DISTRICT COURT, WATER DIVISION 2, STATE OF COLORADO Court Address: 501 North Elizabeth Street Suite 116 Pueblo, CO 81003 Phone Number: 719-404-8832	DATE FILED September 11, 2026 3:45 PM CASE NUMBER: 2026CW3011
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: **PONDEROSA PARADISE LLC** **IN THE ARKANSAS RIVER OR ITS TRIBUTARIES IN EL PASO COUNTY**	▲ COURT USE ONLY ▲ Case No.: 26CW3011

FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE, AND DECREE: ADJUDICATING DENVER BASIN GROUNDWATER AND APPROVING PLAN FOR AUGMENTATION

THIS MATTER comes before the Water Court on the Application filed by Applicant Ponderosa Paradise LLC and having reviewed said Application and other pleadings on file, and being fully advised on this matter, the Water Court makes the following findings and orders:

FINDINGS OF FACT

1. The Applicant in this case is Ponderosa Paradise LLC, c/o Kristen Anja Wynne, whose address is 16965 Lindbergh Road, Monument, CO 80132 ("Applicant"). Applicant is the owner of land totaling approximately 7.5 acres, which is the subject property of and as further described in this Decree ("Applicant's Property").

2. Applicant filed this Application with the District Court, Water Division 2 on March 19, 2026, which was referred to the Water Referee in Water Division 2 on March 20, 2026.

3. The time for filing statements of opposition to the Application expired on the last day of May, 2026. No statements of opposition were filed.

4. The Clerk of this Court caused publication of the Application filed in this matter as provided by statute, and the publication costs have been paid. Publication occurred in El Paso and Douglas County. On April 16, 2026, and April 24, 2026, proofs of publication in *The Gazette* and the *Douglas County News Press* were filed with this Court, respectively. All notices of the Application have been given in the manner required by law.

5. Pursuant to C.R.S. § 37-92-302(2), the Office of the State Engineer filed

Determinations of Facts for each Denver Basin aquifer with this Court on June 15, 2026, which have been considered by the Court in the entry of this Decree.

6. Pursuant to C.R.S. § 37-92-302(4), the Office of the Division Engineer for Water Division 2 filed its Summary of Consultation dated July 16, 2026, to which no response was required. The Water Court has considered the Summary of Consultation in the entry of this Decree.

7. 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

8. The Applicant seeks quantification and adjudication of underground water rights for the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property. The following findings are made with respect to such underground water rights.

9. The land overlying the groundwater subject to the adjudication in this case is owned by Applicant, and consists of approximately 7.5 acres located in the NW¼ SE¼ of Section 21, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, more specifically described as follows:

> THE EAST HALF OF THE NORTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, TOGETHER WITH A TRACT OF LAND ADJACENT THERETO ON THE WEST, BOUNDED ON THE NORTH BY THE EXTENSION OF THE NORTH LINE OF THE ABOVE DESCRIBED PROPERTY, AND ON THE SOUTH BY AN EXTENSION OF THE SOUTH LINE OF THE ABOVE DESCRIBED PROPERTY, ON THE WEST BY THE EXISTING ROADWAY RUNNING NORTH AND SOUTH, AND ON THE EAST BY THE WEST LINE OF THE ABOVE DESCRIBED PROPERTY.
>
> a.k.a.: 16965 Lindbergh Rd., Monument, CO 80132.

The El Paso County Assessor has assigned parcel ID no. 7121001009 to the Applicant's Property.

10. Pursuant to C.R.S. §§ 37-92-302(2) and 37-90-137(4)(b.5)(I), Applicant filed proof of lienholder notice with the Court on March 25, 2026.

11. There is one existing well registered with Division of Water Resources

Permit No. 170331 ("Ponderosa Well No. 1"), which will be re-permitted upon entry of this Decree and Plan for Augmentation. The Ponderosa Well is drilled to a depth of approximately 700 feet to the Denver aquifer.

12. 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 Applicant's Property are not-nontributary, while the Arapahoe and Laramie-Fox Hills aquifers underlying the Applicant's Property are nontributary. The quantity of water in the Denver Basin aquifers, exclusive of artificial recharge, underlying Applicant's Property is as follows:

AQUIFER	NET SAND (ft)	Total Withdrawal (Acre Feet)	Annual Avg. Withdrawal 100 Years (Acre Feet)
Dawson (NNT)	300	450	4.50
Denver (NNT–4%)	300	382	3.82
Arapahoe (NT)	325	414	4.14
Laramie-Fox Hills (NT)	200	225	2.25

13. Pursuant to C.R.S. § 37-90-137(9)(c.5)(I), the augmentation requirements for wells in the Dawson aquifer require replacement to the effected stream systems of actual stream depletions on an annual basis. The Denver aquifer underlying Applicant's Property is more than one mile from any point of contact between any natural stream and, as such, the augmentation requirements for wells to the Denver aquifer require four percent (4%) of the amount of water withdrawn on an annual basis must be replaced to the affected stream system. Applicant shall not be entitled to construct a non-exempt well or use water from the not-nontributary Dawson and 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.

14. Subject to the augmentation requirements described in Paragraphs 13 and 20 of this Decree, and other requirements and limitations in this Decree, Applicant shall be entitled to withdraw all legally available groundwater in the Denver Basin aquifers underlying Applicant's Property. Said amounts can be withdrawn over 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 withdrawals during such longer period are in compliance with the augmentation requirements of this Decree. This Decree describes a pumping period of 100 years, consistent with the requirements under C.R.S. § 37-90-137(4). The average annual amounts of groundwater available for withdrawal from the underlying Denver Basin aquifers, based upon the 100-year aquifer life, are determined and set forth above, based upon the Office of the State Engineer's Determination of Facts filed with this Court on June 15, 2026, described in Paragraph 5.

15. 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 each of the aquifers 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 average annual volume of water which Applicant is entitled to withdraw from each of the aquifers underlying Applicant's Property, subject to the requirement that such banking and excess withdrawals do not violate the terms and conditions of 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.

16. 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 consistent with C.R.S. §§ 37-90-137(4) or 37-90-137(10), the Applicant shall have the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic; commercial; agricultural; irrigation; watering of stock and domestic animals; recreation; bathing; dust suppression; use of water in hot tubs, pools, and/or water features; use of water in tiny homes and recreational vehicles; use of water in event spaces and/or centers; and 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 may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the limitations imposed on the use of the Arapahoe and Laramie-Fox Hills aquifer groundwater by this Decree and the requirement under C.R.S. § 37-90-137(9)(b) that no more than 98% of the amount withdrawn annually shall be consumed. 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 a non-exempt well or use water from the not-nontributary Dawson and Denver aquifers pursuant to a decreed augmentation plan entered by the Court, including that plan for augmentation decreed herein.

17. Withdrawals of groundwater available from the nontributary Arapahoe and Laramie-Fox Hills aquifers beneath the Applicant's Property in the amounts determined in accordance with the provisions of this Decree will not result in injury to any other vested water rights or to any other owners or users of water.

PLAN FOR AUGMENTATION

18. The structures to be augmented are the existing Ponderosa Well No. 1 and Ponderosa Well No. 2, which is to be constructed to the Denver aquifer underlying Applicant's Property.

19. Prior to drilling any new or replacement wells on Applicant's Property, a site-

specific evaluation shall be conducted with each well permit to identify the aquifer intervals at the planned location.

20. Pursuant to C.R.S. § 37-90-137(9)(c.5), the augmentation obligations for the Ponderosa Well Nos. 1 and 2, and any additional or replacement wells constructed to the Denver aquifer requires replacement of 4% (four percent) of the amount of water withdrawn on an annual basis. The water to be used for augmentation during pumping is the septic system return flows from the not-nontributary Denver aquifer pumped via the Ponderosa Well Nos. 1 and 2, as set forth in this plan for augmentation. The water to be used for augmentation after pumping is the reserved portion of Applicant's nontributary water rights in the Arapahoe aquifer. Applicant shall provide for the augmentation of stream depletions caused by pumping of the Ponderosa Well Nos. 1 and 2, as approved herein. Water use criteria is as follows:

A. Use: Ponderosa Well Nos. 1 and 2 may pump 2.77 acre-feet annually from the Denver aquifer. Applicant uses the assumption that indoor household use for one single-family dwelling will be 0.27 acre-feet of water per year, for total in-house uses of 0.27 acre-feet annually, with the remaining 2.50 acre-feet per year pumping entitlement available for other uses on the Applicant's Property, including domestic; commercial; agricultural; irrigation; watering of stock and domestic animals; recreation; bathing; dust suppression; use of water in hot tubs, pools, and/or water features; use of water in tiny homes and recreational vehicles ("RVs"); use of water in event spaces and/or centers; and for storage and augmentation purposes associated with such uses. The foregoing figures assume the use of one septic system on the Applicant's Property.

B. Depletions: The Denver aquifer underlying the Applicant's Property is more than one mile from any point of contact of any natural stream, including its alluvium, and, as such, withdrawals from the Denver aquifer by the Ponderosa Well Nos. 1 and 2 requires replacement of 4% (four percent) of the amount of water withdrawn annually, pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(C). Maximum annual depletions for total pumping from the Ponderosa Well Nos. 1 and 2 is therefore 0.1108 acre-feet (i.e. 4% of pumping). Should Applicant's pumping be less than the total 2.77 annual acre-feet described herein, resulting depletions and required replacements will be correspondingly reduced.

C. Augmentation of Depletions During Pumping Life of Well: Pursuant to C.R.S. § 37-90-137(9)(c.5)(I)(C), Applicant is required to replace 4% (four percent) of the amount of water withdrawn annually from the Denver aquifer wells. Applicant has shown that depletions during pumping will be effectively replaced by residential return flows from a non-evaporative septic system. The annual consumptive use for non-evaporative systems is estimated at 10% per year per residence. For determining return flows, Applicant uses the conservative assumption that one single-family household will use 0.20 acre-feet per year, with return flows of 0.18 acre-feet annually. Thus, during pumping, total maximum annual stream depletions (0.1108 acre-feet) will be adequately augmented.

D. Augmentation of Post-Pumping Depletions: This plan for augmentation shall have a pumping period of a minimum of 100 years. For the replacement of post-pumping depletions, which may be associated with the use of the Ponderosa Well Nos. 1 and 2, and any additional or replacement wells, Applicant will reserve 277 acre-feet from the nontributary Arapahoe aquifer decreed herein to replace post-pumping depletions. The amount of nontributary Arapahoe aquifer groundwater reserved may be reduced as may be determined 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 aquifer 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 total post-pumping depletions to be replaced are 277 acre-feet. Applicant has reserved 277 acre-feet of the Arapahoe aquifer to sufficiently meet this post-pumping obligation.

E. Permits: Upon entry of this Decree, Applicant will be eligible to apply to the State Engineer for, and receive, a well permit for Ponderosa Well Nos. 1 and 2 for uses in accordance with this Decree, consistent with C.R.S. § 37-90-137(4). Applicant waives the 600-foot spacing requirement for all wells located or to be located on the Applicant's Property.

21. This Decree, upon recording, shall constitute a covenant running with Applicant's Property, benefitting and burdening said land, and requiring construction of well(s) to the nontributary Arapahoe aquifer and pumping of water to replace 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 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 aquifer reserved herein may not be severed in ownership from the Applicant's Property. This covenant shall be for the benefit of, and enforceable by, third parties owning vested water rights who would be injured by Applicant's or its successors' failure to provide for the replacement of post-pumping depletions under this Decree, and shall be specifically enforceable by such third parties against the owner(s) of Applicant's Property.

22. Applicant or its successors shall be required to initiate pumping from the Arapahoe aquifer for the replacement of post-pumping depletions when either: (i) the absolute total amount of water available from the Denver aquifer allowed to be withdrawn under the plan for augmentation decreed herein (277 acre-feet) has been pumped; (ii) the Applicant or its successors in interest have acknowledged in writing that all withdrawals for beneficial uses through the Ponderosa Well Nos. 1 and 2 have

permanently ceased; (iii) a period of 10 consecutive years where no withdrawals of groundwater has occurred; or (iv) accounting shows that return flows from the use of the water being withdrawn are insufficient to replace depletions caused by the withdrawals that already occurred and direct replacement to the stream system from the Ponderosa Well Nos. 1 and 2 is insufficient to cover such depletions.

23. Unless modified by the Court under its retained jurisdiction, Applicant and its successors shall be responsible for accounting and replacement of post-pumping depletions, as set forth herein. Should Applicant's obligation hereunder to account for and replace such post-pumping stream depletions be reduced or abrogated for any reason, Applicant or its successors may petition the Court to also modify or terminate the reservation of the Arapahoe aquifer groundwater.

24. The term of this augmentation plan is for a minimum of 100 years, however, the length of the plan for a particular well or wells may be extended beyond such time provided the total planned pumping allocated to such well or wells is not exceeded. Should the actual operation of this augmentation plan depart from the planned diversions described in Paragraph 20 such that annual diversions are increased or the duration of the plan is extended, the Applicant or its successors must 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 4% (four percent) of the amount of water withdrawn from the Denver aquifer on an annual basis throughout the pumping period and that reserved nontributary water remains sufficient to replace post-pumping depletions.

25. Consideration has been given to the depletions from Applicant's 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, of injury to any owner of or person entitled to use water under a vested water right.

26. 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 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 Ponderosa Well Nos. 1 and 2. As a result of the operation of this plan for augmentation, the depletions from the Ponderosa Well Nos. 1 and 2 and any additional or replacement wells associated therewith will not result in injury to the vested water rights of others.

CONCLUSIONS OF LAW

27. The Application for Adjudication of Denver Basin Groundwater and Approval of Plan for Augmentation was filed with the Water Clerks for Water Divisions 2, pursuant to C.R.S. §§ 37-92-302(1)(a) and 37-90-137(9)(c.5).

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

29. Subject to the terms of this Decree, 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.

30. 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), and the issuance of a well permit by the State Engineer's Office. Applicant is entitled to a decree from this Court confirming its right to withdraw groundwater pursuant to C.R.S. § 37-90-137(4).

31. 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.

32. 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. C.R.S. §§ 37-90-137, and 37-92-302 through 37-92-305.

33. The Applicant's request for approval of a plan for augmentation is contemplated and authorized by law. If administered in accordance with this Decree, this plan for augmentation will permit the uninterrupted diversions from the Ponderosa Well Nos. 1 and 2 and any additional or replacement wells for them, as described herein, without adversely affecting any other vested water rights in the Arkansas River or its tributaries and when curtailment would otherwise be required to meet a valid senior call for water. C.R.S. §§ 37-92-305(3), (5), and (8).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

34. 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.

35. The Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation filed by the Applicant is approved, subject to the terms of this Decree.

A. Applicant is awarded a vested right to 450 acre-feet of groundwater from the not-nontributary Dawson aquifer underlying Applicant's Property, as quantified in Paragraph 12 or as modified by the Court under its retained jurisdiction, which shall not be withdrawn for any purpose except pursuant to a separate court-approved plan for augmentation that authorizes said withdrawals.

B. Applicant is awarded a vested right to 382 acre-feet of groundwater from the nontributary Denver aquifer underlying Applicant's Property, as quantified in Paragraph 12 or as modified by the Court under its retained jurisdiction. Of this amount, 277 acre-feet may be pumped pursuant to the plan for augmentation decreed herein. The remaining 105 acre-feet of Denver aquifer groundwater decreed herein, which is not included in the plan for augmentation, shall not be withdrawn for any purpose except pursuant to a separate court-approved plan for augmentation that authorizes said withdrawals.

C. Applicant is awarded a vested right to 414 acre-feet of groundwater from the nontributary Arapahoe aquifer underlying Applicant's Property, as quantified in Paragraph 12 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 (98%) 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 16, subject to the reservation of 277 acre-feet of the water from the Arapahoe aquifer awarded to be utilized only for replacement of post-pumping depletions under the plan for augmentation decreed herein, as described in Paragraph 20.D., above.

D. Applicant is awarded a vested right to 225 acre-feet of groundwater from the nontributary Laramie-Fox Hills aquifer underlying Applicant's Property, as quantified in Paragraph 12 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 (98%) 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 16.

E. All determinations decreed herein are subject to the Court's retained jurisdiction, pursuant to C.R.S. § 37-92-305(11), and governed by the Denver Basin Rules and Statewide Nontributary Groundwater Rules, as provided in C.R.S. § 37-90-137(9)(a).

36. The Applicant has furnished acceptable proof as to all claims and, therefore, the Application for Adjudication of Denver Basin Groundwater and Plan for Augmentation, as filed 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 injury to senior vested water rights.

37. The Applicant 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 annually. Ninety-eight percent (98%) of the nontributary groundwater withdrawn annually may therefore be consumed. No plan for augmentation shall be required to provide for such relinquishment. Applicant shall be required to demonstrate to the State Engineer prior to the issuance of a well permit that no more than ninety-eight percent (98%) of the groundwater withdrawn annually will be consumed.

38. Ponderosa Well Nos. 1 and 2, and any replacement or additional wells, shall be operated such that pumping does not exceed the annual (2.77 acre-feet) and total (277 acre-feet) pumping limits for the Denver aquifer as decreed herein, and is in accordance with the requirements of the plan for augmentation described herein. The State Engineer, Division Engineer, and/or Water Commissioner shall not curtail the diversion and use of water by the Ponderosa Well Nos. 1 and 2, or any additional and replacement wells, so long as the return flows from the annual diversions associated with the Ponderosa Well Nos. 1 and 2 and such other wells accrue to the stream system 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 Ponderosa Well 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 that 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 system discussed herein shall, at all times during pumping, be in an amount sufficient to replace the amount of stream depletions, and cannot be sold, leased, traded, assigned, or otherwise used for any purpose inconsistent with the augmentation plan decreed herein. Applicant shall be required to have any wells pumping on Applicant's Property providing water for in-house use and generating septic returns prior to pumping the wells for any of the other uses identified in Paragraphs 16 or 20.A.

39. 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 the Applicant need not file a new application to request such adjustments.

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 39 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 party 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 affect 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-three (63) days, this Court shall incorporate by entry of an Amended Decree such "final determination of water rights," and the provisions of this Paragraph 39 concerning adjustments to the Denver Basin groundwater rights based upon local aquifer conditions shall no longer be applicable. In the event of a protest being timely filed, or should the State Engineer's Office make no timely determination as provided in Paragraph 39.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.

40. 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. 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 20.D. The Court's retained jurisdiction may be invoked using the process set forth in Paragraph 41.

41. Except as otherwise specifically provided in Paragraphs 37-40, above, pursuant to the provisions of C.R.S. §§ 37-92-304(6) and 37-92-305(11), this 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 others, for a period of five years. Any party, within such period, may petition the Court to invoke its retained jurisdiction. Any party 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 affect 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 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.

42. 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 instruction from said entities. Applicant is to install and maintain a totalizing flow meter on the Ponderosa Well Nos. 1 and 2, or any additional or replacement wells associated therewith, and is required to include geophysical logging on each newly constructed well. Applicant shall read and record the well meter readings and submit to the Commission bi-annually, on October 31st or March 31st, or as otherwise requested by the Water Commissioner.

43. 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 Ponderosa Well Nos. 1 and 2 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.

44. 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: August 13, 2026.

BY THE REFEREE:



Kate Brewer, Water Referee
Water Division 2

JUDGMENT AND DECREE OF THE WATER COURT

No protest to the Ruling of the Water Referee was filed in this matter. The Court hereby confirms and approves the foregoing Ruling of the Water Referee and enters the same as the Judgment and Decree of this Court.

Date: September 11, 2026.

BY THE COURT:

Gregory J. Styduhar
Water Judge
Water Division 2