

**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN THE
UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN

DETERMINATION NO.: 3640-BD

AQUIFER: Denver

APPLICANT: Mary W. Contreras and Jose A. Contreras

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Mary W. Contreras and Jose A. Contreras (hereinafter "Applicant") submitted an application for determination of water right to designated ground water from the Denver Aquifer.

FINDINGS

1. The application was received by the Colorado Ground Water Commission on November 6, 2018.
2. The Applicant requests a determination of right to designated ground water in the Denver Aquifer (hereinafter "Aquifer") underlying 5.105 acres, generally described as a portion of Lot 18 of the Hadden Heights Subdivision located in the SE1/4 of Section 13, Township 13 South, Range 65 West of the 6th P.M., in El Paso County. According to a signed Ownership Statement dated October 24, 2018, attached hereto as Exhibit A, the Applicant owns the 5.105 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic, irrigation of lawn and garden, greenhouse irrigation, vehicle and structure washing, stock watering and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 5.105 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 5.105 acres of Overlying Land claimed by the applicant is 239 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
 - a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

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- b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 275 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 2.39 acre-feet per year.
9. A review of the records in the Office of the State Engineer has disclosed that a small-capacity well, permit no. 191102, is located on the Overlying Land and is permitted to withdraw 1 acre-foot per year of ground water from the Aquifer from beneath the Overlying Land. In accordance with Rule 5.3.2.4 of the Designated Basin Rules, the allowed average annual amount of withdrawal from beneath the Overlying Land is reduced to 2.16 acre-feet per year so as to account for water historically withdrawn by that well from beneath the Overlying Land (based on pumping 1 acre-foot per year for 23 years, for a total withdrawal of 23 acre-feet). The effect of this reservation is to reduce the quantity of Underlying Ground Water which is considered available for allocation to 216 acre-feet. Except for that well, review of the records in the Office of the State Engineer has disclosed that none of the water in the Aquifer underlying the land claimed by the Applicant has been previously allocated or permitted for withdrawal.
10. The applicant intends to apply for a new well permit to re-permit well 191102 pursuant to the replacement plan being concurrently approved for the Denver aquifer. Well permit no. 191102 will be cancelled upon issuance of a new well permit issued pursuant to this Determination of Water Right and the replacement plan.
11. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
12. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable Aquifer may be less than the one hundred years upon which the amount of water in the Aquifer is allocated, due to anticipated water level declines.
13. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the Aquifer underlying the land claimed by the Applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the Underlying Ground Water is considered to be not-nontributary ground water. Also, the location of the land claimed by the Applicant is closer than one mile from the Aquifer contact with the alluvium. Withdrawal of water from the Aquifer underlying the claimed land area would impact the alluvial aquifer(s) of Black Squirrel Creek or its tributaries, which has been determined to be over-appropriated. Commission approval of a replacement plan pursuant to Section 37-90-107.5, C.R.S. and Rule 5.6 of the designated Basin Rules, providing for the actual depletion of the alluvial aquifer and adequate to prevent any material injury to

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existing water rights, is required prior to approval of well permits for wells to be located on this land area to withdraw the Underlying Ground Water from the Aquifer.

14. On December 19, 2018, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received.
15. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 27, 2018 and January 3, 2019. No objections to the application were received within the time limit set by statute.

ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Denver Aquifer underlying 5.105 acres of land, generally described as a portion of Lot 18 of the Hadden Heights Subdivision located in the SE1/4 of Section 13, Township 13 South, Range 65 West of the 6th P.M., further described in Exhibit A, is approved subject to the following conditions:

16. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 2.16 acre-feet.
17. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 216 acre-feet.
18. The applicant must obtain a new permit for the existing well (current permit no. 191102) to operate that well pursuant to this Determination of Water Right and the replacement plan being concurrently approved for the Denver aquifer.
19. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
20. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
21. The Applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
22. Commission approval of a replacement plan, providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers, is required prior to approval of well permits that allow the withdraw of the Underlying Ground Water.

23. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic, irrigation of lawn and garden, greenhouse irrigation, vehicle and structure washing, stock watering and replacement. The place of use shall be limited to the above described 5.105 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission. The ground water right determined herein is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated ground water.
24. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
25. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
 - a. The wells must be located on the above described 5.105 acres of Overlying Land.
 - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
 - c. The wells must be constructed to withdraw water from only the Denver Aquifer.
 - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
 - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
26. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 5.105 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
27. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

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Aquifer: Denver
Applicant: Mary W. Contreras and Jose A. Contreras

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Dated this 4th day of February, 2019.

By: 
Kevin G. Rein, P.E.
Executive Director
Colorado Ground Water Commission


Keith Vander Horst, P.E.
Chief of Water Supply, Basins

Prepared by: jmw
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Form GWS-1 (08/2016)

NOV 06 2018

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES
1313 Sherman St, Room 821, Denver, CO 80203
Phone (303) 866-3581, www.water.state.co.us

WATER RESOURCES
STATE ENGINEER COLO

NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT

AQUIFER: Denver

I (we) (Please Print) Mary W. Contreras and Jose A. Contreras
claim and say that I (we) am (are) the owner(s) of the following described property consisting of
5.105 acres in the County of El Paso, State of Colorado,
as evidenced by the attached copy of a deed, recorded in the county (or counties) in which the
land is located. (insert the property's legal description)

Lot 18 of the Hadden Heights Subdivision, except the portion described as follows:
beginning in the Northwest corner of Lot 18, thence South along the West line thereof
765.33 feet to the Southwest corner of said Lot 18, North 89° 15' 00" East along the
Southerly line of said Lot a distance of 147.63 feet to a point of curvature; thence on a
curve to the left, said curve having a radius of 921.40 feet, and an arc distance of 262.60
feet; thence North 17° 52' 20" West, a distance of 759.49 feet, to a point on the North
line of said Lot 18, that is 173.09 feet East of the Northwest corner of said Lot 18; thence
West along the North line thereof a distance of 173.09 feet to the point of beginning,
according to the plat thereof recorded in Plan Book Z-2 at Page 24, County of El Paso,
State of Colorado.

I (we) further claim and say that the right to withdraw the ground water in the aquifer underlying
the above described land has not been reserved by another, nor has consent been given to
another for the right to its withdrawal.

NOTE: A completed "Nontributary Landownership or Consent Verification of Notice" form
(GWS-43) must also be provided for all applications submitted pursuant to C.R.S. 37-90-
137(4) outside of a Designated Ground Water Basin.

Further, I (we) claim and say that I (we) have read the statement made herein; know the
contents thereof; and that the same are true to my (our) knowledge. Pursuant to Section 24-4-
104(13)(a), C.R.S., the making of false statements herein constitutes perjury in the second
degree and is punishable as a Class 1 misdemeanor.

<u>Mary W Contreras</u>	<u>10/24/2018</u>
Signature	Date
<u>José A. Contreras</u>	<u>10.24.2018</u>
Signature	Date