

DISTRICT COURT, WATER DIVISION 1, COLORADO Court Address: 901 9 th Avenue, Greeley, CO 80631-1113 Phone Number: (970) 475-2510	DATE FILED: February 28, 2019 11:35 AM FILING ID: 4CBADCF04C371 CASE NUMBER: 2019CW3033
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: GRANDWOOD ENTERPRISES, LLC IN EL PASO COUNTY, COLORADO	
Attorneys for Applicant: Ryan W. Farr, #39394 Emilie B. Polley, #51296 Monson, Cummins & Shohet, LLC 13511 Northgate Estates Drive, Suite 250 Colorado Springs, Colorado 80921 Phone Number: (719) 471-1212 Fax Number: (719) 471-1234 E-mail: rwf@cowaterlaw.com ; ebp@cowaterlaw.com	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case No.: 19CW_____
APPLICATION FOR ADJUDICATION OF DENVER BASIN GROUNDWATER AND FOR APPROVAL OF PLAN FOR AUGMENTATION	

I. Name, Address, and Phone Number of Applicant.

Grandwood Enterprises, LLC
 270 Lodge Pole Way
 Monument, Colorado 80132
 (719) 659-9759

Name, Address, and Phone Number of Attorneys.

Ryan W. Farr, #39394
 Emilie B. Polley, #51296
 Monson, Cummins, & Shohet, LLC
 13511 Northgate Estates Drive, Suite 250
 Colorado Springs, Colorado 80921
 (719) 471-1212

II. Summary of Application.

Applicant is seeking to subdivide a 146.84-acre parcel into forty-eight (48) single family lots with each lot to be served by an individual well constructed in the Dawson aquifer. The wells will be used for water service to single-family dwellings to include domestic use, landscape and garden irrigation including greenhouse irrigation, recreation, stock watering, and equipment and structure washing. Applicant seeks to quantify the Denver Basin groundwater underlying the Applicant's Property as described below, and for approval of a plan for augmentation.

III. Application for Underground Water Rights.

A. Location of Property and Well.

1. Property Description. Applicant's property is located in the S1/2 of the N1/2 of Section 19, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado as shown on the attached **Exhibit A** containing approximately 146.84 acres, more or less ("Applicant's Property").

2. Existing Wells. There are currently two permitted wells constructed in the Dawson aquifer on the Applicant's Property permitted under Division of Water Resources Permit Nos. 2757 and 267286. Upon entry of a decree in this matter, these wells will be abandoned.

3. Wells To Be Constructed. Applicant or subsequent owners of the newly created subdivided lots will file permit applications for the construction of wells in the Dawson aquifer to serve each individual lot and to operate pursuant to this plan for augmentation.

B. Water Source.

1. Not-Nontributary. The groundwater to be withdrawn from the Dawson, Denver, and Arapahoe aquifers of the Denver Basin underlying Applicant's Property is not-nontributary. Pursuant to § 37-90-137(9)(c.5), C.R.S., the augmentation requirements for wells in the Dawson aquifer will require the replacement of actual stream depletions.

2. Nontributary. The groundwater that will be withdrawn from the Laramie-Fox Hills aquifer of the Denver Basin underlying the Applicant's Property is nontributary.

C. Estimated Rates of Withdrawal and Groundwater Available.

1. Estimated Rates of Withdrawal. Pumping from any well on Applicant's Property will not exceed 15 g.p.m. The actual pumping rate for any well will vary according to aquifer conditions and well production capabilities. Applicant requests the right to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. The actual depth of each well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions.

2. Estimated Average Annual Amounts of Groundwater Available. Applicant requests a vested right for the withdrawal of all legally available groundwater in the Denver Basin aquifers underlying the Applicant's Property. Applicant estimates that the following values and average annual amounts are representative of the Denver Basin aquifers underlying Applicant's Property:

Denver Basin Aquifer	Sand Thickness (Feet)	Total Groundwater Storage (Acre-Feet)	100-Year Annual Average Withdrawal	300-Year Annual Average Withdrawal
Dawson (NNT)	380	11,160	111.6	37.2
Denver (NNT)	510	12,731	127.3	-
Arapahoe (NNT)	266	6,640	66.4	-
Laramie-Fox Hills (NT)	192	4,229	42.3	-

Decreed amounts may vary based upon the State's Determination of Facts. Pursuant to § 37-92-305(11), C.R.S., Applicant further requests that the Court retain jurisdiction to finally determine the amount of water available for appropriation and withdrawal from each aquifer.

D. Requested Uses. Applicant requests the right to use the groundwater for beneficial uses upon the Applicant's Property consisting of domestic, indoor and outdoor irrigation, stock watering, recreation, fire protection, equipment and structure washing, and also for storage and augmentation purposes associated with such uses. Applicant also requests that the nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the requirement of § 37-90-137(9)(b), C.R.S., that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, Applicant shall only be entitled to construct a well or use water from the not-nontributary Dawson, Denver, or Arapahoe

aquifers pursuant to a decreed augmentation plan entered by this Court, covering the required out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S.

E. Well Fields. Applicant requests that it be permitted to produce the full legal entitlement from the Denver Basin aquifers underlying Applicant's Property through any combination of wells, should additional wells be approved in the future. Applicant requests that these wells be treated as a well field.

F. Averaging of Withdrawals. Applicant requests that it be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed to the aquifers beneath Applicant's Property, so long as the sum of the total withdrawals from the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, multiplied by the average annual volume of water which Applicant is entitled to withdraw from the aquifers underlying the Applicant's Property.

G: Name and Address of Owner of Land Upon Which Wells are to Be Located. The land upon which the wells are and will be located is owned by Applicant.

IV. Application for Approval of Plan for Augmentation.

A. Structures to be Augmented. The structures to be augmented are forty-eight (48) individual wells that have yet to be constructed along with any replacement wells that may subsequently be constructed.

B. Water Rights to be Used for Augmentation. The water rights to be used for augmentation during pumping are the return flows resulting from the pumping of the not-nontributary Dawson aquifer together with water rights from the nontributary Laramie-Fox Hills aquifer for any injurious post pumping depletions.

C. Statement of Plan for Augmentation. Applicant wishes to provide for the augmentation of stream depletions caused by pumping of the not-nontributary Dawson aquifer proposed herein. Water use criteria and the consumptive use component for replacement of actual depletions is estimated as follows:

1. Use. Each well will pump a maximum of 0.34 acre-feet of water per year from the Dawson aquifer for a total of 16.33 acre-feet for all wells. Such use shall be a combination of household use, irrigation of lawn and garden, greenhouse and hoop house irrigation, recreation, fire protection, equipment and structure washing, and the watering of horses, chickens, or equivalent livestock. The planned quantified amount for

uses is 0.25 acre-feet per year per residence for in-home use with the remaining 0.09 acre-feet available for irrigation, stock watering, recreation, and equipment and structure washing. Wastewater will be treated via non-evaporative septic systems. All water will be used on the overlying land.

2. Depletions. It is estimated that maximum stream depletions over a 300-year pumping period for the Dawson aquifer amounts to approximately 27.53% of pumping. Maximum annual depletions for total residential pumping from all wells is therefore 4.5 acre-feet in year 300. Should pumping from all of the wells be less than the 16.33 acre-feet described herein, resulting depletions will be correspondingly reduced thereby maintaining proper replacement by non-evaporative septic return flows from household use.

3. Augmentation of Depletions During Pumping. Pursuant to § 37-90-137(9)(c.5), C.R.S., Applicant is required to replace actual stream depletions attributable to pumping of augmented wells to the Dawson aquifer. 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 0.25 acre-feet per residence per year, 0.225 acre-feet is replaced to the stream system per year per residence as the houses will utilize non-evaporative septic systems for a total annual return flow for all residences of 10.8 acre-feet. Thus, during pumping for 300 years at a total rate of 10.8 acre-feet per year, stream depletions will be adequately augmented by septic return flows. Therefore, stream depletions occurring during the life of the forty-eight (48) individual wells will be sufficiently replaced.

4. Augmentation for Post Pumping Depletions. The pumping of 16.33 acre-feet for 300 years results in a total of 4,899 acre-feet of pumping. Total replacement during pumping equals 756 acre-feet. Thus, total post-pumping depletions equal 4,143 acre-feet. For the replacement of any injurious post-pumping depletions which may be associated with the use of the forty-eight (48) individual wells, Applicant will reserve 4,144 acre-feet of water from the nontributary Laramie-Fox Hills aquifer in order to cover post-pumping depletions totaling 4,143 acre-feet. 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. Upon entry of a decree in this case, Applicant will be entitled to apply for and receive well permits for the forty-eight (48) individual wells for the uses in accordance with this Application and otherwise in compliance with § 37-90-137, C.R.S.

V. Remarks.

A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with the pending Division 2 application in Water Division 2 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient.

B. Applicant requests a finding that they have complied with § 37-90-137(4), C.R.S., and that the groundwater requested herein is legally available for withdrawal by the requested not-nontributary Dawson aquifer wells upon the entry of a decree approving an augmentation plan pursuant to § 37-90-137(9)(c.5), C.R.S.

C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping.

D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes.

E. Applicant requests a finding that vested water rights of others will not be materially injured by the withdrawals of groundwater and the proposed plan for augmentation.

F. All wells shall be installed and metered as reasonably required by the State Engineer. Any well must be equipped with a totalizing flow meter and Applicant or other subsequent operating entity shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation.

G. Applicant intends to waive the 600-foot well spacing requirement for any wells to be located upon the Applicant's Property.

H. Applicants will comply with any lienholder notice provisions set forth in § 37-92-302(2)(b), C.R.S., and such notice will be sent within fourteen (14) days of the filing of this application.

RESPECTFULLY SUBMITTED this 28th day of February 2019.

MONSON, CUMMINS & SHOHET, LLC

Ryan W. Farr

Ryan W. Farr, #39394
13511 Northgate Estates Dr., Ste. 250
Colorado Springs, Colorado 80921
(719) 471-1212

VERIFICATION

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)

I, Edward Houle as managing member of Grandwood Enterprises, LLC, state that I have read the foregoing and that all of the statements contained therein are true and accurate to the best of my knowledge and information.


Edward Houle

The foregoing instrument was acknowledged before me this 27th day of February 2018, by Edward Houle.

My commission expires: July 13, 2020

Witness my hand and official seal.
(SEAL)


Notary Public

MARIA GRAY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004017598
MY COMMISSION EXPIRES JULY 13, 2020

DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 North Elizabeth Street Suite 116 Pueblo, Colorado 81003 Phone Number: (719) 404-8832	DATE FILED: February 28, 2019 11:39 AM FILING ID: 419B8DE1FB04E CASE NUMBER: 2019CW3015
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Attorneys for Applicant: Ryan W. Farr, #39394 Emilie B. Polley, #51296 Monson, Cummins & Shohet, LLC 13511 Northgate Estates Drive, Suite 250 Colorado Springs, Colorado 80921 Phone Number: (719) 471-1212 Fax Number: (719) 471-1234 E-mail: rwf@cowaterlaw.com ; ebp@cowaterlaw.com	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case No.: 19CW_____ Ctrm.: 406
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aquifers pursuant to a decreed augmentation plan entered by this Court, covering the required out-of-priority stream depletions caused by the use of such not-nontributary aquifers in accordance with § 37-90-137(9)(c.5), C.R.S.

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V. Remarks.

A. This Application was filed in both Water Divisions 1 and 2 because depletions from the pumping of the Dawson aquifer may occur in both the South Platte and the Arkansas River systems. The return flows set forth herein will accrue to tributaries of the Arkansas River system where the majority of such depletions will occur, and it is Applicant's intent to consolidate the instant matter with the pending Division 1 application in Water Division 2 upon completion of publication. Applicant requests that the total amount of depletions to both the South Platte River and the Arkansas River systems be replaced to the Arkansas River as set forth herein, and for a finding that those replacements are sufficient.

B. Applicant requests a finding that they have complied with § 37-90-137(4), C.R.S., and that the groundwater requested herein is legally available for withdrawal by the requested not-nontributary Dawson aquifer wells upon the entry of a decree approving an augmentation plan pursuant to § 37-90-137(9)(c.5), C.R.S.

C. The term of this augmentation plan is for 300 years, however the length of the plan for a particular well may be extended beyond such time provided the total plan pumping allocated thereto is not exceeded. Post pumping stream depletions accrue to a particular well or wells only to the extent related to that well's actual pumping.

D. The Court will retain jurisdiction over this matter to provide for the adjustment of the annual amount of groundwater withdrawals to be allowed in order to conform to actual local aquifer characteristics from adequate information obtained from well drilling or test holes.

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F. All wells shall be installed and metered as reasonably required by the State Engineer. Any well must be equipped with a totalizing flow meter and Applicant or other subsequent operating entity shall submit diversion records to the Division Engineer on an annual basis or as otherwise requested by the Division Engineer. Applicant shall also provide accountings to the Division Engineer and Water Commissioner as required by them to demonstrate compliance under this plan of augmentation.

G. Applicant intends to waive the 600-foot well spacing requirement for any wells to be located upon the Applicant's Property.

H. Applicants will comply with any lienholder notice provisions set forth in § 37-92-302(2)(b), C.R.S., and such notice will be sent within fourteen (14) days of the filing of this application.

RESPECTFULLY SUBMITTED this 28th day of February 2019.

MONSON, CUMMINS & SHOHET, LLC

Ryan W. Farr

Ryan W. Farr, #39394
13511 Northgate Estates Dr., Ste. 250
Colorado Springs, Colorado 80921
(719) 471-1212

El Paso County Assessor's Office

16530 ELK VALLEY TRL

SCHEDULE: 7123310023

OWNER: DILLE ADAM M

DILLE ALLISON

EXHIBIT A

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