

DISTRICT COURT, WATER DIVISION 2, CO Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 Phone Number: (719) 404-8832	DATE FILED: August 9, 2018 3:38 PM CASE NUMBER: 2018CW3002
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: ARROYA INVESTMENTS, LLC IN EL PASO COUNTY	▲ COURT USE ONLY ▲ Case No.: 18CW3002 (17CW3002)
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE	

THIS MATTER comes before the Water Referee on the Application filed by Arroya Investments, LLC, and having reviewed said Application and other pleadings on file, and being fully advised on this matter, the Water Referee makes the following findings and orders:

GENERAL FINDINGS OF FACT

1. The applicant in this case is Arroya Investments, LLC, whose address is 1283 Kelly Johnson Blvd., Colorado Springs, CO 80920 ("Applicant"). Applicant is the owner of the land totaling approximately 72.5 acres (a portion of the larger 225.97-acre Arroya Parcel previously adjudicated in Case No. 17CW3002), on which the structures sought to be adjudicated herein are located, and are the owners of the place of use where the water will be put to beneficial use.

2. The Applicant filed this Application with the Water Court for Water Division 2 on January 9, 2018. The Application was referred to the Water Referee in Division 2 on or about January 18, 2018.

3. The time for filing statements of opposition to the Application expired on the last day of March 2018. No Statements of Opposition were timely filed.

4. On January 18, 2018, the Water Court, Division 2 ordered that publication occur in the *Daily Transcript* within El Paso County.

5. The Clerk of this Court has caused publication of the Application filed in this matter as provided by statute and the publication costs have been paid. On February 15, 2018, proof of publication in the *Daily Transcript* was filed with Water

Court Division 2. All notices of the Application have been given in the manner required by law.

6. Pursuant to C.R.S. §37-92-302(4), the office of the Division Engineer for Water Division 2 has filed its Consultation Report dated May 2, 2018, with the Court, and a Response to the Consultation Report was filed by the Applicant on June 26, 2018. Both the Consultation Report and Response have been considered by the Water Referee in the entry of this Ruling.

7. The Water Court has jurisdiction over the subject matter of these proceedings and over all who have standing to appear as parties whether they have appeared or not. The land and water rights involved in this case are not within a designated groundwater basin.

8. The Applicant, consistent with the decree entered in Case No. 17CW3002, seeks to utilize ground water rights granted therein for the construction of Timber Ridge Wells Nos. 1 through 29 to the Dawson aquifer, and additional or replacement wells associated therewith, for withdrawal of Applicant's full entitlements of supply under the plan for augmentation sought herein.

9. The land overlying the groundwater subject to the adjudication in this case is owned by the Applicant and was previously quantified in Case No. 17CW3002, which concerned a 225.97 acre parcel of land located in El Paso County, Colorado ("Arroya Parcel"). The land relevant to this decree consists of an approximately 72.5 acre portion of the larger Arroya Parcel as described in Case No. 17CW3002, located in a portion of the SE¹/₄ of Section 21 and a portion of the SW¹/₄ of Section 22, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, as more particularly described on the attached **Exhibit A**, and depicted on the attached **Exhibit B** map ("Subject Property"). Applicant intends to subdivide the property into up to twenty-nine (29) lots of approximately 2.5 acres each. All groundwater adjudicated herein shall be withdrawn from the overlying land.

10. Timber Ridge Wells Nos. 1 through 29: Each of the Timber Ridge Wells Nos. 1 through 29 are to be constructed to the not-nontributary Dawson aquifer pursuant to the Plan for Augmentation decreed herein to provide domestic water supplies to a single family residence to be located upon the subdivided Subject Property. Upon entry of this decree and submittal by the Applicant of a complete well permit application and filing fee, the State Engineer shall issue a revised permit for Timber Ridge Wells Nos. 1 through 29 pursuant to C.R.S. §37-90-137(4), consistent with and references the Plan for Augmentation decreed herein.

PLAN FOR AUGMENTATION

11. The structures to be augmented are Timber Ridge Wells Nos. 1 through 29 in the not-nontributary Dawson aquifer underlying the Applicant's Property, along with any additional or replacement wells associated therewith.

12. Pursuant to C.R.S. §37-90-137(9)(c.5), the augmentation obligation for Timber Ridge Wells Nos. 1 through 29, and any additional or replacement wells constructed to the Dawson aquifer requires the replacement of actual stream depletions to the extent necessary to prevent any injurious effect. The water rights to be used for augmentation during pumping are the septic return flows of the not-nontributary Timber Ridge Wells Nos. 1 through 29, to be pumped as set forth in this plan for augmentation. The water rights to be used for augmentation after pumping are a reserved portion of Applicant's nontributary water rights in the Laramie-Fox Hills aquifers. Applicant shall provide for the augmentation of stream depletions caused by pumping the Timber Ridge Wells Nos. 1 through 29 as approved herein. Water use criteria as follows:

A. Use: The Timber Ridge Wells Nos. 1 through 29 may each pump up to 0.32 acre feet of water per year, for a maximum total of 9.32 acre feet being withdrawn from the Dawson aquifer annually. Households will utilize up to 0.26 acre feet of water per year per residence, with the additional pumping available for landscape irrigation, the watering of horses or equivalent livestock, and other beneficial uses decreed in 17CW3002 at each residence. The foregoing figures assume the use of 29 septic systems, with resulting return flows from each. Should Applicant subdivide Applicant's property into fewer than 29 lots, both depletions and return flows for the replacement of the same will be correspondingly reduced, though pumping for uses other than household use may be increased provided at all times septic return flows shall replace the maximum depletions resulting from pumping.

B. Depletions: Applicant has determined that maximum stream depletions over the 300-year pumping period will amount to approximately fifty-six percent (56%) of pumping. Maximum annual depletions for total residential pumping from all wells is therefore 5.22 acre feet in year 300. Should Applicant's pumping be less than the 0.32 acre feet per lot described herein, or should fewer lots be developed, resulting depletions and required replacements will be correspondingly reduced.

C. Augmentation of Depletions During Pumping Life of Wells: Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is 10% per year per residence. At a conservatively estimated household use rate of 0.18 acre feet per residence per year (rather than the full 0.26 acre feet annually), a total of 5.22 acre feet is replaced to the stream system per year, utilizing non-evaporative septic systems, assuming all 29 wells are utilized. With maximum depletions from the pumping of 29 wells at 0.18 acre feet, and anticipated replacement of 5.22 acre feet annually, during pumping, stream depletions will be adequately augmented.

D. Augmentation of Post Pumping Depletions: This plan for augmentation shall have a pumping period of a minimum of 300 years. For the replacement of any injurious post-pumping depletions which may be associated with the use of the Timber Ridge Wells Nos. 1 through 29, Applicant will reserve up to 2,796

acre feet of water from the nontributary Laramie Fox Hills aquifer, less actual stream depletions replaced during the plan pumping period as necessary to replace any injurious post pumping depletions. Applicant also reserves the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicant reserves the right in the future to prove that post pumping depletions will be noninjurious. The reserved nontributary Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. Upon entry of a decree in this case, the Applicant will be entitled to apply for and receive a new well permit for the Timber Ridge Wells Nos. 1 through 29 for the uses in accordance with this Application and otherwise in compliance with C.R.S. §37-90-137.

13. This decree, upon recording, shall constitute a covenant running with Applicant's Property, benefitting and burdening said land, and requiring construction of well(s) to the nontributary Laramie-Fox Hills aquifer and pumping of water to replace any injurious post-pumping depletions under this decree. Subject to the requirements of this decree, in order to determine the amount and timing of post-pumping replacement obligations, if any, under this augmentation plan, Applicant or its successors shall use information commonly used by the Colorado Division of Water Resources for augmentation plans of this type at the time. Pursuant to this covenant, the water from the nontributary Laramie-Fox Hills aquifer reserved herein may not be severed in ownership from the overlying subject property. This covenant shall be for the benefit of, and enforceable by, third parties owning vested water rights who would be materially injured by the failure to provide for the replacement of post-pumping depletions under the decree, and shall be specifically enforceable by such third parties against the owner of the Applicant's Property.

14. Applicant or its successors shall be required to initiate pumping from the Laramie-Fox Hills aquifer for the replacement of post-pumping depletions when either: (i) the absolute total amount of water available from the Dawson aquifer allowed to be withdrawn under the plan for augmentation decreed herein has been pumped; (ii) the Applicant or its successors in interest have acknowledged in writing that all withdrawals for beneficial use through the Timber Ridge Wells Nos. 1 through 29 have permanently ceased, (iii) a period of 10 consecutive years where either no withdrawals of groundwater has occurred, or (iv) accounting shows that return flows from the use of the water being withdrawn is insufficient to replace depletions caused by the withdrawals that already occurred.

15. Accounting and responsibility for post-pumping depletions in the amount set forth herein shall continue for the shortest of the following periods: (i) the period provided by statute; (ii) the period specified by any subsequent change in statute; (iii) the period required by the Court under its retained jurisdiction; (iv) the period determined by the State Engineer; or (v) the period as established by Colorado Supreme Court final decisions. Should Applicant's obligation hereunder to account for and replace such post-pumping stream depletions be abrogated for any reason, then

the Laramie-Fox Hills aquifer groundwater reserved for such a purpose shall be free from the reservation herein and such groundwater may be used or conveyed by its owner without restriction for any post-pumping depletions.

16. The term of this augmentation plan is for a minimum of 300 years, however, the length of the plan for a particular well or wells may be extended beyond such time provided the total plan pumping allocated to such well or wells is not exceeded. Should the actual operation of this augmentation plan depart from the planned diversions described herein such that annual diversions are increased or the duration of the plan is extended, the Applicant must prepare and submit a revised model of stream depletions caused by the actual pumping schedule. This analysis must utilize depletion modeling acceptable to the State Engineer, and to this Court, and must represent the water use under the plan for the entire term of the plan to date. The analysis must show that return flows have equaled or exceeded actual stream depletions throughout the pumping period and that reserved nontributary water remains sufficient to replace post-pumping depletions.

17. Consideration has been given to the depletions from Applicant's use and proposed uses of water, in quantity, time and location, together with the amount and timing of augmentation water which will be provided by the Applicant, and the existence, if any, injury to any owner of or person entitled to use water under a vested water right.

18. It is determined that the timing, quantity and location of replacement water under the protective terms in this decree are sufficient to protect the vested rights of other water users and eliminate material injury thereto. The replacement water shall be of a quantity and quality so as to meet the requirements for which the water of senior appropriators has normally been used, and provided of such quality, such replacement water shall be accepted by the senior appropriators for substitution for water derived by the exercise of the Timber Ridge Wells Nos. 1 through 29. As a result of the operation of this plan for augmentation, the depletions from the Timber Ridge Wells Nos. 1 through 29 and any additional or replacement wells associated therewith will not result in material injury to the vested water rights of others.

CONCLUSIONS OF LAW

19. The Applicant's request for adjudication of the plan for augmentation decreed herein is contemplated and authorized by law, and this Court and the Water Referee have exclusive jurisdiction over these proceedings. C.R.S. §§37-92-302(1)(a), 37-92-203, and 37-92-305.

20. Subject to the terms of the 17CW3002 decree, the Applicant is entitled to the sole right to withdraw all the legally available water in the Denver Basin aquifers underlying the Applicant's Property, and the right to use that water to the exclusion of all others subject to the terms of said 17CW3002 decree.

21. The Applicant's request for approval of a plan for augmentation is contemplated and authorized by law. If administered in accordance with this decree, this plan for augmentation will permit the uninterrupted diversions from the Timber Ridge Wells Nos. 1 through 29 without adversely affecting any other vested water rights in the Arkansas River or its tributaries and when curtailment would otherwise be required to meet a valid senior call for water. C.R.S. §§37-92-305(3),(5), and (8).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

22. All of the foregoing Findings of Fact and Conclusions of Law are incorporated herein by reference, and are considered to be a part of this decretal portion as though set forth in full.

23. The Application for Adjudication of Denver Basin Groundwater and for Approval of Plan for Augmentation proposed by the Applicant is approved, subject to the terms of this decree.

24. The Applicant has furnished acceptable proof as to all claims and, therefore, the Application for Adjudication of Groundwater and Plan for Augmentation, as requested by the Applicant, is granted and approved in accordance with the terms and conditions of this decree. Approval of this Application will not result in any material injury to senior vested water rights.

25. The Applicant shall comply with C.R.S. §37-90-137(9)(b), requiring the relinquishment of the right to consume two percent (2%) of the amount of the nontributary groundwater withdrawn. Ninety-eight percent (98%) of the nontributary groundwater withdrawn may therefore be consumed. No plan for augmentation shall be required to provide for such relinquishment.

26. The State Engineer, the Division Engineer, and/or the Water Commissioner shall not curtail the diversion and use of water covered by the Timber Ridge Wells Nos. 1 through 29 so long as the return flows from the annual diversions associated with the Timber Ridge Wells Nos. 1 through 29 accrue to the stream system pursuant to the conditions contained herein. To the extent that Applicant or one of its successors or assigns is ever unable to provide the replacement water required, then the Timber Ridge Wells Nos. 1 through 29 shall not be entitled to operate under the protection of this plan, and shall be subject to administration and curtailment in accordance with the laws, rules, and regulation of the State of Colorado. Pursuant to C.R.S. §37-92-305(8), the State Engineer shall curtail all out-of-priority diversions which are not so replaced as to prevent injury to vested water rights. In order for this plan for augmentation to operate, return flows from the one or both of the septic systems discussed herein, as appropriate, shall at all times during pumping be in an amount sufficient to replace the amount of stream depletions.

27. Pursuant to C.R.S. §37-92-304(6), the Court shall retain 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, as pertains to the use of Denver Basin groundwater supplies adjudicated herein, including for augmentation purposes.

28. Except as otherwise specifically provided in Paragraph 28, above, pursuant to the provisions of C.R.S. §37-92-304(6), this plan for augmentation decreed herein shall be subject to the reconsideration of this Court on the question of material injury to vested water rights of others, for a period of five (5) years, except as otherwise provided herein. Any person, within such period, may petition the Court to invoke its retained jurisdiction. Any person seeking to invoke the Court's retained jurisdiction shall file a verified petition with the Court setting forth with particularity the factual basis for requesting that the Court reconsider material injury to petitioner's vested water rights associated with the operation of this decree, together with proposed decretal language to effect the petition. The party filing the petition shall have the burden of proof of going forward to establish a prima facie case based on the facts alleged in the petition. If the Court finds those facts are established, Applicant shall thereupon have the burden of proof to show: (i) that the petitioner is not materially injured, or (ii) that any modification sought by the petitioner is not required to avoid material injury to the petitioner, or (iii) that any term or condition proposed by Applicant in response to the petition does avoid material injury to the petitioner. The Division of Water Resources as a petitioner shall be entitled to assert material injury to the vested water rights of others. If no such petition is filed within such period and the retained jurisdiction period is not extended by the Court in accordance with the revisions of the statute, this matter shall become final under its own terms.

29. Pursuant to C.R.S. §37-92-502(5)(a), the Applicant shall install and maintain such water measurement devices and recording devices as are deemed essential by the State Engineer or Division Engineers, and the same shall be installed and operated in accordance with instructions from said entities. Applicant is to install and maintain a totalizing flow meters on all Timber Ridge Wells or any additional or replacement wells associated therewith. Applicant is also to maintain records and provide reports to the State Engineer or Division Engineers as instructed by said entities, on at least an annual basis.

30. The vested water rights, water right structures, and plan for augmentation decreed herein shall be subject to all applicable administrative rules and regulations, as currently in place or as may in the future be promulgated, of the offices of Colorado State and Division Engineers for administration of such water rights, to the extent such rules and regulations are uniformly applicable to other similarly situated water rights and water users.

31. This Ruling of Referee, when entered as a decree of the Water Court, shall be recorded in the real property records of El Paso County, Colorado. Copies of this ruling shall be mailed as provided by statute.

DATED THIS 18th day of July, 2018.

BY THE REFEREE:

Mardell R. DiDomenico



Mardell R. DiDomenico, Water Referee
Water Division 2

DECREE

THE COURT FINDS THAT NO PROTEST WAS MADE IN THIS MATTER, THEREFOR THE FORGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Dated: August 9th, 2018.



BY THE COURT:

Larry C. Schwartz

LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2

EXHIBIT A

LEGAL DESCRIPTION – ARROYA PARCEL

A PARCEL OF LAND LOCATED IN A PORTION OF THE SOUTHEAST ONE-QUARTER (SE1/4) OF SECTION 21 AND A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: A LINE BETWEEN THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 27 AND THE SOUTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4) OF SAID SECTION 27, TOWNSHIP 12 SOUTH, RANGE 65 WEST, MONUMENTED AT THE NORTHERLY END BY A 3-1/4" ALUMINUM CAP STAMED "2006 ESI PLS 10376" AND MONUMENTED AT THE SOUTHERLY END BY A 3-1/4" ALUMINUM CAP STAMPED "2006 ESI PLS 10376" AND IS ASSUMED TO BEAR $S00^{\circ}54'30''E$, A DISTANCE OF 3925.63 FEET;

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 27;
THENCE $S88^{\circ}38'56''W$ ALONG THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4), A DISTANCE OF 1047.88 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE $S88^{\circ}38'56''W$ CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 283.03 FEET TO THE NORTHWEST CORNER OF SAID SECTION 27 SAID POINT ALSO BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE AS DESCRIBED IN THE DEED, AS RECORDED IN BOOK 2678 AT PAGE 431 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER;

THENCE ALONG THE EASTERLY AND NORTHERLY RIGHT-OF-WAY LINES OF SAID DEED THE FOLLOWING TWO (2) COURSES:

1. $N00^{\circ}37'14''W$ SAID LINE ALSO BEING THE WEST LINE OF THE SOUTHWEST ONE-QUARTER (SW1/4) OF SAID SECTION 22, A DISTANCE OF 30.00 FEET;
2. $S89^{\circ}40'23''W$, A DISTANCE OF 736.82 FEET TO THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE AS DESCRIBED IN THE DEED, AS RECORDED IN BOOK 2678 AT PAGE 430 OF SAID COUNTY RECORDS;

THENCE $N21^{\circ}41'10''E$ ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1798.07 FEET;

THENCE $N59^{\circ}58'50''E$, A DISTANCE OF 694.83 FEET;

THENCE $S14^{\circ}30'58''E$, A DISTANCE OF 567.09 FEET;

THENCE $N69^{\circ}36'18''E$, A DISTANCE OF 603.87 FEET;

THENCE $S30^{\circ}23'46''E$, A DISTANCE OF 264.58 FEET;

THENCE $S61^{\circ}52'38''W$, A DISTANCE OF 227.40 FEET;

THENCE $S79^{\circ}15'47''W$, A DISTANCE OF 276.17 FEET;

THENCE $S89^{\circ}39'18''W$, A DISTANCE OF 356.07 FEET;

THENCE $S40^{\circ}09'47''W$, A DISTANCE OF 310.61 FEET;

THENCE $S09^{\circ}56'46''W$, A DISTANCE OF 270.03 FEET;

THENCE $S35^{\circ}00'25''W$, A DISTANCE OF 167.38 FEET;

THENCE $S57^{\circ}24'01''W$, A DISTANCE OF 235.36 FEET;

THENCE $S27^{\circ}23'34''E$, A DISTANCE OF 611.29 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND CONTAINS A CALCULATED AREA OF 35.08 ACRES OF LAND, MORE OR LESS.

Along With:

A PARCEL OF LAND BEING THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 27, THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (SW1/4 NW1/4) OF SECTION 27, THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4) OF SECTION 27, A PORTION OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 28 AND A PORTION OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (NE1/4 NE1/4) OF SECTION 28, ALL IN TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: A LINE BETWEEN THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 27 AND THE SOUTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4) OF SAID SECTION 27, TOWNSHIP 12 SOUTH, RANGE 65 WEST, MONUMENTED AT THE NORTHERLY END BY A 3-1/4" ALUMINUM CAP STAMPED "2006 ESI PLS 10376" AND MONUMENTED AT THE SOUTHERLY END BY A 3-1/4" ALUMINUM CAP STAMPED "2006 ESI PLS 10376" AND IS ASSUMED TO BEAR S00°54'30"E, A DISTANCE OF 3925.63 FEET;

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 27, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE S00°54'30"E ALONG THE EAST LINE OF THE WEST ONE-HALF (W1/2) OF SAID SECTION 27, A DISTANCE OF 3925.63 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4) OF SAID SECTION 27;

THENCE S87°35'00"W ALONG THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4), A DISTANCE OF 1332.78 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4);

THENCE N00°53'18"W ALONG THE WEST LINE OF SAID NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4), A DISTANCE OF 1316.78 FEET TO THE NORTHWEST CORNER OF SAID NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4 SW1/4);

THENCE S89°08'28"W ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (SE1/4 NE1/4) OF SECTION 28, A DISTANCE OF 1326.68 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (SE1/4 NE1/4);

THENCE N00°30'49"W ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (SE1/4 NE1/4), A DISTANCE OF 1270.77 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE AS DESCRIBED IN THE DEED, AS RECORDED IN

BOOK 2678 AT PAGE 430 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER;

THENCE N21°41'10"E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1450.84 FEET TO THE POINT OF INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE AS DESCRIBED IN THE DEED, AS RECORDED IN BOOK 2678 AT PAGE 431 OF SAID COUNTY RECORDS;

THENCE ALONG THE SOUTHERLY AND EASTERLY RIGHT-OF-WAY LINES OF SAID DEED THE FOLLOWING TWO (2) COURSES:

1. N89°40'23"E, A DISTANCE OF 761.52 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (NE1/4 NE1/4);
2. N00°52'58"W ALONG SAID EAST LINE, A DISTANCE OF 30.00 FEET TO THE NORTHWEST CORNER OF SAID SECTION 27;



THENCE N88°38'56"E ALONG THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4), A DISTANCE OF 1330.91 FEET TO THE POINT OF BEGINNING;

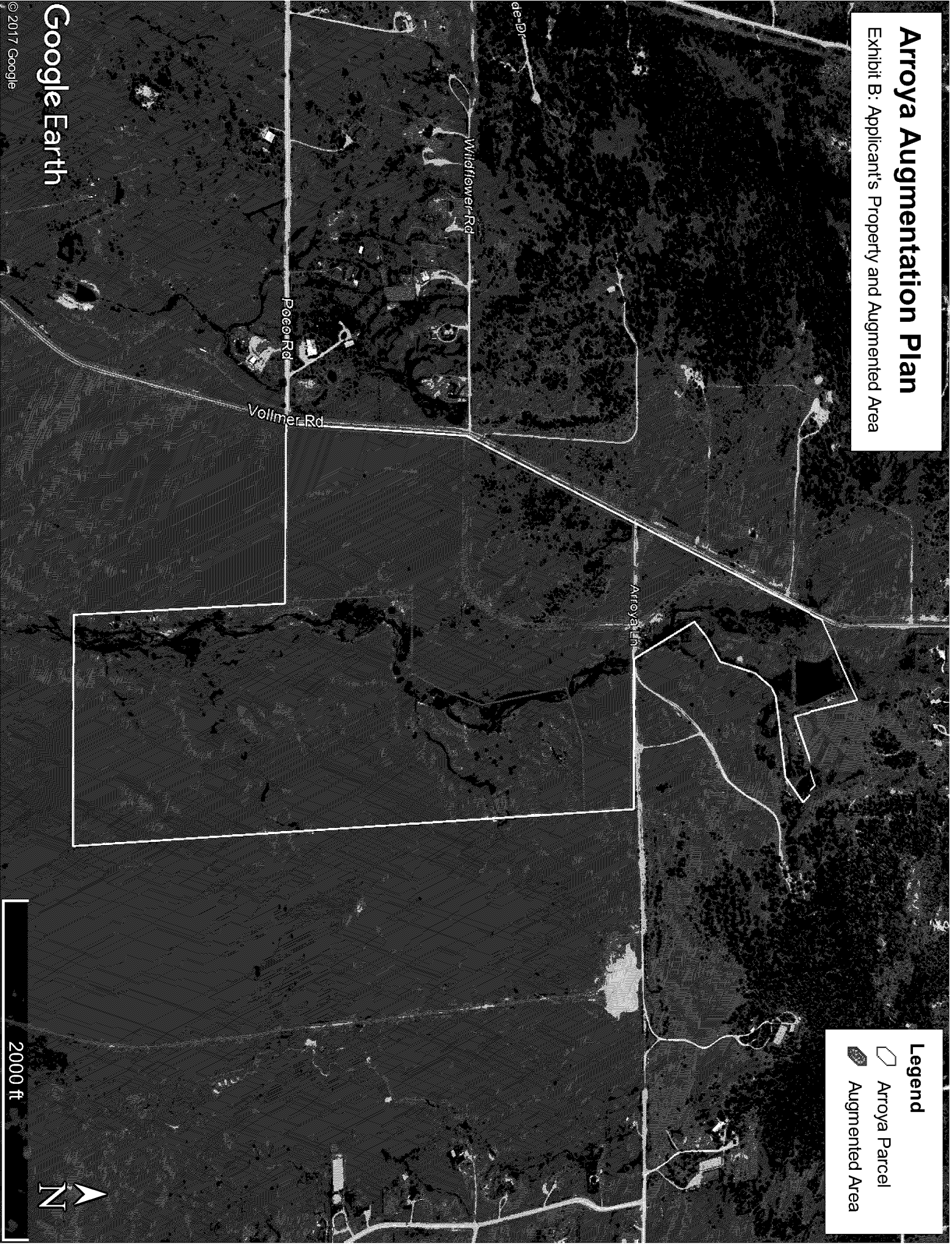
SAID PARCEL OF LAND CONTAINS A CALCULATED AREA OF 190.89 ACRES OF LAND, MORE OR LESS.

Arroya Augmentation Plan

Exhibit B: Applicant's Property and Augmented Area

Legend

-  Arroya Parcel
-  Augmented Area



2000 ft