

DISTRICT COURT, WATER DIVISION NO. 1 WELD COUNTY, COLORADO Weld County Courthouse, 901 9 <sup>th</sup> Ave., P.O. Box 2038, Greeley, Colorado 80632	
<b>Concerning the Application for Water Rights of:</b>  <b>KAY T. COOPER and MICHAEL D. STOWELL</b>  <b>In the South Platte and its tributaries</b> <b>In El Paso County</b>	<b>COURT USE ONLY</b> <input type="checkbox"/>
	<b>Case No. 08CW164</b>
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE</b>	

The Court, having considered all matters contained in the application, documents, and other filed pleadings, makes the following Findings of Fact, Conclusions of Law, Judgment and Decree:

**FINDINGS OF FACT**

1. The Applicants in this case are Kay T. Cooper aka Kay Thompson Cooper, 3285 Hodgen Road, Colorado Springs, CO 80921, phone no. 719.495.3152, and Michael D. Stowell, 3455 Hodgen Road, Colorado Springs, CO 80921, phone no. 720.838.0249. Applicants are the owners of 58.07 acres of land constituting approximately the NW1/4 NE1/4 and the E1/2 NE1/4 NW1/4 of Section 27, T. 11 S., R. 67 W., 6<sup>th</sup> P.M. in El Paso County ("Property"). A location map of the Property is attached as Exhibit A, and the legal description of the Property is attached as Exhibit B.
  
2. The application in this case was filed on July 31, 2008 in Water Division 1. The application was published in the resume for Water Division 1 and in a newspaper of general circulation in Elbert County, as required by law. The publication costs have been paid.
  
3. No statements of opposition were filed, and the time for filing of statements of opposition has expired. No motions to intervene have been filed.

4. The land and water involved herein are not within the boundaries of a designated ground water basin.
5. There is one lien or encumbrance against the Property, notice of the application was given to the lienor pursuant to C.R.S. § 37-92-302(2)(b).
6. Based upon a 100 year aquifer life, the amount of water underlying the Property and available for appropriation is as shown on Table A.

**TABLE A**

Aquifer	Acres	Specific Yield	Saturated thickness (ft)	Total recoverable amount (AF)	Average annual yield (AF)
Dawson	58.1	0.2	410	4764	47.64
Denver	58.1	0.17	555	5482	54.82
Arapahoe	58.1	0.17	230	2272	22.72
Laramie-Fox Hills	58.1	0.15	195	1699	16.99

7. The figures shown on Table A are taken from the State Engineer's Determinations of Facts dated December 15, 2008.
8. There are two exempt wells, permit nos. 149714 and 225258, located on the Property. Applicants have chosen to not adjudicate 3.3 acre feet annually acre feet annually in the Dawson aquifer so those wells may retain their exempt status; permit 149714 may continue to pump 0.3 acre foot annually for household uses, and permit 225258 may continue to pump 3.0 acre feet annually for household, irrigation and domestic stock water uses. The reduction in the amount to be adjudicated equates to a 0.057 acre feet per acre reduction in the amount which could be decreed. Thus, the total amount of water adjudicated in the Dawson aquifer is 44.34 acre feet annually rather than 47.64 acre feet annually.
9. The base of the Dawson aquifer is estimated to be 960 feet beneath the ground surface. The water in the Dawson aquifer in this location is not noncontributory. The Denver aquifer is estimated to extend from 1,020 to 1,820 feet beneath the surface. The Denver aquifer is not noncontributory. Any wells completed in the Denver aquifer will be located more than one mile from any point of contact with any natural stream including its

alluvium. The Arapahoe aquifer is estimated to extend from 1,870 to 2,360 feet beneath the surface. The Laramie-Fox Hills aquifer is estimated to extend from 2,780 to 3,090 feet beneath the surface. Water in the Arapahoe and Laramie-Fox Hills aquifers is nontributary in this location.

10. Applicants may withdraw the water decreed herein from as many wells in each aquifer as are required to efficiently withdraw the decreed amount. Wells may be located anywhere on the Property, provided that any wells located within 600 feet of another well located off the Property and in the same aquifer shall only be allowed pursuant to the provisions of C.R.S. § 37-90-137(2)(b). Applicants waive the requirement that all wells in the same aquifer on the Property be located at least 600 feet apart.

11. The water rights decreed herein are decreed for all beneficial uses.

#### CONCLUSIONS OF LAW

12. The Court has jurisdiction over the subject matter of this action and over all persons who could have appeared herein, whether or not they did so appear.
13. Applicants have complied with all conditions precedent to the granting of this decree.

#### JUDGMENT AND DECREE

14. The forgoing findings of fact and conclusions of law are hereby incorporated into this judgment and decree.
15. The application for adjudication of water rights is approved as follows: Dawson aquifer, 44.34 AF/yr; Denver aquifer, 54.82 AF/yr; Arapahoe aquifer, 22.72 AF/yr; and Laramie-Fox Hills aquifer, 16.99 AF/yr; 3.3 acre feet per year of water in the Dawson aquifer remain unadjudicated to allow the two existing wells to retain their exempt status.
16. Prior to the commencement of any pumping of the Dawson aquifer water decreed herein, Applicants must first obtain judicial approval of a plan for augmentation which provides for the replacement of actual stream depletions to the extent necessary to prevent any injurious effect, based on actual aquifer conditions in existence at the time of such decree. Prior to the commencement of any pumping of the Denver aquifer water decreed herein, Applicants must first obtain judicial approval of a plan for augmentation which provides for the replacement to the affected stream system or systems a total amount of water equal to four percent of the amount of water withdrawn on an annual basis. Such augmentation plans may also require the continuation of replacement after

withdrawal ceases if necessary to compensate for injurious stream depletions caused by prior withdrawals from such wells and shall meet all other statutory criteria for such plans. No plans for augmentation are required in order to pump water from the Arapahoe and Laramie-Fox Hills aquifers, but no more than 98 percent of the water so withdrawn shall be consumed.

17. Pursuant to the Statewide Nontributary Ground Water Rules, 2 CCR 402-7, Rule 8.A, in any year Applicant may withdraw the water rights decreed herein from any combination of the wells applied for in the same aquifer as long as the total amount of water withdrawn in that year does not exceed the product of the total number of years after the date of determination of the right to ground water by the court, multiplied by the allowed average annual amount of withdrawals for that aquifer.

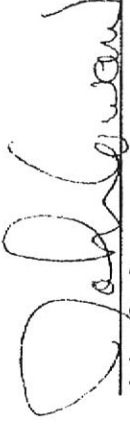
18. Each well constructed pursuant to this decree must be equipped with a totalizing flow meter. All wells shall be cased so as to prevent withdrawal of water from more than one aquifer. Pursuant to 2 CCR 402-7, Rule 9.A., geophysical logs will be required for all wells approved herein unless there is an existing geophysical log from that aquifer located within 1,320 feet of the proposed well which is acceptable to the State Engineer, and is representative of aquifer conditions at the location of the proposed well.

19. Prior to constructing any well approved herein, Applicants shall submit a well permit application and, if a successor, a copy the successor's deed, to the State Engineer. The State Engineer shall issue well permits for wells on the Property in accord with the decree entered herein and applicable statutes and regulations. Should Applicants fail to construct any well prior to the expiration of the well permit, Applicants may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit with terms and conditions no more burdensome than those contained herein. When applying for a well permit, the Applicant shall indicate the specific beneficial uses for which the water is intended to be used. The State Engineer shall deny a permit for uses which the State Engineer determines to be speculative at the time of the application, but this shall not require a denial of a permit for any claimed non-speculative uses in the same application.

20. The water rights so decreed are absolute water rights, and no applications of diligence are required.

21. Pursuant to C.R.S. § 37-92-305(11), the Court retains jurisdiction to finally determine the amount of water available for appropriation, based on site-specific data when it becomes available, and to adjust upward or downward as appropriate the amount available for withdrawal. The Applicants need not refill, republish, or otherwise amend this decree to request or obtain such adjustment.

Dated: DECEMBER 17, 2009.



John S. Cowan  
Water Referee  
Water Division 1

NO PROTEST WAS FILED IN THIS CASE. ACCORDINGLY, THE FOREGOING  
RULING OF THE REFEREE IS MADE THE ORDER OF THE COURT.

Dated: January 8, 2009.



Roger A. Klein  
Water Judge  
Water Division 1

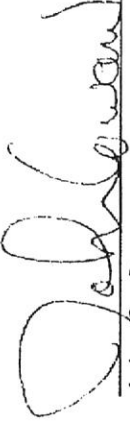
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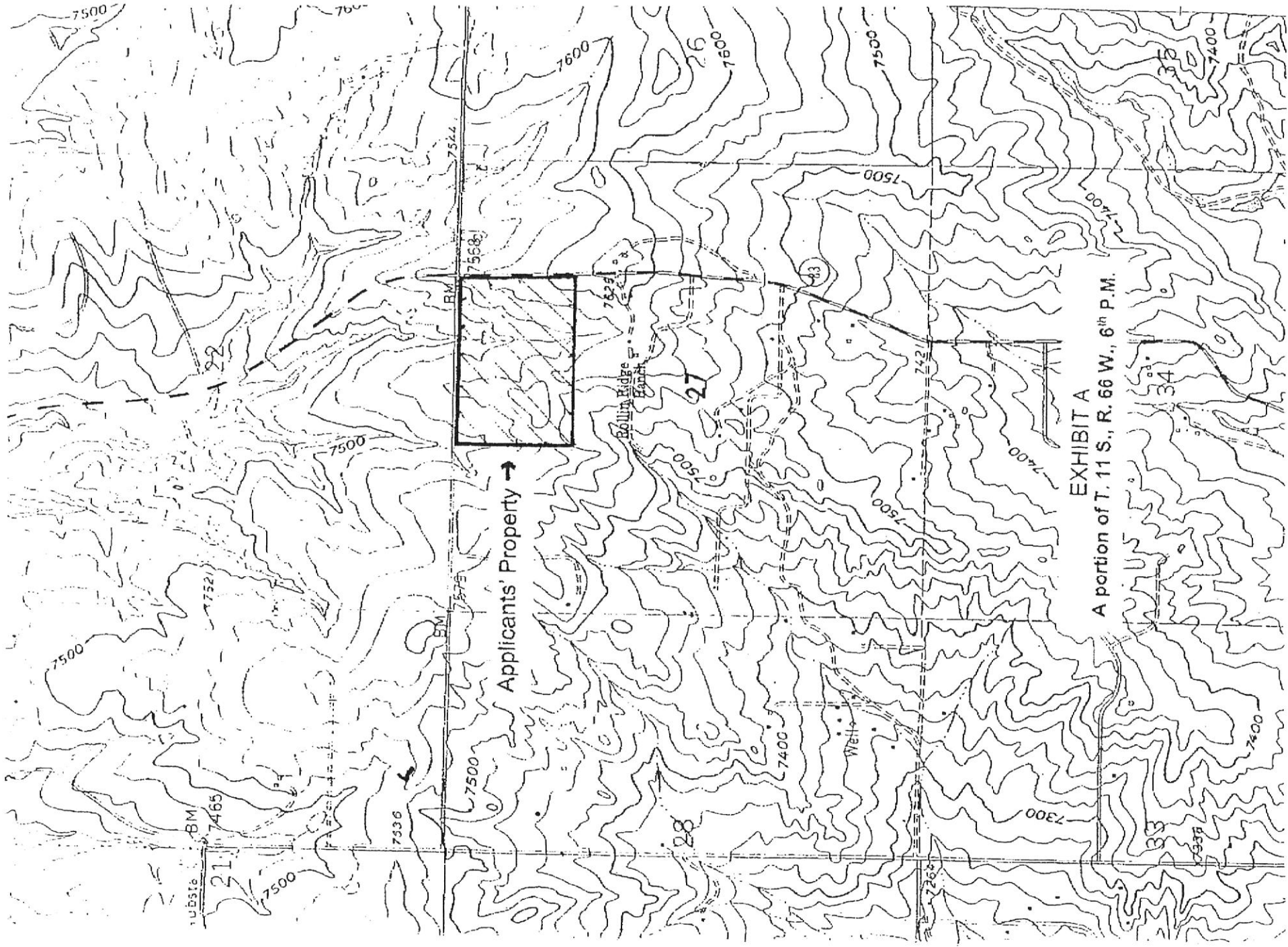
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Roger A. Klein  
Water Judge  
Water Division 1





Applicants' Property →

EXHIBIT A  
A portion of T. 11 S., R. 66 W., 6th P.M.



## EXHIBIT B

### Legal Description

NW1/4 NE1/4 AND THE E1/2 NE1/4 NW1/4 SECTION 27, T. 11 S., R. 66 W., 6<sup>TH</sup> P.M., EXCEPT THE NORTH 30 FEET THEREOF AND EXCEPT A PARCEL OF LAND DESCRIBED AS FOLLOWS:

A TRACT OF LAND SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN IN EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SUBDIVISION PLATTED AS CHERRY CREEK CROSSING FILING No. 1, RECORDED ON THE 9<sup>TH</sup> DAY OF DECEMBER, 1999 UNDER RECEPTION NUMBER 99185572, SAID CORNER ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF COLORADO HIGHWAY 83 AND MONUMENTED AS SHOWN IN SAID PLAT, THENCE;

1. ALONG SAID WESTERLY RIGHT-OF-WAY LINE SOUTH 02° 07' 34" EAST, A DISTANCE OF 60.10 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF HODGEN ROAD, THENCE;
2. ALONG SAID SOUTH RIGHT-OF-WAY LINE NORTH 88° 52' 06" WEST, A DISTANCE OF 863.11 FEET TO THE POINT OF BEGINNING, THENCE;
3. SOUTH 01° 07' 54" WEST, A DISTANCE OF 20.00 TO A LINE 20.00 FEET SOUTH OF AND PARALLEL WITH SAID SOUTH RIGHT-OF-WAY LINE, THENCE;
4. ALONG SAID PARALLEL LINE NORTH 88° 52' 06" WEST, A DISTANCE OF 423.26 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, THENCE;
5. ALONG SAID WEST LINE NORTH 01° 07' 54" EAST, A DISTANCE OF 20.00 FEET, TO SAID SOUTH RIGHT-OF-WAY LINE, THENCE;
6. ALONG SAID SOUTH RIGHT-OF-WAY LINE SOUTH 88° 52' 06" EAST, A DISTANCE OF 423.26 FEET TO THE POINT OF BEGINNING

SAID TRACT OF LAND CONTAINS 8,465 SQUARE FEET, (0.194 ACRES), MORE OR LESS.

ALL BEARINGS ARE BASED ON SAID PLAT OF CHERRY CREEK CROSSING FILING No. 1.