Property planned for development and farming is underlain by the Colorado River alluvial aquifer, connected to and recharged by the Colorado River. The Riverbend Wells are drilled between 43 feet and 61 feet deep in the Colorado River alluvium (less than 100 feet deep is generally considered shallow), and all of the five wells are located within 300 feet of the south bank of the Colorado River. Water was found at 22 feet below ground surface for Well No. 4, and 5 feet below ground surface for Well No. 3, indicating that the elevation of the groundwater table is similar to the elevation of surface water in the Colorado River. Although the PUD reports indicate both wells have been shown to be true groundwater sources requiring only disinfection, their location along the riverbank and shallow nature make them susceptible to surface water influence. The PUD report noted the intent is to start with private on-site systems and then convert to public water systems as needed when required operationally.

The proposed rather large commercial uses are likely too intense for wastewater treatment through On-site Wastewater Treatment Systems (OWTS) and a centralized wastewater treatment system may be more appropriate. The Colorado Department of Public Health and Environment (CDPHE) allows OWTS treatment up to 2,000 gallons per day. The proposed Nutrient Farm development will generate roughly 25,000 gallons per day at full build-out. At least 10 new OWTS systems are proposed to manage the wastewater loading from the commercial uses. There is concern that the 2,000 gallons per day permit threshold is being circumvented by utilizing a bunch of smaller systems. Although SGM attempted to explain how to permit these systems, it may be appropriate to get a letter from CDPHE regarding the ability to permit all of these individual OWTS facilities.

Water Resources - Specific Comments

The list below details the water and wastewater issues of significance:

- 1. Adequate Physical and Legal Water Supply** – The PUD reports document an adequate physical and legal supply of water. The Vulcan Ditch diversion off of Canyon Creek provides a good supply of water. Wells along the Colorado River provide additional supply. Being located adjacent to the Colorado River provides an abundant and reliable supply of water. The Colorado Division of Water Resources review of the PUD documents generally concurred that the water rights could serve the proposed development, although in a dry year some of the irrigation uses may need to be curtailed.

- 2. Proposed Residential Development** - The existing and proposed residential development (1 existing and 18 new plus ADU's for Areas 1 through 5) appear to have adequate water supply and wastewater treatment. Nutrient Farm residential developments in Areas 1, 3, and 4 (17 homes plus ADU's) will be connected to the existing Riverbend Water Company's potable water distribution system and wastewater collection system. The RWSC currently serves the nearby Riverbend homes, and has a complete water treatment, distribution, and storage system in place that is already permitted as a public water supply. The existing Riverbend potable system provides about 50,000 gallons of storage augmented by a 115 gpm supply flow from their wells. The intent is for Nutrient Farm to add a 150,000-gallon potable storage tank to bring the fire storage component up to municipal standards as new residential lots are platted in Areas 1, 3, and 4 in exchange for tap fee credits. New fire hydrants from 8-inch diameter lines will be placed as necessary so that each new residential lot is within 250 feet of a hydrant.

The Riverbend HOA's potable water supply comes from the five Riverbend wells and wastewater is treated in a centralized wastewater treatment plant. Area 2 is existing with its own well and onsite wastewater treatment system (OWTS). Area 5 is also proposed to have its own well and OWTS.

- 3. Exempt Well** - Area 5 is proposing a new "exempt" well. As the Division of Water Resources pointed out in a letter dated July 17, 2024, these exempt permits are issued for lots 35 acres and larger and are limited to residential uses only. The PUD reports clearly note that Area 5 will be a 1-acre parcel. The development would have to work with the State to obtain a well permit before the property is subdivided and use the permit on this small parcel within the limitations of the permit for residential uses only and do not allow for any commercial uses.

- 4. Long List of Proposed Public Water Uses** - Beyond the residential development, the concern is the long list of potential public and commercial uses for Areas 6 (Working Farm), 7 (Commercial/Industrial Park) and 8 (Outdoor Adventure Parks/Campground):

- 1) Restaurant
- 2) Store
- 3) Process Building
- 4) Greenhouse
- 5) Adventure Farm
- 6) Commercial and Retail
- 7) Adventure Park
- 8) Water Park and Pool
- 9) Camp Sites
- 10) RV Park
- 11) Retreat Center
- 12) Music Festival
- 13) Performing Arts

Restaurant, Processing Building, Campground, Swimming Pool, Laundry, Music Festival, etc. are all intensive uses of water and wastewater loading. The Health and Wellness Retreat/ lodge will contain 12 rooms and the campground will consist of a total of 67 campsites, cabins, and RV spots. 193 visitors are anticipated for the Adventure Farm, Adventure Park, and water park; 100 visitors are estimated for the performing arts center; and no more than 350 are planned for at the music and arts venue area. These uses may be beyond the capacity of OWTS for wastewater disposal.

The reports note that “As public uses like the restaurant, campground and commercial areas develop, public water system triggers will be met, and Nutrient Farm will construct its own public water system in accordance with CDPHE regulations.”

5. **Water Quality Concerns for a Public Water Supply** – Based upon the PUD reports, there is plenty of physical water. The concern is water quality for a public water supply serving the proposed commercial development. The Colorado Department of Public Health and Environment (CDPHE) does not regulate the water quality for private water wells (they are not included in the Safe Drinking Water Act). Only those that meet the definition of a Public Water System are regulated. The wells along the Colorado River bank are susceptible to surface water contamination. Wells that are too shallow, too close to the river or proposed for too high production can easily be connected to surface water. Wells less than 100-feet deep are flagged and can be a concern for possible contamination from a surface water connection. Public water systems need to be tested and monitored regularly to protect the health of the public. The Nutrient Farm wells proposed as a public water supply may need more treatment than simple disinfection as a safety precaution.
6. **Wastewater and Use of OWTS** - Based upon the design loading of the commercial uses, Nutrient Farm should be planning their own central wastewater treatment plant, or connect to Riverbend or connect to New Castle’s wastewater treatment plant. The report conceptually designs 10 OWTS systems for Areas 6, 7 and 8. OWTS systems are permitted for up to 2,000 gallons per day. Beyond that is a long, difficult permitting process. Larger developments were trying to get around the regulations by proposing a bunch of smaller 2000 gal/day systems, so the State issued letters clarifying their position on this matter. The development proposes to treat about 25,000 gallons per day loading with at least 10 separate OWTS systems.

OWTS systems are generally for residential uses and not recommended for intense hydraulic and biologic loading associated with commercial uses. OWTS systems are primitive technology and are allowed for residential uses as a stop-gap measure until they can be connected to a regional treatment plant. OWTS systems for residential uses generally have a life of 25-30 years. OWTS systems regularly fail, and often go unnoticed and unmaintained. Commercial uses would reduce the life spans due to higher strength effluent. Even with the Higher Level of Treatment from the proprietary Advantex system as described, it is pushing the limits of an OWTS to treat this much wastewater. The strength of wastewater from commercial uses are variable and difficult to quantify for BOD (biological) loading. The peak hydraulic loading from event usage is also problematic – very high flows over a short period of time. The proposed restaurant loading can be high strength with food waste and the oils/greases that can clog a system. Restaurant uses will certainly need an oil/water separator. A pool or public laundry would discharge too much water at one time for an OWTS to handle properly without saturating the soils.

Further, the OWTS reduction factors shown in the calculations may not be applied correctly with both 0.8 and 0.7 factors applied. A reduction factor of 0.8 is used in the conceptual designs for trenches, but a bed configuration is shown with chambers which does not have a reduction factor. Another reduction factor of 0.7 is shown for chambers. If the soils have more than 35% rock, no sizing adjustments are allowed for systems placed in type "R" soils.

The massive bed of 2,368 chambers for Area 6 probably would not be allowed, and even if it would be considered, the layout may need to be adjusted. It would be difficult to construct and maintain a system of this size. Per Regulation 43, the maximum width for a bed must be 12 feet, unless the bed receives effluent meeting Treatment Level 2 quality or better (which may be the case with the Advantex system). The separating distance between beds must be a minimum of six feet sidewall-to-sidewall.

7. **Stormwater Management** – According to the reports, two minor natural drainages cross the land from south to north, draining into the Colorado River. These are ephemeral drainages with no wetland or riparian characteristics. The site imperviousness will increase from development due to roads and rooftops from what once was a formerly undeveloped watershed and will cause more frequent and more rapid stormwater runoff. This increased runoff can unravel natural drainageways making them unstable and prone to serious erosion. It is recommended to promote infiltration of stormwater and implement full spectrum stormwater detention including storage of the water quality capture volume throughout the development area to control runoff to historic rates. PUD reports do not mention any proposed stormwater measures such as detention or water quality facilities. More work is needed to characterize existing and future stormwater runoff flows and consider facilities to control runoff to historic rates.

8. **Floodplain** – The PUD reports describe the work to identify the existing floodplain and comply with floodplain regulations. We understand that FEMA has not mapped the floodplain in this area, but that the best available preliminary data was used to approximate a 100-year floodplain on the Colorado River. According to the reports, the development will comply with all applicable FEMA, National Flood Insurance Program (NFIP), CWCB and Garfield County floodplain regulations. It appears that no development is proposed within the anticipated 100-year floodplain of the Colorado River based upon the Overlay Map. Any proposed earthwork with the floodplain will need to be documented and shown to not have an adverse impact of floodplain elevations.

Overall, the PUD documents provided a detailed engineering analysis of the proposed development. The above comments are water-related items that caught our attention during the document review that may warrant further attention in future submittals.

Sincerely,
Matrix Design Group, Inc.



Robert Krehbiel, P.E.
Water Resources Engineer

Gentlemen,

Road and Bridge would like to take a moment to let you know our position on CR 335 used by Nutrient Farms. We believe this section of CR335 needs to be upgraded from the City limits of New Castle to the cattleguard at the entrance to the Riverbend Subdivision. We would like to see that section upgraded with a new asphalt driving surface of at least 24' wide and a 2' gravel shoulder on each side. We would also like to see a 6' wide asphalt walking path on the North side of the North shoulder. The walking path would then connect to the path that New Castle has in their town limits. The walking path would be a great benefit to the people living in the subdivision and to the potential visitors coming to the Farm.

Let me know if you have any questions.

Wyatt

Wyatt Keesbery

Director

Garfield County Road and Bridge

Motor Pool

Vegetation Management

0298 CR 333A

Rifle, CO. 81650

wkeesbery@garfield-county.com

970-625-8601 office

970-309-6073 cell

From: [John Leybourne](mailto:John.Leybourne@garfield-county.com)
To: [Heather MacDonald](mailto:Heather.MacDonald@garfield-county.com)
Subject: FW: Nutrient Farms
Date: Tuesday, January 21, 2025 12:02:35 PM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Dale Stephens <dstephens@garfield-county.com>
Sent: Tuesday, January 21, 2025 10:51 AM
To: John Leybourne <jleybourne@garfield-county.com>
Cc: Tyler Terry <tterry@garfield-county.com>
Subject: RE: Nutrient Farms

Good morning John, The issues for Nutrient farms. Currently there is only one way in and out. The road surface currently is a chipseal road and will not hold up to the heavy traffic that it will take to do this project or after the project is completed. The road is currently 20 foot in width witch is narrow with no shoulders for 1.7 miles. My recommendations for this road is it needs to be upgraded to 12 ft. lanes and 3 ft. shoulders on either side and meet county specification. Currently there is no way for pedestrian's to travel to and from town. This should also be addressed. And the driveway to the Green house only has a temporary driveway witch needs to be upgraded to a permanent one if this is the location it is going to stay. If you need any thing more please fill free to contact me. Thanks,Dale

From: John Leybourne <jleybourne@garfield-county.com>
Sent: Thursday, January 16, 2025 5:05 PM
To: Dale Stephens <dstephens@garfield-county.com>
Cc: Glenn Hartmann <ghartmann@garfield-county.com>
Subject: RE: Nutrient Farms

Many thanks!

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: Dale Stephens <dstephens@garfield-county.com>

Sent: Thursday, January 16, 2025 4:51 PM
To: John Leybourne <jleybourne@garfield-county.com>
Cc: Glenn Hartmann <ghartmann@garfield-county.com>
Subject: Re: Nutrient Farms

I will get back to you on Monday afternoon with what updates we came up with. Thanks

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: John Leybourne <jleybourne@garfield-county.com>
Sent: Thursday, January 16, 2025 4:45:23 PM
To: Dale Stephens <dstephens@garfield-county.com>
Cc: Glenn Hartmann <ghartmann@garfield-county.com>
Subject: Nutrient Farms

Dale,

Just checking on any revised comments from Road and Bridge on the Nutrient Farms application.

Many thanks!

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

1 November 1, 2024

Mr. Glen Hartmann
Principal Planner
Garfield County Community Development
108 8th Street, Suite #401
Glenwood Springs, CO 81601



RE: Nutrient Farms PUD

Dear Glen,

On behalf of Colorado Trout Unlimited (CTU) we respectfully offer the following comments as they pertain to the Nutrient Farms (NF) PUD plans to divert water from the Canyon Creek drainage. We understand that this point of diversion has not been in operation since the year 2000 (possibly earlier) and that the water right owner has been using an alternative point of diversion from the Colorado River in the interim. Further, it is our understanding that the water right owner wishes to return to the original point of diversion to supply their agricultural operation with higher quality water and to offset electrical pumping costs required to currently pump water from the Colorado River. Our concerns with this action stem from the potential for environmental harm that increased diversions will have on the Canyon Creek aquatic systems. They are as follows:

Since 2018, TU has been working with agricultural irrigation diverters in Elk and Canyon Creeks to upgrade diversion infrastructure to improve diversion efficiency and to ensure diversion dams are fish friendly. In 2021 TU upgraded the I-70 culvert system that conveys Canyon Creek under Interstate 70 (cost \$250,000.00). This project has dramatically improved access for spawning fish from the Colorado River. TU is currently working with the Wolverton Ditch Company to upgrade the next upstream fish barrier (cost \$750,000.00). Construction plans are complete and half of the necessary construction funds are secured. TU intends to continue to open the full drainage to spawning fish, however, we are concerned that future NF plans to divert will seriously reduce flows to a level where fall-spawning fish are unable to spawn in the system.

SGM has compiled a table summarizing average monthly flow rates for Canyon Creek. The table indicates that during dry years, flows vary between 21 and 16 cfs (October to March). Brown trout spawn from October through December and eggs must remain in water during incubation (approximately 60 days or late December through early March) when fry will begin to emerge from the gravel. This crucial part of the trout's life cycle takes place during these low flow periods. A component further complicated by late fall and winter flow regimes continuing to be impacted by climate change. The NF water right is unique in that it can be applied to many year-round consumptive uses. If the water right, in full or in part, were diverted during these times, it would be devastating to spawning fish and their progeny.

TU understands that NF intends to reconstruct the Vulcan Ditch diversion dam and headgate structure as part of the plan to begin Canyon Creek water diversions. TU is concerned that if the structure is rebuilt, the design may not sufficiently consider fish passage at all flows.

SGM has calculated Peak Daily demands for all combined uses that are identical to the water right of 8.93 cfs. This result is based on demand calculations for new subdivisions. TU understands that NF is planning to utilize some of the Vulcan right for in-house use, however the PUD application indicates that the majority of the water will continue to be used for agriculture.

TU respectfully requests that the Garfield County Planning Commission consider the following:

One of NF's primary goals is to provide sustainable, organically grown crops and animals for market, a laudable goal. However, if this goal causes environmental harm, it should be a concern for all. Currently, NF has alternate points of diversion from the Colorado River which could continue to supply their needs. TU requests that the Planning Commission explore, with the applicant, making the Colorado River points of diversion permanent and protecting Canyon Creek from additional diversions. If that solution is rejected, TU alternately requests that NF agree to limit diversions during the "Non-Irrigation Season November-March", as described in the SGM Water Supply Report Table 3-1. This limit would establish a minimum flow regime to ensure adult fish continue to spawn and that their progeny has sufficient water to incubate and hatch. Assuming climate change continues to reduce water flows in Canyon Creek, that future diversions would be further reduced to maintain these pre-established minimum environmental flows. Shortfalls could be temporarily replaced by the Colorado River diversion.

If the Vulcan Ditch diversion dam is reconstructed, the diversion should be designed by an engineer and fish biologist experienced in fish passage design, checked by Colorado Parks and Wildlife staff and constructed according to the approved construction drawings.

TU would appreciate further information (through the PUD review process) on why Peak Daily demands were calculated using residential multipliers for agricultural water use.

In conclusion, TU is primarily concerned about the detrimental impacts of additional diversions from Canyon Creek on Brown Trout spawning and subsequent egg incubation and fry emergence. Canyon Creek is an important perennial, free stone stream that plays a critical role in the aquatic balance of this reach of the Colorado River system. In a drier, hotter climate, aquatic systems like Canyon Creek should be given special consideration. Thank you for the opportunity to offer our comments and concerns. If we can provide further information please contact us.

Respectfully Submitted,



Nancy Johnston, Conservation Projects Coordinator
Colorado Trout Unlimited
nancy.johnston@tu.org
970-462-6750



Richard Van Gytenbeek, Projects Consultant
Colorado Trout Unlimited
richard.gytenbeek@tu.org
307-690-1257

November 5, 2024

Glenn Hartmann and John Leybourne
Garfield County Community Development
108 8th Street, Suite #401
Glenwood Springs, CO 81601

Via email: ghartmann@garfield-county.com, jleybourne@garfield-county.com

RE: Referral Comments for Nutrient Farms PUD - PUDA-05-22-8899

Dear Glenn and John,

This letter is meant to provide Aspen Valley Land Trust's (AVLT) comments as a referral agency for the Nutrient Farms PUD application ahead of the November 13, 2024 Garfield County Planning Commission meeting.

While AVLT has no comments regarding the PUD application as it pertains to the parcels owned by the Applicant on the south side for the Colorado River, we have found several significant issues with the Canyon Creek component of the project and application.

To summarize, AVLT found the PUD application to be incomplete and lacking critical information regarding the project's extent and impacts in Canyon Creek. In addition, the applicant has failed to directly engage AVLT as a conservation easement and property interest holder along Canyon Creek, and has not yet started the required AVLT review and approval process necessary for the Canyon Creek portion of the proposed project.

As you may know, the Canyon Creek drainage is home to an incredibly delicate riparian ecosystem as well as a vibrant history of land and water conservation projects. Over the past two decades, AVLT has partnered with a network of Canyon Creek landowners to permanently protect and conserve over 1,042 acres of land in the drainage. Since 2004, AVLT has acquired twelve conservation easements spread across eight properties in Canyon Creek. While the terms of these easements all vary from property to property, they all share one common goal—to preserve and protect the ecological health of Canyon Creek and its associated habitat. More specifically, all of AVLT's conservation easements in Canyon Creek are intended to limit development on the encumbered properties and protect the drainage's sensitive ecological values from the impacts of future development.

As a critical component of this PUD application, the Applicant is proposing to install over a mile of 24" HDPE pipe beneath a contested ditchline that is largely considered abandoned in order to deliver 8.93 cfs of Canyon Creek water to the proposed development south of the river. Numbers provided in the Applicant's Water Supply Adequacy report openly demonstrate that this project may potentially dewater and dry Canyon Creek in full at certain critical times of the year.

While the impacts from this project would be devastating to the riparian ecosystem and overall environmental health of Canyon Creek, the project also directly involves three properties encumbered by Conservation Easements held by AVL T.

Specifically, the proposed Vulcan Ditch pipeline project crosses the following AVL T-encumbered properties (together the “Conservation Easements”):

- **Gaechter Conservation Easement, aka Que Sera Ranch** (Beard II Amended and Restated Deed of Conservation Easement), recorded in Garfield County on 12/30/2005 at reception number #689708 - encumbers 44.5 of 49.5 acres of Gaechter family property, parcel #212324300116
- **Westall Conservation Easement, aka Little River Ranch** (Armstrong Deed of Conservation Easement), recorded in Garfield County on 10/25/2004 at reception number #662310 – encumbers entire 50.5 acres of Westall family property, parcel #212325200142
- **Balcomb Arbaney Conservation Easement** (Canyon Creek – Arbaney Amended and Restated Deed of Conservation Easement), recorded in Garfield County on 12/28/2005 at reception number #689243 – encumbers entire 40 acres of Balcomb family property, parcel #212325300004.

AVLT is the sole holder of the Conservation Easements for all three of the above properties and is thus considered a property interest holder in all three properties.

After reviewing the Nutrient Farms PUD application, as well as the newly proposed Vulcan Ditch Pipeline Easement Agreements and engineering documents provided by the Applicant to Canyon Creek landowners (but not yet directly to AVL T), AVL T has found several substantial issues that will need to be addressed before the Applicant may advance with the Canyon Creek portion of the project.

Conservation Easements require formal engagement with AVL T

The Conservation Easements establish protected Conservation Values, outline specific prohibited and permitted uses, and grant specific rights to the Trust. For example, the Gaechter Conservation Easement reserves, among others, the following rights for the Trust:

*“The right to preserve and protect the Conservation Values of the Property in perpetuity;” and
“The right to prevent any activity on or use of the Property that is inconsistent with the purposes of the Easement, or which may be inconsistent with the preservation and protection of the Conservation Values of the Property, and to require the restoration of such areas or features of the Property that are damaged by any inconsistent activity or use;”*
(Gaechter - Beard II, 2005, pg 4)

AVLT has notified the Applicant about the existence of these Conservation Easements via SGM. As a property interest holder, AVL T also requested additional information from the Applicant via SGM, including copies of newly proposed Vulcan Ditch Pipeline Easement Agreements for AVL T’s conserved properties, as well as a memo outlining proposed project details and a formal meeting or presentation regarding the proposal. As of the date of this writing, the Applicant and SGM have neither acknowledged the existence of AVL T’s Conservation Easements nor provided any formal response to AVL T’s request for information. SGM did acknowledge the receipt of information from AVL T.

The lack of acknowledgement and engagement with AVLT as a conservation easement and property interest holder along the Vulcan Ditch Pipeline is concerning. As is outlined later in this letter, the Conservation Easements require AVLT review and approval before any new easement agreements may be signed. The Applicant will need to formally engage AVLT in this process before proceeding with their requested pipeline easement agreements.

AVLT requirements:

- *Applicant must engage AVLT as a Conservation Easement and property interest holder along the proposed pipeline*
- *Applicant must provide AVLT directly with current and future requested information regarding the proposal, including pipeline and project details, proposed easement agreements, and environmental impact analyses*

New easements prohibited without AVLT review and consent

All three involved Conservation Easements prohibit landowners from executing new easement agreements without AVLT consent:

“Grantor shall not convey easements or rights-of-ways, or widen existing roadways, or construct new roadways, without the consent of the Trust, which shall be in the Trust's sole discretion, except as required under condemnation proceedings pursuant to Subsection 14.3 herein, and as necessary for residential uses described above.”
(Gaechter - Beard II, 2005, pg 4)

“Grantor shall not convey easements or rights-of-ways or widen existing roadways, or construct new roadways without the consent of the Trust, which shall be in the Trust's sole discretion, except as required under condemnation proceedings pursuant to Section 14 herein;”
(Balcomb Arbaney, 2005, pg 4)

“The following activities and uses are expressly prohibited...” “The conveyance of easements, rights-of-ways, the paving or grading of roadways or the construction of any roadways without the consent of the Trust, which consent shall be in the Trust's sole discretion;”
(Westall – Armstrong, 2004, pg 3)

AVLT has notified the Applicant via SGM that the Conservation Easements prohibit new easements without AVLT consent. The Applicant has so far failed to provide a formal response or request for review and consent:

AVLT requirements:

- Applicant must request and obtain AVLT approval of any new easement agreements as required by the Conservation Easement
- The burden of proof is placed upon the Applicant to demonstrate to AVLT that any proposed project or easement agreements through the encumbered properties do not have adverse impacts to the protected Conservation Values and may be approved by the Trust

Impacts to Canyon Creek

The Conservation Easements require AVLT and the landowners to preserve and protect each property's Conservation Values, and further reserve for the Trust "*the right to prevent any activity on or use of the Property that is inconsistent with the purposes of the Easement, or which may be inconsistent with the preservation and protection of the Conservation Values of the Property...*" (Gaechter - Beard II, 2005, pg 4)

The Applicant's proposal includes water diversions that would, as proposed, fully dry and dewater the Canyon Creek at certain times of the year. Not only would this have a devastating impact on the ecology of Canyon Creek itself, it would also have extreme, irreversible, and likely impermissible impacts to the Conservation Values protected by AVLT's Conservation Easements.

However, because the Applicant has so far failed to engage AVLT in this process, and has furthermore failed to provide AVLT, Garfield County, or the general public with any information regarding the environmental impacts to Canyon Creek, AVLT has not yet been granted sufficient information to begin our analysis.

AVLT requirements:

- Applicant must present AVLT with an adequate analysis of environmental impacts to Canyon Creek under this proposal before the Trust may analyze or provide any required consent

Application review agency input: Incomplete or inadequate PUD application

As a referral agency providing review of this PUD application, AVLT has found the application to be incomplete and inadequate in its lack of information regarding Canyon Creek projects and impacts. Garfield County's LUDC requires PUD applications to demonstrate adequate legal water supply and additionally provide a comprehensive analysis of the development's environmental impacts. The Applicant has expressed to several Canyon Creek landowners that the Vulcan Ditch Pipeline proposal is of paramount importance for the PUD's success. This importance is underscored by the extreme nature and likely cost of the pipeline project itself. Yet, the Applicant's Water Supply Adequacy report provides only minimal and incidentally information about the associated Canyon Creek components of the project. As a referral agency, AVLT found the Water Supply Adequacy report to be incomplete and inadequate, and as such is unable to provide a thorough or complete review of the overall PUD application.

In addition, it is AVLT's understanding that many of the Applicant's base assumptions covered in the Water Supply Adequacy Report—including the success of their current water court application—may contain several major legal and technical errors that leaves their ability to secure water from Canyon Creek tenuous. It is also AVLT's understanding that the Division of Water Resources has not yet heard the Applicant's pending cases. While it would be appropriate for the Applicant's proposed projects in Canyon Creek to be fully reviewed and approved by agencies like AVLT and DWR first before deeming a PUD application complete, at a minimum full disclosure and analysis of this information should be required components of the Water Supply Adequacy Report.

Finally, the Applicant's Environmental Impact Analysis fails to mention Canyon Creek at all. Especially given the potentially extreme impacts the project stands to have on the riparian and ecosystems health of Canyon Creek, AVLТ finds this exclusion of critical information to be deeply troubling and negligent at best. AVLТ's review found the Environmental Impact Analysis to thus be lacking and incomplete.

AVLT's recommendation to Planning Commission:

- Deem PUD application incomplete until required approvals from AVLТ, DWR, as well as any required consent from landowners along the proposed pipeline are obtained
- Deem PUD application incomplete until Water Supply Adequacy Report is complete with all pertinent information regarding the Vulcan Ditch pipeline project
- Deem PUD application incomplete until the Environmental Impact Analysis is complete with critical information on impacts to Canyon Creek and properties impacted by the Vulcan Ditch pipeline project

Thank you for the opportunity to provide comments on this matter. Please don't hesitate to contact me with any questions or clarifications.

Sincerely,



Bud Tymczyszyn, AICP (*tim-chiz-in*)

Stewardship Director
Aspen Valley Land Trust
bud@avlt.org
970.963.8440 ext. 107
970.456.1915 (cell)



January 23, 2025

Glenn Hartmann
Garfield County Community Development Department

RE: PUDA-05-8899 - Nutrient Farms PUD

Dear Glenn,

Thank you for the opportunity to comment on this.

Noxious weeds are discussed in the Weed Management Plan, the Reclamation Plan and the Impact Analysis Report.

The Environmental Impact Report page 49, states:

“As the area already has noxious weeds, new ground disturbing activities including agricultural activities, trails, and residential and commercial development will undoubtedly allow noxious weeds to expand their cover. Mechanical, cultural control, and biological control will need to be aggressive and persistent, with ongoing efforts being conducted throughout the growing season in order to control existing and new infestations. Without aggressive and persistent weed management, it is likely that weeds could move beyond the boundaries of the PUD and into adjacent lands and even into native habitats.”

Staff comments: The above comments by the applicant’s consulting ecologist are expressed throughout all three plans and reports. However, the current noxious weed situation at Nutrient Farms is a major concern for our department as well as neighbors and surrounding landowners. Since Nutrient Farms began its first phases of development and disturbance, our department has received a fair amount of complaints annually regarding the magnitude of noxious weeds at the site.

For instance, Scotch thistle is prevalent on the site and the current management strategy is to mow. As the Colorado Department of Agriculture’s fact sheet on Scotch thistle states: “Any mechanical or physical method that severs the root below the soil surface will kill Scotch thistle. Mowing or chopping is most effective when Scotch thistle plants are at full-bloom. Be sure to properly dispose of the flowering cut plants since seeds can mature and become viable after the plant has been cut down. It is imperative to prevent seed production”. Observations from the county road show that while there has been evident mowing and the height of the Scotch thistle has been reduced, it is still being allowed to produce seed.

Additionally, we understand that the applicant intends to attain organic certification in the future and has stated a preference not to use synthetic herbicides to manage the noxious weeds on the property. While the Colorado Noxious Weed Act and the Garfield County Weed Management Plan do not compel the use of herbicides, we do believe that an integrated weed management approach - using a variety of control methods - is always the best option. Regardless of the methods utilized, the goal is to prevent noxious weeds from going to seed. Therefore, continually allowing the noxious weeds observed at Nutrient Farms to go to seed, as they have been, is unacceptable.

Page 6 of the submitted Weed Management Plan briefly mentions weed management recommendations in terms of preventive, cultural, mechanical, and biological methods. For biological weed control, natural enemies (insects) are mentioned and the Colorado Department of Agriculture's Palisade Insectary is listed as a reference. My predecessor, Steve Anthony, had discussions (2020) with Nutrient Farms owner Andy Bruno on the use of beneficial insects from the Insectary, specifically for Russian knapweed, for which two different insects exist that have been successful here in Garfield County. Mr. Bruno has been reluctant to use insects on the property due to concerns that the insects may impact future agricultural production (crops and fruit trees).

For perspective, the Insectary has been situated and operating in the heart of western Colorado's most productive fruit and vegetable region for over 80 years. It is a known ally to local agriculture, not a detriment.

As you can see, we have a conundrum here. We are faced with a property containing one of the most significant weed issues in the county yet are offered limited tools with which to manage them once we prohibit both herbicides and biocontrol.

The final main problem is the lack of acknowledgment of spotted and diffuse knapweed occurrence at the site. Table 1 indicates that the noxious weeds found on the property include cheatgrass, common mullein, curly dock, hoary cress, houndstongue, Russian knapweed, Russian olive, salt cedar (tamarisk) and Scotch thistle. Diffuse and spotted knapweed are not mentioned in Table 1 at all, which is concerning.

Spotted and diffuse knapweed are significant noxious weeds that are not listed in the map and survey yet are known to be found on the Nutrient Farms property. Our department has worked with prior landowners and managers of this property, and there have been significant infestations of these two knapweeds found. In the past, they have been located on the south side of the county road. More of these species have been found along the old mine road on the west side of the property as it heads to the south. Both spotted and diffuse knapweeds are uncommon in Garfield County, unlike Russian knapweed. Therefore, it is important that we know where the spotted and diffuse problem areas are so that they may be managed accordingly and in a timely manner to prevent further spread.

Given the extremity of the situation, the submitted Weed Plan is unacceptable. It is general, vague, and lacking in detail on how specific noxious weed species will be managed. Additionally, it omits any reasonable timeline for when weed management will be occurring

Staff request 1:

We request that the applicant provide specific information on how each noxious species will be

managed effectively and a timeframe for when the management will occur to ensure that the noxious species do not have a chance to go to seed.

Staff request 2:

Remap the property for noxious weeds with a focus on spotted and diffuse knapweed. We recommend that this becomes a condition of approval. We are willing to meet on-site with the ecologist who is part of the applicant's consulting team to point out areas that have had spotted/diffuse issues.

Revegetation Security

The applicant shall quantify the surface area of disturbance in terms of square footage in all areas that will require:

- Temporary or long-term reseeding and erosion control in all areas of the project, excluding areas within building envelopes and agricultural operations. This may apply to permits covering the residential subdivisions, the commercial/industrial park, and the outdoor adventure park.
- Once this information is provided, staff would recommend a revegetation security of \$3000 per acre disturbed.
- The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards section in the Garfield County Weed Management Plan. The Reclamation Standards at the date of permit issuance are cited in Sections 4.06, 4.07 and 4.08 of the Garfield County Weed Management Plan (Resolution #16-12).

Regards,



Sarah LaRose
Garfield County Vegetation Manager

Ph: (970) 945-1377 x 4315

Email: slarose@garfield-county.com

NUTRIENT FARM PUD APPLICATION

LOVA REFERRAL

We offer the comments below on behalf of the LoVa partnership, comprised of New Castle, Glenwood Springs, RFTA and LoVa. This regional collaborative has partnered on grants furthering the design and construction of the trail between west Glenwood Springs and New Castle.

The MOU for an easement agreement for the LoVa Trail was executed on 7/31/18 between New Castle and Nutrient Farm. The agreement provides for a 25'-wide easement for the trail from the river bridge, west through the property, around Tibbetts Point to County Road 335.

The LoVa Trail master plan calls for continuation of the trail west from this point to the I-70 exit 105. When the easement was initially proposed, it appeared to be a good fit for both parties. Providing a corridor for human-powered access to an organic farm and restaurant seemed like a mutually beneficial partnership. Providing a healthy, non-polluting transportation mode to a "green", sustainable agritourism site aligns with the values and missions of both organizations. We continue to support the agreement and eventual construction of the trail across the easement.

The numerous additional amenities outlined in the application will bring tremendous traffic impacts. While we support the proposed construction of the LoVa Trail within the boundaries of the PUD, it's apparent that the trail segment would become a "trail to nowhere" until additional funding is available. We've learned that building small segments of trail which don't connect the larger community can be counter-productive and potentially detrimental to our efforts. For this reason, we strongly recommend the PUD include a commitment to construct the trail to the existing pedestrian bridge at exit 105. Connecting to the larger population center of New Castle will greatly reduce automobile traffic to the site. Residents will bike or walk, while visitors can park in town and ride or walk.

The LoVa Trail partnership endeavors to create walkable communities which minimize driving. It has invested in non-motorized, accessible infrastructure to provide residents with safe, separated corridors to recreate and commute. The PUD promises to be a great amenity, provided it mitigates the inevitable traffic impacts, especially to the Riverpark and Riverbend communities.

**Nutrient Farms PUD (File PUDA-05-22-8899)
Referral Responses**

Exhibit #	Public Comment, Name and Date Received
8-1	Riverbend Water and Sewer Company Monitoring Schedule – October 9, 2024
8-2	Applicant Overall Response – October 18, 2024
8-3	Applicant CPW Response – October 18, 2024
8-4	Applicant Overall Response – December 20, 2024
8-5	Land Use Tables – August 2023
8-6	Land Use Definitions – August 2023
8-7	Sign Design Requirements – August 2023
8-8	Applicant Response to Traffic Counts – November 6, 2024
8-9	Applicant Response to LoVa Trail – January 10, 2025
8-10	
8-11	
8-12	
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8-26	

RIVERBEND WATER AND SEWER COMPANY
Calendar Year 2024 Monitoring Schedule
Mailing Address: 9433 335 RD NEW CASTLE, CO 81647

Public Water System ID	Water System Name	Federal System Type	State Source Type	Service Connections	Population
CO0123679	RIVERBEND WATER AND SEWER COMPANY	Community	Groundwater	73	156
Primary County	Minimum Certification for Treatment Operator	Minimum Certification for Distribution System Operator	Last Inspection	Seasonal	Water Hauler
GARFIELD	D	1	12/12/2019	No	No

Contact Information			
Administrative Contact	Treatment Operator	Distribution System Operator	Owner
All public water systems are required to maintain an Administrative Contact, Treatment Operator (if applicable), Distribution System Operator (if applicable), and Owner. If the information below is incorrect or blank please send us a contact update form. This form and operator certification information is available by visiting wqcdcompliance.com/forms .			
STEVEN J BOAT	ALAN D LESLIE	ALAN D LESLIE	RIVERBEND WATER AND SEWER CO

General Information

Samples must be collected at the location specified in the Monitoring Plan or Record of Approved Waterworks.

- Schedules are updated every Wednesday evening. Please contact your specialist with questions cdphe.colorado.gov/wqcdcompliance#Contacts or call us at 303-692-3556.
- Use [Online Water System Search](#) to view system info, online records, contacts, violations, and sample results.
- Laboratory sample results must be analyzed by a certified laboratory using a certified method. **The requirements listed below are the minimum. Additional sample results (i.e. any and all) collected at a compliance sampling location and analyzed by a certified laboratory using a certified method must be submitted using the Online Portal wqcdcompliance.com/login, fax, or mail.**
- Please identify the **Facility ID and Sample Point ID** (listed below) when submitting sample results. Facility and Sample Point IDs are used to identify general sample site locations.
- All systems on a **3 year Lead and Copper** schedule must sample during the **calendar year and months specified** in the 'Lead and Copper Sample Schedule' under the 'Distribution System Sample Schedules' section.
- All systems that treat groundwater with a chemical disinfectant must monitor residuals at the entry point(s) to the distribution system **at least once per week**. The entry point residual must not be below 0.2 mg/L for more than 72 hours. When groundwater is treated with surface water or is 4-log approved the system must comply with the monitoring requirements in the 'Non-Distribution System Sample Schedules' section and the disinfectant residual level requirements in the 'Facility Specific Levels' section.

Monitoring Information

Distribution System Sample Schedules		
Facility ID	Facility Name	Facility Type
DS001	DISTRIBUTION SYSTEM	Distribution System
Microorganisms and Disinfectants		
TOTAL COLIFORM BACTERIA (TCR) Sample Schedule:		Collection Period:
1 sample(s) per Month during the collection period		January 1, 2024 to December 31, 2024
Use the Facility ID and Sample Point ID listed at the end of this monitoring schedule.		

Distribution System Sample Schedules

Facility ID DS001	Facility Name DISTRIBUTION SYSTEM	Facility Type Distribution System
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Microorganisms and Disinfectants

FREE CHLORINE Sample Schedule:
Measure **every time** you collect a TOTAL COLIFORM BACTERIA (TCR) sample

Disinfection Byproducts

TTHMs and HAA5s (Stage 2) Sample Schedule: ***Collection Period:***
 1 dual sample(s) **per sample point** for a **TOTAL of 1 dual sample(s) every 3 Years** during the collection period July 1, 2023 to September 30, 2023
Sample Result(s) Received
Collection Restriction:** Sample(s) **must be collected between July 1, 2023 and September 30, 2023
State Sample Point ID(s) (System Location ID(s)):
 DBP001 (RIVERBOAT DRIVE)

Lead and Copper

LEAD AND COPPER Sample Schedule: ***Collection Period:***
 5 sample(s) **must be collected every 3 Years** June 1, 2024 to September 30, 2024
Sample Result(s) Received
Collection Restriction:** Sample(s) **must be collected between June 1, 2024 and September 30, 2024
SAMPLES MUST BE COLLECTED FROM THE HIGHEST RISK SITES LISTED IN THE LEAD AND COPPER SAMPLE POOL INFORMATION AT THE END OF THIS MONITORING SCHEDULE.
Each sample must be reported with a State Assigned Sample Point ID (LCR###).
To ensure timely processing of results, please have the certified lab report all results electronically in CSV data format. Do NOT submit paper or PDF copies of lab reported data.

Non-Distribution System Sample Schedules

Facility ID	Facility Name	Facility Type	Sample Point ID	Sample Point Name	Sample Point Type
001	RIVERBEND WTP UNDRGRND VAULT	Treatment Plant	001	ENTRY POINT	Entry Point

Yearly Schedules

NITRATE Sample Schedule: **Collection Period:**
 1 sample(s) **per Year** January 1, 2024 to December 31, 2024

3 Year Schedules

SYNTHETIC ORGANICS GROUP Sample Schedule: **Collection Period:**
 1 sample(s) **per 3 Years** January 1, 2023 to December 31, 2025

VOLATILE ORGANICS GROUP Sample Schedule: **Collection Period:**
 1 sample(s) **per 3 Years** January 1, 2023 to December 31, 2025

This monitoring schedule is based on the system's current inventory and is subject to change. *Water systems are responsible for promptly reporting schedule errors or omissions.* Errors or omissions on monitoring schedules do not prohibit the Water Quality Control Division from enforcing monitoring requirements set forth by the Regulations.

Non-Distribution System Sample Schedules					
Facility ID	Facility Name	Facility Type	Sample Point ID	Sample Point Name	Sample Point Type
001	RIVERBEND WTP UNDRGRND VAULT	Treatment Plant	001	ENTRY POINT	Entry Point
6 Year Schedules					
COMBINED URANIUM Sample Schedule:			Collection Period:		
1 sample(s) per 6 Years			January 1, 2020 to December 31, 2025		
9 Year Schedules					
COMBINED RADIUM (-226 & -228) Sample Schedule:			Collection Period:		
1 sample(s) per 9 Years			January 1, 2020 to December 31, 2028		
GROSS ALPHA, WITHOUT RADON & URANIUM Sample Schedule:			*Collection Period:*		
1 sample(s) per 9 Years			January 1, 2020 to December 31, 2028		
Collection Restriction: Sample(s) must be collected at the same time as the COMBINED URANIUM sample(s)					
Satisfied Schedules					
NITRITE Sample Schedule:			Collection Period:		
1 sample(s) per 9 Years			January 1, 2020 to December 31, 2028 **Sample Result(s) Received**		

Compliance and Public Notice Schedules		
CCR Compliance Schedule - Schedule Closed		
Your 2024 DRAFT CCR will be posted at wqcdcompliance.com/ccr in March		
Activity Name	Activity Due Date	Activity Completion Date
SUBMIT CCR REPORT TO STATE	June 30, 2024	June 3, 2024
SUBMIT CERTIFICATE OF DELIVERY	June 30, 2024	June 26, 2024
LCRR Compliance Schedule		
Visit wqcdcompliance.com/lcr for more information		
Activity Name	Activity Due Date	Activity Completion Date
SUBMIT LEAD SERVICE LINE INVENTORY	October 16, 2024	March 24, 2023
Lead Consumer Notification - Delivery to consumers is required <u>within 30 days</u> after receipt of data from laboratory		
Activity Name	Activity Due Date	Activity Completion Date
SUBMIT ONE (1) LEAD CONSUMER NOTICE AND CERTIFICATE OF DELIVERY	December 31, 2024	Activity Not Completed

This monitoring schedule is based on the system's current inventory and is subject to change. *Water systems are responsible for promptly reporting schedule errors or omissions.* Errors or omissions on monitoring schedules do not prohibit the Water Quality Control Division from enforcing monitoring requirements set forth by the Regulations.

Facility Specific Levels		
<u>Facility ID</u> DS001	<u>Facility Name</u> DISTRIBUTION SYSTEM	<u>Facility Type</u> Distribution System
<u>Analyte Name</u>	<u>Level</u>	<u>Level Type</u>
FREE CHLORINE	0.2 mg/L	Minimum
FREE CHLORINE	4.0 mg/L	Maximum

Backflow Prevention and Cross-connection Control (BPCCC) Reminders:

- Annual BPCCC Reports need to be completed by May 1, 2024 for activities completed in 2023.
- The required survey compliance ratio is 1.0, unless you have a CDPHE-approved alternate ratio.
- The required Backflow Prevention Annual Compliance Ratio (assemblies + methods) ratio is 0.90.
- The supplier must ensure that no backflow prevention assembly is present for more than two consecutive calendar years without being tested, service being suspended to the customer, or the cross-connection being removed.
- Annual BPCCC reports should only be submitted to us if a violation occurred. Reports and supporting calculations will be reviewed during your next sanitary survey, however, we can request this information at any time.
- For more information regarding the requirements and how to compile a report please visit wqcdcompliance.com/forms or submit specific questions to cdphe_wqcd_fss_questions@state.co.us.

Storage Tank Reminders:

All storage tanks downstream of the entry point must be inspected twice per year unless an alternative storage tank inspection schedule has been established and included in the written inspection plan. An alternative storage tank inspection schedule is subject to our review and revision, generally during a sanitary survey, but alternative inspection schedules can be requested by us at any time.

All storage tanks downstream of the entry point are required to undergo a comprehensive tank inspection at least every five calendar years. For example, if a storage tank last had a comprehensive inspection in 2019, the next comprehensive inspection must be completed before the end of 2024.

Facility Information				Sample Point Information	
<u>Facility ID</u>	<u>Active Status</u>	<u>Facility Name</u>	<u>Facility Type</u>	<u>Sample Point ID</u>	<u>Sample Point Name</u>
001	A	RIVERBEND WTP UNDRGRND VAULT	Treatment Plant	001	ENTRY POINT
004	A	WELL NO 03	Well	004	RAW
005	A	WELL NO 04	Well	005	RAW
007	A	STORAGE TANK 1	Storage	007	NOT ENTRY POINT
008	A	STORAGE TANK 2	Storage	008	NOT ENTRY POINT
DS001	A	DISTRIBUTION SYSTEM	Dist System/Zone	DBP001	RIVERBOAT DRIVE
				RPDN	REPEAT DOWNSTREAM
				RPOR	REPEAT ORIGINAL
				RPOT	REPEAT OTHER
				RPUP	REPEAT UPSTREAM
				RTOR	ROUTINE ORIGINAL

DS001	A	DISTRIBUTION SYSTEM	Dist System/Zone	TCR001	R1
				TCR002	R2
				TCR003	R3
				TCR004	R4
				TCR005	R1U
				TCR006	R1D
				TCR007	R2U
				TCR008	R2D
				TCR009	R3U
				TCR010	R3D
				TCR011	R4U
				TCR012	R4D

Lead and Copper Sample Pool Information

The supplier must collect lead and copper samples from different **Department - approved** sample sites below until the minimum number of samples required is collected. Contact your compliance specialist if there are questions about unapproved sites. The supplier can **view details, add, manage, or inactivate unavailable sample sites on the Data Portal at wqcdcompliance.com/login under My...Sample Sites.** Sites have been grouped by sampling priority based on tier level:

- If present, **Tier 1** sites must be sampled unless reported as an unavailable high risk site.
- If present, **Tier 2** sites must only be sampled after all Tier 1 sites have been sampled or have been reported as an unavailable high risk site.
- If present, **Tier 3** sites must only be sampled after all Tier 1 and 2 sites have been sampled or have been reported as an unavailable high risk site.
- If present, **Non-Tier, Representative** sites must only be sampled after all Tier 1, 2, and 3 sites have been sampled or have been reported as an unavailable high risk site.

Unavailable high risk site reporting form is available at wqcdcompliance.com/lcr

NO TIER 1 - HIGHEST RISK SITES HAVE BEEN IDENTIFIED

NO TIER 2 - SECOND HIGHEST RISK SITES HAVE BEEN IDENTIFIED

This monitoring schedule is based on the system's current inventory and is subject to change. *Water systems are responsible for promptly reporting schedule errors or omissions.* Errors or omissions on monitoring schedules do not prohibit the Water Quality Control Division from enforcing monitoring requirements set forth by the Regulations.

TIER 3 - THIRD HIGHEST RISK SITES

State Assigned Sample Site ID (Required on Lab Chain of Custody)	Current Status
LCR001	Active - Sampling - Approved
LCR002	Active - Sampling - Approved
LCR003	Active - Sampling - Approved
LCR004	Active - Sampling - Approved
LCR005	Active - Sampling - Approved
LCR006	Active - Backup - Approved
LCR008	Active - Backup - Approved
LCR009	Active - Backup - Approved
LCR010	Active - Backup - Approved
LCR011	Active - Backup - Approved

NO NON-TIER, REPRESENTATIVE - FOURTH HIGHEST RISK SITES HAVE BEEN IDENTIFIED

Time Period Definitions

Time Period	Start Date	End Date
First Quarter	January 1, 2024	March 31, 2024
Second Quarter	April 1, 2024	June 30, 2024
Third Quarter	July 1, 2024	September 30, 2024
Fourth Quarter	October 1, 2024	December 31, 2024
First 6 Months	January 1, 2024	June 30, 2024
Second 6 Months	July 1, 2024	December 31, 2024
Year	January 1, 2024	December 31, 2024

Analyte Group Definitions

Analyte Group Name	Analytes in Group	Number of Analytes in Group
SYNTHETIC ORGANICS GROUP	1,2-DIBROMO-3-CHLOROPROPANE 2,4,5-TP 2,4-D ALDICARB ALDICARB SULFONE ALDICARB SULFOXIDE ATRAZINE BENZO(A)PYRENE BHC-GAMMA CARBOFURAN CHLORDANE DALAPON DI(2-ETHYLHEXYL) ADIPATE DI(2-ETHYLHEXYL) PHTHALATE DINOSEB DIQUAT ENDOTHALL ENDRIN ETHYLENE DIBROMIDE HEPTACHLOR HEPTACHLOR EPOXIDE HEXACHLOROBENZENE HEXACHLOROCYCLOPENTADIENE LASSO METHOXYCHLOR OXAMYL PENTACHLOROPHENOL PICLORAM SIMAZINE POLYCHLORINATED BIPHENYLS (PCB) TOXAPHENE	31

This monitoring schedule is based on the system's current inventory and is subject to change. *Water systems are responsible for promptly reporting schedule errors or omissions.* Errors or omissions on monitoring schedules do not prohibit the Water Quality Control Division from enforcing monitoring requirements set forth by the Regulations.

Analyte Group Definitions		
Analyte Group Name	Analytes in Group	Number of Analytes in Group
VOLATILE ORGANICS GROUP	1,1,1-TRICHLOROETHANE 1,1,2-TRICHLOROETHANE 1,1-DICHLOROETHYLENE 1,2,4-TRICHLOROBENZENE 1,2-DICHLOROETHANE 1,2-DICHLOROPROPANE BENZENE CARBON TETRACHLORIDE CHLOROBENZENE CIS-1,2-DICHLOROETHYLENE DICHLOROMETHANE ETHYLBENZENE O-DICHLOROBENZENE P-DICHLOROBENZENE STYRENE TETRACHLOROETHYLENE TOLUENE TRANS-1,2-DICHLOROETHYLENE TRICHLOROETHYLENE VINYL CHLORIDE XYLENES (TOTAL)	21

This monitoring schedule is based on the system's current inventory and is subject to change. *Water systems are responsible for promptly reporting schedule errors or omissions.* Errors or omissions on monitoring schedules do not prohibit the Water Quality Control Division from enforcing monitoring requirements set forth by the Regulations.

October 18, 2024

Glenn Hartmann, Planning Director
Garfield County Community Development Department
108 8th Street, Suite 401
Glenwood Springs, CO 81601

Re: Referral Comments Responses – Nutrient Farm Planned Unit Development (PUD) (PUDA-05-22-8899), Coal Ridge PUD Amendment/Revocation (PUAA-05-23-8898), and Riverbend PUD Amendment (PUAA-05-23-8963)

Dear Glenn,

Thank you for your assistance with our three Nutrient Farm related proposals, and we appreciate you forwarding to us the various referral agency comments that you have received. We appreciate the agencies taking the time to review our PUD materials and provide their comments and suggestions. Certain excerpts of referral comments are provided in italics for reference. We have replied to each of the referral comments below and will be glad to provide additional information if we inadvertently overlooked a comment or did not address a comment adequately.

Colorado Geological Survey (CGS)

Comment Letter dated October 17, 2023 is for all three applications. The Letter references the submittal materials and the proposed residential lots and various development areas. It states:

The 18 proposed residential lots shown on the 1/17/2023 SGM PUD Plan Map in Area I (five lots), Area 3 (10 lots), Area 4 (two lots), and Area 2 (one lot) do not appear to be exposed to slope-related hazards. The general recommendations in RJ Engineering & Consulting's Soils and Geohazard Evaluation are valid but preliminary.

CGS would like to review the preliminary plat for proposed new residential lots, when available, to ensure that proposed lots or building envelopes are set back a sufficient distance (30 to 40 feet) from the Colorado River 100-year flood hazard limits to minimize risk of damage to homes and yards due to erosion, scour, and undercutting.

Additionally, lot-specific subsurface investigation, consisting of drilling, sampling, lab testing and analysis, will be needed on each lot, once building locations have been identified and prior to building permit application, to develop site-specific recommendations for foundation(s), floor system(s), surface and subsurface drainage, pavements, etc.

We take CGS's comments with great credence and regard. Nonetheless, the fact remains that the reason that RJ Engineering & Consulting's Soils and Geohazard Evaluation are preliminary is specifically because at this very preliminary, big picture macro stage of PUD zoning, there are not the type of site specific considerations at play that subsequent reviews will afford. Zoning does not approve any of the development activities at issue in the CGS comments in and of itself. It simply sets forth the mechanism to get to that point at a later time.

As an overarching consideration for many of these comments, particularly in relation to the conceptual residential lots, we would emphasize that all such lots must first be subjected to the scrutiny of the quite rigorous County subdivision standards, review, and approval; as well as site plan/building permit etc., before there is any outside residential development on site. Under any circumstances, the future lots/building envelopes are planned to be located 30'-40' away from, upslope from and accordingly well above the Colorado River 100-year flood plain. Even beyond said subdivision review, lot-specific soil investigations will be conducted for the future homes' foundation and drainage designs prior to issuance of a building permit for any home on any lot. Further, any formal subdivision application will be referred to CGS for review during the referral process. In light of this extensive procedural and technical safeguard, and the very generic nature of the zoning now proposed, we believe there are no more outstanding items at this juncture related to CGS comments which are not otherwise well suited for site specific review in the future or already addressed in our materials.

Colorado Parks and Wildlife (CPW)

We extend our gratitude to CPW for taking the time to review the Nutrient Farm PUD application materials, provide thoughtful comments, meet with us in person and work collaboratively to come up with functional solutions to the issues noted. We are proud of the initially proposed mitigation measures, the preparation and implementation of the responsive Wildlife Impact Report in cooperation with CPW, and the additional very significant and contemplative mitigation efforts that we have developed in consultation with CPW. All such efforts are oriented around abating or mitigating any concerns over habitat fragmentation and/or loss has been reduced as much as possible and there will be no significant, long-term detrimental impacts resulting in reductions in herd size or significant impacts to habitat.

Please refer to the separate letter addressed to Mr. Travis Bybee for more specific details on this issue.

Colorado River Fire Rescue (CRFR)

Mr. Orrin Moon provided referral comments on October 17, 2023 noting that he was still in the midst of reviewing the material but had questions about the fire protection irrigated water, especially during the winter months. He stated:

...so far after reviewing pages and pages of information, the only thing that I have found that I have an issue with is the fire protection irrigation water. The question I have is will this system be in service year-round? They don't say one way or the other. Irrigation water only runs in the spring and summer. We can still have fires in the winter. I have not found anything about seasonal use on the tourist side of the farm. They have made comments that they have met with me, Yes, a couple of years ago, I told them what I would be looking for. Before I could see the plans. They also advised that they adhere to my requirements.

I am still working on this referral and going through all the documents. Please let me know when you need my referral on this project.

We appreciate Chief Moon's comments. On November 11, 2023 Dave Kotz of SGM met with Chief Moon reviewing the project and his comments. Additional information was sent to Chief Moon and we did not receive any additional questions or comments from him. We believe the initial questions/concerns have been adequately addressed.

Once the PUD is developed, fire flow needs will be met through potable and raw water storage or water supplies and infrastructure sizing. A potable water system with hydrants will be provided as shown on the water and sewer plan. For those portions of Nutrient Farm served by its own water systems, multiple dry hydrants connected to the irrigation and recreational water ponds will be installed thought the property for emergency use by the CRFR. Raw water hydrants can be available year-round if deemed beneficial in certain areas or for temporary conditions.

Mountain Cross Engineering

Mr. Chris Hale provided referral comments for all three applications on October 17, 2023. “No comments were generated” for the Coal Ridge PUD Amendment/Revocation and the Riverbend PUD Amendment, and 20 comments were provided specifically for the Nutrient Farm PUD. Those comments and our responses have been provided below. Thank you to Mr. Hale for taking the time to review the submittals’ material and provide comments and suggestions. We believe all have been adequately addressed.

Specific to the Nutrient Farm PUD:

- 1. The development will essentially be on a dead-end road with only one access for emergencies. The Applicant should evaluate interior roadways circulation to allow for alternative routes in cases of emergency.*

While the public road system entails only one road, as it always had since the high density residential development of Riverbend, Nutrient Farm’s internal public drive system and its private farm roads may all be used as alternative emergency accesses routes to bypass portions of CR 335 in the case of emergency. Moreover, Storm King Road in the adjacent Riverbend Subdivision Filing No. 2 extends into the property and serves as the existing driveway connection for the Farm House in Area 2 on the eastern portion of the property. This will only be used by the Owner/Developer for direct access to and from the Farm House to the Eastern Working Farm, not as an alternative public throughway for everyday use. However, should the fire department/emergency services or the public need it, the driveway may also serve as emergency access connecting Storm King Road and the existing residences to the internal public and farm roads and eventually to CR 335.

The proposed PUD will also enhance the means of access to the Colorado River, which can also be a crucial consideration in an emergency circumstance. In summary then, this proposed development not only improves the emergency access concerns for its own Property area, but it can also significantly improve the circumstances for the entire area, on what has always been a baseline challenging logistic.

Moreover, if at some point other public entities are able to implement their plan to build a bridge for the LoVa Trail across the Colorado River on eastern portion of the property, Nutrient Farm will be glad to give an emergency access easement for public use across the property in the LoVa Trail corridor and over this bridge as an alternative means to cross the Colorado River near I-70.

- 2. The Applicant proposes 12% maximum grade however this is generally too steep for fire and emergency vehicles. Maximum grade should be limited to 10% especially considering that most of the roads are proposed to be gravel. Roadway construction plans and profiles should be submitted to Garfield County for review to obtain grading permits for road construction.*

We will be glad to revise the proposed Nutrient Farm PUD Guide text to indicate a 10% maximum grade for the private roads rather than the proposed 12% maximum grade. (The private roads were the

only types of roads proposed to exceed the 10% grade.) With that now offered, we would be remiss not to note that per Table 7-107 of the County Code, Rural Access Roads, Primitive Roads, Driveways and Public Lands access roads are all allowed a 12% maximum grade. Most of the roads of higher grades throughout Nutrient Farms will fall under these categories, and thus will be well within the allowed scope of the Code. For all potential residential areas, all oriented much closer to CR 335 and thus on much more gentle slopes, the grades will be significantly less than the Code maximums in place.

3. The Applicant should provide the required CDOT Access permit for increased traffic.

We contacted Mr. Brian Killian, Colorado Department of Transportation (CDOT), on November 1, 2023 and provided our CDOT Level III Traffic Impact Study to him. On November 15, 2023 Mr. Killian responded to Dan Cokely, SGM, that: *CDOT will not require an access permit for this development.*

In the nearly one year since that point in time, both County Planning Staff and the development team have sought follow up communication with CDOT to ensure there were no additional comments or concerns. To our knowledge, to date, no party has since received a response from CDOT, either written or verbal. Under such auspices there is no reasonable course of action but to proceed off the actual, direct indications that CDOT did in fact provide. Further, there will be ample means for follow up and additional CDOT input as this development progresses, via the review process in place for each of the many specific elements of development at Nutrient. This is arguably a much more astute point for any such input anyhow, as the specifics of each particular phase of development can be specifically addressed and resolved in much greater detail in a contemporaneous manner.

4. The Vulcan Ditch is proposed to be a potable water source delivered across the river in a suspended pipeline. The Applicant should better discuss provisions for winter. Typically, ditches are shut-down during the winter. Is the river crossing proposed to be used through-out the year? Are there provisions for heating the pipe to prevent freezing? Alternatively, is the pond to be filled in the fall to last through the winter? How large will the pond need to be to provide sufficient volume for potable water and fire storage?

The Vulcan Ditch will consist of buried 24” and 18” fused HDPE pipeline with 3’ minimum cover capable of delivering wintertime flows if needed. The river crossing may consist of an insulated aerial crossing or an HDD bore. That said, the primary plan at this time is to use the ponds shown to provide wintertime water. For perspective on volume, at full-buildout of the PUD Nutrient Farm will need about 16.2 acre-feet of water for November – March. This equates to an average flow rate of slightly less than 0.06 cubic feet per second (cfs). A fire event volume could be 1,500 gpm for 2 hours which is 180,000 gallons or 0.55 acre-feet.

Moreover, while irrigation in the winter might be more challenging, farming and thus demand for irrigation is also quite a bit more challenging in the winter. Accordingly, the plans for wintertime use ensure that there will be adequate storage even in the hardest of climate conditions, and particularly at this initial juncture of the project when most of the water usage is farming oriented. If and when the residential element of this project proceeds, we plan to and have acknowledged that there will need to be some more centralized water system serving such residential needs.

5. *The geo-hazard letter suggests that geo-hazards can be mitigated through engineering but stops short of recommending mitigation measures. Site specific, geotechnical, geo-hazard, and slope analysis should be conditions of building permits.*

Additional site specific, geotechnical, geohazard and slope analysis will indeed be provided in the future for County review and approval in association with the applicable building permits, as well as during the future land use review processes that will pertain to each particular element of Nutrient Farm when that aspect actually moves forward with development. The PUD and the Garfield County Land Use and Development Code (LUDC) both already call for such analysis at the proper future point in time. Currently, no final building locations or designs have been prepared; consequently, there is no site specific analysis to provide.

6. *The site will need to obtain a stormwater permit from the CDPHE for discharges associated with construction. A copy of the permit should be provided to Garfield County once obtained.*

Agreed. A copy of the permit will be provided to the County prior to construction occurring pursuant to the PUD and meeting the one-acre disturbance threshold.

7. *The application materials identify that there are ephemeral drainages that bisect the proposed PUD. These drainages should be identified on the PUD map and a drainage easement placed on them to protect them from disturbance.*

The two larger ephemeral drainages that cross the land from south to north, draining into the Colorado River will remain undisturbed with existing crossings in place. Fortunately, the entire Nutrient Farm property is owned by a single entity, Nutrient Holdings LLC. Nutrient Holdings plans to develop the Nutrient Farm property as a cohesive community and has no intention of selling off any portions of it to others to be developed. No development is planned or permitted in the PUD upon or directly adjacent to such ephemeral drainages. It is also important to stress that these are ephemeral drainages with no wetland or riparian characteristics. They will be integrated into the plans for the future uses and the grading and drainage plans for those uses and/or structures on the property. Invariably, all PUD standards and all County Code requirements will be met. In light of such considerations, there is no practical purpose or function to plating easements on one's own property. Nevertheless, we are happy to instill additional language into the PUD which states that all development in Nutrient Farm shall avoid the existing ephemeral drainages to the greatest extent practicable and shall adhere to all LUDC standards related to such disturbance. This should effectively assuage any concerns over such drainages, even if the property wasn't owned by a singular entity for a cohesive use.

8. *The application materials propose to treat storm water prior to discharge per the Impact Analysis provided although neither a drainage plan nor an erosion control plan was provided. Site specific grading and drainage plans for building permits should be conditions of building permit. A regional drainage plan should be considered to coordinate drainage and erosion control from multiple potential building sites.*

As suggested, a regional drainage plan will be developed to coordinate drainage and erosion control on the Nutrient Farm property. This PUD request merely pertains to zoning, and thus future uses. In other words, it does not provide any direct approvals to allow for any specific uses to be constructed or operated; rather, only the ability to propose a use in the future. Future uses will be subject to special review on several levels by the County before they commence. We anticipate that site specific grading

and drainage plans will be required by the County for review and approval prior to issuance of any building permits, and we are glad to abide by this requirement.

9. *The noise study proposes that mitigation measures will be in place prior to events. During the first events that are scheduled, the Applicant should verify the actual sound levels against the assumptions that were used in the noise study. Mitigation measures should be verified and/or revised based on actual noise levels.*

It is our intent that any sound emanating from the recreational, entertainment or commercial activities will be properly mitigated and controlled and noise impacts avoided and abated. This PUD request does not provide any direct approvals to allow or any specific uses to be constructed or operated; rather, only the ability to propose a use in the future. Future uses will be subject to special review on several levels by the County before they commence, reviews that can effectively address sound impacts as well as a wide array of other impact concerns.

As mentioned in the Narrative, we wish to be good neighbors and minimize the sound generating from the property. To that end, our proposed locations for the potential events do and will always take into consideration the most appropriate spot on Nutrient Farm itself as well as other effective mitigation measures. For example, the location of the performance center is on the upper western reaches of the property, far from any residences and naturally shielded by topography. Furthermore, sound modeling was conducted, and Sound Standards and requirements were drafted into the proposed PUD Guidelines to protect the surrounding properties. We consulted with sound and noise professionals in setting forth such standards in the proposed PUD. Any future uses that could possibly generate noise are required to submit an additional formal application to the County and be reviewed through the Major Impact Review process (i.e., the Outdoor Music and Entertainment venue and the Motor Sports Center (aka “OHV Park”). A specific Sound Standards section was included in the PUD Guide which states:

...In order to minimize any potential sound impacts to adjacent properties, future sound studies shall be provided to the County for review and approval for site specific development or use requests that could potentially necessitate mitigation means at the time of County review of those requests.

Such development may include such contemplated uses and the Motor Sports Center and the Outdoor Music and Entertainment areas....

The sound levels shall meet all applicable County requirements and Colorado Revised Statutes...

Sound mitigation techniques shall be utilized by the Owner/Developer, as needed, in order to minimize any potential impacts to adjacent properties; and may be specified as requirements via any County approval related to such development and uses.

In terms of the Motor Sports Center (aka “OHV Park”), our intent is to provide only 100% electric vehicles initially at the Motor Sports Center (aka “OHV Park”) that will not create a sound disturbance to the neighbors. If after future sound testing and modeling, it is found that gasoline vehicles can meet County/State standards, they may be used.

We believe that with proper sound planning and mitigation, such as varying the speaker intensity, speaker orientation, the construction of wall/berms/landscaping barriers, hours of operation, natural and designed shielding and screening, and other mitigation strategies, future outdoor venues and

activities can satisfy all County/State sound level requirements and will not be a nuisance to the surrounding properties. (Please refer to the Report, Impact Analysis Report, narrative, and PUD Guide for details.) We will be glad to work with the County at the time of site plan review and implementation to verify the future use specific mitigation measures are working the way they were intended and modify those mitigation measures if and as needed.

10. The Traffic Study recommends that parking and traffic control be employed for larger events but does not distinguish between small and large events. The Applicant should provide better guidelines for distinguishing between small events and those that require traffic control.

The Traffic Impact Study does not differentiate between small or large events but considered 350 individuals as the threshold for the music events in the Proposed Development Land Uses Table on page 2. (Not all Nutrient Farm Events will have this many persons in attendance). The Traffic Impact Study recommends that although the CR 335 and Bruce Road intersection and CR 335 accesses are able to operate adequately during the projected Music Festival traffic volumes, those events should have either Uniform Traffic Control or Certified Traffic Control supervision. Those controller locales will be at the CR 335 and Bruce Road and CR 335 and event accesses intersections to provide safe operations during the peak entry and exiting periods of the events. (Page 1, summary.)

Thus, under the Temporary Parking Plan section III. C.3. in the PUD Guide, a Temporary Parking Plan is discussed and it is noted that a short-term non-permanent temporary parking plan on the Nutrient Farm property will be implemented for **all** Nutrient Farm Events, including those with an expected attendance of 350 persons or more. It also states that for Nutrient Farm Events, either Uniform Traffic Control or Certified Traffic Control supervision at the County Road 335/Bruce Road intersection, as well as at all CR 335 access into the property will be provided at peak entry and existing times.

However, later in the PUD Guide, under section III.H.5. Specific Land Use Standards, Nutrient Farm Events are defined and further regulated. It specifically states, *All Nutrient Farm Events with an expected attendance of 350 persons or more shall comply with the Temporary Parking Plan contained within this PUD Guide.* (Please see pages 19 and 28 of the PUD Guide for details.) We point to this provision to assuage any concerns over what would transpire in “smaller events. We see the discrepancy and confusion inadvertently created and the Temporary Parking Plan subsection d. of the PUD Guide will be revised to clarify and resolve this concern. The new language will indicate that all Nutrient Farm Events will employ the Temporary Parking Plan but only those Nutrient Farm Events with an expected attendance of 350 persons or more will utilize the recommended traffic control measures. The threshold of 350 people is not grabbed from the air; rather it is consistent with recommendations and determinations presented in the Traffic Impact Study and it is also similar to the 350 individuals specified in the Garfield County Land Use and Development Code definition of Public Gatherings.

We believe that threshold trigger of 350 guests is not large compared to other uses or activities, at Nutrient Farm or throughout the County. For instance, any student school day attendance, football and basketball events can easily generate well beyond 350 persons or more and do not provide traffic control supervision, or really any contingency plan whatsoever. A party at an individual home can have scores of people attending without a singular safeguard. Churches, especially during the holiday seasons, most likely have large attendances and do not provide traffic control supervision. Many bar and restaurants well exceed 350 patrons over the course of an evening.

In rather stark contrast, as noted in the Study, the music events in question have very significant safeguards to ensure that any notable level of attendance will not degrade the operation of the road and entry/exit will only take place for a brief period of time. In fact, we naturally hope that our daytime operations during orchard season etc. will have a significant level of attendees. Yet, these attendees will likely be during different times than the music events we contemplate. Also, we have much more ample parking than most businesses, and thus we are highly confident that the impacts on traffic and parking will be quite seamless in any circumstance.

11. The PUD guidelines propose no setback restrictions for porches, decks, slabs, etc. These items are often constructed and conflict with drainage features or easements that are intended to be in the setbacks. The Applicant should restrict these items in the setbacks or five feet from the property line when easements or drainage is anticipated.

The proposed Table 4 of the PUD Guide will be revised to require a 5’ setback from all property lines for Minor Accessory Improvements. The PUD Guide Table 4 mimics Section 3-202.F. General Restrictions and Measurements – Table 3-202: Projections which states there are no restrictions for at-grade uncovered porch, slab, patio, walk, steps and porches and decks less than 30” in height:

F. Projections.

Every part of a required yard shall be unobstructed from ground level to the sky except for projections as shown in Table 3-202.

Type of Feature	Allowed Encroachment into Setbacks		
	Front Yard	Side Yard	Rear Yard
Architectural Features (e.g. Cornice or sills)	1 Foot	1 Foot	1 Foot
Roof Eave	18 Inches	18 Inches	18 Inches
At-Grade Uncovered Porch, Slab, Patio, Walk, Steps	No Restriction	No Restriction	No Restriction
Fire Escape, Balcony (Not Used as Passageways)	4 Feet	18 Inches	4 Feet
Porch and Deck (Less Than 30 Inches in Height)	No Restriction	No Restriction	No Restriction

12. The application materials do not provide a water quality analysis nor a four-hour pump test for the well for the farm house. This should be provided to Garfield County for review.

This PUD application is a zoning request rather than a preliminary subdivision plan. These materials will be provided as part of the subdivision process as required by Garfield County Land Use and Development Code.

We understand this comment refers to the Area 5 farmhouse well. In addition to the Working Farm East, Area 5 is also slated to have a farmhouse. The residential lot in Area 5 may be served by a new well or it may be served by the Vulcan Ditch. If the Area 5 farmhouse will be served by a well, a well test will be completed at the time of construction. If the Area 5 Farmhouse is served by a well, Nutrient Farm will obtain an exempt well permit associated with the existing parcel prior to subdividing that parcel to create the small 1+ acre Area 5 farmhouse lot. As part of the subdivision process, Nutrient Farm will be required to submit a four-hour pump test and water quality tests for the Area 5 farmhouse well.

13. The Applicant should verify that the Riverbend Water and Sewer Company (RWSC) is in good standing with CDPHE.

We have recently contacted RWSC and Colorado Department of Public Health and Environment (CDPHE) to see what they could tell us. RWSC reports no known issues. Monica Huacuja Espinosa of CDPHE reports *...the PWSID for RIVERBEND WATER AND SEWER COMPANY is CO0123679 and they have no violations or inspection deficiencies that are currently open and the last violation for this system was in 2019.* SGM checks for wastewater permit number COG590006 revealed only one exceedance back in 2018. Should Nutrient Farm decide to plat the residential lots, both the water and sewer systems will have to be operating satisfactorily.

14. The Applicant provides a will serve letter from the RWSC but an agreement still needs to be negotiated and finalized between the parties. Evidence that the parties have reached an agreement should be provided.

Should Nutrient Farm decide to plat the residential lots, the agreement will be finalized during that effort. As mentioned in the PUD Guide, the residential homes in Areas 1, 3, and 4 are planned to connect to the existing Riverbend Water and Sewer Company (RWSC) facilities and a Will Serve Letter has been provided confirming capacity and ability to serve those future homes.

It is atypical for any water district to offer a formal will serve letter or a formal inclusion agreement prior to any actual development being proposed. It is never required to reach that level of formality at the point in time that zoning is proposed. Thus, it is in part to protect such water districts, as once they issue a will serve letter, they have committed a portion of their finite water supply to a development that is no more than merely zoned to potentially allow such uses in the future.

Imagine if any undeveloped area zoned for high density residential mandated a will serve agreement while such areas remained undeveloped. It would create an unmanageable scenario. Such is the case with this PUD. The commitment that we have secured with the RWSC is all they are willing to give and all that is ever required at this juncture (again, simple zoning). This is also directly in line with the Code provisions on water and sewer at this juncture. Ultimately, if and when we wish to develop the residential subdivision as planned, we will have to show proof of a committed water supply prior to recoding a final plat. Of course, this is also what the RWSC letter stipulates.

Ultimately, a formal agreement will be negotiated and finalized with the RWSC, if hopefully the proposed PUD has been reviewed and approved by Garfield County, and a subdivision proposal or other land use approval is applied for in association with any development applications/building permits for uses that plan to utilize the RWSC systems (i.e., subdivision applications.) It would not be prudent for us or the RWSC to enter into an agreement without County and other referral agency comments until we better understand capacity and any other requirements related to infrastructure improvements for any type of system connection, be it one building or 10 homes. If it is later determined to be physically or financially unfeasible to connect to the systems, these units must demonstrate proof of an adequate, legal, and viable alternative water system prior to being constructed. Such structures, based on any such concerns, may even be modified and/or relocated to other areas in the PUD or alternative water and sewer systems provided for them in accordance with the standards of the LUDC and Colorado Law. All submittal requirements and studies will be provided to the County and disseminated to all agencies including the State Division of Water Resources for review and approval. (Please see page 6 of the PUD Guide for this same information.)

15. Fire flow storage is inadequate from the water storage tanks of the RWSC by current standards. The Applicant should verify how this will be addressed.

All fire flow needs will be met through potable and raw water storage or water supplies and infrastructure sizing. Specifically, for those portions of Nutrient Farm served by its own water system, we will have multiple potable hydrants and dry hydrants connected to the on-site cisterns or irrigation systems. Moreover, recreational water and detention ponds will be installed throughout property for emergency use by the CRFR.

The new residences in Development Areas 1, 3, and 4 are planned to connect to the nearby Riverbend system. Numerous fire hydrants are located throughout the existing Riverbend subdivisions. The existing Riverbend potable system provides about 50,000 gallons of storage augmented by a 115 gallons per minute (gpm) supply flow from their wells. Should Nutrient Farm decide to plat the residential lots, the intent is for Nutrient Farm to add a 150,000 gallon potable storage tank to bring the fire storage component up to municipal standards as new residential lots are platted in Areas 1, 3 and 4 in exchange tap fee credits. New fire hydrants from 8-inch diameter lines will be placed as necessary so that each new residential lot is within 250 feet of a hydrant. Ultimately, a functional Code compliant fire suppression plan will be a mandated element of any such subdivision if and when it is reviewed.

16. The Onsite Wastewater Treatment System (OWTS) for Areas 6-2 and 6-3 will be very large and require CDPHE approvals. It appears that the RWSC waste water treatment plant (WWTP) is nearby. The Applicant should discuss if connection to the WWTP is feasible.

Agreed. The OWTS systems will be permitted with CDPHE. The referenced OWTS locations substantially exceed the 400' threshold listed in LUDC 7-105 B.2.a. and Nutrient Farm does not wish to connect these systems to RWSC facilities.

17. The OWTS flows assumes a restaurant that is open for 1 or 2 meals but with tent and RV camping nearby and the many uses proposed, it is feasible that the restaurant would also serve breakfast. The size of the OWTS should be verified based on these flows.

Design flows will be verified/refined prior to design of the system in the future. The scope of allowed operations of the restaurant will naturally be restrained by the functionality of the systems servicing the restaurant, including OWTS.

18. There is an OWTS proposed for the swimming pool. Typically, pool disinfection is an issue for bacterial valuable for a healthy OWTS. The Application should discuss if an OWTS is the best method for disposing off the pool wastewater or discuss measures to be employed for protection the OWTS.

Pools will not be drained to OWTS. Any chlorinated pools will be dechlorinated to safe levels before being drained.

19. The proposed bunkhouses will require approvals from Garfield County and submittals will need to address adequacy of sewer, water, and traffic.

This is understood and is specifically noted in the PUD Guide as Footnote 4 under Table 1/Development Areas, Private Open Space Tracts and General Land Uses Summary. It states:

Bunkhouses for seasonal and full time agricultural employees and On-Site Employee Housing units for employes of Nutrient Farm may be constructed in these Areas. These units are not mandated inclusionary housing under the LUDC, nor shall any provisions of such be applied

to them, but such housing may be recognized as operative employee housing as a public benefit accordingly. All necessary applications studies and reports shall be submitted to Garfield County for review and approval prior to the construction of any of these units including, but not limited to, the provision of water and wastewater, vehicle trips, and other infrastructure improvements. No modification to this PUD Guide shall be required.

Page 2 echoes this requirement for not only the bunkhouses/employee housing, but any future uses beyond that included in the PUD Guide and shown on the PUD Plan Map:

Any future use or expansion of any uses/buildings beyond that included in this PUD Guide and shown on the PUD Plan Map shall be reviewed and approved by Garfield County per the applicable development review and permitting process. All necessary studies and reports, including any updates to the Nutrient Farm Level III Traffic Impact Study, Water Adequacy Report for the Proposed Development Central Water Distribution and Wastewater Systems Report and OWTS Engineering Report shall be submitted to the County for review and approval. Any additional infrastructure, road improvements, and/or impact fees associated with the use or expansion shall be remitted to Garfield County at that time.

20. *The application materials do not address potable water usage and sewer facilities for the large events. The Applicant should discuss what is anticipated.*

Nutrient Farm is aware the OWTS capacity can be exceeded for these events and will bring in additional portable restrooms as needed. Water can also be brought in for convenience during larger events. Formal provisions will be provided in the future applications to allow such uses, and this issue will be addressed well before any such uses are allowed or take place.

Garfield County Public Health/Environmental Health Department

Mr. Ted White provided a response to Mr. Glenn Hartmann on October 11, 2023 indicating he had a few questions for Mr. Hartmann regarding the project. We are not aware of any additional comments from the County's Public Health/Environmental Department and assume they are comfortable with the three applications.

Colorado Department of Transportation (CDOT)

As requested by Mr. Brian Killian, the CDOT Level III Traffic Impact Study for Nutrient Farm was sent directly to him for review on November 1, 2023 by Dan Cokely, SGM. On November 15, 2023 Mr. Killian responded that: *CDOT will not require an access permit for this development.* (A copy of that email has been attached for reference.) Please see the comments above for further thoughts on CDOT.

US Army Corps of Engineers (Corps)

The Corps responded to the referral request on September 18, 2023 indicating that they did not have the ability to provide project-specific comments. We take this to mean that since no specific improvements are proposed or will be approved with this PUD zoning request, they had nothing to comment on. The response notes that a permit must be obtained for discharge of dredge or fill materials into jurisdictional waters of the United States which requires such waters to be navigable and potentially includes rivers, streams, lakes, ponds, wetlands wet meadows, seeps, and some irrigation ditches. The response suggested a delineation of aquatic resources be prepared.

As noted in the PUD Guide and Narrative, the Colorado River runs through the northern portion of the Nutrient Farm property. Although no formal wetland delineation took place for this PUD request, based on in-field inspection of the plants and soils, sparse and discontinuous wetland/riparian vegetation exists along the bank of the Colorado River. No wetlands extend beyond the immediate vicinity of the Colorado River's channel. In connection with any future site plan request for any activities or improvements near the Colorado River, a wetland delineation will be and must be prepared in accordance with Section 404 of the Federal Clean Water Act regulations, as well as the County Code, and any applicable permits will be obtained from the Corps and/or County.

Colorado Department of Public Health and Environment (CDPHE)

On September 18, 2023 CDPHE responded via email to Mr. Hartmann about the three applications by providing two links – one for their general comments and one related to oil and gas. They also stated that they will continue to review the request to determine if any additional comments are necessary, and if so, submit them by the referral deadline.

The live links were not available to us and Staff indicated that the links only provide generalized information. Since no additional referral comments were received, we can only presume that CDPHE has no concerns with the application.

We note that water and wastewater services will be provided to Nutrient Farm in a variety of ways through the construction of multiple on-site systems for agricultural, recreation, and commercial uses or connecting the nearby private RWSC facilities for the new residential uses. No County or municipal water or wastewater services are sought. The systems for the homes will be either constructed for that specific home or be centrally connected to the adjacent public systems. The remainder of the property will work as one holistic, uniform operation under one Owner/Developer. (The PUD Guide, pages 46 and 47 specifically address the water and wastewater disposal systems for the various Development Areas in Nutrient Farm.). Any internally operating public water system in the future will invariably have to comply with the CDPHE guidelines and regulations for a public water system. All wastewater must meet State and County OWTS standards.

The ultimate water systems' design and treatment requirements will depend on each water systems' designation – public or private for the various uses – and inevitably all local and State required drinking water and water quality and quantity standards will be followed and exceeded. The intent is to start with private on-site systems and then convert to public water systems as needed when required operationally. (Please refer to the Water Adequacy Report, Central Water and Distribution and Wastewater Systems Report, and the Water and Sewer Plan provided in the submittal materials for details.)

We have been working with Ms. Kate Morell of CDPHE regarding the water program for Nutrient Farm. Nutrient Farm does not require its own Public Water System at this time. We will of course continue to do so as the development on Nutrient Farm evolves, and the water use profile evolves along with that development. This will invariably be an ongoing process, not a snapshot in time at any point. As noted before, no specific uses are requested or will be allowed with this PUD, rather the PUD is only a zoning document and future site specific approvals must be obtained from the County for any specific uses.

Colorado Department of Water Resources (CDWR)

Ms. Megan Sullivan from the CDWR provided referral comments for the three applications on July 17, 2024. The comments very astutely note that the PUD application is a zoning request rather than a preliminary subdivision plan and that not all of the proposed allowed uses may be constructed. As we discussed with her, additional permitting will be required for each of the individual proposed uses.

No specific concerns regarding our submitted Water Adequacy Report or adverse impacts to downstream users were raised by CDWR. The existing water rights and the water demands for the various proposed uses and systems are reviewed and information on the intended well permit for the residence in the Work Farm East is provided.

CDWR did include a comment about the permitting process for the proposed exempt well for the Area 5 farmhouse:

The applicant should be aware that in order to qualify for an exempt well, at the time of application and permit issuance the parcel where the well would be located cannot be included in subdivision of land approved after the Colorado River was determined to be over-appropriated (May 22, 1981) and, in order to serve more than one single family dwelling, the parcel must be more than 35 acres in size. If an exempt well permit is obtained and the well is constructed on a parcel greater than 35 acres before its subdivided, the well could possibly be allowed to continue to operate under the exempt well permit.

We appreciate this clarification regarding the order of operations of the permitting process. Area 5 is currently part of Garfield County Parcel ID 212335300081, a 236.939 acre parcel. The proposed Area 5 Farmhouse Well would be the only exempt well on this parcel per the PUD development plan as proposed. Applicant would apply for an exempt domestic well permit for a parcel of land of 35 acres or larger (associated with the current ~237 acre parcel) prior to subdividing the parcel to create the smaller ~1 acre farmhouse lot, should we proceed in that route in the future.

It is our understanding of Senate Bill 20-155 and Colorado Revised Statutes Section 37-92-602 (3)(b)(III - IV) that if the land on which the exempt well is subdivided and “the well is used on only a single parcel of the divided land and remains the only well serving that parcel” and other provisions are followed, the presumption of no material injury is not lost. After subdivision, the Area 5 farmhouse well would remain the only exempt well on the original parcel. Ultimately, this is all an exercise in supposition at this time, as the land is not being subdivided, and we are only dealing with the issue of the overarching PUD zoning for the Property. But the safeguards are surely in place for the future however the farmhouse well issue plays out.

As CDWR stated, this exempt permitting process will require review to ensure all provisions are met, and it is therefore not *certain* whether the exempt well permit can continue with the smaller ~1 acre parcel after subdivision. As such, Nutrient Farm has prepared for the possibility that augmentation may be needed for the Area 5 farmhouse well. As stated in the September 2020 Water Supply Report, the annual consumptive use of indoor demands for the Area 5 farmhouse to be supplied by a new well is 0.07 AF. While this new well will likely qualify as an exempt well (would not require augmentation), Nutrient Farm has conservatively set aside 0.07 AF of Vulcan Ditch HCU credits for this use in the event that the credits are needed to augment the well uses.

CDWR also noted in its comments letter that in a dry year some of the irrigation uses may need to be curtailed:

During the late irrigation season of dry years, the Canyon Creek physical and legal supply is sufficient to provide for the peak hour potable demands. However, dry year supply available for non-potable demands may be limited to the 5.36 cfs in the Vulcan Ditch first priority. This 5.36 cfs is sufficient to meet max day demand but may require some irrigation reductions or storage to meet peak hour demand.

Nutrient Farm understands in dry years it may have to use storage and/or prioritize its irrigation needs and will certainly curtail irrigation uses if conditions warrant.

We would like to point out that in these situations, Nutrient Farm also has the legal and physical ability to divert its Vulcan Ditch rights from their decreed alternate point of diversion from the Colorado River at the Coal Ridge Pump and Pipeline (Case No. 84CW349). While Nutrient Farm prefers to take its Vulcan Ditch water from Canyon Creek (due mainly to the superior water quality of Canyon Creek over the Colorado River and the lower carbon footprint offered by the gravity fed pipeline from Canyon Creek over pumping from the Colorado River), Nutrient Farm does have the ability to pump from the Colorado River when necessary if physical supply is limiting on Canyon Creek. Inevitably, no pun intended, we will cross that bridge if and when we come to it.

We appreciate Ms. Sullivan's comments and understand that any future proposed uses will be reviewed in detail.

Middle Colorado Watershed Council (MCWC)

Middle Colorado Watershed Council (MCWC) provided comments for the Nutrient Farm PUD request dated July 27, 2023.

We hope that Nutrient Farms will make their best effort to make sure adequate water stays in canyon Creek during glow flow conditions. The benefits of fish passage structure and ditch enhancement projects will be reduced if stream connectivity is lost. Rebuilding the Vulcan Ditch at its historical location with full use of the available water rights could divert instream flows out of Canyon Creek and impact the creek aquatic ecosystem and the drainage watershed.

MCWC encourages Nutrient Farms to provide voluntary bypass flows of half the water rights during low flow conditions to mitigate the potential impacts of restarting the Vulcan Ditch. Full use of the Nutrient Farms' Vulcan Ditch water right at the current headgate location has the potential to dry up and create a connectivity gap in Canyon Creek. During low water year conditions, Nutrient Farms could consider switching to the existing Coal Ridge Pump and Pipeline as an alternate point of diversion on the mainstem Colorado.

We appreciate MCWC providing these comments for the Nutrient Farm PUD request and the work MCWC is doing to protect and enhance the health of the Middle Colorado Watershed for all users and the environment.

Nutrient Farm has the legal right to divert its full ownership of 8.93 cfs in the Vulcan Ditch, but this diversion will not – and cannot – occur continuously. While Nutrient Farm has the right to divert this full amount at any time, it is important to understand that it will not be diverting this full right at all times, and in fact the pattern of such use is limited by the consumptive use limitations articulated in its decrees. Case No. W2127 changed the use of the Vulcan Ditch first two priorities and quantified the historical consumptive use. Of the Vulcan Ditch 440 acre-feet per year of historical consumptive use quantified in W2127, 393 acre-feet per year is now owned by the Farm and available for use in the

Farm's water supply – completely outside of the PUD or any use or development addressed therein. The existing water rights and usury rights to the same remain agnostic to the zoning change, and do not hinge on PUD approval in any way. Nevertheless, the 393 acre-feet annually of consumptive use limits Nutrient Farm's depletions, and therefore limits its diversions. If Nutrient Farm were to divert at the maximum rate of 8.93 cfs, it would only be able to divert for 35 days a year to meet its demands and reach the consumptive use limitation (the number of days at this rate varies throughout the year - 10.6 days in July, 0.2 days in December, etc.). Alternately, if Nutrient Farm were to divert at a constant average rate to meet its demands and consumptive use limitation, this would be roughly 2.9 cfs in July, and 0.05 cfs in December, with an average rate over the year of 0.86 cfs. The actual diversion rate will reflect a balance of storage and instantaneous diversions to meet demands while staying within decreed consumptive use limitations.

In summary, while Nutrient Farm has the legal ability to divert the full 8.93 cfs at any given time, it will not be diverting that full rate at all times, and in fact cannot divert at a constant 8.93 cfs due to the decree limitations. The average diversions will be much lower as limited by decree terms and conditions. What this means is that the full scope of the subject water rights does not and will portend to create, either conceptually or in practice, a diversion pattern that will compromise the minimum stream flow at pivotal times.

We appreciated the comments and suggestions for voluntary efforts for Nutrient Farm to undertake to protect the health of Canyon Creek. Necessarily, any agreements to reduce diversions should be based on scientific findings of the ecosystem needs and should be a joint effort among the many diverters on Canyon Creek. If Nutrient Farm alone agrees to leave water in Canyon Creek, there would be no legal way to keep that water in the stream. Unless there is a collaborative stream management plan and/or some other agreement among the many users on Canyon Creek to reduce and/or stagger diversions, other water rights holders can divert water bypassed by Nutrient Farm at the Vulcan Ditch headgate. If MCWC and other local parties conduct a study to understand ecosystem needs for Canyon Creek and develop a stream management plan or other local joint effort among Canyon Creek diverters to reduce or stagger diversions during dry conditions, Nutrient Farm would be happy to participate in such a joint effort to protect flows in Canyon Creek. We have repeatedly made that commitment and expressed out concerns for such a logical practical multiparty approach to conservation.

As MCWC stated, Nutrient Farm does also have the legal ability to use Colorado River water as a backup source if needed (either due to physical supply limitations on Canyon Creek or a future agreement with other Canyon Creek water users). However, Nutrient Farm intends to use Canyon Creek as its primary source, and the Colorado River only as a backup source for three main reasons:

- A) Canyon Creek has superior water quality (when compared with the Colorado River) which is necessary to support the high-quality organic food production which is at the core of Nutrient Farm's objectives.
- B) Surface water from the Vulcan Ditch will also ultimately provide for potable needs for the two farm areas, commercial and industrial areas, and recreational areas. When compared with Colorado River water, the superior water quality from Canyon Creek provides a safer raw water supply as a starting point prior to treatment. Treatment of Colorado River water to all applicable potable water standards is costly and energy intensive. Starting with higher quality water for potable water reduces Nutrient Farm's overall carbon footprint.

- C) Canyon Creek water can be delivered via gravity, whereas Colorado River water must be pumped. Gravity delivery allows Nutrient Farm to operate without pumping and therefore results in a lower carbon footprint, higher efficiency of use, and a more pragmatic water program.

We also understand the comments regarding the practicality of utilizing the Vulcan Ditch to serve domestic uses in the winter months:

MCWC is concerned about the practicality of Vulcan Ditch serving domestic users in their development during the winter months. Freezing and snowy conditions will make it difficult to pass relatively small amounts of water through a ditch. Nutrient Farms might consider serving these needs by drawing from the alluvium of the river from an expansion of one of the existing wells.

The Vulcan Ditch will consist of buried 24” and 18” fused HDPE pipeline with 3’ minimum cover capable of delivering wintertime flows if needed. The river crossing may consist of an insulated aerial crossing or an HDD bore. Plans are to use the ponds shown to provide wintertime water. For perspective on volume, at full-buildout of the PUD Nutrient Farm will need about 16.2 acre-feet of water for November – March. This equates to an average flow rate of slightly less than 0.06 cubic feet per second (cfs).

Case No. W2127 quantified the historical consumptive use of the Vulcan Ditch and furthermore decreed that these water rights “may hereafter be used for **year-round municipal use** [emphasis added].” Consistent with the terms and conditions in the W2127 decree, Nutrient Farm intends to use its 393 acre-feet of consumptive use year-round, using storage as needed.

MCWC also noted:

MCWC would like to see a detailed plan for construction and permitting for the ditch as it must cross the highway, river, and railroad tracks.

We will share plans for construction and permitting once completed.

We also want to emphasize that as with many of the comments articulated herein, this issue of water usage and the minimum stream flows, as well as points of diversion, are really not directly tied to the PUD, nor in any way incumbent upon zoning approvals. In other words, as noted above, the water rights we have and the means to utilize those rights, are not tied to our zoning or the uses on the Farm. They could be utilized right now, for a variety of purposes, including agriculture, which of course is a quite intensive water use. In fact, rather than the PUD serving as some means of opening up the floodgates on such water use, it actually helps steer Nutrient into a more collaborative approach and affords the County a seat at this table as we move forward with each phase of development.

Put another way, the PUD enhances the ability of the public and the County to ensure the best and least impactful means of using the water in Vulcan Ditch/Canyon Creek. Without the long line of procedural oversight this zoning document will afford, there really is no formal process at the local level that allows such comments and communication to proceed with the water user in an ongoing basis. Again, we are happy to commit to such a collaborative role moving forward, as good neighbors and stewards of the local environment, but stress it is the PUD that formalized this role, while compromising nothing in terms of public oversight or restraint.

Town of New Castle

We would like to offer our gratitude to the Town of New Castle for taking the time to formally meet with us on October 17, 2023 during their Town Council meeting to review our Nutrient Farm proposal and for the Town’s referral comments dated October 23, 2023. As noted in the comments, Nutrient Farm is located both inside and outside of the Town’s Urban Growth Boundary with the entire property designated on the Town’s Future Land Use Map as Rural Low Density. Rural Low Density is characterized by *Large lot single-family, working ranches/farms, ranchettes, open pastures and rural qualities...* with net densities of 10 or more acres per dwelling unit.

Directly abutting the north-western portion of the property, across the Colorado River, is land designated as a Planned Urban Center surrounding a Business Campus. Per the Comprehensive Plan, a wide variety of uses are called for in these areas—retail, services, restaurants, hotels, entertainment, civic functions, residential, light manufacturing, publishing, research/development, and compatible trades, artist studios, light industrial activities, and wholesale activities. These areas are to be accessed via CR 335 and the construction of a new bridge.

In this light, we believe the agricultural nature of Nutrient Farm and its associated uses are squarely compatible with those uses called for in the Comprehensive Plan. The Town did not contest any of the proposed Nutrient Farm uses – in fact, they expressed a very supportive demeanor for the project as a whole. We stressed to the Town that that many additional applications must be submitted to the County for review before specific uses could be implemented or buildings constructed. The Town requested to be included in the future referrals for these applications per the existing intergovernmental agreement. We gladly committed to ensuring that we would the Town copies of our future submittal materials and meet with them about our requests.

In regard to the traffic study for the County Road 335/I-70 interchange comments, this was addressed in the Level III Traffic Impact Study prepared for the property by SGM. That study was also made available to the Town. The Traffic Impact Study concludes that the existing roadway system will continue to operate safely and at an acceptable level of service with the full development of Nutrient Farm. As the Traffic Impact Study recommends, all new road intersections will be designed with acceptable site distances based on 35 mph design (450 feet), site triangles will be developed and maintained as clear zones, and Uniform Traffic Control or Certified Traffic Control supervision will be implemented at the CR 335/Bruce Road intersection and at event accesses on the property from CR 335 to help provide safe operations during the peak entry/exit periods of the entertainment/ music and arts venues or any other Nutrient Farm Events with an expected attendance of 350 guests or more. (The Traffic Impact Study noted that this is **not** required for the CR 335/Bruce Road intersection to operate adequately—rather, the additional traffic control would only help to provide more organized operations during these times due to the variable nature of peak flow rates for such events.)

Based on the full build-out of Nutrient Farm, the CR 335 estimated 2040 total traffic volume is 2,300 vehicle trips per day (vpd) east of Park Drive and 2,800 vpd west of Park Drive. The vpd west of Park Drive will exceed Minor Collector standards. (The LUDC calls for Major Collector standards at rates greater than 2501 vpd.) Thus, if the actual scope of development for Nutrient Farm is realized, future shoulder widening west of Park Drive to Bruce Road could bring CR 335 up to County Major Collector roadway standards. Also, as per section 4-203.L.4. of the Land Use and Development Code (LUDC), estimated calculations of the potential future public road improvement fees in the corridor have been

provided. Actual road improvement fees will be remitted at the time of development according to the LUDC as stated in the Development Agreement.

As to emergency access, we discussed with the Town that Nutrient Farm’s internal public and farm roads may be used as alternative emergency accesses routes to bypass portions of CR 335. Moreover, Storm King Road in the adjacent Riverbend Subdivision Filing No. 2 extends into the property and serves as the existing driveway connection for the Farm House in Area 2 on the eastern portion of the property. This will only be used by the Owner/Developer for direct access to and from the Farm House to the Eastern Working Farm, not as an alternative public thoroughway for everyday use. However, should the fire department/emergency services or the public need it, the driveway may also serve as emergency access connecting Storm King Road and the existing residences to the internal public and farm roads and eventually to CR 335.

Also, if other entities eventually build a bridge for the LoVa Trail across the Colorado River on eastern portion of the property, as long planned, Nutrient Farm will be glad to give an emergency access easement for public use across the property in the LoVa Trail corridor and over this bridge as an alternative means to cross the Colorado River near I-70.

Matrix Design Group Comments on behalf of Garfield County

At the County’s request, Matrix Design Group (Matrix) has also provided an independent review the PUD Guide and Water Adequacy Report for water and wastewater related issues. This is documented in the five-page September 13, 2024 letter from Robert Krehbiel to Glenn Hartmann. This letter summarized the PUD application and raised various potential issues.

We believe the cleanest way to address their comments is to list specific issues and provide a response to each as shown below.

The list below details the water and wastewater issues of significance:

1. Adequate Physical and Legal Water Supply

The PUD reports document an adequate physical and legal supply of water. The Vulcan Ditch diversion off of Canyon Creek provides a good supply of water. Wells along the Colorado River provide additional supply. Being located adjacent to the Colorado River provides an abundant and reliable supply of water. The Colorado Division of Water Resources review of the PUD documents generally concurred that the water rights could serve the proposed development, although in a dry year some of the irrigation uses may need to be curtailed.

Matrix notes that the physical and legal supply of water are generally adequate, but echoed CDWR’s comment that in a dry year some of the irrigation uses may need to be curtailed. We agree the water rights are adequate to serve the proposed development and will certainly curtail irrigation uses if conditions warrant. We do want to emphasize that this is the same conundrum that faces all but the most senior water users due to over-appropriation and climactic variability, particularly in relation to farming. Nothing in the PUD changes this fundamental reality of water use in the west.

Nutrient Farm understands in dry years it may have to use storage and/or prioritize its irrigation needs and possibly reduce irrigation. We would like to point out that in these situations, Nutrient Farm also has the legal and physical ability to divert its Vulcan Ditch rights from their decreed alternate point of diversion from the Colorado River at the Coal Ridge Pump and Pipeline (Case No. 84CW349). While

Nutrient Farm prefers to take its Vulcan Ditch water from Canyon Creek (due mainly to the superior water quality of Canyon Creek over the Colorado River and the lower carbon footprint offered by the gravity fed pipeline from Canyon Creek over pumping from the Colorado River), Nutrient Farm does have the ability to pump from the Colorado River when necessary if physical supply is limiting on Canyon Creek.

2. *Proposed Residential Development*

The existing and proposed residential development (1 existing and 18 new plus ADU's for Areas 1 through 5) appear to have adequate water supply and wastewater treatment. Nutrient Farm residential developments in Areas 1, 3, and 4 (17 homes plus ADU's) will be connected to the existing Riverbend Water Company's potable water distribution system and wastewater collection system. The RWSC currently serves the nearby Riverbend homes, and has a complete water treatment, distribution, and storage system in place that is already permitted as a public water supply. The existing Riverbend potable system provides about 50,000 gallons of storage augmented by a 115 gpm supply flow from their wells. The intent is for Nutrient Farm to add a 150,000-gallon potable storage tank to bring the fire storage component up to municipal standards as new residential lots are platted in Areas 1, 3, and 4 in exchange for tap fee credits. New fire hydrants from 8-inch diameter lines will be placed as necessary so that each new residential lot is within 250 feet of a hydrant.

The Riverbend HOA's potable water supply comes from the five Riverbend wells and wastewater is treated in a centralized wastewater treatment plant. Area 2 is existing with its own well and onsite wastewater treatment system (OWTS). Area 5 is also proposed to have its own well and OWTS.

Response: This section adequately describes the proposed residential development. No issues requiring response are presented.

3. *Exempt Well*

As the Division of Water Resources pointed out in a letter dated July 17, 2024, these exempt permits are issued for lots 35 acres and larger and are limited to residential uses only. The PUD reports clearly note that Area 5 will be a 1-acre parcel. The development would have to work with the State to obtain a well permit before the property is subdivided and use the permit on this small parcel within the limitations of the permit for residential uses only and do not allow for any commercial uses.

Response: We agree that if the residential unit in Area 5 is pursued, the well will need to be permitted prior to any subdivision. The well permit would be for residential uses only, not commercial uses. We have addressed this issue thoroughly in the CDWR responses provided above.

To reiterate, we agree the order of operations of obtaining the exempt permit and subdividing the property will be important, as CDWR has limitations on exempt wells for division of land in over-appropriated basins. We also understand an exempt well is not guaranteed and have set aside Vulcan Ditch credits in the event that augmentation is ultimately needed. We also would again emphasize that no aspect of developing a farmhouse and well for Area 5 hinges on this PUD; it could be applied for tomorrow.

The residential lot in Area 5 will have a farmhouse for which all outdoor demands will be supplied by the Vulcan Ditch, and only indoor residential demands would be supplied by an exempt well. We would like to clarify that Area 5 will not be a 1-acre parcel. Area 5 is roughly 56 acres, but the residential lot within planning Area 5 will be about 1 acre. Per the PUD Narrative, “A minimum 1.00 acre size residential lot will be located in Development Area 5 in order to accommodate on-site water/well systems.”

Area 5 is currently part of Garfield County Parcel ID 212335300081, a 236.939 acre parcel. The proposed Area 5 Farmhouse Well would be the only exempt well on this ~237 acre parcel. Applicant would apply for an exempt domestic well permit for a parcel of land of 35 acres or larger, associated with the current ~237 acre parcel. As CDWR stated in its comments letter, *If an exempt well permit is obtained and a well is constructed before the parcel on which the well is located is subdivided, the well could possibly be allowed to continue to operate under the exempt well permit* [emphasis added].

As CDWR stated, this exempt permitting process will require review to ensure all provisions are met, and it is therefore not *certain* whether the exempt well permit can continue with the smaller ~1 acre parcel after subdivision. As such, Nutrient Farm has prepared for the possibility that augmentation will be needed for the Area 5 farmhouse well. As stated in the September 2020 Water Supply Report, the annual consumptive use of indoor demands for the Area 5 farmhouse to be supplied by a new well is 0.07 AF. While this new well will likely qualify as an exempt well (would not require augmentation), Nutrient Farm has conservatively set aside 0.07 AF of Vulcan Ditch HCU credits for this use in the event that the credits are needed to augment the well uses.

4. *Long List of Proposed Public Water Uses and OWTS*

Beyond the residential development, the concern is the long list of potential public and commercial uses for Areas 6... Restaurant, Processing Building, Campground, Swimming Pool, Laundry, Music Festival, etc. are all intensive uses of water and wastewater loading... These uses may be beyond the capacity of OWTS for wastewater disposal.

Response: We agree the large events could exceed OWTS capacity and Nutrient Farm will make use of temporary portable restrooms as necessary. A public water system will be constructed when triggers are met. Inevitably, we appreciate this comment as a cautionary note for future challenges, but there is nothing in this comment that serves as a harbinger for any concern over PUD approval. In other words, the PUD affords the opportunity to move forward with the review process for each of the contemplated uses, and robustly address the water and wastewater concerns that actually become tangible and not theoretical at that time. As the allowed uses actually implemented expand and become reality over time, there will of course be a heightened scrutiny on each next use to ensure that the collective impacts of the use, its water consumption and OWTS implications, do not reach a point of critical mass, so to speak. However, unless and until we hit that point in the future as development commences, this is all, again, a conceptual cautionary point at this juncture.

5. *Water Quality Concerns for a Public Water Supply*

...The wells along the Colorado River bank are susceptible to surface water contamination. ... Public water systems need to be tested and monitored regularly to protect the health of the public. The Nutrient Farm wells proposed as a public water supply may need more treatment than simple disinfection as a safety precaution.

Response: Nutrient Farm will provide appropriate filtration and disinfection and comply with all CDPHE public water system requirements. CDPHE robustly addresses the treatment expectations for any public water supply. The threshold for such CDPHE public water regulatory oversight is quite low, and the standards increase somewhat exponentially as the profile and scope of users increase.

The comment about Colorado River alluvial wells appears to be referencing the five Riverbend Wells which currently provide potable supply to the Riverbend HOA, as managed by the Riverbend Water and Sewer Company (RWSC). Nutrient Farm residential developments in Areas 1, 3, and 4 will tie into RWSC's existing system. RWSC's treatment and distribution system is permitted under Public Water System ID CO0123679. This public water system is and will be tested and monitored in accordance with its permit. If CDPHE finds the Riverbend Wells to be groundwater under the direct influence of surface water, appropriate steps will be taken as required by CDPHE.

For areas besides 1, 3, and 4, as public water system triggers are met, Nutrient Farm will construct its own public water system in accordance with CDPHE regulations.

6. *Wastewater and Use of OWTS*

Based upon the design loading of the commercial uses, Nutrient Farm should be planning their own central wastewater treatment plant, or connect to Riverbend or connect to New Castle's wastewater treatment plant. The report conceptually designs 10 OWTS systems for Areas 6, 7 and 8. OWTS systems are permitted for up to 2,000 gallons per day. Beyond that is a long, difficult permitting process. Larger developments were trying to get around the regulations by proposing a bunch of smaller 2000 gal/day systems, so the State issued letters clarifying their position on this matter. The development proposes to treat about 25,000 gallons per day loading with at least 10 separate OWTS systems.

Response: Noted. The multiple systems proposed comply with WQSA-6 which was developed for this situation. There is no "trying to get around the regulations," nor would we ever even contemplate such an ill-advised approach. Based on the tenor of these comments, we want to take the time to again emphasize what Nutrient Farm is at its core. It is a biodynamic farm. That very approach to farming is exercise of never taking the easy way out or getting around standards when it comes to the preparation of food or the stewardship of the land. The very notion of circumventing public health regulations that deal with wastewater is inherently antithetical to the very values and standards that Nutrient Farm has committed to – not just conceptually but in practice. We do not even use pesticides and herbicides in large part due to the impacts it can have on our soils, products, and environment. Would we actually throw such care and caution to the wind when dealing with wastewater?

OWTS systems are generally for residential uses and not recommended for intense hydraulic and biologic loading associated with commercial uses. OWTS systems are primitive technology and are allowed for residential uses as a stop-gap measure until they can be connected to a regional treatment plant. OWTS systems for residential uses generally have a life of 25-30 years. OWTS systems regularly fail, and often go unnoticed and unmaintained. Commercial uses would reduce the life spans due to higher strength effluent. Even with the Higher Level of Treatment from the proprietary Advantex system as described, it is pushing the limits of an OWTS to treat this much wastewater. The strength of wastewater from commercial uses are

variable and difficult to quantify for BOD (biological) loading. The peak hydraulic loading from event usage is also problematic – very high flows over a short period of time. The proposed restaurant loading can be high strength with food waste and the oils/greases that can clog a system. Restaurant uses will certainly need an oil/water separator. A pool or public laundry would discharge too much water at one time for an OWTS to handle properly without saturating the soils.

Response: OWTS Commercial Uses are fully allowed by the State of Colorado, per Reg. 43. All precautions related to the distinction between residential OWTS and commercial OWTS are also codified by the state and reflected in design standards for such systems. By means of example but not limitation, restaurants will require grease traps prior to discharging wastewater flows to final treatment. We also want to note that this comment myopically focuses on the cumulative effect of commercial development while somehow extolling the virtues of residential OWTS. To the contrary, it is well accepted that there is a cumulative impact of concentrated residential OWTS in a specific locale as well.

Of even more critical nature, this PUD proposal, and its incorporated phasing plan, reflects a long process of introducing commercial uses to the property, each via its own insular land use review process. In contrast, a high density residential development utilizing OWTS comes to the fore in one fell swoop, thus limiting the ability to the review authority to look at the progressive cumulative impacts of increased OWTS reliance over the course of time. In other words, this PUD, and the accordant commercial uses proposed, effectively allows us to address this cumulative issue over time.

Further, the OWTS reduction factors shown in the calculations may not be applied correctly with both 0.8 and 0.7 factors applied. A reduction factor of 0.8 is used in the conceptual designs for trenches, but a bed configuration is shown with chambers which does not have a reduction factor. Another reduction factor of 0.7 is shown for chambers. If the soils have more than 35% rock, no sizing adjustments are allowed for systems placed in type “R” soils.

Response: All systems are shown to be trenches with chambers, so the reduction factors apply. It will not be known if these are R-Type Soils until test pits can be dug and evaluated.

The massive bed of 2,368 chambers for Area 6 probably would not be allowed, and even if it would be considered, the layout may need to be adjusted. It would be difficult to construct and maintain a system of this size. Per Regulation 43, the maximum width for a bed must be 12 feet, unless the bed receives effluent meeting Treatment Level 2 quality or better (which may be the case with the Advantex system). The separating distance between beds must be a minimum of six feet sidewall-to-sidewall.

Response: These are trenches, not beds. This system would need to be permitted by the State due to it being over 2,000 gallons per day (“GPD”) and all components including Advantex and trenches will be reviewed and scrutinized prior to approval.

7. Stormwater Management

According to the reports, two minor natural drainages cross the land from south to north, draining into the Colorado River. These are ephemeral drainages with no wetland or riparian characteristics. The site imperviousness will increase from development due to roads and rooftops from what once was a formerly undeveloped watershed and will cause

more frequent and more rapid stormwater runoff. This increased runoff can unravel natural drainageways making them unstable and prone to serious erosion. It is recommended to promote infiltration of stormwater and implement full spectrum stormwater detention including storage of the water quality capture volume throughout the development area to control runoff to historic rates. PUD reports do not mention any proposed stormwater measures such as detention or water quality facilities. More work is needed to characterize existing and future stormwater runoff flows and consider facilities to control runoff to historic rates.

Response: Per our response to Mountain Cross, a regional drainage plan will be developed for approved PUD uses. Protecting Colorado River water quality will be the primary concern. Moreover, we have proposed PUD language to ensure additional safeguards for these ephemeral drainage areas.

8. Floodplain

The PUD reports describe the work to identify the existing floodplain and comply with floodplain regulations. We understand that FEMA has not mapped the floodplain in this area, but that the best available preliminary data was used to approximate a 100-year floodplain on the Colorado River. According to the reports, the development will comply with all applicable FEMA, National Flood Insurance Program (NFIP), CWCB and Garfield County floodplain regulations. It appears that no development is proposed within the anticipated 100-year floodplain of the Colorado River based upon the Overlay Map. Any proposed earthwork with the floodplain will need to be documented and shown to not have an adverse impact of floodplain elevations.

Response: The proposed boat ramp in the western portion of Nutrient Farm (Area 8 North) is the only development proposed in the floodplain. A future floodplain development permit will be required and all Garfield County, CWCB, and FEMA regulations will be complied with. We also have to point out that essentially ALL boat ramps are in flood plains.

9. General Comment: Potential Need for Licensed Operator

In general, the proposed residential development has been sufficiently demonstrated that it can be served by the water and wastewater infrastructure (Areas 1 through 5). There is concern, however, about the proposed commercial development (Areas 6 through 8) being served by the proposed basic water and wastewater systems that do not require a treatment plant operator. The proposed commercial uses are significant enough at full build-out that they warrant exploration of process treatment plants for water and wastewater that are regularly operated and maintained by a licensed professional.

The February 2021 report titled “Nutrient Farm Central Water Distribution and Wastewater Systems” (Water and Wastewater Report) recognizes this need and describes Nutrient Farm’s phased approach to commercial development. The Water and Wastewater Report states, “At such time when commercial uses are developed, the potable system will eventually meet the various user thresholds defined by the CDPHE as described in Regulation 11 – Colorado Primary Drinking Water Regulations 5 CCR 1002-11 and will become a regulated “Public Water System” (PWS).” As stated in that report, “Nutrient Farm envisions putting a central water treatment facility online prior to exceeding the PWS user

thresholds.” Nutrient Farm will work with CDPHE to meet all relevant regulatory requirements, including the possible need for a licensed operator. All public water systems have a designated manager and point of contact for CDPHE. Fortunately, CDPHE will also be involved in all aspects of the OWTS system. Within this overarching context, we also want to stress the pivotal nature of this project – it is all one cohesive operation owned and run by one entity which is exceedingly rare in modern times. It is also a crucial element of this project that extends to all active management concerns, including public water systems and OWTS systems. The comments above seem to overlook or ignore that fact.

Summary

Thank you again for compiling these referral comments and working with us on our three requests related to Nutrient Farm. We believe all referral comments have been adequately addressed with these responses. Please let me know if there is any additional information or clarification that I may provide related to the applications. I will be glad to speak to you.

Regards,



Danny Teodoru, Esq.
Timberline Law

cc: Andy Bruno, Nutrient Holdings

October 18, 2024

Glenn Hartmann, Planning Director
Garfield County Community Development Department
108 8th Street, Suite 401
Glenwood Springs, CO 81601

Re: Nutrient Farm Planned Unit Development (PUD) (PUDA-05-22-8899) – Colorado Parks and Wildlife Referral Comments Response

Dear Glenn,

Thank you for forwarding Colorado Parks and Wildlife's (CPW) referral comments to us. We appreciate CPW taking the time to review the submittal material and provide their comments and suggestions. We met with Travis Bybee on May 9 to discuss the Nutrient Farm project and follow-up on the comments. We understand that any type of development has the potential to impact wildlife, and with the mitigation measures proposed in the Nutrient Farm Planned Unit Development (PUD) Guide and those additional measures discussed below, we believe that potential impacts will be minimized.

Since the Nutrient Farm PUD is only a zoning request and neither the timing nor the scope of all of the future potential uses for the property have been finalized at this time, we believe it would be beneficial to keep in continuous consultation with CPW regarding our current and planned activities for Nutrient Farm in a contemporaneous fashion, rather than everyone having to prematurely make presumptions about the future activities. Per our conversation with Mr. Bybee, we all concurred that it would be best for Nutrient Farm and CPW to meet annually, and also meet prior to submitting any site plan applications to the County, so that CPW is apprised of our projects and their comments and suggestions may be incorporated into the design/operation of the specific activity. We believe this open on-going communication and cooperation will be beneficial to the wildlife in the area and we are glad to add this to the PUD Guide.

Overall, the organic and biodynamic nature of Nutrient Farm and the Nutrient Farm Impact Analysis Report are quite complementary to CPW's suggestions. From an operational nature, we are seeking to minimize any potential impacts to the environment and wildlife with our project. Nutrient Farm does not utilize any synthetic chemical pesticides, fertilizers, or transgenic contaminations. In addition, weed management efforts using mechanical, cultural, and biological controls are underway. Many efforts are currently being employed on Nutrient Farm to minimize any potential impacts to the environment and wildlife and many more have been proposed in our Impact Analysis Report related to both aquatic and terrestrial species which be implemented upon the approval and development of the Nutrient Farm PUD.

As mentioned during our meeting with Mr. Bybee, Nutrient Farm is far less intensive and less impactful than the currently allowed Riverbend and Coal Ridge PUDs—either from the perspective of the 123 remaining single-family residential lots that could be built, or of course via the heavy industrial Coal

Ridge mining operation allowance. As noted in the Impact Analysis Report, most of the proposed Development Areas are concentrated on the valley floor, within previously disturbed areas which provide minimal environmental services or habitat for wildlife. An application to formally vacate the Coal Ridge PUD has been submitted to the County and will occur concurrently with the approval and recordation of the new Nutrient Farm PUD.

This will remove, permanently, the very extensive industrial uses which have been allowed within that expansive PUD area for a long time. We have been adamant that any discussion of wildlife impacts must necessarily be viewed through the lens of what is presently allowed, without any further zoning approval and in many cases with little or no further land use review. From that perspective, the benefit to wildlife simply by approving this rezoning is really quite extraordinary, and any additional measures further enhance these benefits.

We do appreciate CPW's concerns over any potential habitat loss or fragmentation, and we are trying to assuage these concerns as much as we feasibly can. We want to improve the overall quality of wildlife habitat on and near the property – it is a fundamental model of our overall operational plan. Multiple measures will be implemented on Nutrient Farm including those regulating the following: garbage disposal and storage, compost piles and dumps, fences, pets, bird feeders, exterior lighting, hours of operation, and a non-toxic weed management plan. (Please see the proposed PUD Guide Wildlife Protection Measures for details.) A Wildlife Mitigation Plan will also be developed and implemented in consultation and cooperation with CPW after the review and approval of the Nutrient Farm PUD.

This Wildlife Mitigation Plan will include specific actions to reduce the impacts to elk and mule deer on a seasonal basis, and also provide habitat improvement and year-round water sources for them. (Please see below for details.) We note that this PUD request is only a zoning request, and no specific uses are proposed at this time. In other words, the PUD only preserves the ability to submit future site-specific use requests to the County for consideration. Inevitably, zoning itself does not present tangible impacts to wildlife; it is the subsequent development activities and uses that pose potential impacts.

Accordingly, the best means to squarely address and abate these impacts is to address the specific development activity when it is proposed and hit it head on – the potential impacts caused by such activities when it is tangibly known when and how such activities will occur. Once the details of the specific request are finalized, additional studies, tests, and specific design recommendations will be prepared based on the final design and locations of the future land uses and only then will a formal application be submitted to the County. (I.e., A wetland delineation and Corps permitting will be required for any improvements near the Colorado River.) Further, as discussed above, we will be in regular consultation with CPW, which means we can all get ahead of the curve in shaping any development, use or activity in the most wildlife astute manner before we even submit.

Cumulative Loss of Wildlife Habitat

CPW notes that the Nutrient Farm property will not be lost to wildlife in its entirety, but that the PUD project will impact existing wildlife habitat – especially elk and mule deer during the winter months. We understand that with all development and increased human activity there are some potential impacts to the native species. It also goes without saying that this is a consideration not in any way unique to Nutrient farm; one need only drive up and down the major thoroughfares in Garfield County, and indeed the entire state, to appreciate the breadth of this concern as development continues to expand. From that vantage point, we feel that our project, which moves away from intensive residential or industrial development and back to a more agrarian model focused on stewardship of the land, is a step in the right direction.

Nevertheless, we still realize that no activity or use can avoid having some impact. We want to abate or mitigate any such impacts as much as we practically can. Thus, in an effort to counter the cumulative loss of wildlife habitat, as noted, we will meet annually with CPW to discuss the then current and upcoming activities planned for Nutrient Farm so we may understand any wildlife concerns CPW may have. We will also meet with CPW prior to submitting any site plan applications to the County, so that CPW is apprised of our projects and their comments and suggestions may be incorporated into the design/operation of the specific activity. A Winter Recreational Plan for each specific use proposed during the winter season will also be developed for site plan review containing efforts to minimize and mitigate any potential impacts to wildlife. For instance, seasonal timing, hours of operation, and location limitations will be considered and habitat improvements and/or the creation of new habitat (on or off-site) and the development of new water sources will be considered based on the proposed activity.

In addition, and as mentioned in our Impact Analysis Report, a Wildlife Mitigation Plan specifically related to elk and mule deer use of the Nutrient Farm property and surrounding area will be developed and implemented in cooperation with CPW. We are proposing to specifically call for such a plan in the PUD and suggest we have a hard date for adoption of that plan, in collaboration with CPW, after the PUD is established – so we can discern per an adopted PUD plan what is allowed and how it will be implemented. It will include specific mitigation measures to reduce impacts to elk and mule deer and provide habitat improvements and year-round water sources for them. These efforts may include the following:

- Winter timing and activity stipulations to avoid and minimize disturbance to elk and mule deer;
- Use of laydown fencing or gates in some areas to allow for habitat connectivity and allow wintertime access to pastures;
- Leaving taller stubble heights in pastures for more grazing opportunities;
- Development of wintertime water sources;
- Creation of designated wildlife corridor areas and also designated activity/recreation areas to usher such uses away from each other; and
- Assistance with habitat improvements and water source development on neighboring BLM lands.

In terms of CPW's additional referral comments and recommendations related to elk and mule deer habitat, as noted by CPW, Private Open Space Area C, approximately 65.40 acres, will continue to be open for wildlife use. Only one single-family home exists (the "Farm House"), and is proposed, on the 42.14 acres of Area 2. Some fencing already exists on Area 2 and a limited amount of wildlife friendly fencing is planned around the home, leaving the rest of the Area 2 accessible. Similarly, a limited amount of fencing is planned in the Outdoor Adventure Park/Area 8. Fencing is intended around the various tracts and runs in the Outdoor Adventure Park, not the entire Area, to protect animals from these areas and minimize any potential conflicts with the activities there. The fencing in such areas will not just keep the wildlife out, it will more importantly keep the users in. No perimeter fencing is planned around Areas 2 or 8, which will help to minimize habitat fragmentation and allow access through the property, including the Western Working Farm/Development Area 6, and to the Colorado River. Thus, wildlife pathways through the property will be provided on a year-round basis connecting the Hogback to the Colorado River.

We believe that through the mitigation measures proposed in the PUD, Impact Analysis Report, and the additional agreed upon terms, annual meetings and pre-application meetings, the creation of Winter Recreational Plans for each winter site plan activity, the preparation and implementation of the Wildlife Impact Report in cooperation with CPW, and fencing details, habitat fragmentation and/or loss has been reduced as much as possible. In that light, and particularly given the baseline of where the incredibly high impact uses that the current PUDs allow, we are confident that there will be no significant, long-term detrimental impacts to wildlife or their habitat. We point to the Impact Analysis Report's findings that state with these measures, the project would not result in significant, long-term detrimental impacts resulting in reductions in herd size or significant impacts to habitat. (Please refer to pages 38 and 42 of the Impact Analysis Report for details.) In fact, after a cursory review of other uses and PUDs in the County, we would proudly hold our wildlife measures in this PUD, and the extensive approach set forth herein, against any other PUD or development in the region.

Potential for Ungulate Conflict and Game Damage

Thank you for these comments and suggestions related to elk and mule deer. We welcome any additional comments CPW may have on avoiding potential hay crop damage from the animals.

As suggested, wildlife friendly exclusionary fencing will be constructed around the orchards to keep mule deer, elk, and bears out of them, and as noted above, wildlife corridors will be provided to allow wildlife access through the Nutrient Farm property.

The activities planned for the Outdoor Adventure Park will require many future site plan applications to be submitted to the County for review and approval. Winter activities are planned for portions, not all, of the Adventure Park Area. At this time, no specific activities have been finalized and we will be glad to work with CPW during the development of those plans to minimize conflicts with wildlife and to ensure the safety of our guests. Specifically, prior to any site plan application submitted to Garfield County for review, we will meet with CPW to obtain their comments and suggestions on the proposed activity so that they may be integrated into the final design/operation of the request. Based on the final specific type of activities and their locations, we will consider some sort of winter seasonal timing on

select portions of the property to minimize any potential impacts to wildlife. Similarly, we will consider some sort of winter seasonal timings for the Western Farm/Area 6.

A Winter Recreational Plan for each specific use proposed during the winter will be developed in the future for site plan review and incorporate any pertinent actions of the Wildlife Mitigation Plan, which again will be expressly called for in the PUD. For instance, seasonal, hours of operation, and location limitations will be considered and as discussed with Mr. Bybee, improvements to existing habitat or the creation of new habitat on- or off-site and development new water sources will be considered based on the use. Again, CPW will be consulted with the activity details so that their comments and recommendations may be incorporated into the activity prior to any formal site plan submittal to the County. We will also ensure that part of this plan includes corridors, not just for wildlife but for all activities and recreation in the winter months. In other words, rather than just rely on wildlife corridors, which are less effective in the scarce winter months, we will also delineate corridors for recreation. This can ensure that the potential for human/wildlife interactions, and the related stressors, is abated or at the very least greatly curtailed.

Potential for Mountain Lion Conflicts

The Impact Analysis Report is consistent with CPW’s mountain lion recommendations. Educating the Nutrient Farm community that mountain lions are native residents of the area and how to interact with them in case of an encounter is important. We will look into the additional suggestions for livestock protection, particularly during the calving season, through the use of foxlights, guard dogs, or permanent ranch employees since mountain lions could prey on the livestock.

Potential for Black Bear Conflicts

Black bears and the potential for black bear conflicts were also discussed in the Impact Analysis Report. Although not currently in CPW’s mapped Black Bear Human Conflict Area, Nutrient Farm will function as such due to the proposed fruit orchards and residential and agritourism uses. The Impact Report found that the PUD will have minor to insignificant impacts on bear populations and habitats and a number of measures are proposed to reduce potential bear problems including those suggested by CPW—the use of residential bear-proof trash containers, fences around fruit orchards, and limitation on bird feeders and pets. (Please see page 50 of the PUD Guide and page 34 of the Impact Analysis Report for specific details.) CPW’s additional recommendations for electric fencing, foxlights, etc. to protect the growing crops, livestock protection suggestions (similar to those for mountain lions), the use of bear-resistant trash receptacles/dumpsters with locks on the non-residential portions of the property and education are appreciated and will also be implemented.

Impacts of Additional Recreation of the Nutrient Farm PUD

We understand that increased recreational activities across the State are impacting wildlife—be it hunting, fishing, rafting, hiking, skiing, snowmobiling, or other outdoor activities. As discussed in the Impact Analysis Report, many mitigation measures are proposed and additional ones will be implemented in Nutrient Farm to help minimize any potential impacts to wildlife.

As requested, we will also be glad to conduct an annual inspection of the ponderosa pines on the northeast portion of the property for any new eagle nests. (Per Mr. Bybee, mid-February is the best time of year for this inspection. We will be glad to add this annual inspection as a mandate in the PUD Guide too.) No such nests are there currently, but if any are found, we will work with CPW on mitigation measures and the use of this public trail. For instance, it may be best to install a fence and gate on the Nutrient Farm property to limit access when needed. However, reflective of the complexity always associated with these wildlife issues, but because this trail leads to Bureau of Land Management (BLM) lands further discussions on how best to manage this trail and access should take place, and BLM has some say in the proper solution. This conundrum vividly reflects the challenges we have with wildlife, and why we feel the development of a collaborative plan, and regular follow up meetings with CPW, is the most innovative, flexible, and practical means of ensuring effective wildlife protection remains in place.

We understand CPW's concerns about maintaining the solitude of the Vulcan parcel for wildlife. Per our title commitment research, there are two trail easements of record on the property which are shown on the proposed PUD Plan Map. One is a 25' Private Access Easement granted to the BLM (recorded September 19, 2000 at Book 1208/page 96) and the second is an Agreement between Daryl Richards and the State of Colorado for the use and benefit of the Game and Fish Commission for free public use of a road across the parcel to fishing and hunting areas. (The road is not described in the Agreement recorded June 26, 1963 at Book 351/page 211.)

Also, as suggested, we are glad to provide interpretive signage to help educate the community on the value of the landscape set aside for wildlife and encourage them to stay on established trails.

Boat Ramp/Mooring: In terms of the boat ramp comments, we appreciate those concerns and want to underscore the minimal use and impact envisioned with such a ramp. The boat ramp is designed as an amenity for residents, guests, and the public by providing a minor access from Nutrient Farm and the lands on the south/eastern side of the Colorado River. The existing Dino Point boat ramp is on the other side of the River and inaccessible to the Nutrient Farm property. The boat ramp is intended as a separate amenity west of the tie up/mooring area near the children's Adventure Farm area. The area behind the restaurant is only a docking area. This is not meant as a major boat mooring or access facility; only as a potential means of minor access limited to the Nutrient Farm area. The very limited parking around this put in area underscores that vision.

We now understand that the Roundtail Chub is a Colorado species of special concern and is listed as sensitive species for the Rocky Mountain Region by the United States Forest Service. Nevertheless, as we have now researched and determined, this segment along the Colorado River is already intensively used by boats and rafts so functionally, from an impact perspective, no new use will be created. However, in order to ensure that we minimize and mitigate any potential impacts to the river system, development of the new boat ramp area will be minimized in scale and operation as much as feasible. A hydraulic analysis will be prepared so as not to create scour holes and sedimentation. Clean construction materials (i.e., non-hazardous/chemicals), best management practices, including temporary erosion control measures, and other construction techniques will be used to minimize sediment into the River. As suggested by Mr. Bybee, construction will not take place during the spring spawning season and fall. In addition, Army Corps of Engineers 404 Permit and County approvals

must be obtained and all conditions of approval must be complied with. Once the boat ramp improvement details are determined, and prior to County site plan submittal, we will meet with CPW to review the request and obtain their comments and suggestions.

With all these efforts, we believe that the River systems and its water quality will not be degraded. However, we want to underscore that we acknowledge what adding this use in the PUD allows and does not allow. We may, per the PUD, merely propose a boat ramp. When we formally apply to construct it, there will invariably be a myriad of concerns over potential impacts our proposal will have to address. This will include any silt and sedimentation buildup concerns, impacts to aquatic life, even potential impacts to otters. We will have to get approval for a ramp via a site specific proposal that will include a detailed design. By consulting with CPW on the design in preparation of the proposal, we can modify that design to try to assuage any CPW concerns. At the end of the road, if we are not able to properly resolve these issues and mitigate such impacts to the satisfaction of CPW and the County, the boat ramp will not be approved. We feel strongly that this is the most astute means of dealing with this issue, rather than trying to address every contingency now based on suppositions and hypotheticals. In that light, we state now, for the record, that we realize and acknowledge that at the time of the actual ramp proposal, the onus is flatly upon us to secure approval.

LoVa Trail: Thank you for the LoVa Trail comments. We were previously aware of CPW's concerns with the trail alignment especially as it crosses over the River. We are only trying to be good neighbors and citizens and provide a connection through Nutrient Farm for what seems to be a greatly needed north-south public trail connection from New Castle to Glenwood Springs, if it is supported and approved by the multitude of public agencies that must review the same, including CPW. Currently, the LoVa Trail is shown on the property to run southwest to the northeast adjacent to CR 335 then east through Area 5/Working Farm/eastern pasture area across the River. We will grant the trail easement adjacent to CR 335 on Nutrient Farm property and an additional northern easement (an alternative alignment, if needed) once the entire LoVa Trail alignment has been determined. The proper location, nature, and construction of this trail is really the auspice of the LoVa Trail group, CPW and others. We will ensure that the easement we grant is supported by all such stakeholders before the easement is executed. In other words, this is not our trail, and we are simply supporting it and letting it utilize our property interests if and when it is accepted, including via CPW. We will be glad to collaborate with CPW and the trail proponents further on this northern alignment once it leaves the CR 335 alignment.

We want to express our gratitude to Mr. Bybee. He clearly took significant time to thoroughly read the extensive Nutrient Farm PUD application materials, and provided thoughtful, insightful, and useful comments; he also made the significant effort of meeting with us in person for an entire morning to walk through these concerns and explore means of mitigation and resolution. Moreover, he also supports making the effort to develop a winter management plan with us and further meet with us annually to walk through the goings on at Nutrient Farm every year. The end result is a collaborative approach which reflects the incredible potential for public private partnerships to ensure the best stewardship of the land and its native inhabitants, namely the wildlife that we all appreciate in this area.

We believe that through the mitigation measures proposed in the PUD, Impact Analysis Report, and the additional agreed upon terms, annual meetings and pre-application meetings, the creation of Winter

Recreational Plans for each site plan activity, the preparation and implementation of the Wildlife Impact Report in cooperation with CPW, habitat fragmentation and/or loss has been reduced as much as possible and there will be no significant, long-term detrimental impacts to wildlife or their habitat.

Perhaps even more crucial, by ensuring that this is a longitudinal, interactive process, we can make the adjustments that are necessary from year to year as new considerations develop. In closing we would encourage you to think about the stark contrast here. We have a PUD in place, the Coal Ridge PUD, which is industrial in nature, for many decades. Such uses are of course an anachronism and an anathema to the wildlife concerns in the region – as well as the recreational concerns, residential concerns, etc. In place of that zoning faux pas, which was based on an outdated vision for the land, we now have a new PUD far more reflective of a modern vision for the area, but also one that is flexible enough to pivot and deal with issues as they transpire – even if it is decades later.

We believe this is an excellent model for future zoning documents, and we are proud of the effort all parties have put into this effort. Thus, we are aligned with CPW's suggestions as we are seeking to minimize any potential impacts to the environment and wildlife with our project. We will be glad to speak to you, Glenn, or Mr. Bybee further about any of these comments.

Regards,



Danny Teodoru, Esq.
Timberline Law

cc: Andy Bruno, Nutrient Holdings

December 20, 2024

Glenn Hartmann and John Leybourne
Garfield County Community Development Department
108 8th Street, Suite 401
Glenwood Springs, CO 81601

Re: Additional Referral Comments Responses to Referral Comments received after October 18, 2024 for the Nutrient Farm Planned Unit Development (PUD) (PUDA-05-22-8899), Coal Ridge PUD Amendment/Revocation (PUAA-05-23-8898), and Riverbend PUD Amendment (PUAA-05-23-8963) requests

Glenn and John,

Thank you for your assistance with our three Nutrient Farm related proposals. We appreciate you speaking to us about the project on November 5, 2024 and forwarding to us the additional referral agency comments that you have received after we submitted our original referral response letter on October 18, 2024. We appreciate the agencies taking the time to review our PUD materials and provide their comments and suggestions. Certain excerpts of referral comments are provided in italics below for reference. We have replied to each of the referral comments and will be glad to provide additional information if we inadvertently overlooked a comment or did not address a comment adequately.

Road and Bridge (R&B)

On October 30, 2024 Wyatt Keesbery's comments were provided to us. Our engineering team, Dave Kotz and Dan Cokley of SGM, then spoke to Mr. Keesbery discussing traffic counts, the traffic analysis, dedications, and future roadway improvements that resolved his initial remarks:

Road and Bridge would like to take a moment to let you know our position on CR 335 used by Nutrient Farms. We believe this section of CR335 needs to be upgraded from the City limits of New Castle to the cattleguard at the entrance to the Riverbend Subdivision. We would like to see that section upgraded with a new asphalt driving surface of at least 24' wide and a 2' gravel shoulder on each side. We would also like to see a 6' wide asphalt walking path on the North side of the North shoulder. The walking path would then connect to the path that New Castle has in their town limits. The walking path would be a great benefit to the people living in the subdivision and to the potential visitors coming to the Farm.

The November 6, 2024 email exchange between Mr. Kotz, Mr. Cokley, and Mr. Keesbery which was provided to Planning Staff is as follows:

Wyatt,

Thanks for sending the traffic counts. The observed 2019 and 2024 numbers correlate well with those in Dan's Nutrient Farm Level III Traffic Impact Study.

Dan and I appreciate your time Monday morning taken to discuss and further clarify your comments pertaining the Nutrient Farm PUD. John Leybourne forwarded them to us in the October 30, 2024, email at the bottom of this page.

Based on our conversation, we understand your general positions to be:

- o CR 335 is adequate for current 2024 Riverbend Subdivision and Nutrient Farm uses.*
- o If the NF PUD proposed uses happen in the future, there will be some trigger point where a 24' wide roadway (two 12' lanes) w/ gravel shoulders will be necessary for the new and combined existing uses.*
- o With the additional NF amenities, a trail system along the length of CR 335 would benefit people in New Castle and Riverbend Subdivision, as well as the general public visiting the Farm.*
- o Development should pay its fair share for the cost of transportation improvements.*

Dan and I agree with your assessment and views in the above points.

The Nutrient Farm PUD, as proposed, supports this improved, multi-modal transportation vision in many ways including:

- Dedication of an 80' wide ROW for CR 335 on NF property to replace the ambiguous, assumed, prescriptive easement.*
- Providing an E – W corridor for LoVa trail across the entire Nutrient Farm property via the 80' ROW and a separate 25' wide easement in areas to the east.*
- Providing five LoVa Trail parking spaces S of CR 335 near Nutrient Farm Road (and other considerations defined in an MOU w/ Town of New Castle and LoVa).*
- Payment of incremental Traffic Impact Fees as development occurs. (Present day fee calc total for ultimate PUD = \$217,703)*

As we discussed, the TIS recommends improving CR 335 from Bruce Drive to Park Drive to 24 ft asphalt and 2 ft asphalt shoulders, the segment from Park Drive to the cattle guard would be 24 ft asphalt, both w/ gravel shoulders). The trigger would be the same for each segment.

an appropriate trigger for the roadway improvements (widening to 24' asphalt w/ gravel shoulders) is likely when GarCo 3-yr measured CR 335 ADT on NF exceeds the Minor Collector threshold of 2500 ADT. It is also a possibility that Garfield County may decide to proceed with a road project prior to the 2500 ADT trigger. Either way, to support that project, NF can agree to pay then, in advance any remaining traffic impact fees for planned development under the PUD. Nutrient Farm would be amenable to incorporating this condition into the Development Agreement and project approvals.

Please let me know if this email accurately reflects your review and thoughts for proceeding with the Nutrient Farm PUD.

Thank you,

David M. Kotz, PE, CFM

Mr. Keesbery then replied:

Thanks Dave.

I agree with everything that is outlined in the email below.

Wyatt

Therefore, in terms of timing or “triggers” we believe the following to be reasonable and appropriate:

- That portion of CR 335 on the property will be dedicated as a public ROW to the County directly subsequent to the recordation of the PUD approval resolution and PUD Guide.
- Nutrient Farm shall remit road impact fees for each structure it builds pursuant to the PUD in accordance with the standards set forth in §7-405 of the Land Use and Development Code.
- Once Garfield County measured CR 335 average daily trips (ADT) exceed the Minor Collector threshold of 2,500 ADT, Nutrient Farm will pay then, in advance, any remaining Traffic Impact fees for planned development under the PUD.
- Moreover, should Garfield County decide to proceed with a road project prior to the traffic counts rising to the 2,500 ADT trigger, at any point in time after five years from the date of recordation of this Designation, Nutrient Farm will pay then, in advance, any remaining Traffic Impact fees for planned development under the PUD. We are amenable to incorporating this condition into the Development Agreement and project approvals.

Planning Staff has commented that the Traffic Impact Fees are for “area-wide” improvements, rather than project specific improvements. Consequently, we do not believe we have the authority or the direct responsibility to improve an existing sub-standard road before any additional uses take place on the Nutrient Farm property. Because the improvements to this road reflect considerations well beyond the specific scope of the Nutrient Farm activities and improvements, it is more appropriate our future Traffic Impact Fees remittance should be used by the County to do so.

Another significant consideration here is the notion of a double exposure for the same consideration in the manner in which these road concerns are being addressed. In other words, we would be paying the road impact fees in an effort to facilitate the subject road improvements. If the improvements are effectuated directly by Nutrient Farm, then logically, the rationale, nexus and proportionality for such improvements would be quite lacking. Thus, the proper bite at the apple, so to speak, would seem to us to be payment of the impact fees as proposed.

We also would stress that this discussion of the impact fees deals with just one aspect of the road contributions this project now puts forward. In addition to these fees, we are quite confident that there is strong inherent value in the dedication of significant right-of-way as proposed herein, contemporaneous with the PUD. There is also great benefit in the commitment to dedicate an easement for the LoVa trail. Both these commitments also need to be seriously considered.

Trout Unlimited

As you know, we have been working with Trout Unlimited over the course of this process in an effort to address their concerns. Nevertheless, it is rather challenging to respond to these comments under the auspice of a referral agency. These are public comments, and comments we take very seriously. Nevertheless, the scope of proper referral agencies for land use review is a creature of Colorado law. The structure of the referral and review process for County land use matters is generally set forth at CRS §30-28-136. This process is established for key state and local government agencies, conservancy districts, and the like.

Our concern, naturally, is that should such elevated standing be given to certain non-profit entities or other private interests, how do we delineate the proper distinction between formal referral and review entities and comments from concerned groups or individuals.

We certainly plan to respond thoroughly to all comments made regarding this application. Accordingly, our concern here is more how we respond than if do – in other words ensuring that responses are made within the proper avenue. Trout Unlimited is not a referral agency under Colorado law or the County Code, thus we will refrain from addressing such comments in this response.

Colorado River Fire Rescue (CRFR)

Chief Orrin Moon provided referral comments on October 17, 2023 noting that he was still in the midst of reviewing the material but had questions about the fire protection irrigated water, especially during the winter months.

Once the PUD is developed, fire flow needs will be met through potable and raw water storage or water supplies and infrastructure sizing. A potable water system with hydrants will be provided as shown on the water and sewer plan. For those portions of Nutrient Farm served by its own water systems, multiple dry hydrants connected to the irrigation and recreational water ponds will be installed through the property for emergency use by the CRFR. Raw water hydrants can be available year-round if deemed beneficial in certain areas or for temporary conditions.

On November 11, 2023 Mr. Kotz met with Chief Moon reviewing the project and his comments. Additional information was sent to Chief Moon and we did not receive any additional questions or comments from him. Recently, on November 4, 2024, Staff forwarded additional comments from Chief Moon to us:

After reviewing my notes and concerns from October 17, 2023, to Glenn Hartmann I have additional comments, requirements, and questions on Nutrient Farms PUD. See the following comments.

- 1. All roads shall be minimum of 20' in width and be all weather driving surface. All dead-end road longer than 150' shall have a fire truck turnaround build to meet Colorado River Fire Rescue (CRFR) and 2015 International Fire Code (IFC) specifications.*

2. *Fire hydrant locations may need to be relocated or added to as required by CRFR. Dry Fire hydrants as noted in Central Water Dist., specifications shall have CRFR required adaptors installed. All fire hydrants will be for year around use or special arrangements will be made with CRFR to ID special fire hydrants that may be seasonal.*
3. *All roads in PUD shall have an approved road name and addresses to all sites and buildings shall be approved by CRFR.*
4. *More review will be needed for Adventure Park area. We will need more information to adequately review adventure park, water park, RV camping, cabins, stage, and campgrounds.*
5. *Any open burning will be regulated by IFC and Local burn permits/ restrictions. This may mean no unregulated Agriculture Burning status in this PUD.*

This is a general review of this PUD and if approved then further review will need done on each building and facility for Code review and compliance. Please feel free to contact me with any questions.

Nutrient Farm places the utmost importance on fire protection and emergency response. We believe the above comments apply to areas serving the public or having structures requiring fire protection and will fully comply. Agricultural roads in steep terrain will be designated as such and closed to the public. The entire master plan will be reviewed with CRFR.

JVAM Law Firm

Please see the above discussion related to the Trout Unlimited comments. We will be preparing a formal response to JVAM, well before our hearing. Nonetheless, a private law firm with private clients is certainly not a referral agency for this process.

Aspen Valley Land Trust (AVLT)

Again, we do not believe that AVLT is a referral agency. We will respond in the appropriate forum well before our hearing.

We would also like to point out that in terms of a response to Mr. Tymczyszyn's requested information, Mr. Kotz emailed and called Mr. Tymczyszyn on October 16, 2024 to speak to him about the memo/requested information but Mr. Tymczyszyn did not pick up. Mr. Kotz left a message that has since been unreturned by Mr. Mr. Tymczyszyn.

Planning Department Staff November 5, 2024 Comments

Thank you for meeting with us on November 5 and discussing the additional referral comments that were received as well as your review of the Nutrient Farm PUD submittal materials. We have summarized and elaborated on each of them below:

1. A response to the JVAM Letter comments.

Please see our response above. We will be providing a formal response to JVAM promptly.

2. *The Aspen Valley Land Trust is expected to comment.*

Please see our above response to the AVLTT comments.

3. *Nutrient Farm PUD Guide, pages 1-2 text regarding future uses/locations is too open-ended.*

We understand and appreciate Staff's concerns in this regard. We will be glad to re-work that text section with Staff at your earliest convenience. It was our intent to provide flexibility for minor items as we move forward with operations rather than having any less than major uses to require a PUD Amendment.

Nonetheless, after reviewing this section again, we understand that the text can be revised to provide clearer intent and directions. As we discussed, our aim was that all future proposed uses must be listed as an allowed use of some type under a specific Development Area in the proposed Land Use Matrix and the future proposed use must be generally located and within boundaries of the corresponding proposed PUD Map to be approved. Any uses not contemplated by the Land Use Matrix for a specific Development Area would require a PUD Amendment. We believe this is consistent with the Land Use and Development Code (LUDC) requirements for PUDs.

We would also stress that we are more than happy to discuss any direct suggestions for edits, revisions, or modifications to the proposed PUD that Staff feels is appropriate. The PUD Guide is, of course, a work in progress, and we look forward to working closely with Staff in such efforts.

4. *Questions about the industrial uses next to residential areas.*

The Nutrient Farm PUD property is over 1,100 acres and is owned by a single entity, Nutrient Holdings that has no intention of selling off any portions of the property to be developed by others. The PUD revolves around the working agricultural areas and additional residential, commercial/industrial and recreational uses and Development Areas are proposed to support it and diversify the activities on the property. We envision Nutrient Farm to be a self-contained community as much as possible—with its own infrastructure and water and sewer systems. Consequently, Nutrient Holdings does not have any concerns with the proposed commercial and industrial uses proposed on the 12.31 acres on the north-western most portion off the property in Development Area 7.

In terms of industrial type uses, we would stress that the uses at issue here are really far more akin to intensive agricultural than they are related to industrial use. Nevertheless, we do realize that impacts are impacts, and in this light out of all of the proposed uses and Development Areas, this proposed industrial like location is intentionally the furthest away from the existing Riverbend Subdivisions.

We would also note that directly abutting this Development Area, across the Colorado River, is land designated by the New Castle Comprehensive Plan's Future Land Use Map as a Planned Urban Center surrounding a Business Campus. Per the Comprehensive Plan, a wide variety of uses are called for in these areas—retail, services, restaurants, hotels, entertainment, civic functions, residential, light manufacturing, publishing, research/development, and compatible trades, artist studios, light industrial activities, and wholesale activities. These areas are to be accessed via CR 335 and the construction of a new bridge. In this light, we do feel Nutrient Farm, and its development pattern, is a very natural, complementary transition to the Town's vision for the vicinity.

In regard to the proposed PUD Guide text, the 100 foot storage setback of Section 7-1001.D.3 Land Use and Development Code (LUDC) will apply to an adjacent property outside of the Nutrient Farm PUD boundaries, but not to any adjacent property line located within the Nutrient Farm PUD boundaries. Given the mixed-use nature of Nutrient Farm and the location of the Development Areas, we believe the large 100 foot setback is unnecessary within the PUD itself. We point out that all of the other provisions of the LUDC for Industrial Uses will be in effect.

5. Water rights and water system(s) need to be better understood.

We absolutely appreciate the concerns over water rights and water systems. While the broader consideration of these issues is within the auspice of the PUD, we want to make sure that we are addressing matters in the appropriate manner in the appropriate forums. Specifically, we did acknowledge and respond previously the Matrix Design Group comments.

A stark example of this distinction as related to this PUD is the issue of water rights, as Staff has addressed. We absolutely have valid, properly and formally decreed water rights, which are the basis of our water profile and plan for this project. We have identified and discussed those rights. Our water engineers and water counsel have also addressed these rights.

If there is some "public comment," be it from members of the public, opposing counsel, etc., regarding the validity of these decreed water rights, then such concerns absolutely must be addressed at the proper forum. In that regard, a PUD review is a highly inappropriate forum to address such concerns. No County function is properly authorized or suited to address such concerns. In fact, not even a State District Court is proper for such concerns. The State of Colorado has a comprehensive water court decision which is designated as the only forum to address such water rights issues.

In terms of our water system to attain such rights, we do understand that there have been concerns expressed regarding how we obtain such water. Specifically, there have been challenges made to our ability to utilize Vulcan Ditch to do so. Fortunately, we need not, and arguably should not, delve into a complex discourse of the propriety of such ditch rights. What matters most for purposes of this review is that while improvements are needed to utilize the Vulcan Ditch, we have more than ample and adequate means of utilizing those water rights at an alternative point of

diversion. Specifically, if necessary, we could pull all necessary water directly out of the Colorado River by means of our already approved diversion point therein, and a pumping system already in place as well.

In light of Staff's concerns in this matter, what we suggest is a condition of approval to ensure that there is more ample time to come to allow deeper analysis and possible resolution on the Vulcan Ditch issue. As we have repeatedly stressed, this is merely a zoning application, and thus the water issues related to zoning are much more cursory. Therefore, we propose that prior to any use determination or other land use review for the property, we will work closely with Staff and with the concerned parties to address the legal rights to the ditch and make a good faith effort to resolve the issues related thereto. Accordingly, until that point in time, we will only use our diversion point directly out of the Colorado River. This condition would assure that the PUD, which is merely zoning and broad based, and thus not the proper forum for these issues, does not obviate a fair opportunity for these complex ditch issues to be addressed and explored in further detail via a more appropriate forum. On the other hand, the proper review of a PUD zoning document will also not be held up based on matters that are flatly outside of the scope for such a process, as even the Colorado Division of Water resources has noted.

6. Food trucks are appropriate in some Development Areas of the PUD; not in all. Please consider revising the proposal.

We will be glad to revise the proposed PUD Guide text and Land Use Table to eliminate Food Trucks as a permitted use in the residential Development Areas 1, 2, and 4, and in Development Area 5/Working Farm East. We believe the remaining Development Areas 3, 6, 7, and 8 are appropriate and accessible for a Food Truck use. (No food truck allowances were or are proposed for the Private Open Space areas.)

7. Access – Road and Bridge comments must be addressed. Additionally, a portion of the current roadway does not meet roadway design standards and should be improved. The Traffic Impact Fees are for system wide improvements, not project specific.

Addressed above.

8. Update and provide more details in the proposed Phasing Plan. This should include timing triggers for the road upgrades and fees tied to specific uses.

We will be glad to work on a series of triggers tied to the phasing plan, and more particularly, tied to specific aspects of development with Staff. This would ensure that the necessary infrastructure, public benefits, etc. are conferred in close conjunction with the particular uses on Nutrient Farm that so warrant such triggers. This could be a very useful Exhibit Document to the PUD and incorporated therein.

In that regard, the following is what we proposed along with additional text for each phase:

Development of the Nutrient Farm property is planned to take place in three phases over approximately nine years. The primary focus of Nutrient Farm is the Working Farm areas—and all of the Agricultural and Animal Related Uses and accessory activities related to them. Nutrient Farm is planned to be developed in the following three phases:

Area	Name/Use	Phase 1			Phase 2			Phase 3		
		2023	2024	2025	2026	2027	2028	2029	2030	2031
1	Residential Subdivision (5 Lots)				X	X	X	X	X	X
2	Residential Subdivision (1 Lot)		X	X						
3	Residential Subdivision (10 Lots)/Solar Energy Systems		X	X	X	X	X	X	X	X
4	Residential Subdivision (2 Lots)				X	X	X	X	X	X
5	Working Farm – East/Solar Energy Systems (1 Residential Lot)	X	X	X	X	X	X			
6	Working Farm – West/Solar Energy Systems	X	X	X	X	X	X	X	X	X
7	Commercial/Industrial Park				X	X	X	X	X	X
8	Outdoor Adventure Parks		X	X	X	X	X	X	X	X

9. More information on the residential density banking concept. For instance, where would it go?

As discussed in our Narrative, our calculations indicate that there are at the very least 123 residential units remaining on the property from the original Riverbend PUD allowances. The Owner/Developer intends to utilize a maximum of only 18 of those units. In turn, we are requesting that no more than 99 units of the originally allocated density be deemed functionally inactive and simply held in some form of latent density reserve. This density reserve would serve as a type of fall back option of sorts or an insurance policy if Nutrient Farm should fail or cease to remain viable or functional, etc.—not events we plan on in any way, shape, or form. None of the latent density may be utilized unless and until a development plan proposing the use of such density is fully vetted, reviewed and approved by the County at some future point in time per the standards of both the proposed Nutrient Farm PUD and the LUDC. Invariably, this would entail a wide array of land use proposals, including a PUD modification, as well as subdivision and site plan reviews. Accordingly, all development standards, including infrastructure, water and sewer availability, access, etc. would have to be thoroughly addressed. Moreover, all necessary studies and reports will be submitted to Garfield County via each such process, to ensure that all LUDC concerns, development concerns, and County Staff and BOCC concerns are addressed and resolved before any of the density in the density reserve can be utilized. ***In summary, the density reserve will maintain the future potential density but will not operate as a direct development entitlement for residential development.***

The amount and location of the proposed residential density development would depend upon any then existing uses on the property and those still intended to be developed. For instance, if the Working Farm East/Development Area 5 ceased to operate and Nutrient Holdings had no plans to continue agricultural operations in that Development Area, then a Major PUD Amendment and all supporting submittal requirements would be submitted to Garfield County for review and consideration. Please see section II.C. Density of the PUD Guide for specific language.

10. Please respond to CRFR comments. It is unclear if CRFR saw your October 18, 2024 referral response letter.

Please see our above response to the CRFR comments.

11. Per Colorado Parks and Wildlife (CPW) comments, concerned with winter range and the proposed uses. Would like to have text added to the PUD Guide to require a management plan.

We do appreciate CPW's comments, and as we mentioned, we met with Travis Bybee on May 9, 2024 and we are trying to assuage these concerns as much as we feasibly can. We want to improve the overall quality of wildlife habitat on and near the property—it is a fundamental model of our overall operational plan. Multiple measures will be implemented on Nutrient Farm including those regulating the following: garbage disposal and storage, compost piles and dumps, fences, pets, bird feeders, exterior lighting, hours of operation, and a non-toxic weed management plan. A Wildlife Mitigation Plan will also be developed and implemented in consultation and cooperation with CPW after the review and approval of the Nutrient Farm PUD. (Please see the proposed PUD Guide Wildlife Protection Measures for details.)

This Wildlife Mitigation Plan will include specific actions to reduce the impacts to elk and mule deer on a seasonal basis, and also provide habitat improvement and year-round water sources for them. (Please see below for details.) We note that this PUD request is only a zoning request, and no specific uses are proposed at this time. In other words, the PUD only preserves the ability to submit future site-specific use requests to the County for consideration. Inevitably, zoning itself does not present tangible impacts to wildlife; it is the subsequent development activities and uses that pose potential impacts.

Accordingly, the best means to squarely address and abate these impacts is to address the specific development activity when it is proposed and hit it head on—the potential impacts caused by such activities when it is tangibly known when and how such activities will occur. Once the details of the specific request are finalized, additional studies, tests, and specific design recommendations will be prepared based on the final design and locations of the future land uses and only then will a formal application be submitted to the County. (I.e., wetland delineation and Corps permitting will be required for any improvements near the Colorado River.). Further, as we mentioned in our October 18, 2024 response, we will be glad to add additional PUD Guide text requiring Nutrient Farm and CPW to meet annually, and also meet prior to submitting any site plan applications to the County, so that CPW is apprised of our projects and their comments and suggestions may be incorporated into the design/operation of the specific activity. We believe this open on-going

communication and cooperation will be beneficial to the wildlife in the area and we are glad to add this to the PUD Guide.

Consequently, we believe that through the mitigation measures proposed in the PUD Guide, Impact Analysis Report, and the additional agreed upon terms, annual meetings and pre-application meetings, the creation of Winter Recreational Plans for each site plan activity, the preparation and implementation of the Wildlife Impact Report in cooperation with CPW, habitat fragmentation and/or loss has been reduced as much as possible and there will be no significant, long-term detrimental impacts to wildlife or their habitat.

12. The County has just opted into Proposition 123 and hoping that Nutrient Farm could be a good partner to provide employee housing in the County.

We are proud to note that the PUD Guide already contemplates the construction of bunkhouses, farm manager residences and on-site employee housing units for seasonal and full-time employees of Nutrient Farm in Development Areas 5, 6, 7, and 8. As noted, these units are not related to inclusionary housing per the LUDC nor shall any provisions of such be applied to them. This proposal does not require any such inclusionary zoning units.

Instead, these units have been included voluntarily as allowed uses in the proposed Land Use Table, in an effort to promote string management, stewardship and connection to the community. These units are not, however, included in the water and wastewater studies nor the traffic impact study. Nutrient Holdings understands that in order to attract and keep valuable employees, it is important to provide housing for them. Thus, On-Site Employee Housing units and/or Bunkhouses are planned for Nutrient Farm once the operation and employment demands are better understood (i.e., the needed amount and design type). No PUD Amendment is required, but the applicable Garfield County review processes will be followed and additional reports/analysis will be provided at that time (i.e., water, wastewater, vehicle trips, etc.). All such Employee Housing proposals will comply with all the requirements of the PUD and the LUDC. We will be glad to discuss these housing units with you in relation to Proposition 123 and any support the County can provide via Proposition 123 to construct these.

Thank you for your help with our project, Glenn and John. We appreciate your comments and believe our responses will help avoid confusion over the intent of the Nutrient Farm PUD. Please feel free to contact us about any of our responses and we will be glad to speak to you and provide any clarification related to them.

Best Regards,



Danny Teodoru, Esq.
Timberline Law

EXHIBIT D

TABLE 2 – NUTRIENT FARM LAND USE TABLE

Table 2 – Nutrient Farm Land Use Table											
P = By-Right Use A = Administrative Review Use L = Limited Impact Review Use M = Major Impact Review Use											
Land Use Category	Land Use Type	Development Area								PUD or LUDC Standard ¹	
		1 Residential	2 Residential	3 Res/Solar	4 Residential	5 E-Farm	6 W-Farm/Solar	7 Comm/Ind	8 Adv Park		
Agricultural and Animal-Related Uses											
General	Agriculture*	P	P	P	P	P	P	P	P	*	Exempt
	Agriculture Equipment Cooperative Renting*						P	P	P	*	
	Agritourism*	P	P	P	P	P	P	P	P	*	Exempt
	Building or Structure Necessary to Agricultural Operations, Accessory	P	P	P	P	P	P	P	P	*	Exempt
	Forestry					P	P	P	P		Exempt
Products, Processing, Storage, Distribution and Sale	At Point of Production*			P		P	P	P	P	*	Exempt
	Off-Site*			P		P	P	P	P	*	
Animals and Related Services	Animal Keeping*		P			P	P			*	
	Riding Stable					P	P				
Residential Uses											
Household Living	Dwelling Unit, Accessory (ADU)*	P		P	P	P				*	
	Dwelling Unit, Accessory Guest House*		P							*	
	Dwelling Unit, Bunkhouse*					A	A			*	
	Dwelling Unit, On-Site Employee Housing*					A	A	A	A	*	
	Dwelling Unit, Single-Unit or Single Family (per legal lot)	P	P	P	P	P					
Office	Short Term Rentals	P	P	P	P	P					
	Home Office/Business	P	P	P	P	P	P	P	P		7-702

Land Use Category	Land Use Type	Development Area								PUD or LUDC Standard ¹
		1 Residential	2 Residential	3 Res.Solar	4 Residential	5 E-Farm	6 W-Farm.Solar	7 Comm/Ind	8 Adv Park	
Public/Institutional Uses										
Assembly	Community Meeting Facility*			A			A	A	A	*
	Nutrient Farm Event*			P			P	P	P	*
	Public Gathering*			P			P	P	P	*
Parks and Open Space	Parks, Open Space and Trails*	P	P	P	P	P	P	P	P	*
Transportation	Aircraft, Ultralight Operation	P	P	P	P	P	P	P	P	7-801
	Helistop					L	L		L	7-802
	Trail, Trailhead, Road	P	P	P	P	P	P	P	P	
Commercial Uses										
Health and Wellness*	Health and Wellness Retreat*								L	*
Office	Professional Office						P	P	P	
Retail/Wholesale	Brewery, Winery, Cidery, Distillery			P		P	P	P	P	
	Nursery/Greenhouse			P		P	P	P		7-902
	Retail, General			P		P	P	P	P	
	Retail, Recreational Equipment and Vehicles*						P	P	P	*
Recreation and Entertainment	Theater, Indoor							P		
	Nutrient Farm Motor Sports Center*								M	*
	Outdoor Music and Entertainment*						M	M	M	*
	Recording/Production Studio*							P		*
	Recreational Activity, Outdoor – Adventure Farm Activity*						A			*
	Recreational Activity, Outdoor – Land Activity*						L	L	L	*
	Recreational Activity, Outdoor – Passive Recreational Activity*					P	P	P	P	*
	Recreational Activity, Outdoor – Private Non-Motorized Recreational Event*					P	P	P	P	*
	Recreational Activity, Outdoor – Recreational Adventure Tours*						P	P	P	
	Recreational Activity, Outdoor – River and Water Activity*						L	L	L	*
	Recreational Activity, Outdoor – Winter Activity*						L		L	*
Services	Eating or Drinking Establishment*			P			P	P	P	*
	Food Truck*	P	P	P	P	P	P	P	P	*

Land Use Category	Land Use Type	Development Area								PUD or LUDC Standard ¹
		1 Residential	2 Residential	3 Res/Solar	4 Residential	5 E-Farm	6 W-Farm/Solar	7 Commo/Ind	8 Adv Park	
	General Service Establishment					P	P	P	P	
Vehicles and Equipment	Temporary Parking Plan*			P			P	P	P	*
Visitor Accommodations	Campground/Recreational Vehicle (RV) Park*								M	*
	Small Camping Facility						A	A	A	7-906
	Lodging Facility*								P	*
Industrial Uses										
Service	Contractor's Yard, Small						P	P	P	7-1001 ²
	Contractor's Yard, Large						P	P	P	7-1001 ²
Fabrication	Cabinet Making, Wood and Metal Working, Glazing, Machining, Welding						P	P	P	7-1001 ²
	Goods Processed from Natural Resources					M	M	M	M	7-1001 ²
Waste and Salvage	Sewage Treatment Facility					L	L	L	L	7-1001 ² 7-1005
Utilities										
	Aerobic Aeration Plant or Disposal Method		A			A	A	A	A	
	Anaerobic Septic Tank (Subsurface) or Disposal Method		A			A	A	A	A	
	Cistern*	P	P	P	P	P	P	P	P	*
	Electric Power Generation Facility, Small*			L		L	L	L	L	*
	Electric Power Generation Facility, Large*			L		L	L	L	L	*
	Geothermal Energy Systems*	P	P	P	P	P	P	P	P	*
	Hydro-Electric Energy System*		L			L	L	L	L	*
	Hydrogen and Methane Generation and Storage Systems*		L			L	L	L	L	*
	Lines, Distribution	P	P	P	P	P	P	P	P	
	Lines, Transmission	L	L	L	L	L	L	L	L	
	On-Site Wastewater Treatment System (OWTS)		P			P	P	P	P	
	Pipeline	A	A	A	A	A	A	A	A	9-104
	Pit of Thermal Energy Storage (PTES)*	P	P	P	P	P	P	P	P	*
	Solar Energy System, Accessory*	P	P	P	P	P	P	P	P	*

Land Use Category	Land Use Type	Development Area								PUD or LUDC Standard ¹
		1 Residential	2 Residential	3 Res/Solar	4 Residential	5 E-Farm	6 W.Farm/Solar	7 Comm/Ind	8 Adv Park	
	Solar Energy System, Accessory Improvement*	P	P	P	P	P	P	P	P	*
	Solar Energy System, Large*			L		L	L	L	L	*
	Solar Energy System, Small*	A	P	A	A	P	P	P	P	*
	Storage Tank*	P	P	P	P	P	P	P	P	*
	Utility Distribution Facility	P	P	P	P	P	P	P	P	
	Water Reservoir		P			P	P	P	P	
	Water Tank or Treatment Facility			P		P	P	P	P	
	Wind Energy System, Small	L	L	L	L	L	L	P	L	
Accessory Uses and Improvements										
	Building, Accessory*	P	P	P	P	P	P	P	P	*
	Improvement, Major Accessory*	P	P	P	P	P	P	P	P	*
	Improvement, Minor Accessory*	P	P	P	P	P	P	P	P	*
	Improvement, Temporary*			P		P	P	P	P	*
	Structure, Accessory* (I.e., Fence, Hedge or Wall)	P	P	P	P	P	P	P	P	*
	Use, Accessory*	P	P	P	P	P	P	P	P	*
	Use, Temporary*					P	P	P	P	*

* Denotes unique land use defined and regulated in this PUD Guide or Nutrient Farm Land Use Definitions, attached as Exhibit E to this PUD Guide.

¹ Unless specifically noted as Exempt, all land uses must comply with the regulations and standards of this PUD Guide or Nutrient Farm Land Use Definitions, or if not addressed therein, then the referenced Article 7 Standards sections of the LUDC.

² Industrial uses are allowed in Development Areas 5-8 and these Areas shall be considered Industrial Zoned property for applying sections 7-1001. of the LUDC. Section 7-1001.D.3 shall not apply to any adjacent property line located within the Nutrient Farm PUD boundaries, but shall apply to an adjacent property line outside of the PUD boundaries.

EXHIBIT E

NUTRIENT FARM LAND USE DEFINITIONS

(Black = Code. Blue = Proposed/additional wording.)

The following Nutrient Farm Land Use Definitions contain use specific allowances that are unique to the Nutrient Farm Planned Unit Development (“PUD”) and supersede the provisions of the Garfield County Land Use and Development Code (“LUDC”). When a land use is not defined below or regulated elsewhere in the PUD Guide, the definitions, standards, and requirements of the LUDC shall apply.

For the purposes of this PUD Guide, the following words and phrases are defined as follows:

Accessory Solar Energy System: A device and/or system that has a combined name plate DC rating of less than 25 kilowatt (“kW”) and includes the equivalent kilowatt measurement of energy for systems other than photovoltaic that converts the sun’s radiant energy into thermal, chemical, mechanical, or electric energy.

Accessory Use and Improvement: Accessory Use and Improvement are uses, buildings, structures, or other improvements of any manner which are subordinate and incidental to the primary use of the subject property and located on the same lot or on a common lot serving the primary use. An Accessory Use and Improvement may be located in any Development Area or Open Space Tract. All Accessory Uses and Improvements shall be:

1. Incidental and subordinate to a principal building or principal use;
2. Subordinate in area, extent, or purpose to the principal building or principal use served;
3. Contribute to the comfort, convenience, or necessity of occupants of the principal building or principal use;
4. Reasonably limited in distance from the primary use or structure; and
5. Listed as an Accessory Use, Accessory Building, Accessory Improvement, Accessory Structure, or noted as such in the Nutrient Farm PUD Guide or these Definitions.

Agriculture: The use of land for production, cultivation, growing and harvesting of crops and plants; grazing, raising, breeding, minor on-site processing of livestock, excluding commercial animal feed lot operations, as generally defined in the LUDC and allowed per this PUD Guide.

Agricultural Equipment Cooperative Renting: Cooperative operations located on Nutrient Farm, which may allow for the temporary renting of farm and construction equipment and land maintenance machinery to other agricultural operations in the community in the interests of efficiency and collaboration, as generally defined in the LUDC and allowed per this PUD Guide.

Agricultural Products, Processing, Storage, Distribution, and Sale at Point of Production: Operations on Nutrient Farm performing a variety of operations on livestock and crops after harvest, for sale within Nutrient Farm to direct consumers, as generally defined in the LUDC and allowed per this PUD Guide.

Agricultural Products, Processing, Storage, Distribution, and Sale Off-Site: Centralized operations located on Nutrient Farm, performing a variety of operations on livestock and crops after harvest, intended for distribution outside of Nutrient Farm to third party production facilities or further processing and packaging and commercial distribution. These facilities accept products from off-site locations for processing. Said off-site production and distribution shall only proceed as generally defined in the LUDC and allowed per this PUD Guide.

Agritourism: An agriculturally based operation or activity at a working farm or ranch, conducted for the enjoyment, education, or active involvement of visitors that adds to the economic viability of the agricultural operation.

Animal Keeping: An establishment for the harboring, keeping, care, and secure and humane containment of wild and/or domesticated animals as contemplated and regulated by this PUD Guide.

Campground/Recreational Vehicle (“RV”) Park: A land parcel in single ownership that has been developed for visitor use by means of rustic furnished cabins, campsites, guest-owned tents, trailers, and RVs for stay on a temporary basis for recreational purposes.

Cistern: A waterproof container used to hold liquids, usually water; at below ground, at grade or above ground grade.

Community Meeting Facility: An indoor or outdoor facility for public social gatherings and for holding community and group events.

Dwelling Unit, Bunkhouse: A permanent residential dwelling unit providing living and sleeping quarters for on-site employees working on the Working Farm areas of Nutrient Farm or any other operations within the Nutrient Farm PUD Property, which may or may not include common kitchen, dining, or other living areas.

Dwelling Unit, On-Site Employee Housing: A permanent residential dwelling unit providing living and sleeping quarters for on-site employees working anywhere on the Nutrient Farm Property or employed within Garfield County. On-Site Employee Housing Dwelling Units are not required to be provided by the Owner/Developer but may be constructed and may be designed in a free standing Single-Unit, Two-Unit, or Multi-Unit Dwelling configuration, or may be located within other buildings in Nutrient Farm.

Eating or Drinking Establishment: An establishment for the sale and consumption of food and beverages on the premises or off-site, as contemplated and defined by the LUDC.

Electric Power Generation Facility, Small or Large: Per the LUDC, a facility designed to generate electricity by the conversion of natural resources such as wood, solar photons, coal, natural gas, wind, water, or the Earth’s natural heat, with appurtenant facilities thereto. A Small Facility has a generating capacity of less than 10 megawatts, and a Large Facility is 10 megawatts or more.

Food Truck: A Food Truck is a vehicle from which food for consumption is sold to the public. Cooking facilities for the preparation of food may be, but are not required to be, located inside the vehicle.

Health and Wellness Retreat: A facility and associated activities and facilities that provides a variety of personal care services for the purpose of improving health in mind and body, including professional services, offices, and treatment rooms, meeting and conference rooms, Eating or Drinking Establishments, short term lodging associated with such retreat, and other similar uses and facilities.

Improvement, Temporary: An improvement without any permanent foundation that is intended to be erected and removed within a designated time period, when the activity or use for which the temporary improvement was erected has terminated.

Lodging Facility: An establishment that provides accommodation for a temporary stay that includes, but is not limited to, a resort lodge, guest ranch, motel, hotel, boarding house, bed and breakfast establishment, Campground/RV Park and rental cabins, and Small Camping Facilities. Lodging Facilities exclude Short Term rentals, Temporary Employee Housing on premises and contracted employee housing off premises.

Nutrient Farm Event: A Nutrient Farm Event includes a variety of entertainment, recreational, educational, and celebratory events that take place anywhere on the Nutrient Farm Property which are specifically regulated by the terms of this PUD Guide. A Nutrient Farm Event is an organized event or group activity, including but not limited to, festivals, performances, entertainment, live music, performing arts, educational presentations, retreats, meetings, parties, celebrations, assemblies, craft fairs, farmer's markets, contests, recreational or athletic competitions, or other similar social gatherings and activities.

Nutrient Farm Motor Sports Center: The Nutrient Farm "OHV Park" is a specifically designated area, with all Accessory Uses and Improvements, devoted to off road motorized recreation, using vehicles including, but not limited to, dirt bikes, all-terrain vehicles ("ATVs"), and other off highway vehicles ("OHV"), and all courses and operation areas accessory to such use, including the rental and sales of associated recreational equipment and vehicles are allowed.

Outdoor Music and Entertainment: Any activity, use, and related outdoor area, building or facility that offers performances, live music, entertainment, festivals, performing arts, and other similar events or activities that may include lighted areas for use after dusk, and all associated Accessory Uses and Improvements pertaining thereto. All Outdoor Music and Entertainment uses, events or activities are a Nutrient Farm Event as defined and regulated by this PUD Guide.

Parking Plan, Temporary: A short term, non-permanent, parking plan for all Nutrient Farm Events with an expected attendance of 350 persons or more. All temporary parking shall be on the Nutrient Farm Property and shall not be allowed within the County Road 335 right-of-way under any circumstances. The Temporary Parking Plan may be implemented within Development Areas 3, and 5-8 of Nutrient Farm according to the regulations of this PUD Guide.

Parks, Open Space and Trails: Any land or water area that provides active or passive recreation opportunities, or the conservation of natural areas and environmental resources. For the purposes of this Guide, Parks, Open Space and Trails shall be specifically distinguished from the Private Open Space Tracts A-D as said term is directly defined herein and within the PUD Guide. Landscaping, utilities, and infrastructure improvements may be located within Parks, Open Space and Trails areas. Temporary Uses, Improvements and/or Signs are allowed in Parks, Open Space and Trails areas per the terms of this PUD Guide.

Public Gathering: Any group of 350 or more persons assembled for an event, meeting, festival, social gathering, or similar purpose, open to the general public, for a period of time which exceed eight (8) hours within any 24-hour period.

Recording/Production Studio: A specialized commercial facility available to the public for multi-media audio/visual recording, mixing and production.

Recreational Activities, Outdoor: An area, building, facility or activity that offers entertainment or recreation, where any portion of the activity takes place outside, and may include lighted areas for use after dusk; and all Temporary Uses and Accessory Uses and Improvements associated with such recreational use.

Retail, Recreational Equipment and Vehicles: A business for the renting of recreational equipment and vehicles, including equipment to be used on-site within the Nutrient Farm PUD boundaries as well as off-site. Such establishments may include equipment and vehicle display areas, staff offices and break rooms, storage areas, restrooms, and other similar uses and areas.

Solar Energy System, Large: A device and/or system that has a combined name plate DC rating of greater than 500 kilowatt (“kW”) and includes the equivalent kilowatt measurement of energy for systems other than photovoltaic that converts the sun’s radiant energy into thermal, chemical, mechanical, or electrical energy.

Solar Energy System, Small: A device and/or system that has a combined name plate DC rating of 25 kilowatt to 500 kilowatt (“kW”) and includes the equivalent kilowatt measurement of energy for systems other than photovoltaic that converts the sun’s radiant energy into thermal, chemical, mechanical, or electrical energy.

Storage Tank: Above ground and below ground containers and associated infrastructure for water or heat transfer fluids and fuels to serve the various uses within the PUD boundaries.

Use, Temporary: A land use which does not require any new permanent structure or improvement for its operation, may use existing buildings or improvements, are active only on a seasonal or short term basis, and do not result in any long term impact on surrounding properties. A Temporary Use is less than one year in duration per the LUDC.

Wineries, Breweries, Cideries, Distilleries: A facility for brewing, packaging, and distribution of beer, mead, wine, cider, spirits and/or similar beverages. The facility may include the sale and consumption of the beverages and food on the premises or off-site.

EXHIBIT F

TABLE 10 – NUTRIENT FARM ALLOWED SIGNS DESIGN REQUIREMENTS

Table 10 – Nutrient Farm Allowed Signs Design Requirements				
Sign Type	Structure Type	Maximum Height (Feet)	Maximum Sign Area per Face (Sq. Ft.) ¹	* Unique Definition/ Additional Requirements ²
Area Identification*	Freestanding	30	Areas 5-8/Tracts: 150	*
	Wall, Projecting, Suspended	Height of Wall	Areas 5-8/Tracts: 150	*
	Roof	Peak of Roof	Areas 5-8/Tracts: 150	*
Building Identification and Commemorative*	Freestanding	Areas 1-4: 20 Areas 5-8: 30	Areas 1-4: 90 Areas 5-8: 150	*
	Wall, Projecting, Suspended	Height of Wall	Areas 1-4: 32 Areas 5-8: 60	*
	Roof	Peak of Roof	Areas 1-4: 32 Areas 5-8: 60	*
Business*	Freestanding	Area 2: 20 Areas 3, 5-8: 30	Area 2: 90 Areas 3, 5-8: 150	*
	Wall, Projecting, Suspended	Height of Wall	Area 2: 32 Areas 3, 5-8: 60	*
	Roof	Peak of Roof	Area 2: 32 Areas 3, 5-8: 60	*
Construction*	Freestanding	Areas 1-4: 10 Areas 5-8: 30	Areas 1-4: 32 Areas 5-8: 150	*
	Wall, Projecting, Suspended	Height of Wall	Areas 1-4: 32 Areas 5-8: 60	*
	Roof	Peak of Roof	Areas 1-4: 32 Areas 5-8: 60	*
Directional*	Freestanding	30	Areas 3, 5-8/Tracts: 150	*
	Wall, Projecting, Suspended	Height of Wall	Areas 3, 5-8/Tracts: 60	*
	Roof	Peak of Roof	Areas 3, 5-8/Tracts: 60	*
Exempt ³				*
Joint Identification*	Freestanding	30	Areas 3, 5-8: 150	*
	Wall, Projecting, Suspended	Height of Wall	Areas 3, 5-8: 60	*
	Roof	Peak of Roof	Areas 3, 5-8: 60	*
Menu Display Box*	Freestanding, Wall	6	Areas 5-8: 3	*
Subdivision Entrance*	Freestanding, Wall	6	Areas 1, 3-4: 32	*
Temporary ⁴	Freestanding	Areas 1-4: 10 Areas 5-8/Tracts: 30	Areas 1-4: 32 Areas 5-8/Tracts: 150	*
	Wall	Height of Wall	Areas 1-4: 32 Areas 5-8/Tracts: 60	*
	Projecting, Suspended		Not Allowed	
	Roof		Not Allowed	*
Welcome*	Freestanding	30	Areas 7-8, Tracts: 100	*

¹ Regardless of the proposed use the sign is associated with, all signs must abide by the above requirements for the Development Area or Private Open Space Tract (“Tract”) they are located in.

² Additional requirements per the Nutrient Farm PUD Guide.

³ Exempt Signs are as listed and regulated by this PUD Guide. Unique Exempt Signs, definitions and design standards are noted therein.

⁴ The design requirements for Temporary Signs are as listed above. Temporary Signs are listed and regulated by this PUD Guide and do not require a Sign Permit provided all applicable standards of the PUD Guide are met, and all Building and Electrical Code provisions are complied with.

From: [John Leybourne](#)
To: [Heather MacDonald](#)
Subject: FW: CR 335 traffic counts
Date: Wednesday, January 22, 2025 3:32:21 PM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: christie@mathewsleidal.com <christie@mathewsleidal.com>
Sent: Wednesday, November 6, 2024 2:24 PM
To: John Leybourne <jleybourne@garfield-county.com>; Glenn Hartmann <ghartmann@garfield-county.com>
Cc: Danny Teodoru <danny@timberlinelaw.com>; andy@nutrientfarm.com; 'David Kotz' <DaveK@sgm-inc.com>
Subject: FW: CR 335 traffic counts

Hi John and Glenn,

As we discussed yesterday during our phone call, Dave and Dan spoke to Wyatt regarding his 10/30 comments, received additional information and clarity, and agreed upon the below email terms.

Please feel free to reach out to Dave or Dan with any specific questions about that conversation.

Thanks again for all your help on our project and take care,

Christie
970-389-1086
christie@mathewsleidal.com

From: David Kotz <DaveK@sgm-inc.com>
Sent: Wednesday, November 6, 2024 11:57 AM
To: christie@mathewsleidal.com; Danny Teodoru <danny@timberlinelaw.com>
Subject: FW: CR 335 traffic counts

I'll let you guys get this to John and Glenn.

From: Wyatt Keesbery <wkeesbery@garfield-county.com>
Sent: Wednesday, November 6, 2024 11:43 AM
To: David Kotz <DaveK@sgm-inc.com>
Cc: Dan Cokley <DanC@sgm-inc.com>
Subject: RE: CR 335 traffic counts

Thanks Dave.
I agree with everything that is outlined in the email below.
Wyatt

From: David Kotz <DaveK@sgm-inc.com>
Sent: Wednesday, November 6, 2024 10:36 AM
To: Wyatt Keesbery <wkeesbery@garfield-county.com>
Cc: Dan Cokley <DanC@sgm-inc.com>
Subject: FW: CR 335 traffic counts

Wyatt,

Thanks for sending the traffic counts. The observed 2019 and 2024 numbers correlate well with those in Dan's Nutrient Farm Level III Traffic Impact Study.

Dan and I appreciate your time Monday morning taken to discuss and further clarify your comments pertaining the Nutrient Farm PUD. John Leybourne forwarded them to us in the October 30, 2024, email at the bottom of this page.

Based on our conversation, we understand your general positions to be:

- CR 335 is adequate for current 2024 Riverbend Subdivision and Nutrient Farm uses
- If the NF PUD proposed uses happen in the future, there will be some trigger point where a 24' wide roadway (two 12' lanes) w/ gravel shoulders will be necessary for the new and combined existing uses.
- With the additional NF amenities, a trail system along the length of CR 335 would benefit people in New Castle and Riverbend Subdivision, as well as the general public visiting the Farm.
- Development should pay its fair share for the cost of transportation improvements.

Dan and I agree with your assessment and views in the above points.

The Nutrient Farm PUD, as proposed, supports this improved, multi-modal transportation vision in many ways including:

- Dedication of an 80' wide ROW for CR 335 on NF property to replace the ambiguous, assumed, prescriptive easement.

- Providing an E – W corridor for LoVa trail across the entire Nutrient Farm property via the 80’ ROW and a separate 25’ wide easement in areas to the east.
- Providing five LoVa Trail parking spaces S of CR 335 near Nutrient Farm Road (and other considerations defined in an MOU w/ Town of New Castle and LoVa)
- Payment of incremental Traffic Impact Fees as development occurs. (Present day fee calc total for ultimate PUD = \$217,703)

As we discussed, the TIS recommends improving CR 335 from Bruce Drive to Park Drive to 24 ft asphalt and 2 ft asphalt shoulders, the segment from Park Drive to the cattle guard would be 24 ft asphalt, both w/ gravel shoulders). The trigger would be the same for each segment. an appropriate trigger for the roadway improvements (widening to 24’ asphalt w/ gravel shoulders) is likely when GarCo 3-yr measured CR 335 ADT on NF exceeds the Minor Collector threshold of 2500 ADT. It is also a possibility that Garfield County may decide to proceed with a road project prior to the 2500 ADT trigger. Either way, to support that project, NF can agree to pay then, in advance, any remaining Traffic Impact fees for planned, development under the PUD. Nutrient Farm would be amenable to incorporating this condition into the Development Agreement and project approvals.

Please let me know if this email accurately reflects your review and thoughts for proceeding with the Nutrient Farm PUD.

Thank you,

David M. Kotz, PE, CFM
Principal Civil Engineer



118 W Sixth St, Suite 200
Glenwood Springs, CO 81601
970.384.9008 / 970.379.9792 cell
www.sgm-inc.com



From: Wyatt Keesbery <wkeesbery@garfield-county.com>
Sent: Monday, November 4, 2024 1:26 PM
To: David Kotz <DaveK@sgm-inc.com>; Dan Cokley <DanC@sgm-inc.com>
Subject: CR 335 traffic counts

Hey guys,

It was nice visiting with you this morning. Here are the 2019 traffic counts for the section of CR 335 between New Castle town limits and Riverbend Subdivision. We have not done them yet for 2024 but will get them done before the snow falls hopefully.

Let me know what you think.

Wyatt

WYATT KEESBERY
DIRECTOR
GARFIELD COUNTY ROAD AND BRIDGE
MOTOR POOL
VEGETATION MANAGEMENT
0298 CR 333A
RIFLE, CO. 81650
WKEESBERY@GARFIELD-COUNTY.COM
970-625-8601 OFFICE
970-309-6073 CELL

From: John Leybourne <jleybourne@garfield-county.com>

Sent: Wednesday, October 30, 2024 3:48 PM

To: christie@mathewsleidal.com; Glenn Hartmann <ghartmann@garfield-county.com>

Cc: 'Danny Teodoru' <danny@timberlinelaw.com>; David Kotz <DaveK@sgm-inc.com>

Subject: RE: Nutrient Farms check in

All,

Below are Wyatts Comments,

Gentlemen,

Road and Bridge would like to take a moment to let you know our position on CR 335 used by Nutrient Farms. We believe this section of CR335 needs to be upgraded from the City limits of New Castle to the cattleguard at the entrance to the Riverbend Subdivision. We would like to see that section upgraded with a new asphalt driving surface of at least 24' wide and a 2' gravel shoulder on each side. We would also like to see a 6' wide asphalt walking path on the North side of the North shoulder. The walking path would then connect to the path that New Castle has in their town limits. The walking path would be a great benefit to the people living in the subdivision and to the potential visitors coming to the Farm.

Let me know if you have any questions.

Wyatt

WYATT KEESBERY
DIRECTOR
GARFIELD COUNTY ROAD AND BRIDGE
MOTOR POOL
VEGETATION MANAGEMENT
0298 CR 333A
RIFLE, CO. 81650
WKEESBERY@GARFIELD-COUNTY.COM
970-625-8601 OFFICE
970-309-6073 CELL

From: [John Leybourne](#)
To: [Heather MacDonald](#)
Subject: FW: Nutrient Farm - Christie out of office
Date: Wednesday, January 22, 2025 3:32:50 PM

John Leybourne
Planner III
Community Development
970-945-1377 x1614
jleybourne@garfield-county.com

From: David Kotz <DaveK@sgm-inc.com>
Sent: Friday, January 10, 2025 1:29 PM
To: christie@mathewsleidal.com; John Leybourne <jleybourne@garfield-county.com>; Glenn Hartmann <ghartmann@garfield-county.com>
Cc: Danny Teodoru <danny@timberlinelaw.com>
Subject: RE: Nutrient Farm - Christie out of office

Added info:

I did talk to Jeanie Golay this am and understand she will be commenting to John.

One item that came up is vehicular traffic on the LoVa CO River bridge. I later confirmed that the bridge that was designed and bid out but not constructed is capable of supporting a 10,000 lb pick-up truck load, mainly for plowing purposes.

Thank you,

David M. Kotz, PE, CFM
Principal Civil Engineer



118 W Sixth St, Suite 200
Glenwood Springs, CO 81601
970.384.9008 / 970.379.9792 cell
www.sgm-inc.com



From: christie@mathewsleidal.com <christie@mathewsleidal.com>
Sent: Friday, January 10, 2025 10:24 AM
To: John Leybourne <jleybourne@garfield-county.com>; Glenn Hartmann <

[county.com](#)>

Cc: David Kotz <DaveK@sgm-inc.com>; Danny Teodoru <danny@timberlinelaw.com>

Subject: Nutrient Farm - Christie out of office

Good morning, guys,

I just sent you both a copy of the LoVa trail package/MOU. It's a large file and not sure it will go through, so could you please confirm if/when you receive it?

Also, I'm out of town next week, with a three-hour time difference, so best to set up a meeting ahead of time to discuss anything related to the project.

You are also welcome to call Danny or Dave with any questions while I'm away.

Thanks again for all your help on the project and take care,

Christie

970-389-1086

christie@mathewsleidal.com

Nutrient Farms PUD (File PUDA-05-22-8899)
Supplemental Exhibits

Exhibit #	Public Comment, Name and Date Received
9-1	Water Quality Control Division Implementation Policy
9-2	Excepts from New Castle Comprehensive Plan
9-3	
9-4	
9-5	
9-6	
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7-27	

<p>WATER QUALITY CONTROL DIVISION</p> <p>IMPLEMENTATION POLICY</p> <p>COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT</p>	<p>Implementation Policy Number: WQSA-6</p>
	<p>Statutory or Regulatory Citations: Regulation No. 22 Site Location and Design Regulations for Domestic Wastewater Treatment Works (5 CCR 1002-22)</p>
	<p>Key Words: site application, on-site wastewater treatment system (OWTS), design capacity</p>
<p>SITE APPLICATION POLICY 6: MULTIPLE ON-SITE WASTEWATER TREATMENT SYSTEMS</p>	<p>Approved by:</p> <p><i>Nicole Rowan</i></p> <p>Nicole Rowan, Clean Water Program Manager</p>
	<p>Drafted by: David Kurz, Bret Icenogle</p>
	<p>Effective Date: December 1, 2020</p>
	<p>Scheduled Review Date: November 30, 2025</p>

Purpose

To clarify the applicability of Regulation No. 22 to multiple On-site Wastewater Treatment Systems (OWTS) with a total design capacity of greater than 2,000 gallons per day (gpd) serving as a community system or serving a single property or wastewater generator.



Background

In the past, the lack of guidance with regard to such circumstances led to inconsistent interpretation as to whether a site application approval and a discharge permit are required for multiple on-site wastewater treatment systems on a single property. Instances have also arisen in which entities have been advised that the Division's processes could be circumvented through the use of multiple systems, with none having a capacity of greater than 2,000 gpd. If multiple OWTS under common ownership do not receive proper operation and maintenance, they could potentially have an adverse effect on groundwater quality. In at least one instance, a community water supply well was impacted by an array of septic tank/leachfield systems surrounding it. Recognizing that poorly maintained and functioning OWTS can occur throughout Colorado regardless of ownership, the Division has developed this policy to address multiple OWTS.

Class V injection wells:

In Colorado, EPA regulates certain OWTS under the Underground Injection Control (UIC) Program (40 CFR Part 144). An OWTS is required to meet UIC Program requirements and is considered a Class V injection well if either one of the following conditions is met:

- The OWTS, regardless of size, receives any amount of industrial or commercial wastewater (also known as industrial waste disposal wells or motor vehicle waste disposal wells); or
- The OWTS receives solely sanitary waste from multiple family residences or a non-residential establishment and has the capacity to serve 20 or more persons per day (also known as large-capacity septic systems).

Additional information on the Class V injection well program is available on EPA's website at: www.epa.gov/uic/underground-injection-control-epa-region-8-co-mt-nd-sd-ut-and-wy and www.epa.gov/uic/class-v-wells-injection-non-hazardous-fluids-or-above-underground-sources-drinking-water.

Authority

This policy applies to the Water Quality Control Division, and local public health agencies that review designs and permit OWTS, and to those individuals that design and install OWTS within the State of Colorado.

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1. Policy Introduction

This policy details the division's requirements for implementation of Regulation 22 Site Location and Design Regulations for Domestic Wastewater Treatment Works (5 CCR 1002-22) for sites with on-site wastewater treatment systems that might otherwise be permitted by the local public health agency through local regulations adopted pursuant to the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. (OWTS Act) and Regulation 43 On-site Wastewater Treatment System Regulation (5 CCR 1002-43). This policy will address allowable situations for local permitting rather than requiring site application approval through the state Water Quality Control Division.

This policy was initially developed in 1990 requiring design for multiple OWTS on a single property or serving a single owner and having combined capacity exceeding 2,000 gallons per day (gpd) to follow the state site location application process. Following a stakeholder process, the policy was modified in 2007 to allow multiple OWTS to be permitted by the local public health agency for sites where conditions identified in the policy are present. This update to the policy modifies references throughout the policy from "individual sewage disposal systems (ISDS)" and "Guidelines on Individual Sewage Disposal Systems" (formerly 5 CCR 1003-6) to "on-site wastewater treatment systems (OWTS)" and "Regulation 43 - On-site Wastewater Treatment Systems" (5 CCR 1002-43) to reflect the changes resulting from the 2012 modifications to the governing statutes in the Colorado On-site Wastewater Treatment Systems Act, C.R.S., 25-10-101, et seq.

2. Multiple OWTS Subject to Site Application Process

Multiple OWTS shall be treated as a single domestic wastewater treatment works subject to the site location and design approval requirements in Regulation No. 22 if the combined design capacity of the systems is greater than 2,000 gpd, irrespective of whether the systems were constructed at the same time or at different times, and where one or more of the following conditions is met:

1. the OWTS serve a single occupied structure (i.e., school, church, apartment building);
2. the OWTS serve more than one habitable structure on a single property (a property owned by one person or company) (e.g., mobile home park, lodge or resort, shopping center) and the horizontal influence area to be maintained from one system's soil treatment area overlaps the minimum horizontal separations of another facility's soil treatment area, or any wells, streams, lakes, or water course, as calculated using the method described in part 3 below; (Note: All OWTS components must meet minimum horizontal distances in Table 7-1 within Regulation 43.);
3. the OWTS are commonly owned and serve more than one habitable structure on separate properties (e.g., condominiums, townhouses, single family houses, etc.) and the horizontal influence area to be maintained from one system's soil treatment area overlaps the minimum horizontal separations of another facility's soil treatment area, or any wells, streams, lakes, or water course as calculated using the method described in part 3 below or as determined in Table 7-1 within Regulation 43; unless the properties are divided by legal property lines approved by the local land use planning authority, are identified on a final plat or deed, and a site-specific analysis (see part 4 below) shows that the properties can support the multiple OWTS without negatively impacting public health or water quality:
4. the systems are interconnected such that wastewater may flow from one system to another;
5. a septic tank and/or soil treatment area is within the 100-year flood plain, or within 500 feet if the 100-year floodplain has not been mapped, of a stream or river that is listed on the 303(d) list of impaired water bodies for a contaminant (e.g., BOD, ammonia, phosphorus, solids, or e-coli) likely present in significant concentrations in sewage;
6. a soil treatment area and/or CDPS permit point of compliance (groundwater wells) is located where it is found to be likely discharging to groundwater that is directly hydrologically connected to surface waters (e.g., within 200 feet of a surface water feature); or,

7. after consultation between the local public health agency and the Division it is determined that site location and plans and specifications reviews are warranted due to public concerns, public health, and/or environmental risk.

Additionally, should the combined design capacity of all systems under consideration be greater than 6,000 gpd, the Division will determine, based on information similar to the site-specific analysis described in part 4 below, whether a site location application and plans and specifications must be submitted for review.

This policy does not apply to subdivisions where a developer or builder may construct the OWTS and the properties are sold to individuals and the individuals are then responsible to meet the requirements contained in the OWTS permit issued by the Local Public Health Agency.

According to Regulation No. 22, design capacity for OWTS is the maximum month average daily flow at full occupancy.

Note: An OWTS design may have a design capacity (i.e., maximum month average daily flow at full occupancy) of 2,000 gpd or less while some system components (e.g., septic tank, soil treatment area) may be larger to adequately cover some days with above-average flow. Such a system could be permitted by the local public health agency provided that daily flow monitoring is being periodically reported to the local agency to confirm the design capacity is not exceeded. For multiple OWTS, the spacing requirements in this policy must be satisfied using the actual size of the soil treatment area being installed.

Example calculations for determining minimum horizontal influence area distance are included in part 6 below. A flow chart for determining when a site location application may be required is also included in part 5 below.

3. Method to Determine Horizontal Influence Area

The minimum distance between any of the septic system components including the soil treatment area is calculated using the following formula:

$$100 + [(1.5 \times DC) - 1000] / 100 \times 8 = \text{Horizontal influence area required}$$

Where: DC = Design Capacity = Maximum Month Average Daily Flow at maximum occupancy

To determine whether the systems overlap, the distance in feet is obtained from the formula above, and a line is drawn around the outside edge of each soil treatment area generating the horizontal influence area for that component. If the horizontal influence areas of two or more OWTS overlap, the systems are added together to determine the total design capacity (see examples in parts 6 and 7 below).

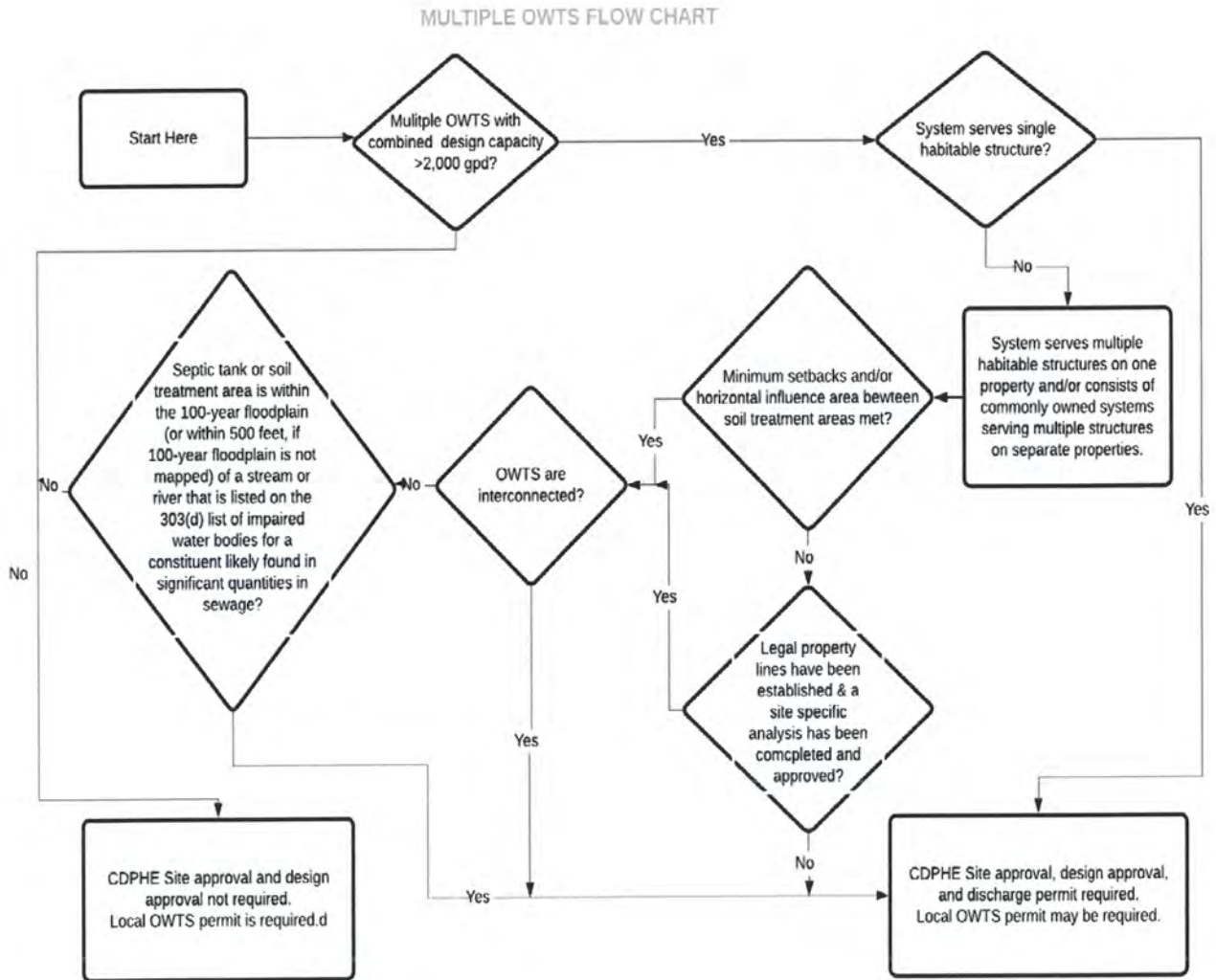
4. Description of Site-Specific Analysis

The site-specific analysis shall be conducted by a qualified person (e.g., Professional Geologist, geotechnical engineer or other similarly qualified professional) hired or employed by the permit applicant. The results of the site-specific analysis shall be submitted to the local public health agency and the Division. The Division and local public health agency will review the submittal for completeness and technical adequacy. The Division, in consultation with the local public health agency, will then determine if site approval, design approval, and a state-issued discharge permit are required. Construction at the site cannot commence until this decision is reached. The site-specific analysis shall include:

1. Detailed site plan showing proposed structures and proposed setback distances from features as defined in Regulation 43.
2. Population to be served by the OWTS and calculation of sewage flows using the Table 6-2 in Regulation 43, actual water usage records, or other applicable and widely accepted planning or engineering reference manuals.
3. Discussion of known future developments in the area
4. Discussion of the area's population density, location and density of other OWTS, topography, geology, and hydrology, ground cover.
5. Distance to nearest central wastewater treatment facility.
6. Location and depth of existing wells within one mile of the property and any proposed wells associated with the subject development.
7. Groundwater level, including any seasonal variations.
8. Soil type, soil profile test pit excavation observations, and percolation test results.
9. Any available groundwater quality sampling results, particularly for nitrates.
10. OWTS pollutant modeling to assess whether the proposed OWTS have the potential to cause impacts to the groundwater, particularly for nitrates.
11. Cost to install proposed OWTS.
12. Operation and maintenance plan including costs.

5. Multiple OWTS Flow Chart

The flow chart below provides the decision path for handling multiple OWTS.



6. Example OWTS Calculations

Formula used:

$$100 + [({1.5 \times DC}) - 1000] / 100 \times 8 = \text{Horizontal influence area}$$

Where: DC= Design Capacity = Maximum Month Average Daily Flow at maximum occupancy

Calculation assumptions:

$$\text{DC System 1} = 1500 \text{ gpd}$$

$$\text{DC System 2} = 1000 \text{ gpd}$$

Case I (see section 7 below for diagram)

$$\begin{aligned} \text{Horizontal influence area for System 1} &= 100 + [({1.5 \times 1500}) - 1000] / 100 \times 8 \\ &= 100 + [1250 / 100] \times 8 \\ &= 200 \text{ feet} \end{aligned}$$

Requirement for horizontal influence area from soil treatment areas, springs or wells are met. Site location and design approval is not required; it remains under local public health agency jurisdiction.

Case II (see section 7 below for diagram)

$$\begin{aligned} \text{Horizontal influence area for System 1} &= 100 + [({1.5 \times 1500}) - 1000] / 100 \times 8 = 200 \text{ feet} \\ \text{Horizontal influence area for System 2} &= 100 + [({1.5 \times 1000}) - 1000] / 100 \times 8 \\ &= 100 + [500 / 100] \times 8 \\ &= 140 \text{ feet} \end{aligned}$$

Systems 1 and 2 do not overlap.

Requirement for horizontal influence area from soil treatment areas, springs or wells are met. Site location and design approval is not required; it remains under local public health agency jurisdiction.

Case III (see section 7 below for diagram)

$$\begin{aligned} \text{Horizontal influence area for System 1} &= 100 + [({1.5 \times 1500}) - 1000] / 100 \times 8 = 200 \text{ feet} \\ \text{Horizontal influence area for System 2} &= 100 + [({1.5 \times 1000}) - 1000] / 100 \times 8 = 140 \text{ feet} \end{aligned}$$

Systems 1 and 2 do overlap. Add design capacity for two systems ($1500 + 1000 = 2500$) and recalculate the required horizontal influence area as in Case III-B. Site location and design approval is required, unless system components are relocated.

7. Figures

The following figures correspond to the example cases in part 6 above.

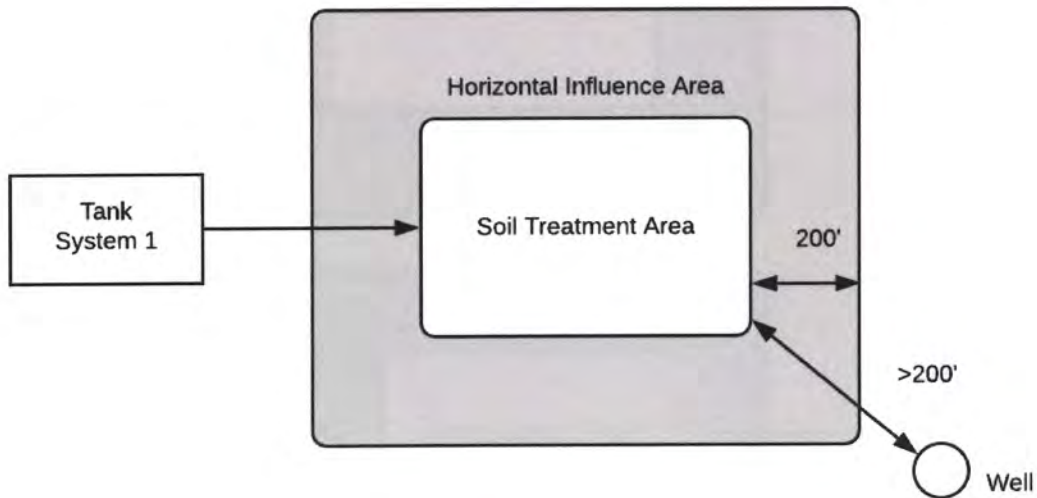
Case I

Single system - DC = 1500 gpd, influence area distance = 200 feet.

Result: All horizontal influence area distance requirements met.

Remains under the local public health agency authority.

(If DC is greater than 2,000 gpd, then Site Location Application is required.)



Case II

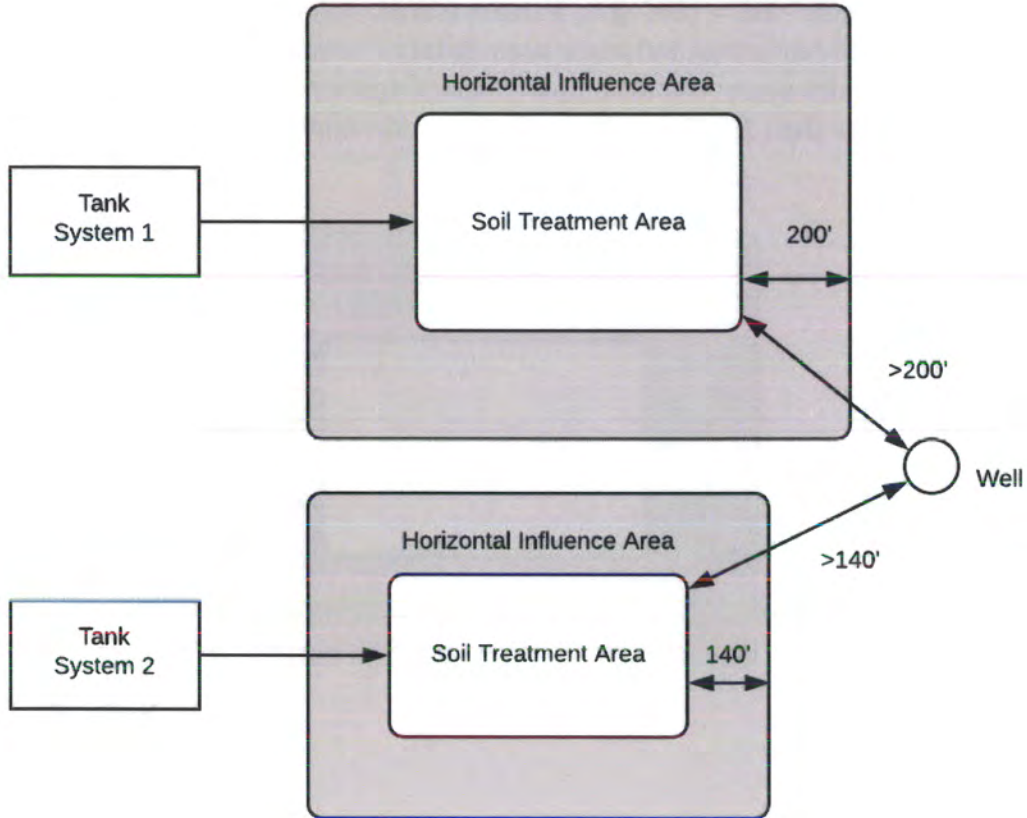
Two systems - System 1 DC = 1500 gpd, influence area distance = 200 feet.

System 2 DC = 1000 gpd, influence area distance = 140 feet.

Result: All horizontal influence area distance requirements met.

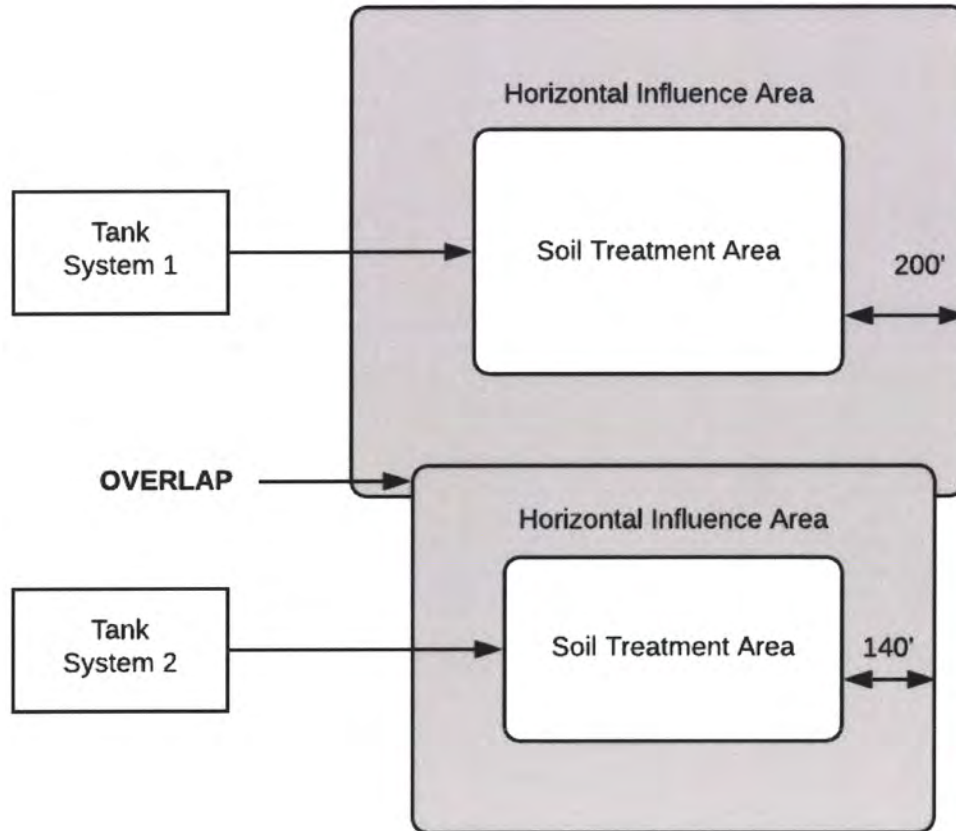
Remains under the local public health agency authority.

(Each DC is less than or equal to 2,000 gpd, and horizontal influence areas do not overlap.)



Case III

Two systems - System 1 DC = 1500 gpd, influence area distance = 200 feet.
System 2 DC = 1000 gpd, influence area distance = 140 feet.
Result: Horizontal influence areas overlap from the two soil treatment areas.
Two systems are added together and DC is greater than 2,000 gpd.
System is required to obtain site location and design approval.



8. References

Regulation 43 - On-Site Wastewater Treatment System Regulation. (5 CCR 1002-43)

Site Location and Design Regulations for Domestic Wastewater Treatment Works. Regulation No. 22 (5 CCR 1002-22)

40 CFR Part 144 - Underground Injection Control Program

Excerpts from New Castle 2009 Comp Plan.

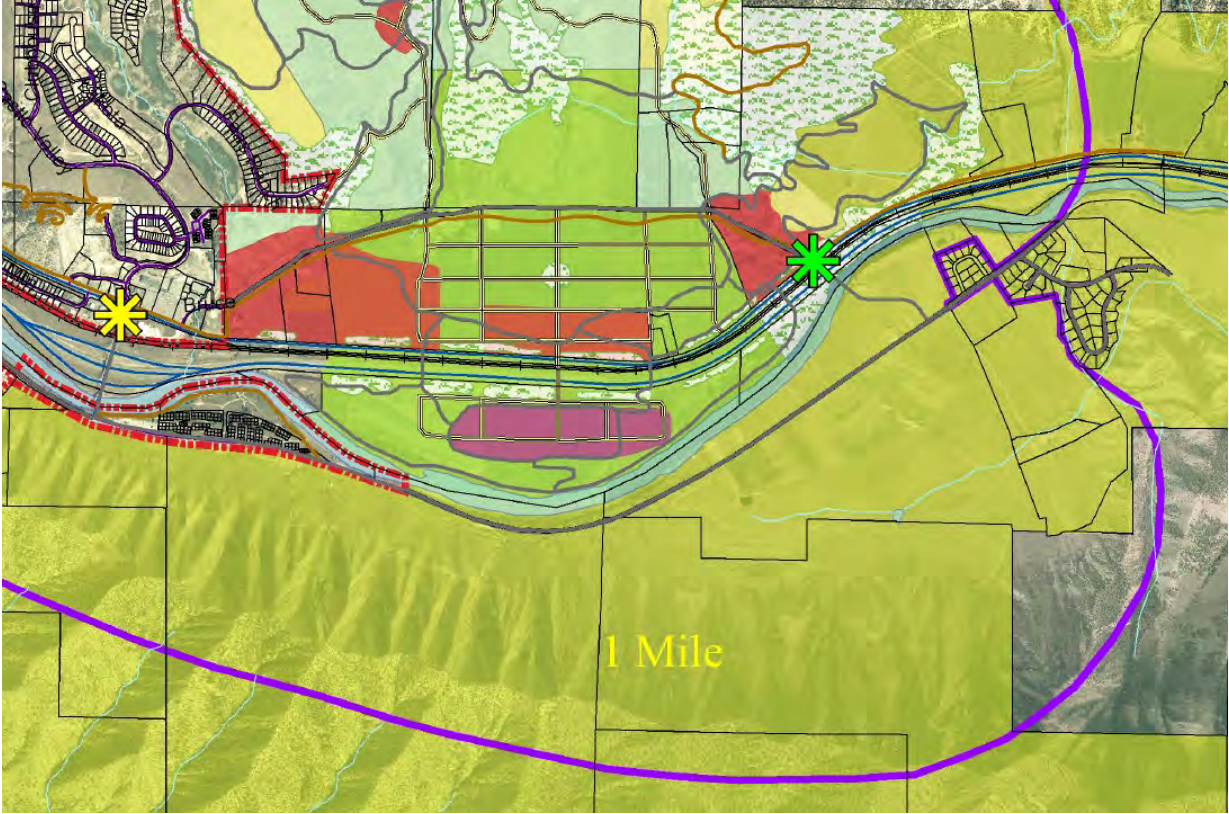
1. Exit 105 I- 70 Interchange

The stacking and queuing at the I-70 interchange is a problem during peak morning and evening hours. Evening traffic queues can extend down the length of the off-ramp from the access bridge intersection. This vehicle stacking is likely to become more severe as New Castle population increases without substantial intersection improvements or an additional interstate interchange. The overpass is hazardous to pedestrians crossing over the interstate and Colorado River because there are no sidewalks on the bridge. This is a significant deterrent to non-motorized access to shopping, downtown and other services north of the interstate.

RECOMMENDATION: Investigate potential for a second highway interchange that will relieve pressure on Exit 105. Pursue improvements to the existing interstate bridge that will increase traffic and pedestrian capacity. Investigate additional mass transit opportunities between New Castle and up-valley locations that could reduce reliance on single occupant vehicles for commuting and other purposes.

Policy T-1B: New Castle will work with CDOT to improve the Exit 105 interchange to meet the current and long-range traffic needs. These improvements may include roundabouts, pedestrian access to County Road 335, appropriate lighting, and other enhancements suitable to the primary community Gateway.

Policy T-1C: New Castle will work with CDOT, Garfield County and future developers to plan, design, finance and construct a second New Castle I-70 interchange near County Road 240 and Highway 6 & 24.



New Castle Future Land Use Map

Future Land Use Plan

The New Castle Comprehensive Plan includes the Future Land Use Map that must be used in conjunction with the following narrative on future uses. Together the information comprises the Future Land Use Plan for New Castle. The plan and map together illustrate and describe land-use patterns, types of uses, densities, location and character of future development. The Future Land Use Plan is not "zoning" per se, but may be used by New Castle to modify existing zoning or to establish new zone districts. In addition, this information is to be used by the public, town staff and decision makers to guide the land use review and decision-making process. The Future Land Use Plan is not intended to predetermine the details of specific applications or the exact boundaries of development areas. These details are left to the creative design work of applicants within the overall context of the New Castle Comprehensive Plan. The Future Land Use Plan establishes a framework within which development plans must be designed, evaluated by New Castle and ultimately completed if approved. It is the goal of the Future Land Use Plan to:

- Ensure a variety and mix of uses that complement the existing New Castle land-use patterns.
- Offer excellent non-motorized access and interconnection between use areas for both motorized and non-motorized traffic.
- Guarantee a balanced mix of housing types that support a broad range of pricing within the market.
- Make certain there are adequate open spaces, trails and connected parks.
- Offer protection of sensitive natural areas, preservation of older trees stands and conservation of resources.
- Support development of activity centers that include a sense of place where the public can interact, find services, and secure employment, and that are sustainable in the long term.
- Allow for a feathered-edge community that transitions to rural areas where open lands and agricultural uses predominate.
- Concentrate development in areas where there is good access, efficiently provided services and cost-effective utility extensions.
- Promote service delivery efficiency and energy conservation in future development areas.

Rural Low Density

Types of Uses

Large lot single-family, working ranches/farms, ranchettes, open pastures and rural qualities characterize this area.

Density

Net densities are 10 or more acres per dwelling unit.

Location

These lands are situated in unincorporated Garfield County outside the urban growth boundary shown on the Future Land Use Map. Primary land-use jurisdiction lies with Garfield County. These rural areas represent the open lands that extend beyond the feathered urban edge. It is intended that these areas will remain low density and rural to minimize service demands. Higher residential densities are inappropriate in this area and should be directed to urban areas where municipal services and utilities can cost-effectively support density.

Design Characteristics

Large lot single-family and rural agricultural uses characterize these areas. Roads may be gravel or have paved surfaces but typically do not include curb/gutter or sidewalks. Rural trail systems such as the LoVa Trail may support non-motorized access, but lower traffic volumes in most locations allow non-motorized access on roadways. Open space is on private and public lands. Active parks are usually not found in rural areas.