Appendix Q – 3.201 Permit Application

In addition to the materials listed at Section 2.303, application for a permit to conduct a new municipal or industrial water project shall be accompanied by the following information in the number required by the Director:

1. **Description of efficient water use, recycling and reuse technology the Project intends to use. Such description shall include estimated stream transit losses of water, reservoir evaporation losses, and power and energy requirements of the Project and alternatives to the Project.**

   The purpose of the Cherokee Metropolitan District (CMD) PFAS Treatment and Distribution Project (Project) is to provide treatment of the CMDs existing PFAS contaminated groundwater wells prior to conveyance to customers. The Project promotes efficient use of water resources by maximizing the beneficial use of CMDs existing groundwater supplies and associated water rights. Information regarding water reuse is provided in Appendix P - Documents Related to 2.303 Item 18.d.

   Water will be conveyed through enclosed pipelines. Stream transit losses will not occur. Reservoir evaporation losses will not occur because the Project does not include reservoirs or open storage facilities. The PFAS WTF facility requires electricity to operate pumps, treatment equipment, controls, and monitoring systems.

   The no-build alternative is not considered feasible because CMD will be unable to utilize groundwater wells impacted by PFAS contamination which limits available water supplies and prevents the use of the CMDs water rights. The blending alternative is not feasible because the CMDs highest-producing wells contain elevated PFAS levels, preventing reliable compliance with existing and anticipated drinking water standards while meeting system demand. Constructing the PFAS WTF is a practical and cost-effective method to maintain reliable water service and maximize use of existing water rights while ensuring compliance with applicable drinking water standards.

2. **Map and description of other municipal and industrial water projects and providers in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.**

   CMD is the primary water provider in the Project area. The Ellicott Utility Company (EUC) is a water and wastewater provider in the immediate vicinity and serves the Mayberry, Antelope Acres, and Viewpoint developments. The EUC provides wastewater service to the developments as well as the Ellicott School District and Ellicott Springs. The EUC operates as a consecutive water system and receives its water supply from the CMD. Wastewater collected by the EUC is conveyed to and treated at the Sunset Wastewater Treatment Facility (SWWTF).

   Regional water providers including the Security Water and Sanitation District (SWSD) and the Southeastern Colorado Water Conservancy District (SCWCD) do not provide a practical alternative for the Project. Available SWSD and SCWCD treatment capacity is

limited and water service requires transmission infrastructure and pipeline extensions. The SWSD and SCWCD provide water to locally managed service areas and are not positioned to supply the Project in a cost-effective manner.

The Project is intended to treat groundwater from the CMDs existing well fields and serve customers within the CMDs established service area. Utilizing another provider's infrastructure requires treatment facilities, conveyance facilities, intergovernmental agreements, and additional capital investment without providing operational advantages. The Project is the practical and cost-effective approach to maintain water quality, reliability, and regulatory compliance for CMDs existing customers.

A map of water districts and locations of intake and discharge points in the vicinity of the project are included in Appendix F, Figure 03.

3. **Description of the water to be used by the Project and to the extent identified by the Director in consultation with the applicant, alternatives, including: the source, amount, the quality of such water; the applicant's right to use the water, including adjudicated decrees or determinations and any substitute water supply plans, and applications for decrees or determinations; proposed points of diversion and changes in the points of diversion; the existing uses of the water; adequate proof that adequate water resources have been or can and will be committed to and retained for the Project, and that applicant can and will supply the Project with water of adequate quality, quantity, and dependability; and approval by the respective Designated Ground Water Management District if applicable. If an augmentation or replacement plan for the Project has been decreed or determined or an application for such plan has been filed in the court or with the Ground Water Commission, the applicant must submit a copy of that plan or application.**

   The Project will utilize groundwater from CMDs existing North and South Well Fields. Groundwater will be utilized from the two well fields and water rights information is included in Exhibit A. No Substitute Water Supply Plans are associated with the Project. No augmentation or replacement plan has been decreed, determined, or filed for the Project.

   The CMD completed PFAS sampling of the groundwater supply wells in 2023 and 2024. PFAS sampling and testing of the raw water wells have combined PFAS concentrations of 22 to 58 ng/L in Well No.'s 13, 15, 16, and 17. The maximum detected finished water Unregulated Contaminant Monitoring Rule (UCMR5) entry point concentration was 6.1 ng/L PFOA and 7.6 ng/L PFBS on October 15, 2024 as measured at the Ellicott Springs Subdivision. The Ellicott Tank Booster Station is the primary entry point for the CMD service area and has similar results of 4.2 ng/L PFOA and 5.1 ng/L PFBS. The Project does not propose new groundwater wells or changes to existing points of diversion. The PFAS WTF will treat water diverted from CMDs existing permitted wells. The sampled and tested wells which contain PFAS are shown in Table 1.

Table 1. Groundwater Supply Wells with PFAS

Well No.	Source Name	Source Class	Source Description
1	Cherokee Well #1	Groundwater	Supply to Ellicott Booster Station.
2	Cherokee Well #2	Groundwater	Supply to Ellicott Booster Station.
3	Cherokee Well #3	Groundwater	Supply to Ellicott Booster Station.
4	Cherokee Well #4	Groundwater	Supply to Ellicott Booster Station.
5	Cherokee Well #5	Groundwater	Supply to Ellicott Booster Station.
6	Cherokee Well #6	Groundwater	Supply to Ellicott Booster Station.
7	Cherokee Well #7	Groundwater	Supply to Ellicott Booster Station.
8	Cherokee Well #8	Groundwater	Supply to Ellicott Booster Station.
9	Cherokee Well #9	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station.
10	Cherokee Well #10	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station.
11	Cherokee Well #11	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station.
12	Cherokee Well #12	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station.
13	Cherokee Well #13 (Sweetwater No. 1)	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station. PFAS detected.
14	Cherokee Well #14 (Sweetwater No. 9)	Groundwater	Permanently offline.
15	Cherokee Well #15 (Sweetwater No. 8)	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station. PFAS detected.
16	Cherokee Well #16 (Sweetwater No. 3)	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station. PFAS detected.
17	Cherokee Well #17 (Sweetwater No. 11)	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station. PFAS detected.
18	Owner's Well No. 18 (Sweetwater No. 2)	Groundwater	Supply to Ellicott Booster Station.
19	Owner's Well No. 19 (Sweetwater No. 5)	Groundwater	Supply to Ellicott Booster Station.
20	Owner's Well No. 20 (Sweetwater No. 13)	Groundwater	Supply to Ellicott Booster Station.
21	Owner's Well No. 21 (Sweetwater No. 15)	Groundwater	Supply to Ellicott Springs and Ellicott Booster Station.
22	Owner's Well No. 22 (Sweetwater No. 16)	Groundwater	Supply to Ellicott Booster Station.

Water will be conveyed to the PFAS WTF through existing raw water transmission pipelines. Treated water will be conveyed from the PFAS WTF through an approximately

two (2) mile 24-inch transmission pipeline to the existing Ellicott Storage Tank and Booster Pump Station. Finished water from the Ellicott Storage Tank and Booster Pump Station will be distributed through CMDs existing water system to customers within CMDs primary service area and Schriever Space Force Base. Treated water will be conveyed from the PFAS WTF through an approximately five (5) mile 24-inch finished water distribution pipeline to the Ellicott School District Service Area and the Ellicott Springs Subdivision Service Area. The Entry Point Test Location (Sample Point ID: 017) for the finished water distribution system will be relocated from the Ellicott Tank Booster Pump Station to the PFAS WTF. The Entry Point Test Location will be located downstream of the finished water pumps inside the PFAS WTF.

The finished water will be conveyed south on Ellicott Highway and West on CO-94 to the Ellicott Springs Subdivision service area and the CMD service area respectively.

CMDs PFAS WTF will treat existing well water containing PFAS. Existing sources have adequate water to sustain the 8.64 million gallon per day (MGD) PFAS WTF. CMD has a total of 4,388 acre-feet per year (AFY) of water rights. The CMDs water rights consist of 90% renewable alluvial groundwater and 10% deep bedrock aquifers. Average annual CMD finished water demand is 3,300 AFY with approximately 400 AFY of unrealized commitments. CMD has approximately 1,500 AFY of reuse water available which will increase as wastewater flows increase.

Groundwater will be treated at the PFAS WTF to federal and state standards.

4. Loss of Agricultural Productivity

a. Information on any agricultural water rights in the region converted to provide water for the Project, now or in the future.

The Project will not require transfer, conversion, or water taken out of beneficial use that has been previously used for agricultural purposes within the area of El Paso County (EPC) jurisdiction.

b. Information on the amount of irrigated agricultural lands taken out of production, and a description of revegetation plans.

The Project will not require transfer, conversion, or water taken out of beneficial use that has been previously used for agricultural purposes within the area of EPC jurisdiction.

c. Economic consequences of any loss of irrigated agriculture, including loss of tax base, in the region.

The Project will not require transfer, conversion, or water taken out of beneficial use that has been previously used for agricultural purposes within the area of El Paso County jurisdiction.

d. Information as to loss of wildlife habitat, loss of topsoil, or noxious weed invasion, as a result of the transfer of water rights and subsequent dry-up of lands.

The Project will not contribute to the loss of wildlife habitat or noxious weed invasion as a result of the transfer of water rights and subsequent dry up of lands. The topsoil will be lost as land is cleared and grubbed to construct the PFAS WTF and pipelines. The non-impacted PFAS WTF site and pipeline areas will be restored to existing conditions.

e. Information on impacts to agricultural head gates and water delivery systems.

The existing property does not have agricultural irrigation. The Project will not use the existing water delivery systems.

Exhibit A – CMD Water Rights

BEFORE THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF THE UPPER BLACK SQUIRREL CREEK GROUNDWATER MANAGEMENT DISTRICT

IN THE MATTER OF CHEROKEE METROPOLITAN DISTRICT'S APPLICATION FOR APPROVAL OF EXPORT CONCERNING WELL PERMIT NO. 11691-FP, LOCATED IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT PURSUANT TO SECTION 37-90-130(2)(F), C.R.S.

EL PASO COUNTY, COLORADO

The Upper Black Squirrel Creek Ground Water Management District ("UBS District"), acting by and through its Board of Directors, and having reviewed the pleadings and the evidence submitted by Applicant Cherokee Metropolitan District ("Cherokee") in the above-captioned matter, hereby submits the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Application. On August 27, 2025, pursuant to C.R.S. § 37-90-130(2)(f), Rule 7 of the Rules and Regulations of the UBS District ("Rules and Regulations"), and Rule 4 of the Hearing Procedures of the UBS District, Cherokee submitted an application ("Application") to the UBS District seeking approval to export up to 72.0 acre-feet of water per year pursuant to Well Permit No. 11691-FP (the "Subject Water Right"). Applicant has paid all filing fees associated with the Application as required by Rule 7.A of the UBS District's Rules and Regulations.

2. Publication. The Application was published in the *Ranchland News* on October 9, 2025 and October 16, 2025, a newspaper of general circulation within the UBS District, pursuant to Rule 7.B of the UBS District's Rules and Regulations.

3. Statement of Objection and Stipulation. The deadline for filing statements of objection was December 15, 2025. A statement of objection was filed by the Booker

Family Limited Partnership ("Booker"). No other statements of objection were filed, and the time to submit objections has now expired. Applicant and Booker entered into a stipulation dated March 2, 2026, attached hereto as **Exhibit A**.

4. Water Right. The Subject Water Right described herein is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin ("UBS Basin") and within the boundaries of the UBS District. The UBS District and the Colorado Ground Water Commission ("GWC") have jurisdiction over the administration and enforcement of the Subject Water Right. The Subject Water Right is described in more detail below.

a. Changes of the Subject Water Right were previously approved by the GWC in Case No. 99GW11 ("99GW11 Amended Order") entered on May 16, 2000, and in Case No. 24GW01 ("24GW01 Order") entered on June 9, 2025.

1. In the 99GW11 Amended Order, the GWC approved a change in use and place of use of the Subject Water Right, quantified the historical depletion associated with the Subject Water Right at 72.0 acre-feet per year, and determined that no material injury to the vested water rights of others would result if the Subject Water Right were operated pursuant to the terms and conditions of the Amended 99GW11 Order, including that the allowable annual withdrawal from the Subject Water Right was limited to 72 acre-feet and the maximum pumping rate did not exceed 750 gallons per minute.

2. In the 24GW01 Order, the Subject Water Right was changed by Cherokee to municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation, recharge, and/or replacement purposes in Case No. 08GW71, including related and/or successive action, with the right to use, reuse and successively use the Subject Water Right to extinction in Case No. 08GW71 or any related or successive action.

3. The 24GW01 Order also approved the place of use as the boundaries of the Cherokee Metropolitan District, as Cherokee's boundaries may change from time to time, and including leases

or other agreements to provide water outside of Cherokee's boundaries; provided however leases or other agreements outside of Cherokee's boundaries are limited to firm contractual commitments that were in place at the time of the application in Case No. 24GW01, and that export shall not be allowed until after the UBS District has approved such export in accordance with Rule 7.7.4 of the Designated Basin Rules.

4. The allowable annual withdrawal from the Subject Water Right was limited to 72 acre-feet, with no modified banking, based on the prior quantification in the 99GW11 Amended Order, and the GWC determined that operation of the Subject Water Right as changed in the 24GW01 Order would not cause material injury to the vested rights of other appropriators.

5. Export. Cherokee's application in Case No. 24GW01 and the 24GW01 Order acknowledge that, because Cherokee's boundaries are located outside the boundaries of the UBS Basin, Cherokee's requested changes constituted a request for the right to export the historically consumed portion of the Subject Water Right for the above-described types of use outside the boundaries of the UBS Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S., and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 ("Designated Basin Rules"). The UBS District deferred consideration of the export request in the 24GW01 Order, which provides that export shall not be allowed until after the UBS District has approved such export in accordance with Designated Basin Rule 7.7.4. Cherokee thereafter submitted the subject Application to the UBS District seeking approval to export up to 72.0 acre-feet of water per year pursuant to the 99GW11 Amended Order and 24GW01 Order.

6. Allowable Export. To prevent material injury to the vested water rights of other appropriators, the UBS District finds and determines that the proposed export from the UBS District for the changed purposes approved in the 24GW01 Order must be compliant with all terms and conditions in the 24GW01 Order, attached hereto as **Exhibit B**. Accordingly, the maximum allowable annual withdrawal and export volume is 72 acre-feet per year, which was the average annual historical depletion caused by the Subject Water right as specified in Paragraphs 4.a.1 – 4.a.2 above. In addition, the UBS District determines that withdrawals in any single month may not exceed 15 acre-feet. The UBS District further finds that irrigation has ceased on the historically irrigated acres associated with the Subject Water Right, as described in the 99GW11 Amended Order attached hereto as **Exhibit C**, and may no longer occur with the Subject Water Right. The UBS District also specifically emphasizes that the annual volumetric limit of 72.0 acre-feet

of water per year is critical to the UBS District's determination herein that the proposed export will not materially affect vested designated ground water rights.

7. No Material Effect. The UBS District finds and determines that if the proposed use of ground water exported from the UBS District is restricted to 72 acre-feet per year, which was the average annual historical depletion caused by the use of the Subject Water Right as determined in the 99GW11 Amended Order and incorporated into the 24GW01 Order, the maximum pumping rate does not exceed 750 gallons per minute, and no more than 15 acre-feet is withdrawn in any single month, the proposed export will not materially affect any vested rights to the use of designated ground water within the UBS Basin. No banking of the water is allowed. Accounting is based on a calendar year.

CONCLUSIONS OF LAW

8. All of the foregoing Findings of Fact are incorporated herein to the extent that they constitute conclusions of law.

9. Section 37-90-130(2)(f), C.R.S., empowers the UBS District "to prohibit, after affording an opportunity for a hearing before the board of the local district and presentation of evidence, the use of groundwater outside the boundaries of the district where such use materially affects the rights acquired by permit by any owner or operator of land within the district."

10. Section 37-90-130(2)(e), C.R.S., authorizes the UBS District "to promulgate reasonable rules and regulations for the purpose of conserving, preserving, protecting, and recharging the groundwater of the groundwater aquifer or subdivision thereof, in conformity with the provisions of this article."

11. Pursuant to the authority set forth in Section 37-90-130(2)(e), C.R.S., the UBS District has enacted Rule 7, concerning the export of water from within the UBS District's boundaries. Rule 7 of the Rules and Regulations states that "[t]he use of designated ground water extracted from any well within the UBS District boundaries, outside of the Upper Black Squirrel Creek Designated Ground Water Basin, is prohibited, unless the party seeking such export is able to demonstrate to the satisfaction of the Board of Directors of the District, by a preponderance of the evidence that such use will not materially affect any vested rights to the use of designated ground water within the basin."

12. In accordance with Section 37-90-130(2)(f), C.R.S., and Rule 7 of the UBS District's Rules and Regulations, the approval of the Application subject to the terms and conditions specified in this Order and the 24CW01 Order will not materially affect any vested rights to the use of designated ground water within the UBS District.

ORDER

13. Cherokee's Application to export water withdrawn pursuant to the Subject Water Right outside the boundaries of the UBS District is hereby APPROVED, subject to the following terms and conditions:

a. The withdrawal, export, and use of water withdrawn under the Subject Water Right shall comply with all terms and conditions set forth in this Order and in the 24GW01 Order, including, without limitation, the volumetric limit in the amount of 72.0 acre-feet of water withdrawn per year with no more than 15 acre-feet withdrawn in any single month, and the pumping rate shall not exceed 750 gallons per minute. No banking is allowed. And the accounting must be kept based on a calendar year.

b. Cherokee must submit monthly accounting to the UBS District and such accounting must identify all water supply wells, all monthly well pumping amounts, calculated in-basin uses and export amounts, and all places of use (both in-basin uses and export locations). The UBS District maintains discretion to modify requested accounting.

c. Provided that Cherokee complies with such terms and conditions, the water withdrawn pursuant to the Subject Water Right may be exported outside the boundaries of the UBS Basin and UBS District and applied to the beneficial uses and place of use as described in the 24GW01 Order.

Dated this 13th day of April, 2026.

BY THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

President

EXHIBIT A

BEFORE THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

STIPULATION BETWEEN APPLICANT AND OBJECTOR BOOKER FAMILY LIMITED PARTNERSHIP

IN THE MATTER OF CHEROKEE METROPOLITAN DISTRICT'S APPLICATION FOR APPROVAL OF EXPORT CONCERNING WELL PERMIT NO. 11691-FP, LOCATED IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT PURSUANT TO SECTION 37-90-130(2)(F), C.R.S.

EL PASO COUNTY, COLORADO

Attorneys for Applicant Cherokee Metropolitan District:
Peter C. Johnson, Atty. Reg. #41670
Bradley N. Kershaw, Atty. Reg. #52386
Lyons Gaddis, P.C.
P.O. Box 978
Longmont, CO 80502-0978
Telephone: 303-776-9900
E-mail: pjohnson@lyonsgaddis.com; bkershaw@lyonsgaddis.com

Attorneys for Objector Booker Family Limited Partnership:
Jennifer M. DiLalla, Atty. Reg. #40319
Moses, Wittemyer, Harrison and Woodruff, P.C.
2595 Canyon Boulevard, Suite 240
Boulder, CO 80302
Telephone: 303-443-8782
E-mail: jdilalla@mwhw.com

COMES NOW, Applicant, Cherokee Metropolitan District, ("Applicant") and Objector, Booker Family Limited Partnership ("Objector"), by and through their respective undersigned attorneys, and hereby stipulate and agree as follows:

1. Objector and Applicant agree to the entry of an export approval Order in this matter containing terms and conditions no less restrictive upon Applicant than those contained in the proposed export approval Order dated March 2, 2026, attached hereto as **Exhibit A,** and incorporated herein by reference.

2. This Stipulation is entered into by way of compromise and settlement of this litigation. Any agreement of the undersigned parties for entry of a proposed export approval Order shall not be construed as concurrence by these parties beyond the Order adjudicated herein with any findings of fact or conclusions of law contained therein or with the legal theories or the engineering methodologies used by either party in arriving at this Stipulation, and nothing contained in the proposed export approval Order shall be binding upon either party in any proceeding other than the current proceeding and any subsequent proceeding involving the same rights at issue herein.

3. Applicant shall provide Objector with copies of any subsequent modified proposed export approval Order submitted to the Upper Black Squirrel Creek Ground Water Management District ("UBS District") by Applicant in this matter.

4. The parties will bear their own costs and fees, including attorney's fees.

5. This Stipulation shall be binding on the parties, their successors and assigns.

6. Applicant has conferred with Objector, and Objector consents to the filing of a Motion approving this Stipulation and vacating the hearing before the UBS District regarding the export approval application.

[*Remainder of page intentionally blank; signature page follows*]

Dated this 2nd day of March, 2026.

LYONS GADDIS, P.C.

By: *s/ Peter C. Johnson*
Peter C. Johnson (#41670)
Bradley N. Kershaw (#52386)

Attorneys for Applicant, Cherokee Metropolitan District

MOSES, WITTEMYER, HARRISON AND WOODRUFF, P.C.

03/02/2026

By: _____
Jennifer M. DiLalla (#40319)

Attorneys for Objector, Booker Family Limited Partnership

EXHIBIT A to Stipulation

DRAFT 03/02/2026

BEFORE THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF THE UPPER BLACK SQUIRREL CREEK GROUNDWATER MANAGEMENT DISTRICT

IN THE MATTER OF CHEROKEE METROPOLITAN DISTRICT'S APPLICATION FOR APPROVAL OF EXPORT CONCERNING WELL PERMIT NO. 11691-FP, LOCATED IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT PURSUANT TO SECTION 37-90-130(2)(F), C.R.S.

EL PASO COUNTY, COLORADO

The Upper Black Squirrel Creek Ground Water Management District ("UBS District"), acting by and through its Board of Directors, and having reviewed the pleadings and the evidence submitted by Applicant Cherokee Metropolitan District ("Cherokee") in the above-captioned matter, hereby submits the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Application. On August 27, 2025, pursuant to C.R.S. § 37-90-130(2)(f), Rule 7 of the Rules and Regulations of the UBS District ("Rules and Regulations"), and Rule 4 of the Hearing Procedures of the UBS District, Cherokee submitted an application ("Application") to the UBS District seeking approval to export up to 72.0 acre-feet of water per year pursuant to Well Permit No. 11691-FP (the "Subject Water Right"). Applicant has paid all filing fees associated with the Application as required by Rule 7.A of the UBS District's Rules and Regulations.

2. Publication. The Application was published in the *Ranchland News* on October 9, 2025 and October 16, 2025, a newspaper of general circulation within the UBS District, pursuant to Rule 7.B of the UBS District's Rules and Regulations.

3. Statement of Objection and Stipulation. The deadline for filing statements of objection was December 15, 2025. A statement of objection was filed by the Booker

Family Limited Partnership ("Booker"). No other statements of objection were filed, and the time to submit objections has now expired. Applicant and Booker entered into a stipulation dated [PLACEHOLDER], attached hereto as **Exhibit A**.

4. Water Right. The Subject Water Right described herein is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin ("UBS Basin") and within the boundaries of the UBS District. The UBS District and the Colorado Ground Water Commission ("GWC") have jurisdiction over the administration and enforcement of the Subject Water Right. The Subject Water Right is described in more detail below.

a. Changes of the Subject Water Right were previously approved by the GWC in Case No. 99GW11 ("99GW11 Order") entered on May 16, 2000, and in Case No. 24GW01 ("24GW01 Order") entered on June 9, 2025.

1. In the 99GW11 Order, the GWC approved a change in use and place of use of the Subject Water Right, quantified the historical depletion associated with the Subject Water Right at 72.0 acre-feet per year, and determined that no material injury to the vested water rights of others would result if the allowable annual withdrawal from the Subject Water Right was limited to 72 acre-feet.

2. In the 24GW01 Order, the Subject Water Right was changed by Cherokee to municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, storage and maintenance of storage reserves, augmentation, recharge, exchange and replacement purposes, with the right to use, reuse and successive use within the boundaries of Cherokee (as they exist and may change from time to time). The 24GW01 Order also approved use outside of Cherokee's boundaries, but only under firm contractual commitments in existence as of the date of the application in Case No. 24GW01. The allowable annual withdrawal from the Subject Water Right was limited to 72 acre-feet, based on the prior quantification in the 99GW11 Order, and the GWC determined that operation of the Subject Water Right

as changed in the 24GW01 Order would not cause material injury to the vested rights of other appropriators.

5. Export. Cherokee's application in Case No. 24GW01 and the 24GW01 Order acknowledge that, because Cherokee's boundaries are located outside the boundaries of the UBS Basin, Cherokee's requested changes constituted a request for the right to export the historically consumed portion of the Subject Water Right for the above-described types of use outside the boundaries of the UBS Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S., and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 ("Designated Basin Rules"). The UBS District deferred consideration of the export request in the 24GW01 Order, which provides that export shall not be allowed until after the UBS District has approved such export in accordance with Designated Basin Rule 7.7.4. Cherokee thereafter submitted the subject Application to the UBS District seeking approval to export up to 72.0 acre-feet of water per year pursuant to the 99GW11 Order and 24GW01 Order.

6. Allowable Export. To prevent material injury to the vested water rights of other appropriators, the UBS District finds and determines that the proposed export from the UBS District for the changed purposes approved in the 24GW01 Order must be compliant with all terms and conditions in the 24GW01 Order, attached hereto as **Exhibit B**. Accordingly, the maximum allowable export volume is 72 acre-feet per year, which is coextensive with and not in addition to the maximum annual withdrawal volume, and which was the average annual historical depletion caused by the Subject Water right as specified in Paragraphs 4.a.1 – 4.a.2 above. The UBS District further finds that irrigation has ceased on the historically irrigated acres associated with the Subject Water Right, as described in the 99GW11 Order attached hereto as **Exhibit C**, and may no longer occur with the Subject Water Right. The UBS District also specifically emphasizes that the annual volumetric limit of 72.0 acre-feet of water per year is critical to the UBS District's determination herein that the proposed export will not materially affect vested designated ground water rights.

7. No Material Effect. The UBS District finds and determines that if the proposed use of ground water exported from the UBS District is restricted to 72 acre-feet per year, which was the average annual historical depletion caused by the use of the Subject Water Right as determined in the 99GW11 Order and incorporated into the 24GW01 Order, the proposed export will not materially affect any vested rights to the use of designated ground water within the UBS Basin.

CONCLUSIONS OF LAW

8. All of the foregoing Findings of Fact are incorporated herein to the extent that they constitute conclusions of law.

9. Section 37-90-130(2)(f), C.R.S., empowers the UBS District "to prohibit, after affording an opportunity for a hearing before the board of the local district and presentation of evidence, the use of groundwater outside the boundaries of the district where such use materially affects the rights acquired by permit by any owner or operator of land within the district."

10. Section 37-90-130(2)(e), C.R.S., authorizes the UBS District "to promulgate reasonable rules and regulations for the purpose of conserving, preserving, protecting, and recharging the groundwater of the groundwater aquifer or subdivision thereof, in conformity with the provisions of this article."

11. Pursuant to the authority set forth in Section 37-90-130(2)(e), C.R.S., the UBS District has enacted Rule 7, concerning the export of water from within the UBS District's boundaries. Rule 7 of the Rules and Regulations states that "[t]he use of designated ground water extracted from any well within the UBS District boundaries, outside of the Upper Black Squirrel Creek Designated Ground Water Basin, is prohibited, unless the party seeking such export is able to demonstrate to the satisfaction of the Board of Directors of the District, by a preponderance of the evidence that such use will not materially affect any vested rights to the use of designated ground water within the basin."

12. In accordance with Section 37-90-130(2)(f), C.R.S., and Rule 7 of the UBS District's Rules and Regulations, the approval of the Application subject to the terms and conditions specified in this Order and the 24CW01 Order will not materially affect any vested rights to the use of designated ground water within the UBS District.

ORDER

13. Cherokee's Application to export water withdrawn pursuant to the Subject Water Right outside the boundaries of the UBS District is hereby APPROVED, subject to the following terms and conditions:

a. The withdrawal, export, and use of water withdrawn under the Subject Water Right shall comply with all terms and conditions set forth in this Order and in the 24GW01 Order, including, without limitation, the volumetric

limit in the amount of 72.0 acre-feet of water withdrawn per year. Provided that Cherokee complies with such terms and conditions, the water withdrawn pursuant to the Subject Water Right may be exported outside the boundaries of the UBS Basin and UBS District and applied to the beneficial uses and place of use as described in the 24GW01 Order.

Dated this ____ day of _____, 2026.

BY THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

_____

President

EXHIBIT B

Before the Ground Water Commission, Colorado **1313 Sherman St., Rm. 821, Denver, CO 80203**	Make all filings at: bryan.garrett@state.co.us
IN THE MATTER OF AN APPLICATION FOR **CHANGE OF TYPE AND PLACE OF USE,** **RECEIPT NO. 10025777** **APPLICANT: CHEROKEE METROPOLITAN** **DISTRICT** **LOCATED IN THE UPPER BLACK SQUIRREL** **DESIGNATED GROUND WATER BASIN IN EL** **PASO COUNTY**	**All pleadings and relevant files can be found at:** https://dnrftp.state.co.us/#/DWR/Hearings/
	Case No. 24GW01
ORDER GRANTING CHEROKEE'S APPLICATION	

INTRODUCTION

This case involves an application by Cherokee Metropolitan District (Applicant) for a change in type and place use of a water right associated with Well Permit No. 11691-FP ("Subject Water Right"). The Subject Water Right is in the Upper Black Squirrel Creek Designated Ground Water Basin ("UBSC Basin").

The Subject Water Right was previously approved for change in case no. 99GW11 ("Prior Change Case"). In the Prior Change Case, the previous owner, William Poleson, requested a change in use and place of use for the Well with Permit No. 11691-FP. The Colorado Ground Water Commission ("Commission") granted Mr. Poleson's request in the Prior Change Case with conditions to ensure no material injury to the vested water rights of others, which included limiting the allowable annual withdrawal from the well with permit no. 11691-FP to an amount not to exceed 72 acre-feet.

Mr. Poleson subsequently sold the Subject Water Right to Applicant in 2022. In 2023, Applicant applied to change the type and place of use of the Subject Water Right to include municipal and related uses within the Applicant's service area.

The Upper Black Squirrel Creek Ground Water Management District ("Objector") objected to the change in type and place of use application, arguing that such a request, if approved, would result in material injury to vested water rights within the UBSC Basin.

The Objector also argued that Poleson had abandoned the water right prior to selling it to Applicant and therefore the application is void. The latter countered that Poleson had been enrolling the water right in a state-approved water conservation program for several years and made other attempts to keep his water right active.

Staff of the Colorado Ground Water Management Commission ("GWC Staff") were automatically made a party to this proceeding under Rule 12.D of the GWC's Rules of Procedure for All Rulemaking and Hearings Before the Colorado Ground Water Commission, 2 CCR 410-2:12. D. A few days prior to the hearing, Applicant and Staff reached a stipulation regarding Applicant's proposal. That settlement allowed Applicant to use the water right subject to certain conditions included in Applicant's proposed decree.

A hearing was held on October 24, 2024, and both Applicant and Objector tendered exhibits and witnesses. They also submitted written closing arguments after the hearing.

After a review of the arguments, exhibits, testimony, and relevant law, Applicant's request is **approved** for the reasons stated below. That approval is subject to the restrictions discussed in the order below.

The order below will be divided into the following parts: 1) Issues; 2) Procedural History; 3) Findings of fact; 4) Principles of law; 5) Analysis; 6) Conclusions of law and 7) Order.

ISSUES

1. Did Applicant prove that a change in type and place of use of the Subject Water Right will not result in material injury to other appropriators?
2. Is Applicant allowed to rely on the prior findings of no material injury in 99GW11 for that purpose?
3. Does the plain language of the Rules and Regulations for the Management and Control of Designated Ground Water ("Designated Basin Rules") prohibit the Commission from reconsidering material harm in this case, given that issue was already decided in 99GW11?
4. Did Objector prove that Mr. Poleson abandoned his water right prior to selling it to Applicant in 2022?
5. Did the fact that Mr. Poleson enrolled his water right in a water conservation program for over 15 years negate the assertion that he had abandoned his water right?
6. Does Cherokee have a non-speculative need for the subject water right? Does the government planning exception apply to the acquisition of the subject water right?

PROCEDURAL HISTORY

Applicant applied for a change in water right on November 15, 2022. After some discussions with Staff and Objector, it was determined that the matter could not be resolved short of a contested hearing. The application was then published in the Ranchland Newspaper on November 2, 2023, and November 9, 2023.

The period in which to file an objection was December 9, 2023, and Objector did so within that deadline. No other parties objected. Staff submitted the matter to Hearing Officer Jody Grantham on January 4, 2024, and he opened a case on January 8, 2024.

On February 23, 2024, Hearing Officer Grantham set the matter for a hearing. The hearing was to begin on October 22, 2024. Mr. Grantham set several discovery deadlines, including a deadline for disclosing expert witnesses. Neither side disclosed any expert witnesses. The deadline for all discovery was September 6, 2024. Both sides disclosed lay witnesses.

The motions deadline was August 2, 2024. Applicant filed two motions. The first was a motion for summary judgment. Applicant argued that Mr. Poleson had *not* abandoned the water right and that the Hearing Officer should determine that without a hearing. Hearing Officer Garrett, who had taken the case over in June of 2024, denied that motion on the grounds that additional evidence was needed to make that determination, evidence that could only be developed at a full hearing.

Applicant also filed a motion for a Determination of a Question of Law. In that motion, Applicant asked that the amount of water in the water right remain unchanged from 72-acre feet a year, as that was the amount of water determined to be available in the prior change case from 1999. That motion was granted.

After the close of discovery, Applicant disclosed additional evidence to Objector. That additional evidence was an affidavit from Mr. Poleson to be tendered in lieu of testimony, the name of a real estate agent, and Melissa Burkett, Mr. Poleson's daughter. Objector moved to strike all the late evidence. Eventually, Applicant decided not to call the real estate agent, and offered to limit the daughter's testimony to laying a foundation for the affidavit. That limitation was accepted by the Hearing Officer. Mr. Poleson's affidavit was not stricken. However, it was not actually admitted into evidence at the hearing for the reason discussed below.

The hearing was held on October 24, 2024. Applicant called two witnesses. They were Mr. Poleson's daughter, Melissa Burkett, and Kevin Brown, the interim manager of the Cherokee Metropolitan District. Objector called Dave Doran, the President of Objector's Board of Directors. The Hearing Officer called Joanna Williams, Chief of Water Supply. Neither side objected to her being called as a witness, and both sides were given an opportunity to question her.

Both sides tendered numerous exhibits, which are detailed on the exhibit sheet completed by Laura Kalafus. The only tendered exhibit that was rejected was Mr. Poleson's affidavit. That exhibit, CMD-88, was rejected as being unreliable hearsay.

After the hearing was concluded, both Applicant and Objector presented written closing arguments. This decision follows.

FINDINGS OF FACT

Jurisdiction: The Application in this matter contained all information required by law and was published in accordance with law. An objection to the Application was timely filed by the Objector. The water that is the subject of the Application is designated groundwater within the boundaries of the UBSC Basin. The Ground Water Commission has jurisdiction over such water and over the Application in this matter.

The Subject Water Right is associated with Well Permit No. 11691-FP. The *well* for the subject water right *itself* was and is located in the Northeast quarter of the Southeast quarter of Section 24, Township 13 South, Range 63 West of the 6th P.M, at a point 1798 feet from the south section line and 29 feet from the east section line at UTM coordinates 553151.5 Easting and 4305961.0 Northing (meters, Zone 13, NAD-83).

It began as Conditional Well Permit No. 11691-F, originally issued on March 30, 1967.

The Final Permit for Well with Permit No. 11691-FP was issued on September 17, 1984, to Mr. William W. Poleson.

On December 31, 1997, Mr. Poleson filed an application to change the use and place of use of the Subject Well. Case No. 99GW11 came before the Commission's Hearing Officer, Steve Lautenschlager, at a hearing on April 11, 2000.

In Case No. 99GW11, the historical consumptive use of the Subject Water Right was quantified per Designated Basin Rule 7.10 and determined to be 72.0 acre-feet per year by the Ground Water Commission.

At the time of filing the application in the 99GW11 change case, Mr. Poleson had entered into an agreement with Viewpoint Estates, LLC, the owner of the new approved place of use, to potentially sell the Subject Water Right. That sale never occurred.

The Subject Water Right was changed in Case No. 99GW11 from irrigation to domestic, commercial, recreation, irrigation, storage, augmentation, and industrial uses for use on land described as the E1/2 of Section 15 and the W1/2 of Section 14, Township 14 South, Range 63 West of the 6th P.M.

The Subject Water Right has never been used for the claimed types of use on the identified lands as changed in 99GW11.

On May 5, 2000, the Hearing Officer entered an Amended Findings of Fact, Conclusions of Law, Initial Decision and Order. In his order, Hearing Officer Lautenschlager found that: "The evidence and testimony supports that no material injury to the vested water rights of other appropriators will result from the proposed change in place and type of use if the average annual amount of water to be diverted from the well is limited to 72.0 acre-feet."

Additionally, as authorized in paragraph 19(h) of the Hearing Officers' Order in the Prior Change Case:

> "Diversions under this change of use shall be administered according to the three-year modified banking method, Designated Basins Rules - Rule 7.11. In the first year, withdrawals from the well are limited to 72.0 acre-feet, the average historic consumptive use. In successive years, the amount which can be withdrawn during the current year will be 72.0 acre-feet plus the amount of water in banking reserve for the well, not to exceed 256 acre-feet. The maximum amount that can be placed in banking reserve shall not exceed 552 acre-feet. The annual amount of water to be added to the banking reserve each year is 72.0 acre-feet minus the amount of water actually withdrawn by the well for that year. Likewise, the banking reserve shall be reduced by an amount equal to the quantity of banking reserve water pumped by the specific well for that year. It should be noted that the maximum amount which could be withdrawn a successive year is based on an original annual appropriation of 320 acre-feet times an 80 percent irrigation efficiency factor since pumping limitations in this case are limited by consumptive use and not average annual withdrawals."

A Final Decision of the Ground Water Commission was entered on June 22, 2000, by the Ground Water Commission in that case.

Pursuant to Designated Basins Rule 7.10.4.(b), "Water diversion during the calendar year 1997 and during any successive calendar year may be excluded in computing average annual historical use provided at least ten years of water use information is available to compute historical use and provided a written request to exclude water use for any given calendar year is received by the Commission by May 1 of that calendar year. This written request must be on a form prescribed by the Commission. To avoid having Applicants pick and choose water use years during this period to maximize the estimate of average annual historical use, a request to exclude water use for any year once submitted cannot be withdrawn."

As allowed for under Designated Basins Rule 7.10.4.(b), from 1999 through 2018, Cherokee's predecessor, Mr. Poleson, annually filed forms titled "Request to Register in Water Conservation Program Colorado Ground Water Commission" for the Subject Water Right ("Rule 7.10.4(b) Forms"). Mr. Poleson filed the Rule 7.10.4(b) Forms with the Colorado Ground Water Commission each year from 1999 through 2018. All the forms were filed timely and marked 'received' by staff.

The Colorado Ground Water Management Commission is a state agency of the State of Colorado.

In response to questions posed by the Hearing Officer involving Designated Basins Rule 7.10.4 (b), Joanna Williams of staff testified that there are no time limits on how long the Commission's conservation program can be used, when the program can be used, nor is the conservation program limited to extenuating circumstances. The only limitation on the water conservation program is that the form must be filed timely.

There is no evidence in this case that Mr. Poleson did not file the Designated Basins Rule 7.10.4(b) forms in a timely manner.

Mr. Poleson sent a letter to the Colorado Division of Water Resources, received February 12, 2016, stating as follows:

"I have been sending these forms in since 1991 ... It seems to be a waste of your time and mine. Nothing has changed, period. If there is ever a (sic) intent to put this well to use again I am confident you will be notified and asked for approval. I would appreciate your accepting this as a (sic) affidavit of my intent and suspend the redundant filing of more government forms until I die. I would sincerely appreciate a final form to execute if this is not enough."

In that letter, Mr. Poleson stated he had been sending the forms in since 1991. Applicant presented forms from 1999 to 2018.

On February 16, 2016, the Division of Water Resources responded to Mr. Poleson. They stated that: "Be advised that to avail yourself of any possible benefit of Designated Basin Rule 7.10.5(b) for a given calendar year you will have to submit, in that year, a written request to exclude water use for that year."

Mr. Poleson sent a letter, dated July 9, 2018, to Keith Vander Horst, P.E. of the Colorado Division of Water Resources stating: "I am getting older and I want to be sure that the well rights are correctly protected should I pass before a use can be established."

In that letter, Mr. Poleson further stated that: "…if and when the water is put to use your offices will have to be notified of the use and approved."

Cherokee purchased the Subject Water Rights from Mr. Poleson on March 15, 2022, pursuant to an Agreement to Purchase Water Rights effective March 15, 2022. Cherokee now owns the Subject Water Right.

Cherokee seeks to change the type of use of the Subject Water Right to all municipal uses, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation, recharge and/or replacement purposes in Case No. 08GW71, including related and/or successive action, with the right to use, reuse and successively use the Subject Water Right to extinction in Case No. 08GW71 or any related or successive action.

Cherokee also seeks to change the place of use of the Subject Water Right to the boundaries of the Cherokee Metropolitan District, generally located within Township 13 South and 14 South, Range 65 West of the 6th P.M., as Cherokee's boundaries may change from time to time, and including leases or other agreements to provide water outside of Cherokee's boundaries. Because Cherokee's boundaries are located, in part, outside the boundaries of the UBS Basin, this change in place of use is a request for the right to export the historically consumed portion of the Subject Water Right for the above-described types of use outside the boundaries of the UBS

Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S.; and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 ("Designated Basin Rules").

Applicant does not seek to change the location of the well itself.

The UBSC Basin is over-appropriated. The UBSC District has the authority to administer designated groundwater in the UBSC Basin pursuant to the enumerated powers in C.R.S. § 37-90-130. More water is going out of the Basin than its coming in, and Mr. Doran testified that the state of the District is fair.

Cherokee Metropolitan District has about 25,000 water customers in its district itself. 80% of its water goes to servicing its district. Cherokee itself is in a rapidly expanding area that is seeing an increase in demand for water. It also has existing out-of-district contacts with Mayberry, Woodman Hills, Harding Nursery and Schriever Space Force Base, among others.

The subject water right would be helpful in supplying water for the Harding Nursery. It would also be helpful in supplying water for the Cherokee District's densification and new development within its district.

While Objector opposed the application outright, they did not propose any changes to the application, other than limiting Applicant to serving its own water needs and its present firm contractual commitments and objecting to the use of modified banking.

PRINCIPLES OF LAW:

Material harm:

The first legal principle to be addressed is the legal standard for determining if a water right will cause material harm. An applicant for a change of a water right bears the burden of demonstrating that the requested change will not result in material injury to the rights of other

appropriators. Designated Basin Rule 7.1.1; *City and County of Broomfield v. Farmers Reservoir and Irrigation Co.*, 235 P.3d 296, 299 (Colo. 2010). The issue of injury is fact specific, and an evaluation of the proposed change may require "determinations about the historic beneficial consumptive use of the water rights in question." Id.

However, the Rules provide: "If an application is for a change of that portion of a Water Right for which a previous Change of Water Right has been approved and for which the Historical Withdrawal and depletion was previously determined under Rule 7.10, the Commission shall not reconsider or re-quantify the Historical Withdrawal and depletion. *However,* the Commission may, without re-quantifying the Historical Withdrawal and depletion, impose such terms and conditions on the future use of that portion of the Water Right that is the subject of the changes as needed to limit the future withdrawal and depletion of that portion of the Water Right to the previously quantified Historical Withdrawal and depletion." (Emphasis mine) 2 CCR 410-1 7.10.8. This creates a "one and done approach to quantifying historical withdrawals and depletions under the Rules.

Regarding modified banking, the Rules provide that "Only those wells for which a change in Water Right has determined Historical Withdrawal in accordance with Rule 7.10 can use the three-year modified banking provision." 2 CCR 410-1 7.11.1

The question then becomes, does the 'one and done' exception under Rule 7.10.8 also apply to modified banking, or only to the quantification of the subject water right itself?

The answer to that question lies in 2 CCR 410-1 7.11.4, which states: "The three-year modified banking program *shall* be adjusted to account for a change in the method of irrigation *or any other factor which would affect the allowed historical depletion of the aquifer from the well*." (Italics mine)

Designated Basins Rule 7.11.4 does not reference Rule 7.10.8, or the other way around. If the Ceommission had wished to connect the two rules together, they could have done so. Instead, the rules are in separate sections. Nor does Rule 7.11.4 state that a prior change case can be used to

determine whether to adjust a modified banking program. If that had been the intent of the Commission, the rule would have stated as much. It follows then that adjustments to modified banking programs are not bound by the 'one and done' policy of Rule 7.10.8. Instead, Applicants must prove that any modified banking program will not cause material harm.

Abandonment:

Abandonment is based not only on nonuse of a water right, but the *intent* to *permanently* abandon a water right: "Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner thereof to discontinue permanently the use of all or part of the water available thereunder." C.R.S.37-92-103(2)

This statutory principle of intent is underscored by the Colorado Supreme Court: "The principles of law governing the abandonment of a water right in Colorado are well-established. The critical element of abandonment is intent. See § 37-92-103(2), 10 C.R.S. (1999) (defining abandonment as "the termination of a water right in whole or in part as a result of the intent of the owner thereof to discontinue permanently the use of all or part of the water available thereunder"); *Haystack Ranch, LLC v. Fazzio*, 997 P.2d 548 (Colo. 2000)

The amount of time a water right is not used is a factor in determining intent to abandon, but it is not the only factor: "The determination of what constitutes an unreasonable amount of time varies with the facts of each case. See id.; see, e.g., § 37-92 - 402(11), 10 C.R.S. (1999) (a period of ten years of nonuse creates a rebuttable presumption of abandonment for purposes of creating the division engineer's abandonment list); Beaver Park, 649 P.2d at 302 (finding twenty years of nonuse).", *Haystack Ranch, LLC v. Fazzio*, 997 P.2d 548 (Colo. 2000)

However, enrolling in a water conservation program tolls any time considered in abandonment: "Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining an abandonment of a water right for the duration that:… The nonuse of a water right by its owner is a result of participation in: …A

water conservation program approved by a state agency, a water conservation district, or a water conservancy district;…" C.R.S.37-92-103(2)(b)(I)

In this case, it is Objector that must prove abandonment: "The party seeking a decree of abandonment of a water right must prove the abandonment by a preponderance of the evidence." *Haystack Ranch, LLC v. Fazzio*, 997 P.2d 548 (Colo. 2000)

Speculation

Colorado's anti-speculation doctrine means the entity acquiring the water rights must have a specific plan to put the water to beneficial use. C.R.S. 37-92-103(3)(a)(II). They cannot hoard the water to speculate on the open market for profit. *Colorado River Conservation District v. Vidler Tunnel Water Company*, 594 P.2d 566 (Colo. 1979).

This is true even if there are *potential* customers who have a growing need for water. *Id*. Instead, the entity is limited to *firm contractual commitments* to use a specific amount of water. *United Water and Sanitation District v. Burlington Ditch Reservoir and Land Company*, 476 P.3d 341 (Colo. 2020).

An exception to this rule exists for government agencies. This exception, called the government planning exception, allows government entities to consider future anticipated growth of water use when appropriating water rights. *Id.* However, this is limited to planning for the needs of their own populations. *Id.*

When it comes to government entities supplying water to entities other than their own citizens, the anti-speculation doctrine applies. *Id.* "In other words, the exception applies only where a government agency is seeking to appropriate water on behalf of end users with whom it has a governmental agency relationship." *Id.* at 341. It follows then, that government agencies that supply water to customers other than their own citizens are limited to firm contractual commitments.

Relying on *Thornton v. Bijou Irrigation Company*, 926 P.2d 1 (Colo. 1996), Applicant argues that the government planning exception extends to possible service areas outside their territorial

limits. In other words, they argue *Thornton* holds they can acquire water rights to service extra-territorial areas they are not currently servicing. This reliance is misplaced. First, the more recent 2020 case of *United* cited above makes it clear that this is not the case.

Second, *Thornton* was *not* a case where the City of Thornton was seeking to supply water to possible customers outside of its territorial limits, rather it was seeking water rights to supply its own citizens and existing extra-territorial entities with which it was *already* supplying water. There is nothing in the facts in *Thornton* to suggest that the City of Thornton was planning on supplying additional water to possible additional entities outside of its territorial limits.

ANALYSIS:

Material Harm:

Applicant seeks a change in water right in this case. It is the Applicant's initial burden to demonstrate that the resulting change will not cause material injury to vested rights of other appropriators. To that end, Applicant argues that the requested changes here will not result in material injury because the amount of historical withdrawal and depletion, as determined and approved for the Subject Water Right in the Prior Change Case, will not be exceeded. Normally, an applicant that seeks a change in a water right must prove that it will not cause material harm to existing water right users.

However, Designated Basins Rule 7.10.8 adopts a 'one and done' policy towards quantifying and reconsidering water rights. Once the quantification of water rights has been determined under Rule 7.10, then the quantification cannot be determined again. That much is clear from the plain language of the rule. If the language of an agency's regulation is clear, it must be followed. See, e.g., *Rags Over the Arkansas River, Inc. v. Colorado Parks & Wildlife Bd*., 360 P.3d 186, 192, as modified on denial of reh'g (Mar. 26, 2015 (if the language of an agency's regulations is unambiguous, the plain language controls). The Hearing Officer is not aware of any contradictory legal authority, and none was provided to the Hearing Officer.

This ‘one and done’ doctrine *does not* have a time limit: applying one would be contrary to the plain language of the rule. As noted above, if the language of an agency’s regulation is clear, it must be followed. Rule 7.10.8 plainly says the Hearing Officer can’t reconsider or re-quantify a water right that has already been decided. Moreover, a time limit, such as the one Objector argues should be imposed, is conspicuously absent from the rule.

If the Commission had wished for there to be a time limit on a prior quantification, or for the Hearing Officer to have the ability to reconsider a water right amount, they would have so stated in the rule itself.

The subject water right in question was quantified in 99GW11, so it cannot be re-quantified or reconsidered. The Hearing Officer in case 99GW11 also determined that there would be no material harm to other water rights, and the plain language of 7.10.8 does not allow that to be reconsidered either.

However, the Ground Water Commission is authorized to impose other terms and conditions on the water right, so long as they do not re-quantify the water right. In this case, the Groundwater Commission Staff and Applicant have reached an agreement as to effecting the change Applicant wishes, and those will be imposed in this case, and adopted in the order below.

In terms of the modified banking plan, Applicant cannot rely on the ‘one and done’ policy, as was explained above. They must prove that the modified banking plan will not cause material harm to Objector. The only evidence presented in this regard was a 25-year-old change plan. While this plan is *legally* (because of the one and done policy) sufficient for their change of water right, it is not factually persuasive enough to prove the modified banking plan itself will not cause material harm. 25 years is a long time, and a lot can change, especially in an over-appropriated basin like Upper Black Squirrel that is in fair condition.

Moreover, the Commission is allowed to impose other terms and conditions on the water right, and disallowing modified banking is appropriate given Applicant’s failure to prove material harm if the modified banking is implemented.

Abandonment:

Objector argues that the water right in this case was abandoned by Mr. Poleson prior to him selling the water right to Applicant. Objector must prove this as they are the ones asserting abandonment.

When the evidence is viewed as a whole, objector did not prove that Mr. Poleson abandoned his water right. It is true that non-beneficial use of a water right can lead to abandonment of a water right. There is no hard and fast rule as to the amount of time non-use must occur before the water right is considered abandoned: it is based on a case-by-case basis. However, a survey of Colorado's cases shows that typically at least 10 years of non-use must go by.

Mr. Poleson enrolled his water right in a state-approved program from 1999 to 2018, a total of 19 years. He sold the water right to applicant in 2022, meaning there is only four consecutive years that Mr. Poleson did not use his water right without enrolling it in the conservation program. This is not enough to create a presumption of abandonment.

Objector argues that Mr. Poleson's 2016 letter demonstrates an intent to permanently abandon his water right. On the contrary, it simply shows Mr. Poleson's desire not to fill out the water conservation form year after year. Nowhere in his 2016 letter does he say that he was permanently abandoning his water right. The fact that he filled out the forms in 2017 and 2018 shows he continued to show interest in keeping that right. His letter says 'if' the water right is used again, he'll inform DWR. He does not say never.

The same goes for the 2018 letter. Mr. Poleson makes it clear that he wishes to *protect* his water right. This is not the language that someone who wishes to permanently abandon his water right would use. Between the 2018 letter and the 19 years of enrolling in the water conservation program, it is clear Mr. Poleson was attempting to keep his water right, not abandon it.

In addition, there are other indications Mr. Poleson did not intend to permanently abandon his water right. He requested, and received, a change in water right in 1999GW11. This shows he had an active interest in preserving his water right. He also made at least two attempts to sell the water right, one of which was successful.

Under these circumstances, Objector failed to prove that Mr. Poleson intended to permanently abandon his water right.

Speculation:

Applicant argues that they should be able to not only use the subject water right to service water needs in their territorial limits and existing firm contractual commitments, but also possible future extra-territorial commitments as well. The legal authority outlined above makes it clear that the first two requests are valid, but the latter is not. Applicant may use the subject water right to service their territory, and, under the government planning exception, acquire it for increased water demand in that territory. They may also use it to service *existing* firm contractual obligations.

However, acquiring the subject water right to service the anticipated needs of extra-territorial demands runs afoul of the anti-speculation doctrine. This is because, under the *United* case, they are no longer acting as a government, but rather as a seller on the open market. As such, the government planning exception no longer applies to them, and they must have specific plans for possible new customers. Since they did not present any specific plans for possible future customers, they may not use the subject water right to service potential new customers in the future.

CONCLUSIONS OF LAW

1. The Application and requested changes of the Subject Water Right are contemplated and authorized by law. C.R.S. § 37-90-111(1)(g) and the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1, regarding changes in rights to designated ground water.

2. Notice of the Application was properly issued and all persons, whether or not they have appeared, are bound by this Order.

3. Pursuant to Rule 7.10.8 of the Designated Basin Rules, the GWC shall not reconsider or re-quantify the historical withdrawal and depletion of the Subject Water Right because it was previously quantified and determined in the 99GW11 Order.

4. Operation of the Subject Water Right as changed pursuant to the terms of this Order will not cause material injury to the vested rights of other appropriators. See C.R.S. § 37-90-111(1)(g) and Rule 7.1.1 of the Designated Basin Rules, 2 CCR 410-1:7.1.1.

5. Applicant has complied with all requirements and met all applicable standards and burden of proof, including but not limited to those requirements and standards described in Section 37-90-111(1)(g) and Rule 7 of the Designated Basin Rules, 2 CCR 410-1:7, and Applicant therefore is entitled to an order approving the claims in the Application.

6. Objector failed to prove that Mr. Poleson abandoned his water right.

7. Applicant's use of the subject water right in their territory meets the government planning exception. Applicant's extraterritorial use of the subject water right will be limited to firm existing contractual commitments.

ORDER

The above Findings of Fact and Conclusions of Law are incorporated into this Order as if set forth in full. In accordance with C.R.S. § 37-90-111(1)(g), the GWC orders that the Application to change the type of use and the place of use of the Subject Water Right be approved, subject to the following terms and conditions which will prevent material injury to the vested rights of other appropriators:

A. Change in Type of Use: The type of use of water withdrawn under the Subject Water Right is hereby changed, from domestic, commercial, recreational, irrigation, storage, augmentation and industrial uses, to all municipal uses, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation, recharge and/or replacement purposes in Case No. 08GW71, including related and/or successive action, with the right to use, reuse and successively use the Subject Water Right to extinction in Case No. 08GW71 or any related or successive action.

B. Change in Place of Use: The place of use of water withdrawn under the Subject Water Right is hereby changed to the boundaries of the Cherokee Metropolitan District, as Cherokee's boundaries may change from time to time, and including leases or other agreements to provide water outside of Cherokee's boundaries.

C. Leases or other agreements outside of Cherokee's boundaries will be limited to firm contractual commitments that were in place at the time of the application.

    i. Export Approval: Export shall not be allowed until after the UBS District has approved such export in accordance with Rule 7.7.4 of the Designated Basin Rules, 2 C.C.R. 410-1:7.7.4.

D. The maximum annual volume of appropriation may not exceed 72 acre-feet.

E. Modified banking will not be allowed.

F. All the conditions of the attached Applicant's Statement, as attached, are incorporated herein as conditions of this approval. Subsequent permit owners and users are bound by the terms and conditions of the Applicant's Statement as if they had signed the statement.

G. The well-owner or user must have a contract with the local Ground Water Management District, or a person or entity acceptable to the Commission, for purposes of administration of the change of water right, in accordance with the Applicant's Statement. The site inspections along with the readings referred to in the "Applicant's Statement" must occur as follows: if the well is used solely for irrigation use during a calendar year, then at least six times per year, with one inspection occurring prior to irrigation pumping and one reading after irrigation pumping; (ii) if the well is used for the changed uses during a calendar year, then at least on a monthly basis.

H. Flow Meter: The well associated with the Subject Water Right shall be equipped with a totalizing flow meter that meets the standards and specifications of Rule 8 of the Designated Basin Rules, 2 C.C.R. 410-1:8, and Rule 21 of the Rules and Regulations of the Upper Black Squirrel Creek Ground Water Management District. The meter shall be maintained in good working order. Water withdrawn under the Subject Water Right will be metered and well production will be recorded daily. Cherokee shall allow the GWC and the UBS District to access the well and flow meter as required by law to ensure compliance with this Order.

I. Reporting: Cherokee shall submit diversion records to the UBS District and the GWC on a monthly basis.

J. No Material Injury: The GWC has determined that the requested change in type of use and change in place of use will not result in an increase over the historical depletion of the aquifer under the Subject Water Right and will not cause material injury to the vested water rights of other appropriators pursuant to C.R.S. § 37-90-111(1)(g) and Rule 7.7.1 of the Designated Basin Rules, 2 CCR 410-1, so long as the Subject Water Right is operated pursuant to the terms and conditions of this Order.

K. Bound by Terms and Conditions: The use of the Subject Water Right as changed herein requires that Cherokee, and any subsequent owners and/or users of the Subject Water Right, shall be bound by and remain in compliance with the terms and conditions of this Order. In the event the Subject Water Right is not operated in accordance with the terms and conditions of this Order, the Subject Water Right shall be subject to administration, including orders to cease diverting under the Subject Water Right. The GWC shall not curtail diversions under the Subject Water Right so long as Cherokee's withdrawals of water from the Subject Water Right are in accordance with the terms and conditions of this Order.

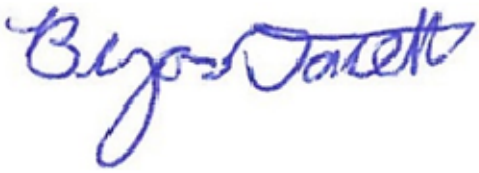
L. In addition to the limitations above, Applicant shall comply with all terms and conditions agreed to with the Groundwater Commission Staff.

M. Applicant's use of the subject water right will be limited to servicing the water needs of its own territory and firm existing extraterritorial contracts.

CONCLUSION:

The application for change of type and location of water right is **GRANTED** subject to the terms, conditions and limitations discussed above.

Dated this 9 day of June, 2025.



Bryan Garrett, Hearing Officer
Colorado Ground Water Commission
Email: bryan.garrett@state.co.us

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this ORDER GRANTING APPLICANT'S QUESTION OF LAW MOTION was sent June 9, 2025, to the following parties:

Via email:

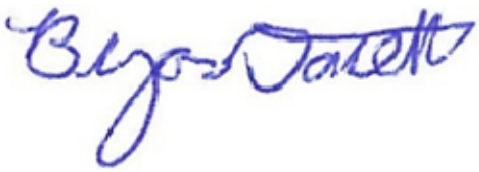
Attorneys for Cherokee Metropolitan District
Peter C. Johnson, Esq.
Bradley N. Kershaw, Esq.
Robyn Smith, Esq.
Cindy McMurl, Assistant

pcj@vrlaw.com
bnk@vrlaw.com
rls@vrlaw.com
cmc@vrlaw.com

Attorney for the Upper Black Squirrel GWMD
Lisa Thompson, Esq.
Lucas O'Brien, Esq.
Meichell Walsh, Officer Manager
lthompson@troutlaw.com
lobrien@troutlaw.com
mwalsh@troutlaw.com

Representing Staff for the Colorado Ground Water Commission
Patrick Barker, Assistant Attorney General
John Newman, Assistant Attorney General
Melissa Ciener, Paralegal, Water Resources Unit
patrick.barker@coag.gov
john.newman@coag.gov
melissa.ciener@coag.gov

Staff for the Colorado Ground Water Commission
Ailis Thyne
ailis.thyne@state.co.us



11691-FP
9079246

EXHIBIT C

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 99-GW-11

AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, INITIAL DECISION AND ORDER

IN THE MATTER OF CHANGES IN USE AND PLACE OF USE OF WELL PERMIT NO. 11691-FP LOCATED IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND GROUND WATER MANAGEMENT DISTRICT IN EL PASO COUNTY

WILLIAM W. POLESON, APPLICANT

THIS MATTER came before the Hearing Officer upon Applicant's Motion to Correct Clerical Error concerning the township number indicated in Paragraph No. 1 of the Findings of Fact. The Motion is approved and the Findings of Fact, Conclusion of Law, Initial Decision and Order are hereby amended and re-issued as follows:

THIS MATTER came before the Hearing Officer, Steve Lautenschlager at a hearing held in Ellicott, Colorado on April 11, 2000. Having considered all matters contained in the application, testimony and evidence taken as necessary, and written arguments being submitted, the Hearing Officer, being fully advised in the matter and after due consideration of the pertinent law and rules, makes the following Finding of Fact, Conclusions of Law, Initial Decision and Order.

FINDINGS OF FACT

1. The Applicant filed the application to change the use of the well with Permit No. 11691-FP on December 31, 1997. The Applicant seeks to change a well located within the Upper Black Squirrel Creek Ground Water Management District in the Upper Black Squirrel Creek Designated Ground Water Basin. The Applicant proposes to change the use of the well from irrigation to domestic, commercial, recreation, irrigation, storage, augmentation, and industrial purposes. The application was clarified on April 23, 1999 to show that it included a specific change in place of use. The place of use was proposed to be moved from the E ½ of Section 24, Township 13 South, Range 63 West, 6th P.M. to the E ½ of Section 15 and the W ½ of Section 14, Township 14 South, Range 63 West, 6th P.M.

2. Notice of the requested changes was published in accordance with the provisions of Sections 37-90-112(1) and 37-90-111(1), C.R.S., on July 29 and August 5, 1999. Timely objections to the requested changes were filed by the Upper Black Squirrel Creek Ground Water Management District (District), T. R. Schubert, and G.R. and Tressie Johnson.

3. The Applicant was represented by Steven T. Monson, Esq. The District was represented by Kim R. Lawrence, Esq. The Ground Water Commission staff was represented by David S. Hayes, Assistant Attorney General. Objectors G. R. and Tressie Johnson and T. R. Schubert did not file pre-hearing statements and did not participate in the hearing other than requesting to make statements as Interested Persons.

4. Eric Harmon and Peter Boddie of HRS Water Consultants, William Poleson, and Donald Booker testified for the Applicant. Forrest Leaf of Leaf Engineering and Dean Goss, testified for the District. William Fronczak testified for the staff of the Ground Water Commission.

5. The well permit information on file with the State Engineer's office indicates that well no. 11691-FP was originally applied for on February 15, 1967. The well was permitted on March 30, 1967 for irrigation of up to 320 acres with an annual appropriation of 320 acre-feet and a pumping rate of 750 gallons per minute. The well was completed on September 21, 1968, to a depth of 160 feet. A Final Permit was granted on September 17, 1984, with a priority date of February 15, 1967.

6. In order to determine whether the requested changes can be approved, The Applicant has the burden of demonstrating the historic aquifer depletions and that the proposed changes will not cause material injury to the vested water rights of other appropriators. The issue of speculation raised by the District was resolved prior to hearing. The remaining issues to be determined are as follows:

   a. The period of historical use that must be used for determining the average annual historic consumptive use.
   b. Whether flow meter records or electrical meter records are to be used to calculate the consumptive use amounts.
   c. The average annual historical consumptive use in acre-feet.
   d. Whether the change in time of use will materially injure vested water rights of others.
   e. Whether the change in place of use will cause material injury to other wells.
   f. The terms and conditions that shall be applied to any approval of this proposed change.

7. The Applicant must include 1998 as part of the period of record to be considered under Rule 7.10.1. The Applicant's expert and the Staff testified that historically it was standard procedure for the period of record to end upon filing an application for a change. The Staff also testified that this was because the Applicant would be unfairly burdened if evaluation of the application was delayed by failure of the staff to act for a lengthy period of time. However, the Hearing Officer finds that reliance on those considerations changed upon the Commission's adoption of Rule 7.10.4(b) which provides for an administrative remedy for arguments concerning when years of no use after 1997 are considered. The evidence shows that there was no diversion from the well in 1998 and that notice was not filed as required by Rule 7.10.4(b).

8. The length of the period of record to be considered shall be nineteen irrigation years (November 1979 through October 1998). Although not raised during the Hearing, the District's closing arguments that the period of record from 1968 through 1998 must be considered is not consistent with the provisions of Rule 7.10.1 which only requires "ten or more recent consecutive years of records be submitted." If the District argument goes to the validity of well permit no. 11691-FP, the Hearing Officer finds that subject well permit is a valid well permit as evidenced by the issuance of a Final Permit on September 17, 1984.

9. The best evidence of the total amount of water diverted during the period of record is 1,867 acre-feet as shown by the flow meter. The Applicant's method of distribution of this amount on monthly basis based on a prorata allocation using power records is appropriated for the analysis. In addition the historic use analysis must be limited by the allowed maximum annual diversion of 320 acre-feet.

10. The evidence supports the assumptions, model inputs, and methodology of consumptive use analysis used by the Applicant's Consultant. This analysis is consistent with the requirements of Rule 7.10.1.

11. The evidence supports that based on Findings 7 through 10 above, that the average annual historic consumptive use of the water from the well was 72.0 acre-feet.

12. The evidence and testimony supports that no increase burden on the aquifer or material injury will result from the change in the season of use, Rule 7.7.1.

13. The evidence and testimony supports that no material injury to the vested water rights of other appropriators will result from the proposed change in place and type of use if the average annual amount of water to be diverted from the well is limited to 72.0 acre-feet.

CONCULSIONS OF LAW

14. The subject application concerns ground water located in a designated ground water basin. Therefore, the Ground Water Commission has jurisdiction over the application and the parties.

15. Notice of the application was published, and the objection was received in a timely manner pursuant to Section 37-90-112 and Section 37-90-111, C.R.S.

16. Notice of the hearing was given and the hearing was conducted in accordance with Section 24-4-105, C.R.S. and the Ground Water Commission's Procedural Rules, 2 CCR 402-3.

17. The application must be considered under the provisions of Section 37-90-111(1)(g), C.R.S. and the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1, regarding changes in rights to designated ground water.

INITIAL DECISION AND ORDER

18. The Findings of Fact and Conclusions of Law are incorporated herein as fully set forth.

19. The Applicant's request for approval of the change in use and place of use can be accomplished without material injury to the vested water rights of others and is hereby approved subject to the following terms and conditions:

a. The change of use and place of use of the well with Permit No. 11691-FP shall be limited to use as a water supply for domestic, commercial, recreational, irrigation, storage, augmentation, and industrial on land described as the E1/2 of Section 15 and the W1/2 of Section 14, Township 14 South, Range 63 West of the 6th P.M.:

b. The allowable average annual withdrawal shall not exceed 72.0 acre-feet. The maximum pumping rate of the well shall not exceed 750 gallons per minute.

c. This change of use shall not be implemented until the well owner has a signed contract with the Commission, District, or person or entity acceptable to the Commission, which provides for the reimbursement by applicant of the costs of administration. Contracts with entities other than the Commission or District must be Commission approved. This contract shall provide for the reading of the water and power meters before the initiation of the change of use and on a monthly basis thereafter.

d. Prior to implementation of the approval, the well owner shall acquire water measuring device satisfactory to the Commission and District, which shall be installed according to the manufacturer's recommendations under the supervision and to the satisfaction of the Commission and the District. This measuring device shall be inspected annually and promptly repaired or re-calibrated as needed whenever it comes to the well owner's attention that the device is not in good working condition or whenever so notified by authorized representatives of the Commission or District. At least one spare measuring device of each brand, size, and type used for this change of use shall be kept in the well owners possession in order to provide an immediate source of replacement parts. All of these obligations shall be fulfilled at the well owner's sole expense. No repair or replacement of the parts of said measuring device shall be made by the well owner without prior notification to the Commission and District. All parts replaced shall be retained by the well owner and given to Commission or District Representatives who may inspect the measuring device after repair or replacement. Any pump shall be turned off by the well owner while the measuring device for that well is not working properly or is being repaired or replaced, and shall not be turned on again until the inspection by the Commission or District has been completed.

e. The Ground Water Commission may require the well owner to contract, at the well owners cost, with a qualified contractor for the performance of a system efficiency test of the well under standard operating conditions. The well owner shall promptly submit the results of this test to the Commission and the District. At least three (3) days prior notice of the date of this test must be given so that District or Commission personnel might be present during the test.

f. All meter installation information and readings must be reported on forms DBB-003 Administrative Reporting-Meter Information and DBB-004 Administrative Reporting-Meter Readings, respectively, or other Commission approved forms. All water volumes must be converted to an acre-foot amount. Incomplete forms shall not be acceptable for fulfillment of reporting requirements.

g. Although it has been determined that the change in season of use will not result in an increased ability to withdraw water over what would occur during the original season of use under present and future aquifer conditions at the original point of withdraw, the Commission retains the right to further limit withdrawals from this well if future conditions change whereby the applicant has or has the potential to increase their ability to withdraw water over what would have occurred during the original season of use.

h. Diversions under this change of use shall be administered according to the three-year modified banking method, Rule 7.11. In the first year, withdrawals from the well are limited to 72.0 acre-feet, the average historic consumptive use. In successive years, the amount which can be withdrawn during the current year will be 72.0 acre-feet plus the amount of water in banking reserve for the well, not to exceed 256 acre-feet. The maximum amount that can be placed in banking reserve shall not exceed 552 acre-feet. The annual amount of water to be

added to the banking reserve each year is 72.0 acre-feet minus the amount of water actually withdrawn by the well for that year. Likewise, the banking reserve shall be reduced by an amount equal to the quantity of banking reserve water pumped by the specific well for that year. It should be noted that the maximum amount which could be withdrawn in an successive year is based on an original annual appropriation of 320 acre-feet times an 80 percent irrigation efficiency factor since pumping limitations in this case are limited by consumptive use and not average annual withdrawals.

i. For any situation which results in a break or question in the record of the amount pumped and where actual pumping cannot be determined using flow meter records and/or power meter records, it shall be the well owners burden to demonstrate estimated pumping. Failing to meet this requirement will be cause for reinitiating the three-year modified banking provision to the first year situation with no credit for real or claimed carryover. However, any deficit or over-pumping will be carried over the re-initiation of the banking provisions to prevent injury to other water rights.

j. The well owner is required to observe the water measuring device and shall be responsible to turn off the pump once the annual pumping limit for the change is reached.

k. The well owner shall be required to report to the Commission and District the final reading of the measuring device and total amount pumped under the change of use approval by February 15 of each year for the prior calendar year. The well owner is also required to report the number of kilowatt hours of electricity, thousand cubic feet of gas or other fuel use under for the change of use approval.

l. The well owner shall allow access to all lands at all reasonable times to representatives of the Commission and/or District for inspection and other necessary visits to ensure compliance with this approval.

This Initial Decision and Order shall become the Order of the Ground Water Commission unless an appeal is filed within 30 days after service of the Initial Decision. Such an appeal must be submitted to the State Engineer, as Executive Director of the Ground Water Commission, and copies shall be served upon all Parties.

Dated this 16th day of May, 2000.

Steve Lautenschlager

Steve Lautenschlager, Hearing Officer
1313 Sherman Street, Room 818
Denver CO 80203
Telephone: 303-866-3581
Facsimile: 303-866-3589

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the within **AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, INITIAL DECISION AND ORDER** to all parties herein by depositing copies of the same in the United States mail, postage prepaid, at Denver, Colorado, this 17th day of May 2000, addressed as follows:

William W. Poleson
P. O. Box 356
Colorado Springs, CO 80906-0356

Steve T. Monson
Felt, Houghton & Monson LLC
319 N. Weber Street
Colorado Springs, CO 80903

Kim R. Lawrence
Lind, Lawrence & Ottenhoff L.L.P.
1011 Eleventh Avenue
Greeley, CO 80631

Linda McCalib
Upper Black Squirrel Creek GWMD
23355 Highway 94
Calhan, CO 80808

Eric Harmon
HRS Water Consultants
8885 W. 14th Avenue
Lakewood, CO 80215

T. R. Schubert
Schubert Ranches, Inc.
1555 S. Baggett Road
Calhan, CO 80808

G. R. & Tressie Johnson
Brackett Creek Farms
3659 N. Ellicott Highway
Calhan, CO 80808

HAND DELIVERED:

David Hayes
Attorney General's Office
1525 Sherman Street, 5th Floor
Denver, CO 80203

William Fronczak
Office of the State Engineer
1313 Sherman Street, Room 818
Denver, CO 80203

Susan C. Garcia

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 99-GW-11

DECISION OF THE GROUND WATER COMMISSION

IN THE MATTER OF CHANGES IN USE AND PLACE OF USE OF WELL PERMIT NO. 11691-FP LOCATED IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND GROUND WATER MANAGEMENT DISTRICT IN EL PASO COUNTY

WILLIAM W. POLESON, APPLICANT

TAKE NOTICE that the Amended Findings of Fact, Conclusions of Law, Initial Decision and Order was served on the parties on May 17, 2000. No appeal of the Amended Initial Decision has been submitted to the Ground Water Commission. The time for filing an appeal has expired.

IT IS HEREBY ORDERED that the Amended Initial Decision of the Hearing Officer becomes the Decision of the Ground Water Commission. As such, it constitutes final agency action in these matters.

Dated this 22nd day of June 2000.

Hal D. Simpson, Executive Director
Division of Water Resources
1313 Sherman Street, Room 818
Denver, CO 80203
Telephone: (303) 866-3581
Facsimile: (303) 866-3589

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the within **DECISION OF THE GROUND WATER COMMISSION** to all parties herein by depositing copies of the same in the United States mail, postage prepaid, at Denver, Colorado, this 22nd day of June 2000, addressed as follows:

William W. Poleson
P. O. Box 356
Colorado Springs, CO 80906-0356

Steve T. Monson
Felt, Houghton & Monson LLC
319 N. Weber Street
Colorado Springs, CO 80903

Kim R. Lawrence
Lind, Lawrence & Ottenhoff L.L.P.
1011 Eleventh Avenue
Greeley, CO 80631

Linda McCalib
Upper Black Squirrel Creek GWMD
520 Colorado Avenue #C
Calhan, CO 80808

T. R. Schubert
Schubert Ranches, Inc.
1555 S. Baggett Road
Calhan, CO 80808

G. R. & Tressie Johnson
Brackett Creek Farms
3659 N. Ellicott Highway
Calhan, CO 80808

HAND DELIVERED:

David Hayes
Attorney General's Office
1525 Sherman Street, 5th Floor
Denver, CO 80203

William Fronczak
Office of the State Engineer
1313 Sherman Street, Room 818
Denver, CO 80203

Susan C. Garcia

Appendix D

Permit # 24680-F
Receipt # 0201038

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO
CASE NO. 15-GW-15

ORDER OF THE COMMISSION

CHEROKEE METROPOLITAN DISTRICT, PLAINTIFF
v.
UPPER BLACK SQUIRREL GROUND WATER MANAGEMENT DISTRICT and DICK WOLFE, IN HIS CAPACITY AS EXECUTIVE DIRECTOR OF THE COLORADO GROUND WATER COMMISSION

On July 17, 2017, the Hearing Officer entered his Findings of Fact, Conclusions of Law, and Initial Decision and Order of the Hearing Officer for the Colorado Ground Water Commission ("Order") in the above captioned matter. No appeal having been filed in a timely manner, the Order of July 17, 2017 is therefore the Final Order of the Commission in this case.

Dated this 6th day of September, 2017.

Kevin G. Rein
Executive Director
Colorado Ground Water Commission

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the within **ORDER OF THE COMMISSION** to the parties herein by email this 6th day of September 2017, addressed as follows:

Peter C. Johnson, Esq
John C. Cyran, Esq.
Attorneys for Petitioner, Cherokee Metropolitan Dist.
pcjohnson2479@gmail.com
john@jjcyranlaw.com

Lisa M. Thompson, Esq.
Attorney for Upper Black Squirrel Creek Ground Water Management District
lthompson@troutlaw.com

Jennifer M. DiLalla, Esq.
Attorney for Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust
jdilalla@mwhw.com

Jennifer Mele, Esq.
First Assistant Attorney General
Attorney for Staff of the Colorado Ground Water Commission
jennifer.mele@coag.gov

Keith Vander Horst and Rick Nielsen
Staff for the Colorado Ground Water Commission
keith.vanderhorst@state.co.us
rick.nielsen@state.co.us

Best Copy Available

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 15-GW-15

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND INITIAL DECISION AND ORDER OF THE HEARING OFFICER FOR THE COLORADO GROUND WATER COMMISSION

CHEROKEE METROPOLITAN DISTRICT, PLAINTIFF

v.

UPPER BLACK SQUIRREL GROUND WATER MANAGEMENT DISTRICT, and DICK WOLFE, IN HIS CAPACITY AS EXECUTIVE DIRECTOR OF THE COLORADO GROUND WATER COMMISSION, DEFENDANTS

This matter has come before the Colorado Ground Water Commission ("Commission") on the Complaint of the Cherokee Metropolitan District ("Cherokee") for declaratory relief pursuant to C.R.C.P. 57 and C.R.S. § 13-51-101 *et seq.*

The Hearing Officer, having reviewed all pleadings, and otherwise being fully advised in the premises, does hereby enter the following Findings of Fact, Conclusions of Law, and Initial Order ("Order") in this matter.

FINDINGS OF FACT

1. Parties and Jurisdiction:

1.1. Cherokee initiated this case by filing a complaint for declaratory judgment naming the Upper Black Squirrel Creek Ground Water Management District ("UBS") and the Colorado Ground Water Commission as Defendants. The Colorado Ground Water Commission was dismissed as a Defendant and replaced by Dick Wolfe, in his capacity as the Executive Director of the Commission ("Director Wolfe"), by the Hearing Officer's January 19, 2016 Order. Counsel for both UBS and Director Wolfe each accepted personal service of the complaint.

1.2. In order to alert any other water user who may have an interest in this application, Cherokee caused the complaint to be published in the Ranchland News pursuant to the Hearing Officer's October 28, 2015 Order and in accordance with C.R.S. § 37-90-107 and 112.

1.3. Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust (collectively "Booker Trusts") timely filed a statement of opposition to the published notice.

1.4. UBS, Director Wolfe, and Booker Trusts are referred to collectively as the "Opposing Parties."

1.5. Staff of the Commission ("Staff") works on behalf of Director Wolfe, and Director Wolfe supervises Staff in carrying out the day to day administrative duties of the Commission.

1.6. Timely and adequate notice of the pendency of these proceedings in rem and matters determined herein was given in the manner required by law. The subject water rights are ground water rights with points of diversion located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin (the "UBS Basin"). Pursuant to C.R.S. § 37-90-111, the Commission has jurisdiction over the subject matter of these proceedings and over all persons and owners of property who may be affected hereby, whether they have appeared or not. UBS and the Ground Water Commission have jurisdiction over the administration and enforcement of the subject water rights and the subject water rights are subject to the rules and regulations of UBS and the Commission.

2. Description of subject water rights: Cherokee has the right to withdraw ground water from the alluvial aquifer of the UBS Basin from eight wells now known as Cherokee Wells 1-8 ("Wells 1-8").

2.1. Original Decree: Wells 1-8 were originally decreed by the Pueblo County District Court in Case No. 42135-B, by Water Court Decree issued on June 25, 1962 (the "Decree").[1] Well #3 was decreed as an absolute water right in Case No. 42135-B, but the remaining wells 1, 2, 4, 5, 6, 7, and 8 were decreed therein as conditional water rights.

2.2. Subsequent Diligence Decrees: Diligence was maintained and the subject water rights were partially perfected through the following series of cases: Case No. 42135-B (supplemental), Case No. W-46 on April 28, 1972, as amended on May 11, 1973, in Case No. W-4407(76), Case No. 80CW23 (W-46), Case No. 83CW47 (W-46); Case No. 84CW45; Case No. 87CW07; Case No. 88CW35; and consolidated Case Nos. 94CW23, 95CW19, and 95CW150.

2.3. Absolute Decree: In Consolidated Case Nos. 94CW23, 95CW19, and 95CW150, Cherokee made portions of Wells 1-8 absolute and abandoned other portions, resulting in absolute water rights in the following amounts:

2.3.1. Cherokee Well #1 (Well Permit nos. 4857-FP & 27577-FP): 1 cfs, 700 acre-feet per year, priority date of December 1, 1954.

2.3.2. Cherokee Well #2 (Well Permit no. 16297-RFP): 1 cfs, 700 acre-feet per year, priority date of December 1, 1954.

[1] Cherokee's water rights for Wells 1-8 are referenced in the Decree as: Ross #2 (Cherokee Well #1); Hill #2 (Cherokee Well #2); Hill #1 (Cherokee Well #3); Salladay #3 (Cherokee Well #4); Salladay #5 (Cherokee Well #5); Harding #1 (Cherokee Well #6); Harding #2 (Cherokee Well #7); and Guyer Ranch #7 (Cherokee Well #8).

2.3.3. Cherokee Well #3 (Well Permit no. 4854-FP): 1 cfs, 700 acre-feet per year, priority date of March 1, 1954

2.3.4. Cherokee Well #4 (Well Permit no. 24680-F): 1 cfs, 700 acre-feet per year, priority date of November 25, 1954.

2.3.5. Cherokee Well #5 (Well Permit no. 24976-F): 0.82 cfs, 591 acre-feet per year, priority date of November 24, 1954.

2.3.6. Cherokee Well #6 (Well Permit no. 29089-F): 1 cfs, 700 acre-feet per year, priority date of September 15, 1932.

2.3.7. Cherokee Well #7 (Well Permit no. 29088-F): 0.67 cfs, 469 acre-feet per year, priority date of December 1, 1954.

2.3.8. Cherokee Well #8 (Well Permit no. 31060-F): 1 cfs, 700 acre-feet per year, priority date of August 1, 1954.

3. 1999 Stipulation in Case No. 98CW80: In a Stipulation and Release entered into in Case No. 98CW80, Water Division No. 2, on January 25, 1999 ("1999 Stipulation"), Cherokee agreed to use Wells 1-8 "only for supplying in-basin beneficial uses that discharge any unconsumed water back into the Upper Black Squirrel Designated Basin and for emergency and backup purposes."

4. Active Controversy: There is an active controversy between Cherokee, UBS, and Staff with respect to the scope of uses of water from Wells No. 1-8 authorized by the Decree in Case No. 42135-B and the 1999 Stipulation in Case No. 98CW80. Cherokee asserts the Decree authorizes use of water from Wells 1-8 anywhere within the UBS Basin and that the 1999 Stipulation restricts Cherokee's use of Wells 1-8 only insofar as such use must be within the UBS Basin and return flows from such use must return to the UBS Basin. The Opposing Parties assert that the Decree and 1999 Stipulation restrict in-basin use of water from Wells 1-8 to domestic and irrigation, both of which can only be used at the acreage identified in the Statements of Claim, and that any additional in-basin uses required a change of water right. Staff, however, is not claiming that Cherokee should be prohibited from providing water to satisfy its commitments for mechanical, irrigation and domestic uses that existed at or near the time of the 1999 Stipulation.

4.1. Cherokee has undertaken contractual obligations that are dependent on its ability to use Wells 1-8 within the UBS Basin. UBS and Staff have threatened to curtail or enjoin such uses of Wells 1-8. Accordingly, resolution of this controversy is necessary to afford Cherokee relief from the uncertainty and insecurity regarding the scope of its water rights, and to protect Cherokee's interests.

4.2. This controversy over the legal types and locations of use of Wells 1-8 involves the administration and enforcement of designated ground water, and is thus resolvable by the Commission. C.R.S. § 37-90-111.

CONCLUSIONS OF LAW

5. The Colorado Uniform Declaratory Judgment Law, C.R.S. §13-51-101 *et seq.*, is to be "liberally construed and administered" in order "to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations...." C.R.S. § 13-51-102.

6. Through a declaratory judgment action, a party may request a determination regarding the scope of water rights adjudicated in a prior decree. *S. Ute Indian Tribe v. King Consolidated Ditch Co.*, 250 P.3d 1226, 1235 (Colo. 2011).

INITIAL DECISION AND ORDER

7. To settle this dispute, the parties have stipulated and the Hearing Officer hereby orders as follows:

8. Cherokee's use of the water rights associated with Wells 1-8 pursuant to the Decree is lawful so long as such use is restricted to providing such water to the following commitments within the UBS Basin:

Name	Place of Use	Type of Use	Maximum Production Amount (AF/YR)
Woodmen Hills Metro District	Within the boundaries of the Woodmen Hills Metropolitan District	Mechanical (Municipal)	350
Ellicott Springs/Sunset Village	The Northeast ¼ and the South ½ of Section 12 and the W ½ of Section 13, Township 15 South, Range 63 West, 6th P.M.	Mechanical (Municipal)	60
View Point / Antelope Acres	The West ½, the West ½ of the Northeast ¼, and the West ½ of the Southeast ¼ of Section 10, Township 14 South, Range 63 West of the 6th P.M.	Mechanical (Municipal)	50
Ellicott School District	The Southwest ¼ of the Southwest ¼ of Section 18, Township 14 South, Range 62 West of the 6th P.M, and the Southeast ¼ of the Southeast ¼ of Section 13, Township 14 South, Range 63 West of the 6th P.M.	Mechanical (Municipal)	10
El Paso County Telephone	A Tract 2 acres square in the Northeast Corner Section 17, Township 14 South, Range 63 of the P.M.	Mechanical (Municipal)	1
Diamond Moon Ranch	The Northeast ¼ of Section 18, Township 14 South, Range 63 West of the 6th P.M.	Mechanical (Municipal)	2

Harding Nursery*	The Northwest ¼ of Section 7, Township 13 South, Range 62 West of the 6th P.M.; and the North ½ and the Northeast ¼ of Southeast ¼ of Section 12, Township 13 South, Range 63 West of the 6th P.M.	Irrigation and Domestic (with limited mechanical (municipal) uses described below)	180
		Total Maximum Production (AF/YR)	**653**

*Cherokee delivers water for irrigation and domestic use to Harding Nursery pursuant to a reservation in a 1962 lease agreement, as well as water for limited mechanical (municipal) use at the Harding Nursery, from Cherokee Wells #6 and #7, also known as Harding #1 and Harding #2, in an amount up to 180 acre feet per year. Cherokee is limited to providing water to Harding Nursery from Cherokee Wells #6 and #7 only. See paragraph 12 below.

9. Cherokee's places of use for Wells 1-8 are limited to the above listed places of use. Cherokee's use of water from Wells 1-8 at any locations, or for any uses, other than those places of use and types of use listed in the above table is unlawful and in violation of the Decree unless Cherokee is awarded a change of such water rights.

10. Cherokee shall not deliver water to any of its commitments as listed above from Wells 1-8 in excess of the Maximum Production Amount listed in the table above for each commitment in acre-feet per year.

11. The total annual production of Wells 1-8 for the commitments listed above shall not exceed the Total Maximum Production Amount of 653 acre-feet in a given calendar year.

12. 1954 and 1962 Leases: Cherokee's predecessor-in-interest to its Wells 1-8 water rights executed leases related to these water rights in 1954, and supplements to those leases in 1962 (Cherokee's predecessor-in-interest being the Lessee and the other parties being the Lessors).

    12.1. This order applies only to Cherokee's interest in and use of the Wells 1-8 water rights for its commitments as listed above, and is not intended to alter, amend, confirm, authorize or affect the terms of the 1954 and 1962 Leases in any way, except as specifically stipulated for Harding Nursery herein.

    12.2. Harding Nursery: Cherokee owns the structures of wells CMD Well #6 and CMD Well #7 (Harding #1 and #2) and the pipelines leading away from those wells. Cherokee pumps water from those wells and delivers water by way of taps from its pipelines to Harding Nursery in an amount up to 180 acre-feet per year, and such is listed above as a commitment. This delivery occurs under a reservation in the lease agreement dated December 20, 1954, a reservation in the supplemental lease dated September 17, 1962 between Cherokee's predecessor-in-interest and Alvin and Effie Harding, a October 8, 1985 delivery agreement between Mr. Alvin Harding and Cherokee, and mechanical (municipal) deliveries by Cherokee, as described below. Such pumping and delivery of water to Harding Nursery for the nursery's non-irrigation and non-domestic uses occurs

under Cherokee's use of the mechanical (municipal) aspect of the wells' rights, and such pumping and delivery of water to the nursery for the nursery's irrigation and domestic uses occurs under the aspect of the of the rights reserved by the Lessors. The 1962 Lease and October 8, 1985 delivery agreement allow for use for the nursery's irrigation and domestic uses under the specific rights reserved by the Lessors, and limited to a total volume of 180 acre-feet per year at a flow rate of 1 cfs. Any mechanical (municipal) use at the Harding Nursery is limited use for drinking and sanitary at the Harding Nursery and are of such a limited amount (less than 5 acre-feet/year) that they are included within the 180 acre-feet per year total volume limit of delivery under the aspect of the rights reserved by the Lessors. Because Cherokee made such October 8, 1985 delivery agreement with the Hardings prior to 1999, for purposes of this decree, the parties stipulate that Cherokee's use of the water rights associated with Wells 1-8 pursuant to the Decree for this purpose is lawful. However, neither UBS nor the Commission waive any claims regarding use by the Harding Nursery beyond that which was expressly provided for under the 1962 lease and the October 8, 1985 delivery agreement, and within the legal uses provided for in the original water rights adjudicated in Case No. 42135-B .

12.3. Leases: Any pumping, delivery and use of water from Wells 1-8 that may be included in the 1954 and 1962 Leases, and claimed by Lessors, or the successors-in-interest to the Lessors, other than by Harding Nursery, are not herein addressed. Neither Cherokee, Staff, nor UBS waive any claims regarding the 1954 and 1962 Leases, and Lessors' (or Lessors' successors-in-interest) use of water based on such leases. Cherokee certifies that it is not delivering water to any other water users through Wells 1-8, other than what is provided for in the table above.

Specifically, except as provided for herein for Harding Nursery, this stipulated Initial Order makes no findings, factual or legal, as to any issue related to the Lessors' (or their successors) alleged existing or reserved water interests associated with the Wells 1-8 water rights, including without limitation, legal type and place of use, legal acreage of irrigation, abandonment and/or whether the Lessors' (or their successors) maintained diligence on any water rights.

13. Accounting: Cherokee shall conduct monthly accounting that includes pumping from each of the wells and amount of water delivered to each of its commitments as listed above, and submit that accounting on a monthly basis to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission Staff, unless otherwise required by Staff or the District. Because Cherokee cannot precisely match the production and demand for Wells 1-8 for any given month, the monthly amount of water Cherokee produces from Wells 1-8 is based on a projected in-Basin demand. At the end of each month, Cherokee reviews the well production for Wells 1-8 and compares such production with the actual in-Basin demand (the amount of water actually provided to Cherokee's in-Basin commitments) for the same month. To the extent the production of Wells 1-8 exceeds the in-Basin demand in any given month, Cherokee shall reconcile such excess by a corresponding reduction in its pumping of Wells 1-8 during the next month. This practice is reasonable, lawful, and may

continue as long as the production of Wells 1-8 for any given year does not exceed the annual volumetric limits described in the table above.

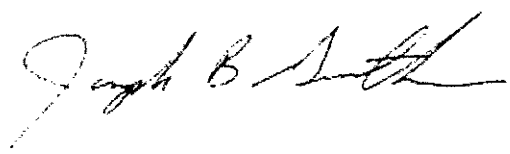
14. Mechanical Use: The mechanical type of use described in the Decree was intended by the original appropriators to describe what is now commonly known as municipal use, which includes various subcategories including, but not limited to, domestic, fire protection, sanitary, irrigation of lawns, parks and open spaces, commercial, and recreational purposes. Accordingly, the mechanical (municipal) uses as listed above are lawful for Wells 1-8 pursuant to the Decree.

15. Future Changes: This Order does not authorize Cherokee to make any uses of Wells 1-8 beyond those described herein. To change the type of use, place of use, or any other aspect of the subject water rights that requires a change of water rights adjudication, Cherokee must obtain the Commission's approval for such change pursuant to applicable laws and regulations.

16. No Effect on 1999 Stipulation: This Order does not alter, amend, or affect any provision pertaining to Wells 1-8 in the January 25, 1999 Stipulation between Cherokee, UBS, and the Commission in Case No. 98CW80, Water Division 2.

17. No Precedent: The findings and order in this matter were completed as a result of substantial discussions, negotiations, and compromises by, between and among the Parties pertaining to all parts of this Order. It is specifically understood and agreed by the parties hereto, and found by the Ground Water Commission, that the acquiescence of the parties to a stipulated order under the specific factual and legal circumstances of this contested matter and upon the numerous and interrelated compromises reached by the parties shall never give rise to any argument, claim, defense or theory of acquiescence, waiver, bar, merger, *stare decisis*, *res judicata*, estoppel, laches, or otherwise, nor to any administrative or judicial practice or precedent, by or against any of the parties hereto in any matter, case, or dispute involving other water rights, nor shall testimony concerning such acquiescence of any party to a stipulated finding and order herein be allowed in any matter, case or dispute involving other water rights. This order shall not be construed as a commitment to include any specific findings of fact, conclusions of law or specific engineering methodologies or administrative practices in proceedings before the Colorado Ground Water Commission, including any findings and orders entered by the Commission.

Dated this 17th day of July, 2017.



Joseph (Jody) Grantham, Hearing Officer
Colorado Ground Water Commission
Email: jody.grantham@state.co.us

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the within **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND INITIAL DECISION AND ORDER OF THE HEARING OFFICER FOR THE COLORADO GROUND WATER COMMISSION** to the parties herein by email at Denver, Colorado, this 17th day of July 2017, addressed as follows:

Peter C. Johnson, Esq
John C. Cyran, Esq.
Attorneys for Petitioner, Cherokee Metropolitan Dist.
pcjohnson2479@gmail.com
john@jjcyranlaw.com

Lisa M. Thompson, Esq.
Attorney for Upper Black Squirrel Creek Ground Water Management District
lthompson@troutlaw.com

Jennifer M. DiLalla, Esq.
Brian T. Selogie, Esq.
Attorneys for Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust
jdilalla@mwhw.com
bselogie@mwhw.com

Jennifer Mele, Esq.
Assistant Attorney General
Attorney for Staff of the Colorado Ground Water Commission
jennifer.mele@coag.gov

Pauline Wilber
Legal Assistant, Attorney General's Officer
pauline.wilber@coag.gov

Keith Vander Horst and Rick Nielsen
Staff for the Colorado Ground Water Commission
keith.vanderhorst@state.co.us
rick.nielsen@state.co.us

Best Copy Available

RECEIVED
APR 2 - '92
WATER RESOURCES
STATE ENGINEER
COLO.

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 90-GW-05

NEGOTIATED SETTLEMENT AND ORDER

IN THE MATTER OF THE APPLICATION FOR ALTERNATE POINTS OF DIVERSION FOR PERMIT NOS. 6821-FP, 11198-FP, 14145-FP AND [redacted]

CHEROKEE WATER DISTRICT, APPLICANT

The undersigned parties hereby set forth their negotiated settlement of their dispute and agree as follows:

FINDINGS OF FACT

1. The applicant is the owner of the four wells listed in the table below. In previous proceedings before the Commission, production from these four wells was approved for export from the Upper Black Squirrel Creek Designated Ground Water Basin (hereinafter "Basin") as shown in the following table:

Permit No.	Cherokee Well No.	Location T15S, R63W	Permitted Annual Withdrawal	Permitted Annual Export	Permitted Pumping Rate
6821-FP	11	NW, NW 13	640 AF	244 AF	1650 GPM
11198-FP	12	NE, NW 13	450 AF	244 AF	1325 GPM
14145-FP	9	NW, NE 12	345 AF	176 AF	1000 GPM
[redacted]	10	SW, NW 12	345 AF	176 AF	1000 GPM
			TOTAL 1780 AF	840 AF	

2. Cherokee is seeking permission to pump the subject wells as alternate points of diversion to each other to provide operating flexibility for its water distribution system. To prevent material injury to the vested rights of other appropriators, Cherokee proposed the following conditions when operating these alternate points:

   a. In any one year the combined diversions from all four wells will not exceed the total permitted annual withdrawal of 840 acre feet.

   b. Total diversions from an individual well may exceed its permitted annual withdrawal by 50 percent in any one year, but would be limited to two times its annual withdrawal in any consecutive 2-year period.

3. The wells in question are located in the Upper Black Squirrel Creek Designated Ground Water Basin and in the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission has jurisdiction.

EIVED
APR 2 - '92
STATE ENGINEER

4. The application was published in the Colorado Springs Gazette Telegraph on April 12 and April 19, 1990.

5. The District has filed a timely objection to the application claiming that existing water rights in the Basin would be injured if the application was granted without protective terms and conditions.

6. A hearing in this matter was held on March 5, 1991 in the Centennial Building in Denver, Colorado. The hearing was conducted by the Commission's Hearing Officer, Reiner G. Haubold. The Findings of Fact, Conclusion of Law, and Initial Decision of the Commission was issued by the Hearing Officer on April 5, 1991. This initial decision granted the applicant's request.

7. The District filed a timely appeal of the initial decision of the Hearing Officer requesting the Commission to modify the decision and listed those proposed exceptions to the initial decision.

8. The parties herewith agree to entry of the following order to establish the terms and conditions to be placed upon the approval of the applicant's request by the Commission, and agree to abide by the Commission's decision if so revised.

9. In accordance with Section 37-90-111(1)(g), C.R.S., the Commission finds that the applicant's request for alternate points of diversion for the above referenced wells will not cause material injury to the vested rights of other appropriators if the wells are operated under conditions as stated in the order below.

ORDER

IT IS HEREBY ORDERED that the applicant's request to use wells with Permit Nos. 6821-FP, 11198-FP, 14145-FP, and 14146-FP as alternate points of diversion to one another be approved with the following conditions:

a. The average annual withdrawal of wells with Permit Nos. 6821-FP, 11198-FP, 14145-FP, and 14146-FP is limited to 244, 244, 176, and 176 acre-feet respectively but are subject to the following provisions:

(1) Total diversions from any individual well shall not exceed 150 percent of its annual appropriation in any one year;

(2) The 2-year running average diversion from any individual well shall not exceed twice its permitted annual appropriation; and

(3) The combined annual withdrawal by the subject wells shall be limited to 840 acre-feet.

b. The water withdrawn from these four wells as permitted in item (a) above can be exported out of the boundaries of the Upper Black Squirrel Creek Basin or can be used

RECEIVED
APR 2 - '92
WATER RESOURCES
STATE ENGINEER
COLO.

for any beneficial use within the Basin. No increase in permitted withdrawals through these wells shall be permitted to compensate, for example, for any return flows to the alluvial aquifer within the Basin.

c. A totalizing flow meter shall be installed and maintained in good working order on each of these wells. Any water withdrawal from these wells shall be closely monitored by the well owner to ensure compliance with the well permit conditions. The owner shall submit to the Commission an annual report by February 28 of each year showing total acre-feet of water withdrawn on a monthly basis from each well and any necessary calculations to show compliance with item (a) above. Additionally, the records of the owner shall be open and available to inspection by representatives of the Upper Black Squirrel Creek Management District.

d. For a period of five years from the date of this Commission Order, the Ground Water Commission shall retain jurisdiction to determine whether or not there is any injury caused to any other vested water rights, and the Commission at any time during said 5-year period shall have the right to reopen this proceeding at its own initiative or that of the Commission staff or the parties. (Continued on page 4.)

RECEIVED
APR 2 - '92
WATER RESOURCES
STATE ENGINEER
COLO

The form and content of the foregoing Stipulated Findings of Fact and Order are hereby accepted as of the date below indicated.

SUSEMIHL, LOHMAN, KENT
CARLSON & MCDERMOTT, P.C.

By: _____
Peter M. Susemihl (#494)
Attorneys for CHEROKEE WATER
660 Southpointe Court, Suite 210
Colorado Springs, CO 80906
(719) 579-6500

GALE A. NORTON
Attorney General

RAYMOND T. SLAUGHTER
Chief Deputy Attorney General

TIMOTHY M. TYMKOVICH
Chief Deputy Attorney General

PATRICIA BANGERT
Deputy Attorney General

PETROCK & FENDEL, P.C.
James J. Petrock, #2881
Frederick A. Fendel, III #10476

_____
James J. Petrock
Attorney for Objector, the Upper Black Squirrel Creek Ground Water Management District
1630 Welton Street, Suite 200
Denver, CO 80202
Telephone: (303) 534-0702

_____
Patrick E. Kowaleski
Assistant Attorney General
Natural Resources Section
Attorneys for the Staff of the Colorado Ground Water Commission
110 Sixteenth Street, 10th Floor
Telephone: (303) 620-4732

DONE this 7th date of April, 19 92.

_____
Hal D. Simpson
Acting Executive Director
Ground Water Commission

Appendix F

DISTRICT COURT, WATER DIVISION 2 PUEBLO COUNTY, COLORADO Pueblo County Judicial Building 320 West 10th Street Pueblo, CO 81003	DATE FILED: February 26, 2015 CASE NUMBER: 2005CW6
CONCERNING THE APPLICATION FOR WATER RIGHTS FOR CHEROKEE METROPOLITAN DISTRICT **IN EL PASO COUNTY, COLORADO**	**▲ COURT USE ONLY ▲**
	Case No: **05CW06/05CW20 (Consolidated)**
FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE	

This matter has come before the Water Court on the Applications of the Cherokee Metropolitan District ("Cherokee") to make absolute portions of conditional ground water rights and for a finding of reasonable diligence.

The Court, having reviewed all pleadings, made such other investigations as are necessary to determine whether the statements in the Applications are true, and otherwise being fully advised in the premises, does hereby enter the following Findings of Fact, Conclusions of Law, Judgment and Decree ("Decree") in this matter.

FINDINGS OF FACT

1. **Applicant:**

   Cherokee Metropolitan District
   Sean Chambers, General Manager
   6250 Palmer Park Blvd.
   Colorado Springs, CO 80915
   (719) 597-5080

2. **Jurisdiction:** Timely and adequate notice of the pendency of these proceedings *in rem* and matters determined herein was given in the manner required by law. The Water Court has jurisdiction over the subject matter of these proceedings and over all persons and owners of property who may be affected hereby, whether they have appeared or not.

   2.1. The Sweetwater Conditional Water Rights are ground water rights with points of diversion located within the boundaries of the Upper Black Squirrel Creek Designated

Ground Water Basin (the "UBS basin"). This Court, and not the Colorado Ground Water Commission, has jurisdiction over this proceeding pursuant to *Sweetwater Development Corp. v. Schubert Ranches, Inc.*, 535 P.2d 215 (Colo. 1975).

3. **Procedural History:**

3.1. Applications: Cherokee filed an application in Case No. 05CW06 on February 14, 2005, seeking to make absolute the conditional water rights for Cherokee Well Nos. 14, 15, and 16, also known as Sweetwater Nos. 9, 8, and 3, respectively. Cherokee sought leave to amend the application to add a claim to make the conditional water right for Cherokee Well No. 17 partially absolute, which leave was granted by order of the Referee on June 6, 2008. Cherokee filed a second application in Case No. 05CW20 on March 9, 2005, seeking a finding of reasonable diligence on the remaining Sweetwater Conditional Water Rights. The application in 05CW06, as amended, and the application in Case No. 05CW20 were consolidated pursuant to an Order of the Referee dated November 2, 2007.

3.2. Case Nos. 05CW06 and 05CW20 were referred to the Water Referee and subsequently consolidated Case Nos. 05CW06 and 05CW20 were re-referred to the Water Judge on January 27, 2009. The Water Judge assigned this consolidated case to the Alternate Water Judge on August 6, 2013.

3.3. Case No. 11CW11, Water Division 2: The decree for the Sweetwater Conditional Water Rights in Case No. 98CW80 required Cherokee to file an application for reasonable diligence on or before March 31, 2005 and "thereafter as required by law." Cherokee timely filed an application for finding of reasonable diligence within the required time period. However, because the statutory period for applications of reasonable diligence is six years, and because these consolidated Case Nos. 05CW6/05CW20 were still pending six years after the March 31, 2005 date specified in the 98CW80 decree, Cherokee filed an additional application for finding of reasonable diligence in Case No. 11CW11, Water Division 2, Colorado. The Court finds that Cherokee need not have filed the application in Case No. 11CW11 because the Court's determination of Cherokee's diligence in completing the Sweetwater Conditional Water Rights appropriations has been pending in consolidated Case Nos. 05CW06/05CW20 since Cherokee's timely application for finding of reasonable diligence, and Cherokee's application to make portions of the Sweetwater Conditional Water Rights absolute. Accordingly, because the Water Court never entered an order in these consolidated Case Nos. 05CW6/05CW20 requiring Cherokee to file further applications for findings of reasonable diligence for the Sweetwater Conditional Water Rights, the Sweetwater Conditional Water Rights remain subject to the Water Court's jurisdiction in this case. Because the application in Case No. 11CW11 was unnecessarily filed, Cherokee shall withdraw it upon entry of this Decree.

3.4. Cherokee II: The Sweetwater Conditional Water Rights were the subject of an appeal to the Colorado Supreme Court in *Cherokee Metropolitan Dist. v. Upper Black Squirrel Ground Water Management Dist.*, 247 P.3d 567 (Colo. 2011) ("*Cherokee II*"), in which

the Colorado Supreme Court affirmed the Division 2 Water Court Order determining that the failure of Cherokee to timely file its application to make certain of the Sweetwater Conditional Water Rights absolute within two years as provided in the 1999 Stipulation and Decree resulted in abandonment of the portions of its conditional rights to Wells 14-17 for which it untimely filed to make absolute. *Cherokee II*, 247 P.3d at 569. The Colorado Supreme Court however made "no determination as to whether Cherokee should receive a finding of reasonable diligence for the remaining conditional portions" of the Sweetwater Conditional Water Rights. *Id.* at 575. Cherokee timely filed its applications for diligence on the remaining Sweetwater Conditional Water Rights in March 2005 in Case No. 05CW20. It is this remaining conditional portion of the Sweetwater Conditional Water Rights that Cherokee seeks to make absolute or expressly abandon, as described below.

3.5. Statements of Opposition:

3.5.1. A Statement of Opposition to the application was timely filed by Rodney Preisser on April 29, 2005. This Statement of Opposition was withdrawn on July 25, 2007.

3.5.2. The Upper Black Squirrel Creek Ground Water Management District ("UBS") was granted intervention in this matter on September 12, 2005. Cherokee and UBS agreed to a stipulation resolving the opposition of UBS on June 16, 2014.

3.5.3. A Statement of Opposition to the Amended Application was filed by Wayne E. and Frances G. Booker on July 25, 2008. This Statement of Opposition was withdrawn on June 16, 2014.

3.5.4. Edna Farmer, The Estate of Joseph M. Farmer (deceased), Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company, LLC, and Teresa Farmer (collectively "Farmer Family") were granted intervention in this matter on January 5, 2010. The Farmer Family withdrew its Statement of Opposition on October 17, 2014.

3.5.5. No other Statements of Opposition were filed in this matter and the time for filing Statements of Opposition has expired.

4. **Summary of Consultation:** The Court has considered the Division Engineer's Summary of Consultation Report dated July 29, 2005. *See* C.R.S. § 37-92-302(4). The Summary of Consultation Report was properly served on the parties. This Decree addresses the matters raised in the Summary of Consultation Report.

5. **Description of conditional ground water rights:** The conditional ground water rights at issue in this case (the "Sweetwater Conditional Water Rights") were originally decreed in Case No. 53483, Pueblo County District Court, Colorado. The Sweetwater Conditional

Water Rights are decreed as the Sweetwater Nos. 1, 2, 3, 5, 8, 9 11, 13, 15 and 16, a portion of which are now known as the Cherokee Wells, as described below.

5.1. Description of Structures*:

5.1.1. Cherokee Well 13(Sweetwater No. 1)

5.1.1.1. Location: 50 feet east and 3,000 feet south of the NW corner of Section 24, T. 15 S., R. 63 W. of the 6th P.M.

5.1.1.2. Amount: 4.0 cfs

5.1.1.3. Priority Date: June 6, 1966

5.1.1.4. Priority Number: 72-84

5.1.2. Cherokee Well 14 (Sweetwater No. 9)

5.1.2.1. Location: 100 feet north and 2,400 feet east of the SW corner of Section 23, T. 15 S., R. 63 W. of the 6th P.M.

5.1.2.2. Amount: 4.0 cfs

5.1.2.3. Priority Date: June 6, 1966

5.1.2.4. Priority Number: 72-79

5.1.3. Cherokee Well 15 (Sweetwater No. 8)

5.1.3.1. Location: 5,200 feet east and 50 feet south of the NW corner of Section 35, T. 15 S., R. 63 W. of the 6th P.M.

5.1.3.2. Amount: 4.0 cfs

5.1.3.3. Priority Date: Dec. 31, 1965

5.1.3.4. Priority Number: 72-75

5.1.4. Cherokee Well 16 (Sweetwater No. 3)

5.1.4.1. Location: 3,500 feet east and 50 feet south of the NW corner of Section 35, T. 15 S., R. 63 W. of the 6th P.M.

5.1.4.2. Amount: 4.0 cfs

5.1.4.3. Priority Date: June 6, 1966

5.1.4.4. Priority Number: 72-82

5.1.5. Cherokee Well 17 (Sweetwater No. 11)

5.1.5.1. Location: 50 feet north and 2,700 feet east of the SW corner of Section 35, T. 15 S., R. 63 W. of the 6th P.M.

5.1.5.2. Amount: 4.0 cfs

5.1.5.3. Priority Date: Dec. 31, 1965

5.1.5.4. Priority Number: 72-73

5.1.6. Sweetwater No. 2:

---

* The amounts stated in paragraph 5.1 are the total amounts decreed in Case No. 53483, Pueblo County District Court, Colorado.

5.1.6.1. Location: 30 feet east and 30 feet south of the NW corner of Section 25, T. 15 S., R. 63 W. of the 6th P.M.
5.1.6.2. Amount: 0.6 cfs[1]
5.1.6.3. Priority Date: June 6, 1966
5.1.6.4. Priority Number: 72-83

5.1.7. Sweetwater No. 5:
5.1.7.1. Location: 3,200 feet east and 3,000 feet south of the NW corner of Section 24, T. 15 S., R. 63 W. of the 6th P.M.
5.1.7.2. Amount: 4.0 cfs
5.1.7.3. Priority Date: Dec. 31, 1965
5.1.7.4. Priority Number: 72-77

5.1.8. Sweetwater No. 13
5.1.8.1. Location: 700 feet north and 1,100 feet east of the SW corner of Section 23, T. 15 S., R. 63 W. of the 6th P.M.
5.1.8.2. Amount: 4.0 cfs
5.1.8.3. Priority Date: July 14, 1964
5.1.8.4. Priority Number: 72-36

5.1.9. Sweetwater No. 15
5.1.9.1. Location: 1,600 feet east and 2,500 feet south of the NW corner of Section 25, T. 15 S., R. 63 W. of the 6th P.M.
5.1.9.2. Amount: 4.0 cfs
5.1.9.3. Priority Date: Dec. 31, 1965
5.1.9.4. Priority Number: 72-72

5.1.10. Sweetwater No. 16
5.1.10.1. Location: 1,000 feet east and 50 feet south of the NW corner of Section 36, T. 15 S., R. 63 W. of the 6th P.M.
5.1.10.2. Amount: 4.0 cfs
5.1.10.3. Priority Date: Dec. 31, 1965
5.1.10.4. Priority Number: 72-71

5.2. Source: Black Squirrel Creek alluvium, which is within the Upper Black Squirrel Creek Designated Ground Water Basin.

5.3. Type of Use: Irrigation, domestic, and mechanical (municipal purposes) as part of a unified water supply project.

---

[1] In Case No. 53483 entered April 29, 1972, Sweetwater No.2 was also decreed for 4.4 c.f.s. absolute (priority date: June 6, 1966).The Farmer Family (Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company LLC, and Teresa Farmer) claim to own the Sweetwater No.2 absolute decreed amount of 4.4 c.f.s. and such absolute amount is not affected by this decree.

5.4. Prior Decrees: The Sweetwater Conditional Water Rights were originally adjudicated on April 28, 1972 in Case No. 53483 Pueblo County District Court, and continued in Case Nos. W-44, W-4406(76), 80CW35, 84CW48, 84CW55, 84CW59, and 88CW49. Most recently, Cherokee was awarded a finding of reasonable diligence for the Sweetwater Conditional Water Rights in Case No. 98CW080, continuing the Sweetwater Conditional Water Rights in full force and effect.

5.5. Remarks:

5.5.1. Cherokee Well 13 (Sweetwater No. 1): Cherokee was awarded an absolute water right for Cherokee Well 13 (Sweetwater No. 1) on January 16, 2003 in Case No. 00CW46 (W-44), in the amount of 1,268 acre-feet per year at a rate of 1,000 gallons per minute for irrigation, domestic, and mechanical (municipal) uses as part of a unified water supply project.

6. Water Rights Abandoned in Case No. 09SA337: In Case No. 09SA337, the Colorado Supreme Court affirmed the Division 2 Water Court Order determining that the failure of Cherokee to timely file its application to make certain portions of the Sweetwater Conditional Water Rights absolute within two years as provided in the 1999 Stipulation and Decree resulted in abandonment of portions of the Sweetwater Conditional Water Rights. The Court finds that portions of the Sweetwater Conditional Water Rights for Cherokee Well 15 (Sweetwater No.8), Cherokee Well 16 (Sweetwater No. 3), and Cherokee Well 17 (Sweetwater No. 11) were not abandoned in Case No. 09SA337 and Cherokee is entitled to an absolute decree for the amounts claimed in this proceeding.

7. **Additional Findings Regarding Conditional Water Right for Sweetwater No. 5:**

7.1. Diligence: Cherokee has proceeded with reasonable diligence toward the completion of the conditional ground water right for Sweetwater No. 5, as described above. Cherokee has demonstrated a steady application of effort to complete said appropriation, and its continuing intent to develop and apply the water available pursuant to said conditional ground water right to beneficial use.

7.2. Can and will: Cherokee has demonstrated that the water available pursuant to the conditional ground water right for Sweetwater No. 5 can and will be diverted, stored or otherwise captured, possessed and controlled and will be beneficially used, and that Cherokee can and will complete the construction of the well and appropriation of the right with diligence and within a reasonable time. Construction of the diversion and control structures is technically and economically feasible. Cherokee has demonstrated that there is an adequate supply of water legally and physically available for the conditional water right. Provided, however, that Cherokee's future claim to make the conditional water right for Sweetwater No. 5 absolute will not exceed 290 acre-feet per year.

7.3. Need: Cherokee's intent to appropriate the conditional ground water right for Sweetwater No. 5 is not speculative. The conditional ground water right for Sweetwater

No. 5 is needed to satisfy the demands of Cherokee to operate the conditional water right as part of its unified water supply project, as described above. Cherokee has demonstrated that it has a specific plan and intent to divert, store or otherwise capture, possess and control the water available pursuant to said conditional ground water right for the beneficial uses set forth above.

7.4. Integrated Water Supply System: The conditional ground water right for Sweetwater No. 5 constitutes a feature of Cherokee's integrated water system. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b).

8. **Claims to Make Absolute:** Cherokee claims the following absolute water rights:

8.1. Cherokee Well 15 (Sweetwater No. 8): Cherokee claims an absolute water right for 281 acre-feet per year, at a flow rate of 350 gallons per minute, for irrigation, domestic, and mechanical (municipal) uses as part of a unified water supply project.

8.2. Cherokee Well 16 (Sweetwater No. 3): Cherokee claims an absolute water right for 219 acre-feet per year, at a flow rate of 250 gallons per minute, for irrigation, domestic, and mechanical (municipal) uses as part of a unified water supply project.

8.3. Cherokee Well 17 (Sweetwater No. 11): Cherokee claims an absolute water right for 175 acre-feet per year, at a flow rate of 340 gallons per minute, for irrigation, domestic, and mechanical (municipal) uses as part of a unified water supply project.

8.4. Total Annual Volume for Cherokee Wells 15, 16, and 17: The total aggregate amount of diversions made pursuant to the absolute water rights decreed herein for Cherokee Wells 15, 16, and 17 shall not exceed 609 acre-feet per year (with the total amount of 609 acre-feet per year based on a calendar year of January 1-December 31).

8.5. The Court finds that Cherokee has lawfully diverted and beneficially used the amounts of water listed above pursuant to the conditional ground water rights for Cherokee Wells 15, 16, and 17, and therefore Cherokee is entitled to a decree awarding absolute water rights for these wells.

9. **Abandonment of Sweetwater Conditional Water Rights:** Cherokee hereby abandons the following Sweetwater Conditional Water Rights:

9.1. The portion of the conditional right for Cherokee Well 13 (Sweetwater No. 1) in excess of the absolute water right for 1,268 acre-feet per year as decreed in Case No. 00CW46, as described above.

9.2. Cherokee Well 14 (Sweetwater No. 9), as described above, in its entirety.

9.3. The portion of the conditional right for Cherokee Well 15 (Sweetwater No. 8) in excess of the absolute water right for 281 acre-feet per year, as described above.

9.4. The portion of the conditional right for Cherokee Well 16 (Sweetwater No. 3) in excess of the absolute water right for 219 acre-feet per year, as described above.

9.5. The portion of the conditional right for Cherokee Well 17 (Sweetwater No. 11) in excess of the absolute water right for 175 acre-feet per year, as described above.

9.6. The conditional water right for Sweetwater No. 2, as described above, in its entirety.

9.7. The conditional water right for Sweetwater No. 13, as described above, in its entirety.

9.8. The conditional water right for Sweetwater No. 15, as described above, in its entirety.

9.9. The conditional water right for Sweetwater No. 16, as described above, in its entirety.

The flow rates for the water rights decreed absolute herein are unaffected by Cherokee's abandonment of the volumetric portions of the Sweetwater Conditional Water Rights listed in Paragraph 9 above.

10. **Terms and Conditions:**

10.1. Total Annual Volume for Cherokee Wells 15, 16, and 17: The total aggregate amount of diversions made pursuant to the absolute water rights decreed herein for Cherokee Wells 15, 16, and 17 shall not exceed 609 acre-feet per year. The 609 acre-feet is a negotiated maximum annual amount from Cherokee Wells 15, 16 and 17 for January 1-December 31 and is not a rolling average. While the individual well limits total 675 acre-feet per year, this amount is not the annual maximum per year limit for the total diversions from the three wells, rather the parties expressly acknowledge that the total aggregate amount from the three wells from January 1- December 31 is limited to 609 acre-feet per year.

10.2. Case No. 98CW80: In Case No. 98CW80, Cherokee stipulated to several terms and conditions regarding Cherokee's wells located in the UBS basin (including the Sweetwater Conditional Water Rights) in a Stipulation and Release dated January 25, 1999 attached hereto as **Exhibit A**. Some of the terms and conditions were then incorporated in the final decree in Case No. 98CW80. All provisions, paragraphs and terms and conditions of the party's prior Stipulation and Release dated January 25, 1999 shall remain in full force and effect as a contract between the parties. Provided, however, that the following clarifications apply based upon UBS and Cherokee's stipulation reached in this consolidated Case Nos. 05CW06/05CW20:

10.2.1. Cherokee and UBS acknowledge that the total maximum annual volumetric limit in the Stipulation and Release dated January 25, 1999 at paragraphs 4.G.1 and 4.G.3 of 6,258 acre-feet per year of diversions is now limited to 2,167 acre-feet

per year of diversion of Cherokee Wells 13, 15, 16, and 17, as well as Sweetwater No. 5, based on the following total maximum diversions:

10.2.1.1. For Sweetwater No. 1 (Cherokee Well 13), the total decreed absolute amount is 1,268 acre-feet per year, as decreed in Case No. 00CW46;

10.2.1.2. For Sweetwater No. 8 (Cherokee Well 15), Sweetwater No. 3 (Cherokee Well 16), and for Sweetwater No. 11 (Cherokee Well 17), the total combined maximum pumping is 609 acre-feet per year (with the individual well limits described above) as decreed absolute herein;

10.2.1.3. For Sweetwater No. 5, the maximum amount that Cherokee may claim as absolute is 290 acre-feet per year, with such final decreed amounts to be determined in a future proceeding by the Water Court if Cherokee files an application seeking to make absolute within the required six years.

10.2.2. Cherokee and UBS have further agreed that the "two year after the first diversion" filing requirement contained in 4.F. is superseded pursuant to their stipulation in this case, for purposes of any claim by UBS, by the six-year filing deadline for Sweetwater No. 5 described below in paragraph 19. More specifically, UBS has agreed not to pursue a claim against Cherokee for not making the "two year after the first diversion" filing. Rather, if Cherokee misses the six year filing deadline to make absolute Sweetwater No. 5, then Sweetwater No. 5 will be automatically abandoned by the Water Court upon motion of any party.

CONCLUSIONS OF LAW

11. The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.

12. **Notice and Jurisdiction:** The Water Court for Division 2 has jurisdiction over the subject matter of these proceedings and over all persons and owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The Applications and Amended Application in this matter and the resume publication thereof placed such persons on notice of the relief requested by the Applications and Amended Application and granted by this Decree. C.R.S. §§ 37-92-203 and 302.

13. **Application Complete:** The Application is complete, covering all applicable matters required by the Water Right Determination and Administration Act of 1969, C.R.S. § 37-92-101 through 602, and should be granted as set forth herein.

14. **Burden of Proof:** Cherokee has complied with all requirements and met all standards and burdens of proof for its claim for a finding of reasonable diligence and its claims to make absolute. Cherokee is therefore entitled to a decree confirming that it has made absolute portions

of the conditional water rights that are the subject of this Decree, and to continuation of the remaining portions of those conditional water rights in full force and effect.

15. **No Injury:** The terms and conditions as set forth in this Decree are adequate to prevent injury to the vested rights of others, including the owners of, or persons entitled to use water under a vested water right or a decreed conditional water right. C.R.S. § 37-92-305.

16. **Administration:** The absolute water rights contained in this Decree are capable of administration by the state water officials, including UBS.

JUDGMENT AND DECREE

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

18. **Absolute Water Rights:** The following absolute water rights are hereby approved, confirmed and adjudicated:

18.1. Cherokee Well 15 (Sweetwater No. 8): Cherokee is awarded an absolute water right for Cherokee Well 15, as described in Paragraph 5.1.3 above, in the amount of 281 acre-feet per year, at a flow rate of 350 gallons per minute.

18.2. Cherokee Well 16 (Sweetwater No. 3): Cherokee is awarded an absolute water right for Cherokee Well 16, as described in Paragraph 5.1.4 above, in the amount of 219 acre-feet per year, at a flow rate of 250 gallons per minute.

18.3. Cherokee Well 17 (Sweetwater No. 11): Cherokee is awarded an absolute water right for Cherokee Well 17, as described in Paragraph 5.1.5 above, in the amount of 175 acre-feet per year, at a flow rate of 340 gallons per minute.

18.4. Total Annual Volume for Cherokee Wells 15, 16, and 17: The total aggregate amount of diversions made pursuant to the absolute water rights decreed herein for Cherokee Wells 15, 16, and 17 shall not exceed 609 acre-feet per year. The 609 acre-feet is a negotiated maximum annual amount from Cherokee Wells 15, 16 and 17 for January 1-December 31 and is not a rolling average. While the individual well limits total 675 acre-feet per year, this amount is not the annual maximum per year limit for the total diversions from the three years, rather the parties expressly acknowledge that the total aggregate amount from the three wells from January 1- December 31 is limited to 609 acre-feet per year.

18.5. As absolute water rights, the regulation and administration of such rights are within the jurisdiction of the Colorado Ground Water Commission ("Commission") and UBS. Cherokee shall make any future filings regarding these absolute rights to the Commission or UBS.

19. **Conditional Water Right for Sweetwater No. 5:** The conditional water right for Sweetwater No. 5, as described above, is hereby approved, confirmed and adjudicated, and shall continue in full force and effect.

19.1. Cherokee and UBS have stipulated to the following terms and conditions regarding this conditional water right:

19.1.1. The conditional water right for Sweetwater No. 5 will continue in full force and effect for one additional diligence period, which shall be six years from date of this Decree in accordance with C.R.S. § 37-92-301(4)(a).

19.1.2. If Cherokee has not filed an application to make the Sweetwater No. 5 conditional water right absolute within the six-year period, then the conditional water right shall be automatically abandoned by operation of this Decree.

19.1.3. Cherokee's claim to make the conditional water right for Sweetwater No. 5 absolute will not exceed 290 acre-feet per year. And Cherokee's claim to make absolute must be based on lawful beneficial use based on at least 12 consecutive months of pumping and beneficial use after the well is drilled. If less than 12 months is used by Cherokee to establish the amounts claimed absolute, UBS reserves the right to challenge such amounts. To the extent that Cherokee cannot divert water from Sweetwater No. 5 for 12 consecutive months for reasons beyond Cherokee's control (including but not limited to well collapse, interruption of power supply, and acts of god), then Cherokee reserves the right to prove the amount made absolute based on less than 12 consecutive months of pumping.

19.1.4. The conditional water right for Sweetwater No. 5 may be exported outside of the Upper Black Squirrel Creek Designated Basin in the amount claimed absolute in Cherokee's application to make absolute, and then in the amount as subsequently approved by the Water Court as absolute, but in no instance more than the 290 acre-feet per year.

20. **Abandonment of Sweetwater Conditional Water Rights:** The following Sweetwater Conditional Water Rights are hereby abandoned:

20.1. The portion of the conditional water right for Cherokee Well 13 (Sweetwater No. 1) in excess of the absolute water right for 1,268 acre-feet per year (1,000 gallons per minute) as decreed in Case No. 00CW46, as described above.

20.2. Cherokee Well 14 (Sweetwater No. 9), in its entirety. This well will be plugged, sealed and abandoned pursuant to 2 CCR 402-2.

20.3. The portion of the conditional water right for Cherokee Well 15(Sweetwater No. 8) in excess of the absolute water right for 281 acre-feet per year (350 gallons per minute) decreed herein.

20.4. The portion of the conditional water right for Cherokee Well 16 (Sweetwater No. 3) in excess of the absolute water right for 219 acre-feet per year (250 gallons per minute) decreed herein.

20.5. The portion of the conditional water right for Cherokee Well 17 (Sweetwater No. 11) in excess of the absolute water right for 175 acre-feet per year (340 gallons per minute) decreed herein.

20.6. The conditional water right for Sweetwater No. 2, in its entirety, for the 0.6 cfs conditional water right owned by Cherokee.

20.7. The conditional water right for Sweetwater No. 13, in its entirety.

20.8. The conditional water right for Sweetwater No. 15, in its entirety.

20.9. The conditional water right for Sweetwater No. 16, in its entirety.

21. Entry of this Decree shall not prejudice the rights of UBS to lawfully apply its rules and regulations to the operation of said wells and Cherokee agrees to allow UBS to monitor the operation of Cherokee Wells 13, 15, 16, and 17, together with any beneficial use of Sweetwater No. 5 undertaken by Cherokee.

22. Any production wells at the abandoned well locations described herein shall be plugged and abandoned pursuant to 2 CCR 402-2.

23. Cherokee will obtain and/or maintain well permits for the Sweetwater Conditional Water Rights decreed absolute herein as required by law.

24. A copy of this Decree shall be filed with the Division Engineer for Water Division 2, Colorado, and the State Engineer for the State of Colorado.

25. If Cherokee seeks to make the conditional water right for Sweetwater No. 5 absolute, an application to make absolute shall be filed on or before six years from the date of this Decree, which date is February 26 2021. Cherokee shall not file any future application seeking reasonable diligence for Sweetwater No. 5 pursuant to the terms of this stipulated Decree. If Cherokee does not file its application seeking to make the conditional water right for Sweetwater No. 5 absolute by the date listed herein, the water right will be automatically abandoned pursuant to this Decree and UBS and Cherokee's stipulation in this matter, and the Court will enter an order of abandonment on motion of any party.

Dated this 26 day of Feb, 2015.

BY THE COURT:

Larry E. Schwartz
Alternate Water Judge
Water Division No. 2
State of Colorado

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO

Appendix G

BEFORE THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT, STATE OF COLORADO

FINDINGS, CONCLUSIONS, AND ORDER OF THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT, CHEROKEE METROPOLITAN DISTRICT TIPTON WELL VARIANCE REQUEST
EL PASO COUNTY, COLORADO

APPLICANT, CHEROKEE METROPOLITAN DISTRICT

The Board of Directors of the Upper Black Squirrel Creek Ground Water Management District ("District"), having reviewed the pleadings and the evidence submitted by the Applicant, Cherokee Metropolitan District ("Cherokee") at the January 11, 2013 hearing before the District in this matter, makes the following findings, conclusions, and order:

I. PROCEDURAL HISTORY

1. By a letter dated August 29, 2012, Cherokee requested that the District approve pursuant to Rule 4 of the Upper Black Squirrel Creek Ground Water Management District Rules and Regulations and Statement of Policy, as amended through December 5, 2006 (the "District Rules") Cherokee's proposed use of a monitoring well constructed pursuant to Permit Number 273194 as a replacement well for Cherokee's withdrawal of water attributable to the water rights represented by Final Permit Numbers R 16253-FP and 27574-FP, and, further, that Cherokee be permitted to demonstrate no material injury to other appropriators would occur by Cherokee's withdrawal of water attributable to the water rights represented by Final Permit Numbers R 16253-FP and 27574-FP at that location ("Variance Request").

2. Notice of the Variance Request was published in September of 2012.

3. A Statement of Objection was received from Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company, LLC, and Teresa Farmer (the "Farmer Family").

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO

4. At its November 13, 2012 District Board Meeting, the District set the Variance Request for a one day hearing on January 11, 2013.

5. The Farmer Family subsequently withdrew its objection by a notice dated December 21, 2012.

6. A hearing before the Board of Directors for the District was held January 11, 2013.

II. FINDINGS

1. Cherokee states it is the owner of certain water rights represented by Final Permit Numbers R 16253-FP and 27574-FP that are currently permitted for withdrawal from a structure known as the "Tipton Well."

2. The surveyed location of the Tipton Well is in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M., at a point 2180 feet from the North section line and 2475 feet from the East Section line of said Section 36 ("Tipton Well Location"). Attached as Exhibit A is a certified survey setting forth actual and permitted locations in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M., relevant to the District's evaluation of the Variance Request. The Tipton Well Location is identified in Exhibit A as the "Actual Well."

3. On December 29, 1961, a form for the registration of a well ("In course of construction") was filed with the Ground Water Section of the Colorado State Engineer's Office by Charles Gregg and Mary Gregg. The well was assigned Registration No. 16253, to be used for domestic, irrigation and mechanical purposes and was claimed to have been first used November 23, 1954 ("Well 16253 Registration"). The yield of the well is identified as 2 cfs. The initial location of the well was indicated in type as being in the NE1/4 of the SW1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M.

4. On June 25, 1962, the Pueblo County District Court entered its Findings and Decree in Case Number B-42135 ("B-42135 Decree") confirming two separate water rights to a structure referred to therein as Gregg #2 well, located in the NE1/4 of the SW1/4 of Section 36 at a point from which the Southwest corner of Section 36, Township 12 South, Range 63 West of the 6th P.M., bears South 54° 28' 13" West a distance of 2,694 feet. The well was decreed for irrigation, domestic and mechanical purposes. The court confirmed the first water right for 1 cubic foot per second of time as of November 23, 1954 and the second water right for 1 cubic foot per second of time as of December 1, 1954, for a total decreed capacity of 2 cubic feet per second of time.

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO.

5. On February 17, 1970, an Application for Replacement for Well No. 16253 was received by the Ground Water Section of the Colorado State Engineer's Office from Charles Gregg. The application sought to relocate the well associated with Well 16253 Registration to a location in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M., at a point 2200 feet from the North section line and 2200 feet from the East Section line. The replacement well was to have a pumping rate of 900 gpm from the Upper Black Squirrel Alluvium for withdrawal of an average of 350 acre-feet annually for irrigation of 140 acres located in the NE1/4 of Section 36. The application was granted on June 3, 1970 as Permit No. RF874. The location identified in Permit No. RF874 is referred to hereinafter as the "Permitted Location" and is identified in Exhibit A as such.

7. A Map and Statement for Water Well Filing for Permit Number RF874, including a well completion report, was received by the Colorado Division of Water Resources on February 24, 1971. The Map and Statement was submitted by Carles R. Davis and described the location of the well completed pursuant to Well Permit Number RF874 as being located in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M., at approximately 2165 feet from the North section line and 2,495 feet from the East section line. This location is identified in Exhibit A as the Driller's Log Location.

8. On September 24, 1984, the Colorado Ground Water Commission issued Final Permit No. R-16253-FP in the Upper Black Squirrel Creek Designated Ground Water Basin. The Final Permit provides that the water right has priority no. 52 in the Basin, with a priority date of November 23, 1954, for irrigation, domestic and mechanical uses. The location is described in the Final Permit as the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th Principal Meridian.

9. On September 24, 1984, the Colorado Ground Water Commission issued Final Permit No. 27574-FP in the Upper Black Squirrel Creek Designated Ground Water Basin. The Final Permit provides that the water right has priority no. 70 in the Basin, with a priority date of December 1, 1954 for irrigation, domestic and mechanical uses. The permitted location is described in the Final Permit as the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th Principal Meridian.

10. On December 4, 1991 the Hearing Officer for the Colorado Ground Water Commission approved and entered a Negotiated Settlement and Order in Case No. 91-GW-01, concerning the water rights represented by Final Permit Nos. 27574-FP and R-16253-FP ("91-GW-01 Order"), which confirmed that both water rights were withdrawn from the same structure located in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M. The applicants in that proceeding sought to change the description of lands which could be irrigated with water attributable to Final Permit Nos.

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO

27574-FP and R-16253-FP, and to change the use of water from irrigation to irrigation, municipal, commercial and industrial uses and export outside of the Upper Black Squirrel Creek Designated Ground Water Basin. The 91-GW-01 Order granted the applicants' requested change for Final Permit Nos. 27574-FP and R-16253-FP and imposed the certain terms and conditions on the withdrawal and use of water available pursuant to those water rights.

11. On January 8, 1992, the Colorado Ground Water Commission issued Amended Final Permit R-16253-FP in the Upper Black Squirrel Creek Designated Ground Water Basin. The Amended Final Permit provides that the water right has an appropriation date of November 23, 1954 for irrigation uses. The permitted location is described in the Amended Final Permit as the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th Principal Meridian. The Amended Final Permit further states that when the well is used for municipal, commercial, and/or industrial purposes inside the Basin, or when the well is used for export outside the Basin, the conditions stated in the 91-GW-01 Order shall apply.

12. Also on January 8, 1992, the Colorado Ground Water Commission issued Amended Final Permit 27574-FP in the Upper Black Squirrel Creek Designated Ground Water Basin. The Amended Final Permit provides that the water right has an appropriation date of December 1, 1954 for irrigation uses. The location is described in the Amended Final Permit as the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th Principal Meridian. The Amended Final Permit further states that when the well is used for municipal, commercial, and/or industrial purposes inside the Basin, or when the well is used for export outside the Basin, the conditions stated in the 91-GW-01 Order shall apply.

13. The Tipton Well is the only known well located in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M., that has been used for the withdrawal of water pursuant to the water rights now represented by Final Permit Nos. 27574-FP and R-16253-FP. The Tipton Well Location is approximately 25 feet to the southeast of the location described in the February 24, 1971 Map and Statement. *See* Exhibit A (calculated distance between Driller's Log Location and Actual Well).

14. Cherokee secured a monitoring well permit, Permit Number 273194 issued April 4, 2007, and constructed a monitoring well pursuant to that permit at a location in the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M., at a point 2217 feet from the North section line and 2465 feet from the East section line ("Monitoring Well"). The Monitoring Well location is identified in Exhibit A. The Monitoring Well was constructed by Cherokee in a manner that it could later be converted into a production well with Colorado Ground Water Commission and District Approval.

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO

15. The measured distance from the Monitoring Well to the Tipton Well Location is 38.32 feet. *See* Exhibit A.

16. Cherokee submitted a General Purpose Water Well Permit Application to Replace Existing Well on July 19, 2007, assigned Receipt No. 3619107, to replace the Tipton Well by converting the monitoring well constructed pursuant to Permit Number 273194 to a production well ("Replacement Well Application").

17. The Commission Staff returned the Replacement Well Application by a letter dated September 4, 2007, for additional information or for changes necessary for the Commission Staff to continue its evaluation and approval, including approval by the District pursuant to Rule 4 of the District Rules.

III. CONCLUSIONS

1. Rule 4 of the District Rules states that "[a] replacement well or substitute well which is to be located no more than 50 feet from the original well, will be recommended by the Board for Commission approval, so long as the replaced well is to be abandoned and filled in or capped with concrete."

2. The District Rules do not define the term "original well." However, the term "well" is defined in Rule 1.I of the District Rules as being the same as set forth in C.R.S. § 37-90-103(21), which states that a "'[w]ell' means any structure or device used for the purpose or with the effect of obtaining ground water for beneficial use from an aquifer." § 37-90-103(21), C.R.S.; *see also* District Rules at Rule 1.I. Further, Rule 4 requires the replaced well to be filled or capped with concrete.

3. The language of both Rule 4 and the definition of a "well" in the District Rules indicate that the term "original well," as used in Rule 4, means an actual legally constructed well structure, rather than the originally permitted well site, where under the facts of this matter is a point on the ground where there is no structure or no structure has ever existed.

4. The originally permitted well site is relevant to the application of Rule 6.2 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 ("Commission Rules"), as discussed in paragraph 8 below.

5. Pursuant to the Colorado Ground Water Commission's issuance of Permit No. RF874 in June of 1970, the permitted point of diversion for the water rights now represented by

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO

Final Permit Nos. R-16253-FP and 27574-FP was changed to a well constructed in the SW1/4 of the NE1/4 of Section 36 at the Tipton Well Location.

6. The Final Permits issued by the Colorado Ground Water Commission on September 24, 1984 for the water rights represented by Final Permit Numbers R 16253-FP and 27574-FP confirmed that the permitted location of the well is the SW1/4 of the NE1/4 of Section 36, Township 12 South, Range 63 West of the 6th P.M.

7. For purposes of Rule 4 of the District Rules, the "original well" is the Tipton Well, which is the only known structure completed in the SW1/4 of the NE1/4 of Section 36 at which water available pursuant to the water rights now represented Final Permit Numbers R 16253-FP and 27574-FP has been withdrawn and placed to beneficial use. The Monitoring Well, being 38.32 feet away, is within 50 feet of this "original well."

8. If Cherokee seeks a new replacement well in the future, the "original well" will continue to be the existing Tipton Well Location, which is the only known structure completed in the SW1/4 of the NE1/4 of Section 36, more specifically located at a point 2180 feet from the North section line and 2475 feet from the East Section line of said Section, and as shown on the attached Exhibit A as the "Actual Well." Accordingly, any new replacement well in the future must be located within 50 feet of this original well.

9. Rule 6.2 of the Commission Rules requires that a replacement well to be constructed into the alluvial aquifer be constructed within 300 feet of the "originally permitted well site." Pursuant to Rule 6.4 of the Commission Rules, the "originally permitted well site" is the Permitted Location set forth in Permit No. RF874, as illustrated in Exhibit A. A replacement well permit application must satisfy both Rule 4 of the District Rules and Rule 6.2 of the Commission Rules. The Monitoring Well is 265 feet from the Permitted Location and therefore also meets the requirements of Rule 6.2 of the Commission Rules.

IV. ORDER

Based on the foregoing findings and conclusions that the Monitoring Well lies within 50 feet of the "original well," the District recommends the Colorado Ground Water Commission's approval of Cherokee's request to replace the Tipton Well by converting the Monitoring Well constructed pursuant to permit no. 273194 to a production well for withdrawal of the water rights represented by Final Permit Numbers R 16253-FP and 27574-FP, so long as the Tipton Well is abandoned and filled in or capped with concrete. Cherokee shall provide a copy of the Tipton Well abandonment report to the UBS District. This recommendation for approval is contingent upon Cherokee converting the Monitoring Well to a production well at the Monitoring Well existing location as shown on Exhibit A, which is 2217 feet from the North section line and 2465 feet from the East section line.

RECEIVED
APR 10 2013
WATER RESOURCES
STATE ENGINEER
COLO

DATED this 11th day of February, 2013.

BY THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

2/11/2012.

Tim Hunker, President

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone: (303) 866-3581
FAX: (303) 866-3589

http://water.state.co.us/default.htm

January 5, 2000

Bill Owens
Governor

Greg E. Walcher
Executive Director

Hal D. Simpson, P.E.
State Engineer

Mr. Jim Oxford
Oxford Realty & Investment Corporation
615 Castle Road
Colorado Springs, CO 80904

Re: Permit No. R-20567-FP within the Upper Black Squirrel Creek Designated Ground Water Basin.

Dear Mr. Oxford:

This letter is in response to your letter received by this office on November 30, 1999, which requested information about the well with Permit No. R-20567-FP. Specifically you are inquiring about the aforementioned well's permitted uses and if this well may be moved to a different location.

In addressing the first issue, our files indicate that the well with Permit No. R-20567-FP is located in the NW1/4 of the NW1/4 of Section 29, Township 14 South, Range 62 West of the 6th P.M. and is permitted to pump at a maximum rate of 850 gallons per minute, withdraw a maximum of 640 acre-feet per year and irrigate 120 acres described as the NW1/4 of said Section 29. Additionally, the Colorado Ground Water Commission on April 22, 1977 authorized a change in use for the aforementioned well to be used for irrigation, municipal, industrial, and commercial use subject to the following conditions. I have attached a copy of the final permit for your use.

1. The annual amount of ground water that is exported shall not exceed 95 acre-feet.
2. If the ground water is exported, no irrigation within the basin shall be allowed.
3. If the ground water is exported, the well shall be metered and annual reports of total water withdrawal shall be supplied to the Commission no later than February 28, of the following year.

In addressing the second issue, it is possible to move the well with Permit No. R-20567-FP to a different location, however, an application needs to be made to the Colorado Ground Water Commission. Once this application is received the Commission Staff will evaluate said application according to the provisions of Section 37-90-111(1)(g), C.R.S. (1999) and Commission Rule 7.3. These regulations allow a well to be moved within the Upper Black Squirrel Creek Designated Ground Water Basin but not in excess of one-half mile from the original location. This move will require a historic consumptive use computation and an analysis of the saturated thickness at the new site. The Commission requires this information to prevent the well at the new location from being able to withdraw more ground water than than what was historically removed at the original site. As it appears from review of our files, the Commission has already conducted an average historical use analysis limiting the well to 95

acre-feet per year when the well is used for irrigation, municipal, industrial, and commercial use. However, an analysis of the difference in saturated thickness will still need to be conducted.

I have attached an application the Commission uses to change the location of an existing well for your use. If you have any additional questions or comments please do not hesitate to contact me at this office .

Sincerely,

William H. Fronczak, P.E.
Supervisor, Designated Basins Branch

WHF/bf/oxford

Attachments

Appendix I

BEFORE THE GROUND WATER COMMISSION

STATE OF COLORADO

IN THE MATTER OF OBJECTIONS TO) THE PROPOSED CHANGE OF USE AND) PLACE OF USE OF GROUND WATER) BY DAVID AND BEVERLEY GOSS IN) THE UPPER BLACK SQUIRREL CREEK) DESIGNATED GROUND WATER BASIN)	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS OF THE HEARING OFFICER

HEARING: July 24, 1974
In the County Commissioner's Auditorium in the El Paso County Office Building, Colorado Springs, Colorado before Bruce E. DeBrine, Deputy State Engineer for Ground Water, Hearing Officer for the Ground Water Commission.

APPEARANCES: Mr. Dewayne R. Schroeder, Water Resources Engineer, Ground Water Commission Staff
Mr. David Goss, Applicant
Mr. Buddy Babcock, Objector
Mr. Theodore Schubert, Objector
Mr. M. T. Wiley, Objector

COUNSEL: Mr. Loren Swick, Assistant State Solicitor General, for the Commission
Mr. Charles M. Elliot, Special Assistant Attorney General, for the Commission
Mr. William Nowland, appearing on behalf of Mr. David Goss

FINDINGS OF FACT AND CONCLUSIONS

1. The hearing was called pursuant to 37-90-107 (4), Colorado Revised Statutes 1973, and conducted pursuant to the provisions of 37-90-113, Colorado Revised Statutes, 1973.

2. The Upper Black Squirrel Creek Ground Water Basin was designated as such by order of the Colorado Ground Water Commission dated May 1, 1968.

3. On January 30, 1974, David and Beverley Goss submitted to the Ground Water Commission an application requesting a change of use and place of use of ground water from three (3) wells located in the Upper Black Squirrel Creek Designated Ground Water Basin as follows:

Permit No. 15389-F in the NW¼, SW¼ of Section 7,
Township 13 South, Range 62 West.

Permit No. 2076-F in the SW¼, SW¼ of Section 7,
Township 13 South, Range 62 West.

Permit No. 4332-F in the NW¼, SW¼ of Section 7,
Township 13 South, Range 62 West.

The request was to change the use from irrigation to irrigation and municipal for permits Nos. 4332-F and 2076-F, and from irrigation and domestic to domestic, irrigation, and municipal for permit No. 15389-F. The applicants proposed to export 1,000 acre-feet per year of ground water

for municipal use to the Cherokee Water District or any other purchaser.

4. The staff of the Commission prepared and submitted to the Ground Water Commission, at the February 8, 1974 meeting, a report and recommendation of this request. This report showed that the three (3) wells appear on the tentative priority list for the Upper Black Squirrel Creek Designated Ground Water Basin for the following priorities, dates, acreage irrigated, pumping rate, and annual appropriation:

Permit No.	Priority	Date	Acreage Irr.	Pumping Rate	Annual App.
15389-F	2	12-31-21	40	405	200
2076-F	121	02-25-59	140	1260	500
4332-F	135	02-17-63	100	1650	700

The recommendation was to approve the requested changes in use and to allow the exportation of water to other lands according to the following equation:

$$W = (0.4)\ L + (0.6)\ A$$

where

W = Allowable annual withdrawal of a well measured in acre-feet,

L = Annual volume from a well used for domestic/municipal uses in the Basin measured in acre-feet,

and A = Annual appropriation for a well to be determined on the final priority list for the Basin measured in acre-feet.

Additional conditions were recommended as follows:

(1) The quantity (L) shall not exceed the quantity (A).

(2) If waters are exported to other lands, no irrigation use shall be allowed for that well and the historic acreage irrigated shall be taken out of crop production,

(3) For water exported, each well will meter the quantity (L) and submit these values annually to the Commission no later than February 28 of the following year.

The Commission directed the staff to advertise the request, and if objections were received, hold the hearing and bring the matter back before the Commission.

5. The request for the change of use and place of use was published in newspapers of general circulation in the county concerned in March 14 and 21, 1974 editions, noting that the protest period ended April 22, 1974. Timely protests were received by the Commission from M. T. Wiley, Schubert Ranches, Inc. (T. P. Schubert, President), and Buddy B. Babcock on April 10, 1974.

6. Testimony presented by the applicant, David Goss, showed that he irrigates approximately 280 acres using 5 acre-feet of water per acre,

or approximately 1500 acre-feet annually. One of the objectors, Mr. Schubert, questioned the amount of acreage irrigated, but did not present any evidence as to what the total acreage would be. Mr. Schubert and Mr. Babcock questioned the amount of water needed per acre to grow crops on the land, stating that 5 acre-feet per acre was too high. However, the testimony did show that the Goss land was conducive to high return flows and because of that, and in light of the long reaches on the Goss land, more water may have to be applied to effectively irrigate a crop. No evidence was presented as to what amount of water was actually needed for raising crops on the Goss land.

7. The objectors basically did not oppose a change in use of the water involved, but were concerned with return flows, injury to senior "downstream" appropriators, and the amount of water that might be exported. No specific claim to injury was introduced, and no definite amounts of water which could be changed to other uses or other places of use without injury to prior rights was presented.

8. As argued by the counsel for the applicant, the Ground Water Commission is charged or has the authority under the provisions of 37-90-111, Colorado Revised Statutes, 1973 to supervise and control the exercise and administration of designated ground water to achieve the full economic development of designated ground water while maintaining reasonable pumping levels and protecting prior appropriations of the water as the Legislature declared in 37-90-102, Colorado Revised Statutes, 1973.

The Ground Water Commission has recognized this responsibility in the Upper Black Squirrel Creek Basins by declaring the Basin to be fully appropriated. No new well permits (appropriations) have been allowed in this Basin for several years. To the extent possible, existing ground water conditions, historic uses, and return flows should be maintained. There are sufficient powers and safeguards given to the Commission in Section 37-90-111, Colorado Revised Statutes 1973, to allow maintenance of reasonable pumping levels and to provide proper protection for prior appropriators of this ground water.

9. A recommendation was presented to the Ground Water Commission, by the hearing officer, at its February 6, 1976, meeting to allow the applicant

to export ground water from the Upper Black Squirrel Creek Designated Basin in an amount not to exceed 800 acre-feet per year. The Commission tabled this matter and directed the staff to obtain more information from the applicant and to re-evaluate the amount of water that had been historically used by him.

The applicant submitted crop and acreage records for the years 1966 through 1975. The staff using these figures and the most recent and best values for consumptive use obtainable, re-evaluated the amount of water that could be transported annually from the basin without changing existing ground water conditions. This quantity was determined to be 60% of an annual quantity of water, in acre-feet, equal to the number of acres irrigated times 2.5 acre-feet per acre.

RECOMMENDATIONS

1. Grant the requested change of use for permits Nos. 2076-F and 4332-F from irrigation to irrigation and municipal and for permit No. 15389-F from domestic and irrigation to domestic, irrigation, and municipal.

2. Grant the requested change of place of use of ground water by exportation in an amount not to exceed 420 acre-feet per year, this amount being 60% of the quantity equal to the number of acres irrigated times 2.5 acre-feet per acre. The annual withdrawal of each well should be determined according to the formula

$$W = (0.4)\ L + (0.6)\ A$$

which has been defined in Section (4) of the FINDINGS OF FACT AND CONCLUSIONS except that the quantity A is now defined as:

A = 2.5 acre-feet per acre irrigated times the number of acres irrigated.

3. Condition the well permits so that: 1) in the above equation, the quantity (L) shall not exceed the quantity (A); 2) if waters are exported, irrigation shall not be allowed by the wells involved and the historic number of acres irrigated by the wells shall be taken out of crop production; and 3) if water is exported, the wells shall be metered and annual reports of total withdrawal and the quantity (L) shall be supplied to the Commission no later than February 28 of the following year.

Bruce E. DeBrine

Bruce E. DeBrine
May 10, 1976

BEFORE THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF EXPORT OF WATER OUTSIDE THE BOUNDARIES OF THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT PURSUANT TO SECTION 37-90-130(2)(F), C.R.S.

EL PASO COUNTY, COLORADO

APPLICANTS, CHEROKEE METROPOLITAN DISTRICT, ROBERT L. GARNER, SEP IRA; R.W. CASE; AND CANDACE H. SEATON REALTY SEP IRA

The Upper Black Squirrel Creek Ground Water Management District ("District"), acting by and through its Board of Directors, and having reviewed the pleadings and the evidence submitted by the Applicants, Robert L. Garner, SEP IRA; R.W. Case; Candace H. Seaton Realty SEP IRA, and Cherokee Metropolitan District at the March 7, 2017 hearing in the above-captioned matter, hereby issues following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. **Application**. On October 17, 2016, pursuant to C.R.S. § 37-90-130(2)(f), Rule 7 of the Rules and Regulations of the Upper Black Squirrel Creek Ground Water Management District ("Rules and Regulations"), and Rule 4 of the Hearing Procedures of the Upper Black Squirrel Creek Ground Water Management District, Applicants Robert L. Garner, SEP IRA; R.W. Case; Candace H Seaton Realty SEP IRA; and Cherokee Metropolitan District (collectively, "Applicants") submitted an application to the Upper Black Squirrel Creek Ground Water Management District seeking approval to export 115.4 acre-feet of water per year pursuant to Well Permit No. 27571-FP and to export 38.1 acre-feet of water per year pursuant to Well Permit No. 27272-FP. Applicants have paid all filing fees associated with this application as required by Rule 7.A of the District's Rules and Regulations.

2. **Publication**. Pursuant to Rule 7.B of the District's Rules and Regulation, notice of the pendency of this Application was published on October 20, 2016 and October 27, 2016, in the *Ranchland News*, a newspaper of general circulation within the District. No objections to the Application were received by the District, and the time to submit objections has now expired.

3. **Water Rights.** The water rights described herein are located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the boundaries of the Upper Black Squirrel Creek Ground Water Management District. The Upper Black Squirrel Creek Ground Water Management District and the Colorado Ground Water Commission have jurisdiction over the administration and enforcement of the subject water rights. The water rights and associated well permits included in the Application are described as follows:

   A. Permit No. 27571-FP was issued on July 10, 1985, for a permitted location in the SW ¼ of the SE ¼ of Section 36, Township 12 South, Range 63 West, 6th P.M. and for domestic, irrigation, and mechanical uses, including the use of 263 acre-feet annually for the irrigation of 140 acres in the SW ¼ of Section 36, Township 12 South, Range 63 West of the 6th P.M. The maximum pumping rate is 449 gallons per minute. This permit is associated with the same structure as Permit No. 27572-FP.

   B. Permit No. 27572-FP was issued on July 10, 1985, for a permitted location in the SW ¼ of the SE ¼ of Section 36, Township 12 South, Range 63 West, 6th P.M. and for domestic, irrigation, and mechanical uses, including the use of 87 acre-feet annually for the irrigation of 140 acres in the SW ¼ of Section 36, Township 12 South, Range 63 West of the 6th P.M. The maximum pumping rate is 1,346 gallons per minute. This permit is associated with the same structure as Permit No. 27571-FP.

   C. Permit No. 18919-FP was issued on July 10, 1985, for a permitted location in the SW ¼ of the SE ¼ of Section 36, Township 12 South, Range 63 West, 6th P.M. and for domestic, irrigation, and mechanical uses. The water rights associated with this well permit have been abandoned pursuant to stipulations between the Applicants and the Objectors in Case No. 15GW08 before the Colorado Ground Water Commission, as described further in Paragraph 4 of these Findings.

4. **Change of Use Application, Case No. 15GW08**. In Case No. 15GW08 before the Colorado Ground Water Commission, the Applicants submitted an application to change the use of the designated ground water rights associated with Well Permit Nos. 27571-FP and 27572-FP, described more particularly in Paragraph 3 herein. That application sought two types of changes of the subject water rights:

   A. First, Applicants sought to change the place of use of the subject water rights from 140 acres in the SW ¼ of Section 36, T12S, R63W, El Paso County, Colorado, to the boundaries of the Cherokee Metropolitan District, as these boundaries may change from time to time, and including leases or other agreements to provide water outside of Cherokee's boundaries.

   B. Second, Applicants sought to change the type of use of the subject water rights from irrigation, domestic, and mechanical uses to municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, storage

and maintenance of storage reserves, augmentation, exchange and replacement purposes, with the right to use, reuse and successively use the subject water to extinction.

C. The application filed in Case No. 15GW08 acknowledged that, because Cherokee's boundaries are located outside of the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, the Applicants' requested change in place of use of these water rights constitutes a request for the right to export the historically consumed portion of the subject water rights for the above-described types of use outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S.; and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1.

5. **Stipulated Findings and Orders, Case No. 15GW08**. On September 7, 2016, Applicants entered into stipulations with the District, the Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust, and Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company, LLC, and Teresa Farmer (collectively, "Objectors"). Pursuant to these stipulations, the Objectors consented to the Commission's entry of *Findings and Orders* for Permit Nos. 27571-FP, 27572-FP, and 18919-FP, **attached hereto as Exhibits 1-3**, the terms of which are incorporated herein. Relevant here, the Applicants and the above-noted Objectors stipulated to the following findings concerning the subject water rights:

   A. Permit No. 27571-FP. Pursuant to the stipulated *Findings and Order of the Colorado Ground Water Commission* in Case No. 15GW08 regarding Permit No. 27571-FP, the parties have stipulated that the average annual historical depletion to the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin as a result of the withdrawal of designated ground water under Permit No. 27571-FP is 115.4 acre-feet.

   B. Permit No. 27572-FP. Pursuant to the stipulated *Findings and Order of the Colorado Ground Water Commission* in Case No. 15GW08 regarding Permit No. 27572-FP, the parties have stipulated that the average annual historical depletion to the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin as a result of the withdrawal of designated ground water under Permit No. 27572-FP is 38.1 acre-feet.

   C. Permit No. 18919-FP. The water rights associated with this well permit have been abandoned.

6. **Export**. The Stipulation with the District in Case No. 15GW08 also included the following provision regarding export from within the District's boundaries:

   Export: The parties have stipulated to factual findings in the Proposed Findings and Orders that the subject water rights may be withdrawn and

exported outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin without causing unreasonable depletion of the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin and/or injury to the vested rights other appropriators. The subject water rights may not be exported until the Applicants have obtained the approval pursuant to C.R.S. § 37-90-130(2)(f) and Rule 7 of the Rules and Regulations of the Upper Black Squirrel Creek Ground Water Management District Rules and Regulations and Statement of Policy. In the event the Upper Black Squirrel Creek Ground Water Management District Board of Directors does not approve the export of 153.5 acre feet of water, UBS agrees to support the voiding of any Findings and Orders entered by the Ground Water Commission, and to support the entry of an order by the Ground Water Commission to hear Applicants' application to change the place of use and type of use of permit numbers 27571-FP and 27572-FP.

Due to the provision in the stipulations between Applicants and the District described above, the Ground Water Commission Staff has agreed to wait until the District considers and rules upon the Applicants' export request before entering the final *Findings and Orders* for the subject water rights in Case No. 15GW08.

7. **Hearing**. At its January 3, 2017 Board Meeting, the District scheduled the Applicants' export request for hearing following the regularly scheduled board meeting on March 7, 2017. Such hearing was conducted in accordance with the Hearing Procedures of the Upper Black Squirrel Creek Ground Water Management District.

8. **Allowable Export**. To prevent material injury to the vested water rights of other appropriators, the District finds and determines that the proposed export from the District for the changed purposes must be restricted to the average annual historical depletions caused by the use of each well permit as specified in Paragraphs 5(A) and 5(B) above and subject to all terms in the stipulated *Findings and Orders* in Case No. 15GW08, **attached hereto**. The District further finds that irrigation has ceased on the historically irrigated 140 acres and may no longer occur with the subject water rights. The District also specifically emphasizes that the attached stipulations include monthly volumetric limits that are critical to the District's determination in paragraph 9 that the proposed export will not materially affect vested designated ground water rights.

9. **No Material Affect.** The District finds and determines that if the proposed use of ground water exported from the District is restricted to the average annual historical depletions caused by the use of each well as specified by the stipulated *Findings and Orders* described above, the proposed export will not materially affect any vested rights to the use of designated ground water within the Upper Black Squirrel Creek Designated Ground Water Basin.

CONCLUSIONS OF LAW

10. All of the foregoing Findings of Fact are incorporated herein to the extent that they constitute conclusions of law.

11. Section 37-90-130(2)(f), C.R.S. empowers the District "to prohibit, after affording an opportunity for a hearing before the board of the local district and presentation of evidence, the use of groundwater outside the boundaries of the district where such use materially affects the rights acquired by permit by any owner or operator of land within the district."

12. Section 37-90-130(2)(e), C.R.S., authorizes the District "to promulgate reasonable rules and regulations for the purpose of conserving, preserving, protecting, and recharging the groundwater of the groundwater aquifer or subdivision thereof, in conformity with the provisions of this article."

13. Pursuant to the authority set forth in Section 37-90-130(2)(e), C.R.S., the District has enacted Rule 7, concerning the export of water from within the District's boundaries. Rule 7 of the District Rules states that "[t]he use of designated ground water extracted from any well within the District boundaries, outside of the Upper Black Squirrel Creek Designated Ground Water Basin, is prohibited, unless the party seeking such export is able to demonstrate to the satisfaction of the Board of Directors of the District, by a preponderance of the evidence that such use will not materially affect any vested rights to the use of designated ground water within the basin. . . . Any application for a change in use or a change in place of use, within the boundaries of the designated basin, shall be recommended by the District for approval by the Ground Water Commission, only upon a finding by the Management District Board that such change in place of use or change in use will not materially affect any vested rights to the use of designated ground water within the basin and only upon such conditions as may be reasonably necessary to prevent such material effect."

14. In accordance with Section 37-90-130(2)(f), C.R.S., and Rule 7 of the District's Rules and Regulations, the approval of the application subject to the terms and conditions specified in this Order will not materially affect any vested rights to the use of designated ground water within the District.

ORDER

15. The Application to export the water withdrawn pursuant to Final Permit Nos. 27571-FP and 27572-FP outside the boundaries of the Upper Black Squirrel Creek Ground Water Management District is hereby approved, subject to the following terms and conditions:

    A. The withdrawal and use of the water withdrawn pursuant to Final Permit Nos. 27571-FP and 27572-FP shall comply with all terms and conditions set forth in this Order, the respective proposed *Findings and Orders* of the Colorado Ground Water Commission in Case No. 15GW08 **attached hereto as Exhibits 1-3**, and the

Stipulations entered into between the Applicant and the Objectors to Case No. 15GW08. Provided that the Applicants comply with such terms and conditions, the water withdrawn pursuant to Permit Nos. 27571-FP and 27572-FP may be exported outside the boundaries of the District and applied to beneficial use in the areas described within the stipulated *Findings and Orders.*

Dated this 10th day of April, 2017.

BY THE UPPER BLACK SQUIRREL CREEK GROUND WATER MANAGEMENT DISTRICT

Donald Booker, President

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 15-GW-08

(PROPOSED) FINDINGS AND ORDER OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF OBJECTIONS TO APPLICATION FOR CHANGE IN TYPE OF USE CONCERNING PERMIT NO. 27571-FP, LOCATED IN THE UPPER BLACK SQUIRREL DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIIRREL GROUND WATER MANAGEMENT DISTRICT IN EL PASO COUNTY

APPLICANTS: ROBERT L. GARNER, SEP IRA; RANDLE W. CASE, ESTATE; CANDACE H. SEATON REALTY SEP IRA; and CHEROKEE METROPOLITAN DISTRICT

FINDINGS

In compliance with C.R.S. § 37-90-111(1)(g), Robert L. Garner SEP IRA; Randle W. Case, Estate; Candace H. Seaton Realty SEP IRA; and Cherokee Metropolitan District (collectively "Applicants") submitted an application to change the place of use and type of use of Permit No. 27571-FP. Based upon information provided by Applicant and records of the Division of Water Resources, the Colorado Ground Water Commission ("Commission") finds as follows:

1. Description of Water Right in Final Permit Prior to Change in Type and Place of Use:
   1.1. Permit No. 27571-FP
      1.1.1. Well Location: SW ¼ of the SE ¼ of Section 36, Township 12 South, Range 63 West, 6th P.M.
      1.1.2. Permit Date: July 10, 1985
      1.1.3. Maximum Pumping Rate: 449 Gallons per minute
      1.1.4. Maximum Annual Volume of Appropriation: 263 Acre-feet
      1.1.5. Uses: Irrigation, Domestic, and Mechanical
      1.1.6. Maximum Number of Acres which may be Irrigated: 140
      1.1.7. Description of Acres Irrigated: SW ¼ of Section 36, Township 12 South, Range 63 West of the 6th P.M.

2. Designated Ground Water Rights: The well described herein is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the boundaries of the Upper Black Squirrel Creek Ground Water Management District. The Ground Water Commission has jurisdiction over this application, and the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission have jurisdiction over the administration and enforcement of the subject water right. The subject

EXHIBIT 1

water right is subject to the rules and regulations of the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission.

3. Application: On March 27, 2015, Applicants filed a complete application ("Application") to change the place of use and type of use of Permit no. 27571-FP.

   3.1. Change in Type of Use: The Application claimed a change of Permit No. 27571-FP from the originally permitted irrigation, domestic, and mechanical uses to municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation, exchange and replacement purposes, with the right to use, reuse and successively use the subject water to extinction.

   3.2. Change in Place of Use (Export): The Application claimed a change in place of use from 140 acres in the SW ¼ of Section 36, T12S, R63W to the boundaries of the Cherokee Metropolitan District, as the District's boundaries may change from time to time, and including leases or other agreements to provide water outside the District's boundaries. The Application acknowledged that because the Cherokee Metropolitan District boundaries are located, in part, outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, this claim for change in place of use is a request for the right to export the historically consumed portion of this water right for the above-described types of use outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S.; and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1.

   3.3. Publication and Notice: In accordance with C.R.S.§§ 37-90-111(1)(g) and 112(1), the Application was published in the Ranchland News on June 11 and 18, 2015.

4. Parties: The following Parties filed Objections to the Application:

   4.1. Upper Black Squirrel Creek Ground Water Management District ("UBS District")
   4.2. Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust ("Booker Trusts")
   4.3. JT Johnson Properties II, LLC
   4.4. Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company, LLC, and Teresa Farmer ("Farmer Family")

5. Average Annual Withdrawal and Aquifer Depletion

   5.1. Applicants have reached a stipulated settlement as to the Average Annual Withdrawal and Aquifer Depletion, as follows:

      5.1.1. The average annual legal historical withdrawal associated with Permit No. 27571-FP is 188.6 acre-feet.

5.1.2. The average annual historical depletion to the alluvial aquifer of the Upper Black Squirrel Designated Ground Water Basin as a result of the withdrawal of designated ground water under Permit No. 27571-FP is 115.4 acre-feet. Accordingly, 115.4 acre-feet per year may be withdrawn and, subject to approval of the Upper Black Squirrel Creek Ground Water Management District, may be exported outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, without causing unreasonable depletion of the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin and/or injury to the vested rights other appropriators. The subject water right shall not be exported until such export is approved by the Upper Black Squirrel Creek Ground Water Management District, pursuant to C.R.S. § 37-90-130(2)(f) and Rule 7 of the Upper Black Squirrel Creek Ground Water Management District Rules and Regulations and Statement of Policy.

6. Application is not speculative: Applicant Cherokee Metropolitan District has the ability to put the subject water to the types of uses and place of use sought in this application. Applicant Cherokee is a quasi-governmental agency with a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses. Cherokee has proven a specific plan for actual beneficial use to be made at the location(s) identified herein. This Application is not speculative and will not create unreasonable waste.

ORDER

In accordance with C.R.S. § 37-90-111(1)(g), the Colorado Ground Water Commission orders that the Application to change the type of use and the place of use for Permit No. 27571-FP be approved subject to the following conditions:

7. The above findings of fact are incorporated by reference herein.

8. The place of use of the water withdrawn under Permit No. 27571-FP shall be limited to i) the boundaries of the Cherokee Metropolitan District, as the District's boundaries may change from time to time, and ii) upon entry of and subject to the terms and conditions contained in a final order, replacement and augmentation purposes (including any use, reuse and successive use to extinction) outside the District boundaries in pending Case No. 08GW71 or any related or successive action.

8.1. The UBS District, the Booker Trusts and the Farmer Family have challenged Cherokee Metropolitan District's ability to use certain water rights for replacement and augmentation (and any use, reuse and successive use to extinction) in Case No 08GW71, and in no way waive these pending claims. Therefore, the Parties stipulate and agree that they do not intend this findings and order to have the effect of precedent or preclusion on any factual or legal issue in any other matter, including use of the subject water right for replacement or augmentation (or any use, reuse and successive use to extinction) in Case No. 08GW71 or any related or successive action.

9. The Commission has determined that the requested change in type of use and change in place of use will not result in an increase over the historical depletion of the aquifer by the well and will not cause material injury to the vested water rights of other

appropriators pursuant to C.R.S. § 37-90-111(1)(g) and Rule 7.7.1 of the Designated Basin Rules, 2 CCR 410-1, so long as the well is operated pursuant to the terms and conditions of this Order.

10. Use of the well associated with Permit No. 27571-FP shall be for municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation and/or replacement purposes in Case No. 08GW71 or any related or successive action, with the right to use, reuse and successively use the subject water to extinction in Case No. 08GW71 or any related or successive action.

10.1. The UBS District, the Booker Trusts and the Farmer Family have challenged the Cherokee Metropolitan District's ability to use certain water rights for replacement and augmentation (and any use, reuse and successive use to extinction) in Case No 08GW71, and in no way waive these pending claims. Therefore, the Parties stipulate and agree that they do not intend this findings and order to have the effect of precedent or preclusion on any factual or legal issue in any other matter, including use of the subject water right for replacement or augmentation (or any use, reuse and successive use to extinction) in Case No. 08GW71 or any related or successive action.

11. Dry Up: The formerly irrigated area, as described in paragraph 1 above, shall be permanently dried up. The subject well may no longer be used for irrigation of the formerly irrigated area.

12. Volumetric Limits: Applicants may withdraw a total of 115.4 acre-feet per year, subject to the following monthly volumetric limitations:

Maximum Monthly Withdrawals
(Acre-Feet)

April	May	June	July	August	September	October
9.63	21.54	40.18	41.65	29.76	22.46	9.74

Should Applicants not withdraw the maximum monthly amounts shown in the table above during the April to October period, Applicants may withdraw the remaining amount of water (meaning the annual volumetric limit minus the amount pumped during the subject year) during the November to December period. Such method of operation will not cause material injury to other water rights nor unreasonable depletion of the aquifer. A "year" for purposes of this water right shall be a calendar year.

13. Export Approval: Export shall not be allowed until after the Upper Black Squirrel Creek Ground Water Management District has approved such export in accordance with Rule 7.7.4 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 C.C.R. 410-1.

14. Flow Meter: The subject well shall be equipped with a totalizing flow meter that meets the standards and specifications of Rule 8 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 C.C.R. 410-1, and Rule 21 of the Rules and Regulations of the Upper Black Squirrel Creek Ground Water Management District. Applicants shall allow the Ground Water Commission and the Upper Black Squirrel Creek Ground Water Management District to access the well and flow meter as required by law to ensure compliance with this Order.

    14.1. Newly installed flow meters shall be field certified as to accuracy to their use as a measuring device before pumping, and existing installed flow meters must be field certified upon any change to the well pump, motor, or discharge pipeline system. The flow meter must be able to measure volume of water pumped within plus or minus 5% of actual pumping, as determined using calibrated test equipment.

15. Reporting: Applicants shall submit diversion records to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission on a monthly basis.

16. The use of the subject permit for the changed uses requires that the Applicants, and any subsequent owners and users of these permits, shall be bound by and remain in compliance with the terms and conditions herein.

17. No Precedent: The findings and order in this matter were completed as a result of substantial discussions, negotiations, and compromises by, between and among the Applicants and several objectors pertaining to all parts of this findings and order. It is specifically understood and agreed by the parties hereto, and found by the Ground Water Commission, that the acquiescence of the parties to a stipulated finding and order under the specific factual and legal circumstances of this contested matter and upon the numerous and interrelated compromises reached by the parties shall never give rise to any argument, claim, defense or theory of acquiescence, waiver, bar, merger, *stare decisis*, *res judicata*, estoppel, laches, or otherwise, nor to any administrative or judicial practice or precedent, by or against any of the parties hereto in any other matter, case or dispute, nor shall testimony concerning such acquiescence of any party to a stipulated finding and order herein be allowed in any other matter, case or dispute. The parties stipulate and agree that they do not intend this findings and order to have the effect of precedent or preclusion on any factual or legal issue in any other matter, including use of the subject water right in Case No. 08GW71 or any related or successive action. This findings and order shall not be construed as a commitment to include any specific findings of fact, conclusions of law or specific engineering methodologies or administrative practices in proceedings before the Colorado Ground Water Commission, including any findings and orders entered by the Commission..

Dated this _____ day of _____, 2016.

Joseph (Jody) Grantham, Hearing Officer
Colorado Ground Water Commission
1313 Sherman Street, Suite 818
Denver, CO 80203
Telephone: (303) 866-3581
Facsimile: (303) 866-3589
Email: jody.grantham@state.co.us

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 15-GW-08

(PROPOSED) FINDINGS AND ORDER OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF OBJECTIONS TO APPLICATION FOR CHANGE IN TYPE OF USE CONCERNING PERMIT NO. 27572-FP, LOCATED IN THE UPPER BLACK SQUIRREL DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIIRREL GROUND WATER MANAGEMENT DISTRICT IN EL PASO COUNTY

APPLICANTS: ROBERT L. GARNER, SEP IRA; RANDLE W. CASE, ESTATE; CANDACE H. SEATON REALTY SEP IRA; and CHEROKEE METROPOLITAN DISTRICT

FINDINGS

In compliance with C.R.S. § 37-90-111(1)(g), Robert L. Garner SEP IRA; Randle W. Case, Estate; Candace H. Seaton Realty SEP IRA; and Cherokee Metropolitan District (collectively "Applicants") submitted an application to change the place of use and type of use of Permit No. 27572-FP. Based upon information provided by Applicant and records of the Division of Water Resources, the Colorado Ground Water Commission ("Commission") finds as follows:

1. Description of Water Right in Final Permit Prior to Change in Type and Place of Use:
   1.1. Permit No. 27572-FP
      1.1.1. Well Location: SW ¼ of the SE ¼ of Section 36, Township 12 South, Range 63 West, 6th P.M.
      1.1.2. Permit Date: July 10, 1985
      1.1.3. Maximum Pumping Rate: 1,346 Gallons per minute
      1.1.4. Maximum Annual Volume of Appropriation: 87 Acre-feet
      1.1.5. Uses: Irrigation, Domestic, and Mechanical
      1.1.6. Maximum Number of Acres which may be Irrigated: 140
      1.1.7. Description of Acres Irrigated: SW ¼ of Section 36, Township 12 South, Range 63 West of the 6th P.M.

2. Designated Ground Water Rights: The well described herein is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the boundaries of the Upper Black Squirrel Creek Ground Water Management District. The Ground Water Commission has jurisdiction over this application, and the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission have jurisdiction over the administration and enforcement of the subject water right. The subject

EXHIBIT 2

water right is subject to the rules and regulations of the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission.

3. Application: On March 27, 2015, Applicants filed a complete application ("Application") to change the place of use and type of use of Permit no. 27572-FP.

   3.1. Change in Type of Use: The Application claimed a change of Permit No. 27572-FP from the originally permitted irrigation, domestic, and mechanical uses to municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation, exchange and replacement purposes, with the right to use, reuse and successively use the subject water to extinction.

   3.2. Change in Place of Use (Export): The Application claimed a change in place of use from 140 acres in the SW ¼ of Section 36, T12S, R63W to the boundaries of the Cherokee Metropolitan District, as the District's boundaries may change from time to time, and including leases or other agreements to provide water outside the District's boundaries. The Application acknowledged that because the Cherokee Metropolitan District boundaries are located, in part, outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, this claim for change in place of use is a request for the right to export the historically consumed portion of this water right for the above-described types of use outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S.; and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1.

   3.3. Publication and Notice: In accordance with C.R.S.§§ 37-90-111(1)(g) and 112(1), the Application was published in the Ranchland News on June 11 and 18, 2015.

4. Parties: The following Parties filed Objections to the Application:

   4.1. Upper Black Squirrel Ground Water Management District
   4.2. Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust ("Booker Trusts")
   4.3. JT Johnson Properties II, LLC
   4.4. Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company, LLC, and Teresa Farmer

5. Average Annual Withdrawal and Aquifer Depletion

   5.1. Applicants have reached a stipulated settlement as to the Average Annual Withdrawal and Aquifer Depletion, as follows:

      5.1.1. The average annual legal historical withdrawal associated with Permit No. 27572-FP is 61.2 acre-feet.

5.1.2. The average annual historical depletion to the alluvial aquifer of the Upper Black Squirrel Designated Ground Water Basin as a result of the withdrawal of designated ground water under Permit No. 27572-FP is 38.1 acre-feet. Accordingly, 38.1 acre-feet per year may be withdrawn and, subject to approval of the Upper Black Squirrel Creek Ground Water Management District, may be exported outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, without causing unreasonable depletion of the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin and/or injury to the vested rights other appropriators. The subject water right shall not be exported until such export is approved by the Upper Black Squirrel Creek Ground Water Management District, pursuant to C.R.S. § 37-90-130(2)(f) and Rule 7 of the Upper Black Squirrel Creek Ground Water Management District Rules and Regulations and Statement of Policy.

6. Application is not speculative: Applicant Cherokee Metropolitan District has the ability to put the subject water to the types of uses and place of use sought in this application. Applicant Cherokee is a quasi-governmental agency with a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses. Cherokee has proven a specific plan for actual beneficial use to be made at the location(s) identified herein. This Application is not speculative and will not create unreasonable waste.

ORDER

In accordance with C.R.S. § 37-90-111(1)(g), the Colorado Ground Water Commission orders that the Application to change the type of use and the place of use for Permit No. 27572-FP be approved subject to the following conditions:

7. The above findings of fact are incorporated by reference herein.

8. The place of use of the water withdrawn under Permit No. 27572-FP shall be limited to the boundaries of the Cherokee Metropolitan District, as the District's boundaries may change from time to time, and ii) upon entry of and subject to the terms and conditions contained in a final order, replacement and augmentation purposes (including any use, reuse and successive use to extinction) outside the District boundaries in Case No. 08GW71 or any related or successive action.

8.1. The UBS District, the Booker Trusts and the Farmer Family have challenged Cherokee Metropolitan District's ability to use certain water rights for replacement and augmentation (and any use, reuse and successive use to extinction) in Case No 08GW71, and in no way waive these pending claims. Therefore, the Parties stipulate and agree that they do not intend this findings and order to have the effect of precedent or preclusion on any factual or legal issue in any other matter, including use of the subject water right for replacement or augmentation (or any use, reuse and successive use to extinction) in Case No. 08GW71 or any related or successive action.

9. The Commission has determined that the requested change in type of use and change in place of use will not result in an increase over the historical depletion of the aquifer by the well and will not cause material injury to the vested water rights of other

appropriators pursuant to C.R.S. § 37-90-111(1)(g) and Rule 7.7.1 of the Designated Basin Rules, 2 CCR 410-1, so long as the well is operated pursuant to the terms and conditions of this Order.

10. Use of the well associated with Permit No. 27571-FP shall be for municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation and/or replacement purposes in Case No. 08GW71 or any related or successive action upon entry of and subject to terms and conditions in a final order in such matter, with the right to use, reuse and successively use the subject water to extinction in Case No. 08GW71 or any related or successive action upon entry of and subject to terms and conditions in a final order in such matter.

10.1. The UBS District, the Booker Trusts and the Farmer Family have challenged the Cherokee Metropolitan District's ability to use certain water rights for replacement and augmentation (and any use, reuse and successive use to extinction) in Case No 08GW71, and in no way waive these pending claims. Therefore, the Parties stipulate and agree that they do not intend this findings and order to have the effect of precedent or preclusion on any factual or legal issue in any other matter, including use of the subject water right for replacement or augmentation (or any use, reuse and successive use to extinction) in Case No. 08GW71 or any related or successive action.

11. Dry Up: The formerly irrigated area, as described in paragraph 1 above, shall be permanently dried up. The subject well may no longer be used for irrigation of the formerly irrigated area.

12. Volumetric Limits: Applicants may withdraw a total of 38.1 acre-feet per year, subject to the following monthly volumetric limitations:

Maximum Monthly Withdrawals
(Acre-Feet)

April	May	June	July	August	September	October
3.18	7.12	13.29	13.78	9.85	7.43	3.22

Should Applicants not withdraw the maximum monthly amounts shown in the table above during the April to October period, Applicants may withdraw the remaining amount of water (meaning the annual volumetric limit minus the amount pumped during the subject year) during the November to December period. Such method of operation will not cause material injury to other water rights nor unreasonable depletion of the aquifer. A "year" for purposes of this water right shall be a calendar year.

13. Export Approval: Export shall not be allowed until after the Upper Black Squirrel Creek Ground Water Management District has approved such export in accordance with Rule 7.7.4 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 C.C.R. 410-1.

14. Flow Meter: The subject well shall be equipped with a totalizing flow meter that meets the standards and specifications of Rule 8 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 C.C.R. 410-1, and Rule 21 of the Rules and Regulations of the Upper Black Squirrel Creek Ground Water Management District. Applicants shall allow the Ground Water Commission and the Upper Black Squirrel Creek Ground Water Management District to access the well and flow meter as required by law to ensure compliance with this Order.

    14.1. Newly installed flow meters shall be field certified as to accuracy to their use as a measuring device before pumping, and existing installed flow meters must be field certified upon any change to the well pump, motor, or discharge pipeline system. The flow meter must be able to measure volume of water pumped within plus or minus 5% of actual pumping, as determined using calibrated test equipment.

15. Reporting: Applicants shall submit diversion records to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission on a monthly basis.

16. The use of the subject permit for the changed uses requires that the Applicants, and any subsequent owners and users of these permits, shall be bound by and remain in compliance with the terms and conditions herein.

17. No Precedent: The findings and order in this matter were completed as a result of substantial discussions, negotiations, and compromises by, between and among the Applicants and several objectors pertaining to all parts of this findings and order. It is specifically understood and agreed by the parties hereto, and found by the Ground Water Commission, that the acquiescence of the parties to a stipulated finding and order under the specific factual and legal circumstances of this contested matter and upon the numerous and interrelated compromises reached by the parties shall never give rise to any argument, claim, defense or theory of acquiescence, waiver, bar, merger, *stare decisis*, *res judicata*, estoppel, laches, or otherwise, nor to any administrative or judicial practice or precedent, by or against any of the parties hereto in any other matter, case or dispute, nor shall testimony concerning such acquiescence of any party to a stipulated finding and order herein be allowed in any other matter, case or dispute. The parties stipulate and agree that they do not intend this findings and order to have the effect of precedent or preclusion on any factual or legal issue in any other matter, including use of the subject water right in Case No. 08GW71 or any related or successive action. This findings and order shall not be construed as a commitment to include any specific findings of fact, conclusions of law or specific engineering methodologies or administrative practices in proceedings before the Colorado Ground Water Commission, including any findings and orders entered by the Commission.

Dated this _____ day of _____, 2016.

Joseph (Jody) Grantham, Hearing Officer
Colorado Ground Water Commission
1313 Sherman Street, Suite 818
Denver, CO 80203
Telephone: (303) 866-3581
Facsimile: (303) 866-3589
Email: jody.grantham@state.co.us

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 15-GW-08

(PROPOSED) FINDINGS AND ORDER OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF OBJECTIONS TO APPLICATIONS FOR CHANGE IN TYPE OF USE CONCERNING PERMIT NOS 27571-FP AND 27572-FP, LOCATED IN THE UPPER BLACK SQUIRREL DESIGNATED GROUND WATER BASIN AND THE UPPER BLACK SQUIIRREL GROUND WATER MANAGEMENT DISTRICT IN EL PASO COUNTY

APPLICANTS: ROBERT L. GARNER, SEP IRA; RANDLE W. CASE, ESTATE; CANDACE H. SEATON REALTY SEP IRA; and CHEROKEE METROPOLITAN DISTRICT

FINDINGS

In compliance with C.R.S. § 37-90-111(1)(g), Robert L. Garner SEP IRA; Randle W. Case, Estate; Candace H. Seaton Realty SEP IRA; and Cherokee Metropolitan District (collectively "Applicants") submitted an application to change the place of use and type of use of Permit Nos. 27571-FP and 27572-FP. Based upon information provided by Applicant and records of the Division of Water Resources, the Colorado Ground Water Commission ("Commission") finds as follows:

1. Description of Water Right in Final Permit Prior to Change in Type and Place of Use:
   1.1. Permit No. R-18919-FP
      1.1.1. Well Location: SW ¼ of the SE ¼ of Section 36, Township 12 South, Range 63 West, 6th P.M.
      1.1.2. Permit Date: July 10, 1985
      1.1.3. Maximum Pumping Rate: 900 Gallons per minute
      1.1.4. Maximum Annual Volume of Appropriation: 0 Acre-feet
      1.1.5. Use: Irrigation
      1.1.6. Maximum Number of Acres which may be Irrigated: 0
      1.1.7. Description of Acres Irrigated: SW ¼ of Section 36, Township 12 South, Range 63 West of the 6th P.M.

2. Designated Ground Water Rights: The well described herein is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the boundaries of the Upper Black Squirrel Creek Ground Water Management District. The Ground Water Commission has jurisdiction over this application, and the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission have jurisdiction over the administration and enforcement of the subject water right. The subject

EXHIBIT 3

water right is subject to the rules and regulations of the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission.

3. Application: On March 27, 2015, Applicants filed a complete application ("Application") to change the place of use and type of use of Permit Nos. 27571-FP and 27572-FP, which water rights are associated with the same land and well as Permit No. R-18919-FP.

   3.1. Change in Type of Use: The Application claimed a change of Permit Nos. 27571-FP and 27572-FP from the originally permitted irrigation, domestic, and mechanical uses to municipal use, including but not limited to domestic, fire protection, sanitary, irrigation, commercial, manufacturing, mechanical, industrial, recreational, stock watering, wildlife, revegetation, augmentation, exchange and replacement purposes, with the right to use, reuse and successively use the subject water to extinction.

   3.2. Change in Place of Use (Export): The Application claimed a change in place of use from 140 acres in the SW ¼ of Section 36, T12S, R63W to the boundaries of the Cherokee Metropolitan District, as the District's boundaries may change from time to time, and including leases or other agreements to provide water outside the District's boundaries. The Application acknowledged that because the Cherokee Metropolitan District boundaries are located, in part, outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, this claim for change in place of use is a request for the right to export the historically consumed portion of this water right for the above-described types of use outside the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin, pursuant to Sections 37-90-111 and 37-90-130, C.R.S.; and Rule 7 of the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1.

   3.3. Publication and Notice: In accordance with C.R.S.§§ 37-90-111(1)(g) and 112(1), the Application was published in the Ranchland News on June 11 and 18, 2015.

4. Parties: The following Parties filed Objections to the Application:

   4.1. Upper Black Squirrel Ground Water Management District
   4.2. Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust
   4.3. JT Johnson Properties II, LLC
   4.4. Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer Jr., Farmer Pipeline Company, LLC, and Teresa Farmer

ORDER

In accordance with C.R.S. § 37-90-111(1)(g), the Colorado Ground Water Commission orders that the water right associated with Final Permit No. R-18919-FP, as described above, is hereby abandoned.

Dated this _____ day of _____, 2016.

Joseph (Jody) Grantham, Hearing Officer
Colorado Ground Water Commission
1313 Sherman Street, Suite 818
Denver, CO 80203
Telephone: (303) 866-3581
Facsimile: (303) 866-3589
Email: jody.grantham@state.co.us

DISTRICT COURT, WATER DIVISION 2, COLORADO 501 N. Elizabeth Street, Suite 116 Pueblo, CO 81003	~~DATE FILED: October 2, 2017~~ CASE NUMBER: 2014CW3061
IN THE MATTER OF THE APPLICATION OF THE CHEROKEE METROPOLITAN DISTRICT **IN EL PASO COUNTY**	**▲ COURT USE ONLY ▲**
	Case No. 14CW3061 (consolidated with Case No. 14CW3171, Water Division 1)
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT AND DECREE OF THE WATER COURT	

This matter has come before the Water Court on the Application of the Applicant Cherokee Metropolitan District ("Cherokee"), filed on December 31, 2014 for a change of nontributary and not-nontributary ground water rights and approval of plan for augmentation.

The Court, having reviewed all pleadings, made such other investigations as are necessary to determine whether the statements in the Application are true, and otherwise being fully advised in the premises, does hereby enter the following the following Findings of Fact, Conclusions of Law, Judgment and Decree ("Decree") in this matter.

FINDINGS OF FACT

1. Name, mailing address, and telephone number of Applicant:

   Cherokee Metropolitan District
   6250 Palmer Park Boulevard
   Colorado Springs, CO 80915
   (719) 597-5080

2. Jurisdiction of the Water Court:

   2.1. Timely and adequate notice of the pendency of these proceedings *in rem* and matters determined herein was given in the manner required by law. The Water Court has jurisdiction over the subject matter of these proceedings and over all

persons and owners of property who may be affected hereby, whether they have appeared or not.

2.2. The land and water rights involved in this decree are not included within the boundaries of any designated ground water basin.

3. Procedural History: Cherokee simultaneously filed identical versions of the Application in this matter in Water Divisions 1 and 2 on December 31, 2014. Once the time for filing statements of opposition pursuant to C.R.S § 37-92-302 expired, Cherokee filed a motion to consolidate pursuant to C.R.C.P. Rule 42.1 before the Colorado Supreme Court Panel on Consolidated Multidistrict Litigation, thereby initiating Case No. 15MD7. On April 22, 2015, the Chief Justice of the Colorado Supreme Court consolidated Cherokee's applications in Water Divisions 1 and 2 into this consolidated case before the District Court for Water Division 2.

4. Parties:

4.1. Timely statements of opposition were filed by the following parties:

4.1.1. Water Division 1: Case No. 14CW3171
- 4.1.1.1. State Engineer and Division Engineer for Water Division 1
- 4.1.1.2. Mark Leaper

4.1.2. Water Division 2: Case No. 14CW3061
- 4.1.2.1. State Engineer and Division Engineer for Water Division 2
- 4.1.2.2. Upper Black Squirrel Creek Ground Water Management District ("UBS")
- 4.1.2.3. Fountain Mutual Irrigation Company ("FMIC")
- 4.1.2.4. The City of Colorado Springs, acting by and through its enterprise Colorado Springs Utilities
- 4.1.2.5. Triview Metropolitan District ("Triview")
- 4.1.2.6. David A. Wismer and Mary Anne Wismer Trust
  - 4.1.2.6.1. On May 25, 2016, the Court approved a motion to substitute PRI #2 LLC for the David A. Wismer and Mary Anne Wismer Trust.
- 4.1.2.7. Edna Farmer, Dan Farmer, Jerry Farmer, Joe Farmer, Jr., Farmer Pipeline Company, LLC, and Theresa Farmer ("Farmer Opposers")

4.2. All statements of opposition filed in Case Nos. 14CW3061 and 14CW3171 shall apply equally to both cases, as consolidated in Case No. 14CW3061.

4.3. The time for filing Statements of Opposition or motions to intervene in this matter has expired.

4.4. Cherokee has stipulated with the following parties:

4.4.1. State and Division Engineers on June 14, 2017 approved by the Court on June 22, 2017.
4.4.2. Mark Leaper on September 2, 2016, approved by the Court on September 2, 2016.
4.4.3. UBS on July 18, 2017 approved by the Court on July 27, 2017.
4.4.4. FMIC on May 24, 2016, approved by the Court on May 26, 2016.
4.4.5. The City of Colorado Springs, acting by and through its enterprise Colorado Springs Utilities on July 8, 2016, approved by the Court on July 8, 2016.
4.4.6. Triview Metropolitan District on July 25, 2016, approved by the Court on July 25, 2016.
4.4.7. PRI #2 LLC on August 18, 2017 approved by the Court on August 29, 2017.

4.5. The Farmer Opposers withdrew their statement of opposition on June 5, 2017.

5. Summary of Consultation Report of the Division Engineer: The Division Engineer for Water Division 2 issued his Summary of Consultation on February 25, 2015, reiterating the concerns stated in the Statement of Opposition of the State Engineer and Division Engineer for Water Division 2. The Division Engineer for Water Division 1 did not file a Summary of Consultation. Cherokee has addressed the concerns of the State and Division Engineers through the provisions of this Decree. The Referee and the Court have considered the Division Engineer's Consultation in entering this Ruling and Decree.

6. Synopsis: Cherokee has acquired rights to withdraw nontributary and not-nontributary ground water from a series of land parcels. These nontributary and not-nontributary ground water rights have already been adjudicated in prior decrees. Cherokee seeks herein to change the subject water rights to allow them to be withdrawn from alternate points of diversion located on adjacent, contiguous parcels of land. Cherokee also seeks approval of a plan for augmentation allowing withdrawals of not-nontributary ground water from the subject wells as required by law, and allowing Cherokee to provide the relinquishment required by CRS § 37-90-137 through the use of the replacement sources decreed herein. A general location map of the subject wells, properties, and replacement locations is attached hereto as **Exhibit A.**

7. **First Claim: Change of Nontributary and Not-Nontributary Groundwater Rights (Alternate Points of Diversion)**

7.1. Description of Water Rights to be Changed ("Subject Wells" or "Subject Water Rights")

7.1.1. Sundance Ranch Wells

7.1.1.1. Original Decree: Case No. 99CW126, Water Division 1.

7.1.1.2. Well Locations:

7.1.1.2.1. Well SDC-1: NW 1/4 of the NW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado.

7.1.1.2.1.1. Well Permit Number: 75881-F

7.1.1.2.1.2. WDID: 0815291

7.1.1.2.1.3. Source: Arapahoe Aquifer

7.1.1.2.2. Well SDC-2: NW 1/4 of the NW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado.

7.1.1.2.3. Well SDC-3: SE 1/4 of the SE 1/4 of Section 25, T11S, R65W of the 6th P.M. in El Paso County, Colorado.

7.1.1.2.4. Well SDC-4: NE 1/4 of the SW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado.

7.1.1.2.4.1. Well Permit Number: 78315-F

7.1.1.2.4.2. WDID: 0815292

7.1.1.2.4.3. Source: Denver Aquifer

7.1.1.2.5. Well SDC-5: NE 1/4 of the NW 1/4 of Section 30, T11S, R65W of the 6th P.M. in El Paso County, Colorado.

7.1.1.3. Sources: Nontributary groundwater in the Denver Aquifer, Arapahoe Aquifer, and Laramie-Fox Hills Aquifer, and not-nontributary groundwater in the Dawson Aquifer.

7.1.1.4. Amounts:

7.1.1.4.1. Denver Aquifer: 328.5 acre-feet per year

7.1.1.4.2. Dawson Aquifer: 352.3 acre-feet per year

7.1.1.4.2.1. In Case No. 03CW227, the right to withdraw Dawson aquifer water pursuant to the water rights for the Sundance Ranch Wells was reduced by nine acre-feet per year. Accordingly, 352.3 acre-feet per year is available for withdrawal pursuant to the plan for augmentation decreed herein.

7.1.1.4.2.2. Greenland Basin Pipeline, LLC ("GBP") currently owns the right to withdraw 87 acre-feet per year of the 352.3 acre-feet per year of Dawson Aquifer water listed above as available for withdrawal pursuant to the plan for augmentation decreed herein. Cherokee and GBP are in the process of negotiating an agreement that will allow Cherokee to withdraw said 87 acre-feet per year pursuant to the augmentation plan decreed herein. Cherokee shall not withdraw water pursuant to GBP's 87 acre-feet per year interest in the water rights decreed in Case No. 99CW126 until Cherokee files a notice in this case demonstrating that its agreement with GBP has been fully executed or that Cherokee is otherwise legally authorized to withdraw said water. If Cherokee's right to withdraw GBP's 87 acre-feet of Dawson Aquifer water is pursuant to an agreement between Cherokee and GBP, then said notice shall include a copy of the Cherokee/GBP agreement.

7.1.1.4.3. Arapahoe Aquifer: 147.7 acre-feet per year

7.1.1.4.4. Laramie-Fox Hills Aquifer: 108.5 acre-feet per year

7.1.1.5. Uses: All beneficial uses, including without limitation, municipal, domestic, commercial, industrial, irrigation, stockwater, recreation, fish and wildlife propagation, fire protection, and also for exchange and augmentation purposes. The nontributary and fully augmented not-nontributary water may be used reused, and successively used to extinction, both on and off the subject property. Cherokee may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated in the 99CW126 decree.

7.1.1.6. Remarks: A portion of the water rights associated with the Sundance Ranch Wells was included in a plan for augmentation decreed in Consolidated Case Nos. 06CW126 (Water Division 1) and 06CW30 (Water Division 2). Cherokee shall operate the Sundance Ranch Wells pursuant to the plan for augmentation decreed herein, and not the prior decree in Consolidated Case Nos. 06CW126 and 06CW30. Moreover, because Cherokee now owns 100% of the nontributary water rights associated with the Sundance Ranch Wells, the reservation and dedication of these nontributary water rights as described in the 06CW126/06CW30 Decree is now null and void. Cherokee has filed a notice in Case Nos 06CW126 and 06CW30 informing all parties thereto that the subject reservation is no longer valid.

7.1.2. Shamrock East Ranch Wells

7.1.2.1. Original Decree: Case No. 85CW446, Water Division 1, as amended in Case No. 94CW23, Water Division 1.

7.1.2.2. Well Locations: All wells are located in T11S, R65W of the 6th P.M. in El Paso County, Colorado, more specifically described as follows:

7.1.2.2.1. Dawson Aquifer

7.1.2.2.1.1. Well DA-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 200 feet from the North section line and 1,100 feet from the East section line.

7.1.2.2.1.2. Well DA-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,440 feet from the South section line and 2,440 feet from the East section line.

7.1.2.2.1.3. Well DA-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 200 feet from the South section line and 200 feet from the East section line.

7.1.2.2.1.4. Well DA-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 200 feet from the East section line.

7.1.2.2.1.5. Well DA-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 200 feet from the North section line and 200 feet from the West section line.

7.1.2.2.1.6. Well DA-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 2,440 feet from the East section line.

7.1.2.2.2. Denver Aquifer

7.1.2.2.2.1. Well D-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 100 feet from the North section line and 1,200 feet from the East section line.

7.1.2.2.2.2. Well D-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,540 feet from the South section line and 2,540 feet from the East section line.

7.1.2.2.2.3. Well D-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 100 feet from the South section line and 100 feet from the East section line.

7.1.2.2.2.4. Well D-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 100 feet from the East section line.

7.1.2.2.2.5. Well D-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 100 feet from the North section line and 100 feet from the West section line.

7.1.2.2.2.6. Well D-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 2,540 feet from the East section line.

7.1.2.2.3. Arapahoe Aquifer

7.1.2.2.3.1. Well A-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 100 feet from the North section line and 1,100 feet from the East section line.

7.1.2.2.3.2. Well A-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,440 feet from the South section line and 2,540 feet from the East section line.

7.1.2.2.3.3. Well A-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 200 feet from the South section line and 100 feet from the East section line.

7.1.2.2.3.4. Well A-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 100 feet from the East section line.

7.1.2.2.3.5. Well A-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 200 feet from the North section line and 100 feet from the West section line.

7.1.2.2.3.6. Well A-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,440 feet from the North section line and 2,540 feet from the East section line.

7.1.2.2.4. Laramie-Fox Hills Aquifer

7.1.2.2.4.1. Well LFH-1: located at a point in the NE 1/4 of the NE 1/4 of Section 30, at a point 200 feet from the North section line and 1,200 feet from the East section line.

7.1.2.2.4.2. Well LFH-2: located at a point in the NW 1/4 of the SE 1/4 of Section 30, at a point 2,540 feet from the South section line and 2,440 feet from the East section line.

7.1.2.2.4.3. Well LFH-3: located at a point in the SE 1/4 of the SE 1/4 of Section 30, at a point 100 feet from the South section line and 200 feet from the East section line.

7.1.2.2.4.4. Well LFH-4: located at a point in the SE 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 200 feet from the East section line.

7.1.2.2.4.5. Well LFH-5: located at a point in the NW 1/4 of the NW 1/4 of Section 31, at a point 100 feet from the North section line and 200 feet from the West section line.

7.1.2.2.4.6. Well LFH-6: located at a point in the SW 1/4 of the NE 1/4 of Section 31, at a point 2,540 feet from the North section line and 2,440 feet from the East section line.

7.1.2.3. Sources: Nontributary groundwater in the Denver Aquifer, Arapahoe Aquifer, and Laramie-Fox Hills Aquifer, and not-nontributary groundwater in the Dawson Aquifer.

7.1.2.4. Amounts:

7.1.2.4.1. Denver Aquifer: 600 acre-feet per year

7.1.2.4.2. Dawson Aquifer: 390 acre-feet per year

7.1.2.4.3. Arapahoe Aquifer: 280 acre-feet per year

7.1.2.4.4. Laramie-Fox Hills Aquifer: 6 acre-feet per year

7.1.2.5. Uses: The water withdrawn may be used, reused and successively and otherwise disposed of for all municipal purposes including domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection and sanitary purposes. The water may be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of this ground water or of water from other sources, and for augmentation purposes. Moreover, Cherokee may use return flows of this ground water to replace stream depletions under a plan for augmentation approved in compliance with applicable law.

7.1.3. Shiloh Ranch Wells

7.1.3.1. Original Decree: Case No. 96CW125, Water Division 1

7.1.3.2. Well Locations:

7.1.3.2.1. Well DA-1: located at a point in the NW 1/4 of the SE 1/4 of Section 8, T11S R 65W, at a point 2,450 feet from the South section line and 2,490 feet from the East section line, El Paso County, Colorado.

7.1.3.2.2. Well DA-2: located at a point in the SE 1/4 of the NE 1/4 of Section 8, T11S R 65W, at a point 1,420 feet from the North section line and 626 feet from the East section line, El Paso County, Colorado.

7.1.3.2.3. Well DA-3: located at a point in the NE 1/4 of the SE 1/4 of Section 8, T11S R 65W, at a point 1,667 feet from the South section line and 159 feet from the East section line, El Paso County, Colorado.

7.1.3.2.4. Well DA-4: located at a point in the SW 1/4 of the SE 1/4 of Section 8, T11S R 65W, at a point 100 feet from the South section line and 2,540 feet from the East section line, El Paso County, Colorado.

7.1.3.3. Sources: Nontributary groundwater in the Denver Aquifer, Arapahoe Aquifer, and Laramie-Fox Hills Aquifer, and not-nontributary groundwater in the Dawson Aquifer.

7.1.3.4. Amounts: Cherokee owns the right to withdraw the following amounts:

7.1.3.4.1. Denver Aquifer: 351 acre-feet per year

7.1.3.4.2. Dawson Aquifer: 340.2 acre-feet per year

7.1.3.4.3. Arapahoe Aquifer: 220.3 acre-feet per year

7.1.3.4.4. Laramie-Fox Hills Aquifer: 84.8 acre-feet per year

7.1.3.5. Uses: All beneficial purposes, including, but not limited to: municipal, domestic, industrial, commercial, manufacturing, irrigation, stock watering, agricultural, recreational, piscatorial, wildlife propagation, fire protection, augmentation, exchange, replacement, and substitution purposes. The water may be used for immediate application to beneficial use, for storage and subsequent application to beneficial use, for exchange purposes for relinquishment to the stream pursuant to C.R.S. § 37-90-137(9)(b), for replacement of depletions and for all other augmentation purposes, including augmentation of not-nontributary groundwater diversions. The subject groundwater rights include the right of reuse, and successive use and disposition by sale, exchange or otherwise to extinction.

7.1.4. County Line Ranch Wells

7.1.4.1. Original Decree: Case No. 96CW110, Water Division 2 (consolidated with Case No. 96CW169, Water Division 1)

7.1.4.2. Well Locations: The decree in consolidated Case No. 96CW110 described above allowed the subject groundwater to be withdrawn through any number of wells necessary, to be located at any location on the subject property. Since entry of the 96CW110 decree, Cherokee has selected the following well sites, all of which are located in Section 5, T11S, R65W, in El Paso County, Colorado:

7.1.4.2.1. Well CLE-1: The NE 1/4 of the NW 1/4.
7.1.4.2.2. Well CLE-2: The SW 1/4 of the NE 1/4.
7.1.4.2.3. Well CLE-3: The SW 1/4 of the NE 1/4.
7.1.4.2.4. Well CLE-4: The NE 1/4 of the SW1/4.
7.1.4.2.5. Well CLE-5: The NE 1/4 of the SW 1/4.
7.1.4.2.6. Well CLE-6: The SE 1/4 of the SW 1/4.
7.1.4.2.7. Well CLE-7: The SW 1/4 of the SE 1/4.
7.1.4.2.8. Well CLE-8: The SE 1/4 of the SW 1/4.

7.1.4.3. Sources: Nontributary groundwater in the Denver Aquifer and Arapahoe Aquifer, and not-nontributary groundwater in the Dawson Aquifer.

7.1.4.4. Amounts: Cherokee owns the right to withdraw the following amounts:
7.1.4.4.1. Denver Aquifer: 209 acre-feet per year
7.1.4.4.2. Dawson Aquifer: 155.595 acre-feet per year
7.1.4.4.3. Arapahoe Aquifer: 127.595 acre-feet per year

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

7.1.5. WDID Information: The WDID information for the wells and well fields described above is attached hereto as **Exhibit C.**

7.2. Description of Proposed Changes (Alternate Points of Diversion):

7.2.1. The Sundance Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the Shamrock East Ranch Wells described above, as alternate points of diversion.

7.2.2. The Shamrock East Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the Sundance Ranch Wells described above, as alternate points of diversion.

7.2.3. The Shiloh Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the County Line Ranch Wells described above, as alternate points of diversion.

7.2.4. The County Line Ranch Wells described above will be changed to allow withdrawal of the groundwater adjudicated to such wells from the location of structures associated with the Shiloh Ranch Wells described above, as alternate points of diversion.

7.3. Terms and Conditions of Change of Water Rights:

7.3.1. The alternate points of diversion decreed herein shall operate in compliance with the Rules and Regulations of the Colorado State Engineer pertaining to withdrawal of nontributary and not-nontributary water.

7.3.2. The total amount of water withdrawn from any of the subject aquifers pursuant to the water rights described in paragraph 7.1 above, whether withdrawn from a well on the property overlying the subject ground water or withdrawn through an alternate point of diversion, shall not exceed the quantity of water originally allocated to such water rights and attributable to Cherokee's ownership of such water right. This provision shall not be construed to affect Cherokee's ability to pump its "banked" water in accordance with the Rules and Regulations of the Colorado State Engineer pertaining to withdrawal of nontributary and not-nontributary water.

8. Second Claim: Plan for Augmentation

8.1. Structures to be Augmented:

8.1.1. Sundance Ranch Wells used to withdraw not-nontributary water from the Dawson Aquifer, as described in paragraph 7.1.1 above.

8.1.2. Shamrock East Ranch Wells used to withdraw not-nontributary water from the Dawson Aquifer, as described in paragraph 7.1.2 above.

8.1.3. Shiloh Ranch Wells used to withdraw not-nontributary water from the Dawson Aquifer, as described in paragraph 7.1.3 above.

8.1.4. County Line Ranch Wells used to withdraw not-nontributary water from the Dawson Aquifer, as described in paragraph 7.1.4 above.

8.2. Water Rights to be Used for Augmentation:

8.2.1. Sundance Ranch Wells, as described in paragraph 7.1.1 above.

8.2.2. Shamrock East Ranch Wells, as described in paragraph 7.1.2 above.

8.2.3. Shiloh Ranch Wells, as described in paragraph 7.1.3 above.

8.2.4. County Line Ranch Wells, as described in paragraph 7.1.4 above.

8.2.5. Water derived from the exercise of water rights Cherokee acquires in the future, in accordance with paragraph 8.3.3 below and C.R.S. § 37-92-305(8)(c).

8.3. Complete Statement of Plan for Augmentation: Pursuant to this augmentation plan, Cherokee must replace stream depletions caused by withdrawal of not-nontributary groundwater, and relinquish the appropriate amount of water to the stream as required by C.R.S. § 37-90-137 and Rule 8 of the Denver Basin Rules, 2 CCR 402-6, as applicable.

8.3.1. Augmentation of Not-Nontributary Ground Water Depletions.

8.3.1.1. Depletions.

8.3.1.1.1. Dawson aquifer water beneath the subject properties has been determined to be "Not Non Tributary" as defined in CRS § 37-90-103(10.7). As such, Cherokee must replace actual out-of-priority depletions as required by CRS § 37-90-137(9)(c.5)(I). During the time period the subject not-nontributary groundwater is withdrawn from the Dawson Aquifer, Cherokee must replace out-of-priority depletions to the stream caused by withdrawals from such wells. Once Cherokee has ceased withdrawal of not-nontributary groundwater from the Dawson Aquifer, Cherokee must replace out-of-priority depletions to the stream caused by prior withdrawal of such groundwater as required by law.

8.3.1.1.2. Unit Response Functions: To determine the timing, amount, and location of depletions from withdrawal of not-nontributary wells, Cherokee has used the Colorado Division of Water Resources Denver Basin Ground Water Model for the Dawson Aquifer to develop Unit Response Functions (URFs) for the Subject Wells. The model was run in the "Annual" mode to produce Annual URF's. In this format, the year one pumping is used to predict the year one depletions, which would be replaced in year 2. To alleviate the timing discrepancy between

calculated depletions and replacements, Cherokee shall use an "accelerated" URF schedule. The "accelerated" URF schedule was created from the Annual URF schedule by first adding the URF's for year 1 and year 2, and now posting this value as the "Accelerated" Year 1 URF. The Accelerated Year 2 URF is the original Year 3 URF, the Accelerated Year 3 URF is the original Year 4 URF, and so on through the full schedule. A schedule of the Unit Response Functions is attached hereto as **Exhibit B**. Exhibit B consists of 6 columns of response functions, 3 for predicting impacts from pumping the South Field, and 3 for predicting impacts from pumping the North Field. Within each field, URF's are provided to predict impacts to Division 1, Division 2, and to the Designated Basins, thus the 6 total columns of values. Exhibit B provides a URF schedule for the first 900 years of operation of the subject wells. On or before Cherokee has reached year 899 of operation of this plan for augmentation, it shall file a notice in this case pursuant to Court's retained jurisdiction in this matter explaining if further replacements and an additional URF schedule are needed, and providing such additional schedule if necessary.

8.3.1.1.2.1. Well Field Depletions: The Sundance Ranch Wells and Shamrock East Wells shall operate and be administered as one unit (South Well Field); and the Shiloh Ranch Wells and County Line Wells shall operate and be administered as one unit (North Well Field). Cherokee shall meter the withdrawal of not-nontributary water from each of the Subject Wells and apply appropriate URFs for each well field. Depletions created by pumping of wells in the North Well Field shall be determined by multiplying the URF's for the North Field by actual pumping of wells in the North Field. Similarly, depletions accrued by pumping wells in the South Well Field shall be determined by multiplying the URF's for the South Well Field by actual pumping from the field. Depletions accruing to Water Division 1, Water Division 2, and the Upper Black Squirrel Creek Designated Ground Water Basin shall be determined for each Well Field, and then the depletions from the 2 Well Fields shall be added together. The replacements for these accrued depletions shall then be made pursuant to Paragraph 8.3.1.2 below.

8.3.1.1.3. Post-Pumping Depletions: Cherokee shall use the URFs in Exhibit B to determine the amount of post-pumping depletions that must be replaced. Post-pumping depletions accruing to Water Division 1, Water Division 2, and the Upper Black Squirrel Creek Designated Ground Water Basin shall be determined for each Well Field, and then the

depletions from the 2 Well Fields shall be added together. These accrued depletions shall then be replaced pursuant to Paragraph 8.3.1.2 below.

8.3.1.2. Replacement.

8.3.1.2.1. During Pumping: Cherokee shall replace out-of-priority depletions caused by withdrawal of not-nontributary ground water from the Dawson aquifer, determined pursuant to the Unit Response Functions described above, by direct discharge of nontributary or not-nontributary ground water; or use of replacement sources to be added to this plan in the future pursuant to the retained jurisdiction procedure described herein.

8.3.1.2.1.1. Cherokee shall determine the amount of replacement water required in Water Division 1, Water Division 2, and the Upper Black Squirrel Designated Basin by measuring its pumping and applying the URF for the appropriate basin. Depletions shall be calculated on an annual basis using the accelerated URF schedule explained in paragraph 8.3.1.1.2 above. Although depletions shall be calculated on an annual basis, these calculated depletions shall be "disaggregated" and replaced on a more frequent basis.

8.3.1.2.1.2. Initially Cherokee shall make replacements quarterly, with 1/4th of the required annual replacement being returned to the appropriate stream system every 3 months. Replacement water returned in the quarter may be returned in a single replacement event, or spread out over the quarter as appropriate to allow operating flexibility in the well fields. In the event the depletion in any quarter in any basin is less than 1/2 acre-foot, then Cherokee may accrue the depletion from quarter to quarter and delay replacement until the depletion for that basin reaches 1/2 acre-foot. If Cherokee carries over depletions from one quarter to the next, the depletion shall be replaced when it reaches 1/2 acre-foot. If the required annual replacement to any basin is less than 1/2 acre-foot in total, that replacement may be made in full at any time during the year. All required replacements for each basin must be met in full by the end of each year.

8.3.1.2.1.3. Once the annual depletion exceeds 6 acre feet per year in any basin, Cherokee shall increase the replacement frequency from quarterly to monthly. The amount of monthly replacement shall be the annual calculated depletion divided by 12. Once the annual depletion exceeds 12 acre-feet per year in any basin, Cherokee shall increase the replacement frequency from monthly to bi-monthly. The amount of bi-monthly replacement shall be the annual

calculated depletion divided by 24. Once the annual depletion exceeds 26 acre-feet per year in any basin, Cherokee shall increase the replacement frequency from bi-monthly to weekly. The amount of weekly replacement shall be the annual calculated depletion divided by 52. Even when Cherokee is required to replace more frequently than quarterly, it may continue to accrue required replacements until the total release is at least 1/2 acre foot of water. Cherokee may release replacement water more frequently than required herein, or in lesser amounts than 1/2 acre foot if it is beneficial to their operational system.

8.3.1.2.1.4. Cherokee shall notify the Water Commissioner for Water District 10 ("Water Commissioner") at least 48 hours in advance of any replacement, or Cherokee and the Water Commissioner may mutually agree upon a release schedule. A totalizing flow meter must be installed on the well discharge pipe prior to withdrawing any water therefrom, and shall be maintained accurate and operational in a manner acceptable to the Division Engineer for Water Division 2 at all times, for the life of the well. Cherokee shall keep accurate records of all withdrawals by the well, make any calculations necessary, and submit such records to the Water Division 2 Engineer as required in paragraph 8.4 or more frequently if requested by the Division Engineer for Water Division 2.

8.3.1.2.2. Replacement Locations:

8.3.1.2.2.1. Water Division 1: All replacements to Water Division 1 shall be made by discharging water directly into East Cherry Creek at the north edge of the Sundance Ranch property (the north edge of Section 30, T11S, R65W of the 6th PM), and/or at any point along East Cherry Creek where it crosses the Shiloh or County Line Well Fields.

8.3.1.2.2.2. Water Division 2: Replacements to Division 2 shall be made by discharging water into Kettle Creek from the Cherokee Pipeline.

8.3.1.2.2.3. Designated Basin: Replacements to the designated basins shall be made by releasing water into Upper Black Squirrel Creek from Cherokee's pipeline in the vicinity of Section 10, T12S, R 65W of the 6th PM.

8.3.1.2.3. Post-Pumping Depletions: After pumping ceases, Cherokee shall continue to replace post-pumping depletions as described above to the extent required by law.

8.3.1.2.3.1. Reservation of Nontributary Ground Water. Cherokee hereby reserves 1,263.632 acre-feet per year of the nontributary ground water associated with the Sundance Ranch Wells, Shamrock East Ranch Wells, Shiloh Ranch Wells, and County Line Ranch Wells to meet post-pumping augmentation requirements, as shown in the following table.

Reserved Groundwater (AF/Yr)	**Arapahoe Aquifer**	**Laramie-Fox Hills Aquifer**	**Denver Aquifer**
Sundance Ranch Wells	0	108.5	0
Shamrock East Wells	0	6	*156.467
Shiloh Ranch Wells	220	84.8	351
County Line Wells	127.595	0	209

*156.467 of total 600 AF/Yr Decreed in Case No. 94CW23, Water Division 1. The remaining 443.533 AF/Yr is not subject to the reservation herein.

The amounts shown in the Table above have been reduced to account for the requirement to relinquish 2% of the nontributary water withdrawn from the reserved nontributary sources, in accordance with Rule 8 of the Denver Basin Rules, 2 C.C.R. 402-6.

8.3.1.2.3.2. As described in paragraph 8.3.1.1.2.1 above, the Sundance Ranch Wells and Shamrock East Wells shall operate and be administered as one unit (South Well Field); and the Shiloh Ranch Wells and County Line Wells shall operate and be administered as one unit (North Well Field). This method of operation and administration will continue during the post-pumping period, including the determination of when the post-pumping period has begun for each respective well field.

8.3.1.2.3.3. Prior to Cherokee's permanent cessation of pumping of the Sundance Ranch Wells, Shamrock East Ranch Wells, Shiloh Ranch Wells, and County Line Ranch Wells, Cherokee shall drill a well or well(s) to withdraw the amount of nontributary water required to replace post-pumping depletions. Post-pumping depletions shall be calculated and replaced in the same manner as described above for depletions during the period of well pumping.

8.3.1.2.3.4. Upon the permanent cessation of all withdrawals from the Sundance Ranch Wells, Shamrock East Ranch Wells, Shiloh Ranch Wells, and County Line Ranch Wells, Cherokee shall file a notice with the Court under the caption of this case notifying the Court and all parties hereto that the post-pumping period has begun. Such notice shall explain the source(s) and structure(s) Cherokee shall use to replace post-pumping depletions.

8.3.1.2.3.5. Substitution of other sources: Cherokee reserves the right to substitute the use of other replacement sources for replacement of post-pumping depletions pursuant to paragraph 8.3.3 below.

8.3.2. Relinquishment of Nontributary Ground Water.

8.3.2.1. The decrees for the subject nontributary groundwater rights all require a relinquishment of 2% of the amount of nontributary water withdrawn. Cherokee shall install meters as necessary to determine the amount of required relinquishment.

8.3.2.2. Cherokee shall relinquish 2% of the amount of nontributary water produced from the Sundance Ranch Wells, Shamrock East Ranch Wells, Shiloh Ranch Wells, and County Line Ranch Wells by direct discharge of 2% of the amount of nontributary water produced. Alternatively, Cherokee may replace an amount equal to 2% of the amount of nontributary water produced from such wells by discharge of nontributary or not-nontributary ground water, or use of replacement sources to be added to this plan in the future pursuant to the retained jurisdiction procedure described herein. Cherokee shall relinquish such water on a daily basis, but such relinquishments may be aggregated at the discretion of the Water Commissioner.

8.3.2.3. The purpose of including the relinquishment requirement in this decree is to enhance Cherokee's ability to provide for relinquishment of the subject nontributary ground water as required by law. Nothing in this decree is intended to restrict, limit, prohibit, or prevent Cherokee from relinquishing the appropriate amount of nontributary ground water by other means in accordance with applicable law.

8.3.3. Additional or Alternative Replacement Sources. Pursuant to C.R.S. § 37-92-305(8), the Court may authorize Cherokee to use additional or alternative supplies of replacement water, including water leased on a yearly or less frequent basis, in this Augmentation Plan. This subparagraph sets forth the procedure under which these sources may be added to this plan after the initial decree.

8.3.3.1. New Source: Cherokee may use a water source not identified as an augmentation supply in this decree as an additional or alternative augmentation supply for this plan if such source is decreed for such use. Cherokee shall have the burden to prove that any such source can be included in this plan for augmentation without causing injury to other water rights.

8.3.3.2. Notice of New Source: Prior to using an additional or alternative water source for this plan, Cherokee shall give written Notice of Use of Water Right for Augmentation, to the Court, the Division Engineer for Water Division 2 and all the objectors herein. Such Notice shall state: 1) the water right by name and decree; 2) the annual and monthly amount of water available to Cherokee from the water right; 3) the manner by which the augmentation credits will be used to augment depletions from wells or water rights included in this plan for augmentation in time, location and amount; 4) the date of initial use of the proposed new source within this plan; 5) duration of use of the new source; 6) identification of the exchange reach, including the exchange "to" and exchange "from" point(s), if the additional or alternative augmentation supply is introduced downstream of the out-of-priority diversion; 7) if an exchange is required for the new source to be used, proposed terms and conditions relative to the exchange operation; 8) evidence that the claimed amount of water is available for use in this plan and will not be used by any other person; and 9) the manner in which Cherokee will account for use of the augmentation credits and make any required return flow replacements. The Notice shall also specifically include a request that the Court enter an Order either affirming or denying Cherokee's proposal, and that said Order be attached to the final decree approving the plan for augmentation.

8.3.3.3. Objection to use of New Source: If any person wishes to object to the addition of the noticed water rights to this plan, a written objection shall be filed with the Court within sixty (60) days after the date the Notice was given by Cherokee. If no objection is so filed, the Court shall promptly enter an Order affirming Cherokee's immediate use of the noticed water rights. If an objection is so filed, then the Cherokee may not use the noticed water rights until the Court has determined whether and under what terms and conditions the water rights may be used in this plan.

8.3.3.4. Hearing on Use of New Source: Where an objection has been filed to the use of a water right as an additional or alternative source for this plan, the Court shall promptly schedule a hearing to determine whether and under what terms and conditions the water right may be used in this plan. The Court shall conduct whatever proceedings are needed to appropriately address and resolve the disputed issues. At such hearing, the Court shall impose such terms and conditions as necessary to prevent injury to vested water rights and decreed conditional rights. If the Notice requested temporary use of the noticed water

rights in this plan for a period not to exceed one year, then the Court shall grant an expedited hearing.

8.3.3.5. New Sources Requiring Operation of an Exchange: Where the use of any new source requires the operation of any new exchanges, including the expansion of any existing exchange reach, Cherokee must obtain approval of the Division Engineer for Water Division 2 and Water Commissioner prior to operating such exchanges. Cherokee must submit a separate water court application if seeking to adjudicate such exchanges.

8.3.4. Additional wells: All of the subject prior decrees referenced in Paragraph 7.1 above allow the drilling of additional wells to withdraw the subject groundwater. Cherokee may drill a replacement well for any of the above-listed structures, and if approved by SEO, such replacement well shall automatically be included in this plan. If Cherokee decides to drill a new well not listed herein that is not a replacement well, then it will do so under the retained jurisdiction of this Court. The depletions from any additional wells shall be determined according to the methodology described herein for existing wells.

8.4. Accounting: Cherokee shall use well meters to record, on a continuous basis, the withdrawal of unreserved nontributary and not-nontributary water from all wells described in paragraph 7.1. Cherokee shall then calculate well depletions as described in paragraph 8.3.1.1 above and provide replacements as described in paragraph 8.3.1.2 above, or as otherwise reasonably required by the Water Commissioner to prevent injury.

8.4.1. Well pumping shall be recorded manually or on a SCADA system (automatic telemetry system) on a daily basis. Discharge volumes from Dawson Aquifer wells shall be totaled monthly by well and accrued annually by well field. The modeling demonstrates that depletions to streams will accrue very slowly and in relatively small quantities, but will continue for a long post pumping period. The modeling indicates depletions will continue to impact streams for over 1,000 years. Monthly depletions shall be assumed to be one-twelfth of the predicted annual depletion. Further incrementing the URF's at the monthly level for 1,000 years presents no significant benefit or increased accuracy over the assumption that monthly depletions are equal to 1/12th of the annual depletions. As such, accounting on an annual basis is sufficient to assure adequate replacements are made in time, location, and amount.

8.4.2. Accounting shall be based upon the URFs described in paragraph 8.3.1.1.2 above and attached hereto as Exhibit B. Cherokee shall file accounting reports annually, unless otherwise directed by the Division Engineer for Water Division 2. Accounting forms shall be provided to the Division Engineer for Water Division 2 and the Water Commissioner in an acceptable format within sixty (60) days of the

end of the water year. The initial accounting shall include, at a minimum, the following: (1) the name, date, and location of the calling water right; (2) the meter readings, volume of water pumped and corresponding depletions; (3) stream depletion; (4) the replacement water identified by source and the location where the replacement water is released; (5) tracking of any monthly/annual volumetric and maximum diversion limits; (6) the annual net effect, a result of comparing the total depletions from this plan and the total replacement obligations; and (7) any transit losses assessed by the Division Engineer for Water Division 2 or Water Commissioner.

8.4.3. The accounting forms are not decreed herein and may be changed from time to time so long as the information required by this decree is included. Cherokee shall submit initial accounting forms and any proposed revisions or amendments to its accounting forms to the Division Engineer for Water Division 2 for approval and shall provide written notice to counsel for Opposers of such initial accounting forms and proposed revisions or amendments. Opposers shall have sixty (60) days from receipt of Notice to provide comments to Cherokee and the Division Engineer for Water Division 2 regarding the proposed revisions or amendments to the accounting forms. Cherokee shall not have any responsibility or obligation to provide notice to other parties of any changes to the accounting forms that are requested by the Division Engineer for Water Division 2. Accounting forms shall be provided to any Opposer herein upon request.

8.5. Cherokee does not request any change in the terms and conditions of the previous decrees referenced herein except as specifically requested herein, or as necessary to allow operation of the requested plan for augmentation.

8.6. Nothing herein is intended to create any implication that the granting of the application in this case will affect the entitlement of any person to receive water from Cherokee. Rights to water service will continue to be governed by the applicable contracts and agreements, as well as Cherokee's rules and regulations.

8.7. Non-Injury. No injury will occur to the owner of any vested or conditionally decreed water right from the granting of this application, provided replacement of all out-of-priority depletions, including post-pumping depletions, are made in adequate time, place and amount, consistent with the terms and conditions of this Decree.

I. CONCLUSIONS OF LAW

9. The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.

10. Notice and Jurisdiction: The Water Court for Division 2 has jurisdiction over the subject matter of these proceedings and over all persons and owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The Applications in this matter, the resume publications of the Applications, and the notices Cherokee provided placed such persons on notice of the relief requested by the Applications and granted by this decree. C.R.S. §§ 37-92-203 and 302.

11. Applications Complete: The Applications are complete, covering all applicable matters required by the Water Right Determination and Administration Act of 1969, C.R.S. § 37-92-101 through 602, and should be granted as set forth herein.

12. Plan for Augmentation: Pursuant to C.R.S. § 37-92-305(8) and subject to paragraph 20 below, the plan for augmentation is sufficient to permit the continuation of diversions when curtailment would otherwise be required to meet a valid senior call for water, because Cherokee shall provide adequate replacement water necessary to meet the lawful requirements of a senior diverter at the time and location and to the extent that the senior would be deprived of his or her lawful entitlement by Cherokee's diversions.

13. Water Quality, Quantity, and Continuity: The replacement water provided in this plan for augmentation shall be of a quality, quantity, and continuity so as to meet the requirements of C.R.S. 37-92-305(5) for which water of senior appropriators has normally been used, and such replacement water shall be accepted by the senior appropriators in substitution for water derived by the exercise of their decreed water rights.

14. No Injury: The terms and conditions as set forth in this Ruling and Decree are adequate to prevent injury to the vested rights of others, including the owners of, or persons entitled to use water under a vested water right or a decreed conditional water right. C.R.S. § 37-92-305.

15. Administration: The plan for augmentation as described in this Ruling and Decree is capable of administration by the state water officials.

16. Burden of Proof: Cherokee has complied with all requirements and has met its burden of proof to adjudicate the plan for augmentation and change of water rights requested herein, and is therefore entitled to a decree approving the requested change of water rights and plan for augmentation.

II. JUDGMENT AND DECREE

17. The foregoing Findings of Fact and Conclusions of Law are hereby approved and incorporated as the Judgment and Decree of the Court by this reference.

18. The Change of Water Rights and the Plan for Augmentation as described in the Findings of Fact and Conclusions of Law above are hereby approved, confirmed and adjudicated.

19. Cherokee shall install and maintain such measuring devices and keep such records as the Division Engineer for Water Division 2 or Water Commissioner may require for administration of the subject water rights.

20. Pursuant to C.R.S.§ 37-92-305(8) the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

21. Well Permits. In considering any well permit applications, the State Engineer shall be governed by the Findings of Fact, Conclusions of Law, and Decree herein and shall issue said permits in accordance with the provisions of such decree and C.R.S. § 37-90-137(10). Cherokee shall not be required to submit any additional proof or evidence of matters finally determined in such decree when making application for wells to withdraw the water rights confirmed therein. Any failure to construct a well necessary to produce groundwater hereunder within the period of time specified in any well permit shall not extinguish the underlying right to water.

22. Banked Water Withdrawals from Shamrock East Wells: For purposes of settlement, Cherokee agrees to limit the total annual amount of withdrawal, including banked water, from the Shamrock East Wells that withdraw Not-Nontributary water from the Dawson aquifer to 1,113.45 acre-feet per year, which equals 150% of the combined annual appropriation amount of Dawson aquifer water for the Sundance Ranch Wells and the Shamrock East Wells.

23. Retained Jurisdiction: The Court retains jurisdiction over this case for the following specific purposes:

    23.1. Injury: Pursuant to C.R.S. § 37-92-304(6), the Court shall retain continuing jurisdiction over the plan for augmentation on the question of injury to the vested rights of others for a period beginning at the issuance of the decree herein and continuing until five years after the date Cherokee has notified the Court and the parties herein that the post-pumping depletion period has begun. Any person may invoke retained jurisdiction under this Decree by filing a petition to do so with this Court. Such petition shall be filed under the caption and case number of this case and shall be served on counsel of record for all parties who have appeared. Any petition to invoke retained jurisdiction for this purpose shall set forth the factual basis upon which it is asserted that injury has occurred or will occur. The petitioning party shall have the initial burden of going forward to establish the facts alleged in the petition. Cherokee shall bear the ultimate burden to show (a) that no injury claimed by the other party has occurred or will occur, or (b) that

any modification to this Ruling and Decree sought by the other party is not required, or (c) that any term or condition proposed by Cherokee in response to the petition is adequate to avoid injury.

23.2. Accounting: The Court shall retain continuing jurisdiction in perpetuity over the plan for augmentation on the question of the sufficiency of the accounting for this plan for augmentation, as such accounting may be revised from time to time. The Court's retained jurisdiction for this purpose shall include the consideration of an extension of the URF schedule (Exhibit B hereto) as described in paragraph 8.3.1.1.2 above. The Division Engineer for Water Division 2 may invoke retained jurisdiction as to this issue by filing a petition to do so with this Court. The Division Engineer for Water Division 2 shall file such petition under the caption and case number of this case, and the petition shall set forth the factual basis upon which the Division Engineer for Water Division 2 asserts that the accounting has caused or will cause injury to occur. The Division Engineer for Water Division 2 shall have the initial burden of going forward to establish the facts alleged in the petition. Cherokee shall bear the ultimate burden to show (a) the accounting has not caused and will not cause the injury claimed by the Division Engineer for Water Division 2, or (b) that any modification to the accounting for this plan for augmentation sought by the Division Engineer for Water Division 2 is not required, or (c) that any term or condition proposed by Cherokee in response to the Division Engineer for Water Division 2's petition is adequate to avoid such injury.

23.3. Substitution of Post-Pumping Depletion Replacement Sources: The Water Court shall have perpetual jurisdiction over this plan for augmentation for the purpose of substituting or adding new sources to replace post-pumping depletions. Any petition to invoke retained jurisdiction for this purpose shall set forth the factual basis upon which it is asserted that certain supplies may be substituted for the nontributary ground water reserved herein. The petitioning party shall have the initial burden of going forward to establish the facts alleged in the petition. Cherokee shall bear the ultimate burden to show that the proposed substitution will not injure other water rights.

23.4. Additional Augmentation Sources and Additional Wells: The Water Court shall have perpetual jurisdiction over this plan for augmentation for the purposes of adding new augmentation sources pursuant to paragraph 8.3.3 or new wells pursuant to paragraph 8.3.4, and for the purposes of resolving any disputes between the parties related to such additions to this plan for augmentation.

23.5. Triview Exchanges: The Court shall retain continuing jurisdiction over the plan for augmentation on the question of injury to the appropriative rights of exchange of Opposer Triview Metro District as decreed in Case No. 87CW74, Water Division 2, Colorado. These decreed appropriative rights of exchange on Monument Creek are

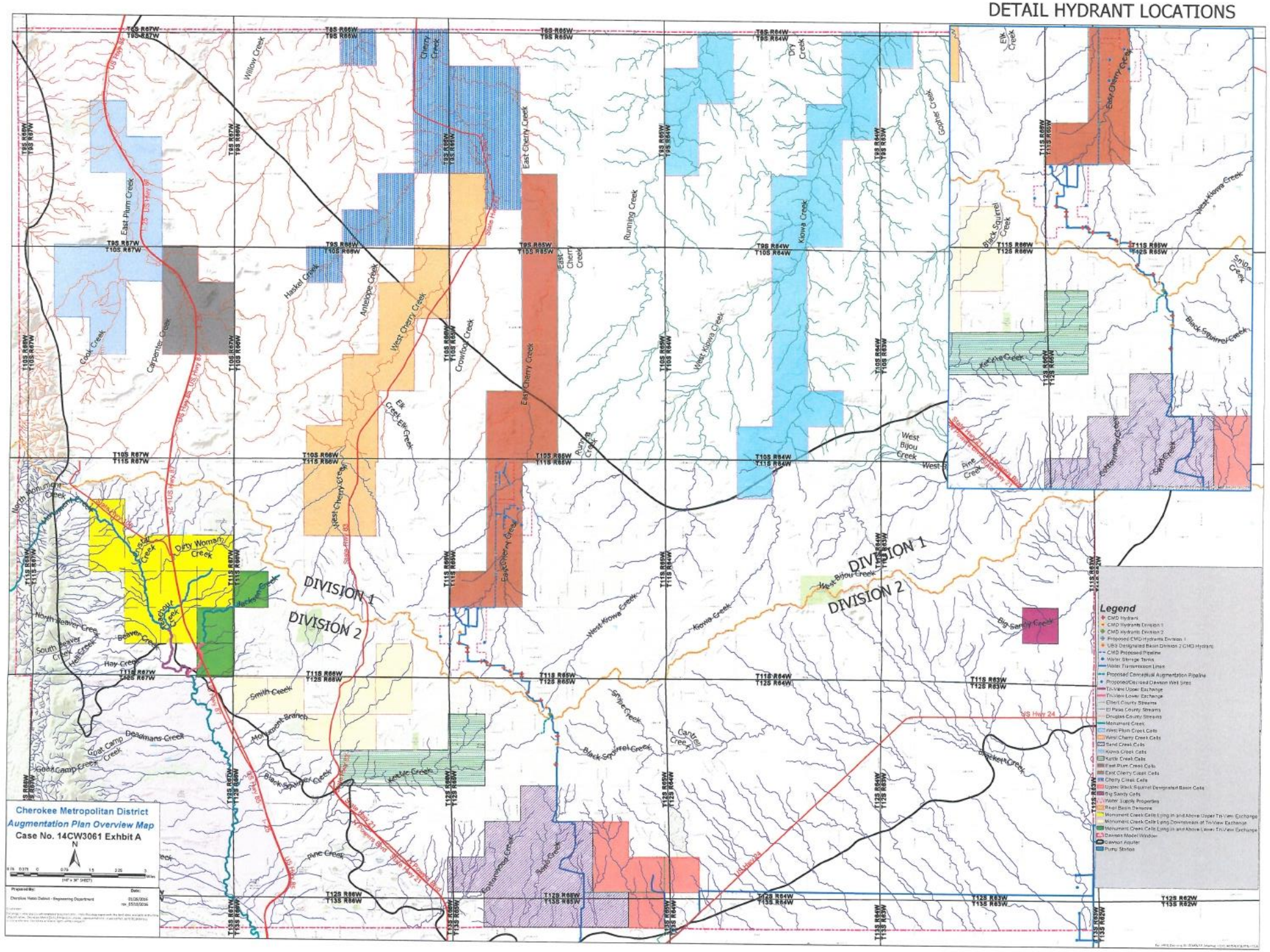
upstream of all proposed points of replacement to Monument Creek and its tributaries identified in this decree, and therefore may be adversely affected by the operation of this decree. Triview is therefore reserved the right to re-assert its claims in the future that operation of this decree causes injury to its appropriative rights of exchange on Monument Creek and its tributaries, and the Court's retained jurisdiction in this regard shall be perpetual. In the interest of settlement, Triview consents to the entry of this decree. However, in doing so, Triview does not waive its right to claim injury to its appropriative rights of exchange and to seek further relief according to the retained jurisdiction provisions decreed herein. Triview may invoke retained jurisdiction as to this issue by filing a petition to do so with this Court, asserting injury therein. In any proceeding pursuant to the Court's retained jurisdiction for this limited purpose, Triview shall be relieved of the initial burden of demonstrating its asserted injury. Rather, Cherokee shall have the initial burden of proof to prove non-injury to Triview's appropriative rights of exchange, and that the sources and locations of replacement and augmentation supply decreed herein, or such alternatives as Cherokee may present, are not causing and will not cause unreplaced depletions to Monument Creek and its tributaries such that injury to Triview's appropriative rights of exchange occurs. Should Cherokee carry such initial burden of proof, the burden shall fall to Triview to rebut such evidence.

Dated this 2 day of OCT., 2017.

BY THE COURT:

Water Judge
Water Division No. 2
State of Colorado

DETAIL HYDRANT LOCATIONS



YEAR	North Field Accelerated URF's Div 1	Div 2	Des Bas
1	0.005129	1.07E-07	1.66E-09
2	0.001908	2.66E-07	5.3E-09
3	0.001642	5.96E-07	1.44E-08
4	0.001452	1.12E-06	3.21E-08
5	0.001311	1.86E-06	6.26E-08
6	0.001203	2.82E-06	1.11E-07
7	0.001119	4.01E-06	1.81E-07
8	0.001052	5.41E-06	2.78E-07
9	0.000998	7.01E-06	4.06E-07
10	0.000953	8.79E-06	5.7E-07
11	0.000916	1.07E-05	7.73E-07
12	0.000884	1.28E-05	1.02E-06
13	0.000857	1.5E-05	1.31E-06
14	0.000834	1.73E-05	1.64E-06
15	0.000814	1.96E-05	2.02E-06
16	0.000797	2.21E-05	2.44E-06
17	0.000781	2.45E-05	2.92E-06
18	0.000767	2.71E-05	3.44E-06
19	0.000755	2.96E-05	4E-06
20	0.000744	3.22E-05	4.61E-06
21	0.000734	3.48E-05	5.26E-06
22	0.000725	3.75E-05	5.95E-06
23	0.000716	4.01E-05	6.68E-06
24	0.000708	4.27E-05	7.45E-06
25	0.000701	4.54E-05	8.25E-06
26	0.000694	4.8E-05	9.09E-06
27	0.000688	5.06E-05	9.95E-06
28	0.000682	5.32E-05	1.08E-05
29	0.000677	5.58E-05	1.18E-05
30	0.000672	5.84E-05	1.27E-05
31	0.000667	6.09E-05	1.37E-05
32	0.000662	6.35E-05	1.47E-05
33	0.000658	6.6E-05	1.57E-05
34	0.000654	6.85E-05	1.67E-05
35	0.00065	7.09E-05	1.77E-05
36	0.000646	7.34E-05	1.88E-05
37	0.000642	7.58E-05	1.98E-05
38	0.000639	7.82E-05	2.09E-05
39	0.000636	8.06E-05	2.2E-05
40	0.000633	8.29E-05	2.31E-05
41	0.00063	8.53E-05	2.41E-05
42	0.000627	8.76E-05	2.52E-05
43	0.000624	8.98E-05	2.63E-05
44	0.000621	9.21E-05	2.74E-05
45	0.000619	9.43E-05	2.85E-05

YEAR	South Field Accelerated URF's Div 1	Div2	Des Bas
1	0.001056	2.37E-05	1.84E-11
2	0.000712	3.16E-05	7.85E-11
3	0.000734	4.67E-05	2.68E-10
4	0.000725	6.17E-05	7.39E-10
5	0.000704	7.58E-05	1.74E-09
6	0.000677	8.89E-05	3.66E-09
7	0.000651	0.000101	7.02E-09
8	0.000626	0.000112	1.25E-08
9	0.000603	0.000121	2.08E-08
10	0.000584	0.00013	3.3E-08
11	0.000567	0.000139	5E-08
12	0.000552	0.000146	7.3E-08
13	0.000539	0.000153	1.03E-07
14	0.000528	0.00016	1.42E-07
15	0.000519	0.000166	1.9E-07
16	0.000511	0.000172	2.48E-07
17	0.000503	0.000177	3.18E-07
18	0.000497	0.000182	4.01E-07
19	0.000491	0.000187	4.98E-07
20	0.000487	0.000192	6.09E-07
21	0.000482	0.000196	7.36E-07
22	0.000478	0.000201	8.79E-07
23	0.000475	0.000205	1.04E-06
24	0.000471	0.000209	1.21E-06
25	0.000468	0.000213	1.41E-06
26	0.000466	0.000216	1.62E-06
27	0.000463	0.00022	1.85E-06
28	0.000461	0.000223	2.09E-06
29	0.000459	0.000227	2.36E-06
30	0.000457	0.00023	2.64E-06
31	0.000455	0.000233	2.94E-06
32	0.000453	0.000236	3.25E-06
33	0.000452	0.000239	3.59E-06
34	0.00045	0.000242	3.94E-06
35	0.000449	0.000245	4.3E-06
36	0.000447	0.000248	4.69E-06
37	0.000446	0.00025	5.09E-06
38	0.000445	0.000253	5.5E-06
39	0.000444	0.000255	5.93E-06
40	0.000443	0.000258	6.37E-06
41	0.000442	0.00026	6.83E-06
42	0.000441	0.000263	7.3E-06
43	0.00044	0.000265	7.78E-06
44	0.000439	0.000267	8.28E-06
45	0.000438	0.000269	8.79E-06

46	0.000616	9.65E-05	2.96E-05
47	0.000614	9.86E-05	3.07E-05
48	0.000611	0.000101	3.18E-05
49	0.000609	0.000103	3.29E-05
50	0.000607	0.000105	3.39E-05
51	0.000605	0.000107	3.5E-05
52	0.000603	0.000109	3.61E-05
53	0.000601	0.000111	3.71E-05
54	0.0006	0.000113	3.82E-05
55	0.000598	0.000115	3.92E-05
56	0.000596	0.000117	4.03E-05
57	0.000595	0.000119	4.13E-05
58	0.000593	0.000121	4.23E-05
59	0.000591	0.000123	4.33E-05
60	0.00059	0.000124	4.43E-05
61	0.000589	0.000126	4.53E-05
62	0.000587	0.000128	4.63E-05
63	0.000586	0.00013	4.73E-05
64	0.000584	0.000132	4.82E-05
65	0.000583	0.000133	4.92E-05
66	0.000582	0.000135	5.01E-05
67	0.00058	0.000137	5.1E-05
68	0.000579	0.000138	5.2E-05
69	0.000578	0.00014	5.29E-05
70	0.000577	0.000142	5.38E-05
71	0.000576	0.000143	5.47E-05
72	0.000575	0.000145	5.55E-05
73	0.000573	0.000146	5.64E-05
74	0.000572	0.000148	5.73E-05
75	0.000571	0.000149	5.81E-05
76	0.00057	0.000151	5.9E-05
77	0.000569	0.000152	5.98E-05
78	0.000568	0.000154	6.06E-05
79	0.000567	0.000155	6.14E-05
80	0.000566	0.000157	6.22E-05
81	0.000565	0.000158	6.3E-05
82	0.000564	0.000159	6.38E-05
83	0.000563	0.000161	6.46E-05
84	0.000562	0.000162	6.53E-05
85	0.000561	0.000163	6.6E-05
86	0.00056	0.000165	6.68E-05
87	0.000559	0.000166	6.75E-05
88	0.000558	0.000167	6.82E-05
89	0.000557	0.000168	6.89E-05
90	0.000556	0.00017	6.96E-05
91	0.000556	0.000171	7.03E-05
92	0.000555	0.000172	7.1E-05

46	0.000437	0.000271	9.3E-06
47	0.000437	0.000274	9.83E-06
48	0.000436	0.000276	1.04E-05
49	0.000435	0.000278	1.09E-05
50	0.000435	0.00028	1.15E-05
51	0.000434	0.000282	1.2E-05
52	0.000433	0.000283	1.26E-05
53	0.000433	0.000285	1.32E-05
54	0.000432	0.000287	1.38E-05
55	0.000432	0.000289	1.44E-05
56	0.000431	0.000291	1.5E-05
57	0.000431	0.000292	1.56E-05
58	0.00043	0.000294	1.62E-05
59	0.00043	0.000296	1.68E-05
60	0.00043	0.000297	1.75E-05
61	0.000429	0.000299	1.81E-05
62	0.000429	0.0003	1.87E-05
63	0.000429	0.000302	1.94E-05
64	0.000428	0.000303	2E-05
65	0.000428	0.000305	2.06E-05
66	0.000428	0.000306	2.13E-05
67	0.000427	0.000308	2.19E-05
68	0.000427	0.000309	2.26E-05
69	0.000427	0.00031	2.32E-05
70	0.000426	0.000312	2.39E-05
71	0.000426	0.000313	2.45E-05
72	0.000426	0.000314	2.52E-05
73	0.000426	0.000315	2.58E-05
74	0.000426	0.000316	2.65E-05
75	0.000426	0.000318	2.71E-05
76	0.000426	0.000319	2.78E-05
77	0.000425	0.00032	2.84E-05
78	0.000425	0.000321	2.91E-05
79	0.000425	0.000322	2.97E-05
80	0.000425	0.000323	3.03E-05
81	0.000425	0.000324	3.1E-05
82	0.000425	0.000325	3.16E-05
83	0.000425	0.000326	3.23E-05
84	0.000425	0.000327	3.29E-05
85	0.000424	0.000328	3.35E-05
86	0.000424	0.000329	3.42E-05
87	0.000424	0.000329	3.48E-05
88	0.000424	0.00033	3.54E-05
89	0.000424	0.000331	3.61E-05
90	0.000424	0.000332	3.67E-05
91	0.000424	0.000333	3.73E-05
92	0.000424	0.000333	3.79E-05

93	0.000554	0.000173	7.17E-05
94	0.000553	0.000174	7.23E-05
95	0.000552	0.000175	7.3E-05
96	0.000551	0.000177	7.36E-05
97	0.000551	0.000178	7.42E-05
98	0.00055	0.000179	7.49E-05
99	0.000549	0.00018	7.55E-05
100	0.000548	0.000181	7.61E-05
101	0.000547	0.000182	7.67E-05
102	0.000547	0.000183	7.73E-05
103	0.000546	0.000184	7.78E-05
104	0.000545	0.000185	7.84E-05
105	0.000544	0.000186	7.9E-05
106	0.000544	0.000187	7.95E-05
107	0.000543	0.000188	8.01E-05
108	0.000542	0.000189	8.06E-05
109	0.000541	0.00019	8.12E-05
110	0.000541	0.00019	8.17E-05
111	0.00054	0.000191	8.22E-05
112	0.000539	0.000192	8.27E-05
113	0.000538	0.000193	8.32E-05
114	0.000538	0.000194	8.37E-05
115	0.000537	0.000195	8.42E-05
116	0.000536	0.000195	8.47E-05
117	0.000536	0.000196	8.52E-05
118	0.000535	0.000197	8.56E-05
119	0.000534	0.000198	8.61E-05
120	0.000534	0.000198	8.65E-05
121	0.000533	0.000199	8.7E-05
122	0.000532	0.0002	8.74E-05
123	0.000532	0.000201	8.79E-05
124	0.000531	0.000201	8.83E-05
125	0.00053	0.000202	8.87E-05
126	0.00053	0.000203	8.91E-05
127	0.000529	0.000203	8.95E-05
128	0.000528	0.000204	8.99E-05
129	0.000528	0.000205	9.03E-05
130	0.000527	0.000205	9.07E-05
131	0.000527	0.000206	9.11E-05
132	0.000526	0.000206	9.15E-05
133	0.000525	0.000207	9.19E-05
134	0.000524	0.000207	9.22E-05
135	0.000524	0.000208	9.26E-05
136	0.000523	0.000209	9.3E-05
137	0.000523	0.000209	9.33E-05
138	0.000522	0.00021	9.37E-05
139	0.000522	0.00021	9.4E-05

93	0.000424	0.000334	3.85E-05
94	0.000424	0.000335	3.91E-05
95	0.000424	0.000335	3.98E-05
96	0.000424	0.000336	4.04E-05
97	0.000424	0.000336	4.1E-05
98	0.000424	0.000337	4.16E-05
99	0.000424	0.000338	4.22E-05
100	0.000424	0.000338	4.27E-05
101	0.000424	0.000339	4.33E-05
102	0.000424	0.000339	4.39E-05
103	0.000424	0.00034	4.45E-05
104	0.000423	0.00034	4.51E-05
105	0.000423	0.000341	4.56E-05
106	0.000423	0.000341	4.62E-05
107	0.000423	0.000341	4.68E-05
108	0.000423	0.000342	4.73E-05
109	0.000423	0.000342	4.79E-05
110	0.000423	0.000342	4.84E-05
111	0.000423	0.000343	4.9E-05
112	0.000423	0.000343	4.95E-05
113	0.000423	0.000343	5.01E-05
114	0.000423	0.000344	5.06E-05
115	0.000423	0.000344	5.11E-05
116	0.000423	0.000344	5.17E-05
117	0.000423	0.000344	5.22E-05
118	0.000423	0.000345	5.27E-05
119	0.000423	0.000345	5.32E-05
120	0.000423	0.000345	5.37E-05
121	0.000423	0.000345	5.42E-05
122	0.000423	0.000345	5.47E-05
123	0.000423	0.000345	5.52E-05
124	0.000423	0.000346	5.57E-05
125	0.000423	0.000346	5.62E-05
126	0.000423	0.000346	5.67E-05
127	0.000423	0.000346	5.72E-05
128	0.000423	0.000346	5.77E-05
129	0.000423	0.000346	5.81E-05
130	0.000423	0.000346	5.86E-05
131	0.000423	0.000346	5.91E-05
132	0.000423	0.000346	5.95E-05
133	0.000423	0.000346	6E-05
134	0.000423	0.000346	6.04E-05
135	0.000423	0.000346	6.09E-05
136	0.000422	0.000346	6.13E-05
137	0.000422	0.000346	6.18E-05
138	0.000422	0.000346	6.22E-05
139	0.000422	0.000346	6.26E-05

140	0.000521	0.000211	9.44E-05
141	0.00052	0.000211	9.47E-05
142	0.00052	0.000211	9.5E-05
143	0.000519	0.000212	9.53E-05
144	0.000519	0.000212	9.57E-05
145	0.000518	0.000213	9.6E-05
146	0.000517	0.000213	9.63E-05
147	0.000517	0.000214	9.66E-05
148	0.000516	0.000214	9.69E-05
149	0.000516	0.000214	9.72E-05
150	0.000515	0.000215	9.75E-05
151	0.000515	0.000215	9.78E-05
152	0.000514	0.000216	9.8E-05
153	0.000513	0.000216	9.83E-05
154	0.000513	0.000216	9.86E-05
155	0.000512	0.000217	9.89E-05
156	0.000512	0.000217	9.91E-05
157	0.000511	0.000217	9.94E-05
158	0.000511	0.000218	9.97E-05
159	0.00051	0.000218	9.99E-05
160	0.000509	0.000218	0.0001
161	0.000509	0.000218	0.0001
162	0.000508	0.000219	0.000101
163	0.000508	0.000219	0.000101
164	0.000507	0.000219	0.000101
165	0.000507	0.00022	0.000101
166	0.000506	0.00022	0.000102
167	0.000506	0.00022	0.000102
168	0.000505	0.00022	0.000102
169	0.000505	0.00022	0.000102
170	0.000504	0.000221	0.000102
171	0.000503	0.000221	0.000103
172	0.000503	0.000221	0.000103
173	0.000502	0.000221	0.000103
174	0.000502	0.000221	0.000103
175	0.000501	0.000222	0.000104
176	0.000501	0.000222	0.000104
177	0.0005	0.000222	0.000104
178	0.0005	0.000222	0.000104
179	0.000499	0.000222	0.000104
180	0.000499	0.000222	0.000104
181	0.000498	0.000223	0.000105
182	0.000498	0.000223	0.000105
183	0.000497	0.000223	0.000105
184	0.000497	0.000223	0.000105
185	0.000496	0.000223	0.000105
186	0.000495	0.000223	0.000106

140	0.000422	0.000345	6.31E-05
141	0.000422	0.000345	6.35E-05
142	0.000422	0.000345	6.39E-05
143	0.000422	0.000345	6.43E-05
144	0.000422	0.000345	6.47E-05
145	0.000422	0.000345	6.52E-05
146	0.000422	0.000345	6.56E-05
147	0.000422	0.000345	6.6E-05
148	0.000422	0.000344	6.64E-05
149	0.000422	0.000344	6.67E-05
150	0.000422	0.000344	6.71E-05
151	0.000422	0.000344	6.75E-05
152	0.000422	0.000344	6.79E-05
153	0.000422	0.000343	6.83E-05
154	0.000422	0.000343	6.86E-05
155	0.000422	0.000343	6.9E-05
156	0.000422	0.000343	6.94E-05
157	0.000421	0.000342	6.98E-05
158	0.000421	0.000342	7.01E-05
159	0.000421	0.000342	7.05E-05
160	0.000421	0.000341	7.08E-05
161	0.000421	0.000341	7.12E-05
162	0.000421	0.000341	7.15E-05
163	0.000421	0.000341	7.19E-05
164	0.000421	0.00034	7.22E-05
165	0.000421	0.00034	7.25E-05
166	0.000421	0.00034	7.29E-05
167	0.000421	0.000339	7.32E-05
168	0.000421	0.000339	7.35E-05
169	0.000421	0.000339	7.38E-05
170	0.000421	0.000338	7.42E-05
171	0.00042	0.000338	7.45E-05
172	0.00042	0.000338	7.48E-05
173	0.00042	0.000337	7.51E-05
174	0.00042	0.000337	7.54E-05
175	0.00042	0.000337	7.57E-05
176	0.00042	0.000336	7.6E-05
177	0.00042	0.000336	7.63E-05
178	0.00042	0.000335	7.66E-05
179	0.00042	0.000335	7.69E-05
180	0.00042	0.000335	7.72E-05
181	0.00042	0.000334	7.74E-05
182	0.000419	0.000334	7.77E-05
183	0.000419	0.000333	7.8E-05
184	0.000419	0.000333	7.83E-05
185	0.000419	0.000332	7.86E-05
186	0.000419	0.000332	7.88E-05

187	0.000495	0.000223	0.000106
188	0.000495	0.000223	0.000106
189	0.000494	0.000223	0.000106
190	0.000493	0.000223	0.000106
191	0.000493	0.000224	0.000106
192	0.000492	0.000224	0.000106
193	0.000492	0.000224	0.000107
194	0.000492	0.000224	0.000107
195	0.000491	0.000224	0.000107
196	0.00049	0.000224	0.000107
197	0.00049	0.000224	0.000107
198	0.000489	0.000224	0.000107
199	0.000489	0.000224	0.000107
200	0.000488	0.000224	0.000108
201	0.000488	0.000224	0.000108
202	0.000487	0.000224	0.000108
203	0.000487	0.000224	0.000108
204	0.000486	0.000224	0.000108
205	0.000486	0.000224	0.000108
206	0.000486	0.000224	0.000108
207	0.000485	0.000224	0.000108
208	0.000485	0.000224	0.000109
209	0.000484	0.000224	0.000109
210	0.000483	0.000224	0.000109
211	0.000483	0.000224	0.000109
212	0.000483	0.000224	0.000109
213	0.000482	0.000224	0.000109
214	0.000482	0.000224	0.000109
215	0.000481	0.000224	0.000109
216	0.000481	0.000224	0.000109
217	0.00048	0.000224	0.00011
218	0.00048	0.000223	0.00011
219	0.000479	0.000223	0.00011
220	0.000479	0.000223	0.00011
221	0.000478	0.000223	0.00011
222	0.000478	0.000223	0.00011
223	0.000477	0.000223	0.00011
224	0.000477	0.000223	0.00011
225	0.000476	0.000223	0.00011
226	0.000476	0.000223	0.00011
227	0.000475	0.000223	0.00011
228	0.000475	0.000223	0.000111
229	0.000474	0.000223	0.000111
230	0.000474	0.000223	0.000111
231	0.000474	0.000222	0.000111
232	0.000473	0.000222	0.000111
233	0.000473	0.000222	0.000111

187	0.000419	0.000332	7.91E-05
188	0.000419	0.000331	7.94E-05
189	0.000419	0.000331	7.96E-05
190	0.000419	0.00033	7.99E-05
191	0.000418	0.00033	8.01E-05
192	0.000418	0.000329	8.04E-05
193	0.000418	0.000329	8.06E-05
194	0.000418	0.000329	8.09E-05
195	0.000418	0.000328	8.11E-05
196	0.000418	0.000328	8.14E-05
197	0.000418	0.000327	8.16E-05
198	0.000418	0.000327	8.18E-05
199	0.000418	0.000326	8.21E-05
200	0.000417	0.000326	8.23E-05
201	0.000417	0.000325	8.25E-05
202	0.000417	0.000325	8.28E-05
203	0.000417	0.000324	8.3E-05
204	0.000417	0.000324	8.32E-05
205	0.000417	0.000323	8.34E-05
206	0.000417	0.000323	8.36E-05
207	0.000417	0.000322	8.39E-05
208	0.000416	0.000322	8.41E-05
209	0.000416	0.000321	8.43E-05
210	0.000416	0.000321	8.45E-05
211	0.000416	0.00032	8.47E-05
212	0.000416	0.00032	8.49E-05
213	0.000416	0.000319	8.51E-05
214	0.000416	0.000319	8.53E-05
215	0.000415	0.000318	8.55E-05
216	0.000415	0.000318	8.57E-05
217	0.000415	0.000317	8.59E-05
218	0.000415	0.000317	8.61E-05
219	0.000415	0.000316	8.63E-05
220	0.000415	0.000316	8.64E-05
221	0.000415	0.000315	8.66E-05
222	0.000414	0.000315	8.68E-05
223	0.000414	0.000314	8.7E-05
224	0.000414	0.000314	8.72E-05
225	0.000414	0.000313	8.73E-05
226	0.000414	0.000313	8.75E-05
227	0.000414	0.000312	8.77E-05
228	0.000413	0.000311	8.79E-05
229	0.000413	0.000311	8.8E-05
230	0.000413	0.00031	8.82E-05
231	0.000413	0.00031	8.84E-05
232	0.000413	0.000309	8.85E-05
233	0.000413	0.000309	8.87E-05

234	0.000472	0.000222	0.000111
235	0.000472	0.000222	0.000111
236	0.000471	0.000222	0.000111
237	0.000471	0.000222	0.000111
238	0.00047	0.000222	0.000111
239	0.00047	0.000221	0.000111
240	0.000469	0.000221	0.000111
241	0.000469	0.000221	0.000111
242	0.000468	0.000221	0.000111
243	0.000468	0.000221	0.000112
244	0.000467	0.000221	0.000112
245	0.000467	0.000221	0.000112
246	0.000467	0.00022	0.000112
247	0.000466	0.00022	0.000112
248	0.000466	0.00022	0.000112
249	0.000465	0.00022	0.000112
250	0.000465	0.00022	0.000112
251	0.000464	0.00022	0.000112
252	0.000464	0.00022	0.000112
253	0.000463	0.000219	0.000112
254	0.000463	0.000219	0.000112
255	0.000462	0.000219	0.000112
256	0.000462	0.000219	0.000112
257	0.000462	0.000219	0.000112
258	0.000461	0.000218	0.000112
259	0.000461	0.000218	0.000112
260	0.00046	0.000218	0.000112
261	0.00046	0.000218	0.000112
262	0.000459	0.000218	0.000112
263	0.000459	0.000218	0.000112
264	0.000458	0.000217	0.000112
265	0.000458	0.000217	0.000112
266	0.000458	0.000217	0.000112
267	0.000457	0.000217	0.000113
268	0.000457	0.000217	0.000113
269	0.000456	0.000216	0.000113
270	0.000456	0.000216	0.000113
271	0.000455	0.000216	0.000113
272	0.000455	0.000216	0.000113
273	0.000454	0.000216	0.000113
274	0.000454	0.000215	0.000113
275	0.000454	0.000215	0.000113
276	0.000453	0.000215	0.000113
277	0.000453	0.000215	0.000113
278	0.000452	0.000215	0.000113
279	0.000452	0.000214	0.000113
280	0.000451	0.000214	0.000113

234	0.000413	0.000308	8.88E-05
235	0.000412	0.000308	8.9E-05
236	0.000412	0.000307	8.91E-05
237	0.000412	0.000307	8.93E-05
238	0.000412	0.000306	8.94E-05
239	0.000412	0.000306	8.96E-05
240	0.000411	0.000305	8.97E-05
241	0.000411	0.000304	8.99E-05
242	0.000411	0.000304	9E-05
243	0.000411	0.000303	9.02E-05
244	0.000411	0.000303	9.03E-05
245	0.000411	0.000302	9.05E-05
246	0.00041	0.000302	9.06E-05
247	0.00041	0.000301	9.07E-05
248	0.00041	0.000301	9.09E-05
249	0.00041	0.0003	9.1E-05
250	0.00041	0.0003	9.11E-05
251	0.00041	0.000299	9.13E-05
252	0.000409	0.000298	9.14E-05
253	0.000409	0.000298	9.15E-05
254	0.000409	0.000297	9.16E-05
255	0.000409	0.000297	9.18E-05
256	0.000409	0.000296	9.19E-05
257	0.000408	0.000296	9.2E-05
258	0.000408	0.000295	9.21E-05
259	0.000408	0.000294	9.22E-05
260	0.000408	0.000294	9.24E-05
261	0.000408	0.000293	9.25E-05
262	0.000408	0.000293	9.26E-05
263	0.000407	0.000292	9.27E-05
264	0.000407	0.000292	9.28E-05
265	0.000407	0.000291	9.29E-05
266	0.000407	0.000291	9.3E-05
267	0.000407	0.00029	9.31E-05
268	0.000406	0.00029	9.32E-05
269	0.000406	0.000289	9.33E-05
270	0.000406	0.000288	9.34E-05
271	0.000406	0.000288	9.35E-05
272	0.000406	0.000287	9.36E-05
273	0.000405	0.000287	9.37E-05
274	0.000405	0.000286	9.38E-05
275	0.000405	0.000286	9.39E-05
276	0.000405	0.000285	9.4E-05
277	0.000404	0.000285	9.41E-05
278	0.000404	0.000284	9.42E-05
279	0.000404	0.000284	9.43E-05
280	0.000404	0.000283	9.44E-05

281	0.000451	0.000214	0.000113
282	0.00045	0.000214	0.000113
283	0.00045	0.000214	0.000113
284	0.00045	0.000213	0.000113
285	0.000449	0.000213	0.000113
286	0.000449	0.000213	0.000113
287	0.000448	0.000213	0.000113
288	0.000448	0.000212	0.000113
289	0.000447	0.000212	0.000113
290	0.000447	0.000212	0.000113
291	0.000447	0.000212	0.000113
292	0.000446	0.000211	0.000113
293	0.000446	0.000211	0.000113
294	0.000445	0.000211	0.000113
295	0.000445	0.000211	0.000113
296	0.000444	0.000211	0.000113
297	0.000444	0.00021	0.000113
298	0.000443	0.00021	0.000113
299	0.000443	0.00021	0.000113
300	0.000443	0.00021	0.000113
301	0.000442	0.000209	0.000113
302	0.000442	0.000209	0.000113
303	0.000441	0.000209	0.000113
304	0.000441	0.000209	0.000113
305	0.00044	0.000208	0.000113
306	0.00044	0.000208	0.000113
307	0.00044	0.000208	0.000113
308	0.000439	0.000208	0.000113
309	0.000439	0.000207	0.000113
310	0.000438	0.000207	0.000113
311	0.000438	0.000207	0.000113
312	0.000437	0.000207	0.000113
313	0.000437	0.000206	0.000113
314	0.000437	0.000206	0.000113
315	0.000436	0.000206	0.000113
316	0.000436	0.000206	0.000113
317	0.000435	0.000205	0.000113
318	0.000435	0.000205	0.000113
319	0.000435	0.000205	0.000113
320	0.000434	0.000205	0.000113
321	0.000434	0.000204	0.000113
322	0.000433	0.000204	0.000113
323	0.000433	0.000204	0.000113
324	0.000432	0.000204	0.000113
325	0.000432	0.000203	0.000113
326	0.000432	0.000203	0.000113
327	0.000431	0.000203	0.000113

281	0.000404	0.000282	9.45E-05
282	0.000403	0.000282	9.46E-05
283	0.000403	0.000281	9.46E-05
284	0.000403	0.000281	9.47E-05
285	0.000403	0.00028	9.48E-05
286	0.000403	0.00028	9.49E-05
287	0.000402	0.000279	9.5E-05
288	0.000402	0.000279	9.51E-05
289	0.000402	0.000278	9.51E-05
290	0.000402	0.000277	9.52E-05
291	0.000401	0.000277	9.53E-05
292	0.000401	0.000276	9.54E-05
293	0.000401	0.000276	9.54E-05
294	0.000401	0.000275	9.55E-05
295	0.000401	0.000275	9.56E-05
296	0.0004	0.000274	9.57E-05
297	0.0004	0.000274	9.57E-05
298	0.0004	0.000273	9.58E-05
299	0.0004	0.000273	9.59E-05
300	0.000399	0.000272	9.59E-05
301	0.000399	0.000272	9.6E-05
302	0.000399	0.000271	9.61E-05
303	0.000399	0.00027	9.61E-05
304	0.000399	0.00027	9.62E-05
305	0.000398	0.000269	9.63E-05
306	0.000398	0.000269	9.63E-05
307	0.000398	0.000268	9.64E-05
308	0.000398	0.000268	9.64E-05
309	0.000397	0.000267	9.65E-05
310	0.000397	0.000267	9.65E-05
311	0.000397	0.000266	9.66E-05
312	0.000397	0.000266	9.67E-05
313	0.000396	0.000265	9.67E-05
314	0.000396	0.000265	9.68E-05
315	0.000396	0.000264	9.68E-05
316	0.000396	0.000264	9.69E-05
317	0.000395	0.000263	9.69E-05
318	0.000395	0.000263	9.7E-05
319	0.000395	0.000262	9.7E-05
320	0.000395	0.000261	9.71E-05
321	0.000395	0.000261	9.71E-05
322	0.000394	0.00026	9.72E-05
323	0.000394	0.00026	9.72E-05
324	0.000394	0.000259	9.72E-05
325	0.000394	0.000259	9.73E-05
326	0.000393	0.000258	9.73E-05
327	0.000393	0.000258	9.74E-05

328	0.000431	0.000203	0.000113
329	0.00043	0.000202	0.000113
330	0.00043	0.000202	0.000113
331	0.000429	0.000202	0.000113
332	0.000429	0.000202	0.000112
333	0.000429	0.000201	0.000112
334	0.000428	0.000201	0.000112
335	0.000428	0.000201	0.000112
336	0.000427	0.000201	0.000112
337	0.000427	0.0002	0.000112
338	0.000427	0.0002	0.000112
339	0.000426	0.0002	0.000112
340	0.000426	0.000199	0.000112
341	0.000425	0.000199	0.000112
342	0.000425	0.000199	0.000112
343	0.000424	0.000199	0.000112
344	0.000424	0.000198	0.000112
345	0.000424	0.000198	0.000112
346	0.000423	0.000198	0.000112
347	0.000423	0.000198	0.000112
348	0.000422	0.000197	0.000112
349	0.000422	0.000197	0.000112
350	0.000422	0.000197	0.000112
351	0.000421	0.000197	0.000112
352	0.000421	0.000196	0.000112
353	0.00042	0.000196	0.000112
354	0.00042	0.000196	0.000112
355	0.000419	0.000195	0.000112
356	0.000419	0.000195	0.000112
357	0.000419	0.000195	0.000112
358	0.000418	0.000195	0.000112
359	0.000418	0.000194	0.000112
360	0.000417	0.000194	0.000112
361	0.000417	0.000194	0.000112
362	0.000417	0.000194	0.000112
363	0.000416	0.000193	0.000112
364	0.000416	0.000193	0.000112
365	0.000415	0.000193	0.000111
366	0.000415	0.000192	0.000111
367	0.000415	0.000192	0.000111
368	0.000414	0.000192	0.000111
369	0.000414	0.000192	0.000111
370	0.000413	0.000191	0.000111
371	0.000413	0.000191	0.000111
372	0.000412	0.000191	0.000111
373	0.000412	0.000191	0.000111
374	0.000412	0.00019	0.000111

328	0.000393	0.000257	9.74E-05
329	0.000393	0.000257	9.75E-05
330	0.000392	0.000256	9.75E-05
331	0.000392	0.000256	9.75E-05
332	0.000392	0.000255	9.76E-05
333	0.000392	0.000255	9.76E-05
334	0.000391	0.000254	9.76E-05
335	0.000391	0.000254	9.77E-05
336	0.000391	0.000253	9.77E-05
337	0.000391	0.000253	9.77E-05
338	0.00039	0.000252	9.78E-05
339	0.00039	0.000252	9.78E-05
340	0.00039	0.000251	9.78E-05
341	0.00039	0.000251	9.79E-05
342	0.000389	0.00025	9.79E-05
343	0.000389	0.00025	9.79E-05
344	0.000389	0.000249	9.79E-05
345	0.000389	0.000249	9.8E-05
346	0.000388	0.000248	9.8E-05
347	0.000388	0.000248	9.8E-05
348	0.000388	0.000247	9.81E-05
349	0.000388	0.000247	9.81E-05
350	0.000387	0.000246	9.81E-05
351	0.000387	0.000246	9.81E-05
352	0.000387	0.000245	9.82E-05
353	0.000386	0.000245	9.82E-05
354	0.000386	0.000244	9.82E-05
355	0.000386	0.000244	9.82E-05
356	0.000386	0.000243	9.82E-05
357	0.000385	0.000243	9.83E-05
358	0.000385	0.000242	9.83E-05
359	0.000385	0.000242	9.83E-05
360	0.000385	0.000241	9.83E-05
361	0.000384	0.000241	9.83E-05
362	0.000384	0.00024	9.83E-05
363	0.000384	0.00024	9.84E-05
364	0.000384	0.000239	9.84E-05
365	0.000383	0.000239	9.84E-05
366	0.000383	0.000238	9.84E-05
367	0.000383	0.000238	9.84E-05
368	0.000383	0.000237	9.84E-05
369	0.000382	0.000237	9.84E-05
370	0.000382	0.000236	9.84E-05
371	0.000382	0.000236	9.85E-05
372	0.000381	0.000235	9.85E-05
373	0.000381	0.000235	9.85E-05
374	0.000381	0.000234	9.85E-05

375	0.000411	0.00019	0.000111
376	0.000411	0.00019	0.000111
377	0.00041	0.000189	0.000111
378	0.00041	0.000189	0.000111
379	0.00041	0.000189	0.000111
380	0.000409	0.000189	0.000111
381	0.000409	0.000188	0.000111
382	0.000408	0.000188	0.000111
383	0.000408	0.000188	0.000111
384	0.000408	0.000188	0.000111
385	0.000407	0.000187	0.000111
386	0.000407	0.000187	0.000111
387	0.000406	0.000187	0.000111
388	0.000406	0.000186	0.00011
389	0.000406	0.000186	0.00011
390	0.000405	0.000186	0.00011
391	0.000405	0.000186	0.00011
392	0.000404	0.000185	0.00011
393	0.000404	0.000185	0.00011
394	0.000404	0.000185	0.00011
395	0.000403	0.000185	0.00011
396	0.000403	0.000184	0.00011
397	0.000402	0.000184	0.00011
398	0.000402	0.000184	0.00011
399	0.000402	0.000184	0.00011
400	0.000401	0.000183	0.00011
401	0.000401	0.000183	0.00011
402	0.0004	0.000183	0.00011
403	0.0004	0.000182	0.00011
404	0.0004	0.000182	0.00011
405	0.000399	0.000182	0.00011
406	0.000399	0.000182	0.00011
407	0.000398	0.000181	0.00011
408	0.000398	0.000181	0.000109
409	0.000398	0.000181	0.000109
410	0.000397	0.000181	0.000109
411	0.000397	0.00018	0.000109
412	0.000396	0.00018	0.000109
413	0.000396	0.00018	0.000109
414	0.000396	0.000179	0.000109
415	0.000395	0.000179	0.000109
416	0.000395	0.000179	0.000109
417	0.000394	0.000179	0.000109
418	0.000394	0.000178	0.000109
419	0.000394	0.000178	0.000109
420	0.000393	0.000178	0.000109
421	0.000393	0.000178	0.000109

375	0.000381	0.000234	9.85E-05
376	0.00038	0.000234	9.85E-05
377	0.00038	0.000233	9.85E-05
378	0.00038	0.000233	9.85E-05
379	0.00038	0.000232	9.85E-05
380	0.000379	0.000232	9.85E-05
381	0.000379	0.000231	9.85E-05
382	0.000379	0.000231	9.85E-05
383	0.000379	0.00023	9.85E-05
384	0.000378	0.00023	9.85E-05
385	0.000378	0.000229	9.85E-05
386	0.000378	0.000229	9.85E-05
387	0.000377	0.000228	9.86E-05
388	0.000377	0.000228	9.85E-05
389	0.000377	0.000227	9.85E-05
390	0.000377	0.000227	9.86E-05
391	0.000376	0.000227	9.85E-05
392	0.000376	0.000226	9.85E-05
393	0.000376	0.000226	9.85E-05
394	0.000375	0.000225	9.85E-05
395	0.000375	0.000225	9.85E-05
396	0.000375	0.000224	9.85E-05
397	0.000375	0.000224	9.85E-05
398	0.000374	0.000223	9.85E-05
399	0.000374	0.000223	9.85E-05
400	0.000374	0.000222	9.85E-05
401	0.000374	0.000222	9.85E-05
402	0.000373	0.000222	9.85E-05
403	0.000373	0.000221	9.85E-05
404	0.000373	0.000221	9.85E-05
405	0.000372	0.00022	9.85E-05
406	0.000372	0.00022	9.85E-05
407	0.000372	0.000219	9.85E-05
408	0.000372	0.000219	9.85E-05
409	0.000371	0.000219	9.84E-05
410	0.000371	0.000218	9.84E-05
411	0.000371	0.000218	9.84E-05
412	0.00037	0.000217	9.84E-05
413	0.00037	0.000217	9.84E-05
414	0.00037	0.000216	9.84E-05
415	0.00037	0.000216	9.84E-05
416	0.000369	0.000215	9.84E-05
417	0.000369	0.000215	9.84E-05
418	0.000369	0.000215	9.83E-05
419	0.000368	0.000214	9.83E-05
420	0.000368	0.000214	9.83E-05
421	0.000368	0.000213	9.83E-05

422	0.000392	0.000177	0.000109
423	0.000392	0.000177	0.000109
424	0.000392	0.000177	0.000109
425	0.000391	0.000177	0.000109
426	0.000391	0.000176	0.000108
427	0.00039	0.000176	0.000108
428	0.00039	0.000176	0.000108
429	0.00039	0.000175	0.000108
430	0.000389	0.000175	0.000108
431	0.000389	0.000175	0.000108
432	0.000388	0.000175	0.000108
433	0.000388	0.000174	0.000108
434	0.000388	0.000174	0.000108
435	0.000387	0.000174	0.000108
436	0.000387	0.000174	0.000108
437	0.000387	0.000173	0.000108
438	0.000386	0.000173	0.000108
439	0.000386	0.000173	0.000108
440	0.000385	0.000173	0.000108
441	0.000385	0.000172	0.000108
442	0.000385	0.000172	0.000108
443	0.000384	0.000172	0.000107
444	0.000384	0.000171	0.000107
445	0.000383	0.000171	0.000107
446	0.000383	0.000171	0.000107
447	0.000383	0.000171	0.000107
448	0.000382	0.00017	0.000107
449	0.000382	0.00017	0.000107
450	0.000381	0.00017	0.000107
451	0.000381	0.00017	0.000107
452	0.000381	0.000169	0.000107
453	0.00038	0.000169	0.000107
454	0.00038	0.000169	0.000107
455	0.00038	0.000169	0.000107
456	0.000379	0.000168	0.000107
457	0.000379	0.000168	0.000107
458	0.000378	0.000168	0.000107
459	0.000378	0.000168	0.000106
460	0.000378	0.000167	0.000106
461	0.000377	0.000167	0.000106
462	0.000377	0.000167	0.000106
463	0.000376	0.000167	0.000106
464	0.000376	0.000166	0.000106
465	0.000376	0.000166	0.000106
466	0.000375	0.000166	0.000106
467	0.000375	0.000166	0.000106
468	0.000375	0.000165	0.000106

422	0.000368	0.000213	9.83E-05
423	0.000367	0.000213	9.83E-05
424	0.000367	0.000212	9.83E-05
425	0.000367	0.000212	9.82E-05
426	0.000366	0.000211	9.82E-05
427	0.000366	0.000211	9.82E-05
428	0.000366	0.00021	9.82E-05
429	0.000366	0.00021	9.82E-05
430	0.000365	0.00021	9.82E-05
431	0.000365	0.000209	9.81E-05
432	0.000365	0.000209	9.81E-05
433	0.000364	0.000208	9.81E-05
434	0.000364	0.000208	9.81E-05
435	0.000364	0.000207	9.81E-05
436	0.000364	0.000207	9.8E-05
437	0.000363	0.000207	9.8E-05
438	0.000363	0.000206	9.8E-05
439	0.000363	0.000206	9.8E-05
440	0.000362	0.000205	9.79E-05
441	0.000362	0.000205	9.79E-05
442	0.000362	0.000205	9.79E-05
443	0.000362	0.000204	9.79E-05
444	0.000361	0.000204	9.79E-05
445	0.000361	0.000203	9.78E-05
446	0.000361	0.000203	9.78E-05
447	0.00036	0.000203	9.78E-05
448	0.00036	0.000202	9.78E-05
449	0.00036	0.000202	9.77E-05
450	0.00036	0.000201	9.77E-05
451	0.000359	0.000201	9.77E-05
452	0.000359	0.000201	9.77E-05
453	0.000359	0.0002	9.76E-05
454	0.000358	0.0002	9.76E-05
455	0.000358	0.000199	9.76E-05
456	0.000358	0.000199	9.76E-05
457	0.000357	0.000199	9.75E-05
458	0.000357	0.000198	9.75E-05
459	0.000357	0.000198	9.75E-05
460	0.000357	0.000197	9.74E-05
461	0.000356	0.000197	9.74E-05
462	0.000356	0.000197	9.74E-05
463	0.000356	0.000196	9.74E-05
464	0.000355	0.000196	9.73E-05
465	0.000355	0.000196	9.73E-05
466	0.000355	0.000195	9.73E-05
467	0.000355	0.000195	9.72E-05
468	0.000354	0.000194	9.72E-05

469	0.000374	0.000165	0.000106
470	0.000374	0.000165	0.000106
471	0.000373	0.000165	0.000106
472	0.000373	0.000164	0.000106
473	0.000373	0.000164	0.000106
474	0.000372	0.000164	0.000106
475	0.000372	0.000163	0.000105
476	0.000372	0.000163	0.000105
477	0.000371	0.000163	0.000105
478	0.000371	0.000163	0.000105
479	0.00037	0.000162	0.000105
480	0.00037	0.000162	0.000105
481	0.00037	0.000162	0.000105
482	0.000369	0.000162	0.000105
483	0.000369	0.000161	0.000105
484	0.000368	0.000161	0.000105
485	0.000368	0.000161	0.000105
486	0.000368	0.000161	0.000105
487	0.000367	0.00016	0.000105
488	0.000367	0.00016	0.000105
489	0.000367	0.00016	0.000104
490	0.000366	0.00016	0.000104
491	0.000366	0.000159	0.000104
492	0.000365	0.000159	0.000104
493	0.000365	0.000159	0.000104
494	0.000365	0.000159	0.000104
495	0.000364	0.000159	0.000104
496	0.000364	0.000158	0.000104
497	0.000364	0.000158	0.000104
498	0.000363	0.000158	0.000104
499	0.000363	0.000158	0.000104
500	0.000362	0.000157	0.000104
501	0.000362	0.000157	0.000104
502	0.000362	0.000157	0.000104
503	0.000361	0.000157	0.000104
504	0.000361	0.000156	0.000103
505	0.000361	0.000156	0.000103
506	0.00036	0.000156	0.000103
507	0.00036	0.000156	0.000103
508	0.00036	0.000155	0.000103
509	0.000359	0.000155	0.000103
510	0.000359	0.000155	0.000103
511	0.000358	0.000155	0.000103
512	0.000358	0.000154	0.000103
513	0.000358	0.000154	0.000103
514	0.000357	0.000154	0.000103
515	0.000357	0.000154	0.000103

469	0.000354	0.000194	9.72E-05
470	0.000354	0.000194	9.71E-05
471	0.000353	0.000193	9.71E-05
472	0.000353	0.000193	9.71E-05
473	0.000353	0.000193	9.7E-05
474	0.000352	0.000192	9.7E-05
475	0.000352	0.000192	9.7E-05
476	0.000352	0.000191	9.69E-05
477	0.000352	0.000191	9.69E-05
478	0.000351	0.000191	9.69E-05
479	0.000351	0.00019	9.68E-05
480	0.000351	0.00019	9.68E-05
481	0.00035	0.00019	9.68E-05
482	0.00035	0.000189	9.67E-05
483	0.00035	0.000189	9.67E-05
484	0.00035	0.000188	9.67E-05
485	0.000349	0.000188	9.66E-05
486	0.000349	0.000188	9.66E-05
487	0.000349	0.000187	9.66E-05
488	0.000348	0.000187	9.65E-05
489	0.000348	0.000187	9.65E-05
490	0.000348	0.000186	9.64E-05
491	0.000347	0.000186	9.64E-05
492	0.000347	0.000186	9.64E-05
493	0.000347	0.000185	9.63E-05
494	0.000347	0.000185	9.63E-05
495	0.000346	0.000184	9.62E-05
496	0.000346	0.000184	9.62E-05
497	0.000346	0.000184	9.62E-05
498	0.000345	0.000183	9.61E-05
499	0.000345	0.000183	9.61E-05
500	0.000345	0.000183	9.6E-05
501	0.000344	0.000182	9.6E-05
502	0.000344	0.000182	9.6E-05
503	0.000344	0.000182	9.59E-05
504	0.000344	0.000181	9.59E-05
505	0.000343	0.000181	9.58E-05
506	0.000343	0.000181	9.58E-05
507	0.000343	0.00018	9.58E-05
508	0.000342	0.00018	9.57E-05
509	0.000342	0.00018	9.57E-05
510	0.000342	0.000179	9.56E-05
511	0.000342	0.000179	9.56E-05
512	0.000341	0.000179	9.56E-05
513	0.000341	0.000178	9.55E-05
514	0.000341	0.000178	9.55E-05
515	0.00034	0.000178	9.54E-05

516	0.000357	0.000153	0.000103
517	0.000356	0.000153	0.000103
518	0.000356	0.000153	0.000102
519	0.000355	0.000153	0.000102
520	0.000355	0.000152	0.000102
521	0.000355	0.000152	0.000102
522	0.000354	0.000152	0.000102
523	0.000354	0.000152	0.000102
524	0.000354	0.000152	0.000102
525	0.000353	0.000151	0.000102
526	0.000353	0.000151	0.000102
527	0.000352	0.000151	0.000102
528	0.000352	0.000151	0.000102
529	0.000352	0.00015	0.000102
530	0.000351	0.00015	0.000102
531	0.000351	0.00015	0.000102
532	0.000351	0.00015	0.000101
533	0.00035	0.000149	0.000101
534	0.00035	0.000149	0.000101
535	0.00035	0.000149	0.000101
536	0.000349	0.000149	0.000101
537	0.000349	0.000148	0.000101
538	0.000348	0.000148	0.000101
539	0.000348	0.000148	0.000101
540	0.000348	0.000148	0.000101
541	0.000347	0.000148	0.000101
542	0.000347	0.000147	0.000101
543	0.000347	0.000147	0.000101
544	0.000346	0.000147	0.000101
545	0.000346	0.000147	0.000101
546	0.000346	0.000146	0.0001
547	0.000345	0.000146	0.0001
548	0.000345	0.000146	0.0001
549	0.000344	0.000146	0.0001
550	0.000344	0.000146	0.0001
551	0.000344	0.000145	0.0001
552	0.000343	0.000145	0.0001
553	0.000343	0.000145	9.99E-05
554	0.000343	0.000145	9.98E-05
555	0.000342	0.000144	9.98E-05
556	0.000342	0.000144	9.97E-05
557	0.000342	0.000144	9.96E-05
558	0.000341	0.000144	9.96E-05
559	0.000341	0.000144	9.95E-05
560	0.000341	0.000143	9.94E-05
561	0.00034	0.000143	9.93E-05
562	0.00034	0.000143	9.93E-05

516	0.00034	0.000177	9.54E-05
517	0.00034	0.000177	9.53E-05
518	0.000339	0.000177	9.53E-05
519	0.000339	0.000176	9.53E-05
520	0.000339	0.000176	9.52E-05
521	0.000339	0.000176	9.52E-05
522	0.000338	0.000175	9.51E-05
523	0.000338	0.000175	9.51E-05
524	0.000338	0.000175	9.5E-05
525	0.000337	0.000174	9.5E-05
526	0.000337	0.000174	9.49E-05
527	0.000337	0.000174	9.49E-05
528	0.000336	0.000173	9.49E-05
529	0.000336	0.000173	9.48E-05
530	0.000336	0.000173	9.48E-05
531	0.000336	0.000172	9.47E-05
532	0.000335	0.000172	9.47E-05
533	0.000335	0.000172	9.46E-05
534	0.000335	0.000171	9.46E-05
535	0.000334	0.000171	9.45E-05
536	0.000334	0.000171	9.45E-05
537	0.000334	0.00017	9.44E-05
538	0.000333	0.00017	9.44E-05
539	0.000333	0.00017	9.43E-05
540	0.000333	0.000169	9.43E-05
541	0.000333	0.000169	9.42E-05
542	0.000332	0.000169	9.42E-05
543	0.000332	0.000168	9.41E-05
544	0.000332	0.000168	9.41E-05
545	0.000331	0.000168	9.41E-05
546	0.000331	0.000167	9.4E-05
547	0.000331	0.000167	9.4E-05
548	0.00033	0.000167	9.39E-05
549	0.00033	0.000167	9.39E-05
550	0.00033	0.000166	9.38E-05
551	0.00033	0.000166	9.38E-05
552	0.000329	0.000166	9.37E-05
553	0.000329	0.000165	9.37E-05
554	0.000329	0.000165	9.36E-05
555	0.000328	0.000165	9.36E-05
556	0.000328	0.000164	9.35E-05
557	0.000328	0.000164	9.35E-05
558	0.000327	0.000164	9.34E-05
559	0.000327	0.000163	9.34E-05
560	0.000327	0.000163	9.33E-05
561	0.000327	0.000163	9.33E-05
562	0.000326	0.000163	9.32E-05

563	0.000339	0.000143	9.92E-05
564	0.000339	0.000142	9.91E-05
565	0.000339	0.000142	9.9E-05
566	0.000338	0.000142	9.9E-05
567	0.000338	0.000142	9.89E-05
568	0.000338	0.000142	9.88E-05
569	0.000337	0.000141	9.87E-05
570	0.000337	0.000141	9.87E-05
571	0.000337	0.000141	9.86E-05
572	0.000336	0.000141	9.85E-05
573	0.000336	0.00014	9.84E-05
574	0.000336	0.00014	9.84E-05
575	0.000335	0.00014	9.83E-05
576	0.000335	0.00014	9.82E-05
577	0.000335	0.00014	9.81E-05
578	0.000334	0.000139	9.81E-05
579	0.000334	0.000139	9.8E-05
580	0.000333	0.000139	9.79E-05
581	0.000333	0.000139	9.78E-05
582	0.000333	0.000138	9.78E-05
583	0.000332	0.000138	9.77E-05
584	0.000332	0.000138	9.76E-05
585	0.000332	0.000138	9.75E-05
586	0.000331	0.000138	9.75E-05
587	0.000331	0.000137	9.74E-05
588	0.000331	0.000137	9.73E-05
589	0.00033	0.000137	9.72E-05
590	0.00033	0.000137	9.72E-05
591	0.00033	0.000137	9.71E-05
592	0.000329	0.000136	9.7E-05
593	0.000329	0.000136	9.69E-05
594	0.000329	0.000136	9.69E-05
595	0.000328	0.000136	9.68E-05
596	0.000328	0.000136	9.67E-05
597	0.000328	0.000135	9.66E-05
598	0.000327	0.000135	9.66E-05
599	0.000327	0.000135	9.65E-05
600	0.000327	0.000135	9.64E-05
601	0.000326	0.000135	9.63E-05
602	0.000326	0.000134	9.63E-05
603	0.000325	0.000134	9.62E-05
604	0.000325	0.000134	9.61E-05
605	0.000325	0.000134	9.6E-05
606	0.000324	0.000133	9.6E-05
607	0.000324	0.000133	9.59E-05
608	0.000324	0.000133	9.58E-05
609	0.000323	0.000133	9.57E-05

563	0.000326	0.000162	9.32E-05
564	0.000326	0.000162	9.31E-05
565	0.000325	0.000162	9.31E-05
566	0.000325	0.000161	9.3E-05
567	0.000325	0.000161	9.29E-05
568	0.000324	0.000161	9.29E-05
569	0.000324	0.00016	9.28E-05
570	0.000324	0.00016	9.28E-05
571	0.000324	0.00016	9.28E-05
572	0.000323	0.00016	9.27E-05
573	0.000323	0.000159	9.26E-05
574	0.000323	0.000159	9.26E-05
575	0.000322	0.000159	9.25E-05
576	0.000322	0.000158	9.25E-05
577	0.000322	0.000158	9.24E-05
578	0.000321	0.000158	9.24E-05
579	0.000321	0.000158	9.23E-05
580	0.000321	0.000157	9.23E-05
581	0.000321	0.000157	9.22E-05
582	0.00032	0.000157	9.22E-05
583	0.00032	0.000156	9.21E-05
584	0.00032	0.000156	9.21E-05
585	0.000319	0.000156	9.2E-05
586	0.000319	0.000156	9.19E-05
587	0.000319	0.000155	9.19E-05
588	0.000319	0.000155	9.18E-05
589	0.000318	0.000155	9.18E-05
590	0.000318	0.000154	9.17E-05
591	0.000318	0.000154	9.17E-05
592	0.000317	0.000154	9.16E-05
593	0.000317	0.000154	9.16E-05
594	0.000317	0.000153	9.15E-05
595	0.000316	0.000153	9.14E-05
596	0.000316	0.000153	9.14E-05
597	0.000316	0.000152	9.13E-05
598	0.000316	0.000152	9.13E-05
599	0.000315	0.000152	9.12E-05
600	0.000315	0.000152	9.12E-05
601	0.000315	0.000151	9.11E-05
602	0.000314	0.000151	9.11E-05
603	0.000314	0.000151	9.1E-05
604	0.000314	0.000151	9.09E-05
605	0.000313	0.00015	9.09E-05
606	0.000313	0.00015	9.08E-05
607	0.000313	0.00015	9.08E-05
608	0.000313	0.000149	9.07E-05
609	0.000312	0.000149	9.07E-05

610	0.000323	0.000133	9.57E-05
611	0.000323	0.000132	9.56E-05
612	0.000322	0.000132	9.55E-05
613	0.000322	0.000132	9.54E-05
614	0.000322	0.000132	9.53E-05
615	0.000321	0.000132	9.53E-05
616	0.000321	0.000131	9.52E-05
617	0.000321	0.000131	9.51E-05
618	0.00032	0.000131	9.5E-05
619	0.00032	0.000131	9.5E-05
620	0.00032	0.000131	9.49E-05
621	0.000319	0.00013	9.48E-05
622	0.000319	0.00013	9.47E-05
623	0.000319	0.00013	9.47E-05
624	0.000318	0.00013	9.46E-05
625	0.000318	0.00013	9.45E-05
626	0.000318	0.000129	9.44E-05
627	0.000317	0.000129	9.44E-05
628	0.000317	0.000129	9.43E-05
629	0.000317	0.000129	9.42E-05
630	0.000316	0.000129	9.41E-05
631	0.000316	0.000129	9.41E-05
632	0.000316	0.000128	9.4E-05
633	0.000315	0.000128	9.39E-05
634	0.000315	0.000128	9.38E-05
635	0.000315	0.000128	9.38E-05
636	0.000314	0.000128	9.37E-05
637	0.000314	0.000127	9.36E-05
638	0.000314	0.000127	9.35E-05
639	0.000313	0.000127	9.35E-05
640	0.000313	0.000127	9.34E-05
641	0.000313	0.000127	9.33E-05
642	0.000312	0.000126	9.32E-05
643	0.000312	0.000126	9.32E-05
644	0.000312	0.000126	9.31E-05
645	0.000311	0.000126	9.3E-05
646	0.000311	0.000126	9.29E-05
647	0.000311	0.000125	9.28E-05
648	0.00031	0.000125	9.28E-05
649	0.00031	0.000125	9.27E-05
650	0.00031	0.000125	9.26E-05
651	0.000309	0.000125	9.25E-05
652	0.000309	0.000124	9.25E-05
653	0.000309	0.000124	9.24E-05
654	0.000308	0.000124	9.23E-05
655	0.000308	0.000124	9.22E-05
656	0.000308	0.000124	9.22E-05

610	0.000312	0.000149	9.06E-05
611	0.000312	0.000149	9.06E-05
612	0.000311	0.000148	9.05E-05
613	0.000311	0.000148	9.04E-05
614	0.000311	0.000148	9.04E-05
615	0.00031	0.000148	9.03E-05
616	0.00031	0.000147	9.03E-05
617	0.00031	0.000147	9.02E-05
618	0.00031	0.000147	9.01E-05
619	0.000309	0.000147	9.01E-05
620	0.000309	0.000146	9E-05
621	0.000309	0.000146	9E-05
622	0.000308	0.000146	8.99E-05
623	0.000308	0.000146	8.99E-05
624	0.000308	0.000145	8.98E-05
625	0.000308	0.000145	8.97E-05
626	0.000307	0.000145	8.97E-05
627	0.000307	0.000145	8.96E-05
628	0.000307	0.000144	8.96E-05
629	0.000306	0.000144	8.95E-05
630	0.000306	0.000144	8.95E-05
631	0.000306	0.000143	8.94E-05
632	0.000305	0.000143	8.93E-05
633	0.000305	0.000143	8.93E-05
634	0.000305	0.000143	8.92E-05
635	0.000305	0.000142	8.92E-05
636	0.000304	0.000142	8.91E-05
637	0.000304	0.000142	8.9E-05
638	0.000304	0.000142	8.9E-05
639	0.000303	0.000141	8.89E-05
640	0.000303	0.000141	8.89E-05
641	0.000303	0.000141	8.88E-05
642	0.000303	0.000141	8.87E-05
643	0.000302	0.00014	8.87E-05
644	0.000302	0.00014	8.86E-05
645	0.000302	0.00014	8.86E-05
646	0.000301	0.00014	8.85E-05
647	0.000301	0.00014	8.85E-05
648	0.000301	0.000139	8.84E-05
649	0.000301	0.000139	8.83E-05
650	0.0003	0.000139	8.83E-05
651	0.0003	0.000139	8.82E-05
652	0.0003	0.000138	8.81E-05
653	0.000299	0.000138	8.81E-05
654	0.000299	0.000138	8.8E-05
655	0.000299	0.000138	8.8E-05
656	0.000298	0.000137	8.79E-05

657	0.000307	0.000124	9.21E-05
658	0.000307	0.000123	9.2E-05
659	0.000307	0.000123	9.19E-05
660	0.000306	0.000123	9.19E-05
661	0.000306	0.000123	9.18E-05
662	0.000306	0.000123	9.17E-05
663	0.000305	0.000122	9.16E-05
664	0.000305	0.000122	9.16E-05
665	0.000305	0.000122	9.15E-05
666	0.000304	0.000122	9.14E-05
667	0.000304	0.000122	9.13E-05
668	0.000304	0.000122	9.13E-05
669	0.000303	0.000121	9.12E-05
670	0.000303	0.000121	9.11E-05
671	0.000303	0.000121	9.1E-05
672	0.000302	0.000121	9.09E-05
673	0.000302	0.000121	9.09E-05
674	0.000302	0.00012	9.08E-05
675	0.000301	0.00012	9.07E-05
676	0.000301	0.00012	9.06E-05
677	0.000301	0.00012	9.06E-05
678	0.0003	0.00012	9.05E-05
679	0.0003	0.00012	9.04E-05
680	0.0003	0.000119	9.03E-05
681	0.000299	0.000119	9.03E-05
682	0.000299	0.000119	9.02E-05
683	0.000299	0.000119	9.01E-05
684	0.000298	0.000119	9E-05
685	0.000298	0.000118	9E-05
686	0.000298	0.000118	8.99E-05
687	0.000298	0.000118	8.98E-05
688	0.000297	0.000118	8.97E-05
689	0.000297	0.000118	8.96E-05
690	0.000297	0.000118	8.96E-05
691	0.000296	0.000117	8.95E-05
692	0.000296	0.000117	8.94E-05
693	0.000296	0.000117	8.93E-05
694	0.000295	0.000117	8.93E-05
695	0.000295	0.000117	8.92E-05
696	0.000295	0.000117	8.91E-05
697	0.000294	0.000116	8.9E-05
698	0.000294	0.000116	8.9E-05
699	0.000294	0.000116	8.89E-05
700	0.000293	0.000116	8.88E-05
701	0.000293	0.000116	8.87E-05
702	0.000293	0.000116	8.87E-05
703	0.000292	0.000115	8.86E-05

657	0.000298	0.000137	8.79E-05
658	0.000298	0.000137	8.78E-05
659	0.000298	0.000137	8.77E-05
660	0.000297	0.000136	8.77E-05
661	0.000297	0.000136	8.76E-05
662	0.000297	0.000136	8.75E-05
663	0.000296	0.000136	8.75E-05
664	0.000296	0.000135	8.74E-05
665	0.000296	0.000135	8.74E-05
666	0.000296	0.000135	8.73E-05
667	0.000295	0.000135	8.72E-05
668	0.000295	0.000135	8.72E-05
669	0.000295	0.000134	8.71E-05
670	0.000294	0.000134	8.71E-05
671	0.000294	0.000134	8.7E-05
672	0.000294	0.000134	8.69E-05
673	0.000294	0.000133	8.69E-05
674	0.000293	0.000133	8.68E-05
675	0.000293	0.000133	8.68E-05
676	0.000293	0.000133	8.67E-05
677	0.000292	0.000132	8.66E-05
678	0.000292	0.000132	8.66E-05
679	0.000292	0.000132	8.65E-05
680	0.000292	0.000132	8.65E-05
681	0.000291	0.000132	8.64E-05
682	0.000291	0.000131	8.63E-05
683	0.000291	0.000131	8.63E-05
684	0.00029	0.000131	8.62E-05
685	0.00029	0.000131	8.61E-05
686	0.00029	0.00013	8.61E-05
687	0.00029	0.00013	8.6E-05
688	0.000289	0.00013	8.6E-05
689	0.000289	0.00013	8.59E-05
690	0.000289	0.00013	8.58E-05
691	0.000288	0.000129	8.58E-05
692	0.000288	0.000129	8.57E-05
693	0.000288	0.000129	8.56E-05
694	0.000288	0.000129	8.56E-05
695	0.000287	0.000128	8.55E-05
696	0.000287	0.000128	8.55E-05
697	0.000287	0.000128	8.54E-05
698	0.000286	0.000128	8.53E-05
699	0.000286	0.000128	8.53E-05
700	0.000286	0.000127	8.52E-05
701	0.000286	0.000127	8.52E-05
702	0.000285	0.000127	8.51E-05
703	0.000285	0.000127	8.5E-05

704	0.000292	0.000115	8.85E-05
705	0.000292	0.000115	8.84E-05
706	0.000291	0.000115	8.84E-05
707	0.000291	0.000115	8.83E-05
708	0.000291	0.000115	8.82E-05
709	0.000291	0.000114	8.81E-05
710	0.00029	0.000114	8.81E-05
711	0.00029	0.000114	8.8E-05
712	0.00029	0.000114	8.79E-05
713	0.000289	0.000114	8.78E-05
714	0.000289	0.000114	8.78E-05
715	0.000289	0.000113	8.77E-05
716	0.000288	0.000113	8.76E-05
717	0.000288	0.000113	8.75E-05
718	0.000288	0.000113	8.75E-05
719	0.000287	0.000113	8.74E-05
720	0.000287	0.000113	8.73E-05
721	0.000287	0.000112	8.72E-05
722	0.000286	0.000112	8.72E-05
723	0.000286	0.000112	8.71E-05
724	0.000286	0.000112	8.7E-05
725	0.000286	0.000112	8.69E-05
726	0.000285	0.000112	8.69E-05
727	0.000285	0.000111	8.68E-05
728	0.000285	0.000111	8.67E-05
729	0.000284	0.000111	8.66E-05
730	0.000284	0.000111	8.66E-05
731	0.000284	0.000111	8.65E-05
732	0.000283	0.000111	8.64E-05
733	0.000283	0.00011	8.63E-05
734	0.000283	0.00011	8.63E-05
735	0.000282	0.00011	8.62E-05
736	0.000282	0.00011	8.61E-05
737	0.000282	0.00011	8.6E-05
738	0.000282	0.00011	8.6E-05
739	0.000281	0.000109	8.59E-05
740	0.000281	0.000109	8.58E-05
741	0.000281	0.000109	8.57E-05
742	0.00028	0.000109	8.57E-05
743	0.00028	0.000109	8.56E-05
744	0.00028	0.000109	8.55E-05
745	0.000279	0.000108	8.55E-05
746	0.000279	0.000108	8.54E-05
747	0.000279	0.000108	8.53E-05
748	0.000279	0.000108	8.52E-05
749	0.000278	0.000108	8.52E-05
750	0.000278	0.000108	8.51E-05

704	0.000285	0.000127	8.5E-05
705	0.000284	0.000126	8.49E-05
706	0.000284	0.000126	8.48E-05
707	0.000284	0.000126	8.48E-05
708	0.000284	0.000126	8.47E-05
709	0.000283	0.000125	8.47E-05
710	0.000283	0.000125	8.46E-05
711	0.000283	0.000125	8.45E-05
712	0.000282	0.000125	8.45E-05
713	0.000282	0.000125	8.44E-05
714	0.000282	0.000124	8.43E-05
715	0.000282	0.000124	8.43E-05
716	0.000281	0.000124	8.42E-05
717	0.000281	0.000124	8.42E-05
718	0.000281	0.000124	8.41E-05
719	0.00028	0.000123	8.4E-05
720	0.00028	0.000123	8.4E-05
721	0.00028	0.000123	8.39E-05
722	0.00028	0.000123	8.38E-05
723	0.000279	0.000123	8.38E-05
724	0.000279	0.000122	8.37E-05
725	0.000279	0.000122	8.37E-05
726	0.000278	0.000122	8.36E-05
727	0.000278	0.000122	8.35E-05
728	0.000278	0.000122	8.35E-05
729	0.000278	0.000121	8.34E-05
730	0.000277	0.000121	8.33E-05
731	0.000277	0.000121	8.33E-05
732	0.000277	0.000121	8.32E-05
733	0.000276	0.000121	8.31E-05
734	0.000276	0.00012	8.31E-05
735	0.000276	0.00012	8.3E-05
736	0.000276	0.00012	8.3E-05
737	0.000275	0.00012	8.29E-05
738	0.000275	0.00012	8.28E-05
739	0.000275	0.000119	8.28E-05
740	0.000275	0.000119	8.27E-05
741	0.000274	0.000119	8.26E-05
742	0.000274	0.000119	8.26E-05
743	0.000274	0.000119	8.25E-05
744	0.000273	0.000118	8.25E-05
745	0.000273	0.000118	8.24E-05
746	0.000273	0.000118	8.23E-05
747	0.000273	0.000118	8.23E-05
748	0.000272	0.000118	8.22E-05
749	0.000272	0.000117	8.21E-05
750	0.000272	0.000117	8.21E-05

751	0.000278	0.000108	8.5E-05
752	0.000277	0.000107	8.49E-05
753	0.000277	0.000107	8.49E-05
754	0.000277	0.000107	8.48E-05
755	0.000276	0.000107	8.47E-05
756	0.000276	0.000107	8.46E-05
757	0.000276	0.000107	8.46E-05
758	0.000275	0.000106	8.45E-05
759	0.000275	0.000106	8.44E-05
760	0.000275	0.000106	8.43E-05
761	0.000275	0.000106	8.43E-05
762	0.000274	0.000106	8.42E-05
763	0.000274	0.000106	8.41E-05
764	0.000274	0.000106	8.4E-05
765	0.000273	0.000105	8.4E-05
766	0.000273	0.000105	8.39E-05
767	0.000273	0.000105	8.38E-05
768	0.000273	0.000105	8.37E-05
769	0.000272	0.000105	8.37E-05
770	0.000272	0.000105	8.36E-05
771	0.000272	0.000104	8.35E-05
772	0.000271	0.000104	8.35E-05
773	0.000271	0.000104	8.34E-05
774	0.000271	0.000104	8.33E-05
775	0.00027	0.000104	8.32E-05
776	0.00027	0.000104	8.32E-05
777	0.00027	0.000104	8.31E-05
778	0.00027	0.000103	8.3E-05
779	0.000269	0.000103	8.29E-05
780	0.000269	0.000103	8.29E-05
781	0.000269	0.000103	8.28E-05
782	0.000268	0.000103	8.27E-05
783	0.000268	0.000103	8.27E-05
784	0.000268	0.000103	8.26E-05
785	0.000268	0.000102	8.25E-05
786	0.000267	0.000102	8.24E-05
787	0.000267	0.000102	8.23E-05
788	0.000267	0.000102	8.23E-05
789	0.000266	0.000102	8.22E-05
790	0.000266	0.000102	8.21E-05
791	0.000266	0.000102	8.21E-05
792	0.000265	0.000101	8.2E-05
793	0.000265	0.000101	8.19E-05
794	0.000265	0.000101	8.18E-05
795	0.000265	0.000101	8.18E-05
796	0.000264	0.000101	8.17E-05
797	0.000264	0.000101	8.16E-05

751	0.000272	0.000117	8.2E-05
752	0.000271	0.000117	8.2E-05
753	0.000271	0.000117	8.19E-05
754	0.000271	0.000117	8.18E-05
755	0.00027	0.000116	8.18E-05
756	0.00027	0.000116	8.17E-05
757	0.00027	0.000116	8.16E-05
758	0.00027	0.000116	8.16E-05
759	0.000269	0.000116	8.15E-05
760	0.000269	0.000115	8.14E-05
761	0.000269	0.000115	8.14E-05
762	0.000268	0.000115	8.13E-05
763	0.000268	0.000115	8.12E-05
764	0.000268	0.000115	8.12E-05
765	0.000268	0.000114	8.11E-05
766	0.000267	0.000114	8.11E-05
767	0.000267	0.000114	8.1E-05
768	0.000267	0.000114	8.09E-05
769	0.000267	0.000114	8.09E-05
770	0.000266	0.000114	8.08E-05
771	0.000266	0.000113	8.07E-05
772	0.000266	0.000113	8.07E-05
773	0.000265	0.000113	8.06E-05
774	0.000265	0.000113	8.06E-05
775	0.000265	0.000113	8.05E-05
776	0.000265	0.000112	8.04E-05
777	0.000264	0.000112	8.04E-05
778	0.000264	0.000112	8.03E-05
779	0.000264	0.000112	8.02E-05
780	0.000264	0.000112	8.02E-05
781	0.000263	0.000112	8.01E-05
782	0.000263	0.000111	8.01E-05
783	0.000263	0.000111	8E-05
784	0.000263	0.000111	7.99E-05
785	0.000262	0.000111	7.99E-05
786	0.000262	0.000111	7.98E-05
787	0.000262	0.000111	7.97E-05
788	0.000261	0.00011	7.97E-05
789	0.000261	0.00011	7.96E-05
790	0.000261	0.00011	7.95E-05
791	0.000261	0.00011	7.95E-05
792	0.00026	0.00011	7.94E-05
793	0.00026	0.000109	7.93E-05
794	0.00026	0.000109	7.93E-05
795	0.00026	0.000109	7.92E-05
796	0.000259	0.000109	7.92E-05
797	0.000259	0.000109	7.91E-05

798	0.000264	0.000101	8.16E-05
799	0.000263	0.0001	8.15E-05
800	0.000263	0.0001	8.14E-05
801	0.000263	0.0001	8.13E-05
802	0.000263	1E-04	8.13E-05
803	0.000262	9.98E-05	8.12E-05
804	0.000262	9.97E-05	8.11E-05
805	0.000262	9.95E-05	8.1E-05
806	0.000261	9.94E-05	8.1E-05
807	0.000261	9.93E-05	8.09E-05
808	0.000261	9.91E-05	8.08E-05
809	0.000261	9.9E-05	8.08E-05
810	0.00026	9.88E-05	8.07E-05
811	0.00026	9.87E-05	8.06E-05
812	0.00026	9.86E-05	8.05E-05
813	0.000259	9.84E-05	8.05E-05
814	0.000259	9.83E-05	8.04E-05
815	0.000259	9.82E-05	8.03E-05
816	0.000259	9.8E-05	8.03E-05
817	0.000258	9.79E-05	8.02E-05
818	0.000258	9.78E-05	8.01E-05
819	0.000258	9.76E-05	8E-05
820	0.000257	9.75E-05	8E-05
821	0.000257	9.73E-05	7.99E-05
822	0.000257	9.72E-05	7.98E-05
823	0.000257	9.71E-05	7.98E-05
824	0.000256	9.69E-05	7.97E-05
825	0.000256	9.68E-05	7.96E-05
826	0.000256	9.67E-05	7.95E-05
827	0.000256	9.65E-05	7.95E-05
828	0.000255	9.64E-05	7.94E-05
829	0.000255	9.62E-05	7.93E-05
830	0.000255	9.61E-05	7.92E-05
831	0.000254	9.6E-05	7.92E-05
832	0.000254	9.59E-05	7.91E-05
833	0.000254	9.57E-05	7.9E-05
834	0.000254	9.56E-05	7.9E-05
835	0.000253	9.54E-05	7.89E-05
836	0.000253	9.53E-05	7.88E-05
837	0.000253	9.52E-05	7.88E-05
838	0.000252	9.51E-05	7.87E-05
839	0.000252	9.49E-05	7.86E-05
840	0.000252	9.48E-05	7.85E-05
841	0.000252	9.47E-05	7.85E-05
842	0.000251	9.45E-05	7.84E-05
843	0.000251	9.44E-05	7.83E-05
844	0.000251	9.43E-05	7.83E-05

798	0.000259	0.000109	7.9E-05
799	0.000258	0.000108	7.9E-05
800	0.000258	0.000108	7.89E-05
801	0.000258	0.000108	7.88E-05
802	0.000258	0.000108	7.88E-05
803	0.000257	0.000108	7.87E-05
804	0.000257	0.000108	7.87E-05
805	0.000257	0.000107	7.86E-05
806	0.000257	0.000107	7.85E-05
807	0.000256	0.000107	7.85E-05
808	0.000256	0.000107	7.84E-05
809	0.000256	0.000107	7.83E-05
810	0.000256	0.000107	7.83E-05
811	0.000255	0.000106	7.82E-05
812	0.000255	0.000106	7.81E-05
813	0.000255	0.000106	7.81E-05
814	0.000255	0.000106	7.8E-05
815	0.000254	0.000106	7.8E-05
816	0.000254	0.000106	7.79E-05
817	0.000254	0.000105	7.78E-05
818	0.000253	0.000105	7.78E-05
819	0.000253	0.000105	7.77E-05
820	0.000253	0.000105	7.76E-05
821	0.000253	0.000105	7.76E-05
822	0.000252	0.000105	7.75E-05
823	0.000252	0.000104	7.75E-05
824	0.000252	0.000104	7.74E-05
825	0.000252	0.000104	7.73E-05
826	0.000251	0.000104	7.73E-05
827	0.000251	0.000104	7.72E-05
828	0.000251	0.000104	7.71E-05
829	0.000251	0.000104	7.71E-05
830	0.00025	0.000103	7.7E-05
831	0.00025	0.000103	7.69E-05
832	0.00025	0.000103	7.69E-05
833	0.00025	0.000103	7.68E-05
834	0.000249	0.000103	7.68E-05
835	0.000249	0.000103	7.67E-05
836	0.000249	0.000102	7.66E-05
837	0.000248	0.000102	7.66E-05
838	0.000248	0.000102	7.65E-05
839	0.000248	0.000102	7.64E-05
840	0.000248	0.000102	7.64E-05
841	0.000247	0.000102	7.63E-05
842	0.000247	0.000101	7.63E-05
843	0.000247	0.000101	7.62E-05
844	0.000247	0.000101	7.61E-05

845	0.000251	9.41E-05	7.82E-05
846	0.00025	9.4E-05	7.81E-05
847	0.00025	9.39E-05	7.81E-05
848	0.00025	9.37E-05	7.8E-05
849	0.000249	9.36E-05	7.79E-05
850	0.000249	9.35E-05	7.78E-05
851	0.000249	9.33E-05	7.78E-05
852	0.000249	9.32E-05	7.77E-05
853	0.000248	9.31E-05	7.76E-05
854	0.000248	9.3E-05	7.76E-05
855	0.000248	9.28E-05	7.75E-05
856	0.000248	9.27E-05	7.74E-05
857	0.000247	9.26E-05	7.73E-05
858	0.000247	9.25E-05	7.73E-05
859	0.000247	9.23E-05	7.72E-05
860	0.000246	9.22E-05	7.71E-05
861	0.000246	9.21E-05	7.71E-05
862	0.000246	9.2E-05	7.7E-05
863	0.000246	9.18E-05	7.69E-05
864	0.000245	9.17E-05	7.69E-05
865	0.000245	9.16E-05	7.68E-05
866	0.000245	9.14E-05	7.67E-05
867	0.000245	9.13E-05	7.67E-05
868	0.000244	9.12E-05	7.66E-05
869	0.000244	9.11E-05	7.65E-05
870	0.000244	9.09E-05	7.64E-05
871	0.000243	9.08E-05	7.64E-05
872	0.000243	9.07E-05	7.63E-05
873	0.000243	9.06E-05	7.62E-05
874	0.000243	9.05E-05	7.62E-05
875	0.000242	9.03E-05	7.61E-05
876	0.000242	9.02E-05	7.6E-05
877	0.000242	9.01E-05	7.6E-05
878	0.000242	8.99E-05	7.59E-05
879	0.000241	8.98E-05	7.58E-05
880	0.000241	8.97E-05	7.58E-05
881	0.000241	8.96E-05	7.57E-05
882	0.000241	8.95E-05	7.56E-05
883	0.00024	8.93E-05	7.55E-05
884	0.00024	8.92E-05	7.55E-05
885	0.00024	8.91E-05	7.54E-05
886	0.000239	8.9E-05	7.53E-05
887	0.000239	8.89E-05	7.53E-05
888	0.000239	8.87E-05	7.52E-05
889	0.000239	8.86E-05	7.51E-05
890	0.000238	8.85E-05	7.51E-05
891	0.000238	8.84E-05	7.5E-05

845	0.000246	0.000101	7.61E-05
846	0.000246	0.000101	7.6E-05
847	0.000246	0.000101	7.59E-05
848	0.000246	0.000101	7.59E-05
849	0.000245	0.0001	7.58E-05
850	0.000245	0.0001	7.57E-05
851	0.000245	0.0001	7.57E-05
852	0.000245	9.99E-05	7.56E-05
853	0.000244	9.98E-05	7.56E-05
854	0.000244	9.96E-05	7.55E-05
855	0.000244	9.95E-05	7.54E-05
856	0.000244	9.93E-05	7.54E-05
857	0.000243	9.92E-05	7.53E-05
858	0.000243	9.9E-05	7.52E-05
859	0.000243	9.89E-05	7.52E-05
860	0.000243	9.87E-05	7.51E-05
861	0.000242	9.86E-05	7.51E-05
862	0.000242	9.84E-05	7.5E-05
863	0.000242	9.83E-05	7.49E-05
864	0.000242	9.81E-05	7.49E-05
865	0.000241	9.8E-05	7.48E-05
866	0.000241	9.78E-05	7.47E-05
867	0.000241	9.77E-05	7.47E-05
868	0.000241	9.75E-05	7.46E-05
869	0.00024	9.74E-05	7.46E-05
870	0.00024	9.72E-05	7.45E-05
871	0.00024	9.71E-05	7.44E-05
872	0.00024	9.69E-05	7.44E-05
873	0.000239	9.68E-05	7.43E-05
874	0.000239	9.67E-05	7.42E-05
875	0.000239	9.65E-05	7.42E-05
876	0.000239	9.64E-05	7.41E-05
877	0.000238	9.62E-05	7.41E-05
878	0.000238	9.61E-05	7.4E-05
879	0.000238	9.59E-05	7.39E-05
880	0.000238	9.58E-05	7.39E-05
881	0.000237	9.56E-05	7.38E-05
882	0.000237	9.55E-05	7.37E-05
883	0.000237	9.54E-05	7.37E-05
884	0.000237	9.52E-05	7.36E-05
885	0.000236	9.51E-05	7.36E-05
886	0.000236	9.49E-05	7.35E-05
887	0.000236	9.48E-05	7.34E-05
888	0.000236	9.46E-05	7.34E-05
889	0.000235	9.45E-05	7.33E-05
890	0.000235	9.44E-05	7.32E-05
891	0.000235	9.42E-05	7.32E-05

892	0.000238	8.82E-05	7.49E-05
893	0.000238	8.81E-05	7.49E-05
894	0.000237	8.8E-05	7.48E-05
895	0.000237	8.79E-05	7.47E-05
896	0.000237	8.78E-05	7.47E-05
897	0.000237	8.76E-05	7.46E-05
898	0.000236	8.75E-05	7.45E-05
899	0.000236	8.74E-05	7.45E-05
900	0.000236	8.73E-05	7.44E-05

892	0.000235	9.41E-05	7.31E-05
893	0.000234	9.4E-05	7.31E-05
894	0.000234	9.38E-05	7.3E-05
895	0.000234	9.37E-05	7.29E-05
896	0.000234	9.35E-05	7.29E-05
897	0.000233	9.34E-05	7.28E-05
898	0.000233	9.33E-05	7.28E-05
899	0.000233	9.31E-05	7.27E-05
900	0.000233	9.3E-05	7.26E-05

EXHIBIT C - WDID Numbers for Cherokee Augmentation Plan - Case No. 14CW3061

Sundance Well Field And WDID's For Constructed Wells

WDID	structure_name	cano	pm	twnshp	range	sect	q160	q40	q10	utm_x	utm_y	latdecdeg	longdecdeg	geoloc_num	WaterSource_name
811140	MORGAN DEN WL FLD	99CW0126	S	11 S	65 W	30				525100.5	4323896	39.063791	-104.709868	30597	GROUNDWATER: DENVER [TKD]
811141	MORGAN AR WL FLD	99CW0126	S	11 S	65 W	30				525100.5	4323896	39.063791	-104.709868	30598	GROUNDWATER: ARAPAHOE [KA]
811142	MORGAN LFH WL FLD	99CW0126	S	11 S	65 W	30				525100.5	4323896	39.063791	-104.709868	30599	GROUNDWATER: LARAMIE FOX HILLS [KLF]
811143	MORGAN DA WL FLD	99CW0126	S	11 S	65 W	30				525100.5	4323896	39.063791	-104.709868	30600	GROUNDWATER: DAWSON [TDW]
815291	CHEROKEE METRO NT AR WELL 75881-F		S	11 S	65 W	30	NW	NW		524484	4324598	39.070138	-104.716969	475911	GROUNDWATER: ARAPAHOE
815292	CHEROKEE METRO NT DEN WELL 78315-F		S	11 S	65 W	30	SW	NE		524740	4323533	39.060534	-104.714048	475912	GROUNDWATER: DENVER

Shamrock East Well Field

WDID	structure_name	cano	pm	twnshp	range	sect	q160	q40	q10	utm_x	utm_y	latdecdeg	longdecdeg	geoloc_num	WaterSource_name
808618	SHAMROCK EAST DA-1	94CW0023	S	11 S	65 W	30	NE	NE	NW	525621.9	4324602	39.070142	-104.703815	28082	GROUNDWATER: DAWSON [TDW]
808619	SHAMROCK EAST DA-2	94CW0023	S	11 S	65 W	30	SE	NW	NW	525203.6	4323799	39.062913	-104.70868	28083	GROUNDWATER: DAWSON [TDW]
809861	SHAMROCK EAST DA-3	94CW0023	S	11 S	65 W	30	SE	SE	SE	525826.1	4323209	39.057583	-104.701507	29322	GROUNDWATER: DAWSON [TDW]
809862	SHAMROCK EAST DA-4	94CW0023	S	11 S	65 W	31	NE	SE	SE	525821.5	4322402	39.050306	-104.701591	29323	GROUNDWATER: DAWSON [TDW]
809863	SHAMROCK EAST DA-5	94CW0023	S	11 S	65 W	31	NW	NW	NW	524372.6	4322987	39.055619	-104.718314	29324	GROUNDWATER: DAWSON [TDW]
809864	SHAMROCK EAST DA-6	94CW0023	S	11 S	65 W	31	NE	SW	SW	525203.6	4322391	39.050225	-104.708732	29325	GROUNDWATER: DAWSON [TDW]
808620	SHAMROCK EAST DEN-1	94CW0023	S	11 S	65 W	30	NE	NE	NW	525621.9	4324602	39.070142	-104.703815	28084	GROUNDWATER: DENVER [TKD]
808621	SHAMROCK EAST DEN-2	94CW0023	S	11 S	65 W	30	SE	NW	NW	525203.6	4323799	39.062913	-104.70868	28085	GROUNDWATER: DENVER [TKD]
809857	SHAMROCK EAST DEN-3	94CW0023	S	11 S	65 W	30	SE	SE	SE	525826.1	4323209	39.057583	-104.701507	29318	GROUNDWATER: DENVER [TKD]
809858	SHAMROCK EAST DEN-4	94CW0023	S	11 S	65 W	31	NE	SE	SE	525821.5	4322402	39.050306	-104.701591	29319	GROUNDWATER: DENVER [TKD]
809859	SHAMROCK EAST DEN-5	94CW0023	S	11 S	65 W	31	NW	NW	NW	524372.6	4322987	39.055619	-104.718314	29320	GROUNDWATER: DENVER [TKD]
809860	SHAMROCK EAST DEN-6	94CW0023	S	11 S	65 W	31	NE	SW	SW	525203.6	4322391	39.050225	-104.708732	29321	GROUNDWATER: DENVER [TKD]
808616	SHAMROCK EAST AR-1	94CW0023	S	11 S	65 W	30	NE	NE	NW	525621.9	4324602	39.070142	-104.703815	28080	GROUNDWATER: ARAPAHOE [KA]
808617	SHAMROCK EAST AR-2	94CW0023	S	11 S	65 W	30	SE	NW	NW	525203.6	4323799	39.062913	-104.70868	28081	GROUNDWATER: ARAPAHOE [KA]
809853	SHAMROCK EAST AR-3	94CW0023	S	11 S	65 W	30	SE	SE	SE	525826.1	4323209	39.057583	-104.701507	29314	GROUNDWATER: ARAPAHOE [KA]
809854	SHAMROCK EAST AR-4	94CW0023	S	11 S	65 W	31	NE	SE	SE	525821.5	4322402	39.050306	-104.701591	29315	GROUNDWATER: ARAPAHOE [KA]
809855	SHAMROCK EAST AR-5	94CW0023	S	11 S	65 W	31	NW	NW	NW	524372.6	4322987	39.055619	-104.718314	29316	GROUNDWATER: ARAPAHOE [KA]
809856	SHAMROCK EAST AR-6	94CW0023	S	11 S	65 W	31	NE	SW	SW	525203.6	4322391	39.050225	-104.708732	29317	GROUNDWATER: ARAPAHOE [KA]
808614	SHAMROCK EAST LFH-1	94CW0023	S	11 S	65 W	30	NE	NE	NW	525621.9	4324602	39.070142	-104.703815	28078	GROUNDWATER: LARAMIE FOX HILLS [KLF]
808615	SHAMROCK EAST LFH-2	94CW0023	S	11 S	65 W	30	SE	NW	NW	525203.6	4323799	39.062913	-104.70868	28079	GROUNDWATER: LARAMIE FOX HILLS [KLF]
809849	SHAMROCK EAST LFH-3	94CW0023	S	11 S	65 W	30	SE	SE	SE	525826.1	4323209	39.057583	-104.701507	29310	GROUNDWATER: LARAMIE FOX HILLS [KLF]
809850	SHAMROCK EAST LFH-4	94CW0023	S	11 S	65 W	31	NE	SE	SE	525821.5	4322402	39.050306	-104.701591	29311	GROUNDWATER: LARAMIE FOX HILLS [KLF]
809851	SHAMROCK EAST LFH-5	94CW0023	S	11 S	65 W	31	NW	NW	NW	524372.6	4322987	39.055619	-104.718314	29312	GROUNDWATER: LARAMIE FOX HILLS [KLF]
809852	SHAMROCK EAST LFH-6	94CW0023	S	11 S	65 W	31	NE	SW	SW	525203.6	4322391	39.050225	-104.708732	29313	GROUNDWATER: LARAMIE FOX HILLS [KLF]

Shiloh Ranch Field

WDID	structure_name	cano	pm	twnshp	range	sect	q160	q40	q10	utm_x	utm_y	latdecdeg	longdecdeg	geoloc_num	WaterSource_name
810218	SHILOH RANCH NNT DA WL FLD	96CW0125	S	11 S	65 W	8				526757.4	4328751	39.107495	-104.690525	29679	GROUNDWATER: DAWSON [TDW]
810219	SHILOH RANCH DEN WL FLD	96CW0125	S	11 S	65 W	8				526757.4	4328751	39.107495	-104.690525	29680	GROUNDWATER: DENVER [TKD]
810220	SHILOH RANCH AR WL FLD	96CW0125	S	11 S	65 W	8				526757.4	4328751	39.107495	-104.690525	29681	GROUNDWATER: ARAPAHOE [KA]
810221	SHILOH RANCH LFH WL FLD	96CW0125	S	11 S	65 W	8				526757.4	4328751	39.107495	-104.690525	29682	GROUNDWATER: LARAMIE FOX HILLS [KLF]

County Line Estates Field

WDID	structure_name	cano	pm	twnshp	range	sect	q160	q40	q10	utm_x	utm_y	latdecdeg	longdecdeg	geoloc_num	WaterSource_name
802426	COUNTY LINE ESTATES AUG	96CW0169	S	11 S	65 W	5				526758.5	4330384	39.12221	-104.690448	23837	UNDEFINED
811097	COUNTY LINE ESTATES AR WL FLD	96CW0169	S	11 S	65 W	5				526758.5	4330384	39.12221	-104.690448	30554	GROUNDWATER: ARAPAHOE [KA]
811098	COUNTY LINE ESTATES DEN WL FLD	96CW0169	S	11 S	65 W	5				526758.5	4330384	39.12221	-104.690448	30555	GROUNDWATER: DENVER [TKD]
811099	COUNTY LINE ESTATES UDA WL FLD	96CW0169	S	11 S	65 W	5				526758.5	4330384	39.12221	-104.690448	30556	GROUNDWATER: DAWSON [TDW]
811100	COUNTY LINE ESTATES LFH WL FLD	96CW0169	S	11 S	65 W	5				526758.5	4330384	39.12221	-104.690448	30557	GROUNDWATER: LARAMIE FOX HILLS [KLF]