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November 30, 2023

Lekishia Bellamy
El Paso County Department of Planning and Community Development
2880 International Circle, Ste. 110
Colorado Springs, CO 80910
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RE: Water Resource Report: Foundation Lutheran Church, Towner Ave., Colorado Springs,
CO 80831

Dear Lekishia:

This letter provides the Water Resource Report and related information for the proposed Foundation Lutheran Church (Church), located within the Paint Brush Hills Metro District (District) service area, as shown in Figures 1 and 2. The District, which will provide the water service to the church, is located in the Upper Black Squirrel Designated Ground Water Basin, and as such, operates its water supply wells based on permits and Determinations approved by the Colorado Ground Water Commission, as discussed in more detail below. The information to include in the water resource report is outlined in the El Paso County (County) checklist (attached). Included in this report is an estimate of the water demand associated with the planned Church facility to be located on Towner Avenue. The Church facility includes 250 seats for the congregation and space for a preschool with 102 students and 8 teachers. The landscape plan for the Church includes a limited amount of revegetated native grass area, shrubs, and trees.

Water Demand Estimates

As presented in the attached Tables 1 and 2, the estimated design total annual water demand for the Church facility is approximately 0.32 acre-feet per year (ac-ft/yr). Of this total demand, approximately 0.23 ac-ft/yr or 75,400 gallons is for indoor uses, assuming a water use rate of 2.5 gallons per day (gpd) per congregant, 2.5 gpd per student/teacher/visitor, and approximately 0.09 ac-ft/yr (30,160 gallons) is for the landscape water uses. The combined total estimated annual water demand for the church is approximately 0.32 ac-ft/yr. The District has committed to providing 0.36 ac-ft/yr to the church facility; the actual water usage will likely be less than this, based on experience with other church facilities.

Water Supply Sources

The church facility is located within the PBHMD service area and will therefore receive water supply and sewer services from the District. The District has 12 existing Denver Basin wells that provide the water supply. The District also has a perpetual lease with Meridian for 85 ac-ft/yr, which can provide additional supplies to the District from that water supply source. The water supply is provided by 2 Denver aquifer wells, 4 Arapahoe aquifer wells, and 6 Laramie-Fox Hills wells (copies of well permits are included in the attached documents).

The District's wells are operated pursuant to well permits and Determinations granted by the Colorado Ground Water Commission (permits and Determinations attached). The permits and Determinations allow use of water for commercial use in a church, irrigation, and fire protection, in the combined annual amount of 1223 ac-ft/yr (100-yr aquifer life), not including the District's Dawson aquifer water and pending applications. The projected water demand for the Church is only approximately 0.32 ac-ft/yr, and as a result, the District's water supply sources and rights are more than the estimated annual water demand for the Church facility and are therefore adequate to cover the estimated demand volume. Further, the State Engineer's Office has provided an evaluation and opinion of the adequacy/sufficiency of the District supply and a finding that they are sufficient (see attached letter report, Appendix E).

Public and Private Commercial Water Providers

The Foundation Lutheran Church property is located within the Paint Brush Hills Metro District service area, as shown in Figure 2. As outlined in the County's Water Resource Report checklist, a general water resources report supplied by the provider may be used to evaluate the available water resources provided the content meets or exceeds the requirement of the Water Resource Report. To that end, please find attached another copy of the PBHMD's water resource master plan report prepared by RG Consultants, dated March, 2021 (Appendix C). In addition, please find the following information, pursuant to the checklist:

- Volume of water sold in the previous year- 102,009,740 gallons (313.1 acre-feet)
- New water acquisitions, commitments, augmentation plans, etc.: the District has pending applications for additional water Determinations for Dawson and Denver aquifer ground water, these Determinations may add approximately 483.6 ac-ft/yr (100-yr aquifer life) of water to the District's available supplies. The District has also filed an application for a Dawson aquifer Replacement Plan, which will allow pumping of approximately 375 ac-ft/yr (100-yr aquifer life) of Dawson aquifer water.
- Water trades or other losses of water supplies – none
- Anticipated water acquisitions for the upcoming year – none
- Legal documentation accompanying new water acquisitions and augmentation plans – copies of the pending applications for Determinations and the Dawson Replacement Plan are attached in Appendix G.
- Major capital improvements accomplished during the past year and anticipated major capital improvements for the upcoming year – Completion of new booster station capable

of pumping 4800 gallons per minute (gpm) for firefighting, maintaining 85 psi. Finished well 12, increasing flow by 40 gpm. No other projects planned.

- Other information – see DWR’s opinion letter referenced below (Appendix E)

County Attorney Review

The following items are listed in the WRR checklist for County attorney review, and the Church’s consultants have already provided many of them to the County in other submittals. Nevertheless, they are provided again as Appendices A to F of this report:

- Water Supply Information Summary Form (GWS-76) – Appendix A
- Letter of Commitment from water provider – Appendix B – PBHMD’s will-serve letter
- Copies of all well permits – Appendix C (RG 2021 Master Plan report; permit information included in report)
- Copies of all Water Court Decrees – Appendix D (Determinations and Permits; no decrees because located in UBSDGWB)
- Copies of all Colorado Groundwater Commission Determinations of Water Rights – see above, Appendix D
- State Engineer’s Office opinion – Appendix E
- Deeds and/or other documents that establish ownership of the rights – Appendix F
Statement of Land and Water Ownership affidavit; also see Determinations and well permits in Appendices C and D

If you have any questions regarding the information included in this report and the water resources available to support the proposed church facility, please contact me via phone or email.

BBA Water Consultants, Inc.

Very truly yours,



Charles E. Stanzione P.G.
Principal

CES/jeb

Enclosures

cc: Robert Guevara
Jennifer Zezlina

1709.03



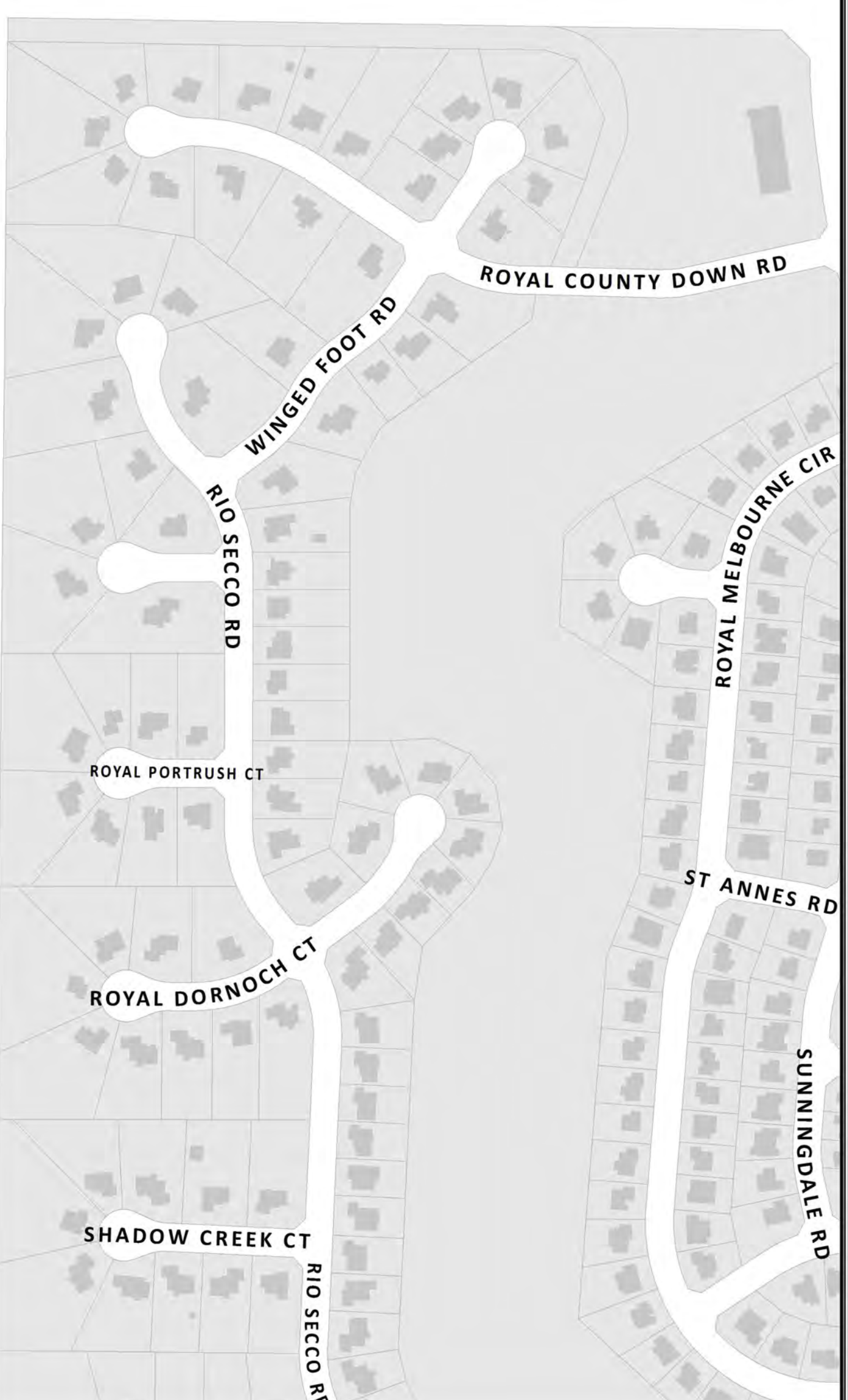
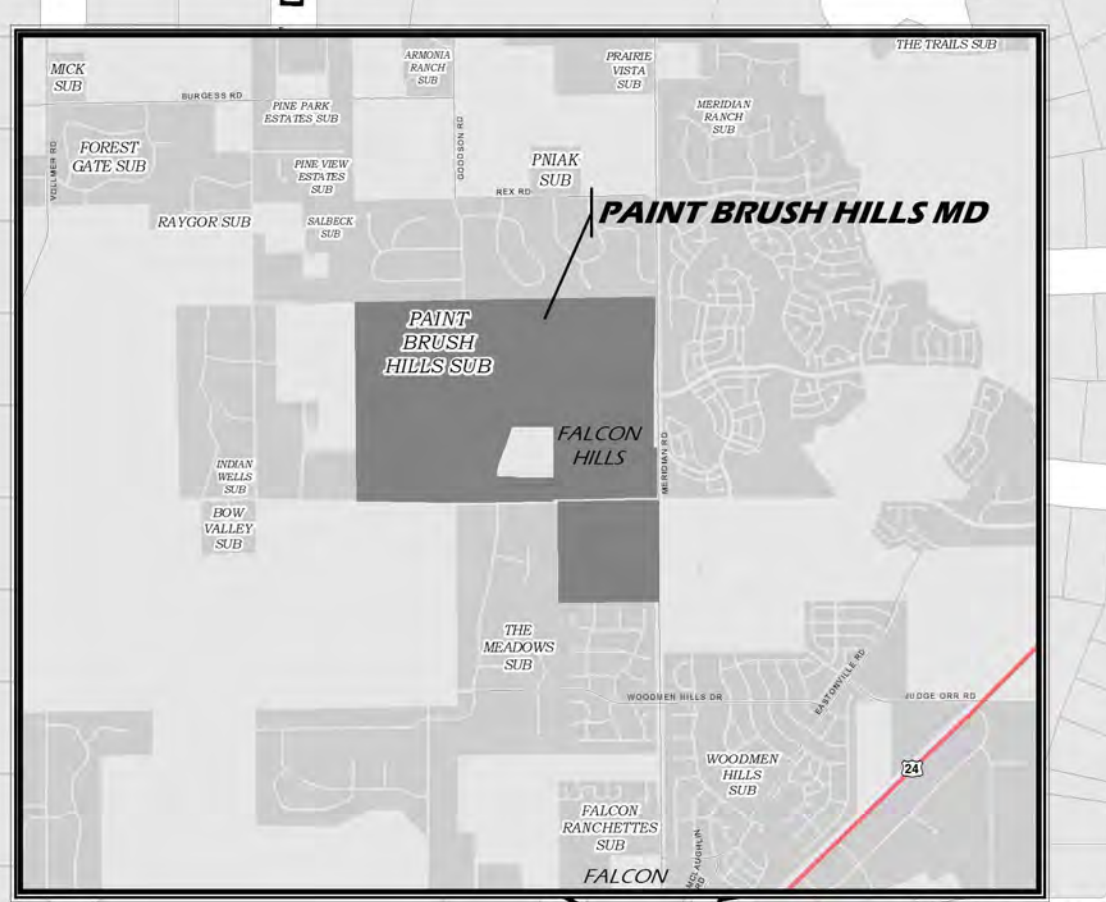
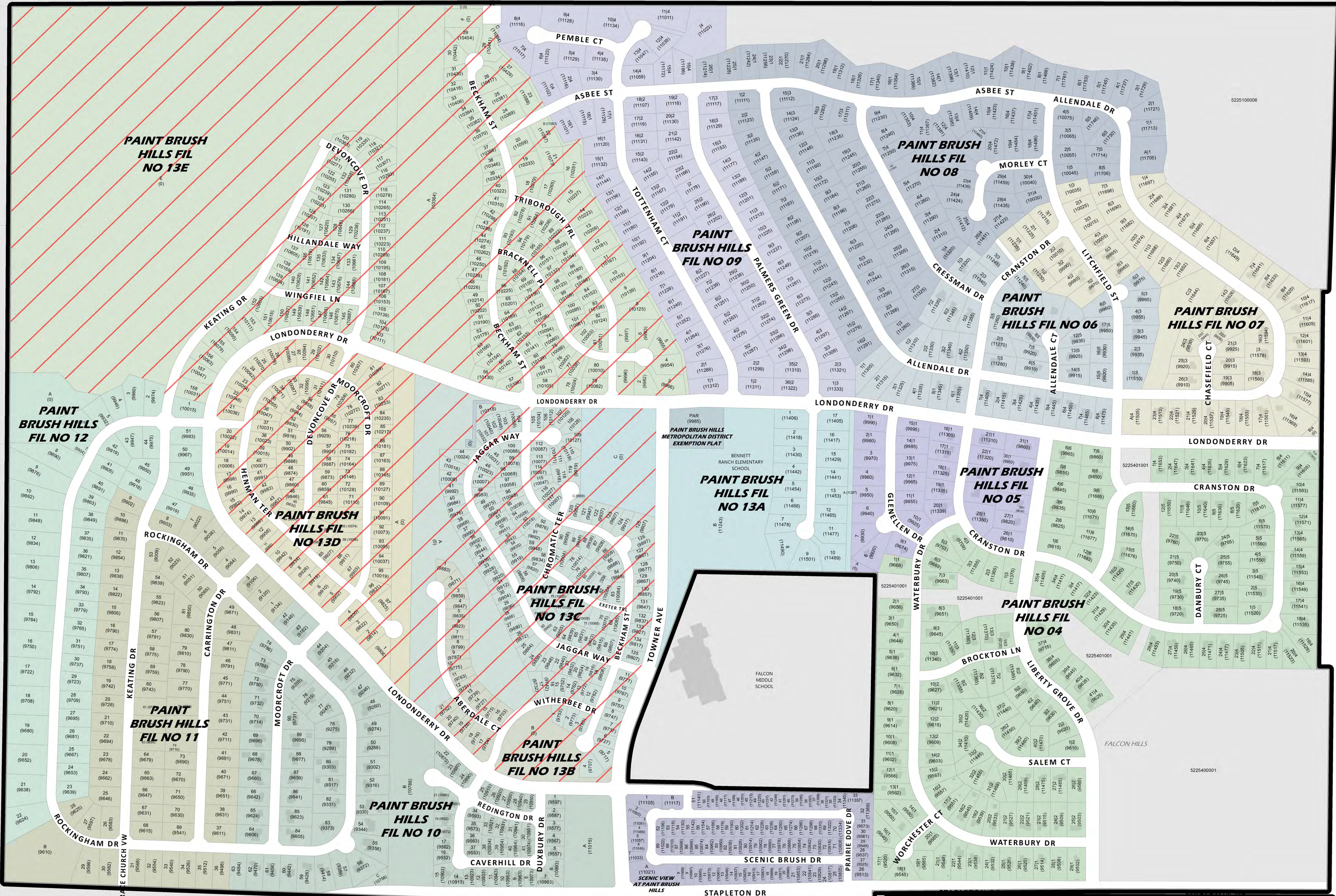
VICINITY MAP



RODGWICK HTS

CHIMING BELL CIR

HOWBRUSH DR



ARROYA LN

STAPLETON DR

GREEN CHURCH VW

1 inch = 250 feet

PAINT BRUSH HILLS MD and PAINT BRUSH HILLS MD SUBDISTRICT A

Paint Brush Hills MD Paint Brush Hills MD -- Subdistrict A

Lot | Block
(Address)

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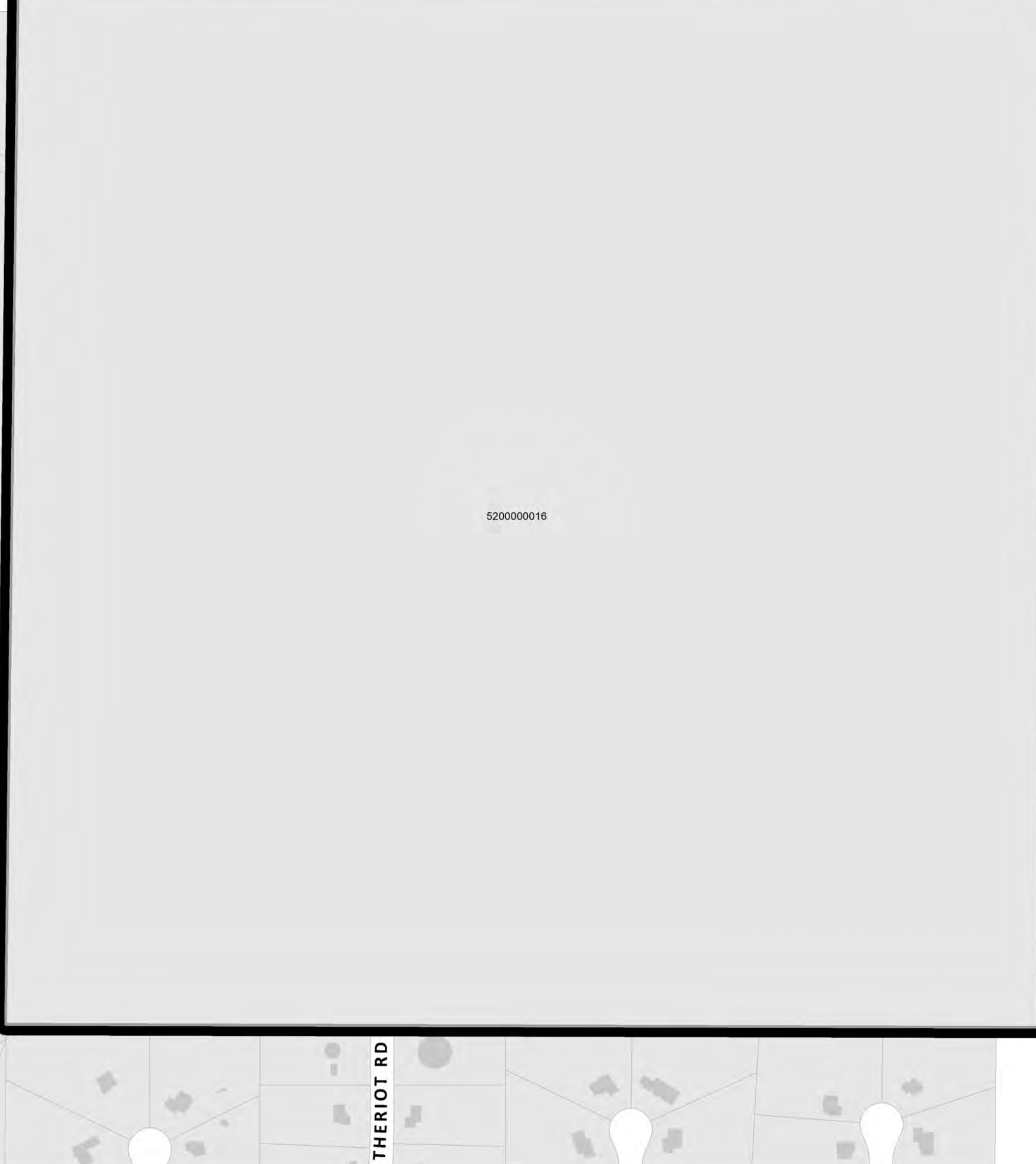


Table 1
Foundation Lutheran Church
Estimated Weekly Indoor Water Demand

[1] Projected Monday - Saturday School/Church Users (preschool students/teachers,visitors)	52
[2] Monday - Saturday Daily Water Demand per Person (gal)	2.5
[3] Projected Average Number of Sunday Congregants	266
[4] Sunday Daily Water Demand per Person (gal)	2.5

	1	2	3	4	5	6	7	Weekly
	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Total
[5a] Church Building Demand (gal)	131	131	131	131	131	131		785
[5b] Sunday Services Demand (gal)	-	-	-	-	-	-	665	665
[6] Total Estimated Indoor Water Demand (gal)	131	131	131	131	131	131	0	1,450

Notes:

1. Number of Mon-Sat church users estimated to be 52 people (year-round equivalent for 110 people during school year, and 75% occupancy) based on pre-school attendance Mon-Fri, and other misc. events Saturday.
2. Monday through Saturday church water demand based on maximum weekday demand observed at Winter Park Christian Church during 2006 BBA study; and reduced by 50% to account for half-day school period.
3. The current Sunday attendance is only about 100 people; the projected average number of Sunday church visitors is estimated to be approximately 266 people at full build-out, combined for three services; this level of attendance may never be experienced, and if so, will likely be many years in the future.
4. Sunday church water demand based on maximum Sunday demand of approximately 1.5 gallons per person observed at Winter Park Christian Church during 2006 BBA study. Increased to 2.5 gals/person to account for potential limited kitchen use.
- 5a. Equal to [1] * [2] Monday - Saturday; 5.b. equal to [3] * [4] on Sunday.
6. Equal to [5a] + [5b].

Table 2
Foundation Lutheran Church
Estimated Monthly and Annual Irrigation and Indoor Water Demand

	sq. ft.	ac												
[1] Estimated Equivalent Irrigated Area	1600	0.04												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	
[2] Estimated Landscape Irrigation Demand rate (af/ac)	0	0.00	0.00	0.05	0.31	0.56	0.63	0.48	0.32	0.14	0.00	0.00	2.50	
[3] Estimated Irrigation Water Demand (af)	0.00	0.00	0.00	0.00	0.01	0.02	0.02	0.02	0.01	0.01	0.00	0.00	0.09	
[4] Estimated Indoor Water Demand (af)	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.23	
[5] Total Water Demand (af)	0.02	0.02	0.02	0.02	0.03	0.04	0.04	0.04	0.03	0.02	0.02	0.02	0.32	

Notes:

1. Irrigation water demand based on proposed landscape plan utilizing drip-irrigation demand for trees and shrubs of 30,160 gals/yr; which is an equivalent lawn-grass demand for an area of approximately 1600 square feet or 0.037 acres.
2. Monthly landscape irrigation demand distribution estimated using lawn-grass monthly distribution, and annual irrigation rate of 2.5 ft per year.
3. Equal to [1] * [2].
4. Equal to weekly indoor water demand from Table 1 converted to monthly values.
5. Equal to [3] + [4].



APPENDIX A

WATER SUPPLY INFORMATION SUMMARY

Section 30-28-133(d), C.R.S. requires that the applicant submit to the County, "Adequate evidence that a water supply that is sufficient in terms of quantity, quality and dependability will be available to ensure an adequate supply of water."

1. NAME OF DEVELOPMENT AS PROPOSED <u>Foundation Lutheran Church</u>			
2. LAND USE ACTION <u>New Development</u>			
3. NAME OF EXISTING PARCEL AS RECORDED <u>TR. C PAINT Brush Hills Fil No BA</u>			
SUBMISSION	FILING	BLOCK	LOT
4. TOTAL ACREAGE <u>5.9658</u>	5. NUMBER OF LOTS PROPOSED <u>1</u>	PLAT MAP ENCLOSED <input type="checkbox"/> YES	
6. PARCEL HISTORY - Please attach copies of deeds, plats or other evidence or documentation.			
A. Was parcel recorded with county prior to June 1, 1972? <input type="checkbox"/> YES <input type="checkbox"/> NO			
B. Has the parcel ever been part of a division of land action since June 1, 1972? <input type="checkbox"/> YES <input type="checkbox"/> NO			
If yes, describe the previous action _____			
7. LOCATION OF PARCEL - Include a map delineating the project area and tie to a section corner.			
<u>1/4</u> OF <u>1/4</u> SECTION <u>25</u> TOWNSHIP <u>12</u> <input type="checkbox"/> N <input checked="" type="checkbox"/> S RANGE <u>65</u> <input type="checkbox"/> E <input checked="" type="checkbox"/> W			
PRINCIPAL MERIDIAN: <input checked="" type="checkbox"/> 6TH <input type="checkbox"/> N.M. <input type="checkbox"/> UTE <input type="checkbox"/> COSTLA			
8. PLAT - Location of all wells on property must be plotted and permit numbers provided. Surveyors plat <input type="checkbox"/> Yes <input type="checkbox"/> No If not, scaled hand drawn sketch <input type="checkbox"/> Yes <input type="checkbox"/> No <u>N/A no well</u>			
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Feet per Year		10. WATER SUPPLY SOURCE	
HOUSEHOLD USE # _____ of units _____ GPD _____ AF		<input type="checkbox"/> EXISTING WELLS	<input type="checkbox"/> DEVELOPED SPRINGS
COMMERCIAL USE # <u>9500</u> of S.F. <u>321,386</u> GPD <u>.36</u> AF		WELL PERMIT NUMBERS _____	
IRRIGATION # <u>N/A</u> of acres _____ GPD _____ AF		_____	
STOCK WATERING # _____ of head _____ GPD _____ AF		_____	
OTHER _____ GPD _____ AF		<input type="checkbox"/> MUNICIPAL <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> COMPANY <input checked="" type="checkbox"/> DISTRICT NAME <u>PAINT BRUSH HILLS</u> LETTER OF COMMITMENT FOR SERVICE <input type="checkbox"/> YES <input type="checkbox"/> NO	
TOTAL _____ GPD _____ AF		<input type="checkbox"/> NEW WELLS - PROPOSED DEPTHS - (SCREENING ONLY) <input type="checkbox"/> ALLIUMAL <input type="checkbox"/> OTHER UNKNOWN <input type="checkbox"/> OTHER UNKNOWN <input type="checkbox"/> OTHER UNKNOWN <input type="checkbox"/> OTHER <input type="checkbox"/> OTHER	
		WATER COURT DECREE CASE NO.'S _____	
11. ENGINEER'S WATER SUPPLY REPORT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE FORWARD WITH THIS FORM. (This may be required before our review is completed) <u>located on sheet P.O.1</u>			
12. TYPE OF SEWAGE DISPOSAL SYSTEM			
<input type="checkbox"/> SEPTIC TANK/LEACH FIELD	<input checked="" type="checkbox"/> CENTRAL SYSTEM - DISTRICT NAME <u>PAINT BRUSH METRO</u>		
<input type="checkbox"/> LAGOON	<input type="checkbox"/> VAULT - LOCATION SEWAGE HAULED TO _____		
<input type="checkbox"/> ENGINEERED SYSTEM (Attach a copy of engineering design)	<input type="checkbox"/> OTHER _____		



APPENDIX B



9985 Towner Avenue
Falcon, Colorado 80831
(719) 495-8188 Phone
(719) 495-8008 Fax
PBHMD.Colorado.gov

May 22, 2023
El Paso County
Planning and Community Development Dept.
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Via email:

RE: Commitment Letter to Serve The Foundation Lutheran Church (Church) (One Single-family Equivalence)

Dear Ladies and Gentlemen:

The Paint Brush Hills Metropolitan District (“District”) has reviewed the plans for the Church located at the corner of Londonderry and Towner Ave inside Paint Brush Hills Metropolitan District located in El Paso County, Colorado (“County”). The Church has requested a “commitment” letter from the District in order to facilitate the County’s review process.

The District has the capacity, ability and will provide domestic water and wastewater services to the Church, contingent upon the following:

- Compliance with all District Rules and Regulations and fees required for service.
 - o 2 Tap fees will be required.
 - One tap fee is for the domestic/irrigation water demand on a ¾” line and meter. The tap fee includes the cost of the district supplied meter.
 - One tap fee for the 6” line for fire suppression service.
- The Church will be considered One (1) Single Family Equivalence (SFE).
 - o One SFE is the equivalent of .36 AF per year.
 - o PBHMD is committed to providing 321.386 GPD or .36 AF per year.

Please contact the district manager with any questions.

Sincerely,

Robert Guevara, District Manager
Paint Brush Hills Metropolitan District



APPENDIX C

**WATER MASTER PLAN
FOR
PAINT BRUSH HILLS METROPOLITAN DISTRICT
UPDATE**

MARCH 2021

RGA JOB No.: 1070.0004



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Appendix A: Well Permit Information

Appendix B: JDS-Hydro Report

Appendix C: Distribution System Map

DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

A-#	Arapahoe-Well #
ac-ft/yr	Acre-Feet per Year
ADD	Average Day Demand
Avg.	Average
CDPHE	Colorado Department of Public Health and Environment
cfs	Cubic Feet per Second
CY	Cubic Yards
EA	Each
ECHO	Enforcement and Compliance History Online
EPA	Environmental Protection Agency
ft	Feet
GAC	Granular Activated Carbon
gal	Gallons
gpd	Gallons per Day
gpm	Gallons per Minute
hp	Horsepower
HVAC	Heating, Ventilating and Air Conditioning
in.	Inch
LF	Linear Feet
LFH-#	Laramie Fox Hills-Well #
LS	Lump Sum
MDD	Maximum Day Demand
mg/L	Milligrams per Liter
MG	Million Gallons
MGD	Million Gallons per Day
MSMD	Meridian Service Metropolitan District
N/A	Not Available or Applicable
NT	Non-Tributary
NNT	Not Non-Tributary
PBHMD	Paint Brush Hills Metropolitan District
PHF	Peak Hour Flow
PF	Peaking Factor
Precip.	Precipitation
PRV	Pressure Reducing Valve
Qty	Quantity
RGA	RG and Associates, LLC
RPM	Revolutions per Minute
SEO	State Engineer's Office
SFE	Single Family Equivalent
SF	Square Feet
Temp.	Temperature
YR	Year

1 EXECUTIVE SUMMARY

The purpose of the Paint Brush Hills Metropolitan District (PBHMD) Water Master Plan is to provide an overview of the district's water infrastructure, evaluate the district's water infrastructure based on current usage and future expansion, and to provide recommendations for future improvements and expansion to the district's water infrastructure.

This Master plan includes:

- Current and projected single family home development
- Current and future water demands
- Evaluation of Current Water System
- Water system improvements and expansions recommendations

This document was developed for the use of the district in its planning process and evaluates both current and projected future conditions. It is intended to be a working document that is used as a guideline for planning decisions and represents a best approximation of future conditions.

1.1 DEMANDS

To determine current water usage and estimate future demands, RG and Associates, LLC (RGA) obtained billing records for all taps served by PBHMD from January 2017 through December 2019 in addition to the 2013 Water Supply Report for PBHMD by JDS-Hydro dated November 2013. RGA then calculated current Average Day Demand (ADD) and a current Maximum Day Demand (MDD) from actual water demands between 2017-2019. To be conservative, though, and to plan for the future, the same 0.36 ac-ft/yr/SFE that has been used in the past for average annual water demand will be used. These are as follows:

Number of SFEs at the end of 2019: 1,041

Observed average day demand through 2019: 0.21 MGD

Observed maximum day demand: 0.361 MGD

Observed maximum month demand: 11.17 MG

Future number of SFE (full buildout): 1,494

Future average day demand: 0.480 MGD(based on 0.36 ac-ft/yr/SFE)

Future maximum day demand: 0.911 MGD

1.2 WATER TREATMENT & PRODUCTION

Raw water for the system is pumped from eleven wells from the Arapahoe and the Laramie-Fox Hills aquifers. The Arapahoe and Laramie-Fox Hills aquifers are part of the Denver Basin aquifer, which is a non-renewable water source. In addition to these aquifer sources, the district also utilizes contractual water from Meridian Service Metropolitan District (MSMD) through a metered interconnect with MSMD.

Groundwater pumped from the Arapahoe and the Laramie-Fox Hills aquifers is disinfected at the wells using chlorination. Some of the wells do not have adequate contact time for disinfection. Also, some of the wells do not have sufficient land around them to allow for the installation of chlorine contact chambers to ensure that full disinfection is achieved before the water enters the distribution system.

1.3 WATER RIGHTS

Through the analysis performed in this master plan, and utilizing information from the JDS-Hydro Report, it was determined that the district's existing water rights are sufficient to provide water to meet the district's current and future demands at buildout.

1.4 STORAGE

The district should provide enough storage to satisfy the MDD plus the required fire flow. In this analysis, required fire flow is 3,500 gallons per minute for three hours and the MDD per Single Family Equivalent (SFE) is 610 gallons per day (gpd). There are currently two existing tanks in the PBHMD's water supply system: a 1 million gallons (MG) tank and 0.5 MG tank.

2 BACKGROUND & OVERVIEW

2.1 PROJECT SCOPE

The purpose of this Water Master Plan is to provide an overview of the district's water infrastructure, evaluate the district's water infrastructure based on current usage and future expansion, and to provide recommendations for future improvements and expansions to the district's water infrastructure. Specifically, this Water Master Plan evaluates the district's wells, treatment systems, booster pumps, and water storage based on current and projected water demands.

2.2 PAINT BRUSH HILLS METROPOLITAN DISTRICT WATER SUPPLY SYSTEM OVERVIEW

The PBHMD water distribution system is a constant pressure system containing two storage tanks to supply fire flow and peak flow demands. Water supply for the district is provided primarily by the Denver Basin aquifer; however, the district also utilizes purchased water from MSMD during times of peak demand. The raw water wells are located throughout the district and are equipped with sodium hypochlorite disinfection equipment at each pump house.

3 PROJECT AREA

3.1 LOCATION AND SERVICE AREA

Paint Brush Hills Metropolitan District is located north-east of Colorado Springs in unincorporated El Paso County. The district encompasses a total area of approximately 1.5 square miles and has a population of approximately 3,000 residents.

In total, PBHMD’s water distribution system consists of approximately 63,650 linear feet (LF) of 8-inch finished water pipe, 21,750 LF of 12-inch finished water pipe, 12,900 LF of raw water transmission pipe, eleven wells, and two water storage tanks. Figure 1 and Figure 2 show a general vicinity map of the area and a district boundary map, respectively.

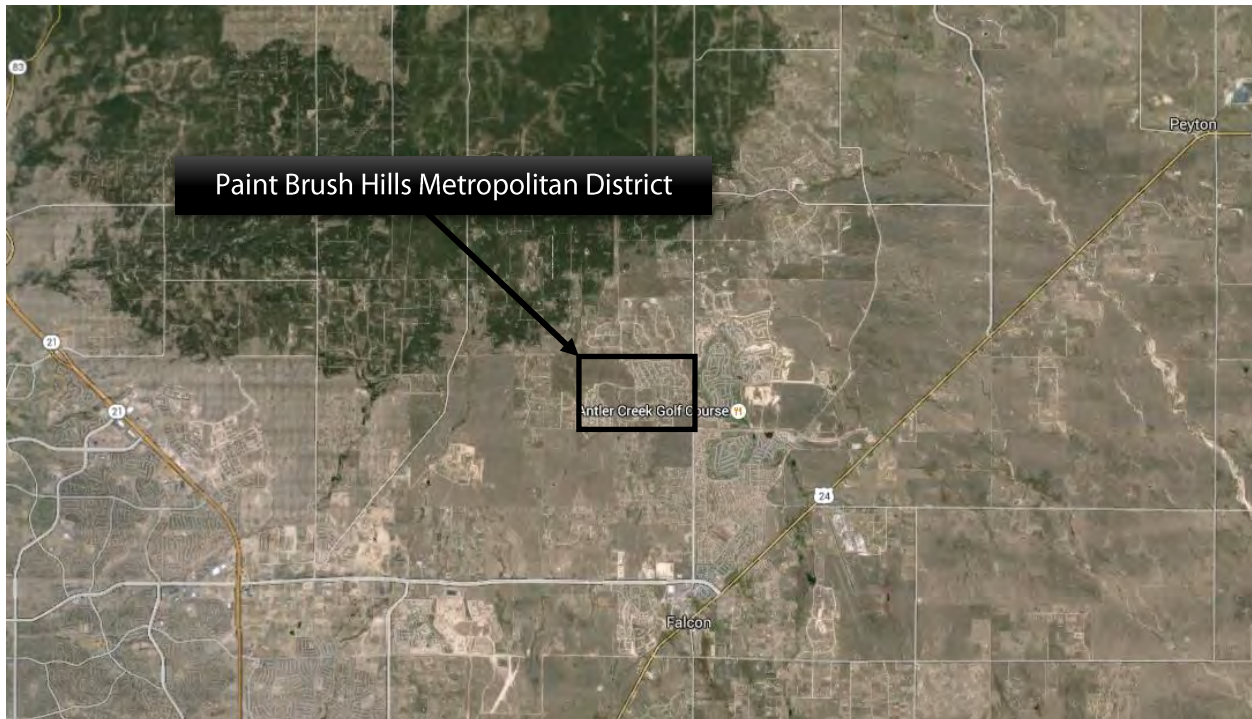


Figure 1: General Vicinity Map

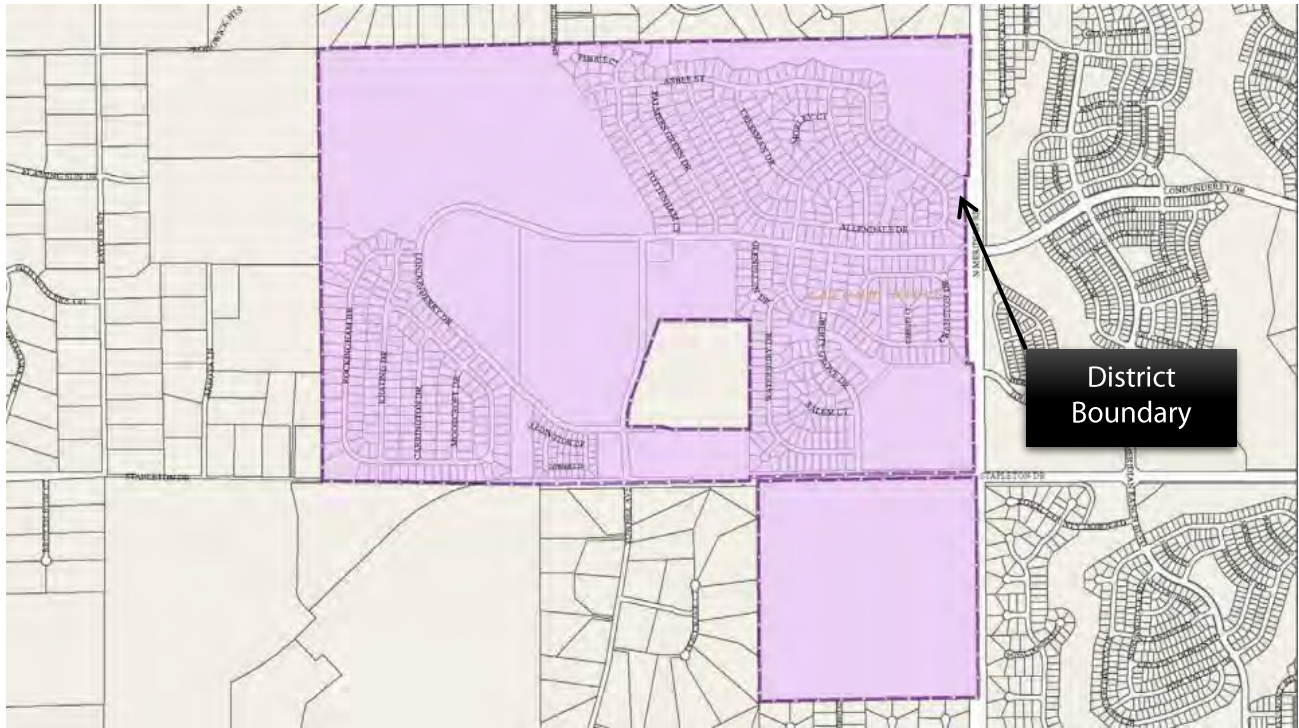


Figure 2: District Boundary Map

A detailed map showing the existing drinking water distribution system is attached as Appendix A.

3.2 WATER RESOURCES

The primary water source in the area is the Denver Basin aquifer. Specifically, PBHMD holds water rights in the Dawson, Denver, Laramie Fox-Hills, and Arapahoe aquifers. Currently the District only has wells drilled into the Arapahoe and Laramie-Fox Hills aquifers.

3.3 PRECIPITATION AND TEMPERATURE

Data pertaining to the local environment has been obtained from the Western Regional Climate Center. Station 051778 – Colorado Springs Muni AP is the closest weather station to PBHMD and information from this station is used for this report and shown in Table 1.

Table 1: Annual Climate Data (1948-2010)

Average Monthly Temperature and Precipitation												
Station 051778 - Colorado Springs Muni AP, CO												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Avg. High Temp. (°F)	42.6	45.2	51.0	59.7	69.0	79.6	85.0	82.3	74.8	63.9	51.0	43.5
Avg. Low Temp. (°F)	16.6	19.3	24.8	32.9	42.5	51.5	57.1	55.5	47.3	36.3	24.9	17.9
Average Temp. (°F)	29.5	32.3	37.7	46.2	55.7	65.3	71.0	68.8	61.0	50.1	37.9	30.7
Avg. Precip. (in.)	0.3	0.3	0.9	1.3	2.1	2.2	2.9	2.9	1.3	0.8	0.5	0.3
Avg. Snowfall (in.)	5.0	4.6	8.3	5.9	1.2	0.0	0.0	0.0	0.8	3.0	4.8	5.4

Source: Western Regional Climate Center

Winters are relatively cold with an average temperature of 31 °F, December through January, while summers are warm with an average temperature of 68 °F, June through August. These averages are based on data from the Western Regional Climate Center data and is based on data collected from 1948-2010. Average total yearly precipitation over this time period is 16 inches, and the average total yearly snowfall is 44 inches. Weather data obtained for 2018, the year with the largest maximum monthly flows, indicates that precipitation for that year was about 7% less than the average.

```

.....
...THE COLORADO SPRINGS CO CLIMATE SUMMARY FOR THE YEAR OF 2018...
CLIMATE NORMAL PERIOD 1981 TO 2010
CLIMATE RECORD PERIOD 1872 TO 2019

WEATHER      OBSERVED      NORMAL      DEPART
              VALUE       DATE(S)     VALUE       FROM
              VALUE       DATE(S)     VALUE       NORMAL
.....
TEMPERATURE (F)
RECORD
HIGH          101      06/21/2016
              06/26/2012
              06/26/2012
LOW           -27      02/01/1951
              12/09/1919

HIGHEST      100      06/28
LOWEST       -1       01/16

AVG. MAXIMUM 65.3          62.2      3.1
AVG. MINIMUM 37.1          35.8      1.3

MEAN         51.2          49.0      2.2

DAYS MAX >= 90    34
DAYS MAX <= 32    13
DAYS MIN <= 32   168
DAYS MIN <= 0     1

PRECIPITATION (INCHES)
RECORD
MAXIMUM      27.58   1999
MINIMUM      6.07    1939

TOTALS       15.41          16.54   -1.13

DAILY AVG.   0.04          0.05   -0.01
DAYS >= .01    92
DAYS >= .10   36
DAYS >= .50    8
DAYS >= 1.00  3

GREATEST
24 HR. TOTAL 1.27   08/14 TO 08/14

SNOWFALL (INCHES)
RECORDS
MAXIMUM      96.4   1957
MINIMUM      11.4   2012

24 HR TOTAL  22.0   01/15/1987 TO 01/15/1987
SNOW DEPTH   20     10/26/1997

TOTALS       28.5          37.7   -9.2
SINCE 7/1    9.4           13.5   -4.1

SNOWDEPTH AVG. 0
DAYS >= TRACE 62          29.2   32.8
DAYS >= 1.0   9           11.6   -2.6

GREATEST
SNOW DEPTH   4       04/21
24 HR TOTAL  4.2     04/20 TO 04/20

DEGREE DAYS
HEATING TOTAL 5648          6292   -644
SINCE 7/1     2456          2572   -116
COOLING TOTAL 730           455    275
SINCE 1/1     730           455    275

FREEZE DATES
RECORD
EARLIEST     09/01/1911
LATEST       06/18/1912
    
```

Figure 3: Climate Summary

4 WATER USAGE

4.1 CURRENT WATER DEMAND

The current water demand in PBHMD was determined using billing data provided to RGA by the district spanning from January 2017 through December 2019. The data was separated into four categories: residential, school, irrigation, and commercial, as shown in Table 2, Table 3, Table 4, and Table 5, respectively. Residential usage in the district accounts for the majority of the water usage across the four categories. Water usage for all categories is totaled in

Table 6.

Table 2: Monthly Residential Water Usage

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Average
2017	Water Usage (MG)	3.05	3.19	3.06	4.34	3.78	4.80	10.04	8.23	5.33	8.76	3.72	4.12	
	SFE	773	775	783	795	796	804	804	810	808	813	812	813	
	Average Usage/SFE (gal)	3,951	4,122	3,912	5,459	4,749	5,965	12,491	10,162	6,594	10,781	4,578	5,070	
2018	Water Usage (MG)	3.53	3.42	3.87	3.78	3.50	6.86	11.17	8.62	7.58	9.44	4.85	3.90	
	SFE	816	812	812	812	812	815	824	852	859	869	885	892	
	Average Usage/SFE (gal)	4,326	4,214	4,770	4,658	4,314	8,423	13,562	10,120	8,826	10,860	5,481	4,375	
2019	Water Usage (MG)	4.16	3.48	3.65	3.40	4.12	6.45	7.13	8.84	9.41	10.16	6.20	3.76	
	SFE	902	911	923	920	923	942	947	956	964	982	995	1,013	
	Average Usage/SFE (gal)	4,615	3,821	3,950	3,694	4,466	6,846	7,526	9,251	9,762	10,348	6,229	3,709	
Three Year Avg. (GAL)		4,297	4,053	4,210	4,603	4,509	7,078	11,193	9,844	8,394	10,663	5,430	4,384	6,555

Table 3: Monthly School Water Usage

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Average
2017	Water Usage (MG)	0.04	0.05	0.06	0.06	0.18	0.52	1.11	1.56	0.55	1.12	0.32	0.26	
	SFE	32	32	32	32	32	32	32	32	32	32	32	32	
	Average Usage/SFE (gal)	1,381	1,563	1,906	1,888	5,666	16,113	34,831	48,791	17,128	34,900	10,113	8,084	
2018	Water Usage (MG)	0.04	0.00	0.01	0.00	0.00	0.00	0.00	0.00	0.12	0.10	0.11	0.07	
	SFE	32	32	32	32	32	32	32	32	32	32	32	32	
	Average Usage/SFE (gal)	1,281	143	165	120	0	0	0	31	3,662	3,188	3,475	2,244	
2019	Water Usage (MG)	0.08	0.08	0.00	0.11	0.11	0.07	0.02	0.00	0.10	0.11	0.05	0.18	
	SFE	32	32	32	32	32	32	32	32	32	32	32	32	
	Average Usage/SFE (GAL)	2,476	2,479	0	3,457	3,398	2,167	470	100	3,257	3,489	1,685	5,741	
Three Year Avg. (GAL)		1,713	1,395	691	1,822	3,021	6,093	11,767	16,307	8,016	13,859	5,091	5,357	6,261

Table 4: Monthly Irrigation Water Usage

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Average
2018	Water Usage (MG)	0.000	0.000	0.000	0.000	0.000	0.000	0.170	0.242	0.184	5.193	0.680	0.014	6.48
	Water Usage (MG)	0.000	0.000	0.000	0.000	0.004	0.234	0.625	1.027	1.272	0.145	0.460	0.000	
Average (MG)		0.000	0.000	0.000	0.000	0.002	0.117	0.398	0.635	0.728	2.669	0.570	0.007	0.427

Table 5: Monthly Commercial Water Usage

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Average
2017	Water Usage (MG)	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.001	0.001	0.001	0.001	0.001	437
	SFE	1	1	1	1	1	1	1	1	1	1	1	1	
	Average Usage/SFE (gal)	133	52	63	76	75	106	0	870	780	1,020	960	1,110	
2018	Water Usage (MG)	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	1,013
	SFE	1	1	1	1	1	1	1	1	1	1	1	1	
	Average Usage/SFE (gal)	890	940	1,180	800	1,150	850	1,240	710	850	1,060	1,100	1,390	
2019	Water Usage (MG)	0.001	0.001	0.001	0.001	0.001	0.001	0.003	0.001	0.001	0.000	0.000	0.001	1,019
	SFE	1	1	1	1	1	1	1	1	1	1	1	1	
	Average Usage/SFE (gal)	1,420	780	1,030	820	1,200	1,150	2,530	760	1,330	370	0	836	
Three Year Avg. (GAL)		814	591	758	565	808	702	1,257	780	987	817	687	1,112	823

Table 6: Total Water Usage/Production

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Average
2017	Water Production	3.94	3.24	4.50	4.19	6.58	11.98	10.45	7.63	9.55	4.35	2.95	3.24	0.36
	Water Usage (MG)	3.10	3.24	3.12	4.40	3.96	5.31	11.16	9.79	5.88	9.88	4.04	4.38	
	Delta	0.84	-0.01	1.38	-0.21	2.61	6.67	-0.70	-2.16	3.68	-5.53	-1.09	-1.14	
2018	Water Production	3.44	3.37	3.97	4.50	9.74	12.97	11.79	9.92	12.17	5.77	3.80	3.75	1.18
	Water Usage (MG)	3.57	3.43	3.88	3.79	3.50	6.87	11.18	8.62	7.70	9.54	4.96	3.98	
	Delta	-0.13	-0.06	0.09	0.71	6.24	6.11	0.61	1.30	4.47	-3.77	-1.16	-0.23	
2019	Water Production	4.31	3.73	4.05	5.07	6.53	8.56	10.56	11.29	11.08	5.75	4.42	4.22	0.66
	Water Usage (MG)	4.24	3.56	3.65	3.51	4.23	6.52	7.15	8.85	9.52	10.27	6.25	3.94	
	Delta	0.07	0.17	0.41	1.56	2.30	2.04	3.41	2.44	1.56	-4.52	-1.84	0.28	
3 Year Avg. Delta (MG)		0.257	0.037	0.624	0.687	3.716	4.937	1.108	0.525	3.237	-4.606	-1.362	-0.365	0.733

The number of taps throughout the district was determined from the number of residential customers on the monthly billing information provided by the district. It is assumed that each residential customer billed equates to one SFE.

An SFE is a unit of measure which standardizes all land use categories (residential, commercial, etc.) to the level of water demand created by one single family household. Typically, all single-family taps within a district are assigned a total of one (1) SFE. As Table 2 shows, from January 2017 through December 2019, the average monthly residential water demand for this time period was 6,555 gallons. This equates to an average yearly demand of 0.24 ac-ft/yr/SFE, which corresponds to an ADD of 216 gpd/SFE. The ADD is important, as the water rights needed for the district are based on the average annual water usage. At the inception of the district, the average annual water

usage was planned to be 0.56 ac-ft/yr/SFE, but over the years of the district's existence, water usage has dropped significantly, primarily due to public conscientiousness in exercising water conservation, especially with a finite water source like the Denver Basin aquifer. The State Engineer's Office (SEO) has lowered the 0.56 value for determination of the number of SFEs that the district has sufficient rights for to 0.40 and then to 0.36, which has been used since the development of Scenic View. In a water usage analysis done in 2018, based on water usage in years before, water usage equated to 0.25 ac-ft/yr, and the district board considered lowering the value for water supply planning and adequacy purposes to be more consistent with the actual water usage figures. After much discussion, it was decided to leave the average annual water usage requirement at 0.36 ac-ft/yr. This value is used for future planning in this Water Master Plan.

While the annual average water value per SFE is important, what is more important is the average amount of source water pumped from the wells and used from the MSMD water connection. Normally, in a system like this, there will be losses in the system, so the water supply sources must be able to pump the usage plus the losses. Normally accepted losses in water systems like the district's is 10 to 15 percent. More than 15% losses usually warrant some kind of modifications to the district system, like line replacements to reduce the losses. As Table 5 shows, water production from the wells and the MSMD interconnect is greater than the water delivered to the users by an average of 12.5%, so not of concern enough to alter the planning number of 0.36 ac-ft/SFE or warrant any district system repairs.

The MDD is an important factor in the analysis of treatment and pumping facilities as the water supply facilities should be designed to supply the MDD to ensure that the district can adequately supply enough water for its customers. The MDD is the average daily water demand during the peak month of usage and can be calculated by dividing the month with the maximum demand by the number of days in that month. The maximum monthly demand of 11.17 MG occurred in July of 2018. Dividing this by 31 days equates to a MDD of 0.36 MGD or 250 gallons per minute (gpm). For the 824 SFEs that month, this equates to 432 gpd per SFE, or 0.3 gpm per SFE. The ratio of MDD to ADD (432/216) calculates to 2.0 and is consistent with accepted industry standards that say that MDD is generally 2.0-2.5 times the ADD.

4.2 FUTURE WATER DEMAND

As the district is nearly built out, future plans for development in the PBHMD service area include only Filing 13E and Filing 14 as shown in Figure 4. These two developments will add approximately 453 SFEs of water demand to the district plus additional water for any publicly owned land that would need irrigation, for an ultimate SFE of 1494. There are two large parcels of land in the district, one known as the Falcon Reserve Development, and the 160 acres south of Stapleton Dr., that are not included in this Water Master Plan, as the development plans for those parcels are unknown at the present time.



Figure 4: Map of Developments in the Paint Brush Hills Metropolitan District

The total water demands at buildout are shown in Table 7.

Table 7: Total Water Demands

Use Type	SFE	ADD/SFE	ADD	MDD/SFE	MDD (MGD)	Required Water Right (ac ft/yr)
Development thru Filing 13D	1079	216	0.233	432	0.466	388
Filing 13E	158	216	0.034	432	0.068	57
Filing 14	227	216	0.052	432	0.105	81
Commercial	1	216	0.000	432	0.0004	0.36
School	32	216	0.006	432	0.012	12
Irrigation	0		0.020		0.04	14*
Total	1494		0.346		0.691	552

* SEO allocation

The district's current MDD, ADD, and average yearly demand for the district along with the demands for future developments are shown in Table 7. The total MDD at buildout is expected to be approximately 0.691 MGD, the ADD is approximately 0.346 MGD, and the yearly water rights requirement corresponds to 552 ac-ft/yr.

5 WATER SYSTEM EVALUATION

5.1 EVALUATION CRITERIA

The water system in PBHMD will be evaluated based on the ability of the system to meet current demands along with the future demands of the proposed developments listed in Section 4.2. These evaluations will then be used to make recommendations for further expansions of the system to meet the future water demands of the district.

5.2 EXISTING WATER FACILITIES

The PBHMD water distribution system is a pump pressurized system containing two storage tanks, a 1 MG tank and a 0.5 MG tank, to meet fire flow and peak flow demands. Water supply for the district comes primarily from the Denver Basin aquifer; however, the district also utilizes contractual water from MSMD as a peaking supply.

The raw water wells are located throughout the district and treatment consists of chlorination, which is done at the well site. In total, PBHMD's water distribution system consists of approximately 63,650 LF of 8-inch finished water pipe, 21,750 LF of 12-inch finished water pipe, 12,900 LF of raw water transmission pipe, eleven wells, and two water storage tanks.



Figure 5: Piping inside Pump House 6

5.2.1 Raw Water Supply

Raw water for the system is pumped from eleven wells located throughout the district from the Arapahoe and the Laramie-Fox Hills aquifers. Some of the wells are in need of maintenance and rehabilitation. The Arapahoe and Laramie-Fox Hills aquifers are part of the Denver Basin aquifer, which is a non-renewable water source. A summary of the district's non-contingent Denver Basin water rights, that is, those rights that have permits or determination numbers with replacement plans, shows the current total annual legal supply for the District to be 1,220.50 ac-ft/yr. With the 85 ac-ft/yr of renewable water from Meridian Ranch, the total water rights available is then 1305.5 ac-ft/yr, as shown in Table 8. The calculations of current and future water demands done in Section 4.1 and Section 4.2

show that the district’s ultimate yearly demand will be approximately 552 ac-ft/yr. These demands are well below the district’s permitted annual allocation of 1,305.5 ac-ft/yr. However, due to the 300-year rule on Denver Basin water, and the SEO allocation 0.56 and 0.40 ac-ft/yr on the District’s developments prior to Scenic View, the permitted amount of 100-year equivalent water rights needed at buildout will be 1,252 ac-ft/yr, as shown on Table 8. At buildout of Filing 14, the district will have 53.98 ac-ft/yr of permitted water available, all from the MSMD connection. This will be available to serve 150 SFEs of development beyond Filing 14. Once a replacement plan is developed and approved for Determination # 719-BD, an additional 79 ac-ft/yr of 300-year water will be available to serve an additional 219 SFEs.

Table 8: Summary of Water Rights

PAINT BRUSH HILLS-WATER RIGHTS SUMMARY			Current SEO water rights, with Meridian water rights, convert water usage /SFE to 0.36 and use 100 year rule on Filing 14								
Supply	Well Decree Number	SFE	Accumulated	Ac-Ft/Yr	Required Water	Required Water	Accum Water	Available Water	Accum Req'd	Total Water	Remaining
			SFEs	per SFE	Rights (Acre-Feet/Year) 100yr	Rights (Acre-Feet/Year) 300yr	Rights req'd. 100 year Equiv.	Rights (Acre-Feet/Year) 100yr Equiv.	Volume(100 yr) (Acre-Feet)	Allocation Ac-ft	Available Water Ac-ft.
	719-BD						237	0		0	
	214-BD						298	298		29,750	
	30593-F							113		11,300	
	46553-F							182		18,200	
	47813-F							388		38,800	
	17048-F							240		24,000	
										0	
	Meridian Ranch						85	85		8,500	
Total water Rights/Flow Available								1306		130,550	
Filing 4		164	164	0.56	92		92		9,184		121,366
Filing 5		31	195	0.56	17		109		10,920		119,630
Filing 6		48	243	0.56	27		136		13,608		116,942
Filing 7		57	300	0.56	32		168		16,800		113,750
Filing 8		109	409	0.56	61		229		22,904		107,646
Filing 9		88	497	0.56	49		278		27,832		102,718
Greenbelt					14		292		29,232		101,318
Falcon M. School		16	513		22		314		31,432		99,118
Filing 10		90	603	0.40	36	108	422		42,232		88,318
Filing 11		81	684	0.40	32		97		51,952		78,598
Filing 12		51	735	0.40	20		61		58,072		72,478
Church		0.5	736	0.40	0		1		58,132		72,418
Scenic View		90	826	0.40	36	108	689		68,932		61,618
Filing 13A		17	843	0.40	7		20		70,972		59,578
			843	0.36	0		0		70,972		59,578
			843	0.36	0		0		70,972		59,578
			843	0.36	0		0		70,972		59,578
School(16)		16	859	0.36	6	17	727		72,700		57,850
Filing 13B		5	864	0.36	2		5		73,240		57,310
		5	869	0.36	2		5		73,780		56,770
		5	874	0.36	2		5		74,320		56,230
		6	880	0.36	2		6		74,968		55,582
Filing 13C		33	913	0.36	12		36		78,532		52,018
		33	946	0.36	12		36		82,096		48,454
		33	979	0.36	12		36		85,660		44,890
		36	1015	0.36	13		39		89,548		41,002
Filing 13D		24	1039	0.36	9		26		92,140		38,410
		24	1063	0.36	9		26		94,732		35,818
		24	1087	0.36	9		26		97,324		33,226
		25	1112	0.36	9		27		100,024		30,526
Filing 13E		39	1151	0.36	14		42		104,236		26,314
		39	1190	0.36	14		42		108,448		22,102
		39	1229	0.36	14		42		112,660		17,890
		41	1270	0.36	15		44		117,088		13,462
Filing 14		46	1316	0.36	17		47		118,744		11,806
		66	1382	0.36	24		24		121,120		9,430
		56	1438	0.36	20		20		123,136		7,414
		56	1494	0.36	20		20		125,152		5,398

Table 9 shows the current physical water supply inventory for the district, detailing the volume of water allocated from the Laramie-Fox Hills, Arapahoe, and Denver aquifers along with the district’s contractual rights from MSMD. The district currently has an annual allocation of 1,305.5 ac-ft/yr. Additionally, PBHMD has contingent water supply sources, detailed in Table 10, which may be utilized, if needed, in the future. As shown, the district currently has sufficient water rights to meet its current obligations.

Table 9: Current Physical Water Supply Inventory

Land Formation or Aquifer	Finding, Dermination, or Decree	Tributary Status	Total Volume (ac-ft)	Annual Allocation (ac-ft/yr)	Well Permits
Larimie-Fox Hills	47813-F	NT	38,800	388.0	LFH-1 (47813-F)
					LFH-2 (50877-F)
					LFH-3 (55192-F)
					LFH-4 (63429-F)
					LFH-5 (64084-F)
Arapahoe	17048-F	NT	13,070	130.7	A-1 (17048-F)
	30593-F	NT	11,300	113.0	A-2 (30593-F)
	46553-F	NT	18,200	182.0	A-3 (46553-F)
					A-4 (55193-F)
					A-5 (60862-F)
					A-6 (64086-F)
Denver	17048-F	NT	11,130	111.3	17048-F
	214-BD	NNT	29,750	297.5	N/A
	MSMD			85.0	Alluvial Water
Current Total Legal Supply				1,307.5	

Source: JDS-Hydro 2013 Water Supply Report

Table 10: Contingent Water Supply Inventory

Land Formation or Aquifer	Finding, Determination, or Decree	Tributary Status	Total Volume (ac-ft)	Annual Allocation (100 yr supply) (ac-ft/yr)	Annual Allocation (300 yr supply) (ac-ft/yr)	Well Permits
Dawson	719-BD	NNT	23,700	237.0	79.0	N/A
	Unappropriated	NNT	2,000	20.0	-	N/A
Denver	Unappropriated	NT	2550	25.5	-	N/A
Surface Water Diversion	Finding, Determination, or Decree	Tributary Status	Comments			
Return Flows 02CW016	05CW043	2 cfs	Allocation is 25%, Unavailable for potable supply - Irrigation			

Source: JDS-Hydro 2013 Water Supply Report

The wells in the district need to be able to produce enough water to meet the MDD plus system losses, which at build out will be 541 gpm. With the current instantaneous well capacity equal to 602 gpm, the district has sufficient capacity to be able to meet the MDD at buildout, however under water rights considerations, a new well will be necessary. This will be a new well #12, which will be drilled into the Denver aquifer.

Table 11 shows the permit number and permitted pumping rate for each individual well and activity of the well along with the instantaneous flow rate from the JDS-Hydro report for each well and the contracted water from MSMD. The total instantaneous flow for all the

currently active wells combined, as reported by JDS-Hydro, is 610 gpm.

Table 11: Well Permits, Permitted Pumping Rates, and 2013 Instantaneous Flow-Rates

Land Formation or Aquifer	Well Number	Well ID	Well Permit	Permitted Pump Rate gpm	2013 Instantaneous Flow-Rate (Active Rate) gpm	Activity
Larimie-Fox Hills	4	LFH-1	47813-F	100	100	Active*
	5	LFH-2	50877-F	70	-	Inactive
	7	LFH-3	55192-F	100	51	Active
	9	LFH-4	63429-F	-	126	Active
	11	LFH-5	64084-F	-	101	Active
Arapahoe	1	A-1	17048-F	150	36	Active
	2	A-2	30593-F	70	29	Active
	3	A-3	46553-F	53	50	Active*
	6	A-4	55193-F	76	54	Active
	8	A-5	60862-F	85	56	Active
	10	A-6	64086-F	-	49	Active
Denver	12	DN-1	214-BD	100**	-	Proposed
Dawson	13	DA-1	719-BD**	-	-	Proposed
Transfer Station	N/A	N/A	N/A	N/A	90-200	Active
Total Instantaneous Flow of Active Wells (gpm)					602	
Max instantaneous flow with transfer station					802	

* These wells are in the final stages of completion and will be active by early 2021.

** Flow requested on permit

*** Well determination number

5.2.2 Treatment Systems

Currently the only treatment done on the raw water is disinfection. Sodium hypochlorite is injected at each of the well facilities in the district before the water passes directly into the distribution lines or into raw water lines used for chlorine contact before entering the water storage tanks. The chlorinated water from Pump House 1 (which houses Well 1) and Pump House 2 (which houses Wells 2 & 5) is fed directly into the distribution system after chlorination. There is no contact time provided for wells at these pump houses. Chlorinated water from Pump House 3, (which houses Wells 3 & 4), Pump House 4 (which houses Wells 6 & 7), Pump House 5 (which houses Wells 8 & 9), and Pump House 6 (which houses Wells 10 & 11) is piped to the two storage tanks before it is pumped into the distribution system. This piping and the storage tanks provide the required contact time for disinfection.

Well 6 and Well 7 have elevated levels of hydrogen sulfide, which has raised aesthetic concerns about the water quality in PBHMD. Hydrogen sulfide in water does not typically pose a health risk although it does create aesthetic problems such as bad taste and rotten egg odor at levels as low as 0.5 milligrams per liter (mg/L). Hydrogen sulfide is not regulated by the Environmental Protection Agency (EPA). RGA recommends using an activated carbon filtration system to mitigate the aesthetic concerns from the hydrogen sulfide in the water.

A pilot test was performed in May 2015 that tested the efficacy of removing hydrogen

sulfide using a granular activated carbon (GAC) filter. The two-phase pilot test was conducted at Wells 6 and Well 7. The filters were used to treat the water through adsorption, a process in which the hydrogen sulfide in the water will attach to the surface of the carbon particles in the filter. Phase 1 of the pilot test was a bench-scale test aimed at determining if the carbon removes sufficient hydrogen sulfide from the water and if different types of carbon are more effective at removing hydrogen sulfide than others. However, due to the small scale of the filters at this phase, no reduction in odor and taste from the hydrogen sulfide was detected. This was likely because the proper contact time could not be targeted at this small of a scale. Phase 2 of the pilot test employed a 10" diameter filter vessel filled with activated carbon. Initial results indicated that the activated carbon filter could remove the odor and taste due to hydrogen sulfide in the water. The test was run at 5 gpm to allow for sufficient contact time in the filter. This small-scale pilot test showed promising enough results that the ultimate plan will be to eventually treat all the water.

Additionally, RGA evaluated the option of centralizing treatment or leaving treatment decentralized in each of the pump houses. This evaluation along with a cost estimate and a recommendation is discussed in Section 6.1.2.

5.2.3 Water Storage

The PBHMD water distribution system contains two welded steel water storage tanks, a 1 MG tank and a 0.5 MG tank, which are also located on District owned land on the corner of Londonderry Drive and Towner Avenue. Both storage tanks are in relatively good condition and are not in need of any repairs. Chlorinated raw water from Pump House 3, (which houses Wells 3 & 4), Pump House 4 (which houses Wells 6 & 7), Pump House 5 (which houses Wells 8 & 9), and Pump House 6 (which houses Wells 10 & 11) is piped and stored in the tanks. The storage is used to meet fire flow demand and peak demand during summer months.



Figure 6: PBHMD 1 MG Water Storage Tank (left) and 0.5 MG Water Storage Tank (Right)

The district must have enough water storage to hold one day of the MDD for the district plus three hours of fire flow at 3,500 gpm. The required storage for the fire flow demand is a volume of 630,000 gallons. The storage required to meet the MDD of 1494 SFEs at buildout is 911,340 gallons. For the storage requirements, the MDD was computed as a peaking factor of the 0.36 ac-ft/yr average flow. As the 0.36 ac-ft/yr is the average planning

number that the district wants to use, its MDD factor was derived as a ratio of the MDD flow in the peak month in 2018 compared to the ADD flow for that year. This ratio computes to 1.9 and, when multiplied by 0.36 ac-ft/yr/SFE, yields 0.684 ac-ft/yr/SFE, or 610 gpd/SFE. That multiplied by 1494 yields 911,340 gallons.

Table 12: Required Storage to Meet MDD Plus Fire flow

	Required Storage (gallons)
Development Buildout	911,340
Fire Flow	630,000
Total	1,541,340

The total volume of storage required to meet the MDD of all developments through Filing 14 and fire flow in the district is 1,541,340 gallons. Since it can be seen that the district will be 0.041 MG short of storage, and to cover future storage needs of the district’s unplanned areas, we recommend adding an additional 0.2 MG of storage and adding mixing systems to all of the tanks. This recommendation will be further discussed in Section 6.1.3.

5.2.4 Booster Pump Station

The booster pump station is located on District owned land on the corner of Londonderry Drive and Towner Avenue adjacent to the storage tanks. The pump station is below grade and houses four pumps used to pressurize the distribution system with water from the storage tanks. A photo of the pump station is shown in Figure 7.



Figure 7: PBHMD Booster Pumps

Pump and motor information is shown in Table 13. Additionally, the booster pump station contains a sump pump to allow for the removal of any water in the dry pit to be removed.

Table 13: Pump Station Pump Data

Pump	Type	Manufacturer	Model NO.	Capacity	Motor	Motor Manufacturer
No. 1 Jockey Pump	Horizontal, Close Coupled, End Suction, Centrifugal	Goulds	SST A45#1L5AO EOO	-	10 hp 3490 RPM	Baldor
No. 2 Service Pump		-	Type 344 8F No-71-91450-2	540 gpm	30 hp 3540 RPM	WEG
No. 3 Service Pump		-	Type 344 8F No-71-91450-2	540 gpm	30 hp 3540 RPM	WEG
No. 4 High Service Pump		Cornell	5RB 60-4	2200 gpm	60 hp 1775 RPM	Marathon Electric

To evaluate the pumps and ensure that the district has enough pumping capacity, the peak hour flow (PHF) for the district is calculated. The PHF is calculated from the ADD using a peaking factor (PF), which can be calculated using the following population-based equation from the State of Colorado Design Criteria for Domestic Wastewater Treatment Works (2012):

$$PF = \frac{18 + \sqrt{P}}{4 + \sqrt{P}}$$

where P is population in thousands.

Assuming an average of 2.5 persons per single family household, the total population for the district can be estimated by multiplying the SFE of the district by 2.5. This was done for the total SFE of the district currently and the total SFE of the district once all future developments are constructed.

The peaking factor calculated to be 3.4 for ultimate development. The peak hour flow (PHF) was then calculated by multiplying the ADD for the district by the peaking factor. The PHF for the district calculates to be 817 gpm for the current and future developments respectively.

While the district has had adequate pumping capacity to meet the current demand with the existing pump station, it is not adequate to supply the 3,500 gpm fire flow needed for the schools, nor will it be sufficient to supply enough pressure and 1,500 gpm fire flow to the highest parts of the district in Filing 14, or supply normal adequate pressure in the higher areas of Tottenham St.; and, as a booster pump station has always been contemplated to boost pressure to the higher parts of the district, our recommendation is to construct a single new booster pump station near the existing one to cover the needs of the inadequate existing one for the higher parts of the district and to supply sufficient fire flow to the schools. This recommendation is discussed further in Section 6.1.4.

Given that the existing water system was not originally designed to accommodate more than 65 psi at the existing pump station, otherwise the pipes begin bursting, and that this is not enough pressure to service the upper parts of the district, the district should be divided into three pressure zones, whereby the new booster pump station will supply adequate pressure for the High Pressure Zone, and adequate flow to the Middle Pressure Zone through a Pressure Reducing Vault (PRV), then further pressure reduction through

another set of PRVs, at the boundary of the Falcon Reserve property at the southeast part of the district.

The boundary of the High-Pressure Zone is defined by the west and north boundaries of the district, the back-lot lines of the east side of Tottenham, and Beckham street and Londonderry along the south.

6 RECOMMENDATIONS & COST ESTIMATES

6.1 SYSTEM IMPROVEMENTS

6.1.1 Raw Water Supply

The analysis performed in Section 5.2.1 indicates that the district has sufficient annually allocated raw water supply to meet future demands from an instantaneous standpoint, however the district will need an additional well from a water rights perspective to meet the demands of the proposed future developments once they are constructed.

RGA recommends that the district construct a new well, Well #12 to supply the additional required flow. This well would be drilled into the Denver aquifer and is currently designated by Determination Number 214-BD in the district’s portfolio of water rights. This well should be drilled, equipped and the equipment contained in a new pump house located at the site of Pump house #6, at the far western part of the district. This new pump house should be sized sufficiently to house the disinfection and controls for Wells 10 and 11, which are located at this site, as those wells do not have a decent pump house to house their equipment. Table 14 shows the estimated cost for this new well and pump house.

The district should also drill a back-up well to ensure it has enough pumping capacity in the event that a well goes down. This backup well would logically be Determination Number 719-BD, would be drilled into the Dawson aquifer, and should yield 79 ac-ft/yr under the 300-year rule. Table 15 shows a construction cost estimate for a single well.

Table 14: Well #12 Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	Drill Well, Well Pump, Well Pump Installation	1	LS	\$975,000	\$975,000
2	Well Building, Process Piping, and Yard Piping	1	LS	\$187,200	\$187,200
3	Site Development Plan	1	LS	\$25,000	\$25,000
Subtotal					\$1,187,200
Engineering (8%)					\$91,500
Contingency (20%)					\$237,440
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$328,940
TOTAL PROJECT COST					\$1,516,140

Table 15: Well #13 Determination #719-BD Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	Drill Well, Well Pump, Well Pump Installation	1	LS	\$975,000	\$975,000
2	Well Building, Process Piping, and Yard Piping	1	LS	\$900,000	\$900,000
3	Raw Water Line	2,500	LF	\$100	\$250,000
4	Site Development Plan	1	LS	\$25,000	\$25,000
Subtotal					\$2,150,000
Augmentation Plan					\$100,000
Engineering (15%)					\$322,500
Contingency (20%)					\$430,000
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$852,500
TOTAL PROJECT COST					\$3,002,500

Table 16: Raw Water Lines for Wells 1, 2, and 5 Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	Well #2 & #5 - 6" Pipe	1,660	LF	\$100	\$166,000
2	Well #1 - 6" Pipe	4,040	LF	\$100	\$404,000
3	Joint FM 8" Pipe	1,060	LF	\$110	\$116,600
Subtotal					\$686,600
Engineering (15%)					\$102,990
Contingency (20%)					\$137,320
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$240,310
TOTAL PROJECT COST					\$926,910

6.1.2 Treatment Systems

There are two treatment parameters that need to be considered, one required by law and the other only optional. The one required by law is disinfection which is currently being accomplished by chlorination. The second is taste and odor control, which is an aesthetic issue, rather than a legal requirement and is not, as such, required. Chlorination is the only treatment currently practiced. For wells 1, 2 and 5, the water is chlorinated on-site and pumped directly into the system without any contact time. That practice should be ended as soon as possible, as not having adequate chlorine contact is not allowed by Colorado Department of Public Health and Environment (CDPHE). Putting chlorine contact at these sites is not practical or cost effective, as there is not enough room at these sites for chlorine contact tanks. To provide adequate contact time then, raw water lines should be installed to pump the water to the storage tanks, using the lines for chlorine contact, rather than pumping directly into the system. This methodology would work well with the centralization of the taste and odor treatment as well. Until centralized taste and odor treatment is accomplished, operating the wells with the de-centralized treatment concept is our recommendation. Table 16 shows the cost of installing the raw water lines on wells 1,2 and 5 to have them comply with the CDPHE requirements.

When it becomes desirable to implement taste and odor treatment, centralizing treatment at the Booster Pump House site will be the most cost effective and most easily operated way of accomplishing that. Since, when that time occurs, all of the wells will have been equipped with raw water lines to pump their water to a central location at the storage tank site, that site can be used for the centralized taste and odor treatment as well. The location for the treatment facilities will be within the Booster Pump House building. The unit process to be used for taste and odor treatment will be GAC, as discussed in previous chapters.

When GAC treatment is implemented, it will be necessary deactivate the chlorination facilities at the individual well sites, because any chlorine present in the water entering the GAC units will be removed by them. It will be necessary, then to treat the well water first with the GAC, then chlorinate the water afterward. New chlorination facilities and an underground chlorine contact tank will then have to be constructed underground, as well as a set of pumps to re-pump the treated water to the storage tanks. The costs of this centralized treatment are detailed in Table 17.

Table 17: Centralized Treatment Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	Treatment Equipment and Piping (GAC Pressure Vessels)	1	LS	\$1,462,500	\$1,462,500
2	Process Piping and Valves	1	LS	\$112,500	\$112,500
3	Chlorine Contact Basin (Concrete, Baffle Walls, Etc.)	130	CY	\$1,575	\$204,750
4	Chlorine Feed Equipment	1	LS	\$45,000	\$45,000
5	Clearwell Booster Pump Station (To Tank)	2	EA	\$146,300	\$292,600
6	Miscellaneous	1	LS	\$336,600	\$336,600
Subtotal					\$2,453,950
Engineering (10%)					\$245,395
Contingency (20%)					\$490,790
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$736,185
TOTAL PROJECT COST					\$3,190,135

6.1.3 Water Storage

The calculations performed in Section 5.2.3 indicate that the district’s storage capacity is not sufficient to meet the storage needs at buildout. Being 41,340 gallons short, the district will need to construct additional storage. RGA recommends constructing an additional 0.2 MG storage tank to meet future storage requirements and adding mixing systems to all the storage tanks.

The construction of an additional 0.2 MG storage tank would allow for the district to meet its storage requirements once all proposed developments are constructed, plus 10% for a factor of safety. It would increase its total storage capacity to 1.7 MG, providing approximately 0.16 MG more storage than the district needs to meet MDD plus fire flow for current buildout. This additional storage could be available for the yet-to-be-determined development at the Falcon Reserve.

The addition of mixing systems to all three storage tanks to prevent excessive water aging and ice formation. Without a water mixing system in a storage tank, the last water put in the tank is the first water to be taken from the tank, leaving a great volume to just remain unused. The excess water aging is conducive to microbial growth and chemical changes and can reduce water quality parameters. Additionally, in winter months ice can form on the top of the water inside the storage tank. As the water level inside the tank rises and falls with residential water use, the ice moves up and down the tank walls and can cause damage to the tank. By installing a mixing system into all of the districts tanks, excess water age and ice formation can be reduced significantly. Table 18 details a cost estimate for a 0.20 MG water storage tank.

Table 18: 200,000 Gallon Water Storage Tank Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	200,000 Gallon Water Storage Tank and Installation	1	LS	\$260,000	\$260,000
2	Foundation, Tank Mixing System Site Work	1	LS	\$30,000	\$30,000
Subtotal					\$290,000
Engineering (10%)					\$29,000
Contingency (10%)					\$29,000
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$58,000
TOTAL PROJECT COST					\$348,000

6.1.4 Booster Pump

As discussed previously, the district needs a new pump station to be able to supply required fire flows to the schools and to provide sufficient pressure to the upper areas of the district. The recommended place for the new pump station is on the storage tank site, east of the administration building. The costs of this pump station are shown in Table 19.

Table 19: Booster Pump House Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	Building	2,500	SF	\$200	\$500,000
2	Pumps - 2000 gpm	3	EA	\$100,000	\$300,000
	Pump - 300 gpm Jockey	1	EA	\$50,000	\$50,000
3	Valves and Interior Piping	1	LS	\$150,000	\$150,000
4	Yard Piping, Tank Modifications	1	LS	\$150,000	\$150,000
5	Miscellaneous	1	LS	\$45,000	\$45,000
Subtotal					\$1,195,000
Engineering (15%)					\$179,250
Contingency (20%)					\$239,000
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$418,250
TOTAL PROJECT COST					\$1,613,250

6.1.5 Pressure Zone Adjustments

As discussed earlier, to increase the pressure and supply adequate fire flow to the upper areas of the district, while at the same time providing more fire flow to the lower parts of the district will require the district to be partitioned into three pressure zones- the High Pressure Zone, the Middle Pressure Zone and the Low Pressure Zone. To provide the correct flows at the correct pressures and in separating the two upper zones, it will be necessary to add pressure reducing vaults and separate feed lines.

A PRV vault will need to be added to the upper end of Tottenham and one at the far west end of Filing 14 to connect the High and Middle Zones, and a PRV vault will be constructed just outside the Booster Pump station to reduce pressure to the Middle Zone. A new feed line to serve the High Zone will need to run from the Booster Pump Station then along Londonderry to feed High Zone pressure to Tottenham, and the connector streets of Filings 13E and 14. The costs of these enhancements are shown on Table 20.

Table 20: Pressure Zone Adjustments Cost Estimate

Item	Description	Qty	Unit	Unit Price	Subtotal
1	Pressure Relief Valves (small)	2	EA	\$75,000	\$150,000
2	Pressure Relief Valves (large)	1	EA	\$125,000	\$125,000
3	12" Parallel Water Line in Londonderry Drive	2,500	LF	\$125	\$312,500
4	Miscellaneous	1	LS	\$75,000	\$75,000
Subtotal					\$662,500
Engineering (15%)					\$99,375
Contingency (20%)					\$132,500
SUBTOTAL NON-EQUIPMENT/MATERIAL COSTS					\$231,875
TOTAL PROJECT COST					\$894,375

APPENDIX A

Well Permit Information

Colorado Division of Water Resources

Colorado Division of Water Resources

Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0468250A
Permit #: 55192-F-
Well Name / #:
Designated Basin: UPPER BLACK SQUIRREL CREEK
Case Number:
WDID:

Division: 2
Water District: 10
County: EL PASO
Management District: UPPER BLACK SQUIRREL

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DIST	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40 Q160 Section Township Range PM Footage from Section Lines
 NW NW 25 12.05 65.0W Sixth 200 N 200 W
Northing (UTM y): 4315025.9 **Easting (UTM x):** 532434.9
Location Accuracy: Spotted from section lines

Physical Address

Subdivision Name

City/State/Zip

Filing Block Lot

Parcel ID:

Acres in Tract: 1440

[-] Permit Details

Date Issued: 01/18/2001 **Date Expires:** 01/18/2002
Use(s): MUNICIPAL **Aquifer(s):** LARAMIE FOX HILLS
Special Use:

Area which may be irrigated:

Maximum annual volume of appropriation:

Statute:

Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 Yes Yes No

Cross Reference Permit(s):	Permit Number	Receipt	Description
	47813-F-	0403866	

Comments:ADDITIONAL WELL FOR 47813-F, ALSO 50877-F

[-] Construction/Usage Details

Well Construction Date: 05/15/2001 **Pump Installation Date:** 08/22/2001
Well Plugged: **1st Beneficial Use:**

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
	2560	2355	2550	1473	100

Driller	Lic #	Name	Address	Phone Number
Pump Installer	1200	TORMOEHLEN, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259
	1200	TORMOEHLEN, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259

[-] Application/Permit History

Ownership Change	05/14/2013
Pump Installation Report Received	10/23/2001
Pump Installed	08/22/2001
Well Construction Report Received	06/13/2001
Well Constructed	05/15/2001
Permit Issued	01/18/2001
Application Received	10/18/2000

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No
Well Construction & Test	12/01/2007	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0468250A

General Purpose Application	12/01/2007	No
Permit to Construct a Well	12/01/2007	No
Pump Installation & Test	12/01/2007	No
Correspondence, Memos, Findings & Hearings	12/01/2007	No
Correspondence, Memos, Findings & Hearings	12/01/2007	No

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Colorado Division of Water Resources

Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0426555
Permit #: 50877-F -
Well Name / #:
Designated Basin: UPPER BLACK SQUIRREL CREEK
Case Number:
WDID:

Division: 2
Water District: 10
County: EL PASO
Management District: UPPER BLACK SQUIRREL

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METRO DIST	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40	Q160	Section	Township	Range	PM	Footage from Section Lines
SW	NE	25	12.0S	65.0W	Sixth	1420 N 1950 E
Northing (UTM y):		4314659.9		Easting (UTM x):		533390.5
Location Accuracy: Spotted from section lines						

Physical Address

Subdivision Name

City/State/Zip

Filing Block Lot

Parcel ID:

Acres in Tract: 1440

[-] Permit Details

Date Issued: 11/05/1998 **Date Expires:** 11/05/1999
Use(s): ALL BENEFICIAL USES **Aquifer(s):** LARAMIE FOX HILLS
Special Use:

Area which may be irrigated:

Maximum annual volume of appropriation:

Statute:

Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 Yes No No

Cross Reference	Permit Number	Receipt	Description
Permit(s):	47813-F -	0403866	

Comments: ADDITIONAL WELL FOR 47813-F

[-] Construction/Usage Details

Well Construction Date: 06/29/1999 **Pump Installation Date:** 06/01/2000
Well Plugged: **1st Beneficial Use:** 08/01/2001

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
7180	2500	2280	2470	1447	70
Driller	Lic #	Name	Address	Phone Number	
	863	HENKLE, RICHARD L.	BOX 639 GARDEN CITY, KS 67846	620-277-2389	

[-] Application/Permit History

Ownership Change	05/14/2013
First Beneficial Use	08/01/2001
Pump Installation Report Received	11/08/2000
Pump Installed	06/01/2000
Well Construction Report Received	07/14/1999
Well Constructed	06/29/1999
Permit Issued	11/05/1998
Application Received	02/11/1998

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No
Pump Installation & Test	12/09/2007	No
Well Construction & Test	12/01/2007	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0426555

Permit to Construct a Well	12/01/2007	No
Notice of Commencement of Use	12/01/2007	No
Original File	12/01/2007	No

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Colorado's Well Permit Search

Colorado Division of Water Resources

Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0403866 **Division:** 2
Permit #: 47813-F- **Water District:** 10
Well Name / #: **County:** EL PASO
Designated Basin: UPPER BLACK SQUIRREL CREEK **Management District:** UPPER BLACK SQUIRREL
Case Number:
WDID:

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METRO DISTRICT	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40 Q160 Section Township Range PM Footage from Section Lines
 SW NW 25 12.0S 65.0W Sixth 2600 N 50 W
Northing (UTM y): 4314293.9 **Easting (UTM x):** 532389.2
Location Accuracy: Spotted from section lines

Physical Address

Subdivision Name

City/State/Zip

Filing Block Lot

Parcel ID:

Acres in Tract: 1

[-] Permit Details

Date Issued: 01/24/1997 **Date Expires:** 01/24/1998
Use(s): COMMERCIAL **Aquifer(s):** LARAMIE FOX HILLS
Special Use:

Area which may be irrigated:

Maximum annual volume of appropriation:

Statute:

Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 No No No

Cross Reference Permit(s)	Permit Number	Receipt	Description
	28885-MH-	0028885	

Comments:

[-] Construction/Usage Details

Well Construction Date: 11/20/1996 **Pump Installation Date:**
Well Plugged: **1st Beneficial Use:** 05/01/1997

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
7170	2500	2265	2470	1336	100

Driller	Lic #	Name	Address	Phone Number
	403	SCHOCKE, ROGER	9875 BRIGHTON ROAD HENDERSON, CO 80640	303-288-5474

[-] Application/Permit History

Ownership Change	05/14/2013
Notice of Commencement of Beneficial Use	01/16/1998
First Beneficial Use	05/01/1997
Well Construction Report Received	02/06/1997
Permit Issued	01/24/1997
Well Constructed	11/20/1996
Application Received	07/22/1996

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No
Well Construction & Test	12/01/2007	No
Original File	12/01/2007	No

Colorado Department of Natural Resources



Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0355875B **Division:** 2
Permit #: 46553-F- **Water District:** 10
Well Name / #: **County:** EL PASO
Designated Basin: UPPER BLACK SQUIRREL CREEK **Management District:** UPPER BLACK SQUIRREL
Case Number:
WDID:

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DIST	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40	Q160	Section	Township	Range	PM	Footage from Section Lines
SE	NE	26	12.0S	65.0W	Sixth	2600 N 100 E

Northing (UTM y): 4314293.4 **Easting (UTM x):** 532343.5
Location Accuracy: Spotted from section lines

Physical Address **Subdivision Name**
City/State/Zip **Filing Block Lot**
Parcel ID: **Acres in Tract:**

[-] Permit Details

Date Issued: 05/14/1996 **Date Expires:** 05/14/1997
Use(s): MUNICIPAL **Aquifer(s):** ARAPAHOE
Special Use:
Area which may be irrigated:
Maximum annual volume of appropriation:
Statute:
Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 Yes No No

Cross Reference	Permit Number	Receipt	Description
Permit(s):			
Comments: SEE HEARING: 96-GW-09			

[-] Construction/Usage Details

Well Construction Date: 09/19/1996 **Pump Installation Date:**
Well Plugged: **1st Beneficial Use:** 05/01/1997

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
7170	1900	1392	1880	924	53

Driller	Lic #	Name	Address	Phone Number
	1200	TORMOEHLN, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259

[-] Application/Permit History

Ownership Change	05/14/2013
Notice of Commencement of Beneficial Use	01/16/1998
First Beneficial Use	05/01/1997
Well Construction Report Received	10/22/1996
Well Constructed	09/19/1996
Permit Issued	05/14/1996
Application Received	06/25/1993

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No
Original File	12/01/2007	No

Colorado Division of Water Resources

Colorado Division of Water Resources

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Well Constructed

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Receipt:	0260356A	Division:	2
Permit #:	30593-F -	Water District:	10
Well Name / #:		County:	EL PASO
Designated Basin:	UPPER BLACK SQUIRREL CREEK	Management District:	UPPER BLACK SQUIRREL
Case Number:			
WDID:			

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DIST	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40	Q160	Section	Township	Range	PM	Footage from Section Lines
SW	NE	25	12.05	65.0W	Sixth	1420 N 2000 E
Northing (UTM y):			4314659.9	Easting (UTM x):		
Location Accuracy:			Spotted from section lines			

Physical Address	Subdivision Name
City/State/Zip	Filing Block Lot
Parcel ID:	Acres in Tract: 1440

[-] Permit Details

Date Issued: 10/28/1986 **Date Expires:** 10/27/1987

Use(s): MUNICIPAL **Aquifer(s):** ARAPAHOE

Special Use:

Area which may be irrigated: 0 ACRES

Maximum annual volume of appropriation:

Statute:

Permit Requirements:	Totalizing Flow Meter	Geophysical Log	Abandonment Report
	Yes	No	No

Cross Reference	Permit Number	Receipt	Description
Permit(s):			
Comments:			

[-] Construction/Usage Details

Well Construction Date: 03/10/1988 **Pump Installation Date:** 06/28/1989

Well Plugged: **1st Beneficial Use:** 06/28/1989

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
	1906			826	70

Driller	Lic # Name	Address	Phone Number
	308 CRANDALL, HARLEY	BOX 471 STRASBURG, CO 80136	303-622-4462

[-] Application/Permit History

Ownership Change	10/18/2013
Statement of Beneficial Use Received	11/21/1990
Pump Installation Report Received	07/13/1989
First Beneficial Use	06/28/1989
Pump Installed	06/28/1989
Well Construction Report Received	04/01/1988
Well Constructed	03/10/1988
Permit Issued	10/28/1986
Application Received	11/12/1985

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Correspondence, Memos, Findings & Hearings	11/26/2013	No
Change in Owner Name/Address/Location	05/30/2013	No
Permit to Construct a Well	12/01/2007	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0260356A

Pump Installation & Test	12/01/2007	No
Well Construction & Test	12/01/2007	No
Original File	12/01/2007	No
Field Inspection	11/28/2007	No
Correspondence, Memos, Findings & Hearings	11/28/2007	No

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Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0542358 **Division:** 2
Permit #: 63429-F- **Water District:** 10
Well Name / #: **County:** EL PASO
Designated Basin: UPPER BLACK SQUIRREL CREEK **Management District:** UPPER BLACK SQUIRREL
Case Number:
WDID:

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DISTRICT	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:
Q40 Q160 Section Township Range PM Footage from Section Lines
 SW SE 26 12.05 65.0W Sixth 320 S 1580 E
Northing (UTM y): 4313553.5 **Easting (UTM x):** 531892.5
Location Accuracy: Spotted from section lines

Physical Address **Subdivision Name**
City/State/Zip **Filing Block Lot**

Parcel ID: **Acres in Tract:** 1440

[-] Permit Details

Date Issued: 10/28/2005 **Date Expires:** 10/28/2006
Use(s): ALL BENEFICIAL USES **Aquifer(s):** LARAMIE FOX HILLS
Special Use: AUGMENTED
Area which may be irrigated: 1440 ACRES
Maximum annual volume of appropriation:
Statute:
Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 No No No
Cross Reference Permit Number Receipt Description
Permit(s): 47813-F- Unknown

Comments:

[-] Construction/Usage Details

Well Construction Date: 07/10/2006 **Pump Installation Date:**
Well Plugged: **1st Beneficial Use:** 10/18/2007

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
6740	2450	2225	2420	1605	

Driller **Lic # Name** **Address** **Phone Number**
 1200 TORMOEHLN, DAVID A. 4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445 775-623-5259

[-] Application/Permit History

Ownership Change	05/14/2013
Notice of Commencement of Beneficial Use	11/16/2007
Statement of Beneficial Use Received	11/16/2007
First Beneficial Use	10/18/2007
Well Construction Report Received	07/28/2006
Well Constructed	07/10/2006
Permit Issued	10/28/2005
Application Received	08/15/2005

[-] Imaged Documents

Document Name	Date Imaged	Annotated
<u>Change in Owner Name/Address/Location</u>	05/30/2013	No
<u>Statement of Beneficial Use</u>	03/27/2008	No
<u>Notice of Commencement of Use</u>	03/27/2008	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0542358

Permit to Construct a Well	11/28/2007	No
Correspondence, Memos, Findings & Hearings	11/28/2007	No
General Purpose Application	11/28/2007	No
Well Construction & Test	11/27/2007	No
Correspondence, Memos, Findings & Hearings	11/27/2007	No

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Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 9079954
Permit #: 17048-F
Well Name / #:
Designated Basin: UPPER BLACK SQUIRREL CREEK
Case Number:
WDID:

Division: 2
Water District: 10
County: EL PASO
Management District: UPPER BLACK SQUIRREL

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DIST	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40	Q160	Section	Township	Range	PM	Footage from Section Lines
SW	SE	25	12.0S	65.0W	Sixth	650 S 1750 E

Northing (UTM y): 4313667.5
Easting (UTM x): 533454.2
Location Accuracy: Spotted from section lines

Physical Address	Subdivision Name
City/State/Zip	Filing Block Lot

Parcel ID:	Acres in Tract:

[-] Permit Details

Date Issued: 03/21/1973
Date Expires: 03/21/1975
Use(s): OTHER
Aquifer(s): ARAPAHOE DENVER
Special Use:

Area which may be irrigated: 9000 acres
Maximum annual volume of appropriation:

Statute:

Permit Requirements:	Totalizing Flow Meter	Geophysical Log	Abandonment Report
	No	No	No

Cross Reference	Permit Number	Receipt	Description
Permit(s):			
Comments:			

[-] Construction/Usage Details

Well Construction Date: 07/03/1974
Pump Installation Date:
Well Plugged:
1st Beneficial Use: 05/25/1972

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
2770		930	2450	730	150

[-] Application/Permit History

Ownership Change	10/18/2013
Well Construction Report Received	04/07/1975
Well Constructed	07/03/1974
Permit Issued	03/21/1973
First Beneficial Use	05/25/1972
Application Received	01/10/1972

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Correspondence, Memos, Findings & Hearings	11/26/2013	No
Change in Owner Name/Address/Location	05/30/2013	No
Maps, Deeds & Legal Descriptions	08/21/2009	No
Denver Basin Exempt Well Data Sheet	08/21/2009	No
Well Construction & Test	12/01/2007	No
Permit to Construct a Well	12/01/2007	No
Original File	12/01/2007	No
Maps, Deeds & Legal Descriptions	11/28/2007	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 9079954

Field Inspection	11/28/2007	No
Correspondence, Memos, Findings & Hearings	11/28/2007	No

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Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0546546 **Division:** 2
Permit #: 64084-F - **Water District:** 10
Well Name / #: **County:** EL PASO
Designated Basin: UPPER BLACK SQUIRREL CREEK **Management District:** UPPER BLACK SQUIRREL
Case Number:
WDID:

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DISTRICT	9630 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:
Q40 Q160 Section Township Range PM Footage from Section Lines
 SW NE 26 12.0S 65.0W Sixth 2420 N 2270 E
Northing (UTM y): 4314341.0 **Easting (UTM x):** 531682.1
Location Accuracy: Spotted from section lines

Physical Address **Subdivision Name**
City/State/Zip **Filing Block Lot**

Parcel ID: **Acres in Tract:** 1440

[-] Permit Details

Date Issued: 04/06/2006 **Date Expires:** 04/06/2007
Use(s): MUNICIPAL **Aquifer(s):** LARAMIE FOX HILLS
Special Use:
Area which may be irrigated: 960 ACRES
Maximum annual volume of appropriation:
Statute:
Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 No No No
Cross Reference **Permit Number** **Receipt** **Description**
Permit(s): 47813-F - Unknown

Comments:

[-] Construction/Usage Details

Well Construction Date: 08/15/2006 **Pump Installation Date:**
Well Plugged: **1st Beneficial Use:** 10/18/2007

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
2500		2295	2480	1653	

Driller	Lic #	Name	Address	Phone Number
	1200	TORMOEHLN, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259

[-] Application/Permit History

Ownership Change	05/14/2013
Notice of Commencement of Beneficial Use	11/16/2007
Statement of Beneficial Use Received	11/16/2007
First Beneficial Use	10/18/2007
Well Construction Report Received	09/05/2006
Well Constructed	08/15/2006
Permit Issued	04/06/2006
Application Received	12/08/2005

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No
Statement of Beneficial Use	03/27/2008	No
Notice of Commencement of Use	03/27/2008	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0546546

General Purpose Application	11/27/2007	No
Permit to Construct a Well	11/27/2007	No
Well Construction & Test	11/27/2007	No
Correspondence, Memos, Findings & Hearings	11/27/2007	No

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Colorado Division of Water Resources

Colorado's Well Permit Search

Well Constructed

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Receipt:	0542358	Division:	2
Permit #:	63429-F -	Water District:	10
Well Name / #:		County:	EL PASO
Designated Basin:	UPPER BLACK SQUIRREL CREEK	Management District:	UPPER BLACK SQUIRREL
Case Number:			
WDID:			

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DISTRICT	9830 LIBERTY GROVE DR	FALCON, CO 80831

[-] Location Information**Approved Well Location:**

Q40	Q160	Section	Township	Range	PM	Footage from Section Lines
SW	SE	26	12.05	65.0W	Sixth	320 S 1580 E
Northing (UTM y):		4313553.5		Easting (UTM x):		531892.5
Location Accuracy:		Spotted from section lines				

Physical Address**Subdivision Name****City/State/Zip****Filing Block Lot****Parcel ID:****Acres in Tract:** 1440**[-] Permit Details**

Date Issued: 10/28/2005	Date Expires: 10/28/2006
Use(s): ALL BENEFICIAL USES	Aquifer(s): LARAMIE FOX HILLS
Special Use: AUGMENTED	

Area which may be irrigated: 1440 ACRES
Maximum annual volume of appropriation:

Statute:

Permit Requirements:	Totalizing Flow Meter	Geophysical Log	Abandonment Report
	No	No	No

Cross Reference	Permit Number	Receipt	Description
Permit(s):	47813-F -	Unknown	

Comments:**[-] Construction/Usage Details**

Well Construction Date: 07/10/2006		Pump Installation Date:			
Well Plugged:		1st Beneficial Use: 10/18/2007			
Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
6740	2450	2225	2420	1605	
Driller	Lic #	Name	Address	Phone Number	
	1200	TORMOEHLER, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259	

[-] Application/Permit History

Ownership Change	05/14/2013
Notice of Commencement of Beneficial Use	11/16/2007
Statement of Beneficial Use Received	11/16/2007
First Beneficial Use	10/18/2007
Well Construction Report Received	07/28/2006
Well Constructed	07/10/2006
Permit Issued	10/28/2005
Application Received	08/15/2005

[-] Imaged Documents

Document Name	Date Imaged	Annotated
<u>Change in Owner Name/Address/Location</u>	05/30/2013	No
<u>Statement of Beneficial Use</u>	03/27/2008	No
<u>Notice of Commencement of Use</u>	03/27/2008	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0542358

Permit to Construct a Well	11/28/2007	No
Correspondence, Memos, Findings & Hearings	11/28/2007	No
General Purpose Application	11/28/2007	No
Well Construction & Test	11/27/2007	No
Correspondence, Memos, Findings & Hearings	11/27/2007	No

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Colorado's Well Permit Search

Well Constructed

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Receipt: 0519203 **Division:** 2
Permit #: 60862-F - **Water District:** 10
Well Name / #: **County:** EL PASO
Designated Basin: UPPER BLACK SQUIRREL CREEK **Management District:** UPPER BLACK SQUIRREL
Case Number:
WDID:

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METRO DISTRICT	9830 LIBERTY GROVE DR	FALCON, CO 80831

[-] Location Information

Approved Well Location:
Q40 Q160 Section Township Range PM Footage from Section Lines
 SW SE 26 12.05 65.0W Sixth 300 S 1600 E
Northing (UTM y): 4313546.9 **Easting (UTM x):** 531886.3
Location Accuracy: User supplied

Physical Address **Subdivision Name**
City/State/Zip **Filing Block Lot**

Parcel ID: **Acres in Tract:** 1440

[-] Permit Details

Date Issued: 03/18/2004 **Date Expires:** 03/18/2005
Use(s): MUNICIPAL **Aquifer(s):** ARAPAHOE
Special Use:
Area which may be irrigated:
Maximum annual volume of appropriation:
Statute:
Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 Yes Yes No
Cross Reference **Permit Number** **Receipt** **Description**
Permit(s): 46553-F - 0355875B
Comments: ADDITIONAL WELL FOR 46553-F

[-] Construction/Usage Details

Well Construction Date: 06/24/2004 **Pump Installation Date:**
Well Plugged: **1st Beneficial Use:** 10/18/2007

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
1870		1420	1855	1112	85

Driller	Lic #	Name	Address	Phone Number
	1200	TORMOEHLN, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259

[-] Application/Permit History

Ownership Change	05/14/2013
Notice of Commencement of Beneficial Use	11/16/2007
Statement of Beneficial Use Received	11/16/2007
First Beneficial Use	10/18/2007
Well Construction Report Received	07/07/2004
Well Constructed	06/24/2004
Permit Issued	03/18/2004
Application Received	01/12/2004

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No
Statement of Beneficial Use	03/27/2008	No
Notice of Commencement of Use	03/27/2008	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0519203

Permit to Construct a Well	11/29/2007	No
Well Construction & Test	11/29/2007	No
Denver Basin Exempt Well Data Sheet	11/29/2007	No
General Purpose Application	11/29/2007	No
Maps, Deeds & Legal Descriptions	11/29/2007	No
Correspondence, Memos, Findings & Hearings	11/29/2007	No

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Colorado's Well Permit Search

Well Constructed

Help Last Refresh: 2/25/2015 12:01:56 AM

Receipt: 0468250B
Permit #: 55193-F-
Well Name / #:
Designated Basin: UPPER BLACK SQUIRREL CREEK
Case Number:
WDID:

Division: 2
Water District: 10
County: EL PASO
Management District: UPPER BLACK SQUIRREL

[-] Applicant/Owners History

Date Range	Applicant/Owner Name	Address	City/State/Zip
Unknown - Present	PAINT BRUSH HILLS METROPOLITAN DIST	9830 LIBERTY GROVE DR	FALCON, CO 80831-

[-] Location Information

Approved Well Location:

Q40	Q160	Section	Township	Range	PM	Footage from Section Lines
NW	NW	25	12.0S	65.0W	Sixth	250 N 200 W
Northing (UTM y):		4315010.4		Easting (UTM x):		532434.9
Location Accuracy: Spotted from section lines						

Physical Address

Subdivision Name

City/State/Zip

Filing Block Lot

Parcel ID:

Acres in Tract: 1440

[-] Permit Details

Date Issued: 01/18/2001 **Date Expires:** 01/18/2002
Use(s): MUNICIPAL
 COMMERCIAL **Aquifer(s):** ARAPAHOE

Special Use:

Area which may be irrigated:

Maximum annual volume of appropriation:

Statute:

Permit Requirements: **Totalizing Flow Meter** **Geophysical Log** **Abandonment Report**
 Yes Yes No

Cross Reference	Permit Number	Receipt	Description
Permit(s):	46553-F-	Unknown	

Comments: ADDITIONAL WELL FOR 46553-F

[-] Construction/Usage Details

Well Construction Date: 05/18/2001 **Pump Installation Date:** 08/25/2001
Well Plugged: **1st Beneficial Use:**

Elevation	Depth	Perforated Casing (Top)	Perforated Casing (Bottom)	Static Water Level	Pump Rate
2000		1585	1990	1137	76

Driller	Lic #	Name	Address	Phone Number
Pump Installer	1200	TORMOEHLN, DAVID A.	4975 SW WINNEMUCCA BLVD WINNEMUCCA, NY 89445	775-623-5259

[-] Application/Permit History

Ownership Change	05/14/2013
Pump Installation Report Received	10/23/2001
Pump Installed	08/25/2001
Well Construction Report Received	06/13/2001
Well Constructed	05/18/2001
Permit Issued	01/18/2001
Application Received	10/18/2000

[-] Imaged Documents

Document Name	Date Imaged	Annotated
Change in Owner Name/Address/Location	05/30/2013	No

2/25/2015

State of Colorado Water Resources - View Well Details: Receipt 0468250B

<u>Pump Installation & Test</u>	12/01/2007	No
<u>Well Construction & Test</u>	12/01/2007	No
<u>Correspondence, Memos, Findings & Hearings</u>	12/01/2007	No
<u>General Purpose Application</u>	12/01/2007	No
<u>Permit to Construct a Well</u>	12/01/2007	No
<u>Correspondence, Memos, Findings & Hearings</u>	12/01/2007	No
<u>Correspondence, Memos, Findings & Hearings</u>	12/01/2007	No

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APPENDIX B JDS-Hydro Report

2013 Water Supply Report

For

PAINT BRUSH HILLS METROPOLITAN DISTRICT



paint brush hills
metropolitan district

NOVEMBER 2013

JDS-HYDRO

CONSULTANTS, INC.

2013 Water Supply Report

For
Paint Brush Hills Metropolitan District

November 2013

Prepared for:

Paint Brush Hills Metropolitan District

Prepared by:

JDS-Hydro Consultants, Inc.
545 East Pikes Peak, Suite 300
Colorado Springs, CO 80903

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3.2 *Contractual Rights*

3.3 *Decreed Surface Rights*

3.4 *Adequacy of Legal Water Supply*

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1.0 INTRODUCTION AND CONCLUSION

Introduction: The Paint Brush Hills Metropolitan District currently includes a service area of approximately 9 square miles. The District has 720 actual taps which equate to about 805 Single Family Equivalent taps. An SFE is defined as the water generally used by a single family detached residence.

PBHMD supply is primarily dependent on the Denver Basin Aquifer which is a non-renewable water source. However, a portion of the District's portfolio is based on a contractual renewable Upper Black Squirrel supply.

An interesting element of this effort is that a significant portion of this district was platted prior to the implementation of the "El Paso County 300 Year Rule" and therefore is not subject to that ruling. Consequently in order to mix 100 year rule subdivisions with 300 year subdivisions, our analysis is performed on a total volumetric basis.

Conclusion: This report is in general concurrence with previous reports relative to legal supply except for the very minor deviations and the characterization of the contractual rights.

The findings of this report conclude that PBHMD has adequate legal and physical water supply for existing customers, existing commitments and commitments under consideration which include Filing 13B and the Scenic View at Paint Brush Hills Subdivision of 91 lots.

Excess legal supply beyond that level will support roughly an additional 590 single family units and physical supply would provide for roughly an additional 307 single family units.

Additionally, PBHMD has certain "contingent supplies" which can be developed to further legal and physical supply.

} 805 +
91

2.0 WATER DEMAND ANALYSIS

District Water User Characteristics: For the purpose of projecting current and future water needs as well as planning infrastructure, we have performed a brief study of the historical patterns of water use for PBHMD.

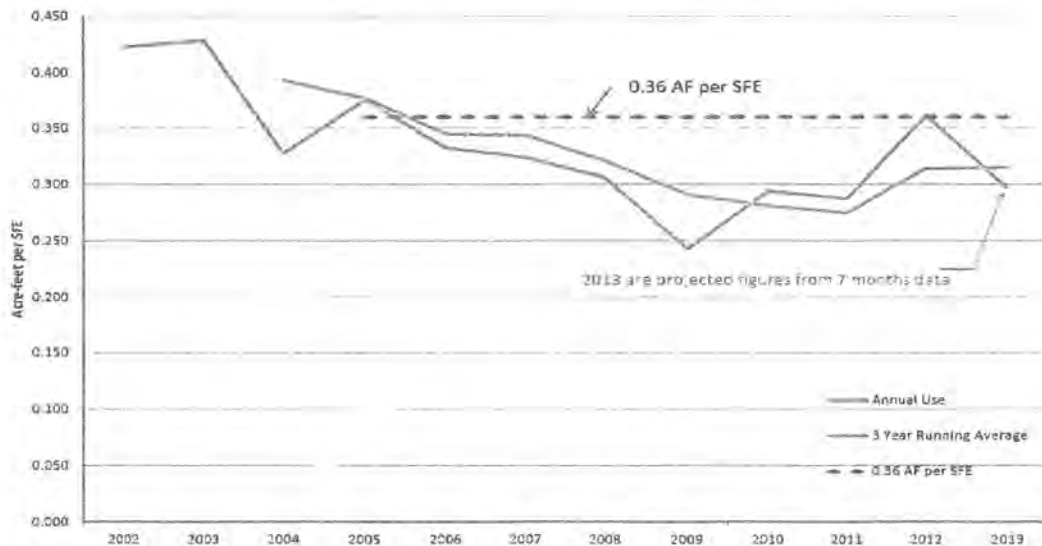
Over the recent decade, water consumption per tap or has decreased dramatically along the Front Range. This is due in part to several reasons which are likely to continue into the future:

- Price Elasticity - as entities (including PBHMD) have converted to the inverted block rate, users have responded to the increased cost of water by reducing usage
- Increased water conservation awareness
- Increased use of flow restriction devices, low flow toilets, etc.
- Dramatically decreased lot size/irrigated landscape area; This is especially true in PBHMD where earlier filing covenants required lawn maintenance of a certain minimum size to the current condition where plat restrictions that limit lawn irrigation size.

Currently, the historic figures indicate that PBHMD actually uses dramatically lower annual water user characteristics than committed in the past. Figure 1 below is a presentation of the trend for annual water user characteristics for PBHMD. A factor of 0.36 AF per SFE will be adopted for the purpose of future planning for actual physical source of supply and computation legal supply going forward. We elected to leave the old legal demand allocations for previous subdivisions in place, since formal commitments are attached to those figures.

Could be low? Doesn't include losses?

Figure 1. Paint Brush Hills Historical User Characteristic



It is expected that newer lots will continue the trend to smaller lot sizes as Filings 11 and 12 present and to smaller turf and lawn irrigation. Table 1 below is a listing of system user characteristics that will be used for making various projections including adequacy of physical supply.

Table 1
Paint Brush Hills Metro District Water User Characteristics

Land Use	Annual ¹ Demand (Acre-Feet)	Average Daily Demand (GPD)	Maximum ² Daily Demand (GPD)	Peak ² Hour Flow (GPM)
Single Family Unit (SFE)	0.360	321 GPD	642 GPD	0.66 GPM
Indoor Use	0.193			
Irrigation	0.167			
Middle School	22.0	19640 GPD	22,586 GPD	23.2 GPM
Greenbelts	14.0	12,500 GPD	28,125 GPD	58,120 GPD

Note 1. Annual Demand based on 0.36 AF/SFE per Figure 1

*Note 2. Residential Peaking Factors 2.0 MDF/ADF 1.48PHF/MDF
Middle School 1.15 MDF/ADF 1.48 PHF/MDF
Greenbelts 2.25 MDF/ADF 2.75 PHF/MDF*

3.0 *LEGAL WATER SUPPLY*

3.1 *Denver Basin Sources:*

PBHMD has adjudicated several Denver Basin rights underlying lands of the District for the purpose of beneficial uses within the District. Some of these rights have been fully developed and are available as physical supply, while some remain as contingent sources, requiring additional efforts to classify as legal source.

The rights currently include Laramie Fox-Hills, Arapahoe, and Denver sources. Additional Dawson water may be made available for legal supply upon completion of the Replacement Plan which is in process.

There are a few miscellaneous contingent rights that are likely to be implemented in the future as well. Appendices A-1, A-2, A-3, and A-4 document the current Denver Basin legal supplies.

A well named A-1 (permit 17048-F) has been withheld from calculation in previous water resource reports because of a potential issue with the Statement of Beneficial Use. A recently adopted State Statute SB 13-72 amends elements of the SBU requirement and directs the State Engineer to issue final permits on various wells within the Denver Basin. This has been something of a "clean-up" of outstanding well permits. The attached letter acknowledges the completion of well A-1 (17048-F) into both Denver and Arapahoe aquifers and acknowledges the water right as per conditional as valid. This resolves the issues related to A-1 and clears up the validity of 130.7 AF Arapahoe and 111.3 AF Denver (100 year basis).

3.2 *Contractual Rights*

PBHMD has a contract with Meridian Service Metropolitan District for the perpetual lease of up to 85 annual acre-feet of water. A copy of the contract is attached in Appendix B-1. The contractual right was originally assigned to Six Ninety Nine L. A., LLC on September 8, 2003, but was subsequently assigned over to the PBH District via instrument entitled "Lift Station and Water Assignment" dated April, 2, 2004. This document is also noted in Appendix B-2.

Our review of the documents referenced does not constitute a legal review of the contractual rights, however, in our opinion there are several significant elements;

- The right is clearly enumerated as perpetual and therefor would meet the 300 year standard
- In the recitals, it is implied that the water right is based on alluvial water from the Upper Black Squirrel Creek Designated

Groundwater Basin which is "renewable". As renewable the name plate (85 annual acre-feet) also meets the 300 year rule as renewable

- The only limiting conditions referenced are specified in paragraph 7 which reference the Supreme Court Decision in Cherokee Water District vs City of Colorado Springs
- It is known that the PBHMD service area is entirely within the Upper Black Squirrel Creek Designated Groundwater Basin

It is our opinion that the 85 acre-feet is perpetual and renewable and therefor may be considered as a renewable supply for the purpose of legal and physical supply for PBHMD.

3.3 Decreed Surface Rights

PBHMD is a party to an absolute water rights decree which allows for surface water diversions from an un-named tributary in the Upper Black Squirrel system. A copy of that decree is attached as Appendix C. While PBHMD is a party to the decree the water is currently unavailable for use in the potable system and cannot be classified as a physical supply for the purpose of providing beneficial supply at this time.

*why not?
How much
supply?*

3.4 Adequacy of Legal Water Supply

Table 2 on the following page is a summary of the Legal Water Supply Inventory for Paint Brush Hills Metropolitan District. This summary presents current legal supply and also delineates certain contingent supplies that are potentially convertible to actual supply. Our findings are somewhat consistent with the findings of Curt Wells (Appendix C) with the exception of the nature of the contractual water supply and the addition of the 17048-F water which has been recently clarified per SEO letter.

Our analysis of the legal demand is slightly different as we have analyzed actual historical use to develop projected needs. We have left the legal demands in place as they were initially projected but we do note that the initial projections indicate that water demands were over-estimated which causes the projected legal supply to be rather conservative.

Filings 4 through 9 within PBHMD were approved prior to the 300 year rule being implemented. Therefore we are presenting our breakdown in a volumetric fashion to account for those differences.

It is our opinion that Paint Brush Hills Metropolitan District has adequate legal supply for its existing customers as well as 21 units in Filing 13B and the proposed Subdivision having 91 single family lot equivalents. In addition to that, we believe that the legal supply has an additional 590 potential single family equivalent capabilities.

1.

Table 2
Paint Brush Hills Metropolitan District
Legal Water Supply Inventory and Commitment Summary

Paint Brush Hills Metropolitan District
Commitment Summary

Lead Formation/Aquifer	Filing/Determination/Decree	Tributary Status	Volume	Annual Allocation	Annual Supply	Well Permits
				100 Year	300 Year	
			Acres-Foot	A-F/Year	A-F/Year	
Current Legal Sources						
Laramie Fox Hills	47813-F Appendix A-1	NT	38,800	388.00	129.33	LPH-1 (47813-F) LPH-2 (50877-F) LPH-3 (55192-F) LPH-4 (63429-F) LPH-5 (64084-F)
Arapahoe	17048-F Appendix A-2	NT	13070	130.70	43.57	A-1 (17048-F)
	16533-F Appendix A-3	NT	18200	182.00	60.67	A-3 (46554-F) A-4 (55193-F) A-5 (60862-F) A-6 (64086-F)
Denver	17048-F Appendix A-2	NT	11130	111.3	37.1	A-1 (17048-F)
	213-BD Appendix A-4	NNT 4%	29750	297.50	99.17	
85 AF Contractual Right	Contract MSMMD Appendix B-1 Appendix B-2	UBSC Alluvium	25500	83.00	85.00	UBSC non-specific source Alluvium Water
Total Current Legal Supply			136,450.00	1,194.50	454.80	
Contingent Sources						
Dawson	719-BD	NNT	23700	237.00	79.00 *	Requires Completion of Replacement Plan
Dawson (30 acres)	unappropriated	NNT	2000	20.00		Requires Determination and Replace
Denver (50 acres)	unappropriated	NT	2550	25.50		Requires Determination
Arapahoe	30593-F	NT	11300	113.00	37.67	A-2 (30593-F)
Surface Water Diversion Return Flows 02CW 016	05CW013	2 cfs				Allocation is 25% Unavailable for possible supply

Subdivision/ User	Commercial		Residential			Basis of Supply (Years)	Volumetric Need (AF)
	SFE	AF	Units (SFE)	Unit User-Char (AF)	AF		
Middle School	44	72				100	4400
Greenbelts	28	14				100	2800
Filing 4			164	0.5	82.00	100	8200
Filing 5			31	0.5	15.50	100	1550
Filing 6			48	0.5	24.00	100	2400
Filing 7			57	0.5	28.50	100	2850
Filing 8			106	0.5	53.00	100	5300
Filing 9			88	0.5	44.00	100	4400
Filing 10			90	0.4	36.00	300	10800
Filing 11			81	0.4	32.40	300	9720
Filing 12			51	0.4	20.40	300	6120
Church	1.5	0.20				300	60
Filing 13A			17	0.4	6.80	300	2040
Current Commitments			865.5				60640
Filing 13B			21	0.36	7.56	300	2268
Scenic View of Paint Brush Hills			91	0.36	32.76	300	9828
			917.5				72736
Net Current Excess			590	0.36	212.40	300	83720
			Total				136456

7
0

Pre-100 Year Rule
Post-100 Year Rule

only 90 hours.
Falcon Reserve = 23 ac-ft/yr.

look @ Decree
Dawson Replacement?
Goal is to clean.

4.0 PHYSICAL WATER SUPPLY

4.1 Denver Basin Sources:

PBHMD has wells in the Arapahoe and Laramie-Fox Hills formations of the Denver Basin Aquifer. We performed a site visit to each supply, analyzed its condition, and capacity, to develop a current assessment of the PBHMD current physical supply capabilities. Table 3 presents a summary of the findings of that review.

4.2 Transfer Station:

PBHMD has a pumping transfer station which provides the physical supply of the water that is contracted for from Meridian Ranch. The contract has no limit as to instantaneous or monthly limits only the total annual limitation. The supply is only used as a peaking supply because of the costs and therefore is operated only during a few of the summer months to aid in meeting maximum daily needs.

The station is capable of instantaneous flows of 150 gallons per minute but provides a safe daily supply of 125 GPM.

4.3 Adequacy of Physical Supply

The adequacy of physical supply is analyzed on what is termed the Maximum Daily Demands of the system. Peak hour demands are met by using equalizing storage within the given supply system.

Using the demand factors presented in Table 1, the actual physical needs of the system are compared to the actual physical supply in Table 2. Currently the MDD is projected as 0.521 MGD for the existing system including existing commitments. The projected need at MDD when considering Filing 13B and a proposed 91 lot subdivision is 0.593 MGD.

At 90 % capacity the Maximum Daily Capability is 0.706 MGD leaving excess capacity for about 307 additional units above the commitments under consideration.

This would indicate that not all of the water supply has been developed.

8/1 ac-sh?

Table 3
Paint Brush Hills Metropolitan District
Physical Water Supply Inventory Summary

Land Formation/Aquifer	Well Number	Status	Current Instantaneous Flow-rate (Gal/Minute)	Well Permit(s)
<i>Current Sources</i>				
Laramie Fox Hills	Well 4/LFH-1	Unused	0	LFH-1 (47813-F)
Laramie Fox Hills	Well 5/LFH-2	Unused	0	LFH-2 (50877-F)
Laramie Fox Hills	Well 7/LFH-3	Unused	0	LFH-3 (55192-F)
Laramie Fox Hills	Well 9/LFH-4	Good	100	LFH-4 (63429-F)
Laramie Fox Hills	Well 11/LFH-5	Good	125	LFH-5 (64084-F)
Arapahoe	Well 1/A-1	Unused	65	A-1 (17048-F)
Arapahoe	Well 2/A-2	Fair	65	A-2 (46553-F)
Arapahoe	Well 3/A-3	Unused	0	A-3 (46553-F)
Arapahoe	Well 6/A-4	Unused	0	A-4 (55193-F)
Arapahoe	Well 8/A-5	Good	75	A-5 (60862-F)
Arapahoe	Well 10/A-6	Good	55	A-6 (64086-F)
Transfer Station	N/A	Good	125	N/A
Total			610	GPM
Net at 90 % Instantaneous			549	GPM
Max Day Capability			790560	GPD

*Which ones are existing?
all-*

Physical Demand

Units	User Char GPD/Unit	Average Daily Demand GPD	Maximum Daily Demand GPD
Greenbelts		12500	28125
Middle School		19640	22586
Church	0.5	321	160.5
Residential (Existing Commitments)			
Filing 4	164	321	52644
Filing 5	31	321	9951
Filing 6	48	321	15408
Filing 7	57	321	18297
Filing 8	106	321	34026
Filing 9	88	321	28248
Filing 10	90	321	28890
Filing 11	81	321	26001
Filing 12	51	321	16371
Filing 13 A	17	321	5457
Existing Total Commitments			267594
Filing 13B	21	321.00	6741.00
91 Lots <i>Scenic view</i>	91	321.00	29211.00
Proposed Commitment Physical Demand			593522 GPD
Remaining Excess Supply (GPD)			197038 GPD
Remaining Excess Projected (SFE)			307 SFE

*why
10
now*

Appendix A-1

FINDINGS OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF AN APPLICATION FOR A PERMIT TO CONSTRUCT A WELL AND APPROPRIATE GROUND WATER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN.

APPLICANT: PAINT BRUSH HILLS METROPOLITAN DISTRICT

AQUIFER: LARAMIE-FOX HILLS

PERMIT NO.: 47813-F

In compliance with Sections 37-90-107(1) and 37-90-111(5), C.R.S., Paint Brush Hills Metropolitan District, (hereinafter "applicant") submitted an application for a permit to construct a well and appropriate ground water from the Laramie-Fox Hills Aquifer. Based on information provided by the applicant and records of the Division of Water Resources, and in accordance with the Designated Basin Rules (2 CCR 410-1), the Ground Water Commission finds as follows:

1. The application was received complete by the Ground Water Commission on September 13, 1996.
2. a. The applicant proposes to appropriate ground water from the Laramie-Fox Hills Aquifer underlying 1440 acres of land generally described as the SE1/4 of Section 23, the S1/2 of Section 24, all of Section 25 and the E1/2 of Section 26, all in Township 12 South, Range 65 West of the 6th Principal Meridian. According to a signed statement dated September 12, 1996, the applicant claims the ownership or control of the ground water in the Laramie-Fox Hills Aquifer underlying this land area, as further described in said affidavit which is attached hereto as Exhibit A. The proposed annual appropriation is 389 acre-feet.

b. The applicant proposes to construct a well in the SW1/4 of the NW1/4 of Section 25, Township 12 South, Range 65 West of the 6th Principal Meridian at a location 2600 feet from the North section line and 50 feet from the West section line of said Section 25. The well would be constructed to divert ground water from the Laramie-Fox Hill Aquifer (hereinafter "aquifer") with a maximum pumping rate of 242 g.p.m.
3. The land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and Ground Water Management District. The Ground Water Commission has jurisdiction.
4. The applicant proposes to apply the appropriated ground water to the following beneficial uses: municipal use within the service area of the Paint Brush Hills Metropolitan District.
5. The location of the proposed well is more than 800 feet from any existing large-capacity well completed in the aquifer.
6. The applicant will own or control the land on which the well will be constructed.

7. The quantity of water in the aquifer underlying the 1440 acres of land claimed by the applicant is 38,880 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
 - a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 15 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 180 feet.
8. At this time, there is no substantial artificial recharge which would affect the aquifer within a 100-year period.
9. Pursuant to Section 37-90-111(5), C.R.S., the Ground Water Commission is required to allocate designated ground water in the aquifer on the basis of landownership and a 100-year aquifer life. Therefore, the maximum annual appropriation which could be allowed pursuant to the data in the paragraphs above for the 1440 acre described land area is 388 acre-feet.
10. The ability of the well, with any additional wells, to withdraw the authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
11. Withdrawal of ground water from the aquifer underlying the land claimed by the applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and therefore the ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules.
12. A review of the records of the Ground Water Commission has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously appropriated.
13. In accordance with Rules 5.3.8 and 5.3.9 of the Designated Basin Rules, additional wells may be permitted to withdraw the total allowed appropriation together with the proposed well.
14. On August 5, 1996, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting recommendations concerning this application. On September 9, 1996, a letter was received from the board of directors of the district stating that the application met with the board's approval.
15. The Commission Staff has evaluated the application relying on the claims to control of the water in the aquifer made by the applicant.

16. In accordance with Sections 37-90-107(2) and 37-90-112, C.R.S., the application was published in the Gazette Telegraph newspaper on October 31 and November 7, 1996.
17. No objections to the proposed appropriation were received within the time limit set by statute.
18. The Ground Water Commission finds that unreasonable impairment of existing water rights will not occur from approval of the appropriation and issuance of the well permit if the following conditions are complied with:
 - a. The well, and any additional wells approved by the Commission to withdraw this appropriation (hereinafter "additional wells"), must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer. At the proposed well location, the top of the aquifer is located approximately 2235 feet below ground surface and the bottom of the aquifer is located approximately 2520 feet below ground surface. Plain, non-perforated casing must be installed and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - b. Well permits for additional wells to withdraw the appropriation shall be available upon application, subject to approval by the Commission.
 - c. The entire depth of the well and any additional wells must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. The maximum annual amount of water to be diverted from the aquifer by the well, together with any additional wells, shall not exceed 388 acre-feet. The Commission may adjust the annual appropriation based on analysis of the geophysical logs if such analysis indicates that the initial estimate of the volume of water in storage was incorrect.
 - e. The use of ground water from the appropriation shall be limited to the following uses: municipal use within the service area of the Paint Brush Hills Metropolitan District.
 - f. No more than 98% of the ground water withdrawn annually from this well and any additional wells shall be consumed. The Commission may require the well owner to demonstrate periodically that no more than 98% of the water withdrawn from the well is being consumed.
 - g. The maximum pumping rate of the well and any additional well shall not exceed 242 g.p.m.
 - h. The well and any additional wells shall be constructed within 200 feet of the location specified on the individual permit application, but must be more than 600 feet from any existing large-capacity well completed in the aquifer. Any additional wells shall be located on the 1440 acre claimed area on land owned or controlled by the well owner.

Applicant: Paint Brush Hills Metropolitan District
Aquifer: Laramie-Fox Hills
Permit No.: 47813-F

Page 4

i. A totalizing flow meter shall be installed on the well and any additional wells and maintained by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission upon their request.

j. The well owner shall mark the well and any additional wells in a conspicuous place with the permit number and the name of the aquifer. He shall take necessary means and precautions to preserve these markings.

Dated this 15th day of January, 19 97.

Hal D. Simpson

Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: *Craig M. Lls*
Craig M. Lls, P.E.
Supervisor, Designated Basins Branch

Prepared by: RAC

Statement of Land and Water Ownership

RECEIVED

SEP 13 1996

WATER RESOURCES
STATE ENGINEER
COLORADO

State of Colorado)
) ss.
County of El Paso)

The Affiant, Jerry A. Smith, is the President of Eagle Ranch Development Corp., a Colorado Corporation; Manager of the B.L.P.S. Company, L.L.C., a Colorado Limited Liability Company; and President of Paint Brush Hills Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado.

After first being duly sworn upon oath, deposes and states as follows:

HISTORY

(1) On January 31, 1980, Paint Brush I, a Colorado Limited Partnership received title to the Southeast 1/4 of Section 23; the South 1/2 of Section 24; all of Section 25; and the East 1/2 of Section 26 all in Township 12 S Range 65 W, in El Paso County, State of Colorado, including all the groundwater under said land and the water rights in and to the well permits No.173048-F, 17654-F and 17658-F. (Approximately 1,440 acres.)

(2) Commencing on December 31, 1980, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No.1, reserving to itself all groundwater and water rights in and to the Lower Dawson Arkose, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(3) Commencing on October 29, 1982, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No. 2, reserving to itself all groundwater and water rights in and to the Lower Dawson Arkose, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(4) Commencing on February 23, 1984, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No. 3, reserving to itself all groundwater and water rights in and to the Denver, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(5) On June 26, 1986, Paint Brush I conveyed by warranty deed to P.B.H.P. Joint Venture, all of Section 25 and the East 1/2 of Section 26 in Township 12 S Range 65 W in El Paso County, State of Colorado, including all of the groundwater and water rights under said land. (This land was approximately 950 Acres or the balance of the land not platted in the Filings 1, 2 and 3 of Paint Brush Hills.)

(6) On November 10, 1987, P.B.H.P. Joint Venture conveyed to Paint Brush Hills Metropolitan District all groundwater and water rights in the Dawson, Denver, Arapahoe and Laramie Fox Hills formations under land owned by it; well permits #17654-F, #17658-F and #17048-4; and the water and water rights in the (Lower Dawson), Denver, Arapahoe and Laramie-Fox Hills formations under all lots in Paint Brush Hills Filings No. 1, 2 and 3 in El Paso County, State of Colorado. (Land = 950 acres; Water underneath = 1,440 acres.)

(7) Commencing on June 20, 1988, P.B.H.P. Joint Venture conveyed to individuals six lots in Paint Brush Hills Filing No.4, reserving to itself all of the groundwater in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(8) On June 4, 1992, P.B.H.P. Joint Venture conveyed to Paint Brush Hills Metropolitan District approximately 100 Acres in a part of Section 25, Township 12 S, Range 65 W (being directly north of Paint Brush Hills Filing No.4) and 158 lots in Paint Brush Hills Filing No. 4 (being the balance of the lots not conveyed in Deed No. 7), including all groundwater and water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(9) On June 13, 1992, by warranty deed, P.B.H.P. Joint Venture conveyed to Eagle Ranch Development Corp., a Colorado Corporation, all of Section 25 in Township 12 S, Range 65 W, except the 100 acres deeded to Paint Brush Hills Metropolitan District (Deed No. 8) and Paint Brush Hills Filing No. 4, and the East 1/2 of Section 26, Township 12 S, Range 65 W, El Paso County, State of Colorado including all the groundwater and water rights under said land. (Approximately 750 acres.)

(10) Commencing on June 20, 1992 Paint Brush Metropolitan District started conveying lots in Paint Brush Hills Filing No. 4 to Eagle Ranch Development Corp. (and then to Lot Purchases), according to the ruling of the United States Federal District Court for Colorado, as a procedure to pay off the Bond Holders of the Paint Brush Hills Metropolitan District. In such individual deeds, Eagle Ranch Development Corp. reserved all of the groundwater and water rights in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(11) On August 25, 1995 Paint Brush Hills Metropolitan District conveyed to Eagle Ranch Development Corp., 40 Acres of the 100 Acres contained in the Deed of June 4, 1992. (Deed No. 8 herein.)

(12) Also on August 25, 1995 Eagle Ranch Development Corp. conveyed to B.L.P.S. Company, LLC (a sister company of Eagle Ranch Development Corp.) 40 acres (included in Deed No. 11 herein), which then was platted as Paint Brush Hills Filing No. 5, in El Paso County, State of Colorado.

(13) Commencing on December 29, 1995, the B.L.P.S. Company, LLC started conveying to Lot Purchasers, lots in Paint Brush Hills Filing No. 5 reserving to itself all the groundwater and water rights in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

OWNERSHIP

At the present time, the ownership of rights contained in the History above is as follows:

(1) Eagle Ranch Development Corp. owns (land only) the East 1/2 of Section 26 and all of Section 25, in Township 12 S Range 65 W, El Paso County, Colorado except Paint Brush Hills Filing No.'s 4 and 5, and the 100 acres referred to herein, or a total of 750 acres.

(2) Paint Brush Hills Metropolitan District owns (land and water and water rights) 60 acres in Section 25 in Township 12 S Range 65 W, El Paso County, Colorado; and all the water and water rights in the Denver (Lower Dawson), Arapahoe and Laramie-Fox hills formations under Paint Brush Hills Filing No.'s 1, 2 and 3; the water wells under permits #17048-F, #30593-F, #17654 and #17658-F; all of the water and water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations under the East 1/2 of Section 26 and all of Section 25 (including Paint Brush Hills Filing No.'s 4 and 5), all in El Paso County, State of Colorado.

(3) The B.L.P.S. Company, L.L.C. owns (land only) the unsold lots in Paint Brush Hills Filing No. 5, (40 acres).

Affiant further deposes and says that Eagle Ranch Development Corp., the B.L.P.S. Company, L.L.C. and Paint Brush Hills Metropolitan District have not given up their right to appropriate the unappropriated non-tributary ground water from the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations underlying the SE 1/4 of Section 23, S 1/2 of Section 24, Section 25, and the E 1/2 of Section 26, in Township 12 S, R 65 West of the 6th Principal Meridian, El Paso County, State of Colorado, except as stated in the above Ownership Statement.

And Eagle Ranch Development Corp. and the B.L.P.S. Company, L.L.C., consent to, and state that Paint Brush Hills Metropolitan District owns all of the unappropriated underground non-tributary water in the Dawson, Denver, Arapahoe and Laramie-Fox hills formations under the above described land, which equates to 1,440 acres.

Further, I claim and say that I have read the statements made herein, know the contents hereof, and the same are true to my own knowledge.

Eagle Ranch Development Corp.

By


Jerry A. Smith, President

Paint Brush Hills Metropolitan District

By


Jerry A. Smith

The B.L.P.S. Company, L.L.C.

By


Jerry A. Smith, Manager

Subscribed and sworn to before me on this 12th day of September, 1996 by Jerry A. Smith, to me personally known.

Witness my hand and official seal.


Notary Public

My Commission Expires: 8-11-99

RECEIVED

JUL 23 1996

WATER RESOURCES
STATE ENGINEER
COLO.

WRJ-5-Rev. 76

COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in **BLACK INK**. No overstrikes or erasures unless initialed.

- (X) A PERMIT TO USE GROUND WATER
- (X) A PERMIT TO CONSTRUCT A WELL
- FOR: (X) A PERMIT TO INSTALL A PUMP
- () REPLACEMENT FOR NO. _____
- () OTHER _____
- WATER COURT CASE NO. _____

(1) APPLICANT - mailing address

NAME Paint Brush Hills Metro District

STREET 3730 Sinton Rd, Suite 250

CITY Colorado Springs CO 80907
(State) (Zip)

TELEPHONE NO. 719-473-8600

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. _____ / _____

Basin 4 Dist. 12

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

(2) LOCATION OF PROPOSED WELL

County El Paso

SW X of the NW X, Section 25

Twp. 12 S, Rng. 65 W, 6th P.M.
(N,S) (E,W)

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 242

Average annual amount of ground water to be appropriated (acre-feet): 389

Number of acres to be irrigated: N/A

Proposed total depth (feet): 2500

Aquifer ground water is to be obtained from:
Laramie Fox Hills

Owner's well designation LFH-1

GROUND WATER TO BE USED FOR:

- () HOUSEHOLD USE ONLY - no irrigation (0)
- (X) DOMESTIC (1) (X) INDUSTRIAL (5)
- () LIVESTOCK (2) (X) IRRIGATION (6)
- (X) COMMERCIAL (4) (X) MUNICIPAL (8)
- () OTHER (9) All other purposes

DETAIL THE USE ON BACK IN (11)

APPLICATION APPROVED

PERMIT NUMBER _____

DATE ISSUED _____

EXPIRATION DATE CHECKS TR#403866 672296 60.00
DIV OF WATER RESOURCES

(STATE ENGINEER)

BY _____

I.D. B-2 COUNTY 21-10

(4) DRILLER

Name Unknown (licensed)

Street _____

City _____
(State) (Zip)

Telephone No. _____ Lic. No. _____

Appendix A-2

Appendix A-2 Paint Brush Hills Well A-1 (17048-F)

This well was originally drilled to a depth of 2770 feet and tested. The LFH formation was subsequently bridge plugged at 1900 feet. The original permit was issued March 21, 1973 for 400 acre-feet and 300 gallons per minute. In 1973 the term Dawson included the Arapahoe, Denver, and Dawson formations.

Subsequent documents 46553-F (also attached) excluded certain portions of the Arapahoe reducing the Arapahoe volume to 130.7 AF (100 year basis). This left 111.3 AF (100 year basis) remaining in the Denver formation.

The rights remained somewhat in limbo due to a potential deficiency in the filing of Statement of Beneficial Use (SBU) until a letter was issued October 18, 2013 by the State Engineers Office. The letter attached, is a response to Senate Bill 13 -072 which amended certain rules regarding the issuance of permits in the Denver Basin. In the letter the SEO acknowledges the completion of the well into both the Denver and Arapahoe formations and specifies that the terms of the conditional document apply as final.

Supporting this documentation are supporting documents of SB 13-072 and an email from legal describing the documentation.



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John W. Hickenlooper
Governor

Mike King
Executive Director

Dick Wolfe, P.E.
Director/State Engineer

October 18, 2013

Paint Brush Hills Metropolitan District
9830 Liberty Grove Drive
Falcon, CO 80831

RE: Well Permit no. 17048-F

Dear Well Owner:

You may have previously received correspondence from our office informing you that we were reviewing permit files in preparation for the issuance of final permits in the Designated Ground Water Basins in Colorado, and asking for information, such as a statement of beneficial use, to assist with such review. Thank you for any responses and information you may have provided.

The Colorado Legislature recently passed Senate Bill 13-072 that changed the laws regarding the need to issue final permits for Denver Basin bedrock aquifer wells. Pursuant to C.R.S. § 37-90-108(3)(a)(II) a final permit is not required to be issued for a well described in a conditional permit to withdraw designated ground water from a Denver Basin bedrock aquifer. For such a well, the statute states a conditional permit, subject to the conditions of issuance of such a permit, shall be considered a final determination of a well's water right if the well is in compliance with all other applicable requirements of Article 90 of Title 37.

The above referenced well permit was issued for construction of a well into the Denver and Arapahoe aquifers and is subject to the above referenced statutes. Be advised that we will not be issuing a final permit to the above referenced conditional permit, and that the conditional permit determines the well's water right.

If you have any questions feel free to contact me.

Sincerely,

Keith Vander Horst, P.E.

Designated Basins Team Leader

cc: Upper Black Squirrel Creek GWMD

Office of the State Engineer

1313 Sherman Street, Suite 818 • Denver, CO 80203 • Phone: 303-866-3581 • Fax: 303-866-3589

www.water.state.co.us

Colorado Revised Statutes

- Colorado Revised Statutes
- TITLE 37 WATER AND IRRIGATION
- WATER RIGHTS AND IRRIGATION
- Underground Water
- ARTICLE 90 Underground Water

37-90-108. Final permit - evidence of well construction and beneficial use - Limitations.

**Update Notice: This section has been amended by
CHAPTER 30, COLO. SESS. LAWS OF 2013.
CHAPTER 35, COLO. SESS. LAWS OF 2013.

(1) (a) After having received a conditional permit to appropriate designated ground water, the applicant, within one year from the date of the issuance of said permit, shall construct the well or other works necessary to apply the water to a beneficial use.

(b) The applicant, upon completion of the well, shall furnish information to the commission, in the form prescribed by the commission, as to the depth of the well, the water-bearing formations intercepted by the well, and the maximum sustained pumping rate in gallons per minute.

(c) If the well described in the conditional permit is not constructed within one year from the date of the issuance of the conditional permit as provided in this subsection (1), the conditional permit shall expire and be of no force or effect; except that, upon a showing of good cause, the commission may grant one extension of time only for a period not to exceed one year. If the well has been constructed timely but the completion information required by this subsection (1) has not been furnished to the commission, the procedures specified in subsection (6) of this section shall apply.

(2) (a) If the well or wells described in a conditional permit have been constructed in compliance with subsection (1) of this section, the applicant, within three years after the date of the issuance of said permit, shall furnish by sworn affidavit, in the form prescribed by the commission, evidence that water from such well or wells has been put to beneficial use; except that the requirements of this paragraph (a) shall not apply to a well described in a conditional permit issued on or after July 1, 1991, to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers.

(b) Such affidavit shall be prima facie evidence of the matters contained therein but shall be subject to objection by others, including ground water management districts, claiming to be injured thereby and to such verification and inquiry as the commission shall consider appropriate in each particular case.

(c) If such required affidavit is not furnished to the commission within the time and as provided in this subsection (2), the conditional permit shall expire and be of no force or effect except as provided in subsection (4) of this section.

(d) If the well described in a conditional permit issued on or after July 1, 1991, to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers has been constructed in compliance with subsection (1) of this section, the applicant shall file a notice with the commission of commencement of beneficial use on a form prescribed by the commission within thirty days after the first beneficial use of any water withdrawn from such well.

(3) (a) (I) To the extent that the commission finds that water has been put to a beneficial use and that the other terms of the conditional permit have been complied with and after publication of the information required in the final permit, as provided in section 37-90-112, the commission shall order the state-engineer to issue a final permit to use designated

ground water, containing such limitations and conditions as the commission deems necessary to prevent waste and to protect the rights of other appropriators. In determining the extent of beneficial use for the purpose of issuing final permits, the commission may use the same criteria for determining the amount of water used on each acre that has been irrigated that is used in evaluating the amount of water available for appropriation under section 37-90-107. The provisions of this subparagraph (I) shall not apply to a well described in a conditional permit issued on or after July 1, 1991, to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers.

(II) A final permit is not required to be issued for a well described in a conditional permit issued on or after July 1, 1991, to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers. For such a well, a conditional permit, subject to the conditions of issuance of such a permit, shall be considered a final determination of a well's water right if the well is in compliance with all other applicable requirements of this article.

(b) In determining the extent of beneficial use prior to the issuance of a final permit, the commission may either increase or decrease the quantity of water and the amount of irrigated acreage, if any, according to the evidence presented to the commission, but no increase shall be permitted which will increase the quantity of water beyond that authorized by the original decree, conditional permit, registration statement, or other well permit issued prior to basin designation or which otherwise will unreasonably affect the rights of other appropriators.

(c) Any owner of an existing valid conditional permit issued before July 1, 1978, may file with the commission an amended statement of beneficial use, in the form prescribed by the commission, on or before December 31, 1979, and not thereafter, if any such change occurred and was approved on or before August 5, 1977.

(4) The procedural requirement that a statement of beneficial use shall be filed shall apply to all permits wherein the water was put to beneficial use since May 17, 1965. If information pertaining to completion of the well as required in subsection (1) of this section has been received but evidence that water has been placed to beneficial use has not been received as of three years after the date of issuance of the conditional permit, the commission shall so notify the applicant by certified mail. The notice shall give the applicant the opportunity to submit proof that the water was put to beneficial use prior to three years after the date of issuance of the conditional permit. The proof must be received by the commission within twenty days after receipt of the notice by the applicant, and, if the conditional permit was issued on or after July 14, 1975, the proof must be accompanied by a filing fee of thirty dollars. If the commission finds the proof to be satisfactory, the conditional permit shall remain in force and effect. The commission shall consider any records of the commission and any evidence provided to the commission and all other matters set forth in this section in determining whether the conditional permit should remain in force and effect.

(5) All final permits shall set forth the following information as a minimum:

- (a) The priority date;
 - (b) The name of the claimant;
 - (c) The quarter-quarter in which the well is located;
 - (d) The maximum annual volume of the appropriation in acre-feet per year;
 - (e) The maximum pumping rate in gallons per minute; and
 - (f) The maximum number of acres which have been irrigated, if used for irrigation.
- (6) The procedural requirement that the well completion information

Paul Anderson (pandlic@comcast.net)

John

INBOX CONTACTS CALENDAR Mailbox... View... EMC | U... Rec. Seps... SEARCH... Re: CDPHE...

Compose Delete Move Open Actions

Inbox (78) Drafts (12) Sent Spam (1) Trash (19) INBOX RE: CDPHE Final Permit non-issuance for Wells 1 (from pandlic@comcast.net to you • 6 min) Tel 25

3 Attachments 349 KB Save all to PDF (11KB) PDF (20KB) PDF (111KB) 2/23/13 Final Permit 13-72.pdf 37-501-10-1 Form Permit -

John, after reviewing the statute cited in Keith's letter I think there is no need for a new SBU to be submitted for permit # 17048-F. The statute is attached, but I've pasted the pertinent section here.

(3)(a) If the well or wells described in a conditional permit have been constructed in compliance with subsection (1) of this section, the applicant, within three years after the date of the issuance of said permit, shall furnish by sworn affidavit, in the form prescribed by the commission, evidence that water from such well or wells has been put to beneficial use, except that this paragraph (a) does not apply to a well described in a conditional permit to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie Fox Hills aquifers. (emphasis added)

I think the bolded language above seems pretty definitive in eliminating any requirement for a SBU, especially since this particular section was amended by SB 13-72 (copy attached); see the first "editor's note" after the statute "source" section. I checked a prior version of this statute subsection, under that version the SBU would not have been required for wells permitted after 1991 - I've attached a copy of the prior version of the statute here.

So, presuming compliance with all other sections of the statute the conditional permit is the final permit per Keith's letter and the filing of a SBU is no longer required

Please do not hesitate to contact me with any other questions. Thanks again

Paul C. Anderson, LLC P.O. Box 50631 Colorado Springs, CO 80949-0631 (719) 510-9428 pandlic@comcast.net

Please consider the environment before printing this e-mail

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From: "John McGinn" <jmcginn@jds hydro.com> To: pandlic@comcast.net Cc: "Tammy Bailey" <tbailey@jds hydro.com>, "Steve Knepper PBHMD" <steve@pbhmd.com>, "Leon Gomes (lgomes@sdmsi.com)" <lgomes@sdmsi.com>, "Teigan Gulliver" <tgulliver@jds hydro.com> Sent: Thursday, October 24, 2013 11:20:57 AM Subject: Re: CDPHE Final Permit non-issuance for Wells 1(A-1), 2(A-2) and DA-2

Yes if it prelude to a pass, I would hate to draw attention to our "Statement of Financial Use" issue. Let's talk after you've had a chance to mull it over.

John P. McGinn JDS-Hydro Consultants, Inc 545 East Pikes Peak Ave. Suite 300 Colorado Springs, CO 80903 phone 719 327-0072 fax 719 471-3401

From: "pandlic@comcast.net" <pandlic@comcast.net> To: John McGinn <jmcginn@jds hydro.com> Cc: Tammy Bailey <tbailey@jds hydro.com>, Steve Knepper PBHMD <steve@pbhmd.com>, Leon Gomes (lgomes@sdmsi.com) <lgomes@sdmsi.com>, Teigan Gulliver <tgulliver@jds hydro.com>, Paul Anderson <pandlic@comcast.net> Sent: Thursday, October 24, 2013 11:18 AM Subject: Re: CDPHE Final Permit non-issuance for Wells 1(A-1), 2(A-2) and DA-2

John, I've responded within the text of your message below. Thanks

Paul C. Anderson, LLC P.O. Box 50631 Colorado Springs, CO 80949-0631 (719) 510-9428 pandlic@comcast.net

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required by subsection (1) of this section be furnished to the commission shall apply to all permits issued after May 17, 1965. If the well has been constructed within twenty-four months after the date of issuance of the permit where the permit was issued before June 7, 1979, or within twelve months after the date of issuance of the permit where the permit was issued on or after June 7, 1979, or by the expiration date of the permit, including any extension, but the completion information has not been furnished to the commission within six months after said allowable time for the well completion, the commission shall so notify the applicant by certified mail. The notice shall give the applicant the opportunity to submit proof that the well was completed within the time specified above or by the expiration date of the permit and to submit the information required by subsection (1) of this section and a showing that, due to excusable neglect, inadvertence, or mistake, the applicant failed to submit the evidence and information on time. The proof and information must be received by the commission within twenty days after receipt of the notice by the applicant and must be accompanied by a filing fee of thirty dollars. If the commission finds the proof to be satisfactory, the permit shall remain in force and effect. The commission shall consider any records of the commission and any evidence provided to the commission and all other matters set forth in this section in determining whether the permit should remain in force and effect.

(7) Notwithstanding the amount specified for any fee in this section, the commission by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402(3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commission by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402(4), C.R.S.

Source: L. 65: R&RE, p. 1251, § 1. C.R.S. 1963: § 148-18-7. L. 71: p. 1314, § 6. L. 75: (3) amended and (4) added, p. 1394, § 1, effective July 14. L. 79: (1) to (3) R&RE, p. 1371, § 2, effective June 7. L. 85: (1) (c), (3) (a), (3) (b), and (4) amended and (5) and (6) added, p. 1172, § 2, effective May 31. L. 86: (6) amended, p. 1221, § 34, effective May 30. L. 92: (4), (5) (c), and (6) amended, p. 2298, § 3, effective March 19. L. 94: (1) (c) and (2) (a) amended and (2) (d) added, p. 1746, § 1, effective July 1. L. 98: (7) added, p. 1344, § 72, effective June 1; (2) (a), (2) (d), (3) (a), (4), and (6) amended, p. 1218, § 7, effective August 5.

ANNOTATION

Law reviews. For article, "Oil Shale and Water Quality: The Colorado Prospectus Under Federal, State, and International Law", see 58 Den. L.J. 715 (1981).

Annotator's note. The following annotations include cases decided under former provision similar to this section.

The general assembly intended that the extent of beneficial use would limit the ground water appropriator by providing for the issuance of final permits based upon proof of beneficial use. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Regardless of the quantity specified in a decree, the amount of water actually applied to beneficial use defines the full extent of the water right. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

The general assembly intended that the commission engage in a confirmatory investigation and that the issuance of final permits be a meaningful action. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Where the commission fails to undertake an independent investigation to determine if the amount of water claimed is put to beneficial use prior to issuing a final permit, the commission procedure is not in compliance

with statutory scheme. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Commission must implement legislative scheme. The commission cannot rely upon conditional permits as though they are enforceable "existing claims" without implementing the legislative scheme which includes the issuance of final permits. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

The final permit is essential to the legislative scheme for the administration of ground water rights. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Vested right in water not acquired after conditional permit expires. This article does not contemplate that appropriators may acquire a vested right in water put to beneficial use after their conditional permits have expired. *Berens v. Ground Water Comm'n*, 200 Colo. 170, 614 P.2d 352 (1980).

Conditional permits do not permit their holders to sleep on water rights and later expand their use to the full extent of their permits. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978); *Peterson v. Ground Water Comm'n*, 195 Colo. 508, 579 P.2d 629 (1978).

Conditional permit to last one year. Conditional permits expire and are of no effect one year after their issuance unless the statutory requirements necessary for the issuance of a final permit have been satisfied, or the commission has extended a conditional permit for a time certain for good cause shown, or the appropriator has submitted well completion data, but has failed to submit proof of beneficial use, where upon the appropriator is entitled to notice and 20 days to provide the missing information. *Peterson v. Ground Water Comm'n*, 195 Colo. 508, 579 P.2d 629 (1978).

Subsection (3) reflects a legislative determination that most designated ground water appropriations can be completed within one year, but also permits the commission to grant extensions upon good cause shown to avoid unjust results. *Kuiper v. Warren*, 195 Colo. 541, 580 P.2d 32, cert. denied, 439 U.S. 984, 99 S.Ct. 575, 58 L.Ed.2d 56 (1978).

Extension procedure and due diligence doctrine protect conditional ground water appropriators. The statutory extension procedure of this section and the doctrine of due diligence afford ground water appropriators, who are reasonably proceeding to complete appropriations under conditional rights, protection against loss of their rights. *Kuiper v. Warren*, 195 Colo. 541, 580 P.2d 32, cert. denied, 439 U.S. 984, 99 S.Ct. 575, 58 L.Ed.2d 56 (1978).

Beneficial uses. Land reclamation and dust control are proper beneficial uses for appropriations of tributary and nontributary water. *State Dept. of Natural Res. v. Southwestern Colo. Water Conservation Dist.*, 671 P.2d 1294 (Colo. 1983), cert. denied, 466 U.S. 944, 104 S.Ct. 1929, 80 L.Ed.2d 474 (1984).

Intent to put water to beneficial use must not be speculative. Anti-speculative doctrine of *Colo. River Water Conservation Dist. v. Vidler Tunnel Water Co.* (197 Colo. 413, 594 P.2d 566 (1979)) requiring more than mere future plans to beneficially use water, applies to appropriations of groundwater in designated ground water basins. *Jaeger v. Colo. Ground Water Comm'n*, 746 P.2d 515 (Colo. 1987).

When extent of beneficial use is fixed. Normally, the extent of beneficial use and the measure of the water right is fixed at the time a final decree is entered. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

The procedure set out in this section places the burden on the appropriator to prove that he has made a valid appropriation consistent with Colorado law. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Applied in Danielson v. Kerbs AG., Inc., 646 P.2d 363 (Colo. 1982).

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NOTE: The governor signed this measure on 3/15/2013.

An Act

SENATE BILL 13-072

BY SENATOR(S) Hodge, Baumgardner, Brophy, Giron, Roberts, Schwartz, Carroll;
also REPRESENTATIVE(S) Sonnenberg, Fischer, Coram, Ginal, Humphrey, Lebsack, McLachlan, Pettersen, Vigil, Young.

CONCERNING THE DELETION OF THE REQUIREMENT FOR A FINAL PERMIT FOR ALL WELLS WITHDRAWING DESIGNATED GROUND WATER FROM THE DENVER BASIN AQUIFERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 37-90-108, amend (2) (a), (2) (d), and (3) (a) as follows:

37-90-108. Final permit - evidence of well construction and beneficial use - limitations. (2) (a) If the well or wells described in a conditional permit have been constructed in compliance with subsection (1) of this section, the applicant, within three years after the date of the issuance of said permit, shall furnish by sworn affidavit, in the form prescribed by the commission, evidence that water from such well or wells has been put to beneficial use; except that ~~the requirements of this paragraph (a) shall~~ DOES not apply to a well described in a conditional permit ~~issued on or after July 1, 1991,~~ to withdraw designated ground water from the Dawson,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

Denver, Arapahoe, or Laramie-Fox Hills aquifers.

(d) If the well described in a conditional permit issued ~~on or after July 1, 1991,~~ to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers has been constructed in compliance with subsection (1) of this section, the applicant shall file a notice with the commission of commencement of beneficial use on a form prescribed by the commission within thirty days after the first beneficial use of any water withdrawn from ~~such~~ THE well.

(3) (a) (I) To the extent that the commission finds that water has been put to a beneficial use and that the other terms of the conditional permit have been complied with and after publication of the information required in the final permit, as provided in section 37-90-112, the commission shall order the state engineer to issue a final permit to use designated ground water, containing such limitations and conditions as the commission deems necessary to prevent waste and to protect the rights of other appropriators. In determining the extent of beneficial use for the purpose of issuing final permits, the commission may use the same criteria for determining the amount of water used on each acre that has been irrigated that is used in evaluating the amount of water available for appropriation under section 37-90-107. ~~The provisions of This subparagraph (I) shall~~ DOES not apply to a well described in a conditional permit issued ~~on or after July 1, 1991,~~ to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers.

(II) A final permit is not required to be issued for a well described in a conditional permit ~~issued on or after July 1, 1991,~~ to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers. For such a well, a conditional permit, subject to the conditions of issuance of such a permit, shall be considered a final determination of a well's water right if the well is in compliance with all other applicable requirements of this article.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or

part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to permits issued for designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers before, on, or after the applicable effective date of this act.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

Colorado Revised Statutes

- Colorado Revised Statutes
- TITLE 37 WATER AND IRRIGATION
- WATER RIGHTS AND IRRIGATION
- Underground Water
- ARTICLE 90 Underground Water

37-90-108. Final permit - evidence of well construction and beneficial use - limitations.

(1) (a) After having received a conditional permit to appropriate designated ground water, the applicant, within one year from the date of the issuance of said permit, shall construct the well or other works necessary to apply the water to a beneficial use.

(b) The applicant, upon completion of the well, shall furnish information to the commission, in the form prescribed by the commission, as to the depth of the well, the water-bearing formations intercepted by the well, and the maximum sustained pumping rate in gallons per minute.

(c) If the well described in the conditional permit is not constructed within one year from the date of the issuance of the conditional permit as provided in this subsection (1), the conditional permit shall expire and be of no force or effect; except that, upon a showing of good cause, the commission may grant one extension of time only for a period not to exceed one year. If the well has been constructed timely but the completion information required by this subsection (1) has not been furnished to the commission, the procedures specified in subsection (6) of this section shall apply.

(2) (a) If the well or wells described in a conditional permit have been constructed in compliance with subsection (1) of this section, the applicant, within three years after the date of the issuance of said permit, shall furnish by sworn affidavit, in the form prescribed by the commission, evidence that water from such well or wells has been put to beneficial use; except that this paragraph (a) does not apply to a well described in a conditional permit to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers.

(b) Such affidavit shall be prima facie evidence of the matters contained therein but shall be subject to objection by others, including ground water management districts, claiming to be injured thereby and to such verification and inquiry as the commission shall consider appropriate in each particular case.

(c) If such required affidavit is not furnished to the commission within the time and as provided in this subsection (2), the conditional permit shall expire and be of no force or effect except as provided in subsection (4) of this section.

(d) If the well described in a conditional permit issued to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers has been constructed in compliance with subsection (1) of this section, the applicant shall file a notice with the commission of commencement of beneficial use on a form prescribed by the commission within thirty days after the first beneficial use of any water withdrawn from the well.

(3) (a) (I) To the extent that the commission finds that water has been put to a beneficial use and that the other terms of the conditional permit have been complied with and after publication of the information required in the final permit, as provided in section 37-90-112, the commission shall order the state engineer to issue a final permit to use designated ground water, containing such limitations and conditions as the commission deems necessary to prevent waste and to protect the rights of other appropriators. In determining the extent of beneficial use for the purpose of issuing final permits, the commission may use the same criteria

*170 ac-ft
40
200 ac-ft*

for determining the amount of water used on each acre that has been irrigated that is used in evaluating the amount of water available for appropriation under section ~~37-90-107~~. This subparagraph (I) does not apply to a well described in a conditional permit issued to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers.

(II) A final permit is not required to be issued for a well described in a conditional permit to withdraw designated ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers. For such a well, a conditional permit, subject to the conditions of issuance of such a permit, shall be considered a final determination of a well's water right if the well is in compliance with all other applicable requirements of this article.

(b) In determining the extent of beneficial use prior to the issuance of a final permit, the commission may either increase or decrease the quantity of water and the amount of irrigated acreage, if any, according to the evidence presented to the commission, but no increase shall be permitted which will increase the quantity of water beyond that authorized by the original decree, conditional permit, registration statement, or other well permit issued prior to basin designation or which otherwise will unreasonably affect the rights of other appropriators.

(c) Any owner of an existing valid conditional permit issued before July 1, 1978, may file with the commission an amended statement of beneficial use, in the form prescribed by the commission, on or before December 31, 1979, and not thereafter, if any such change occurred and was approved on or before August 5, 1977.

(4) The procedural requirement that a statement of beneficial use shall be filed shall apply to all permits wherein the water was put to beneficial use since May 17, 1965. If information pertaining to completion of the well as required in subsection (1) of this section has been received but evidence that water has been placed to beneficial use has not been received as of three years after the date of issuance of the conditional permit, the commission shall so notify the applicant by certified mail. The notice shall give the applicant the opportunity to submit proof that the water was put to beneficial use prior to three years after the date of issuance of the conditional permit. The proof must be received by the commission within twenty days after receipt of the notice by the applicant, and, if the conditional permit was issued on or after July 14, 1975, the proof must be accompanied by a filing fee of thirty dollars. If the commission finds the proof to be satisfactory, the conditional permit shall remain in force and effect. The commission shall consider any records of the commission and any evidence provided to the commission and all other matters set forth in this section in determining whether the conditional permit should remain in force and effect.

(5) (a) All final permits must set forth the following information as a minimum:

(I) The priority date;

(II) The name of the claimant;

(III) The quarter-quarter in which the well is located;

(IV) The maximum annual volume of the appropriation in acre-feet per year;

(V) The maximum pumping rate in gallons per minute; and

(VI) The maximum number of acres that have been irrigated, if used for irrigation.

(b) Notwithstanding any rule of law to the contrary other than a change of use case under section ~~37-90-111~~(1)(g), once the state engineer issues a final permit for the withdrawal of designated groundwater pursuant to this section, a reduction in the amount of water used pursuant to the

permit due to the conservation of water is not grounds to reduce:

(I) The maximum annual volume of the appropriation in acre-feet per year;

(II) The maximum pumping rate in gallons per minute; or

(III) The maximum number of acres that have been irrigated, if used for irrigation.

(6) The procedural requirement that the well completion information required by subsection (1) of this section be furnished to the commission shall apply to all permits issued after May 17, 1965. If the well has been constructed within twenty-four months after the date of issuance of the permit where the permit was issued before June 7, 1979, or within twelve months after the date of issuance of the permit where the permit was issued on or after June 7, 1979, or by the expiration date of the permit, including any extension, but the completion information has not been furnished to the commission within six months after said allowable time for the well completion, the commission shall so notify the applicant by certified mail. The notice shall give the applicant the opportunity to submit proof that the well was completed within the time specified above or by the expiration date of the permit and to submit the information required by subsection (1) of this section and a showing that, due to excusable neglect, inadvertence, or mistake, the applicant failed to submit the evidence and information on time. The proof and information must be received by the commission within twenty days after receipt of the notice by the applicant and must be accompanied by a filing fee of thirty dollars. If the commission finds the proof to be satisfactory, the permit shall remain in force and effect. The commission shall consider any records of the commission and any evidence provided to the commission and all other matters set forth in this section in determining whether the permit should remain in force and effect.

(7) Notwithstanding the amount specified for any fee in this section, the commission by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402(3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commission by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402(4), C.R.S.

Source: L. 65: R&RE, p. 1251, § 1. C.R.S. 1963: § 148-18-7. L. 71: p. 1314, § 6. L. 75: (3) amended and (4) added, p. 1394, § 1, effective July 14. L. 79: (1) to (3) R&RE, p. 1371, § 2, effective June 7. L. 85: (1) (c), (3) (a), (3) (b), and (4) amended and (5) and (6) added, p. 1172, § 2, effective May 31. L. 86: (6) amended, p. 1221, § 34, effective May 30. L. 92: (4), (5) (c), and (6) amended, p. 2298, § 3, effective March 19. L. 94: (1) (c) and (2) (a) amended and (2) (d) added, p. 1746, § 1, effective July 1. L. 98: (7) added, p. 1344, § 72, effective June 1; (2) (a), (2) (d), (3) (a), (4), and (6) amended, p. 1218, § 7, effective August 5. L. 2013: (2) (a), (2) (d), and (3) (a) amended, (SB 13-072), ch. 30, p. 73, § 1, effective August 7; (5) amended, (SB 13-075), ch. 35, p. 101, § 1, effective August 7.

Editor's note: (1) Section 2 of chapter 30, Session Laws of Colorado 2013, provides that the act amending subsections (2) (a), (2) (d), and (3) (a) applies to permits issued for designated groundwater from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers before, on, or after August 7, 2013.

(2) Section 2 of chapter 35, Session Laws of Colorado 2013, provides that the act amending subsection (5) applies to determinations of water volume, water rate, and acreage occurring on or after August 7, 2013.

ANNOTATION

Law reviews. For article, "Oil Shale and Water Quality: The Colorado Prospectus Under Federal, State, and International Law", see 58 Den. L.J. 715 (1981).

Annotator's note. The following annotations include cases decided under former provision similar to this section.

The general assembly intended that the extent of beneficial use would limit the ground water appropriator by providing for the issuance of final permits based upon proof of beneficial use. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Regardless of the quantity specified in a decree, the amount of water actually applied to beneficial use defines the full extent of the water right. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

The general assembly intended that the commission engage in a confirmatory investigation and that the issuance of final permits be a meaningful action. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Where the commission fails to undertake an independent investigation to determine if the amount of water claimed is put to beneficial use prior to issuing a final permit, the commission procedure is not in compliance with statutory scheme. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Commission must implement legislative scheme. The commission cannot rely upon conditional permits as though they are enforceable "existing claims" without implementing the legislative scheme which includes the issuance of final permits. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

The final permit is essential to the legislative scheme for the administration of ground water rights. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978).

Vested right in water not acquired after conditional permit expires. This article does not contemplate that appropriators may acquire a vested right in water put to beneficial use after their conditional permits have expired. *Berens v. Ground Water Comm'n*, 200 Colo. 170, 514 P.2d 352 (1980).

Conditional permits do not permit their holders to sleep on water rights and later expand their use to the full extent of their permits. *Thompson v. Colo. Ground Water Comm'n*, 194 Colo. 489, 575 P.2d 372 (1978); *Peterson v. Ground Water Comm'n*, 195 Colo. 508, 579 P.2d 629 (1978).

Conditional permit to last one year. Conditional permits expire and are of no effect one year after their issuance unless the statutory requirements necessary for the issuance of a final permit have been satisfied, or the commission has extended a conditional permit for a time certain for good cause shown, or the appropriator has submitted well completion data, but has failed to submit proof of beneficial use, where upon the appropriator is entitled to notice and 20 days to provide the missing information. *Peterson v. Ground Water Comm'n*, 195 Colo. 508, 579 P.2d 629 (1978).

Subsection (3) reflects a legislative determination that most designated ground water appropriations can be completed within one year, but also permits the commission to grant extensions upon good cause shown to avoid unjust results. *Kuiper v. Warren*, 195 Colo. 541, 580 P.2d 32, cert. denied, 439 U.S. 984, 99 S.Ct. 575, 58 L.Ed.2d 56 (1978).

Extension procedure and due diligence doctrines protect conditional ground water appropriators. The statutory extension procedure of this section and the doctrine of due diligence afford ground water appropriators, who are reasonably proceeding to complete appropriations under conditional rights, protection against loss of their rights. *Kuiper v. Warren*, 195 Colo. 541, 580 P.2d 32, cert. denied, 439 U.S. 984, 99 S.Ct. 575, 58 L.Ed.2d 56 (1978).

Beneficial uses. Land reclamation and dust control are proper

beneficial uses for appropriations of tributary and nontributary water. State Dept. of Natural Res. v. Southwestern Colo. Water Conservation Dist., 671 P.2d 1193 (Colo. 1983), cert. denied, 466 U.S. 944, 104 S.Ct. 1929, 80 L.Ed.2d 474 (1984).

Intent to put water to beneficial use must not be speculative. Anti-speculative doctrine of Colo. River Water Conservation Dist. v. Vidler Tunnel Water Co. (197 Colo. 413, 594 P.2d 566 (1979)) requiring more than mere future plans to beneficially use water, applies to appropriations of groundwater in designated ground water basins. Jaeger v. Colo. Ground Water Comm'n, 746 P.2d 515 (Colo. 1987).

When extent of beneficial use is fixed. Normally, the extent of beneficial use and the measure of the water right is fixed at the time a final decree is entered. Thompson v. Colo. Ground Water Comm'n, 194 Colo. 489, 575 P.2d 372 (1978).

The procedure set out in this section places the burden on the appropriator to prove that he has made a valid appropriation consistent with Colorado law. Thompson v. Colo. Ground Water Comm'n, 194 Colo. 489, 575 P.2d 372 (1978).

Applied in Danielson v. Kerbs AG., Inc., 546 P.2d 363 (Colo. 1982).

Appendix A-3

FINDINGS OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF AN APPLICATION FOR A PERMIT TO CONSTRUCT A WELL AND APPROPRIATE GROUND WATER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN.

APPLICANT: PAINT BRUSH HILLS METROPOLITAN DISTRICT

AQUIFER: ARAPAHOE

PERMIT NO.: 46553-F

In compliance with Sections 37-90-107(1) and 37-90-111(5), C.R.S., Paint Brush Hills Metropolitan District, (hereinafter "applicant") submitted an application for a permit to construct a well and appropriate ground water from the Arapahoe Aquifer. Based on information provided by the applicant and records of the Division of Water Resources, and in accordance with the Designated Basin Rules (2 CCR 410-1), the Ground Water Commission finds as follows:

1. The application was received complete by the Ground Water Commission on March 12, 1996.
2. a. The applicant proposes to appropriate ground water from the Arapahoe Aquifer underlying 1440 acres of land generally described as the SE1/4 of Section 23, the S1/2 of Section 24, all of Section 25 and the E1/2 of Section 26, all in Township 12 South, Range 65 West of the 6th Principal Meridian. According to a signed statement dated February 28, 1996, the applicant claims the ownership or control of the ground water in the Arapahoe Aquifer underlying this land area, as further described in said affidavit which is attached hereto as Exhibit A. The proposed annual appropriation is 302 acre-feet.

b. The applicant proposes to construct a well in the SE1/4 of the NE1/4 of Section 26, Township 12 South, Range 65 West of the 6th Principal Meridian at a location 2800 feet from the North section line and 100 feet from the East section line of said Section 26. The well would be constructed to divert ground water from the Arapahoe Aquifer (hereinafter "aquifer") with a maximum pumping rate of 200 g.p.m.
3. The land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and Ground Water Management District. The Ground Water Commission has jurisdiction.
4. The applicant proposes to apply the appropriated ground water to the following beneficial uses: municipal use within the service area of the Paint Brush Hills Metropolitan District.
5. The location of the proposed well is more than 600 feet from any existing large-capacity well completed in the aquifer.
6. The applicant will own or control the land on which the well will be constructed.

7. The quantity of water in the aquifer underlying the 1440 acres of land claimed by the applicant is 35,740 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
 - a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 146 feet, based on the geophysical log for the well with permit number 30593-F.
8. At this time, there is no substantial artificial recharge which would affect the aquifer within a 100-year period.
9. Pursuant to Section 37-90-111(5), C.R.S., the Ground Water Commission is required to allocate designated ground water in the aquifer on the basis of landownership and a 100-year aquifer life. Therefore, the maximum annual appropriation which could be allowed pursuant to the data in the paragraphs above for the 1440 acre described land area is 367 acre-feet.
10. The ability of the well, with any additional wells, to withdraw the authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
11. Withdrawal of ground water from the aquifer underlying the land claimed by the applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and therefore the ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules.
12. A review of the records of the Ground Water Commission has disclosed that the issuance of the requested permit would result in unreasonable impairment of existing water rights unless terms and conditions are included to prevent such injurious effect. The well permit numbers, rate of diversion, and other relevant data concerning such rights are set forth in the attached Exhibit B. To prevent material injury to such existing water rights, the quantity of water claimed by the applicant underlying the land area described in Exhibit A, which is considered unappropriated, has been reduced to a maximum annual amount of 182 acre-feet. This reduction is partially based on a calculation of the area necessary to provide a quantity of water underlying such lands as would be sufficient for the persons entitled to divert water under existing claimed rights to divert the maximum (average) annual amount of water from the aquifer for the minimum useful life of the aquifer (100 years). The effect of this calculation is to effectively reduce the land available for calculating the quantity of water underlying the land owned and claimed by the applicant to be served to 1192 acres. Additional reduction is based on the claimed prior appropriation of 113 acre-feet per year of the available ground water in the aquifer underlying the 1440 acre tract.

357
(1192 / 1440)



295
- 113

182

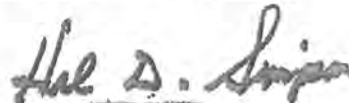
13. In accordance with Rules 5.3.8 and 5.3.9 of the Designated Basin Rules, additional wells may be permitted to withdraw the total allowed appropriation together with the proposed well.
14. On July 23, 1993, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting recommendations concerning this application. A letter from the district dated August 11, 1993, requested more complete information and more time to review the application. A letter from the district dated November 17, 1993, indicated that processing of the application should not proceed until questions regarding the ownership of lands claimed by the applicants were resolved. The application as originally submitted to the Commission claimed the control of ground water in the Arapahoe Aquifer partially based on the consent of landowners and also on the control of ground water in the aquifer underlying described land areas which had been separated from landownership. The resubmitted application, received complete by the Commission on March 12, 1995, clarified the basis of the claim for the proposed appropriation.
15. The Commission Staff has evaluated the application relying on the claims to control of the water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(2) and 37-90-112, C.R.S., the application was published in the Gazette Telegraph newspaper on March 21 and 28, 1996.
17. No objections to the proposed appropriation were received within the time limit set by statute.
18. The Ground Water Commission finds that unreasonable impairment of existing water rights will not occur from approval of the appropriation and issuance of the well permit if the following conditions are complied with:
 - a. The well, and any additional wells approved by the Commission to withdraw this appropriation (hereinafter "additional wells"), must be constructed to withdraw water from only the Arapahoe Aquifer. At the proposed well location, the top of the aquifer is located approximately 1435 feet below ground surface and the bottom of the aquifer is located approximately 1915 feet below ground surface. Plain, non-perforated casing must be installed and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - b. Well permits for additional wells to withdraw the appropriation shall be available upon application, subject to approval by the Commission.
 - c. The entire depth of the well and any additional wells must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. The maximum annual amount of water to be diverted from the aquifer by the well, together with any additional wells, shall not exceed 182 acre-feet. The Commission may adjust the annual appropriation based on analysis of the geophysical logs if such analysis indicates that the initial estimate of the volume of water in storage was incorrect.

Applicant: Paint Brush Hills Metropolitan District
Aquifer: Arapahoe
Permit No.: 46553-F

Page 4

- e. The use of ground water from the appropriation shall be limited to the following uses: municipal use within the service area of the Paint Brush Hills Metropolitan District.
- f. No more than 98% of the ground water withdrawn annually from this well and any additional wells shall be consumed. The Commission may require the well owner to demonstrate periodically that no more than 98% of the water withdrawn from the well is being consumed.
- g. The maximum pumping rate of the well and any additional well shall not exceed 200 g.p.m.
- h. The well and any additional wells shall be constructed within 200 feet of the location specified on the individual permit application, but must be more than 600 feet from any existing large-capacity well completed in the aquifer. Any additional wells shall be located on the 1440 acre claimed area on land owned or controlled by the well owner.
- i. A totalizing flow meter shall be installed on the well and any additional wells and maintained by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission upon their request.
- j. The well owner shall mark the well and any additional wells in a conspicuous place with the permit number and the name of the aquifer. He shall take necessary means and precautions to preserve these markings.

Dated this 14th day of May, 1996.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: 
Craig M. Lis, P.E.
Supervisor, Designated Basins Branch

Prepared by: RAC

RWD-022

RECEIVED

MAR 13 '88

WATER RESOURCES
STATE ENGINEER
COLORADO

Statement of Land and Water Ownership

State of Colorado)
) ss.
County of El Paso)

The Affiant, Jerry A. Smith, is the President of Eagle Ranch Development Corp., a Colorado Corporation; Manager of the B.L.P.S. Company, L.L.C., a Colorado Limited Liability Company; and President of Paint Brush Hills Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado.

After first being duly sworn upon oath, deposes and states as follows:

HISTORY

(1) On January 31, 1980, Paint Brush I, a Colorado Limited Partnership received title to the Southeast 1/4 of Section 23; the South 1/2 of Section 24; all of Section 25; and the East 1/2 of Section 26 all in Township 12 S Range 65 W, in El Paso County, State of Colorado, including all the groundwater under said land and the water rights in and to the well permits No.17348-F, 17654-F and 17658-F. (Approximately 1,440 acres.)

(2) Commencing on December 31, 1980, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No.1, reserving to itself all groundwater and water rights in and to the Lower Dawson Arkose, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(3) Commencing on October 29, 1982, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No. 2, reserving to itself all groundwater and water rights in and to the Lower Dawson Arkose, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(4) Commencing on February 23, 1984, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No. 3, reserving to itself all groundwater and water rights in and to the Denver, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(5) On June 26, 1986, Paint Brush I conveyed by warranty deed to P.B.H.P. Joint Venture, all of Section 25 and the East 1/2 of Section 26 in Township 12 S Range 65 W in El Paso County, State of Colorado, including all of the groundwater and water rights under said land. Also conveyed was all of the groundwater and water rights reserved by Paint Brush I in deeds in Paint Brush Hills Filings 1, 2, and 3. (This land was approximately 950 Acres or the balance of the land not platted in the Filings 1, 2 and 3 of Paint Brush Hills.)

(6) On November 10, 1987, P.B.H.P. Joint Venture conveyed to Paint Brush Hills Metropolitan District all groundwater and water rights in the Dawson, Denver, Arapahoe and Laramie Fox Hills formations under land owned by it; well permits #17654-F, #17658-F and #17048-F; and the water and water rights in the (Lower Dawson), Denver, Arapahoe and Laramie-Fox Hills formations under all lots in Paint Brush Hills Filings No. 1, 2 and 3 in El Paso County, State of Colorado. (Land = 950 acres; Water underneath = 1,440 acres.) This deed also included and conveyed to the District 190.2 acre feet of water from the Arapahoe Aquifer which covered the water in Permit No. 30593-F.

(7) Commencing on June 20, 1988, P.B.H.P. Joint Venture conveyed to individuals six lots in Paint Brush Hills Filing No.4, reserving to itself all of the groundwater in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(8) On June 4, 1992, P.B.H.P. Joint Venture conveyed to Paint Brush Hills Metropolitan District approximately 100 Acres in a part of Section 25, Township 12 S, Range 65 W (being directly north of Paint Brush Hills Filing No.4) and 158 lots in Paint Brush Hills Filing No. 4 (being the balance of the lots not conveyed in Deed No. 7), including all groundwater and water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(9) On June 13, 1992, by warranty deed, P.B.H.P. Joint Venture conveyed to Eagle Ranch Development Corp., a Colorado Corporation, all of Section 25 in Township 12 S, Range 65 W, except the 100 acres deeded to Paint Brush Hills Metropolitan District (Deed No. 8) and Paint Brush Hills Filing No. 4, and the East 1/2 of Section 26, Township 12 S, Range 65 W, El Paso County, State of Colorado including all the groundwater and water rights under said land. (Approximately 750 acres.)

(10) Commencing on June 20, 1992 Paint Brush Metropolitan District started conveying lots in Paint Brush Hills Filing No. 4 to Eagle Ranch Development Corp. (and then to Lot Purchases), according to the ruling of the United States Federal District Court for Colorado, as a procedure to pay off the Bond Holders of the Paint Brush Hills Metropolitan District. In such individual deeds, Eagle Ranch Development Corp. reserved all of the groundwater and water rights in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(11) On August 25, 1995 Paint Brush Hills Metropolitan District conveyed to Eagle Ranch Development Corp., 40 Acres of the 100 Acres contained in the Deed of June 4, 1992. (Deed No. 8 herein.)

(12) Also on August 25, 1995 Eagle Ranch Development Corp. conveyed to B.L.P.S. Company, LLC (a sister company of Eagle Ranch Development Corp.) 40 acres (included in Deed No. 11 herein), which then was platted as Paint Brush Hills Filing No. 5, in El Paso County, State of Colorado.

(13) Commencing on December 29, 1995, the B.L.P.S. Company, LLC started conveying to Lot Purchasers, lots in Paint Brush Hills Filing No. 5 reserving to itself all the groundwater and water rights in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

OWNERSHIP

At the present time, the ownership of rights contained in the History above is as follows:

(1) Eagle Ranch Development Corp. owns (land only) the East 1/2 of Section 26 and all of Section 25, in Township 12 S Range 65 W, El Paso County, Colorado except Paint Brush Hills Filing No.'s 4 and 5, and the 100 acres referred to herein, or a total of 750 acres.

(2) Paint Brush Hills Metropolitan District owns (land and water and water rights) 60 acres in Section 25 in Township 12 S Ranch 65 W, El Paso County, Colorado; and all the water and water rights in the Denver (Lower Dawson), Arapahoe and Laramie-Fox hills formations under Paint Brush Hills Filing No.'s 1, 2 and 3; the water wells under permits #17048-F, #30593-F, #17654-F and 17658-F; all of the water and water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations under the East 1/2 of Section 26 and all of Section 25 (including Paint Brush Hills Filing No.'s 4 and 5), all in El Paso County, State of Colorado.

(3) The B.L.P.S. Company, L.L.C. owns (land only) the unsold lots in Paint Brush Hills Filing No. 5, (40 acres).

Affiant further deposes and says that Eagle Ranch Development Corp., the B.L.P.S. Company, L.L.C. and Paint Brush Hills Metropolitan District have not given up their right to appropriate the unappropriated non-tributary ground water from the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations underlying the SE 1/4 of Section 23, S 1/2 of Section 24, Section 25, and the E 1/2 of Section 26, in Township 12 S, R 65 West of the 6th Principal Meridian, El Paso County, State of Colorado, except as stated in the above

EXHIBIT B

APPLICANT: Paint Brush Hills Metropolitan District

AQUIFER: Arapahoe

WELL #1

PERMIT NUMBER	1/4	1/4	SEC	TWP	RNG	AF	ST	SY	RADIUS	AREA
17048-F	SW	SE	25	12S	65W	130.7	215	17	2235	248

AF = THE AMOUNT OF ANNUAL APPROPRIATION OF THE WELL, FROM THE ARAPAHOE AQUIFER, IN ACRE-FEET *

ST = THICKNESS OF THE SATURATED AQUIFER MATERIAL AT THE WELL LOCATION IN FEET, SB-6 DATA

SY = SPECIFIC YIELD OF THE SATURATED AQUIFER MATERIAL AT THE WELL LOCATION AS A PERCENT

RADIUS = IS THE RADIUS OF THE CYLINDER OF APPROPRIATION IN FEET

AREA = THE AREA OF THE APPLICANTS' LAND THAT IS OVERLAPPED BY THE CYLINDER OF APPROPRIATION IN ACRES.

* The well with Permit No. 17048-F is completed 46 percent in the Denver Aquifer and 54 percent in the Arapahoe Aquifer. Based on a claimed annual appropriation of 242 acre-feet, the annual amount of appropriation for the Arapahoe Aquifer was calculated to be 130.7 acre-feet. The cylinder is centered at the permit location for the well: a point 800 feet from the south section line and 1900 feet from the east section line of Section 25. The permit was issued on March 21, 1973, and is subject to Rule 5.3.3 of the Designated Basin Rules. The cylinder protects the claimed appropriation for this well. The amount of appropriation is based on the well owner's statements and is subject to verification by the Ground Water Commission and publication before issuance of a final permit.

WELL #2

PERMIT NUMBER	1/4	1/4	SEC	TWP	RNG	AF
30593-F	SW	NE	25	12S	65W	113

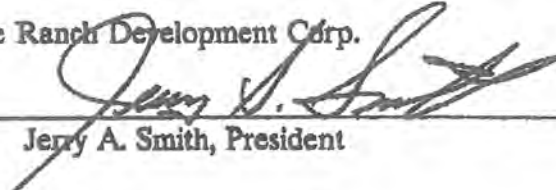
The well with Permit No. 30593-F has previously appropriated 113 acre-feet per year of the available ground water in the Arapahoe Aquifer underlying the 1440 acre land area described in Exhibit A. The amount of appropriation is based on the well owner's statements and is subject to verification by the Ground Water Commission and publication before issuance of a final permit.

And Eagle Ranch Development Corp. and the B.L.P.S. Company, L.L.C., consent to, and state that Paint Brush Hills Metropolitan District owns all of the unappropriated underground non-tributary water in the Dawson, Denver, Arapahoe and Laramie-Fox hills formations under the above described land, which equates to 1,440 acres.

Further, I claim and say that I have read the statements made herein, know the contents hereof, and the same are true to my own knowledge.

Eagle Ranch Development Corp.

By


Jerry A. Smith, President

Paint Brush Hills Metropolitan District

By


Jerry A. Smith


The B.L.P.S. Company, L.L.C.

By


Jerry A. Smith, Manager

Subscribed and sworn to before me on this 28th day of February, 1996 by Jerry A. Smith, to me personally known.

Witness my hand and official seal.


Notary Public



My Commission Expires: December 26, 1996

Appendix B-1

WATER SERVICE CONTRACT

This Contract is made and entered into effective the ^{8TH} day of September, 2003, by and between Meridian Service Metropolitan District (the "District") and Six Ninety Nine L.A., LLC, a Colorado limited liability company ("Purchaser").

RECITALS

- A. District is a quasi-municipal corporation and political subdivision of the state of Colorado with its principal office in El Paso County, Colorado.
- B. Purchaser is the owner of certain real property known as Falcon Hills which is serviced by the Paint Brush Hills Metropolitan District ("PBHMD").
- C. Portions of Purchaser's property are subject to the El Paso County 300 year water policy.
- D. The District receives some of its water from Cherokee Metropolitan District ("Cherokee") which takes water from the alluvium of the Upper Black Squirrel Creek Designated Ground Water Basin which water is considered to be "renewable water" pursuant to the El Paso County 300 year water policy and thus is exempt from the policy. Cherokee obtains its water from a series of municipal wells located in the boundaries of the Black Squirrel.
- E. Purchaser desires to purchase water from the District and the District desires to sell the same all on the terms and conditions as contained herein.

NOW, THEREFORE, based on the mutual promises and considerations contained herein, the parties agree as follows:

1. **CONTRACT FOR DELIVERY OF WATER.** The District hereby sells to Purchaser the right to receive up to 85 Acre Feet ("AF") of water delivered on an annual basis.
2. **PURCHASE PRICE.** Purchaser shall pay to the District the sum of \$5,000 per AF which price shall increase annually commencing on January 1, 2004 in relationship to the increase, if any, in the Denver-Boulder CPI, and, if not available, the nearest equivalent CPI. The price shall be paid at the time Purchaser requests delivery. Following purchase, Purchaser shall pay the District the actual costs of pumping the water conveyed pursuant to this agreement, which costs shall include electricity and reasonable wear and tear on equipment.
3. **DELIVERY.** Delivery shall be made available at a point on the District's municipal system mutually agreeable to the District and Purchaser. All costs of connection, including pumps, pipes, one-way check valves, and related equipment shall be done at the sole cost and expense of the Purchaser and shall be designed and constructed pursuant to the standards set by the District.
4. **PUMPING COSTS.** In addition to the Purchase Price, the Purchaser shall pay all reasonable and necessary pumping costs on a monthly basis in an amount to be mutually agreed

to by the parties at the time of delivery and taking into account the District's historic pumping costs.

5. LEASE. At any time that Purchaser takes delivery of all or part of the 85 AF of water, at the option of Purchaser, Purchaser may either (1) purchase said water as set forth in Section 2, or (2) lease the same. If leased, the lease price shall be at the same rate as the sale of bulk water by the District to the golf course located in and adjacent to the District's boundaries. On December 31, 2006, should the Purchaser have been leasing all or a portion of the water prior to that date, at the option of the District, the District can require Purchaser to purchase the amount of water which is being leased and the purchase price shall be as set forth in Section 2 above. Unless otherwise agreed by the parties hereto, should the District not exercise this purchase requirement, Purchaser may continue to lease up to 85 acre feet of water perpetually, subject to the terms and conditions of this Agreement.

6. TERM. This Agreement shall terminate at such time as Purchaser determines that it no longer needs this commitment for water.

7. PERPETUAL AGREEMENT. Insofar as this Contract affects water and water rights, it is the intention of the parties hereto that this Contract and obligation to deliver water be perpetual in nature according to the Colorado Supreme Court's decision in Cherokee Water District v. City of Colorado Springs.

8. MISCELLANEOUS.

a. This Contract shall be interpreted by and governed by the laws of the State of Colorado.

b. In the eventuality of any dispute over this Contract, the same shall be settled by binding and mandatory arbitration before one, mutually-agreed-to arbitrator in El Paso County, Colorado. The arbitrator shall make all decisions with regard to procedure and discovery and shall have the authority to issue injunctive relief. Should the parties be unable to agree on the arbitrator, the same shall be appointed by a District Court Judge, El Paso County, Colorado.

c. In the eventuality of any dispute over this Contract, the prevailing party shall be entitled to an award of all attorney fees and costs.

Entered the year and day first above written.

MERIDIAN SERVICE METROPOLITAN DISTRICT

BY: Jim H. Haines, VICE PRESIDENT

SIX NINETY NINE L.A., LLC

BY: Stella Fong

Appendix B-2

LIFT STATION AND WATER AGREEMENT

1. Parties. Paint Brush Hills Metropolitan District (the "District") is a quasi-municipal corporation and political subdivision of the state of Colorado which provides the water, sewer, and related services to the Falcon Hills development, and Six Ninety Nine Properties, LLC (the "Developer") is in the business of developing lots for sale to builders in Falcon Hills. As of December ____, 2003, the District and Developer agree as follows:

2. Lift Station. The District recently completed the construction of a lift station and related force main (collectively referred to below as the "lift station"). However, as the area served by the lift station builds out, it might be necessary to add additional storage to the lift station. Developer had previously promised to pay a portion of the cost of the lift station although the amount and timing of its payments had not been finalized. Developer hereby agrees to pay the District \$100,000 on or before February 1, 2004, an additional \$100,000 on or before February 1, 2005, and an additional \$200,000 on or before December 31, 2006, for a total payment of \$400,000, for the lift station.

3. Water Service Contract. Six Ninety Nine LA, LLC has assigned Developer its rights under the Water Service Contract dated September 8, 2003 between Six Ninety Nine LA, LLC and Meridian Service Metropolitan District, as a result of which Developer has the right to acquire and use up to 85 acre feet of water per year from Meridian Service Metropolitan District. A copy of the Water Service Contract is attached hereto as Exhibit A. Developer hereby assigns its rights under the Water Service Contract to the District in return for the payment of \$180,000 by the District to Developer on or before December 31, 2006; provided, however, that unless Developer gives its prior written consent to the contrary, the above-referenced 85 acre feet of water shall only be used to service customers within the present physical boundaries of the District and for plat approval purposes only for plats submitted by Developer or a related company.

4. Assignability. The water rights which Developer agrees to assign to the District pursuant to Section 3, above, may not be reassigned by the District except to a similar quasi-municipal corporation providing water and sewer services to Falcon Hills. In all other respects, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

5. Modification; Entire agreement. This Agreement may not be modified without the agreement of both parties and constitutes the entire agreement between the parties relating to payments for the lift station and the Water Service Contract. Any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement, but any and all other agreements between or relating to the District and Developer are hereby ratified and confirmed.

District:
Paint Brush Hills Metropolitan District
9548 Waterbury Dr.
Peyton, CO 80831

by Ellen Robley 4/2/04
Ellen Robley, District Administrator

Developer:
Six Ninety Nine Properties, LLC
545 E. Pikes Peak, Ste. 207
Colorado Springs, CO 80903

by Harold Fong 4/2/04
Harold Fong, Manager

Appendix C



Wm. CURTIS WELLS & CO. / consulting geologists
4361 east sandia street / ahwalukee, az 85044
telephone (480) 339-9475 / curt@curtwells.com

February 26, 2013

Ms. Ellen Robley
Paint Brush Hills Metropolitan District
9830 Liberty Grove Drive
Falcon, CO 80831

All via E-mail

Re: Continued Ground Water Consultation, Paint Brush Hills Metropolitan District, Water Supply,
Proposed Filing 13a, El Paso County, Colorado.
Job No. 6770

Dear Ellen:

I understand the District Board of Directors are soon to consider water service to the proposed 17-lot, Filing 13a. I am advised that the 17 proposed homes may be a part of a larger 550± homesite development, but for the purpose of this letter report, I am just considering the proposed filing. The objective of this report is to update the County on the District's water supply obligations and water rights portfolio. The water use estimates described herein match a 2003 agreement with the Colorado Division of Water Resources concerning which of the District's filing would be allocated water use at rates of 0.4 and 0.5 acre feet per year per residential unit. Currently, District's Filings 4 through 12 contain 719 dwellings and the water demands of these homeowners are listed on the attached Table I.

The general framework of Table I is essentially the same as the last water supply report that I prepared in 2004. The table has been updated to include additional wells tapping the Arapahoe and Laramie Fox Hills formations. Also water supply record keeping has vastly improved such that District records now illustrate the middle school (formerly Falcon High School) requires significantly more water than was previously estimated. For completeness, the water use table now lists park and greenbelt irrigation water supplied by the District.

Table I lists the District's water rights and the amount of ground water that currently can be used without further review by the Colorado Ground Water Commission. As shown on the table with or without the legally available Denver aquifer ground water, the District has water rights to service the proposed Filing 13a. Beyond this commitment and without the Denver aquifer there should be an excess

24,000 acre feet. This amount of water, if appropriated over 300 years at a rate of 0.4 acre feet per year per home, equals 200 future SFE's.

At build out of the proposed Filing 13a, the District's water supply planning number would be about 330 acre feet per year. This includes 736 homeowners using water at a rate of 0.4¹ acre feet per year plus 22 acre feet for the middle school, 14 acre feet for park irrigation and 0.2 acre feet to the church. Based on the current water supply records the District proves 15 percent of its supply in the warmest month of the year. This means 360 gallons per minute would have to be generated during this summer month to supply the existing filings along with Filing 13a. During August of 2012, the District provided 300± gallons per minute while operating only 7 of the 11 District wells, along with water delivered through the District's connection with Meridian Service Metropolitan District and this information is shown on the attached Table 2. By equipping some combination of Wells A-3, A-4, LFH-1 and LFH-2 the District should easily be able to supply water to the proposed filing.

I trust this information satisfies your immediate needs. If you have questions, please call.

Very truly yours,

Wm. Curtis Wells & Co.

Wm. Curtis Wells

Wm. Curtis Wells CPG
Consulting Ground Water Geologist

¹ Current water supply rate

Table I
 Paint Brush Hills Metropolitan District
 Water Supply Summary
 As of February 2013

Aquifer or Water Source	Determination or Permit No.	Ground Water or Water Availability			Wells Currently Appropriating Supply			
		Ground Water Appropriation	Ground Water Storage	Ground Water Currently Available For Appropriation				
		(af/yr)	(af)	(af)				
Dawson	719-BD	237(1)	23700	0				
Dawson, 50-Ac. (2)	unappropriated	20	2000	0				
Denver	214-BD	298	29800	29800				
Denver, 50-Ac. (2)	unappropriated	25.5	2550	0				
Arapahoe	46553-F	182	18200	18200	A-2(30593-F)	A-3(46553-F)	A-4(55193-F)	A-5(60862-F)
Arapahoe	unappropriated	90.6(3)	9060	0	A-6(64086-F)			
Laramie Foot Hills	47813-F	388	38800	38800	LPH-1(47813-F)	LPH-2(50877-F)	LPH-3(53192-F)	LPH-4(63429-F)
Guthrie Alluvial via Meridian M&D	Finding(4)	65	25300(5)	25500	612-RFP-R	27354-FY-R		
Total		1327	149610	112300				

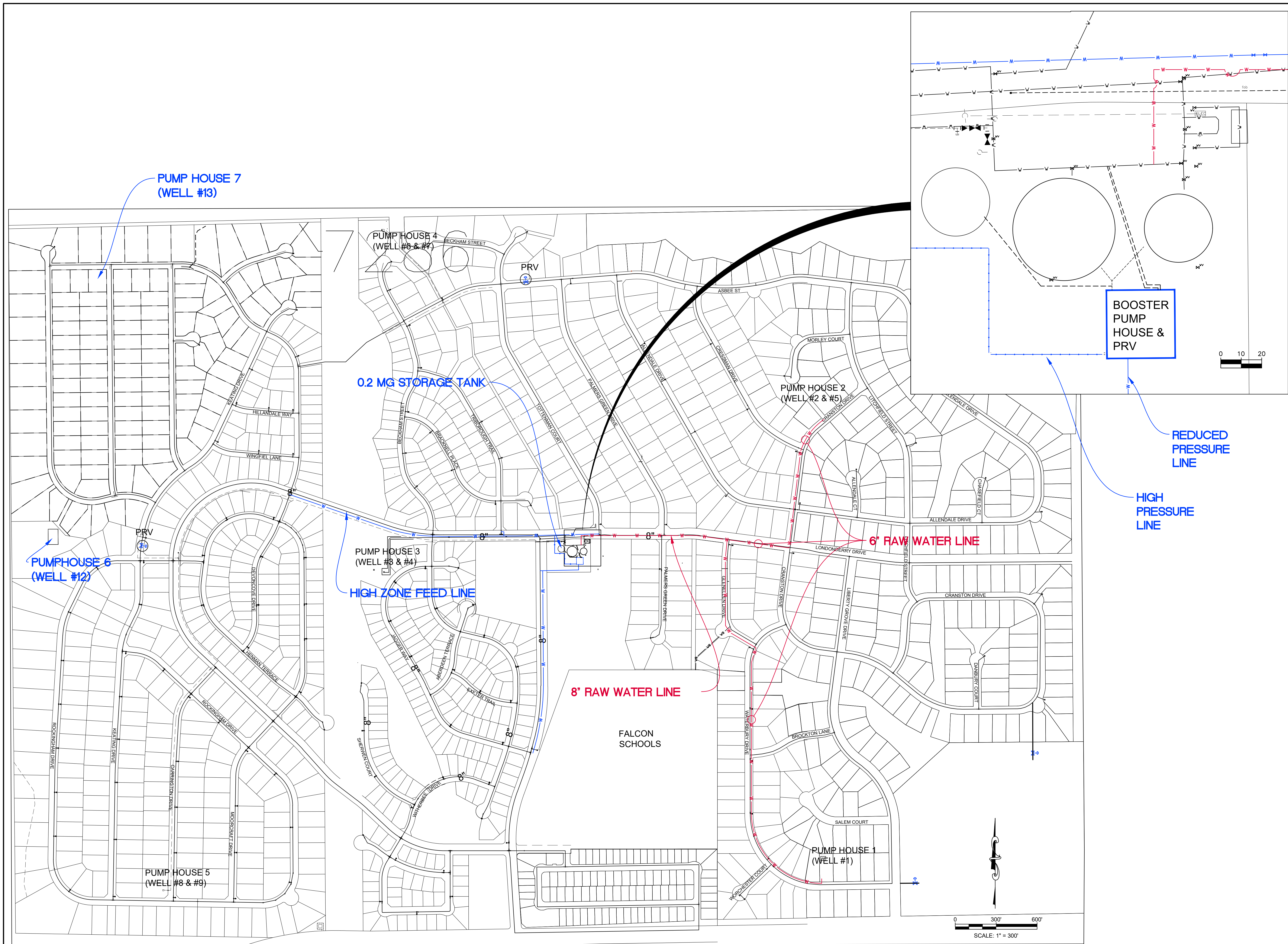
Water Demand At Build-out	Use/House (af/yr/unit)	Houses/SFEs	Years	Amount (af)
Middle School	23		100	2300
District Greenbelt/Park Irr.	14		100	1400
Filing 4	0.5	164	100	8200
Filing 5	0.5	31	100	1550
Filing 6	0.5	48	100	2400
Filing 7	0.5	57	100	2850
Filing 8	0.5	109	100	5450
Filing 9	0.5	88	100	4400
Filing 10	0.4	90	300	10800
Filing 11	0.4	81	300	9720
Filing 12	0.4	51	300	6120
Filing 13	0.4	17	300	2040
Church	0.2		300	60
Total		736		57190
Excess Ground Water Supply				
With Denver Aquifer				55110
Without Denver Aquifer				25310

Notes:

- (1) - Cannot be used until Dawson Aquifer Replacement Plan approved
- (2) - Area represents parks and greenbelts in District.
- (3) - Will be available once Well A-1 permit is canceled and Well A-1 is re-permitted and re-drilled as an Arapahoe structure
- (4) - Finding of the Commission date May 5, 1983; inter-governmental agreement between Paint Brush and Meridian Ranch Metro. Districts
- (5) - Delivery pipeline interconnect; value represents 85 af/yr times 300 years

APPENDIX C

Distribution System Map



48 hours before you dig, CALL UTILITY NOTIFICATION CENTER OF COLORADO (UNCC)	
811 <small>Gas, Electric, Telephone, CATV, and Power Lines Estimated Utility Locations</small>	
SCALE - VERIFICATION BAR IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET SCALE ACCORDINGLY	
NO. 1 DESCRIPTION 1. ADDED FIRE HYDRANT, REDUCED GRAVEL & FENCING & REVISED GRADING	BY DATE 06/17/16 DRB
REVISIONS	
RG AND ASSOCIATES, LLC 4885 Ward Road, Suite 100 • Wheat Ridge, CO • 80033 Gypsum • Loveland • Monte Vista • Wheat Ridge 303-293-8107 • 303-293-8106 (fax) • www.rgengineers.com	
PBHM ADMINISTRATION BUILDING PROJECT <small>description</small> PBH WATER PLAN <small>prepared for</small> PAINT BRUSH HILLS METROPOLITAN DISTRICT EL PASO COUNTY, COLORADO	
DRAWN BY: JOB NUMBER: 107000006	DESIGNED BY: DATE: AUGUST 2008 SCALE: 1" = 300' DRAWING NAME: WATER PLAN
SHEET NO.: 1	of 14



APPENDIX D-1

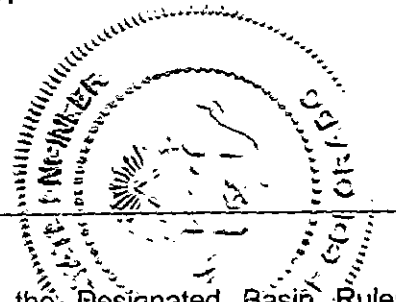
**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO
ALLOW THE WITHDRAWAL OF GROUND WATER IN THE UPPER BLACK SQUIRREL CREEK
DESIGNATED GROUND WATER BASIN

APPLICANT: PAINT BRUSH HILLS METROPOLITAN DISTRICT

AQUIFER: DAWSON

DETERMINATION NO.: 719-BD



In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Paint Brush Hills Metropolitan District (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Dawson Aquifer.

FINDINGS

1. The application was received complete by the Colorado Ground Water Commission on August 16, 2004.
2. The applicant requests a determination of rights to designated ground water in the Dawson Aquifer (hereinafter "aquifer") underlying 594 acres, consisting of two noncontiguous tracts of land designated and generally described as follows:

Area A – a 583 acre tract located in the E $\frac{1}{2}$ of Section 26, and in a portion of the W $\frac{1}{2}$ and in a portion of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 25, all in Township 12 South, Range 65 West, of the 6th Principal Meridian, in El Paso County.

Area B – a 11.0 acre tract located mainly in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25, Township 12 South, Range 65 West of the 6th Principal Meridian, in El Paso County.

According to a signed statement dated January 27, 2004 and May 15, 2001, the applicant has consent of the owner, who controls the 594 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and as a result claims control of the ground water in the aquifer underlying this land area.

3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.

5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, livestock watering, lawn irrigation, municipal, commercial and replacement supply. The applicant's proposed place of use of the allocated ground water is within the water service area of the Paint Brush Hills Metropolitan District, generally described as Section 25 and the E½ of Section 26, all in Township 12 South, Range 65 West of the 6th P.M., and further described in said affidavit which is attached hereto as Exhibit B. This place of use area includes the above described 594 acre land area.
6. The quantity of water in the aquifer underlying the 594 acres of land claimed by the applicant is as follows:

Area A = 23,320 acre-feet

Area B = 407 acre-feet

This determination was based on the following as specified in the Designated Basin Rules:

- a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 20 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is as follows: Area A = 200 feet; Area B = 170 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
 8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 594 acres of overlying land claimed by the applicant is as follows: Area A = 233 acre-feet; Area B = 4.1 acre-feet.
 9. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

10. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the 594 acres of land claimed by the applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Withdrawal of water from the aquifer underlying the claimed land area would impact the alluvial aquifer of Black Squirrel Creek or its tributaries, which has been determined to be over-appropriated. Commission approval of a replacement plan - pursuant to Section 37-90-107.5, C.R.S., and Rule 5.6 of the Designated Basin Rules - providing for the actual depletion of the alluvial aquifer and adequate to prevent any material injury to existing water rights, would be required prior to approval of well permits for wells to be located on this land area to withdraw the allocated ground water from the aquifer.
11. A review of the records in the Office of the State Engineer has disclosed that previously existing allocations affecting the aquifer within the subject area have been cancelled, and as a result the water in the aquifer underlying the land claimed by the applicant is currently unallocated or otherwise permitted for withdrawal
12. The ground water in the aquifer underlying the above described land area was previously allocated to the applicant in the Findings and Order of the Commission for Determination of Water Right No. 215-BD, dated October 2, 2001. At the request of the applicant, approval of these Findings and Order will result in cancellation of Determination of Water Right No. 215-BD.
13. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
14. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
15. On August 18, 2004, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
16. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
17. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was first published in the Gazette newspaper on August 26 and September 2, 2004, and then, in order to account for a recalculation of the available allocation, was republished in the Ranchland News newspaper on June 23 and 30, 2005.

18. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
19. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Dawson Aquifer underlying 594 acres of land, generally described as: Area A – a 583 acre tract located in the E $\frac{1}{2}$ of Section 26, and in a portion of the W $\frac{1}{2}$ and in a portion of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 25, all in Township 12 South, Range 65 West, of the 6th Principal Meridian; Area B – a 11.0 acre tract located mainly in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25, Township 12 South, Range 65 West of the 6th Principal Meridian., is approved subject to the following conditions:

20. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed the following: Area A = 233 acre-feet; Area B = 4.1 acre-feet. The allowed maximum annual amounts of withdrawal may exceed the allowed average annual amounts of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amounts of withdrawal.
21. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.
22. Commission approval of a replacement plan, providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers is required prior to approval of well permits for wells to be located on the overlying land area to withdraw ground water from the aquifer.
23. The use of ground water from this allocation shall be limited to the following beneficial uses: domestic, livestock watering, lawn irrigation, municipal, commercial and replacement supply. The place of use shall be limited to the land area described in said affidavit, which is attached hereto as Exhibit B.

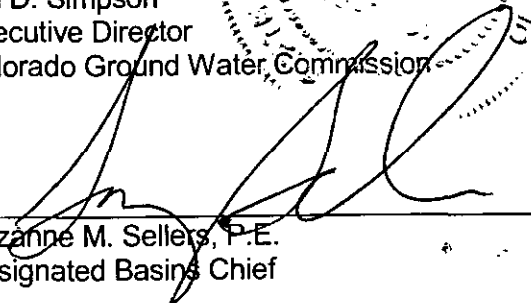
24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 594 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
25. The Findings and Order of the Commission for Determination of Water Right No. 215-BD, dated October 2, 2001 are hereby cancelled.
26. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
 - a. The wells shall be located on the above described 594 acre overlying land area.
 - b. The wells must be constructed to withdraw water from only the Dawson Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
 - e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
 - f. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.
 - g. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.

27. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county – in which the claimed overlying land is located - so that a title examination of the above described 594 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 9th day of September, 2005.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission


By: _____
Suzanne M. Sellers, P.E.
Designated Basins Chief

Prepared by: EBT

FIND-236-05

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

RECEIVED

NONTRIBUTARY GROUND WATER CONSENT CLAIM
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

JAN 28 2004

WATER RESOURCES
STATE ENGINEER
COLO.

Dawson **AQUIFER**

I (we) Paint Brush Hills Metropolitan District (9548 Waterbury Drive, Falcon, CO 80831)
(Name)

claim and say that I (we) have the consent of the owners of 594 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

See attached legal description and map.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Ellen Robley

Ellen Robley, District Administrator

1/27/04

(Signature)

(Date)

(Signature)

(Date)

INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in **black ink**. This form may be reproduced by photocopy or word processing means.

EXHIBIT A

Page 2 of 6

OFFICE OF WATER RESOURCES

Page 2 of 6

RECEIVED AUG 26 2003 RECEIVED MAY 17 2001

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

WATER RESOURCES STATE ENGINEER COLO.

I (We) 699 LA, L.L.C. (Name) RECEIVED

whose mailing address is 545 East Pikes Peak Ave., Suite 207 JAN 28 2004

Colorado Springs, CO 80903 (City) (State) (Zip) WATER RESOURCES STATE ENGINEER COLO.

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 594 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description and map

and that I (we) have granted written consent to others to withdraw ground water from the Dawson aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

[Handwritten Signature] (Signature) 5/15/07 (Date)

____ (Signature) _____ (Date)

INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

EXHIBIT A

Page 3 of 6

MAY 17 2001

WATER RESOURCES
STATE ENGINEER
COLO.

RECEIVED

AUG 26 2003

WATER RESOURCES
STATE ENGINEER
COLO.

MAR 21 2001

WATER RESOURCES
STATE ENGINEER
COLO.

RECEIVED

LEGAL DESCRIPTION:

Those portions of Sections 25 and 26 Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, more particularly described as follows:

JAN 28 2004

WATER RESOURCES
STATE ENGINEER
COLO.

COMMENCING at the Northeast corner of said Section 25; thence S 89°01'20" W (all bearings used in this description are relative to the East line of said Section 25, which was assumed to be S 00°28'16" E) on the North line of said Section 25, 30.00 feet to the POINT OF BEGINNING, said point also being on the Westerly line of Meridian Road;

- (1) Thence S 00°28'16" E on said Westerly line, 1648.52 feet;
- (2) thence N 87°29'02" W, 182.11 feet;
- (3) thence N 55°18'17" W, 938.67 feet;
- (4) thence N 42°55'08" W, 62.20 feet;
- (5) thence N 18°08'50" W, 62.20 feet;
- (6) thence N 00°56'27" W, 31.45 feet;
- (7) thence N 09°53'26" E, 101.29 feet;
- (8) thence N 04°36'56" W, 220.00 feet;
- (9) thence N 12°59'28" W, 188.50 feet;
- (10) thence N 67°27'17" W, 187.37 feet;
- (11) thence S 87°01'54" W, 227.26 feet;
- (12) thence N 79°53'02" W, 242.29 feet;
- (13) thence N 65°14'07" W, 239.27 feet;
- (14) thence S 57°09'33" W, 167.64 feet;
- (15) thence N 77°58'02" W, 225.82 feet;
- (16) thence S 66°06'55" W, 287.99 feet;
- (17) thence N 74°20'10" W, 165.02 feet;
- (18) thence S 80°18'11" W, 149.97 feet;
- (19) thence N 51°38'38" W, 253.93 feet;
- (20) thence S 73°01'52" W, 81.00 feet;
- (21) thence S 87°09'08" W, 418.65 feet;
- (22) thence S 67°01'20" W, 139.45 feet;
- (23) thence S 73°50'46" W, 135.47 feet;
- (24) thence S 02°49'33" E, 135.93 feet;
- (25) thence S 30°21'55" E, 66.71 feet;
- (26) thence N 85°32'57" E, 150.00 feet;
- (27) thence S 03°16'53" E, 316.24 feet;
- (28) thence S 13°02'38" E, 144.41 feet;
- (29) thence S 23°14'28" E, 153.19 feet;
- (30) thence S 27°38'46" E, 421.56 feet;
- (31) thence S 30°21'55" E, 979.97 feet;
- (32) thence S 00°24'09" W, 1220.16 feet;
- (33) thence N 89°59'44" W, 924.94 feet;
- (34) thence S 19°55'48" W, 1398.39 feet;
- (35) thence S 89°59'52" E, 430.13 feet;

EXHIBIT A

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- (36) thence on the arc of a curve to the left whose chord bears S 45°27'22" E, having a central angle of 90°55'18", a radius of 626.43 feet and an arc length of 994.07 feet to a point on the South line of said Section 25;
- (37) thence S 89°04'58" W on said South line, 2032.32 feet to the Southwest corner of said Section 25;
- (38) thence N 89°02'00" W on the South line of said Section 26, 2614.11 feet to the South quarter corner thereof;
- (39) thence N 00°34'43" W on the North-South center of section line of said Section 26, 5185.96 feet to the North quarter corner thereof;
- (40) thence N 88°44'51" E on the North line of said Section 26, 2640.24 feet to the Northeast corner thereof;
- (41) thence N 89°01'20" E on the North line of said Section 25, 149.59 feet;
- (42) thence S 01°15'14" E, 110.27 feet;
- (43) thence N 88°44'46" E, 110.00 feet;
- (44) thence N 01°15'14" W, 109.73 feet;
- (45) thence N 89°01'20" E on the North line of said Section 25, 2359.47 feet to the North quarter corner thereof;
- (46) thence N 89°01'20" E on said North line, 2589.06 feet to the Point of Beginning and containing 581.702 acres more or less.

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Together with that portion of said Section 25 more particularly described as follows:

- COMMENCING at the South quarter corner of said Section 25;
- thence N 00°55'01" W, 60.00 feet to a point on a line being 60.00 feet Northerly of and parallel with the South line of said Section 25;
 - thence S 89°04'59" W on said parallel line 97.00 feet to the POINT OF BEGINNING;
 - (1) thence continue S 89°04'59" E on said parallel line, 498.24 feet;
 - (2) thence on the arc of a curve to the right having a central angle of 90°55'18", a radius of 566.43 feet and an arc length of 898.86 feet;
 - (3) thence S 89°59'52" E on a line radial to the last mentioned curve, 1073.67 feet;
 - (4) thence S 00°00'01" E, 558.39 feet to the Point of Beginning and containing 12.335 acres more or less.

Prepared By: W.K. Clark & Associates, LLC
 Address : 5180 North Union Blvd.
 Colorado Springs, CO 80918
 Telephone : (719) 593-9440
 Date : October 30, 2000



OFFICE OF THE STATE ENGINEER, DIVISION OF WATER RESOURCES,
STATE OF COLORADO

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AFFIDAVIT OF SIX NINETY NINE LA, L.L.C.

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CONCERNING THE APPLICATION FOR A DETERMINATION OF
WATER RIGHTS IN A DESIGNATED BASIN,
BEFORE THE GROUND WATER COMMISSION.

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COMES NOW AFFIANT, Six Ninety Nine LA, L.L.C., and states under oath, as follows:

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1. Six Ninety Nine LA, L.L.C. is the owner of 594 acres of land, more or less, in El Paso County, as described below:

In Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado:

In Sections: 25 & 26

2. The ground water in the Dawson and Denver aquifers underlying such property has not been conveyed or reserved to another person or entity.
3. So that a water rights determination may be obtained pursuant to section 37-90-107(7), C.R.S., for the water rights underlying such property, I hereby give my consent as the Landowner of such above described property as follows:

I hereby grant consent to the Paint Brush Hills Metropolitan District, to apply for and obtain a water rights determination from the State Engineer's Office, Ground Water Commission, of all such ground water rights underlying my above described property, consisting of 594 acres, more or less, in the name of the Paint Brush Hills Metropolitan District.

EXHIBIT A

Page 5 of 6

J. Patrick Kelly El Paso Cty, CO
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I Harold Fong, state that I have read the above statements and that they are true and correct to the best of my belief and knowledge.

FURTHER AFFIANT sayeth naught.

Dated this 15th day of MAY, 2001.

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By: Harold Fong
Harold Fong, Managing Member
Six Ninety Nine LA, L.L.C.

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing document was acknowledged, subscribed, and sworn under oath before me by Harold FONG on the 15th day of MAY, 2001.

Zita Y. Ephron
Notary Public
My Commission Expires 12/11/2003

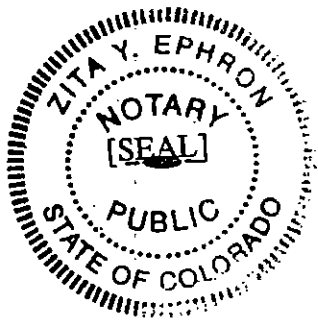


EXHIBIT A

Page 6 of 6

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**Paint Brush Hills Metropolitan District
LEGAL DESCRIPTION:**

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The area to be served by Paint Brush Hills Metropolitan District (PBHMD) is located in the unincorporated portion of El Paso County, Colorado, approximately 3 1/2 miles east of the Colorado Springs City limits. The site consists of 960 acres of land with Meridian Road bordering its east side and Stapleton Road bordering its south side. More specifically, it is described as follows:

"Section 25 and the East 1/2 of Section 26, Township 12 South, Range 65 West of the 6th P.M. in El Paso County, Colorado, except the Easterly 30 feet and the Southerly 60 feet of the Easterly 3222.73 feet of said Section 25, and except that parcel described in Book 2732 at page 860 of the records of said El Paso County, containing 945 acres, more or less."

EXHIBIT B



**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO ALLOW THE APPROPRIATION OF GROUND WATER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN.

APPLICANT: PAINT BRUSH HILLS METROPOLITAN DISTRICT

AQUIFER: DENVER

DETERMINATION NO.: **214-BD**

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Paint Brush Hills Metropolitan District (hereinafter "applicant") submitted an application for determination of water right to allow the appropriation of ground water from the Denver Aquifer.

FINDINGS

1. The application was first filed by the applicant on March 21, 2001 and received complete by the Ground Water Commission on May 17, 2001.
2. The applicant proposes to appropriate ground water from the Denver Aquifer (hereinafter "aquifer") underlying 594 acres, consisting of two noncontiguous tracts of land generally described as:

Area A, a 12.335 acre tract located mainly in the SE1/4 of the SW1/4 of Section 25, Township 12 South, Range 65 West of the 6th Principal Meridian;

Area B, a 581.702 acre tract located in the E1/2 of Section 26, a portion of the W1/2 and a portion of the N1/2 of the NE1/4 of Section 25, all in Township 12 South, Range 65 West of the 6th Principal Meridian;

According to a signed statement dated May 15, 2001, the applicant claims the written consent of the owner of the 594 acre land area to appropriate ground water from the aquifer underlying this property. The statement and description of claimed land areas are attached hereto as Exhibit A.

3. The proposed annual appropriation is the maximum allowable amount. Any wells permitted to divert ground water from the aquifer would have a maximum pumping rate of 100 g.p.m.
4. The land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Ground Water Commission has jurisdiction.
5. The applicant proposes to apply the appropriated ground water to the following beneficial uses: domestic, livestock watering, lawn irrigation, municipal, commercial and replacement supply.

6. The two land areas, designated Area A and Area B, claimed by the applicant and described in Exhibit A are noncontiguous. A quantification of the amount of ground water in storage in the aquifer and a maximum annual appropriation will be determined specifically for the aquifer underlying each of these areas.
7. The quantity of water in the aquifer underlying the 594 acres of land claimed by the applicant is as follows:

Area A = 587 acre-feet

Area B = 29666 acre-feet

This determination was based on the following as specified in the Designated Basin Rules:

a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is as follows:

Area A = 280 feet

Area B = 300 feet

8. At this time, there is no substantial artificial recharge which would affect the aquifer within a one hundred year period.
9. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Colorado Ground Water Commission shall allocate ground water from the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum annual appropriation which could be allowed pursuant to the data in the paragraphs above for the 594 acres claimed by the applicant is as follows:

Area A = 5.8 acre-feet

Area B = 297 acre-feet

10. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
11. Based on analysis of data in the records of the State Engineer's office, in accordance with the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the land claimed by the applicant (Area A and B) will, within one hundred years, deplete the alluvial aquifer or flow of a natural stream at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Also, the location of the land claimed by the applicant is further than one mile from the aquifer contact with the alluvium. The Designated Basin Rules require that at least four percent (4%) of the amount of water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal.

12. A review of the records of the Ground Water Commission has disclosed that approval of the determination of water right would result in unreasonable impairment of existing water rights unless terms and conditions are included to prevent such injurious effect. The well permit number, rate of diversion, and other relevant data concerning such rights are set forth in the attached Exhibit B. To prevent material injury to such existing water rights, the quantity of water underlying the land claimed by the applicant in Exhibit A which is considered unappropriated has been reduced as follows:

Area A to 158 acre-feet or a maximum annual amount of 1.5 acre-feet

Area B to 29564 acre-feet or a maximum annual amount of 296 acre-feet

This reduction was based on a calculation of the area necessary to provide a quantity of water underlying such an area as would be sufficient, for the persons entitled to divert water under existing rights, to divert the allowed maximum (average) annual amount of water from the aquifer for the minimum useful life of the aquifer (100 years). The effect of this calculation is to effectively reduce the land available for calculating the quantity of water underlying the land claimed by the applicant as follows:

Area A to 3.335 acres

Area B to 579.702 acres

13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and subject to approval by the Commission.
14. On July 12, 2001, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting recommendations concerning this application. No written recommendations from the district were received.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in The Gazette newspaper on July 20 and 27, 2001.
17. No objections to the determination of water right and proposed appropriation of ground water were received within the time limit set by statute.
18. In order to prevent injury to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed appropriation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right and the issuance of well permits to construct wells to withdraw the authorized amount of water from the aquifer.

ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, the Colorado Ground Water Commission orders that the application for determination of water right to allow the appropriation of ground water from the Denver Aquifer underlying 594 acres, consisting of two noncontiguous tract of land, generally described as:

Area A, a 12.335 acre tract located mainly in the SE1/4 of the SW1/4 of Section 25, Township 12 South, Range 65 West of the 6th Principal Meridian;

Area B, a 581.702 acre tract located in the E1/2 of Section 26, a portion of the W1/2 and a portion of the N1/2 of the NE1/4 of Section 25, all in Township 12 South, Range 65 West of the 6th Principal Meridian;

is approved subject to the following conditions:

19. The allowed average annual amount of water to be withdrawn from the aquifer for each of the above described land areas shall not exceed the following amounts:

Area A = 1.5 acre-feet

Area B = 296 acre-feet

The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.

20. To conform to actual aquifer characteristics, the Commission may adjust the allowed average annual appropriation based on analysis of geophysical logs or other site specific data if such analysis indicates that the initial estimate of the volume of water in storage was incorrect.
21. At least four percent (4%) of the amount of water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal.
22. The use of ground water from this appropriation shall be limited to the following uses: domestic, livestock watering, lawn irrigation, municipal, commercial and replacement supply. The place of use shall be limited to the above described 594 acre land area. Municipal use of ground water on the above described land area is subject to inclusion of the land area within the official boundaries of the Paint Brush Hills Metropolitan District.
23. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed lands are located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 594 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated warranty deed which indicates the determination number, the aquifer, a description of the above described land area, the amount transferred, name of the recipient and the date of transfer.

24. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:

a. The wells shall be located on the above described 594 acre land area. Wells located within the 12.335 acre Area A shall only withdraw the allowed average annual amount of water determined for that area (1.5 acre-feet); wells located within the 581.702 acre Area B shall only withdraw the allowed average annual amount of water determined for that area (296 acre-feet); unless the following condition may be satisfied:

i. In accordance with Rule 5.3.7.2 of the Designated Basin Rules, a permitted and constructed well may be located within Area A or Area B at a point where the total combined allowed average annual amounts of water determined for both areas may be withdrawn by that well - and thereafter through any other well(s) permitted to withdraw these appropriations that are located on either Area A or Area B - if the cylinder of appropriation, calculated for the combined annual amounts and centered at that well location, overlaps a portion of the other noncontiguous area. The radius of such a cylinder is subject to paragraph 20 of this Order and the actual amount of saturated permeable material of the aquifer at the well location.

b. The wells must be constructed to withdraw water from only the Denver Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.

c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.

d. Each well shall be constructed within 200 feet of the location specified on the individual permit application and approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.

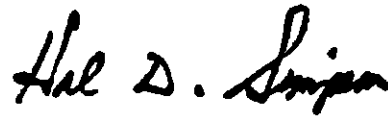
e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination subject to paragraph 24.a of this Order. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.

f. The maximum pumping rate of each well shall not exceed 100 g.p.m.

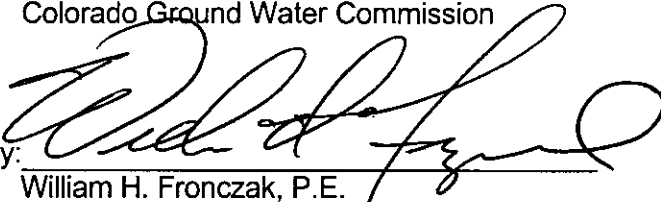
g. A totalizing flow meter shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.

h. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. He shall take necessary means and precautions to preserve these markings.

Dated this 2nd day of OCTOBER, 2001.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: 

William H. Fronczak, P.E.
Supervisor - Designated Basins Branch

Prepared by: IDC

EXHIBIT A
Page 1 of 6

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NONTRIBUTARY GROUND WATER CONSENT CLAIM
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

Denver AQUIFER

I (we) Paint Brush Hills Metropolitan District
(Name)

claim and say that I (we) have the consent of the owners of 594 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

699 LA, L.L.C.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Philip J. Allen 5/15/01
(Signature) (Date)

(Signature) (Date)

.....
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

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DIVISION OF WATER RESOURCES

WATER RESOURCES
STATE ENGINEER
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) 699 LA, L.L.C.
(Name)

whose mailing address is 545 East Pikes Peak Ave., Suite 207
Street
Colorado Springs, CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 594 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description and map

and that I (we) have granted written consent to others to withdraw ground water from the Denver aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

[Handwritten Signature]
(Signature) 5/15/01
(Date)

(Signature) (Date)

.....
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

EXHIBIT A
Page 3 of 6

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COLO.

LEGAL DESCRIPTION:

Those portions of Sections 25 and 26 Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, more particularly described as follows:

COMMENCING at the Northeast corner of said Section 25; thence S 89°01'20" W (all bearings used in this description are relative to the East line of said Section 25, which was assumed to be S 00°28'16" E) on the North line of said Section 25, 30.00 feet to the POINT OF BEGINNING, said point also being on the Westerly line of Meridian Road;

- (1) Thence S 00°28'16" E on said Westerly line, 1648.52 feet;
- (2) thence N 87°29'02" W, 182.11 feet;
- (3) thence N 55°18'17" W, 938.67 feet;
- (4) thence N 42°55'08" W, 62.20 feet;
- (5) thence N 18°08'50" W, 62.20 feet;
- (6) thence N 00°56'27" W, 31.45 feet;
- (7) thence N 09°53'26" E, 101.29 feet;
- (8) thence N 04°36'56" W, 220.00 feet;
- (9) thence N 12°59'28" W, 188.50 feet;
- (10) thence N 67°27'17" W, 187.37 feet;
- (11) thence S 87°01'54" W, 227.26 feet;
- (12) thence N 79°53'02" W, 242.29 feet;
- (13) thence N 65°14'07" W, 239.27 feet;
- (14) thence S 57°09'33" W, 167.64 feet;
- (15) thence N 77°58'02" W, 225.82 feet;
- (16) thence S 66°06'55" W, 287.99 feet;
- (17) thence N 74°20'10" W, 165.02 feet;
- (18) thence S 80°18'11" W, 149.97 feet;
- (19) thence N 51°38'38" W, 253.93 feet;
- (20) thence S 73°01'52" W, 81.00 feet;
- (21) thence S 87°09'08" W, 418.65 feet;
- (22) thence S 67°01'20" W, 139.45 feet;
- (23) thence S 73°50'46" W, 135.47 feet;
- (24) thence S 02°49'33" E, 135.93 feet;
- (25) thence S 30°21'55" E, 66.71 feet;
- (26) thence N 85°32'57" E, 150.00 feet;
- (27) thence S 03°16'53" E, 116.24 feet;
- (28) thence S 13°02'38" E, 144.41 feet;
- (29) thence S 23°14'28" E, 153.19 feet;
- (30) thence S 27°38'46" E, 421.56 feet;
- (31) thence S 30°21'55" E, 979.97 feet;
- (32) thence S 00°24'09" W, 1220.16 feet;
- (33) thence N 89°59'44" W, 924.94 feet;
- (34) thence S 19°55'48" W, 1398.39 feet;
- (35) thence S 89°59'52" E, 430.13 feet;

MAY 17 2001

MAR 21 2001

WATER RESOURCES
STATE ENGINEER
NO. 45
PROFESSIONAL LAND SURVEYOR
NO. 4842
COLORADO

- (36) thence on the arc of a curve to the left whose chord bears S 45° 27' 22" E, having a central angle of 90° 55' 18", a radius of 626.43 feet and an arc length of 994.07 feet to a point on the South line of said Section 25;
- (37) thence S 89° 04' 58" W on said South line, 2032.32 feet to the Southwest corner of said Section 25;
- (38) thence N 89° 02' 00" W on the South line of said Section 26, 2614.11 feet to the South quarter corner thereof;
- (39) thence N 00° 34' 43" W on the North-South center of section line of said Section 26, 5185.96 feet to the North quarter corner thereof;
- (40) thence N 88° 44' 51" E on the North line of said Section 26, 2640.24 feet to the Northeast corner thereof;
- (41) thence N 89° 01' 20" E on the North line of said Section 25, 149.59 feet;
- (42) thence S 01° 15' 14" E, 110.27 feet;
- (43) thence N 88° 44' 46" E, 110.00 feet;
- (44) thence N 01° 15' 14" W, 109.73 feet;
- (45) thence N 89° 01' 20" E on the North line of said Section 25, 2359.47 feet to the North quarter corner thereof;
- (46) thence N 89° 01' 20" E on said North line, 2589.06 feet to the Point of Beginning and containing 581.702 acres more or less.

Together with that portion of said Section 25 more particularly described as follows:

- COMMENCING at the South quarter corner of said Section 25;
- thence N 00° 55' 01" W, 60.00 feet to a point on a line being 60.00 feet Northerly of and parallel with the South line of said Section 25;
 - thence S 89° 04' 59" W on said parallel line 97.00 feet to the POINT OF BEGINNING;
 - (1) thence continue S 89° 04' 59" E on said parallel line, 498.24 feet;
 - (2) thence on the arc of a curve to the right having a central angle of 90° 55' 18", a radius of 566.43 feet and an arc length of 898.86 feet;
 - (3) thence S 89° 59' 52" E on a line radial to the last mentioned curve, 1073.67 feet;
 - (4) thence S 00° 00' 01" E, 558.39 feet to the Point of Beginning and containing 12.335 acres more or less.

Prepared By: W.K. Clark & Associates, LLC
 Address : 5180 North Union Blvd.
 Colorado Springs, CO 80918
 Telephone : (719) 593-9400
 Date : October 30, 2000



OFFICE OF THE STATE ENGINEER, DIVISION OF WATER RESOURCES
STATE OF COLORADO

RECEIVED

AFFIDAVIT OF SIX NINETY NINE LA, L.L.C.

JUN 14 2001

CONCERNING THE APPLICATION FOR A DETERMINATION OF
WATER RIGHTS IN A DESIGNATED BASIN,
BEFORE THE GROUND WATER COMMISSION.

WATER RESOURCES
STATE ENGINEER
COLO.

COMES NOW AFFIANT, Six Ninety Nine LA, L.L.C., and states under oath, as follows:

1. Six Ninety Nine LA, L.L.C. is the owner of 594 acres of land, more or less, in El Paso County, as described below:

In Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado:

In Sections: 25 & 26

2. The ground water in the Dawson and Denver aquifers underlying such property has not been conveyed or reserved to another person or entity.

3. So that a water rights determination may be obtained pursuant to section 37-90-107(7), C.R.S., for the water rights underlying such property, I hereby give my consent as the Landowner of such above described property as follows:

I hereby grant consent to the Paint Brush Hills Metropolitan District, to apply for and obtain a water rights determination from the State Engineer's Office, Ground Water Commission, of all such ground water rights underlying my above described property, consisting of 594 acres, more or less, in the name of the Paint Brush Hills Metropolitan District.

J. Patrick Kelly El Paso Cty, CO
05/15/2001 03:52
Doc \$0.00 Page
Rec \$10.00 1 of 2

201063962


Affidavit of Six Ninety Nine LA, L.L.C.
Page 2.

I Harold Fong, state that I have read the above statements and that they are true and correct to the best of my belief and knowledge.

FURTHER AFFIANT sayeth naught.

Dated this 15th day of MAY, 2001.

By: *Harold Fong*
Harold Fong, Managing Member
Six Ninety Nine LA, L.L.C.

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing document was acknowledged, subscribed, and sworn under oath before me by Harold Fong on the 15th day of MAY, 2001.

Zita Y. Ephron
Notary Public
My Commission Expires 12/11/2003

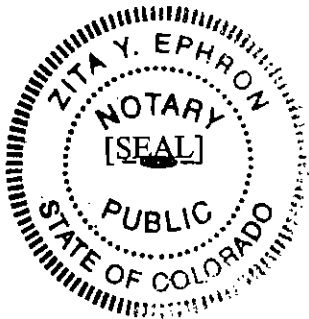


EXHIBIT B

APPLICANT: PAINT BRUSH HILLS METROPOLITAN DISTRICT

AQUIFER: DENVER

<u>WELL NUMBER</u>	<u>1/4</u>	<u>1/4</u>	<u>SEC</u>	<u>TWP</u>	<u>RNG</u>	<u>AF</u>	<u>ST</u>	<u>SY</u>	<u>RADIUS</u>	<u>AREA</u>
17048-F	SW	SE	25	12S	65	242	300	17	1739	9-area A 2- area B

The cylinder protects the claimed appropriation for this well. Calculation of such cylinder does not constitute staff clarification or Commission final determination of any water right associated with the well.

The amount of appropriation is based on the well owners statements. The actual allowed permitted appropriation amount for the well may require more complete beneficial use data and is subject to verification by the Ground Water Commission and publication prior to issuance of a final permit.

Additionally, the well is completed to withdraw ground water from both the Denver and Arapahoe aquifers. The proportion of appropriation from each aquifer is based on the interval of the aquifer through which the well is completed.

WELL NUMBER = WELL PERMIT NUMBER OR WATER COURT CASE AND WELL NUMBER

AF = THE ANNUAL APPROPRIATION OF THE WELL IN ACRE-FEET

ST = THICKNESS OF THE SATURATED AQUIFER MATERIAL AT THE WELL LOCATION IN FEET

SY = SPECIFIC YIELD OF THE SATURATED AQUIFER MATERIAL AT THE WELL LOCATION AS A PERCENT

RADIUS = IS THE RADIUS OF THE CYLINDER OF APPROPRIATION IN FEET

AREA = THE AREA OF THE APPLICANTS' LAND THAT IS OVERLAPPED BY THE CYLINDER OF APPROPRIATION IN ACRES.



APPENDIX E



November 3, 2023

Lekishia Bellamy, Project Planner
El Paso County Planning and Community Development
Transmission via EDARP Portal: epcdevplanreview.com

Re: Foundation Lutheran Church Filing 1
File #: SF2321
Part of the SW ¼ NW ¼ and NW ¼ SW ¼ of Sec. 25, Twp. 12 South, Rng. 65 West, 6th P.M.
Water Division 1, Water District 2
Upper Black Squirrel Creek Designated Basin
CDWR Subdivision File No. 30882 - 2nd Letter

Dear Lekishia Bellamy:

We have received the re-referral concerning the final plat and site development plan for the Foundation Lutheran Church at 10387 Mt Evans Drive in Peyton on a 5.97-acre parcel. The application proposes the creation of a new commercial lot from an open space tract. The commercial lot will have 1-story church with a 250-seat sanctuary, parking lot, and landscaping which will be served by the Paint Brush Hills **Metropolitan District (“District”)**. This letter supersedes the comments this office provided on this development dated July 26, 2023.

Water Supply Demand

The estimated water demand for commercial use is 0.36 acre-feet/year. There does not appear to be any water demands associated with the open space tract.

Source of Water Supply

The proposed water source is service provided **by the Paint Brush Hills Metropolitan District (“District”)**. According to the letter dated May 22, 2023, the District is willing and able to provide 1 single-family-equivalent (SFE) or 0.36 acre-feet/year of domestic water and wastewater services to the church provided **that the District’s Rules and Regulations and fees are satisfied**. This office has not received information that these requirements have been satisfied.

According to information available to this office, the District has a supply of 147,550 acre-feet (491.83 acre-feet/year based on a 300-year supply) and a commitment of 114,406 acre-feet including the 108 acre-feet (0.36 acre-feet/year x 300 years) associated with this development. Therefore, it appears that the **District’s uncommitted supply is 33,144 acre-feet**. The information this office has on file for the District is summarized on Table 1, attached.



The District's supplies consist of Determination of Water Right nos. 719-BD¹ and 214-BD; permit nos. 30593-F, 46553-F, 47813-F, and 17048-F in the nontributary Arapahoe and Laramie-Fox Hills aquifers; and 85 acre-feet/year of water contracted from the Meridian Service Metropolitan District. The District is currently seeking to adjudicate additional groundwater in pending application receipt nos. 10021946, 10032077, and 10032078.

The subdivision lies within the allowed place of use and the proposed uses are uses allowed by the determinations and permits. The primary source of water for this subdivision is bedrock aquifers in the Denver Basin. **The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water.** According to section 37-90-107(7)(a), C.R.S., **"Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years."** Based on this allocation approach, the annual amounts of water determined in the determinations are equal to one percent of the total amounts, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1 and the permit conditions. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

The El Paso County Land Development Code, Section 8.4.7.(B)(7)(b) states:

"(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years."

The State Engineer's Office does not have evidence regarding the length of time for which this source will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an allocation approach based on three hundred years, the allowed average annual amount of withdrawal would be reduced to one third of the total amount, or 147,550 acre-feet as a total amount, which is greater than the total demand of 114,406 acre-feet for **all of the District's commitments**. As a result, the water may be withdrawn in an annual amount of 492 acre-feet/year² for a maximum of 300 years.

State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(I) and 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.

Our opinion that the water supply is adequate is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

¹ Not included in total since a replacement plan is required. The District is currently seeking a replacement plan for this determination under application receipt no. 10032081.

² This number considers that the 80 acre-feet/year from 17048-F which is subject to section 37-90-107(7)(b), C.R.S. is not allocated on a 100-year or 300-year basis. This number also includes the 85 acre-feet/year from Meridian which is available through a perpetual lease and not allocated on a 100-year or 300-year basis.

Our opinion that the water supply can be provided without causing injury is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the water supply which is available to the District is greater than its commitments.

Our opinion is qualified by the following:

The Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced water rights and permits, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100-year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years (or 300 years) used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Please contact Wenli.Dickinson@state.co.us or (303) 866-3581 x8206 with any questions.

Sincerely,



Ioana Comaniciu, P.E.
Water Resource Engineer

Attachment: Table 1

Ec: Paint Brush Hills Metropolitan District file
Upper Black Squirrel Creek Ground Water Management District

Paint Brush Hills Metropolitan District

Updated: 2/19/2020 By: Wenli Dickinson

SUPPLY

Determination or Permit no.	Aquifer	NT / NNT Status	Replacement Plan	Total allocation (af)	Total Allocation (af/yr)	100-yr Availability (af/yr)	300-yr Availability (af/yr)	Volume Available (af)	Comments	Type of Use	Place of Use
Subject to 37-90-107(7)(a).											
719-BD	TDW	NNT-Actual	Still needed	23,710	237.1	0	0	0	Replacement Plan needed. 215-BD cancelled upon issuance of 719-BD.	municipal, domestic, livestock, lawn irrigation, commercial, replacement	PBHMD service area
214-BD	TKD	NNT-4%		29,750	297.5	297.5	99.17	29,750		municipal, domestic, livestock, lawn irrigation, commercial, replacement	945 acre PBHMD service area
30593-F	KA	na		11,300	113	113	37.67	11,300	113 af/yr based on 11-21-1990 SBU and reservation of 113 af/yr to this permit when permit no. 46553-F was issued. Inappropriately listed as a well field under 46553-F in Curt Wells' February 2013 Water Supply Summary table.	domestic, commercial, municipal & industrial	PBHMD service area, by implication
46553-F	KA	NT		18,200	182	182	60.67	18,200	Other wells in well field: 55193-F, 60862-F, 64086-F	municipal	PBHMD service area
47813-F	KLF	NT		38,800	388	388	129.33	38800.00	Other wells in well field: 50877-F, 55192-F, 63429-F, 64084-F	municipal	PBHMD service area
subtotal						981	327	98,050			
Subject to 37-90-107(7)(b).											
17048-F	TKD & KA	na		na	80	80	80	24,000	The amount of its water right is currently uncertain. 80 af/yr is conservatively assumed based on 50 gpm test pump rate on a Well Completion Report and a SBU submitted March 13, 1975.	Industrial, Municipal, Domestic, Fire	PBHMD (formerly Latigo Ranch)
Total Bedrock Supply						1,061	407	122,050			
From Meridian Service MD	not specified	na			85	85	85	25500	Per Sept. 8, 2003 contract Meridian Service MD to supply Six Ninety Nine L.A., LLC, which was assigned to Paint Brush Hills MD per agreement dated April 2, 2004. See also July 22, 2016 letter from Meridian Service MD.	Municipal and export	Undetermined
Total Supply (af)						1,146	492	147,550			

Table 1

Paint Brush Hills Metropolitan District

Updated: 2/19/2020 By: Wenli Dickinson

COMMITMENTS

Paint Brush Hills	Phase	# of Lots	Date of SEO opinion	Demand per af/yr/lot	Total commitment per year (af/yr)	Total commitment for 100 yrs (af)	Total commitment for 300 yrs (af)	Total commitment (af)	Comments	Comments
100 year commitments ¹										
Filing 4	II	164	1/22/1987	0.56	91.8	9,184	9,184	Per El Paso County, Filings 4 - 9 approved based on a 100 yr supply		
Filing 5		31	6/19/1995		17.4	1,736	1,736			
Filing 6		48	5/1/1996		26.9	2,688	2,688			
Filing 7		57	6/27/1997		31.9	3,192	3,192			
Filing 8		109	4/9/1999		61.0	6,104	6,104			
Filing 9		88	5/31/2000		49.3	4,928	4,928			
Falcon Middle School					22.0	2,200	2,200	22 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.	Per El Paso County, approved based on a 100 yr supply	
District Greenbelt/Park irrig.					14.0	1,400	1,400	14 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.	Per El Paso County, approved based on a 100 yr supply	
Subtotal		497						31,432		
300 year commitments ¹										
Filing 10		90	3/24/2003	0.40	36.0		10,800	10,800		
Filing 11		81	4/17/2003	0.40	32.4		9,720	9,720		
Filing 12		51	4/17/2003	0.40	20.4		6,120	6,120		
Church					0.2		60	60	0.2 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.	
Filing 13a		17	6/9/2013		6.9		2,070	2,070	a.k.a. Filing 13 - Phase I	
Scenic View & park		90	2/6/2014	0.36	32.36		9,708	9,708	a.k.a. Filing 14	park uses 0.36 af/yr
Filing 13b		21	2/26/2014	0.36	7.56		2,268	2,268	a.k.a. Filing 13 - Phase 2	
Filing 13c		135	10/24/2016	0.36	48.6		14,580	14,580	Note: Filing 13C reduced from 150 lots to 135 lots.	
Filing 13d		97	10/24/2016	0.36	34.92		10,476	10,476		
Filing 13e		158	2/27/2019	0.36	56.88		17,064	17,064		
Subtotal					533.7			82,866		
300 year commitments ¹ outside of Paint Brush Hills Subdivision										
Foundation Church		1	TBD	0.36	0.4	0.36	108	108		
								0		
								0		
								0		
								0		
								0		
								0		
								0		
								0		
								0		
Subtotal					0.4	0.4	108.0	108		
¹ El Paso County requires a 300 year water supply as of Nov. 20, 1986, per El Paso County Land Development Code sections 8.4.7.(A)(2) and 8.4.7.(B)(7)(b).										
Total Commitments (af)								114,406		
UNCOMMITTED SUPPLY (AF)								33,144		



APPENDIX F

RECEIVED

MAR 13 '96

WATER RESOURCES
STATE ENGINEER
COLO

Statement of Land and Water Ownership

State of Colorado)
) ss.
County of El Paso)

The Affiant, Jerry A. Smith, is the President of Eagle Ranch Development Corp., a Colorado Corporation; Manager of the B.L.P.S. Company, L.L.C., a Colorado Limited Liability Company; and President of Paint Brush Hills Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado.

After first being duly sworn upon oath, deposes and states as follows:

HISTORY

(1) On January 31, 1980, Paint Brush I, a Colorado Limited Partnership received title to the Southeast 1/4 of Section 23; the South 1/2 of Section 24; all of Section 25; and the East 1/2 of Section 26 all in Township 12 S Range 65 W, in El Paso County, State of Colorado, including all the groundwater under said land and the water rights in and to the well permits No.17348-F, 17654-F and 17658-F. (Approximately 1,440 acres.)

(2) Commencing on December 31, 1980, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No.1, reserving to itself all groundwater and water rights in and to the Lower Dawson Arkose, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(3) Commencing on October 29, 1982, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No. 2, reserving to itself all groundwater and water rights in and to the Lower Dawson Arkose, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(4) Commencing on February 23, 1984, by various warranty deeds, Paint Brush I conveyed 2-1/2 acre parcels to Purchasers in Paint Brush Hills Filing No. 3, reserving to itself all groundwater and water rights in and to the Denver, Arapahoe and Laramie-Fox Hills Aquifers. (Approximately 163 acres.)

(5) On June 26, 1986, Paint Brush I conveyed by warranty deed to P.B.H.P. Joint Venture, all of Section 25 and the East 1/2 of Section 26 in Township 12 S Range 65 W in El Paso County, State of Colorado, including all of the groundwater and water rights under said land. Also conveyed was all of the groundwater and water rights reserved by Paint Brush I in deeds in Paint Brush Hills Filings 1, 2, and 3. (This land was approximately 950 Acres or the balance of the land not platted in the Filings 1, 2 and 3 of Paint Brush Hills.)

(6) On November 10, 1987, P.B.H.P. Joint Venture conveyed to Paint Brush Hills Metropolitan District all groundwater and water rights in the Dawson, Denver, Arapahoe and Laramie Fox Hills formations under land owned by it; well permits #17654-F, #17658-F and #17048-F; and the water and water rights in the (Lower Dawson), Denver, Arapahoe and Laramie-Fox Hills formations under all lots in Paint Brush Hills Filings No. 1, 2 and 3 in El Paso County, State of Colorado. (Land = 950 acres; Water underneath = 1,440 acres.) This deed also included and conveyed to the District 190.2 acre feet of water from the Arapahoe Aquifer which covered the water in Permit No. 30593-F.

(7) Commencing on June 20, 1988, P.B.H.P. Joint Venture conveyed to individuals six lots in Paint Brush Hills Filing No.4, reserving to itself all of the groundwater in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(8) On June 4, 1992, P.B.H.P. Joint Venture conveyed to Paint Brush Hills Metropolitan District approximately 100 Acres in a part of Section 25, Township 12 S, Range 65 W (being directly north of Paint Brush Hills Filing No.4) and 158 lots in Paint Brush Hills Filing No. 4 (being the balance of the lots not conveyed in Deed No. 7), including all groundwater and water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(9) On June 13, 1992, by warranty deed, P.B.H.P. Joint Venture conveyed to Eagle Ranch Development Corp., a Colorado Corporation, all of Section 25 in Township 12 S, Range 65 W, except the 100 acres deeded to Paint Brush Hills Metropolitan District (Deed No. 8) and Paint Brush Hills Filing No. 4, and the East 1/2 of Section 26, Township 12 S, Range 65 W, El Paso County, State of Colorado including all the groundwater and water rights under said land. (Approximately 750 acres.)

(10) Commencing on June 20, 1992 Paint Brush Metropolitan District started conveying lots in Paint Brush Hills Filing No. 4 to Eagle Ranch Development Corp. (and then to Lot Purchases), according to the ruling of the United States Federal District Court for Colorado, as a procedure to pay off the Bond Holders of the Paint Brush Hills Metropolitan District. In such individual deeds, Eagle Ranch Development Corp. reserved all of the groundwater and water rights in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

(11) On August 25, 1995 Paint Brush Hills Metropolitan District conveyed to Eagle Ranch Development Corp., 40 Acres of the 100 Acres contained in the Deed of June 4, 1992. (Deed No. 8 herein.)

(12) Also on August 25, 1995 Eagle Ranch Development Corp. conveyed to B.L.P.S. Company, LLC (a sister company of Eagle Ranch Development Corp.) 40 acres (included in Deed No. 11 herein), which then was platted as Paint Brush Hills Filing No. 5, in El Paso County, State of Colorado.

(13) Commencing on December 29, 1995, the B.L.P.S. Company, LLC started conveying to Lot Purchasers, lots in Paint Brush Hills Filing No. 5 reserving to itself all the groundwater and water rights in and to the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations.

OWNERSHIP

At the present time, the ownership of rights contained in the History above is as follows:

(1) Eagle Ranch Development Corp. owns (land only) the East 1/2 of Section 26 and all of Section 25, in Township 12 S Range 65 W, El Paso County, Colorado except Paint Brush Hills Filing No.'s 4 and 5, and the 100 acres referred to herein, or a total of 750 acres.

(2) Paint Brush Hills Metropolitan District owns (land and water and water rights) 60 acres in Section 25 in Township 12 S Range 65 W, El Paso County, Colorado; and all the water and water rights in the Denver (Lower Dawson), Arapahoe and Laramie-Fox hills formations under Paint Brush Hills Filing No.'s 1, 2 and 3; the water wells under permits #17048-F, #30593-F, #17654-F and 17658-F; all of the water and water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations under the East 1/2 of Section 26 and all of Section 25 (including Paint Brush Hills Filing No.'s 4 and 5), all in El Paso County, State of Colorado.

(3) The B.L.P.S. Company, L.L.C. owns (land only) the unsold lots in Paint Brush Hills Filing No. 5, (40 acres).

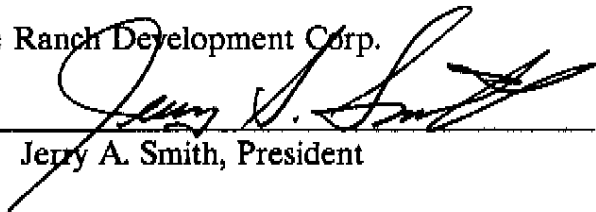
Affiant further deposes and says that Eagle Ranch Development Corp., the B.L.P.S. Company, L.L.C. and Paint Brush Hills Metropolitan District have not given up their right to appropriate the unappropriated non-tributary ground water from the Dawson, Denver, Arapahoe and Laramie-Fox Hills formations underlying the SE 1/4 of Section 23, S 1/2 of Section 24, Section 25, and the E 1/2 of Section 26, in Township 12 S, R 65 West of the 6th Principal Meridian, El Paso County, State of Colorado, except as stated in the above

And Eagle Ranch Development Corp. and the B.L.P.S. Company, L.L.C., consent to, and state that Paint Brush Hills Metropolitan District owns all of the unappropriated underground non-tributary water in the Dawson, Denver, Arapahoe and Laramie-Fox hills formations under the above described land, which equates to 1,440 acres.

Further, I claim and say that I have read the statements made herein, know the contents hereof, and the same are true to my own knowledge.

Eagle Ranch Development Corp.

By


Jerry A. Smith, President

Paint Brush Hills Metropolitan District

By


Jerry A. Smith

The B.L.P.S. Company, L.L.C.

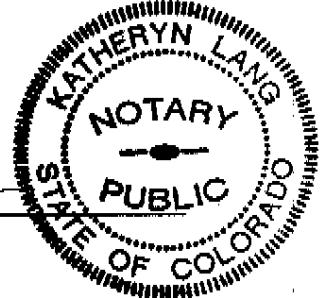
By


Jerry A. Smith, Manager

Subscribed and sworn to before me on this 28th day of February, 1996 by Jerry A. Smith, to me personally known.

Witness my hand and official seal.


Notary Public




My Commission Expires: November 26, 1996



APPENDIX G


**APPLICATION FOR A DETERMINATION OF WATER RIGHT
WITHIN A DESIGNATED GROUNDWATER BASIN**

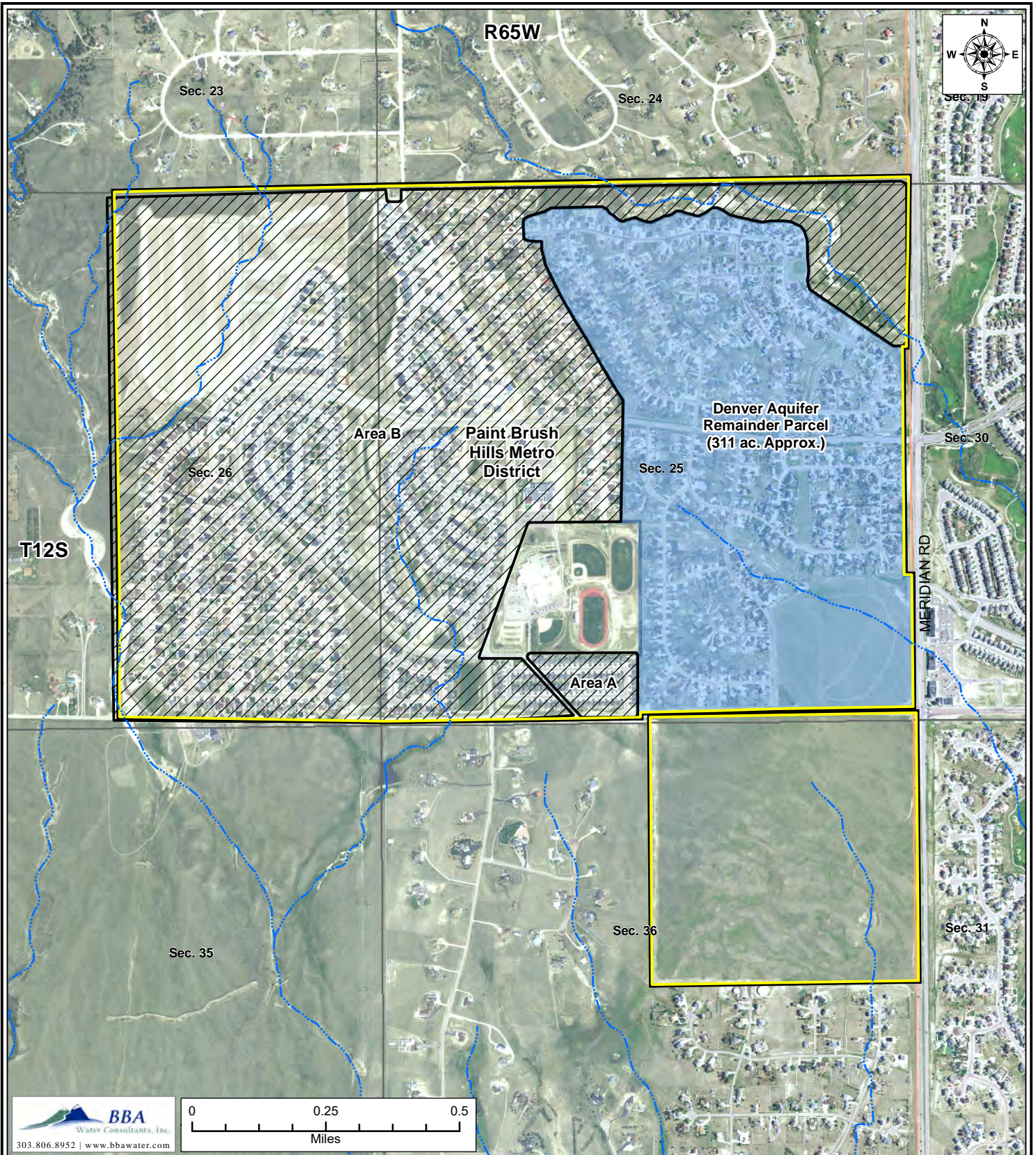
This application is to be used to apply for a determination of right to groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifer underlying land area located within a Designated Groundwater Basin pursuant to Section 37-90-107(7), C.R.S. A separate form must be used for each aquifer. Review the instructions on the reverse of this form. This form must be completed, signed, dated and submitted to the Ground Water Commission with a non-refundable \$60 filing fee. Accepted payment options and form submittal instructions can be found on our website Colorado.gov/water. Type or print in black or blue ink.

1. APPLICANT INFORMATION			
Name of Applicant Paint Brush Hills Metropolitan District			
Mailing Address 9985 Towner Ave	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) (719) 495-8188	Email robert@pbhmd.com		
2. AQUIFER: Dawson	3. AMOUNT OF OVERLYING LAND: Acres 311		
4. OVERLYING LAND OWNERSHIP OR UNDERLYING WATER RIGHT OWNERSHIP DOCUMENTATION – A Nontributary Groundwater Landownership Statement (form GWS-1) or Nontributary Groundwater Consent Claim (form GWS-3A) that includes a description of the overlying land must be submitted as an attachment to the application.			
5. EXISTING WELLS – Are there any wells located on the overlying land? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> If yes: 1) Provide a complete list of all wells located on the overlying land as an attachment to this application; and 2) For all wells producing from the subject aquifer indicate whether the well will continue to operate under its existing well permit or water right, or whether the well is to be re-permitted to withdraw the ground water being allocated by the Determination of Water Right.			
6. TYPE OF USE – Description of intended beneficial uses of the ground water Domestic, commercial, irrigation, stock watering, fire protection, piscatorial, recreation, industrial, fish and wildlife and replacement to be used, reused and successively used, leased, sold or otherwise disposed of on the subject property.			
7. PLACE OF USE – The intended place of use of the ground water shall be considered to be the overlying land area claimed and described in Items 3 and 4 above, unless an attachment provides a legal description of an additional and/or alternate place of use.			
8. THE APPLICANT MUST PROVIDE evidence that the applicant has given notice of the application by registered or certified mail, return receipt requested, no less than ten days prior to the making of the application, to every record owner of, and to every person who has a lien or mortgage upon, or deed of trust to, the overlying land recorded in the county in which the overlying land is located (see instructions for exceptions). Evidence that the notice has been given is to be provided by submitting a Verification of Notice of Application (form no. GWS-43). See instructions on the reverse of this form, and form no. GWS-043, for exceptions to this requirement.			
9. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge. Signature:  Date: September 28, 2023 Print name and title: Timothy A. Crawford, P.G./Hydrogeologist			
FOR OFFICE USE ONLY			
DIV _____ WD _____ BASIN _____ MD _____ CO _____			10032078

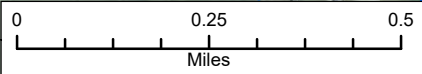
NONTRIBUTARY GROUNDWATER LANDOWNERSHIP STATEMENT

This form is to be submitted with applications for the following, when the applicant is the owner of the overlying land.
 1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR
 2) A determination of water right in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or a well permit to withdraw groundwater from those aquifers that are subject to Designated Basin Rule 5.4, within a Designated Groundwater Basin.
 NOTE: Form submittal instructions can be found on our website Colorado.gov/water. See instructions on the reverse of this form.
 Type or print in black or blue ink.

1. APPLICANT INFORMATION			
Name of Applicant Paint Brush Hills Metropolitan District			
Mailing Address 9985 Towner Ave	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) (719) 495-8188	Email robert@pbhmd.com		
2. AQUIFER Dawson			
3. CLAIM OF OWNERSHIP – I hereby claim that I am the owner of the following described property, as evidenced by the attached copy of a deed recorded in the county in which the property is located. Number of acres: <u>945</u> in the county of: <u>El Paso</u> described as follows (insert legal description). <u>See Attached</u> <hr/> <hr/> <hr/> <hr/> <hr/> - I further claim that the right to withdraw the groundwater in the aquifer underlying the above described property has not been reserved by another, nor has consent been given to another for the right to its withdrawal.			
4. THE APPLICANT MUST PROVIDE – a Verification of Notice of Application (form no. GWS-43) (see instructions for exceptions).			
5. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge. Signature:  Date: September 28, 2023 Print name and title: Timothy A, Crawford, P.G./Hydrologist			



BBA
Water Consultants, Inc.
303.806.8952 | www.bbawater.com



**Exhibit A DRAFT
Paint Brush Hills
Metropolitan District
Denver Aquifer
Remainder Parcel**

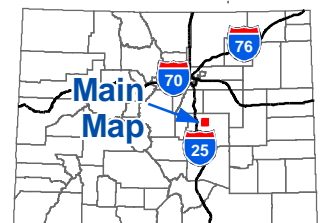
Date: 8/29/2023 | Job No. 1709.01

Legend

- PBHMD Service Area Boundary *
- Area of Determination 214-BD
- Denver Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
Aerial Photo Date: 8/5/2021 NAIP USDA
Data Source: CDSS, CDOT, BLM, USGS

COLORADO



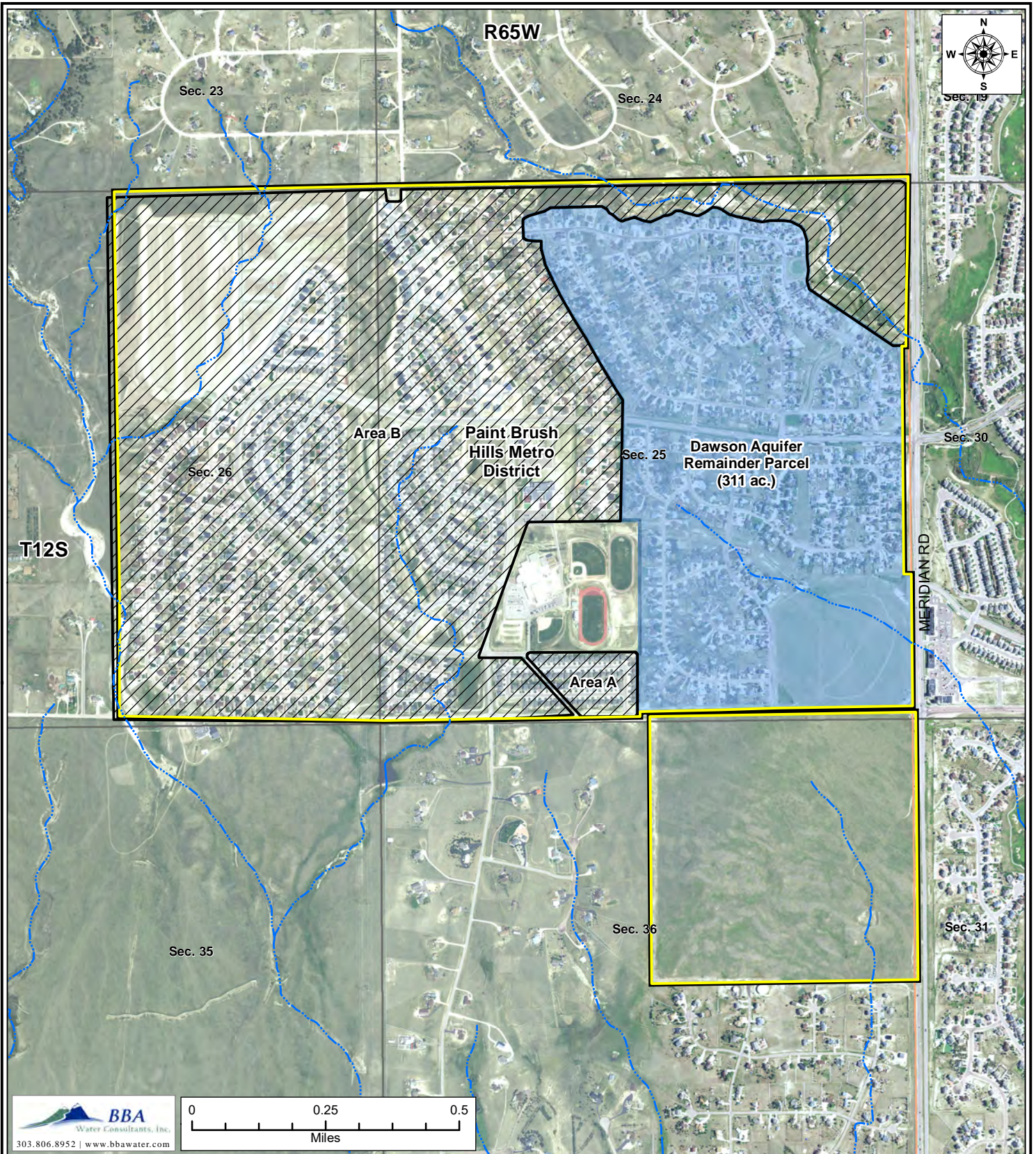





Figure 1
Paint Brush Hills
Metropolitan District
General Location Map

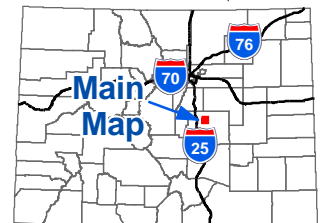
Date: 8/31/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
-  Dawson Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



STATE OF
COLORADO

DWR - DNR, Permitsonline <dnr_dwrpermitsonline@state.co.us>

Fwd: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Fri, Sep 29, 2023 at 6:06 PM

To: Permitsonline DWR - DNR <dwrpermitsonline@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>, Charlie Stanzione <cstanzione@bbawater.com>, Joanna Williams - DNR <joanna.williams@state.co.us>

Hello,

Could you please invoice Charlie Stanzione <cstanzione@bbawater.com> for the following applications?

1. Determination of Water Right for the Dawson aquifer
2. Replacement Plan for the Dawson aquifer
3. Change of Water Right application for 719-BD
4. Determination of Water Right for the Denver aquifer
5. Change of Water Right application for 214-BD

Thanks,

Wenli Dickinson, P.E.

Water Resource Engineer

**COLORADO**
Division of Water Resources
Department of Natural Resources

P 303.866.3581 x8206

1313 Sherman St, Suite 821, Denver, CO 80203

wenli.dickinson@state.co.us | dwr.colorado.gov

----- Forwarded message -----

From: **Charlie Stanzione** <cstanzione@bbawater.com>

Date: Fri, Sep 29, 2023 at 4:04 PM

Subject: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

To: Williams - DNR, Joanna <joanna.williams@state.co.us>, Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>

Joanna and Wenli,

As we discussed at our meeting this summer, we are submitting on behalf of our client Paint Brush Hills Metro District the attached report and associated application forms for a Dawson Aquifer Replacement Plan. We have also prepared related applications needed for the District to fully permit and develop the Dawson and Denver ground water underlying the District service area.

Please find attached the following documents and applications:

- Dawson Aquifer Info: BBA Report for the Dawson Aquifer Replacement Plan – includes the approach and information based on our meeting this summer. The report also has attached to it several related

GWS application forms: **1) GWS-69** – Application for a Replacement Plan; **2) GWS-53** – Dawson – also discussed with you this summer, this application is for a Determination of Water Rights in the Dawson aquifer underlying lands within the District that do not yet have a Dawson Determination, referred to as “remainder” lands or area (see **Figure 1**, these lands were not included in the District’s existing Dawson Determination, 719-BD, or the School District’s existing Dawson Determination, 307-BD); **3) GWS-67** – Dawson – application to change a Determination of water right, to allow the development of all the District’s Dawson water in 719-BD, the School District water in 307-BD, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

- Denver - **GWS-53** – application for Determination of Water Rights in the Denver aquifer underlying lands within the District that do not yet have a Determination, referred to as “remainder” lands or area (see **Exhibit A**, these lands were not included in the District’s existing Denver Determination, 214-BD, or the School District’s existing Denver Determination, 306-BD); **Exhibit A** map of “remainder” area for Denver GWS-53.
- Denver - **GWS-67** – application for change in Determination to allow the development of all the District’s Denver water in 214-BD, the School District water in 306-BD, any additional water from the pending 23GW06 permit, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

We understand that processing fees will need to be paid for the enclosed applications and forms; please let me know if you can process them as-is, or if DWR prefers to have them filed separately.

Please let us know if you have any questions or need additional information.

Thank you,

Charlie

Charles E. Stanzione, P.G.

Principal

BBA Water Consultants, Inc.

cstanzione@bbawater.com

Mobile: 303.349.0347

www.bbawater.com

4 attachments

 **1709.01 BBA Letter - Replacement Plan Letter Report 2023-09-28 (ID 112711).pdf**
7188K


 **Paint Brush Hills - Denver-GWS-53 and GWS-01-remainder area.pdf**
329K



Figure 1. Paint Brush Hills Dawson Aquifer Remainder Parcel GLM (ID 111701).pdf
2389K



Exhibit A DRAFT - Paint Brush Hills MD Denver Aquifer Remainder Parcel - Aerial (ID 111421).pdf
967K

Form no. **DIVISION OF WATER RESOURCES**
 GWS-3A **DEPARTMENT OF NATURAL RESOURCES**
 (1/2020) **1313 Sherman St, Room 821, Denver, CO 80203**
(303) 866-3581, www.colorado.gov/water, dwrpermitsonline@state.co.us


NONTRIBUTARY GROUNDWATER CONSENT CLAIM

This form is to be submitted with applications for the following, when the applicant is not the owner of the overlying land.

1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR

2) A determination of water right in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or a well permit to withdraw groundwater from those aquifers that are subject to Designated Basin Rule 5.4, within a Designated Groundwater Basin.

NOTE: Form submittal instructions can be found on our website Colorado.gov/water. See instructions on the reverse of this form. Type or print in black ink.

1. APPLICANT INFORMATION			
Name of Applicant <p style="text-align: center;">Paint Brush Hills Metro District c/o BBA Water Consultants, Inc.</p>			
Mailing Address	City	State	Zip Code
333 W. Hampden Ave., Ste.1050	Englewood	CO	80110
Telephone Number (include area code)		Email	
303-806-8952		cstanzione@bbawater.com	
2. AQUIFER:			
Dawson			
3. CLAIM OF CONSENT - I hereby claim that I have the consent of the owner of the following described property to withdraw the groundwater underlying the property from the aquifer indicated above.			
Number of acres: <u>311</u> in the county of: <u>El Paso</u>			
described as follows (insert legal description).			
<u>see attached</u>			
I further claim that such consent is made by virtue of (check one of the following).			
<input checked="" type="checkbox"/> Expressed written consent, pursuant to C.R.S. 37-90-137(4)(b)(II)(A) if outside a Designated Ground Water Basin, or Commission Rules 5.3.2.1 and 2 or 5.4.2.1 if within a Designated Ground Water Basin.			
<ul style="list-style-type: none"> • A copy of a deed, containing a legal description of the overlying land, recorded in the county (or counties) in which the land is located, evidencing that the applicant has been conveyed and owns the right to withdraw the ground water, must be provided. • A Verification of Notice of Application (form no. GWS-43) must also be provided (see that form for exceptions). 			
<input type="checkbox"/> A municipal ordinance or quasi-municipal district resolution in effect prior to January 1, 1985, pursuant to C.R.S. 37-90-137(4)(b)(II)(B) outside a Designated Ground Water Basin.			
<ul style="list-style-type: none"> • A copy of the ordinance or resolution and a copy of the water court application certified by the water court must be provided. 			
<input type="checkbox"/> Deemed consent by a municipality or quasi-municipality, pursuant to C.R.S. 37-90-137(4)(b)(II)(C) and 137(8) if outside a Designated Ground Water Basin, or Commission Rule 5.3.10 or 5.4.13 if within a Designated Ground Water Basin.			
<ul style="list-style-type: none"> • A copy of the ordinance or resolution and a copy of a detailed map showing the land area for which consent is deemed to have been given must be provided with all applications, unless previously filed with the State Engineer in which case by signing this form the claimant verifies that that information is still true and correct. 			
4. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.			
Signature: 		Date: 10/20/23	
Print name and title: Charles Stanzione, water resource consultant for PBHMD			

The overlying land is that portion of Section 25, T12S, R65W excluding the Easterly 30 feet and the Southerly 60 feet of the Easterly 3222.73 feet of said Section 25, the parcel described in Book 2732 at page 860 of the records of said El Paso County and the overlying lands in determinations 719-BD and 307-BD, totaling approximately 311 acres, as presented in Figure 1.

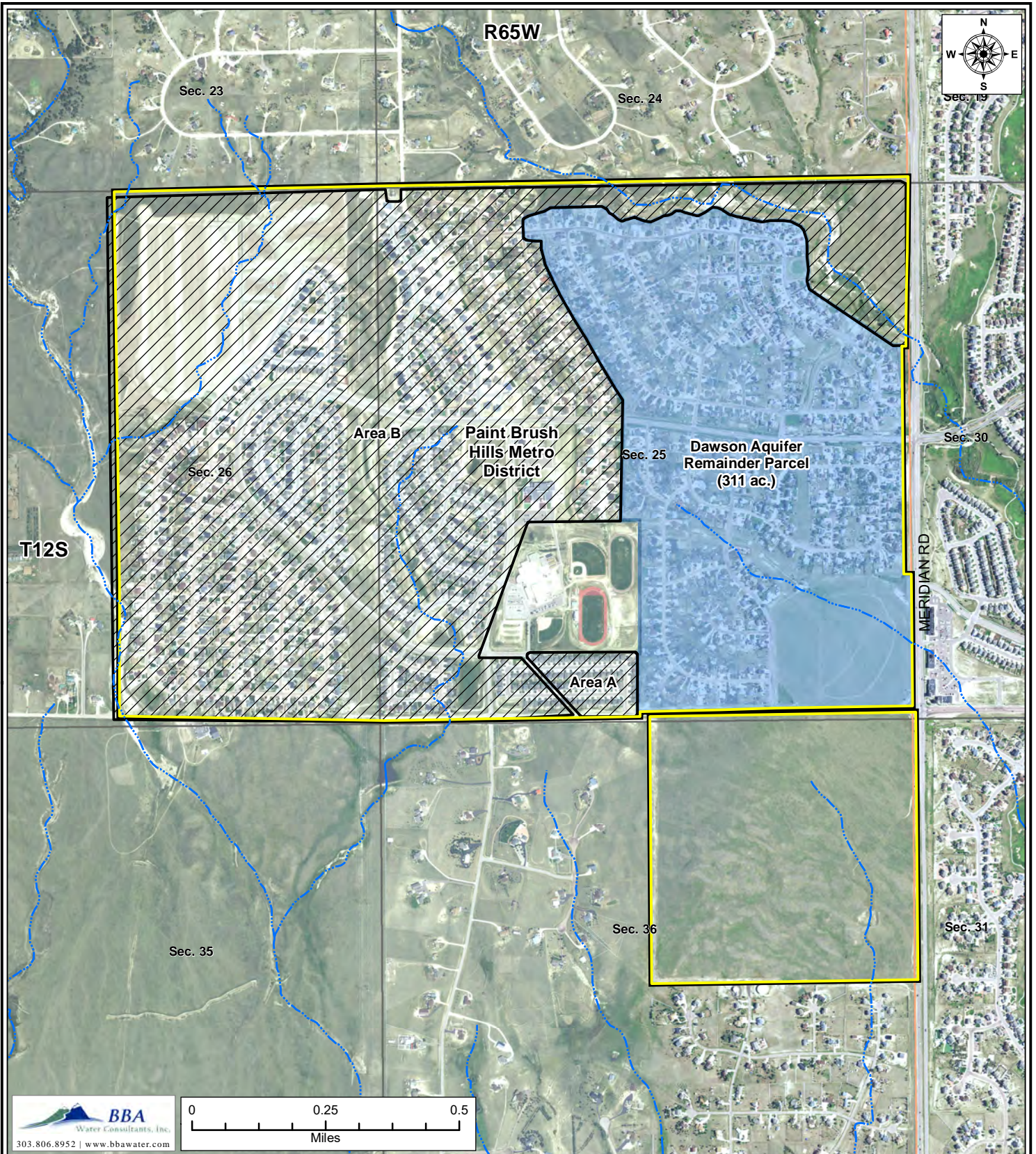





Figure 1
Paint Brush Hills
Metropolitan District
General Location Map

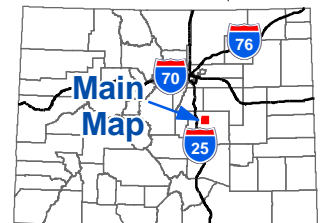
Date: 8/31/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
-  Dawson Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



Warranty Deed

(STATUTORY FORM)

Know all Men by these Presents, That LATIGO RANCH, a Limited Partnership, of the County of El Paso and State of Colorado, for the consideration of One Dollar and other good and valuable considerations, in hand paid, hereby sell and convey to CONSOLIDATED SCHOOL DISTRICT NO. 49, El Paso County, Colorado, of the County of El Paso and State of Colorado, the following Real Property situate in the County of El Paso and State of Colorado, to-wit:

That portion of the Southwest Quarter of Section 25, in Township 12 South, Range 65 West of the 6th P.M.; Beginning at a point in said Southwest Quarter which point lies North 78°05'25" West, said bearing and all others in this description are on the Colorado Coordinate System - Central Zone, a distance of 2,785.22 feet from the Southeast corner of Section 25; thence South 90° West, a distance of 1,563.72 feet; thence North 19°55'32" East, a distance of 1,398.28 feet; thence North 90° East, a distance of 1,087.19 feet; thence South 00° East, a distance of 1,314.57 feet to the point of beginning and containing 40.0 acres more or less,

with all its appurtenances and warrant the title to the same.

Signed and delivered this 6th day of February, 19 75.

STATE DOCUMENTARY

FEB 11 1975

FEE \$ none

LATIGO RANCH, a Limited Partnership

By Jerry A. Smith
Thomas J. LaMotte,

General Partners.

STATE OF COLORADO

County of El Paso

} ss.

STATUTORY ACKNOWLEDGMENT

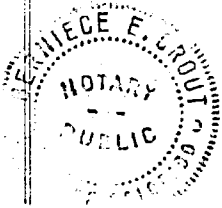
The foregoing instrument was acknowledged before me this 6th day of February, 19 75, by Jerry A. Smith and Thomas J. LaMotte, General Partners of Latigo Ranch, a Limited Partnership.

Witness my hand and official seal.

My commission expires January 29, 1976.

Bernice E. Croust

NOTARY PUBLIC



STATE OF _____

County of _____

} ss.

The foregoing instrument was acknowledged before me

this _____ day of _____, 19 _____,

by _____ as _____ President

and _____ as _____ Secretary of

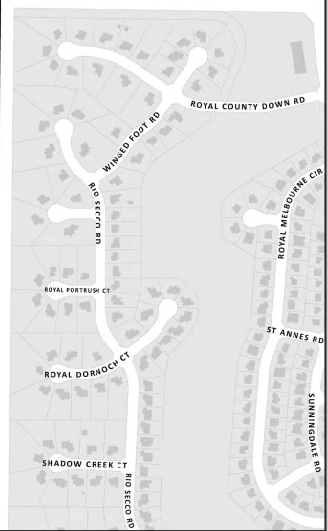
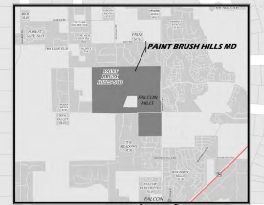
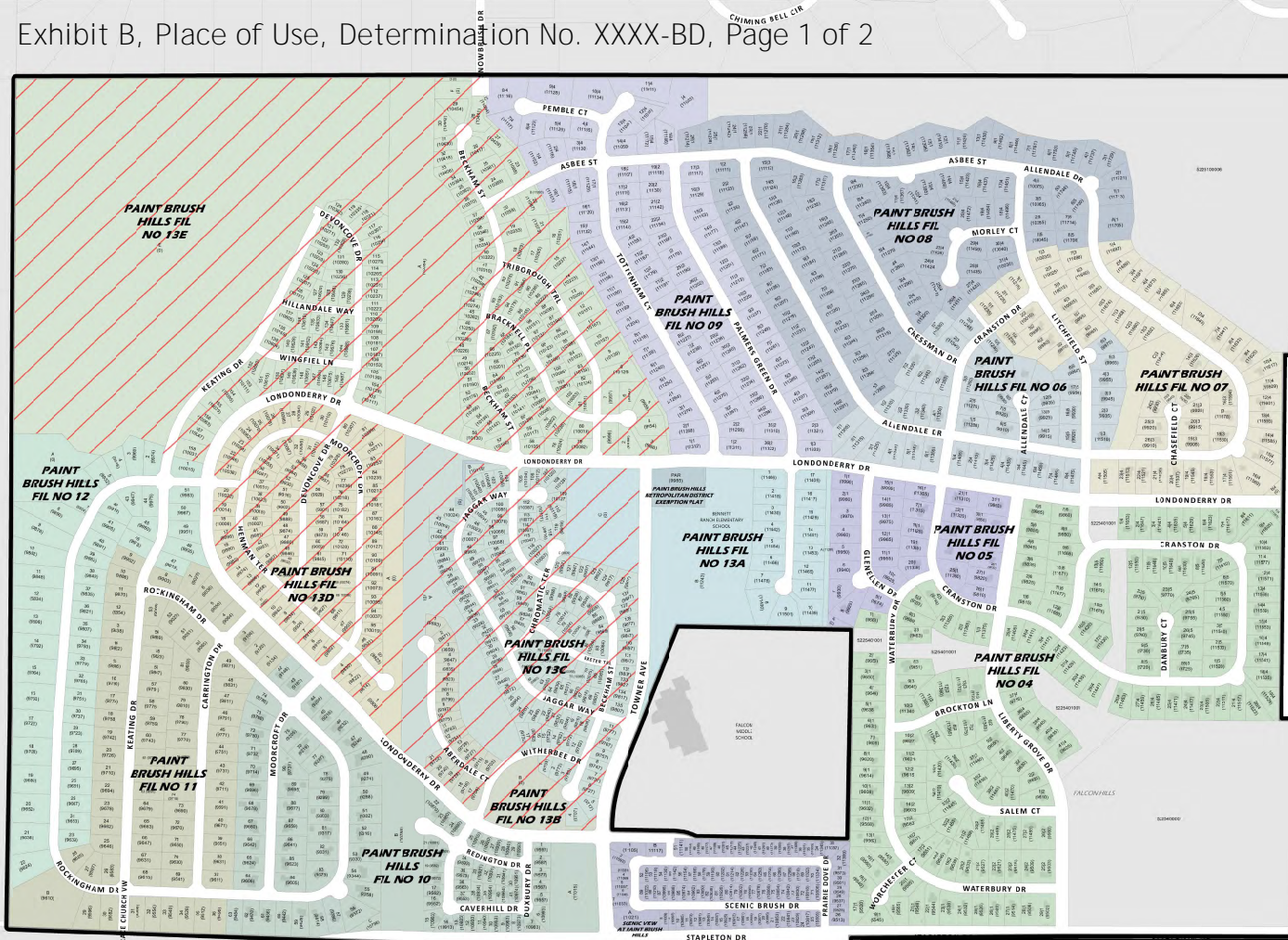
_____ a corporation.

Witness my hand and official seal.

My commission expires _____

NOTARY PUBLIC

RODGWICK HTS



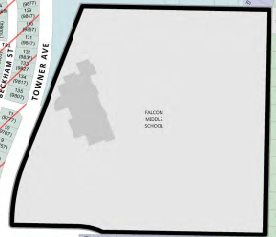
1 inch = 250 feet

**PAIN BRUSH HILLS MD
and
PAIN BRUSH HILLS MD
SUBDISTRICT A**

Paint Brush Hills MD Lot | Block (Address)

Paint Brush Hills MD -- Subdistrict A

3/12/2020 EPC Assessor's Office
NAO, 1963, StatePlace_Colorado_Central_FPRS_2002_Plot
Projection: Lambert, Conformal, Conic
Scale: 1 inch = 250 feet
Map Date: 3/12/2020
Map Author: EPC Assessor's Office
Map Reviewer: EPC Assessor's Office
Map Approval: EPC Assessor's Office
Map Distribution: EPC Assessor's Office
Map Contact: EPC Assessor's Office
Map Copyright: EPC Assessor's Office
Map Disclaimer: This map is provided for informational purposes only. It is not intended to be used as a legal document. The information on this map is subject to change without notice. The user assumes all responsibility for the use of this map.





The District's service area consists of of Sec.25, the East half of Sec.26, and the Northeast quarter of Sec.36, T12S, R65W.

Form no. **COLORADO GROUND WATER COMMISSION**
GWS-53
 (1/2020) **DIVISION OF WATER RESOURCES**
DEPARTMENT OF NATURAL RESOURCES
1313 Sherman St, Room 821, Denver, CO 80203
(303) 866-3581, dwr.colorado.gov, dwrpermitsonline@state.co.us

RECEIVED
 10/04/2023
 Water Resources
 State Engineer
 COLO

**APPLICATION FOR A DETERMINATION OF WATER RIGHT
 WITHIN A DESIGNATED GROUNDWATER BASIN**

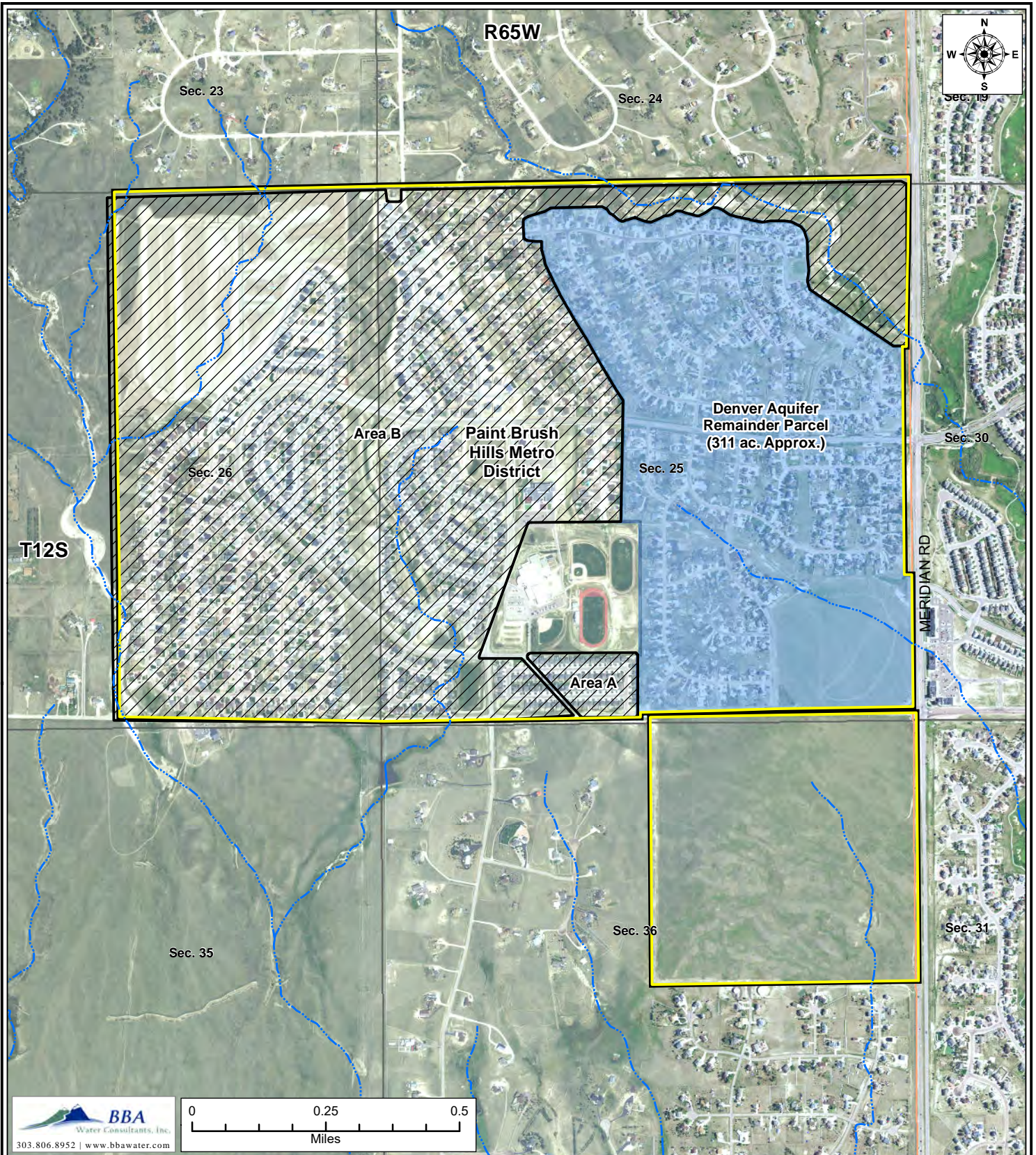
This application is to be used to apply for a determination of right to groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifer underlying land area located within a Designated Groundwater Basin pursuant to Section 37-90-107(7), C.R.S. A separate form must be used for each aquifer. Review the instructions on the reverse of this form. This form must be completed, signed, dated and submitted to the Ground Water Commission with a non-refundable \$60 filing fee. Accepted payment options and form submittal instructions can be found on our website Colorado.gov/water. Type or print in black or blue ink.

1. APPLICANT INFORMATION			
Name of Applicant Paint Brush Hills Metropolitan District			
Mailing Address 9985 Towner Ave	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) (719) 495-8188	Email robert@pbhmd.com		
2. AQUIFER: Denver	3. AMOUNT OF OVERLYING LAND: Acres 311		
4. OVERLYING LAND OWNERSHIP OR UNDERLYING WATER RIGHT OWNERSHIP DOCUMENTATION – A Nontributary Groundwater Landownership Statement (form GWS-1) or Nontributary Groundwater Consent Claim (form GWS-3A) that includes a description of the overlying land must be submitted as an attachment to the application.			
5. EXISTING WELLS – Are there any wells located on the overlying land? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> If yes: 1) Provide a complete list of all wells located on the overlying land as an attachment to this application; and 2) For all wells producing from the subject aquifer indicate whether the well will continue to operate under its existing well permit or water right, or whether the well is to be re-permitted to withdraw the ground water being allocated by the Determination of Water Right.			
6. TYPE OF USE – Description of intended beneficial uses of the ground water Domestic, commercial, irrigation, stock watering, fire protection, piscatorial, recreation, industrial, fish and wildlife and replacement to be used, reused and successively used, leased, sold or otherwise disposed of on the subject property.			
7. PLACE OF USE – The Intended place of use of the ground water shall be considered to be the overlying land area claimed and described in Items 3 and 4 above, unless an attachment provides a legal description of an additional and/or alternate place of use.			
8. THE APPLICANT MUST PROVIDE evidence that the applicant has given notice of the application by registered or certified mail, return receipt requested, no less than ten days prior to the making of the application, to every record owner of, and to every person who has a lien or mortgage upon, or deed of trust to, the overlying land recorded in the county in which the overlying land is located (see instructions for exceptions). Evidence that the notice has been given is to be provided by submitting a Verification of Notice of Application (form no. GWS-43). See instructions on the reverse of this form, and form no. GWS-043, for exceptions to this requirement.			
9. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge. Signature: <i>Timothy A. Crawford</i> Date: 9/28/23 Print name and title: Timothy A. Crawford, P.G. Hydrogeologist			
FOR OFFICE USE ONLY			
DIV _____	WD _____	BASIN _____	MD _____ CO _____
			10032077

NONTRIBUTARY GROUNDWATER LANDOWNERSHIP STATEMENT

This form is to be submitted with applications for the following, when the applicant is the owner of the overlying land.
 1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR
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1. APPLICANT INFORMATION			
Name of Applicant Paint Brush Hills Metropolitan District			
Mailing Address 9985 Towner Ave	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) (719) 495-8188		Email robert@pbhmd.com	
2. AQUIFER Denver			
3. CLAIM OF OWNERSHIP – I hereby claim that I am the owner of the following described property, as evidenced by the attached copy of a deed recorded in the county in which the property is located. Number of acres: <u>945</u> in the county of: <u>El Paso</u> described as follows (insert legal description). <u>See Attached</u> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> - I further claim that the right to withdraw the groundwater in the aquifer underlying the above described property has not been reserved by another, nor has consent been given to another for the right to its withdrawal.			
4. THE APPLICANT MUST PROVIDE – a Verification of Notice of Application (form no. GWS-43) (see instructions for exceptions).			
5. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge. Signature: <u>Timothy A Crawford</u> Date: <u>9/28/23</u> Print name and title: <u>Timothy A. Crawford, P.G. Hydrogeologist</u>			



**Exhibit A DRAFT
Paint Brush Hills
Metropolitan District
Denver Aquifer
Remainder Parcel**

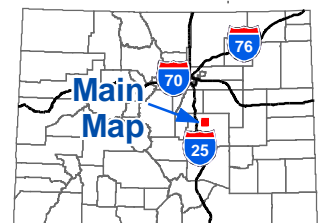
Date: 8/29/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 214-BD
-  Denver Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
Aerial Photo Date: 8/5/2021 NAIP USDA
Data Source: CDSS, CDOT, BLM, USGS

COLORADO



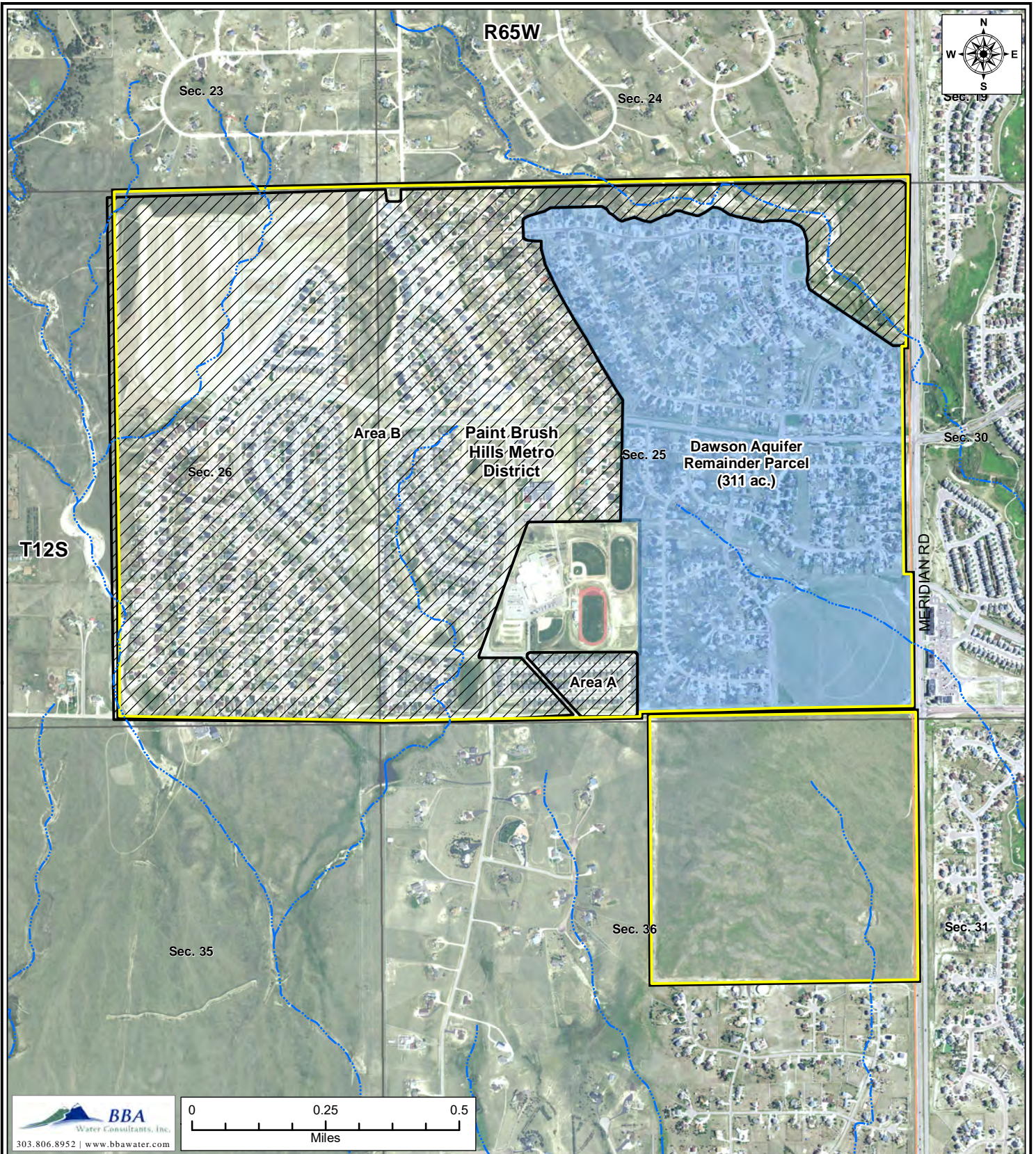





Figure 1
Paint Brush Hills
Metropolitan District
General Location Map

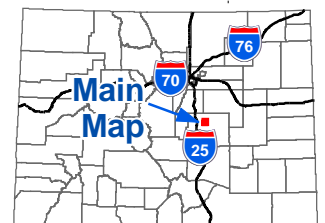
Date: 8/31/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
-  Dawson Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



STATE OF
COLORADO

DWR - DNR, Permitsonline <dnr_dwrpermitsonline@state.co.us>

Fwd: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Fri, Sep 29, 2023 at 6:06 PM

To: Permitsonline DWR - DNR <dwrpermitsonline@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>, Charlie Stanzione <cstanzione@bbawater.com>, Joanna Williams - DNR <joanna.williams@state.co.us>

Hello,

Could you please invoice Charlie Stanzione <cstanzione@bbawater.com> for the following applications?

1. Determination of Water Right for the Dawson aquifer
2. Replacement Plan for the Dawson aquifer
3. Change of Water Right application for 719-BD
4. Determination of Water Right for the Denver aquifer
5. Change of Water Right application for 214-BD

Thanks,

Wenli Dickinson, P.E.
Water Resource EngineerCOLORADO
Division of Water Resources
Department of Natural Resources

P 303.866.3581 x8206

1313 Sherman St, Suite 821, Denver, CO 80203

wenli.dickinson@state.co.us | dwr.colorado.gov

----- Forwarded message -----

From: **Charlie Stanzione** <cstanzione@bbawater.com>

Date: Fri, Sep 29, 2023 at 4:04 PM

Subject: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

To: Williams - DNR, Joanna <joanna.williams@state.co.us>, Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>

Joanna and Wenli,

As we discussed at our meeting this summer, we are submitting on behalf of our client Paint Brush Hills Metro District the attached report and associated application forms for a Dawson Aquifer Replacement Plan. We have also prepared related applications needed for the District to fully permit and develop the Dawson and Denver ground water underlying the District service area.

Please find attached the following documents and applications:

- Dawson Aquifer Info: BBA Report for the Dawson Aquifer Replacement Plan – includes the approach and information based on our meeting this summer. The report also has attached to it several related

GWS application forms: **1) GWS-69** – Application for a Replacement Plan; **2) GWS-53** – Dawson – also discussed with you this summer, this application is for a Determination of Water Rights in the Dawson aquifer underlying lands within the District that do not yet have a Dawson Determination, referred to as “remainder” lands or area (see **Figure 1**, these lands were not included in the District’s existing Dawson Determination, 719-BD, or the School District’s existing Dawson Determination, 307-BD); **3) GWS-67** – Dawson – application to change a Determination of water right, to allow the development of all the District’s Dawson water in 719-BD, the School District water in 307-BD, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

- Denver - **GWS-53** – application for Determination of Water Rights in the Denver aquifer underlying lands within the District that do not yet have a Determination, referred to as “remainder” lands or area (see **Exhibit A**, these lands were not included in the District’s existing Denver Determination, 214-BD, or the School District’s existing Denver Determination, 306-BD); **Exhibit A** map of “remainder” area for Denver GWS-53.
- Denver - **GWS-67** – application for change in Determination to allow the development of all the District’s Denver water in 214-BD, the School District water in 306-BD, any additional water from the pending 23GW06 permit, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

We understand that processing fees will need to be paid for the enclosed applications and forms; please let me know if you can process them as-is, or if DWR prefers to have them filed separately.

Please let us know if you have any questions or need additional information.

Thank you,

Charlie

Charles E. Stanzione, P.G.

Principal

BBA Water Consultants, Inc.


cstanzione@bbawater.com

Mobile: 303.349.0347

www.bbawater.com

4 attachments

 **1709.01 BBA Letter - Replacement Plan Letter Report 2023-09-28 (ID 112711).pdf**
7188K

 **Paint Brush Hills - Denver-GWS-53 and GWS-01-remainder area.pdf**
329K

 **Figure 1. Paint Brush Hills Dawson Aquifer Remainder Parcel GLM (ID 111701).pdf**
2389K

 **Exhibit A DRAFT - Paint Brush Hills MD Denver Aquifer Remainder Parcel - Aerial (ID 111421).pdf**
967K


NONTRIBUTARY GROUNDWATER CONSENT CLAIM

This form is to be submitted with applications for the following, when the applicant is not the owner of the overlying land.

1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR

2) A determination of water right in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or a well permit to withdraw groundwater from those aquifers that are subject to Designated Basin Rule 5.4, within a Designated Groundwater Basin.

NOTE: Form submittal instructions can be found on our website Colorado.gov/water. See instructions on the reverse of this form. Type or print in black ink.

1. APPLICANT INFORMATION			
Name of Applicant <p style="text-align: center;">Paint Brush Hills Metro District c/o BBA Water Consultants, Inc.</p>			
Mailing Address	City	State	Zip Code
333 W. Hampden Ave., Ste.1050	Englewood	CO	80110
Telephone Number (include area code)		Email	
303-806-8952		cstanzione@bbawater.com	
2. AQUIFER:			
Denver			
3. CLAIM OF CONSENT - I hereby claim that I have the consent of the owner of the following described property to withdraw the groundwater underlying the property from the aquifer indicated above.			
Number of acres: <u>311</u> in the county of: <u>El Paso</u>			
described as follows (insert legal description).			
<u>see attached</u>			
I further claim that such consent is made by virtue of (check one of the following).			
<input checked="" type="checkbox"/> Expressed written consent, pursuant to C.R.S. 37-90-137(4)(b)(II)(A) if outside a Designated Ground Water Basin, or Commission Rules 5.3.2.1 and 2 or 5.4.2.1 if within a Designated Ground Water Basin.			
<ul style="list-style-type: none"> • A copy of a deed, containing a legal description of the overlying land, recorded in the county (or counties) in which the land is located, evidencing that the applicant has been conveyed and owns the right to withdraw the ground water, must be provided. • A Verification of Notice of Application (form no. GWS-43) must also be provided (see that form for exceptions). 			
<input type="checkbox"/> A municipal ordinance or quasi-municipal district resolution in effect prior to January 1, 1985, pursuant to C.R.S. 37-90-137(4)(b)(II)(B) outside a Designated Ground Water Basin.			
<ul style="list-style-type: none"> • A copy of the ordinance or resolution and a copy of the water court application certified by the water court must be provided. 			
<input type="checkbox"/> Deemed consent by a municipality or quasi-municipality, pursuant to C.R.S. 37-90-137(4)(b)(II)(C) and 137(8) if outside a Designated Ground Water Basin, or Commission Rule 5.3.10 or 5.4.13 if within a Designated Ground Water Basin.			
<ul style="list-style-type: none"> • A copy of the ordinance or resolution and a copy of a detailed map showing the land area for which consent is deemed to have been given must be provided with all applications, unless previously filed with the State Engineer in which case by signing this form the claimant verifies that that information is still true and correct. 			
4. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.			
Signature:			Date:
			10/20/23
Print name and title:	Charles Stanzione, water resource consultant for PBHMD		

INSTRUCTIONS – NONTRIBUTARY GROUNDWATER CONSENT CLAIM

ITEM 1 - APPLICANT INFORMATION - Provide the applicant's name, telephone number, mailing address and email where all correspondence will be sent.

ITEM 2 – AQUIFER – Indicate the aquifer that is the subject of the application for a well permit or Determination of Water Right. A separate form must be submitted for each aquifer.

ITEM 3 – CLAIM OF CONSENT –

- Indicate the number of acres for which consent is claimed.
- Identify the county in which the property is located.
- Provide a legal description of the property.
 - For descriptions of irregularly shaped parcels (where the boundaries do not follow or parallel section lines), or where there are exclusions of land within the total parcel, the applicant must submit a map having a scale of 1:24,000 or larger (e.g. 1:10,000) which accurately depicts the described land.
 - If the legal description is too lengthy for the space provided, you may refer to an attached legal description and attach the complete legal description.
 - If the copy of the deed being provided contains an adequate legal description, that deed may be referenced.
 - The legal description and map must be complete and legible. Descriptions that are illegible or incomplete (e.g. that reference exclusions without legal descriptions) may be returned.
- If the claim is being made based on express written consent:
 - Provide a deed showing that the claimant has been conveyed and is the owner of the right to withdraw the underlying groundwater. The name of the claimant must be the same as the name of the owner of the right as shown on the deed.
 - Provide a Verification of Notice of Application (form GWS-43) (see that form for exceptions), available on the Division of Water Resources website at www.colorado.gov/water.

ITEM 4 - SIGNATURE – The form must be signed. If the applicant is a company, corporation, organization, etc., the statement must be signed by responsible person in the company who must indicate his/her title. The application may be signed by the attorney who is acting on behalf of the applicant. An applicant's authorized agent may sign the form if a letter signed by the applicant is submitted with the application authorizing the person to act as agent for the specific purpose of applying for the application.

Additional information:

- Pursuant to section 37-90-137(4)(b.5)(II), C.R.S., for the purposes of paragraph (b.5), "person" means any individual, partnership, association, or corporation authorized to do business in the state of Colorado, or any political subdivision or public agency thereof, or any agency of the United States.
- **A map of the Designated Basins** can be accessed on the Designated Basins page of the Division of Water Resources website at www.colorado.gov/water

IF YOU HAVE ANY QUESTIONS - call the Division of Water Resources - Groundwater Information Desk - at 303-866-3587

The overlying land is that portion of Section 25, T12S, R65W excluding the Easterly 30 feet and the Southerly 60 feet of the Easterly 3222.73 feet of said Section 25, the parcel described in Book 2732 at page 860 of the records of said El Paso County and the overlying lands in determinations 719-BD and 307-BD, totaling approximately 311 acres, as presented in Figure 1.

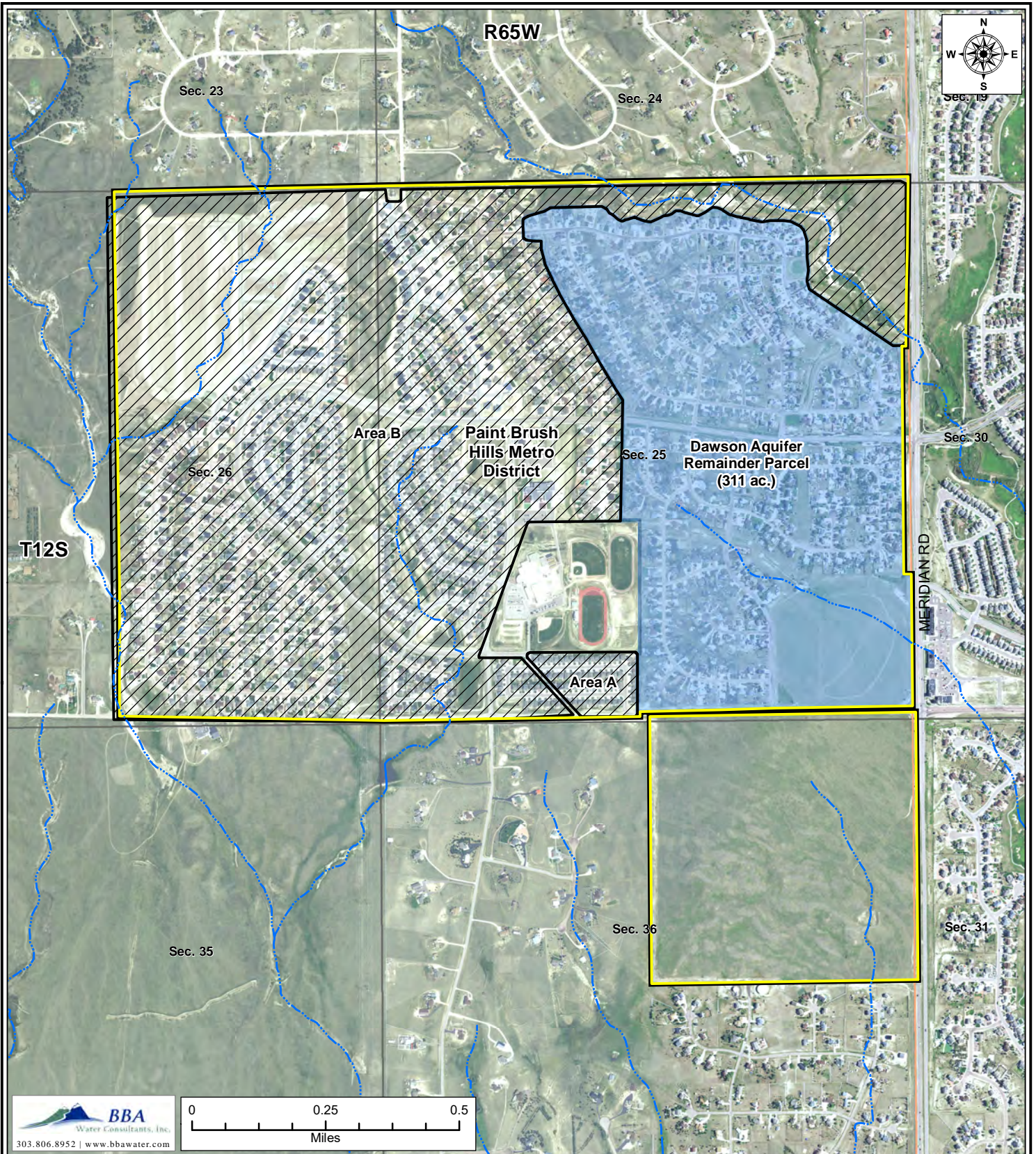





Figure 1
Paint Brush Hills
Metropolitan District
General Location Map

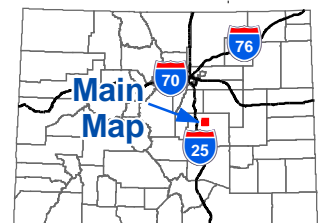
Date: 8/31/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
-  Dawson Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



Warranty Deed

(STATUTORY FORM)

Know all Men by these Presents, That LATIGO RANCH, a Limited Partnership, of the County of El Paso and State of Colorado, for the consideration of One Dollar and other good and valuable considerations, in hand paid, hereby sell and convey to CONSOLIDATED SCHOOL DISTRICT NO. 49, El Paso County, Colorado, of the County of El Paso and State of Colorado, the following Real Property situate in the County of El Paso and State of Colorado, to-wit:

That portion of the Southwest Quarter of Section 25, in Township 12 South, Range 65 West of the 6th P.M.; Beginning at a point in said Southwest Quarter which point lies North 78°05'25" West, said bearing and all others in this description are on the Colorado Coordinate System - Central Zone, a distance of 2,785.22 feet from the Southeast corner of Section 25; thence South 90° West, a distance of 1,563.72 feet; thence North 19°55'32" East, a distance of 1,398.28 feet; thence North 90° East, a distance of 1,087.19 feet; thence South 00° East, a distance of 1,314.57 feet to the point of beginning and containing 40.0 acres more or less,

with all its appurtenances and warrant the title to the same.

Signed and delivered this 6th day of February, 19 75.

STATE DOCUMENTARY

FEB 11 1975

FEE \$ none

LATIGO RANCH, a Limited Partnership

By Jerry A. Smith
Thomas J. LaMotte,

General Partners.

STATE OF COLORADO

County of El Paso

} ss.

STATUTORY ACKNOWLEDGMENT

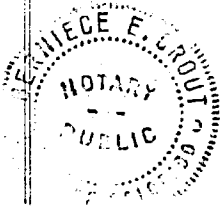
The foregoing instrument was acknowledged before me this 6th day of February, 19 75, by Jerry A. Smith and Thomas J. LaMotte, General Partners of Latigo Ranch, a Limited Partnership.

Witness my hand and official seal.

My commission expires January 29, 1976.

Bernice E. Croust

NOTARY PUBLIC



STATE OF _____

County of _____

} ss.

The foregoing instrument was acknowledged before me

this _____ day of _____, 19 _____,

by _____ as _____ President

and _____ as _____ Secretary of

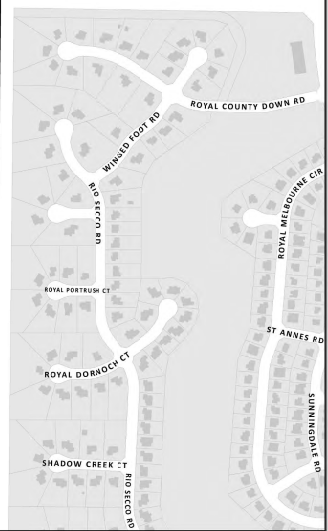
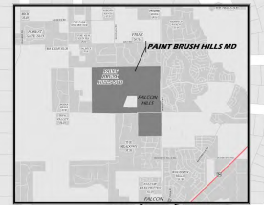
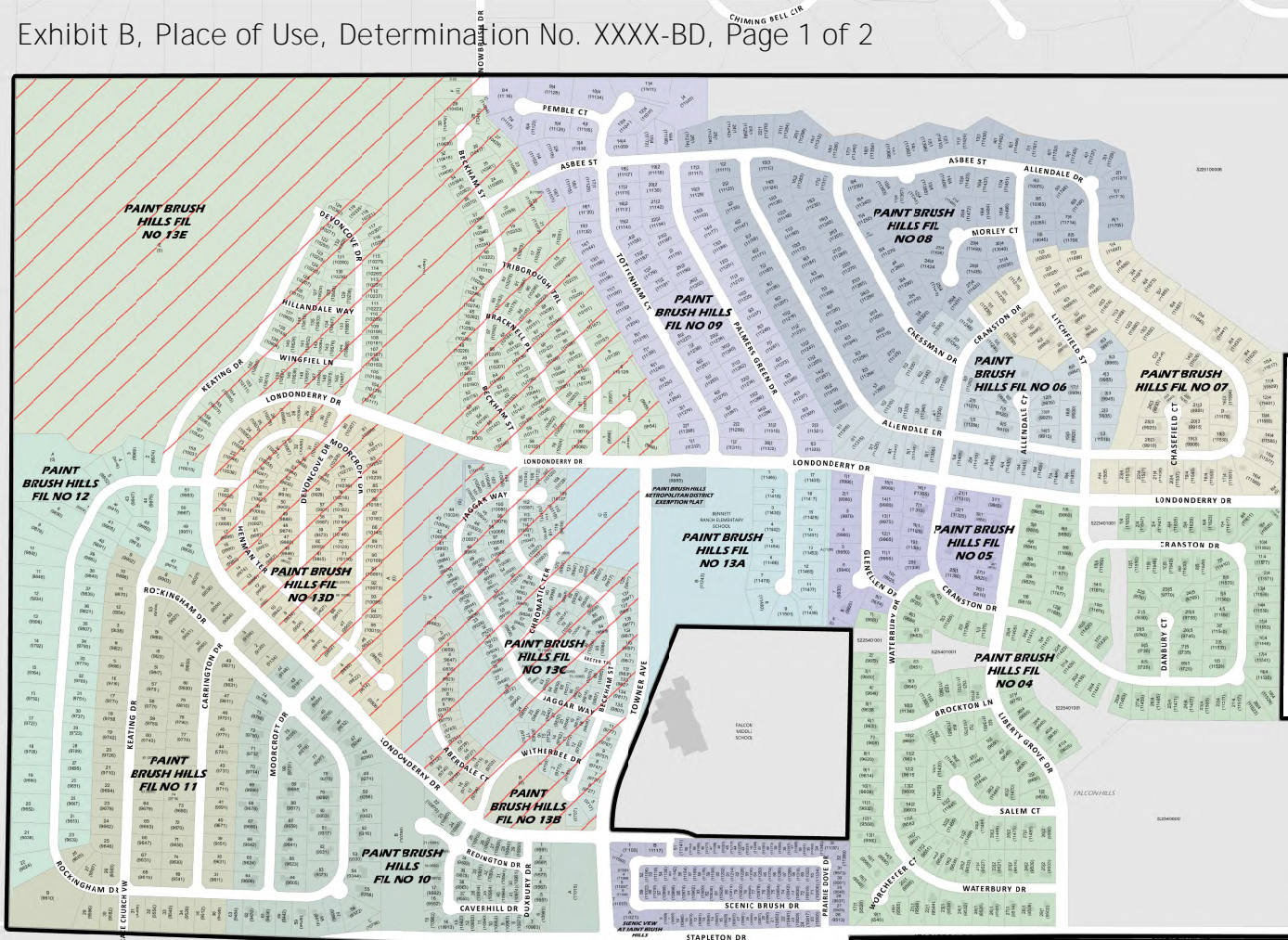
_____ a corporation.

Witness my hand and official seal.

My commission expires _____

NOTARY PUBLIC

RODGWICK HTS



1 inch = 250 feet

**PAIN BRUSH HILLS MD
and
PAIN BRUSH HILLS MD
SUBDISTRICT A**

Paint Brush Hills MD Paint Brush Hills MD -- Subdistrict A

Lot | Block
(Address)

3/12/2020 EPC Assessor's Office
NAO, 1963, StatePlace_Colorado_Central_FPRS_2002_Plot
Projection: Lambert Conformal Conic
Scale: 1:250000
Map Date: 3/12/2020
Map Author: EPC Assessor's Office
Map Reviewer: EPC Assessor's Office
Map Approval: EPC Assessor's Office
Map Distribution: EPC Assessor's Office
Map Contact: EPC Assessor's Office
Map Copyright: EPC Assessor's Office
Map Disclaimer: This map is provided for informational purposes only. It is not intended to be used as a legal document. The information on this map is subject to change without notice.





The District's service area consists of of Sec.25, the East half of Sec.26, and the Northeast quarter of Sec.36, T12S, R65W.

Exhibit B
Determination no. 1111-BD
Page 1 of 1

AQUIFER: Denver

APPLICANT: Paint Brush Hills Metropolitan District

<u>PERMIT</u> <u>NUMBER</u>	----- PERMITTED LOCATION -----					<u>AF</u>	<u>ST</u> <u>(ft)</u>	<u>SY</u>	<u>RADIUS</u> <u>(ft)</u>	<u>AREA</u> <u>(acres)</u>
	<u>1/4</u>	<u>1/4</u>	<u>SEC</u>	<u>TWP</u>	<u>RNG</u>					

WELL PERMIT = Well permit number and/or water court case number

AF = Annual appropriation of the well (acre-feet) - Use of this appropriation does not constitute staff clarification or Commission final determination of any water right associated with the subject well.

ST = Thickness of the saturated aquifer material at the well location (feet)

SY = Specific Yield of the saturated aquifer material (%)

RADIUS = Radius of the cylinder of appropriation (feet)

AREA = Area of the applicant's land that is overlapped by the cylinder of appropriation (acres)

APPLICATION TO CHANGE A DETERMINATION OF WATER RIGHT

This application is to be used to apply to change a Determination of Water Right for the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers that was approved by the Ground Water Commission. This is an application for a change of water right pursuant to Section 37-90-107(7), C.R.S. This form must be completed, signed, dated and submitted to the Commission with a non-refundable \$100 filing fee. Accepted payment options and form submittal instructions can be found on our website Colorado.gov/water. Review the instructions on the reverse of this form. Type or print in black ink.

1. DETERMINATION NUMBER: 214-BD		AQUIFER: Denver	
2. APPLICANT INFORMATION			
Name of Applicant Paint Brush Hills Metro District c/o BBA Water Consultants			
Mailing Address 333 West Hampden Ave., Ste. 1050		City Englewood	State CO
Zip Code 80110		Telephone Number (include area code) 303-806-8952	
Email cstanzione@bbawater.com			
3. DESCRIPTION OF PROPOSED CHANGE – Provide a complete description of the change(s) being applied for.			
<input type="checkbox"/> CHANGE TYPE OF USE – Describe all proposed beneficial uses			
<input type="checkbox"/> CHANGE PLACE OF USE – Provide a complete legal description of the proposed place of use			
<input checked="" type="checkbox"/> OTHER – describe proposed changes Add the Denver ground water for Paint Brush Hills Filings 1-3 as determined by the final Findings and Order entered in Case No. 23GW6. Allow the use of the added water and the 214-BD water anywhere within the District service area.			
4. CLAIM OF OWNERSHIP – I hereby claim that I am the owner of the following amount of the water right. - A volume of _____ acre-feet. OR - An average annual amount of withdrawal of <u>538.5</u> acre-feet per year (based on a 100-year aquifer life). OR - An average annual amount of withdrawal of _____ acre-feet per year (based on a period of _____ years). NOTE: The amount must be specified as a volume if the Determination of Water Right included terms and conditions requiring that any action taken that is intended to convey, transfer, and/or sell the subject water right explicitly identify the total amount (i.e. volume) of the right that is conveyed.			
5. EVIDENCE OF OWNERSHIP – If applicant is not the same party to whom the Determination was originally issued, a copy of a deed that has been recorded with the county must be provided showing that the applicant owns the amount of the right for which the change is applied.			
6. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.			
Signature: <i>Timothy A Crawford</i>		Date: <i>9/28/23</i>	
Print name and title: <i>Timothy A. Crawford P.O., Hydrogeologists</i>			
FOR OFFICE USE ONLY			
DIV _____ WD _____ BASIN _____ MD _____ CO _____			10032079

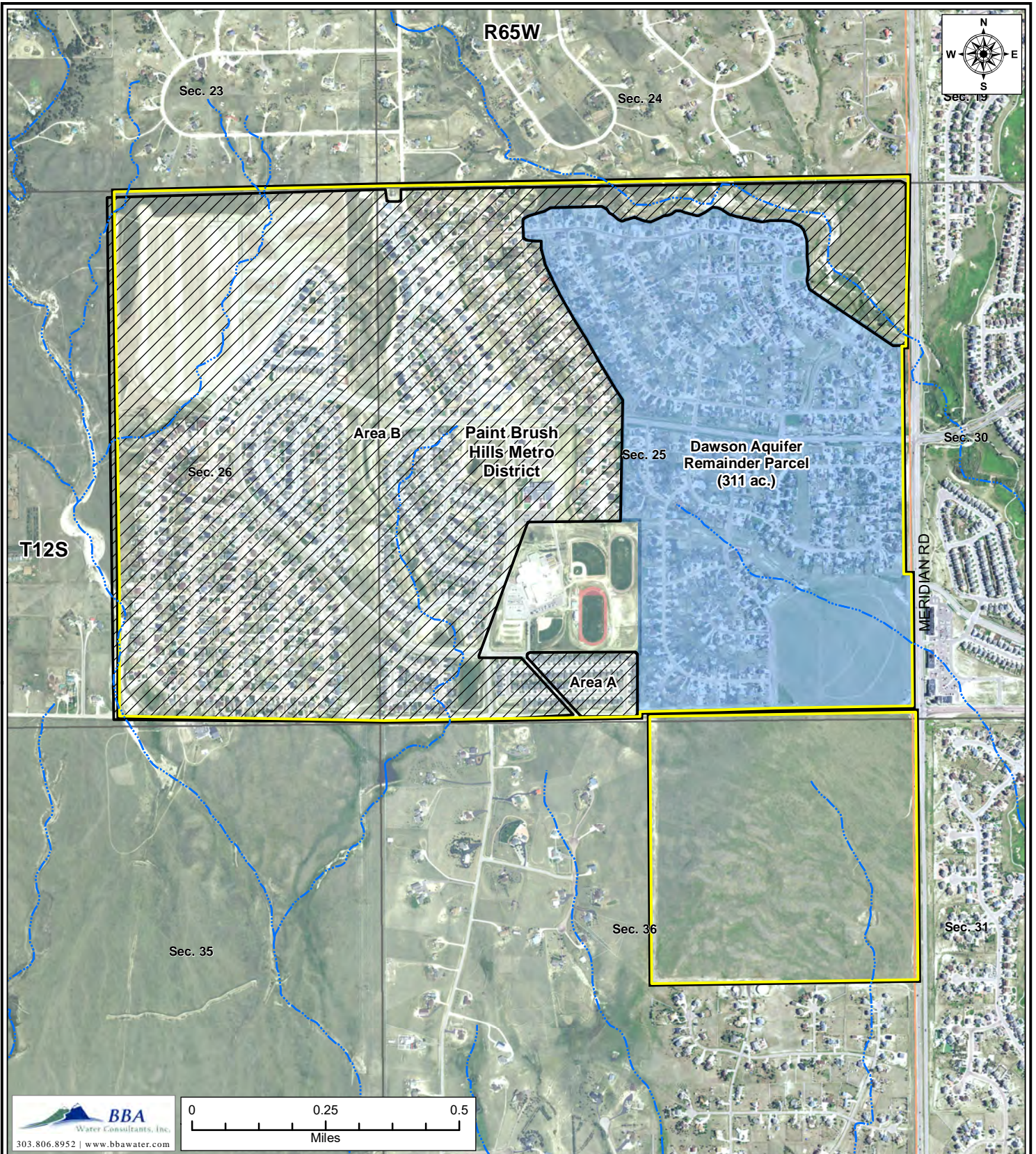





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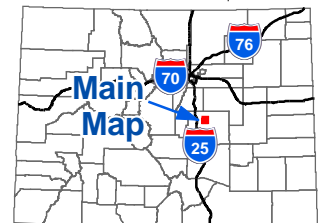
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-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
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*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



STATE OF
COLORADO

DWR - DNR, Permitsonline <dnr_dwrpermitsonline@state.co.us>

Fwd: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Fri, Sep 29, 2023 at 6:06 PM

To: Permitsonline DWR - DNR <dwrpermitsonline@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>, Charlie Stanzione <cstanzione@bbawater.com>, Joanna Williams - DNR <joanna.williams@state.co.us>

Hello,

Could you please invoice Charlie Stanzione <cstanzione@bbawater.com> for the following applications?

1. Determination of Water Right for the Dawson aquifer
2. Replacement Plan for the Dawson aquifer
3. Change of Water Right application for 719-BD
4. Determination of Water Right for the Denver aquifer
5. Change of Water Right application for 214-BD

Thanks,

Wenli Dickinson, P.E.
Water Resource Engineer**COLORADO**
Division of Water Resources
Department of Natural Resources

P 303.866.3581 x8206

1313 Sherman St, Suite 821, Denver, CO 80203

wenli.dickinson@state.co.us | dwr.colorado.gov

----- Forwarded message -----

From: **Charlie Stanzione** <cstanzione@bbawater.com>

Date: Fri, Sep 29, 2023 at 4:04 PM

Subject: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

To: Williams - DNR, Joanna <joanna.williams@state.co.us>, Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>

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We understand that processing fees will need to be paid for the enclosed applications and forms; please let me know if you can process them as-is, or if DWR prefers to have them filed separately.

Please let us know if you have any questions or need additional information.

Thank you,

Charlie

Charles E. Stanzione, P.G.

Principal

BBA Water Consultants, Inc.


cstanzione@bbawater.com

Mobile: 303.349.0347

www.bbawater.com

4 attachments

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2389K

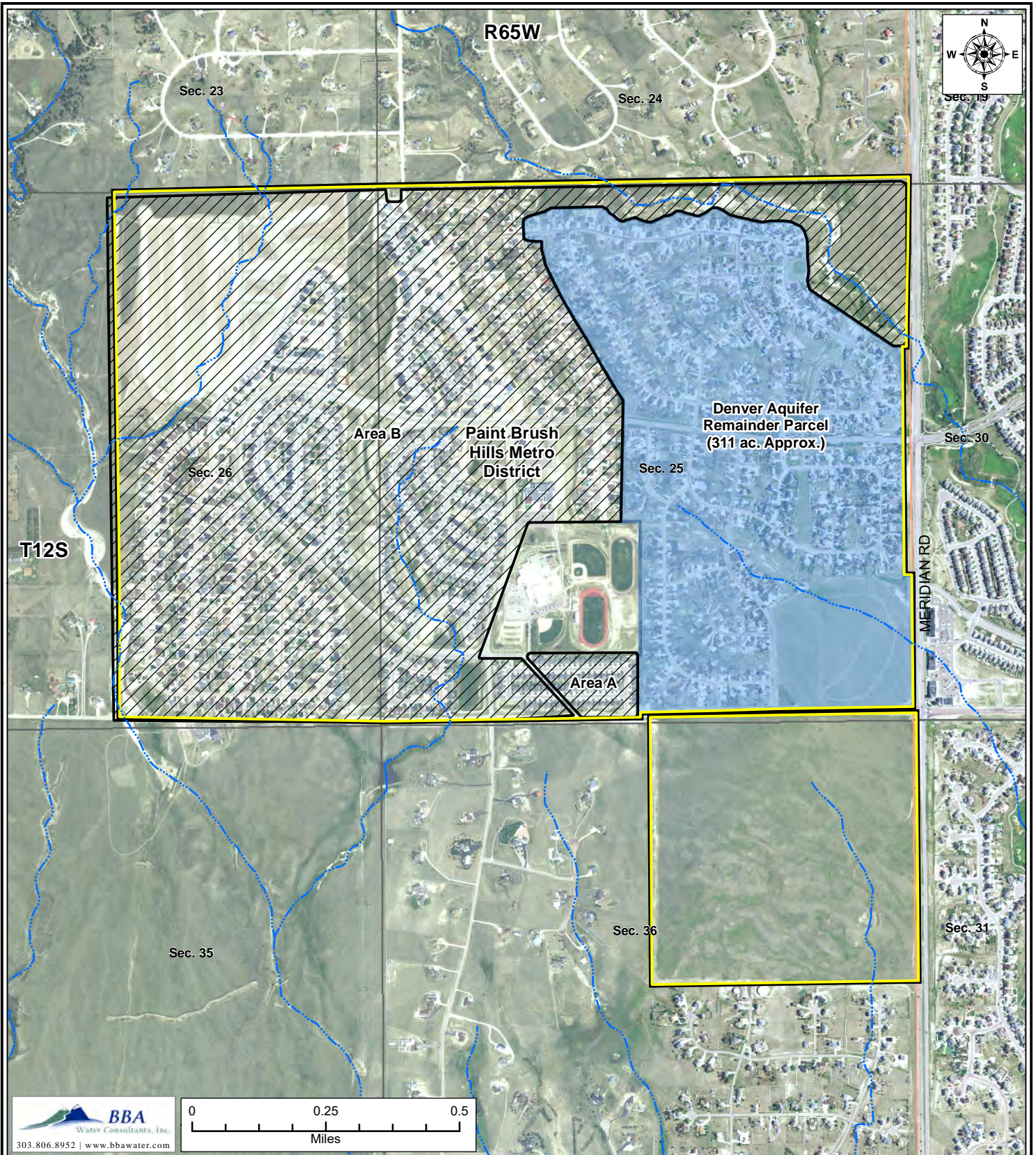
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967K

RECEIVED
 10/04/2023
 Water Resources
 State Engineer
 COLO

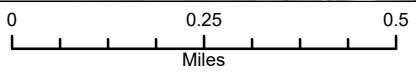
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1. DETERMINATION NUMBER: 719-BD		AQUIFER: Dawson	
2. APPLICANT INFORMATION			
Name of Applicant Paint Brush Hills Metropolitan District			
Mailing Address 9985 Towner Ave		City Peyton	State CO
Zip Code 80831			
Telephone Number (include area code) (719) 495-8188		Email robert@pbhmd.com	
3. DESCRIPTION OF PROPOSED CHANGE – Provide a complete description of the change(s) being applied for.			
<input type="checkbox"/> CHANGE TYPE OF USE – Describe all proposed beneficial uses			
<input checked="" type="checkbox"/> CHANGE PLACE OF USE – Provide a complete legal description of the proposed place of use See Attached			
<input type="checkbox"/> OTHER – describe proposed changes			
4. CLAIM OF OWNERSHIP – I hereby claim that I am the owner of the following amount of the water right. - A volume of _____ acre-feet. OR - An average annual amount of withdrawal of <u>237.1</u> acre-feet per year (based on a 100-year aquifer life). OR - An average annual amount of withdrawal of _____ acre-feet per year (based on a period of _____ years). NOTE: The amount must be specified as a volume if the Determination of Water Right included terms and conditions requiring that any action taken that is intended to convey, transfer, and/or sell the subject water right explicitly identify the total amount (i.e. volume) of the right that is conveyed.			
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6. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.			
Signature 		Date: September 28, 2023	
Print name and title: Timothy A. Crawford, P.G./Hydrogeologist			
FOR OFFICE USE ONLY			
DIV _____ WD _____ BASIN _____ MD _____ CO _____			10032080



BBA
Water Consultants, Inc.
303.806.8952 | www.bbawater.com



**Exhibit A DRAFT
Paint Brush Hills
Metropolitan District
Denver Aquifer
Remainder Parcel**

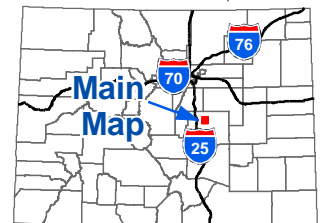
Date: 8/29/2023 | Job No. 1709.01

Legend

- PBHMD Service Area Boundary *
- Area of Determination 214-BD
- Denver Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
Aerial Photo Date: 8/5/2021 NAIP USDA
Data Source: CDSS, CDOT, BLM, USGS

COLORADO





STATE OF
COLORADO

DWR - DNR, Permitsonline <dnr_dwrpermitsonline@state.co.us>

Fwd: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Fri, Sep 29, 2023 at 6:06 PM

To: Permitsonline DWR - DNR <dwrpermitsonline@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>, Charlie Stanzione <cstanzione@bbawater.com>, Joanna Williams - DNR <joanna.williams@state.co.us>

Hello,

Could you please invoice Charlie Stanzione <cstanzione@bbawater.com> for the following applications?

1. Determination of Water Right for the Dawson aquifer
2. Replacement Plan for the Dawson aquifer
3. Change of Water Right application for 719-BD
4. Determination of Water Right for the Denver aquifer
5. Change of Water Right application for 214-BD

Thanks,

Wenli Dickinson, P.E.
Water Resource Engineer



P 303.866.3581 x8206

1313 Sherman St, Suite 821, Denver, CO 80203

wenli.dickinson@state.co.us | dwr.colorado.gov

----- Forwarded message -----

From: **Charlie Stanzione** <cstanzione@bbawater.com>

Date: Fri, Sep 29, 2023 at 4:04 PM

Subject: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

To: Williams - DNR, Joanna <joanna.williams@state.co.us>, Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>

Joanna and Wenli,

As we discussed at our meeting this summer, we are submitting on behalf of our client Paint Brush Hills Metro District the attached report and associated application forms for a Dawson Aquifer Replacement Plan. We have also prepared related applications needed for the District to fully permit and develop the Dawson and Denver ground water underlying the District service area.

Please find attached the following documents and applications:

- Dawson Aquifer Info: BBA Report for the Dawson Aquifer Replacement Plan – includes the approach and information based on our meeting this summer. The report also has attached to it several related

GWS application forms: **1) GWS-69** – Application for a Replacement Plan; **2) GWS-53** – Dawson – also discussed with you this summer, this application is for a Determination of Water Rights in the Dawson aquifer underlying lands within the District that do not yet have a Dawson Determination, referred to as “remainder” lands or area (see **Figure 1**, these lands were not included in the District’s existing Dawson Determination, 719-BD, or the School District’s existing Dawson Determination, 307-BD); **3) GWS-67** – Dawson – application to change a Determination of water right, to allow the development of all the District’s Dawson water in 719-BD, the School District water in 307-BD, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

- Denver - **GWS-53** – application for Determination of Water Rights in the Denver aquifer underlying lands within the District that do not yet have a Determination, referred to as “remainder” lands or area (see **Exhibit A**, these lands were not included in the District’s existing Denver Determination, 214-BD, or the School District’s existing Denver Determination, 306-BD); **Exhibit A** map of “remainder” area for Denver GWS-53.
- Denver - **GWS-67** – application for change in Determination to allow the development of all the District’s Denver water in 214-BD, the School District water in 306-BD, any additional water from the pending 23GW06 permit, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

We understand that processing fees will need to be paid for the enclosed applications and forms; please let me know if you can process them as-is, or if DWR prefers to have them filed separately.

Please let us know if you have any questions or need additional information.

Thank you,

Charlie

Charles E. Stanzione, P.G.

Principal

BBA Water Consultants, Inc.


cstanzione@bbawater.com

Mobile: 303.349.0347

www.bbawater.com

4 attachments

 **1709.01 BBA Letter - Replacement Plan Letter Report 2023-09-28 (ID 112711).pdf**
7188K

 **Paint Brush Hills - Denver-GWS-53 and GWS-01-remainder area.pdf**
329K

 **Figure 1. Paint Brush Hills Dawson Aquifer Remainder Parcel GLM (ID 111701).pdf**
2389K


 **Exhibit A DRAFT - Paint Brush Hills MD Denver Aquifer Remainder Parcel - Aerial (ID 111421).pdf**
967K

Form no. **COLORADO GROUND WATER COMMISSION**
 GWS-69 **DIVISION OF WATER RESOURCES**
 (5-2019) **DEPARTMENT OF NATURAL RESOURCES**
1313 Sherman St, Room 821, Denver, CO 80203
(303) 866-3581, dwr.colorado.gov, dwrpermitsonline@state.co.us

RECEIVED
 10/04/2023
 Water Resources
 State Engineer
 COLO

**APPLICATION FOR A REPLACEMENT PLAN
 WITHIN A DESIGNATED GROUND WATER BASIN**

NOTE: This application may only be used to request Ground Water Commission approval of a replacement plan within a Designated Ground Water Basin pursuant to Section 37-90-107.5, C.R.S. Review the instructions on the reverse of this form. This form must be completed, signed, dated and submitted to the Commission with a non-refundable \$100 filing fee. Type or print in black ink.

1. APPLICANT INFORMATION	
Name of Applicant Paint Brush Hills Metropolitan District	
Mailing Address 9985 Towner Ave Peyton, Co 80831	
Telephone Number (include area code) (719) 495-8188	Email robert@pbhmd.com
2. AQUIFER AND GENERAL DESCRIPTION OF THE LOCATION OF THE PLAN	
Aquifer in which the plan will operate: <u>Dawson</u>	
County: <u>El Paso</u> Section <u>25, 26</u> , Township <u>12 S</u> N / S, Range <u>65</u> W	
3 THE FOLLOWING MUST BE PROVIDED AS ATTACHEMENTS TO THIS APPLICATION	
<p>A. A report containing all information required to be submitted for a replacement plan as required by Designated Basin Rule 5.6.2 (Rule 5.6.2 is provided as an attachment to this form).</p> <p>B. If the replacement plan is for the purpose of allowing withdrawals of ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifer pursuant to Section 37-90-107(7), C.R.S. and in accordance with Designated Basin Rule 5.3.6.2.C, indicate the subject aquifer, the approved determination of water right or pending application for such determination, and provide a table showing the first 100 years of annual depletions to affected alluvial aquifer(s) caused by proposed pumping during the first 100 years, and if pumping continues beyond 100 years the annual depletions to affected alluvial aquifer(s) until pumping ceases.</p>	
4. SIGNATURE – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.	
Signature 	Date: September 28, 2023
Print name and title: Timothy A. Crawford, P.G./Hydrogeologist	
FOR OFFICE USE ONLY	
10032081	
DIV _____ CO _____ WD _____ BASIN _____ MD _____	



Christopher J. Sanchez
Jeffrey A. Clark
Daniel O. Niemela
Jonathan D. George
Kristina L. Wynne
Austin P. Malotte
Michael A. Sayler
Charles E. Stanzione

September 28, 2023

Colorado Ground Water Commission
Division of Water Resources
Department of Natural Resources
1313 Sherman St, Room 821
Denver, CO 80203

RE: Application for a Replacement Plan within a Designated Basin – Upper Black Squirrel Creek Designated Ground Water Basin – Paint Brush Hills Metropolitan District

Dear Division:

This letter supports the attached Application for a Replacement Plan within a Designated Ground Water Basin (GWS-69) and the attached Application for Determination of Water Right within a Designated Groundwater Basin (GWS-53) which have been submitted on behalf of our client, the Paint Brush Hills Metropolitan District (District). The replacement plan application has been submitted to address stream depletions resulting from the proposed use of the not nontributary Dawson aquifer water supply beneath the District area including ground water from Determination No. 719-BD and the pending Dawson aquifer determination sought under the new GWS-53 application submitted concurrently with this letter. The existing and pending Dawson aquifer ground water supplies are located in the Upper Black Squirrel Creek Designated Ground Water Basin and the Upper Black Squirrel Creek Management District, as presented in Figure 1. In addition to the replacement plan and new determination applications, an Application to Change a Determination of Water Right (GWS-67) has been submitted to amend the existing determination (Determination No. 719-BD) to allow for the ground water under that determination to be used in the current District area which has been expended since applying for Determination No. 719-BD.

Application Background

The District is located in El Paso County and the Upper Black Squirrel Creek Designated Ground Water Basin. As the development served by the District has grown (in both the number of taps and land area), the District has developed its Denver Basin ground water supplies to meet

municipal demands. The District now seeks to use the Dawson aquifer ground water supplies determined in Determination No. 719-BD and the Dawson aquifer ground water supplies available beneath new areas of the District to meet a portion of its municipal demand along with its other existing Denver Basin ground water supplies. As indicated in the existing determination and the new determination application, the Dawson aquifer ground water beneath the District is not nontributary and a Colorado Ground Water Commission approved replacement plan will be required before withdrawing any ground water from the aquifer for nonexempt uses. Both an Application to Change a Determination of Water Right and a new Application for Determination of Water Right within a Designated Groundwater Basin have been submitted to allow for the development and use of the Dawson aquifer supplies available to the District within the existing District area.

The replacement plan applied for and described in this letter addresses the replacement of depletions resulting from the operation of future not nontributary Dawson aquifer ground water wells serving the District. The District, any future wells and any replacement structures associated with this replacement plan are and will be located within the Upper Black Squirrel Creek Designated Ground Water Basin and the Upper Black Squirrel Creek Management District.

All future Dawson aquifer well structures that will operate under this replacement plan will only divert water rights determined under the existing determination (719-BD) and the pending Dawson aquifer determination. If the District wishes to add additional not nontributary ground water supplies to this pending replacement plan, the District will need to do so under a new future replacement plan application.

The replacement source proposed to be used for this replacement plan are the wastewater return flows generated by the use of existing and future Denver Basin ground water supplies within the District. These return flows are already and currently generated by the District from their current use of Denver, Arapahoe and Laramie-Fox Hills aquifer water supplies. The return flows are treated and then discharged under Colorado Division of Health and Environment permitting through the Woodmen Hills Metropolitan District Wastewater Treatment Plant. The Woodmen Hills Metropolitan District is the sole provider of wastewater treatment services for the Paint Brush Hills Metropolitan District. Although Woodmen Hills Metropolitan District provides wastewater service, Paint Brush Hills Metropolitan District maintains dominion and control over all of the water rights that are used within the District including the return flows delivered to the treatment plant. Once Dawson aquifer water supplies are determined, approved and developed for use within the District, additional return flows will be generated through their use and also claimed as part of the replacement source. When leaving the property, return flows will return instantaneously to alluvium that is connected to Black Squirrel Creek.

The District is not claiming the lawn irrigation return flows from the use of the District's water supplies as a replacement source under this replacement plan, but reserves the right to claim its lawn irrigation return flows in the future as a replacement source under a new replacement plan or for any other allowed future use.

The District will have the legal right to use the Dawson aquifer ground water sources pursuant to the existing and pending determinations once a replacement plan is approved. The District already has the legal right to use the other Denver Basin water sources currently in use under the District’s existing determinations including the use of the return flows generated from the use of those supplies.

As indicated by the legal description of the District, the areas claimed in the application, including the existing ground water determinations, are located within the District. The attached intergovernmental agreement confirms the District’s dominion and control of the discharged from the waste water treatment plant generated by the District’s use of Denver Basin supplies.

Replacement Plan Information

Ground Water Supplies

The District proposes to develop the not nontributary Dawson aquifer ground water beneath the identified areas (See Figure 1) to add to their existing Denver Basin ground water supplies to meet the existing and growing demands within the District service area. The District’s current Denver Basin ground water ground water supplies include the following:

Aquifer	Determination No.	Annual Amount (af/yr)
Dawson	719-BD	237.1
Denver	214-BD	297.5
	17048-F (dual completion)	111.3
Arapahoe	30593-F	113.0
	46553-F	182.0
	17048-F (dual completion)	130.7
Laramie-Fox Hills	47813-F	388.0
	Total	1459.6
	Total Legally Available	1222.5

As presented above, the District has existing designated basin water right determinations in the Dawson and Denver aquifers as well as existing water rights associated with well permits in the Arapahoe and Laramie-Fox Hills aquifers. The District is in the process of pursuing determinations in all of the Denver Basin aquifers beneath the District area. The District also owns and operates alluvial ground water associated with the Meridian Ranch in the amount of 85 acre-feet per year.

The ground water in the Dawson aquifer beneath the District is not nontributary and requires a ground water commission approved replacement plan before water can be withdrawn from the aquifer. Accordingly, that water is not included in the legally available ground water presented above.

Existing Wells

Water is currently produced by the District from a total of 12 Denver, Arapahoe and Laramie-Fox Hills aquifer wells, as summarized below.

Well Permit No.	Aquifer	Well Name	Pumping Rate (gpm)
85079-F	Denver	Well 12	55
17048-F	Denver and Arapahoe	A-1	150
30593-F	Arapahoe	A-2	70
46553-F	Arapahoe	A-3	53
55193-F	Arapahoe	A-4	76
60862-F	Arapahoe	A-5	85
64086-F	Arapahoe	A-6	75
47813-F	Laramie-Fox Hills	LFH-1	100
50877-F	Laramie-Fox Hills	LFH-2	70
55192-F	Laramie-Fox Hills	LFH-3	100
63429-F	Laramie-Fox Hills	LFH-4	125
64084-F	Laramie-Fox Hills	LFH-5	125

The above wells will continue to be used along with any future Dawson aquifer wells constructed and operated under this replacement plan.

Projected Demand

The District generally provides water for residential (including within a school), irrigation and commercial uses within its service area. The District currently serves approximately 1041 single family equivalents (SFE). Well production information reviewed by the District's civil engineer in a 2021 Master Plan effort indicates a current annual demand of approximately 242.8 acre-feet per year. At build-out, a total demand of 552.92 acre-feet per year is projected for a total of 1494 SFE's. Accordingly, the District is approximately 70% to buildout. The build-out demand was estimated by the District's civil engineer's based on the following:

Use	SFE	Af/SFE	Total Demand (af/yr)
Current Development	1079	0.36	388.44
Filing 13E	158	0.36	56.88
Filing 14	227	0.36	81.72
Commercial	1	0.36	0.36
School	32	0.75	11.52
Irrigation	N/A	N/A	14.00
		Total	552.92

Buildout demand has generally been estimated based on a future average demand of 0.36 acre-feet per year per SFE. This SFE average annual use rate is based on actual use rates and has been used for water supply planning by the District since 2018 including in communications regarding water supply adequacy with the State. The District recognizes that this use rate is lower than originally expected but is due to the public conscientiousness in exercising water conservation within the District. As indicated by the existing use data, actual future demand at buildout will likely be less than projected.

Potential Operations and Depletions

As stated, existing Denver Basin ground water supplies and pending future Denver Basin ground water supplies including not nontributary Dawson aquifer ground water will be used to meet the existing and ongoing municipal demands.

Dawson aquifer ground water supplies to be produced through future wells to be operated under this replacement plan could total up to 348.4 af/yr as summarized below.

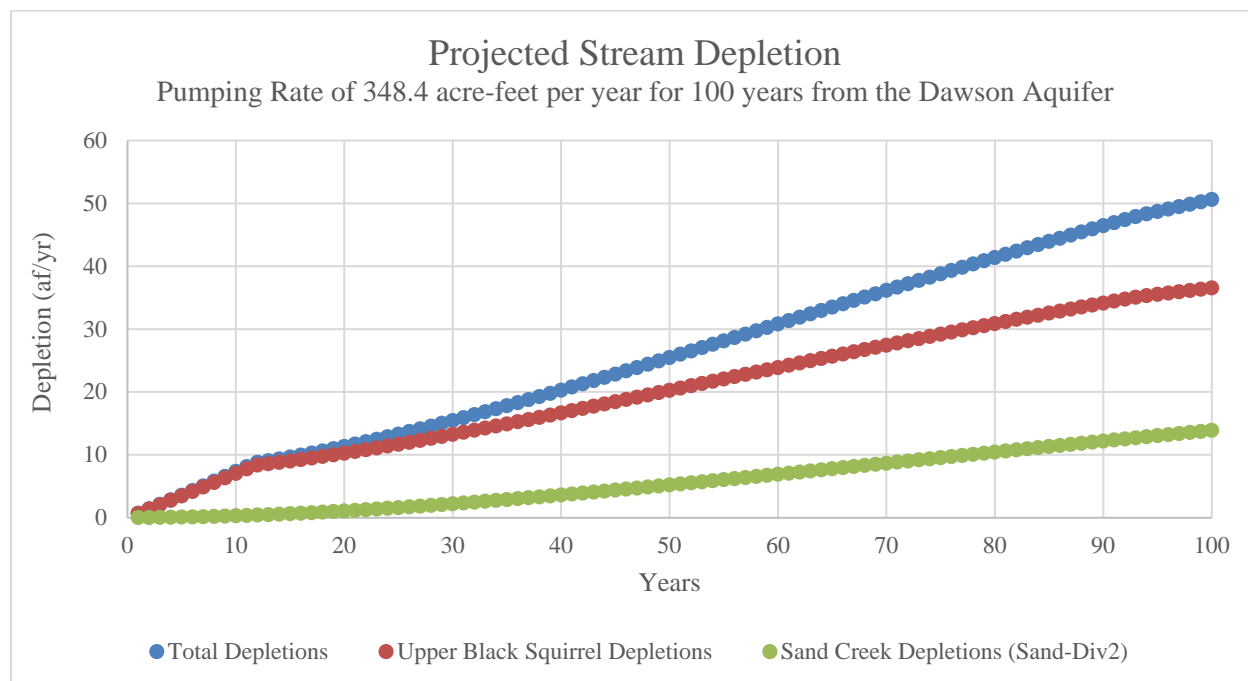
Determination	Annual Amount from Dawson Aquifer (af/yr)
719-BD	237.1
Pending	111.3
Total	348.4

The pending Dawson aquifer ground water supplies presented above are based on an overlying land area of 311 acres, an average saturated thickness of 179 feet, a specific yield of 0.20 and a 100-year aquifer life allocation. The District area associated with the undetermined and available Dawson aquifer ground water (the 311-acre overlying land area used in the potential pending availability calculation) is based on the total, original (Sections 25 and 26) District area of 945 total acres less the District areas that have already been determined. The areas of the District that have already been determined include the 594-acre overlying land area associated with determination 719-BD and the 40-acre overlying land area associated 307-BD. The overlying land within the District associated with the undetermined and available Dawson

aquifer ground water and the attached application is more specifically described as “The overlying land is that portion of Section 25, T12S, R65W excluding the Easterly 30 feet and the Southerly 60 feet of the Easterly 3222.73 feet of said Section 25, the parcel described in Book 2732 at page 860 of the records of said El Paso County and the overlying lands in determinations 719-BD and 307-BD, totaling approximately 311 acres, as presented in Figure 1”.

Consistent with the *Rules and Regulations for the Management and Control of Designated Ground Water*, this replacement plan “shall provide for the depletion of alluvial water for the first 100 years due to all previous pumping, and if pumping continues beyond 100 years shall replace actual impact until pumping ceases...”

The State’s AUG3 Denver Basin stream depletion model was utilized to estimate potential timing of lagged depletions associated with the proposed Dawson aquifer well pumping from within the District. Below is presented the graph from the AUG3 model showing the calculated lagged depletions resulting from the pumping of the full potential 348.4-acre-foot per year Dawson aquifer water supply for 100 years. The total annual pumping amount was apportioned pro-rata based on acreage between the two sections the District’s water rights encompass (320 acres in Section 26 and 585 acres in Section 25) and then modelled using the AUG3 model to determine total stream depletions. As presented, the maximum depletion at 100 years of pumping is approximately 50.61 acre-feet (14.53% of pumping). Approximate depletions for the 100-year pumping scenario calculated based on the AUG3 output are presented in Table 1. The AUG3 program indicates, as presented below, that Upper Black Squirrel Creek and Sand Creek (Division 2) are the main creeks impacted by the operation of the Dawson aquifer water supplies.



The depletions indicated above will exceed 0.23 acre-feet per year within the Upper Black Squirrel Creek Designated Ground Water Basin and, consistent with Guideline 2007-1, it must be demonstrated that the point at which the replacement water is being discharged is connected to the alluvial aquifer it is being delivered to. This can be demonstrated by showing that either 1) there is continuous saturated alluvium between the replacement water delivery point and the point of contact with the saturated portion of the alluvial aquifer or 2) there are saturated and unsaturated conditions between those points, but that delivered replacement water will flow through the unsaturated portions to the point of contact. It is our opinion that an alluvial aquifer is present at the replacement water delivery point (Woodmen Hills Metropolitan District Wastewater Treatment Plant), located as indicated in Figure 2, and is continuously saturated downstream from that point and that replacement water that is directly discharged to the unnamed channel is connected to the alluvial aquifer the replacement water is being delivered to based on available geologic mapping, published reports and well permit file information, as discussed below. The presence of a saturated alluvial aquifer is evidenced by the following information:

1. Available geologic mapping (Falcon Quadrangle Geologic Map, El Paso County, Colorado – OF-12-05) confirms the presence of alluvial material at the delivery point for the replacement water that continues downstream as evidenced by additional geologic mapping (Geologic Map of the Corral Bluffs Quadrangle, El Paso County, Colorado – GQ-783 and the Geologic map of the Pueblo 1 degree x 2 degrees quadrangle, south-central Colorado – MF-775) to the confluence of the unnamed drainage and Black Squirrel Creek. The geologic mapping indicates that alluvial material exists between the point of replacement water delivery and the affected alluvium.
2. The “Upper Black Squirrel Creek Basin Aquifer Recharge and Storage Evaluation” (CGS – Topper – 2008 – OF-08-04) includes mapping of the saturated alluvial thickness of the Black Squirrel alluvial aquifer within the Upper Black Squirrel Creek alluvial basin. The mapping indicates saturated conditions in the lower portions of the basin that extend northward along the unnamed drainage towards the delivery point to approximately Section 2, Township 13 South, Range 64 West of the 6th P.M.
3. Information for existing wells in the State’s well permit indicates (Well Permit Nos. 33266-A, 138409, 125103, 115022, 41750, 129678, 299869, 35774, 38065, 43169, 99516, 2739-FP, 40110 and 430400) indicates the upper portions of the Upper Black Squirrel Creek alluvial aquifer above the saturated areas depicted in OF-08-04 are also saturated.
4. Based on aerial photography, the unnamed drainage has surface flow in some areas including the replacement water delivery point, but these live surface flow conditions are not continuous over the drainage’s course. The surface flow suggests that the surface flow exists in combination with an alluvial underflow.

Based on the available information, saturated alluvium and live stream conditions exist at the delivery point for the replacement water and a combination of continuous saturated alluvium and

intermittent surface flows provides for the delivery of the replacement water to the affected aquifer.

Replacement Supplies

As indicated above, the replacement source for this replacement plan are the wastewater return flows discharged from the Woodmen Hills Metropolitan District Wastewater Treatment Plant to the unnamed drainage, located as presented in Figure 2. These return flows are currently generated from the use of the nontributary Denver Basin water rights summarized above and, in the future, from the use of the not nontributary Dawson aquifer ground water supplies as well.

Based on Sewage Meter Flow Data provided by the District, the District produces sewage effluent flows of, on average, 3.49 million gallons per month (10.7 acre-feet per month) and 41.15 million gallons per year (126.3 acre-feet per year). These are the volumes of effluent delivered to the Woodmen Hills Metropolitan District Wastewater Treatment Plant by the Paint Brush Hills Metropolitan District.

Assuming 10% consumption within the Woodmen Hills Metropolitan District Wastewater Treatment Plant, the District generates return flows to the unnamed drainage of, on average, 9.64 acre-feet per month or 113.66 acre-feet per year.

The currently available return flows (even without the additional return flows from the use of not nontributary Dawson aquifer supplies sought through this replacement plan) are sufficient to replace the projected depletions through 100 years of pumping of the ground water resource.

The replacement supplies will be aggregated to the drainage in which the property and wells are / will be located in and the drainage the water will be used in consistent with Guideline 2007-1.

As mentioned above, the District is not identifying lawn irrigation return flows from the District as a replacement source for this current replacement plan. The District reserves the right to claim the lawn irrigation return flows as a replacement source in a future replacement plan or for any other allowed uses.

Replacement Plan

Under this replacement plan, not nontributary Dawson aquifer well pumping will be metered each year along with wastewater treatment plant effluent inflows contributable to the District.

Annual pumping and sewage flow amounts will be used to determine amounts pumped from the not nontributary ground water source, amounts delivered to the wastewater treatment plant and amounts delivered for replacement.

Depletions from not nontributary Dawson aquifer pumping for the first 100 years of operation will be based on the assumption that the well is operated at the full potential 348.8 acre-foot per year entitlement as summarized in Table 1 after operation begins.

Replacements shall be calculated as 90% of the wastewater treatment plan delivery amount as measured by the existing totalizing flow meter.

As estimated for accounting purposes, the projected return flows from domestic use within the District will vary year to year, but will total approximately 113.66 acre-feet per year on average. This amount is sufficient to replace the depletions associated with the pumping of the full 348.8 acre-feet per year not nontributary Dawson aquifer projected entitlement through the full 100 years of operation.

Direct discharge of the return flows (as wastewater treatment plant effluent to the unnamed drainage) is currently occurring and will continue to occur under an existing Colorado Department of Public Health and Environment Water Quality Control Division (CDPHE WQCD) discharge permit. Because the discharges will be made under a CDPHE WQCD permit, there is a presumption that there will be no negative effects to the ground water system as a result of the use of the return flows as a replacement source under Rule 5.6.1.B.1.a. Wastewater treatment plant attributable to the District's ground water production will be dedicated to this replacement plan in the amounts and timing presented in Table 2.

Opinion of Non-Injury

There is a sufficient supply available from the combination of the District's water rights to continue to meet their demands and a sufficient supply of return flows from the use of those water rights to make replacements for the projected depletions resulting from the proposed use of the not nontributary Dawson aquifer ground water. The projected return flows are sufficient to replace depletions through the full 100 years of projected operation.

Because the development and water supply can be operated such that 100% of the depletions will be replaced in time and amount, it is our opinion that other water rights will not be injured by the operation of the not nontributary Dawson aquifer water supply for the proposed uses under this replacement plan.

Because the return flows from the wastewater treatment plant will be discharged in accordance with an approved CDPHE WQCD permit there is a presumption that there will be no negative effects to the ground water system as a result of the use of the return flows as a replacement source under Rule 5.6.1.B.1.a.

Terms and Conditions

- All Dawson aquifer wells operated under this replacement plan will be equipped with totalizing flow meters and records of all pumping shall be maintained.
- All sewer flows will be measured through a totalizing flow meter.
- Annual accounting will be submitted that includes meter readings for all pumping and sewer flows, depletions and replacement made under the replacement plan.

- All replacement water delivered under this replacement plan will be discharged under an approved CDPHE WQCD discharge permit.


Additional Information

The development of the not nontributary Dawson aquifer ground water supply will require the construction of new Dawson aquifer wells and associated infrastructure. Wells will be located near existing wells to reduce pipeline costs to the extent possible. New Dawson aquifer wells may cost approximately \$200,000 to \$300,000 depending on the contractor and the design of the wells. Pumping equipment for new Dawson aquifer wells may cost on the order of \$50,000. The District plans to develop the not nontributary Dawson aquifer supply in the near future to help meet demand after the water rights determination and replacement plan.

We hope that this letter provides the information required to support the attached Application for a Replacement Plan within a Designated Ground Water Basin (GWS-69) for our client. If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,

BBA Water Consultants, Inc.



Timothy A. Crawford, P.G.
Project Manager - Hydrogeologist

TAC/jeb
Enclosures
1709.01

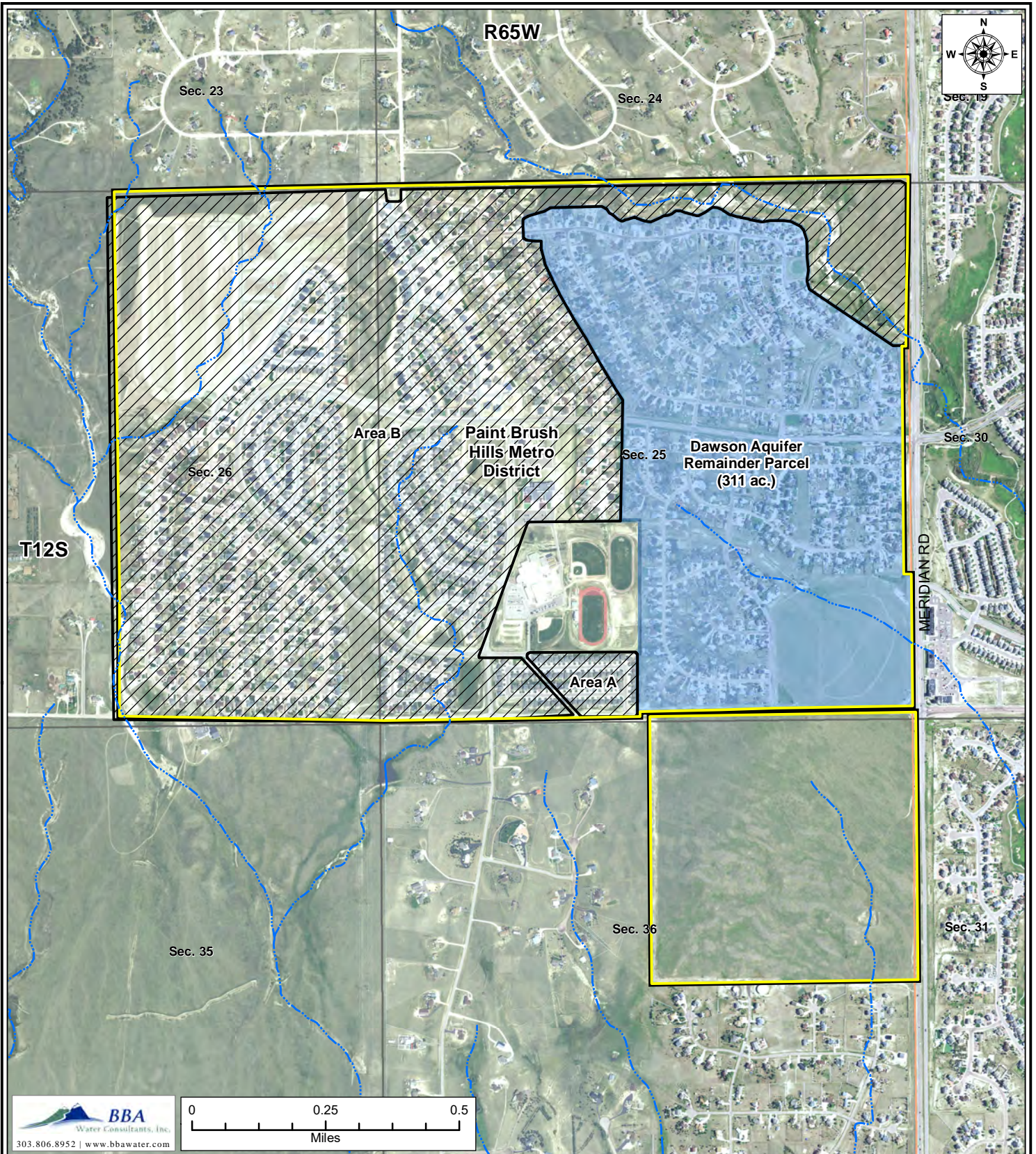





Figure 1
Paint Brush Hills
Metropolitan District
General Location Map

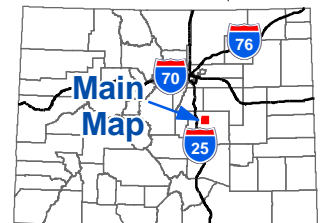
Date: 8/31/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
-  Dawson Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



**INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF
WASTEWATER TREATMENT SERVICES**

This Intergovernmental Agreement ("Agreement") is entered into on this 3rd day of June, 2011, by and between Woodmen Hills Metropolitan District ("WHMD"), and Paint Brush Hills Metropolitan District ("PBHMD"). Collectively, WHMD and PBHMD are referred to as the "Districts."

I. Recitals

WHEREAS, the Districts are both quasi-municipal corporations and political subdivisions of the State of Colorado, located adjacent to one another in El Paso County, Colorado. The Districts provide various services to their respective residents, including water, wastewater, and parks and recreation.

WHEREAS, the Districts' relationship has been governed, *inter alia*, by the terms of a February 25, 1988 Purchase and Sale Agreement ("1988 Agreement").

WHEREAS, WHMD is the successor to all interests in the 1988 Agreement held by Falcon Properties and Investments and Woodmen Hills Associates, Inc., which entities were original parties, along with PBHMD, to the 1988 Agreement.

WHEREAS, the Districts now wish to terminate the 1988 Agreement and enter a new Intergovernmental Agreement defining their rights and obligations and relationship, particularly with respect to the Paint Brush Hills Wastewater Treatment Facility ("WWTF"), on the terms set forth below:

II. Covenants

Therefore, in consideration of the mutual promises and covenants contained in this Agreement, it is hereby agreed by and between the Districts:

1. **NEW INTERGOVERNMENTAL AGREEMENT:** This is a new Intergovernmental Agreement. This Agreement supersedes and supplants the 1988 Agreement. The Districts mutually agree that the 1988 Agreement is hereby terminated. The Districts acknowledge that the parties to this current Agreement were parties or are successors or assigns to the 1988 Agreement and that the parties to the instant Agreement have the authority to terminate the 1988 Agreement.

2. **TRANSFER OF PERMIT:** This Agreement is contingent upon successful transfer of the Colorado Department of Public Health and Environment ("CDPHE") Discharge Permit for the WWTF operated for the benefit of both Districts. Failure to gain CDPHE approval of the transfer will terminate this Agreement.

3. **CUSTOMER RELATIONSHIP:** PBHMD agrees that WHMD shall be the exclusive provider of wastewater treatment services to all customers located on lands within the PBHMD service area as defined by the PBHMD district boundaries as of the date of this agreement, all as generally depicted on Exhibit A attached hereto. Falcon Middle School and Grace Community Church are also currently served by PBHMD and shall also be served by WHMD. All present and future customers within the PBHMD service area shall be subject to the WHMD Rules and Regulations pertaining to wastewater services, as such are adopted or amended over time. Existing prior approved variances from PBHMD Rules and Regulations regarding wastewater services shall be deemed grandfathered as long as such variances do not create a risk to public health and safety of the wastewater treatment system. WHMD agrees that it shall provide all such wastewater treatment services to PBHMD as may be needed for all present and future development, subject only to limitations described in paragraphs 10 through 15 below. WHMD shall be entitled to utilize any wastewater treatment facility in which it has capacity and a right to use for the treatment of effluent originating from within the PBHMD service area.

4. **TERM:** The term of this Agreement shall be perpetual.

5. **POINT OF CONNECTION:** WHMD shall own, operate, and maintain wastewater delivery and treatment facilities from a point at the southeast corner of the intersection of Stapleton Road and Meridian Road (the "Point of Connection") downstream to the treated wastewater discharge location and shall own, operate, and annually calibrate wastewater metering stations located at points to measure all influent treated by WHMD and all effluent. PBHMD shall own, operate, and maintain wastewater collection and delivery facilities upstream of said Point of Connection. Additionally, PBHMD will own, operate, annually calibrate, and maintain wastewater metering stations located at the southwest corner of the intersection of Stapleton Road and Meridian Road and at the PBHMD lift station. WHMD will have full access at all reasonable times to said metering stations. In addition to maintaining the meters in proper working condition, PBHMD will provide a 120 volt extension from the power service, so that WHMD can add remote-sensing devices (SCADA) to transmit the meter signal to the WHMD SCADA system. PBHMD may, at its discretion, provide secondary receivers to also receive the metering data. The SCADA device uses minimal power. Upon request, PBHMD shall have reasonable access to and a right to review all influent and effluent data collected related to the treatment of its wastewater and this Agreement.

6. **EXISTING WATER RIGHTS:** Effluent delivered by PBHMD to the wastewater treatment plant is the return flow from in-house and in-building uses made within PBHMD's water service area, which is diverted and delivered to PBHMD's water service customers pursuant to water rights now owned or hereafter obtained by PBHMD. PBHMD shall continue to solely own, and shall be deemed to maintain dominion and control over, its existing, or future water rights, notwithstanding the delivery of its

customer's effluent to the wastewater treatment plant. The volume of water associated with such water rights, whether directly or by discharge to any tributary of Black Squirrel Creek, shall be directly proportional to the monthly volume of wastewater flow contributed by PBHMD as determined at the wastewater metering station, as referenced in paragraph 4. If PBHMD requires its return flow to be conveyed to a location other than the discharge location of the wastewater treatment plant, PBHMD shall be solely responsible for all costs associated with delivering its return flow to an alternate location from the wastewater treatment plant. PBHMD shall have the right to erect and install such structure, pipelines and associated facilities and is hereby granted easements as the Parties shall mutually agree to access, use, construct and maintain them. Any structure and associated facilities proposed to withdraw a portion of the plant's discharge shall be subject to the approval of WHMD, which approval shall not be unreasonably denied or delayed.

7. **ASSIGNMENT OF INTEREST IN WWTF:** PBHMD assigns and conveys all interest in the WWTF to WHMD, including rights of use with respect to all treatment capacity in the WWTF. The form of bill of sale, which shall be executed by PBHMD at the same time as this Agreement, is attached as **Exhibit B**. The form of assignment, which shall be executed by PBHMD at the same time as this Agreement, is attached as **Exhibit C**.

8. **TIMING OF TRANSFER OF PERMIT:** PBHMD shall notify CDPHE and request transfer of the CDPHE Discharge Permit as soon as practicable but no later than 5 days after this Agreement is executed. The form of transfer paperwork is attached as **Exhibit D**.

9. **TRANSFER OF EASEMENT RIGHTS:** PBHMD hereby transfers all and any easement and easement rights associated with the WWTF to WHMD, or in the event WHMD desires, shall alternatively maintain its ownership position in name only if deemed necessary by WHMD to avoid abandonment of such easement rights. The form of assignment of easement is attached hereto as **Exhibit E**, and same shall be duly executed by PBHMD and recorded in the public records of El Paso County by WHMD after execution of this Agreement and the satisfaction of all contingencies herein.

10. **AGREEMENT TO SERVE EXISTING PBHMD USERS:** WHMD agrees to serve PBHMD's existing wastewater customers who are actively contributing wastewater to the WWTF as of June 3, 2011, specifically 713 residential taps, one (1) commercial tap (equivalent to 6 residential taps) for Falcon Middle School, and one (1) commercial tap (equivalent to 2 residential taps) for Grace Community Church. In addition to the foregoing, the Districts acknowledge that there are 36 residential taps that have been purchased within PBHMD's boundaries, but are not yet in use ("Future Users"). The addresses of these Future User taps are listed on **Exhibit F**; the remaining 25 have been allocated without current addresses through the TPS Agreement as defined in paragraph 13(a). PBHMD agrees to notify WHMD of the addresses of the remaining

Future User taps as they are identified. WHMD agrees to serve these Future Users at the time they begin contributing wastewater to the WWTF, PBHMD will not owe any fees to WHMD for these Future Users, and WHMD will not begin charging a Future User the monthly user charges described in Section 12 below until such time as such Future User begins contributing wastewater to the WWTF.

11. **AGREEMENT TO SERVE FUTURE PBHMD USERS:** WHMD agrees to serve PBHMD customers, present and future, within PBHMD's existing geographical boundaries as described and shown on **Exhibit A** hereto. Capacity in the current WWTF is limited to approximately 500 to 700 new residential tap equivalents, and such capacity shall be allocated to new development occurring in PBHMD, WHMD and Falcon Highlands Metropolitan District on a first come, first served basis. Capacity shall be allocated upon the payment of tap fees, but capacity for no more than 50 residential tap equivalents to any one party may be paid for and reserved without written approval of WHMD. Regardless of any capacity allocations, WHMD agrees that it shall leave available for PBHMD not less than 75 residential tap equivalents, which number of residential tap equivalents shall be reduced annually by the lesser of 15 residential tap equivalents or the number of taps purchase by customers within PBHMD. The Districts agree that they themselves shall not pay for and reserve residential taps. It is anticipated that WHMD will be constructing a new wastewater treatment plan within a 4 to 6 year time frame. The Districts acknowledge that treatment plant sizing and expansion require a significant period of time in planning, permitting, design, and construction of between 3 and 5 years.

12. **FUTURE COMMERCIAL USES:** The Parties acknowledge that commercial uses can require unique analysis to determine the number of equivalent single family taps that should be assigned for tap fee and monthly billing purposes. The Parties agree that when a new PBHMD commercial customer desires wastewater service, the engineers of both districts shall mutually agree on the number of equivalent single family taps such use shall constitute, and in the event they cannot agree the districts' respective engineers shall appoint a third, independent engineer to decide the issue, and the cost, if any, of the services of the independent engineer shall be equally shared by the districts.

13. **NEW WASTEWATER TAP FEES:**

(a) **TPS Districts Taps:** Subject to Section 10 above, PBHMD agrees to pay WHMD a flat fee of \$2,000 for every new PBHMD residential wastewater tap or residential wastewater tap equivalent issued after the date of this Agreement pursuant to the August 2009 Settlement Agreement, as amended, between PBHMD and the TPS Districts ("TPS Agreement"), a copy of which is attached as **Exhibit G**.

(b) **Non-TPS Districts Taps:** For all wastewater taps or residential wastewater tap equivalents issued by PBHMD after the date of this Agreement, which are

not subject to the TPS Agreement, PBHMD agrees to collect an amount equal to or greater than WHMD's then-current wastewater tap fee and remit 36% of WHMD's then-current wastewater tap fee to WHMD at the time of collection of such fees.

(c) **Time of Collection of Tap Fees:** Subject to Section 10 above, for all taps issued by PBHMD after the date of this Agreement, PBHMD shall collect the entire tap fee and remit to WHMD the appropriate portion of the tap fee amount as described in subparagraphs (a) and (b) above prior to issuance of the building permit for the property for which the tap fee is collected.

14. **MONTHLY USER RATES:** WHMD agrees to directly charge PBHMD's customers then-current in-District wastewater service rates for any customers PBHMD is presently obligated to serve within PBHMD's geographical boundaries as identified in Exhibit A. The then-current in-District wastewater service rates charged to PBHMD's customers will not include charges associated with the operation and maintenance of WHMD's collection and pumping system, assessments or charges for capital development, or charges for financial penalties arising from or associated with events preceding the date of this Agreement. The Parties acknowledge that charges for financial penalties that might later arise from or associated with any subsequent NOV could at WHMD's discretion be included in the then-current in-District wastewater service rates. WHMD shall provide an itemized description of the basis for any adjustment to in-District wastewater service rates to the PBHMD Board of Directors prior to the first billings to customers and annually by October 1 for budget purposes thereafter. Prior to giving public notice of any planned changes to in-District wastewater service rates, WHMD shall give the PBHMD Board of Directors reasonable notice of such intent.

15. **PBHMD INCLUSIONS:** PBHMD has identified all inclusions, and proposed inclusions, to its territory that are subject to services provided under this Agreement. Those inclusions include parcels that are referred to informally as "Grace Community Church", "CU Parcel" and "State Land Board". The "State Land Board" parcel is subject to the terms and conditions of an inclusion agreement, attached as Exhibit H. Other than the "Grace Community Church" and "CU Parcel" referenced above, any other inclusions approved by PBHMD after the date of this Agreement shall be provided wastewater services by WHMD, but only after amendment of this Agreement. Such amendment shall be negotiated in good faith and shall address capital contributions required of PBHMD for additional infrastructure and treatment capacity, as well as appropriate tap fees, service charge rates and other fees reasonably necessary for providing service. The Districts acknowledge that PBHMD has approved and accepted an inclusion petition for the CU Parcel (with which inclusion WHMD agrees not to interfere), but has not completed the inclusion as of the date of this Agreement. Due to the large size of the CU Parcel and potential tap demand, PBHMD agrees and shall be obligated to include WHMD as a party to an inclusion agreement with any or all

developers of the CU Parcel to provide for capital contributions as deemed necessary to plan for and build WWTF capacity as a mandatory pre-condition to obtaining District Court approval of the CU Parcel inclusion, or any part thereof.

16. **PRETREATMENT STANDARDS:** PBHMD shall be responsible for the adoption of, and enforcement of, reasonable pretreatment wastewater standards substantially equivalent to pretreatment standards as adopted by WHMD from time to time.

17. **OPERATION AND MAINTENANCE OF SYSTEM:** PBHMD shall at all times operate its wastewater collection and pumping system properly and in a sound and economical manner and shall maintain, preserve, and keep the same properly or cause the same to be so maintained, preserved, and kept, with the appurtenances and every part and parcel in good repair, order, and condition, and shall from time to time make or cause to be made all necessary and proper repairs, replacements, and renewals so that at all times the operation of the PBHMD wastewater collection and conveyance system may be properly and advantageously conducted without risk to public health and safety. PBHMD agrees to cooperate with WHMD to provide information reasonably requested by WHMD management and planning of the wastewater treatment facility and future needs.

18. **VOLUNTARY AND KNOWINGLY:** The Districts acknowledge they have read this Agreement and understand all of its terms, and that this Agreement is executed voluntarily, without duress, and with full knowledge of its legal significance. The Districts have received independent legal advice from its/their attorney(s) with respect to the legal consequences of making this Agreement.

19. **WARRANTY OF CAPACITY TO EXECUTE AGREEMENT:** The Districts represent and warrant that no other person or entity currently has, or has had, any interest in the property or obligations referred to in this Agreement, except as otherwise set forth herein, and that the Districts have the sole right and exclusive authority to execute this Agreement. The Districts represent and warrant that they have the legal power and authority to enter into and bind themselves to the terms and conditions contained in this Agreement.

20. **CONSTRUCTION:** The Districts agree that in the event of any dispute concerning the interpretation or construction of this Agreement, no presumption shall exist with respect to the party initially drafting the Agreement. The Districts agree they have had ample opportunity to influence the choice of language and terms of this Agreement.

21. **DUTY TO EFFECTUATE:** Each of the Districts agree to perform any lawful additional acts, including the execution of additional documents, to the extent the same are reasonably necessary to effectuate this Agreement.

22. **SUFFICIENCY OF CONSIDERATION:** Other than as contained herein, the Districts each acknowledge and agree that no additional consideration is required or owing to the other, and that sufficient consideration has passed or will pass between them by virtue of this Agreement to render this Agreement valid and enforceable.

23. **ARBITRATION AND MEDIATION:** This Agreement will be governed by and construed according to the laws of the State of Colorado. The Districts agree and acknowledge that any controversy arising out of or relating to this Agreement or the breach thereof, or any claim or action to enforce this Agreement or any provision herein, or any controversy or claim requiring interpretation of this Agreement or any provision herein, shall be adjudicated by a single arbitrator before the Judicial Arbitrator Group, Inc. (or similar mutually acceptable firm if the Judicial Arbitrator Group no longer exists), using the rule set provided by the then-existing American Arbitration Association's Commercial Arbitration Rules, its Expedited Procedures, and the Colorado Rules of Civil Procedure and Evidence, to the extent not in conflict with the foregoing. The venue for any such arbitration shall be Denver, Colorado. Any action brought in contravention of this paragraph by one District is subject to dismissal at any time and at any stage of the proceedings by the other, and no action taken by the other in defending, counterclaiming, or appealing shall be construed as a waiver of this right to immediate dismissal. A District bringing an action in contravention of this paragraph shall be liable to the other party for the costs, expenses and attorney fees incurred in successfully dismissing the action or successfully compelling arbitration. Prior to bringing any claim or action arising out of or relating to this Agreement or the breach thereof, or any claim or action to enforce this Agreement or any provision herein, or claim requiring interpretation of this Agreement or any provision herein, the Districts agree that they shall first submit their dispute to non-binding mediation, before a mutually-agreed upon mediator. If the Districts cannot agree on a mediator, the Districts shall contact the Judicial Arbitrator Group, Inc. (or similar mutually acceptable firm if the Judicial Arbitrator Group no longer exists) and request a mediator be appointed. The Districts agree to equally split the cost of any mediator.

24. **SUCCESSORS AND ASSIGNS:** This Agreement shall bind the successors and assigns of the Districts, and inure to the benefit of each District, its successors and assigns. WHMD agrees that in the event it elects to provide or to obtain wastewater services through a third party, it agrees that all of WHMD's obligations to PBHMD pursuant to this Agreement shall remain in full force and of binding effect, and no partial assignment of any of WHMD's obligations to PBHMD shall be permitted or effective without the express prior consent of PBHMD in writing.

25. **WAIVER:** No term or condition of this Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Agreement, except by an express agreement signed by the District charged with

the waiver or estoppel; no written waiver shall be deemed a continuing waiver unless specifically stated therein, and the written waiver shall operate only as to the specific term or condition waived, and not for the future or as to any other act than that specifically waived.

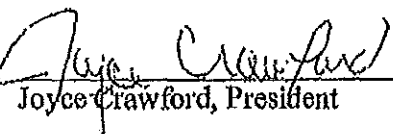
26. **DAMAGES AND ATTORNEY FEES:** Should either District breach the terms of this Agreement, the breaching District shall be liable to the non-breaching District for damages and/or specific performance. Damages shall include but not be limited to, attorney fees and costs incurred by the non-breaching District in enforcing its/their rights under this Agreement.

27. **BUDGET AND ANNUAL APPROPRIATION:** The Districts' respective obligations to operate their wastewater collection and treatment facilities hereunder are subject to the budgeting and annual appropriation of funds necessary for the provision of services to customers of the respective Districts, and such budgeting and appropriations shall be made in the sole discretion of each District's Board of Directors. However, the Districts agree that a failure to annually budget and appropriate funds for the operation of the Districts' respective facilities, while possibly affecting the level of services provided to customers, does not and cannot terminate this Agreement. The Districts also hereby agree that any required tap fee remittances per paragraph 13 in this Agreement will occur only as tap fees are paid by prospective customers as a consequence of the services provided, and do not constitute multiple-fiscal year financial obligations as contemplated in Article X, Section 20 of the Colorado Constitution.

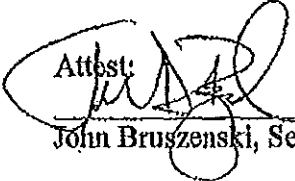
28. **MODIFICATION, INTEGRATION AND MERGER:** The terms of this Agreement are final. They shall not be modified except by a written agreement executed by the Districts, which writing expressly states that it is intended to modify the terms of this Agreement. The Districts acknowledge that they will have continuing discussions regarding consolidation of the Districts.

29. **SECTION HEADINGS:** The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

PAINT BRUSH HILLS METROPOLITAN
DISTRICT

By: 
Joyce Crawford, President

Attest:


John Bruszenski, Secretary

WOODMEN HILLS METROPOLITAN
DISTRICT

By:

Jan Pizzi
Jan Pizzi, President

Attest:

Al Kreps
Al Kreps, Secretary

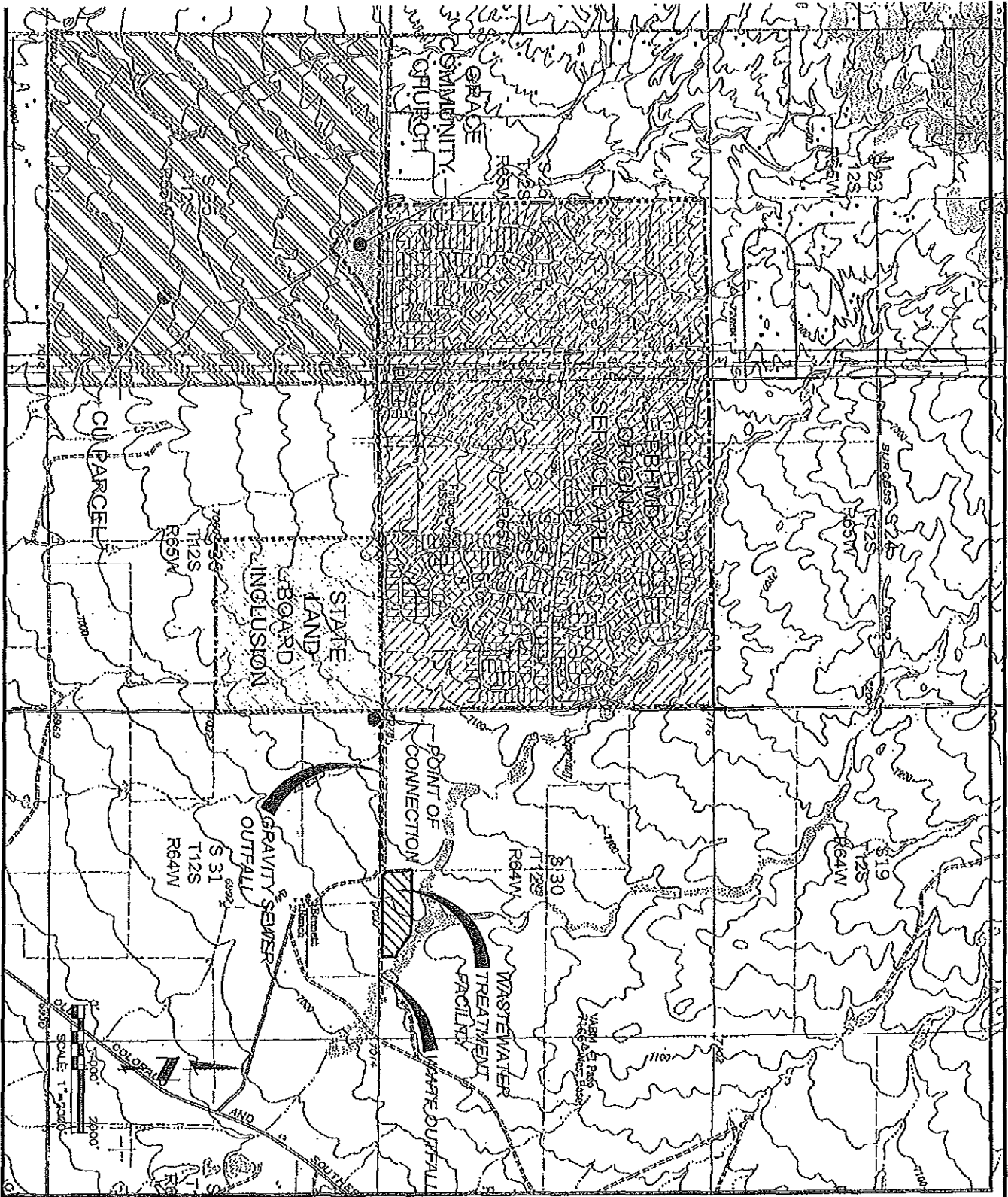


EXHIBIT A

JDS-HYDRO CONSULTANTS, INC.
 545 East Pikes Peak Avenue, Suite 300
 Colorado Springs, Colorado 80903
 (719) 227-0072

Project No.	112-07
Scale	AS SHOWN
Date	02/07/13
Client	
City	
State	
County	
Revised	

EXHIBIT B to IGA for Provision of Wastewater Services to PBHMD

BILL OF SALE

This BILL OF SALE from Paint Brush Hills Metropolitan District (the "Seller") to Woodmen Hills Metropolitan District (the "Purchaser") is dated the date of satisfaction of the contingency described below.

WHEREAS, pursuant to that certain Settlement Agreement and Mutual Release entered into by and between Purchaser and Seller, dated of even date herewith (the "Settlement Agreement"), that certain Intergovernmental Agreement for the Provision of Wastewater Treatment Services entered into by and between the Purchaser and Seller, dated of even date herewith (the "Intergovernmental Agreement"), that certain Assignment of Easement Agreement entered into by and between Purchaser and Seller, dated of even date herewith (the "Assignment of Easement") and that certain Assignment of Ownership Interest entered into by and between the Purchaser and Seller (the "Assignment of Ownership Interest"), the Seller agreed to grant, sell, assign, convey, transfer and deliver to the Purchaser (i) all of its rights, title and interest in, under and to that certain Easement Agreement, dated March 6, 1987, by and among Seller, First American Title Company of Colorado and Paul Tchang, which was recorded in the real property records of El Paso County, Colorado on May 19, 1987 at Reception No. 001569641 and (ii) all of its interest as the owner of an undivided fifty percent (50%) interest in a wastewater treatment plant on a site located in Section 30, Township 12 South, Range 64 of the 6th P.M. in El Paso County, Colorado (the "Purchased Assets").

NOW, THEREFORE, subject to satisfaction of the condition precedent as more particularly described in the Intergovernmental Agreement, that the Colorado Department of Public Health and Environment approve transfer of the wastewater treatment Discharge Permit held by Seller to Purchaser, and for and in consideration of the payment of Ten Dollars (\$10.00) and the premises and the mutual covenants contained in the Settlement Agreement, the Intergovernmental Agreement, the Assignment of Easement and the Assignment of Ownership Interest, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller by these presents does hereby sell, convey, transfer, assign, set over to, and vest in, the Purchaser, its successors and assigns, all of the Seller's right, title and interest, legal or equitable, in and to the Purchased Assets. Purchaser purchases the Purchased Assets AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED

The terms of this Bill of Sale shall not supersede the terms of the Settlement Agreement, the Intergovernmental Agreement, the Assignment of Easement and the Assignment of Ownership Interest.

IN WITNESS WHEREOF, the Seller has caused this Bill of Sale to be executed as of the date first written above.

PAINT BRUSH HILLS METROPOLITAN DISTRICT

By: Wayne W. Williams
Wayne W. Williams, President

DOCS-#3488988-v1

WAYNE W. WILLIAMS El Paso County, CO

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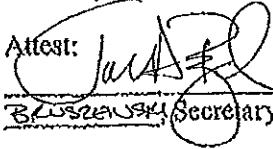
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Rec \$16.00 1 of 2



211085805

Attest:



J. A. Blusznyski Secretary

EXHIBIT C to IGA for Provision of Wastewater Services to PBHMD

ASSIGNMENT OF OWNERSHIP INTEREST

THIS ASSIGNMENT OF OWNERSHIP INTEREST (this "Assignment") by and between Woodmen Hills Metropolitan District ("Assignee") and Paint Brush Hills Metropolitan District ("Assignor"), shall be effective as of the date of satisfaction of the contingency described below.

RECITALS

A. WHEREAS, Assignor is the owner of an undivided fifty percent (50%) interest in a wastewater treatment plant on a site located in Section 30, Township 12 South, Range 64 of the 6th P.M. in El Paso County, Colorado (the "Ownership Interest").

B. WHEREAS, Assignee is the owner of an undivided fifty percent (50%) interest in the same wastewater treatment plant on a site located in Section 30, Township 12 South, Range 64 of the 6th P.M. in El Paso County, Colorado, which interest was originally purchased from Assignor pursuant to that certain Agreement dated February 25, 1988 by and among Falcon Properties and Investments, Woodmen Hills Associates, Inc. and Assignor (the "Purchase Agreement"), a copy of which is attached hereto and incorporated herein as Exhibit A.

C. WHEREAS, the parties hereto are involved in litigation pending before the District Court, El Paso County Colorado and the Colorado Supreme Court, but have entered into a Settlement Agreement and Mutual Release, dated of even date herewith, and an Intergovernmental Agreement for the Provision of Wastewater Treatment Services, dated of even date herewith (the "IGA"), which include and require this Assignment as consideration for the settlement of the litigation.

D. WHEREAS, subject to satisfaction of the condition precedent as more particularly described in the IGA, that the Colorado Department of Public Health and Environment approve transfer of the waste water treatment Discharge Permit held by Assignor to Assignee, Assignor desires to assign and convey to Assignee, and Assignee desires to accept and assume, all of Assignor's remaining rights, obligations, title, interest in, under and to the Ownership Interest.

NOW THEREFORE, in consideration of the mutual covenants set forth in this Assignment, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The parties hereby acknowledge and agree that the above recitals are true and correct and are incorporated herein by reference.

2. Assignment. Assignor hereby assigns and conveys to Assignee all of Assignor's right, title and interest in, under and to the Ownership Interest. Assignee hereby accepts this Assignment and agrees to assume all obligations associated with or arising from or through the Ownership Interest.

3. Representations & Warranties. Assignor hereby represents and warrants to Assignee that it is assigning the Ownership Interest to Assignor free and clear of all claims, liens, security interests, and other encumbrances of any kind whatsoever except as described in that



certain Easement Agreement recorded May 1987 in Book 5367, at Pages 13611366 and again at Reception No. 001569641 in Book 5367 at Pages 1367- 1372 of the real records of the El Paso County Clerk and Recorder, or as may exist as a result of acts or omissions of the Assignee;

4. Sufficiency of Consideration. Other than as contained herein, the parties each acknowledge and agree that no additional consideration is required or owing to the other, and that sufficient consideration has passed or will pass between them by virtue of this Assignment to render this Assignment valid and enforceable.

5. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; this Assignment, however, is not intended to confer any additional right or remedies upon any person other than the parties hereto and their successors and assigns.

6. Not to be Construed Against Drafter. This Assignment shall not be construed more strictly against one party than the other merely by virtue of the fact that it may have been initially drafted by one of the parties or its counsel, since both parties have contributed substantially and materially to the preparation hereof.

7. Authority. Each party and individual executing this Assignment on behalf of that party represents that said individual has the full authority to do so. Assignor further represents and warrants that no other person or entity currently has, or has had, any interest in the Ownership Interest. The parties represent and warrant that they have the legal power and authority to enter into and bind themselves to the terms and conditions contained in this Assignment.

8. Severability and Invalidity. If any provision of this Assignment or any portion thereof shall be found by a court of competent jurisdiction to be void, illegal or unenforceable, then such court shall enforce such provision and the other terms of this Assignment to the fullest extent permitted by applicable law.

9. Attorney's Fees. Should any action be brought in connection with this Assignment, including, without limitation, actions based on contract; tort or statute, the prevailing party in such action shall be awarded all costs and expenses incurred in connection with such action, including reasonable attorneys' fees.

10. Applicable Law; Venue. This Assignment and all claims or controversies arising out of or relating to this Assignment shall be governed by and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than law of the State of Colorado. Venue for all actions arising from this Assignment shall be in the District Court in and for El Paso County, Colorado.

11. Counterparts and Signatures. This Assignment may be executed in multiple counterparts, each of which when taken together shall be deemed one original. Any counterpart may be executed and delivered through facsimile or e-mail transmission.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above.

ASSIGNOR:
PAINT BRUSH HILLS METROPOLITAN DISTRICT

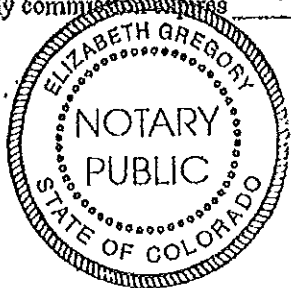
By: Joyce A. Crawford
Joyce A. Crawford, President

Attest: [Signature]
D. Bussanese, Secretary

STATE OF COLORADO)
) #9
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 25th day of June, 2011, by Joyce A. Crawford as President of Paint Brush Hills Metropolitan District.

WITNESS my hand and official seal.
My commission expires 04/12/2015



[Signature]
Notary Public

ASSIGNEE:
WOODMEN HILLS METROPOLITAN DISTRICT

By: Jan Pizzi
Jan Pizzi, President

Attest: [Signature]
Al Krops, Secretary

STATE OF COLORADO)
) #8
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 28 day of June, 2011, by Jan Pizzi as President of Woodmen Hills Metropolitan District.

WITNESS my hand and official seal.
My commission expires 1/13/14

[Signature]
Notary Public

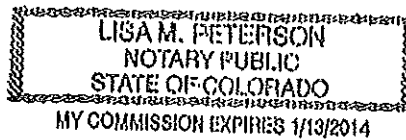


EXHIBIT D to IGA for Provision of Wastewater Services to PBHMD

**COLORADO DISCHARGE PERMIT SYSTEM (CDPS)
FACT SHEET TO MODIFICATION NO. 4 – TRANSFER OF PERMIT
PAINT BRUSH HILLS METROPOLITAN DISTRICT
CDPS PERMIT NUMBER CO-0047091
EL PASO COUNTY**

I. TYPE OF PERMIT Modification 4 – Transfer of Permit

II. FACILITY INFORMATION

- A. Facility Type: Major Municipal, Lagoon System
Fee Category: Category 20, Subcategory 5
Category Flow Range: 1,000,000 up to 1,999,999 gallons per day
Annual Fee: \$3,170 (effective July 1, 2007)
Amendment Fee: No fee associated
- B. Facility Classification: Class C per Section 100.5.2 of the Regulations for Water and
Wastewater Facility Operators Certification Requirements.
- C. Facility Location: SE ¼ of the SW ¼ of Section 30, and in the SW ¼ of the SE ¼ of
Section 30, T12S, R64W, Latitude 38.933° N, Longitude 104.608°
W.
- D. Discharge Location: Outfall 001A, after disinfection and prior to entering the unnamed
tributary to Black Squirrel Creek.

III. TRANSFER OF PERMIT

The permittee has requested a transfer of the permit and has submitted the proper forms associated with a transfer as of June 9, 2011. As the transfer form was complete and signed by both the current and new permittees, the Division is amending the permit to reflect this transfer of ownership. The new permittee is Woodmen Hills Metropolitan District. Contact information for the new permittee is contained in the transfer form. No other changes are being made to this permit.

**Andrew Neuhart
July 20, 2011**

AMENDED: JULY 22, 2011 EFFECTIVE: AUGUST 1, 2011 EXPIRATION: MAY 31, 2011

EXHIBIT E to IGA for Provision of Wastewater Services to PBHMD

ASSIGNMENT OF EASEMENT AGREEMENT

THIS ASSIGNMENT OF EASEMENT AGREEMENT (this "Assignment") by and between Woodmen Hills Metropolitan District ("Assignee") and Paint Brush Hills Metropolitan District ("Assignor") shall be effective as of the satisfaction of the contingency described below.

RECITALS

A. WHEREAS, Assignor agreed to assign to Assignee all of Assignor's rights, title, interests and obligations in, under and to that certain Easement Agreement, dated March 6, 1987, by and among Assignor, First American Title Company of Colorado and Paul Tchang, which was recorded in the real property records of El Paso County, Colorado on May 19, 1987 at Reception No. 001569640 in Book 5367 at Pages 1362- 1366 and again at Reception No. 001569641 in Book 5367 at Pages 1367- 1372 (the "Easement"), a copy of which is attached hereto and incorporated herein as Exhibit A.

B. WHEREAS, on February 25, 1988, pursuant to a Warranty Deed executed by Assignor, and recorded in the real property records of El Paso County, Colorado on February 7, 1995 at Reception No. 095013244, Assignor transferred to Assignee an undivided fifty percent (50%) interest in and to the Easement.

C. WHEREAS, the parties hereto are involved in litigation pending before the District Court, El Paso County Colorado and the Colorado Supreme Court, but have entered into a Settlement Agreement and Mutual Release, dated of even date herewith, and an Intergovernmental Agreement for the Provision of Wastewater Treatment Services, dated of even date herewith (the "IGA"), which include and require this Assignment as consideration for the settlement of the litigation.

D. WHEREAS, subject to satisfaction of the condition precedent as more particularly described in the IGA, that the Colorado Department of Public Health and Environment approve transfer of the waste water treatment Discharge Permit held by Assignor to Assignee, Assignor desires to assign and convey to Assignee, and Assignee desires to accept and assume, all of Assignor's remaining rights, title, interest and obligations in, under and to the Easement.

NOW THEREFORE, in consideration of the mutual covenants set forth in this Assignment, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The parties hereby acknowledge and agree that the above recitals are true and correct and are incorporated herein by reference.

2. Assignment. Assignor hereby assigns and conveys to Assignee, as a permitted assignee, all of Assignor's right, title, interest in and to, and all of Assignor's burdens, obligations and liabilities under the Easement Agreement. Assignee hereby accepts this Assignment and agrees to assume all obligations associated with or arising from or through the Easement.



3. Representations & Warranties. Assignor hereby represents and warrants to Assignee that it is assigning the Easement to Assignor free and clear of all claims, liens, security interests, and other encumbrances of any kind whatsoever except as may be described in the Easement or as may exist as a result of acts or omissions of the Assignee.

4. Conditions of Assignment. Assignor grants this Assignment with the good faith belief that (a) Assignee is a permitted assignee of the Easement under the terms of the Easement; (b) Assignor has not abandoned the Easement, nor does this Assignment constitute an abandonment of the Easement; (c) the Easement has not been terminated, nor are there grounds to terminate the Easement, pursuant to Section 4 of the Easement; and (d) that Assignor has the full right and power to assign the Easement to Assignee. Notwithstanding the foregoing, Assignor neither warrants nor represents these facts to Assignee.

5. Sufficiency of Consideration. Other than as contained herein, the parties each acknowledge and agree that no additional consideration is required or owing to the other, and that sufficient consideration has passed or will pass between them by virtue of this Assignment to render this Assignment valid and enforceable.

6. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; this Assignment, however, is not intended to confer any additional right or remedies upon any person other than the parties hereto and their successors and assigns, except as otherwise delineated under the Easement.

7. Not to be Construed Against Drafter. This Assignment shall not be construed more strictly against one party than the other merely by virtue of the fact that it may have been initially drafted by one of the parties or its counsel, since both parties have contributed substantially and materially to the preparation hereof.

8. Authority. Each party and individual executing this Assignment on behalf of that party represents that said individual has the full authority to do so. Assignor further represents and warrants that, with the sole exception of Assignee, no other person or entity currently has, or has had, any interest in the Easement, except as otherwise set forth therein. The parties represent and warrant that they have the legal power and authority to enter into and bind themselves to the terms and conditions contained in this Assignment.

9. Severability and Invalidity. If any provision of this Assignment or any portion thereof shall be found by a court of competent jurisdiction to be void, illegal or unenforceable, then such court shall enforce such provision and the other terms of this Assignment to the fullest extent permitted by applicable law.

10. Attorney's Fees. Should any action be brought in connection with this Assignment, including, without limitation, actions based on contract, tort or statute, the prevailing party in such action shall be awarded all costs and expenses incurred in connection with such action, including reasonable attorneys' fees.

11. Applicable Law; Venue. This Assignment and all claims or controversies arising out of or relating to this Assignment shall be governed by and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the

application of any law other than law of the State of Colorado. Venue for all actions arising from this Assignment shall be in the District Court in and for El Paso County, Colorado.

12. Counterparts and Signatures. This Assignment may be executed in multiple counterparts, each of which when taken together shall be deemed one original. Any counterpart may be executed and delivered through facsimile or e-mail transmission.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above.

ASSIGNOR:
PAINT BRUSH HILLS METROPOLITAN DISTRICT

By: Joyce L. Crawford
Joyce L. Crawford, President

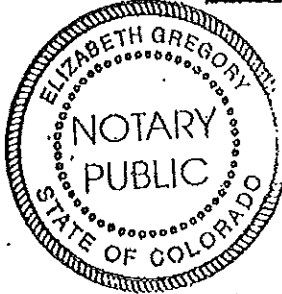
Attest: [Signature]
bhs D. Bruszenski, Secretary

STATE OF COLORADO)
) ss
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 25th day of July , 2011, by Joyce L. Crawford as President of Paint Brush Hills Metropolitan District.

WITNESS my hand and official seal.
My commission expires 04/12/2016 MY COMMISSION EXPIRES

[Signature]
Notary Public



ASSIGNEE:
WOODMEN HILLS METROPOLITAN DISTRICT

By: Jan Pizzi
Jan Pizzi, President

Attest: [Signature]
Al Kreps, Secretary

STATE OF COLORADO)
) ss
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 28th day of July , 2011, by Jan Pizzi as President of Woodmen Hills Metropolitan District.

WITNESS my hand and official seal.
My commission expires 11/13/14

[Signature]
Notary Public

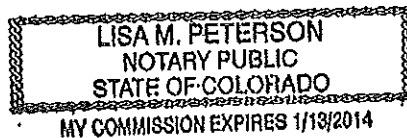


EXHIBIT F to IGA for Provision of Wastewater Services to PBHMD

9583 Rockingham Drive
9646 Keating Drive
9807 Keating Drive
9679 Keating Drive
9849 Rockingham Drive
9821 Rockingham Drive
9723 Rockingham Drive
9709 Rockingham Drive
9695 Rockingham Drive
9653 Rockingham Drive
9935 Keating Drive

EXHIBIT G to IGA for Provision of Wastewater Services to PBHMD

Settlement Agreement and Mutual Release

This Settlement Agreement and Mutual Release (the "Agreement") is between TPS Fund, LLC ("TPS"), Six Ninety Nine Properties, LLC, Six Ninety Nine LA, LLC, Phillip J. Anderson, Harold Fong and Jay Bartz (collectively, the "TPS Parties") and Paint Brush Hills Metropolitan District (the "District").

Introduction

On January 25, 1999, the TPS Parties, or their predecessor, purportedly acquired 851 sewer and water taps to the District's water and sanitation system (the "Taps") by bill of sale signed by Eagle Ranch and BLPS, LLC. Subsequently, TPS sold 395 Taps. The District has raised questions concerning ownership of the Taps and certain actions by the TPS Parties in connection with the prior sales of the Taps. The Parties would now like to fully settle their dispute and consequently, in consideration of the covenants contained herein, they agree as follows:

1. Prior Sales. The prior sale by TPS of 395 Taps is ratified and confirmed by the District, and the District waives any claims it may have to proceeds from those sales. The Parties acknowledge the District currently holds \$40,200 in proceeds from TPS' previous sale of three of these 395 Taps, which funds will be disbursed to TPS by the District on or before the Effective Date.

2. Remaining Taps. As of the Effective Date of this Agreement, the TPS Parties hereby assign and transfer to the District all right, title and interest, if any, they may have in the 456 remaining Taps (the "Remaining Taps"). The TPS Parties represent and warrant that, as of the Effective Date, they have not assigned, sold, transferred, conveyed or encumbered any of their rights in the Remaining Taps to any third party. The TPS Parties further acknowledge and agree that they shall have no right to sell any of the Remaining Taps or any other District taps. As of the Effective Date, the Parties stipulate and agree that the Remaining Taps shall be owned solely by the District. No party other than the District shall be entitled to sell, transfer, convey or encumber the Remaining Taps. As consideration for this, the District:

(a) Will sell the Remaining Taps to purchasers desiring water and sewer service within the real property currently or previously owned by Six Ninety Nine, LA, LLC and any of the TPS Parties other affiliated entities within the District with the exception of the 40-acre tract of currently undeveloped vacant land generally located in the southeast portion of the District and identified as Parcel Number 5225400001 according to the El Paso County Assessor's website, prior to any other District taps being utilized for such purposes. However, the Remaining Taps will not be utilized by the District for any other property within the District's boundary as it now exists or may hereafter be expanded.

(b) Each sale of a Remaining Tap will be at the District's then prevailing rate for water and sewer taps, and will be conducted through an escrow with Stewart Title of Colorado Springs (or such other escrow agent as the Parties may agree upon). The escrow agent will collect the gross proceeds for the tap, deliver the District's acknowledgment of the Tap sale

to the purchaser, deduct its escrow fees from the sales proceeds and distribute the balance of the funds sixty percent (60%) to TPS and forty percent (40%) to the District. Distribution of these proceeds will be made within three (3) business days after closing of a sale. The Parties will execute such additional escrow instructions as are reasonably necessary to accomplish this escrow. Any discounted bulk sale of the Remaining Taps shall require the prior written consent of both Parties.

3. Case Sale. R.W. Case has previously purchased 25 Taps from TPS pursuant to a contract between those parties dated November 5, 2008 (the "Case Contract"). The District acknowledges and will comply with the terms of the Case Contract concerning the priority, use and resale of these 25 Taps. In addition, R.W. Case has committed to purchase three additional Taps from the TPS Parties for \$58,000 as part of a letter of intent between the District and Marksheffel-Woodmen Investments, LLC ("MWI") dated July 11, 2008 concerning inclusion of MWI's property into the District. As of the Effective Date, TPS assigns its right to receive the proceeds from the sale of these three Taps to the District. These three Taps will not be considered Remaining Taps and the District will be entitled to keep all proceeds from this sale. Both Parties will use good faith efforts to expedite the closing of the sale of these three taps, and to that end, the District will require this sale be completed as a condition to the execution of the inclusion agreement related to the inclusion of MWI's property into the District.

4. Mutual Release. As of the Effective Date, the TPS Parties, their managers, members, employees and agents on the one hand, and the District, its managers, board members, employees and agents on the other hand, hereby release each other from any and all claims of any kind they may have, whether currently known or unknown, relating to either the District's or the TPS Parties' claimed ownership of, and activities related to, the Taps, including, but not limited to, those which were raised or could have been raised in connection with the litigation discussed in Section 5 below.

5. The Litigation. On the Effective Date, the Parties will stipulate that Case No. 2009CV1896, El Paso County, Colorado District Court (the "Litigation") will be dismissed with prejudice, each party to pay their respective attorneys fees and costs.

6. Resignation. On the Effective Date, Harold Fong will resign as a member of the District's Board of Directors.

7. Prior Resolutions. On or before the Effective Date, and subject to the full execution of this Agreement, the District will rescind District Resolution 2009.02.17-4 and will modify District Resolution 2009.02.17-3 so that the terms of that Resolution will not apply to any of the 395 Taps previously sold by the TPS Parties, including the Taps sold to Randy Case pursuant to Section 3 above.

8. Effective Date. As used herein, the "Effective Date" is three (3) business days after execution of this Agreement by all the Parties.

9. Representation. The Parties acknowledge that they have been represented and advised by independent counsel of their own choice throughout all negotiations which preceded

the execution of this Agreement and in connection with their execution of this Agreement. Each Party is executing this Agreement based on its own analysis and is not relying on any representation or statements by any other Party.

10. Further Assurances. The Parties each agree to cooperate in good faith with one another, and to execute and deliver such other documents to one another as are necessary to effectuate the agreements reached in this Agreement.

11. Waiver. No term or condition of this Agreement shall be deemed to have been waived; nor shall there be an estoppel against the enforcement of any provision of this Agreement, except by written instrument of the Party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated therein and such waiver shall operate only as to the specific term or condition waived and not for the future or as to any act other than that specifically waived.

12. Entire Agreement. When fully executed by the Parties, this Agreement shall be binding on all Parties and shall inure to the benefit of their heirs, personal representatives, successors and permitted assigns. This Agreement is the entire agreement between the Parties and supersedes any prior written or oral agreements with respect to the subject matter hereof. No previous or contemporaneous oral or written agreements concerning the subject matter of this Agreement shall be of any force or effect. This Agreement may not be modified, amended or altered without the prior written consent of all of the Parties.

13. Governing Law. This Agreement has been executed and delivered in the State of Colorado. The Parties agree that the payments and delivery obligations of this Agreement are to be performed in Colorado. All matters concerning the validity, interpretation, performance and enforcement of this Agreement shall be governed by the substantive law of the State of Colorado.

14. Choice of Forum. The Parties agree that any claim under this Agreement, including, but not limited to, those relating to its breach, enforcement or interpretation, and any claim concerning the efficacy or enforceability of this Agreement shall be submitted to Division 16 of the District Court for the County of El Paso, Case No. 2009CV1896, and that Division 16 shall retain jurisdiction over the Parties for the purpose of enforcing the terms of this Agreement.

15. Headings. The headings of paragraphs and subparagraphs in this Agreement are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

16. Joint Authorship. The Parties acknowledge and agree that this Agreement has been the subject of negotiation such that each Party has had an opportunity for input into the terms and conditions of and the language used in this Agreement. The Parties agree that this Agreement is the work product of all Parties and, accordingly, any rule of construction providing that agreements drafted by a Party shall be construed against that Party has no applicability to the construction or interpretation of this Agreement.

17. Severability. If any provision of this Agreement is deemed unenforceable, for whatever reason, that particular provision is void and the remaining provisions of this Agreement continue to be binding and in full force and effect.

18. Counterparts, Facsimile and Electronic Signatures. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement binding upon all Parties, notwithstanding that all the Parties are not signatories to the original or the same counterpart. Once executed by a Party, this Agreement may be delivered to the other Parties by facsimile or electronic mail transmission of a copy of this Agreement bearing the signature of the Party or Parties so delivering this Agreement. A facsimile or electronic mail transmission of this signed Agreement shall be as legally binding and effective as the delivery of an originally executed counterpart.

19. Notices. Any notice, request or other document to be given by any Party to this Agreement to another Party to this Agreement shall be in writing and delivered personally, sent by receipted overnight delivery, or sent by U.S. Mail, certified/return receipt requested, postage-prepaid, as follows:

If to the TPS Parties:

c/o Bruce M. Wright, Esq.
Flynn Wright & Fredman, LLC
111 South Tejon, Suite 202
Colorado Springs, CO 80903

If to the District:

c/o Timothy J. Schutz, Esq.
Hanes & Schutz
102 S. Tejon Street, Suite 800
Colorado Springs, CO 80903

Notices shall be effective on the date received if personally delivered or given by overnight express, or if given by certified mail, three (3) days after depositing the same in the U.S. Mail. Any Party may change their address for notices by delivering notice of its new address at least thirty (30) days in advance of the new address becoming effective.

20. Enforcement. In the event that arbitration is commenced by any Party to enforce the terms of this Agreement, the prevailing Party(ies) shall be awarded reasonable attorneys' fees and costs.

21. Time. The Parties hereby acknowledge and agree that time is of the essence.

"The District"
Paint Brush Hills Metropolitan District

8/26/09
Date

By: [Signature]
Its: Director/President

"The TPS Parties"
TPS Fund, LLC

Date

By: _____
Its: Manager

Six Ninety Nine Properties, LLC

Date

By: _____
Its: Manager

Six Ninety Nine LA, LLC

Date

By: _____
Its: Manager

"The District"
Paint Brush Hills Metropolitan District

Date

By: _____
Its: _____

"The TPS Parties"
TPS Fund, LLC

8/27/09

Date

By: _____
Its: Manager

Six Ninety Nine Properties, LLC

8/27/09

Date

By: _____
Its: Manager

Six Ninety Nine LA, LLC

8/27/09

Date

By: _____
Its: Manager

Date
8/27/09
Date

By: Philip J. Anderson

By: [Signature]
Harold Fong

Date

By: Jay Bartz

Amendment of Settlement Agreement and Mutual Release

This Amendment of Settlement Agreement and Mutual Release ("Amendment") is made and entered into as of April 1, 2010 by TPS Fund, LLC, Six Ninety Nine Properties, LLC, Six Ninety Nine LA, LLC, Philip J. Anderson, Harold Fong, and Jay Bartz (collectively, "TPS Parties") and Paint Brush Hills Metropolitan District ("District") (collectively, the "Parties").

1. Background. The Parties entered into a Settlement Agreement and Mutual Release (the "Agreement"), a copy of which is attached hereto, in August 2009, and the capitalized terms used herein are those defined in the Agreement. Pursuant to Section 12 of the Agreement, the Agreement may be amended by a writing signed by the Parties. The Parties desire to amend the Agreement as set forth in this Amendment to change the manner in which the Remaining Taps are collected and disbursed.


2. Amendment. The Parties hereby delete the former Section 2(b) of the Agreement in its entirety and replace it with the following:

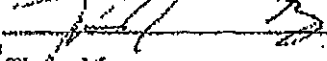
(b) The District will sell each of its Remaining Taps at the District's then prevailing rate for water and sewer taps and will do so by collecting from the tap purchaser a check payable to the District in the amount of forty percent (40%) of the tap fee sold and another check payable to TPS Fund, LLC in the amount of sixty percent (60%) of the tap fee sold. The District will forward the check payable to TPS to TPS within three (3) business days following the District's receipt of that check by sending it to the mailing address given by TPS to the District from time to time. Any discounted bulk sale of the Remaining Taps shall require the prior written consent of both Parties.

3. Remaining Terms. Except as expressly modified by this Amendment, the remaining terms of the Agreement shall remain in full force and effect.

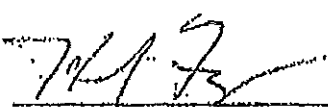
Paint Brush Hills
Metropolitan District

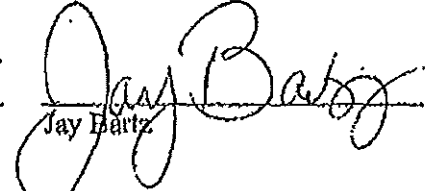
TPS Fund, LLC, Six Ninety Nine LA, LLC,
and Six Ninety Nine Properties, LLC

By: 
His: President

By: 
Their: Manager


Philip J. Anderson


Harold Fong


Jay Bartz

ROBERT C. "BOB" BALINK El Paso County, CO
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EXHIBIT H to IGA for Provision of Wastewater Services to PBHMD

**INCLUSION AGREEMENT
(PAINT BRUSH HILLS METROPOLITAN DISTRICT/STATE OF
COLORADO, ACTING BY AND THROUGH THE STATE BOARD OF LAND
COMMISSIONERS)**

THIS INCLUSION AGREEMENT (the "Agreement") is made and entered into effective this 16th day of September, 2008 by and between the Paint Brush Hills Metropolitan District (the "District") and the State of Colorado, acting by and through the State Board of Land Commissioners ("Owner").

RECITALS

- A. The District is a Colorado Special District and political subdivision of the State of Colorado formed pursuant to Title 32, Colorado Revised Statutes.
- B. The District provides various services to its residents in El Paso County, Colorado, which services include potable water, waste water treatment, park and recreation, drainage and roads.
- C. The Owner is the record title owner of 160 acres of real property located to the immediate south of the District boundaries (the "Real Property"). The legal description of the Real Property is attached hereto as Exhibit A and incorporated herein. The Real Property is presently located outside the boundaries of the District.
- D. The Owner has filed a petition to include the Real Property into the boundaries of the District.
- E. Subsequent to the inclusion of the Real Property, it is the intent of the Owner to convey said Real Property to a third party (the "Developer"), with the Developer to be responsible for the development of the Real Property by obtaining the appropriate land use entitlements from El Paso County and other applicable governmental agencies, and by constructing certain municipal infrastructure thereon.
- F. The parties agree and acknowledge that the District has no obligation to include the Real Property but, if it elects to do so, it may impose certain conditions and obligations upon Owner and the Real Property.
- G. Should the District approve the Petition for Inclusion of the Real Property, Owner and the Real Property shall be subject to the terms and conditions of this Agreement. If the District does not approve the Petition for Inclusion, this Agreement shall be null and void.

NOW, THEREFORE, based upon the mutual promises and considerations contained herein, and in consideration of the inclusion of the Real Property into the boundaries of the District, the parties agree as follows:

1. **Petition for Order.** Upon the mutual execution of this Agreement by the District and the Owner, the District shall prepare and file a Petition with the District Court for El Paso County, requesting that the Real Property be included in the District subject to the terms and conditions of this Agreement. Any Order to include the Real Property with the District shall be subject to the terms and conditions of this Agreement. A copy of such Order, with this Agreement attached thereto, shall be recorded in the Real Estate Records of the El Paso County Clerk and Recorder's Office.
2. **Acknowledgement.** In its inclusion petition, the Owner has acknowledged and agreed that the Real Property shall be subject to all rules, regulations, terms and conditions, provisions, obligations, assessments, and liabilities as now in effect or at any time imposed by the District and that the Real Property will be subject to all tap fees, monthly user fees and other fees which are applicable at any time. Owner acknowledges and agrees to this condition.
3. **Exclusion.** In the event that the Owner is unable to obtain entitlements from El Paso County for urban development necessitating public water and wastewater services, the parties agree that the Real Property will be excluded by the District upon the appropriate petition for exclusion from the Owner. All legal and other costs associated with such an exclusion request shall be paid by the Owner. Any such exclusion request shall be made prior to the approval of a final plat of the Real Property by El Paso County.
4. **Inclusion Fees.** An inclusion fee of Ten Thousand dollars (\$10,000.00) shall be paid to the District or the District's designee by or on behalf of Owner at the time of the Board Resolution approving the Inclusion of the Real Property. An additional inclusion fee of Ninety Thousand dollars (\$90,000.00) shall be paid to the District or the District's designee by or on behalf of Owner upon the approval by the County of the Owner's request to rezone the Real Property to a zoning district permitting urban development (lots less than 2.5 acres in size). In the event that such a rezoning request has not been approved by the County one year from the date of the entry of the Board's Resolution approving the Inclusion of the Real Property, or October 1, 2009, whichever occurs first, the Owner shall either request exclusion from the District or pay an additional inclusion fee of Twenty Thousand dollars (\$20,000.00) to the District or the District's designee. Thereafter, upon receipt of urban development zoning, a final inclusion fee of Seventy Thousand dollars (\$70,000) shall be paid to the District or the District's designee by or on behalf of Owner. It is the intent of the parties hereto that the total inclusion fee, should the Real Property remain in the District, shall be One Hundred

Thousand dollars (\$100,000.00). Once paid, each of the foregoing payments shall be non-refundable.

5. **Infrastructure.** Subject to Section 8 below, Owner agrees that the design, construction and installation of all on-site municipal infrastructure including water and wastewater facilities with related infrastructure such as lift stations, collection and distribution systems, wells and pumps, water storage, roads and drainage improvements, neighborhood parks and all other public improvements necessary to serve the Real Property including the construction and drilling of sufficient wells to serve the Real Property shall be done at the sole expense of the Owner or Developer. All water, wastewater, drainage and park improvements shall be designed and constructed in accordance with the criteria and policies of the District. Owner agrees to provide for and construct neighborhood parks as part of the County subdivision process rather than paying fees in lieu of the provision of said parks. Upon completion and approval by the District, all water, wastewater, drainage and park infrastructure improvements shall be assigned or deeded to the District (at no cost to the District) and shall become District property. Roads shall be dedicated to El Paso County who shall thereafter maintain the same and Owners will work with El Paso County to achieve approval and acceptance of such dedication.

The Owner or Developer, solely at their expense, shall also design, construct and install any off-site collection and distribution lines and related facilities necessary to connect the Real Property to the District's existing water and wastewater systems.

6. **Permits.** Prior to commencing any excavation or construction activities, the Owner or Developer shall obtain all necessary permits from any applicable governmental entity or agency, and the Owner or Developer shall be solely responsible for complying with the terms and conditions of such permits.
7. **Water Supply.** In addition to the requirements of Sections 5 and 6, all water and water rights associated with the Real Property shall be assigned, deeded, and otherwise dedicated to the District without cost to the District prior to the submittal of a request for final plat approval of any portion of the Real Property to El Paso County. It is anticipated by the parties hereto that the water rights associated with the Real Property will be insufficient in terms of quantity and dependability for the proposed subdivision and development of the Real Property. It is also understood and agreed by the parties hereto that the District has no excess water with which to serve the Real Property and shall not be obligated to acquire additional water rights to serve said Real Property. It shall be the obligation of the Owner or Developer to acquire whatever additional water rights are necessary to serve the future subdivision and development of the Real Property and to convey same to the District at no cost to the District. Such additional water rights shall be conveyed to the

District prior to the District committing to El Paso County and the Colorado State Engineer's Office to serve any final plat of the Real Property requiring said additional water. Understanding that it is the Owner's obligation to pay for wells located on the Real Property, the parties agree to cooperate in such matters as adjudication of water rights, well locations and depths, and related matters to ensure the most efficient utilization of the water rights associated with the Real Property.

8. **Inspection and Warranty.** The District's designated engineer shall inspect and reject or accept, all the improvements that are to be constructed in accordance with the criteria and policies of the District. Any acceptance shall be made in writing. Prior to acceptance, the Owner shall provide the District with lien waivers from each contractor or subcontractor who has worked on the project. Upon acceptance, the Owner shall provide the District with a one-year warranty, commencing on the date of acceptance of the improvements, warranting the improvements and the workmanship associated with their installation against any material defect for a period of one year. Such warranty shall include warranties of merchantability and fitness for the particular purpose. In such warranty, the Owner shall agree to pay for the cost of any necessary repairs or replacements of the improvements caused by a breach of such warranties occurring during the one-year period.
9. **Easements.** If requested by the District, the Owner shall deliver to the District any necessary easements in a form acceptable to the District.
10. **Recordation.** This Agreement shall bind the parties, their successors, and assigns and shall run with the Real Property which is described on the attached legal description in Exhibit A and incorporated herein. This Agreement shall be recorded in the real property records of El Paso County, Colorado.
11. **Miscellaneous.**
 - a. **Governing Law.** The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Colorado. In the event of any litigation that may arise under this Agreement, the exclusive jurisdiction and venue for any such litigation shall be the District Court of El Paso County, Colorado.
 - b. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
 - c. **Captions.** The captions in this Agreement are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

- d. Assignability. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other.
- e. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns.
- f. Modifications; Waiver. No waiver, modification, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is sought.
- g. Entire Agreement. This Agreement, including any exhibits, contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations or statements, oral or written, are superseded hereby.
- h. Partial Invalidity. Any provision of this Agreement which is unenforceable or invalid or the inclusion of which would impair the validity, legality or enforcement of this Agreement shall be of no effect, but all the remaining provisions of this Agreement shall remain in full force and effect.
- i. No Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.
- j. Attorneys' Fees. In the event of any controversy, claim or dispute between the parties affecting or relating to the subject matter or performance of this Agreement, the prevailing party shall be awarded from the non-prevailing party all of its reasonable attorneys' fees and costs incurred in such action. It is understood and agreed by the parties hereto that this provision shall be applicable only upon the conveyance of the Real Property by the Owner to a Developer unless the Owner commences development of the said Real Property.

THE STATE OF COLORADO, ACTING BY AND THROUGH THE STATE BOARD OF LAND COMMISSIONERS, a governmental entity of the State of Colorado

By: John Brejcha
Title: Acting Director

Signature: [Handwritten Signature]

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 24th day of September, 2008, by John Brejcha, as Acting Director of the Colorado State Board of Land Commissioners

Witness my hand and official seal.

[Handwritten Signature]
Notary Public Timothy B. Kelly
My commission expires: April 18, 2011



Made and entered into the year and date first above written.

PAIN T BRUSH HILLS METROPOLITAN DISTRICT

BY: Wendell J. Putnam
President

ATTEST:

Daniel Most
Secretary

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 22nd day of May, ²⁰⁰⁹ 2008, by Wendell J. Putnam, as President and Daniel Most, as Secretary of the Paint Brush Hills Metropolitan District.

Witness my hand and official seal.

Ellen M. Robley
Notary Public
My commission expires: 03-08-2010



My Commission Expires 03-08-10

EXHIBIT A

The Real Property subject to this petition and agreement for inclusion in the Paint Brush Hills Metropolitan District is the

NE1/4 Section 36, Township 12 South, Range 65 West of the 6th Principal Meridian in El Paso County, consisting of 160 acres, more or less.

Table 1**Paint Brush Hills Metropolitan District****Summary of Projected Stream Depletion Factors
Dawson Aquifer**

Year	Depletion Factor q/Q%	Depletion (af)	Year	Depletion Factor q/Q%	Depletion (af)	Year	Depletion Factor q/Q%
1	0.20%	0.69	41	5.82%	20.78	81	12.03%
2	0.40%	1.39	42	5.96%	21.29	82	12.17%
3	0.60%	2.10	43	6.11%	21.80	83	12.32%
4	0.81%	2.82	44	6.26%	22.32	84	12.47%
5	1.02%	3.55	45	6.41%	22.84	85	12.61%
6	1.23%	4.29	46	6.55%	23.36	86	12.76%
7	1.45%	5.04	47	6.70%	23.88	87	12.90%
8	1.66%	5.80	48	6.85%	24.41	88	13.05%
9	1.88%	6.57	49	7.01%	24.94	89	13.19%
10	2.11%	7.34	50	7.16%	25.46	90	13.33%
11	2.33%	8.12	51	7.31%	25.99	91	13.47%
12	2.52%	8.79	52	7.46%	26.52	92	13.61%
13	2.60%	9.06	53	7.61%	27.06	93	13.75%
14	2.68%	9.34	54	7.77%	27.59	94	13.87%
15	2.77%	9.64	55	7.92%	28.12	95	13.98%
16	2.86%	9.95	56	8.07%	28.66	96	14.09%
17	2.95%	10.27	57	8.23%	29.20	97	14.20%
18	3.05%	10.61	58	8.38%	29.73	98	14.31%
19	3.15%	10.96	59	8.53%	30.27	99	14.42%
20	3.25%	11.32	60	8.69%	30.80	100	14.53%
21	3.36%	11.69	61	8.84%	31.34		
22	3.47%	12.08	62	9.00%	31.88		
23	3.58%	12.47	63	9.15%	32.41		
24	3.69%	12.87	64	9.30%	32.95		
25	3.81%	13.28	65	9.46%	33.48		
26	3.93%	13.70	66	9.61%	34.02		
27	4.06%	14.13	67	9.77%	34.55		
28	4.18%	14.56	68	9.92%	35.09		
29	4.31%	15.00	69	10.07%	35.61		
30	4.44%	15.45	70	10.22%	36.15		
31	4.57%	15.91	71	10.38%	36.68		
32	4.70%	16.37	72	10.53%	37.21		
33	4.83%	16.84	73	10.68%	37.74		
34	4.97%	17.32	74	10.83%	38.26		
35	5.11%	17.80	75	10.98%	38.79		
36	5.25%	18.29	76	11.13%	39.31		
37	5.39%	18.78	77	11.28%	39.83		
38	5.53%	19.27	78	11.43%	40.35		
39	5.68%	19.77	79	11.58%	40.87		
40	5.82%	20.27	80	11.73%	41.38		

Notes:

Depletion factors presented above based on the AUG3 Denver Basin stream depletion model.

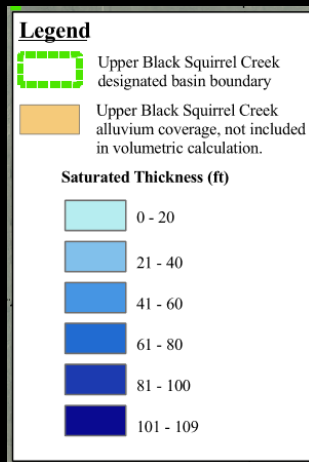
R65W

R63W

T12S

Woodmen Hills Metropolitan
District WWTP

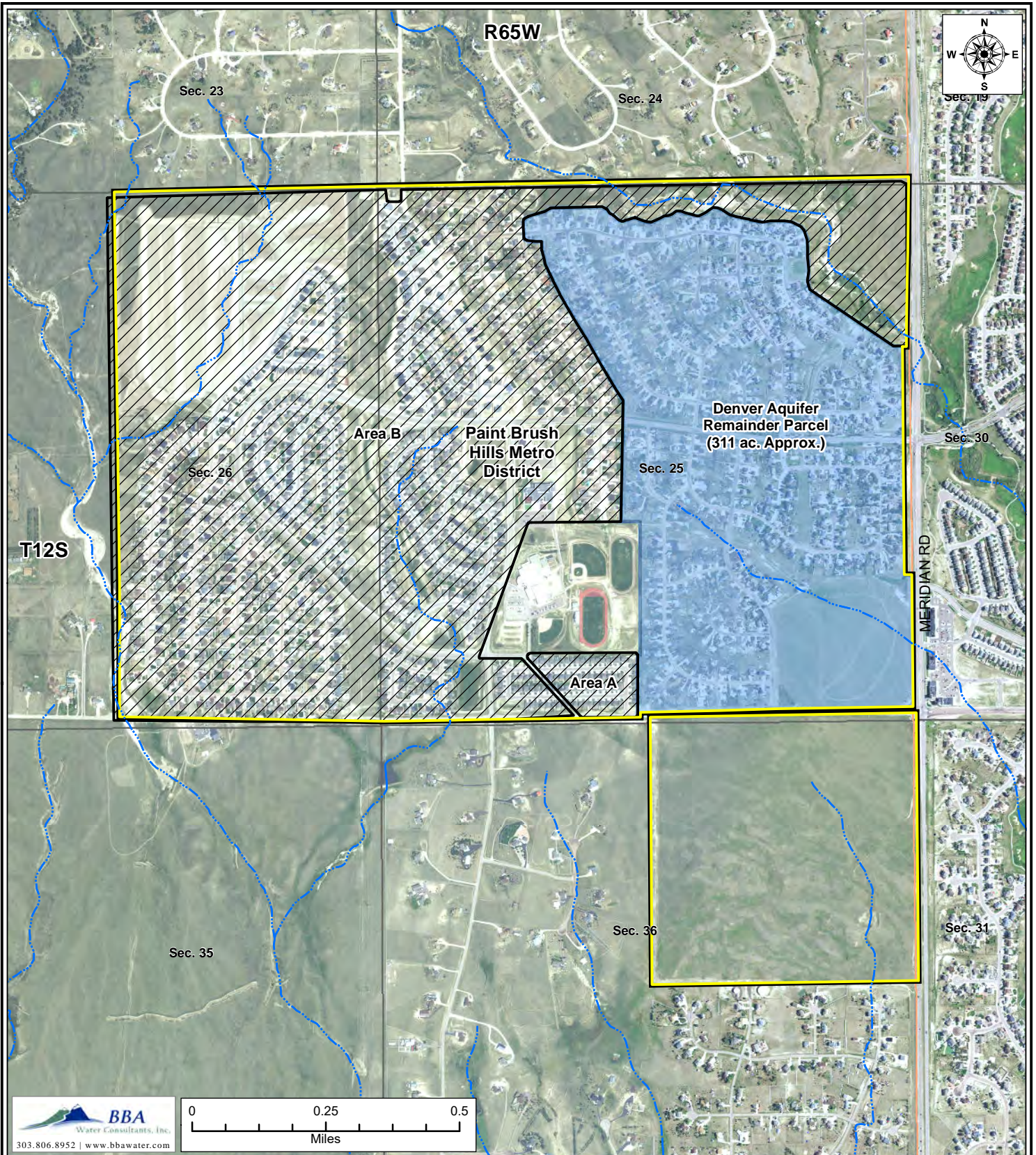
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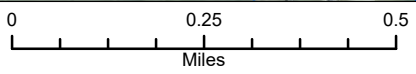
T14S

COLORADO





BBA
Water Consultants, Inc.
303.806.8952 | www.bbawater.com



**Exhibit A DRAFT
Paint Brush Hills
Metropolitan District
Denver Aquifer
Remainder Parcel**

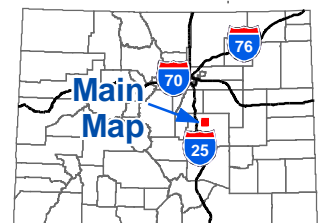
Date: 8/29/2023 | Job No. 1709.01

Legend

- PBHMD Service Area Boundary *
- Area of Determination 214-BD
- Denver Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
Aerial Photo Date: 8/5/2021 NAIP USDA
Data Source: CDSS, CDOT, BLM, USGS

COLORADO



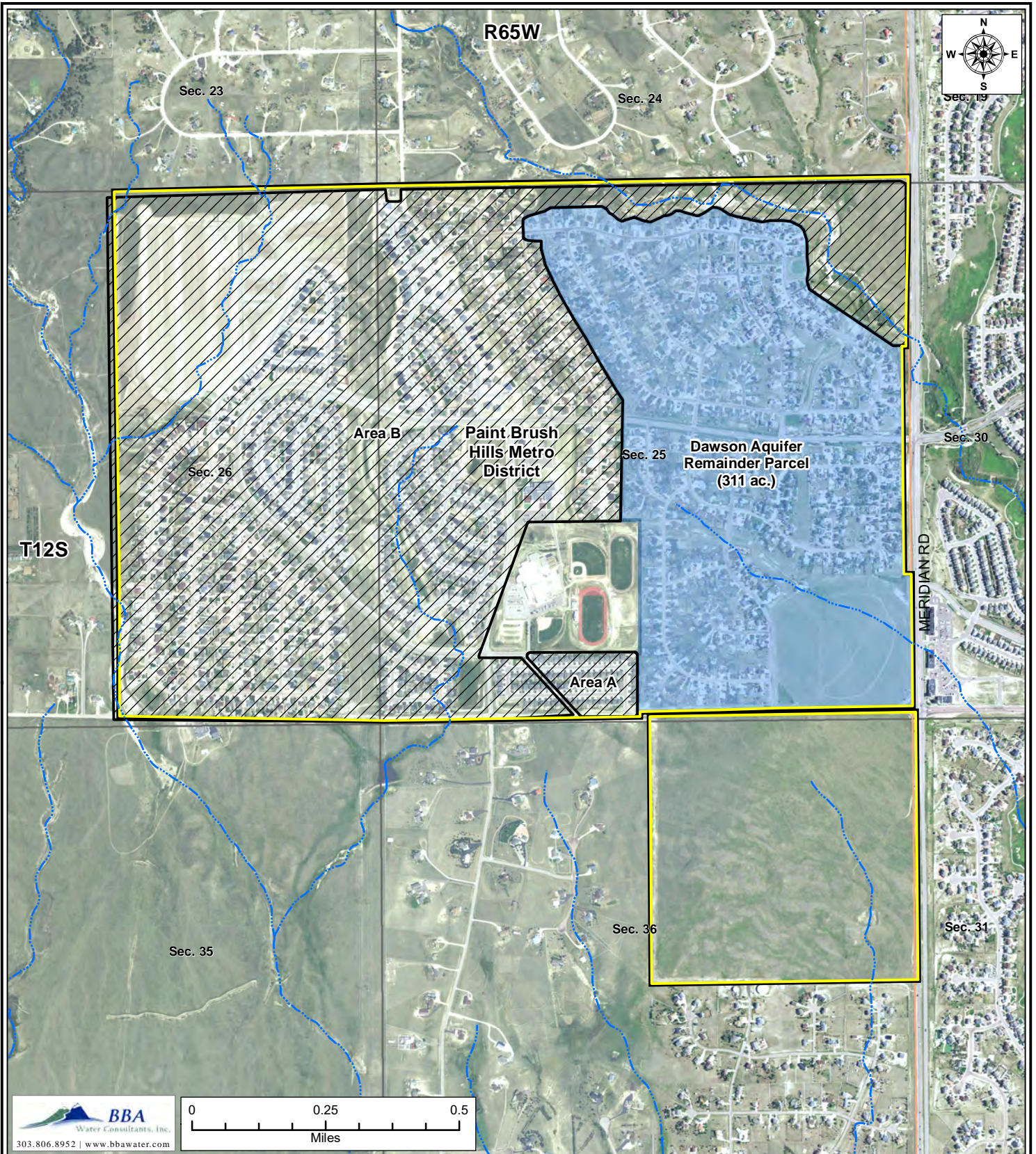





Figure 1
Paint Brush Hills
Metropolitan District
General Location Map

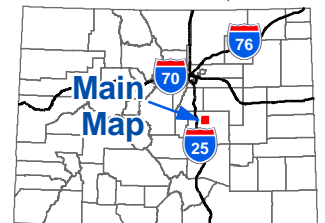
Date: 8/31/2023 | Job No. 1709.01

Legend

-  PBHMD Service Area Boundary *
-  Area of Determination 719-BD
-  Dawson Aquifer Remainder Parcel

*Note: Metropolitan District source, El Paso County
 Aerial Photo Date: 8/5/2021 NAIP USDA
 Data Source: CDSS, CDOT, BLM, USGS

COLORADO



STATE OF
COLORADO

DWR - DNR, Permitsonline <dnr_dwrpermitsonline@state.co.us>

Fwd: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Fri, Sep 29, 2023 at 6:06 PM

To: Permitsonline DWR - DNR <dwrpermitsonline@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>, Charlie Stanzione <cstanzione@bbawater.com>, Joanna Williams - DNR <joanna.williams@state.co.us>

Hello,

Could you please invoice Charlie Stanzione <cstanzione@bbawater.com> for the following applications?

1. Determination of Water Right for the Dawson aquifer
2. Replacement Plan for the Dawson aquifer
3. Change of Water Right application for 719-BD
4. Determination of Water Right for the Denver aquifer
5. Change of Water Right application for 214-BD

Thanks,

Wenli Dickinson, P.E.

Water Resource Engineer

COLORADO
Division of Water Resources
Department of Natural Resources

P 303.866.3581 x8206

1313 Sherman St, Suite 821, Denver, CO 80203

wenli.dickinson@state.co.us | dwr.colorado.gov

----- Forwarded message -----

From: **Charlie Stanzione** <cstanzione@bbawater.com>

Date: Fri, Sep 29, 2023 at 4:04 PM

Subject: Paint Brush Hills Metro District - Dawson Aquifer Replacement Plan and related District applications and forms

To: Williams - DNR, Joanna <joanna.williams@state.co.us>, Dickinson - DNR, Wenli <wenli.dickinson@state.co.us>

Cc: Robert Guevara <robert@pbhmd.com>, Paul Anderson <pandllc@comcast.net>, Matthew Machado <MMachado@lyonsgaddis.com>, Casey Weaver <CWeaver@lyonsgaddis.com>, Tim Crawford <tcrawford@bbawater.com>

Joanna and Wenli,

As we discussed at our meeting this summer, we are submitting on behalf of our client Paint Brush Hills Metro District the attached report and associated application forms for a Dawson Aquifer Replacement Plan. We have also prepared related applications needed for the District to fully permit and develop the Dawson and Denver ground water underlying the District service area.

Please find attached the following documents and applications:

- Dawson Aquifer Info: BBA Report for the Dawson Aquifer Replacement Plan – includes the approach and information based on our meeting this summer. The report also has attached to it several related

GWS application forms: **1) GWS-69** – Application for a Replacement Plan; **2) GWS-53** – Dawson – also discussed with you this summer, this application is for a Determination of Water Rights in the Dawson aquifer underlying lands within the District that do not yet have a Dawson Determination, referred to as “remainder” lands or area (see **Figure 1**, these lands were not included in the District’s existing Dawson Determination, 719-BD, or the School District’s existing Dawson Determination, 307-BD); **3) GWS-67** – Dawson – application to change a Determination of water right, to allow the development of all the District’s Dawson water in 719-BD, the School District water in 307-BD, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

- Denver - **GWS-53** – application for Determination of Water Rights in the Denver aquifer underlying lands within the District that do not yet have a Determination, referred to as “remainder” lands or area (see **Exhibit A**, these lands were not included in the District’s existing Denver Determination, 214-BD, or the School District’s existing Denver Determination, 306-BD); **Exhibit A** map of “remainder” area for Denver GWS-53.
- Denver - **GWS-67** – application for change in Determination to allow the development of all the District’s Denver water in 214-BD, the School District water in 306-BD, any additional water from the pending 23GW06 permit, and any additional water from the newly filed “remainder” lands, via a wellfield of wells located anywhere within the District’s service area in Section 25 and the E1/2 of Sec.26, and allow the place of use anywhere within the District’s service area, including the NE1/4 of Sec. 36.

We understand that processing fees will need to be paid for the enclosed applications and forms; please let me know if you can process them as-is, or if DWR prefers to have them filed separately.

Please let us know if you have any questions or need additional information.

Thank you,

Charlie

Charles E. Stanzione, P.G.

Principal

BBA Water Consultants, Inc.


cstanzione@bbawater.com

Mobile: 303.349.0347

www.bbawater.com

4 attachments

 **1709.01 BBA Letter - Replacement Plan Letter Report 2023-09-28 (ID 112711).pdf**
7188K

 **Paint Brush Hills - Denver-GWS-53 and GWS-01-remainder area.pdf**
329K

 **Figure 1. Paint Brush Hills Dawson Aquifer Remainder Parcel GLM (ID 111701).pdf**
2389K

 **Exhibit A DRAFT - Paint Brush Hills MD Denver Aquifer Remainder Parcel - Aerial (ID 111421).pdf**
967K