

WATER RESOURCE SUPPORT DATA
SETTLERS RANCH FINAL PLAT FILING 2C
June 12, 2018

ENTITLEMENT HISTORY

Initial PUD zoning, PUD development plan approval and preliminary plan approval for the 307 acre, 86 lot Settlers Ranch subdivision was obtained in January of 2005. Final Plat approval for the 132.2 acre, 43 lot Filing No. 1 portion of the Settlers Ranch subdivision was obtained in May of 2005. Final Plat approval for the 162.6 acre, 43 lot Filing No. 2 subdivision was obtained in April of 2009. Though approved, the Filing 2 Final Plat was not recorded in total. Instead, the developer opted to record the Filing 2 plat in phases.

Filing 2A, Phase One, Final Plat, totaling 7 lots, was recorded in the fall of 2013. Filing 2B, Phase Two, Final Plat, totaling 7 lots, was recorded in the fall of 2015. Filing 2C is the third phase of a five phase recording process as documented on the approved and recorded Settlers Ranch Filing 2 Master Phasing Plan.

Filing 2C, the subject of this application, totals 109.59 acres facilitating 11 lots at a minimum of 2.5 acres each on 33.55 acres and two tracts (Tract A – 53.53 acres and Tract B – 22.51 acres) held for future development of later phases.

WATER RESOURCE SUPPORT DATA INCLUDED

- Filing 2C Water Supply Information Summary
- Filing 2 (total) Water Supply Information Summary
- Filing 2 Master Phasing Plan
- Division of Water Resources Letter Dated August 28, 2008
- Office of the County Attorney Letter Dated August 21, 2008
- Wm Curtis Wells & Co, Water Resource Report Dated April 15, 2003
- Special Warranty Deed, Hodgen Settlers Ranch LLC to Settlers Ranch HOA
- County Dept of Health & Environment Water Quality Sufficiency Ltr (all Phases)
- County Dept of Health & Environment Water Quality Requirements
- Aspen Analytical Water Quality Report
- Dist Court, Water Divs 1 & 2, Judgement and Decree

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.

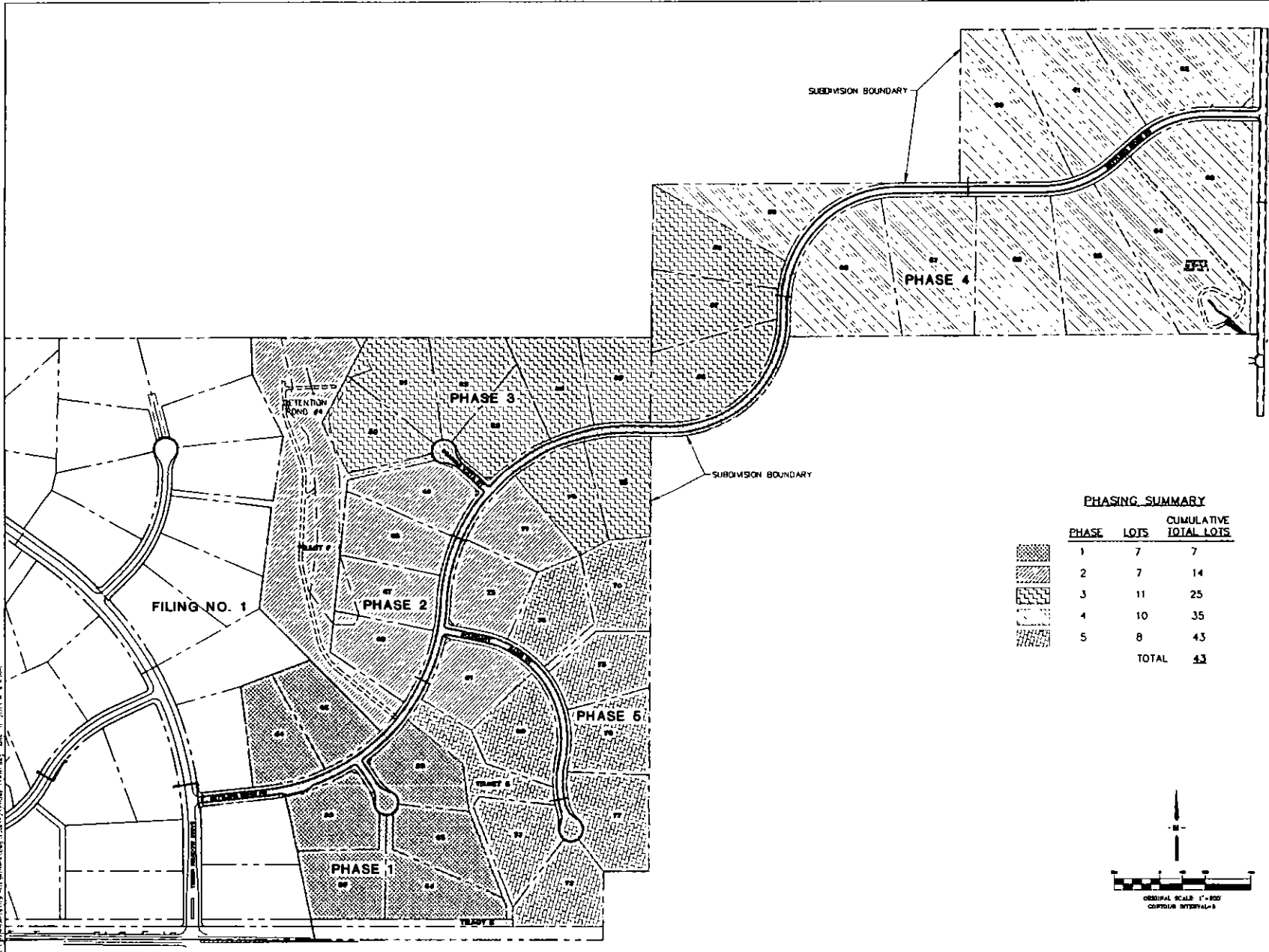
1. NAME OF DEVELOPMENT AS PROPOSED <i>Settlers Ranch Filing No. 20 (Part of Filing No. 2)</i>										
2. LAND USE ACTION <i>Final Plat (Phased)</i>										
3. NAME OF EXISTING PARCEL AS RECORDED										
SUBDIVISION	FILING	BLOCK	LOT							
4. TOTAL ACREAGE <i>109.59</i>	5. NUMBER OF LOTS PROPOSED <i>11</i>	PLAT MAP ENCLOSED <input checked="" 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 checked="" 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 checked="" 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.										
<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;"><i>SE</i> <u>SW</u> 1/4</td> <td style="text-align: center;"><i>NE</i> <u>NW</u> 1/4</td> <td style="text-align: center;">SECTION <i>23</i> <u>24</u></td> <td style="text-align: center;">TOWNSHIP <i>11</i></td> <td style="text-align: center;"><input type="checkbox"/> N <input checked="" type="checkbox"/> S</td> <td style="text-align: center;">RANGE <i>66</i></td> <td style="text-align: center;"><input type="checkbox"/> E <input checked="" type="checkbox"/> W</td> </tr> </table>				<i>SE</i> <u>SW</u> 1/4	<i>NE</i> <u>NW</u> 1/4	SECTION <i>23</i> <u>24</u>	TOWNSHIP <i>11</i>	<input type="checkbox"/> N <input checked="" type="checkbox"/> S	RANGE <i>66</i>	<input type="checkbox"/> E <input checked="" type="checkbox"/> W
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8. PLAT - Location of all wells on property must be plotted and permit numbers provided.										
Surveyors plat <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If not, scaled hand drawn sketch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Feet per Year		10. WATER SUPPLY SOURCE								
HOUSEHOLD USE # <i>11</i> of units _____ GPD <i>3.3</i> AF COMMERCIAL USE # _____ of S.F. _____ GPD _____ AF IRRIGATION # <i>0.88</i> of acres _____ GPD <i>2.2</i> AF STOCK WATERING # <i>44</i> of head _____ GPD <i>0.55</i> AF OTHER _____ GPD _____ AF TOTAL _____ GPD <i>6.05</i> AF	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <input type="checkbox"/> EXISTING WELLS WELL PERMIT NUMBERS _____ _____ </td> <td style="width: 50%; border: none;"> <input type="checkbox"/> DEVELOPED SPRING <input checked="" type="checkbox"/> NEW WELLS - PROPOSED AQUIFERS - (CHECK ONE) <input type="checkbox"/> ALLUVIAL <input type="checkbox"/> UPPER ARAPAHOE <input checked="" type="checkbox"/> UPPER DAWSON <input type="checkbox"/> LOWER ARAPAHOE <input checked="" type="checkbox"/> LOWER DAWSON <input type="checkbox"/> LARAMIE FOX HILLS <input type="checkbox"/> DENVER <input type="checkbox"/> DAKOTA <input type="checkbox"/> OTHER _____ </td> </tr> <tr> <td style="border: none;"> <input type="checkbox"/> MUNICIPAL <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> COMPANY <input type="checkbox"/> DISTRICT NAME _____ LETTER OF COMMITMENT FOR SERVICE <input type="checkbox"/> YES <input type="checkbox"/> NO </td> <td style="border: none;"> WATER COURT DECREE CASE NO.'S <i>03CW24 (WA #1)</i> <i>03CW50 (WA #2)</i> </td> </tr> </table>	<input type="checkbox"/> EXISTING WELLS WELL PERMIT NUMBERS _____ _____	<input type="checkbox"/> DEVELOPED SPRING <input checked="" type="checkbox"/> NEW WELLS - PROPOSED AQUIFERS - (CHECK ONE) <input type="checkbox"/> ALLUVIAL <input type="checkbox"/> UPPER ARAPAHOE <input checked="" type="checkbox"/> UPPER DAWSON <input type="checkbox"/> LOWER ARAPAHOE <input checked="" type="checkbox"/> LOWER DAWSON <input type="checkbox"/> LARAMIE FOX HILLS <input type="checkbox"/> DENVER <input type="checkbox"/> DAKOTA <input type="checkbox"/> OTHER _____	<input type="checkbox"/> MUNICIPAL <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> COMPANY <input type="checkbox"/> DISTRICT NAME _____ LETTER OF COMMITMENT FOR SERVICE <input type="checkbox"/> YES <input type="checkbox"/> NO	WATER COURT DECREE CASE NO.'S <i>03CW24 (WA #1)</i> <i>03CW50 (WA #2)</i>					
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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.)										
12. TYPE OF SEWAGE DISPOSAL SYSTEM										
<input checked="" type="checkbox"/> SEPTIC TANK/LEACH FIELD <input type="checkbox"/> CENTRAL SYSTEM - DISTRICT NAME _____ <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 _____										



WATER SUPPLY INFORMATION SUMMARY

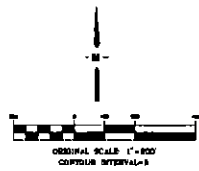
Section 30-28-133(d), C.R.S. requires that the applicant submit to the County, "Adequate evidence that a water supply that is sufficient in terms of quantity, quality and dependability will be available to ensure an adequate supply of water."

1. NAME OF DEVELOPMENT AS PROPOSED			
Settlers Ranch Filing No. 2			
2. LAND USE ACTION Final Plat			
3. NAME OF EXISTING PARCEL AS RECORDED			
SUBDIVISION	FILING	BLOCK	LOT
4. TOTAL ACREAGE 165.23	5. NUMBER OF LOTS PROPOSED 43	PLAT MAP ENCLOSED <input checked="" 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 checked="" 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 checked="" 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.			
SE _____ NE 23 SW 1/4 OF NW 1/4 SECTION 24 TOWNSHIP 11 <input type="checkbox"/> N <input checked="" type="checkbox"/> S RANGE 66 <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"/> COSTILLA			
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Surveyors plat <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If not, scaled hand drawn sketch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Feet per Year		10. WATER SUPPLY SOURCE	
HOUSEHOLD USE # 43 of units _____ GPD 12.90 AF	COMMERCIAL USE # _____ of S.F. _____ GPD _____ AF	IRRIGATION # 3.45 of acres _____ GPD 8.60 AF	STOCK WATERING # 172 of head _____ GPD 2.15 AF
OTHER _____ GPD _____ AF	TOTAL _____ GPD 23.65 AF	<input type="checkbox"/> EXISTING WELLS <input type="checkbox"/> DEVELOPED SPRING <input checked="" type="checkbox"/> NEW WELLS - PROPOSED ADDITIONS - (CHECK ONE) <input type="checkbox"/> ALLIANCE <input type="checkbox"/> UPPER ARAPAHO <input type="checkbox"/> UPPER DANSON <input type="checkbox"/> LOWER ARAPAHO <input checked="" type="checkbox"/> LOWER DANSON <input type="checkbox"/> LARAMIE FOOT HILLS <input type="checkbox"/> CENTER <input type="checkbox"/> ONYX <input type="checkbox"/> OTHER _____	
		<input type="checkbox"/> MUNICIPAL <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> COMPANY <input type="checkbox"/> DISTRICT NAME _____ LETTER OF COMMITMENT FOR SERVICE <input type="checkbox"/> YES <input type="checkbox"/> NO	
		WATER COURT DECREE CASE NO.'S 03CW241 (WD#1) 03CW50 (WD#2)	
11. ENGINEER'S WATER SUPPLY REPORT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, PLEASE FORWARD WITH THIS FORM. (This may be required before our review is completed.)			
12. TYPE OF SEWAGE DISPOSAL SYSTEM			
<input checked="" type="checkbox"/> SEPTIC TANK/LEACH FIELD		<input type="checkbox"/> CENTRAL SYSTEM - DISTRICT NAME _____	
<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 _____	



PHASING SUMMARY

PHASE	LOTS	CUMULATIVE TOTAL LOTS
1	7	7
2	7	14
3	11	25
4	10	35
5	8	43
TOTAL		43



19 E. Blinnetts Ave.
Colorado Springs, CO
80901
Ph: 719-477-8476
Fax: 719-477-0766
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CALL UTILITY AND RELOCATION
1-800-922-1987
FOR THE STATE OF COLORADO
FOR THE UTILITY LOCATE SERVICE

SETTLERS RANCH - FILING NO. 2

PHASING PLAN

DATE	BY	CHECKED	DATE
4/23/12	JPS	JPS	4/23/12
PROJECT NO.	030001	DATE	4/23/12
SHEET	PH1	DATE	4/23/12



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

August 28, 2008

Carol Weber
El Paso County Planning Dept.
27 East Vermijo Avenue
Colorado Springs, CO 80903-2088

Re: Settlers Ranch Filing 2, SF-06-026
Sec. 23 and 24, T11S, R66W, 6th P.M.
Water Division 1, Water District 8

Dear Ms. Weber:

We have reviewed the additional information that you submitted on June 9, 2008 in regards to the above referenced proposal to subdivide 165.23 acres into 43 single-family residential lots ranging in size from 2.5 acres to 5.55 acres. This letter corrects our previous letter dated June 11, 2008.

Water Supply Demand

According to the submittal, the estimated water requirements total 23.65 acre-feet annually. This amount breaks down to 0.55 acre-feet/year for each lot, consisting of 0.30 acre-feet/year for in house use, 0.20 acre-feet/year for irrigation of 3,500 square feet of home gardens and lawns, and 0.05 acre-feet/year for the watering of 4 large domestic animals.

Source of Water Supply

The proposed source of water is individual on lot wells producing from the non-tributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation decreed in Division 1 Water Court case no. 2003CW241 and Division 2 Water Court case no. 2003CW050 ("Decrees"). The allowed average annual amount of withdrawal decreed from the Dawson aquifer is 273.7 acre-feet. The amount decreed is based on a total claimed land area of 298.6 acres. With the exception of approximately 3.7 acres located in the NE1/4 of the SE1/4 of Section 23, Township 11 South, Range 66 West, the land area claimed in this proposal is a portion of the land area claimed in the court decree.

The plan for augmentation provides for 92 residential wells, each with an allowed average annual diversion of 0.55 acre-feet (50.6 acre-feet total). The proposed Dawson aquifer wells must be located on the land claimed in the Decrees, pursuant to paragraph 19 of the Decrees and rule 11.A of the Statewide Nontributary Ground Water Rules (2 CCR 402-7). Based on the land area described in the Decrees, and the amended plat map for the subdivision, portions of proposed lots 56 and 57 are not within the Decreed

Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Dick Wolfe, P.E.
Director

RECEIVED

SEP 02 2008

EPC DEVELOPMENT SERVICES

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

land area. According to the January 17, 2008 letter from David Jones, a plat note will be added that restricts the well sites to the areas of the lots which are located within the approved water augmentation plan area. That plat note must clearly specify that the requirement is for both lots 56 and 57, since both lots have land area outside of the area described in case no. 2003CW050.

According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed is equal to one percent of the total amount available as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those amounts for a maximum of 100-years.

In the *El Paso County Land Development Code*, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

"- Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years."

Using an allocation approach based on three hundred years, the allowed average annual amount of withdrawal of 273.7 acre-feet/year would be reduced to one third of that amount, or 91.2 acre-feet/year, which is greater than the annual demand for this subdivision. In addition, the augmentation plan decreed in case nos. 2003CW241 and 2003CW050 is also based on the county's allocation approach. As a result, this water may be withdrawn in the amount of 91.2 acre-feet annually for a maximum of 300-years.

Pursuant to Paragraph 11 of the referenced decree, the decree shall be recorded in the real property records of El Paso County. The decree calls for the creation of a Property Owners Association which all lot purchasers are required to join. The water rights and the plan for augmentation will be assigned to the Property Owners Association, therefore, if lot owners apply for on lot well permits they will not be required to provide evidence that the applicant has acquired the right to the portion of the water being requested on the application.

State Engineer's Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I), 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, **if the plat note described in the January 17, 2008 letter from David Jones is included on the final plat.**

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.

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 proposed uses is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

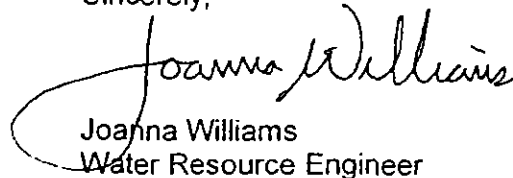
Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes 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 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.

Should you have any questions, please contact me at 303-866-3581.

Sincerely,



Joanna Williams
Water Resource Engineer

cc: Jim Hall, Division 1 Office
Water Supply Branch
Subdivision File

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

Assistant County Attorneys
M. Cole Emmons
Lori L. Seago
Andrew C. Gorgey
John N. Franklin, Of Counsel

William H. Louis, County Attorney

August 21, 2008

VERSION # 4

DATE 9/29/06

SF-06-026 Settlers Ranch, Filing No. 2
(Final Plat)

Reviewed by: M. Cole Emmons, Assistant County Attorney
Kristine Beatty, Paralegal

PROJECT SAVED

DATE 9/29/08

FINDINGS AND CONCLUSIONS:

1. This is a proposal by Hodgen Settlers Ranch, LLC to subdivide 165.23 acres into 43 single-family residential lots consisting of 2.5 acres – 5.55 acres each and open space consisting of 15 acres. The property is currently zoned PUD (Planned Unit Development).

2. The Applicant provided for the source of water to be from individual on-lot wells withdrawing from the not nontributary Dawson Aquifer. Applicant estimates its annual water requirements for household use at 12.9 acre-feet, irrigation of lawn and gardens at 8.6 acre-feet, and watering of large domesticated animals at 2.15 acre-feet, resulting in a total of 23.65 acre-feet, or 0.55 acre-foot per lot. Applicant will have to be able to provide a supply of 7,095 acre-feet of water (23.65 ac.ft./yr. x 300 yrs.) to meet the County's 300 year water supply requirement. Applicant is not dedicating water for open space as Applicant does not see any reason for use of water for such open space. **The Board of County Commissioners may require dedication of water pursuant to the Land Development Code.**

3. In a letter dated June 11, 2008, the State Engineer's Office indicates that the water supply withdrawing from the Dawson Aquifer operates pursuant to the plan for augmentation decreed in Water Court, Division No. 1, in Case Nos. 03 CW 241, and Division No. 2, 03 CW 50. The Engineer notes that portions of lots 56 and 57 are not within the Decreed Area. The Engineer indicates that with a water supply from the Dawson Aquifer of 237.7 acre-feet (79.2 acre-feet – 300 years) this water supply amount is greater than the annual demand for this subdivision and would satisfy both the State's 100 year and the County's 300 year Aquifer life requirement. Pursuant to §30-28-136(1)(h)(I), C.R.S., the Engineer is of the opinion that the water supply is adequate and can be provided without causing injury to decreed water rights under the provision that a plat note is included as discussed below.

NOTE: The State Engineer transposed the number from the Replacement Plan. The correct amount is 273.7 acre-feet available for annual withdrawal or 91.2 acre-feet annually for

27 E. VERMILION AVENUE
OFFICE: (719) 520-6485



COLORADO SPRINGS, CO 80903
FAX: (719) 520-6487

300 years. Since the Engineer found sufficiency at the lower amount, his finding of sufficiency and no injury would stand with a higher amount of water available.

NOTE: The Applicant indicated to the State Engineer that a Plat note will be added that restricts the well sites to the areas of lots, which are located within the approved water augmentation plan area and that does not include portions of lot numbers 56 and 57, which are outside of the area described in the Court Decree, Case No. 2003 CW 050.

4. The water quality requirements of Section 8.4.7.B.10 of the Land Development Code must be satisfied.

5. The Water Court approved the Judgment and Decree for Water Rights/Augmentation Plan, Case Nos. 03 CW 241 (Water Division No. 1) and 03 CW 50 (Water Division No. 2). The Court ruled that no vested water right or decreed conditional water right will be injured or injuriously affected by operation of the plan for augmentation as decreed.

6. Analysis. The Court decreed a total of 27,370 acre-feet or 273.7 acre-feet annually from the Dawson Aquifer, 27,920 acre-feet or 279.2 acre-feet annually from the Denver Aquifer, 11,930 acre-feet or 119.3 acre-feet annually from the Arapahoe Aquifer, and 8,960 acre-feet or 89.6 acre-feet annually from the Laramie-Fox Hills Aquifer. The Decree requires Applicant to reserve 89.6 acre-feet annually (8,960 acre-feet total) of the Laramie-Fox Hills Aquifer and 62.6 acre-feet annually (6,260 acre-feet total) from the Arapahoe Aquifer for replacing post-pumping depletions. In addition, the Court Decree allows up to 50.6 acre-feet per year for 300 years for a total of no more than 15,180 acre-feet total of Dawson Aquifer to serve (92) residents at full build-out (27,370 acre-feet -15,180 acre-feet = 12,190 acre-feet excess water supply [Dawson]). The 43 residents for this filing will be served from the 15,180 acre-feet available supply. There appears to be a sufficient supply to meet the County's 300 year water supply rule.

7. Therefore, at this time, based upon the finding of no injury and sufficiency by the State Engineer, the decreed water rights in Water Court Case Nos. 03 CW 241 (Div. 1) and 03 CW 50 (Div. 2) and, on the requirements listed below, the County Attorney's Office recommends a finding that the proposed water supply is sufficient in terms of quantity and dependability. The El Paso County Health Department shall provide an opinion as to quality.

REQUIREMENTS:

Plat Notes and Documentation are required to address the following:

A. Applicants, their successors and assigns, shall create an HOA and advise the HOA and all future owners of these lots of all applicable requirements of the decrees entered in Case Nos. 03 CW 241 (Div. 1) and 03 CW 50 (Div. 2), as well as their obligations to comply with the decrees, including, but not limited to, costs of operating the plan for augmentation

which will include construction and pumping of the Laramie-Fox Hills Aquifer well or the Arapahoe Aquifer Well to replace post-pumping depletions, and responsibility for metering and collecting data regarding water withdrawals from wells.

B. Applicant shall assign or convey to the HOA Applicant's interests, rights, and obligations in the plan for augmentation, and create restrictive covenants upon and running with the property which shall obligate individual lot owners and the HOA to carry out the requirements of the plan for augmentation. Such assignment or conveyance shall be accomplished by an appropriate agreement and assignment or conveyance instrument that shall be reviewed and approved by both the Development Services Department and the County Attorney's Office prior to recording of the final plat.

C. Applicant shall reserve in any deeds of the property 8,960 acre-feet of water in the Laramie-Fox Hills Aquifer and 6,260 acre-feet of water in the Arapahoe Aquifer for use in the augmentation plan. Applicant shall convey by recorded warranty deed these reserved Laramie-Fox Hills and Arapahoe Aquifer water rights to the HOA for use in the augmentation plan. Applicant shall provide copies of such reservation and conveyance instruments that shall be reviewed and approved by both the Development Services Department and the County Attorney's Office prior to recording of the final plat.

D. Applicant, its successors and assigns, at the time of lot sales, shall convey by warranty deed to individual lot owners sufficient water rights in the Dawson Aquifer underlying each lot to satisfy El Paso County's 300 year water supply requirement: (Dawson) 165 acre-feet (0.55 ac. ft./lot x 300 yrs.). Pumping from the Dawson Aquifer is limited to no more than 15,180 acre-feet. It is anticipated that these conveyances will satisfy the State Engineer's evidentiary requirement that an applicant for an individual on-lot well has acquired the right to the portion of water being requested on the application. Applicant shall provide a form deed for such conveyance that shall be reviewed and approved by both the Development Services Department and the County Attorney's Office prior to recording of the final plat.

E. Applicant shall submit Declaration of Covenants, Conditions, and Restrictions as well as Bylaws and Articles of Incorporation of the HOA to the Development Services Department and the County Attorney's Office for review, and the same shall be approved by the Development Services Department and the County Attorney's Office prior to recording of the final plat approval. Said Declaration shall cross-reference the decreed plan for augmentation, the related water rights decrees, and shall recite the obligations of the individual lot owners and the HOA under each of these documents. Applicant shall provide a copy of the Certificate of Incorporation of the HOA by the Secretary of State to the Development Services Department and the County Attorney's Office.

F. Applicant, its successors and assigns, shall record all applicable documents including, but not limited to, the decreed plan for augmentation in Case Nos. 03 CW 241 (Div. 1) and 03 CW 50 (Div. 2), agreements, assignments, and warranty deeds regarding the water

rights, Declaration of Covenants, By-laws, and Articles of Incorporation in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

G. The following plat note shall be added that addresses the State Engineer's admonition to advise landowners of potential limited water supplies in the Denver Basin:

"Water in the Denver Basin Aquifers is allocated based on a 100 year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin Aquifers is evaluated based on a 300 year aquifer life. Applicants, the Home Owners Association, and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply."

H. Prior to hearing by the Board, Development Services and County Attorney's Office will make best efforts to obtain a corrected letter from the State Engineer.

I. Applicant shall place a plat note restricting placement of wells on Lots 56 and 57 that restricts the well sites to the areas of these lots which are located within the approved water augmentation plan area and that does not include portions of lot numbers 56 and 57, which are outside of the area described in the Court Decree, Case No. 2003 CW 050.

cc: Carol Weber, Project Manager



Wm. CURTIS WELLS & CO. / *consulting geologists*
the ranch office commons, bldg 3, suite 102 / 2010 west 120th avenue
denver, colorado 80234 / telephone (303) 466-3801 / fax 465-5859

April 15, 2003

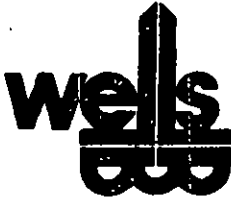
Mr. Mark Davis
17583 Colonial Park Drive
Monument, CO 80132

Re: Ground Water Consultation, 299-Acre Brown Trust Property, El Paso County, Colorado.
Job No. 5309

Dear Mark:

At your request I have prepared this brief report on the 299-acre Brown Trust property which occupies parts of Sections 23 and 24, Township 11 South, Range 66 West. The attached Figure-1 illustrates the approximate outline of the property and reportedly you may be purchasing this parcel. I understand your water rights attorney will be filing an application with the Greeley and Pueblo Water Courts to adjudicate the Denver Basin aquifer ground water beneath this property along with a plan for augmentation to legalize the use of the not non-tributary (NNT) ground water in the Dawson aquifer. According to your planner, Dave Jones, you may be considering developing the property into 92 single family homesites. The objective of this report is to provide your attorneys, Petrock and Fendel, the information necessary to file the Water Court applications.

As you may know there are four Denver Basin aquifers beneath this land. In descending stratigraphic order they are the Dawson, Denver, Arapahoe and Laramie Fox Hills formations. The base of these respective aquifers should be at depths of 1,100, 1,900, 2,500 and 3,200 feet below the ground surface. Ground water availability in each aquifer is computed by multiplying the property area by the formation saturated sand thickness, thence by specific yield (drainable porosity). Based on published aquifer information from the Colorado Division of Water Resources, I list on the table below my estimates of ground water beneath this subject parcel, not accounting for water that may be assigned to existing an on-site domestic well(s).



Aquifer		Sand Thickness (ft.)	Ground Water Storage (af.)
Dawson	NNT	462	27600
Denver	NT	548	28000
Arapahoe	NT	233	11800
Laramie Fox Hills	NT	198	8900

If the future 92 homeowners were to use water at a rate of 1 acre foot per year per home, the El Paso County, 300-year required water supply would be 27,600 acre feet. This is the amount of ground water estimated to be in the Dawson aquifer and this per home water use would satisfy the in-house needs of 0.3 acre feet per year, the irrigation of about 14,000 square-feet of lawn or garden plus the watering of four horses. The 1 acre foot per year per home estimate is probably more water than would ever be used. During the water adjudication process, should the State Engineer estimate less Dawson aquifer ground water beneath the property, the per home water use rate can be easily adjusted.

Theoretically, when a Dawson well is pumped on this property, a percent of the discharge water seeps out of over appropriated nearby streams. To predict the amount, time and place of this stream loss, I have operated the State Engineer's "DA02" computer, ground water flow model to develop stream depletion factors. These factors are listed on Table I and as shown, the maximum stream depletion is about 22 percent if wells are pumped for 300 years. If the 92 homeowners were to pump all of the available Dawson aquifer ground water at a rate of 92 acre feet per year, the maximum depletion would be 21 acre feet per year. The 92 proposed homeowners should annually return 25 acre feet per year to the stream through their septic systems, thus during pumping, stream depletion should be adequately augmented.

Once well pumping ceases, theoretically at 300 years, the State Engineer and Water Court believe return flows will also cease. To cover stream depletions that can be computed to continue for centuries, non-tributary (NT) ground water in the Denver aquifer can be reserved. As shown above, there is more than enough



Denver aquifer ground water to cover the post-pumping depletion which roughly equates to the total volume of ground water pumped.

The following items probably will need to be accomplished as you purchase the property, adjudicate the water rights and plan for augmentation, plus begin the platting process:

- Provide Gary Crosby, with Petrock and Fendel, a complete legal description of the property,
- a complete name and address of the Brown Trust, and
- as you get into the platting process, one needs to identify if there is an existing well on the property. If there is a well, obtain a sample of the water from the structure and have it chemically analyzed for quality as this will be required to final plat the project.

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

Very truly yours,

Wm. Curtis Wells & Co.

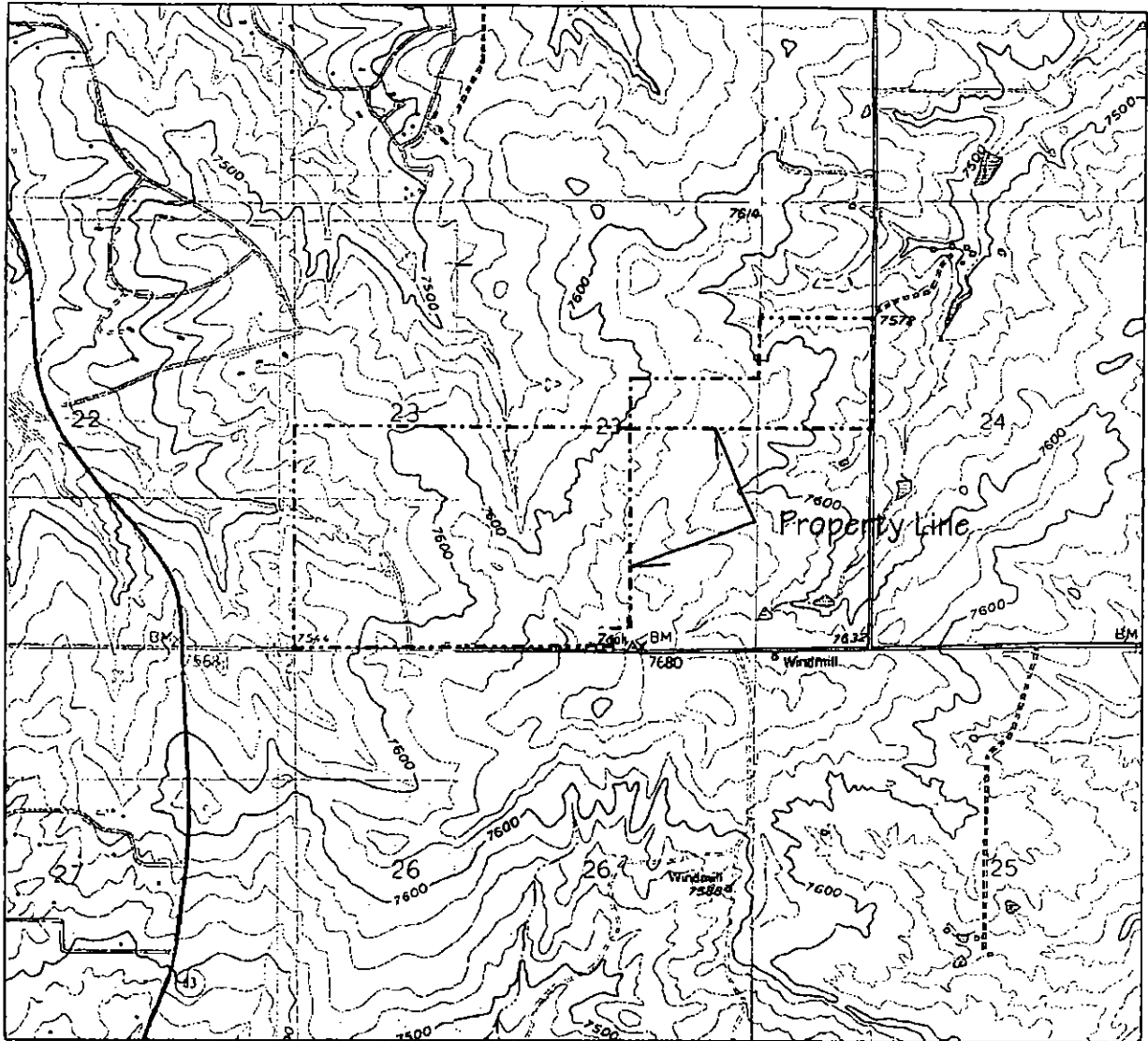
Wm. Curtis Wells CPG
Consulting Ground Water Geologist

cc: Dave Jones
Gary Crosby

encl master

R 66 W

T 11 S



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Scale 1" = 2000'

Location Map

Wm Curtis Wells & Co.
consulting ground water geologists

Figure 1

Table I
Average Dawson Aquifer
Stream Depletion Factors
(as % of pumping)

Year	Total Arkansas and South Platte Rivers	Year	Total Arkansas and South Platte Rivers
10	0.57	310	22.51
20	1.29	320	22.45
30	2.05	330	22.34
40	2.83	340	22.20
50	3.63	350	22.04
60	4.42	360	21.87
70	5.22	370	21.69
80	6.01	380	21.51
90	6.81	390	21.32
100	7.60	400	21.12
110	8.39	410	20.91
120	9.18	420	20.71
130	9.97	430	20.50
140	10.75	440	20.28
150	11.53	450	20.06
160	12.30	460	19.84
170	13.07	470	19.62
180	13.83	480	19.40
190	14.58	490	19.17
200	15.34	500	18.95
210	16.07	510	18.73
220	16.81	520	18.51
230	17.54	530	18.28
240	18.26	540	18.06
250	18.97	550	17.84
260	19.67	560	17.63
270	20.37	570	17.41
280	21.06	580	17.20
290	21.74	590	16.98
300	22.41	600	16.78

Deed for Settlers Ranch Subdivision (HOA)

SPECIAL WARRANTY DEED

THIS DEED, dated Jan 6, 2006 between Hodgen Settlers Ranch LLC, a Colorado limited liability company, of the County of El Paso, State of Colorado, Grantor, and Settlers Ranch Homeowners Association, whose address is 17583 Colonial Park Drive, Monument, Colorado of the County of El Paso, and State of Colorado, Grantee;



WITNESS, that the Grantor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell convey and confirm unto the Grantee, its heirs and assigns forever, all the Grantor's right, title and interest in and to the following described water and water rights and plan for augmentation:

62.6 acre-feet per year and a total of 6260 acre-feet of nontributary Arapahoe aquifer groundwater and 89.6 acre-feet per year and a total of 8960 acre-feet of nontributary Laramie-Fox Hills aquifer groundwater as decreed in Consolidated Case Nos. 03CW241 (District Court, Water Division 1) and 03CW50 (District Court, Water Division 2). This conveyance is made pursuant to Consolidated Case Nos. 03CW241 (District Court, Water Division 1) and 03CW50 (District Court, Water Division 2), which includes but is not limited to all Grantor's interest, rights, and responsibilities in the plan for augmentation decreed in those cases associated with the water and water rights so conveyed.

The decreed amount of ground water may be adjusted upward or downward pursuant to the retained jurisdiction of the Water Court in the Decree and Plan for Augmentation. This conveyance is subject to the terms, provisions and obligations of the Decree and Plan for Augmentation. This conveyance is also subject to the terms and provisions of the Declaration Of Conditions, Covenants Restrictions And Easements For Settlers Ranch Subdivision recorded with the El Paso County Recorder at Reception No. 206010000

The Laramie-Fox Hills and Arapahoe aquifer water rights so conveyed shall be appurtenant to the Settlers Ranch Subdivision under the Decree and Plan for Augmentation. to be used for the benefit of all the lot owners in said Settlers Ranch Subdivision. are intended to provide a source of augmentation for post-pumping stream depletions caused by pumping wells in the Dawson aquifer underlying the Settlers Ranch Subdivision. may not be separated from transfer of title to the land, and shall not be separately conveyed, liened, bartered, or encumbered. Provided, however, to the extent the Laramie-Fox Hills and Arapahoe ground water rights so conveyed are not needed for post-pumping depletions under the Decree and Augmentation Plan, those ground water rights shall be reconveyed to the owners of the Settlers Ranch Subdivision.

Grantor reserves to itself all water rights not so specifically conveyed including specifically all decreed water in the Dawson Aquifer (which, pursuant to the Declaration of Covenants, shall be deeded out proportionately with each Lot) and all decreed water in the Denver and Arapahoe Aquifer not specifically conveyed above.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantee, its heirs and assigns forever. The Grantor, for itself, its heirs, representatives, successors and assigns warrants title but not the amount nor quality of the conveyed water rights against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor.

IN WITNESS WHEREOF, the grantor has executed this Special Warranty Deed on the date set forth above.

Hodgen Settlers Ranch LLC, a Colorado limited liability company

By: [Signature]
Mark Davis, Manager

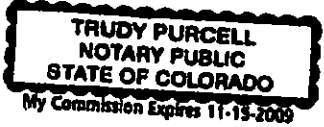
STATE OF COLORADO)
)ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 6th day of Jan., 2006, by Mark Davis, as Manager of Hodgen Settlers Ranch, LLC, a Colorado limited liability company.

My commission expires: 11/15/2009
Witness my hand and official seal.

(Seal)

[Signature]
Notary Public



Return to
EPC Planning



Prevent • Promote • Protect

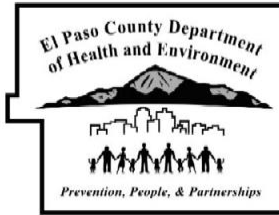
Environmental Health Division
1675 W. Garden of the Gods Road
Suite 2044
Colorado Springs, CO 80907
(719) 578-3199 *phone*
(719) 578-3188 *fax*
www.elpasocountyhealth.org

Settlers Ranch, Final Plat, Filing 2B, SF-15-012

Please accept the following comments from El Paso County Public Health regarding the project referenced above:

- There is a finding for sufficiency in terms of well water quality for drinking water based on the El Paso County Public Health original review and approval of the July 24, 2000 Aspen Analytical water quality tests results. **The finding for sufficiency at that time was for all phases of the Settlers Ranch development project.**
- On-site wastewater treatment systems (OWTS) are planned for wastewater service for the development of the 7 residential lots. The Front Range Geotechnical Soils and Geology Report dated February 16, 2004 tests for the proposed area were previously reviewed and approved, and the soils in the area support the use of OWTS's. The Dawson Arkose formation (weathered sandstone) was encountered in eight of the twenty-one percolation tests conducted on the property, and in some cases professional engineered, higher level treatment OWTS's may be necessary. A follow-up soils investigation completed on April 7, 2004 by Front Range Geotechnical in the eight areas where the Dawson Arkose was found, more suitable soil for the installations of conventional OWTS's was found. As a reminder, each individual lot owner is required to comply with all El Paso County Public Health OWTS regulations and OWTS permit requirements prior to commencement of lot development. The regulations require soil tests to be performed in the area of the proposed OWTS soil treatment area on each individual lot.
- Radon resistant construction and building techniques/practices are encouraged to be used in this area. The EPA has determined that Colorado, and the El Paso County area have potentially higher radon levels than other areas of the country.
- El Paso County Public Health encourages planned walk-ability of residential communities. Please consider appropriate connections to commercial areas through the use of sidewalks, and bike trails. Walk-ability features help in the effort to reduce obesity and associated heart diseases.

Mike McCarthy, Program Manager, El Paso County Public Health
Environmental Health Division
719.578.3131, mikemccarthy@elpasoco.com
7/21/15



EL PASO COUNTY DEPARTMENT OF HEALTH AND ENVIRONMENT

301 SOUTH UNION BLVD. • COLORADO SPRINGS, CO 80910-3123
(719) 578-3199

February 11, 2008

Mr. Mike Hrebenar
Development Services Division
2880 International Circle
Colorado Springs, CO 80910

Dear Mr. Hrebenar,

Please accept this letter as clarification from the El Paso County Department of Health and Environment regarding our requirements for determining water quality sufficiency, and compliance with Section 8.4.7 (10) *Finding of Sufficient Quality* of the El Paso County Land Development Code. More specifically, Section 8.4.7 (10) (b) *Contaminant Levels to Meet Drinking Water Requirements* which states "Maximum permissible contaminant levels shall meet the requirements of the Colorado Primary Drinking Water Regulations."

The Colorado Primary Drinking Water Regulations were adopted by the Colorado Department of Public Health and Environment for "regulated" drinking water systems, and for compliance and inspection purposes of such drinking water systems. However, several parameters, and the maximum contaminant levels (MCL's) within these regulations have been referenced for many years in determining water quality sufficiency for "unregulated" water sources, and sufficiency determinations of drinking water from private individual wells in the development process of proposed subdivisions.

There has been some confusion with the numerous water quality parameters that are listed in the Colorado Primary Drinking Water Regulations for our department to consider for review in order to properly determine sufficiency in terms of water quality under the April 2, 2007, Land Development Code. The El Paso County Department of Health and Environment's intent was never to require sampling of *all* the parameters in the drinking water regulations, but only those that pertain to raw, untreated water intended as a drinking water source obtained from private individual wells in these developments. Many parameters in the drinking water regulations are either associated with drinking water obtained from a surface water supply (stream, river, lake, etc...), or associated with disinfection by-products resulting from the disinfection treatment processes of drinking water within a regulated, community drinking water system, and are not necessary for sampling for our water quality determination.

Therefore, the following water quality parameters are all that have been determined to be required for sampling, and for the proper determination of sufficiency in terms of water quality:

Volatile Organic Chemical Contaminants and MCL (mg/L):

1. Vinyl chloride0.002
2. Benzene0.005
3. Carbon tetrachloride.....0.005
4. 1,2 Dichloroethane.....0.005
5. Trichloroethylene0.005
6. 1,4 Dichlorobenzene0.075
7. 1,1 Dichloroethylene0.007
8. 1,1,1 Trichloroethane0.2
9. cis-1,2 Dichloroethylene.....0.07
10. 1,2 Dichloropropane.....0.005
11. Ethylbenzene0.7
12. Monochlorobenzene.....0.1

13. o-Dichlorobenzene.....	0.6
14. Styrene.....	0.1
15. Tetrachloroethylene.....	0.005
16. Toluene.....	1.0
17. Trans-1,2 Dichloroethylene.....	0.1
18. Xylenes (total).....	10
19. Dichloromethane (methylene chloride).....	0.005
20. 1,2,4 Trichlorobenzene.....	0.07
21. 1,1,2 Trichloroethane.....	0.005

Synthetic Organic Chemical Contaminants and MCL (mg/L):

1. Alachlor.....	0.002
2. Atrazine.....	0.003
3. Carbofuran.....	0.04
4. Chlordane.....	0.002
5. Dicbromochloropropane.....	0.0002
6. 2,4 D.....	0.07
7. Ethylene dibromide.....	0.00005
8. Heptachlor.....	0.0004
9. Heptachlor epoxide.....	0.0002
10. Lindane.....	0.0002
11. Methoxychlor.....	0.04
12. Polychlorinated biphenyls.....	0.0005
13. Pentachlorophenol.....	0.001
14. Toxaphene.....	0.003
15. 2,4,5 TP (Silvex).....	0.05
16. Benzo[a]pyrene.....	0.0002
17. Dalapon.....	0.2
18. Di(2-ethylhexyl)apidate.....	0.4
19. Di(2-ethylhexyl)phtalate.....	0.006
20. Dinoseb.....	0.007
21. Diquat.....	0.02
22. Endothall.....	0.1
23. Endrin.....	0.002
24. Glyphosate.....	0.7
25. Hexachlorobenzene.....	0.001
26. Hexachlorocyclopentadiene.....	0.05
27. Oxamyl (Vydate).....	0.2
28. Picloram.....	0.5
29. Simazine.....	0.004

Inorganic Chemicals and MCL (mg/L):

1. Antimony.....	0.006
2. Arsenic.....	0.01
3. Barium.....	2.0
4. Beryllium.....	0.004
5. Cadmium.....	0.005
6. Chromium.....	0.1
7. Cyanide (Total*).....	0.2
8. Fluoride.....	4.0
9. Mercury.....	0.002
10. Nitrate.....	10.0 (as Nitrogen)
11. Nitrite.....	1.0 (as Nitrogen)
12. Total Nitrate and Nitrite.....	10.0 (as Nitrogen)
13. Selenium.....	0.05
14. Thallium.....	0.002

*If total cyanide is 0.2 mg/L, then further analysis for free cyanide is required.

Secondary Maximum Contaminants and MCL:

- 1. Aluminum.....0.05 to 0.2 mg/L
- 2. Chloride250 mg/l
- 3. Corrosivity.....Non-corrosive
- 4. Iron0.3 mg/L
- 5. Manganese0.05 mg/L
- 6. pH.....6.5-8.5
- 7. Silver0.1 mg/L
- 8. Sulfate250 mg/L
- 9. Total dissolved solids (TDS).....500 mg/L
- 10. Zinc.....5.0 mg/L

Radionuclides:

- 1. Gross Alpha/Beta-Water

Bacteriological:

- 1. Total Coliform.....Absence

Please feel free to contact me with any questions.

Mike McCarthy
Air and Water Quality Program Director
El Paso County Department of Health and Environment
719-578-3131



Aspen
Analytical

1110 Elkton Drive, Suite A • Colorado Springs, CO 80907
(719) 593-9595 • FAX (719) 593-9911

Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

ANALYTICAL REPORT FOR SAMPLES

Sample ID	Laboratory ID	Matrix	Date Sampled	Date Received
15875 Farrar Dr.	A007119-01	Water	24-Jul-00 13:30	24-Jul-00 14:15

Aspen Analytical

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.


Tom Fowler, Laboratory Director



**Aspen
Analytical**

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(719) 593-9595 • FAX (719) 593-9911

Classic Communities 6385 Corporate Drive Ste. 200 Colorado Springs CO, 80919	Project: Mountain Dance Project Number: Mountain Dance Project Manager: Fred Gibson	Reported: 29-Aug-00 13:46
--	---	------------------------------

**Metals by EPA 200 Series Methods
Aspen Analytical**

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
15875 Farrar Dr. (A007119-01) Water Sampled: 24-Jul-00 13:30 Received: 24-Jul-00 14:15									
Mercury	ND	0.00020	mg/l	1	AG02805	28-Jul-00	28-Jul-00	EPA 245.1	



**Aspen
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Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

Metals (Drinking Water) by EPA 200 Series Methods

Aspen Analytical

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
15875 Farrar Dr. (A007119-01) Water Sampled: 24-Jul-00 13:30 Received: 24-Jul-00 14:15									
Silver	ND	20	ug/l	1	A003102	28-Jul-00	31-Jul-00	EPA 200.7	
Barium	ND	100	"	"	"	"	"	"	
Chromium	ND	50	"	"	"	"	"	"	



Aspen
Analytical

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Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
10-Aug-00 07:52

Conventional Chemistry Parameters by APHA/EPA Methods
Aspen Analytical

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
15975 Farrar Dr. (A007119-01) Water Sampled: 24-Jul-00 13:30 Received: 24-Jul-00 14:15									
Fluoride	0.355	0.200	mg/l	1	AG02501	25-Jul-00	26-Jul-00	EPA 340.2	
Hardness	38	1.0		"	AH02901	29-Aug-00	29-Aug-00	SM 2340B	



**Aspen
Analytical**

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(719) 593-9595 • FAX (719) 593-9911

Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

Miscellaneous Physical/Conventional Chemistry Parameters

Aspen Analytical

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
15875 Farrar Dr. (A007119-01) Water Sampled: 24-Jul-00 13:30 Received: 24-Jul-00 14:15									
Nitrite as N	ND	0.050	mg/l	1	AG02404	24-Jul-00	24-Jul-00	SM4500-NO3E	



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Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

Anions by EPA Method 300.0
Sequoia Analytical - Morgan Hill

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
15675 Farrar Dr. (A007119-01) Water Sampled: 24-Jul-00 13:30 Received: 24-Jul-00 14:15									
Nitrate as NO3	9.21	1.00	mg/l	10	0Q27004	25-Jul-00	25-Jul-00	EPA 300.0	



Aspen
Analytical

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Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

Total Metals by EPA 200.8 ICPMS
Sequoia Analytical - Morgan Hill

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
15875 Parrar Dr. (A007119-01) Water Sampled: 24-Jul-00 13:30 Received: 24-Jul-00 14:15									
Arsenic	ND	3.00	ug/l	1	01/01/09	01-Aug-00	01-Aug-00	EPA 200.8	
Cadmium	ND	0.500	"	"	"	"	"	"	
Lead	ND	1.00	"	"	"	"	"	"	
Selenium	ND	4.00	"	"	"	"	"	"	



Aspen
Analytical

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(719) 593-9595 • FAX (719) 593-9911

Classic Communities
6385 Corporate Drive, Site 200
Colorado Springs, CO 80919
Attention: Fred Gibson


Client Project ID: Mountain Dance
Sample Descript: See below
Analysis Method: Multiple Tube Technique
First Sample #: 00711901

Date Sampled: Jul 24, 2000
Received: Jul 24, 2000
Reported: Jul 27, 2000

BACTERIOLOGICAL ANALYSIS: TOTAL COLIFORM

Sample Number	Date Sampled and Received	Sample Description	Total Coliform Bacteria MPN/100 mL
00711901	7/24/00 1:30p	15875 Farrar Dr.	Absent

ASPEN ANALYTICAL


Thomas R. Fowler
Laboratory Director

Please Note:
Bacteriological Analysis: Total Coliform was analyzed by Adams Lab.

00711901.CCC <1>



**Aspen
Analytical**

1110 Elkton Drive, Suite A • Colorado Springs, CO 80907
(719) 593-9595 • FAX (719) 593-9911

Classic Communities
6385 Corporate Drive, Ste 200
Colorado Springs, CO 80919
Attention: Fred Gibson

Client Project ID: Mountain Dance
Sample Descript: Drinking Water, 16875 Farrar Dr.
Analysis Method: EPA 515
Lab Number: 00711901

Sampled: Jul 24, 2000
Received: Jul 24, 2000
Analyzed: 7/29-08/04/00
Reported: Aug 30, 2000

CHLORINATED HERBICIDES IN WATER (EPA 515.1)

Analyte	MDL µg/L	Sample Results µg/L
2,4-D.....	0.10	N.D.
2,4,6-TP.....	0.10	N.D.

Analytes reported as N.D. were not present above the stated limit of detection.

ASPER ANALYTICAL

Thomas R. Fowler
Laboratory Director



**Aspen
Analytical**

1110 Elkton Drive, Suite A • Colorado Springs, CO 80907
(719) 593-9595 • FAX (719) 593-9911

Classic Communities 6385 Corporate Drive Ste. 200 Colorado Springs CO, 80919	Project: Mountain Dance Project Number: Mountain Dance Project Manager: Fred Gibson	Reported: 29-Aug-00 13:46
--	---	------------------------------

Metals (Drinking Water) by EPA 200 Series Methods - Quality Control
Aspen Analytical

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
---------	--------	-----------------	-------	-------------	---------------	------	-------------	-----	-----------	-------

Batch AG03102 - EPA 200 Series

Blank (AG03102-BLK1) Prepared & Analyzed: 31-Jul-00

Barium	ND	10	ug/l							
Chromium	ND	20	"							
Silver	ND	10	"							

LCS (AG03102-HS1) Prepared & Analyzed: 31-Jul-00

Barium	1860	10	ug/l	2000	370	93.0	85-115			
Chromium	1920	20	"	2000	28	96.0	85-115			
Silver	1970	10	"	2000	23	98.5	85-115			

Matrix Spike (AG03102-MS1) Source: A007161-01 Prepared & Analyzed: 31-Jul-00

Barium	2250	10	ug/l	2000	370	93.0	75-125			
Chromium	1740	20	"	2000	28	85.6	75-125			
Silver	1740	10	"	2000	23	85.9	75-125			

Matrix Spike Dup (AG03102-MSD1) Source: A007161-01 Prepared & Analyzed: 31-Jul-00

Barium	2370	10	ug/l	2000	370	93.0	75-125	1.78	20	
Chromium	1700	20	"	2000	28	83.6	75-125	1.33	20	
Silver	1760	10	"	2000	23	86.0	75-125	1.14	20	



Aspen
Analytical

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(719) 593-9595 • FAX (719) 593-9911

Classic Communities
6385 Corporate Drive Ste. 200
Colorado Springs CO, 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

Conventional Chemistry Parameters by APHA/EPA Methods - Quality Control
Aspen Analytical

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC %REC Limits	RPD	RPD Limit	Notes
Batch AH02901 - EPA 200 Series									
LC8 (AH02901-BS1)									
Prepared & Analyzed: 29-Aug-00									
Hardness	13.2	1.0	mg/l	13.2		100		80-120	
Matrix Spike (AH02901-MS1)									
Source: A007119-01 Prepared & Analyzed: 29-Aug-00									
Hardness	53.6	1.0	mg/l	13.2	38	112		80-120	
Matrix Spike Dup (AH02901-MS1)									
Source: A007119-01 Prepared & Analyzed: 29-Aug-00									
Hardness	52.3	1.0	mg/l	13.2	38	108	1.33	80-120	20



Aspen
Analytical

1110 Elkton Drive, Suite A • Colorado Springs, CO 80907
(719) 593-9595 • FAX (719) 593-9911

Classic Communities 6385 Corporate Drive Ste. 200 Colorado Springs CO, 80919	Project: Mountain Dance Project Number: Mountain Dance Project Manager: Fred Gibson	Reported: 29-Aug-00 13:46
--	---	------------------------------

Miscellaneous Physical/Conventional Chemistry Parameters - Quality Control
Aspen Analytical

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch AG02404 - General Preparation										
Blank (AG02404-BLK1)										
Nitrite as N	ND	0.050	mg/l							Prepared & Analyzed: 24-Jul-00
LCS (AG02404-BS1)										
Nitrite as N	0.103	0.050	mg/l	0.100		103	80-120			Prepared & Analyzed: 24-Jul-00
LCS Dup (AG02404-BSD1)										
Nitrite as N	0.104	0.050	mg/l	0.100		104	80-120	0.966	20	



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Classic Communities 6385 Corporate Drive Ste. 200 Colorado Springs CO, 80919	Project: Mountain Dance Project Number: Mountain Dance Project Manager: Fred Gibson	Reported: 29-Aug-00 13:46
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**Anions by EPA Method 300.0 - Quality Control
Sequola Analytical - Morgan Hill**

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch 0G27004 - General Preparation										
Blank (0G27004-BLK1)										
Prepared & Analyzed: 25-Jul-00										
Nitrate as NO3	ND	0.100	mg/l							
LCS (0G27004-BS1)										
Prepared & Analyzed: 25-Jul-00										
Nitrate as NO3	97.1	0.100	mg/l	100	206	119	90-110			
Matrix Spike (0G27004-MS1)										
Source: MJG0640-01 Prepared & Analyzed: 25-Jul-00										
Nitrate as NO3	323	1.00	mg/l	100	206	119	80-120			
Matrix Spike Dup (0G27004-MS1M)										
Source: MJG0640-01 Prepared & Analyzed: 25-Jul-00										
Nitrate as NO3	309	1.00	mg/l	100	206	103	80-120	5.05	20	



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(719) 593-9595 • FAX (719) 593-9911

Classic Communities
6285 Corporate Drive Ste. 200
Colorado Springs CO. 80919

Project: Mountain Dance
Project Number: Mountain Dance
Project Manager: Fred Gibson

Reported:
29-Aug-00 13:46

Total Metals by EPA 200.8 ICPMS - Quality Control
Sequoia Analytical - Morgan Hill

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch OH01009 - 200.8/no digest										
Blank (OH01009-BLK1)										
Prepared & Analyzed: 01-Aug-00										
Arsenic	ND	3.00	ug/l							
Cadmium	ND	0.500	"							
Lead	ND	1.00	"							
Selenium	ND	4.00	"							
LCS (OH01009-BL1)										
Prepared & Analyzed: 01-Aug-00										
Arsenic	49.0	3.00	ug/l	50.0		98.0	80-120			
Cadmium	50.5	0.500	"	50.0		101	80-120			
Lead	51.0	1.00	"	50.0		102	80-120			
Selenium	48.8	4.00	"	50.0		97.6	80-120			
Matrix Spike (OH01009-MS1)										
Source: A007119-01										
Prepared & Analyzed: 01-Aug-00										
Arsenic	54.6	3.00	ug/l	50.0	ND	109	80-120			
Cadmium	53.0	0.500	"	50.0	ND	106	80-120			
Lead	53.4	1.00	"	50.0	ND	107	80-120			
Selenium	50.5	4.00	"	50.0	ND	121	80-120			C-02
Matrix Spike Dup (OH01009-MS11)										
Source: A007119-01										
Prepared & Analyzed: 01-Aug-00										
Arsenic	54.5	3.00	ug/l	50.0	ND	109	80-120	0	20	
Cadmium	53.2	0.500	"	50.0	ND	106	80-120	0.377	20	
Lead	53.3	1.00	"	50.0	ND	107	80-120	0.187	20	
Selenium	60.2	4.00	"	50.0	ND	120	80-120	0.497	20	



Aspen
Analytical

1110 Elkton Drive, Suite A • Colorado Springs, CO 80907
(719) 593-9595 • FAX (719) 593-9911

Classio Communities
6385 Corporate Dr, Suite 200
Colorado Springs, CO 80919
Attention: Fred Gibson

Client Project ID: Mountain Dance
Sample Descript: Drinking Water
Analysis Method: EPA 900.0, Modified
First Sample #: 00711901

Sampled: Jul 24, 2000
Received: Jul 24, 2000
Analyzed: Aug 10, 2000
Reported: Aug 11, 2000

ALPHA AND BETA RADIATION


Sample Number	Sample Description	Total Alpha Concentration pCi/L	LLD
---------------	--------------------	---------------------------------	-----

00711901	15875 Farrar Dr.	2.2 ± 1.9	3.0
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Total Beta Concentration pCi/L	LLD
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4.1 ± 2.2	3.0
-----------	-----

ASPEN ANALYTICAL


Thomas R. Fowler
Laboratory Director

00711901.CCC <1>

6600

Return To:
Hodgen Settlers Ranch
17583 Colonial Park Dr
Monument, CO 80132

ROBERT C. "BOB" BALINK El Paso County, CO
01/14/2005 09:47:27 AM
Doc \$0.00 Page
Rec \$66.00 1 of 13 205007424

DISTRICT COURT, WATER DIVISIONS 1 and 2,
COLORADO

Court Addresses:
Water Division 1 Water Division 2
901 9th Street 320 W. 10th St., #207
Greeley, CO 80632 Pueblo, CO 81003

**HODGEN SETTLERS RANCH, LLC, Applicant,
IN EL PASO COUNTY.**

Attorneys:
Petrock & Fendel, P.C.
Carmen S. Hall, Atty. Reg. #19985
Scott M. Huyler, Atty. Reg. #27342
700 Seventeenth Street, Suite 1800
Denver, Colorado 80202-4162
Telephone: (303) 534-3636

△ COURT USE ONLY △

Case Number: 03CW241
(WD #1)
03CW50
(WD #2)

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,
JUDGMENT AND DECREE,
IN THE NONTRIBUTARY DENVER, ARAPAHOE AND LARAMIE-FOX HILLS
AND THE NOT NONTRIBUTARY DAWSON AQUIFERS.**

This claim for nontributary and not nontributary ground water and approval of a plan for augmentation having been filed in May, 2003, and all matters contained in the application having been reviewed, and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein, the following is hereby the Judgment and Decree of the Court:

FINDINGS OF FACT

1. Name, Address, Telephone Number of Applicant:

Hodgen Settlers Ranch, LLC
17583 Colonial Park Drive
Monument, Colorado 80132
(719) 481-9435

2. History of Case. The Applicants are represented by Petrock & Fendel, P.C. The applications for approval of groundwater rights and a plan for augmentation were filed in Case No. 03CW50 in Water Division 2 and in Case No. 03CW241 in Water Division 1. A statement

ACCOMMODATION RECORDING ONLY

of opposition was filed on behalf of the City of Colorado Springs in Case No. 03CW50. No other statements of opposition were filed and the time for filing such statements has expired. A motion to consolidate the cases was filed before the Panel on Consolidated Multidistrict Litigation in Case No. 03MDL31. The cases were re-referred to the Water Judge by Order of this Court.

3. **Subject matter jurisdiction:** Timely and adequate notice of the application was published as required by statute. The Court has jurisdiction over the subject matter of this proceeding and the parties affected hereby, whether they have appeared or not.

APPROVAL OF GROUND WATER RIGHTS

4. **Aquifers and location of ground water:** Applicant seeks a decree for rights to all ground water recoverable from the nontributary Denver, Arapahoe, and Laramie-Fox Hills and the not nontributary Dawson aquifers underlying approximately 298.6 acres of land located in parts of Sections 23 and 24, T11S, R66W of the 6th P.M., as more particularly described and shown on Attachment A hereto ("Subject Property"). Applicant is the owner of the Subject Property and said land is not located within the boundaries of a designated ground water basin.

5. **Well locations, pumping rates and annual amounts:** The groundwater may be withdrawn at rates of flow necessary to efficiently withdraw the amounts decreed herein. Applicant will withdraw the subject ground water through wells to be located at any location on the Subject Property. Applicant waives the 600 foot spacing rule as described in Section 37-90-137(2)(b)(I), C.R.S., for wells located on the Subject Property, but must satisfy Section 37-90-137(4), C.R.S. for wells owned by others on adjacent properties. The following average annual amounts are available for withdrawal subject to the Court's retained jurisdiction in this matter:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Annual Amount</u>
Dawson	460 feet	273.7 acre-feet(NNT)*
Denver	550 feet	279.2 acre-feet(NT)
Arapahoe	235 feet	119.3 acre-feet(NT)
Laramie-Fox Hills	200 feet	89.6 acre-feet(NT)

*Annual amount reduced for water associated with existing well Permit No. 206126 as referenced in the Determination of Facts for the Dawson aquifer issued in this case.

The amounts conform with the values and amounts referenced in the State Engineer's Determination of Facts dated December 10, 2003, for each aquifer.

6. **Proposed use:** The water withdrawn from the subject aquifers will be used, reused, successively used, leased, sold, or otherwise disposed of for the following beneficial purposes: domestic, industrial, commercial, irrigation, livestock watering, recreational, fish and wildlife, fire protection, and for exchange and augmentation purposes.

7. Final average annual amounts of withdrawal:

A. Final determination of the applicable average saturated sand thickness and resulting average annual amounts available to Applicant will be made pursuant to the retained jurisdiction of this Court, as described in paragraph 24 below. The Court shall use the acre-foot amounts in paragraph 5 herein in the interim period, until a final determination of water rights is made.

B. The allowed annual amount of ground water which may be withdrawn through the wells specified above and any additional wells, pursuant to Section 37-90-137(10), C.R.S., may exceed the average annual amount of withdrawal, as long as the total volume of water withdrawn through such wells and any additional wells therefore subsequent to the date of this decree does not exceed the product of the number of years since the date of the issuance of any well permits or the date of this decree, whichever is earliest in time, multiplied by the average annual amount of withdrawal, as specified above or as determined pursuant to the retained jurisdiction of the Court. However, amounts set forth in well permits will not be exceeded.

8. Source of ground water and limitations on consumption:

A. The ground water to be withdrawn from the Denver, Arapahoe, and Laramie-Fox Hills aquifers is "nontributary ground water" as defined in Section 37-90-103(10.5), C.R.S. and in the Denver Basin Rules, the withdrawal of which will not, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in Section 37-82-101(2) and Section 37-92-102(1)(b), C.R.S., at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. Ground water to be withdrawn in the Dawson aquifer is "not nontributary" as defined in Sections 37-90-103(10.7) and 37-90-137(9)(c), C.R.S. and part of the Dawson water decreed herein and may be withdrawn pursuant to the augmentation plan decreed herein.

B. Applicants may not consume more than 98% of the annual quantity of water withdrawn from the nontributary aquifers. The relinquishment of 2% of the annual amount of water withdrawn to the stream system, as required by the Denver Basin Rules effective January 1, 1986, may be satisfied by any method selected by the Applicants and satisfactory to the State Engineer, so long as Applicant can demonstrate that an amount equal to 2% of such withdrawals (by volume) has been relinquished to the stream system.

C. There is unappropriated ground water available for withdrawal from the subject aquifers beneath the Subject Property, and the vested water rights of others will not be materially injured by such withdrawals as described herein. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years. No material injury to vested water rights of others will result from the issuance of permits for wells which will withdraw not nontributary and nontributary ground water or the exercise of the rights and limitations specified in this decree.

9. Additional wells and well fields:

A. Applicant may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property. As additional wells are planned, applications shall be filed in accordance with Section 37-90-137(10), C.R.S.

B. Two or more wells constructed into a given aquifer shall be considered a well field. In effecting production of water from such well field, Applicants may produce the entire amount which may be produced from any given aquifer through any combination of wells within the well field.

C. In considering applications for permits for wells or additional wells to withdraw the groundwater which are the subject of this decree, the State Engineer shall be bound by this decree and shall issue said permits in accordance with provisions of Section 37-90-137(10), C.R.S.

D. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court, Applicant shall obtain permits to reflect such adjusted average annual amounts. Subsequent permits for any wells herein shall likewise reflect any such adjustment of the average annual amounts decreed herein.

E. The water in the Denver, Arapahoe and Laramie-Fox Hills aquifers is nontributary and the water in the Dawson aquifers is not nontributary and up to 50.6 acre-feet per year and no more than 15,180 acre-feet total of water from the Dawson aquifer may be withdrawn pursuant to the augmentation plan decreed herein.

APPROVAL OF PLAN FOR AUGMENTATION

10. Approval of plan for augmentation:

A. Groundwater to be augmented: Up to 50.6 acre-feet per year of not nontributary Dawson aquifer groundwater decreed herein over a 300 year period.

B. Water to be used for augmentation: Return flows associated with use of the not nontributary Dawson aquifer and return flows or direct discharge of nontributary ground water decreed herein.

C. Development and Consumptive Use: The subject Dawson aquifer ground water will be used through individual wells to serve up to 92 residential lots for a 300 year period, which wells will withdraw at a rates of flow of 15 gpm. Each well will be limited to an annual amount of 0.55 acre-feet per year for in-house use in one single family residence (0.3 acre-feet) and irrigation (0.2 acre-feet/limited to irrigation of 3500 square-feet of home lawn and garden),

and watering of up to four large domestic animals (0.05 acre-feet). Sewage treatment will be provided by a non-evaporative septic system. Before any other type of sewage treatment is proposed in the future, including incorporation of the Subject Property into a central sewage collection and treatment system, Applicant or successors and assigns, will amend this decree prior to such change and thereby provide notice of the proposed change to other water users by publication procedures required by then existing law. Consumptive use from in-house use is estimated to be 10% of that use and consumptive use from irrigation use will be approximately 90% of that use. Stockwatering use is 100% consumed.

D. Replacement of Depletions During Pumping:

Based on assumed annual pumping of 50.6 acre-feet over a 300 year pumping period, it is estimated that the depletion to the Cherry Creek/South Platte stream system will be approximately 13.8% of average annual pumping or 6.98 acre-feet. (Depletion at 100 years of pumping is approximately 5.05% of average annual pumping or 2.55 acre-feet). It is estimated that depletions to the Monument Creek/Arkansas River stream system at 300 years of pumping is approximately 8.61% of average annual pumping or 4.3 acre-feet. (Depletion at 100 years of pumping is approximately 2.56% of average annual pumping or 1.3 acre-feet). Applicants do not have the physical ability to replace depletions to the Monument Creek stream system, but shall instead replace all such depletions to the Cherry Creek/South Platte stream system. During pumping of the water for use on 92 residential lots for 300 years, annual septic return flows are estimated to be 24.82 acre-feet annually, which is in excess of the combined maximum annual depletion of 11.28 acre-feet to the Monument Creek and South Platte systems during pumping for 300 years.

E. Replacement of Post-pumping Depletions:

Applicant agrees to replace depletions for the shortest of the following periods: the period provided by the Colorado Legislature, should it eventually specify one and if the Applicants obtain water court approval for such modification; the period determined by the State Engineer, should the State Engineer lawfully establish such a period; the period established through rulings of the Colorado Supreme Court on relevant cases; or until Applicants petition the water court and after notice to parties in the case proves that it has complied with all statutory requirements. The court finds that the provisions of this paragraph are adequate to comply with existing law and to prevent injury to others. It is estimated that maximum total depletions to Monument Creek and the South Platte stream systems from pumping of 50.6 acre-feet per year for 300 years will be approximately 22.51% of average annual pumping in the 310th year and will decline thereafter. Applicant's replacement obligation will be the total stream depletion factor for both Monument Creek and the South Platte stream system as shown on Attachment B hereto. That required amount of water will be pumped from the Arapahoe and Laramie-Fox Hills aquifers, decreed and reserved herein or such other source of water as receives judicial approval after notice, into the Cherry Creek stream system.

F. Applicants shall reserve and dedicate to this plan for augmentation, all of the nontributary Laramie-Fox Hills aquifer (89.6 acre-feet per year and 8960 acre-feet total) and 62.6 acre-feet per year and 6260 acre-feet total of the nontributary Arapahoe aquifer water decreed herein for the purpose of replacing to Cherry Creek all post-pumping depletions. If at some time replacement of post-pumping depletions is no longer required pursuant to paragraph 10.E above, said reservation will become null and void at such time as the obligation to replace post-pumping depletions terminates. Applicants will be required to construct a well into the Arapahoe or Laramie-Fox Hills aquifers to provide for post-pumping depletions herein.

11. Applicants shall pay the cost imposed by operation of this augmentation plan until such time as Applicant's shall create a Property Owner's Association which all purchasers of the subject lots shall be required to join. Applicant shall assign to the Property Owner's Association, Applicant's interest and rights and responsibilities in and under this plan for augmentation; Applicant shall also assign to the Property Owner's Association all of the nontributary Laramie-Fox Hills aquifer (89.6 acre-feet per year and 8960 acre-feet total) and 62.6 acre-feet per year and 6260 acre-feet total of the nontributary Arapahoe aquifer water decreed herein. Failure of either the Applicant or the Property Owner's Association to comply with the terms of the decree may result in an order of the Division Engineer's office to curtail or eliminate pumping of the owners wells. This decree shall be recorded in the real property records of El Paso County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree.

12. Administration of plan for augmentation:

A. Applicant shall report to the Division Engineer for Water Division 1 and 2 upon request, a summary of the monthly metered withdrawals of the subject wells on an accounting form acceptable to the Division Engineer, for the withdrawals during the previous calendar year. Said accounting will be completed by the end of January for the previous calendar year.

B. All withdrawals which are the subject of this decree will be metered.

C. Pursuant to Section 37-92-305(8), C.R.S., the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

D. The Applicant at the direction of the Division Engineer, shall make total post-pumping replacements to the Cherry Creek stream system pursuant to the total percentage of depletion caused by pumping as referenced on the depletion curve attached hereto on Attachment B.

13. Retained jurisdiction for plan for augmentation:

A. Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the

provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also has jurisdiction for the purposes of determining compliance with the terms of the augmentation plan. Objector City of Colorado Springs owns senior water rights on Monument Creek that will be negatively impacted by the operation of this decree wherein depletions to the Arkansas River will not be replaced to the Arkansas River, but rather will be replaced to the South Platte River. In addition, Colorado Springs reserves the right to claim that the cumulative negative impacts of this and other similar decrees constitutes injury to its senior Monument Creek rights. In the interest of settlement only, Colorado Springs consents to the entry of this decree. However, by doing so, Colorado Springs does not waive its right to claim injury and to seek relief in the future according to this paragraph.

B. Any person seeking to invoke the retained jurisdiction of the Court shall file a verified petition with the Court. The petition to invoke retained jurisdiction or to modify the Decree shall set forth with particularity the factual basis and the requested decretal language to effect the petition. The party lodging the petition shall have the burden of going forward to establish prima facie facts alleged in the petition. If the Court finds those facts to be established, Applicant shall thereupon have the burden of proof to show: (1) that any modification sought by Applicant will avoid injury to other appropriators, or (2) that any modification sought by Objector is not required to avoid injury to other appropriators, or (3) that any term or condition proposed by Applicant in response to the Objector's petition does avoid injury to other appropriators.

C. The Court retains jurisdiction for the purpose of determining whether the continued reservation of the nontributary water for use on the Subject Property is required. After notice to the State Engineer's Office, if Applicant can demonstrate to the Court that post-pumping depletions need no longer be replaced, the Court may remove the requirement that the nontributary water must be reserved.

CONCLUSIONS OF LAW

14. The Water Court has jurisdiction over this proceeding pursuant to Section 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law. Section 37-90-137(4), C.R.S. The application for a decree confirming Applicant's right to withdraw and use all unappropriated ground water from the nontributary aquifer beneath the property as described herein pursuant to Section 37-90-137(4), C.R.S., should be granted, subject to the provisions of this decree. The application for a decree confirming Applicant's right to withdraw and use Dawson aquifer groundwater as decreed herein should be granted pursuant to Section 37-90-137(4) and (9)(c), C.R.S., subject to the provisions of this decree. The withdrawal of part of the Dawson aquifer water decreed herein in accordance with the terms of this decree will not result in material injury to vested water rights of others.

15. This plan for augmentation satisfies the requirements of Section 37-90-137(9)(c), C.R.S., for replacement of actual depletions to the affected stream systems for withdrawals of up to 50.6 acre-feet per year and 15,180 acre-feet total of Dawson aquifer water.

16. The rights to ground water determined herein shall not be administered in accordance with priority of appropriation. Such rights are not "conditional water rights" as defined by Section 37-92-103(6), C.R.S., requiring findings of reasonable diligence and are not applicable to the ground water rights determined herein. The determination of ground water rights herein need not include a date of initiation of the withdrawal project. See Section 37-92-305(11), C.R.S.

JUDGMENT AND DECREE

The Findings of Fact and Conclusions of Law set forth above are hereby incorporated into the terms of this Ruling and Decree as if the same were fully set forth herein.

17. Full and adequate notice of the application was given, and the Court has jurisdiction over the subject matter and over the parties whether they have appeared or not.

18. Applicant may withdraw the subject ground water herein through wells to be located anywhere on the Subject Property, in the average annual amounts and at the estimated average rates of flow specified herein, subject to the limitations herein and the retained jurisdiction by this Court.

19. Applicant may withdraw up to 50.6 acre-feet per year and 15,180 acre-feet total of not nontributary ground water from the Dawson aquifer under the plan for augmentation decreed herein pursuant to Section 37-90-137(9)(c), C.R.S. Applicant will not withdraw the remaining amount of Dawson aquifer water decreed herein until such withdrawal has been approved in a court approved augmentation plan in a separate case.

20. Applicant has complied with all requirements and met all standards and burdens of proof, including but not limited to Sections 37-90-137(9)(c), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(1), (2), (3), (4), (6), (8), (9), C.R.S., to adjudicate their plan for augmentation and is therefor entitled to a decree confirming and approving their plan for augmentation as described in the findings of fact.

21. Pursuant to Section 37-92-305(5), C.R.S., the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally used.

22. The proposed plan for augmentation as described in the findings of fact is hereby approved, confirmed, and adjudicated, including and subject to the terms and conditions specified herein.

23. No owners of or person entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the operation of the plan for augmentation as decreed herein.

24. Retained Jurisdiction:

A. The Court retains jurisdiction as necessary to adjust the average annual amounts of ground water available under the property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to Section 37-92-305(11), C.R.S. Within 60 days after completion of any well decreed herein or any test hole(s), Applicants or any successor in interest to these water rights shall serve copies of such log(s) upon the State Engineer.

B. At such time as adequate data is available, any person, including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final determination of water rights findings. The State Engineer shall submit such finding to the Water Court and to the Applicant.

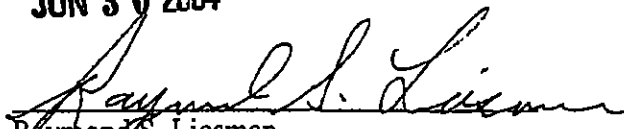
C. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within four months, such final determination shall be made by the Water Court after notice and hearing.

25. Continuing Jurisdiction:

Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation.

RULING ENTERED this

JUN 30 2004


Raymond S. Liesman
Water Referee
Water Division 1

THE COURT DOETH FIND THAT NO PROTEST TO THE RULING OF THE REFEREE HAS BEEN FILED. THE FOREGOING RULING IS CONFIRMED AND APPROVED AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT



Roger A. Klein
Water Court Judge
Water Division 1

JUL 22 2004

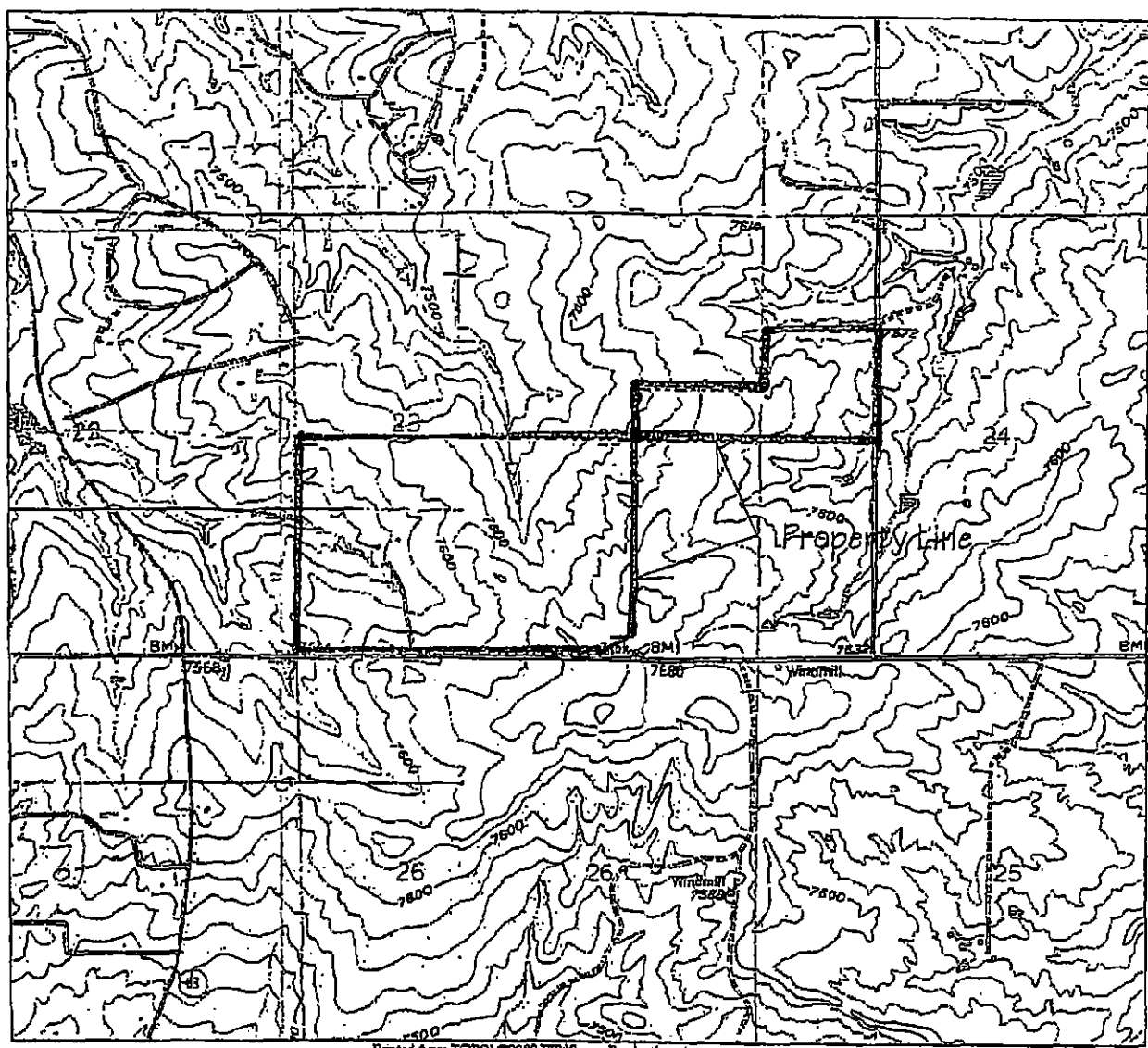
03CWZ41

ATTACHMENT A

SW1/4; W1/2SE1/4, except for 200' X 300' square in southeast corner, and
S1/2SE1/4NE1/4 of Section 23; and the SW1/4NW1/4 of Section 24, T11S, R66W of the
6th P.M.

R 66 W

T 11 S



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Scale 1" = 2000'

Location Map

Wm Curtis Wells & Co.
consulting ground water geologists

Figure 1

Attachment B

Table I
Average Dawson Aquifer
Stream Depletion Factors
(as % of pumping)

Year	South Platte River	Arkansas	Total	Year	South Platte River	Arkansas	Total
10	0.47	0.11	0.57	310	13.74	8.77	22.51
20	1.01	0.28	1.29	320	13.60	8.85	22.45
30	1.56	0.49	2.05	330	13.47	8.88	22.34
40	2.09	0.74	2.83	340	13.33	8.88	22.20
50	2.61	1.02	3.63	350	13.20	8.84	22.04
60	3.13	1.29	4.42	360	13.09	8.79	21.87
70	3.62	1.60	5.22	370	12.99	8.71	21.69
80	4.10	1.92	6.01	380	12.88	8.63	21.51
90	4.58	2.23	6.81	390	12.80	8.53	21.32
100	5.05	2.56	7.60	400	12.71	8.41	21.12
110	5.51	2.88	8.39	410	12.60	8.31	20.91
120	5.97	3.21	9.18	420	12.51	8.20	20.71
130	6.43	3.54	9.97	430	12.42	8.07	20.50
140	6.89	3.86	10.75	440	12.33	7.95	20.28
150	7.34	4.18	11.53	450	12.25	7.81	20.06
160	7.79	4.51	12.30	460	12.16	7.68	19.84
170	8.24	4.83	13.07	470	12.08	7.54	19.62
180	8.68	5.15	13.83	480	11.99	7.42	19.40
190	9.12	5.46	14.58	490	11.89	7.27	19.17
200	9.57	5.77	15.34	500	11.80	7.15	18.95
210	10.00	6.08	16.07	510	11.71	7.02	18.73
220	10.43	6.38	16.81	520	11.62	6.89	18.51
230	10.86	6.67	17.54	530	11.52	6.76	18.28
240	11.29	6.97	18.26	540	11.44	6.63	18.06
250	11.71	7.26	18.97	550	11.34	6.50	17.84
260	12.14	7.54	19.67	560	11.24	6.39	17.63
270	12.55	7.82	20.37	570	11.15	6.26	17.41
280	12.97	8.09	21.06	580	11.06	6.13	17.20
290	13.38	8.35	21.74	590	10.95	6.03	16.98
300	13.80	8.61	22.41	600	10.86	5.92	16.78