

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR REPLACEMENT PLAN TO ALLOW THE WITHDRAWAL OF GROUNDWATER FROM THE DAWSON AQUIFER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUNDWATER BASIN.

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REPLACEMENT PLAN - DETERMINATION OF WATER RIGHT NO. 1068-BD

AQUIFER: DAWSON

APPLICANT: DANIEL S. ABEYTA

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In compliance with section 37-90-107.5, C.R.S. and the Designated Basin Rules, 2 CCR 410-1 (Rules or Rule), Daniel S. Abeyta (Applicant) submitted an application for a replacement plan to allow the withdrawal of groundwater from the Dawson Aquifer that has been allocated by Determination of Water Right No. 1068-BD.

**FINDINGS**

1. Pursuant to section 37-90-107(7), C.R.S., in a Findings and Order dated November 29, 2006, the Ground Water Commission (Commission) approved a Determination of a Right to an Allocation of Groundwater, No. 1068-BD, from the Dawson Aquifer (Aquifer), summarized as follows.
  - a. The determination quantified an amount of water from beneath 37.7 acres of overlying land generally described as the W<sup>1</sup>/<sub>2</sub> of the NW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub>, the NE<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub>, and the NW<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 10, Township 12 South, Range 65 West of the 6th P.M., in El Paso County (Overlying Land).
  - b. The allowed average annual amount of groundwater to be withdrawn from the aquifer was limited to 28.4 acre-feet per year, which based on an aquifer life of one hundred years results in an amount of water allocated of 2,840 acre-feet (subject to adjustment by the Commission to conform to actual local aquifer characteristics).
  - c. The use of groundwater is limited to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation.
  - d. In accordance with Rule 5.3.6 the withdrawal of the subject groundwater will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal, the groundwater is considered to be not-nontributary, and Commission approval of a replacement plan providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers is required prior to approval of well permits for wells to withdraw the subject groundwater.
2. The subject water is Designated Groundwater located within the boundaries of the Upper Black Squirrel Creek Designated Groundwater Basin and the Upper Black Squirrel Creek Ground Water Management District. The Commission has jurisdiction over the withdrawal of the water by large capacity wells that are permitted pursuant to section 37-90-107(7).
3. Withdrawal of the subject groundwater would deplete the alluvial aquifer of the Kiowa-Bijou Designated Groundwater Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Groundwater Basin, both of which, according to Rules 5.2.4.2 and 5.2.6.2, respectively, have been determined to be over appropriated. Such depletion

would unreasonably impair existing large capacity alluvial rights withdrawing water from those alluvial aquifers.

4. Pursuant to Rule 5.6.1.A this plan must be adequate to prevent any material injury to water rights of other appropriators, which for purposes of this plan means large capacity wells withdrawing water from the alluvial aquifer of the Kiowa-Bijou Designated Groundwater Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Groundwater Basin.
5. Pursuant to Rule 5.3.6.2(C) the amount of replacement water shall provide for the depletion of alluvial water for the first 100 years due to all previous pumping and if pumping continues beyond 100 years, shall replace actual impact until pumping ceases.
6. The application for the replacement plan was received by the Commission on December 6, 2019.
7. The Applicant proposes to divert 4 acre-feet annually from the Dawson Aquifer for a period of 300 years. The Dawson aquifer water will be withdrawn through 4 wells to be located on 4 residential lots on the 37.7 acre Overlying Land. Each Dawson Aquifer well is proposed to divert 1 acre-foot of water annually for use in 1 single family residence, stock and domestic animal watering, irrigation of lawn and garden, hot tub/swimming pool and augmentation.
8. At a continuous withdrawal of 4 acre-feet annually for 300 years, depletions to the alluvial aquifer systems of the Kiowa-Bijou Designated Groundwater Basin and Upper Black Squirrel Creek Designated Groundwater Basin would steadily increase to 0.103 acre-feet per year in the 300th year, which is equal to 2.57% of pumping, as shown in Exhibit A.
9. The Applicant proposes to provide 0.9 acre-feet per year of replacement water to the alluvial aquifer system of the Upper Black Squirrel Creek Designated Groundwater Basin. The proposed source of replacement water is septic and leaching field return flows from the in-house use of the groundwater to be pumped under the plan. The Applicant estimates that return flows from each lot will consist of 90% of the water used for in-house purposes. Assuming each lot uses a total annual amount for in-house use of 0.25 acre-feet, the return flow per lot would be 0.225 acre-feet annually, and the return flows under the plan will total 0.9 acre-feet per year for all 4 lots at full build out.
10. The subject property is located within the drainage of Black Squirrel Creek, and the return flows will flow to the alluvial aquifer of the Upper Black Squirrel Creek Designated Groundwater Basin. The Applicant proposes to aggregate all replacements to the drainage in which the well or wells will operate, in accordance with Guideline 2007-1.
11. Pursuant to Rule 5.6.1.B this plan must be adequate to prevent unreasonable impairment of water quality. Pursuant to Rule 5.6.1.B.1.b, if the replacement source water is from an onsite wastewater treatment system permitted by a local health agency and the applicant demonstrates the source is in compliance with that permit there shall be a rebuttable presumption of no unreasonable impairment of water quality.
12. Pursuant to Rule 5.6.1.C this plan, including the proposed uses of the water withdrawn pursuant to the plan, must not be speculative, and must be technically and financially feasible and within the Applicant's ability to complete. The plan, including the proposed uses of the water withdrawn pursuant to the plan, is not speculative. The plan appears

technically and financially feasible and within the Applicant's ability to complete.

13. Pursuant to Rule 5.6.1.D this plan must be able to be operated and administered on an ongoing and reliable basis. The plan appears to be able to be operated and administered on an ongoing and reliable basis.
14. Pursuant to Rule 5.6.1.F replacement source water must be physically and legally available in time, place and amount to prevent material injury. As determined in Determination of Water Right No. 1068-BD water is currently available in the amounts and for the number of years proposed to be diverted.
15. Pursuant to Rule 5.6.1.G the replacement source water must be legally available for use. Records in this office indicate that the Applicant controls the water right to be used as the source of replacement water, consisting of Determination of Water Right No. 1068-BD, and such water is legally available for use pursuant to this plan.
16. In accordance with Rule 5.6.2 the application was referred to the Upper Black Squirrel Creek Ground Water Management District on February 18, 2020. Comments from the District were received on March 23, 2020.
17. In accordance with sections 37-90-107.5 and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on February 20, 2020 and February 27, 2020. No objections to the application were received within the time limit set by statute.
18. According to Rule 5.6.1:
  - a. The Applicant has the burden of proving the adequacy of the plan in all respects.
  - b. If the applicant meets its burden of proof, the Commission shall grant approval of the plan which shall include any terms and conditions established the Commission.
19. The Commission Staff has evaluated the application pursuant to section 37-90-107.5, and the requirements of Rule 5.3.6.2(C) and Rule 5.6, finds that the requirements have been meet, and the plan may be approved to allow diversions from the Dawson Aquifer if operated subject to the conditions given below.

#### **ORDER**

In accordance with section 37-90-107.5, and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for a replacement plan to allow the withdrawal of groundwater from the Dawson Aquifer underlying 37.7 acres that are the subject of Determination of Water Right no. 1068-BD is approved subject to the following conditions:

20. The Dawson Aquifer groundwater will be withdrawn through 4 wells to be located on 4 residential lots on the 37.7 acre Overlying Land. The allowed use of groundwater for each well under this plan is use in 1 single family residence, stock and domestic animal watering, irrigation of lawn and garden, hot tub/swimming pool and augmentation.
21. The allowed annual amount of groundwater to be withdrawn from the aquifer by all wells operating under this plan shall not exceed 4 acre-feet. The allowed annual amount of water to be withdrawn from each on-lot well shall not exceed 1 acre-foot.

22. A totalizing flow meter shall be installed on each well. The well owner shall maintain the meter in good working order.
23. Permanent records of all withdrawals of groundwater from each well shall be recorded at least annually by the well owners, permanently maintained, and provided to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
24. Pumping under this plan is limited to a period of 300 years. The year of first use of this replacement plan shall be the calendar year of construction of a well permitted pursuant to this plan or permitting of an existing well pursuant to the plan.
25. Return flows from in-house use of groundwater shall occur through individual on-lot non-evaporative septic systems located within the 37.7 acres of Overlying Land that are the subject of Determination of Water Right No. 1068-BD. The septic systems must be constructed and operated in compliance with a permit issued by a local health agency.
26. Replacement of depletions must be provided annually in the acre-feet amounts shown in Exhibit A. Annual replacement requirements may be computed by pro-rating between the values given on Exhibit A, or for simplicity may be taken as the amount shown in the next succeeding 5 year increment.
27. The Applicant or their successor(s) are responsible for ensuring that replacement water is provided to the alluvial aquifer as required by this plan. The annual replacement requirement and the annual amount of replacement water provided shall be calculated and reported on a form acceptable to the Commission. The annual amount of replacement water provided must be no less than the annual replacement requirement on a yearly basis. No credit shall be claimed by the Applicant for an oversupply of replacement water provided to the alluvium during previous years.
28. The Applicant must provide the required annual amount of replacement water for the first 100 years, or for as long as a well is operated pursuant to this plan, whichever is longer.
29. To assure adequate return flows, at least one well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any other use is allowed to be served by any of the wells.
30. So long as at least one well continues to pump and supply an occupied dwelling, the plan's required replacement obligations, shown in Exhibit A, will be met. Should all wells cease pumping for in-house use within the first 100 years an amended or alternate replacement plan must be obtained that will replace actual depletions to the alluvial aquifer so as to prevent any material injury to water rights of other appropriators.
31. The Applicant (and their successors) must gather and maintain permanent records of all information pertaining to operation of this plan, which shall include, but is not be limited to, those items identified below. The Applicant must submit records to the Commission and the Upper Black Squirrel Creek Ground Water Management District on forms acceptable to the Commission, on an annual basis for the previous calendar year, by February 15<sup>th</sup> of the following year.
  - a. Identification of all well permits issued and wells constructed under this plan.

Aquifer: Dawson

Applicant: Daniel S. Abeyta

- b. The amount of water diverted by each well and all wells in total, both annually and cumulatively since operation of the plan began.
  - c. The number of occupied dwellings served by each well.
  - f. The return flows occurring from use of all wells operating under the plan, assuming 0.225 acre-feet per year per occupied single family dwelling (90% of the water used for in-house purposes) enters the alluvial aquifer as replacement water.
  - g. Any other information the Commission deems relevant and necessary to operation, monitoring, accounting, or administration of the plan.
32. The Applicant (and their successors) are fully responsible for the operation, monitoring, and accounting of the replacement plan. In the event a lot with a well permitted or operating pursuant to this plan is sold, identification of the well that was sold and evidence that the new owner has been notified of their responsibilities under the replacement plan shall accompany that year's accounting.
33. Any covenants adopted for this subdivision should contain a description of the replacement plan, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be reported and the plan is to be administered.
34. In the event the permitted well or wells are not operated in accordance with the conditions of this replacement plan, they shall be subject to administration, including orders to cease diverting groundwater.
35. All terms and conditions of Determination of Water Right No. 1068-BD must be met.
36. Pursuant to Rule 5.6.1.E, a copy of this Findings and Order shall be recorded by the Applicant in the clerk and recorder's records of El Paso County, so that a title examination of the land on which the structures involved in this plan are located reveals the existence of this plan.

Dated this 8th day of April, 2020.



Kevin G. Rein, P.E.  
Executive Director  
Colorado Ground Water Commission

By: 

Keith Vander Horst, P.E.  
Chief of Water Supply, Basins

Exhibit A  
Replacement Plan - Determination No.: 1068-BD  
Page 1 of 1

Designated Basin Summary Table for Daniel S. Abeyta Pumping Rate of 4 acre-feet per year for 300 Years from the Dawson aquifer Section(s): Section 10, T12S, R65W, 6th P.M.							
Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)	Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)
5	4.0	0.000	0.00	155	4.0	0.038	0.95
10	4.0	0.000	0.00	160	4.0	0.040	1.00
15	4.0	0.000	0.00	165	4.0	0.042	1.05
20	4.0	0.000	0.01	170	4.0	0.044	1.11
25	4.0	0.001	0.01	175	4.0	0.046	1.16
30	4.0	0.001	0.02	180	4.0	0.049	1.22
35	4.0	0.001	0.03	185	4.0	0.051	1.27
40	4.0	0.002	0.05	190	4.0	0.053	1.33
45	4.0	0.002	0.06	195	4.0	0.055	1.38
50	4.0	0.003	0.08	200	4.0	0.058	1.44
55	4.0	0.004	0.10	205	4.0	0.060	1.50
60	4.0	0.005	0.13	210	4.0	0.062	1.55
65	4.0	0.006	0.15	215	4.0	0.064	1.61
70	4.0	0.007	0.18	220	4.0	0.067	1.67
75	4.0	0.009	0.22	225	4.0	0.069	1.72
80	4.0	0.010	0.25	230	4.0	0.071	1.78
85	4.0	0.011	0.29	235	4.0	0.073	1.84
90	4.0	0.013	0.32	240	4.0	0.076	1.89
95	4.0	0.015	0.37	245	4.0	0.078	1.95
100	4.0	0.016	0.41	250	4.0	0.080	2.00
105	4.0	0.018	0.45	255	4.0	0.082	2.06
110	4.0	0.020	0.50	260	4.0	0.085	2.12
115	4.0	0.022	0.54	265	4.0	0.087	2.17
120	4.0	0.024	0.59	270	4.0	0.089	2.23
125	4.0	0.025	0.64	275	4.0	0.091	2.29
130	4.0	0.027	0.69	280	4.0	0.094	2.34
135	4.0	0.029	0.74	285	4.0	0.096	2.40
140	4.0	0.032	0.79	290	4.0	0.098	2.45
145	4.0	0.034	0.84	295	4.0	0.100	2.51
150	4.0	0.036	0.89	300	4.0	0.103	2.57

Created by jmw on February 12, 2020

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

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

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

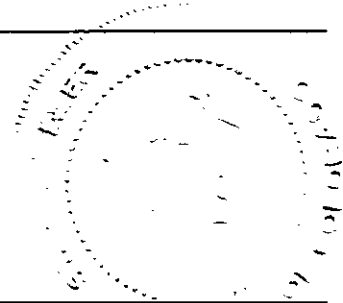
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APPLICANT: PETER R. SPAHN INVESTMENT TRUST

AQUIFER: DAWSON

DETERMINATION NO.: 1068-BD

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Peter R. Spahn Investment Trust (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Dawson Aquifer.

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on September 22, 2006.
2. The applicant requests a determination of rights to designated ground water in the Dawson Aquifer (hereinafter "aquifer") underlying 37.7 acres, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated September 19, 2006, the applicant owns the 37.7 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The applicant's proposed place of use of the allocated ground water is the above described 37.7 acre land area.
6. The quantity of water in the aquifer underlying the 37.7 acres of land claimed by the applicant is 2,941 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 20 percent.

- b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 390 feet based on evaluation of the geologic log of an existing well, Permit No. 214120, located on the property. Use of this geologic log constitutes site specific data as provided for by Rule 5.3.4.2 of the Designated Basin Rules.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
  8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum allowed average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 37.7 acres of overlying land claimed by the applicant is 29.4 acre-feet.
  9. In accordance with Rule 5.3.2.4 of the Designated Basin Rules, the maximum average annual amount of ground water available for allocation from the aquifer underlying the 37.7 acres of land claimed by the applicant is reduced to 28.4 acre-feet to allow for the annual withdrawal of a small capacity well which is completed in the aquifer, Permit No. 214120. Except for this well, review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the land claimed by the applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Withdrawal of water from the aquifer underlying the claimed land area would impact the alluvial aquifer of Upper Black Squirrel Creek or its tributaries, which has been determined to be over-appropriated. Commission approval of a replacement plan - pursuant to Section 37-90-107.5, C.R.S., and Rule 5.6 of the Designated Basin Rules - providing for the actual depletion of the alluvial aquifer and adequate to prevent any material injury to existing water rights, would be required prior to approval of well permits for wells to be located on this land area to withdraw the allocated ground water from the aquifer.



13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
14. On October 5, 2006, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on October 12 and 19, 2006.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Dawson Aquifer underlying 37.7 acres of land, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, is approved subject to the following conditions:

19. The allowed average annual amount of withdrawal of ground water from the aquifer shall not exceed 28.4 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allowed average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.

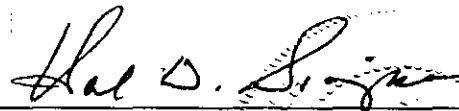
21. The applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
22. Commission approval of a replacement plan, providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers is required prior to approval of well permits for wells to be located on the overlying land area to withdraw ground water from the aquifer.
23. The use of ground water from this allocation shall be limited to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The place of use shall be limited to the above described 37.7 acre land area.
24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 37.7 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
25. Subject to the above conditions, well permits for wells to withdraw the allocated annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
  - a. The wells shall be located on the above described 37.7 acre overlying land area.
  - b. The wells must be constructed to withdraw water from only the Dawson Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
  - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.

e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Ground Water Management District upon their request.


f. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.

26. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county in which the claimed overlying land is located so that a title examination of the above described 37.7 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 29<sup>th</sup> day of November, 2006.



Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By:   
Keith Vander Horst, P.E.  
Supervisor, Designated Basins

Prepared by: SKR

GWS 1  
06/09/00

1068-BD

Page 1 of 1

SEP 22 2006

WATER RESOURCES  
STATE ENGINEER  
COLO.

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES  
1313 Sherman St. Room 821  
Denver, CO 80203  
(303) 866-3581 Fax (303) 866-3589

**NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT**

I (We) Peter R. Spahn Investment Trust  
(Name(s))

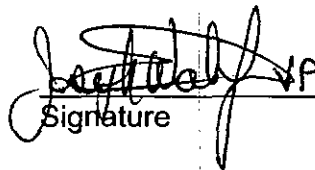
Claim and say that I (we) am (are) the owner(s) of the following described property consisting of 37.7 acres in the County of El Paso, State of Colorado:

(Insert the property legal description)  
W 1/2 NW 1/4 NW 1/4;  
NE 1/4 NW 1/4 NW 1/4;  
NW 1/4 SW 1/4 NW 1/4;  
Sec. 10, T. 12S., R. 65W., 6<sup>th</sup> PM

and, that the ground water sought to be withdrawn from the Dawson aquifer underlying the above-described and has not been conveyed to reserved to another, nor has consent been given to its withdrawal by another.

Further, I (we) claim and say that I (we) have read the statements and made herein; know the contents hereof; and that the same are true to my (our) knowledge.

Park State Bank & Trust, Trustee  
Joseph E. Walnofer, Vice President

  
Signature

9/19/2006  
Date

Signature

Date

.....  
**INSTRUCTIONS:**

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

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

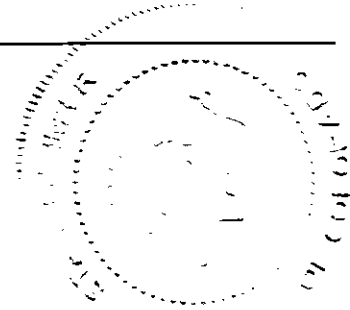
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APPLICANT: PETER R. SPAHN INVESTMENT TRUST

AQUIFER: DENVER

DETERMINATION NO.: **1067-BD**

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Peter R. Spahn Investment Trust (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Denver Aquifer.

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on September 22, 2006.
2. The applicant requests a determination of rights to designated ground water in the Denver Aquifer (hereinafter "aquifer") underlying 37.7 acres, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated September 19, 2006, the applicant owns the 37.7 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The applicant's proposed place of use of the allocated ground water is the above described 37.7 acre land area.
6. The quantity of water in the aquifer underlying the 37.7 acres of land claimed by the applicant is 2,371 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

- b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 370 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
  8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum allowed average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 37.7 acres of overlying land claimed by the applicant is 23.7 acre-feet.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the land claimed by the applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. No more than 98% of the amount of ground water withdrawn annually shall be consumed, as required by the Designated Basin Rules.
  13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
  14. On October 5, 2006, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
  15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.

16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on October 12 and 19, 2006.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Denver Aquifer underlying 37.7 acres of land, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, is approved subject to the following conditions:

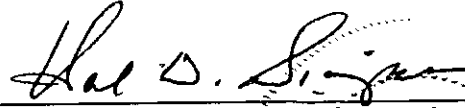
19. The allowed average annual amount of withdrawal of ground water from the aquifer shall not exceed 23.7 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allowed average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.
21. The applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
22. No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.
23. The use of ground water from this allocation shall be limited to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The place of use shall be limited to the above described 37.7 acre land area.

24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 37.7 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
25. Subject to the above conditions, well permits for wells to withdraw the allocated annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
  - a. The wells shall be located on the above described 37.7 acre overlying land area.
  - b. The wells must be constructed to withdraw water from only the Denver Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
  - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Ground Water Management District upon their request.
  - f. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
26. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county in which the claimed overlying land is located so that a title examination of the above described 37.7 acre overlying land area, or any part thereof, shall reveal the existence of this determination.



Applicant: Peter R. Spahn Investment Trust  
Aquifer: Denver  
Determination No.: 1067-BD

Dated this 29<sup>th</sup> day of November, 2006.



Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By: Keith Vander Horst

Keith Vander Horst, P.E.  
Supervisor, Designated Basins

Prepared by: SKR

EXHIBIT A

GWS 1  
06/09/00

1067-BD

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Page 1 of 1

SEP 22 2006

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES  
1313 Sherman St. Room 821  
Denver, CO 80203  
(303) 866-3581 Fax (303) 866-3589

WATER RESOURCES  
STATE ENGINEER  
COLO.

NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT

I (We) Peter R. Spahn Investment Trust  
(Name(s))

Claim and say that I (we) am (are) the owner(s) of the following described property consisting of 37.7 acres in the County of El Paso, State of Colorado:

(Insert the property legal description)  
W 1/2 NW 1/4 NW 1/4;  
NE 1/4 NW 1/4 NW 1/4;  
NW 1/4 SW 1/4 NW 1/4;  
Sec. 10, T. 12S., R. 65W., 6<sup>th</sup> PM

and, that the ground water sought to be withdrawn from the Denver aquifer underlying the above-described and has not been conveyed to reserved to another, nor has consent been given to its withdrawal by another.

Further, I (we) claim and say that I (we) have read the statements and made herein; know the contents hereof; and that the same are true to my (our) knowledge.

Park State Bank & Trust, Trustee  
Joseph E. Walnofer, Vice President

Joseph E. Walnofer VP 9/19/2006  
Signature Date

\_\_\_\_\_  
Signature Date

.....  
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

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

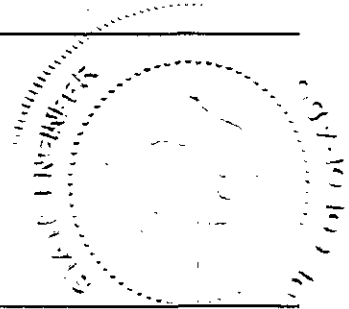
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APPLICANT: PETER R. SPAHN INVESTMENT TRUST

AQUIFER: ARAPAHOE

DETERMINATION NO.: 1066-BD

---



In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Peter R. Spahn Investment Trust (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Arapahoe Aquifer.

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on September 22, 2006.
2. The applicant requests a determination of rights to designated ground water in the Arapahoe Aquifer (hereinafter "aquifer") underlying 37.7 acres, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated September 19, 2006, the applicant owns the 37.7 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The applicant's proposed place of use of the allocated ground water is the above described 37.7 acre land area.
6. The quantity of water in the aquifer underlying the 37.7 acres of land claimed by the applicant is 1,666 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

- b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 260 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
  8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum allowed average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 37.7 acres of overlying land claimed by the applicant is 16.7 acre-feet.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the land claimed by the applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. No more than 98% of the amount of ground water withdrawn annually shall be consumed, as required by the Designated Basin Rules.
  13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
  14. On October 5, 2006, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
  15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.

16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on October 12 and 19, 2006.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Arapahoe Aquifer underlying 37.7 acres of land, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, is approved subject to the following conditions:

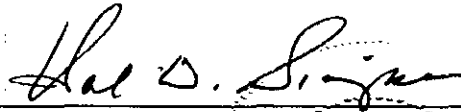
19. The allowed average annual amount of withdrawal of ground water from the aquifer shall not exceed 16.7 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allowed average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.
21. The applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
22. No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.
23. The use of ground water from this allocation shall be limited to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The place of use shall be limited to the above described 37.7 acre land area.

24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 37.7 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
25. Subject to the above conditions, well permits for wells to withdraw the allocated annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
  - a. The wells shall be located on the above described 37.7 acre overlying land area.
  - b. The wells must be constructed to withdraw water from only the Arapahoe Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
  - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Ground Water Management District upon their request.
  - f. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
26. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county in which the claimed overlying land is located so that a title examination of the above described 37.7 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Applicant: Peter R. Spahn Investment Trust  
Aquifer: Arapahoe  
Determination No.: 1066-BD

Page 5

Dated this 29<sup>th</sup> day of November, 2006.



Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By: Keith Vander Horst

Keith Vander Horst, P.E.  
Supervisor, Designated Basins

Prepared by: SKR

GWS 1  
06/09/00

1066-BD

Page 1 of 1

SEP 22 2006

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES  
1313 Sherman St. Room 821  
Denver, CO 80203  
(303) 866-3581 Fax (303) 866-3589

WATER RESOURCES  
STATE ENGINEER  
COLO.

**NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT**

I (We) Peter R. Spahn Investment Trust  
(Name(s))

Claim and say that I (we) am (are) the owner(s) of the following described property consisting of 37.7 acres in the County of El Paso, State of Colorado:

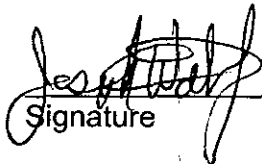
(Insert the property legal description)

W 1/2 NW 1/4 NW 1/4;  
NE 1/4 NW 1/4 NW 1/4;  
NW 1/4 SW 1/4 NW 1/4;  
Sec. 10, T. 12S., R. 65W., 6<sup>th</sup> PM

and, that the ground water sought to be withdrawn from the Arapahoe aquifer underlying the above-described and has not been conveyed to reserved to another, nor has consent been given to its withdrawal by another.

Further, I (we) claim and say that I (we) have read the statements and made herein; know the contents hereof; and that the same are true to my (our) knowledge.

Park State Bank & Trust, Trustee  
Joseph E. Walnofer, Vice President

 VP  
Signature 9/19/2006  
Date

\_\_\_\_\_  
Signature Date

.....  
**INSTRUCTIONS:**

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.



**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

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

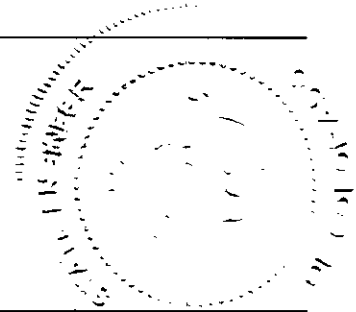
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APPLICANT: PETER R. SPAHN INVESTMENT TRUST

AQUIFER: LARAMIE-FOX HILLS

DETERMINATION NO.: **1065-BD**

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Peter R. Spahn Investment Trust (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the Laramie-Fox Hills Aquifer.

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on September 22, 2006.
2. The applicant requests a determination of rights to designated ground water in the Laramie-Fox Hills Aquifer (hereinafter "aquifer") underlying 37.7 acres, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated September 19, 2006, the applicant owns the 37.7 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The applicant's proposed place of use of the allocated ground water is the above described 37.7 acre land area.
6. The quantity of water in the aquifer underlying the 37.7 acres of land claimed by the applicant is 1,074 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 15 percent.

- b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 190 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
  8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum allowed average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 37.7 acres of overlying land claimed by the applicant is 10.7 acre-feet.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the land claimed by the applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. No more than 98% of the amount of ground water withdrawn annually shall be consumed, as required by the Designated Basin Rules.
  13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
  14. On October 5, 2006, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
  15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.

16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on October 12 and 19, 2006.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Laramie-Fox Hills Aquifer underlying 37.7 acres of land, generally described as the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , and the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 10, Township 12 South, Range 65 West of the 6th Principal Meridian, is approved subject to the following conditions:

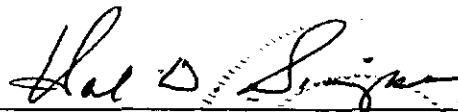
19. The allowed average annual amount of withdrawal of ground water from the aquifer shall not exceed 10.7 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allowed average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.
21. The applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
22. No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.
23. The use of ground water from this allocation shall be limited to the following beneficial uses: indoor residential and commercial (home-based business), stock watering, irrigation, hot tub/swimming pool, and augmentation. The place of use shall be limited to the above described 37.7 acre land area.

24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 37.7 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
  
25. Subject to the above conditions, well permits for wells to withdraw the allocated annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
  - a. The wells shall be located on the above described 37.7 acre overlying land area.
  
  - b. The wells must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
  
  - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  
  - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
  
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Ground Water Management District upon their request.
  
  - f. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
  
26. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county in which the claimed overlying land is located so that a title examination of the above described 37.7 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Applicant: Peter R. Spahn Investment Trust  
Aquifer: Laramie-Fox Hills  
Determination No.: 1065-BD

Page 5

Dated this 29th day of November, 2006.



Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By: Keith Vander Horst

Keith Vander Horst, P.E.  
Supervisor, Designated Basins

Prepared by: SKR

