

**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: SPACE CENTER, LLP

AQUIFER: LARAMIE-FOX HILLS

DETERMINATION NO.: **325-BD**

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

FINDINGS

1. The application was received complete by the Ground Water Commission on June 25, 2002.
2. The applicant proposes to appropriate ground water from the Laramie-Fox Hills Aquifer (hereinafter "aquifer") underlying 320 acres, generally described as the N1/2 of Section 16, Township 15 South, Range 63 West of the 6th Principal Meridian. This land area is located within El Paso County. According to a signed statement dated January 30, 2002, the applicant owns the 320 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this property.
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, irrigation, commercial and replacement supply. A central system may deliver the water within the described property for the above uses.
6. The quantity of water in the aquifer underlying the 320 acres of land claimed by the applicant is 7680 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 160 feet.

7. At this time, there is no substantial artificial recharge which 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 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 320 acres claimed by the applicant is 76.8 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. 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 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.
11. 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 or permitted for withdrawal.
12. 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.
13. On September 18, 2002, 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.
14. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
15. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Gazette newspaper on September 26 and October 3, 2002.
16. No objections to the determination of water right and proposed appropriation of ground water were received within the time limit set by statute.

17. 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.

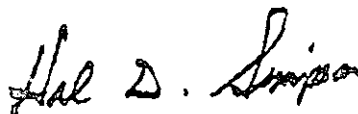
ORDER

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 Laramie-Fox Hills Aquifer underlying 320 acres of land, generally described as the N1/2 of Section 16, Township 15 South, Range 63 West of the 6th Principal Meridian, is approved subject to the following conditions:

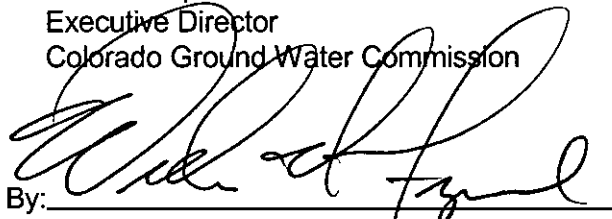
18. The allowed average annual amount of water to be withdrawn from the aquifer shall not exceed 76.8 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
19. 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.
20. 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.
21. The use of ground water from this appropriation shall be limited to the following uses: domestic, livestock, irrigation, commercial and replacement supply. A central system may deliver the water within the described property for the above uses. The place of use shall be limited to the above described 320 acre land area.
22. 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 320 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.
23. 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 320 acre land area.

- b. The wells must be constructed to withdraw water from only the Laramie-Fox Hills 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. 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 11TH day of DECEMBER, 2002.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission



By: William H. Fronczak, P.E.
Chief - Designated Basins Branch

EXHIBIT A

GWS-1 (Rev, Sept 1996)

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

RECEIVED
JUN 25 2002
RECEIVED
MAY 21 2002
WATER RESOURCES
STATE ENGINEER
COLO.
WATER RESOURCES
STATE ENGINEER
COLO.

NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT

I (we) Space Center, L L P

(Name)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 320 acres in the County of El Paso, State of Colorado:

North One-half, Section 16, Township 15 South, Range 63 West

and, that the ground water sought to be withdrawn from the Laramie Fox Hills aquifer underlying the above-described land has not been conveyed or reserved to another, nor has consent been given to it's withdrawal by another.

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.

M Barnes AGENT 1/30/02
(Signature) (Date)

(Signature) (Date)

INSTRUCTIONS:

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