DECLARATION OF WATER COVENANTS AND EASEMENTS
FOR
NABULSI-ABUSHABAN SUBDIVISION

The Nabulsi-Abushaban Family Trust ("Declarant") is the sole owners of real property more particularly described as being approximately 24.8 acres located in the SE¼ SE¼ of Section 19, Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, El Paso County Parcel number 5219000101, also known as 10650 Black Forest Rd, Colorado Springs, CO 80908, and depicted on attached **Exhibit A** and incorporated by this reference known as the Nabulsi-Abushaban Subdivision (the "Subdivision"). The Declarant desires to place limited protective covenants, conditions, restrictions, and reservations upon the Subdivision to protect the Subdivision's quality residential living environment, to protect its desirability, attractiveness, and value, and to ensure compliance with all applicable groundwater determinations concerning water and water rights to be utilized within the Subdivision.

The Declarant hereby declares that all of the Subdivision as hereinafter described, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision, and for assurance of legal water usage, and all of which shall run with the land and be binding on and inure to benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns.

Certain documents are recorded in the real estate records of the Clerk and Recorder of El Paso County, Colorado at the reception numbers noted below, and referred to in this Declaration of Covenants as pertaining to the Subdivision. This includes the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree concerning underlying groundwater and approval of a Plan for Augmentation as entered by the Colorado Water Court, Water Division No. 2 in Case No. 22CW3020 recorded at Reception No. 223032142 ("Water Decree") attached hereto as **Exhibit B**.

NOW, THEREFORE, the following Declaration of Covenants is made:

1. Water Decree and Augmentation Plan.

A. Decree/Summary. The Subdivision shall be subject to the obligations and requirements set forth in Water Decree ordered April 20, 2023 affirming the Findings of Fact and Ruling of Referee granting underground water rights and approving a plan for augmentation that was issued on March 24, 2023. The Augmentation Plan concerns the water rights and water supply for the Subdivision and creates obligations upon the Subdivision and the Lot Owners, which run with the land. The water supply for the Subdivision shall be by individual wells to the not-nontributary Dawson aquifer, under the Augmentation Plan. The Augmentation Plan contemplates that each

Lot owner will be responsible for any replacement well(s) to be constructed consistent with the terms of the Augmentation Plan, along with maintaining wastewater treatment through a non-evaporative individual septic disposal system. "Lot Owners" will be the owners of the water within the aquifers underlying their lots, who will also jointly own the plan for augmentation. The Lot Owners will be responsible for reporting and administration based on pumping records, and eventually for replacement of any injurious post-pumping depletions requiring construction of deep wells to the nontributary Laramie-Fox Hills aquifer at such time as all Dawson aquifer pumping ceases.

B. Water Rights Ownership.

i. Declarant will transfer and assign to each Lot Owner their portion of all right, title and interest in the Augmentation Plan and water rights thereunder, respectfully. Those water rights assigned include portions of the adjudicated groundwater in the nontributary Laramie-Fox Hills aquifer (the entire 713 acre-feet) of the Denver Basin, as adjudicated in the Augmentation Plan, and as reserved for replacement of any injurious post-pumping depletions.

ii. Declarant will assign to Lots 1, 2, 3 and 4 the interest in 171 acre-feet of the not-nontributary Dawson aquifer, each (0.57 acre-feet a year for 300 years), and retain for Lot 3 the remaining 266 acre-feet of the not-nontributary Dawson aquifer, as adjudicated in the Water Decree as the physical source of supply for each Lot. The Dawson aquifer well on each Lot shall be augmented per the Augmentation Plan as administered by the Lot Owners.

iii. The Declarant will further assign to each Lot Owner, jointly, all obligations and responsibilities for compliance with the Augmentation Plan, including monitoring, accounting and reporting obligations. By this assignment to the Lot Owners, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Augmentation Plan, except where the Declarant retain ownership of any Lot. Such conveyance shall be subject to the obligations and responsibilities of the Augmentation Plan and said water rights may not be separately assigned, transferred or encumbered by the Lot owners. The Lot Owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such augmentation responsibilities by decree of the Water Court, or properly entered administrative relief.

iv. Declarant will assign to Lots 1, 2, 3 and 4 the interest in 178.25 acre-feet of the nontributary Laramie-Fox Hills aquifer, each (total 713 acre feet of Laramie-Fox Hills aquifer), as adjudicated in the Water Decree as the physical source of supply for augmenting post pumping depletions for each Lot.

v. The Dawson and Laramie-Fox Hills water rights for Lots 1, 2, 3 and 4 shall be conveyed by recorded deed with the transfer of the overlying land, with each future lot owner conveyin sufficient water rights to the Dawson and Laramie-Fox Hills aquifers underlying the respective lots to satisfy El Paso County's 300-year water

supply requirement, being the herein referenced 0.57 acre-feet per year.

vi. Each Lot Owner's water rights in the not-nontributary Dawson and the nontributary Laramie-Fox Hills aquifers underlying their respective Lot shall remain subject to the Augmentation Plan, and shall transfer automatically upon the transfer of title to each Lot as an appurtenance, including the transfer by the Declarant to the initial owner of a Lot, whether or not separately deeded. The ground water rights in the Dawson and Laramie-Fox Hills aquifers subject to the Augmentation Plan cannot and shall not be severable from each respective Lot, and each Lot Owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

vii. All not-nontributary Denver Basin groundwater in the Denver and Arapahoe aquifers underlying each Lot are likewise to be deeded, assigned and transferred to the overlying Lot Owner on a prorata-per-acre basis, and may be used in said Lot Owner's sole and complete discretion, subject to the terms and conditions of this Declaration and the Augmentation Plan.

viii. The not-nontributary Dawson and the nontributary Laramie-Fox Hills water rights conveyed to each Lot Owner, as described in this Paragraph 1.B., and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Augmentation Plan decreed in Case No. 22CW3020 and this Declaration, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered.

ix. For the water rights and return flows conveyed from the Dawson aquifer, the deed should state, "These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Nabulsi-Abushaban Subdivision. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

C. Water Administration.

i. Each Lot Owner shall limit the pumping of the Dawson aquifer wells consistent with the terms and conditions of the Water Decree. Each well on Lots 1 through 4 is limited to pumping 0.57 acre-feet annually, consistent with the Augmentation Plan. Each Lot Owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Augmentation Plan is maintained, as between in-house, irrigation of lawn and garden, stock water for up to four (4) horses or equivalent animal, and other allowed uses. Each Lot Owner will be responsible for the construction of their well and providing adequate return flows through in-house use prior to utilizing

water for other decreed uses on their respective Lot. Each Lot Owner shall use non-evaporative septic systems in order to ensure that return flows from such systems are made to the stream system to replace depletions during pumping and shall not be sold, traded or used for any other purpose. The Lot Owners, as the owners of all obligations and responsibilities under the Augmentation Plan, shall administer and enforce the Augmentation Plan as applies to each Lot Owner's respective Lot and pumping from individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Augmentation Plan and taking all necessary and required actions under the Augmentation Plan to protect and preserve the ground water rights for all Lot owners. Each Lot Owner has the right to specifically enforce, by injunction if necessary, the Augmentation Plan against any other Lot Owner for failing to comply with the Lot Owner's respective obligations under the Augmentation Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Augmentation Plan, and the reasonable legal costs and fees for such enforcement shall be borne by the party against whom such action is necessary. The use of the not-nontributary Dawson ground water rights owned by each Lot Owner is restricted and regulated by the terms and conditions of the Augmentation Plan and this Declaration, including, without limitation, that each Lot Owner is subject to the maximum annual well pumping as stated in the Augmentation Plan. Failure of a Lot Owner to comply with the terms of the Augmentation Plan may result in an order from the Division of Water Resources under the Augmentation Plan to curtail use of ground water rights.

ii. Each Lot Owner shall promptly and fully account to the Division of Water Resources for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Lot, including for any irrigation, stockwater, or other permitted/allowed uses as may be required under the Augmentation Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources.

iii. At such time as construction of the Laramie-Fox Hills and aquifer wells are required for replacement of post-pumping depletions under the Augmentation Plan, the Lot Owners shall be responsible for all cost and expense in the construction of said wells, as well as all reasonable reporting requirements of the Division of Water Resources associated therewith.

C. Well Permits.

i. Each Lot Owner shall be responsible for obtaining a well permit for the individual well to the not-nontributary Dawson aquifer for provision of water supply to their respective Lot. All such Dawson aquifer wells shall be constructed and operated in compliance with the Augmentation Plan, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. The costs of the construction, operation, maintenance and repair of such individual well, and delivery of water therefrom to the residence located on such Lot, shall be at each Lot Owner's respective expense. Each Lot Owner shall comply with any and all requirements of the Division of Water Resources

to log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Augmentation Plan. It is acknowledged that well permits, and individual wells, may be in place on some of the Lots at the time of sale, and by this Declaration no warranty as to the suitability or utility of such permits or structures is made nor shall be implied.

ii. The Lot Owners shall be jointly responsible for obtaining any well permits, rights, and authorities necessary for the construction of wells to the nontributary Laramie Fox Hills aquifer for purposes of replacing any injurious post-pumping depletions, consistent with the Augmentation Plan. No wells shall be constructed to the Laramie-Fox Hills aquifer unless and until such post-pumping depletions must be replaced. The Lot Owners shall comply with any and all requirements of the Division of Water Resources to log such wells, and shall install and maintain in good working order an accurate totalizing flow meter on the well(s) in order to provide all necessary accounting under the Augmentation Plan.

iii. No party guarantees to the Lot Owners the physical availability or the adequacy of water quality from any well to be drilled under the Augmentation Plan. The Denver Basin aquifers which are the subject of the Augmentation Plan are considered a nonrenewable water resource and due to anticipated water level declines the useful or economic life of the aquifers' water supply may be less than the 100 years allocated by state statutes or the 300 years of El Paso County water supply requirements, despite current groundwater modelling to the contrary.

2. Private Access Easement. Lots 1, 2, 3 and 4 shall be accessed through a perpetual nonexclusive fifty foot (50') wide private access easement ("Private Access Easement") over and across Lots 1, 3 and 4, as depicted on the attached **Exhibit A**. The Private Access Easement shall be for the purpose of vehicular, equestrian, and pedestrian ingress, egress, and easement maintenance upon, over, and through Lots 1, 3 and 4 for the benefit of all Lots. This easement may be used for all public utility work and maintenance as necessary on all Lots.

A. Right of Enjoyment. The Lot Owners shall have the right to use and fully enjoy the Private Access Easement; provided, however, that no Lot Owner shall cause to be constructed, built, or placed a building, structure, object, tree, shrub, fence, landscaping, or other improvement on or within the Private Access Easement which restricts any Lot Owner's access or use and enjoyment of the Private Access Easement. The Lot Owners shall have the right to remove all improvements from the Private Access Easement which would act to endanger any of the other Lot Owner's improvements and appurtenances thereto or otherwise interfere with the use and enjoyment of the Private Access Easement. If the Lot Owners are required to disturb the surface of the Private Access Easement for construction, maintenance, or operations, then they shall restore the surface to a reasonable pre-disturbance condition.

B. Responsibility of Private Access Easement. All Lot Owners shall

participate in maintenance and repair of the Private Access Easement only to the extent they each utilize all or a portion of such Driveway for the use and enjoyment of their respective property. All Lot shall cooperate in determining equitable allocation of Private Access Easement maintenance costs, and shall resolve any disputes concerning the same in the manner as provided herein.

C. Maintenance of Private Access Easement. It shall be the duty and obligation of All Lot Owners to maintain the Private Access Easement. The Private Access Easement is jointly owned in fee by Lot Owners 1, 2, 3 and 4, and shall be equally maintained by all Lot Owners, and each Lot Owner shall pay an equal portion of maintenance and repair costs, unless the expense to repair is attributable to a specific Lot Owner. Should any of the Lots be lawfully subdivided, such maintenance cost allocation may change based upon the number of users/Owners of said Private Access Easement. "Maintenance" or "repair" includes, but is not limited to, graveling, paving, draining, removing snow, clearing, or providing any other maintenance or repair-type service however defined, on, or within, the Private Access Easement. The Private Access Easement shall, at a minimum, meet current county standards for gravel or paved roads, as appliable, though no Lot Owner shall have the ability or authority to require the other Lot Owner(s) to participate in an upgrade of the Private Access Easement from its initial condition, or to repair or replace with other more costly materials. The Private Access Easement will, at all times, be kept in passable condition without potholes, sinkholes, obstructions, or other unstable or unpassable conditions. The Private Access Easement may be paved if the sharing parties agree to share the cost of paving, or if one party agrees to bear the total cost for the pavement. In no case shall the Private Access Easement fall below the county standard for access drives.

D. Determination of Necessary Maintenance. Private Access Easement maintenance and improvements will be made whenever necessary to maintain the Private Access Easement in good operating condition and to insure the provision of safe access by the undersigned, their guests, governmental agencies, utility providers, and emergency service providers and vehicles. The Private Access Easement must comply with the requirements of all local government ordinances and laws. The Lot Owners will designate a single representative ("Owner Representative") to seek out bids for the maintenance and improvements, and all Lot Owners must agree before accepting a bid for any maintenance or improvement. The Lot Owners shall cooperate in determining equitable allocation of Private Access Easement maintenance costs.

E. Prepayment. Prepayment of maintenance and improvement costs will be made to the Owner Representative prior to initiation of such maintenance and improvement work. The Owner Representative shall provide a written acceptance of payment for the maintenance and improvement costs to the pre-paying party upon receipt of the prepayment funds. Should one Lot Owner elect to undertake maintenance or repairs for which the other Lot Owners have not agreed or prepaid, such funding Lot Owner may seek reimbursement of the Lot Owners' equal allocation in any manner prescribed by law for dispute resolution, though such funding Lot Owner advances such funds at their own risk pending such resolution.

3. Compliance. The Lot Owners shall perform and comply with all terms, conditions, and obligations of the Augmentation Plan, and shall further comply with the terms and conditions of any well permits issued by the Division of Water Resources pursuant to the Augmentation Plan, as well as all applicable statutory and regulatory authority.

4. Cooperation Clause. The Parties shall cooperate with one another in good faith to accomplish and fulfill the terms of this Agreement, and each party shall timely execute any and all documents necessary to accomplish the same.

5. Notice of Action. Any notice required hereunder shall be in writing and shall be sufficient if delivered personally, by courier, by registered or certified U.S. Mail, postage prepaid, or by overnight delivery service providing document tracking services, and shall be sent to the addresses in the introductory paragraph of this Declaration, or as the property will be split up through El Paso County's subdivision process, and effective upon receipt.

6. Dispute Resolution Process. Lot Owners bringing any claim or action to enforce any covenant, condition, or restriction contained in this Declaration, or other disputes arising from this Declaration, shall be subject to mediation as a condition precedent to other dispute resolution if the parties have not resolved the dispute within thirty (30) days following the notice of claim through discussions and negotiations among or between the parties. Any and all parties involved in a claim, dispute, or other matter, shall endeavor to resolve all claims and disputes in good faith by mediation prior to any arbitration, litigation, or other dispute resolution proceeding. The parties shall share the mediator's fee and any associated fees equally, and the mediation shall be held in a mutually agreed upon place. All mediations shall be confidential based on terms acceptable to the mediator and/or mediation service provider, and shall be conducted in compliance with the Colorado Dispute Resolution Act and all applicable Colorado Statutes, including C.R.S. §§ 13-22-302 to 13-22-308.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and venue shall be proper in the District Court for El Paso County, Colorado.

8. Violations of Law. Any violation of any law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Subdivision is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

9. El Paso County Enforcement. El Paso County may enforce the provisions regarding the Augmentation Plan as set forth in this Declaration, should the Lot Owners fail to adequately do so.

10. Amendment of Declaration of Covenants. Notwithstanding any provisions

to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Nabulsi-Abushaban Subdivision pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination.

11. Recordation of Amendments. Each amendment to this Declaration must be recorded in the records of the Clerk and Recorder for El Paso County, Colorado, and the amendment is effective only upon recording.

12. Termination of Covenants. These Covenants shall not terminate unless the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 are also terminated by the Division 2 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.

13. Amendment Limitations. No changes, amendments, alterations, or deletions to this Declaration may be made which would alter, impair, or in any manner compromise the Augmentation Plan, or the water rights of the Lot Owners without the written approval of said parties, El Paso County, and Court with proper jurisdiction.

14. Terms of Covenants and Severability. These Covenants shall run with the land and shall remain in full force and effect until amended or terminated, in whole or part, by the owners of the entirety of the Subdivision (i.e. all Lot Owners), and filed for record with the Clerk and Records of El Paso County. If any portion of this Declaration is held invalid or becomes unenforceable, the other Covenants shall not be affected or impaired but shall remain in full force and effect.

15. Compliance with Documents. All Lot Owners, tenants, occupants of dwellings on Lots, and, to the extent they own Lots, mortgagees and the Declarant, shall comply with this Declaration, and shall be subject to all rights and duties under the Declaration. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a Lot constitutes agreement that the provisions of this Declaration are accepted and ratified by that Lot Owner, tenant, mortgagee, or occupant. All provisions recorded in this Declaration are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Lot.

16. Waiver. No provision contained in this Declaration is abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

17. Conflict. This Declaration is not intended to comply with the requirements of the Colorado Common Interest Ownership Act, other than C.R.S. §§ 38-33.3-105 to 38-33.3-107, as the Subdivision is exempt from all other provisions of the Act.

Executed on this the ____ day of _____, 2025.

BY: DECLARANT

_____

Taher Nabulsi, Trustee of Nabulsi-Abushaban Family Trust

STATE OF _____)
) ss
COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 2025 by Taher Nabulsi, Trustee of the Nabulsi-Abushaban Family Trust.

My commission expires: _____

Witness my hand and seal.

_____
Notary Public

EXHIBITS:
A – Plat Map of the Property
B – Decree 22CW3020

EXHIBIT A

NABULSI-ABUSHABAN SUBDIVISION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 19,
TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M.,
EL PASO COUNTY, COLORADO

BE IT KNOWN BY THESE PRESENTS:

That NABULSI–ABUSHABAN FAMILY TRUST, being the owner of the following described tract of land to wit:

The East 990 feet of the South 1155 feet of the Southeast Quarter of Section 19 in Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, EXCEPT the South 30 feet and the East 30 feet thereof;

Containing 24.796 acres, more or less.

OWNERS CERTIFICATE:

The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interests in the land described herein, have laid out, subdivided, and platted said land into lots, public right–of–way additions and easements as shown hereon under the name and subdivision of NABULSI–ABUSHABAN SUBDIVISION. All public improvements, and public right–of–way additions so platted, are hereby dedicated to public use and said owner does hereby covenant and agree that any public improvements will be constructed to El Paso County standards and that proper drainage and erosion control for same will be provided at said owner's expense, all to the satisfaction of the Board of County Commissioners of El Paso County, Colorado. Upon acceptance by resolution, all public improvements so dedicated will become matters of maintenance by El Paso County, Colorado. The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance, and replacement of utility lines and related facilities.

NABULSI–ABUSHABAN FAMILY TRUST

By: ______________________ Taher Nabulsi, Co–Trustee

By: ______________________ Rola Abushaban, Co–Trustee

NOTARIAL:

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } SS

Acknowledged before me this ______ day of ______________ 20____ by Taher Nabulsi and Rola Abushaban, Co–Trustees for NABULSI–ABUSHABAN FAMILY TRUST.

My commission expires ______________

Witness my hand and seal ______________ Notary Public

MORTGAGEE/LIENHOLDER:

Dedication acknowledged and consent executed this ______ day of ______________ 20____ A.D.

NEW HOME LENDING, Its Successors and/or Assigns

____
Signer Title

NOTARIAL:

STATE OF ____________ }
COUNTY OF ____________ } SS

The above and aforementioned was acknowledged before me this ______ day of ______________ 20____ A.D. by ______________ ______________ for NEW HOME LENDING, Its Successors and/or Assigns.

Witness my hand and seal

My commission expires ______________ ______________ Notary Public

NOTES:

1. This survey does not constitute a title search by LDC, Inc. to determine ownership or easements of record. For all information regarding easements, rights–of–way and title of record, LDC, Inc. relied upon a Commitment for Title Insurance, prepared by FIRST AMERICAN, Commitment No. 5518–4108826 dated October 28, 2023 at 8:00 a.m.
2. Individual lot purchasers are responsible for constructing driveways, including necessary drainage culverts from Old Ranch Road per Land Development Code Section 6.3.3.C.2 and 6.3.3.C.3 Due to their length, some of the driveways will need to be specifically approved by the Black Forest Fire and Rescue District.

   No driveway shall be established unless an access permit has been granted by El Paso County. Driveway culverts within the indicated Common Private Access Easement must be installed prior to building permit authorization for all lots within the subdivision.
4. Each individual property owner is responsible for the construction and operation of a non–evaporative wastewater disposal system approved by the El Paso County Health Department. The Health Department may require a specially designed or "engineered" system prior to permit approval. Engineered systems may cost more to design, install and maintain than systems which are not engineered
5. Basis of Bearings: All bearings are based on the most Southerly line of this "net" tract line, monumented as shown and assumed to bear S89°38'40"W, a distance of 960.09 feet.
6. All structural foundations shall be located and designed by a Professional Engineer, currently registered in the State of Colorado.
7. Water Supply: Individual wells are the responsibility of each property owner. Permits for individual wells must be obtained from the State Engineer who by law has the authority to set conditions for the issuance of these permits. Water in the Denver Basin Aquifers is allocated based on a 100–year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin Aquifers is evaluated based on a 300–year aquifer life. Applicants and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin Aquifer may be less than wither the 100 years or 300 years indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non–renewable aquifers. Alternative renewable water sources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply.

NOTES (CONT.):

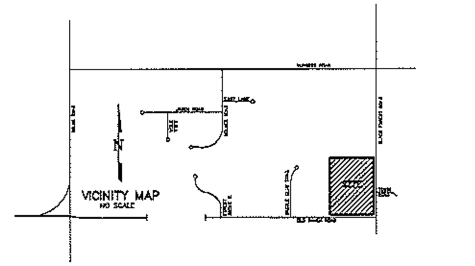
8. FEDERAL EMERGENCY MANAGEMENT AGENCY, Flood Insurance Rate Map Number 08041C0530 F, effective date March 17, 1997 indicates the area in the vicinity of this parcel of land to be a Zone X (area determined to be out of the 500 year flood plain).
9. The addresses exhibited on this plat are for informational purposes only. They are not the legal description and are subject to change.
10. Fire protection to be provided by the Black Forest Fire and Rescue District.

    The Land Development Code of El Paso County, Colorado, Section 6.3.3, requires a Fire Protection Report to be submitted for any subdivision application that addresses the fire authority's capabilities, water supply, access roads, and wildfire mitigation. This site is in a moderate fire hazard area and that defensible space is required. A Fire Protection Report was completed by Jensen Hughes Inc., dated October 27, 2025. As a condition of approval of this plat, the subdivision is limited to residential structures with a maximum size of 5,000 square feet. All future residential structures shall be equipped with an automatic fire sprinkler system in accordance with NFPA 13D. Adjacent exposures are not permitted within 50 feet of the primary structure. All future developments are to be in accordance with the Fire Protection Report and applicable codes and standards, including the International Fire Code, at the time of construction. Any deviations shall require individual fire protection strategies to be approved by Black Forest Fire Rescue. In combination with the Fire Protection Report, a Wildfire Mitigation Plan has been completed by David H. Root, dated May 2023. The plan addresses the current wildfire conditions and risk for the property, the fuels present, the fuel management recommendations, and the home ignition zone. The Wildfire Mitigation Plan shall serve as the guiding framework for all new developments and should be referenced and incorporated, where applicable, to ensure alignment with best practices for wildfire risk reduction. Such work may include, but is not necessarily limited to the following: Forest–wide thinnings, fuel break thinnings, prunings and/or debris disposal.

    This subdivision is limited to residential dwelling and associated accessory structures. The maximum residential dwelling size is limited to 5,000 square feet. All residential dwellings are required to be protected by an NFPA 13D fire sprinkler system. Accessory structure exposures are not permitted within 50 feet of the primary residential dwelling. Future construction is required to be in accordance with the applicable codes and standards at the time of construction. If any future lot developments deviate from the prior listed item criteria, individual fire protection strategies shall be approved by the BFFR Fire Prevention and Compliance Division.
11. Unless otherwise indicated, side, front and rear lot lines are hereby platted on each side with a ten foot Public Utility and Drainage Easement, as shown heron. All exterior subdivision boundaries shall have a twenty foot Public Utility and Drainage Easement, except along road rights–of–way. The sole responsibility for maintenance of these easements is hereby vested with the individual property owners.
12. The following reports and/or documentation have been submitted in association with the Final Plat for this subdivision and are on file at the County Planning and Community Development Department, which includes, but not necessarily limited to: Letter of Intent (Deviation Request); Traffic Impact Study; Drainage Letter; Storm Water Management Plan; Detention Maintenance Agreement; Soils and Geology Report; Grading and Erosion Control Plan; PDB/BMP Operations and Maintenance Manual; Fire Protection Report; Water Resources Report; Wastewater Disposal Report; Wildfire Mitigation Plan; Construction Drawings.
13. All property owners are responsible for maintaining proper storm water drainage in and through their property. Public drainage easements as specifically noted on the plat shall be maintained by the individual lot owners unless otherwise indicated. Structures, fences, materials or landscaping that could impede the flow of runoff shall not be placed in drainage easements.

    The 6" RPA water quality treatment facility is located within the private road easement, of which the maintenance responsibility lies with the owners of record of NABULSI–ABUSHABAN SUBDIVISION. Said RPA's cannot be modified without El Paso County review and approval.
14. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and/or the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the listed species, if applicable.

    Please be aware that any additional improvements may interfere with Abert's Squirrel, Black Bear, Elk, Mountain Lion, and Mule Deer habitat (species of concern to the State of Colorado) during and/or following construction. Information regarding wildlife protection measures should be provided to construction personnel and future residents, including fencing requirements, garbage containment, pets, enhancement/maintenance of natural vegetation, weed control and riparian/wetland protection/buffer zones as appropriate. Information can be obtained from the Colorado Division of Wildlife.
15. Mailboxes shall be installed in accordance with all El Paso County and United States Postal Service regulations.
16. Any person who knowingly removes, alters or defaces any public land survey monument or land boundary monument or accessory commits a Class Two (2) misdemeanor pursuant to C.R.S. 18–4–508.
17. The subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with El Paso County Road Impact Fee Program Resolution (Resolution No. 25–337), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and n plat notes to ensure that a title search would find the fee obligation before sale of the property.
18. All property within this subdivision is subject to a Common Private Access Agreement as recorded under Reception No. ______________ of the records of the El Paso County Clerk and Recorder.
19. The site has been found to be impacted by the following geologic constraints/hazards: artificial fill, downslope creep (No–Build Area Easement), expansive soils, potentially seasonal wet (No–Build Area Easement), and seasonal shallow groundwater areas (No–Build Area Easement), and shallow bedrock. The geologic constraints/hazards and mitigation measures can be found as mapped in the Soils and Geology Study completed by Entech Engineering, Inc., revised date May 22, 2023, available at the El Paso County Planning and Community Development Department. Downslope Creep: was identified on Lots 2 and 3; Potentially Seasonal and Seasonal high groundwater: were identified on each lot, and should be avoided by planned structures or on–site wastewater treatment systems; Expansive Soils and Bedrock: potential exists for each lot; Shallow Bedrock: potential exists for each lot.
20. The Private Road Easement (Serenity Ridge View) as shown on this Plat will not be maintained by El Paso County until and unless the streets are constructed in conformance with El Paso County standards in effect at the date of the request for dedication and maintenance.
21. There shall be no direct lot access to Black Forest Road. There shall be no direct lot access to Old Ranch Road, except via Serenity Ridge View Private Road Easement (60' width).
22. Public and Common Subdivision Improvements: No lot or interest therein, shall be sold, conveyed, or transferred whether by deed or by contract, nor shall building permits be issued, until and unless either the required public and common development improvements have been constructed and completed and preliminary accepted in accordance with the Subdivision Improvements Agreement between the applicant/owner and El Paso County as recorded under Reception Number ______________ in the Office of the Clerk and Recorder of El Paso County, Colorado or, in the alternative, other collateral is provided to make provisions for the completion of said improvements in accordance with the El Paso County Land Development Code and Engineering Criteria Manual. Any such alternative collateral must be approved by the Board of County Commissioners or, if permitted by the Subdivision Improvements Agreement, by the Planning and Community Development Department Director and meet the policy and procedure requirements of El Paso County prior to the release by the County of any lots for sale, conveyance or transfer.



22. (continued . . .) This plat restriction may be removed or rescinded by the Board of County Commissioners or, if permitted by the Subdivision Improvements Agreement, by the Planning and Community Development Department Director upon either approval of an alternative form of collateral or completion and preliminary acceptance by the El Paso Board of County Commissioners of all improvements required to be constructed and completed in accordance with said Subdivision Improvements Agreement. The partial release of lots for sale, conveyance or transfer may only be granted in accordance with any planned partial release of lots authorized by the Subdivision Improvements Agreement.
23. Gas and Electric services for this subdivision is provided by BLACK HILLS ENERGY and MOUNTAIN VIEW ELECTRIC ASSOCIATION, respectively, subject to the Districts' rules, regulations and specifications. The subdivider/developer is responsible for extending utilities to each lot, tract or building site.

SURVEYOR'S CERTIFICATION:

I David Hostetler, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat truly and correctly represents the results of a survey made on date of survey, by me or under my direct supervision and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:10,000 ; and that said plat has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivision, or surveying of land and all applicable provisions of the El Paso County Land Development Code.

I attest the above on this ______ day of ______________ 20____ A.D.

____
David V. Hostetler
Colorado Professional Land Surveyor No. 20681

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This plat for NABULSI–ABUSHABAN SUBDIVISION was approved for filing by the El Paso County, Colorado Board of County Commissioners on the ______ day of ______________ 20____, subject to any notes specified hereon and any conditions included in the resolution of approval. The dedications of land to the public streets and easements are accepted, but the public improvements thereon will not become the maintenance responsibility of El Paso County until preliminary acceptance of the public improvements in accordance with the requirements of the Land Development Code and Engineering Criteria Manual, and the Subdivision Improvements Agreement.

______________________ Chair, Board of County Commissioners ______________ Date

______________________ Planning and Community Development Director ______________ Date

RECORDING:

STATE OF COLORADO }
COUNTY OF EL PASO } SS

I hereby certify that this instrument was filed in my office on this ______ day of ______________, 20____ and was recorded at Reception Number ______________ of the records of El Paso County.

______________________ El Paso County Clerk and Recorder

FEES:

Park Fee: ____________ Drainage Fee: ____________

School Fee: ____________ Bridge Fee: ____________

PCD FILE NO.: MS2211

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

CALL BEFORE YOU DIG . . .
811
DIAL 811

REVISIONS			
No.	Description	By	Date
1	COUNTY COMMENTS	DVH	07/22/24
2	COUNTY COMMENTS	DVH	11/22/24
3	COUNTY COMMENTS	DVH	01/09/25
4	COUNTY COMMENTS	DVH	01/31/25
5	COUNTY COMMENTS	DVH	03/31/25

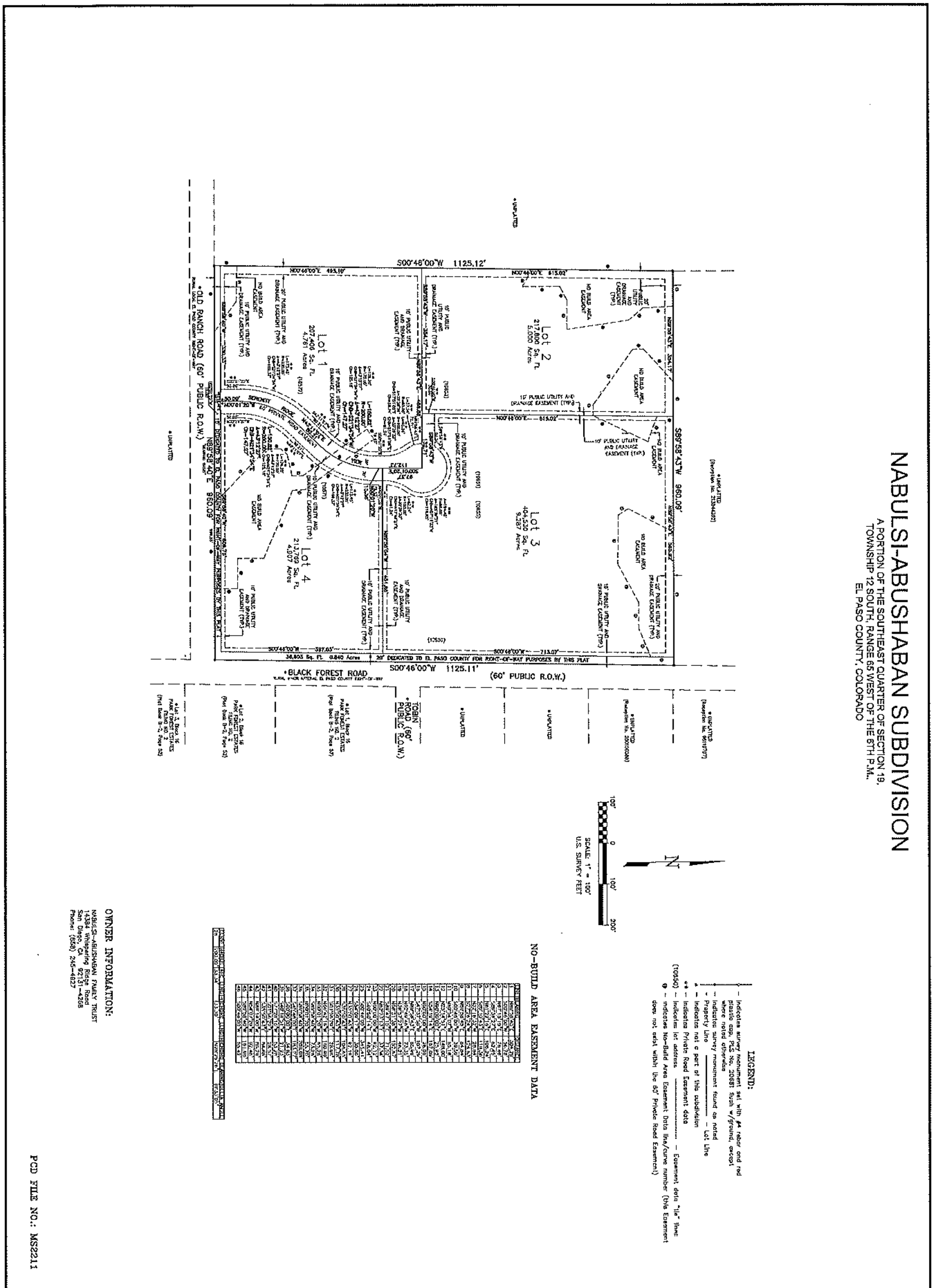
H Scale: NA
V Scale: NA
Designed By: NA
Drawn By: DGY
Checked By: DVH
Date: 05/31/22

Land Development Consultants, Inc.
PLANNING • SURVEYING

FINAL PLAT
NABULSI-ABUSHABAN SUBDIVISION

Project No.: 22005
Sheet: 1 of 2

EXHIBIT A



Project No.:	22005
Sheet:	2 of 2

FINAL PLAT
NABULSI-ABUSHABAN
SUBDIVISION

Land Development Consultants, Inc.
PLANNING • SURVEYING

H Scale:	1" = 100'
V Scale:	N/A
Designed By:	N/A
Drawn By:	WCS
Checked By:	DVH
Date:	03/06/23

REVISIONS

No.	Description	By	Date
1	COUNTY COMMENTS	DVH	[illegible]
2	COUNTY COMMENTS	DVH	[illegible]

CALL BEFORE YOU DIG . . .
811
DIAL 811

EXHIBIT B

223032142 4/20/2023 9:25 AM
PGS 16 $88.00 DF $0.00
Electronically Recorded Official Records El Paso County CO
Steve Schleiker, Clerk and Recorder
TD1000 N

DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 Phone Number: (719) 404-8832	DATE FILED: April 20, 2023 8:29 AM CASE NUMBER: 2022CW3020 ▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: **NABULSI-ABUSHABAN FAMILY TRUST** **IN EL PASO COUNTY**	Case No.: 22CW3020 (consolidated with Division 1 Case No. 22CW3036 pursuant to Order of Panel on Multi-District Litigation 22MDL12)

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 the Nabulsi-Abushaban Family Trust on March 31, 2022. 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 the Nabulsi-Abushaban Family Trust c/o Taher Nabulsi, whose address is 14384 Whispering Ridge Rd., San Diego, CA 92131 ("Applicant"). Applicant is the owner of the land totaling approximately 25 acres on which the structures sought to be adjudicated and augmented herein are and will be located, and under which lies the Denver Basin groundwater described in this decree, and is the owner of the place of use where the water will be put to beneficial use, except for any potential off-property uses as described in Paragraph 19.

2. The Applicant filed this Application with the Water Courts for both Water Divisions 1 and 2 on March 31, 2022. The Applications were referred to the Water Referees in both Divisions 1 and 2 on or about the same day.

3. The time for filing statements of opposition to the Application expired on the last day of May 2022. A statement of opposition was timely filed by Kettle Creek, LLC on May 31, 2022.

4. A Motion for Consolidation of the Division 1 and Division 2 cases into Water Division 2 was filed with the Colorado Supreme Court on June 9, 2022. The Panel on Consolidated Multidistrict Litigation certified the Motion for Consolidation to the Chief Justice on June 14, 2022. Chief Justice, Brian D. Boatright, granted the Motion for Consolidation by Order dated July 12, 2022.

5. In accordance with the notice requirements of C.R.S. § 37-92-302, a Notice of No Lienholder for the Applicant's property was filed with the Court on March 31, 2022.

6. On March 31, 2022, the Division 1 Water Court, on Motion from Applicant, ordered that consolidated publication be made by only Division 2. On April 5, 2022, the Water Court, Division 2 ordered that publication occur in *The Gazette* within El Paso County.

7. 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 April 27, 2022, proof of publication in *The Gazette* was filed with Water Court, Division 2. All notices of the Application have been given in the manner required by law.

8. On March 13, 2023 a stipulation between the Applicant and Kettle Creek, LLC was filed with the Division 2 Water Court. By Order dated March 14, 2023 the Division 2 Water Court approved such stipulation.

9. Pursuant to C.R.S. §37-92-302(2), the Office of the State Engineer has filed Determination of Facts for each Denver Basin aquifer with this Court on June 14, 2022, which have been considered by the Water Court in the entry of this decree.

10. Pursuant to C.R.S. §37-92-302(4), the Office of the Division Engineer for Water Division No. 2 filed its Summary of Consultation Report dated July 18, 2022, and pursuant to Order of the Court dated July 26, 2022, a response to the Summary of Consultation Report was filed by the Applicant on August 26, 2022. The Summary of Consultation Report and Response have been considered by the Water Court in the entry of this decree.

11. 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

12. The Application requested quantification and adjudication of a vested underground water right from the Dawson aquifer underlying the Applicant's property, as described herein, and use of N-A Trust Well Nos. 1 through 4, as currently existing and

as may be constructed to the Dawson aquifer, and any additional or replacement wells associated therewith, for withdrawal of a portion of Applicant's full entitlement of supply from the Dawson aquifer under the plan for augmentation decreed herein. Applicant also requested quantification and adjudication of vested underground water rights and uses from the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant's property. The following findings are made with respect to such underground water rights and use of N-A Trust Well Nos. 1 through 4:

13. The land overlying the groundwater subject to the adjudication in this case is owned by the Applicant and consists of approximately 25-acres located in the SE¼ SE¼ of Section 19, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, also known as 10650 Black Forest Rd., Colorado Springs, CO 80908 ("Applicant's Property"). Applicant intends to subdivide the property into up to four (4) lots. All groundwater adjudicated herein shall be withdrawn from the overlying land.

14. N-A Trust Well Nos. 1 through 4: N-A Trust Well Nos. 1 through 4 will be located on the Applicant's Property. The N-A Trust Well Nos. 1 through 3 are currently permitted and constructed as exempt wells pursuant to C.R.S. §37-92-602 under Well Permit Nos. 85841-A, 137196, and 23585, respectively, and are located as shown on **Exhibit A** to this decree. Applicant is awarded the vested right to use N-A Trust Well Nos. 1 through 4, 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. Upon entry of this decree and submittal by the Applicant of complete well permit applications and filing fees, the State Engineer shall issue revised permits for the existing N-A Trust Well Nos. 1 through 3, and a new permit for the N-A Trust Well No. 4, pursuant to C.R.S. §37-90-137(4), consistent with and referencing the plan for augmentation decreed herein.

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

AQUIFER	NET SAND (ft)	Annual Average Withdrawal 100 Years (Acre Feet)	Annual Average Withdrawal 300 Years (Acre Feet)	Total Withdrawal (Acre Feet)
Dawson (NNT)	190	9.5	3.2	950[1]
Denver (NNT)	293	12.45	4.2	1,245
Arapahoe (NNT)	268	11.4	3.8	1,140

[1] Should the three existing well permits not be cancelled and re-permitted, then this amount will be reduced by 100 acre-feet to 850 acre-feet in accordance with the Determination of Facts for the Dawson aquifer filed by the State Engineer's Office on June 14, 2022.

Laramie-Fox Hills (NT)	190	7.13	2.4	713

16. Pursuant to C.R.S. §37-90-137(9)(c.5)(I), the augmentation requirements for wells in the Dawson, Denver, and Arapahoe aquifers require the replacement to the affected stream systems of actual stream depletions on an annual basis. Applicant shall not be entitled to construct a well or use water from the not-nontributary Dawson, Denver, or Arapahoe 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 pumping of N-A Trust Well Nos. 1 through 4 from the Dawson aquifer.

17. Subject to the augmentation requirements described in Paragraphs 16 and 22 and the 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 total amounts available to Applicant as decreed herein and the augmentation requirements of this decree. This decree describes a pumping period of 300-years as to pumping from the Dawson aquifer, as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1). The average annual amounts of ground water available for withdrawal from the underlying Denver Basin aquifers, based upon the 100-year and 300-year aquifer life calculations, are determined and set forth in Paragraph 15, above, based upon the June 14, 2022, Office of the State Engineer Determination of Facts described in Paragraph 9.

18. 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.

19. 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, recreation, wildlife, 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 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 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 well or use water from the not-nontributary Dawson, Denver, and Arapahoe aquifers pursuant to a decreed augmentation plan entered by the Court, including that plan for augmentation decreed herein for the Dawson aquifer.

20. Applicant has waived the 600-feet well spacing requirement for wells to be constructed upon the Applicant's Property. Pumping from N-A Trust Well Nos. 1 through 4 and any additional or replacement wells for those wells, or wells constructed into the Denver, Arapahoe, and Laramie-Fox Hills aquifers, will not exceed 100 g.p.m., though actual pumping rates for these wells will vary according to aquifer conditions and well production capabilities. The Applicant may withdraw groundwater from the N-A Trust Well Nos. 1 through 4 and any additional or replacement wells for those wells, or from wells constructed into the Denver, Arapahoe, and Laramie-Fox Hills aquifers, at rates of flow necessary to withdraw the entire amounts decreed herein. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions.

21. Withdrawals of groundwater available from the nontributary Laramie-Fox Hills aquifer beneath the Applicant's Property in the amount 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

22. The structures to be augmented are the N-A Trust Well Nos. 1 through 4 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. This plan for augmentation does not cover depletions associated with diversions in the Denver or Arapahoe aquifers. If Applicant would like to divert its entitlements in the Denver and Arapahoe aquifers, it must do so under a separate future decreed augmentation plan.

23. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation obligation for the N-A Trust Well Nos. 1 through 4, and any additional or replacement wells constructed to the Dawson aquifer, requires the replacement of actual stream depletions. The water to be used for augmentation during pumping is the septic system return flows of the not-nontributary N-A Trust Well Nos. 1 through 4, to be pumped as set forth in this plan for augmentation. The water to be used for augmentation after pumping ceases is the reserved portion of Applicant's nontributary water right in the Laramie-Fox Hills aquifer, as described in Paragraph 23.D. Applicant shall provide for the augmentation of stream

depletions caused by pumping the N-A Trust Well Nos. 1 through 4 and any additional or replacement wells as approved herein. Water use criteria are as follows:

A. Use: Based on a 300-year pumping period, the N-A Trust Well Nos. 1 through 4 may each pump up to 0.57 acre-feet of water per year, assuming four lots, for a maximum total of 2.28 acre-feet being withdrawn from the Dawson aquifer annually (684 acre-feet total) pursuant to the plan for augmentation authorized by this decree. Indoor use will utilize up to 0.26 acre-feet of water per year per residence, with the remaining 0.31 acre-feet per year of the pumping entitlements available for other uses on the Applicant's Property, including, irrigation of lawn and garden and the watering of up to four horses or equivalent livestock, per residence. The foregoing figures assume the use of four individual non-evaporative septic systems, with resulting return flows from each, as described below in Paragraph 23.C. Should Applicant subdivide Applicant's Property into fewer than four lots such that total annual pumping is reduced below 2.28 acre-feet, depletions and return flows for the replacement of depletions will be reduced. In the event that only three lots are created, pumping for the three lots shall be limited to 2.20 annual acre-feet total, or 0.73 annual acre-feet per lot. If only two lots are created, then total pumping shall be limited to 1.5 annual acre-feet total, or 0.75 acre-feet per lot.

B. Depletions: Maximum annual stream depletions over the 300-year pumping period occur in year 300 and will amount to approximately 30.98% of annual pumping. Maximum annual depletions for total residential pumping from all wells of 2.28 acre-feet are therefore 0.71 acre-feet in year 300. Should Applicant's pumping be less than the total 2.28 annual acre-feet described herein, resulting depletions and required replacements will be correspondingly reduced.

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 four residential Dawson aquifer wells. Applicant has shown that, provided water is delivered for indoor use and treated as required by this decree, depletions during the pumping period will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is estimated at 10% per year per residence. At the household indoor use rate of 0.26 acre-feet per residence per year, total of 1.04 acre-feet (assuming four residences), 0.936 acre-feet (0.234 acre-feet per residence) is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, total maximum annual stream depletions of 0.71 acre-feet will be augmented provided septic system return flows are generated by indoor use of water in at least four residences ((4 x 0.26) x 0.9 = 0.93). This calculation of septic system return flows from indoor residential use of 0.26 acre-feet per residence shows that depletions that result from pumping the annual amounts described in Paragraph 23.A for either three lots or two lots will also be adequately replaced during the pumping period for the wells under the plan for augmentation.

D. Augmentation of Post Pumping Depletions: This plan for augmentation shall have a pumping period of a minimum of 300 years. For the

replacement of post-pumping depletions which may be associated with the use of the N-A Trust Well Nos. 1 through 4 and any additional or replacement wells, Applicant will reserve water from the nontributary Laramie Fox Hills aquifer underlying the Applicant's Property, as described below. This reservation will be sufficient to replace all post-pumping depletions associated with maximum pumping of N-A Trust Well Nos. 1 through 4, accounting for replacements made during the plan pumping period. The amount of nontributary Laramie-Fox Hills 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 Laramie-Fox Hills 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 reservation of 713 acre-feet from the Laramie-Fox Hills aquifer results in approximately 699 acre-feet of available post-pumping augmentation water, which will be sufficient to replace post-pumping depletions based on total pumping of 2.28 acre-feet annually, in accordance with the July 18, 2022, Division Engineer's Summary of Consultation.

E. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive new well permits for the existing N-A Trust Well Nos. 1 through 3 and a new permit for the N-A Trust Well No. 4 for the uses in accordance with this decree and otherwise in compliance with C.R.S. §37-90-137.

24. 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 Arkansas 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 Arkansas River system as set forth herein, and the Court finds that those replacements are sufficient under this augmentation plan subject to Paragraphs 43-47 herein.

25. 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 Laramie-Fox Hills 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 the post-pumping obligation commences. Pursuant to this covenant, the water from the nontributary Laramie-Fox Hills 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 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.

26. Applicant or its successors shall be required to initiate pumping from the Laramie-Fox Hills aquifer 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 (684 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 N-A Trust Well Nos. 1 through 4 or any additional and replacement wells 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.

27. 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 may petition the Court to also modify or terminate the reservation of the Laramie-Fox Hills aquifer groundwater.

28. The term of this augmentation plan is for a minimum 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 is not exceeded. Should the actual operation of this augmentation plan depart from the planned diversions described in Paragraph 23 such that annual diversions are increased through banking measures, or the duration of the plan is extended, the Applicant 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 actual stream depletions throughout the pumping period and that reserved nontributary water remains sufficient to replace post-pumping depletions. The Applicant shall provide notice of the revised model submissions to the State Engineer, this Court, and opposer in this case, and the State Engineer and opposer will have thirty (30) days for review and comment about the revised modeling, upon which, the Applicant will be allowed thirty (30) days to respond to the comments of the State Engineer and the opposer. After this notice and comment period, if the revised depletion modeling is acceptable to the State Engineer, this Court may give approval for the extension of this augmentation plan past the 300-year minimum.

29. 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, of injury to any owner of or person entitled to use water under a vested water right.

30. 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 N-A Trust Well Nos. 1 through 4. As a result of the operation of this plan for augmentation, the depletions from the N-A Trust Well Nos. 1 through 4 and any additional or replacement wells associated therewith will not result in injury to the vested water rights of others.

CONCLUSIONS OF LAW

31. The application for adjudication of Denver Basin groundwater and approval of plan for augmentation was filed with the Water Clerks 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 2.

32. 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.

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

34. 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 well permits by the State Engineer's Office. Applicant is entitled to a decree from this Court confirming its rights to withdraw groundwater pursuant to C.R.S. §37-90-137(4).

35. 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.

36. 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.

37. 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 N-A Trust Well Nos. 1 through 4 and any additional or replacement wells as described herein without adversely affecting any other vested water rights in the Arkansas River and South Platte River or their 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:

38. 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.

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

A. Subject to the requirement to re-permit the existing exempt wells located on Applicant's Property, Applicant is awarded a vested right to 950 acre-feet of groundwater from the not-nontributary Dawson aquifer underlying Applicant's Property, as quantified in Paragraph 15 or as modified by the Court under its retained jurisdiction. Of the total 950 acre-feet within the not-nontributary Dawson aquifer, 684 acre-feet total may be pumped pursuant to the plan for augmentation decreed herein. The remaining 266 acre-feet of Dawson aquifer groundwater decreed herein which is not included in this plan for augmentation, shall not be withdrawn for any purpose except pursuant to a separate court-approved plan for augmentation authorizing the pumping of that amount.

B. Applicant is awarded a vested right to 1,245 acre-feet of groundwater from the not-nontributary Denver aquifer underlying Applicant's Property, as quantified in Paragraph 15 or as modified by the Court under its retained jurisdiction. However, none of the not-nontributary Denver aquifer water vested and decreed herein shall be withdrawn for any purpose except pursuant to a separate court-approved plan for augmentation authorizing the pumping of such amount.

C. Applicant is awarded a vested right to 1,140 acre-feet of groundwater from the not-nontributary Arapahoe aquifer underlying Applicant's Property, as quantified in Paragraph 15 or as modified by the Court under its retained jurisdiction. However, none of the not-nontributary Arapahoe aquifer water vested and decreed herein shall be withdrawn for any purpose except pursuant to a separate court-approved plan for augmentation authorizing the pumping of such amount.

D. Applicant is awarded a vested right to 713 acre-feet of groundwater from the nontributary Laramie-Fox Hills aquifer underlying Applicant's Property, as quantified in Paragraph 15 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 is subject to the reservation of the entire 713 acre-feet awarded to be utilized only for replacement of post-pumping depletions under the plan for augmentation decreed herein, consistent with Paragraph 23.D., above.

40. The Applicant has furnished acceptable proof as to all claims and, therefore, the Application for Adjudication of Denver Basin Groundwater and For Approval of 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.

41. 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 of the groundwater withdrawn annually will be consumed.

42. The N-A Trust Well Nos. 1 through 4, and any replacement or additional wells, shall be operated such that combined pumping from all wells does not exceed the annual (2.28 acre-feet) and total (684 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. Consistent with Rule 11.A of the Statewide Nontributary Ground Water Rules, the Denver Basin groundwater decreed herein must be withdrawn from the "overlying land" as defined in Rule 4.A.8 of the Statewide Nontributary Ground Water Rules, and N-A Trust Well Nos. 1 through 4 and any replacement wells for these wells shall be constructed on the overlying land. The State Engineer, the Division Engineer, and/or the Water Commissioner shall not curtail the diversion and use of water by the N-A Trust Well Nos. 1 through 4 or any additional and replacement wells so long as the return flows from the annual diversions associated with the N-A Trust Well Nos. 1 through 4 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 N-A Trust Well Nos. 1 through 4 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, the depletions from 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, and cannot be sold, leased or otherwise used for any purpose other than the augmentation plan decreed herein. 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 19 or 23.A.

43. 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. The retained jurisdiction described in this Paragraph 43 is applicable only to the quantities of water available underlying Applicant's Property, and does not affect or include the augmentation plan decreed herein, the retained jurisdiction for which is described in Paragraphs 44 and 47, below.

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 43 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, opposer, 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", and the provisions of this Paragraph 43 concerning adjustments to the Denver Basin ground water 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 43.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.

44. Pursuant to C.R.S. §37-92-304(6), the Court shall retain continuing jurisdiction over the plan for augmentation decreed herein for a period of five years from the date of entry of this decree 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 Laramie-Fox Hills aquifer 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 23.D. The Court's retained jurisdiction may be invoked using the process set forth in Paragraph 47.

45. As pertains to the Denver Basin groundwater supplies, the Court shall retain continuing jurisdiction for so long as Applicant is required to replace depletions to the Arkansas River system, to determine whether the replacement of depletions to the Arkansas River system instead of the South Platte River system is causing injury to water rights tributary to the South Platte River system.

46. Any person may invoke the Court's retained jurisdiction at any time that Applicant is causing depletions, including ongoing post-pumping depletions, to the South Platte River system and is replacing such depletions to only the Arkansas River system. 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 South Platte 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 South Platte 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.

47. Except as otherwise specifically provided in Paragraphs 44-46, 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 of others, for a period of five years from the date of entry of this 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 43-46.

48. 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 Engineer, 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 N-A Trust Well Nos. 1 through 4, or any additional or replacement wells associated therewith, and is required to include geophysical logging on each well. Applicant shall read and record the well meter readings on March 31st and October 31st of each year and shall submit the meter readings to the Water Commissioner by April 15th and November 15th of each year or more frequently as requested by the Water Commissioner.

49. 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. N-A Trust Well Nos. 1 through 4 shall be permitted as non-exempt structures 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.

50. The 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.

Date: March 24, 2023.

Kate Brewer
Water Referee
Water Division Two

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.

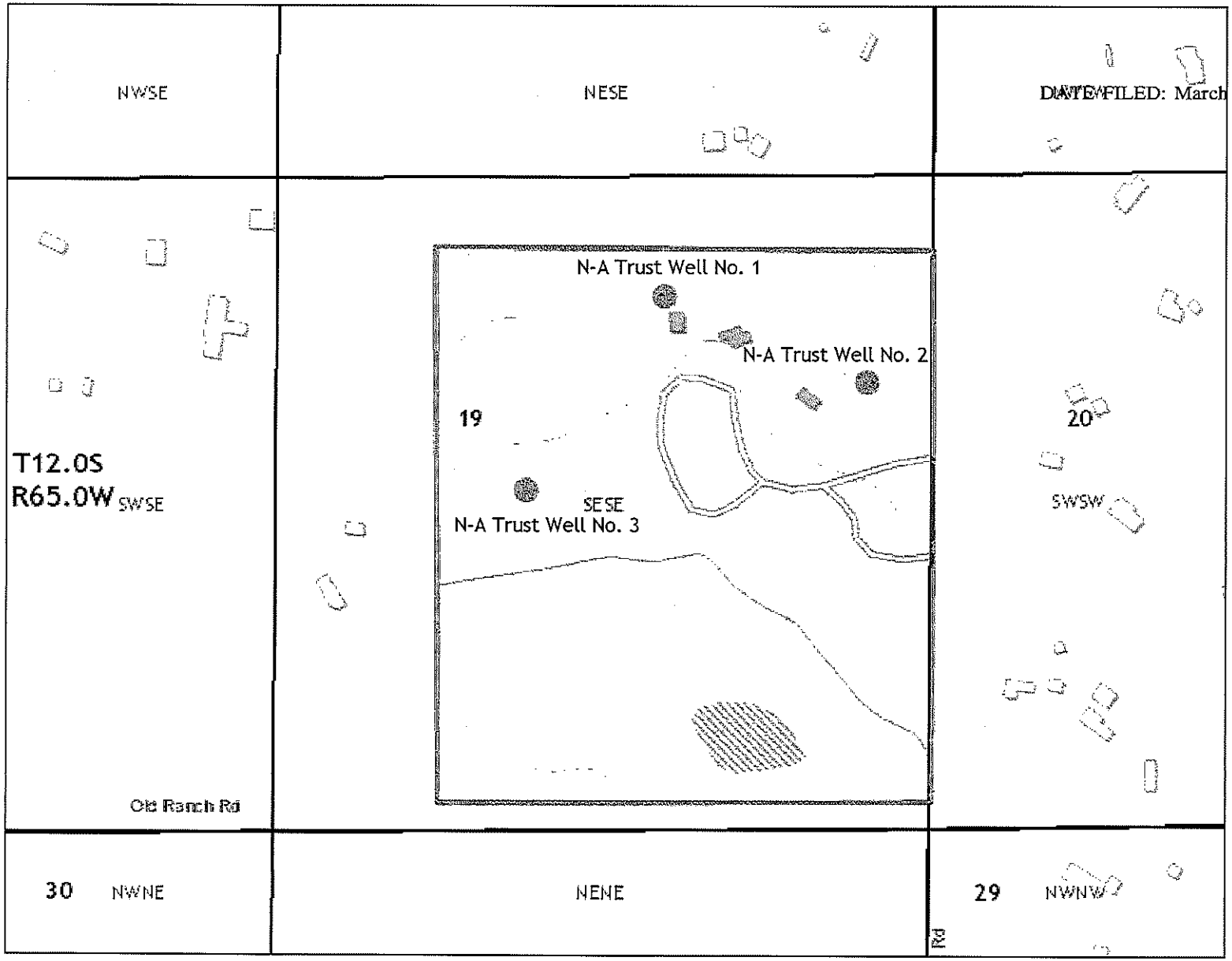
Date: April 20, 2023

BY THE COURT:

LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2

COLORADO'S
Decision Support Systems
CWCB / DWR

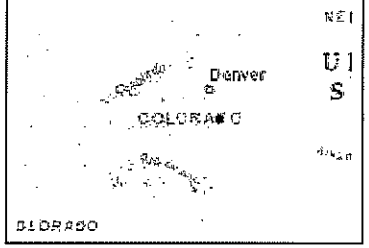
Approximate Locations of Applicant's Property and Existing Wells



Legend

- Township
- Section
- Q40
- County

Location



Notes

EXHIBIT A

585 0 292 585 Feet

1: 3,508

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Date Prepared: 11/30/2022 10:18:28 AM