

**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO ALLOW
THE WITHDRAWAL OF GROUND WATER IN THE UPPER BLACK SQUIRREL CREEK
DESIGNATED GROUND WATER BASIN

APPLICANT: ROBERT SOLBERG, HJK FAMILY PARTNERS, LTD, AND CORRAL RANCHES
DEVELOPMENT CO.

AQUIFER: ARAPAHOE

DETERMINATION NO.: **516-BD**

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Robert Solberg, HJK Family Partners, LTD, and Corral Ranches Development Co. (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Arapahoe Aquifer.

FINDINGS

1. The application was received complete by the Colorado Ground Water Commission on May 20, 2003.
2. The applicant requests a determination of rights to designated ground water in the Arapahoe Aquifer (hereinafter "aquifer") underlying 185.3 acres, generally described as the majority of the SE1/4 and a portion of the S1/2 of the NE1/4 of Section 31, and a portion of the SW1/4 of the NW1/4 and of the NW1/4 of the SW1/4 of Section 32, all in Township 13 South, Range 64 West of the 6th Principal Meridian, in El Paso County. According to six signed statements each dated January 17, 2002, the applicant owns the 185.3 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, livestock watering, irrigation, commercial and replacement supply. The applicant's proposed place of use of the allocated ground water is the above described 185.3 acre land area.
6. The quantity of water in the aquifer underlying the 185.3 acres of land claimed by the applicant is 5513 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

- a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 175 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
 8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 185.3 acres of overlying land claimed by the applicant is 55.1 acre-feet.
 9. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
 10. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the 185.3 acres of land claimed by the applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Also, the location of the land claimed by the applicant is farther than one mile from the aquifer contact with the alluvium. The Designated Basin Rules require that at least four percent (4%) of the amount of water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal.
 11. A review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
 12. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
 13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.

14. On August 7 and 25, 2003, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Gazette newspaper on August 28 and September 4, 2003.
17. a. On September 8, 2003, an objection to the application was received from the Upper Black Squirrel Creek Ground Water Management District ("objector"), and assigned Case No. 03-GW-17. No other objection to the proposed determination of water right was received within the time limit set by statute.

b. By Order of the Commission Hearing Officer, dated January 7, 2004, a hearing in the Case No. 03-GW-17 was scheduled for June 4, 2004.

c. Prior to the scheduled hearing in Case No. 03-GW-17, the applicant filed for a motion for Summary Judgment, dated March 31, 2004.

d. Prior to a response by the Hearing Officer regarding the motion for Summary Judgment, the objector in a letter dated April 15, 2004, withdrew their objection.

e. By Order of the Commission Hearing Officer dated April 23, 2004, the scheduled hearing for Case No. 03-GW-17 was vacated and the matter dismissed.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

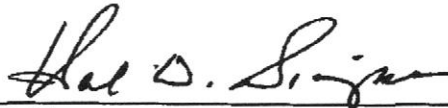
ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Arapahoe Aquifer underlying 185.3 acres of land, generally described as the majority of the SE1/4 and a portion of the S1/2 of the NE1/4 of Section 31, and a portion of the SW1/4 of the NW1/4 and of the NW1/4 of the SW1/4 of Section 32, all in Township 13 South, Range 64 West of the 6th Principal Meridian, is approved subject to the following conditions:

19. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed 55.1 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.
21. At least four percent (4%) of the amount of water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal.
22. The use of ground water from this allocation shall be limited to the following uses: domestic, livestock watering, irrigation, commercial and replacement supply. The place of use shall be limited to the above described 185.3 acre land area.
23. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 185.3 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
24. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
 - a. The wells shall be located on the above described 185.3 acre overlying land area.
 - b. The wells must be constructed to withdraw water from only the Arapahoe Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.

- e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
- f. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.
- g. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
25. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county – in which the claimed overlying land is located - so that a title examination of the above described 185.3 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 16th day of June, 2004.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: 

Suzanne M. Sellers, P.E.
Designated Basins Chief

Prepared by: EBT

FIND-122-04

**AMENDMENT TO
APPLICATIONS FOR DETERMINATION
OF WATER RIGHT
For the Arapahoe, Laramie Fox-Hills and Denver
Acquifers Receipt No. 487254-A-C**

RECEIVED
MAY 20 2003
WATER RESOURCES
STATE ENGINEER
COLO.

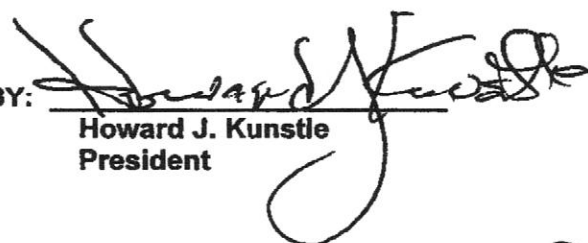
The undersigned hereby amend the above-described Applications
as follows:

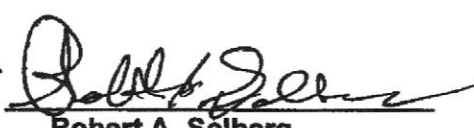
- 1) The non-tributary ground water landownership statements are hereby amended to provide that the applicants are owners within the property described in Exhibit A, and that the acreage is amended to 185.3 acres, more or less.
- 2) The acreages are hereby revised as follows:

<u>Parcel No.</u>	<u>Submitted</u>	<u>Revised</u>	<u>Ownership</u>
4331000016	73.51	68.06	Solberg, Robert A. and HJK Family Partners, Ltd.
4331000011	29.63	19.65	Solberg, Robert A. and HJK Family Partners, Ltd.
4331000010	26.10	21.58	Solberg, Robert A. and HJK Family Partners, Ltd.
4331000006	40.00	37.26	Corral Ranches Development CO
4331000017	27.23	24.48	Corral Ranches Development CO
4332000016	14.06	14.27	Corral Ranches Development CO
	210.53	185.30	

Executed this 15th day of May, 2003.

Corral Ranches Development CO

BY: 
Howard J. Kunstle
President


Robert A. Solberg

HJK Family Partners, Ltd.

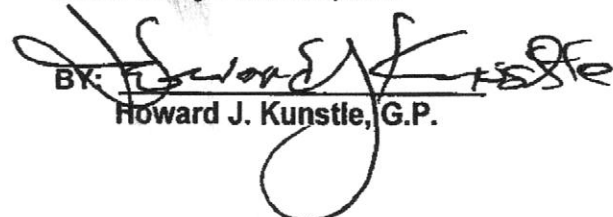
BY: 
Howard J. Kunstle, G.P.

EXHIBIT A
Page 12 of 14

**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO ALLOW
THE WITHDRAWAL OF GROUND WATER IN THE UPPER BLACK SQUIRREL CREEK
DESIGNATED GROUND WATER BASIN

APPLICANT: ROBERT SOLBERG, HJK FAMILY PARTNERS, LTD, AND CORRAL RANCHES
DEVELOPMENT CO.

AQUIFER: DENVER

DETERMINATION NO.: 517-BD

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Robert Solberg, HJK Family Partners, LTD, and Corral Ranches Development Co. (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Denver Aquifer.

FINDINGS

1. The application was received complete by the Colorado Ground Water Commission on May 20, 2003.
2. The applicant requests a determination of rights to designated ground water in the Denver Aquifer (hereinafter "aquifer") underlying 185.3 acres, generally described as the majority of the SE1/4 and a portion of the S1/2 of the NE1/4 of Section 31, and a portion of the SW1/4 of the NW1/4 and of the NW1/4 of the SW1/4 of Section 32, all in Township 13 South, Range 64 West of the 6th Principal Meridian, in El Paso County. According to six signed statements each dated January 17, 2002, the applicant owns the 185.3 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, livestock watering, irrigation, commercial and replacement supply. The applicant's proposed place of use of the allocated ground water is the above described 185.3 acre land area.
6. The quantity of water in the aquifer underlying the 185.3 acres of land claimed by the applicant is 3150 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

- a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 100 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
 8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 185.3 acres of overlying land claimed by the applicant is 31.5 acre-feet.
 9. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
 10. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the 185.3 acres of land claimed by the applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Also, the location of the land claimed by the applicant is farther than one mile from the aquifer contact with the alluvium. The Designated Basin Rules require that at least four percent (4%) of the amount of water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal.
 11. A review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
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b. By Order of the Commission Hearing Officer, dated January 7, 2004, a hearing in the Case No. 03-GW-17 was scheduled for June 4, 2004.

c. Prior to the scheduled hearing in Case No. 03-GW-17, the applicant filed for a motion for Summary Judgment, dated March 31, 2004.

d. Prior to a response by the Hearing Officer regarding the motion for Summary Judgment, the objector in a letter dated April 15, 2004, withdrew their objection.

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18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

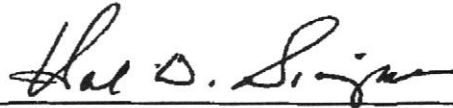
ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Denver Aquifer underlying 185.3 acres of land, generally described as the majority of the SE1/4 and a portion of the S1/2 of the NE1/4 of Section 31, and a portion of the SW1/4 of the NW1/4 and of the NW1/4 of the SW1/4 of Section 32, all in Township 13 South, Range 64 West of the 6th Principal Meridian, is approved subject to the following conditions:

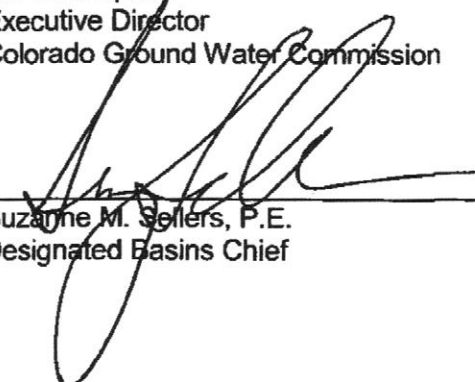
19. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed 31.5 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.
21. At least four percent (4%) of the amount of water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal.
22. The use of ground water from this allocation shall be limited to the following uses: domestic, livestock watering, irrigation, commercial and replacement supply. The place of use shall be limited to the above described 185.3 acre land area.
23. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 185.3 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
24. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
 - a. The wells shall be located on the above described 185.3 acre overlying land area.
 - b. The wells must be constructed to withdraw water from only the Denver Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.

- e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
- f. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.
- g. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
25. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county – in which the claimed overlying land is located - so that a title examination of the above described 185.3 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 16th day of June, 2004.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: 
Suzanne M. Sellers, P.E.
Designated Basins Chief

Prepared by: EBT

FIND-123-04

**AMENDMENT TO
APPLICATIONS FOR DETERMINATION
OF WATER RIGHT**

**For the Arapahoe, Laramie Fox-Hills and Denver
Acquifers Receipt No. 487254-A-C**

RECEIVED

MAY 20 2003

**WATER RESOURCES
STATE ENGINEER
COLO.**

The undersigned hereby amend the above-described Applications
as follows:


- 1) The non-tributary ground water landownership statements are hereby amended to provide that the applicants are owners within the property described in Exhibit A, and that the acreage is amended to 185.3 acres, more or less.
- 2) The acreages are hereby revised as follows:

<u>Parcel No.</u>	<u>Submitted</u>	<u>Revised</u>	<u>Ownership</u>
4331000016	73.51	68.06	Solberg, Robert A. and HJK Family Partners, Ltd.
4331000011	29.63	19.65	Solberg, Robert A. and HJK Family Partners, Ltd.
4331000010	26.10	21.58	Solberg, Robert A. and HJK Family Partners, Ltd.
4331000006	40.00	37.26	Corral Ranches Development CO
4331000017	27.23	24.48	Corral Ranches Development CO
4332000016	<u>14.06</u>	<u>14.27</u>	Corral Ranches Development CO
	210.53	185.30	

Executed this 15th day of May, 2003.

Corral Ranches Development CO

BY: 
Howard J. Kunstle
President


Robert A. Solberg
HJK Family Partners, Ltd.

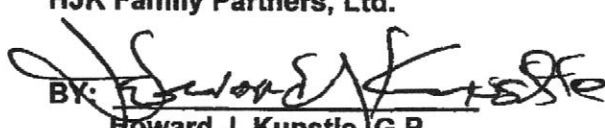
BY: 
Howard J. Kunstle, G.P.

EXHIBIT A
Page 13 of 14