Skadden Shah Ortiz Cotro PLLC,
Attorneys at Law
www.ssoclaw.com

2180 N. Loop West Ste. 550
Houston, Texas 77018

1618 Pecan Blvd. Suite No.1
McAllen, Texas 78501

Macarena Ortiz
Attorney at Law
(956) 800-5344 phone-fax
(956) 445-9268 cell
E-mail: macarena.ortiz@ortizcotrolaw.com

April 5, 2016

Via certified mail Return Receipt Requested

Texas Commission on Environmental Quality (TCEQ)
Attn: Iliana Delgado
Water Rights Permits
P.O. Box 13087 MC-160
Austin, Texas 78711-3087

Re: **Change of Ownership-Amendment to Water Rights Petition-Package Submittal**

Dear Ms. Delgado:

As per our recent conversation, please see attached application package containing "Change of Ownership" Forms, "Amendment to Water Rights" petitions, applicable fees and additional documentation needed to process this request on behalf of Mr. W.D. Moschel and Stephen D. Bannworth.

Please keep me informed as to the status of the application package and do not hesitate to contact me should you have any questions or require additional information.

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Yours truly,

Macarena Ortiz, Esq.
Attorney at Law

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY	§	APPLICATION FOR AMENDMENT TO
	§	CERTIFICATE OF ADJUDICATION NO. 23-716
AUSTIN, TEXAS	§	RIO GRANDE BASIN

APPLICATION FOR AMENDMENT TO WATER RIGHTS

W.D. MOSCHEL TRUSTEE, having its principal office at 1633 N. 10th Street, McAllen, Hidalgo County Texas 78501 (hereinafter called "**APPLICANT**") hereby requests that his irrigation (agricultural) Class "B" water rights of the Rio Grande owned under Certificate of Adjudication No. 23-716, as amended, Rio Grande Watershed, Lower Rio Grande Basin (hereinafter called the "Water Rights" or "Certificate" respectively), be amended so as to change the purpose of use of the Water Rights to mixed use of agricultural (irrigation) use and mining use with a change in diversion point and place of use, and as grounds for this Application would state as follows:

1. Water Rights authorize the diversion of 28.381 acre-feet per annum of water for irrigation (agricultural) purposes from the Rio Grande on a Class "B" irrigation priority basis pursuant to the Certificate. Applicant owns other rights to the Rio Grande for other purposes of use, which are not involved in this Application and no changes in such rights are requested by this Application.

2. Applicant requests that the purpose of use of the Water Rights be changed by adding mining use as a purpose of use in addition to agricultural (irrigation) use so that all of the 28.381 acre feet per annum of Applicant's rights will be authorized to be used for either agricultural (irrigation) use or mining use and be allocated on a Class "B"

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irrigation priority basis as such water rights are currently allocated by the Rio Grade Watermaster.

3. Applicant submits a "Water Delivery Contract" between Applicant and Diverter and "Consent of Diverter" instrument to show that Applicant has obtained permission to divert water rights under Certificate of Adjudication No. 23-716 (See Exhibit "A" attached hereto and incorporated herein).

4. Applicant requests a change in the diversion point for the agricultural (irrigation) use rights to the east bank of the Rio Grande in Hidalgo County as follows:

   A. In Hidalgo County at Latitude 26.117292°N, Longitude 98.265347°W with bearing S2°E and 3,300 feet from the intersection of the West line of Porcion 63 and the north line of Banco 98 or Porcion 63, Hidalgo County, Texas.

   B. The location from the County Seat is 14.2 miles in a SSW direction from Hidalgo County, Texas. The location from nearby town is 1.3 miles in a NW direction from Hidalgo, a nearby town shown on county highway map.

   C. The diversion will be directly from an existing stream.

   D. The rate of Diversion is from a diversion facility at a maximum of 73,500 g.p.m. (gallons per minute). There are three (3) horizontal and four (4) vertical types of pumps totaling seven (7) non-portable pumps with a capacity of 10,500 g.p.m. each.

5. Applicant requests that the diversion point(s) of the mining use rights be changed to anywhere along the east bank of the Rio Grande, between Amistad Reservoir and the

Gulf of Mexico in Val Verde, Kinney, Maverick, Webb, Zapata, Starr Hidalgo and Cameron Counties ("Counties") between the Upper and Lower limits described as follows:

A. Upper limits of the diversion segment is located in Val Verde County at Latitude 29.431503°N, Longitude 101.044572°W.

B. Lower limit of the diversion segment is located in Cameron County at Latitude 25.955256°N, Longitude 97.146311°W. (herein referred to as "Diversion Segment")

6. (a) The existing place of use of the existing agricultural (irrigation) use water rights of Applicant is upon land within its boundaries in Starr County, Texas as they presently exist or as the boundaries are hereafter changed, which shall be amended as requested in this Application.

(b) The proposed new place of use of the mining use rights only shall include the Counties identified above in the Diversion Segment and Dimmit County, all or portions of which are in the Rio Grande River Basin and those portions of Kinney, Maverick, Dimmit, and Webb Counties in the adjoining Nueces River Basin, and Hidalgo, Cameron and Willacy Counties in the adjoining Nueces-Rio Grande Basin. This change of place of use of the mining use rights is an exempt interbasin transfer as provided in § 11.085(v)(4) of the Texas Water Code, because Dimmit, Maverick, and Webb Counties are partially within the Rio Grande River Basin and Hidalgo, Cameron and Willacy Counties are partially in the Rio Grande River Basin and Nueces-Rio Grande Coastal Basin.

7. Applicant understands that the use of water for agricultural and/or mining use purposes is intended for use by Applicant. If supplied for use by another, such contracts

for the sale of all or part of this water by the Applicant shall be filed with the Executive Director and found sufficient in accordance with Title 30 Texas Administrative Code 303.51-53 prior to the diversion of water. If the buyer is not currently a water right holder of record in the Middle or Lower Rio Grande, the buyer shall also apply for and be granted a water rights permit authorization, which may include a Temporary Water Use Permit, Contractual Permit, or an Amendment to this Certificate of Adjudication. These provisions may be conditions of the Amendment requested by this Application.

8. No other amendments to the Water Rights under the Certificate are requested or involved herein.

9. The contact information of the Applicants is:

W.D. Moschel Trustee
P.O. Box 2814
McAllen, Texas 78502
Telephone: (956) 682-8373
Fax: (956) 686-1821
E-Mail: wdmoschel@att.net

TCEQ Customer Ref erence Number: CN 603866088

10. Applicant does not owe any delinquent fees and/or penalties to the Commission, and understands that the Commission may require additional information in regards to the requested Amendment of the Water Rights before considering this Application. Applicant is submitting the required fees herewith.

11. Applicant states that the change in purpose of use and point of diversion as requested herein does not contemplate a use of water which would harm any other existing water right holders on the Rio Grande below Amistad and Falcon Reservoir and will not prejudice any other water right holders on the Rio Grande below Amistad and

Falcon Reservoirs.

WHEREFORE, Applicant respectfully requests that this Application be approved, and that an Amendment to Certificate of Adjudication No. 23-716 be issued, changing the purpose of use and point of diversion of the Water Rights as requested above.

DATED this 23rd day of March 2016.

By: W.D. Moschel
(Signature and Title)

W.D. MOSCHEL
(Printed Name)

STATE OF TEXAS §
§
COUNTY OF HIDALGO §

SUBSCRIBED AND SWORN TO BEFORE ME by Mr. W.D. Moschel on this the 23rd day of March 2016 in the capacity as stated, to certify which witness my hand and seal of office.

Linda Lapid
Notary Public in and for the State of Texas

My commission expires: 11/05/2016

Printed Name of Notary: Linda Lapid

NOTARY PUBLIC STATE OF TEXAS
LINDA LAPID
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES 11-05-2016

CHAPTER 11, SEC. 11.008, TEXAS PROPERTY CODE, NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

STATE OF TEXAS	§	
	§	WATER DELIVERY CONTRACT
COUNTY OF HIDALGO	§	

This Water Delivery Contract (hereinafter called the "Contract") is made and entered into on as of this the 30th day of March, 2016 by and between **W.D. MOSCHEL TRUSTEE,** (hereinafter called **"MOSCHEL"**), having its principal office at 1633 N. 10th Street, McAllen, Hidalgo County Texas 78501 and the **HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO.3,** (hereinafter called **"DISTRICT"**), having its principal office at 1325 Pecan Blvd, McAllen, Texas 78501, being a political subdivision of the State of Texas and a water control and improvement district operating under the laws of the State of Texas and, so as to set forth their agreement for the delivery of **MOSCHEL'S** water rights under three Certificates of Adjudication 23-716, 23-741 and 23-660 (hereinafter called **"COAs"**).

WHEREAS, **MOSCHEL** has entered into an Agreement to Purchase Class "B" irrigation Water Rights not to exceed 185.7935 acre-feet per annum, subject to the extent the water rights are accepted for transfer and amendment and consistent with necessary proceedings before the Texas Commission on Environmental Quality (hereinafter referred to as "TCEQ) as follows:

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a. 127.4125 acre-feet of Class "B" agricultural water rights out of Certificate of Adjudication No.23-741 covering Tracts 1,2,4,5, and 6 out of Porcion No.90 and TWC Tract No. S-187, Court No. 856, Starr County, Texas, more specifically described on Exhibit "A" attached hereto and incorporated herein.

b. 30 acre-feet of Class "B" agricultural water rights out of Certificate of Adjudication No. 23-660 covering TWC Tract S-72, Court No. 412, Starr County, Texas, more specifically described on Exhibit "B" attached hereto and incorporated herein.

c. 28.381 acre-feet of Class "B" agricultural water rights out of Certificate of Adjudication No. 23-716 to irrigate 11.352 acres located out of a 77.783-acre tract covering TWC Tract No. S-134 (Court No.664), Starr County, Texas, more specifically described on Exhibit "C" attached hereto and incorporated herein.

WHEREAS, **DISTRICT** was created and operates primarily for the purpose of providing delivery of raw water for irrigation purposes to agricultural lands within its boundaries and as incidental activity contracts with other water users for the delivery of raw water from the Rio Grande for other uses. District has an established raw water diversion system upon the Rio Grande and raw water delivery facilities within its boundaries. These water rights are administered by the Rio Grande Watermaster of the TCEQ, which makes allocations of available Rio Grande water to the District in accordance with its water rights.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That **DISTRICT** in consideration of **MOSCHEL'S** agreement to pay water delivery charges and as provided for herein together with other valuable consideration, receipt of which is hereby acknowledged, does hereby agree to deliver to **MOSCHEL** for use at a delivery point location determined by **MOSCHEL,** within the capabilities of the District's delivery system and from **MOSCHEL'S** allocation, not to exceed **185.7935 acre feet** per annum for agricultural purposes on a Class "B" irrigation priority basis, or other purposes as amended and as evidenced by Certificate of Adjudication No. 23-741, Certificate of Adjudication No. 23-660, and Certificate of Adjudication No. 23-716.

MOSCHEL will give **DISTRICT** sufficient notice of the need for raw water deliveries so that **DISTRICT** has sufficient time to order the water under applicable Rio Grande Governmental Administrative Rules and operational procedures to arrive at the Rio Grande diversion point within sufficient time to transport the water to the Delivery Point within the capability of the **DISTRICT'S** delivery system. The **DISTRICT** agrees to utilize its facilities and the knowledge and experience of its management, employees and directors to timely deliver the water.

The delivery amount billed by **DISTRICT** to **MOSCHEL** shall be based upon the amount of **MOSCHEL'S** water rights ordered by **DISTRICT**, as per **MOSCHEL'S** request and

on behalf of **MOSCHEL** plus a ten percent (10%) loss factor of the amount of water ordered that the DISTRICT shall use as "push water" to deliver **MOSCHEL'S** order.

In consideration of **DISTRICT'S** agreement to transport and deliver **MOSCHEL'S** water, should he place an order with **DISTRICT**, it is agreed that **MOSCHEL** shall pay to **DISTRICT** a water delivery charge calculated according to the provisions, rules and regulations of **DISTRICT** related to the delivery of water to "out-of-district" water users at a current rate of $18.29 per acre of land.

Once the water has been delivered, **DISTRICT** will make the necessary Rio Grande water diversion reports to the Rio Grande Watermaster relating to the amount of water diverted from the Rio Grande for **MOSCHEL** and to be charged against **MOSCHEL'S** allocation related to the above **COAs.**

MOSCHEL shall be under no obligation to request any water deliveries and shall manage the use and delivery of his water rights at his sole discretion.

DISTRICT shall not be liable to **MOSCHEL** for failure of delivery of water or the failure to comply with other conditions hereof in the event of mechanical failure, strikes, acts of God or other occurrences beyond the **DISTRICT'S** control, or when the **DISTRICT** takes immediate and reasonable steps to continue with the delivery order.

DISTRICT shall not be liable or responsible for, and shall be saved and held harmless by **MOSCHEL** from and against any and all claims and damages of every kind, for injury or death of any person or persons and for damage to or loss of property, arising out of or attributed, directly or indirectly to **MOSCHEL'S** actions under this Contract.

MOSCHEL shall not be liable or responsible for, and shall be saved and held harmless by **DISTRICT** from and against any and all claims and damages of every kind, for injury or death of any person or persons and for damage to or loss of property, arising out of or attributed, directly or indirectly to **DISTRICT'S** operations under this Contract.

This Contract shall become effective when signed by both parties and shall remain effective for a period of one (1) year. Once this term has passed, the Contract will be automatically renewed under the same terms on a month-to-month basis, unless either one of the parties provides to the other party with notice of termination. The Contract will be deemed terminated at the start of the month following such notice.

This contract is deemed executed in McAllen, Texas and it is subject to the laws of the State of Texas and the jurisdiction of the courts of Hidalgo County, Texas, to which all parties herein submit.

EXECUTED by the parties though their authorized representatives on the date first indicated above.

W.D. MOSCHEL TRUSTEE

By: W.D. Moschel

W.D. Moschel

ATTEST:

Linda Lapid

HIDALGO COUNTY WATER IMPROVEMENT DISTRICT No. 3

By: _____

Othal Brand Jr. -President

ATTEST:

Raquel Espinoza

Raquel Espinoza
Notary Public
State of Texas
My commission expires 3-31-17