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March 15, 2021

RE: HB21-1046: Concerning the Use of a Water Right Obtained Through a Mutual Ditch Corporation

Dear Members of the House Agriculture, Livestock, & Water Committee,

I represent Arapahoe County Water and Wastewater Authority (“ACWWA”), East Cherry Creek Valley Water and Sanitation District (“ECCV”), United Water and Sanitation District (“United”), and Legacy Water, Inc. (collectively, the “Parties”) The Parties’ interests in this matter stems from the fact that the issues sought to be addressed by HB21-1046 came to a head in Water Court cases that were filed by ACWWA and ECCV; namely Water Division No. 1 Case No. 16CW3200 and Consolidated Case Nos. 16CW3195/3196. A trial was held in Case No. 16CW3200 in 2019, and the Water Court recently issued orders in both of the above-referenced cases.

Likewise, the Parties all own shares in many mutual ditch companies on the Front Range and have, or are in the process of, changing those shares to other uses. The Parties were concerned that the HB21-1046, as introduced, would make changes of water rights more difficult through heightened Water Court requirements and by granting mutual ditch companies additional powers over their shareholders, which would have a chilling effect on changes of water rights. The Parties were also gravely concerned that the bill as introduced would alter and reduce the property rights represented by shares in a mutual ditch company. Furthermore, as introduced, HB21-1046 would have resulted in increased litigation concerning shares in mutual ditch companies and many other unintended consequences, all while failing to directly address the very narrow issue claimed to be the motivation for this bill.

However, as a result of a stakeholder process facilitated through the Colorado Water Congress, HB21-1046 has been redrafted in its entirety to narrow its scope and to reduce the potential for unintended consequences. The strike below amendment represents considerable time and effort on the part of all stakeholders, resulting in a much-improved bill on which my clients are now neutral. The success of the stakeholder for HB21-1046 provides yet another example of the need for and benefit of robust stakeholder engagement for legislation concerning Colorado water rights. My clients greatly appreciate the efforts of Representative Arndt for her leadership and willingness to bring a diverse group of stakeholders together resulting in a strike below amendment that found common ground in an area where compromise can be very difficult to achieve.

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Sincerely,

A handwritten signature in black ink, appearing to read "William D. Wombacher". The signature is fluid and cursive, with the first name "William" being the most prominent part.

William D. Wombacher