DECLARATION OF PROTECTIVE COVENANTS FOR TERRA RIDGE NORTH

This Declaration of Protective Covenants for Terra Ridge North (the "Covenants") is executed on the date shown below.

R E C I T A L S

WHEREAS, Phillip Shay Miles and Jennifer L. Miles (the "Declarant") own the Property described on ***Exhibit "A"*** attached hereto and incorporated herein by this reference, which will also be described on the Final Plat, hereinafter called the "Subdivision"; and

WHEREAS, the Declarant desires to submit the Subdivision to the covenants, terms and provisions hereof.

NOW, THEREFORE, as binding upon the owners of Lots, and his, her, their, or its heirs, executors, administrators, personal representatives, successors and assigns, and all persons or concerns claiming by, through or under such grantees (hereinafter collectively called the "Owners"), said Declarant hereby declares to and agrees with each and every person who shall be or shall become owner of any said Lots, in addition to the ordinances of the County of El Paso, Colorado, that they shall be and are hereby bound by the covenants set forth in these presents and that the property described in these restrictions shall be held and enjoyed subject to and with the benefit and advantage of the following restrictions, limitations, conditions and agreements, to-wit, the Declarant hereby imposes these Covenants, as follows:

1. INTENT AND DEFINITIONS.

A. Intent. The intent of these Covenants is to preserve Terra Ridge North as a desirable area to live and to present a high-quality residential area of lasting value, and the Covenants have been designed to that end. Owners of Lots in Terra Ridge North (hereinafter called "Owners") should be people who value quality, who will respect, uphold and observe the letter, spirit and intent of these Covenants, and who will insist upon their strict enforcement. To implement these Covenants, the Declarant has established the Architectural Control Committee ("ACC").

Notwithstanding any provision of these Covenants, the Subdivision shall not be subject to development rights as defined in the Colorado Common Interest Ownership Act, and so, pursuant to C.R.S. §38-33.3-116, the Terra Ridge North Homeowners Association, incorporated as "Terra Ridge North, Inc." ("Association"), and the Property shall be subject only to C.R.S. §38-33.3-105, §38-33.3-106 and §38-33.3-107, and no other sections of said Article 33, provided, however, the Owners may elect coverage under said Act pursuant to C.R.S. §38-33.3-118 with the Declarant's prior written consent during the Period of Declarant's Rights.

B. Definitions. The following words and expressions used in these Covenants have the meanings indicated below unless the context clearly requires another meaning:

(1) Accessory Building. Any detached structures, including garages, guest houses, patios, swimming pools, spas, hot tubs, gazebos, recreation facilities, guest house, mother-in-law apartment, short term rental unit, and other buildings approved by the ACC and El Paso County and customarily used in connection with the single family residence as determined by the Board in its sole discretion. The Accessory Building footprint may not exceed two (2) times the size of the building footprint of the primary residential dwelling Structure.

(2) ACC. The Architectural Control Committee established pursuant to Paragraph 10 of these Covenants.

(3) Association. Terra Ridge North, Inc., a Colorado non-profit corporation, which has been organized under the laws of the State of Colorado, its successors and assigns.

(4) Building Site. The location within a Lot on which a Structure may be erected with the prior written approval of the ACC, including the "building envelope" described herein. The Accessory Building footprint may not exceed two (2) times the size of the building footprint of the primary residential dwelling Structure.

(5) Common Area. Any Tracts or parcels designated as such on any plat of the Subdivision or otherwise granted or conveyed to the Association, together with all improvements located thereon and all common property owned by the Association. The Common Area may consist of the detention pond, the common well, the central mailboxes, and other areas for common use.

(6) Covenants. This Declaration of Protective Covenants and the provisions contained in it, and any amendments thereto.

(7) Declarant. Phillip Shay Miles and Jennifer L. Miles, their agents, employees, contractors, successors and assigns to whom it expressly transfers all or any part of their rights as Declarant hereunder.

(8) Development Plan. The Development Plan shall mean and refer to any development plans or related documents for the Subdivision as approved by El Paso County, Colorado.

(9) Home. The residential dwelling Structure located on a Lot.

(10) Lot. Each area designated as a Lot in any recorded Plat of the Subdivision.

(11) Lot Lines. Front, side and rear Lot Lines shall be the same as defined in the zoning regulations of El Paso County in effect from time to time. In the absence of such a definition, a front Lot Line is each boundary line (whether one or more) between the Lot and any public street. A side Lot Line is any boundary line which meets and forms an angle with

a public street except that for a corner Lot with two front Lot Lines, the side Lot Line is the boundary which forms an angle with the street which affords the principal access to the Lot.

(12) Period of Declarant's Rights. That period of time commencing with the recording of these Covenants and continuing until January 1, 2039, unless sooner terminated by the Declarant.

(13) Plat. The plat which has been or will be recorded for this Subdivision.

(14) Mortgagee. Any person or entity, or any successor or assign thereof, which holds or owns a deed of trust, mortgage or similar encumbrance. The term "First Mortgage" shall mean a mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general *ad valorem* tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First Mortgage.

(15) Owner. Person or entity having fee simple legal title to a Lot. If more than one person has such title, all such persons are referred to collectively as "Owner" and shall exercise their rights as an Owner through such one of them as they may designate from time to time. A vote of Owners shall be determined on the basis of one vote for each Lot.

(16) Rules. The rules and regulations established by the Association under these Covenants.

(17) Structure. Any thing or device, including related improvements, such as Accessory Buildings, painting, fences, trees and landscaping, the placement of which upon any Building Site might affect its architectural appearance, including any dwelling, building, garage, porch, shed, greenhouse, driveway, walk, patio, swimming pool, tennis court, fence, wall, tent, covering, antenna, mailbox, solar collector or outdoor lighting. Structure shall also mean an excavation or fill, the volume of which exceeds five (5) cubic yards or any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

(18) Subdivision. The area platted as "Terra Ridge North" and described in ***Exhibit "A"*** hereto.

2. NO MANUFACTURING OR COMMERCIAL ACTIVITIES. No manufacturing or commercial activities, as defined by the ACC, shall be permitted on the Property or any Lot, including any garage or outbuilding, except that manufacturing or commercial activities of a non-offensive character which can be carried on within any Structure but only with the prior written approval of the ACC. Notwithstanding any provision hereof, the Declarant reserves the right to operate a business and conduct commercial activities on Declarant's property, including the storage of equipment and materials.

3. BUILDING TYPE AND USE. All Lots shall be used solely for private, single family residential purposes, except as otherwise provided in these Covenants. No building shall be erected, constructed, placed, or altered on any Lot other than a one-story, a one and one-half story or a two-story, single family residential dwelling (the "Home") and one Accessory Building as may be approved by the ACC and El Paso County, for accessory use of the Lot. No Home shall have a garage with less than a three-car capacity. A stable or barn for quartering horses or livestock will be considered as accessory use and must be in keeping with the architecture of the Home.

4. DWELLING QUALITY AND SIZE. Each Home shall be built on site and shall be stick built homes only as determined by the ACC in its sole discretion (with the exception of any existing Structures currently within the Subdivision, which will be allowed as a non-conforming use). Only one single family Home, plus one Accessory Building and one mother-in-law apartment structure, is permitted on any Lot. All improvements shall be constructed of good and suitable materials and all workmanship shall be to code. All Homes must have a minimum of 1,800 square feet on the main floor and a minimum of 3,500 square feet in total area. The Accessory Building must meet the requirements of the ACC and El Paso County.

5. SETBACKS. No Home shall be located on any Lot nearer than fifty (50) feet from any Lot line, but all other Structures to be one hundred (100) feet from all Lot Lines. Exceptions to setback requirements are sometimes logical and may be made by the ACC in cases where extenuating circumstances exist, provided, however, that any such exceptions must be requested in writing and granted by the ACC in writing. For the purpose of these Covenants, steps and open porches shall be considered as part of the building. There is no specific area or building envelope on any Lot for Building Sites; however, Home locations cannot be closer than fifty (50) feet from the direct line of sight between any existing Home on the easterly adjoining property and Pikes Peak (the highest visible mountain west of property), as determined by the ACC in its sole discretion. All Building Sites will require Owners to request ACC approval of the Structures and improvements thereon, and Owners shall provide an improvement location plat, including septic, water well and utility locations, and will need ACC approval in writing prior to building.

6. TEMPORARY RESIDENCES. No Structure of a temporary character, trailer, camper, motor home, vehicle or vehicle trailers, mobile home, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, with exception if approved by the ACC for use during construction but only temporarily. Only one residential Home, together with one Accessory Building, shall be constructed upon any Lot, unless the Lot has successfully been replatted, in which case one residential unit shall be maintained on any Lot; after replatting, any replatted Lot shall constitute a Lot under these Covenants.

7. STORAGE. Except during the development of the Subdivision and construction thereon, and except as provided by Paragraph 2 hereof, no portion of the Property shall be used for the storage of lumber or any other material (except during construction of a Home or approved Accessory Buildings thereon), and no portion of the Property shall be used for the storage of trucks, cars, machinery or equipment.

8. NEW CONSTRUCTION. Except for any Structure existing within the Subdivision

on the date of recording hereof, only new construction will be allowed; no used buildings or Structures and no metal buildings that do not, through their appearance, enhance the environmental surroundings, will be allowed. The ACC must approve or disapprove any Structures of this type.

9. TIME OF CONSTRUCTION.

A. Once construction shall have been initiated on any Structure, including Homes, walls, fences, ancillary buildings or any other Structure which has been previously approved by the ACC, construction of that particular Structure shall be completed within twelve (12) months of the time such construction was initiated. The ACC may extend the time for completion under unusual circumstances, and any such extension shall be applied for in writing.

B. With the approval of the ACC and El Paso County, a guest house, or mother-in-law apartment may be constructed prior to commencement of construction of the Home and garage on the same residential Lot. At the time said plans and specifications receive approval from the ACC and El Paso County, the prospective builder shall proceed diligently with said Home, the garage, and any approved Accessory Building and the same shall be completed within a maximum period of twelve (12) months, excepting, however, that this period may be enlarged by an additional three (3) month period if said extension is made necessary by reason of inclement weather, inability to obtain materials, strikes, acts of God, or similar events as determined by the ACC. The exterior construction of all buildings must be completed, including treating or painting of wood, before occupancy.

10. ARCHITECTURAL CONTROL AND DESIGN.

A. Purpose. The purpose of these Covenants is to assure through architectural control of building design, placement, materials, colors, and construction that Terra Ridge North shall become and remain an attractive residential community, and to uphold and enhance property values.

B. Architectural Control Committee (ACC).

(1) Composition. The initial ACC is composed of the three (3) persons described in Paragraph 12(A) of these Covenants, their heirs, or assigns; Declarant may thereafter, during the Period of Declarant's Rights, appoint the ACC, provided, however, Declarant or its representatives shall remain on the ACC until all Lots and/or Lots have completed Homes thereon, unless, at its option and choice of time, Declarant may relinquish by a written document full control of the ACC to the owner-occupants; after the Declarant relinquishes control, but not until that time, all members of the ACC shall be subject to election as provided in these Covenants. Any elected member of the ACC whose performance is found objectionable by other owner-occupants may be removed by a vote of the Owners of two-thirds (2/3) of the Lots. In the event of the death or resignation of any elected member of the ACC, the remaining members thereof shall have full authority to designate a successor elected member to fill the remaining term.

(2) Non-Liability of ACC. Neither Declarant, ACC nor any persons acting therefor, shall be liable in damages to any person submitting requests for approval or to any

Owner by reason or any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests, or with regard to any other actions taken by the ACC under authorization of the provisions hereof, provided that they have acted in good faith and without negligence.

C. Procedure for Obtaining Approval of Plans. To submit for ACC approval, an Owner shall provide the following attachments to the ACC:

(1) One (1) copy of a site plan, drawn to scale, showing the exact location on the Lot and specifications of all proposed improvements (Home, well, septic, leach field, utilities, fencing, other buildings, and barns/corrals even if only contemplated for the future). Exact proposed setbacks from Lot Lines must be delineated and access routes (driveways) to proposed Structures.

(2) One (1) complete set of construction plans for building(s) detailing the floor plan, elevation, site location, and exterior building materials.

(3) Color samples of roof, exterior, trim and doors must be submitted for approval with the floor plans. Any changes to such colors later after approval must be submitted for approval as well.

11. DESIGN STANDARDS. The ACC, with approval of the Board, may adopt design standards for all construction, so long as the standards do not conflict with the provisions of these Covenants. The Design Standards shall be considered incorporated into these Covenants as if set forth herein and shall be fully enforceable by the ACC and the Board.

12. PROCEDURES FOR OBTAINING APPROVAL OF PLANS.

A. Submissions. After receipt of any submission, the Acc should then communicate to discuss, examine, and consider plans and approve or disapprove all submissions in writing. The ACC approval or disapproval as required in these Covenants shall be in writing and should be made within thirty (30) days of submittal of all plans and required documents. Plans shall be submitted to ACC by either of two means:

(1) Mail to: Shay Miles
P.O. Box 88461
Colorado Springs, CO 80908

(2) Email: shay@milestoneeng.org

B. Authority of ACC. The ACC is empowered to approve or disapprove, in writing, all plans for construction. If such submissions are disapproved, the ACC shall give written reason for said disapproval to applicant.

C. Architectural Design and Requirements.

(1) Color. Structural color schemes will be compatible with the natural environment of the Property. Subdued, unobtrusive natural or earth colors will be required, and color samples must be submitted with plans. Color samples must include: roof, exterior walls or siding, exterior doors and trim.

(2) Roof Lines. The roof pitch for Home and attached garage within the Subdivision must be 5/12 minimum and 5 roof cross-sections (roof lines) minimum. Any detached building must have a 4/12 roof pitch minimum.

(3) Extreme Designs. Homes of extreme design may or may not be approved depending upon location and appearance, it being the intent of these Covenants to establish an area of quiet, unobtrusive dignity and quality consistent with other Homes in Terra Ridge North.

(4) Driveways. Owners must obtain a written driveway permit from the El Paso County Department of Transportation prior to connection of any driveway to a public road. Owners of Lots are advised that the County has no responsibility for and will not snow plow or otherwise maintain driveways; such responsibility is solely that of the Owner. The road running through Terra Ridge North is a public road dedicated to El Paso County, which is responsible for the repair and maintenance thereof.

(5) Propane Tanks. No propane tanks or similar tanks shall be allowed within the Subdivision.

(6) Flag Poles are allowed with the prior written approval of the ACC. Any other types of poles, towers, windmills, or tall decorative yard items must be approved by the ACC. The maximum height allowed for any of these types of poles as described above shall be twenty-five (25) feet.

(7) Central Mailbox System may be constructed at the Association's expense within the Subdivision according to the County and U.S. Postal System requirements; the Association shall maintain the mailboxes in good repair. No individual mailboxes will be allowed on any Lot.

(8) Outdoor Clotheslines. No outdoor clotheslines are permitted on any Lot, except as may be required by law and with prior approval of the ACC which may require, in its sole discretion, that the clothesline area be completely enclosed with fencing or other materials.

13. LOT LANDSCAPE MATTERS.

A. Tree Removal. Approval must be obtained from the ACC or its assigns to cut down, clear, or kill any trees on the Property. Further, each and every grantee of the Property or any portion thereof agrees that all the trees cleared by him will be disposed of in such a manner that all Lots shall be kept free of accumulations of brush, trash, or other materials which may constitute a fire hazard or render a site unsightly.

B. Tree Management and Landscaping. The Association may institute a tree management program to implement any wildfire, mistletoe, or other healthy forest programs.

C. Wildfire Mitigation. All dwelling Structures shall have a thirty (30) foot safety zone or primary fuel break in all directions. All brush within ten (10) feet of the dwelling Structure shall be removed and replaced with an irrigated greenbelt (including grasses, shrubs and/or flowers) or non-combustible materials such as rock or gravel mulches. All large trees within the thirty (30) foot safety zone shall be thinned to eliminate overlapping crowns. Trees within two (2) tree heights of the dwelling Structure shall be pruned of all dead limbs, and Owners shall prune live branches to ten (10) feet from at least half of the trees within the thirty (30) foot safety zone. All branches which extend over or under the eaves of the roof shall be trimmed. Owners shall be required to maintain the thirty (30) foot safety zone by removing all fuels from beneath large trees. Owners shall keep grasses trimmed to two inches (2") and well watered; keep roofs and roof gutters clear of pine needles and leaves, stack firewood uphill and at least fifteen (15) feet from Structures, and remove dead limbs, leaves, and grass clippings from all areas. All driveways shall be readily identifiable and maintained unobstructed at all times and shall be constructed in a manner acceptable to governmental authorities. All house addresses shall be clearly visible from the street. All chimneys shall be equipped with a mesh spark arrestor and inspected and cleaned on a regular basis. On-site burning of trash, leaves and weeds shall be prohibited. Fireworks of any kind shall be prohibited. All motor vehicles shall be parked on non-combustible surfaces. All dwelling Structures shall be equipped with smoke detectors and a minimum of one 2.5 pound fire extinguisher maintained in accordance with the manufacturer's recommendations. In addition to the above requirements, the Association and the Owners shall comply with any wildfire hazard and mitigation requirements of El Paso County.

14. NUISANCE. Nothing shall be done or permitted on any Lot which may be or become an annoyance or nuisance to the Subdivision. No noxious, noise polluting or otherwise offensive activities or commercial businesses or trades shall be carried on upon any Lot. No hunting of any kind, nor the discharge of firearms shall be permitted unless permitted by the Association's Rules. Any animals kept on the Property need to be constrained from barking excessively or becoming a nuisance to neighbors. No excessive noise or disturbance, including radio, TV, frequently barking dogs, motorcycles, or ATVs, shall be allowed.

15. REFUSE AND RUBBISH. Rubbish, garbage or other waste shall be kept and disposed of in a sanitary manner. If garbage cans are put out for collection, no Owner shall allow garbage cans, trash, milk containers, or other refuse to be placed outside except on the day of collection, and all trash and refuse shall be placed in a proper receptacle. Containers or other equipment for storage or disposal of garbage, trash, rubbish or other refuse shall be kept in a clean, sanitary condition. No trash, litter, junk, equipment, boxes or other such items shall be permitted to remain exposed upon the premises and visible from public streets or from other Lots within the Subdivision. No extra vehicles or vehicle parts shall be permitted to remain exposed upon the premises from any road or from other Lots within the Subdivision. Each Owner must provide for regular removal of garbage.

16. SIGNS. One "For Rent" or "For Sale" sign shall be permitted no larger than 20 x 26 inches (20" x 26"), with no more than two (2) different signs per Lot. One Lot entrance gate

sign of a style and design as approved by the ACC shall be permitted with required approval by ACC. Otherwise, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, altered, or permitted on any Lot within the Subdivision. All signs displayed must be first approved in writing by the Declarant or the ACC. This covenant does not preclude the display of reasonably sized real estate signs.

17. DRILLING. No drilling, oil development operations, oil refining, quarry or mining operations of any kind shall be permitted on or in any Lot, nor shall gas or oil wells, tanks, tunnels, mineral excavationer shafts be permitted upon or in any Lot. No derrick or other Structure designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

18. RIGHTS OF DECLARANT. Notwithstanding any contrary provision of these Covenants, the Articles of Incorporation and/or the Bylaws of the Association, the Declarant, its successors or assigns, expressly reserves the following rights and privileges for the Period of Declarant's Rights, which may or may not be exercised in the Declarant's sole discretion:

A. From time to time to amend or revoke any restrictive covenants then in existence, but no such amendment or revocation shall apply to Lots that are sold prior without the written consent of the then Owners of a majority of any such Lots (including both the original Tracts and any Lots which shall be considered Tracts and/or Lots after replatting), nor shall amendment or revocation be of such nature to derogate property values.

B. The Declarant may complete or make improvements indicated on the plats or County planning documents or otherwise necessary or desirable to complete construction of improvements within Terra Ridge North, including roads and utilities.

C. The Declarant may install, assign and/or maintain signs within Terra Ridge North for advertising or other purposes.

D. The Declarant may grant, use and permit others to use easements and rights as may be reasonably necessary for the purpose of making, repairing, maintaining and replacing any utilities or other improvements within Terra Ridge North or otherwise performing other rights under these Covenants.

E. The Declarant may establish, from time-to-time, by dedication or otherwise, easements for purposes of developing Terra Ridge North, including roads, drainage and trails, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Declarant, the County and/or Owners within Terra Ridge North.

F. The Declarant may appoint or remove any officer of the Association or any director of the Association and may appoint or remove any member of the ACC.

G. The Declarant may amend, modify, and/or revoke any provision of the Covenants (including any Exhibits thereto), the Articles of Incorporation, and/or the Bylaws in connection with the exercise of any Declarant rights or other rights of the Declarant herein, and may

require that any amendments of said documents be approved in writing by Declarant prior to adoption.

H. The Declarant may amend any Plat and/or Development Plan for Terra Ridge North or any County planning document in connection with the exercise of any rights under these Covenants or otherwise.

I. Notwithstanding any contrary provisions of these Covenants or any other document, the Declarant hereby reserves the right, but without approval or vote of the Owners, to amend these Covenants, the Articles of Incorporation and/or the Bylaws, as may be necessary to correct typographical errors or make clarifications or as may be approved in writing by any existing or prospective First Mortgagee so as to induce the purchase, sale, or issuance of deeds of trust or mortgages covering any portion of Terra Ridge North, and each Owner and First Mortgagee by accepting a deed, mortgage or other instrument affecting a Lot appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's name and First Mortgagee's name and recording any such amendments to these Covenants and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power to the Declarant to make, execute and record any such amendments.

J. The Declarant may enter into agreements with the purchaser of any Lot or Lots (without the consent of the purchasers of other Lots or adjoining or adjacent property) to deviate from those conditions, restrictions, limitations and agreements herein set forth, and any such deviation, which shall be manifested by agreement in writing, shall not constitute a waiver of any such condition, restriction, limitation, or agreement as to the remaining Lots in Terra Ridge North, and the same shall remain fully enforceable on all other Lots located in Terra Ridge North by Declarant, its successors or assigns, and the Association or other Owners, except as against the Lot where such deviation is permitted.

K. The Declarant may transfer, assign or delegate any right reserved or granted by these Covenants, law or statute to any person or party to the fullest extent permitted under these Covenants, law or statute.

L. Any and all other rights of Declarant as set forth in these Covenants, by law or statute are hereby reserved to Declarant. In the event of any conflict, the broadest right reserved by Declarant shall prevail.

19. WATER DECREE.

A. Lots 2-12 in the Subdivision shall be subject to the requirements, including the augmentation plan, as set forth in the decree in Case No. 22CW3066, Water Division No. 1, while Lots 1 and 13, which were previously platted as part of Terra Ridge Filing No. 1 prior to being included within the Subdivision, shall be subject to the requirements, including the augmentation plan, as set forth in the decree in Case No. 96CW68, Water Division No. 1. Copies of each of the referenced decrees are collectively attached hereto as ***Exhibit "B"*** and incorporated herein by this reference (the "Water Decrees"). The individual Lot Owners and the Association shall carry out the requirements of the plans for augmentation as described in the Water Decrees,

as applicable. All future Owners of these Lots are hereby advised of all applicable requirements of the above-referenced Water Decrees, as well as their obligations to comply with the Water Decrees and plans for augmentation, including the costs for constructing and pumping any common well required by the Water Decrees for replacing post-pumping depletions, and the responsibility for metering and collecting data regarding water withdrawals from all wells.

B. Each Owner shall be responsible for obtaining a permit for a well to provide a water supply to his dwelling and for constructing and operating such well. All wells shall be constructed and operated in compliance with the Water Decrees, as applicable, and the permits for such wells. Each Owner shall be responsible for the installation, maintenance, repair and replacement of his well and ensuring compliance with all governmental restrictions and requirements related to such water use rights, including any required meter readings and reporting requirements. All wells and septic systems shall also comply with requirements set forth in these Covenants.

C. Declarant shall assign to the Association any and all right, interest and responsibilities under the Water Decrees, and the Association shall pay any cost imposed by the operation of the Water Decrees, including any replacement of post-pumping depletions and responsibility for metering and collecting data regarding water withdrawals from wells. By that assignment to the Association, Declarant shall be relieved of any responsibility for the administration or enforcement of the Water Decrees or the operation of the augmentation water supply, and the Association and Owners shall be obligated to perform the same pursuant to the provisions thereof. By such assignment, the Association shall hold such interest in the Water Decrees and augmentation water supply for the benefit of all Owners, shall assume the responsibility for administering and enforcing the Water Decrees, and shall take all necessary actions to ensure protection of water and well rights for all Owners pursuant to the terms of the Water Decrees, including pursuing and maintaining all further action required under the Water Decrees. Failure of the Association or the Owners to comply with the terms of the Water Decrees may result in an order from the Division Engineer's office to curtail or eliminate pumping of the Owners' wells.

D. The Water Decrees set forth the permitted uses of water, and all Owners and the Association shall comply with those provisions as to water use.

E. No changes or deletions to this Paragraph may be made which may alter or in any manner compromise the Water Decrees or the water rights of either Declarant or the Owners without the prior written approval of said parties, the Water Court and the Board of County Commissioners of El Paso County.

F. Notwithstanding any provision of these Covenants or any other covenants or documents, Lots 1 and 13 shall remain subject to the water rights provisions of Water Decree 96CW68 for Terra Ridge Filing No. 1 ("Filing No. 1"); the covenants for Filing No.1 were recorded on December 15, 1997 in Reception No. 097146677 of the El Paso County real property records (the "Filing No. 1 Covenants"). Those water provisions are administered and enforced by the existing Terra Ridge Property Owners Association for Filing No. 1 (the "Filing No. 1 Association"). Nothing contained in these Covenants shall invalidate or impair the rights and

obligations of the Filing No. 1 Association as to any responsibility or liability matters, either under the Filing No. 1 Covenants or under Water Decree 96CW68 or otherwise; provided, however, in the event of any conflicting provisions, the provisions of these Covenants, Water Decree 22CW3066 and the Plat described herein shall control over the Filing No. 1 Covenants and the Filing No. 1 Association; the Owners of Lots 1 and 13 shall be entitled to the rights as set forth in Water Decree 96CW68.

G. As concerns Lots 2-12 and the 22CW3036 Decree, Declarant hereby reserves to the Association 2,724 acre-feet of Dawson aquifer water, 1,650 acre-feet of Arapahoe aquifer water, and 1,130 acre-feet of Laramie-Fox Hills aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 1 Case No. 22CW3066 to satisfy El Paso County's 300-year water supply requirement for Lots 2-12 lots of the Terra Ridge North Subdivision. 247.5 acre-feet (0.825 AF/year) of said Dawson aquifer water is hereby allocated to each of Lots 2-12 of the Subdivision, and such allocation and reservation shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply thereon.

H. These Declarations shall constitute notice to the Association and the owners of Lots 2-12, and their respective successors and assigns, of their obligations regarding the costs of operating the plans for augmentation, including the pumping of the Dawson wells in a manner to replace depletions during pumping, and the cost of drilling Arapahoe and Laramie-Fox Hills aquifer wells in the future to replace post-pumping depletions.

I. Future Conveyances. The water rights referenced herein shall be explicitly conveyed by deed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said Lot, whether or not the Water Decrees and the water rights therein are specifically referenced in such deed(s). The water rights so conveyed shall be appurtenant to the Lot 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.

J. The Association, and all current and future owners of Lots within the Subdivision, and their successors and assigns, are hereby advised of their responsibility for any metering and data collecting that may be required regarding water withdrawals from existing and future wells in the Dawson and/or Arapahoe and Laramie-Fox Hills aquifers under the Water Decrees.

K. Well Permits. All well permits necessary for the use of water under the Water Decrees shall be obtained pursuant to the requirements of the Water Decrees, and the requirements of Colorado Revised Statutes, §§37-90-137(4) and (10).

L. Amendments to Covenants. Notwithstanding any provisions herein 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 Terra Ridge North

Subdivision pursuant to the Water Decrees. 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 Division 1 Water Court 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 adjudication.

M. These Covenants shall not terminate unless the requirements of the Water Decrees are also terminated by the Division 1 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.

20. SEPTIC SYSTEMS. Each Owner hereby acknowledges that each Lot within the Subdivision will require the installation of a non-evaporative septic system which is approved by the El Paso County Health Department and/or any other applicable governmental authority for sanitary sewer purposes, ensuring that return flows accruing from such systems replace depletions created through the pumping of the Dawson aquifer wells described in the Water Decrees during the pumping lives of such wells. Each of the Lots within the Subdivision, and specifically, Lots 2-12 as subject to the 22CW3066 Decree, must have an occupied single-family dwelling generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed on such lots. Septic return flows shall only be used for replacement and augmentation purposes, and 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. No septic system shall interfere with the water supply of any adjoining property. The location of a well and septic system on any Lot shall be subject to the prior review and written approval by the Declarant and/or the ACC and appropriate governmental agencies. The return flows from any septic system shall comply with the requirements of the Water Decree's plan for augmentation.

21. DETENTION POND. The Plat shall designate the location and description of the detention pond within the Subdivision. That detention pond is designated as Tract A (the "Detention Pond"). Pursuant to the Private Detention Basin/Stormwater Quality Best Management Practice Maintenance Agreement and Easement ("Detention Pond Agreement") for the Subdivision, recorded separately, the Association is obligated to inspect, clean, maintain and repair the Detention Pond. The Detention Pond Agreement is hereby incorporated into these Covenants and touches and concerns each and every Lot within the Subdivision. At such time as the Detention Pond is conveyed or transferred to the Association, the Association shall assume such maintenance responsibility, and the Declarant shall no longer be obligated to inspect, clean, maintain and repair the Detention Pond.

22. DRAINAGE. Present and future retention structures may be placed in any area shown as a "drainage easement" or "flood plain" on the Plat or Development Plan. The purpose of the facilities is to maintain historic drainage flows within the Subdivision. Additionally, no structures or landscaping or other materials shall be placed within any designated flood plain area as described in the Development Plan or the Plat or any drainage easements unless approved in writing by the ACC. It may be necessary to place driveways across certain portions of the flood

plain, and Owners may be given permission to do so by the ACC, provided that the driveway is constructed in a manner that will not impede drainage flows. Owners are hereby put on notice that drainage ways (even smaller drainage swells in Lots) can have significant volumes of water during storms, and Owners are strongly encouraged to construct any structures away from such drainage ways, whether identified on the Plat or not. Any drainage or flood plain area and any structures on those areas shall be repaired and maintained by the Owner of said Lots for augmentation purposes. Owners shall be responsible for their actions or omissions in relation to said drainage easements and drainage areas. Certain Lots may be subject to high groundwater which requires foundations or other facilities for underground drainage systems which shall be the responsibility of the Owners impacted thereby. The Declarant, El Paso County, the Association, and their successors and assigns reserve the right to enter upon the Lots and the easements and drainage areas periodically for purposes of inspection and related matters.

23. VEHICLE RESTRICTIONS.

A. Parking. No vehicles shall be stored or parked on any Lot, except on the driveway or in a closed garage, barn, shop, or enclosure approved by the ACC; recreation vehicles to include: travel trailers, horse trailers, semi-trailers, van trailers, flat bed trailers, campers, boats, motor homes, motorcycles, ATVs, farm equipment, lawn mowers, garden equipment, etc. The Board may adopt Rules which regulate or prohibit certain types of vehicles and parking which is visible from another Lot or public road.

B. Motorized Vehicles. No motorized vehicle which is either non-operational or non-licensed shall be kept or stored in Terra Ridge North, unless said vehicle is kept or stored in a fully enclosed building. No Owner shall have more than ten (10) vehicles (operational or non-operational) on his/her Lot at any one time, with exception to visitors' or guests' vehicles, at which time additional vehicles shall be permissible, but only for a limited time. No homeowner or occupant of a Lot shall allow more than one (1) immobilized motor vehicle to stand on said Lot for a period greater than thirty-six (36) hours. For the purpose of these Covenants, an "immobilized motor vehicle" shall be considered any motor vehicle not presently capable of movement under its own power. (Vehicle shall include: snowmobile, tractor, motorcycle, lawn mower, snow blower, car, truck, recreational vehicle or motor home.)

24. ANIMALS.

A. Commonly accepted domestic household pets may be kept on any Lot for recreational purposes. The animals and the number of animals shall be as follows:

(1) Horses – No more than two (2) horses shall be permitted on any Lot. Horses may be allowed to graze and pasture on site for grass and weed control, etc., but be advised to feed a horse on this kind of property requires fifteen (15) acres or more per year, per animal and Terra Ridge North is not represented as capable of extended grazing without damage to the natural grass and vegetation. Therefore, horses must be given supplemental feed and kept corralled if the grass is not adequate. If the grass is less than 1" and/or beginning to show bare ground, the ACC has power to mandate that the Owner stable the animals in their barn and supplemental feed until grass will support the animals again. If overgrazed, Owner will be required to remove the animals

and to replant the grass, if destroyed.

(2) Dogs and Cats – No more than two (2) dogs per Lot and two (2) cats per Lot. Offspring from these animals may be kept until weaned, not exceeding twelve (12) weeks.

(3) Other - Pigs, llamas, alpacas, and stallions are expressly prohibited on the Property. Two sheep, two goats, and a reasonable number of chickens and small animals for 4H projects may be allowed if approved by the ACC and not causing an annoyance or nuisance.

B. The ACC is empowered to approve, disapprove, or modify requests for other animals. In addition, the ACC shall have the right to develop standards of care and maintenance which must be met as a condition to permitting the keeping of any animals. Owners shall be responsible for erecting and building adequate enclosures and fences and the maintenance of such, and no Lot shall be overgrazed. Owners shall mow each of their Lots at least one time per year with a maximum grass/weed height of 6". Each Lot that has grass or weeds over 6" will be required to mow. In order to effect insect, weed and fire control and to prevent and remove nuisances, the Owner of any Lot shall mow, cut, prune, clear and remove from the Lot dead trees, diseased trees, unsightly brush, weeds, and other unsightly growth and shall remove any trash which may collect on the Lot. The Declarant has the right (but not the duty) to enter upon any Lot and perform this work after due notice to the Owner, in which case, the reasonable cost incurred by the Declarant in performing such work will be an additional assessment against the Lot involved and if unpaid by Owner, shall result in the imposition of a lien on such Lot subject to foreclosure. Owners shall be responsible to control noxious and poisonous weeds that may exist and that could be harmful to themselves, their animals, or other Owners and their animals. All animals shall be confined to the Owners' own property and shall not be allowed to roam the roads or other Lots. It is specifically understood that the ACC may require Owners to take such matters as necessary to prevent the overgrazing of each Lot and the destruction of vegetation on each Lot.

C. Detached garages, workshops, stables, barns and corrals will be of sturdy materials and finished construction, and complimentary to the design, color, construction and location of the Home, with a minimum 4/12 roof pitch. All stables, corrals, or any Structure for housing, enclosure or feeding of animals shall be maintained in compliance with all lawful sanitary regulations and must be kept in a neat, clean, and orderly manner. Manure shall not be allowed to accumulate to the point of being a nuisance by creating odors or attracting flies, but shall be removed and/or spread at Owner's expense.

25. FENCES. All fences must be constructed using quality material and in a neat and orderly manner. The kind of fences accepted shall be constructed of four (4) strand barbed wire fences which are firmly affixed by drilling and bolting (or doweled) to a single post construction along the Lot line(s), or steel posts (T posts). Vinyl fencing can replace barbed wire fencing, if constructed similarly. All fences must be approved by the ACC prior to beginning construction. Plans need to be submitted to the ACC for review of the quality, size, location, and kind of material used. It is recommended that Owners adjoining properties would be responsible to pay for one-half of the cost of construction, materials, and maintenance of any fence on any property lines. Notwithstanding any other provision herein, back Lot fences must be kept twenty (20) feet off the back of the Lot line to allow for easement access; a walking path ("Walking Path") will be

constructed inside the easement around the outside perimeter of the Subdivision.

26. ENFORCEMENT ACTIONS. The ACC and/or the Association shall have the right to prosecute any action, enforce the provisions of all covenants by injunctive relief, on behalf of itself and all or part of the Owners of the Property. In addition, each Owner of the Property shall have the right to prosecute for injunctive relief and for damages by reason of any covenant violation. The ACC and/or the Association has the right to apply a lien to any Lot in violation of the Covenants. All legal costs incurred with this process shall be the responsibility of the Lot Owner. Venue and jurisdiction shall be in El Paso County.

27. LIMITATIONS ON ACTIONS. In the event any construction alteration or site landscape work is commenced upon any portion of the Property in violation of these Covenants and no action is commenced within sixty (60) days thereafter to restrain such violation, the injunctive or equitable relief shall be denied, but an action for damages shall still be available to any party aggrieved. Said sixty (60) day limitation shall not apply to injunctive or equitable relief against other violations of these Covenants.

28. DECLARANT POWER. The Declarant shall have the right and power to prohibit storage or other activities deemed unsightly, unreasonably noisy or otherwise offensive to the senses and perceptible from another Lot. Any signs, landscaping, fences built by the Declarant will be maintained by the Association. Notwithstanding any provision of these Covenants, no provision hereof shall be amended, terminated or modified without the prior written approval of the Declarant.

29. RESUBDIVISION. Upon the prior written approval of the ACC, any portion of the Subdivision or any existing Lot may be resubdivided into Lots containing not less than approximately five (5) acres, provided, however: (a) the ACC may in its discretion approve smaller parcels; (b) the person subdividing a Lot may impose additional covenants upon those Lots, but only with the prior written approval of the ACC; and (c) for the purposes of these Covenants, the Lots shall constitute Lots under these Covenants after replatting for certain purposes such as voting on amendments and assessments, but not applicable for other purposes, such as setbacks; the ACC's approval may designate applicable and inapplicable provisions of these Covenants to the Lots after replatting. The voting rights of a resubdivided Lot shall be exercised by the Owners of the Lots therein created.

30. EASEMENTS. Any easements for installation and maintenance of utilities and drainage-facilities and designated open space around the Subdivision are reserved, whether shown on any present or future recorded plat or otherwise designated in a recorded document by the Declarant or the Association. If needed, fire equipment may be driven down such easements. There shall be no fences or gates to block access or use of these easements. Within these easements, no Structure, planting, or other material shall be place or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Association, except for those improvements for which a public authority or utility company is responsible.

31. UNDERGROUND UTILITIES. Any and all utilities installed after the recording date of these Covenants shall be installed underground. No propane tanks shall be placed above ground. All phone lines to the Home need to be buried in plastic pipe or conduit at the Owner's expense. The telephone company must be called by the Owner to verify Rules and requirements. Any Owner wanting utilities which have not yet been provided, shall either comply by installing or attaching to underground utilities and be responsible to pay for those utilities. This payment shall be made prior to connecting to any utility. These utilities include natural gas, electricity (power), telephone, internet connection, and cable TV. Any proportionate amount owed, plus interest at ten percent (10%) per annum, would be determined by equally dividing the total costs originally paid, by the number of the Lots within Terra Ridge North that desire use of this utility.

32. HOMEOWNERS ASSOCIATION. The Declarant has formed an owners' association (the "Association"). The Association shall operate as a Colorado non-profit corporation pursuant to its Articles of Incorporation and Bylaws, which may include provisions for the indemnification of officers and directors. Every Owner of a Lot shall automatically by such ownership be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Members shall have the right to cast votes on any matters to be voted on by the members as provided in the Association's Articles of Incorporation and Bylaws, except as provided therein or herein. Each Lot, whether shown on the original survey of Terra Ridge North or as a Lot created by resubdivision, shall be entitled to one (1) vote. When more than one person holds an interest in any Lot or Lots, all such persons shall be members, but the vote for such Lot or Lots shall be exercised as they determine, but there shall be only one vote per Lot. The Association's Board of Directors shall appoint or may itself constitute the ACC, or the members may elect the ACC at each annual meeting after the termination of the Declarant's right to appoint. The Association's Board of Directors may adopt Rules, including construction, use and design standards and procedures for architectural control appeals from the ACC, and fines for violations of Rules and these Covenants, to supplement and interpret these Covenants. Pursuant to C.R.S. §38-33.3-116, the Association and the Subdivision shall be subject only to C.R.S. §38-33.3-105, §38-33.3-106 and §38-33.3-107, and no other sections of said statute. Two purposes of the Association shall be the enforcement and operation of the Water Decree and the Detention Pond Agreement.

33. COVENANTS FOR ASSESSMENTS.

A. Assessment. The Association shall assess the Owners for the costs of common expenses as determined by the Association's Board of Directors. The assessments hereunder shall be imposed equally upon each Lot, including any original Lot and any subsequent Lot and the Owner(s) thereof, except as otherwise provided herein. Notwithstanding any provisions of these Covenants or otherwise, any Lot which is owned by the Declarant and is vacant (which means that a Home has not been constructed on it and the Pikes Peak Regional Building Department has not issued a certificate of occupancy or final inspection) shall not be obligated to pay assessments or other sums under these Covenants and its Owner shall have no liability therefor.

B. Purpose of Assessments. Assessments may also be levied by the Association's Board of Directors for promoting the health, property values, welfare and

convenience of the members, including the enforcement of these Covenants, and to pay for the costs of the ownership and maintenance of any common facilities and Open Space, including the central mailbox facility, and any other common expenses as determined by the Association's Board of Directors including insurance on the Association's property and activities, which insurance may, to the fullest extent reasonably available and practical, be comparable to the requirements of C.R.S. §38-33.3-313, as now existing or hereafter amended.

C. Assessment Liens and Personal Obligation. Each Owner, by acceptance of a conveyance of his Lot, whether or not it shall be so expressed in the conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments and other assessments authorized by these Covenants. Each such assessment and charge, together with the interest thereon and costs of collection, shall be a continuing lien upon the Lot against which it is made and shall also be the personal obligation of the person who owned the Lot at the time the assessment or charge fell due.

D. Payment of Assessments. The foregoing assessments shall be payable in advance in annual or other installments as the Association's Board of Directors may fix. The Board may set the annual assessment in any amount which does not exceed the maximum set forth in Paragraph E hereof. The Association's Board of Directors shall give each member written notice of each assessment at least ten (10) days in advance of the due date. Such notice shall state the amount of the assessment and if the assessment is payable in other than in a single payment, the amount and due dates of each installment as fixed by the Association's Board of Directors. Failure to give such notice shall not affect or impair the assessment, but shall postpone its effective date.

E. Amount of Annual Assessments. Annual assessments shall start at Forty Dollars ($40.00) per month or Four Hundred Eighty Dollars ($480.00) per year, prepaid annually. Annual assessment may be changed by the Association's Board of Directors in any amount sufficient to meet the needs of the Association. An initial fee of Four Hundred Eighty Dollars ($480.00) shall be assessed and paid to the Association by each purchaser of any Lot (upon the first time sale of each Lot) which shall be paid by that purchaser at time of closing.

F. Collection of Assessments.

(1) Personal Liability. Any assessment which is not paid when due shall be delinquent, and the Association may impose a late charge for each month any assessment is delinquent, and may also collect the attorneys' fees, costs and expenses of any collection. Additionally, the Association may bring an action at law against any Owner (except as otherwise provided herein) personally obligated to pay any assessment, and, in the event of any lawsuit, the delinquent Owner shall pay all attorneys' fees, court costs and any expenses of such lawsuit.

Additionally, the Association shall have the right to charge a fee set by the Board per violation of the Covenants, beginning two (2) weeks after the first warning has been received by the Home or Lot Owner, if non-compliant. In addition, if more than three (3) violations are given for the same non-compliance, over the course of six (6) weeks, the Association shall have the right to put a lien on the property for not becoming compliant with the Covenants.

(2) Lien. Additionally, any such unpaid assessment, together with all expenses of collection and attorneys' fees, shall be a continuing lien upon the Lot against which such assessment was made. The Association may enforce such lien by filing with the Clerk and Recorder of El Paso County a statement of lien with respect to said Lot, setting forth such information as the Association may deem appropriate. Said lien shall run with the land and shall additionally secure all assessments and expenses which become due after its filing. Said lien may be foreclosed by the Association in the manner provided for foreclosures of mortgages under the laws and statutes of the State of Colorado. All rights and remedies of the Association are cumulative, and foreclosure of the lien shall not prevent a lawsuit against the Owner personally liable therefor, whether taken before, after or during such foreclosure. Said lien may be released by recording an appropriate document executed by an officer or agent of the Association. Such lien is in addition to any statutory lien allowed to the Association by law or statute. Said lien shall be superior and prior to any homestead rights or similar exemption now or hereafter provided under State or Federal law to any Owner, whose acceptance of a deed to a Lot shall constitute a waiver of such homestead or other rights.

G. Protection of Lenders. The lien for any assessment provided for herein shall be subordinate to the lien of a First Mortgage recorded before the delinquent assessment was due. Sale or transfer of any Lot shall not affect the lien for said assessment except that sale or transfer of any Lot pursuant to foreclosure of any such First Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of any assessment which became due prior to any acquisition of title to such Lot by the First Mortgagee pursuant to any such sale or transfer, or foreclosure, of any proceeding in lieu thereof including any deed in lieu of foreclosure. No such sale, transfer, foreclosure or any above-described proceeding in lieu thereof, shall relieve any Lot from liability for any assessment becoming due after such acquisition of title, nor from the lien thereof, nor the personal liability of the Owner of such Lot for assessments due during the period of his ownership.

34. COMMON AREA. The Common Area shall consist of the Detention Pond located on Tract A as shown on the Plat and the Walking Path also as shown on the Plat, which is described in Paragraph 25 of these Covenants. The Common Area may also include, if applicable, any common well and any common mailboxes, and any other areas deeded or otherwise transferred to the Association. The Common Area shall be maintained and insured by the Association. Subject to the limitations and restrictions of these Covenants, title to the Common Area shall be conveyed by Declarant to the Association by quitclaim deed or granted by easement on the Plat or by other written document.

A. Non-Division of Common Area. The Common Area shall remain undivided and shall not be subject to partition by the Owners. By the acceptance of his deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Area. Each Owner specifically agrees not to institute any action therefor. Further, each Owner agrees that this Paragraph may be pleaded as a bar to the maintenance of such an action. A violation of this provision, or any other provision of these Covenants, shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the attorneys' fees,

costs and other damages the Association incurs in connection therewith. It is agreed by all Owners that the foregoing restrictions are necessary to preserve the rights of all Owners regarding the operation and management of the Common Area.

B. Owners' Common Area Easement of Enjoyment. Subject to the limitations and restrictions of these Covenants and the Association's Rules, every Owner shall have an equal, non-exclusive right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass automatically with the title to every Lot without the necessity of additional reference.

C. Extent of Owners' Common Area Easement. The rights and easements of enjoyment created hereby in the Common Area shall be subject to the following:

(1) The right of the Association to enforce the restrictions contained in these Covenants and to promulgate and publish Rules with which every Owner, his family members, guests, tenants, and contractors shall strictly comply, including the right of the Association to establish reasonable charges for the use of all or a portion of the Common Area if deemed necessary;

(2) The right of the Association, as provided in its Articles of Incorporation, Bylaws or Rules, to suspend an Owner's voting rights and the right to the use of the Common Area for any period during which such Owner is in default under these Covenants, including the non-payment of any assessment levied by the Association.

(3) The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area;

(4) The right of the Association to dedicate or transfer all or any part of the Common Area to any person, entity, public agency, authority, or utility for such purposes, subject to such conditions as may be imposed by the public entity; for example, if any drainage Structures are private and have not been built to County specifications and so might not be accepted by them;

(5) The right of the Association as set forth in the Association's Articles of Incorporation and Bylaws, including to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan;

(6) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure or other claims;

(7) The right of the Declarant to construct improvements on the Common Area, and notwithstanding any provision of these Covenants to the contrary, Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through, and upon the Common Area and the Property for the purpose of installing, maintaining, repairing and replacing any utilities or related services, including any gas, electric, water or sewer line, wells, mains or laterals, any telephone and cable television lines, any drainage or

detention/retention areas, or for other purposes consistent with the intended use of the Property under these Covenants. The foregoing easements shall include the right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment and the right to enter into agreements relating to such utility service and easements; all of which shall be binding upon the Association and the Owners. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the Property without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded easements on the Property, including any easements granted in the recorded Plat. The rights reserved herein for Declarant shall pass to the Association upon the expiration of the Period of Declarant's Rights, and any and all of the covenants, terms, provisions, rights and duties arising from such easements granted by the Declarant and any related agreements shall thereupon pass to the Association and be assumed by it in place of the Declarant. Any consideration for any such easement shall be delivered to and become the property of the Association, whether the grant of easement was made by the Declarant or by the Association; and

(8) Declarant hereby reserves easements across the Common Area to enable Declarant to develop the Property, including the granting of easements for utilities and access.

D. Common Area Use. The Common Area is private for the enjoyment of the Owners, their family members, and guests. The Owners, family members and guests will use the Common Area at their own risk and liability, will comply with the Association's Rules and these Covenants, and will hold the Declarant, the Association, the other Lot Owners, successors an assigns harmless from any and all loss, costs, damages, injuries, liabilities, claims, liens, demands, causes of action whatsoever, whether at law or in equity arising from the construction, repair, maintenance, replacement and use of the Common Area. Each Owner shall be responsible and liable for any expense due to any damage done to the Common Area by the Owner, his/her family members, guests, contractors and/or invitees. Any Owner may delegate, in accordance with the Association's Bylaws and Rules, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, his guests, or contract purchasers who reside on his Lot. Each Owner shall, to the maximum extent permitted by law, be liable for any damage done to the Common Area by his family, tenants, guests, or contract purchasers and for any breach of the Association's Rules by such persons.

E. Non-Dedication of Common Area. Declarant, in recording these Covenants, has designated certain areas of land as Common Area intended for the common use and enjoyment of Owners and surrounding areas for recreation and other related activities. Nothing contained in these Covenants shall be deemed to dedicate the Common Area for use by the general public.

F. Association Maintenance. The Association shall provide all repair, replacement, improvement and maintenance of the Common Area and all improvements located thereon, including, if applicable, any landscaping, any drainage/detention facilities or other Association related facilities, including the centralized mailboxes, to the extent applicable (to include replacement as may be necessary), or other Association improvements located on the

Common Area. The Association shall maintain and be responsible for keeping the common drainage areas and Structures clear and free of silt to ensure that the areas drain properly.

G. Common Insurance. Commencing not later than the time of the first conveyance of a Lot to a person other than Declarant, the Association shall obtain and maintain at all times, to the extent reasonably obtainable, insurance policies on the Common Area, and any other Association properties and activities, covering the following risks:

(1) Property. Property insurance on the Common Area for broad form covered causes of loss.

(2) Public Liability. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Areas and Association properties and activities, and deemed sufficient in the judgment of the Board, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Area and Association properties and activities.

(3) Other Insurance. In addition, the Board of Directors may obtain any other insurance against such other risks, of a similar or dissimilar nature, which the Board shall deem appropriate with respect to the Subdivision.

35. TERM OF COVENANTS. The covenants, restrictions and provisions of these Covenants shall run with the land and remain in full force and effect for twenty-five (25) years from the date on which these Covenants are recorded; after which time, these Covenants shall automatically be extended for successive periods of twenty-five (25) years unless amended or terminated as follows: (a) except as provided herein, any termination shall require the unanimous consent of all of the Owners of the Lots; and (b) any amendment shall require an instrument signed by the Owners representing a majority (51%) of the Lots in Terra Ridge North (for purposes of amendment, there shall be one vote per Lot; provided, however, notwithstanding the foregoing, the Declarant shall have the right to amend these Covenants as set forth in Paragraph 18 hereof and provided further, that any amendment by the Owners shall require the prior written approval of the Declarant during the Period of Declarant's Rights.

36. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. Covenants are for the use, convenience and protection of all property owners. Declarant, the ACC, the Association, or any individual Owner may act to enforce the Covenants; none of the foregoing, however, are obligated to do so.

37. NOTICE. Any notice required to be given to any Owner or other person under the provisions of these Covenants shall be deemed to have been properly given when mailed, postage paid, to the last known address of the record Owner of the Lot in which the member has an interest.

38. DECLARANT MAY ASSIGN. Declarant, its successors or assigns, may assign any and all of its rights, powers, obligations and privileges under this instrument to any corporation, association, committee or person.

39. CAPTIONS AND TERMS. Captions, titles and headings in these Covenants are for convenience only and do not expand or limit the meaning of the section and shall not be taken into account in construing the section. The term “include” or “including” shall mean “include without limitation” or “including without limitation”.

40. ASSOCIATION RESOLVES QUESTIONS OF CONSTRUCTION. If any doubt or questions shall arise concerning the true intendment or meaning of any of these Covenants, except and excluding matters involving the Declarant, the Association’s Board of Directors shall determine the proper construction of the provision in question; the Board may set forth its decision in written instruments duly acknowledged and filed for record with the Clerk and Recorder of El Paso County; those decisions will thereafter be binding on all parties so long as they are not arbitrary or capricious. Matters of interpretation involving Declarant shall not be subject to this Paragraph.

41. COVENANTS RUN WITH THE LAND. These Covenants shall run with the land and shall inure to and be binding on each Lot and upon each person or entity hereafter acquiring ownership or any right, title and interest in any Lot in the Subdivision.

42. COVENANTS ARE CUMULATIVE. Each of these Covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restriction. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision. Any and all rights and remedies of the Association and the Architectural Control Committee are distinct and cumulative to any other right or remedy hereunder or afforded by law or equity and may be exercised concurrently, independently or successively without effect or impairment upon one another.

43. WAIVERS. Except as these Covenants may be amended or terminated in the manner hereinafter set forth, they may not be waived, modified or terminated and a failure to enforce shall not constitute a waiver or impair the effectiveness or enforceability of these Covenants. Every person bound by these Covenants is deemed to recognize and agree that it is not the intent of these Covenants to require constant, harsh or literal enforcement of them as a requisite of their continuing vitality and that leniency or neglect in their enforcement shall not in any way invalidate these Covenants or any part of them, nor operate as an impediment to their subsequent enforcement and each such person agrees not to plead as a defense in any civil action to enforce these Covenants that these Covenants have been waived or impaired or otherwise invalidated by a previous failure or neglect to enforce them.

44. ENFORCEMENT OF COVENANTS. These Covenants are for the benefit of the Owners, jointly and severally, the Association, and the Architectural Control Committee and may be enforced by action for damages, suit for injunction, mandatory and prohibitive, and other relief,

and by any other appropriate legal remedy, instituted by one or more Owners, the Association, or the Architectural Control Committee, or any combination of these. Until January 1, 2039, Declarant may also enforce these Covenants in any manner as Declarant is permitted herein or by law or statute. All costs, including reasonable attorneys' fees, incurred by the Association or by the Architectural Control Committee in connection with any successful enforcement proceeding initiated by them (alone or in combination with Owners) or, during the period it is permitted to enforce these Covenants, incurred by Declarant, shall be paid by the party determined to have violated these Covenants. Any party exercising its right to enforce these Covenants shall not be required to post any bond as a condition to the granting of any restraining order, temporary or permanent injunction or other order. The rights and remedies for enforcement of these Covenants shall be cumulative, and the exercise of any one or more of such rights and remedies shall not preclude the exercise of any of the others.

45. DURATION OF RESTRICTIONS. Unless sooner terminated as provided herein, the restrictions and other provisions set forth in these Covenants shall remain in force until January 1, 2039 and shall be automatically renewed for successive periods of ten (10) years unless before January 1, 2039 or before the end of any ten-year extension, there is filed for record with the Clerk and Recorder of El Paso County an instrument stating that extension is not desired, signed and acknowledged by Owners of at least two-thirds (2/3's) of the Lots in good standing. However, the provisions of Paragraph 19 shall not terminate except by order of the Water Court, which may amend, modify or change such provisions by judicial order.

46. AMENDMENT AND EXTENSIONS. From time to time any one section of these Covenants (except any Paragraphs or provisions which may not be amended without the Declarant's prior written consent) may be amended or a new Paragraph may be added to these Covenants by an instrument signed and acknowledged by the Association's Board of Directors certifying approval by Owners of at least two-thirds (2/3's) of the Lots in good standing and filed for record with the Clerk and Records of El Paso County, except that the Declarant has the right to amend provisions herein, notwithstanding any other provision hereof. No action to challenge the validity of an amendment adopted by the Association pursuant to these Covenants may be brought more than one year after the amendment is recorded.

47. TERMINATION. All sections of these Covenants may be terminated at any time by an instrument signed and acknowledged by the Association's Board certifying approval by all of the Owners of at least two-thirds (2/3's) of the Lots in good standing and filed for record with the Clerk and Recorder of El Paso County. Notwithstanding the above, any provisions regarding the obligations of the Declarant, the Association and the Lot Owners with respect to the Development Plan or the Water Decree or the Detention Maintenance Agreement shall not be terminated except by written agreement of the Board of County Commissioners of El Paso County, Colorado, or except as otherwise provided in said documents.

48. SEVERABILITY. If any of these Covenants shall be held invalid or become unenforceable, the other Covenants shall not be affected or impaired but shall remain in full force and effect.

49. **RELEASES AND DISCLAIMERS. BY ACCEPTANCE OF A DEED, THE OWNER ACCEPTS THE SUBDIVISION IN "AS IS" CONDITION AND RELEASES THE DECLARANT, ITS SUCCESSORS, ASSIGNS, EMPLOYEES AND OWNERS FROM ANY AND ALL LIABILITY REGARDING ANY MATTER RELATED TO THE SUBDIVISION, INCLUDING ANY PHYSICAL OR ENVIRONMENTAL CONDITION, SOILS, DRAINAGE, WATER TABLE, WATER AVAILABILITY OR QUALITY, CONSTRUCTION OR IMPROVEMENTS, ZONING OR COMPLIANCE WITH ANY LAWS OR CODES, VALUE OR FUTURE RESALE OR DEVELOPMENT OF THE SUBDIVISION OR SURROUNDING PROPERTIES, CONTINUATION OF ANY VIEW OR NATURAL FEATURE, OR ANY MATTER REGARDING THE ASSOCIATION, ITS OPERATION, FINANCES, ASSESSMENTS, RESERVES, OR RELATED TO THE COVENANTS. THIS RELEASE SHALL BE A COMPLETE BAR AND WAIVER OF ANY RIGHT TO SUE AND THE OWNER SHALL INDEMNIFY THE DECLARANT FROM ANY DAMAGES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES ARISING FROM THE OWNER'S OR ASSOCIATION'S BREACH OF THIS PARAGRAPH.**

50. CCIOA EXEMPTION. Notwithstanding any provision of the Covenants, it is hereby declared that the real property described in the Covenants known as the Subdivision, the Association, the Declarant and the Owners of Lots within Terra Ridge North ("Owners") shall be exempt from the Colorado Common Interest Ownership Act (called "CCIOA", C.R.S. §38-33.3-101, et seq.), pursuant to C.R.S. §38-33.3-116; the number of Lots in the Association shall not exceed twenty (20) Lots and there shall be no "development rights" as defined by C.R.S. §38-33.3-103(14). Any references herein to sections or provisions of CCIOA shall incorporate by reference those rights and privileges into the Covenants, but notwithstanding the foregoing, such incorporation by reference shall not incorporate, impose or require any procedures, requirements, restrictions, limitations, or other burdens of CCIOA; and the determination of any incorporation by reference or other application of CCIOA shall be made by the Board of Directors in its sole, absolute, final discretion.

(remainder of page intentionally blank, signatures follow)

IN WITNESS WHEREOF, the Declarant has executed these Covenants on this 6th day of October, 2023.

DECLARANT:

Phillip Shay Miles

Jennifer L. Miles

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing document was acknowledged by Phillip Shay Miles and Jennifer L. Miles, as Declarant, this 10 day of October, 2023.

Witness my hand and notary seal.

GABRIELLA SANCHEZ
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20234013716
MY COMMISSION EXPIRES APRIL 11, 2027

Notary Public
My Commission expires: April 11, 2027

EXHIBIT A

Legal Description:
A portion of the Southwest Quarter of Section 29, Township 11 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, more particularly described as follows:

Beginning at the Northwest corner of the Southwest Quarter of said Southwest Quarter; thence S89°46'29”E along the South line of Whispering Hills Estates as recorded in Plat Book Z-2 at Page 2 of said county records, 1407.75 feet to the Southeast corner thereof; thence N00°58'34”E, 1327.96 feet to the Northeast corner thereof; thence S89°47”26”E, 1245.16 feet to the Northeast corner of said Southwest Quarter, said Northeast corner also being on the West line of Wildwood Village Unit 3 as recorded in Plat Book H-3 at Page 57 of said county records; thence S00°59'16”W along the East line of said Southwest Quarter and the West Line of said Wildwood Village Unit 3 and Wildwood Village Unit 4 as recorded in Plat Book M-3 at Page 46 of said county records, 1366.91 feet; thence N89°46'29”W, 945.48 feet; thence N00°58'34”E, 8.50 feet; thence N89°46'29”W, 1708.14 feet to a point on the west line of said Southwest Quarter; thence N00°58'34E, 30.00 feet to the point of beginning.

CENTRAL FILES

EXHIBIT B

FILED IN COMBINED COURTS
FREMONT COUNTY, COLORADO
MAR - 6 1997

DISTRICT COURT, WATER DIVISION 2, COLORADO

RECEIVED
MAR 25 1997
WATER RESOURCES
STATE ENGINEER
COLO.

Case No. 96CW68

DISTRICT COURT, WATER DIVISION 1, COLORADO

FILED IN THE OFFICE OF THE CLERK,
DISTRICT COURT WATER DIV. NO. 2
STATE OF COLORADO
MAR 06 1997
MARDELL TRIVISONNO
CLERK

Case No. 96CW146

FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF TERRA FIVE DEVELOPMENT, LLC, AND NORTHGATE COMPANY,

IN EL PASO COUNTY.

THIS MATTER having come before the Water Judge upon the application of Willard E. Neugebauer, Cornerstone Development, LLC, and Northgate Company, for groundwater rights and approval of plan for augmentation (Terra Five Development, LLC, subsequently purchased the Subject Property). The Water Judge, having considered the pleadings, the stipulations of the parties, and the evidence presented, and being fully advised in the premises, it is hereby the Judgment and Decree of the Court.

FINDINGS OF FACT

1. Name and Address of Applicants. Terra Five Development, LLC, 8987 Village Pine Circle, Franktown, Colorado 80116 (303) and Northgate Company, 3720 Sinton Road, Colorado Springs, Colorado 80907. As used below, "Applicant" refers only to Terra Five Development, LLC, and its successors and assigns, including the Property Owners Association described in paragraph 13, and "Applicants" refers to the same, including the Northgate Company.

2. History of Case. The Applicant is represented by Holly I. Holder, P.C. The applications for underground water rights and approval of a plan for augmentation were filed in Case No. 96CW68 in Water Division 2 and in Case No. 96CW146 in Water Division 1 in June, 1996. Statements of opposition were filed City of

Colorado Springs in Case No. 96CW68 and the City of Thornton in Case No. 96CW146. The Objectors have stipulated to the entry of this decree. No other statements of opposition have been filed and the time for filing such statements has expired. A motion to consolidate the cases was filed before the Panel on Consolidated Multidistrict Litigation in Case No. 96MDL18, and an order consolidating the cases in Water Division 2 was entered on February 19, 1997. An Order rereferring the cases to the Water Judge for Water Division 2 was entered on March 3, 1997.

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

APPROVAL OF GROUNDWATER RIGHTS

4. Aquifers and location of ground water: Applicant seeks a decree for rights to all ground water recoverable from the not nontributary Dawson and nontributary Denver, Arapahoe and Laramie-Fox Hills aquifers underlying approximately 240 acres of land, located in the parts of Section 29 and Section 32, T11S, R65W, 6th P.M., as more particularly described and shown on Attachment A hereto ("Subject Property"). The Subject Property is not located within the boundaries of a designated ground water basin.

5. Well locations, pumping rates and annual amounts: The ground water may be withdrawn at rates of flow necessary to efficiently withdraw the amounts decreed herein so long as the permitted rates are not exceeded. The ground water will be withdrawn through any number of wells necessary, to be located at any location on the Subject Property, so long as each well is located within 200 feet of its permitted location, in the following annual amounts.

Aquifer	Amount
Dawson	240.0 acre-feet(NNT)
Denver	192.0 acre-feet(NT)
Arapahoe	97.9 acre-feet(NT)
Laramie-Fox Hills	68.4 acre-feet(NT)

The amounts conform with the values and amounts referenced in the State Engineer's Determination of Facts dated October 4, 1996.

6. Proposed Use: The water withdrawn from the subject aquifers will be used, reused, successively used, and after use leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, and any other beneficial purpose, both on and off the Subject Property. Said water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes.

7. Final average annual amounts of withdrawal:

A. Final determination of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicant will be made pursuant to the retained jurisdiction of this Court, as described in paragraph 26 below. The court shall use the acre-foot amounts in paragraph 5 herein in the interim period, until a final determination of water rights is made.

B. The allowed annual amount of ground water which may be withdrawn through the wells specified above and any additional wells, pursuant to 37-90-137(10), C.R.S., may exceed the average annual amount of withdrawal decreed herein for that aquifer, as long as the total volume of water withdrawn through such wells and any additional wells therefor subsequent to the date of this decree does not exceed the product of the number of years since the date of the issuance of any well permits or the date of this decree, whichever is earliest in time, multiplied by the average annual amount of withdrawal decreed herein for that aquifer, as specified above or as determined pursuant to the retained jurisdiction of the Court. However, amounts set forth in well permits will not be exceeded.

8. <u>Source of ground water and limitations on consumption</u>:

A. The ground water to be withdrawn from the Denver, Arapahoe and Laramie-Fox Hills aquifers is "nontributary groundwater" as defined in 37-90-103(10.5), C.R.S., and in the Denver Basin Rules, the withdrawal of which will not, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in 37-82-101(2) and 37-92-102(1)(b), C.R.S., at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. The ground water to be withdrawn from the Dawson aquifer is "not nontributary" as defined in 37-90-137(9)(c), C.R.S. and such water may be withdrawn pursuant to the plan for augmentation approved herein.

B. Applicant may not consume more than 98% of the annual quantity of water withdrawn from the nontributary Denver, Arapahoe and Laramie-Fox Hills aquifers. The relinquishment of 2% of the annual amount of water withdrawn to the stream system, as required by the Denver Basin Rules effective January 1, 1986, may be satisfied by any method selected by the Applicant and accepted as satisfactory to the State Engineer, so long as Applicant can demonstrate that an amount equal to 2% of such withdrawals (by volume) have been relinquished to the stream system.

C. There is unappropriated groundwater available for withdrawal from the subject aquifers beneath the Subject Property, and the vested water rights of others will not be materially injured by such withdrawals as described herein. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years. No material injury to vested water rights of others will result from the issuance of permits for wells which will withdraw nontributary groundwater or the exercise of the rights and limitations specified in this decree.

9. <u>Additional wells and well fields</u>:

A. Applicant may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property. As

additional wells are planned, applications shall be filed in accordance with 37-90-137(10), C.R.S.

B. Two or more wells constructed into a given aquifer shall be considered a well field. In effecting production of water from such well field, Applicant may produce the entire amount which may be produced from any given aquifer through any combination of wells within the well field.

C. In considering applications for permits for wells or additional wells to withdraw the groundwater which is the subject of this decree, the State Engineer shall be bound by this decree and shall issue said permits in accordance with provisions of 37-90-137(10), C.R.S.

D. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court, Applicant shall obtain permits to reflect such adjusted average annual amounts prior to withdrawing the adjusted amounts. Subsequent permits for any wells herein shall likewise reflect any such adjustment of the average annual amounts decreed herein.

E. The water in the Dawson aquifer is not nontributary and up to 40 acre-feet per year and no more than 12,000 acre-feet total may be withdrawn pursuant to the augmentation plan decreed herein.

APPROVAL OF PLAN FOR AUGMENTATION

10. Description of Plan for Augmentation:

A. Structures to be augmented: Up to 40 individual wells in the not nontributary Dawson aquifer decreed herein. The wells will withdraw Dawson aquifer groundwater at rates of flow not to exceed 15 gpm or an annual amount of 1 acre-foot annually per well. The maximum total annual withdrawal shall be limited to 40 acre-feet per year under this decree.

B. Consumptive Use: This plan for augmentation provides for sewage treatment on approximately 20 of the lots by non-evaporative septic systems and on approximately 20 of the lots by evaporative type systems (if necessary based on actual soil

conditions). Inhouse use for the 40 lots is estimated to be 12 acre-feet annually (0.30 acre-feet per lot). Consumptive use for inhouse uses is estimated to be 10% of use for lots utilizing non-evaporative septic systems or approximately 0.03 acre-feet annually per lot. Evaporative type systems will consume 100% of inhouse use. Before any other type of sewage treatment is proposed in the future, including incorporation of the lots into a central sewage collection and treatment system, Applicant, or its successors and assigns, will amend this decree prior to such change and thereby provide notice of the proposed change to other water users by publication in the resume for Water Division 1 and Water Division 2.

Outside irrigation shall be limited to an average of 13,000 square feet per lot based on a use of 0.65 acre-feet per lot (26 acre-feet per year total), for an irrigation consumptive use of approximately 20.8 acre-feet annually (0.52 acre-feet per lot). Each well will water up to four horses (0.05 acre-feet per year) and consumptive use associated with stockwatering is assumed to be 100% of use. Total annual consumptive use for the 40 lots is estimated to be a maximum of 29.4 acre-feet per year (6.6 acre-feet for inhouse use based on 20 nonevaporative and 20 evaporative septic systems, 20.8 acre-feet for irrigation use, and 2 acre-feet for stockwatering use).

C. Water rights to be used for augmentation:

1. Applicant has contracted with Northgate Company for the purchase of 1 acre-foot of nontributary water from well U.D. No. 1-17798-F, from the Dawson aquifer decreed for use for domestic, municipal, commercial, industrial and irrigation purposes. Northgate Company's Well U.D. No. 1-17798-F is further described as :

Well U.D. No. 1-17798-F
Decreed: December 30, 1976
Case No. W-8269-76, 80CW369, and 84CW621
Court: Water Division 1
Type of water right: Nontributary well
Legal description of the structure: Located in the NE¼ of the NE¼, of Section 17, Township 11 South, Range 66 West of the 6th P.M., El Paso County at a point 100 feet South and 75 feet West of the Northeast Corner of said Section 17.

Source: Nontributary Dawson Arkose aquifer
Pumping rate: 0.167 cfs (75 gpm) with an annual limitation of 121 acre-feet.
Decreed uses: domestic, municipal, commercial, industrial, and irrigation.
Owned by Northgate Company, 3720 Sinton Road, Suite 106D, Colorado Springs, Colorado 80907

Northgate Company also owns rights to Denver aquifer water described below. Applicant understands that Northgate Company may choose to substitute this water at some time in the future for the water from Well U.D. No. 1-17798-F, and such substitution is approved subject to continued compliance with the terms of this decree.

Northgate Well A-D-3
Decreed: November 23, 1983
Case No.: 82CW295 and 87CW193
Court: Water Division 1
Type of water right: nontributary well
Legal description of the structure:
In the SW1/4 of the NW1/4 of Section 20, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado, at a point approximately 1640 feet south of the north section line and 460 feet east of the west section line of said Section 20.
Decreed uses: Municipal, domestic, commercial, industrial, irrigation, recreational including fishery and wildlife, fire protection, stockwatering, and the maintenance of adequate storage systems and reserves.
Source: Nontributary Denver aquifer
Pumping rate: 0.222 cfs, 50 acre-feet annually.
The point of release to the Arkansas River drainage is to an unnamed tributary of Jackson Creek at a point from which the northwest corner of Section 20, T11S, R66W, bears North 12 degrees West, a distance of 1600 feet, more or less.

2. Should the Northgate Company source of water fail for any reason, Applicant may use 40 acre-feet per year of its nontributary Arapahoe and/or Laramie-Fox Hills aquifer decreed herein or any other legally available augmentation supply that is in sufficient quantity, quality, time and place to meet the requirements of this decree. Applicant shall give notice to the State Engineer and the parties herein identifying such other

legally available augmentation supply, its nature, quantity, quality, and method of delivery. The parties receiving such notice shall have 60 days to file objections with the Court to such proposed other legally available augmentation supply. The Court retains jurisdiction in this matter to determine if the supply is adequate. Applicant shall reserve in any deeds of the property, 12,000 acre-feet total of its nontributary Arapahoe and Laramie-Fox Hills groundwater for possible use in this augmentation plan; and shall convey by recorded deed the reserved nontributary Arapahoe and Laramie-Fox Hills aquifer water described above to the Property Owners Association to be created in connection with subdivision of the property pursuant to paragraph 13 below.

3. During the pumping phase, Applicant will also utilize return flows from the not nontributary rights as described in paragraph 10.B above to replace depletions to the Cherry Creek drainage only.

D. Replacement during pumping: During 300 years of pumping, Applicant will replace depletions to the affected stream systems in an amount of water equal to the actual depletions pursuant to §37-90-137(9)(c). A graph showing the estimated stream depletions is attached hereto as Attachment B.

i. South Platte/Cherry Creek.

In the 300th year, depletions to the South Platte/Cherry Creek stream system is approximately 12.64% of the Dawson aquifer water withdrawn from the wells. Return flows from the use of the water on at least 20 lots utilizing non-evaporative septic systems accrue to the Cherry Creek stream system and those return flows in combination with return flows from irrigation use are sufficient to replace to Cherry Creek actual depletions caused by pumping of up to 40 acre-feet per year from the Dawson aquifer wells while the wells are being pumped. Because return flows from all uses are estimated rather than measured, Applicant agrees that such return flows shall be used only to replace depletions under this plan for augmentation, and will not be sold, traded or assigned in whole or in part for any other purpose.

ii. Arkansas River/Monument Creek

In the 300th year, depletions to the Arkansas River/Monument Creek stream system is approximately 8.18% of the Dawson aquifer water withdrawn from the wells. Replacements in an amount equal to these percentages shall be made to Monument Creek via the Northgate water supply for at least the first 138 years of pumping. Applicant will replace depletions associated with pumping from years 138 to 300 by utilizing nontributary groundwater, or any other legally available augmentation supply that is in sufficient quantity, quality, time and place to meet the requirements to the stream system.

E. Postpumping Depletion Augmentation: Assuming maximum pumping of 40 acre-feet per year from the Dawson aquifer for three hundred years, the maximum depletion to Monument Creek from pumping of the wells will be approximately 8.71% of pumping or 3.48 acre-feet in the 351st year and the maximum depletion to Cherry Creek from pumping of the wells will be approximately 12.64% of pumping or 5.0 acre-feet in the 300th year. Year to year depletions shall be calculated according to the State Engineer's model and the stream depletion curve attached as Attachment B, and replacements will be made to Monument Creek as described above and to Cherry Creek on the Subject Property. It is the Applicant's position that depletions which occur after pumping ceases are not injurious, pursuant to Danielson v. Castle Meadows, 791 P.2d 1106 (Colo. 1990), State Engineer v. Castle Meadows, 856 P.2d 496 (Colo. 1993), and State Engineer v. Yale Investments, Inc., 886 P.2d 689 (Colo. 1994). Nevertheless, in order to meet a schedule for plat approval in the County and obtain favorable referral to the County from the State Engineer on the water supply, Applicant has purchased 1 acre-foot per year of water from the Northgate Company which will be reserved for and will provide augmentation water to replace depletions during at least the first 138 years of pumping to the Arkansas River System. Applicant shall replace depletions from year 138 to 300 and post-pumping depletions to Monument Creek and post-pumping depletions to Cherry Creek by pumping of the reserved nontributary Arapahoe and/or Laramie-Fox Hills aquifer water to those stream systems, or by utilizing any other legally available augmentation supply that is in sufficient quantity, quality, time and place to meet the requirements to either stream system of this decree, directly to the stream to meet the requirements of

this decree. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

F. Applicant shall replace post-pumping depletions for the shortest of the following periods: the period provided by C.R.S. 37-90-137(9)(c); the expressed period specified by the Colorado Legislature, should it specify one and providing the Applicant obtain water court approval for such modification; the period determined by the State Engineer, should he choose to set such a period and have jurisdiction to do so; the period established through rulings of the Colorado Supreme Court on relevant cases, or until Applicant petitions the water court and after notice to parties in the case and proves that he has complied with any statutory requirement.

11. Administration of Plan for Augmentation.

A. Reporting Frequency. Applicant shall report to the Division Engineers for both Water Division 1 and Water Division 2 no later than January 30 of each year on an accounting form acceptable to the Division Engineer for Water Division No. 1. The annual reporting shall include the number of wells operating in the development, the number of wells utilizing nonevaporative and evaporative type septic systems, the area irrigated on each lot, and the number of stock watered by each well.

B. Meters. All well withdrawals from structures described in this decree will be metered and collected by the Property Owners Association, which will summarize and forward the data to the Division Engineer for Water Division 1 and 2 and the Water Commissioner by the 30th of January for each year.

C. Timing of Replacements. Applicant agrees to make the replacements required hereunder when required by the Division Engineer for Water Division No. 1 and 2 pursuant to the chart as shown on Attachment B.

D. Curtailment. Pursuant to 37-92-305(8), C.R.S., 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.

12. Applicant and its successors in interest shall pay the cost imposed by operation of this augmentation plan, and the Northgate Company contract(s) so long as an obligation for augmentation of depletions exists.

13. Property Owners Association: Upon subdivision of the property, Applicant shall create a Property Owners Association which all purchasers of lots shall be required to join. Applicant shall assign to the property owners association Applicant's interest and rights and responsiblities in and under the Northgate Contract and this plan for augmentation; Applicant shall also assign to the the Property Owners Association the amount of 12,000 acre-feet of their Arapahoe and Laramie-Fox Hills aquifer water as decreed herein. Applicant shall also create restrictive covenants upon and running with the property, which shall obligate the individual purchasers and the Property Owners Association to carry out the requirements of the Northgate Contract and of this decree. This decree and the restrictive covenants shall be recorded in the real property records of El Paso County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree and the restrictive covenants.

14. Retained jurisdiction for plan for augmentation:

A. Pursuant to 37-92-304(6), C.R.S. the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also has jurisdiction for the purposes of determining compliance with the terms of the augmentation plan.

B. Any person seeking to invoke the retained jurisdiction of the Court shall file a verified petition with the Court. The petition to invoke retained jurisdiction or to modify the Decree shall set forth with particularity the factual basis upon which the requested decretal language to effect the petition. The party lodging the petition shall have the burden of going forward to establish *prima facie* facts alleged in the petition. If the court finds those facts to be established, Applicant shall thereupon have the burden of proof to show: (1) that any modification sought by Applicant will avoid injury

to other appropriators, or (2) that any modification sought by Objector is not required to avoid injury to other appropriators or (3) that any term or condition proposed by Applicant in response to the Objectors' petition does avoid injury to other appropriators.

CONCLUSIONS OF LAW

15. The Water Court has jurisdiction over this proceeding pursuant to 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law. Section 37-90-137(4), C.R.S. The application for a decree confirming Applicant's right to withdraw and use all unappropriated ground water from the nontributary aquifers beneath the property as described herein pursuant to 37-90-137(4), C.R.S., should be granted, subject to the provisions of this decree. The application for a decree confirming Applicant's right to withdraw and use ground water from the Dawson aquifer should be granted pursuant to 37-90-137(4) and (9)(c), C.R.S., subject to the provisions of this decree. The withdrawal of up to 40 acre-feet annually of the Dawson aquifer water in accordance with the terms of this decree will not result in material injury to vested water rights of others.

16. This plan for augmentation satisfies the requirements of 37-90-137(9)(c), C.R.S. for replacement of actual depletions to the affected stream systems for withdrawals of up to 40 acre-feet per year and no more than 12,000 acre-feet total from the Dawson aquifer.

17. The rights to ground water determined herein shall not be administered in accordance with priority of appropriation. Such rights are not "conditional water rights" as defined by 37-92-103(6), C.R.S., requiring findings of reasonable diligence are not applicable to the ground water rights determined herein. The determination of ground water rights herein need not include a date of initiation of the withdrawal project. See 37-92-305(11), C.R.S

JUDGMENT AND DECREE

The Findings of Fact and Conclusions of Law set forth above are hereby incorporated into the terms of this Ruling and Decree as if the same were fully set forth herein.

18. Full and adequate notice of the application was given and the Court has jurisdiction over the subject matter, and over the parties whether they have appeared or not.

19. For purposes of jurisdiction in this case, § 37-92-302(2), C.R.S., does not require that the application be supplemented with a well permit or evidence of its denial.

20. The Applicant may withdraw the subject ground water herein through wells to be located anywhere on the Subject Property, in the average annual amounts and at the estimated average rates of flow specified herein, subject to paragraph 5 above, and the retained jurisdiction by this Court.

21. Applicant may withdraw up to 40 acre-feet per year and no more than 12,000 acre-feet total of not nontributary ground water from the Dawson aquifer under the plan for augmentation decreed herein pursuant to § 37-90-137(9)(c), C.R.S.

22. Applicant has complied with all requirements and met all standards and burdens of proof, including but not limited to §§37-90-137(9)(c), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(1), (2), (3), (4), (6), (8) and (9), C.R.S., to adjudicate their plan for augmentation, and are therefore entitled to a decree confirming and approving their plan for augmentation as described in the findings of fact.

23. Pursuant to Section 37-92-305(5), C.R.S., the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally used.

24. The plan for augmentation as described in the findings of fact, is hereby approved, confirmed and adjudicated, including and subject to the terms and conditions specified herein.

25. No owners of, or person entitled to use water under a vested water right or decreed conditional water right will be injured or

injuriously affected by the operation of the plan for augmentation as decreed herein.

26. <u>Retained Jurisdiction</u>:

A. The Court retains jurisdiction as necessary to adjust the average annual amounts of groundwater available under the property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to § 37-92-305(11), C.R.S. Within 60 days after completion of any well decreed herein, or any test hole(s), Applicant or any successor in interest to these water rights shall serve copies of any geophysical or other log(s) obtained from such well or test hole(s) upon the State Engineer.

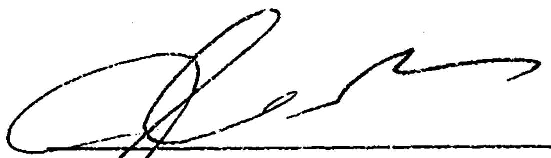
B. At such time as adequate data is available, any person including the State Engineer may invoke the Court's retained jurisdiction to make a finding and determination of water rights availability. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final finding and determination of water rights availability. The State Engineer shall submit such finding to the Water Court and to the Applicant.

C. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within four months, such final determination shall be made by the Water Court after notice and hearing.

27. <u>Continuing Jurisdiction</u>.

A. Pursuant to § 37-92-304(6), C.R.S. the court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The court also retains continuing jurisdiction for the purposes of determining compliance with the terms of the augmentation plan, or for the purpose of amending this decree to provide for a different type of wastewater treatment, pursuant to paragraph 10.B above.

ENTERED this 6th day of March, 1997



John E. Anderson, III
Water Judge
Water Division 2

THE FOREGOING IS HEREBY APPROVED AS TO CONTENT AND FORM AND APPROVED FOR ENTRY BY THE WATER JUDGE.

HOLLY I. HOLDER, P.C.

Date: 3-5-97

By Margaret O'Donnell

Holly I. Holder, #10216
Margaret O'Donnell, #21145
518 - 17th Street, #1500
Denver, Colorado 80202
(303) 534-6315

ATTORNEYS FOR APPLICANT

ANDERSON, DUDE, PIFHER & LEBEL, P.C.

Date: 3-6-97

By [signature]

William Kelly Dude, #13208
104 S. Cascade Ave., #204
P.O. Box 240
Colo. Sprgs., CO 80901-0240
(719) 632-3545

ATTORNEYS FOR OBJECTOR CITY OF COLORADO SPRINGS

Attachment A

A TRACT OF LAND BEING A PORTION OF SECTIONS 29 AND 32, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

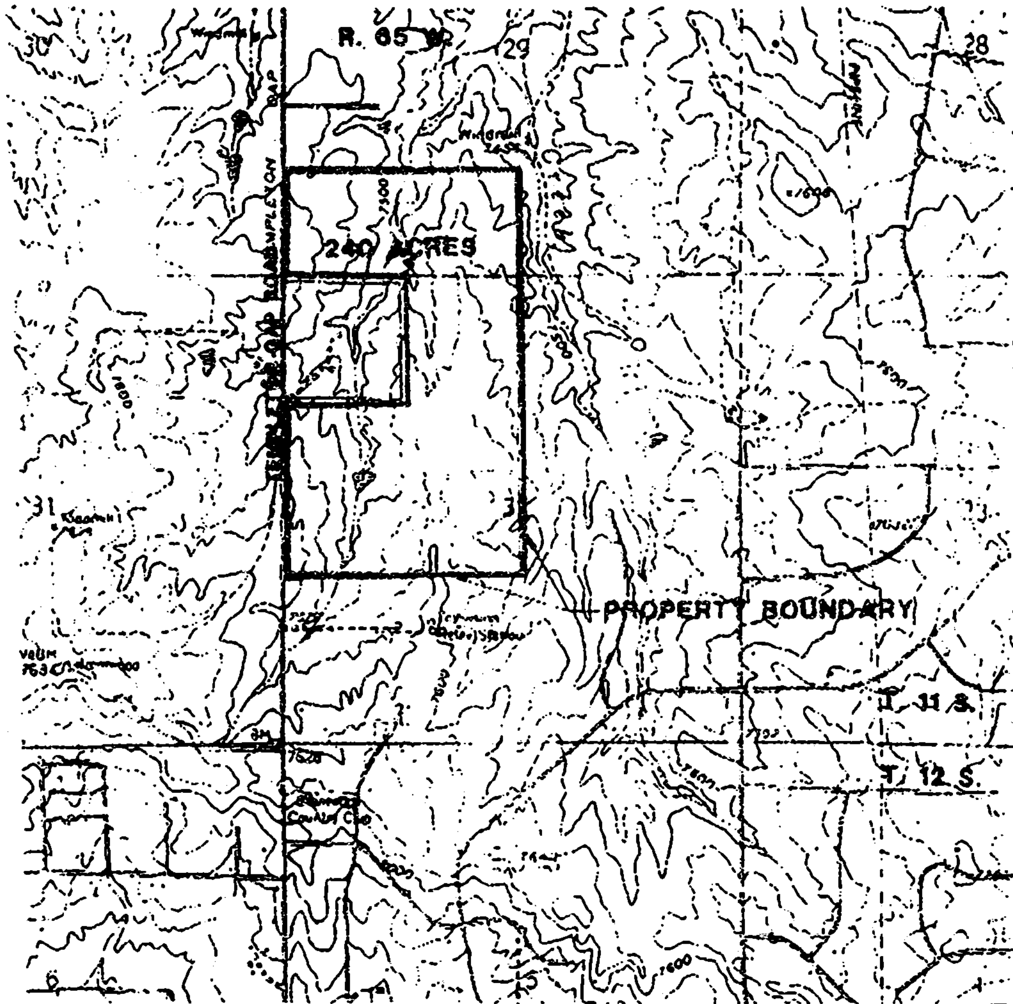
BASIS OF BEARINGS: THE WEST LINE OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE SOUTHWEST CORNER OF SAID SECTION 32 BY A 3-1/4" ALUMINUM SURVEYOR'S CAP STAMPED "EL PASO COUNTY DPU LS 17496" AND AT THE NORTHWEST CORNER OF SAID SECTION 32 BY A NO. 6 REBAR AND 3-1/4" ALUMINUM SURVEYOR'S CAP STAMPED "JR ENG LTD RLS 10377" IS ASSUMED TO BEAR N00°58'34"E, A DISTANCE OF 5312.20 FEET.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 29; THENCE S89°47'03"E AND ON THE SOUTH LINE OF SAID SECTION 29, A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BLACK FOREST ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE N00°59'09"E, ON SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1298.06 FEET TO A POINT ON THE SOUTHERLY LINE OF A TRACT OF LAND DESCRIBED IN BOOK 6918 AT PAGE 619, RECORDS OF EL PASO COUNTY, COLORADO; THENCE EASTERLY ON THE SAID SOUTHERLY LINE, THE FOLLOWING THREE (3) COURSES:

1. S89°45'54"E, A DISTANCE OF 1676.14 FEET;
2. S00°59'09"W, A DISTANCE OF 8.50 FEET;
3. S89°45'54"E, A DISTANCE OF 945.48 FEET TO A POINT ON THE WESTERLY LINE OF WILDWOOD VILLAGE UNIT 4, RECORDED IN PLAT BOOK M-3 AT PAGE 46, RECORDS OF EL PASO COUNTY, COLORADO;

THENCE S00°59'51"W, ON SAID WESTERLY LINE, A DISTANCE OF 1288.69 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 29; THENCE S01°02'35"W AND ON THE WESTERLY LINE OF SAID WILDWOOD VILLAGE UNIT 4 AND THE WESTERLY LINE OF WILDWOOD RANCH ESTATES FILING NO. 3, RECORDED IN PLAT BOOK G-2 AT PAGE 77, RECORDS OF EL PASO COUNTY, COLORADO; A DISTANCE OF 3287.88 FEET TO THE NORTHEASTERLY CORNER OF A TRACT OF LAND DESCRIBED IN BOOK 5780 AT PAGE 872, RECORDS OF EL PASO COUNTY, COLORADO; THENCE N89°52'28"W, ON THE NORTHERLY LINE OF SAID TRACT, A DISTANCE OF 2619.61 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BLACK FOREST ROAD; THENCE N00°58'34"E, ON SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1790.82 FEET; THENCE S89°47'03"E, A DISTANCE OF 1206.03 FEET; THENCE N00°58'34"E, A DISTANCE OF 1481.13 FEET, TO A POINT ON THE SOUTH LINE OF SAID SECTION 29; THENCE N89°47'03"W, ON SAID SOUTH LINE, A DISTANCE OF 1206.03 FEET TO THE POINT OF BEGINNING; COUNTY OF EL PASO, STATE OF COLORADO

TERRA RIDGE
VICINITY MAP



VICINITY MAP
TERRA RIDGE
DATE 09/30/96

2000 1000 0 2000 4000

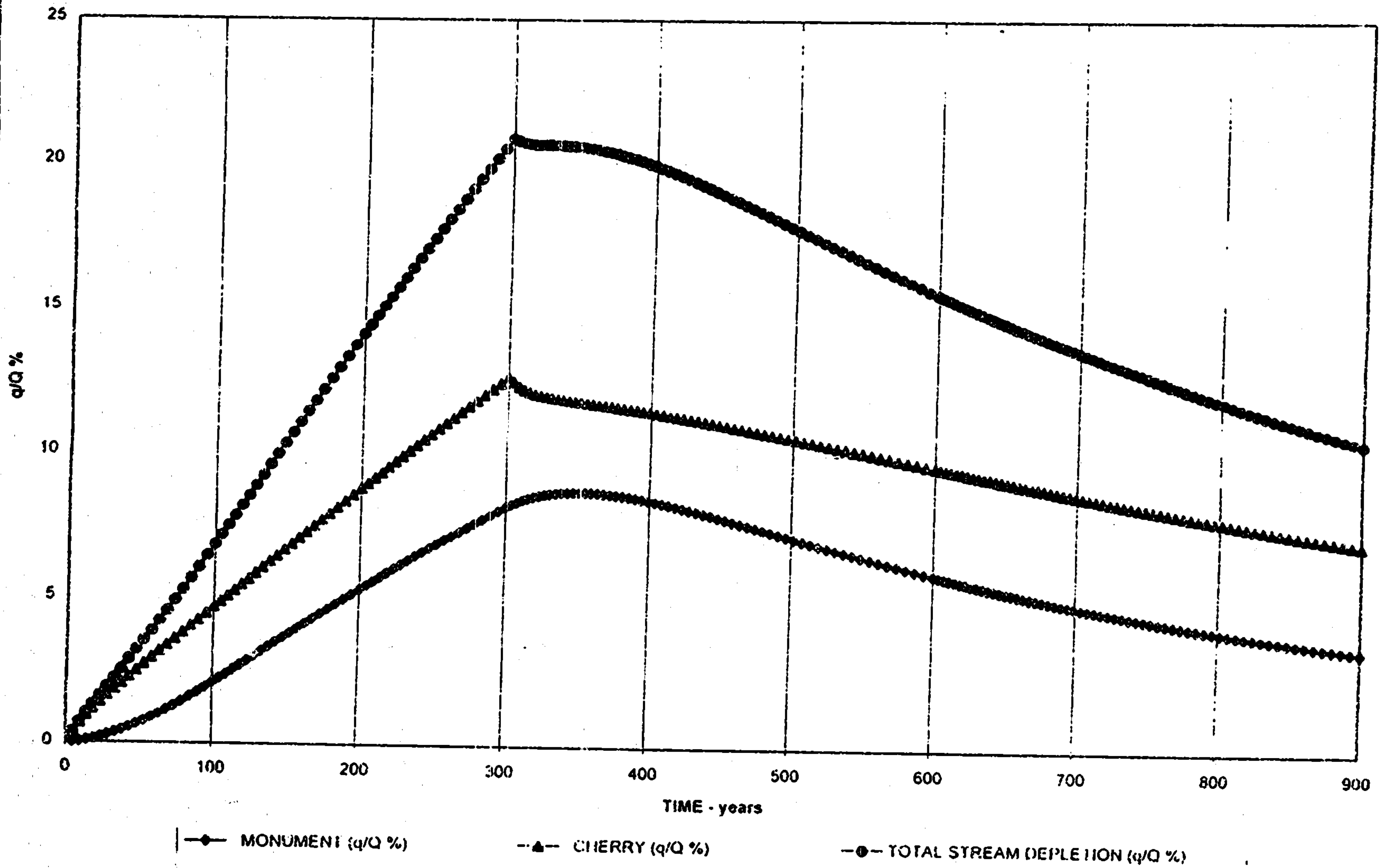
SCALE: 1" = 2000'

JR Engineering, Ltd.
6110 Greenwood Plaza Blvd.
Englewood, Colorado 80111
Tel. (303) 740-9393
FAX (303) 721-9019

PLOT SCALE 1=2000, DATE 09/26/96, TIME 14:05, FILE X:\370400\ACAD\VICINITY.DWG

Figure 2 - Vicinity Map

Stream System	q/Q % @ Year 300	Max. q/Q %	Year
Monument Creek	8.18	8.71	351
Cherry Creek	12.64	12.64	300



Attachment 3

TERRA RIDGE SUBDIVISION
STREAM DEPLETIONS

TIME (years)	5	10	15	20	25	30	35	40	45	50
(q/Q)%	0.013	0.042	0.088	0.149	0.222	0.306	0.399	0.501	0.610	0.725
TIME (years)	55	60	65	70	75	80	85	90	95	100
(q/Q)%	0.846	0.972	1.103	1.240	1.380	1.523	1.670	1.819	1.972	2.126
TIME (years)	105	110	115	120	125	130	135	140	145	150
(q/Q)%	2.284	2.439	2.597	2.758	2.918	3.079	3.240	3.404	3.565	3.727
TIME (years)	155	160	165	170	175	180	185	190	195	200
(q/Q)%	3.887	4.048	4.208	4.369	4.529	4.687	4.846	5.003	5.159	5.314
TIME (years)	205	210	215	220	225	230	235	240	245	250
(q/Q)%	5.469	5.622	5.775	5.926	6.074	6.225	6.373	6.520	6.664	6.808
TIME (years)	255	260	265	270	275	280	285	290	295	300
(q/Q)%	6.951	7.092	7.232	7.371	7.508	7.644	7.781	7.914	8.046	8.177

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Electronically Recorded Official Records El Paso County CO
Chuck Broerman, Clerk and Recorder
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DISTRICT COURT, WATER DIVISION 1, CO Court Address: 901 9th Avenue, P.O. Box 2038 Greeley, CO 80632 Phone Number: (970) 475-2510	DATE FILED: December 9, 2022 11:40 AM CASE NUMBER: 2022CW3066
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: **SHAY MILES** **IN EL PASO COUNTY**	▲ COURT USE ONLY ▲ Case No.: 22CW3066 (Ref. 18CW3226) (consolidated with Division 2 Case No. 22CW3025 pursuant to Order of Panel on Multi-District Litigation 22MDL13)

FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE

THIS MATTER comes before the Water Referee on the Application filed by Shay Miles on April 29, 2022. Having reviewed said application and other pleadings on file, and being fully advised on this matter, the Water Referee makes the following findings and orders:

FINDINGS OF FACT

1. The Applicant in this case is Shay Miles, whose address is 15630 Fox Creek Lane, Colorado Springs, CO 80908 ("Applicant"). Applicant is the owner of the land totaling approximately 39.72 acres on which the structures sought to be adjudicated herein are and will be located, and are the owners of the place of use where the water will be put to beneficial use.

2. The Applicant filed this Application with the Water Courts for both Water Divisions 1 and 2 on June April 29, 2022. The Applications were referred to the Water Referees in both Divisions 1 and 2 on or about May 2, 2022.

3. The time for filing statements of opposition to the Application expired on the last day of June 2022. No Statements of Opposition were timely filed.

4. In accordance with the notice requirements of C.R.S. § 37-92-302, lienholders of the Applicant's property were sent a Letter of Notice dated May 5, 2022. A Certificate of Notice was filed with the District Court, Water Divisions 1 and 2, on May 11, 2022.

5. On May 3, 2022, the Division 2 Water Court, on Motion from Applicant, ordered that consolidated publication be made by only Division 1. On or near the same day, the Water Court, Division 1, ordered that publication occur in *The Transcript* within El Paso County.

6. 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 May 16, 2022 proof of publication in *The Transcript* was filed with Water Court Division 1. All notices of the Application have been given in the manner required by law.

7. A Motion for Consolidation of the Division 1 and Division 2 cases into Water Division 1 was filed with the Colorado Supreme Court on July 11, 2022. The Panel on Consolidated Multidistrict Litigation certified the Motion for Consolidation to the Chief Justice on July 12, 2022. Chief Justice, Brian D. Boatright, granted the Motion for Consolidation by Order dated August 11, 2022.

8. Pursuant to C.R.S. §37-92-302(4), the office of the Division Engineer for Water Division No. 1 filed its Summary of Consultation Report dated July 29, 2022, and a Response to the Summary of Consultation Report was filed by the Applicant on September 14, 2022. Both the Summary of Consultation Report and Response have been considered by the Water Referee in the entry of this Ruling.

9. 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

10. The Applicant requested the confirmation of underground water rights adjudicated in Case No.18CW3226 for the Miles Wells Nos. 1 through 11, as constructed and as may be constructed to the Dawson aquifer, and additional or replacement wells associated therewith for withdrawal of Applicant's full entitlements of supply under the revised plan for augmentation decreed herein. The following findings are made with respect to such underground water rights:

11. The land overlying the groundwater and the groundwater rights subject to the adjudication in Case No. 18CW3226 is owned by the Applicant and consists of approximately 39.72 acres located in the SW¼ of Section 29, Township 11 South, Range 65 West of the 6th P.M., El Paso County, Colorado. Applicant intends to subdivide the property into up to eleven (11) lots. All groundwater subject to the revised plan for augmentation decreed herein shall be withdrawn from the overlying land.

12. Miles Wells Nos. 1 through 11: The Miles Wells Nos. 1 through 11 will be located on the Applicant's Property. Applicant is awarded the vested right to use the Miles

Wells Nos. 1 through 11, 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 Revised Plan for Augmentation decreed herein. The State Engineer shall be bound by C.R.S. §37-90-137(4) and the Plan for Augmentation decreed herein in issuing well permits.

13. 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 aquifer underlying the Applicant's Property contains not-nontributary water, while the water of the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant's Property are nontributary. The quantity of water in the Denver Basin aquifers exclusive of artificial recharge underlying the Applicant's Property that the Applicants own as adjudicated in Case No. 18CW3226 is as follows:

AQUIFER	Annual Average Withdrawal 100 Years (Acre Feet)	Annual Average Withdrawal 300 Years (Acre Feet)	Total Withdrawal (Acre Feet)
Dawson (NNT)	40.5	13.50	4,050
Denver (NT)	31.7	10.57	3,170
Arapahoe (NT)	16.5	5.50	1,650
Laramie-Fox Hills (NT)	11.3	3.77	1,130

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

REVISED PLAN FOR AUGMENTATION

15. The structures to be augmented are the Miles Wells Nos. 1 through 11 as may be constructed, and to be constructed in the not-nontributary Dawson aquifer underlying the Applicant's Property, along with any additional or replacement wells associated therewith.

16. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation obligation for the Miles Wells Nos. 1 through 11, and any additional or replacement wells constructed to the Dawson aquifer requires the replacement of actual stream depletions to the extent necessary to prevent any injurious effect. The water rights to be used for augmentation

during pumping are the septic return flows of the not-nontributary Miles Wells Nos. 1 through 11, to be pumped as set forth in this plan for augmentation. The water rights to be used for augmentation after pumping are a reserved portion of Applicant's nontributary water rights in the Arapahoe and Laramie-Fox Hills aquifers. Applicant shall provide for the augmentation of stream depletions caused by pumping the Miles Wells Nos. 1 through 11 as approved herein. Water use criteria as follows:

A. Use: The Miles Wells Nos. 1 through 11 each pump up to 0.825 acre-feet of water per year, for a maximum total of 9.08 acre-feet being withdrawn from the Dawson aquifer annually, though should fewer than eleven lots be developed on Applicant's Property, each well thereon shall be entitled to withdraw its proportional share of the total 9.08 acre-feet available, so long as there are adequate return flows to replace depletions from pumping. Households will utilize an estimated 0.20 acre-feet of water per year per residence, with remaining pumping entitlements available for other uses on the property, including, for example, irrigation of lawn and garden and the watering of up to four horses or equivalent livestock, per residence. The foregoing figures assume the use of eleven individual septic systems, with resulting return flows from each.

B. Depletions: Maximum stream depletions over the 300-year pumping period will amount to approximately twenty-one percent (21%) of pumping. Maximum annual depletions for total residential pumping from all wells are therefore 1.90 acre-feet in year 300 (being 21% of 9.08). Replacements will be made to replace depletions in the amounts shown on **Exhibit A**.

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 maximum eleven residential Dawson aquifer wells. Applicant has determined that depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a household use rate of 0.20 acre-feet per residence per year, total of 2.2 acre-feet (assuming eleven residences), 1.98 acre-feet is replaced to the stream system per year, utilizing non-evaporative septic systems. Thus, during pumping, stream depletions will be more than adequately augmented. Because return flows from the uses of the water are estimated rather than measured, return flows may be used only to replace depletions under this plan for augmentation, and may not be used, sold, traded, or assigned in whole or in part for any other purpose.

D. Augmentation of Post Pumping Depletions: This plan for augmentation shall have a pumping period of 300 years. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Miles Wells Nos. 1 through 11, Applicant reserves the entirety of the nontributary Arapahoe (1,650 acre-feet) and Laramie-Fox Hills aquifers (1,130 acre-feet) (which are subject to the 2% relinquishment requirement) decreed in Case No. 18CW3226, for actual stream depletions replaced during the plan pumping period as necessary to replace any injurious

post pumping depletions. 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. The reserved nontributary Arapahoe and Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for new well permits for the Miles Wells Nos. 1 through 11 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137.

17. 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 augmentation will accrue to only the South Platte River system where most of the depletions will occur and where the Applicant's Property is located. Under this augmentation plan, the total amount of depletions will be replaced to the South Platte River system as set forth herein, and the Court finds that those replacements are sufficient under this augmentation plan subject to Paragraphs 35-39 herein.

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

19. Applicant or his successors shall be required to initiate pumping from the Arapahoe and Laramie-Fox Hills aquifers for the replacement of post-pumping depletions when either: (i) the absolute total amount of water available from the Dawson aquifer allowed to be withdrawn under the plan for augmentation decreed herein (2,724 acre-feet) has been pumped; (ii) the Applicant or his successors in interest have acknowledged in writing that all withdrawals for beneficial use through the Miles Wells Nos. 1 through 11 have permanently ceased, or (iii) a period of 10 consecutive years where either no withdrawals of groundwater has occurred.

20. Accounting and responsibility for post-pumping depletions in the amount set forth herein shall continue for the shortest of the following periods: (i) the period provided

by statute; (ii) the period specified by any subsequent change in statute; (iii) the period required by the Court under its retained jurisdiction; (iv) the period determined by the State Engineer; or (v) the period as established by Colorado Supreme Court final decisions. Should Applicant's obligation hereunder to account for and replace such post-pumping stream depletions be abrogated for any reason, then the Arapahoe and Laramie-Fox Hills aquifer groundwater reserved for such a purpose shall be free from the reservation herein and such groundwater may be used or conveyed by its owner without restriction for any post-pumping depletions.

21. The term of this augmentation plan is 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 and an amended plan for augmentation plan is obtained. Should the actual operation of this augmentation plan depart from the planned diversions described in Paragraph 16 such that annual diversions are increased or the duration of the plan is extended, the Applicant must file an application to amend this augmentation plan with the Water Court, and prepare and submit a revised model of stream depletions caused by the actual pumping 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.

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

23. It is determined that the timing, quantity and location of replacement water under the protective terms in this decree are sufficient to protect the vested rights of other water users and eliminate material injury thereto. The replacement water shall be of a quantity and quality so as to meet the requirements for which the water of senior appropriators has normally been used, and provided of such quality, such replacement water shall be accepted by the senior appropriators for substitution for water derived by the exercise of the Miles Wells Nos. 1 through 11. As a result of the operation of this plan for augmentation, the depletions from the Miles Wells Nos. 1 through 11 and any additional or replacement wells associated therewith will not result in material injury to the vested water rights of others.

CONCLUSIONS OF LAW

24. The application for Revision 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). These cases were properly consolidated before Water Division 1.

25. The Applicant's request for adjudication of these water rights is contemplated and authorized by law, and this Court and the Water Referee have exclusive jurisdiction over these proceedings pursuant C.R.S. §§37-92-302(1)(a), 37-92-203, and 37-92-305.

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

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

28. 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.

29. The Applicant's request for Revision of Plan for Augmentation is contemplated and authorized by law. If administered in accordance with this decree, this revised plan for augmentation will permit the uninterrupted diversions from the Miles Wells Nos. 1 through 11 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 pursuant to C.R.S. §§37-92-305(3),(5), and (8).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

30. 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.

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

32. The Applicant has furnished acceptable proof as to all claims and, therefore, the Revision of Plan for Augmentation Application, as requested by the Applicant, is granted and approved in accordance with the terms and conditions of this decree.

Approval of this Application will not result in any material injury to senior vested water rights.

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

34. The State Engineer, the Division Engineer, and/or the Water Commissioner shall not curtail the diversion and use of water covered by the Miles Wells Nos. 1 through 11 so long as the return flows from the annual diversions associated with the Miles Wells Nos. 1 through 11 accrue to the stream system and the conditions contained herein are satisfied. To the extent that Applicant or one of his successors or assigns is ever unable to provide the replacement water required, then the Miles Wells Nos. 1 through 11 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 regulation of the State of Colorado. Pursuant to C.R.S. §37-92-305(8), the State Engineer shall curtail all out-of-priority diversions which are not so replaced as to prevent injury to vested water rights. In order for this plan for augmentation to operate, return flows from the septic systems discussed herein, as appropriate, shall at all times during pumping be in an amount sufficient to replace the amount of stream depletions. If for any reason sufficient return flows are not available to replace the actual depletions as shown on **Exhibit A,** the Applicant is required to pump water directly into the stream in the amount that has not been replaced by return flows. If such water is withdrawn from the Dawson aquifer well(s) operated under the augmentation plan the amount of water being pumped from the well(s) for other purposes must be reduced so that the allowed annual withdrawal from the well(s) is not exceeded. Such replacement must be made prior to the irrigation season for the following year.

35. The Court 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 16.D.

36. Pursuant to C.R.S. §37-92-304(6), the Court shall retain continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others, as pertains to the use of Denver Basin groundwater supplies adjudicated herein for augmentation purposes. The court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan.

37. 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

South Platte stream system, to determine whether the replacement of depletions to the South Platte stream system instead of the Arkansas stream system is causing material injury to water rights tributary to the Arkansas stream system.

38. Any person may invoke the Court's retained jurisdiction at any time that Applicant is causing depletions, including ongoing post-pumping depletions, to the Arkansas River system and is replacing such depletions to only the South Platte 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 material injury and to request that the Court reconsider material injury to petitioners' vested water rights associated with the above replacement of depletions under this decree, together with the proposed decretal language to effect the petition. The party filing the petition shall have the burden of proof going forward to establish a prima facie case based on the facts alleged in the petition and that Applicant's failure to replace depletions to the Arkansas River system is causing material 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 material injury is occurring to any vested or conditionally decreed water rights in the Arkansas River system due to the location of Applicant's replacement water. If the Court finds that those facts are established, the Applicant shall thereupon have the burden of proof to show (i) that petitioner is not materially injured, or (ii) that any modification sought by the petitioner is not required to avoid material injury to the petitioner, or (iii) that any term or condition proposed by Applicant in response to the petition does avoid material injury to the petitioner. The Division of Water Resources as a petitioner shall be entitled to assert material injury to the vested water rights of others.

39. Except as otherwise specifically provided in Paragraphs 35-38, above, pursuant to the provisions of C.R.S. §37-92-304(6), this revised plan for augmentation decreed herein shall be subject to the reconsideration of this Court on the question of material injury to vested water rights of others, for a period of three years, except as otherwise provided herein. 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 material 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 materially injured, or (ii) that any modification sought by the petitioner is not required to avoid material injury to the petitioner, or (iii) that any term or condition proposed by Applicant in response to the petition does avoid material injury to the petitioner. The Division of Water Resources as a petitioner shall be entitled to assert material 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 revisions of the statute, this matter shall become final under its own terms.

40. 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 essential by the State Engineer or Division Engineers, and the same shall be installed and operated in accordance with instructions from said entities. Applicant is to install and maintain a totalizing flow meters on all Wells or any additional or replacement wells associated therewith. Applicant is also to maintain records and provide reports to the State Engineer or Division Engineers as instructed by said entities, on at least an annual basis. Applicant will be required to provide accounting as required by the State Engineer or Division Engineer. Such accounting must include the amount of water pumped by each Denver Basin well, the annual depletion, the amount of replacement water provided by each replacement source, the net impact on the stream and any other information required by the Division Engineer to properly administer the decree.

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

42. Groundwater production shall be limited to the subject aquifers. Plain, unperforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of water from zones other than those for which the well was designed.

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

44. The vested water rights, water right structures, and revised plan for augmentation decreed herein shall be subject to all applicable administrative rules and regulations, as currently in place or as may in the future be promulgated, of the offices of Colorado State and Division Engineers for administration of such water rights, to the extent such rules and regulations are uniformly applicable to other similarly situated water rights and water users. The 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 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.

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

Dated: November 8, 2022

John S. Cowan
Water Referee
Water Division One

DECREE

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

Date: December 9, 2022

Todd L. Taylor
Water Judge
Water Division One

Table 1: Estimated Groundwater Volumes for Terra Ridge North Subdivision

Location: Ne 1/4 of SW 1/4 of Section 29, Township 11 S, Range 65 W
Address: 15630 Fox Creek Lane, Colorado Springs, CO 80908
Case Number: 18CW3226
Elevation: 7,177 ft
Surface Area: 52.63 Acres - Total
Surface Area (Development): 39.72 Acres (Lots 2-12)
Number of lots: 11 In development (13 total)
Designated Basin: None
Management District: None

Aquifer	*Surface Area (Acres)*	*Net Sand (ft)* [1]	*Avg. Specific Yield (%)*	*Total Approp. Volume (AF)*	*100-year Ann. Aprop. (AF/yr)*	*300-year Ann. Aprop. (AF/yr)*
Upper Dawson (NNT)	39.72	510.00	20.00%	4051.44	40.51	13.505
Denver (NT)	39.72	470.00	17.00%	3173.63	31.74	10.579
Upper Arapahoe (NT)	39.72	245.00	17.00%	1654.34	16.54	5.514
Laramie-Fox Hills (NT)	39.72	190.00	15.00%	1132.02	11.32	3.773

Note 1: Estimated saturated thickness taken from SB-5 Bedrock Aquifer Evaluation Determination Tool for the Denver Basin.

Table 2: Estimated Annual Water Use and Pumping Rates - Dawson Aquifer

Appendix B: Estimated Annual Water Use and Pumping Rates

Use	Constant	Increment
Eleven Wells		
Domestic Indoor	0.260	AF/year
Irrigation[1]	0.521	AF/year
Stock Watering[2]	0.044	AF/year
Total Well Demand	**0.825**	**AF/year/lot**

Note 1: Assume 5,050 ft² at 0.0566 per 1,000 ft² irrigation.
Note 2: Assume 4 horses at 0.011 AF/horse/year

Total Annual Usage (11 wells total 9.080 AF/year

Estimated Return Flows through Septic (domestic use only)

Percent of domestic	90.00%	of Residence
Volume return	2.574	AF/year

Table 3: AUG-3 Denver Basin Depletion Model - Maximum Depletions
Using SB 5-year_Timestep_2019 Model for wells outside of Desginated Basins
Dawson Aquifer - Not-Nontributary

Pumping Interval	**Formation**	**Total Depl. (AF/yr)**	**Total Depl. (% of Pumping)**	**Year of Max. Depletion**	**Div. 1 Depletion (AF/yr)**	**Div. 2 Depletion (AF/yr)**	**Designated Basin (AF/yr)**
300-year pumping period							
Pumping Period	Dawson (NNT)	1.913	21.06%	300	1.030	0.715	0.168
Model Period	Dawson (NNT)	1.913	21.06%	300	1.030	0.715	0.168

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EXHIBIT A

Summary of Total Depletion (South Platte•Arkansas•Designated Basin Streams)											
Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)	Year	Depletion as a % of Pumping	Annual Depletion (AF/YR)
5	0.41	0.037	255	18.05	1.639	505	18.44	1.674	755	13.67	1.241
10	0.79	0.072	260	18.39	1.670	510	18.34	1.665	760	13.59	1.234
15	1.13	0.103	265	18.73	1.700	515	18.23	1.655	765	13.51	1.227
20	1.45	0.132	270	19.07	1.731	520	18.13	1.646	770	13.42	1.219
25	1.77	0.160	275	19.40	1.762	525	18.02	1.637	775	13.34	1.211
30	2.08	0.189	280	19.74	1.792	530	17.92	1.627	780	13.26	1.204
35	2.39	0.217	285	20.08	1.823	535	17.82	1.618	785	13.18	1.197
40	2.71	0.246	290	20.41	1.853	540	17.72	1.609	790	13.10	1.190
45	3.03	0.275	295	20.74	1.883	545	17.62	1.600	795	13.02	1.182
50	3.36	0.305	300	21.06	1.913	550	17.51	1.590	800	12.94	1.175
55	3.69	0.335	305	20.98	1.905	555	17.41	1.581	805	12.86	1.168
60	4.02	0.365	310	20.92	1.900	560	17.31	1.571	810	12.79	1.161
65	4.36	0.396	315	20.90	1.898	565	17.20	1.562	815	12.71	1.154
70	4.71	0.427	320	20.90	1.898	570	17.11	1.553	820	12.63	1.147
75	5.05	0.459	325	20.91	1.899	575	17.00	1.544	825	12.56	1.140
80	5.40	0.491	330	20.91	1.899	580	16.90	1.534	830	12.48	1.133
85	5.76	0.523	335	20.91	1.899	585	16.80	1.526	835	12.41	1.127
90	6.12	0.555	340	20.91	1.899	590	16.70	1.516	840	12.34	1.120
95	6.48	0.588	345	20.90	1.898	595	16.60	1.508	845	12.26	1.113
100	6.84	0.621	350	20.89	1.897	600	16.50	1.498	850	12.18	1.106
105	7.20	0.654	355	20.86	1.894	605	16.40	1.489	855	12.11	1.100
110	7.57	0.687	360	20.83	1.892	610	16.30	1.480	860	12.04	1.093
115	7.93	0.720	365	20.80	1.889	615	16.21	1.471	865	11.97	1.087
120	8.30	0.753	370	20.75	1.884	620	16.11	1.463	870	11.90	1.080
125	8.67	0.787	375	20.71	1.881	625	16.01	1.454	875	11.82	1.074
130	9.04	0.821	380	20.66	1.876	630	15.92	1.445	880	11.75	1.067
135	9.41	0.854	385	20.60	1.871	635	15.82	1.437	885	11.68	1.061
140	9.77	0.887	390	20.54	1.865	640	15.73	1.428	890	11.61	1.054
145	10.15	0.922	395	20.47	1.859	645	15.63	1.419	895	11.55	1.048
150	10.52	0.955	400	20.40	1.852	650	15.53	1.411	900	11.47	1.042
155	10.88	0.988	405	20.33	1.846	655	15.44	1.402	905	11.40	1.035
160	11.26	1.022	410	20.25	1.839	660	15.34	1.393	910	11.34	1.029
165	11.63	1.056	415	20.17	1.831	665	15.26	1.385	915	11.27	1.023
170	11.99	1.089	420	20.09	1.824	670	15.16	1.376	920	11.20	1.017
175	12.36	1.122	425	20.00	1.816	675	15.07	1.369	925	11.14	1.011
180	12.73	1.156	430	19.92	1.808	680	14.98	1.360	930	11.07	1.005
185	13.09	1.188	435	19.83	1.800	685	14.89	1.352	935	11.00	0.999
190	13.45	1.221	440	19.73	1.792	690	14.79	1.343	940	10.94	0.993
195	13.81	1.254	445	19.64	1.783	695	14.71	1.335	945	10.88	0.987
200	14.17	1.287	450	19.55	1.775	700	14.62	1.327	950	10.81	0.982
205	14.54	1.320	455	19.45	1.766	705	14.53	1.319	955	10.75	0.976
210	14.89	1.352	460	19.35	1.757	710	14.44	1.311	960	10.68	0.970
215	15.25	1.384	465	19.25	1.748	715	14.35	1.303	965	10.62	0.964
220	15.61	1.417	470	19.15	1.739	720	14.27	1.295	970	10.56	0.958
225	15.96	1.449	475	19.05	1.730	725	14.18	1.287	975	10.49	0.953
230	16.31	1.481	480	18.95	1.721	730	14.09	1.279	980	10.43	0.947
235	16.66	1.513	485	18.85	1.712	735	14.01	1.272	985	10.37	0.942
240	17.01	1.545	490	18.75	1.702	740	13.92	1.264	990	10.31	0.936
245	17.35	1.576	495	18.65	1.693	745	13.84	1.256	995	10.24	0.930
250	17.71	1.608	500	18.54	1.684	750	13.76	1.249	1000	10.19	0.925

Created by Douglas E. Schwenke, P.E. on April 29, 2022

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

4/29/2022

Summary Table 1		
Applicant Name	Shay Miles	
Case No. or Receipt No.	18CW3226	
Number of Years of Pumping	300	
Pumping Rate (ac-ft/yr)	9.08	
Total Volume (ac-ft)	2724	
Legal for All Sections	SEC 29 T11S R65W	
Model	DA02	
Aquifer	DAWSON	
100th Year Stream Depletion		
Streams	**100th Year Depletion (ac-ft/yr)**	**q/Q (%)**
MONUMENT	0.10	1.06
EAST PLUM-W&E BRANCH	0.00	0.01
RUNNING CREEK	0.00	0.00
WEST CHERRY	0.10	1.11
EAST CHERRY	0.30	3.35
CHERRY	0.01	0.08
KIOWA	0.02	0.18
KETTLE	0.05	0.58
SAND-DIV2	0.04	0.48
BIG SANDY	0.00	0.00
BLACK SQUIRREL-UBSCDB	0.00	0.03
Total	0.62	6.84
South Platte (No Designated Basin Streams)	0.41	4.53
Arkansas (No Designated Basin Streams)	0.19	2.10
Designated Basin	0.02	0.21

Summary Table 2				
Model Period (years)	700			
Applicant Name	Shay Miles			
Case No. or Receipt No.	18CW3226			
Number of Years of Pumping	300			
Pumping Rate (ac-ft/yr)	9.08			
Total Volume (ac-ft)	2724			
Legal for All Sections	SEC 29 T11S R65W			
Model	DA02			
Aquifer	DAWSON			
Maximum Stream Depletion				
Streams	**Max. Depletion during model period (ac-ft/yr)**	**Year during model period**	**Max. Depletion during pumping period (ac-ft/yr)**	**Year during pumping period**
MONUMENT	0.35	335	0.34	300
EAST PLUM-W&E BRANCH	0.13	725	0.04	300
RUNNING CREEK	0.02	660	0.01	300
WEST CHERRY	0.36	335	0.34	300
EAST CHERRY	0.57	300	0.57	300
CHERRY	0.13	570	0.07	300
KIOWA	0.21	520	0.14	300
KETTLE	0.15	315	0.14	300
SAND-DIV2	0.27	375	0.24	300
BIG SANDY	0.00	1000	0.00	300
BLACK SQUIRREL-UBSCDB	0.04	465	0.03	300
Total	1.91	300	1.91	300
South Platte (No Designated Basin Streams)	1.03	300	1.03	300
Arkansas (No Designated Basin Streams)	0.76	345	0.71	300
Designated Basin	0.25	510	0.17	300

Created by Douglas E. Schwenke, P.E. on April 29, 2022

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

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