

# Petrock & Fendel, P.C.

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Attorneys

James J. Petrock • Frederick A. Fendel, III • Matthew S. Doznanovic • Bradford R. Benning

Gary J. Crosby, Paralegal

September 22, 2017

TC & C, LLC  
c/o Carl Turse  
17572 Colonial Park Drive  
Monument, CO 80132-2209

Re: Status of Water Court Applications in Case No. 2017CW3076, Water Division 1, and 2017CW3027, Water Division 2/ 58 Acres in El Paso County.

Dear Carl:

The two cases have been consolidated and will be decreed in Water Division 1. Therefore, attached please find a copy of the submittal of a proposed Ruling of the Water Referee to the attorney for Objector Cherokee Metropolitan District for review and comment. The ruling approves an augmentation plan to allow use of Dawson aquifer wells for 300 years to serve 16 residential lots (0.55 acre-feet per well and 8.8 acre-feet total), and in building commercial (4 acre-feet) and limited irrigation use on the commercial land (0.4 acre-feet).

The county value for commercial use is 0.1 gallon per day per square foot of commercial space or 36.5 gallons per year for each square foot. The 4 acre-feet of in building commercial use is equal to 1,303,404 gallons. Therefore, the 4 acre-feet should be sufficient to provide for 35,709 square-feet of commercial space. (1,303,404 gallons total ÷ 36.5 per square foot per year = 35,709 square-feet of commercial space).

We will keep you updated as the proposed ruling goes through this process. If you have any questions, please call.

Sincerely,  
PETROCK & FENDEL, P.C.



James Petrock

JJP:gjc  
enclosure  
cc: (w/encl.):  
Dave Jones

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Gary J. Crosby, Paralegal

April 18, 2017

Carl Turse  
17572 Colonial Park Drive  
Monument, CO 80132-2209

RE: Proposed Water Supply/57 Acres in El Paso County

Dear Carl:

The following provides information on a proposed 300 year water supply for use of not nontributary Dawson aquifer wells to serve 15 residential lots and 1 commercial lot to be located on 58.07 acres located in the N1/2 of Section 27, T11S, R66W, El Paso County (Subject Property). The Subject Property is currently owned by Kay Cooper and Michael Stowell, and it is our understanding that you have a contract to purchase the Subject Property.

The Denver Basin groundwater underlying the Subject Property was decreed by the current owners in Case No. 08CW164 for the following annual amounts, based on pumping each year over 100 years.

<u>Aquifer</u>	<u>Annual Amount</u>
Dawson	47.64 acre-feet (NNT)
Denver	54.82 acre-feet (NNT)
Arapahoe	22.72 acre-feet (NT)
Laramie-Fox Hills	16.99 acre-feet (NT)

The Dawson (and Denver) aquifer groundwater is not nontributary and cannot be withdrawn or used until it is included in a plan for augmentation. The Arapahoe and Laramie-Fox Hills aquifer groundwater is nontributary and this type of water can be used for any purpose. The nontributary groundwater is important since an equal amount of nontributary groundwater must be reserved in the augmentation plan to allow use of the not nontributary Dawson aquifer groundwater.

The total amount of 39.71 acre-feet per year of nontributary groundwater will be sufficient to allow use of 13.2 acre-feet per year for 300 years of the Dawson aquifer groundwater, for the following proposed uses:

1. Each of the 15 residential lots will use of 0.7 acre-feet per year (10.5 acre-feet per year total) for in house use (0.35 acre-feet) and irrigation of 6000 square feet of area (0.35 acre-feet). Please advise us if you also require stockwatering on the lots.

2. The remaining 2.7 acre-feet per year will be designated for commercial and limited irrigation use. If this amount is not sufficient, we can increase the amount for commercial use by reducing the amount to be used on the lots. The application will contain language to allow the amounts and use for the residential and commercial lots to be revised based on final planning without having to amend or republish the application. In the future if it is found that the commercial use is not feasible, the final decree will not include that use.

There are 2 existing exempt Dawson aquifer wells located on the Subject Property (Permit Nos. 149714 and 225258). The augmentation plan will allow these 2 wells to continue to be used to serve 2 lots.

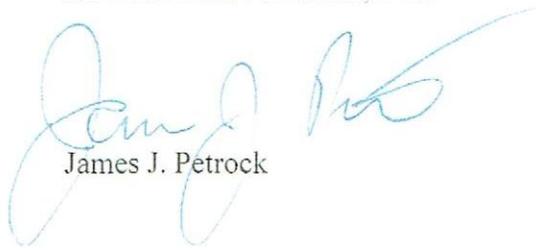
The augmentation plan requires replacement of actual depletions to the stream system during the 300 years of pumping, which is fairly high in this area. However, in house and commercial use return flows should be sufficient to replace the required depletions. Wells operating under the augmentation plan will be metered so that annual withdrawals can be recorded and reported to the Division Engineer.

Because of the location of the land, depletions occur to both the Cherry Creek stream system which is tributary to the South Platte River, and Monument Creek which is tributary to the Arkansas River. Because of this and for notice purposes, the Water Court application has to be filed in two Water Divisions (Greeley for the South Platte River and Pueblo for the Arkansas River). The applications will then be consolidated and the final decree entered in Water Division 1, where the land is actually located. Unfortunately, this will add approximately \$1000 to the cost of the case.

To complete the Water Court case will take approximately 6 or more months and cost approximately \$5000 in fees and costs (includes the \$1000 described above for filing in two Water Courts), and also depending on if objections are filed. If objections are filed, it will be necessary to settle the case with that party before the final decree is entered which will increase the time to complete the case and the fees. An objection could be filed by the City of Colorado Springs, which will increase the time to complete the case by at least 4 months. Therefore, you should probably begin the augmentation plan as soon as possible. To do so we will need the written consent to file of the current owners. A consent form is attached for your use.

If you would like us to begin the Water Court process, please sign and return the attached engagement letter. If you have any questions or would like to discuss this in more detail, please feel free to call Gary Crosby, Paralegal for this firm.

Sincerely,  
PETROCK & FENDEL, P.C.



James J. Petrock

enclosures