Eric K Trout
Water Attorney

Please revise pursuant to County Attorney comments:

-Pursuant to the El Paso County Land Development Code (LDC) 8.4.7(B)(3)(d), please include water quality information in the Water Resources Report (WRR).
-Please also double-check your estimated demand for irrigation in the Water Supply Information Summary (WSIS). 7 acres is 304,920 square feet. At 0.0566 acre-foot/1,000 square feet, which is the presumptive use value in the LDC, 17.26 annual acre-feet would be required to meet this demand.
-Please reconcile the stock watering demand between the WSIS and the WRR.
-Please complete section 10 of the WSIS to add the water court case number.

El Paso County
2880 Internation
Colorado Spring

Re: 5525 Ho

To Whom It Ma

The foll
wells and lots (the "**Lots**") on a 19.83-acre parcel generally located in part of the NE1/4 of the NE1/4 of Section 25, Township 11 South, Range 66 West of the 6th P. M., also known as 5525 Hodgen Road, Colorado Springs, CO, 80908, in El Paso County (the "**Subject Property**"). This letter is based on volumes of groundwater quantified in two cases:

- The decree in Case No. 2000CW191, District Court, Water Division 1 entered on April 26, 2002 (the "**00CW191 Decree**").

- The augmentation plan approved in the decree in Case No. 2024CW3128, District Court, Water Division 1, entered on July 31, 2025 (the "**24CW3128 Decree**").

This letter provides no opinion on the actual physical supply of groundwater available. The Lots will be served by individual wells into the not-nontributary Dawson Aquifer.

Annual Volumes

The groundwater in the Denver Arapahoe, and Laramie-Fox Hills aquifers is nontributary ("NT") as defined in C.R.S. §§ 37-82-101(2) and 37-92-102(l)(b), and the groundwater in the Dawson Aquifer is not-nontributary ("NNT") as described in C.R.S. §§ 37-90-103(10.7) and 37-90-137(9)(c.5). The annual volumes below are based on a 300-year pumping period.

00CW191 Decree

The 00CW191 Decree approved the following groundwater volumes for all beneficial uses, including augmentation and exchange.

Aquifer	Annual Volume (acre-feet)	Total Volume (acre-feet)
Dawson (NNT)	6.43	1,930
Denver (NT)	5.90	1,770
Arapahoe (NT)	2.60	720
Laramie-Fox Hills (NT)	1.97	590

24CW3128 Decree & Estimated Water Demand

The Subject Property will be served by individual wells into the NNT Dawson Aquifer through the approved plan for augmentation and the re-permit of existing Well Permit No. 59967-F (the "**Existing Well**"). The seven (7) wells will withdraw up to a total of 5.6 acre-feet per year, 0.8 acre-feet per year per well, for 300 years for the following uses:

- Residential In-House Demand: 0.3 acre-feet per year for up to 1 single-family residence.
- Outdoor Irrigation: 0.45 acre-feet per year for up to 9,000 sq-ft.
- Up to 4 Large Domestic Animals: 0.05 acre-feet per year.
- Additional Uses: Fire protection and storage before use.

Applicant will apply for and obtain new well permits from the Division of Water Resources prior to using the groundwater under the 24CW3128 Decree..

Water Supply Sufficiency

The amount of groundwater in the NNT Dawson Aquifer underlying the Subject Property is sufficient to provide in-house use, outdoor irrigation, livestock watering, fire protection, and storage before use, through up to seven (7) wells on the Subject Property for 300 years.

If you have any questions or comments, please feel free to call.

Very truly yours,

Eric K Trout

Eric K. Trout

RECEIVED
MAR 11 2002
WATER RESOURCES
STATE ENGINEER
COLO.

DISTRICT COURT, WATER DIVISION NO 1 WELD COUNTY, COLORADO 901 9th, P O. Box 2038 Greeley, CO 80632	FILED IN COMBINED COURTS MAR 04 '02 WELD COUNTY, COLO. ▲ COURT USE ONLY ▲
Concerning the Application for Water Rights of: **ROCKY MOUNTAIN EQUINE CLINIC, INC.** **In El Paso County**	
	00cw191 (Water Division 1) Case No 00CW191 (Water Division 1) Case No 00CW98 (Water Division 2)
FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE	

FINDINGS OF FACT

I. Jurisdictional Facts

1 The application in this case was filed by Rocky Mountain Equine Clinic, Inc on October 25, 2001 in Water Division 2 and on October 26, 2000 in Water Division 1

2 The application was published in the resumes for Water Divisions 1 and 2 and in a newspaper of general circulation in El Paso County, as required by law

3 Statements of opposition were timely filed by the City of Colorado Springs, the City of Englewood and the City of Thornton No other statements of opposition were filed, and the time for filing of statements of opposition has expired No motions to intervene have been filed

4 Pursuant to Applicant's Motion, these cases were consolidated in Water Division 1 by order of the Chief Justice of the Colorado Supreme Court dated February 27, 2001

5 The land and water involved herein are not within the boundaries of a designated ground water basin

II. Denver Basin Water Rights.

6 The applicant for adjudication of the water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying certain land in El Paso County is Rocky Mountain Equine Clinic, Inc , Attn Dr Jack Galt, 2415 Bricker Road, Monument, CO 80132. Its phone number is 719-481-2749

7 The property beneath which the water is sought to be adjudicated ("Property") consists of 19 83 acres owned by Applicant The legal description of the Property is Lot 1 in Thal Subdivision, El Paso County, Colorado, in the NE1/4 Section 25, T 11 S., R. 66 W , 6th P M The Property is located in the South Platte (Cherry Creek) watershed A map showing the location of the Property is attached hereto as Figure 1

8 There are no liens or encumbrances of record against the Property Accordingly, the notice requirements of 37-90-137(4)(b 5)(I) are inapplicable

9 The amount of water underlying the Property and which is available for appropriation is set forth on Table A on the following page The figures on Table A are based on the State Engineer's Determination of Facts dated February 25, 2001 Pursuant to § 37-92-305(11), the Court will retain jurisdiction to finally determine the amount of water available for appropriation, based on site-specific data when it becomes available, and to adjust upward or downward as appropriate the amount available for withdrawal from each aquifer The Applicant need not refile, republish, or otherwise amend this decree to request or obtain such adjustment.

10 Water in the Dawson aquifer in this location is not nontributary Water in the

Denver, Arapahoe and Laramie-Fox Hills aquifers in this location is nontributary

Table A

Aquifer	Acreage	Specific Yield	Saturated Thickness (feet)	Total Storage (AF)	Annual Diversion (AF)
Dawson	19 8	20	488	1932	19 3
Denver	19 8	.17	525	1767	17.7
Arapahoe	19 8	17	233	784	7 8
Laramie-Fox Hills	19.8	15	197	585	5 9

11 The above water will be withdrawn through the following structures.

A Dawson Well No 1

i Source Not nontributary Dawson aquifer

ii Use All beneficial uses, including augmentation and exchange

iii Amount 15 g p m and 19 3 acre feet annual maximum, the volumetric limit to be in combination with Dawson Well Nos. 2 and 3, described below

iv Location anywhere on the Property, but not within 100 feet of the Property line, nor within 300 feet of Dawson Well Nos 2 or 3.

v Depth: not exceed 1070 feet

B Dawson Well No 2

i Source Not nontributary Dawson aquifer.

ii. Use All beneficial uses, including augmentation and exchange

iii Amount 15 g p m and 19 3 acre feet annual maximum, the

volumetric limit to be in combination with Dawson Well No 1, referenced above, and Dawson Well No 3, referenced below.

iv. Location: Anywhere on the Property, but not within 100 feet of the Property line nor within 300 feet of Dawson Well Nos. 1 or 3

v Depth: not to exceed 1070 feet.

C Dawson Well No 3

i Source Not nontributary Dawson aquifer.

ii Use All beneficial uses, including augmentation and exchange

iii Amount. 15 g p m and 19 3 acre feet annual maximum, the volumetric limit to be in combination with Dawson Well Nos 1 and 2, described above

iv Location: anywhere on the Property, but not within 100 feet of the Property line, nor within 300 feet of Dawson Well Nos 1 or 2

v. Depth not exceed 1070 feet

D Denver Well No. 1

i. Source: Nontributary Denver aquifer

ii Use All beneficial uses, including augmentation and exchange

iii Amount. 50 g p m., 17 7 acre feet annually.

iv Location: at any location on the Property, provided that it shall not be within 100 feet of the Property boundary, and that it will not be located within 600 feet of another well in the same aquifer unless permission is obtained for such a location pursuant to C R S 37-90-137(2)(b).

v Estimated depth to base of aquifer: 1940 feet

E. Arapahoe Well No 1

i Source Nontributary Arapahoe aquifer

ii. Use All beneficial uses, including augmentation and exchange

iii. Amount 250 g p.m , 7 8 acre feet annually

iv Location at any location on the Property, provided that it shall not be within 100 feet of the Property boundary, and that it will not be located within 600 feet of another well in the same aquifer unless permission is obtained for such a location pursuant to C R.S 37-90-137(2)(b)

v Estimated depth to base of aquifer 2480 feet

F Laramie-Fox Hills Well No 1

i Source Nontributary Laramie Fox Hills aquifer

ii Amount 150 g p.m , 5 9 acre feet annually.

iii Use All beneficial uses, including augmentation and exchange

iv Location at any location on the Property, provided that it shall not be within 100 feet of the Property boundary, and that it will not be located within 600 feet of another well in the same aquifer unless permission is obtained for such a location pursuant to C.R S 37-90-137(2)(b)

v Estimated depth to base of aquifer 3100 feet.

III. Plan for Augmentation.

12 The applicant for approval of a plan for augmentation is Rocky Mountain Equine Clinic, Inc , Attn Dr Jack Galt, 2415 Bricker Road, Monument, CO 80132 Its phone number is

719-481-2749 The plan for augmentation decreed herein approves pumping from Dawson Well Nos 1, 2 and 3 in the not nontributary Dawson aquifer

13 Water Demand Applicant plans to construct an equine clinic on the Property. To preserve maximum flexibility for future uses of the Property, this plan for augmentation is designed to replace stream depletions caused by Dawson aquifer pumping for the supply of water to the equine clinic and up to two additional residential lots or, should the property cease to be used for an equine clinic, for three residential lots.

A Equine clinic Applicant anticipates that the clinic will employ up to ten people, and will include a caretaker's apartment for one or two of the employees Indoor uses by employees is expected to equal 0 5 acre feet annually, based on 60 gallons per capita per day for two employees living on the premises, and 40 gallons per capita per day for eight additional employees Up to 20 horses may occupy the clinic at one time; with water consumption equaling 10 gallons per horse per day, maximum annual demand is 0 22 acre feet. Landscape irrigation is expected to require 2 0 acre feet per acre, or 0 3 acre feet annually for imgation of 0 15 acres Based on these figures, total water demand for the equine clinic would be approximately 1 0 acre feet.

B Residential lots Applicant anticipates that residential lots would use water for indoor uses, for landscape irrigation and for livestock water Applicant projects that water for indoor uses will be 0 26 acre feet annually for each house, landscape irrigation will require application of 0 034 acre feet annually per 1,000 square feet (2 0 acre feet per acre), and livestock watering will require 0 011 acre feet per horse per year (10 gallons per horse per day) By way of example only, 1 0 acre foot annually would be adequate for a

house, 20,000 square feet of landscape irrigation, and five horses.

14 Water Consumption Disposal of water used indoors for the equine clinic, the caretaker's apartment and the single family dwellings shall be by nonevaporative septic tanks and leach fields Consumption of water used for indoor uses and so disposed of is generally agreed to be no more than 10% of diversions Water used by livestock is considered to be totally consumed Though Applicant and the City of Englewood disagree regarding generally accepted figures for water consumption attributable to landscape irrigation, they stipulate that for purposes of this decree, 90 percent of the water applied for landscape irrigation is consumed This figure is acceptable to the other parties to this case, and the Court finds that the use of the 90 percent figure is sufficient to prevent injury to the owners and users of other water rights.

15 All septic and irrigation return flows are dedicated to this plan for augmentation, and shall not be sold, leased or otherwise used for any other purpose.

16 Replacement of depletions during pumping Applicant does not have the physical ability to replace stream depletions to the Arkansas River, but shall instead replace all depletions to Cherry Creek, a tributary of the South Platte River Based on assumed annual pumping of 3 0 acre feet over a 300 year pumping period, the State Engineer's "DA02" computer model indicates that during pumping total depletions to the South Platte and Arkansas Rivers and their tributaries will increase to a maximum of 21 59% of pumping (0 65 acre feet) in the 300th year. Applicant's septic and irrigation return flows will be used to replace such depletions Annual septic return flows from the equine clinic and two single family dwellings will equal 0 92 acre feet annually, return flows from the septic systems of three houses would equal 0 7 acre feet annually In either case, annual return flows from septic systems alone will exceed annual stream depletions.

17 Replacement of post-pumping depletions.

A. 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 Applicant obtains 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 Applicant petitions 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

B The State Engineer's "DA02" computer model predicts that combined post-pumping depletions to the South Platte and Arkansas Rivers will reach a maximum of 21 59% of pumping immediately after pumping is projected to cease in the 300th year, and will decline thereafter Applicant's actual post-pumping replacement obligation will be determined by multiplying average annual Dawson aquifer pumping through the end of pumping, whenever that occurs, by the appropriate combined stream depletion factor for the streams in the South Platte and Arkansas Rivers combined, as shown on Table I of Exhibit A attached hereto for the first 600 years, and as shown on Exhibit B from the Division Engineer's Summary of Consultation thereafter That amount of water shall then be pumped from the Denver aquifer decreed herein, or from such other source of water as receives judicial approval after notice, into Cherry Creek or one of its tributaries Applicant's successors in interest shall be required to construct a Denver aquifer well pursuant to this

plan for augmentation unless a different source of water is approved by the court for replacement of post-pumping depletions, or unless the obligation is terminated pursuant to ¶ 16 A above

C Reservation of Denver aquifer water Applicant shall reserve and dedicate to this plan for augmentation all 1770 acre feet of its Denver aquifer water decreed herein for the purpose of replacing to Cherry Creek all post-pumping depletions, including post-pumping depletions to streams other than Cherry Creek. If at some time replacement of post-pumping depletions is no longer required pursuant to ¶ 16.A. above, or if Applicant receives judicial approval to use a different water source for augmentation purposes, said reservation will become null and void at such time as the obligation to use the Denver aquifer water to replace post-pumping depletions terminates

18 Prior to implementation of this decree. Applicant shall create and record restrictive covenants requiring Applicant to limit annual pumping from the Dawson aquifer to 3 0 acre feet and cumulative pumping from the Dawson aquifer to 1770 acre feet, to use nonevaporative septic systems for wastewater disposal, and which inform subsequent purchasers of the possible requirement to replace post-pumping depletions Said covenants shall indicate clearly that failure of the property owner to comply with the terms of this decree, including the possible obligation to construct a Denver aquifer well in the future to replace post-pumping stream depletions, may result in an order of the Division Engineer's office to curtail or eliminate pumping of the Dawson aquifer wells This decree and the restrictive covenants shall be recorded in the El Paso County records, so that a title examination of the Property, or any part thereof, shall reveal to all future purchasers of both of the lots to be created the existence of the decree and restrictive covenants Said

covenants shall be amended as necessary to conform to the provisions of any amendment to this augmentation plan Any proposed change in the method of wastewater treatment and disposal shall require notice in the water resume and publication in a newspaper of general circulation in El Paso County

19 As indicated in ¶ 16, based on annual indoor uses of 0.26 acre feet per lot (or 0 5 acre feet in the case of the veterinary clinic and apartment) and an annual limitation of 1 0 acre foot per lot, during pumping return flows from septic systems alone will always exceed stream depletions in the same year Accordingly, so long as there is one house or commercial structure utilizing nonevaporative septic tanks and leach fields on each lot, it is only necessary to restrict annual diversions to 1 0 acre foot per lot, regardless whether there are one, two or three lots on the Property It is not necessary to otherwise restrict the types of water uses on the Property

20 As reasonably required by the Division Engineer, but no less than annually, Applicant shall complete and submit an accounting form which shows groundwater withdrawals, stream depletions, return flows, and net stream depletions The accounting form must be acceptable to the Division Engineer, and may be changed from time to time if necessary An accounting form which is acceptable to the Division Engineer at the present time is attached to this Ruling as Exhibit A

21 The Court finds that under the terms and conditions herein the requirements of C R.S. §37-90-137(9)(c) have been met, and that no injury will be caused to the owner of or anyone entitled to use water under a vested water right or decreed conditional water right

CONCLUSIONS OF LAW

22 The Court has jurisdiction over the subject matter of this action and over all persons

who could have appeared herein, whether or not they did so appear

23 All conditions precedent to the granting of this decree have been complied with, including but not limited to the notice requirement of C R.S. §37-90-137(4)(b.5)(I).

24. The plan for augmenting depletions caused by pumping the not nontributary Dawson aquifer is required by C.R.S. §37-90-137(9), and is subject to the requirement of C.R.S. §37-92-305(3) and 305(8) that no injury will occur to the owners of or persons entitled to use water under an absolute water right or decreed conditional water right as a result of implementing such plan for augmentation Applicant has proved that no such injury will occur

25 Applicant has maintained dominion and control over its septic system return flows by determining the quantity of such return flows, as set forth above, and thus has the legal ability to use said return flows in this plan for augmentation See, Public Service Co. v Willows Water District, 856 P 2d 829 (Colo 1993)

JUDGMENT AND DECREE

26 The forgoing findings of fact and conclusions of law are hereby incorporated into this judgment and decree

27. The application for adjudication of water rights from the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property is approved as set forth above The court retains jurisdiction over this decree to finally adjudicate the amount of water available for withdrawal from each aquifer, based on site specific information from well logs when it becomes available

28 In any year, Applicant may withdraw the subject water in any given aquifer from any combination of the wells applied for in the same aquifer as long as the total amount of water withdrawn in that year does not exceed the product of the total number of years after the date of

determination of the right to ground water by the court, multiplied by the allowed average annual amount of withdrawals for that aquifer

29 The wells must be constructed pursuant to applicable regulations of the Division of Water Resources Each well must be equipped with a totalizing flow meter and Applicant must submit diversion records to the Division Engineer or his representative on an annual basis or as otherwise requested by the Division Engineer All wells shall be cased so as to prevent withdrawal of water from more than one aquifer All wells decreed herein shall be geophysically logged, and a copy of such log shall be submitted to the State Engineer pursuant to 2 CCR 402-7, Rule 9

30 Prior to construction of any well on the Property, Applicant shall apply for a well permit, accompanied by the requisite fee, and the State Engineer shall issue such well permit, subject to the terms and conditions of this decree and applicable statutes and regulations Should Applicant fail to construct and/or file a statement of beneficial use for any well prior to the expiration of the well permit, Applicant may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit upon terms and conditions no more burdensome than those contained in the expired permit

31 The water rights so decreed are absolute water rights, and no applications for findings of diligence are required.

32 Absent approval of an amendment to this plan for augmentation or approval of a new plan for augmentation replacing injurious depletions, annual pumping from the Dawson aquifer shall be limited to 3 0 acre feet annually, and cumulative pumping from the Dawson aquifer shall be limited to 1770 acre feet Applicant shall not consume more than 98% of the water diverted from the nontributary Denver, Arapahoe and Laramie-Fox Hills aquifers

33 The application for approval of a plan for augmentation to replace depletions caused by pumping the not nontributary Dawson aquifer is approved as set forth above in the findings of fact in this decree The State or Division Engineer shall curtail the pumping of more than 3.0 acre feet annually from the Dawson aquifer without prior modification of this plan for augmentation or approval of an additional plan for augmentation which replaces depletions attributable to such pumping The State Engineer shall also curtail all out-of-priority diversions, the depletions from which are not replaced as to prevent injury to vested water rights or decreed conditional water rights

34 The court shall retain jurisdiction for so long as Applicant is required to replace depletions to the South Platte River system, to determine whether the replacement of depletions to the South Platte River system instead of the Arkansas River system is causing material injury to water rights tributary to the Arkansas River Any person may invoke the court's retained jurisdiction at any time Applicant is causing depletions (including ongoing post-pumping depletions) to the Arkansas River system, and is instead replacing such depletions to the South Platte River system The person invoking the court's retained jurisdiction shall have the burden of establishing a *prima facie* case that Applicant's failure to replace depletions to the Arkansas River system is causing injury to water rights owned by the person invoking the court's retained jurisdiction, except that the State and Division Engineers may invoke the court's retained jurisdiction by establishing a *prima facie* case that injury is occurring to any vested or conditionally decreed water rights. Applicant shall retain the ultimate burden of proving that no injury is occurring, or shall propose terms and conditions which prevent such injury. Among any other remedies it may impose, the court may require that Applicant replace depletions to the Arkansas River system

35 Pursuant to C R S. § 37-92-304(6), the Court also retains 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 the vested water rights of others. The Court also retains jurisdiction for the purposes of determining compliance with terms of the augmentation plan. Any person seeking to invoke the retained jurisdiction of the Court pursuant to this paragraph 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 upon which the requested reconsideration is premised, together with proposed decretal language to effect the petition. The person 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 the person filing the petition is not required to avoid injury to other appropriators, or (3) that any term or condition proposed by Applicant in response to the petition does avoid injury to other appropriators.

All parties have consented to entry of the above proposed decree. The foregoing is thus confirmed and approved, and made the Findings of Fact, Conclusions of Law, Judgment, and Decree of this court

Dated this 4th day of March, 2002.

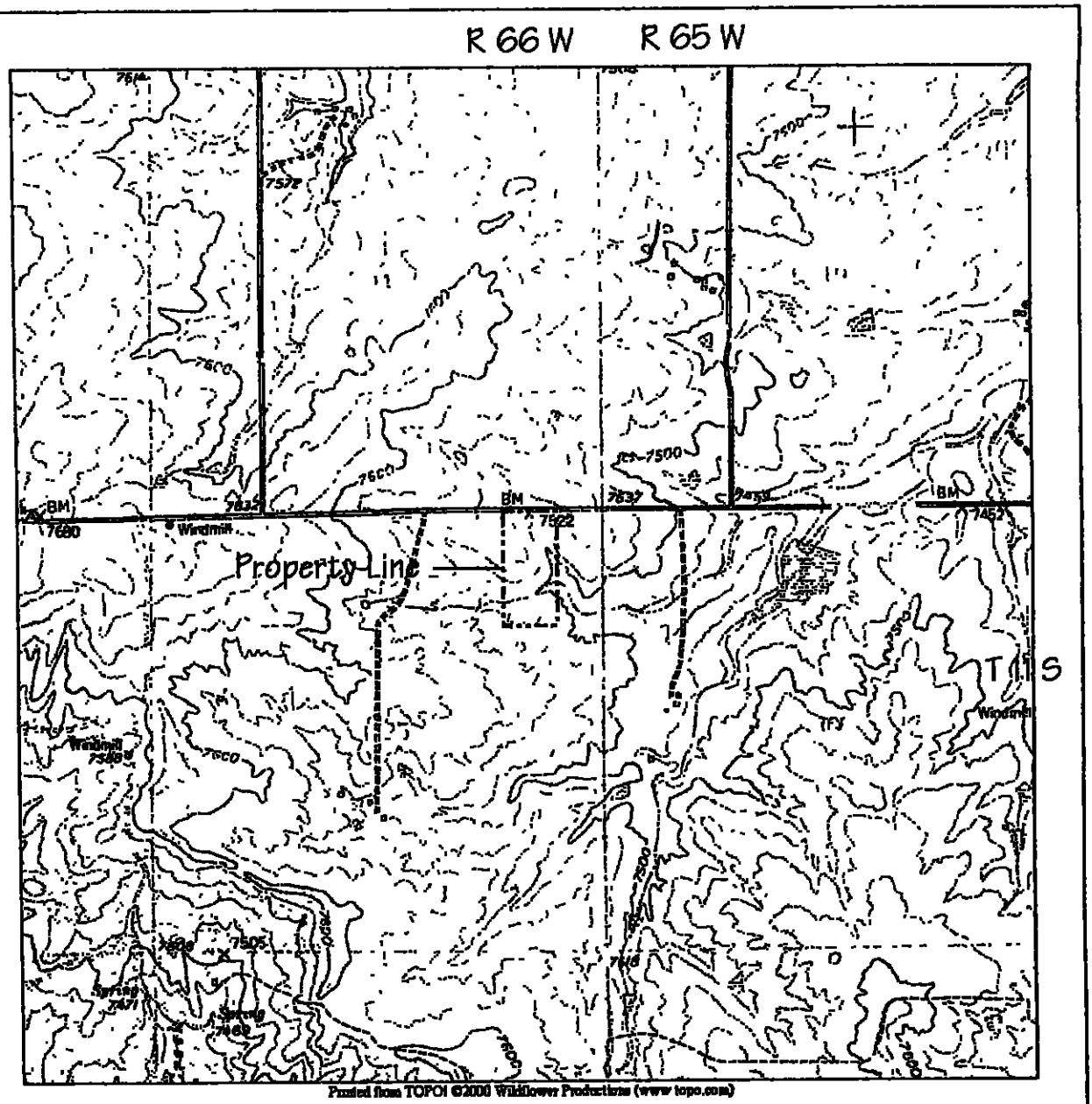
Jonathan W. Hays
Water Court Judge
Water Division No. 1

RECEIVED
MAY 02 2002
WATER RESOURCES
STATE ENGINEER
COLO

NO PROTEST WAS FILED IN THE ABOVE MATTER. THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS MADE THE JUDGMENT AND DECREE OF THIS COURT

Dated this _____ day of APR 2 6 2002, 2001.

Jonathan Hays
Water Court Judge
Water Division 1



N

Scale 1" = 2000'

LOCATION MAP

Wm. Curtis Wells & Co.
consulting ground water geologists

Figure 1

Accounting Form
Rocky Mountain Equine Clinic

									From	To
			Yearly (gal.)				Yearly (gal.)	(af)	Base Use (gal)	(af)
	No.	Well Permit No.	This October 31 col. a	Last October 31 col. b	This February 28/29 col. c	Last December 1 col d	Total (col. a - b)	Total	Total (col c - d)	Total
	1									
	2									
	3									
1	Total									

2	Total Withdrawal Yearly (1)	+		af
3	Stream Depletion Factor from Table I rounded up to nearest 10 years since pumping began	*/100		
4	Depletion	=		af
5	Base Use (1)	+		af
		*4	4	
		*0 9	0 9	
6	Total	=		af
7	Accretion (Depletion)	(6)-(4)		af

Table I

YRS	Total	YRS	Total	YRS	Total
10	0.66	210	14 78	410	17.97
20	1.39	220	15.39	420	17.74
30	2.13	230	16.03	430	17.51
40	2.91	240	16.62	440	17.28
50	3.65	250	17.24	450	17.06
60	4 42	260	17.82	460	16.85
70	5.17	270	18.39	470	16 63
80	5 91	280	18 98	480	16.40
90	6.68	290	19.55	490	16.18
100	7.41	300	20.11	500	15 97
110	8 15	310	20 03	510	15.75
120	8.82	320	19.87	520	15 58
130	9.51	330	19.66	530	15.43
140	10 20	340	19.46	540	15.28
150	10.88	350	19.27	550	15.11
160	11.54	360	19.04	560	14.96
170	12 21	370	18.80	570	14.81
180	12.87	380	18.59	580	14.65
190	13.51	390	18.37	590	14 52
200	14.16	400	18.17	600	14.37

EXHIBIT A

Stream Depletion - Case No. 2000CW191 Div. 1 and 2000CW098 Div2
Dawson Aquifer - Model No. DA2

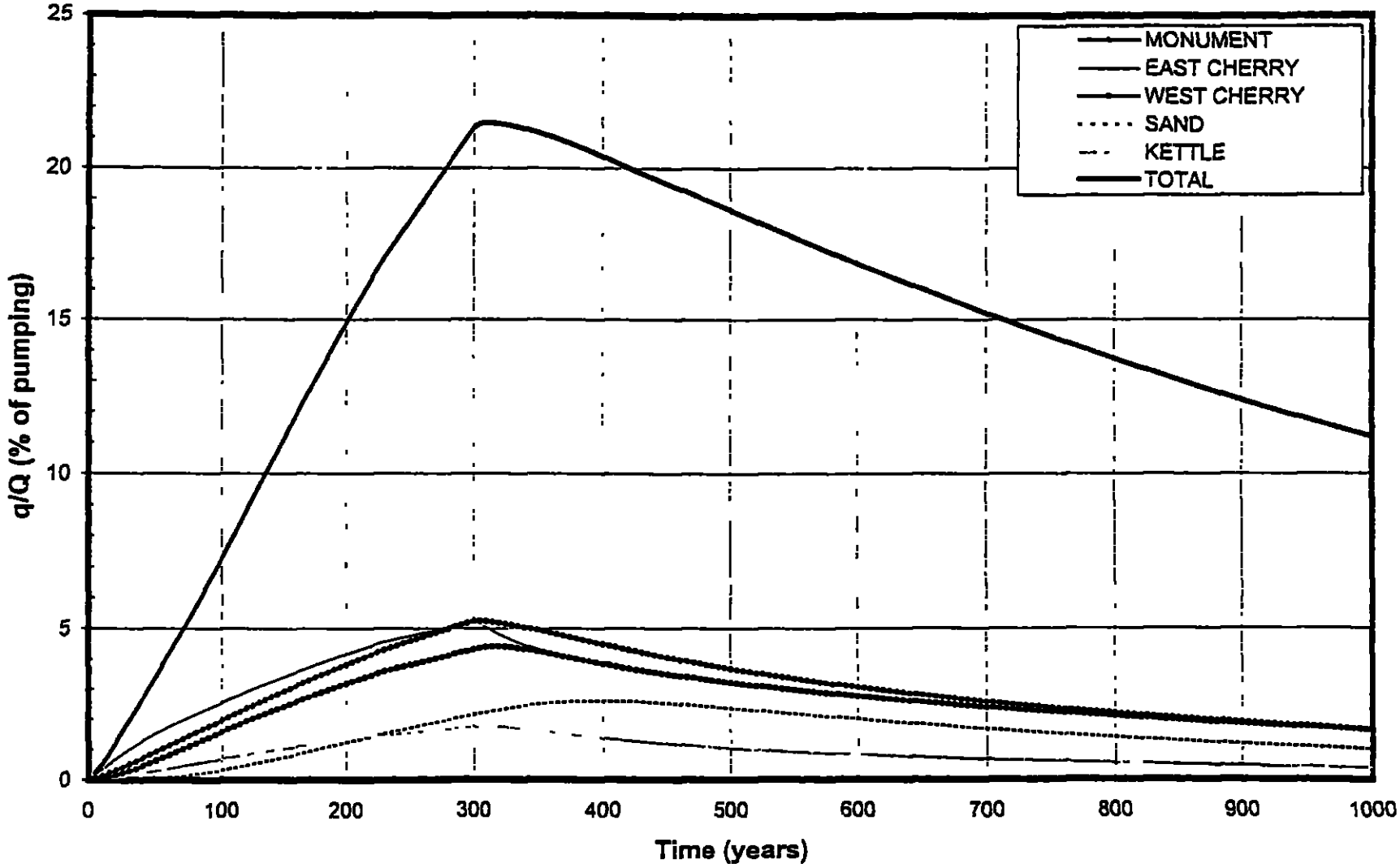


EXHIBIT B

DISTRICT COURT, WATER DIVISION 1, COLORADO Weld County Courthouse P.O. Box 2038 Greeley, CO 80632	DATE FILED April 29, 2025 10:53 AM CASE NUMBER: 2024CW3128 ▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION OF GENE W DUNSTON, JR. and MATTHEW W DUNSTON, Applicants, IN EL PASO COUNTY	Case Number: 2024CW3128
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE	

A claim for an amended plan for augmentation was filed in this case on September 18, 2024. All matters contained in the application having been reviewed, such testimony having been taken and evidence presented as was necessary, and being otherwise fully advised in the premises, it is hereby the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree, as follows:

FINDINGS OF FACT

1. Name and Address of Applicants:

   Gene W Dunston, Jr. and Matthew W Dunston
   1230 Scarsbrook Ct
   Monument, CO 80132-8487

2. Statements of Opposition: No statements of opposition were filed and the time for filing such statements has expired.

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

4. Consultation: The Water Referee consulted with the Division Engineer, as required by C.R.S. § 37-92-302(4), on the application, and the Division Engineer filed its summary of consultation on December 31, 2024. A written response was provided.

5. Prior Decree Information: The groundwater underlying 19.83 acres generally located in the NE1/4 of NE1/4, Section 25, Township 11 South, Range 66 West of the 6th P.M., also known as 5525 Hodgen Road, Colorado Springs, El Paso County, State of Colorado, 80908, as shown on **Exhibit A** ("Subject Property"), was decreed in Case No.

2000CW191, District Court, Water Division 1, as consolidated with Case No. 2000CW98, District Court, Water Division 2, on April 26, 2002 (the "Original Decree"). Applicants were decreed the following amounts of groundwater for use on the Subject Property:

Aquifer	Saturated Thickness (feet)	Annual Amount 100 Years (acre-feet)	Annual Amount 300 Years (acre-feet)	Total Amount (acre-feet)
Dawson (NNT)	488	19.3	6.43	1,930
Denver (NT)	525	17.7	5.90	1,770
Arapahoe (NT)	233	7.80	2.60	780
Laramie-Fox Hills (NT)	197	5.90	1.97	590

6. Well Permits: There are two wells on the Subject Property as follows. Additional well permits will be applied for prior to construction of additional wells:

6.1 Well Permit No. 49431-F is a nontributary Denver Aquifer well, which will continue operating under its existing permit.

6.2 Well Permit No. 59967-F is a not-nontributary Dawson Aquifer well, which is augmented under the approved augmentation plan in the Original Decree. This well will be re-permitted under the amended plan for augmentation requested in this application.

7. Original Decree Uses: The water will be used for all beneficial uses, including augmentation and exchange.

8. Summary of Plan for Augmentation in the Original Decree (the "Original Aug Pan"):

8.1 Groundwater to be Augmented: 3 acre-feet per year for 100 years of not-nontributary Dawson Aquifer groundwater.

8.2 Water Rights to be Used for Augmentation: Return flows from the use of not nontributary and nontributary groundwater and direct discharge of nontributary groundwater.

8.3 Original Plan for Augmentation: The Dawson Aquifer groundwater will be used to serve up to three wells. The well(s) will serve an equine facility (1 acre-foot per year), and up to two (2) single-family residences for domestic use (1 acre-foot per year each, 2 acre-feet total).

AMENDED PLAN FOR AUGMENTATION

9. Groundwater to be Augmented: Up to 5.6 acre-feet per year for 300 years of not-nontributary Dawson Aquifer groundwater as decreed in Case No. 2000CW191.

10. Water to be Used for Augmentation: Return flows associated with use of the not-nontributary Dawson Aquifer groundwater and return flows or direct discharge of nontributary groundwater.

11. The not-nontributary Dawson Aquifer groundwater will be used through existing well Permit No. 59967-F, and through six (6) new wells, totaling seven (7) wells, on the Subject Property. Each well, will provide in-house use in one (1) single-family residence (0.3 acre-feet per year per well, 2.1 acre-feet per year total), irrigation, including lawn, garden, trees of up to 9,000 square-feet (0.45 acre-feet per year per well, 3.15 acre-feet per year total), and watering of up to 4 large domestic animals (0.05 acre-feet per year per well, 0.35 acre-feet per year total). Conservatively, water use in each single-family dwelling will equal at least 0.2 acre-feet of water annually for in-house uses, and the use of non-evaporative septic systems typically results in consumption of approximately 10% of such use, resulting in return flows of at least 0.18 acre-feet per year from each single-family dwelling, 1.26 acre-feet at full build-out. Various components of this plan for augmentation are predicated on these estimations, and Applicant shall be required to use a non-evaporative septic system to treat and dispose of water used for in-house use.

12. Replacement During Pumping: During pumping of the not-nontributary Dawson Aquifer groundwater, Applicants will replace actual depletions to the affected stream system pursuant to C.R.S. § 37-90-137(9)(c.5). In the 300th year, the total depletion is 22.187% of the amount withdrawn or 1.243 acre-feet total. Return flow from in-house use of the Dawson Aquifer groundwater from the single-family residences is at least 1.26 acre-feet per year at full build-out as described above, and such return flows are sufficient to replace actual depletions for pumping of the entire 5.6 acre-feet per year for 300 years. Return flows accrue to the South Platte River system via Cherry Creek. Because return flows from all uses are estimated rather than measured, Applicants agree that such return flows shall be used only to replace depletions under this plan for augmentation and will not be sold, traded, or assigned in whole or in part for any other purpose.

13. Post-pumping Depletion Augmentation: Assuming maximum pumping of 5.6 acre-feet per year for 300 years from the not-nontributary Dawson Aquifer, the total maximum depletion from pumping of the Dawson Aquifer is 22.32% or 1.25 acre-feet in the 310th year. Applicants will reserve 1.97 acre-feet per year of the nontributary Laramie-Fox Hills Aquifer, 2.6 acre-feet per year of the nontributary Arapahoe Aquifer, and 1.03 acre-feet per year of the nontributary Denver Aquifer groundwater decreed in the Original Decree for use in this plan but reserves the right to substitute the use of other nontributary groundwater, including return flows, either underlying the Subject Property, or from

another location which is legally available for such purpose, for replacement of post-pumping depletions at such time that post-pumping depletions may begin. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

14. Applicants will begin making post pumping replacements when (1) the absolute amount of water (1,680 acre-feet of Dawson Aquifer groundwater) allowed to be withdrawn has been withdrawn from the well(s), (2) the Applicants, or successors in interest, have acknowledged in writing that all withdrawals for beneficial use of the Dawson Aquifer groundwater has permanently ceased, or (3) for a period of 10 consecutive years that no Dawson Aquifer groundwater has been withdrawn. Until such time as the post-pumping depletions begin the Applicants must continue to replace during pumping depletions to the stream using return flows, with return flows as described in Paragraph 12 and/or by pumping water directly to the stream to replace such depletions or using another replacement source approved by the Division Engineer. At the time that post-pumping depletions begin as described in this paragraph, Applicants, or successors in interest, will be required to construct a well and pump groundwater to replace post-pumping depletions, subject to the terms and conditions of Paragraph 13. This condition constitutes a covenant running with the land.

15. Applicants will replace post-pumping depletions for the shortest of the following periods: (1) The period provided by C.R.S. § 37-90-137(9)(c.5), or (2) the expressed period specified by the Colorado Legislature, should it specify one and providing the Applicants obtain Water Court approval for such modification, or (3) the period determined by the State Engineer, should they choose to set such a period and have jurisdiction to do so, or (4) the period established through rulings of the Colorado Supreme Court on relevant cases, or (5) until Applicants petition the Water Court and the State Engineer's Office and prove that they have complied with any statutory requirement.

16. Failure of Applicants, or successors in interest, 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 well. 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.

17. Administration of Plan for Augmentation:

    17.1 Applicants shall report to the Division Engineer for Water Division 1 upon request, a summary of the amount of water pumped by each Denver Basin well, the annual depletion, the amount of replacement water provided by each replacement source, the net impact on the stream and any other information required by the Division Engineer to properly administer the decree on an accounting form acceptable to the Division Engineer.

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

17.3 Pursuant to C.R.S. § 37-92-305(8), 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.

17.4 The Applicants, or successors in interest, at the direction of the Division Engineer shall make post-pumping replacements to the South Platte River stream system via Cherry Creek, or its tributaries pursuant to the amounts referenced on the depletion curve attached on **Exhibit B**.

18. No other provisions of the Original Decree are changed herein.

CONCLUSIONS OF LAW

19. 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.

20. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to C.R.S. §§ 37-90-137(9)(c.5), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(3), (4), (6), (8), to adjudicate the amended plan for augmentation and are entitled to a decree confirming and approving the amended plan for augmentation as described in the Findings of Fact.

21. The Water Court has jurisdiction over this proceeding pursuant to C.R.S. § 37-90-137(6). This Court concludes as a matter of law that the application herein is one contemplated by law. C.R.S. § 37-90-137(4). The withdrawal of 5.6 acre-feet per year of the not-nontributary Dawson Aquifer groundwater in accordance with the terms of this decree and the Original Decree, will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right.

JUDGMENT AND DECREE

22. 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.

23. Applicants and/or successors may withdraw the subject groundwater herein through wells to be permitted by the State Engineer's Office located anywhere on the Subject Property in the average annual amounts and at the estimated average rates of flow specified herein, and in the Original Decree, subject to the limitations of the Original Decree, and herein, and the retained jurisdiction by this Court.

24. Applicants may withdraw an average annual amount up to 5.6 acre-feet per year of not-nontributary Dawson Aquifer groundwater under the amended plan for augmentation decreed herein pursuant to C.R.S. § 37-90-137(9)(c.5).

25. Pursuant to C.R.S. § 37-92-305(5), 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.

26. The amendment of the 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.

27. 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.

28. Retained Jurisdiction for Amended Plan for Augmentation: Pursuant to C.R.S. § 37-92-304(6), the amended plan for augmentation decreed herein shall be subject to the reconsideration of this Court on the question of material injury to vested water rights of other, for a period of five (5) years. Any person, within such period, may petition the Court to invoke its retained jurisdiction. Any person seeking to invoke the Court's retained jurisdiction shall file a verified petition with the Court setting forth with particularity the factual basis for requesting that the Court reconsider injury to petitioner's vested water rights associated with the operation of this decree, together with proposed decretal language to effect the petition. The party filing the petition shall have the burden of proof of going forward to establish a prima facie case based on the facts alleged in the petition. If the Court finds those facts are established, Applicant shall thereupon have the burden of proof to show: (i) that the petitioner is not injured, or (ii) that any modification sought by the petitioner is not required to avoid injury to the petitioner, or (iii) that any term or condition proposed by Applicant in response to the petition does avoid injury to the petitioner. The Division of Water Resources as a petitioner shall be entitled to assert injury to the vested water rights of others. If no such petition is filed within such period and the retained jurisdiction period is not extended by the Court in accordance with the provisions of the statute, this matter shall become final under its own terms.

29. The groundwater rights decreed herein are vested property rights appurtenant to the Subject Property and shall remain appurtenant unless expressly severed by conveyance to someone other than the property owner. If any deed for the Subject Property is silent to the conveyance of the water rights decreed herein, it is assumed that the water rights have been conveyed as an appurtenance to the Subject Property, unless all or part of the water rights have been previously severed.

Date: April 7, 2025



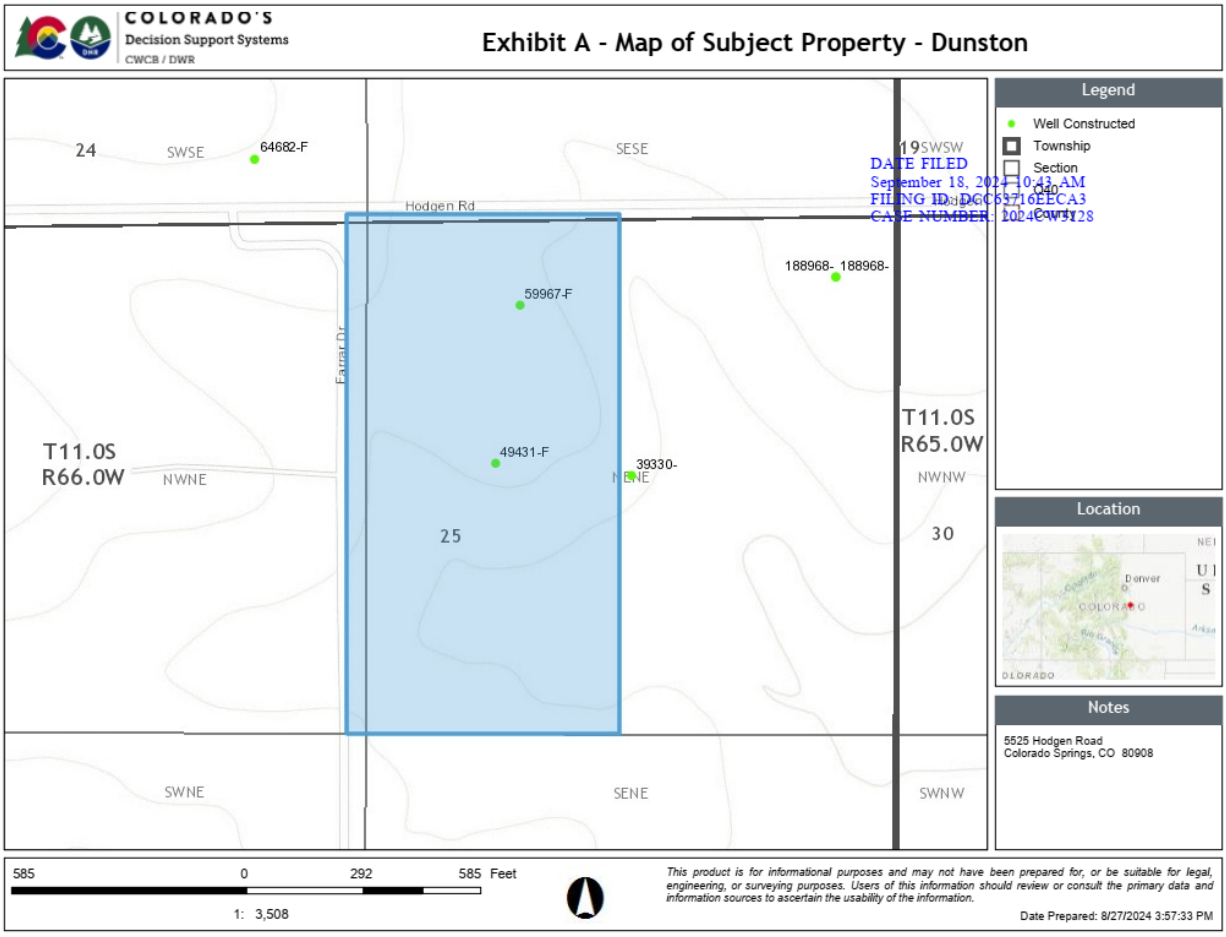
John Cowan
Water Referee
Water Division One

The Court finds that no protest was filed in this matter. The foregoing is confirmed and is made the judgment and decree of this Court.

Date: April 29, 2025



Todd Taylor
Water Judge
Water Division One



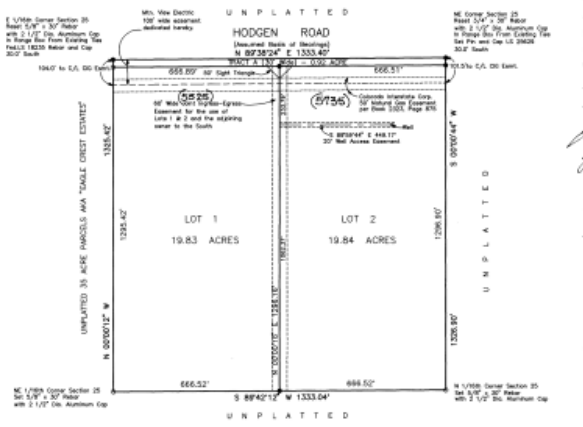
Dunston
24CW3128

EXHIBIT A

10482

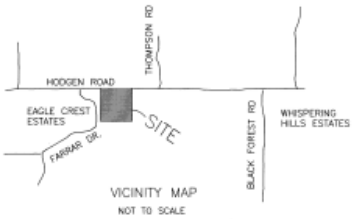
THAL SUBDIVISION

A MINOR SUBDIVISION OF THE NE 1/4 NE 1/4 OF SECTION 25 T 11 S, R 66 W, 6th P.M., EL PASO COUNTY, COLORADO



NOTE:
● = Set Pin & Cap LS 25629
○ = Found Monument As Indicated.

0 200 400 600
SCALE IN FEET



VICINITY MAP
NOT TO SCALE

"NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon."

10. 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 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.

KNOW ALL MEN BY THESE PRESENTS:

That Rocky Mountain Equine Services, Inc. and Douglas G. Thal, being the owners of the Northeast 1/4 Northeast 1/4 of Section 25, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado, and containing 40.59 acres, more or less, have caused said parcel of land to be surveyed and platted into two lots, a tract and easements as shown hereon. Tract A is hereby dedicated to El Paso County for road right of way. The 100 foot electric easement is hereby dedicated to Mountain View Electric for maintenance and repair of the existing lines within it. Other easements are reserved for the purposes indicated. This plat is drawn to a fixed scale and accurately sets forth the boundaries and dimensions of said parcel and the location of said lots, tract and easements.

Said parcel shall be known as "Thal Subdivision".

In Witness Whereof:

The aforementioned owners have executed these presents this 15th day of December, 1999.

Rocky Mountain Equine Services, Inc
Janet E. Carlson V.P.
Peoples National Bank

Douglas G. Thal

PLANNING DIRECTOR APPROVAL:

Approved by the El Paso County Planning Director this 25th day of January 2000.

El Paso County Planning Director

BOARD OF COUNTY COMMISSIONERS APPROVAL:

This Minor Subdivision was approved by the Board of County Commissioners of El Paso County, Colorado, on the 9th day of October, 1999.

Chairman Date

NOTES:

1. The Department of Transportation must be contacted prior to the establishment of any driveway.
2. Sewage treatment is the responsibility of the property owner. The El Paso County Health Department must approve each system and, in some cases, the Department may require a specially designed system prior to permit approval.
3. See the Joint Use Water Well Agreement recorded at reception number 200091227 regarding joint use of the existing well located on Lot 2.
4. All structural foundations shall be located and designed by a Professional Engineer currently licensed in the State of Colorado.
5. Unless otherwise indicated, side, front and rear lot lines are hereby platted on each side with a 10 foot public utility and drainage easement. All exterior subdivision boundaries shall have a 20 foot public utility and drainage easement. The sole responsibility for maintenance of these easements is hereby vested with the individual property owners.
6. Portions of these lots include natural drainage paths which may be susceptible to water inundation. An engineer should be consulted to aid in siting buildings near these areas.
7. The minimum building setback to the north lot line is 150.0 feet for each lot.
8. Access is restricted to one common driveway within the joint Ingress-Egress easement.
9. The addresses exhibited on this plat are for informational purposes only. They are not the legal description and are subject to change.

NOTARY'S CERTIFICATE:

State of Colorado } SS:
County of El Paso }

The foregoing dedication was acknowledged before me this 15th day of December 1999, by Janet E. Carlson as Vice Pres. Mgr. of Peoples National Bank.

Witness my hand and official seal.

My commission expires December 12, 2002

Notary Public

NOTARY'S CERTIFICATE:

State of Colorado } SS:
County of El Paso }

The foregoing dedication was acknowledged before me this 14th day of January 1999, by S. M. Call as President of Rocky Mountain Equine Services Inc.

Witness my hand and official seal.

My commission expires 12-21-2003

Notary Public

NOTARY'S CERTIFICATE:

State of Colorado } SS:
County of El Paso }

The foregoing dedication was acknowledged before me this 15th day of December 1999, by Douglas G. Thal

Witness my hand and official seal.

My commission expires: 8-2-03

Notary Public

SURVEYOR'S CERTIFICATE:

I, Jerome W. Hannigan, a Professional Land Surveyor licensed in the State of Colorado do hereby certify that this plat was surveyed and drawn under my supervision and accurately shows the described tract of land and the subdivision thereof and that the requirements of Title 38, Colorado Revised Statutes, 1973, as amended, have been met to the best of my knowledge and belief.

Jerome W. Hannigan
Colorado Professional Land Surveyor
Number 25629
Jan. 19, 2000

EL PASO COUNTY CLERK AND RECORDER:

State of Colorado } SS:
County of El Paso }

I hereby certify that this instrument was filed for record in my office at 8:00 O'Clock A.M., on this 20th day of January, 2000, and was duly recorded per reception number 200009228.

J. Patrick Kelly, Clerk & Recorder

$10.00 Fee

200009228 Reception Number

District 38 $6.00 School Fee

Regional $4.00 Park Fee

RX0218149 47151

REVISIONS			
1-23-97: Miscellaneous			
3-5-97: per Planning			
3-12-97:per Engineering			
2-27-98:Division Water			
6-16-98:Elec Easmt			
8-23-99: per Planning			
11-3-99: Easement			
12-11-99: Co Attn			

HANNIGAN and ASSOCIATES, INC.
SURVEYING + PLANNING + ARCHITECTURE
LAND DEVELOPMENT CONSULTING
19360 SPRING VALLEY ROAD
MONUMENT, COLORADO 80132-9613
719-481-8282 + 303-668-4282 + FAX 719-481-9671

SCALE	DATE	DRAWN BY
1"=200'	1-13-97	JWH

TITLE: A MINOR SUBDIVISION OF THE NE 1/4 NE 1/4 OF SECTION 25 T 11 S, R 66 W, 6th P.M., EL PASO COUNTY, COLORADO

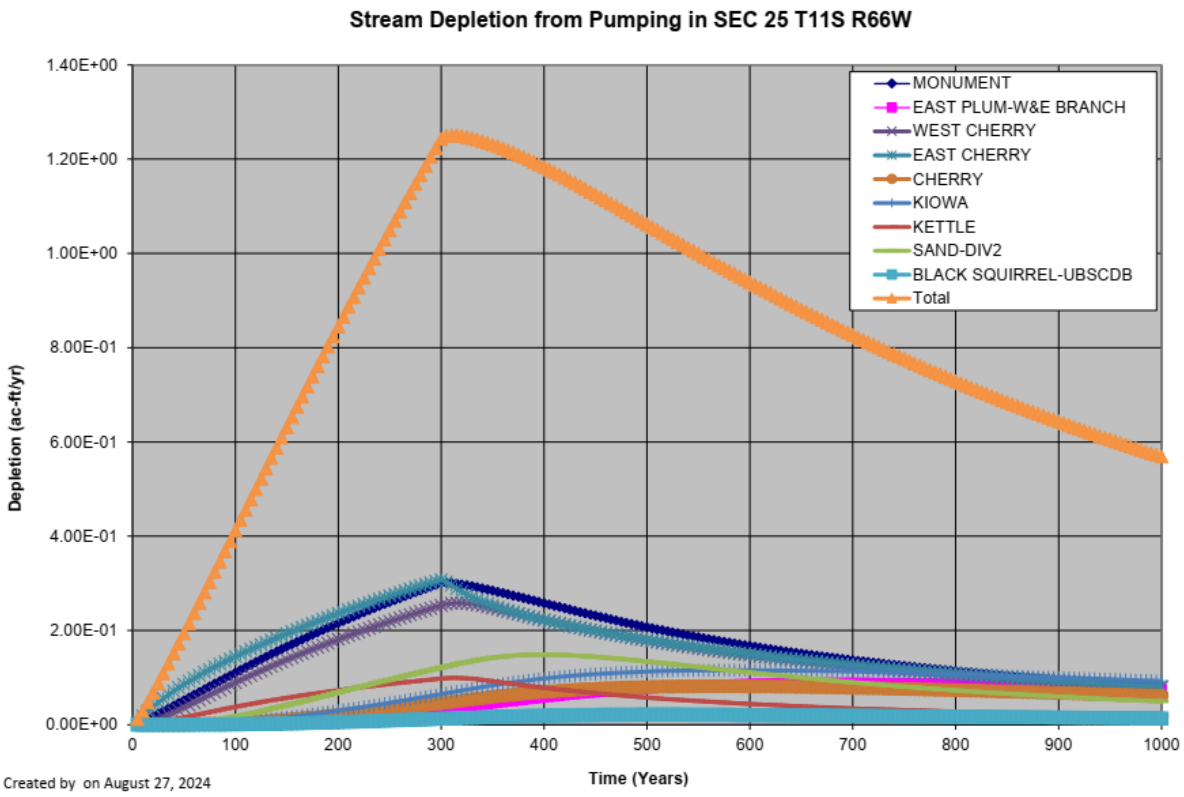
CLIENT: Doug Thal

SHEET 1 OF 1 | JOB NUMBER 96-063

Dunston
24CW3128

EXHIBIT A

Exhibit B - Dunston - 24CW3128



Dunston
24CW3128

EXHIBIT B