DISTRICT COURT, GRAND COUNTY, COLORADO Court Address: Grand County Combined Courts 307 Moffat Ave Hot Sulphur Springs, CO 80451 Telephone No.: (970) 725-3357	DATE FILED: January 23, 2023 4:49 PM FILING ID: 6294BD334D7D3 CASE NUMBER: 2021CV30008 **COURT USE ONLY**
Plaintiff: GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado, **v.** **Defendants:** HEADWATERS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado; GRAY JAY VENTURES, LLC.; REDWOOD CAPITAL FINANCE CO., LLC, GRANBY PRENTICE, LLC; and GR TERRA, LLC.	Case No.: 2021CV030008 Div.: Rm.:
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PLAINTIFF'S GRANBY RANCH METROPOLITAN DISTRICT'S RENEWED MOTION FOR SUMMARY JUDGMENT ON COUNTS I, II, AND III OF DEFENDANT GR TERRA'S COUNTERCLAIMS

Plaintiff Granby Ranch Metropolitan District ("GRMD") through its undersigned counsel, submits the following Renewed Motion for Summary Judgment, and in support thereof states as follows:

CERTIFICATE OF CONFERRAL

Plaintiff's counsel certifies that they have conferred with counsel for Defendants regarding the relief requested herein and that all defendants have stated that they oppose this

motion.

MOTION

Introduction and Summary of Argument

This case involves a dispute between two special districts that are metropolitan districts organized under the provisions of section 32-1-101 et seq., C.R.S. (the "Special District Act"). Both districts were originally organized in 2003 under service plans prepared by Sol Vista Corp., the developer of the "Sol Vista Golf & Ski Ranch."

The developer came to be called Granby Realty Holdings, LLC ("GRH"). In 2006, GRH entered into an "Amended and Restated Lease Purchase Agreement" with the defendant Headwaters Metropolitan District ("Headwaters") whereby Headwaters would lease and eventually could acquire the ski area and golf course which were "Amenities" for the Granby Ranch development. The parties subsequently entered into a "Second Amended and Restated Lease Purchase Agreement" ("LPA") in 2012 with substantially the same terms as the first agreement. The LPA is the focal point of the dispute among the parties.

In Count I of the counterclaims, GR Terra maintains that the LPA was terminated entirely through a foreclosure of the Leased Premises, or through a notice of termination given by Gray Jay Ventures LLC, GR Terra's predecessor in title, or through "Headwater's failure to appropriate funds for rental payments as of January 1, 2021." Count II seeks a cancellation of the restrictive covenant created by the LPA. Count III seeks to quiet title in the Leased Premises in GR Terra, based upon a theory that the LPA was terminated and that the restrictive covenants should be cancelled.

Plaintiff GRMD's response is that the grounds for termination set forth in section 2 and 3 of the LPA have not been met in this case. Further, the LPA is a covenant running with the land and has not been cancelled because of the foreclosure. Unless a termination of the LPA has taken

place, or the LPA has been wiped out by the foreclosure, the first three counts in the counterclaims all fail as a matter of law.

Standard of Review

Summary judgment is appropriate when the pleadings, affidavits, depositions, or admissions show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. C.R.C.P. 56; *A.C. Excavating v. Yacht Club II Homeowners' Ass'n*, 114 P.3d 862, 865 (Colo. 2005). The moving party has the burden of producing and identifying those portions of the record and affidavits that demonstrate the absence of any genuine issue of material fact. *Continental Airlines Inc. v. Keenan*, 731 P.2d 708, 712 (Colo. 1987). This burden may be met in whole or part by demonstrating that there is an absence of evidence in the record to support the nonmoving party's case if the moving party seeks summary judgment on an issue where they would not bear the ultimate burden of persuasion at trial. *Id*. Once a movant makes a convincing showing that genuine issues of material fact are lacking, the opposing party must demonstrate by relevant and specific facts that a controversy exists. *Closed Basin Landowners' Ass'n v. Rio Grande*, 734 P. 2d 627, 632 (Colo. 1987).

There is no issue of material fact that can avoid the conclusion that the LPA has not been terminated, and that it is a covenant running with the land that cannot be cancelled or written out of existence by this Court. GRMD is entitled to judgment as a matter of law.

Narrative of Non-Disputed Material Facts

Based upon the pleadings and related documentary evidence, the following are material facts that have been proven in this case.

Headwaters (initially known as SolVista Metropolitan District No. 2) was formed after its Service Plan had been approved by the Town of Granby in 2003. Third Am. Compl., ("Complaint 3"), Ex. 1. Headwaters had the power to "finance, acquire, construct, install, operate and maintain the public facilities and improvements to be furnished by the District, either directly or by contract,

or by acquisition from the Company (Sol Vista Corp.) or other persons." *Id*., p. 9. This power could be used to acquire ski areas and/or ski lifts and golf courses. *Id*., p. 7. GRMD has identical powers. Compl., Ex. 2, p. 7.

On February 26, 2008, Headwaters, GRMD, and the Granby Ranch Metropolitan Districts Nos. 2 through 8 ("GRMD" 2-8) entered into an Intergovernmental Agreement with the Town of Granby ("First Town IGA"). Compl., Ex. 5. This document provided that "In addition to the types of park and recreation services and facilities referred to or reflected in the Service Plans...the Districts will be authorized to acquire, construct, own, operate and maintain the ski area and lifts, ski lodge, golf courses and appurtenant clubhouse and maintenance facilities, fishing or "river park" facilities and programs, and parks, trails, and open space for various recreational purposes as more fully described on Exhibit A, attached hereto and incorporated herein by reference, collectively called the "Amenities." *Id*.

The First Town IGA was replaced by an Amended and Restated IGA on November 8, 2016 (the "Second Town IGA"), Compl. 3, Ex. 7. The Second Town IGA had identical language that authorized the Districts to acquire the Amenities. *Id*., ¶ 5 a., p. 3. "Districts" was a defined term under both agreements, and included Headwaters, GRMD, and GRMD 2-8. The Second Town IGA also authorized the Districts to impose and collect "a one-time, front-end Amenities Fee, in an amount not to exceed $10,000.00 per lot or equivalent dwelling unit in the Districts...."

The Amenities Fee had first been implemented by a "Joint Resolution of Headwaters Metropolitan District and Granby Ranch Metropolitan District to Establish an Amenity Fee", enacted by the Boards of Directors of Headwaters and GRMD on May 26, 2005 (the "2005 Fee Resolution"). Compl. 3, Ex. 4. An Amenity Fee was imposed of $10,000.00 per residential dwelling unit, to be collected at the time of the transfer of the lot or issuance of a building permit.

The 2005 Fee Resolution further provided that,

> Until such time as the purchase price for the Amenities to be purchased by Headwaters pursuant to the Lease Purchase Agreement between the Developer (defined as Granby Realty Holdings, LLC) and Headwaters has been paid in full (and all debt used to purchase finance or refinance such purchase price has been paid in full) (the "Initial Amenities Payment Date"), the revenues generated by the Amenity Fee shall be used solely for the purpose of financing the acquisition, leasing, construction, and replacement of Amenities, which may include, without limitation: (1) the issuance of bonds or (2) reimbursement of amounts advanced by other parties. This restriction on the use of Amenity Fee revenue shall be absolute and without qualification. After the initial Amenities Payment Date, the revenues generated by the Amenity Fee may be used for the foregoing purposes and/or for the operation, maintenance, and repair of Amenities.

The 2005 Fee Resolution was in turn superseded by an "Amended and Restated Joint Resolution of the Boards of Directors of Headwaters Metropolitan District and Granby Ranch Metropolitan District and Joint Resolution of the Boards of Directors of Granby Ranch Metropolitan District No. 2 and Granby Ranch Metropolitan District No. 8 To Establish an Amenity Fee," enacted at a meeting held by all of the Boards of Directors on July 17, 2013 (the "2013 Fee Resolution"), attached hereto as **Exhibit A** to this Motion. The 2013 Fee Resolution simplified the timing for collecting the Amenity Fee, which remained at $10,000.00, to be collected at the time that a certificate of occupancy was issued for an apartment building or a residential lot was transferred to an end user. In paragraph 2 of the 2013 Fee Resolution, the Board of Directors of Headwaters, GRMD, Granby Ranch Metropolitan District No. 2, and Granby Ranch Metropolitan District No. 8 all "find that the Amenity Fee as set forth in this Resolution is fair and equitable, and approximates a pro rata calculation of not more than the cost of the acquisition, construction and installation of the Amenities."

Paragraph 8 of the 2013 Fee Resolution provided that the revenues generated by the Amenity Fee shall be used solely for the purpose of financing the acquisition, construction, and installation of Amenities, which may include, without limitation: (1) the issuance of bonds or (2) reimbursement of amounts advanced by GRH or other parties. The Districts removed the provision that Amenity Fee revenues could be used for operations and maintenance after the Amenities

Payment Date under the lease purchase agreement. Instead, the 2013 Fee Resolution flatly stated the restriction on the use of Amenity Fee revenues; that they be used solely for the purpose of financing the acquisition, construction, and installation of Amenities shall be "absolute and without qualification."

Headwaters and GRH entered into the LPA on December 31, 2012. This lease purchase agreement was the successor to "that certain Amended and Restated Lease Purchase Agreement dated as of June 1, 2006, as amended by the First, Second, Third, Fourth and Fifth Addenda." Third Compl., Ex. 6, p. 1.

In section 3a. of the LPA, Headwaters agreed to pay as rent the proceeds of "all amenity fees collected by the Tenant." As used in the LPA, the term "Amenity Fees shall mean and refer to any Amenity Fee imposed pursuant to the Fee Resolution and the Fee Agreements, as the same may be amended and restated from time to time, and any other resolution adopted or agreement entered into for the purpose of imposing fees related to the use of the Leased Premises." All Amenities Fees collected pursuant to the 2013 Fee Resolution and its predecessors were thus to be paid as rent to GRH and its successors as "Landlord." These Amenity Fees were to be the sole source of rent payments; it was entirely possible under the LPA that there could be no rent due in any fiscal year if no Amenity Fees were collected by Headwaters. *Id.*

Section 2 of the LPA provides that the term of the Lease shall be the end of the current fiscal year, and 49 additional one-year terms coinciding with the fiscal year of Headwaters. Renewal shall be automatic, unless Headwaters "elects not to appropriate funds to pay amounts due under this Lease as set forth in Section 3.c." Section 2.a.-f. list other grounds for termination. In Count I of its counterclaims, GR Terra alleges that the LPA has terminated, due to the failure of Headwaters to appropriate funds for rental payments "as of January 1, 2021." It also pleads that the LPA was terminated due to a notice of termination given by its predecessor, Gray Jay Ventures, LLC ("Gray Jay").

The LPA also provided in section 23 that Headwaters could acquire the Leased Premises for the lesser of the **Adjusted Appraised Value**, which was $18,949,226, subject to certain adjustments for inflation and capital improvements and the value of after-acquired equipment and machinery, or "all Amenity Fees collectable by Tenant under the Amenity Fee Agreements and the Fee Resolution." Headwaters was also to acquire the Leased Premises on December 31, 2062 if the Lease had not otherwise been terminated in accordance with Section 2(a), (b), or (c).

This provision for "Acquisition by Tenant" in the LPA allowed Headwaters to comply with its obligations under the IGA with the Town of Granby. In section 5b. of that agreement, Headwaters had agreed that "Property interests in areas and assets needed for Amenities which are acquired from the Developer shall be acquired at prices which do not exceed the fair market value as established by a qualified appraiser."

GRH is alleged to have defaulted on its promissory note to the Lender, Redwood Capital, under a Deed of Trust executed in 2005. The property was sold at a foreclosure sale held on August 14, 2020, to an entity called Granby Prentice LLP, which in turn assigned its Certificate of Purchase to GP Granby Holdings LLC, now known as Gray Jay. In August of 2020, the Public Trustee issued a Public Trustee's Deed to Gray Jay, which was recorded on August 31, 2020. GR Terra Answer and Countercl., ¶¶ 95-98.

The LPA had previously been recorded on January 3, 2020, in the real property records of Grand County, Colorado at Reception No. 2020000067. Third Compl., GR Terra Answer and Countercl., ¶ 34. [The LPA had been recorded by Matt Girard, a lot owner in Granby Ranch and the President of the Board of Directors of GRMD].

Argument

1. The requirements for termination based upon non-appropriation set forth in sections 2 and 3 of the LPA have not been met, and the LPA remains in full force and effect.

The Defendants have frequently characterized the LPA as being subject to annual appropriation essentially at the unlimited discretion of Headwaters. However, this is not accurate.

Instead, section 2 of the LPA states that the Lease will be renewed annually "unless the Tenant elects not to appropriate funds to pay the amounts dues under this Lease **as set forth in Section 3.c.**" (Emphasis supplied). Section 2 also provides that the Lease will terminate upon the earlier of any of the following events: b. The expiration of the Original Term or any Renewal Term due to the failure of Tenant **to appropriate Amenity Fees to be paid pursuant to the terms of this Lease...."** (Emphasis supplied).

Section 3.c states that the Rental Payments are "a current obligation of the Tenant payable exclusively from current and legally available funds and shall not in any way be construed to be an indebtedness or multiple fiscal-year obligation of the Tenant within the meaning of the provision of any constitutional or statutory limitation or requirement applicable to the Tenant." Headwaters agreed that during the Original Term and Renewal Term, "the chairman or president of the Tenant shall request the required appropriation from Tenant's board of directors for the ensuing Renewal Term and exhaust all available administrative reviews and appeals in the event such portion of the budget is not approved."

Section 3 went on to state that "If the chairman or president of" Headwaters "periodically requests from its governing body funds to be appropriated for payment to Landlord under this lease and, notwithstanding the making in good faith of such request in accordance with appropriate procedures and with the exercise of reasonable care and diligence the governing body does not approve funds to be paid to the Landlord, the Lease shall not be renewed."

At other places in the LPA, Headwaters covenants "that it will do all things lawfully within its power to obtain, maintain and properly request and pursue the Amenity Fees." LPA, section 3.b. In Section 14, Headwaters represents and warrants that "The chairman or president of Tenant will request funds to make payments in each renewal term."

There is no evidence that Headwaters met any of these prerequisites to terminating the LPA. Attached as **Exhibit B** to this Motion are the Budget Resolutions enacted by Headwaters for fiscal years 2019, 2020, 2021, and 2022. These budgets were obtained from the website maintained by Headwaters pursuant to C.R.S. 32-1-104.5 and from the Division of Local Government. On page 4 of the 2019 Budget Resolution, Headwaters appropriated $250,000 for the Lease Purchase Agreement Fund, an appropriation which was ratified in a "Resolution to Amend 2019 Budget" adopted on May 23, 2019. On page 4 of the 2020 Budget Resolution, the Headwaters Board once again appropriated $250,000 to the Lease Purchase Agreement Fund.

The 2021 Budget Resolution does not set forth the same line item, nor does it contain any representation declining to appropriate the Amenity Fees to the Lease Purchase Agreement Fund. The Resolution reports that two members of the Headwaters Board were present for the vote, Mr. Scott Johnson, and Ms. Sue Johnson. The Division of Local Government records and Special District Transparency Notice included in **Exhibit B** state that Mr. Johnson was appointed as a Director and as the President/Chairman of the Board of Directors of Headwaters on May 21, 2021.

Mr. Johnson introduced and moved the adoption of the 2021 Budget Resolution, which Headwaters contends did not appropriate any Amenity Fees for rent under the LPA. He thus failed in his capacity as President of Headwaters to request that the funds be appropriated. Had Mr. Johnson not made the motion, and had Ms. Johnson done so, the motion to approve the budget resolution should have died for lack of a second. If Mr. Johnson had voted against the Budget Resolution (assuming for the sake of argument that it actually doesn't appropriate amenity fees) it would have failed on a tie vote. Mr. Johnson thus failed to "exhaust all available administrative reviews and appeals" in the event that appropriation of the Amenity Fees to the LPA "is not approved." In his capacity as President and Chairman of Headwaters, Mr. Johnson also failed to make a good faith request for the appropriation in accordance with appropriate procedures and with the exercise of reasonable care and diligence.

The 2022 budget process suffered from the same defects. Director Scott Johnson is still the President and Chairman of the Headwaters Board of Directors. He "introduced and moved" the adoption of the 2022 Budget Resolution which was seconded by Ms. Johnson. None of the procedural requirements of the LPA, which were to be pursued in good faith, were carried. On the face of the LPA, it has not been terminated, and remains in full force and effect by operation of law.

These 2021 and 2022 Budget Resolutions are difficult to interpret because neither one anticipates any revenues from Amenity Fees. If this were simply because no Amenity Fees were anticipated to be collected, then under the plain language of the LPA, no Rental Payments are due, and no appropriation is necessary.

However, Headwaters has continued to demand the collection of an Amenity Fee at closings in Granby Ranch. **Exhibit C** to this Motion consists of a composite of two emails, sent to Mylea Draper, an Escrow Officer at Title Company of the Rockies. In the emails, both Diane Rodriguez, accounting manager at Community Resource Services of Colorado, which manages Headwaters, and Clint Waldron, Esq., of White Bear Tanaka & Waldron, P.C., general counsel to Headwaters, affirm that the Amenities Fee of $10,000 is still to be collected per each lot sold at Granby Ranch. Mr. Waldron states that the Fees were not wiped out by the private foreclosure action and that it can still be used "to finance the acquisition, construction and installation of Amenities." The emails prove that Headwaters was taking this position as recently as January 25, 2022. All these Amenity Fees should have been appropriated to make rent payments under the LPA, which clearly states in Section 3c. that "If actual Amenity Fees collected during and fiscal year exceed the amount budgeted for Rental Payments for such year, the Board shall amend its budget during such fiscal year to allow for payment of such additional Amenity Fees."

GR Terra has pled that these procedural guarantees in the LPA are "illusory", and that Headwaters can simply terminate the LPA at will by refusing to appropriate the Amenities Fees.

However, GR Terra is mistaken. *In City of Golden v. Parker*, 138 P.3d 285, 288-89 (Colo. 2006) the Colorado Supreme Court dealt with certain economic incentive agreements entered into between Golden and private developers. The incentive agreements were subject to annual appropriation under certain restrictions. The Court held that while the agreements complied with Article X, section 20 of the Colorado Constitution, since they were subject to annual appropriation, they also vested contractual rights in the developers. *Id*. at 294-96. The LPA created vested contractual rights that would terminate only under the conditions set forth in Sections 2 and 3. GRMD may enforce these rights as a third-party beneficiary of the LPA.

For these reasons, GR Terra's argument that the LPA has been terminated due to the failure to appropriate Amenity Fees to payment under the LPA fails as a matter of law, and GRMD is entitled to summary judgment on GR Terra's counterclaims, Counts I, II, and III, as a matter of law.

2. Gray Jay's notice that the LPA was terminated because of Headwaters' failure to operate the Amenities for 30 days or longer also did not bring about a termination of the LPA.

GR Terra also contends that the LPA was terminated because Headwaters failed to operate the Amenities on the Leased Premises for 30 days or longer, thus violating Section 10 of the LPA. GR Terra Answer and Counterclaims, paragraph 120 A. However, no triable issues of fact remain on this point, and GRMD is entitled to judgment as a matter of law.

GR Terra relies in its argument on a contention that its predecessor in interest, Gray Jay, then known as GP Granby Holdings LLC, gave notice to Headwaters that it was terminating the LPA because Headwaters had ceased to operate the Amenities for a period of 30 days. This notice, which came in the form of a letter from Clint Richardson, attorney for GPGH/Gray Jay, was dated November 11, 2020. GR Terra Answer and Countercl., Ex. L. This letter also referred to a letter from Mr. Richardson to Headwaters, dated September 1, 2020.

First, the evidence does not support the proposition that Headwaters ceased to operate the Amenities in 2020 during the time frame that the notices were given. The packet of materials supporting the 2021 Budget Resolution for Headwaters includes Exhibit A, part of which is a statement regarding the "Golf Course Operations Fund." That statement reported $341,713 of "Golf course revenue" under the heading "2020 actual." The same statement shows $338,490 of expenditures for "Golf course operations" under the heading "2020 actual."

Additionally, through the course of discovery, Plaintiff has uncovered and disclosed correspondence from Mike Oveson, Golf Course Superintendent, dated in May of 2020, wherein Mr. Oveson drafted a report outlining operations underway with the goal of preparing the golf course for opening. This correspondence is attached hereto as **Exhibit D**.

Further, Mr. Richardson's letters fail to specify a date when Headwaters purportedly ceased to operate the Amenities. Under Section 10 of the LPA, such a notice may only be given within 10 days after the Tenant ceases operation of the Amenities. Mr. Richardson's letters thus failed to provide notice as required by the LPA.

The Foreclosure by Redwood Capital also failed to wipe out the LPA.

Redwood Capital initiated foreclosure proceedings by filing its Notice of Election and Demand "in the spring of 2020." Answer and Counterclaims, paragraph 90. It thus took with full constructive knowledge of the LPA, which had been recorded on January 3, 2020.

Section 28 f. of the LPA provides that "This instrument shall also bind and benefit, as the case may require, the heirs, legal representatives, assigns and successors of the respective Parties, and all covenants, conditions and agreements herein contained shall be construed as covenants running with the land." In its Order of January 28, 2022 ("Order"), this Court denied the Private Defendants' motion to dismiss GRMD's Eighth Claim for Relief, finding that "the Plaintiff has pled factual content from which the Court draws the reasonable inference that a contractual obligation, i.e. a real covenant, binds the successors in interest to the LPA."

The Court's analysis of the factual content was heavily based on the language of the LPA itself. Thus, the Court found that the language of Section 28f. supported the inference that Headwaters and GRH had intended the LPA to be a covenant running with the land. The Court further reasoned that the LPA contained a number of provisions indicating that the LPA touches and concerns the land. Order, p. 17-19.

The parties have acknowledged that the LPA is an authentic document executed by Headwaters and GRH. Third Compl., Ex. 6; GR Terra Answer, ¶ 27; Gray Jay and Granby Prentice Answer, ¶ 27; Headwaters Answer, ¶ 27. By offering the LPA to the Court, GRMD has met its burden of making a convincing showing that genuine issues of material fact are lacking; now, the opposing parties must demonstrate by relevant and specific facts that a controversy exists. *Closed Basin Landowners' Ass'n v. Rio Grande*, 734 P. 2d 627, 632 (Colo. 1987). GRMD is confident that the Defendants cannot make the required showing.

A covenant running with the land is not necessarily extinguished by a foreclosure, as this Court held on page 18 of the Order. The Court cited *Top Rail Ranch Estates, LLC v. Walker*, 327 P.3d 321, 327 (covenants in a deed of trust were not extinguished by foreclosure); *Schwab v. Martin*, 441 P.2d 17, 19 (Colo. 1968) (despite foreclosure, the right to appoint a receiver under the deed of trust remained an operative as a contract between the parties). Similarly, the foreclosure by Redwood Capital against GRH did not extinguish the LPA as a covenant running with the land. GRMD is entitled to judgment as a matter of law.

CONCLUSION

In its counterclaims, GR Terra has sought a declaration that the LPA was extinguished because Headwaters failed to appropriate lease payments, Gray Jay and Granby Prentice gave notice that the Amenities had not been operated for a period of 30 days, and the foreclosure erased the LPA. However, Headwaters failed to meet the preconditions for termination due to non-appropriation, there is no proof that the Amenities ceased operation for more than 30 days or that

notice was properly given, and the foreclosure failed to wipe out the LPA as a covenant running with the land. GR Terra has failed to carry its burden of showing that there are material and disputed issues of fact, and thus GRMD is entitled to judgment as a matter of law.

This will lead to a just result. GR Terra has taken title to real property that benefitted significantly from the collection of Amenities Fees. The parties all acknowledge that more than $6 million in Amenities Fees have been collected under the various fee resolutions. GR Terra now seeks to retain the benefit of facilities funded through those Amenities Fees, and to own the property and dispose of it as it sees fit, all without any restitution for the benefit of those lot owners who paid the Amenity Fees. GR Terra further wants to perpetuate this injustice by allowing Headwaters to collect the Amenity Fees while terminating the LPA. GR Terra ultimately seeks to be free of what it now believes to be the burden of operating the Amenities for the benefit of taxpayers, occupants, visitors and invitees of Granby Ranch, and to convert those Amenities into a purely private resort, managed for the benefit of GR Terra. Neither the law nor the equities support GR Terra's position, and GRMD respectfully requests summary judgment in its favor dismissing Counts I, II, and III of the counterclaims in their entirety as a matter of law.

Respectfully submitted this 23rd day of January 2023.

BURG SIMPSON
ELDREDGE HERSH & JARDINE, P.C.

(Original signature on file)

/s/ Brian K. Matise
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of January 2023, a true and correct copy of the foregoing **PLAINTIFF'S GRANBY RANCH METROPOLITAN DISTRICT'S RENEWED MOTION FOR SUMMARY JUDGMENT ON COUNTS I, II, AND III OF DEFENDANT GR TERRA'S COUNTERCLAIMS** was filed and served via Colorado Courts E-Filing on all Counsel of Record.

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