

DISTRICT COURT, WATER DIVISION 1, CO	
Court Address: 901 9 th Avenue, P.O. Box 2038 Greeley, CO 80632 Phone Number: (970) 475-2540	DATE FILED: April 6, 2023 10:19 AM CASE NUMBER: 2022CW3087
CONCERNING THE APPLICATION FOR WATER RIGHTS OF:	▲ COURT USE ONLY ▲
6225 VESSEY, LLC	Case No.: 22CW3087
IN EL PASO COUNTY	
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE	

THIS MATTER comes before the Water Referee on the Application filed by 6225 Vessey, LLC on June 30, 2022. Having reviewed said application and other pleadings on file, and being fully advised on this matter, the Water Referee makes the following findings and orders:

FINDINGS OF FACT

1. The Applicant in this case is 6225 Vessey, LLC, whose address is 3515 N Chestnut St., Ste. 100, Colorado Springs, CO 80907 ("Applicant"). Applicant is the owner of the land totaling approximately 6 acres on which the structures sought to be adjudicated herein are and will be located, and is the owner of the place of use where the water will be put to beneficial use.
2. The Applicant filed this Application with the Water Courts for both Water Divisions 1 and 2 on June 30, 2022. The Applications were referred to the Water Referees in both Divisions 1 and 2 on or about July 1, 2022.
3. The time for filing statements of opposition to the Application expired on the last day of August 2022. No Statements of Opposition were filed.
4. On July 6, 2022, the Division 2 Water Court, on Motion from Applicant, ordered that consolidated publication be made by only Division 1.
5. The Clerk of this Court has caused publication of the Application filed in this matter as provided by statute and the publication costs have been paid. On July 20, 2022, proof of publication in *The Transcript* was filed with Water Court Division 1.
6. There are no lienholders for the property and therefore the notice requirements of C.R.S. § 37-92-302 do not apply. A Notice of No Lienholder was filed with the Water Court, Division 2 on June 14, 2022. All notices of the Application have been given in the manner required

by law.

7. A Motion for Consolidation of the Division 1 and Division 2 cases into Water Division 1 was filed with the Colorado Supreme Court on September 2, 2022. The Panel on Consolidated Multidistrict Litigation certified the Motion for Consolidation to the Chief Justice on September 15, 2022. Chief Justice, Brian D. Boatright, granted the Motion for Consolidation by Order dated October 11, 2022.

8. Pursuant to C.R.S. §37-92-302(2), the Office of the State Engineer has filed Determination of Facts for each aquifer with this Court on August 16, 2022.

9. Pursuant to C.R.S. §37-92-302(4), the office of the Division Engineer for Water Division No. 1 filed its Summary of Consultation Report dated September 30, 2022. The Applicant filed a Response to the Consultation Report on February 7, 2023. The Water Referee has considered the Summary of Consultation Report and its Response in the entry of this Ruling.

10. The Water Court has jurisdiction over the subject matter of these proceedings and over all who have standing to appear as parties whether they have appeared or not. The land and water rights involved in this case are not within a designated groundwater basin.

GROUNDWATER RIGHTS

11. The Applicants requested the adjudication of underground water rights for Denver Basin aquifers underlying the land depicted on the attached **Exhibit A** and for underground water rights for the Vessey Wells No. 1 and 2, as constructed and as may be constructed to the Dawson aquifer, and additional or replacement wells associated therewith, for withdrawal of Applicant's full entitlements of supply under the plan for augmentation decreed herein. The following findings are made with respect to such underground water rights:

12. The land overlying the groundwater subject to the adjudication in this case is owned by the Applicant and consists of approximately 6-acres located in the NW¼ of Section 6, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, and more particularly described as 6225 Vessey Rd., Colorado Springs, CO 80908, and depicted on the attached **Exhibit A** map ("Applicant's Property"). Applicant intends to subdivide the property into up to two (2) lots. All groundwater adjudicated herein shall be withdrawn from the overlying land.

13. Vessey Wells Nos. 1 and 2: The Vessey Wells No. 1 and 2 are and will be located on the Applicant's Property. The Vessey Well No. 1 is currently permitted and constructed as an exempt well pursuant to C.R.S. §37-92-602 under Well Permit No. 87817 which must be re-permitted upon entry of this decree. Applicant is awarded the vested right to use the Vessey Wells No. 1 and 2, along with any necessary additional or replacement wells associated with such structures, for the extraction and use of groundwater from the not-nontributary Dawson aquifer pursuant to the Plan for Augmentation decreed herein. All wells will be located on the subject property. Upon entry of this decree and submittal by the Applicant of complete well permit applications and filing fees, the State Engineer shall be bound by this decree in issuing new well

permits for the Vessey Wells No. 1 and 2, pursuant to C.R.S. §37-90-137(4), consistent with and references to the Plan for Augmentation decreed herein.

14. Of the statutorily described Denver Basin aquifers, the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers all exist beneath the Applicant’s Property. The Dawson and Denver aquifers underlying the Applicants’ Property contains not-nontributary water as defined by §37-90-103(10.7), while the water of the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicant’s Property is nontributary as defined by §37-90-103(10.5). The quantity of water in the Denver Basin aquifers exclusive of artificial recharge underlying the Applicant’s Property is as follows:

AQUIFER	Net Sand (Feet)	Annual Average Withdrawal 100 Years (Acre Feet)	Annual Average Withdrawal 300 Years (Acre Feet)	Total Withdrawal (Acre Feet)
Dawson (NNT)	400	4.8	1.6	480 ¹
Denver (NNT-4%)	500	5.1	1.7	510
Arapahoe (NT)	230	2.35	0.78	235
Laramie-Fox Hills (NT)	190	1.71	0.57	171

15. Pursuant to C.R.S. §37-90-137(9)(c.5)(I), the augmentation requirements for wells in the Dawson aquifer requires the replacement to the effected stream systems of actual stream depletions on an annual basis and the augmentation requirements for wells in the Denver aquifer requires replacement to the effected stream systems of a total amount of water equal to four percent (4%) of the amount of water withdrawn on an annual basis, to the extent necessary to prevent injurious effect, based upon actual aquifer conditions. Applicant shall not be entitled to construct a well or use water from the not-nontributary Dawson or Denver aquifers except pursuant to an approved augmentation plan in accordance with C.R.S. §37-90-137(9)(c.5), including as decreed herein as concerns the Dawson aquifer.

16. Applicant shall be entitled to withdraw all legally available groundwater in the Denver Basin aquifers underlying Applicant’s Property, subject to the terms and conditions in Paragraph 21 herein as concerns the Dawson aquifer. Said amounts can be withdrawn over the 300-year life of the aquifers as set forth in El Paso County, Colorado Land Development Code §8.4.7(C)(1) which requirements also satisfy the 100-year life for the aquifers as set forth in C.R.S. §37-90-137(4), or withdrawn over a longer period of time based upon local governmental regulations or Applicant’s water needs, provided that withdrawals during such longer period are in compliance with the augmentation requirements of this decree. The average annual amounts of ground water available for withdrawal from the underlying Denver Basin aquifers, based upon both the 100-year and 300-year aquifer life is determined and set forth above, based upon the August 16, 2022 Office of the State Engineer Determination of Facts.

¹ This amount requires the existing well permit no. 87817 be cancelled and re-permitted pursuant to the plan for augmentation decreed herein.

17. Applicant shall be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed herein from the Denver Basin aquifers underlying Applicant's Property, so long as the sum of the total withdrawals from wells in the aquifer does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of the decree herein, whichever comes first, and the annual volume of water which Applicant is entitled to withdraw from the aquifer underlying Applicant's Property, subject to the requirement that such banking and excess withdrawals do not violate the terms and conditions of any well permits, the plan for augmentation decreed herein and any other plan for augmentation decreed by the Court that authorizes withdrawal of the Denver Basin groundwater decreed herein.

18. Subject to the terms and conditions in the plan for augmentation decreed herein and final approval by the State Engineer's Office pursuant to the issuance of well permits in accordance with C.R.S. §§37-90-137(4) or 37-90-137(10), the Applicant shall have the right to use the ground water for beneficial uses upon the Applicant's Property consisting of domestic, irrigation, stock water, fire protection, and also for storage and augmentation purposes associated with such uses. The amount of groundwater decreed for such uses upon the Applicant's Property is reasonable as such uses are to be made for the long-term use and enjoyment of the Applicant's Property and is to establish and provide for adequate water reserves. The nontributary groundwater, excepting such water reserved for post pumping depletions in the Plan for Augmentation decreed herein, may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the relinquishment of the right to consume two percent of such nontributary water withdrawn. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided however, as set forth above, Applicant shall only be entitled to construct wells or use water from the not-nontributary Dawson or Denver aquifers pursuant to a decreed augmentation plan entered by the Court, including the plan for augmentation for the Dawson aquifer decreed herein.

19. Withdrawals of groundwater available from the nontributary aquifers beneath the Applicant's Property in the amounts determined in accordance with the provisions of this decree will not result in material injury to any other vested water rights or to any other owners or users of water.

PLAN FOR AUGMENTATION

20. The structures to be augmented are the Vessey Wells Nos. 1 and 2 as constructed and to be constructed to the not-nontributary Dawson aquifer underlying the Applicant's Property, along with any additional or replacement wells associated therewith.

21. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation obligation for the Vessey Wells Nos. 1 and 2, and any additional or replacement wells constructed to the Dawson aquifer requires the replacement of actual stream depletions to the extent necessary to prevent any injurious effect. The water rights to be used for augmentation during pumping are the septic return flows of the not-nontributary Vessey Wells Nos. 1 and 2 to be pumped as set forth in this plan for

augmentation. The water rights to be used for augmentation after pumping are a reserved portion of Applicant's nontributary water rights in the Arapahoe and Laramie-Fox Hills aquifers. Applicant shall provide for the augmentation of stream depletions caused by pumping the Vessey Wells Nos. 1 and 2 as approved herein. Water use criteria as follows:

A. Operations and Use: The Vessey Wells Nos. 1 and 2 may each pump a maximum of 0.66 acre-feet per year per lot, for a maximum total of 1.32 acre-feet being withdrawn from the Dawson aquifer annually. Households on each lot will utilize an estimated minimum of 0.20 acre-feet of water per year per residence, with remaining pumping entitlements available for other uses on the property, including, for example, irrigation of lawn and garden, and the watering of horses or equivalent livestock, per lot. The foregoing figures assume the use of non-evaporative individual septic systems, with resulting return flows from each.

B. Depletions: Maximum stream depletions over the 300-year pumping period for the Dawson aquifer will amount to approximately 22.4% of pumping, or a maximum of 0.296 acre-feet in year 300 (being 22.4% of 1.32). Maximum stream depletions of 0.300 acre-feet occur in year 320 (being 22.7% of 1.32).

C. Augmentation of Depletions During Pumping Life of Wells: Pursuant to C.R.S. §37-90-137(9)(c.5), Applicant is required to replace actual stream depletions attributable to pumping of the two not-nontributary Dawson aquifer wells. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At the household use rate of 0.20 acre-feet per residence per year, total of 0.40 acre-feet, 0.36 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be adequately augmented provided septic system return flows are generated by indoor use of water. Return flows from the uses of the water that are estimated rather than measured may be used only to replace depletions under this plan for augmentation, and may not be used, sold, traded, or assigned in whole or in part for any other purpose.

D. Augmentation of Post Pumping Depletions. This plan for augmentation shall have a pumping period of 300 years. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Vessey Wells Nos. 1 and 2, Applicant will reserve the entirety of the nontributary Arapahoe aquifer (235 acre-feet), feet and the entirety of the Laramie Fox Hills aquifer (171 acre-feet), accounting for actual stream depletions replaced during the plan pumping period as necessary to replace injurious post pumping depletions. The amount of nontributary groundwater reserved may be reduced through this Court's retained jurisdiction as described in this decree. If the Court, by order, reduces the Applicant's obligation to account for and replace such post-pumping depletions for any reason, it may also reduce the amount of Arapahoe and Laramie-Fox Hills groundwater reserved for such purposes, as described herein. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. Pursuant to C.R.S. §37-90-137(9)(b), no more than 98% of water withdrawn annually from a nontributary

aquifer shall be consumed. The reservation of 235 acre-feet from the Arapahoe aquifer and 171 acre-feet from the Laramie-Fox Hills aquifer results in approximately 397.9 acre-feet of available post-pumping augmentation water, which will be sufficient to replace post-pumping depletions based on total pumping of 1.32 acre-feet from the Dawson aquifer annually and maximum depletions of 0.295 annually based on the 300-year augmentation plan. Upon entry of a decree in this case, the Applicant will be entitled to apply for well permits for the Vessey Wells Nos. 1 and 2 for the uses described herein and in accordance with this decree and otherwise in compliance with C.R.S. §37-90-137. The State Engineer shall be bound by this decree and C.R.S. §37-90-137(4) in issuing new well permits for the Vessey Wells Nos. 1 and 2.

23. Because depletions occur to both the South Platte and Arkansas River systems under the State's groundwater flow model, the Application in this case was filed in both Water Divisions 1 and 2. The return flows set forth above as the augmentation source during the pumping period will accrue to only the South Platte River system where most of the depletions will occur and where the Applicant's Property is located. Under this augmentation plan, the total amount of depletions will be replaced to the South Platte River system as set forth herein and shown on **Exhibit B**, and the Court finds that those replacements are sufficient under this augmentation plan subject to Paragraphs 41-45 herein. Applicant must provide accounting as required by the State Engineer or Division Engineer. Such accounting must include 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 reasonably required by the Division Engineer to properly administer the decree.

24. A certified copy of this decree shall be recorded in the real estate records of El Paso County and shall constitute a covenant running with Applicant's Property, benefitting and burdening said land, requiring Applicant to construct a well(s) to the nontributary Arapahoe and Laramie-Fox Hills aquifers, and requiring Applicant to pump water to replace any injurious post-pumping depletions under this decree. Subject to the requirements of this decree, in order to determine the amount and timing of post-pumping replacement obligations, if any, under this augmentation plan, Applicant or its successors shall use information commonly used by the Colorado Division of Water Resources for augmentation plans of this type at the time. Pursuant to this covenant, the water from the nontributary Arapahoe and Laramie-Fox Hills aquifers reserved herein may not be severed in ownership from the overlying subject property. This covenant shall be for the benefit of, and enforceable by, third parties owning vested water rights who would be materially injured by the failure to provide for the replacement of post-pumping depletions under the decree, and shall be specifically enforceable by such third parties against the owner of the Applicant's Property.

25. Applicant or its successors shall be required to initiate pumping from the Arapahoe and Laramie-Fox Hills aquifers for the replacement of post-pumping depletions when either: (i) the absolute total amount of water available from the Dawson aquifer allowed to be withdrawn under the plan for augmentation decreed herein (420 acre-feet) has been pumped; (ii) the Applicant or its successors in interest have acknowledged in writing that all withdrawals for beneficial use through the Vessey Wells Nos. 1 and 2 have permanently ceased, or (iii) a period of 10 consecutive years where either no withdrawals of groundwater has occurred. Until such time as the post

pumping depletions begin the Applicant or their successors must continue to replace during pumping depletions to the stream system using return flows, with septic return flows as set forth in Paragraph 21.C above or by pumping water directly to the stream system to replace such depletions or using another approved replacement source.

26. The term of this augmentation plan is for a period of 300 years, however, the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated to such well or wells has not actually been pumped, all terms in this paragraph are met, and the amendment to the augmentation plan decreed herein is approved by the Court. Should the actual operation of this augmentation plan depart from the planned diversions described in Paragraph 21 such that the planned annual diversions have not been pumped, the Applicant may prepare and submit a revised model of stream depletions caused by the actual pumping or intended schedule. This analysis must utilize depletion modeling acceptable to the State Engineer, and to this Court, and must represent the water use under the plan for the entire term of the plan to date. The analysis must show that return flows have equaled or exceeded actual stream depletions throughout the pumping period and that reserved nontributary water remains sufficient to replace post-pumping depletions. If the revised depletion modeling is acceptable to the State Engineer, this Court may approve the amendment to this plan for the extension of this augmentation plan past the 300-year minimum.

27. Consideration has been given to the depletions from Applicant's use and proposed uses of water, in quantity, time and location, together with the amount and timing of augmentation water which will be provided by the Applicant, and the existence, if any, injury to any owner of or person entitled to use water under a vested water right.

28. It is determined that the timing, quantity, and location of replacement water under the protective terms in this decree are sufficient to protect the vested rights of other water users and eliminate material injury thereto. The replacement water shall be of a quantity and quality so as to meet the requirements for which the water of senior appropriators has normally been used, and provided of such quality, such replacement water shall be accepted by the senior appropriators for substitution for water derived by the exercise of the Vessey Wells Nos. 1 and 2. As a result of the operation of this plan for augmentation, the depletions from the Vessey Wells Nos. 1 and 2 and any additional or replacement wells associated therewith will not result in material injury to the vested water rights of others.

CONCLUSIONS OF LAW

29. The application for Adjudication of Denver Basin Groundwater and Plan for Augmentation was filed with the Water Clerk for Water Divisions 1 and 2, pursuant to C.R.S. §§ 37-92-302(1)(a) and 37-90-137(9)(c.5). These cases were properly consolidated before Water Division 1.

30. The Applicant's request for adjudication of these water rights is contemplated and authorized by law, and this Court and the Water Referee have exclusive jurisdiction over these

proceedings pursuant C.R.S. §§37-92-302(1)(a), 37-92-203, and 37-92-305.

31. Subject to the terms of this decree, the Applicant is entitled to the sole right to withdraw all the legally available water in the Denver Basin aquifers underlying the Applicant's Property, and the right to use that water to the exclusion of all others.

32. The Applicant has complied with C.R.S. § 37-90-137(4), and the groundwater is legally available for withdrawal by the requested nontributary well(s), and legally available for withdrawal by the requested not-nontributary well(s) upon the entry of this decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). Applicant is entitled to a decree from this Court confirming its rights to withdraw groundwater pursuant to C.R.S. §37-90-137(4).

33. The Denver Basin water rights applied for in this case are not conditional water rights, but are vested water rights determined pursuant to C.R.S. §37-90-137(4). No applications for diligence are required. The claims for nontributary and not-nontributary groundwater meet the requirements of Colorado Law.

34. The determination and quantification of the nontributary and not-nontributary groundwater rights in the Denver Basin aquifers as set forth herein is contemplated and authorized by law pursuant to C.R.S. §§37-90-137, and 37-92-302 through 37-92-305.

35. The Applicant's request for Adjudication of Denver Basin Groundwater Rights and Plan for Augmentation is contemplated and authorized by law. If administered in accordance with this decree, this revised plan for augmentation will permit the uninterrupted diversions from the Vessey Wells Nos. 1 and 2 without adversely affecting any other vested water rights in the Arkansas River and South Platte River or its tributaries and when curtailment would otherwise be required to meet a valid senior call for water pursuant to C.R.S. §§37-92-305(3),(5), and (8).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

36. All of the foregoing Findings of Fact and Conclusions of Law are incorporated herein by reference and are considered to be a part of this decretal portion as though set forth in full.

37. The Plan for Augmentation proposed by the Applicant is approved, subject to the terms of this decree.

A. The Applicant is awarded a vested right to the entire 480 acre-feet of groundwater from the not-nontributary Dawson aquifer underlying Applicant's Property, as quantified in Paragraph 14 or as modified by the Court under its retained jurisdiction. Of the total 480 acre-feet, 420 acre-feet may be pumped pursuant to the plan for augmentation decreed herein.

B. The Applicant is awarded a vested right to 510 acre-feet of groundwater from the not-nontributary Denver aquifer underlying Applicant's Property, as quantified in

Paragraph 14 or as modified by the Court under its retained jurisdiction. Applicant's Denver aquifer groundwater may be utilized for all purposes described in Paragraph 18, subject to Applicant obtaining a court approved plan for augmentation allowing pumping from the non-tributary Denver aquifer.

C. The Applicant is awarded a vested right to 235 acre-feet of groundwater from the nontributary Arapahoe aquifer underlying Applicant's Property, as quantified in Paragraph 14 or as modified by the Court under its retained jurisdiction. Subject to the provisions of Rule 8 of the Denver Basin Rules, 2 CCR 402-6, limiting consumption to ninety-eight percent of the amount withdrawn, and the other terms and conditions of this decree, Applicant's Arapahoe aquifer groundwater may be utilized for all purposes described in Paragraph 18, subject to the reservation for use in the plan for augmentation decreed herein consistent with Paragraph 21.D., above.

D. The Applicant is awarded a vested right to 171 acre-feet of groundwater from the nontributary Laramie-Fox Hills aquifer underlying Applicant's Property, as quantified in Paragraph 14 or as modified by the Court under its retained jurisdiction. Subject to the provisions of Rule 8 of the Denver Basin Rules, 2 CCR 402-6, limiting consumption to ninety-eight percent of the amount withdrawn, and the other terms and conditions of this decree, Applicant's Laramie-Fox Hills aquifer groundwater may be utilized for all purposes described in Paragraph 18, subject to the reservation for use in the plan for augmentation decreed herein consistent with Paragraph 21.D., above.

38. The Applicant has furnished acceptable proof as to all claims and, therefore, the Plan for Augmentation Application, as requested by the Applicant, is granted and approved in accordance with the terms and conditions of this decree. Approval of this Application will not result in any material injury to senior vested water rights.

39. The Applicants shall comply with C.R.S. §37-90-137(9)(b), requiring the relinquishment of the right to consume two percent (2%) of the amount of the nontributary groundwater withdrawn. Ninety-eight percent (98%) of the nontributary groundwater withdrawn may therefore be consumed. No plan for augmentation shall be required to provide for such relinquishment.

40. The Vessey Wells Nos. 1 and 2, and any replacement or additional wells, shall be operated such that combined pumping from all wells does not exceed the annual (1.40 acre-feet) and total (420 acre-feet) pumping limits for the Dawson aquifer as decreed herein, and is in accordance with the requirements of the plan for augmentation described herein. The State Engineer, the Division Engineer, and/or the Water Commissioner shall not curtail the diversion and use of water by Vessey Wells Nos. 1 and 2 or any additional and replacement wells so long as the return flows from the annual diversions associated with the Vessey Wells Nos. 1 and 2 and such other wells accrue to the stream system and the wells operate pursuant to the conditions contained herein. To the extent that Applicant or one of its successors or assigns is ever unable to provide the replacement water required, then the Vessey Wells Nos. 1 and 2 and any additional or replacement wells shall not be entitled to operate under the protection of this plan, and shall be

subject to administration and curtailment in accordance with the laws, rules, and regulations of the State of Colorado. Pursuant to C.R.S. §37-92-305(8), the State Engineer shall curtail all out-of-priority diversions which are not so replaced as to prevent injury to vested water rights. In order for this plan for augmentation to operate, return flows from the septic systems discussed herein shall at all times during pumping be in an amount sufficient to replace the amount of stream depletions. Applicant shall be required to have any wells pumping on the Applicant's Property providing water for in-house uses and generating septic system returns prior to pumping the wells for any of the other uses identified in Paragraphs 18 or 21.A. If for any reason, sufficient return flows are not available to replace the actual depletions as shown on **Exhibit B**, the Applicant must pump water directly into the stream system in the amount that has not been replaced by return flows. If such water is withdrawn from the Dawson aquifer well(s) operated under the augmentation plan, the amount of water being pumped from the well(s) for other purposes must be reduced so that the allowed annual withdrawal from the well(s) is not exceeded. Such replacement must be made prior to the irrigation season for the following year.

41. The Court retains jurisdiction over this matter to make adjustments in the allowed average annual amount of withdrawal from the Denver Basin aquifers, either upwards or downwards, to conform to actual local aquifer characteristics, and that the Applicant need not refile, republish, or otherwise amend this application to request such adjustments. The Court further retains jurisdiction should the Applicant later seek to amend this decree by seeking to prove that post-pumping depletions are noninjurious, that the extent of replacement for post-pumping depletions is less than the amount of water reserved herein, and other post-pumping matters addressed in Paragraph 21.D.

A. At such time as adequate data may be available, Applicant or the State Engineer may invoke the Court's retained jurisdiction as provided in this Paragraph 41 for purposes of making a final determination of water rights as to the quantities of water available and allowed average annual withdrawals from any of the Denver Basin aquifers quantified and adjudicated herein. Any person seeking to invoke the Court's retained jurisdiction for such purpose shall file a verified petition with the Court setting forth with particularity the factual basis for such final determination of Denver Basin water rights under this decree, together with the proposed decretal language to effect the petition. Within four months of the filing of such verified petition, the State Engineer's Office shall utilize such information as available to make a final determination of water rights finding, and shall provide such information to the Court, Applicant, and the petitioning party.

B. If no protest is filed with the Court to such findings by the State Engineer's Office within sixty (60) days, this Court shall incorporate by entry of an Amended Decree such "final determination of water rights." In the event of a protest being timely filed, or should the State Engineer's Office make no timely determination as provided in Paragraph 41.A., above, the "final determination of water rights" sought in the petition may be made by the Water Court after notice to all parties and following a full and fair hearing, including entry of an Amended Decree, if applicable in the Court's reasonable discretion.

42. Pursuant to C.R.S. §37-92-304(6), the Court shall retain 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, as pertains to the use of Denver Basin groundwater supplies adjudicated herein for augmentation purposes. The court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan, including the requirement to construct a well in the Arapahoe and the Laramie-Fox Hills aquifers as described in Paragraph 25. The Court further retains jurisdiction should the Applicant later seek to amend this decree by seeking to prove that post-pumping depletions are noninjurious, that the extent of replacement for post-pumping depletions is less than the amount of water reserved herein, and other post-pumping matters addressed in Paragraph 21.D. The Court's retained jurisdiction may be invoked using the process set forth in Paragraph 41.

43. As pertains to the Denver Basin groundwater supplies, the Court shall retain continuing jurisdiction for so long as Applicants are 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 injury to water rights tributary to the Arkansas River system.

44. 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 the alleged injury and to request that the Court reconsider injury to petitioners' vested water rights associated with the above replacement of depletions under this decree, together with the proposed decretal language to effect the petition. The party filing the petition shall have the burden of proof going forward to establish a prima facie case based on the facts alleged in the petition and that Applicant's failure to replace depletions to the Arkansas River system is causing injury to water rights owned by that party invoking the Court's retained jurisdiction, except that the State and Division Engineer 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 in the Arkansas River system due to the location of Applicant's replacement water. If the Court finds that those facts are established, the Applicant shall thereupon have the burden of proof to show (i) that 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.

45. Except as otherwise specifically provided in Paragraphs 41-44, above, pursuant to the provisions of C.R.S. §37-92-304(6), this plan for augmentation decreed herein shall be subject to the reconsideration of this Court on the question of injury to vested water rights for a period of five years from the date of entry of decree. 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 on the question of injury to vested water rights of others under its own terms, although the Court retains continuing jurisdiction as specifically provided in Paragraphs 41-44.

46. Pursuant to C.R.S. §37-92-502(5)(a), the Applicant shall install and maintain such water measurement devices and recording devices as are deemed necessary by the State Engineer or Division Engineers, and the same shall be installed and operated in accordance with instructions from said entities. Applicant is to install and maintain a totalizing flow meter on each of the Vessey Wells Nos. 1 and 2, or any additional or replacement wells associated therewith, and are required to include geophysical logging on each well. Applicant shall read and record their well meter readings annually and shall submit their meter readings as required by the Division Engineer or their representative.

47. The vested water rights, water right structures, and plan for augmentation decreed herein shall be subject to all applicable administrative rules and regulations, as currently in place or as may in the future be promulgated, of the offices of Colorado State and Division Engineers for administration of such water rights, to the extent such rules and regulations are uniformly applicable to other similarly situated water rights and water users. The Vessey Well No. 1 shall be permitted as a non-exempt structure under the plan for augmentation decreed herein. The State Engineer shall identify in any permits issued pursuant to this decree the specific uses which can be made of the groundwater to be withdrawn, and, to the extent the well permit application requests a use that has not been specifically identified in this decree, shall not issue a permit for any proposed use, which use the State Engineer determines to be speculative at the time of the well permit application or which would be inconsistent with the requirements of this decree, any separately decreed plan for augmentation, or any modified decree and augmentation plan.

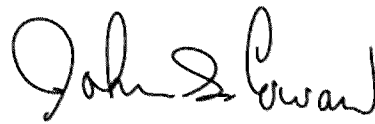
48. The entire length of open bore holes shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicants may provide a geophysical log from an adjacent well or test hole, pursuant to Rule 9A of the Statewide Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

49. Wells constructed to withdraw the decreed groundwater may only withdraw groundwater from a single aquifer. A site-specific evaluation must be conducted with each well permit to identify the correct aquifer interval due to the varied elevations of the aquifers and surface topography.

50. Each well shall be permanently identified by its permit number, this Water Court Case Number, and the name of the producing aquifer on the above-ground portion of the well casing or on the pump house.

51. This Ruling of Referee, when entered as a decree of the Water Court, shall be recorded in the real property records of El Paso County, Colorado. Copies of this ruling shall be mailed as provided by statute.

Dated: March 13, 2023

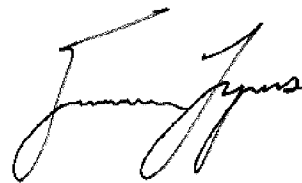


John Cowan
Water Referee
Water Division One

DECREE

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

Dated: April 6, 2023

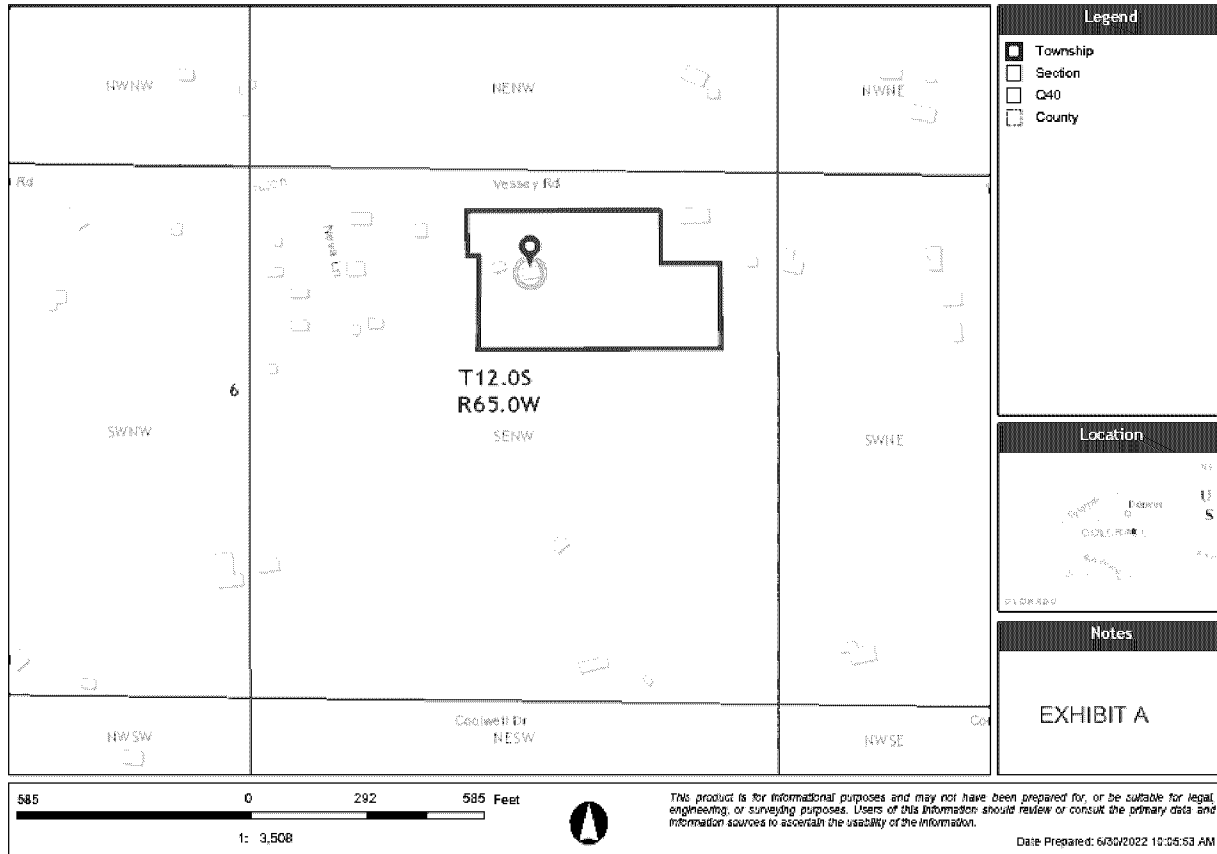


Shannon Lyons
Alternate Water Judge
Water Division One



COLORADO'S
Decision Support Systems
CWCA / DSS

Approximate Location of Applicant's Property



That portion of the Northwest quarter of Section 6 in Township 12 South, Range 65 West of the 6th P.M., described as follows: Commencing at a point on the West line of said Section 6 that is 3979.50 feet North on said West line from the Southwest corner of said Section 6; thence South 88°52'30" East 1954 feet to the point of beginning of the tract to be described hereby; Thence continue South 88°52'30" East 495 feet, being on the center line of said Vessey Road; thence South 160 feet parallel with the West line of said Northwest quarter; thence South 88°52'30" East 165 feet; thence South 320 feet, parallel with the West line of said Northwest quarter; thence North 88°52'30" West 634 feet to a point on the East line of the tract described in deed to Verda Marie Hanson, recorded in Book 1752 at Page 76 of the records of El Paso County, Colorado, under Reception No. 117650, that is 10 feet North on said East line from the Southeast corner thereof; thence North 0°07'30" West 320 feet; thence North 88°52'30" West 26 feet; thence North 00°7'30" East 160 feet to the point of beginning, except the Northerly 30 feet and the Easterly 15 feet thereof, in El Paso County, Colorado. with all its appurtenances and warrant the title to the same.

County of El Paso and State of Colorado.

also known by street and number as **6225 Vessey Road, Colorado Springs, CO 80908-3358**

6225 Vessey, LLC
22CW3087

EXHIBIT A

Summary Table 1			Summary Table 2				
Applicant Name	6225 Vessey, LLC		Model Period (years)	700			
Case No. or Receipt No.	22CW3087		Applicant Name	6225 Vessey, LLC			
Number of Years of Pumping	300		Case No. or Receipt No.	22CW3087			
Pumping Rate (ac-ft/yr)	1.32		Number of Years of Pumping	300			
Total Volume (ac-ft)	396		Pumping Rate (ac-ft/yr)	1.32			
Legal for All Sections	Sec. 6, T12S, R65W, 6th P.M.		Total Volume (ac-ft)	396			
Model	DA02		Legal for All Sections	Sec. 6, T12S, R65W, 6th P.M.			
Aquifer	DAWSON		Model	DA02			
			Aquifer	DAWSON			
100th Year Stream Depletion			Maximum Stream Depletion				
Streams	100th Year Depletion (ac-ft/yr)	q/Q (%)	Streams	Max Depletion during model period (ac-ft/yr)	Year during model period	Max. Depletion during pumping period (ac-ft/yr)	Year during pumping period
MONUMENT	0.02	1.74	MONUMENT	0.063	305	0.062	300
EAST PLUM-W&E BRANCH	0.000	0.01	EAST PLUM-W&E BRANCH	0.018	775	0.004	300
RUNNING CREEK	0.000	0.00	RUNNING CREEK	0.003	740	0.001	300
WEST CHERRY	0.010	0.75	WEST CHERRY	0.048	380	0.042	300
EAST CHERRY	0.024	1.79	EAST CHERRY	0.060	305	0.060	300
CHERRY	0.000	0.03	CHERRY	0.017	835	0.007	300
KIOWA	0.001	0.07	KIOWA	0.028	810	0.014	300
KETTLE	0.022	1.67	KETTLE	0.041	300	0.041	300
SAND-DIV2	0.014	1.07	SAND-DIV2	0.063	345	0.059	300
BIG SANDY	0.000	0.00	BIG SANDY	0.001	1000	0.000	300
BLACK SQUIRREL-UBSCDB	0.001	0.05	BLACK SQUIRREL-UBSCDB	0.008	425	0.006	300
Total	0.095	7.18	Total	0.300	320	0.296	300
South Platte (No Designated Basin Streams)	0.034	2.57	South Platte (No Designated Basin Streams)	0.119	350	0.114	300
Arkansas (No Designated Basin Streams)	0.059	4.48	Arkansas (No Designated Basin Streams)	0.162	305	0.162	300
Designated Basin	0.002	0.12	Designated Basin	0.033	880	0.020	300

Created by Wenli Dickinson on March 09, 2023

Values for 'Depletion as a % of Pumping' (q/Q) are not calculated when the pumping rate (Q) is changed to anything but zero

Summary of Total Depletion (South Platte+Arkansas+Designated Basin Streams)											
Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)
5	0.16	0.002	255	19.28	0.254	505	18.91	0.250	755	13.83	0.180
10	0.40	0.005	260	19.63	0.259	510	18.79	0.248	760	13.55	0.179
15	0.69	0.009	265	19.98	0.264	515	18.68	0.246	765	13.46	0.178
20	1.02	0.013	270	20.34	0.268	520	18.54	0.245	770	13.38	0.177
25	1.36	0.018	275	20.69	0.273	525	18.42	0.243	775	13.29	0.175
30	1.71	0.023	280	21.04	0.278	530	18.29	0.241	780	13.21	0.174
35	2.07	0.027	285	21.38	0.282	535	18.17	0.240	785	13.13	0.173
40	2.44	0.032	290	21.72	0.287	540	18.06	0.238	790	13.05	0.172
45	2.82	0.037	295	22.08	0.291	545	17.94	0.237	795	12.96	0.171
50	3.20	0.042	300	22.40	0.296	550	17.82	0.235	800	12.88	0.170
55	3.58	0.047	305	22.59	0.298	555	17.70	0.234	805	12.80	0.169
60	3.97	0.052	310	22.87	0.299	560	17.58	0.232	810	12.72	0.168
65	4.36	0.058	315	22.71	0.300	565	17.46	0.231	815	12.64	0.167
70	4.76	0.063	320	22.72	0.300	570	17.35	0.229	820	12.56	0.166
75	5.16	0.068	325	22.71	0.300	575	17.23	0.227	825	12.48	0.165
80	5.56	0.073	330	22.68	0.299	580	17.12	0.228	830	12.40	0.164
85	5.97	0.079	335	22.63	0.299	585	17.01	0.225	835	12.33	0.163
90	6.37	0.084	340	22.59	0.298	590	16.89	0.223	840	12.25	0.162
95	6.78	0.089	345	22.53	0.297	595	16.78	0.222	845	12.17	0.161
100	7.18	0.095	350	22.47	0.297	600	16.67	0.220	850	12.10	0.160
105	7.60	0.100	355	22.40	0.296	605	16.56	0.219	855	12.03	0.159
110	8.00	0.106	360	22.32	0.295	610	16.45	0.217	860	11.95	0.158
115	8.41	0.111	365	22.24	0.294	615	16.34	0.216	865	11.88	0.157
120	8.82	0.116	370	22.15	0.292	620	16.24	0.214	870	11.80	0.156
125	9.23	0.122	375	22.05	0.291	625	16.13	0.213	875	11.73	0.155
130	9.64	0.127	380	21.98	0.290	630	16.03	0.212	880	11.66	0.154
135	10.04	0.133	385	21.88	0.288	635	15.92	0.210	885	11.59	0.153
140	10.45	0.138	390	21.75	0.287	640	15.82	0.209	890	11.51	0.152
145	10.86	0.143	395	21.64	0.286	645	15.71	0.207	895	11.44	0.151
150	11.28	0.149	400	21.53	0.284	650	15.61	0.206	900	11.37	0.150
155	11.68	0.154	405	21.41	0.283	655	15.51	0.205	905	11.31	0.149
160	12.08	0.159	410	21.30	0.281	660	15.41	0.203	910	11.23	0.148
165	12.48	0.164	415	21.17	0.279	665	15.31	0.202	915	11.17	0.147
170	12.88	0.170	420	21.05	0.278	670	15.21	0.201	920	11.10	0.146
175	13.25	0.175	425	20.93	0.276	675	15.11	0.199	925	11.03	0.146
180	13.64	0.180	430	20.81	0.275	680	15.02	0.198	930	10.97	0.145
185	14.03	0.185	435	20.68	0.273	685	14.92	0.197	935	10.89	0.144
190	14.42	0.190	440	20.55	0.271	690	14.82	0.196	940	10.83	0.143
195	14.81	0.196	445	20.43	0.270	695	14.73	0.194	945	10.76	0.142
200	15.20	0.201	450	20.30	0.268	700	14.63	0.193	950	10.70	0.141
205	15.58	0.206	455	20.18	0.266	705	14.54	0.192	955	10.64	0.140
210	15.98	0.211	460	20.05	0.265	710	14.45	0.191	960	10.57	0.140
215	16.33	0.216	465	19.92	0.263	715	14.35	0.189	965	10.50	0.139
220	16.71	0.221	470	19.80	0.261	720	14.28	0.188	970	10.44	0.138
225	17.09	0.226	475	19.87	0.260	725	14.17	0.187	975	10.38	0.137
230	17.45	0.230	480	19.54	0.258	730	14.08	0.186	980	10.32	0.136
235	17.83	0.235	485	19.41	0.256	735	13.98	0.185	985	10.25	0.135
240	18.19	0.240	490	19.29	0.255	740	13.90	0.183	990	10.19	0.135
245	18.58	0.245	495	19.18	0.253	745	13.81	0.182	995	10.13	0.134
250	18.91	0.250	500	19.03	0.251	750	13.72	0.181	1000	10.07	0.133

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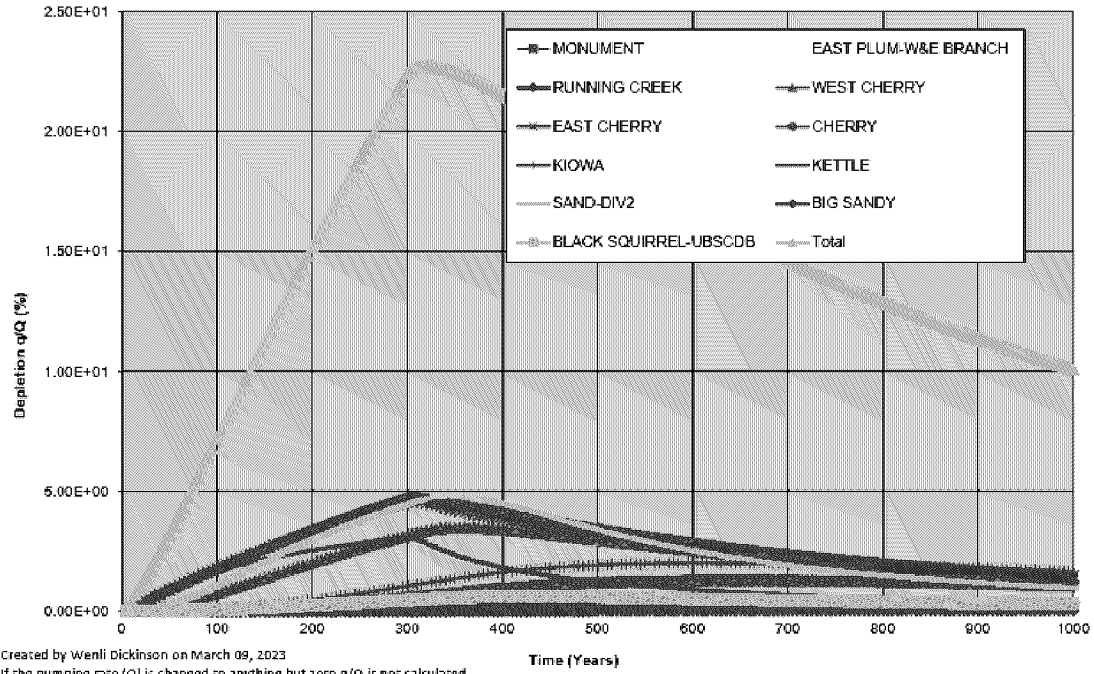
Values for 'Depletion as a % of Pumping' (q/Q) are not calculated when the pumping rate (Q) is changed to anything but zero

Designated Basin Stream Depletion Summary Table											
Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)
5	0.00	0.000	255	1.12	0.015	505	2.51	0.033	755	2.36	0.031
10	0.00	0.000	260	1.16	0.015	510	2.51	0.033	760	2.36	0.031
15	0.00	0.000	265	1.20	0.016	515	2.52	0.033	765	2.35	0.031
20	0.00	0.000	270	1.24	0.016	520	2.52	0.033	770	2.34	0.031
25	0.00	0.000	275	1.28	0.017	525	2.53	0.033	775	2.34	0.031
30	0.00	0.000	280	1.32	0.017	530	2.53	0.033	780	2.33	0.031
35	0.00	0.000	285	1.36	0.018	535	2.53	0.033	785	2.32	0.031
40	0.01	0.000	290	1.40	0.019	540	2.53	0.033	790	2.31	0.031
45	0.01	0.000	295	1.45	0.019	545	2.53	0.033	795	2.31	0.030
50	0.01	0.000	300	1.49	0.020	550	2.53	0.033	800	2.30	0.030
55	0.02	0.000	305	1.53	0.020	555	2.54	0.033	805	2.29	0.030
60	0.02	0.000	310	1.57	0.021	560	2.54	0.033	810	2.28	0.030
65	0.03	0.000	315	1.61	0.021	565	2.54	0.033	815	2.28	0.030
70	0.04	0.001	320	1.66	0.022	570	2.54	0.033	820	2.27	0.030
75	0.05	0.001	325	1.70	0.022	575	2.53	0.033	825	2.26	0.030
80	0.06	0.001	330	1.74	0.023	580	2.53	0.033	830	2.25	0.030
85	0.08	0.001	335	1.78	0.024	585	2.53	0.033	835	2.25	0.030
90	0.09	0.001	340	1.82	0.024	590	2.53	0.033	840	2.24	0.030
95	0.11	0.001	345	1.86	0.025	595	2.53	0.033	845	2.23	0.029
100	0.12	0.002	350	1.90	0.025	600	2.53	0.033	850	2.22	0.029
105	0.14	0.002	355	1.94	0.026	605	2.52	0.033	855	2.21	0.029
110	0.16	0.002	360	1.98	0.026	610	2.52	0.033	860	2.21	0.029
115	0.18	0.002	365	2.01	0.027	615	2.52	0.033	865	2.20	0.029
120	0.20	0.003	370	2.05	0.027	620	2.51	0.033	870	2.19	0.029
125	0.23	0.003	375	2.08	0.027	625	2.51	0.033	875	2.18	0.029
130	0.25	0.003	380	2.11	0.028	630	2.51	0.033	880	2.17	0.029
135	0.28	0.004	385	2.14	0.028	635	2.50	0.033	885	2.17	0.029
140	0.31	0.004	390	2.17	0.029	640	2.50	0.033	890	2.16	0.028
145	0.33	0.004	395	2.20	0.029	645	2.49	0.033	895	2.15	0.028
150	0.36	0.005	400	2.22	0.029	650	2.49	0.033	900	2.14	0.028
155	0.39	0.005	405	2.25	0.030	655	2.49	0.033	905	2.13	0.028
160	0.42	0.006	410	2.27	0.030	660	2.48	0.033	910	2.13	0.028
165	0.45	0.006	415	2.29	0.030	665	2.48	0.033	915	2.12	0.028
170	0.49	0.006	420	2.31	0.031	670	2.47	0.033	920	2.11	0.028
175	0.52	0.007	425	2.33	0.031	675	2.47	0.033	925	2.10	0.028
180	0.55	0.007	430	2.35	0.031	680	2.46	0.032	930	2.09	0.028
185	0.59	0.008	435	2.37	0.031	685	2.45	0.032	935	2.08	0.028
190	0.62	0.008	440	2.38	0.031	690	2.45	0.032	940	2.08	0.027
195	0.66	0.009	445	2.40	0.032	695	2.44	0.032	945	2.07	0.027
200	0.69	0.009	450	2.41	0.032	700	2.44	0.032	950	2.06	0.027
205	0.73	0.010	455	2.42	0.032	705	2.43	0.032	955	2.05	0.027
210	0.77	0.010	460	2.44	0.032	710	2.42	0.032	960	2.04	0.027
215	0.80	0.011	465	2.45	0.032	715	2.42	0.032	965	2.04	0.027
220	0.84	0.011	470	2.46	0.032	720	2.41	0.032	970	2.03	0.027
225	0.88	0.012	475	2.47	0.033	725	2.41	0.032	975	2.02	0.027
230	0.92	0.012	480	2.48	0.033	730	2.40	0.032	980	2.01	0.027
235	0.96	0.013	485	2.48	0.033	735	2.39	0.032	985	2.00	0.026
240	1.00	0.013	490	2.49	0.033	740	2.39	0.031	990	2.00	0.026
245	1.04	0.014	495	2.50	0.033	745	2.38	0.031	995	1.99	0.026
250	1.08	0.014	500	2.50	0.033	750	2.37	0.031	1000	1.98	0.026

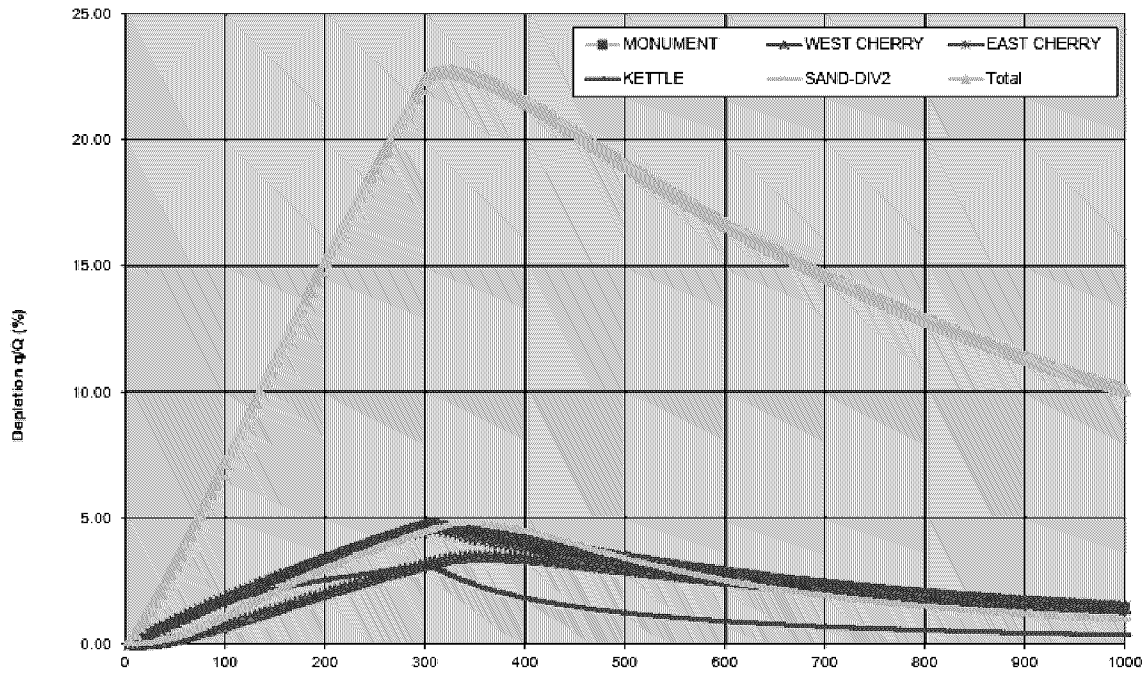
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Values for 'Depletion as a % of Pumping' (q/Q) are not calculated when the pumping rate (Q) is changed to anything but zero

Stream Depletion from Pumping in Sec. 6, T12S, R65W, 6th P.M.

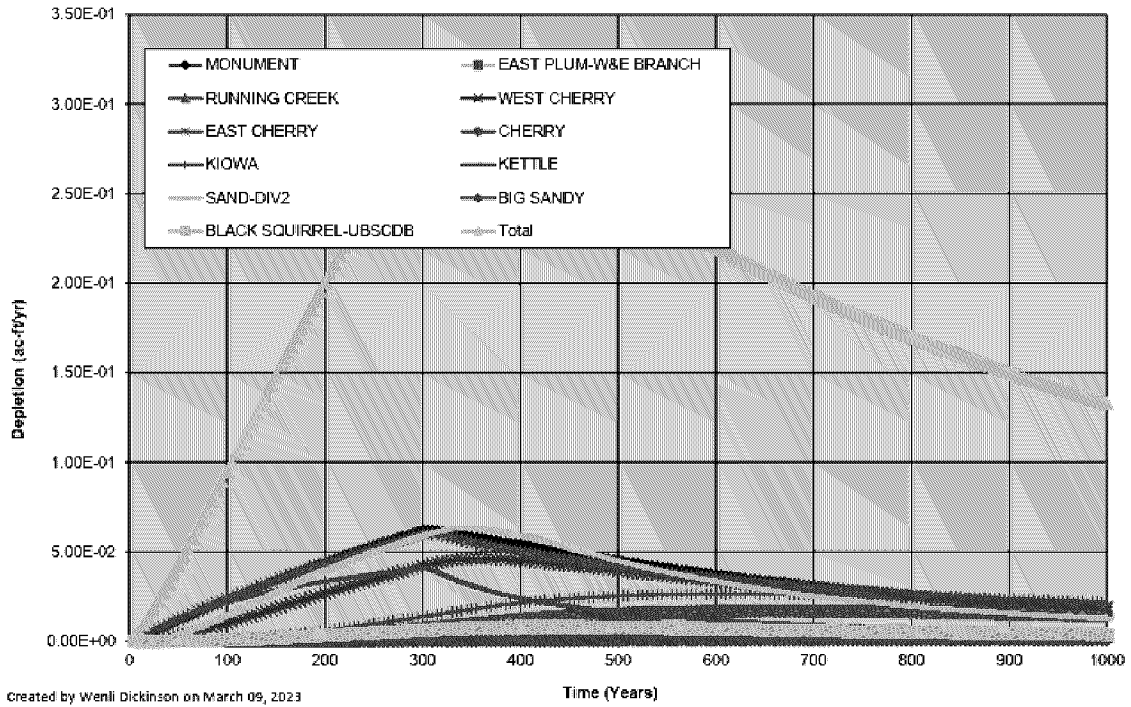


Stream Depletion from Pumping in Sec. 6, T12S, R65W, 6th P.M.

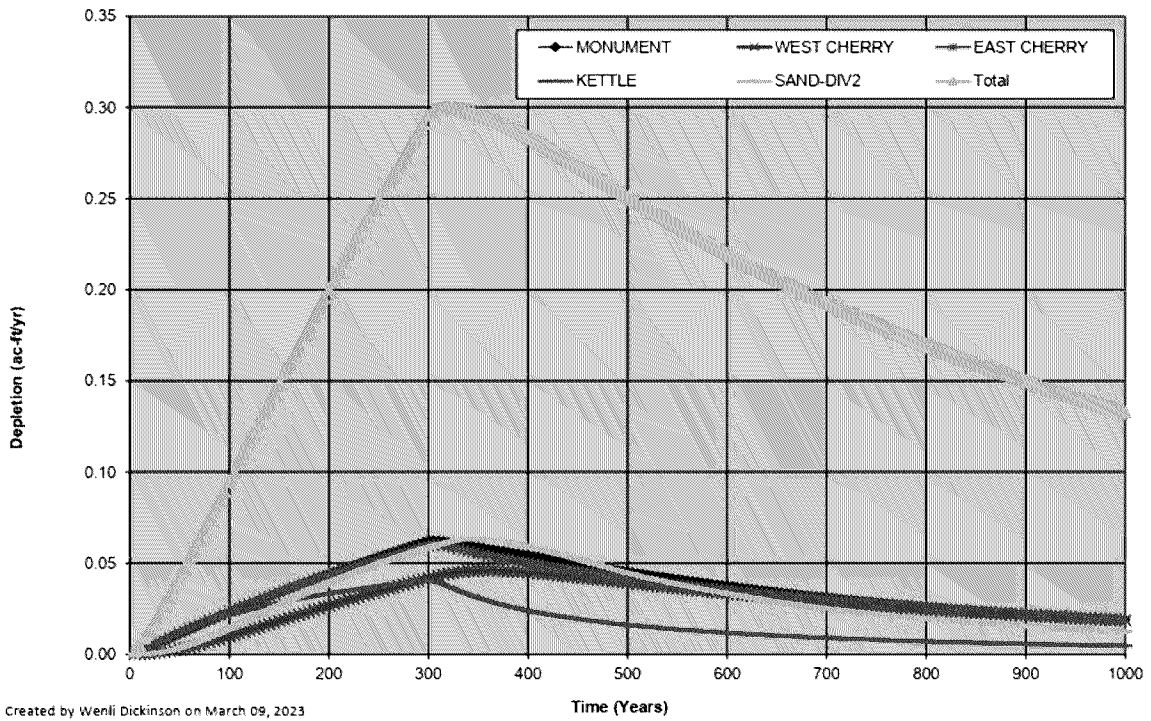


Created by Wenli Dickinson on March 09, 2023
If the pumping rate (Q) is changed to anything but zero q/Q is not calculated

Stream Depletion from Pumping in Sec. 6, T12S, R65W, 6th P.M.



Stream Depletion from Pumping in Sec. 6, T12S, R65W, 6th P.M.



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Stream Depletion from Pumping in Sec. 6, T12S, R65W, 6th P.M.

