



ORIGINAL PERMIT APPLICANT(S)

DOUGLAS BNB LLC (DOUGLAS, JASON)

AUTHORIZED AGENT

HAYES POZNANOVIC KORVER LLC (TROUT, ERIC K.)

APPROVED WELL LOCATION

Water Division: 1 Water District: 8
Designated Basin: N/A
Management District: N/A
County: EL PASO
Parcel Name: N/A
Physical Address: 3805 WALKER RD COLORADO SPRINGS,
CO 80908

NE 1/4 NE 1/4 Section 15 Township 11.0 S Range 66.0 W Sixth P.M.

UTM COORDINATES (Meters, Zone: 13, NAD83)

Easting: 520915.5 Northing: 4327711.1

PERMIT TO USE AN EXISTING WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not ensure that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-90-137(4) on the condition that this well is operated in accordance with the decree and augmentation plan approved by the Division 1 Water Court in Case Nos. 13CW0019 and 21CW3019. If the well is not operated in accordance with the terms of said decree, it will be subject to administration including orders to cease diverting water.
- 4) Approved for the change in use of an existing well constructed under permit no. 77569-F. Permit no. 77569-F was cancelled by Order of the State Engineer upon approval of this well permit.
- 5) The use of groundwater from this well is limited to in-building commercial use, one single-family residence, irrigation of up to half an acre (21,780 square-feet) of lawn, garden and trees, storage or use in a water feature, and use in a swimming pool, sauna, and spa.
- 6) Production from this well is restricted to the Dawson aquifer.
- 7) The pumping rate of this well shall not exceed 35 GPM.
- 8) The average annual amount of groundwater to be withdrawn shall not exceed 5.5 acre-feet and the total volume of groundwater to be withdrawn shall not exceed 550 acre-feet.
- 9) The entire length of the hole shall be geophysically logged as required by Rule 9 of the Statewide Nontributary Ground Water Rules prior to installing casing.
- 10) The owner shall mark the well in a conspicuous location with well permit number(s), name of the aquifer, and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.
- 11) A totalizing flow meter must be installed on this well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (recorded at least annually) and submitted to the Division Engineer upon request.
- 12) This well shall be located more than 600 feet from any existing well, completed in the same aquifer, that is not owned by the applicant.
- 13) This well shall be located not more than 200 feet from the location specified on this permit.
- 14) The return flow from the use of this well must be through an individual wastewater disposal system of the non-evaporative type where the water is returned to the same stream system in which the well is located.
- 15) This well is subject to administration by the Division Engineer in accordance with applicable decrees, statutes, rules, and regulations.

WELL PERMIT NUMBER 86024-F

RECEIPT NUMBER 10014774

NOTE: This well is withdrawing water from a non-renewable aquifer. While the withdrawals from this aquifer are administered based on a 100 year aquifer life, water level declines may prevent this well from diverting the permitted amounts for that 100 years.

Wenli Dickinson

Date Issued: 9/9/2021

Expiration Date: N/A

Issued By WENLI DICKINSON

DISTRICT COURT, WATER DIVISION 1, COLORADO Weld County Courthouse P.O. Box 2038 Greeley, CO 80632	DATE FILED: August 10, 2021 6:07 PM CASE NUMBER: 2021CW3019 ▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION FOR AMENDMENT OF AN AUGMENTATION PLAN OF DOUGLAS BNB, LLC., Applicant, IN EL PASO COUNTY	Case Number: 2021CW3019 (Case No. 2013CW19)
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, JUDGMENT AND DECREE	

A claim for amendment of an augmentation plan was filed in this case on February 26, 2021. All matters contained in the application having been reviewed, such testimony having been taken and evidence presented as was necessary, and being otherwise fully advised in the premises, it is hereby the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree, as follows:

FINDINGS OF FACT

1. Name and address of Applicant:

Douglas BnB, LLC.
3805 Walker Road
Colorado Springs, CO 80908
2. Opposers: No statements of opposition have been filed, and the time for filing of such statements has expired.
3. Subject Matter Jurisdiction: Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected hereby, whether they have appeared or not.
4. Consultation: The Water Referee consulted with the Division Engineer, as required by C.R.S. § 37-92-302(4), on the application, on May 10, 2021, and the Division Engineer filed its summary of consultation on May 31, 2021.
5. Prior Decree Information: Case No. 2013CW19, District Court, Water Division 1, decreed on August 12, 2013 (“Original Decree”), associated with 20.2 acres generally located in the NE1/4 NE1/4 of Section 15, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado, as shown on **Exhibit A** (“Subject Property”).

6. Decreed Change: In the Original Decree, an augmentation plan was approved for use of 4.5 acre-feet per year of not nontributary Dawson Aquifer groundwater, as follows:

Uses	Annual Amount
In-building commercial use	1 acre-foot
Two single-family residences	0.8 acre-feet
Irrigation of up to one acre of lawn, garden, and trees	2 acre-feet
Stock watering of up to 8 large domestic animals	0.1 acre-feet
Storage or use in a water feature	0.6 acre-feet
Total	4.5 acre-feet

By this decree, Applicant is granted an increase in use of not nontributary Dawson Aquifer groundwater to 5.5 acre-feet per year and the uses are reallocated, as follows:

Uses	Annual Amount
In-building commercial use	3.5 acre-feet
One single-family residence	0.4 acre-feet
Irrigation of up to half an acre of lawn, garden, and trees (21,780 square feet)	1 acre-foot
Storage or use in a water feature	0.2 acre-feet
Use in a swimming pool, sauna, and spa	0.4 acre-feet
Total	5.5 acre-feet

Depletions occur to the West Cherry Creek stream system and return flows accrue to that stream system. See **Exhibit B**.

AMENDMENT TO PLAN FOR AUGMENTATION

7. Water to be Augmented: 5.5 acre-feet per year of not nontributary Dawson aquifer groundwater as decreed in Case No. 2013CW19.
8. Water to be Used for Augmentation: Return flows associated with use of the not nontributary Dawson Aquifer groundwater and return flows or direct discharge of nontributary groundwater as decreed in Case No. 2013CW19.
9. Use and Consumptive Use: Applicant will use the Dawson water as described in Paragraph 6. Sewage treatment for commercial and in-house use will be provided by non-evaporative septic systems. Consumptive use associated with commercial and in-house use will be approximately 10% of water used for that purpose and consumptive use associated with irrigation use will be approximately 90% of water used for that purpose. Stock watering and storage use is considered to be 100% consumptively used.

10. Replacement during pumping: During pumping of the Dawson Aquifer groundwater for 100 years, Applicants will replace depletions to the affected stream system in an amount of water equal to the actual depletions pursuant to C.R.S. § 37-90-137(9)(c), C.R.S. In the 100th year, the total actual depletion from withdrawals from the Dawson aquifer is approximately 8.12% of the amount withdrawn or 0.45 acre-feet. Based on the uses described above, Applicant estimates that approximately 3.33 acre-feet per year will return to the South Platte River stream system. (3.15 acre-feet from commercial use and 0.18 acre-feet from in-house) and such return flows are sufficient to replace total actual depletions. Return flows accrue to the South Platte River system via West Cherry Creek, and those return flows are sufficient to replace total actual depletions caused by pumping of up to 5.5 acre-feet per year for 100 years from the Dawson aquifer while the well or wells are being pumped. Because return flows from all uses are estimated rather than measured, Applicant agrees that such return flows shall be used only to replace depletions under this plan for augmentation and will not be sold, traded, or assigned in whole or in part for any other purpose.

11. Post-pumping Depletion Augmentation: Assuming maximum pumping of 5.5 acre-feet per year from the Dawson aquifer, the total maximum depletion from pumping of the Dawson aquifer is 8.36% or 0.46 acre-feet in the 120th year. Applicant will reserve 5.5 acre-feet per year (550 acre-feet total of the nontributary Laramie-Fox Hills Aquifer groundwater decreed herein) for use in this plan, but reserves the right to substitute the use of other nontributary groundwater, including return flows, either underlying the Subject Property, or from another location which is legally available for such purpose, for replacement of post-pumping depletions at such time that post-pumping depletions may begin. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

12. No other provisions of the Original Decree are changed herein.

CONCLUSIONS OF LAW

13. Full and adequate notice of the application was given, and the Court has jurisdiction over the subject matter and over the parties whether they have appeared or not.

14. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to C.R.S. §§ 37-90-137(9)(c.5), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(3), (4), (6), (8), to adjudicate the amended plan for augmentation and are entitled to a decree confirming and approving the amended plan for augmentation as described in the Findings of Fact.

15. The Water Court has jurisdiction over this proceeding pursuant to C.R.S. § 37-90-137(6). This Court concludes as a matter of law that the application herein is one contemplated by law. C.R.S. § 37-90-137(4). The withdrawal of the Dawson Aquifer groundwater, and in accordance with the terms of this decree and the Original Decree, will not injuriously affect the owner or persons entitled to use water under a vested water right or a decreed conditional water right.

JUDGMENT AND DECREE

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

17. Applicants and/or successors may withdraw the subject groundwater herein through wells to be permitted by the State Engineer's Office located anywhere on the Subject Property in the average annual amounts and at the estimated average rates of flow specified herein and in the Original Decree, subject to the limitations of the Original Decree and herein, and the retained jurisdiction by this Court.

18. Applicants may withdraw up to 5.5 acre-feet per year of the Dawson aquifer groundwater under the plan for augmentation decreed in Case No. 2013CW19 and as decreed herein pursuant to C.R.S. § 37-90-137(9)(c.5).

19. Pursuant to C.R.S. § 37-92-305(5), the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally used.

20. The amendment of the plan for augmentation as described in the Findings of Fact is hereby approved, confirmed, and adjudicated, including and subject to the terms and conditions specified herein.

21. No owners of or person entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the operation of the plan for augmentation as decreed herein.

22. Continuing Jurisdiction: Pursuant to C.R.S. § 37-92-304(6), the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others.

23. The groundwater rights decreed herein are vested property rights appurtenant to the Subject Property and shall remain appurtenant unless expressly severed by conveyance to someone other than the property owner. If any deed for the Subject Property is silent to the conveyance of the water rights decreed herein, it is assumed that the water rights have been conveyed as an appurtenance to the Subject Property, unless all or part of the water rights have been previously severed.

24. After the referee ruling was entered on July 19, 2021, a typo was corrected in paragraph 11. The referee finds that this correction does not require an extension of the protest period.

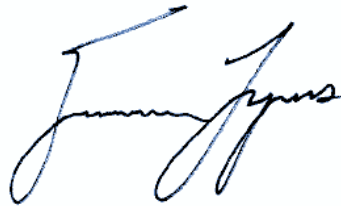
Date: August 6, 2021

A handwritten signature in black ink that reads "John S. Cowan". The signature is fluid and cursive, with the first name "John" being more prominent.

John S. Cowan
Water Referee
Water Division One

The Court finds that no protest was filed in this matter. The foregoing is confirmed and is made the judgment and decree of this Court.

Date: August 10, 2021

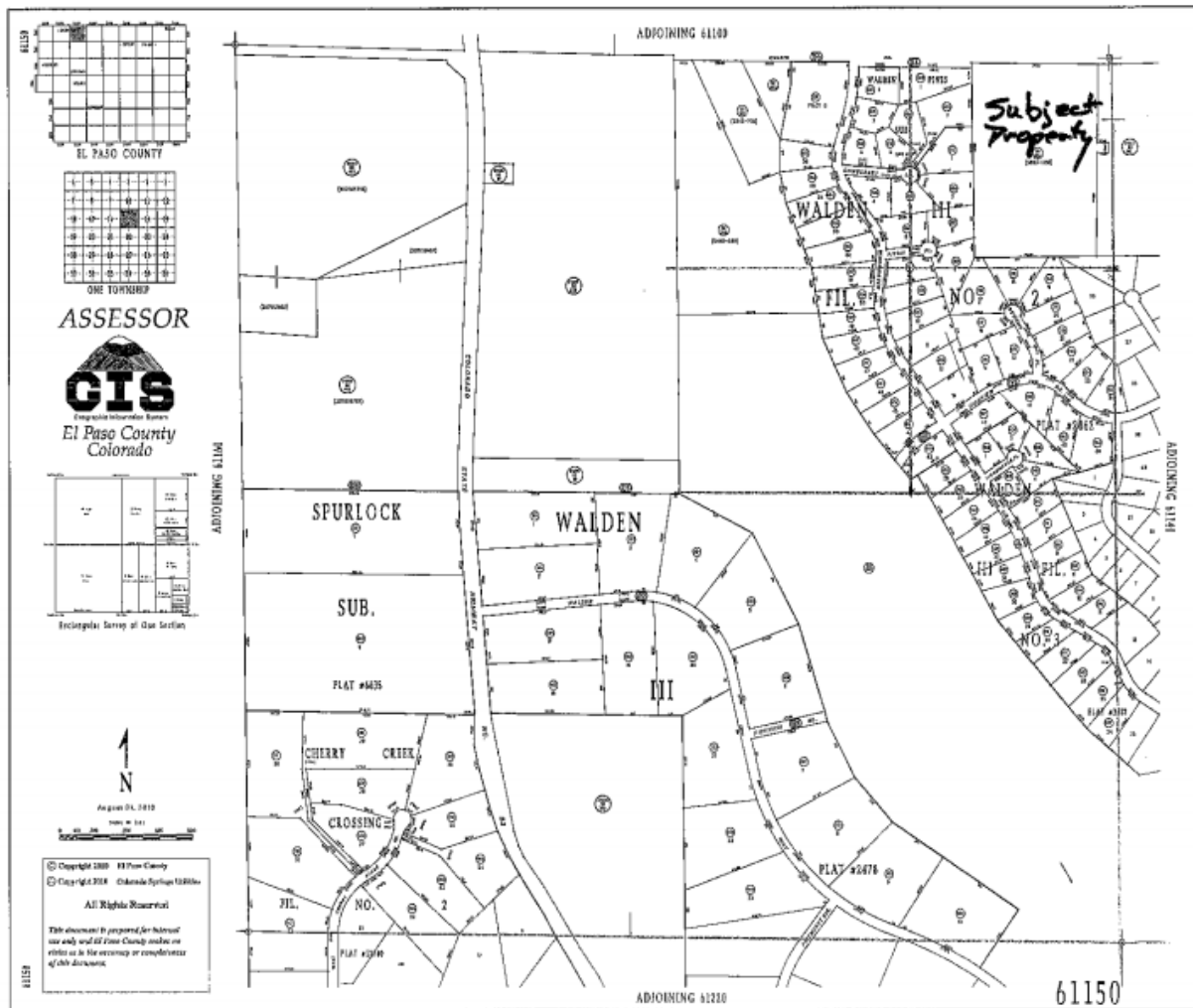
A handwritten signature in blue ink that reads "Shannon Lyons". The signature is stylized and cursive, with the first name "Shannon" being more prominent.

Shannon Lyons
Alternate Water Judge
Water Division One

3805 Walker Road

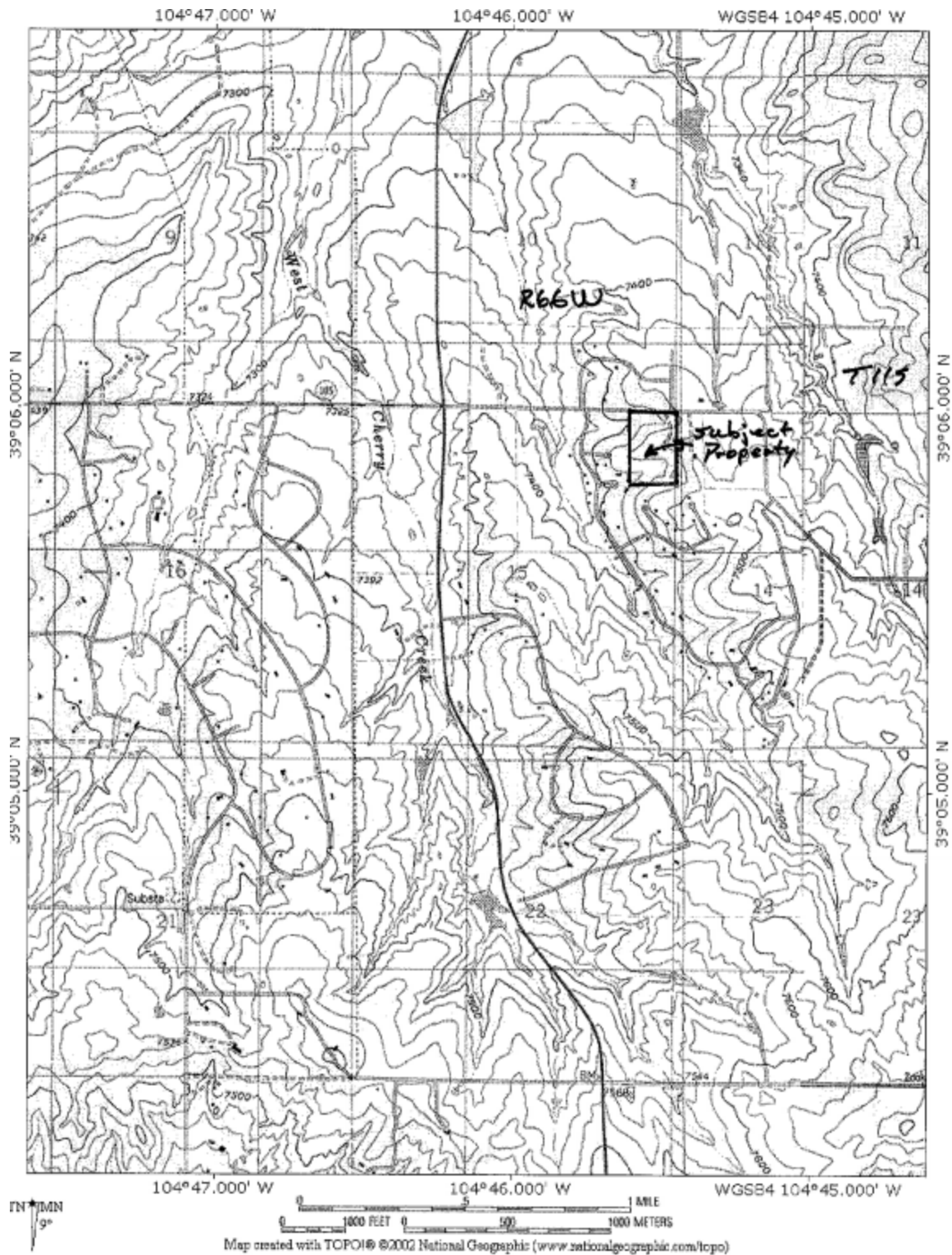
LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF TRACT "A" OF WALDEN III FILING NO. 2 AS RECORDED IN PLAT BOOK K-2 AT PAGE 40 OF THE RECORDS OF EL PASO COUNTY, SAID POINT FURTHERMORE BEING A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF WALKER ROAD: (1) THENCE S 88 DEGREES 10 MINUTES 40 SECONDS E, A DISTANCE OF 767.12 FEET; (2) THENCE S 01 DEGREES 49 MINUTES 19 SECONDS W, A DISTANCE OF 468.07 FEET; (3) THENCE S 88 DEGREES 10 MINUTES 40 SECONDS E, A DISTANCE OF 66.80 FEET; (4) THENCE S 01 DEGREES 49 MINUTES 20 SECONDS W, A DISTANCE OF 58.93 FEET; (5) THENCE N 88 DEGREES 10 MINUTES 40 SECONDS W, A DISTANCE OF 66.80 FEET; (6) THENCE S 01 DEGREES 49 MINUTES 19 SECONDS E, A DISTANCE OF 628.88 FEET TO A POINT ON THE NORTH LINE OF LOT 30 OF SAID WALDEN III FILING 2; (7) THENCE N 89 DEGREES 14 MINUTES 43 SECONDS W ALONG THE NORTH LINES OF LOTS 30, 29, 19, 18, AND 17 OF SAID WALDEN III FILING 2, A DISTANCE OF 738.19 FEET TO THE NORTHWEST CORNER OF SAID LOT 17 OF WALDEN III FILING 2; (8) THENCE N 00 DEGREES 23 MINUTES 56 SECONDS E ALONG THE EAST LINES OF LOTS 7, 6, 2, 1 AND TRACT "A" OF SAID WALDEN III FILING 2, A DISTANCE OF 1,169.99 FEET TO THE POINT OF BEGINNING. THE BASIS OF BEARING FOR THIS DESCRIPTION BEING THE EAST LINE OF TRACT "A" OF SAID WALDEN III FILING 2 BEING N 00 DEGREES 23 MINUTES 56 SECONDS E AND ALL OTHER BEARING CONTAINED HEREIN BEING RELATIVE THERETO, County of El Paso, State of Colorado.



Douglas BNB, LLC
21CW3019

EXHIBIT A-2



Douglas BNB, LLC
21CW3019

