

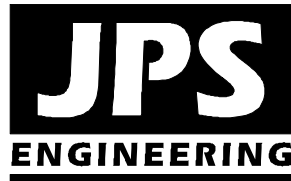
**MAYBERRY, COLORADO SPRINGS – FILING NO. 1 & NO. 2  
WATER RESOURCES REPORT &  
WASTEWATER TREATMENT REPORT**

**Prepared for:**

**Ellicott Utilities Company LLC**  
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August 24, 2018  
Revised March 27, 2019  
Revised July 29, 2019  
Revised November 17, 2020

**Prepared by:**



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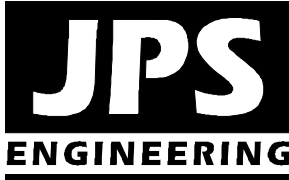
**JPS Project No. 030502**

**MAYBERRY, COLORADO SPRINGS – FILING NO. 1 & NO. 2**  
**WATER RESOURCES REPORT & WASTEWATER DISPOSAL REPORT**  
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**MAYBERRY, COLORADO SPRINGS – FILING NO. 1 & 2  
(fka “ELLICOTT TOWN CENTER”)  
WATER RESOURCES REPORT & WASTEWATER DISPOSAL REPORT**

**I. INTRODUCTION**

The purpose of this Water Resources Report is to provide a summary of water resources planning issues in support of the development of Mayberry, Colorado Springs (formerly known as “Ellicott Town Center”) Filing No. 1 and Filing No. 2 in eastern El Paso County. The report will identify water and wastewater demands, plans for central water and wastewater service, fire flow issues, and infrastructure requirements for the proposed development. This report is intended to fulfill the requirements of Section 49.5, Water Supply Standards, of the El Paso County Land Development Code. The report addresses the items required under Section 51.2, “Water Resources,” and Section 51.3, “Wastewater Disposal” in the Land Development Code.

The Ellicott Town Center (ETC) Phase One Preliminary Plan, consisting of 240 single-family residential lots, was approved by the El Paso County Board of County Commissioners on May 11, 2006 (Resolution No. 06-163). ETC Filing No. 1, consisting of 98 single-family residential lots, was approved by the County BOCC on April 12, 2007 (Resolution No. 07-132), but not yet recorded. The new owner, Colorado Springs Mayberry, LLC, is currently proceeding with recording and development of the previously approved Filing No. 1.

Mayberry, Colorado Springs Filing No. 2 consists of a replat of Tract L and Tract Q of Mayberry, Colorado Springs Filing No. 1, creating 3 commercial lots along the extension of Cattlemen Run on the west side of Springs Road.

**II. PROJECTED WATER DEMANDS**

Consistent with previous water resources planning for this subdivision, projected water demands have been estimated based on an assumed water use of 0.37 acre-feet per year per household, which equates to 330 gallons per day (gpd) per single-family equivalent (SFE) unit. Water demand projections include a peaking factor of 2.5 for maximum day demands (MDD) and a peaking factor of 4.0 for maximum hour demands (MHD). The projected water demands for the project are summarized in the following table:

**Mayberry, Colorado Springs – Filing No. 1 & No. 2 Water Demand Summary**

	<b>Single Family Equivalent Units (SFE)</b>	<b>Average Daily Demand (gpd)</b>	<b>Max. Daily Dmd. (gpd)</b>	<b>Max. Day Dmd. (gpm)</b>	<b>Peak Hour Dmd. (gpm)</b>	<b>Ave. Day Dmd. (af/yr)</b>
Filing No. 1	98	33,725	84,312	58.6	93.7	37.78
Filing No. 2	8.4	2,485	6,213	4.3	6.9	2.78
<b>SUBTOTAL</b>	106.4	36,210	90,525	62.9	100.6	40.56

The projected water demands for the project are detailed in the State Engineer’s Office (SEO) “Water Supply Information Summary” forms enclosed in Appendix A.

**III. WATER SUPPLY**

The original water supply plan for the Ellicott Town Center project was based on central water service to be provided by Ellicott Springs Resources, LLC and the Sunset Metropolitan District (ESR/SMD). Following the bankruptcy of ESR, the ETC developer received the majority of water resources assets previously owned by ESR, and established a new utility company, Ellicott Utilities Company, LLC (“EUC”). Ellicott Utilities currently owns and operates the central water system serving the existing Antelope Park Ranchettes and Viewpoint Village Subdivisions, along with the existing Ellicott Springs Wastewater Treatment Plant (WWTP).

As detailed in the “Motion for Authority to Sell Property of the Estate...” dated August 16, 2012 and the “Trustee’s Report of Sale” dated March 26, 2013 (Appendix B), Ellicott Utilities Company, LLC is now the owner of water rights which include the following:

- Water Rights identified as 598-BD (Laramie-Fox Hills) and 599-BD (Arapahoe), including well Permit Numbers 61972-F and 61973-F that correspond with the determination number 598-BD.

Additionally, according to the “Bill of Sale and Assignment” dated March 22, 2013 (Appendix B), Ellicott Utilities Company, LLC is now the owner of the following assets previously owned by Ellicott Springs Resources, LLC:

- Sunset Wastewater System
- Viewpoint Water System
- Contractual Agreements including:
  - Water Agreement dated June 9, 1988 between R.W. Case and Cherokee Water and Sanitation District (“Cherokee-Viewpoint Contract”)
  - Agreement dated October 11, 2006 between Cherokee Metropolitan District, Ellicott Springs Resources, et. al, whereby Cherokee Metropolitan District is obligated to provide Ellicott Springs Resources, LLC 800 acre-feet of water per year.

**A. Water Sources**

Ellicott Utilities Company, LLC owns several water supply sources that are available for commitment to serve this subdivision filing. For service to Mayberry, Colorado Springs Filing No. 1 and No. 2, EUC proposes to utilize Denver Basin groundwater wells which have previously been approved for service to this project. Ellicott Utilities Company, LLC will provide central wastewater service with available capacity at the existing Ellicott Springs Wastewater Treatment Plant. The water sources that are currently available for use by Ellicott Utilities Company include the Cherokee-Viewpoint Contract and the Ellicott Town Center (ETC) Laramie Fox Hills wells.

**1. Cherokee-Viewpoint Contract**

As detailed in Appendix B, Ellicott Utilities Company, LLC owns the “Cherokee-Viewpoint” contract dated June 9, 1988. This contract, enclosed in Appendix E, provides for an annual commitment of 50.0 af/yr for water delivery from the Cherokee Metropolitan District.

The area currently served by the Cherokee-Viewpoint Contract consists of the Viewpoint Estates and Antelope Park Ranchettes Subdivisions located on the north side of SH94 as depicted on the enclosed “Ellicott Utilities Company - Water System Plan” (Sh. WT1, Appendix F).

We understand the current commitments of this contractual water right to be as discussed in the letter from the State Division of Water Resources (DWR) dated February 8, 1999 (enclosed in Appendix E). The 1999 DWR letter identifies a commitment of 17.52 af/yr for the Antelope Park Ranchettes Subdivision and a commitment of 27.43 af/yr for the Viewpoint Estates Subdivision.

Based on the current understanding of contractual commitments, the allocation of the existing Cherokee-Viewpoint contract is summarized as follows:

**Ellicott Utilities Company – Cherokee-Viewpoint Contract Water Allocations**

	<b>Water Supply (af/yr)</b>	<b>Antelope Park Ranchettes Water Demand (af/yr)</b>	<b>Viewpoint Estates Water Demand (af/yr)</b>	<b>Remaining Uncommitted Water Supply (af/yr)</b>
<b>Water Supply</b>				
Cherokee-Viewpoint Contract	50.0	17.52	27.43	5.05

In conjunction with a future Water Supply Plan update, Ellicott Utilities Company plans to provide further documentation on the actual historic water demands for the Viewpoint Estates and Antelope Park Ranchettes Subdivisions. The water allocation to these existing subdivisions could potentially be reduced in consideration of actual historic water demands.

**2. ETC Denver Basin Wells**

Ellicott Utilities Company, LLC owns two existing Denver Basin wells drilled into the Laramie Fox Hills aquifer within the former Springs East Village parcel (east side of Ellicott Town Center property). The Findings and Order for Determination No. 598-BD (enclosed in Appendix C) identified a total water supply of 161.24 acre-feet per year (af/yr) in the Laramie Fox Hills (LFH) aquifer underlying the combined 551.26-acre parcels formerly known as Viewpoint Village and Springs East Village. The LFH groundwater supply translates to an available supply of 53.75-af/yr under the El Paso County 300-year rule. Determination No. 598-BD allows for use of this water anywhere within the entire acreage of the Ellicott Town Center property (formerly the combined Viewpoint Village and Springs East Village parcels). Ellicott Utilities will withdraw groundwater from the two existing Laramie Fox-Hills wells (re-permitted under Permit Nos. 61972-F and 61973-F; enclosed in Appendix D), supplemented by additional future wells as needed.

Ellicott Utilities proposes to commit a 300-year water supply of 37.8 af/yr of the available 53.75 af/yr of the Denver Basin groundwater to Mayberry, Colorado Springs Filing No. 1, and Ellicott Utilities plans to commit a 300-year water supply of 2.78 af/yr to Ellicott Town Center Filing No. 2. There are currently no other commitments for the water rights associated with the ETC Denver Basin wells.

The Mayberry, Colorado Springs Metropolitan District will ultimately operate and maintain the central water system and provide accounting of actual well use and water consumption. Accounting will be provided by metering on each of the LFH wells, in conjunction with individual metering of water use on each home in the subdivision.

Based on current contractual commitments, the allocation of the existing ETC Denver Basin water rights is summarized as follows:

**Ellicott Utilities Company – ETC Denver Basin Water Allocations**

<b>Water Supply</b>	<b>Decreed Water Supply (af/yr)</b>	<b>Mayberry Filing No. 1 Water Demand (af/yr)</b>	<b>Mayberry Filing No. 2 Water Demand (af/yr)</b>	<b>Remaining Uncommitted Water Supply (af/yr)</b>
ETC Denver Basin Wells	53.75	37.78	2.78	13.19

**IV. WATER SYSTEM PLAN**

**A. Water Service**

The water service plan for the proposed development is to connect to the existing central water system of Ellicott Utilities Company, LLC. EUC currently owns and operates the community central water system serving the Viewpoint Estates and Antelope Park Ranchettes Subdivisions under PWSID No. 121245. EUC will serve the Mayberry, Colorado Springs Subdivision as an extension of the existing central water system.

The Company has sufficient water rights and system capacity to meet the anticipated demands for the proposed development. Builders will purchase water taps from the Company for each home and commercial building.

Ellicott Utilities Company, LLC has future plans to transfer utility operations to a metropolitan district (“Mayberry, Colorado Springs Metropolitan District”) so that long-term utility service will be provided by a public entity.

**B. Fire Flow Requirements**

Fire flow requirements are typically based on the largest building area and classification within the development. Within residential areas, assuming maximum home sizes of 4,800 square feet and Type V-N (wood frame) construction, the International Fire Code (IFC) requires a fire flow of 1,750-gpm for a duration of 2 hours. Fire hydrants will be installed to provide an average hydrant spacing of 500 feet in typical residential areas, consistent with IFC recommendations.

Within commercial areas, assuming a maximum building size of 12,600 square feet and Type II-B construction, the International Fire Code (IFC) requires a fire flow of 2,250-gpm and an average fire hydrant spacing of 450 feet. Fire protection requirements for commercial areas may also include sprinkler systems serving individual buildings depending on the building size and construction type.

EUC owns the existing 500,000-gallon Viewpoint Water Storage Tank located at the northwest corner of the Ellicott Town Center subdivision, and EUC also has contractual water storage rights within the existing 500,000-gallon Cherokee Metropolitan District adjacent to the property.

**V. WASTEWATER SERVICE**

The wastewater service plan for the Mayberry, Colorado Springs development is to connect to the existing central sewer system owned and operated by Ellicott Utilities Company, LLC. The Company has sufficient wastewater treatment capacity at the Ellicott Springs Wastewater Treatment Plant (formerly known as the “Sunset Wastewater Treatment Plant”) to accept flow from the proposed development of Filing No. 1 and No. 2. Builders will purchase sewer taps from the Company for each home.

**Mayberry, Colorado Springs – Filing No. 1-2 Wastewater Flow Summary**

	<b>Single Family Equivalent Units (SFE)</b>	<b>Average Daily WW Flow (gpd)</b>
Filing No. 1	98	19,600
Filing No. 2 (Commercial)	8.4	1,672
<b>SUBTOTAL</b>	<b>106.4</b>	<b>21,272</b>

Ellicott Utilities Company, LLC is the owner of the Ellicott Springs Wastewater Treatment Plant (WWTP), which will provide central sewage treatment to all urban-density development within the Ellicott Service Area. The Ellicott Springs Wastewater Treatment Plant (WWTP), located approximately six miles south of Ellicott, has been designated as a “sub-basin regional facility” serving the Black Squirrel Basin.

The Ellicott Springs WWTP currently serves the Sunset Village development and the Ellicott schools. Gravity sewer lines within Sunset Village convey sewage to a lift station at the southwest corner of Ellicott Highway and Jayhawk Avenue. The Sunset Village Lift Station pumps sewage southwesterly through a force main to the treatment plant. In January, 2002, the Sunset Wastewater Treatment Plant completed an upgrade to a permitted capacity of 250,000 gallons per day (gpd), discharging to an unnamed tributary to Black Squirrel Creek. Previous wastewater collection system improvements also included construction of an outfall sewer line extending north along Bar 10 (Log) Road to serve the Ellicott Schools and Ellicott Town Center development.

The Ellicott Springs Wastewater Treatment Plant is a 3-cell aerated lagoon facility with chlorine disinfection. The WWTP has not discharged effluent to date based on the limited development in the area. The GMS “Application for Site Approval” report for the treatment plant upgrade project utilized an average wastewater flow of 200 gpd/SFE, allowing for connection of up to 1,250 single-family equivalent (SFE) units to the upgraded treatment plant (250,000 gpd capacity).

The Treatment Plant is currently serving less than 100 residential units and operating at a monthly average capacity of 18,000 gallons per day (gpd), as shown in the Discharge Monitoring Report (DMR) enclosed in Appendix A. According to previous water system planning documents, the treatment plant currently has a committed capacity of 61,180 gpd (including Sunset Village Filing No. 5), or 24 percent of plant capacity.

The Ellicott Utilities Company wastewater service commitment status is summarized as follows:

**Ellicott Utilities Company - Wastewater Service Commitment Summary**

	SFE <sup>1</sup>	WWTP Capacity (gpd)	Committed % of Hydraulic Plant Capacity
<b>Total Capacity</b>		<b>250,000</b>	
<b>Historic Commitments:</b>			
Sunset Village Filings 1-5	184	36,800	
Ellicott Schools (1,203 students)	126.5	25,300	
<b>Proposed Commitments:</b>			
Mayberry Filing No. 1	98	19,600	
Mayberry Filing No. 2	8.4	1,672	
<b>Total Current Commitments</b>	<b>416.9</b>	<b>83,372</b>	<b>33.3%</b>

<sup>1</sup> Wastewater SFE calculated based on 200 gpd/SFE



The existing Ellicott Springs WWTP has sufficient capacity to accept flows from the initial phases of proposed development in the Mayberry, Colorado Springs project.

Future phased upgrades of the treatment plant are anticipated to serve additional growth in the Ellicott service area. In accordance with CDPHE guidelines, planning for the next treatment plant upgrade will need to be underway when the facility reaches 80 percent of permitted capacity.

## **VI. SUMMARY**

The proposed development of Mayberry, Colorado Springs Filing No. 1 and 2 will connect to the existing central water and sewer system owned and operated by Ellicott Utilities Company, LLC. The Company has adequate water rights and water/sewer system infrastructure to serve the development, and the proposed development of 98 residential lots in Filing No. 1, along with 3 commercial lots in Filing No. 2, will not adversely impact the Company's ability to provide service to existing customers.

Water and wastewater system improvements will be designed and constructed in accordance with Ellicott Utilities Company Standard Specifications, and these facilities will ultimately be dedicated to the Company upon satisfactory completion.

In summary, Ellicott Utilities Company, LLC has committed a sufficient water supply and sufficient wastewater capacity to serve Mayberry, Colorado Springs Filing No. 1 and No. 2 using available water rights from the ETC Denver Basin Wells, and available wastewater treatment capacity at the Ellicott Springs Wastewater Treatment Plant.

**APPENDIX A**

**PROJECTED WATER DEMANDS &  
WATER SUPPLY INFORMATION SUMMARY**

Area / Land Use	Area (AC)	Total Units	Commercial Area (SF)	School Students (EA)	Unit Wtr. Demand (gpd/unit)	Potable Avg. Day Dmd. (ADD, gpd)	Irrigated Area (ac)	Irrigation Demand (af/yr)	Total Wtr. Demand (gpd)	Avg. Daily Dmd. (ADD) (gpm)	Avg. Daily Dmd. (ADD) (ac-ft/year)	Total SFE	Unit WW Flow (gpd/unit)	Avg. Daily WW Flow (gpd)
<b>FILING NO. 1:</b>														
SINGLE FAMILY LOTS	43.90	98			232.1	22,746	4.50	11.07	32,627		36.55	96.0	200	19,600
COMMERCIAL	0.00		0.0		0.1	0	0.0	0.0	0		0.00	0.0	0.1	0
OPEN SPACE / PARKS / DRAINAGE	0.00					0	0.5	1.2	1,098		1.2			0
<b>SUBTOTAL</b>	43.90	98	0.00	0.00		22,746.8	5.0	12.3	33,724.8	23.4	37.78	98.00		19,600.0
<b>FILING NO. 2 (COMMERCIAL REPLAT):</b>														
COMMERCIAL (LOTS 1-3)	2.78		21,797.4		0.1	2,180	0.1	0.3	2,485	1.7	2.78	8.4	200	1,672
<b>SUBTOTAL</b>	2.78		21,797.42			21,797.4	0.14	0.34	24,84.99		2.78	8.36		1,671.7
<b>FILING NO. 1 - 2 SUBTOTAL:</b>														
FILING NO. 1	43.90	98	0.00			22,746.8	5.0	12.3	33,724.8	23.4	37.78	98	200	19,600
FILING NO. 2	2.78		21,797.4		0.1	2,180	0.1	0.3	2,485		2.78	8.4	200	1,672
<b>SUBTOTAL</b>	46.68		21,797.42			24,926.54	5.1	12.6	36,209.8	25.1	40.56	106.4		21,271.7
<b>COMMERCIAL REZONE AREA SUBTOTAL (Includes Filing No. 2 above along with future Commercial Area on east side of Springs Road):</b>														
FILING NO. 2 COMMERCIAL (LOTS 1-3)	2.78		21,797.4		0.1	2,180	0.1	0.3	2,485		2.78	8.4	200	1,672
FUTURE COMMERCIAL (TRACT A - EAST)	5.34		41,869.9		0.1	4,187	0.3	0.7	4,773		5.35	16.1	200	3,211
<b>SUBTOTAL</b>	8.12		63,667.30			63,667.3	0.41	1.00	7,258.3	5.0	8.13	24.41		4,882.8
<b>ELLCOTT TOWN CENTER - ULTIMATE DEVELOPMENT (includes all phases listed above):</b>														
SINGLE FAMILY LOTS	319.00	1048			232.1	243,241	48.12	118.4	34,8906.8		390.65	1048.0	200	209,600
COMMERCIAL	32.00		253,000.0		0.1	25,300	1.6	3.9	28,814		32.28	96.9	200	19,384
OPEN SPACE / PARKS / DRAINAGE	110.10						4	9.8	8,764		9.84			
ELEMENTARY SCHOOL	11.00			350	25	8,750	2.0	4.9	13,142		14.72		20	7,000
<b>SUBTOTAL</b>	472.10	1048	253,000.0	350		277,290.80	55.72	137.1	39,9646.3	277.5	447.69	1144.9		23,993.5
<b>TOTAL POTABLE WATER DEMAND</b>						277,290.8			39,9646.3	277.5	310.63			
<b>TOTAL IRRIGATION DEMAND</b>							55.7	137.1	122,355.5		137.07			
<b>TOTAL WATER DEMAND</b>					2.5	693,227			522,001.9	693.8	447.69		2.5	599,958.8
<b>PEAK HOUR WATER DEMAND</b>					4	1,109,163								

**ASSUMPTIONS:**  
 SINGLE-FAMILY RESIDENTIAL - POTABLE USE: 0.26 AF/UNIT (232 GPD/UNIT)  
 SINGLE-FAMILY RESIDENTIAL - IRRIGATION USE (2,000 SF LAWN ASSUMED): 0.11 AF/UNIT  
 SINGLE-FAMILY RESIDENTIAL - TOTAL WATER USE: 0.37 AF/YR/UNIT (297.3 GPD/UNIT)  
 COMMERCIAL SPACE: FLOOR-AREA RATIO (FAR) = 0.18; 0.1 GPD/SF  
 COMMERCIAL SITE IRRIGATION DEMAND: 2,196 GPD/AC (2.46 AF/AC), ASSUMING APPROX. 0.05 ACRES IRRIGATED PER ACRE OF COMMERCIAL SITE (5%)  
 STUDENTS: 25 GPD/STUDENT  
 SCHOOL/PARK IRRIGATION DEMAND: 2,196 GPD/AC (2.46 AF/AC)  
 SINGLE-FAMILY EQUIVALENTS (SFE) CALCULATED BASED ON ADD OF 297.3 GPD/SFE  
 WASTEWATER FLOW FACTORS: 200 GPD/SFE; 20 GPD/STUDENT

# WATER SUPPLY INFORMATION SUMMARY

Section 30-28-133.(d), C.R.S. requires that the applicant submit to the County, "Adequate evidence that a water supply that is sufficient in terms of quantity, quality and dependability will be available to ensure an adequate supply of water.

1. NAME OF DEVELOPMENT AS PROPOSED <i>Mayberry, Colorado Springs Filing No. 1</i>			
2. LAND USE ACTION <i>Final Plat</i>			
3. NAME OF EXISTING PARCEL AS RECORDED			
SUBDIVISION	FILING	BLOCK	LOT
4. TOTAL ACREAGE <i>228.0</i>	5. NUMBER OF LOTS PROPOSED <i>98</i>	PLAT MAP ENCLOSED <input checked="" type="checkbox"/> YES	
6. PARCEL HISTORY - Please attach copies of deeds, plats or other evidence or documentation.			
A. Was parcel recorded with county prior to June 1, 1972? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
B. Has the parcel ever been part of a division of land action since June 1, 1972? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
If yes, describe the previous action _____			
7. LOCATION OF PARCEL - Include a map delineating the project area and tie to a section corner.			
<i>E 1/2</i> OF <i>N 1/2</i> SECTION <i>14</i> TOWNSHIP <i>14</i> <input type="checkbox"/> N <input checked="" type="checkbox"/> S RANGE <i>63</i> <input type="checkbox"/> E <input checked="" type="checkbox"/> W			
PRINCIPAL MERIDIAN: <input checked="" type="checkbox"/> 6TH <input type="checkbox"/> N.M. <input type="checkbox"/> UTE <input type="checkbox"/> COSTILLA			
8. PLAT - Location of all wells on property must be plotted and permit numbers provided. Surveyors plat <input type="checkbox"/> Yes <input type="checkbox"/> No      If not, scaled hand drawn sketch <input type="checkbox"/> Yes <input type="checkbox"/> No			
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Feet per Year		10. WATER SUPPLY SOURCE	
HOUSEHOLD USE # <i>98</i> of units _____ GPD <i>25.48</i> AF	COMMERCIAL USE # <i>0</i> of S.F. _____ GPD _____ AF	<input checked="" type="checkbox"/> EXISTING WELLS WELL PERMIT NUMBERS <i>61970-F</i> <i>61973-F</i>	<input type="checkbox"/> DEVELOPED SPRING <input type="checkbox"/> NEW WELLS - PROPOSED ADJUSTERS - (CHECK ONE) <input type="checkbox"/> ALLIUMAL <input type="checkbox"/> UPPER ARAPAHOE <input type="checkbox"/> UPPER DAWSON <input type="checkbox"/> LOWER ARAPAHOE <input type="checkbox"/> LOWER DAWSON <input type="checkbox"/> LARAMIE FOX HILLS <input type="checkbox"/> DENVER <input type="checkbox"/> DAKOTA <input type="checkbox"/> OTHER _____
IRRIGATION # <i>5.0</i> of acres _____ GPD <i>12.3</i> AF	STOCK WATERING # <i>0</i> of head _____ GPD _____ AF		
OTHER _____ GPD _____ AF	TOTAL _____ GPD <i>37.78</i> AF	WATER COURT DECREE CASE NO.'S <i>598-BD</i>	
11. ENGINEER'S WATER SUPPLY REPORT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE FORWARD WITH THIS FORM. (This may be required before our review is completed.)			
12. TYPE OF SEWAGE DISPOSAL SYSTEM			
<input type="checkbox"/> SEPTIC TANK/LEACH FIELD		<input checked="" type="checkbox"/> CENTRAL SYSTEM - DISTRICT NAME <i>Ellicott Utilities Company</i>	
<input type="checkbox"/> LAGOON		<input type="checkbox"/> VAULT - LOCATION SEWAGE HAULED TO _____	
<input type="checkbox"/> ENGINEERED SYSTEM (Attach a copy of engineering design)		<input type="checkbox"/> OTHER _____	

# WATER SUPPLY INFORMATION SUMMARY

Section 30-28-133(d), C.R.S. requires that the applicant submit to the County, "Adequate evidence that a water supply that is sufficient in terms of quantity, quality and dependability will be available to ensure an adequate supply of water.

1. NAME OF DEVELOPMENT AS PROPOSED <i>Mayberry, Colorado Springs Filing No. 2</i>			
2. LAND USE ACTION <i>Final Plat</i>			
3. NAME OF EXISTING PARCEL AS RECORDED			
SUBDIVISION	FILING	BLOCK	LOT
4. TOTAL ACREAGE <i>84.78</i>	5. NUMBER OF LOTS PROPOSED <i>3</i>	PLAT MAP ENCLOSED <input checked="" type="checkbox"/> YES	
6. PARCEL HISTORY - Please attach copies of deeds, plats or other evidence or documentation.			
A. Was parcel recorded with county prior to June 1, 1972? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
B. Has the parcel ever been part of a division of land action since June 1, 1972? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
If yes, describe the previous action _____			
7. LOCATION OF PARCEL - Include a map delineating the project area and tie to a section corner.			
<i>W 1/4</i> OF <i>NE 1/4</i> SECTION <i>14</i> TOWNSHIP <i>14</i> <input type="checkbox"/> N <input checked="" type="checkbox"/> S RANGE <i>63</i> <input type="checkbox"/> E <input checked="" type="checkbox"/> W			
PRINCIPAL MERIDIAN: <input checked="" type="checkbox"/> 6TH <input type="checkbox"/> N.M. <input type="checkbox"/> UTE <input type="checkbox"/> COSTILLA			
8. PLAT - Location of all wells on property must be plotted and permit numbers provided. Surveyors plat <input type="checkbox"/> Yes <input type="checkbox"/> No      If not, scaled hand drawn sketch <input type="checkbox"/> Yes <input type="checkbox"/> No			
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Feet per Year		10. WATER SUPPLY SOURCE	
HOUSEHOLD USE # <i>0</i> of units	GPD <i>0</i> AF	<input checked="" type="checkbox"/> EXISTING WELLS	<input type="checkbox"/> DEVELOPED SPRING <input type="checkbox"/> NEW WELLS - PROPOSED AQUIFERS - (CHECK ONE) <input type="checkbox"/> ALLUVIAL <input type="checkbox"/> UPPER ARAPAHOE <input type="checkbox"/> UPPER DAWSON <input type="checkbox"/> LOWER ARAPAHOE <input type="checkbox"/> LOWER DAWSON <input type="checkbox"/> LARAMIE FOX HILLS <input type="checkbox"/> DENVER <input type="checkbox"/> DAKOTA <input type="checkbox"/> OTHER _____
COMMERCIAL USE # <i>21,797</i> of S.F.	GPD <i>2.48</i> AF	WELL PERMIT NUMBERS <i>61972-F</i> <i>61973-F</i>	
IRRIGATION # <i>0.1</i> of acres	GPD <i>0.3</i> AF		WATER COURT DECREE CASE NO.'S <i>598-BD</i>
STOCK WATERING # _____ of head	GPD <i>0</i> AF	<input type="checkbox"/> MUNICIPAL	
OTHER _____	GPD <i>0</i> AF	<input type="checkbox"/> ASSOCIATION	
TOTAL	GPD <i>2.78</i> AF	<input checked="" type="checkbox"/> COMPANY	
		<input type="checkbox"/> DISTRICT	
		NAME <i>Elliott Utilities Co.</i>	
		LETTER OF COMMITMENT FOR SERVICE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
11. ENGINEER'S WATER SUPPLY REPORT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE FORWARD WITH THIS FORM. (This may be required before our review is completed.)			
12. TYPE OF SEWAGE DISPOSAL SYSTEM			
<input type="checkbox"/> SEPTIC TANK/LEACH FIELD		<input checked="" type="checkbox"/> CENTRAL SYSTEM - DISTRICT NAME <i>Elliott Utilities Company</i>	
<input type="checkbox"/> LAGOON		<input type="checkbox"/> VAULT - LOCATION SEWAGE HAULED TO _____	
<input type="checkbox"/> ENGINEERED SYSTEM (Attach a copy of engineering design)		<input type="checkbox"/> OTHER _____	

Ellicott Utilities Company, LLC  
P.O. Box 86  
Rancho Santa Fe, CA 92067

April 23, 2020

Colorado Springs Mayberry, LLC  
32823 Temecula Parkway  
Temecula, CA 92592

**Re: Mayberry, Colorado Springs (formerly known as "Ellicott Town Center")  
Filing No. 1 Final Plat  
Water and Wastewater Service Commitment**

Gentlemen:

It is our understanding that Colorado Springs Mayberry, LLC (the "Developer") is interested in obtaining water and sewer service from Ellicott Utilities Company, LLC (the "Company") for that property known as Mayberry, Colorado Springs Filing No. 1 (the "Development"). It is our understanding that the Development is being processed for a Final Plat approval through El Paso County for 98 single-family residential lots.

Ellicott Utilities Company, LLC will provide water and sewer service to the Development in accordance with the Company Rules and Regulations. Ellicott Utilities Company, LLC understands that the Developer has committed to construct water and sewer facilities as required to serve the Development in accordance with the subdivision construction drawings, and the Developer has provided for dedication of necessary easements and rights of way for the water and sewer improvements through the subdivision plans and related plat documents.

The proposed development will be served by the Ellicott Utilities Company's central water and sewer system. Ellicott Utilities Company, LLC hereby provides an unconditional commitment to serve 98 single-family residential lots within Mayberry, Colorado Springs Filing No. 1, with an estimated annual water demand of 37.8 af/yr.

This commitment is based on the following water source that is owned and controlled by the Company:

- Ellicott Town Center Denver Basin Wells – LFH rights (Determination of Water Right No. 598-BD)

Ellicott Utilities Company, LLC commits to providing the water supply from the source listed above to meet the El Paso County 300-year water supply requirement for this subdivision.

**ELLICOTT UTILITIES COMPANY, LLC**

Signature

John Mick

Name

11/17/2020

Date

Ellicott Utilities Company, LLC  
P.O. Box 86  
Rancho Santa Fe, CA 92067

April 23, 2020

Colorado Springs Mayberry, LLC  
32823 Temecula Parkway  
Temecula, CA 92592

**Re: Mayberry, Colorado Springs (formerly known as “Ellicott Town Center”)  
Filing No. 2 Final Plat  
Water and Wastewater Service Commitment**

Gentlemen:

It is our understanding that Colorado Springs Mayberry, LLC (the “Developer”) is interested in obtaining water and sewer service from Ellicott Utilities Company, LLC (the “Company”) for that property known as Mayberry, Colorado Springs Filing No. 2 (the “Development”). It is our understanding that the Development is being processed for a Final Plat approval through El Paso County for 3 Commercial Lots.

Ellicott Utilities Company, LLC will provide water and sewer service to the Development in accordance with the Company Rules and Regulations. Ellicott Utilities Company, LLC understands that the Developer has committed to construct water and sewer facilities as required to serve the Development in accordance with the subdivision construction drawings, and the Developer has provided for dedication of necessary easements and rights of way for the water and sewer improvements through the subdivision plans and related plat documents.

The proposed development will be served by the Ellicott Utilities Company’s central water and sewer system. Ellicott Utilities Company, LLC hereby provides an unconditional commitment to serve 3 commercial lots within Mayberry, Colorado Springs Filing No. 2, with an estimated annual water demand of 2.78 af/yr.

This commitment is based on the following water source that is owned and controlled by the Company:


- Ellicott Town Center Denver Basin Wells – LFH rights (Determination of Water Right No. 598-BD)

Ellicott Utilities Company, LLC commits to providing the water supply from the source listed above to meet the El Paso County 300-year water supply requirement for this subdivision.

**ELLICOTT UTILITIES COMPANY, LLC**

Signature

Name

  
John Mick

Date

11/17/2020

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
DISCHARGE MONITORING REPORT (DMR)

92130

DMR Mailing ZIP CODE:  
MINOR

Influent Measurements  
Influent Structure

No Discharge

CO0047252	300-1
PERMIT NUMBER	DISCHARGE NUMBER
MONITORING PERIOD	
MM/DD/YYYY	MM/DD/YYYY
04/01/2018	04/30/2018

PERMITTEE NAME/ADDRESS (Include Facility Name/Location if Different)

NAME: Ellicott Utilities Co LLC  
ADDRESS: 12275 El Camino Real Ste 110  
San Diego, CA 92130  
FACILITY: ELLICOTT SPRINGS WWTF  
LOCATION: DRENNAN RD  
CALHAN, CO 80808

ATTN:

PARAMETER	QUANTITY OR LOADING		QUALITY OR CONCENTRATION		NO. EX	FREQUENCY OF ANALYSIS	SAMPLE TYPE
	VALUE	UNITS	VALUE	UNITS			
Plant capacity fact. percent of capacity			7	%		1/30	CALCTD
00180 P 0 See Comments			Req. Mon. 30DA AVG	%		Monthly	CALCTD
Plant capacity fact. percent of capacity			6	%		1/30	CALCTD
00180 Q 0 See Comments			Req. Mon. 30DA AVG	%		Monthly	CALCTD
BOD, 5-day, 20 deg. C	37.52	#3/1	250	mg/L		1/30	COMPOS
00310 G 0 Raw Sewage Influent	Req. Mon. 30DA AVG	lb/d	Req. Mon. 30DA AVG	mg/L		Monthly	COMPOS
Solids, total suspended			365	mg/L		1/30	COMPOS
00630 G 0 Raw Sewage Influent			Req. Mon. 30DA AVG	mg/L		Monthly	COMPOS
Flow, in conduit or thru treatment plant	0.18	MGD				2-2/17	Recorder (acid)
50050 G 0 Raw Sewage Influent	Req. Mon. 30DA AVG	DAILY MX				Continuous	Recorder (acid)

NAME/TITLE PRINCIPAL EXECUTIVE OFFICER	TELEPHONE	DATE
<i>[Signature]</i> TYPED OR PRINTED		
SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	AREA Code	NUMBER
	715	4555499
		MM/DD/YYYY
		5/23/18

COMMENTS AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)  
Influent samples must be collected, analyzed and reported monthly regardless of whether an effluent discharge occurs. Plant capacity - report hydraulic capacity @ MLOC=P; organic capacity @ MLOC=Q.  
Hydraulic capacity = 0.25 MGD; organic capacity = 567 lbs BOD-5/Day.



**APPENDIX B**

**WATER RIGHTS OWNERSHIP INFORMATION**

## BILL OF SALE AND ASSIGNMENT

WHEREAS, Joseph G. Rosania, as Chapter 7 trustee ("**Grantor**") of the bankruptcy estate of the Ellicott Springs Resources, LLC (the "**Debtor**"), Chapter 7 Case No. 10-13116 SBB (the "**Bankruptcy Case**"), United States Bankruptcy Court for the District of Colorado (the "**Bankruptcy Court**"), desires to sell, convey and transfer all assets of the Debtor, and Ellicott Utilities Company, LLC, a California limited liability company ("**Grantee**"), as assignee of Springs East Land Company, LLC and Ellicott Springs Land Company, LLC, desires to purchase all assets of the Debtor, pursuant to that certain *Order Approving Motion for Authority to Sell Property of the Estate Pursuant to 11 U.S.C. § 363(b) and (f) Free and Clear of Liens, Claims, Interests, and Encumbrances* (Docket No. 167) dated December 7, 2012 (the "**Order**") by the Bankruptcy Court in the Bankruptcy Case;

WHEREAS, Debtor previously conveyed the Sunset Property (as defined herein) to Sunset Metropolitan District, a Colorado Special District ("**Sunset**") as evidenced by that (i) Warranty Deed dated August 8, 2009 and recorded in the in the real property records of El Paso County, State of Colorado (the "**Records**") on September 9, 2008 as Reception No. 208100008; (ii) Warranty Deed dated August 8, 2009 and recorded in the Records on September 9, 2008 as Reception No. 208100009; (iii) that Bill of Sale dated August 8, 2008; and (iv) Assignment of Water and Wastewater Services and Tap Fee Agreements dated August 8, 2008 (collectively, the "**Sunset Property**");

WHEREAS, the District Court, El Paso County, State of Colorado, in *Ellicott Springs Land Company, LLC et al. v. Ellicott Springs Resources, LLC, Sunset Metropolitan District, et al.*, Case No. 09-CV-1656, Division 2 COM, voided the transfers of the Sunset Property from Debtor to Sunset pursuant to the Colorado Uniform Fraudulent Transfer Act, as evidenced by that Order and Judgment dated November 25, 2009, recorded in the Records on January 20, 2010 as Reception No. 210005579 ("**Order and Judgment**")

WHEREAS, Sunset appealed the Order and Judgment to the Colorado Court of Appeals, but its appeal was dismissed with prejudice by the Colorado Court of Appeals in Case No. 2010CA87, as evidenced by that Mandate dated November 4, 2011 ("**Mandate**");

WHEREAS, pursuant to the Order and Judgment, the Mandate, and the Bankruptcy Case, title to the Sunset Property vested in Grantor;

NOW, THEREFORE, KNOWN ALL BY THESE PRESENTS, THAT this 22nd of March, 2013 between Grantor and Grantee for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the Order, Grantor does by these presents grant, bargain, sell, assign, transfer and convey unto the Grantee, its successors and assigns, all assets of the bankruptcy estate of Debtor, whether disclosed or undisclosed, including all legal and equitable interests of the Debtor and the bankruptcy estate, including but not limited to (collectively, the "**Assets**");

JPA h  
-1-  
3/22/13

1. All of the tangible equipment, water and wastewater systems, inventory, furniture, fixtures, computer hardware, supplies, tools, machinery, materials, leasehold improvements and other tangible personal property, including but not limited to the Sunset Property and all other property described on Exhibit A attached hereto and incorporated herein by reference (the "Personal Property");
2. All right, title, and interest in and to contracts, agreements and other interests of Debtor, including but not limited to those agreements and contracts identified on Exhibit B, attached hereto and incorporated herein (the "Contracts");
3. Any and all assignable claims, causes of action, rights of recovery and rights of set-off of every kind and character, known or unknown, if any, including but not limited to claims against PLW, Inc., Dean Goss and/or the Goss Family, Cherokee Metropolitan District, Ellicott Springs Land Company, LLC, Sunset Metropolitan District, Springs East Land Company, LLC, cross-claims asserted in Case No. 09cv2430, and/or any claims against Rodney Preisser not discharged in his bankruptcy or any other claims ("Claims"); and
4. All accounts receivable (billed and unbilled, including costs in excess of billings), retainages, notes receivable, and other obligations owed on, and all right, title, and interest in and to any claims, rights or remedies relating to, including but not limited to \$16,000,000.00 receivable from Sunset (the "Accounts Receivable").

AS IS, WHERE IS, without representations or warranties of any kind or nature by, through or under the Grantor,

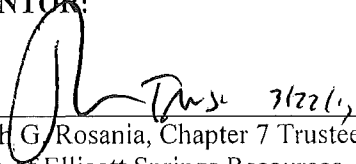
SUBJECT to the Order and pursuant to 11 U.S.C. § 363(b) and (f), the sale and conveyance of the Assets to Grantee is free and clear of all liens, judgments, encumbrances, claims, taxes, options, charges, pledges, security interests, mortgages, conditional sales agreements, setoffs, recoupments, restrictions, options or rights to purchase, and all other rights and interests of other parties, whether secured or unsecured, contingent or absolute, liquidated or unliquidated, perfected or unperfected, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, or recorded or unrecorded. The Assets are also sold free and clear of any defenses, rights of setoff and/or recoupment, except as set forth in the Order.

TO HAVE AND TO HOLD the same unto the Grantee, its successors and assigns forever.

[signature page attached]

IN WITNESS WHEREOF, the undersigned has hereunto set his hand the 22nd day of March, 2013.

GRANTOR:

  
\_\_\_\_\_  
Joseph G. Rosania, Chapter 7 Trustee,  
Estate of Ellicott Springs Resources, LLC,  
No. 10-13116 SBB

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF Boulder                )

The foregoing instrument was subscribed, sworn to and acknowledged before me this 22<sup>nd</sup> day of March, 2013 by Joseph G. Rosania, Chapter 7 Trustee, Estate of Ellicott Springs Resources, LLC, No. 10-13116 SBB.

WITNESS my hand and official seal.

My Commission expires: 10-20-16.

JAMIE LYNN WARD  
NOTARY PUBLIC  
STATE OF COLORADO  
COMMISSION EXPIRES OCTOBER 20, 2016  
NOTARY ID 20084036544

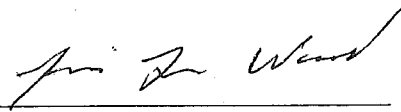
  
\_\_\_\_\_  
Notary Public

EXHIBIT A  
Personal Property

1. Sunset Wastewater System, El Paso County, State of Colorado

A SANITARY SEWER SYSTEM AND ASSOCIATED EQUIPMENT, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 15 SOUTH, RANGE 63 WEST, OF THE 6<sup>TH</sup> P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH ¼ CORNER OF SAID SECTION 12, THENCE N 89°54'44" E ALONG THE SOUTH LINE OF SAID SECTION 12, 285.39 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE SOUTHEAST CORNER OF BRICK HOUSE SUBDIVISION AS RECORDED UNDER RECEPTION NUMBERS 200022255 AND 200113619 OF SAID COUNTY RECORDS; THENCE N 00°05'16" W, ALONG THE EAST LINE OF SAID SUBDIVISION, 435.00 FEET TO THE NORTHEAST CORNER THEREOF, THENCE S 89°54'44" W, ALONG THE NORTH LINE OF SAID SUBDIVISION, 290.80 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 12; THENCE N 00°47'57" W, ALONG SAID WEST LINE, 885.00 FEET; THENCE N 89°47'00" E, 209.22 FEET; THENCE S 31°51'29" E, 138.94 FEET; THENCE S 82°30'04" E, 209.59 FEET; THENCE S 50°18'54" E, 483.56 FEET; THENCE S 00°05'16" E, 865.25 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 12; THENCE S 89°54'44" W, ALONG SAID SOUTH LINE, 560.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 19.704 ACRES MORE OR LESS.

## Sunset Wastewater System (cont'd)

The physical assets associated with the existing Sunset Wastewater System include, but are not limited to, the following:

- Existing Sunset Wastewater Treatment Facility (WWTF) permitted for a capacity of 250,000 gallons per day (gpd) under CDPS Permit No. COG-582046 including the following:
  - Influent Parshall flume with ultrasonic flowmeter
  - Three-cell aerated lagoon treatment system including
    - Cell No. 1 (1.04 million gallon active volume)
    - Cell No. 2 (4.16 million gallon active volume)
    - Cell No. 3 (0.875 million gallon active volume)
  - Aeration system, consisting of submerged static tube diffusers in Cell No. 1 (59 diffusers) and Cell No. 2 (67 diffusers)
  - Air supply blowers (2 each; 150 hp)
  - Chlorine feed system (cylinder-mounted, chlorine gas feeder rated for 100 lbs./day feed capacity)
  - Chlorine contact chamber (300 linear feet of 21-inch diameter PVC piping)
  - Effluent flow measurement (V-notch weir with ultrasonic flowmeter)
  - 24'x24' building structure
  - All associated piping, valves, and appurtenances
  - Electric unit heater
  - Electrical / control equipment
- All existing wastewater collection system facilities and components, generally described as follows:
  - Existing 8-inch sanitary sewer lines, manholes, and appurtenances within the Sunset Village Filing No. 1-4, including sanitary sewer line to Sunset Village Lift Station
  - Existing 8-inch through 15-inch gravity sanitary sewer lines, manholes, and appurtenances extending northerly from the Sunset WWTP to the Viewpoint Service Area
  - Existing Sunset Village Lift Station, including all appurtenances
  - Existing Force Main pipeline from Sunset Village Lift Station to Sunset WWTP
  - Existing Ellicott School Lift Station, including all systems and appurtenances
  - Existing Force Main pipeline from Ellicott School Lift Station to outfall sewer line at Log Road
  - All recorded and prescriptive easements and rights-of-way associated with facilities described above

## 2. Viewpoint Water System, El Paso County, State of Colorado

The physical assets associated with the existing Viewpoint Water System include, but are not limited to, the following:

- All water supply, storage, and other rights as delineated in the Agreement with Cherokee Metropolitan District dated June 9, 1998.
- 500,000-gallon water storage tank
- 24'x24' Control Building including:
  - 24'x24' building structure
  - Interior piping and valves
  - Flow meters
  - Pressure reducing valve and altitude valve
  - Booster pump system
  - Chlorination system, with bulk storage tank and metering pumps
  - Electric unit heater
  - Electrical / control equipment
  - Site piping including connection to Cherokee water supply line, piping to storage tank, casing sleeve, and distribution piping inside casing sleeve crossing SE194 to Viewpoint Estates subdivision
- All existing water distribution system piping within the Ellicott Town Center, Viewpoint Estates, and Antelope Park Ranchettes subdivisions, including water mains, water service lines, valves, and hydrants, and appurtenances.

**EXHIBIT B**  
**Contracts**

1. Water and Wastewater Services and Tap Fee Agreement dated February 18, 2005 between Ellicott Springs Resources, LLC, and Ellicott Springs Land Company, LLC, as amended by that First Amendment dated September 15, 2006 between Ellicott Springs Resources, LLC, Ellicott Springs Land Company, LLC and Sunset Metropolitan District, and as amended by that Joint Second Amendment dated February 21, 2007 between Ellicott Springs Resources, LLC, Ellicott Springs Land Company, LLC, Sunset Metropolitan District, Springs East Land Company, LLC and ETC 3, LP.
2. Water and Wastewater Services and Tap Fee Agreement dated June 13, 2005 between Ellicott Springs Resources, LLC, and Springs East Land Company, LLC, as amended as amended by that First Amendment dated September 15, 2006 between Ellicott Springs Resources, LLC, Springs East Land Company, LLC and Sunset Metropolitan District, and as amended by that Joint Second Amendment dated February 21, 2007 between Ellicott Springs Resources, LLC, Ellicott Springs Land Company, LLC, Sunset Metropolitan District, Springs East Land Company, LLC and ETC 3, LP.
3. Water Agreement dated June 9, 1988 between R.W. Case and Cherokee Water and Sanitation District, as assigned by that Assignment dated December 19, 2003 by R.W. Case to Ellicott Springs Resources, LLC.
4. Agreement dated October 11, 2006 between Cherokee Metropolitan District, Ellicott Springs Resources, LLC, PLW, Inc., Triple Bar Ranch, Sunset Metropolitan District and Rodney Preisser, whereby Cherokee Metropolitan District is obligated to provide Ellicott Springs Resources, LLC 800 acre feet of water per year.



**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	
	)	Case No. 10-13116 SBB
ELLICOTT SPRINGS RESOURCES, LLC,	)	
EIN: 84-1414022	)	Chapter 7
	)	
Debtor.	)	

**MOTION FOR AUTHORITY TO SELL PROPERTY OF THE ESTATE  
PURSUANT TO 11 U.S.C. § 363(b) AND (f) FREE AND CLEAR  
OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES**

Joseph G. Rosania, Chapter 7 Trustee of the bankruptcy estate of Ellicott Springs Resources, LLC (the “Trustee”), by and through his undersigned counsel, Sender & Wasserman, P.C., hereby moves for entry of an order authorizing the sale of the bankruptcy estate’s interest in certain property pursuant to 11 U.S.C. § 363(b) and (f)<sup>1</sup> and FED. R. BANKR. P. 6004, free and clear of liens, claims, interests, and encumbrances (the “Sale Motion”). In support of the Sale Motion, the Trustee states as follows:

**INTRODUCTION**

The Trustee’s Sale Motion seeks to sell any and all of the Debtor’s assets to Springs Land Company, LLC and Ellicott Springs Land Company, LLC (together, “Springs Land Company”), or its assignee, free and clear of all liens, claims, interests, and encumbrances, unless otherwise stated, including at Springs Land Company’s or its assignee’s sole discretion, to purchase the first lien on Benton Well No. 1 (as defined below). In exchange for the sale of all of the Debtor’s assets, Springs Land Company agrees to: (a) release its judgment against the Debtor and the estate in the amount of \$2,336,252.85; and (b) pay the estate \$50,000.00. The proposed transaction is the culmination of the Trustee’s reasonable and good faith efforts to sell the Debtor’s assets for the highest and best price.

**BACKGROUND**

1. Ellicott Springs Resources, LLC (the “Debtor”) filed for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) on February 19, 2010 (the “Petition Date”). In addition to the Debtor’s bankruptcy filing, affiliates and/or related parties Ellicott Springs Development, LLC, PLW, Inc., and Rodney J. Preisser also filed petitions for relief under Chapter 11 of the Bankruptcy Code on the same date. See Bankruptcy Case Nos. 10-13117 SBB (Ellicott Springs Development, LLC), 10-13114 SBB (PLW, Inc.) and 10-13110 SBB (Rodney J. Preisser).

<sup>1</sup> Unless otherwise specified, all future statutory references in the text are to Title 11 of the United States Code.

2. On March 31, 2010, the Court entered an Order jointly administering the four bankruptcy cases, naming the individual Chapter 11 bankruptcy case of Rodney J. Preisser as the lead bankruptcy case. *See* Docket No. 44, Case No. 10-13110 SBB.

3. Thereafter, on December 2, 2010, Springs Land Company, in the jointly administered bankruptcy cases, filed its Motion for Order Appointing Chapter 11 Trustee; Memorandum of Points and Authorities (Docket No. 231, Case No. 10-13110 SBB) (the "Trustee Motion").

4. On January 10, 2011, only days prior to the trial on the Trustee Motion, the Debtor filed its Statement of No Objection to Motion by Springs East Land Company, LLC and Ellicott Springs Land Company, LLC for Order Appointing a Chapter 11 Trustee for Ellicott Springs Resources, LLC Pursuant to 11 U.S.C. § 1104(a)(2). *See* Docket No. 260, Case No. 10-13110 SBB.

5. On January 11, 2011, the Court entered an Order Granting Motion by Springs East Land Company, LLC and Ellicott Springs Land Company, LLC for Order Appointing Chapter 11 Trustee. *See* Docket No. 79, Bankruptcy Case No. 10-13116 SBB.

6. On January 20, 2011, the Court entered its Order Approving United States Trustee's Appointment of Chapter 11 Trustee, thereby appointing Joseph G. Rosania, Esq. as the Chapter 11 Trustee of the Debtor. *See* Docket No. 86.

7. The Debtor's bankruptcy case (the "Bankruptcy Case") was subsequently converted to a case under Chapter 7 of the Bankruptcy Code on July 29, 2011 (Docket No. 125). Joseph G. Rosania (the "Trustee") was appointed the Chapter 7 trustee of the Debtor's bankruptcy estate (the "Estate").

8. Since his appointment, the Trustee has investigated the Debtor's Bankruptcy Case, including the assets that are the subject of this Sale Motion. Based on his investigation and as more fully set forth below, the Trustee believes a sale of all of the Debtor's assets free and clear of all liens, claims, and encumbrances pursuant to § 363(b) and (f) to Springs Land Company is in the best interests of creditors and the estate.

9. The Trustee has made a reasonable and good faith effort to sell the Debtor's assets for the highest and best price. Springs Land Company has made the highest and best offer for the Assets (defined below) as more fully described below.

#### **REQUESTED RELIEF AND BASIS THEREFORE**

10. By and through this Sale Motion, the Trustee seeks authority to sell any and all property of the Estate (as defined in § 541) pursuant to §§ 363(b) and (f) to Springs Land Company or its assignee, including at Springs Land Company's or its assignee's sole discretion, the option to purchase the first lien on Benton Well No. 1 (defined below as the "Herman Lien") currently held by IBAT, a general partnership nominee for Integrity Bank & Trust as Trustee of the Frederic Herman IRA ("Herman"), for the full proof of claim amount of \$293,475.43, in exchange for: (a) the release of Spring Land Company's judgment against the estate in the amount of \$2,336,252.85; and (b) the payment of \$50,000.00. The assets being purchased by

Springs Land Company from the estate include, but are not limited to, any and all assets of the estate, necessarily including the following property:

- (a) Any and all assets and/or property disclosed on the Debtor's Schedules A and B (as amended);
- (b) Benton Well 1 (Permit No. 11197 FP) ("Benton Well 1");
- (c) Benton Well 2 (Permit No. 17075 FP) ("Benton Well 2");
- (d) Approximately 14.6 acres of unplatted land in Sunset Village (the "14 Acre Parcel");
- (e) Water rights identified as 598-BD (Laramie-Fox Hills) and 599-BD (Arapahoe), including well Permit Numbers 61972-F and 61973-F that correspond with the determination number 598-BD;
- (f) Assets attempted to be conveyed to Sunset Metropolitan District by August 8, 2008 assignment document, which conveyance was voided by CUFTA Order and Judgment entered on November 25, 2009 (as set forth in Exhibit 166, a copy of which is attached and incorporated into this Motion as **Exhibit A**);
- (g) Contractual obligations of Cherokee Metropolitan District to provide 800 acre feet of water per year per agreement dated October 11, 2006;
- (h) Assignment dated December 19, 2003 of Water Agreement with Cherokee Water and Sanitation District dated June 9, 1998;
- (i) Any and all contracts in which ESR has an interest, if any;
- (j) Easements over Assessor Parcel Number: 350-0000-310;
- (k) Fee title to Assessor Parcel Number: 350-0000-071; and
- (l) Any and all claims against Rodney Preisser, PLW, Inc., Dean Goss and/or the Goss Family, Cherokee Metropolitan District, Ellicott Springs Land Company, LLC, Sunset Metropolitan District, and/or Springs East Land Company, LLC, or any other claims known or unknown (subparagraphs 11(a)-(l) are collectively referred to as the "Assets").

Nothing contained herein shall serve as a limitation regarding the Assets being sold by the Trustee and the Assets being purchased by Springs Land Company. Springs Land Company intends to purchase and the Trustee intends to sell any and all assets of the Estate, including all legal and equitable interests of the Debtor and the Estate and any and all claims held by the Trustee or the Estate against any individuals or entities.

11. Springs Land Company is purchasing all of the Assets of the Estate, although it is not a successor in interest to the Debtor or the estate nor does its acquisition and purchase of the Assets reflect a substantial continuity of the Debtor's former business. Springs Land Company shall not be liable in any way (as successor or otherwise) for any debts, be they known, unknown, contingent, unliquidated, or undisputed. Springs Land Company is not purchasing any of the Debtor's or the Estate's liabilities.

**A. Benton Well 1**

12. Benton Well 1 is subject to a first priority lien (the "Herman Lien"). Pursuant to the Proof of Claim filed by Herman on September 3, 2010, the face amount of the Herman Lien is \$293,475.43 (Claim 7-1). Benton Well 1 is subject to a second priority lien in favor of Peoples National Bank (the "Second Lien on Well 1") which was assigned to Springs Land Company on September 2, 2010. Pursuant to the Proof of Claim filed by Peoples National Bank on September 2, 2010 and later assigned to Spring Land Company, the face amount of the Second Lien on Well 1 is \$2,741,348.55 (Claim 4-2). Benton Well 1 is subject to a third priority lien in favor of Springs Land Company (the "Third Lien on Well 1"). The face amount of the Third Lien on Well 1 is \$2,336,252.85. The Trustee asserts that the value of Benton Well 1 is \$186,643.00 based on an appraisal performed on January 27, 2012 by Tim Volz, PE and Ken Knox, PE of URS Corporation (the "Appraisal"). Since the face amounts of the liens against Benton Well 1 (\$5,371,076.83) exceed the fair market value of Benton Well 1 (\$186,643.00), Benton Well 1 is over-encumbered.

13. The Trustee proposes to sell Benton Well 1 to Springs Land Company either pursuant to § 363(b)(1) and/or § 363(f)(2) or (5), depending on whether Springs Land Company, at the time of the closing, desires to purchase Benton Well 1. If, at its sole discretion, Springs Land Company desires to take title to Benton Well 1 subject to the Herman Lien, the sale will be effectuated pursuant to § 363(b)(1). If, on the other hand, and at its sole discretion, Springs Land Company or its assignee desires to take title to Benton Well 1 free and clear of any and all liens, claims, interests, and encumbrances, including the Herman Lien, the sale will be effectuated pursuant to § 363(f)(2), (f)(3) or (f)(5), with Springs Land Company purchasing the First Lien on Well 1 in exchange for the payment of \$293,475.43 to be paid directly to Herman.

14. Under § 363(b), the Trustee may sell Benton Well 1 subject to the Herman Lien outside of the ordinary course of business and after notice and hearing pursuant to the "business judgment" standard. *See In re Castre, Inc.*, 312 B.R. 426, 428 (Bankr. D. Colo. 2004) (following *In re Lionel Corp.*, 722 F.2d 1063 (2nd Cir. 1983)). Here, it is in the best interests of the Estate to sell Benton Well 1 for the consideration described herein because Benton Well 1 is over-encumbered and has no value to the Estate.

15. Alternatively, pursuant to § 363(f), the Trustee may sell Benton Well 1 free and clear of the Herman Lien if Springs Land Company pays Herman \$293,475.43 in connection with this sale and if Herman consents to the sale pursuant to § 363(f)(2); the price that Benton Well 1 is to be sold is greater than the amount of Herman's Lien pursuant to § 362(f)(3); or because Herman could be compelled, in an equitable proceeding, to accept the amount listed in his Proof of Claim in satisfaction of the Herman Lien pursuant to § 363(f)(5).

**B. Benton Well 2**

16. Benton Well 2 is subject to a first priority lien in favor of Peoples National Bank (the "First Lien on Well 2") which was assigned to Springs Land Company on September 2, 2010. Pursuant to the Proof of Claim filed by Peoples National Bank on September 2, 2010 and later assigned to Springs Land Company, the face amount of the First Lien on Well 2 is \$2,741,348.55. Benton Well 2 is subject to a second priority lien in favor of Springs Land Company (the "Second Lien on Well 2"). The face amount of the Second Lien on Well 2 is \$2,336,252.85. The Trustee asserts that the value of Benton Well 2 is \$186,643.00 based on the Appraisal. Since the value of the liens against Benton Well 2 (\$5,077,601.40) exceeds the value of the well itself (\$186,643.00), Benton Well 2 is over-encumbered.

17. The Trustee proposes to sell Benton Well 2 to Springs Land Company free and clear of all liens, claims, interests, and encumbrances pursuant to § 363(f)(2) or (f)(3), because Springs Land Company, who holds all of the liens against Benton Well 2, consents to the sale pursuant to § 363(f)(2). Furthermore, the value to be given by Springs Land Company (release of Springs Land Company's judgment against the Debtor in the amount of \$2,336,252.85 and the payment of \$50,000.00) is greater than the aggregate "value" of all liens against Benton Well 2 under the "economic value" approach of interpreting § 363(f)(3) or, in this case, \$186,643.00.

18. Courts adopting the "economic value" approach interpret "value" in § 363(f)(3) the same as value in § 506(a). "It is thus plainly indicated that the term "value," as used in § 506(a) with respect to the interest of a secured creditor, means its actual value as determined by the Court, as distinguished from the amount of the lien. That indication and the last sentence of § 506(a) requiring determination of value upon disposition of an asset standing as collateral strongly support the conclusion that the term 'value,' as employed in § 363(f)(3), is to be similarly interpreted." *In re Beker Indus. Corp.*, 63 B.R. 474, 476 (Bankr. S.D.N.Y. 1986). Here, the value of the liens against Benton Well 2 cannot exceed the value of the collateral itself (\$186,643.00), and the Trustee is selling the Benton Well 2 for more than the economic value of the Second Lien on Well 2.

19. Under § 363(f), the Trustee may sell Benton Well 2 outside of the ordinary course of business after notice and hearing pursuant to the "business judgment" standard. *Castre, Inc.*, 312 B.R. at 428 (Bankr. D. Colo. 2004) (following *In re Lionel Corp.*, 722 F.2d 1063 (2nd Cir. 1983)). Here, it is in the best interests of the estate to sell Benton Well 2 for the consideration described herein, because Benton Well 2 is over-encumbered and of no value to the estate.

**C. Remaining Estate Assets**

20. The Trustee proposes to sell the remaining Assets of the bankruptcy estate in an "as-is, where-is" condition, free and clear of liens, claims, interests, and encumbrances, pursuant to § 363(f), which includes all Assets as set forth on Exhibit A. Exhibits A to this Sale Motion include the description of Assets and shall be incorporated into and made a part of any order approving this Sale Motion.

21. Under the business judgment rule, the Court must find that the Trustee exercised sound business judgment for the terms of the proposed sale. In making this determination, courts consider the following factors: (a) any improper or bad motive; (b) whether the price is fair and the negotiations or bidding occurred at arm's length; and (c) the adequacy of the sale procedure, *i.e.*, whether there has been proper exposure to the market and accurate and reasonable notice to all parties in interest. *Id.*

22. The proposed sale should be approved in this case. In the Trustee's business judgment, a sale to Springs Land Company is the best means to maximize returns for the sale of the Debtor's Assets. The Trustee's investigation into the value of the Debtor's remaining Assets has revealed that they are either over-encumbered or of no value to the estate without the over-encumbered Benton Wells.

23. As long as a proposed sale appears to enhance a debtor's estate, "court approval of a Trustee's decision to sell should only be withheld if the Trustee's judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code [...]." *GBL Holding Co., Inc. v. Blackburn/Travis/Cole, Ltd.*, 331 B.R. 251, 254 (N.D. Tex. 2005) (citing *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985) (quoting *Allied Tech., Inc. v. R.B. Brunemann & Sons*, 25 B.R. 484, 495 (Bankr. S.D. Ohio 1982))).

24. The proceeds from the sale of Assets of the Estate shall be paid to the Estate for the benefit of creditors. The Trustee believes the sale of the Estate's interest in the Assets as proposed herein is in the best interests of creditors and the estate pursuant to § 363(b) and/or § 363(f) because, if approved, the sale will allow the Trustee to declare a dividend and make payment to the Debtor's unsecured creditors. Therefore, based on the foregoing, the Trustee has determined that it would be in the best interests of the estate and creditors to sell the estate's interest in any and all of the Assets to Springs Land Company pursuant to either § 363(b) and (f) of the Bankruptcy Code as set forth above.

#### **D. Closing of Sale Transaction**

25. The closing of the sale of any and all of the Assets of the above-captioned bankruptcy estate shall occur no earlier than forty-five (45) days after the date the Bankruptcy Court's Order approving the sale, (unless otherwise mutually agreed to by the parties) of all of the Debtor's Assets to Springs Land Company or its assignee becomes a final, non-appealable Order.

WHEREFORE, the Trustee requests that this Court enter an Order in the form attached hereto, authorizing the Trustee, as set forth herein, to sell the property of the estate pursuant to 11 U.S.C. § 363(b) and (f), and authorizing such other and further relief as is deemed just and proper.

DATED this 16<sup>th</sup> day of August, 2012.

Respectfully submitted,

SENDER & WASSERMAN, P.C.

/s/ David J. Warner

Harvey Sender, #7546

David J. Warner, #38708

1660 Lincoln Street, Suite 2200

Denver, CO 80264

Phone: 303-296-1999

Fax: 303-296-7600

E-mail: [sender@sendwass.com](mailto:sender@sendwass.com)

[djw@sendwass.com](mailto:djw@sendwass.com)

*Attorneys for the Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	
	)	
ELLICOTT SPRINGS RESOURCES, LLC,	)	CASE NO. 10-13116-SBB
Tax ID No. 84-1414022,	)	
	)	CHAPTER 7
	)	
	)	
Debtor.	)	

---

**TRUSTEE'S REPORT OF SALE**

---

Joseph G. Rosania, Chapter 7 Trustee herein, submits the following report of sale pursuant to Federal Rule of Bankruptcy Procedure 6004.

1. The Trustee filed his Motion for Authority to Sell Property of the Estate Pursuant to Bankruptcy Code Sections 363(b) and (f) Free and Clear of Liens on August 17, 2012 (the "Motion").
2. The Court entered its Order on December 8, 2012 granting the Motion.
3. On March 22, 2013, the Trustee sold the estate's interests in the property which was the subject of the Motion, outside of the ordinary course of business via private sale, to Ellicott Utilities Company, LLC, for \$50,000, pursuant to the Motion and the attached Settlement Statement.

**WHEREFORE**, Trustee submits the above report of sale.

Dated: March 26, 2013.

By: /s/ Joseph G. Rosania  
Joseph G. Rosania, Chapter 7 Trustee  
950 Spruce Street, Suite 1C  
Louisville, CO 80027  
Tel. (303) 661-9292  
Fax (303) 661-9555  
[joe@crlpc.com](mailto:joe@crlpc.com)



SETTLEMENT STATEMENT

Seller: Bankruptcy Estate Of Ellicott Springs Resources, LLC, a Colorado limited liability company, Debtor in Bankruptcy Case No. 2010-13116 SSB

Purchaser: Ellicott Utilities Company, LLC, a California limited liability company

Settlement Date: March 22, 2013

Pursuant To: *Order Approving Motion for Authority to Sell Property of the Estate Pursuant to 11 U.S.C. § 363(b) and (f) Free and Clear of Liens, Claims, Interests, and Encumbrances* (Docket No. 167) dated December 7, 2012

Purchaser's Settlement

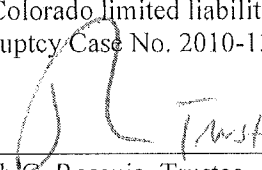
<u>Item Description</u>	<u>Debit</u>	<u>Credit</u>
Purchase Price for Real Property	50,000.00	
	Total: <u>50,000.00</u>	

Seller's Settlement

<u>Item Description</u>	<u>Debit</u>	<u>Credit</u>
Purchase Price for Real Property		50,000.00
	Total: <u>50,000.00</u>	

Seller:

Bankruptcy Estate Of Ellicott Springs Resources, LLC, a Colorado limited liability company, Debtor in Bankruptcy Case No. 2010-13116 SSB

By:  Trustee 3/22/13  
Joseph G. Rosania, Trustee

Purchaser:

Ellicott Utilities Company, LLC, a California limited liability company

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SETTLEMENT STATEMENT

Seller: Bankruptcy Estate Of Ellicott Springs Resources, LLC, a Colorado limited liability company, Debtor in Bankruptcy Case No. 2010-13116 SSB

Purchaser: Ellicott Utilities Company, LLC, a California limited liability company

Settlement Date: March 22, 2013

Pursuant To: *Order Approving Motion for Authority to Sell Property of the Estate Pursuant to 11 U.S.C. § 363(b) and (f) Free and Clear of Liens, Claims, Interests, and Encumbrances (Docket No. 167) dated December 7, 2012*

Purchaser's Settlement

<u>Item Description</u>	<u>Debit</u>	<u>Credit</u>
Purchase Price for Real Property	50,000.00	
Total:	<u>50,000.00</u>	

Seller's Settlement

<u>Item Description</u>	<u>Debit</u>	<u>Credit</u>
Purchase Price for Real Property		50,000.00
Total:		<u>50,000.00</u>

Seller:

Bankruptcy Estate Of Ellicott Springs Resources, LLC, a Colorado limited liability company, Debtor in Bankruptcy Case No. 2010-13116 SSB

By: \_\_\_\_\_  
Joseph G. Rosania, Trustee

Purchaser:

Ellicott Utilities Company, LLC, a California limited liability company

By: *William J. Birchall*  
Printed Name: WILLIAM J. BIRCHALL  
Title: CFO

**APPENDIX C**

**DENVER BASIN GROUNDWATER DETERMINATIONS**

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

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

---

APPLICANT: ELLICOTT SPRINGS RESOURCES, LLC

AQUIFER: LARAMIE-FOX HILLS

DETERMINATION NO.: 598-BD

---

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Ellicott Springs Resources, LLC, (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the determinations of water right to allow the withdrawal of designated ground water from the Laramie-Fox Hills Aquifer.

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on July 23, 2004.
2. The applicant requests a determination of rights to designated ground water in the Laramie-Fox Hills Aquifer (hereinafter "aquifer") underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated February 18, 2004, and two signed statements dated July 19, 2004, the applicant claims control of and right to allocation of the ground water in the aquifer under the above-described land area based on written consent of the overlying landowners, as further described in said affidavits which are attached hereto as Exhibit A.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant 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.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The applicant's proposed place of use of the allocated ground water is the above described 551.26 acre land area.
6. The quantity of water in the aquifer underlying the 551.26 acres of land claimed by the applicant is 16,124 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 underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 15 percent.
  - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 195 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
  8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 551.26 acres of overlying land claimed by the applicant is 161 acre-feet.
  9. 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.
  10. 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 551.26 acres of land claimed by the applicant will not, 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 ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. No more than 98% of the amount of ground water withdrawn annually shall be consumed, as required by the Designated Basin Rules.
  11. A review of records in the Office of the State Engineer discloses that a portion of the ground water in the aquifer underlying the 551.26 acre land area has been previously allocated, based on ownership of overlying land and a one hundred year aquifer life. Such allocations occurred by issuance of well permits and construction of wells to appropriate and withdraw ground water from the aquifer, permit numbers 50040-F and 50041-F. The applicant claims ownership of these wells and water rights and has provided a written request, as an attachment to the application, that these permits and rights shall be cancelled by the Commission upon approval of this determination. For this reason, these previous allocations will not decrease the amount of ground water to be allocated for this determination. Except for these two wells, review of the records in the Office of the State Engineer has not disclosed any other water in the aquifer underlying the land claimed by the applicant that has been previously allocated or permitted for withdrawal.
  12. 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.

13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
14. On July 29, 2004, 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 in response to this request.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Gazette newspaper on August 5 and 12, 2004.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

#### 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 rights to designated ground water in the Laramie-Fox Hills Aquifer underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, is approved subject to the following conditions:

19. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed 161 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of 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.
20. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.

21. No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.
22. The use of ground water from this allocation shall be limited to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The place of use shall be limited to the above-described 551.26 acre land area.
23. Well permit numbers 50040-F and 50041-F are hereby cancelled and are of no further force or effect.
24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 551.26 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
25. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
  - a. The wells shall be located on the above described 551.26 acre overlying land area.
  - b. The wells must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
  - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
  - e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
  - f. 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 maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.

g. The well owner shall mark the well in a conspicuous place with the 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 claimed overlying land is located - so that a title examination of the above described 551.26 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 8<sup>th</sup> day of November, 2004.



Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By: 

Suzanne M. Sellers, P.E.  
Designated Basins Chief

Prepared by: RAC

FIND-510



STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

RECEIVED

APR 06 2004

NONTRIBUTARY GROUND WATER CONSENT CLAIM  
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

WATER RESOURCES  
STATE ENGINEER  
COLO.

Laramie Fox Hills AQUIFER

I (we) Ellicott Springs Resources, LLC  
(Name)

claim and say that I (we) have the consent of the owners of 472.81 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

R.W. Case  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

[Signature] 2-18-04  
(Signature) (Date)  
Rayney J. PREISSEN partner Ellicott Springs RES. LLC.  
\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

RECEIVED

GWS-3B (Rev. Sept. 1996)

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

APR 06 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) R.W. Case  
(Name)

whose mailing address is 102 E. Pikes Peak Ave., Suite 200  
Street

Colorado Springs, CO 80903  
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 472.81 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

*See attached legal description*

and that I (we) have granted written consent to others to withdraw ground water from the Laramie Fox Hills aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

*R.W. Case* 3-2-04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

1313 SHERMAN ST RM 818 DENVER CO 80203 (303)866-3581

EXHIBIT A

RECEIVED

APR 06 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

RECEIVED

JAN 02 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

LEGAL DESCRIPTION: VIEWPOINT VILLAGE

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14,  
ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY,  
COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS, EXCEPT THAT PORTION  
CONVEYED BY BOOK 5527 AT PAGE 376.

EXHIBIT A

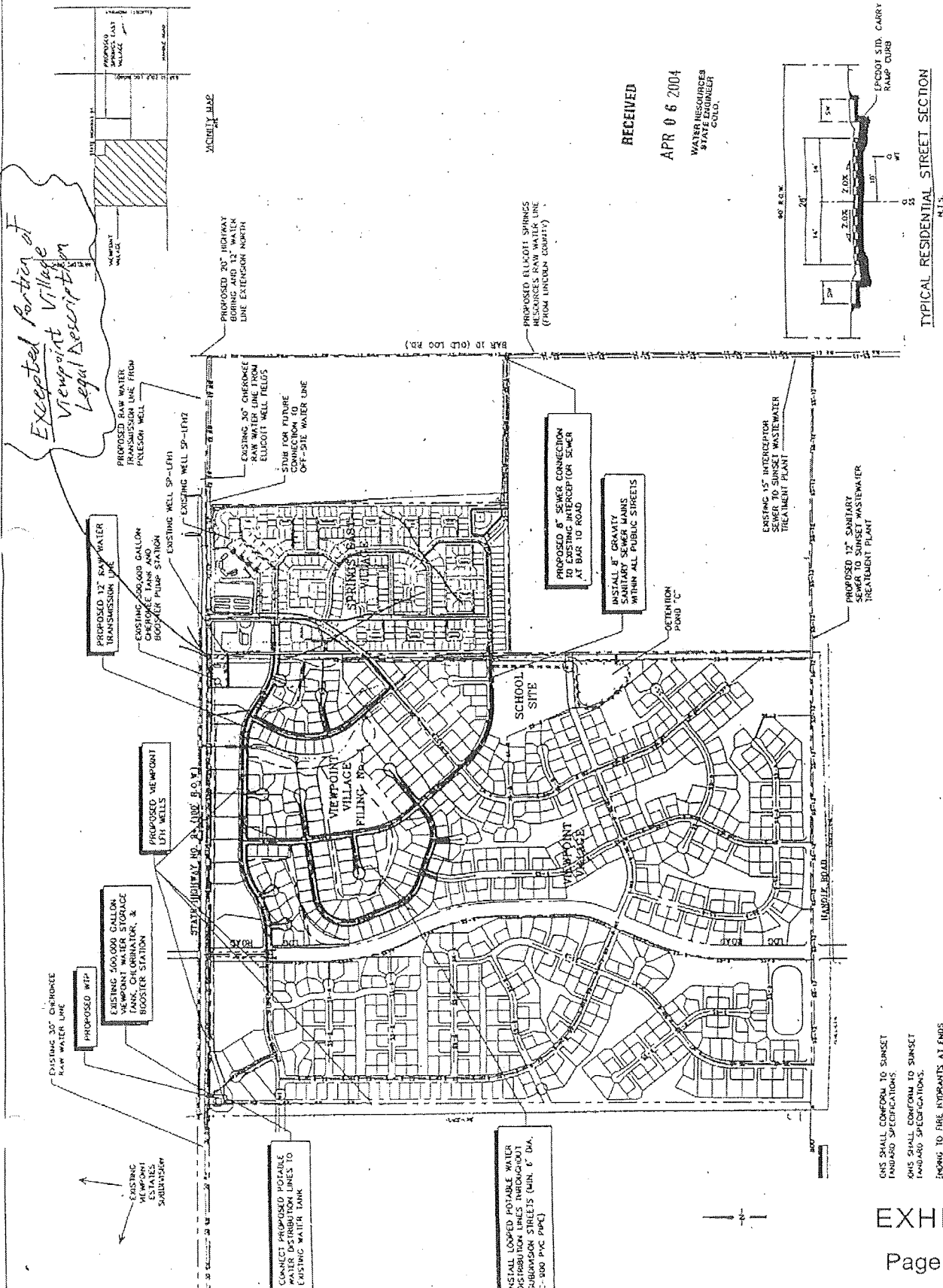
Page 3 of 12

VIEWPOINT VILLAGE SUBDIVISION

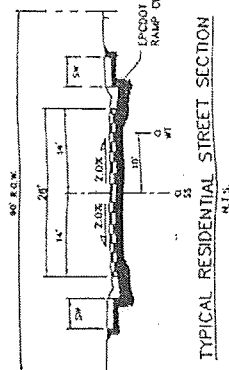
NO.	REVISION	DATE

PROJECT NO.	2004-001
DATE	04/06/04
SCALE	AS SHOWN
DESIGNER	J.P. SHERIDAN
CHECKER	J.P. SHERIDAN
PROJECT MANAGER	J.P. SHERIDAN
CLIENT	VIEWPOINT VILLAGE
SHEET NO.	U1
TOTAL SHEETS	12

*Excepted Portion of Viewpoint Village Legal Description*



RECEIVED  
APR 06 2004  
WATER RESOURCES  
STATE ENGINEER  
C.O.D.



THIS SHALL CONFORM TO SUNSET  
STANDARD SPECIFICATIONS.  
THIS SHALL CONFORM TO SUNSET  
STANDARD SPECIFICATIONS.  
PROVIDE TO FIRE HYDRANTS AT ENDS  
IF SHOWN FOR CLARITY.

## QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

R.W. Case  
102 E. Pikes Peak Ave., Suite 200  
Colorado Springs, Colorado 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company  
c/o Rodney J. Preisser, President  
90 S. Cascade Avenue, Suite 950  
Colorado Springs, CO 80903

PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

VIEWPOINT VILLAGE

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6<sup>TH</sup> P.M., EL PASO COUNTY, COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS, EXCEPT THAT PORTION CONVEYED BY BOOK 5527 AT PAGE 376.

RECEIVED

APR 06 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

Robert C. Balink El Paso  
01/12/2004 03:  
Doc \$0.00 Page  
Rec \$15.00 1 of

EXHIBIT A

Page 5 of 12

11/11/03

PROPERTY ADDRESS:

N/A

RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on 12-19, 2003.

R.W. Case  
Grantor

RECEIVED

APR 06 2004

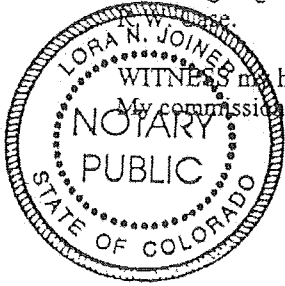
WATER RESOURCES  
STATE ENGINEER  
COLO.

By [Signature]  
Title: \_\_\_\_\_

STATE OF COLORADO )  
  )ss:  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2003 by

WITNESSES my hand and official seal.  
My commission expires: 06-07-2006



Lora N. Joiner  
Notary Public

EXHIBIT A

RECEIVED

VIEWPOINT ESTATES

APR 06 2004

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 10 TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6<sup>TH</sup> P.M., COMMENCING NORTH 01°10'40" WEST ALONG THE WEST SECTION LINE A DISTANCE OF 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST SECTION LINE NORTH 01°10'40" WEST A DISTANCE OF 1271.31 FEET, THENCE SOUTH 89°52'52" EAST A DISTANCE OF 2617.39 FEET, THENCE NORTH 01°11'11" WEST A DISTANCE OF 3960.76 FEET, THENCE NORTH 89°54'31" EAST A DISTANCE OF 1311.15 FEET, THENCE SOUTH 00°55'21" EAST A DISTANCE OF 5214.40 FEET TO THE NORTH RIGHT OF WAY OF COLORADO STATE HIGHWAY 94, THENCE ALONG SAID NORTH RIGHT OF WAY LINE SOUTH 89°47'46" WEST A DISTANCE OF 3904.36 FEET TO THE TRUE POINT OF BEGINNING. SAID ACREAGE CONTAINS 231 ACRES MORE OR LESS.

WATER RESOURCES  
STATE ENGINEER  
COLO.

ANTELOPE PARK RANCHETTES

THAT PORTION OF SECTION 10, TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6<sup>TH</sup> P.M., AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SECTION 10, THENCE NORTH 89°54'31" EAST ON THE NORTH LINE OF SAID SECTION A DISTANCE OF 2622.49 FEET TO THE NORTH 1/4 CORNER THEREOF, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 3960.76 FEET ON THE CENTERLINE OF SAID SECTION TO THE SOUTHEAST CORNER OF THE NORTH 1/2, SOUTHWEST 1/4, THENCE NORTH 89°52'52" WEST ON THE SOUTH LINE OF SAID N1/2, SW1/4 A DISTANCE OF 660 FEET, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 1261.46 FEET TO INTERSECT THE NORTHERLY LINE OF STATE HIGHWAY NO. 94, THENCE SOUTH 89°49'51" WEST ON SAID NORTHERLY LINE A DISTANCE OF 60.02 FEET, THENCE NORTH 02°11'11" WEST A DISTANCE OF 1261.76 FEET TO INTERSECT THE AFOREMENTIONED SOUTH LINE OF THE N 1/2, SW 1/4, THENCE NORTH 89°52'52" WEST A DISTANCE OF 1897.37 FEET TO THE SW CORNER THEREOF, THENCE NORTH 01°15'48" WEST A DISTANCE OF 3951.26 FEET TO THE POINT OF BEGINNING, CONTAINING 239.63 ACRES, MORE OR LESS.

EXHIBIT A

RECEIVED

JUL 23 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

NONTRIBUTARY GROUND WATER CONSENT CLAIM  
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

Laramie-Fox Hills AQUIFER

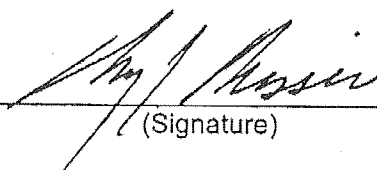
I (we) Ellicott Springs Resources, LLC  
(Name)

claim and say that I (we) have the consent of the owners of 78.45 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

- Even-Preisser Investments, LLC
- Even-Preisser, Inc.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

 7-19-04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.



STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

RECEIVED

JUL 23 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) Even-Preisser Investments, LLC  
(Name)

whose mailing address is 520 E. Costilla Street  
Street

Colorado Springs CO 80903  
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 38.99 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Laramie-Fox Hills aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser Investments, LLC  
Ray R. [Signature] 7/19/04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

RECEIVED

JUL 23 2004

WATER RESOURCES  
STATE ENGINEER  
COLO

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Investments LLC  
520 E. Costilla Street  
Colorado Springs, CO 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company  
c/o Rodney J. Preisser, President  
90 S. Cascade Avenue, Suite 950  
Colorado Springs, CO 80903

Robert C. Balink El Paso Cty, CO  
04/02/2004 04:06  
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Rec \$5.00 1 of 1

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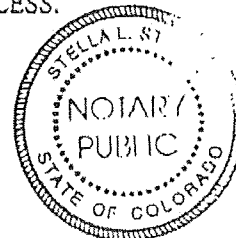
PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE WEST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,  
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6<sup>TH</sup> P.M., EL PASO  
COUNTY, COLORADO, EXCEPT THE NORTH 30 FEET FOR ROADWAY  
PURPOSES, AND CONTAINING 38.99 ACRES MORE OR LESS.

PROPERTY ADDRESS:

22325 Highway 94  
El Paso County, CO



RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on April 2, 2004

MY COMMISSION EXPIRES  
09/04/2006

Even-Preisser Investments, LLC  
Grantor

By [Signature]  
Title: MEMBER

STATE OF COLORADO )  
  )ss:  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 02 day of April  
David Even, as member of Even-Preisser Investment  
liability company.

WITNESS my hand and official seal.  
My commission expires: 09-04-2006

[Signature]

EXHIBIT A

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

RECEIVED

JUL 23 2004

WATER RESOURCES  
STATE ENGINEER  
COLORADO

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) Even-Preisser, Inc.  
(Name)

whose mailing address is 520 E. Costilla St.  
Street

Colorado Springs CO 80903  
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 39.46 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Laramie-Fox Hills aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser, Inc.  
By [Signature], Secretary 7/19/04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

RECEIVED  
JUL 23 2004

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

WATER RESOURCES  
STATE ENGINEER  
COLO

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

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The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Inc.  
520 E. Costilla Street  
Colorado Springs, CO 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company  
c/o Rodney J. Preisser, President  
90 S. Cascade Avenue, Suite 950  
Colorado Springs, CO 80903

Robert C. Ballink El Paso Cty, CO  
04/02/2004 04:06  
Doc \$0.00 Page  
Rec \$5.00 1 of 1

204053280



PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE EAST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,  
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6<sup>TH</sup> P.M., EL PASO  
COUNTY, COLORADO, AND CONTAINING 39.46 ACRES MORE OR  
LESS.

PROPERTY ADDRESS:

22325 Highway 94  
El Paso County, CO

RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

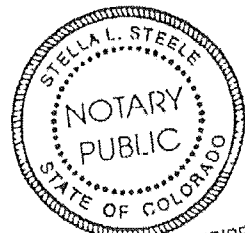
Signed on April 2, 2004

Attest:

Even-Preisser Inc.  
Grantor

[Signature]  
Title: VP

By [Signature]  
Title: SECRETARY / TREASURER  
MY COMMISSION EXPIRES  
09/04/2006



STATE OF COLORADO )  
  )ss:  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 02 day of April  
Bernetha Preisser, as Vice President and David Even  
Sec. / Treasurer of Even-Preisser Inc., a Colorado corporation.

WITNESS my hand and official seal.  
[Signature]

COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER

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

---

APPLICANT: ELLICOTT SPRINGS RESOURCES, LLC

AQUIFER: ARAPAHOE

DETERMINATION NO.: 599-BD

---

In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Ellicott Springs Resources, LLC, (hereinafter "applicant") submitted an application for determination of water right to allow the withdrawal of designated ground water from the determinations of water right to allow the withdrawal of designated ground water from the Arapahoe Aquifer.

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on July 23, 2004.
2. The applicant requests a determination of rights to designated ground water in the Arapahoe Aquifer (hereinafter "aquifer") underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated February 18, 2004, and two signed statements dated July 19, 2004, the applicant claims control of and right to allocation of the ground water in the aquifer under the above-described land area based on written consent of the overlying landowners, as further described in said affidavits which are attached hereto as Exhibit A.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant 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.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The applicant's proposed place of use of the allocated ground water is the above described 551.26 acre land area.
6. The quantity of water in the aquifer underlying the 551.26 acres of land claimed by the applicant is 7965 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 underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
  - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 85 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
  8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 551.26 acres of overlying land claimed by the applicant is 79.7 acre-feet.
  9. 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.
  10. 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 551.26 acres of 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 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 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 existing water rights, would be required prior to approval of well permits for wells to be located on this land area to withdraw the allocated ground water from the aquifer.
  11. In accordance with Rule 5.3.2.4 of the Designated Basin Rules, the maximum average annual amount of ground water available for allocation from the aquifer underlying the 551.26 acres of land claimed by the applicant is reduced to 78.7 acre-feet to allow for the annual withdrawal of a small capacity well which is completed in the aquifer, permit number 76247. Except for this 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.
  12. 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.

13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
14. On July 29, 2004, 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 in response to this request.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Gazette newspaper on August 5 and 12, 2004.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

#### 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 rights to designated ground water in the Arapahoe Aquifer underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, is approved subject to the following conditions:

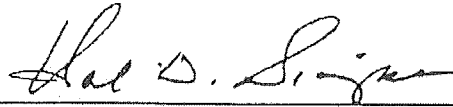
19. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed 78.7 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.

21. 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 for wells to be located on the overlying land area to withdraw ground water from the aquifer.
22. The use of ground water from this allocation shall be limited to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The place of use shall be limited to the above-described 551.26 acre land area.
23. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 551.26 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
24. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
  - a. The wells shall be located on the above described 551.26 acre overlying land area.
  - b. The wells must be constructed to withdraw water from only the Arapahoe Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
  - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
  - e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
  - f. 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 maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.



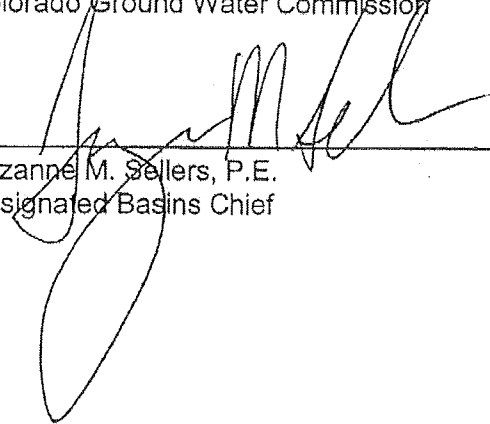
- g. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
25. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county – in which the claimed overlying land is located - so that a title examination of the above described 551.26 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 7<sup>th</sup> day of November, 2004.



Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By: \_\_\_\_\_



Suzanne M. Sellers, P.E.  
Designated Basins Chief

Prepared by: RAC

FIND-511

EXHIBIT A - 599-BD

Page 1 of 12

08/98-FORM NO. GWS-48

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

RECEIVED

APR 06 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

NONTRIBUTARY GROUND WATER CONSENT CLAIM  
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

Arapahoe AQUIFER

I (we) Ellicott Springs Resources, LLC  
(Name)

claim and say that I (we) have the consent of the owners of 472.81 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

R.W. Case  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

[Signature] 2-18-04  
(Signature) (Date)  
Rodney J. Paissier partner Ellicott Springs Resources, LLC  
\_\_\_\_\_  
(Signature) (Date)

INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

RECEIVED

APR 06 2004

WATER RESOURCES  
STATE ENGINEER  
COLORADO

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) R. W. Case  
(Name)

whose mailing address is 102 E. Pikes Peak Ave., Suite 200  
Street

Colorado Springs, CO 80903  
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 472.81 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

*See attached legal description*

and that I (we) have granted written consent to others to withdraw ground water from the Arapahoe aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

*Randy Wilson* 3-2-04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

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RECEIVED

APR 06 2004

JAN 02 2004

LEGAL DESCRIPTION: VIEWPOINT VILLAGE

WATER RESOURCES  
STATE ENGINEER  
COLO.

WATER RESOURCES  
STATE ENGINEER  
COLO.

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14,  
ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY,  
COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS. EXCEPT THAT PORTION  
CONVEYED BY BOOK 5527 AT PAGE 376.

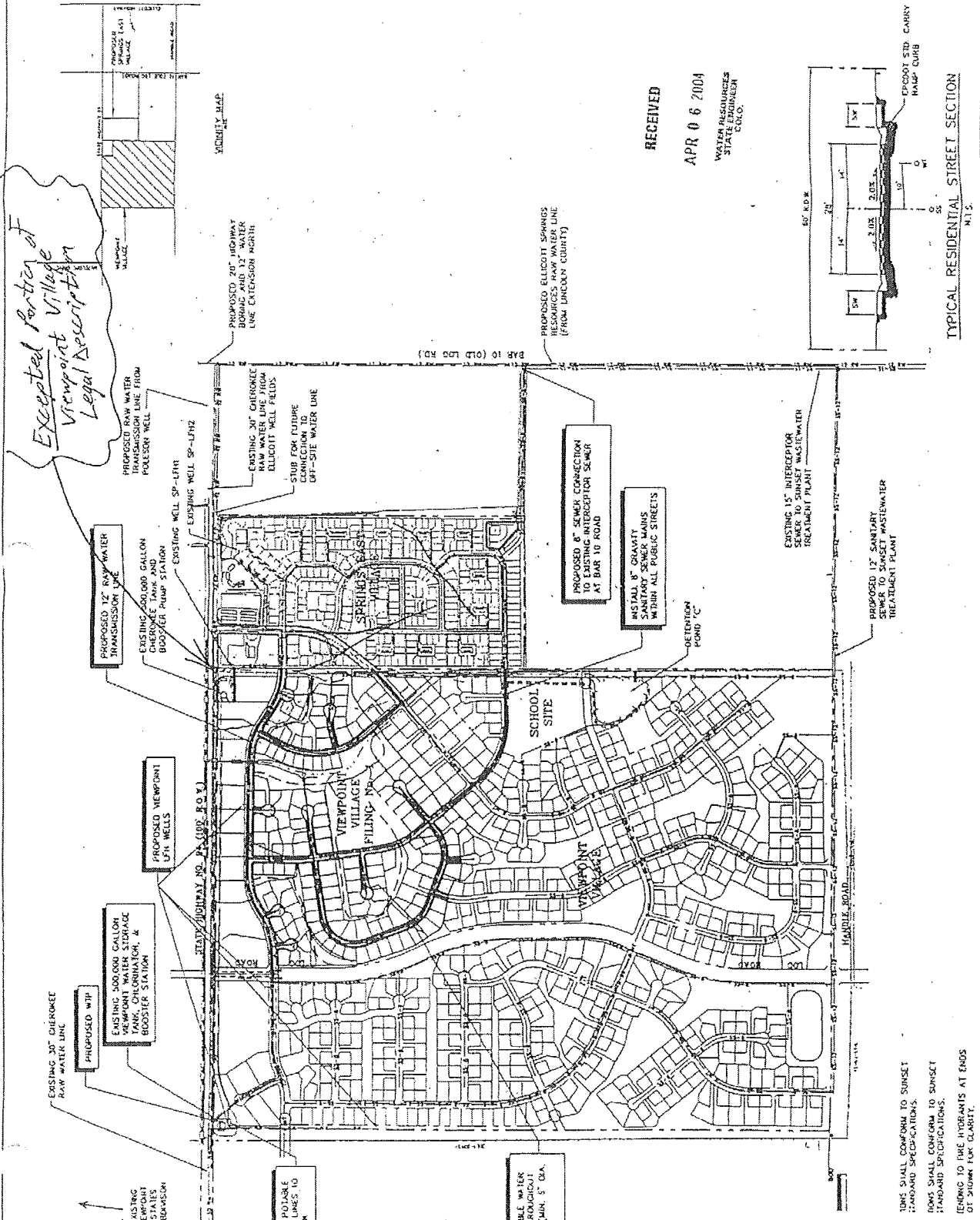
EXHIBIT A

Page 3 of 12

NO.	REVISION	DATE

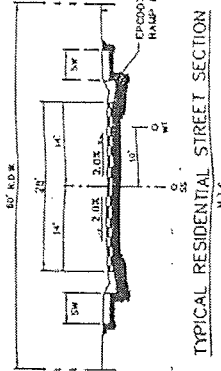
PROJECT NO.	100000
SHEET NO.	11
DATE	04/06/04
DRAWN BY	JL
CHECKED BY	JL
APPROVED BY	JL
SCALE	AS SHOWN

VIEWPOINT VILLAGE SUBDIVISION



*Excepted Portion of Viewpoint Village Legal Description*

RECEIVED  
APR 06 2004  
WATER RESOURCES  
STATE ENGINEER  
DENVER, CO



THIS SHALL CONFORM TO SUNSET  
STANDARD SPECIFICATIONS.  
POLES SHALL CONFORM TO SUNSET  
STANDARD SPECIFICATIONS.  
ENDING TO FIRE HYDRANTS AT ENDS  
OF SHOWN TURN CLARITY.

## QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

R.W. Case  
102 E. Pikes Peak Ave., Suite 200  
Colorado Springs, Colorado 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company  
c/o Rodney J. Preisser, President  
90 S. Cascade Avenue, Suite 950  
Colorado Springs, CO 80903

PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

VIEWPOINT VILLAGE

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6<sup>TH</sup> P.M., EL PASO COUNTY, COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS, EXCEPT THAT PORTION CONVEYED BY BOOK 5527 AT PAGE 376.

RECEIVED

APR 06 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

Robert C. Balink El Par  
01/12/2004 0.  
Doc \$0.00 Paç  
Rec \$15.00 1

*Notes*

PROPERTY ADDRESS:

N/A

RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on 12-19, 2003.

RECEIVED

APR 06 2004

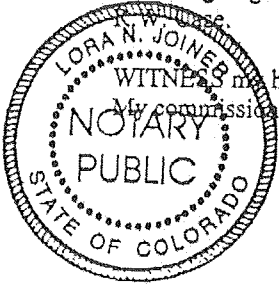
WATER RESOURCES  
STATE ENGINEER  
COLO.

R.W. Case  
Grantor

By *RWC*  
Title: \_\_\_\_\_

STATE OF COLORADO )  
  )ss:  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2003 by



WITNESSES my hand and official seal.  
My commission expires: 06-07-2006

*Lora N. Joiner*  
Notary Public

EXHIBIT A

Page 6 of 12

RECEIVED

VIEWPOINT ESTATES

APR 06 2004

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 10 TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6<sup>TH</sup> P.M., COMMENCING NORTH 01°10'40" WEST ALONG THE WEST SECTION LINE A DISTANCE OF 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST SECTION LINE NORTH 01°10'40" WEST A DISTANCE OF 1271.31 FEET, THENCE SOUTH 89°52'52" EAST A DISTANCE OF 2617.39 FEET, THENCE NORTH 01°11'11" WEST A DISTANCE OF 3960.76 FEET, THENCE NORTH 89°54'31" EAST A DISTANCE OF 1311.15 FEET, THENCE SOUTH 00°55'21" EAST A DISTANCE OF 5214.40 FEET TO THE NORTH RIGHT OF WAY OF COLORADO STATE HIGHWAY 94, THENCE ALONG SAID NORTH RIGHT OF WAY LINE SOUTH 89°47'46" WEST A DISTANCE OF 3904.36 FEET TO THE TRUE POINT OF BEGINNING. SAID ACREAGE CONTAINS 231 ACRES MORE OR LESS.

WATER RESOURCES  
STATE ENGINEER  
COLO.

ANTELOPE PARK RANCHETTES

THAT PORTION OF SECTION 10, TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6<sup>TH</sup> P.M., AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SECTION 10, THENCE NORTH 89°54'31" EAST ON THE NORTH LINE OF SAID SECTION A DISTANCE OF 2622.49 FEET TO THE NORTH 1/4 CORNER THEREOF, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 3960.76 FEET ON THE CENTERLINE OF SAID SECTION TO THE SOUTHEAST CORNER OF THE NORTH 1/2, SOUTHWEST 1/4, THENCE NORTH 89°52'52" WEST ON THE SOUTH LINE OF SAID N1/2, SW1/4 A DISTANCE OF 660 FEET, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 1261.46 FEET TO INTERSECT THE NORTHERLY LINE OF STATE HIGHWAY NO. 94, THENCE SOUTH 89°49'51" WEST ON SAID NORTHERLY LINE A DISTANCE OF 60.02 FEET, THENCE NORTH 02°11'11" WEST A DISTANCE OF 1261.76 FEET TO INTERSECT THE AFOREMENTIONED SOUTH LINE OF THE N 1/2, SW 1/4, THENCE NORTH 89°52'52" WEST A DISTANCE OF 1897.37 FEET TO THE SW CORNER THEREOF, THENCE NORTH 01°15'48" WEST A DISTANCE OF 3951.26 FEET TO THE POINT OF BEGINNING, CONTAINING 239.63 ACRES, MORE OR LESS.

EXHIBIT A

Page 7 of 12



RECEIVED

JUL 23 2004

WATER RESOURCES  
STATE ENGINEER  
COLO.

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

NONTRIBUTARY GROUND WATER CONSENT CLAIM  
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

Arapahoe AQUIFER

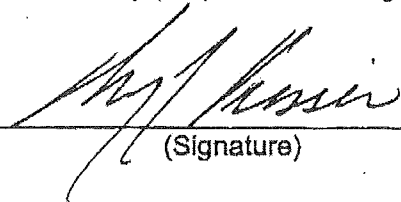
I (we) Ellicott Springs Resources, LLC  
(Name)

claim and say that I (we) have the consent of the owners of 78.45 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

- Even-Preisser Investments, LLC ~~LLC~~
- Even-Preisser Inc.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

 7-19-04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

EXHIBIT A

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

RECEIVED

JUL 23 2004

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

WATER RESOURCES  
STATE ENGINEER  
COLO.

I (We) Even-Preisser Investments, LLC  
(Name)

whose mailing address is 520 E. Castilla Street  
Street

Colorado Springs CO 80903  
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 38.99 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Arapahoe aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser Investments, LLC

By [Signature], MEMBER 7/19/04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

RECEIVED

JUL 23 2004

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

WATER RESOURCES  
STATE ENGINEER  
COLO.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Investments LLC  
520 E. Costilla Street  
Colorado Springs, CO 80903.

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company  
c/o Rodney J. Preisser, President  
90 S. Cascade Avenue, Suite 950  
Colorado Springs, CO 80903

Robert C. Ballink El Paso Cty, CO 204053279  
04/02/2004 04:06  
Doc \$0.00 Page  
Rec \$5.00 1 of 1

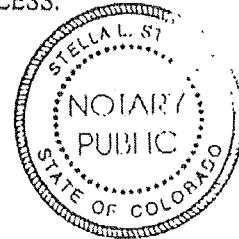
PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE WEST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,  
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6<sup>TH</sup> P.M., EL PASO  
COUNTY, COLORADO, EXCEPT THE NORTH 30 FEET FOR ROADWAY  
PURPOSES, AND CONTAINING 38.99 ACRES MORE OR LESS.

PROPERTY ADDRESS:

22325 Highway 94  
El Paso County, CO



RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on April 2, 2004

Even-Preisser Investments, LLC  
Grantor

MY COMMISSION EXPIRES  
09/04/2006

By [Signature]  
Title: MEMBER

STATE OF COLORADO )  
                                  )ss:  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 02 day of April  
David Even, as Member of Even-Preisser Investments  
liability company.

WITNESS my hand and official seal  
My commission expires: 09-04-2006

[Signature]

EXHIBIT A

Page 10 of 12

RECEIVED

JUL 23 2004

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES

WATER RESOURCES  
STATE ENGINEER  
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) Even-Preisser, Inc.  
(Name)

whose mailing address is 520 E. Castilla St.  
Street

Colorado Springs CO 80903  
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 39.46 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Arapahoe aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser, Inc.  
Ray [Signature], Secretary 2/19/04  
(Signature) (Date)

\_\_\_\_\_  
(Signature) (Date)

.....  
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

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RECEIVED

JUL 23 2004

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WATER RESOURCES STATE ENGINEER COLO.

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The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Inc.  
520 E. Costilla Street  
Colorado Springs, CO 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company  
c/o Rodney J. Preisser, President  
90 S. Cascade Avenue, Suite 950  
Colorado Springs, CO 80903

Robert C. Ballink El Paso Cty, CO 204053280  
04/02/2004 04:06  
Doc \$0.00 Page  
Rec \$5.00 1 of 1

PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE EAST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,  
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6<sup>TH</sup> P.M., EL PASO  
COUNTY, COLORADO, AND CONTAINING 39.46 ACRES MORE OR  
LESS.

PROPERTY ADDRESS:

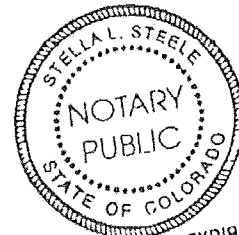
22325 Highway 94  
El Paso County, CO

RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on April 2, 2004

Attest:

Even-Preisser Inc.  
Grantor



By [Signature]  
Title: SECRETARY/TREASURER

MY COMMISSION EXPIRES  
09/04/2006

STATE OF COLORADO )

COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 02 day of April  
Rodney J. Preisser, as Vice President and David Eves  
Sec./Treasurer of Even-Preisser Inc., a Colorado corporation.

WITNESS my hand and official seal.

[Signature]

EXHIBIT A

Page 12 of 12

**APPENDIX D**

**DENVER BASIN WELL PERMITS**

# 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

www.water.state.co.us



Bill Owens  
Governor

Russell George  
Executive Director

Hal D. Simpson, P.E.  
State Engineer

November 10, 2004

RODNEY PREISSER  
ELLICOTT SPRINGS RESOURCES LLC  
90 S CASCADE AVENUE #950  
COLO SPGS CO 80903

### RE: Permit to Use Existing Well

Dear Mr. Preisser:

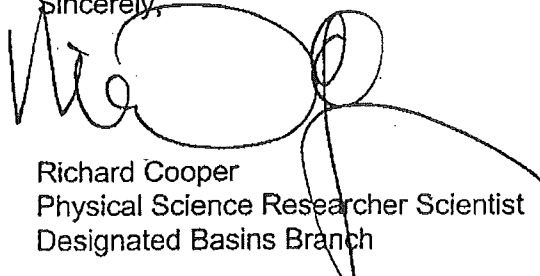
Enclosed is a copy of well Permit No. 61972-F, issued to use an existing well to withdraw ground water from the Laramie-Fox Hills aquifer in accordance with the Ground Water Commission's Findings and Order for Determination of Water Right No. 598-BD.

Please review the permit conditions of approval. Permit condition #10 requires that a totalizing flow meter shall be installed on the well and maintained in good working order. The well owner must maintain permanent records of total annual withdrawals from the well. Be advised that the total combined annual amount of ground water withdrawn by this well, together with any other wells permitted to withdraw the allowed allocation, shall not exceed 161 acre-feet, subject to the withdrawal limitations and conditions in the above described Order of the Commission.

Within 30 days after commencement of beneficial use of ground water, pumped from the well in accordance with the conditions of this permit, a Notice of Commencement of Beneficial Use, form no. GWS-19, must be completed and filed with this office. A copy of this notice is enclosed for your use.

If you have any questions, please contact this office.

Sincerely,



Richard Cooper  
Physical Science Researcher Scientist  
Designated Basins Branch

enclosures: a/s

cc: Upper Black Squirrel Creek GWMD

Form No.  
GWS-25

**OFFICE OF THE STATE ENGINEER**  
**COLORADO DIVISION OF WATER RESOURCES**  
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER 61972 -F-  
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELLCOTT SPRINGS RESOURCES LLC  
90 S CASCADE STE 950  
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION

EL PASO COUNTY  
NW 1/4 NE 1/4 Section 14  
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line  
2310 Ft. from East Section Line

UTM COORDINATES (NAD83)

Easting: Northing:

**PERMIT TO USE AN EXISTING WELL**


CONDITIONS OF APPROVAL

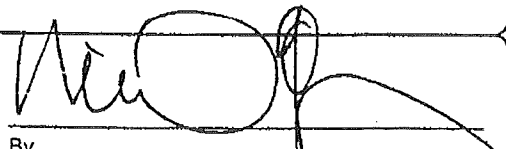
- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this existing 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 Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50040-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED  
RAC

  
State Engineer

  
By

Receipt No. 0522751A

DATE ISSUED 11-10-2004

EXPIRATION DATE 11-10-2005



# 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

www.water.state.co.us



Bill Owens  
Governor

Russell George  
Executive Director

Hal D. Simpson, P.E.  
State Engineer

November 10, 2004

RODNEY PREISSER  
ELLICOTT SPRINGS RESOURCES LLC  
90 S CASCADE AVENUE #950  
COLO SPGS CO 80903

### RE: Permit to Use Existing Well

Dear Mr. Preisser:

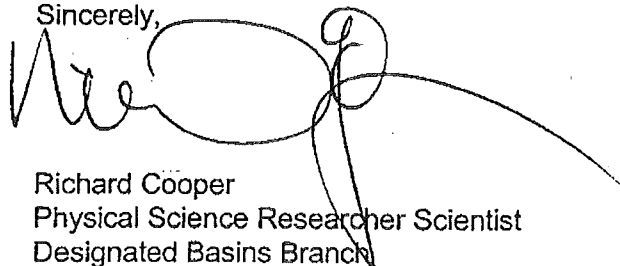
Enclosed is a copy of well Permit No. 61973-F, issued to use an existing well to withdraw ground water from the Laramie-Fox Hills aquifer in accordance with the Ground Water Commission's Findings and Order for Determination of Water Right No. 598-BD.

Please review the permit conditions of approval. Permit condition #10 requires that a totalizing flow meter shall be installed on the well and maintained in good working order. The well owner must maintain permanent records of total annual withdrawals from the well. Be advised that the total combined annual amount of ground water withdrawn by this well, together with any other wells permitted to withdraw the allowed allocation, shall not exceed 161 acre-feet, subject to the withdrawal limitations and conditions in the above described Order of the Commission.

Within 30 days after commencement of beneficial use of ground water, pumped from the well in accordance with the conditions of this permit, a Notice of Commencement of Beneficial Use, form no. GWS-19, must be completed and filed with this office. A copy of this notice is enclosed for your use.

If you have any questions, please contact this office.

Sincerely,



Richard Cooper  
Physical Science Researcher Scientist  
Designated Basins Branch

enclosures: a/s

cc: Upper Black Squirrel Creek GWMD

Form No.  
GWS-25

**OFFICE OF THE STATE ENGINEER**  
**COLORADO DIVISION OF WATER RESOURCES**  
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER 61973 -F-  
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELICOTT SPRINGS RESOURCES  
90 S CASCADE STE 950  
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION  
EL PASO COUNTY  
NW 1/4 NE 1/4 Section 14  
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES  
300 Ft. from North Section Line  
1650 Ft. from East Section Line

UTM COORDINATES (NAD83)  
Easting: Northing:

PERMIT TO USE AN EXISTING WELL

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 assure the applicant 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 existing 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 Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50041-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED  
RAC

State Engineer

By

EXPIRATION DATE 11-10-2005

Receipt No. 0522751B

DATE ISSUED 11-10-2004

ORDER OF THE COLORADO GROUND WATER COMMISSION

---

IN THE MATTER OF WELL PERMIT NO. 50040-F

LOCATION: NW1/4 OF THE NE1/4 OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63  
WEST OF THE 6TH PRINCIPAL MERIDIAN

OWNER OF RECORD: ELLICOTT SPRINGS RESOURCES, LLC

---

The Colorado Ground Water Commission finds that:

1. Well permit no. 50040-F was issued by the Commission on June 10, 1998, to construct a well to withdraw and appropriate ground water in accordance with the Findings and Order of the Commission, dated May 26, 1998. A well completion report filed with the Commission indicates that the well was timely constructed to withdraw ground water from the Laramie-Fox Hills aquifer at its permitted location.
2. On July 23, 2004, Ellicott Springs Resources, LLC, filed a statement with the Commission claiming ownership of the subject well and requesting that permit no. 50040-F be cancelled upon approval of a determination of water right for the Laramie-Fox Hills aquifer underlying a 551.26 acre overlying land area. An application for said determination was filed with the Commission in a complete form on July 23, 2004.

ORDER

3. At the request of the well owner, and in accordance with the Findings and Order of the Commission for Determination of Water Right No. 598-BD, dated November 8, 2004, well permit no. 50040-F is cancelled and is of no further force or effect. Any water right associated with this permit is abandoned.

Dated this 10th day of November, 2004.

*Hal D. Simpson*

---

Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission

By: *Richard Cooper*  
Richard Cooper  
Physical Science Researcher Scientist  
Designated Basins Branch

ORDER OF THE COLORADO GROUND WATER COMMISSION

---

IN THE MATTER OF WELL PERMIT NO. 50041-F

LOCATION: NW1/4 OF THE NE1/4 OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63  
WEST OF THE 6TH PRINCIPAL MERIDIAN

OWNER OF RECORD: ELLICOTT SPRINGS RESOURCES, LLC

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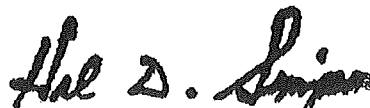
The Colorado Ground Water Commission finds that:

1. Well permit no. 50041-F was issued by the Commission on June 10, 1998, to construct a well to withdraw and appropriate ground water in accordance with the Findings and Order of the Commission, dated May 26, 1998. A well completion report filed with the Commission indicates that the well was timely constructed to withdraw ground water from the Laramie-Fox Hills aquifer at its permitted location.
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ORDER

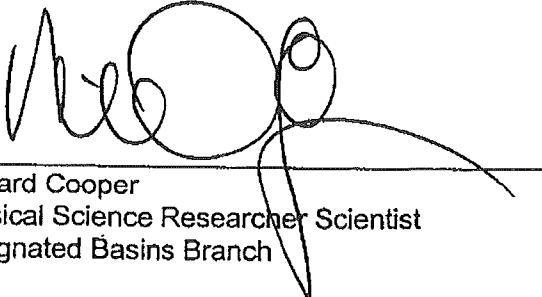
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Dated this 10th day of November, 2004.



---

Hal D. Simpson  
Executive Director  
Colorado Ground Water Commission



By: \_\_\_\_\_  
Richard Cooper  
Physical Science Researcher-Scientist  
Designated Basins Branch

Form No.  
GWS-25

**OFFICE OF THE STATE ENGINEER**  
**COLORADO DIVISION OF WATER RESOURCES**  
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER 61972 -F-  
DIV. 8      WD 10      DES. BASIN 4      MD 12

APPLICANT

ELLICOTT SPRINGS RESOURCES LLC  
90 S CASCADE STE 950  
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION

EL PASO COUNTY  
NW 1/4 NE 1/4 Section 14  
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line  
2310 Ft. from East Section Line

UTM COORDINATES (NAD83)

Easting:                      Northing:

**PERMIT TO USE AN EXISTING WELL**

CONDITIONS OF APPROVAL

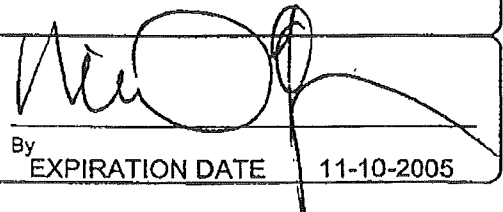
- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this existing 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 Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50040-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED  
RAC

  
State Engineer

  
By

Receipt No. 0522751A

DATE ISSUED 11-10-2004

EXPIRATION DATE 11-10-2005

Form No.  
GWS-25

**OFFICE OF THE STATE ENGINEER**  
**COLORADO DIVISION OF WATER RESOURCES**  
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

WELL PERMIT NUMBER 61973 -F-  
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELLCOTT SPRINGS RESOURCES  
90 S CASCADE STE 950  
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION

EL PASO COUNTY  
NW 1/4 NE 1/4 Section 14  
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line  
1650 Ft. from East Section Line

UTM COORDINATES (NAD83)

Easting: Northing:

**PERMIT TO USE AN EXISTING WELL**

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 assure the applicant 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.
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NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED  
RAC

*She S. Smith*  
\_\_\_\_\_  
State Engineer

*[Signature]*  
\_\_\_\_\_  
By

Receipt No. 0522751B

DATE ISSUED 11-10-2004

EXPIRATION DATE 11-10-2005

OFFICE OF THE STATE ENGINEER  
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581



WELL PERMIT NUMBER	<u>050040</u>	-	<u>F</u>
DIV. 8	CNTY. 21	WD 10	DES. BASIN 4 MD 12

APPLICANT

EVEN PREISSER INVESTMENTS, LLC  
90 S CASCADE STE 950  
COLO SPRINGS CO 80903-4217

(719)442-2514

APPROVED WELL LOCATION  
EL PASO COUNTY

NW 1/4 NE 1/4 Section 14  
Twp 14 S RANGE 63 W 6th P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line  
2310 Ft. from East Section Line

PERMIT TO CONSTRUCT A WELL

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 the permit does not assure the applicant 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.
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- 3) Approved pursuant to Sections 37-90-107 and 37-90-111(5), C.R.S., and the findings of the Colorado Ground Water Commission dated May 26, 1998.
- 4) The maximum pumping rate shall not exceed 200 GPM.
- 5) The allowed average annual amount of ground water to be withdrawn is 9.3 acre-feet, subject to the conditions in paragraph 18.c of the above described Findings of the Commission.
- 6) The use of ground water from the well shall be limited to the following: commercial use for all uses associated with a concrete production facility, residential use and the irrigation of lawn, garden and landscaped areas. Place of use shall be limited to the 40 acre land area claimed in the above described Findings of the Commission.
- 7) The well must be constructed to withdraw water from only the Laramie-Fox Hills aquifer. The top of the aquifer is located approximately 650 feet below the ground surface. The bottom of the aquifer is located approximately 910 feet below the ground surface. Plain casing must be installed and sealed to prevent diversion of water from other aquifers and the movement of water between aquifers.
- 8) This well shall be constructed within 200 feet of the location specified on this permit, and shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 9) The entire length of the hole shall be geophysically logged according to the attached instructions prior to installing the casing.
- 10) A totalizing flow meter must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission upon request.
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- 12) The owner shall mark this well in a conspicuous place with the permit number and the name of the aquifer. He shall take necessary means and precautions to preserve these markings.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines. RAC 8-13-98

APPROVED  
RAC

State Engineer

By

Receipt No. 0422850

DATE ISSUED JUN 10 1998

EXPIRATION DATE JUN 10 1999

GWS-3  
12/94

WELL CONSTRUCTION AND TEST REPORT  
STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

For Office Use only

RECEIVED

DEC 29 1998

STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER

1. WELL PERMIT NUMBER D30040-F

2. OWNER NAME(S) EVEN PREISSER INVESTMENTS LLC  
Mailing Address 90 S CASCADE STE 950  
City, St. Zip CO, CO 80903-4217  
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 14S, Range 63W 64N  
DISTANCES FROM SEC. LINES:  
300 ft from NORTH Sec. line. and 2310 ft from EAST Sec. line. OR  
(north or south) (east or west)  
SUBDIVISION: \_\_\_\_\_ LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ FILING(UNIT) \_\_\_\_\_  
STREET ADDRESS AT WELL LOCATION: \_\_\_\_\_

4. GROUND SURFACE ELEVATION \_\_\_\_\_ ft. DRILLING METHOD Mud Rotary  
DATE COMPLETED 11/20/98 TOTAL DEPTH 900 ft. DEPTH COMPLETED 900 ft.

5. GEOLOGIC LOG:

Depth	Description of Material (Type, Size, Color, Water Location)
0-1	TOPSOIL
1105	SAND, GRAVEL
175	CLAY
190	SHALE
210	SANDROCK
225	SHALE
250	SANDROCK
310	SHALE
370	SANDROCK
450	SHALE
480	SANDROCK
505	CLAY
550	SHALE
675	SANDROCK
695	SHALE
715	SANDROCK
775	SHALE
820	SANDROCK
830	SHALE
850	SANDROCK
REMARKS:	<u>900 SHALE</u> <u>Approved 8/23</u>

6. HOLE DIAM. (in.) From (ft) To (ft)

<u>12 1/2</u>	<u>0</u>	<u>130</u>
<u>7 3/8</u>	<u>190</u>	<u>650</u>
<u>6 1/2</u>	<u>650</u>	<u>900</u>

7. PLAIN CASING

OD (in)	Kind	Wall Size	From (ft)	To (ft)
<u>4 3/4</u>	<u>STEEL</u>	<u>1 3/8</u>	<u>±1</u>	<u>130</u>
<u>4 1/2</u>	<u>STEEL</u>	<u>1 3/8</u>	<u>7</u>	<u>650</u>

PERF. CASING: Screen Slot Size: Torched  
4 1/2 STEEL 1 3/8 650 900

8. FILTER PACK: Material Gravel Size #4 Interval 20-350 410-590

9. PACKER PLACEMENT: Type Rubber Depth 650

10. GROUTING RECORD:

Material	Amount	Density	Interval	Placement
<u>Cement</u>	<u>450 lbs</u>	<u>142 pcf</u>	<u>6-20</u>	<u>Poured</u>
<u>Cement</u>	<u>350 lbs</u>	<u>142 pcf</u>	<u>110-140</u>	<u>Poured</u>
<u>Cement</u>	<u>250 lbs</u>	<u>142 pcf</u>	<u>370-410</u>	<u>Poured</u>
<u>Cement</u>	<u>850 lbs</u>	<u>142 pcf</u>	<u>590-650</u>	<u>Pumped</u>

11. DISINFECTION: Type H+K Amt. Used 60oz

12. WELL TEST DATA:  Check box if Test Data is submitted on Form No. GWS 39 Supplemental Well Test.

TESTING METHOD BAILED

Static Level 325 ft. Date/Time measured \_\_\_\_\_ Production Rate 25 gpm.  
Pumping level 651 ft. Date/Time measured 11/24/98 Test length (hrs.) 4

Remarks \_\_\_\_\_

13. I have read the statements made herein and know the contents thereof, and that they are true to my 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.]

CONTRACTOR KUNAW DRILLING & EXC. Phone (719) 683-3720 Lic. No. 1148  
Mailing Address 23945 LUCKY LN CAULON, CO 80903

Name/Title (Please type or print) TIM KUNAW/DOWNER Signature Tim Kunaw Date 11-24-98



FORM NO. GWS-32 10/94

PUMP INSTALLATION AND TEST REPORT

For Office Use only

STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

RECEIVED RECEIVED

DEC 29 1998 DEC 29 1998

WATER RESOURCES STATE ENGINEER COLO.

WATER RESOURCES STATE ENGINEER COLO.

1. WELL PERMIT NUMBER D50040-F

2. OWNER NAME(S) EVAN PEINER INVESTMENTS LLC  
Mailing Address 90 S. CASCADE #930  
City, St. Zip CO. CO. 80903-4817  
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 14 S, Range 12W 6th  
DISTANCES FROM SEC. LINES:  
300 ft. from NORTH Sec. line, and 2310 ft. from EAST Sec. line.  
SUBDIVISION: \_\_\_\_\_ LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ FILING(UNIT) \_\_\_\_\_  
STREET ADDRESS AT WELL LOCATION: \_\_\_\_\_

4. PUMP DATA: Type SUBMERSIBLE Installation Completed 11/24/98  
Pump Manufacturer BOWLUS Pump Model No. 7GS30412  
Design GPM 7 at RPM 3450, HP 3.0, Volts 230, Full Load Amps 17  
Pump Intake Depth 1251 Feet, Drop/Column Pipe Size 1" inches, Kind STEEL

ADDITIONAL INFORMATION FOR PUMPS GREATER THAN 50 GPM:

TURBINE DRIVER TYPE:  Electric  Engine  Other \_\_\_\_\_  
Design Head \_\_\_\_\_ feet, Number of Stages \_\_\_\_\_, Shaft size \_\_\_\_\_ inches.

5. OTHER EQUIPMENT:

Airline Installed  Yes  No, Orifice Depth ft. \_\_\_\_\_, Monitor Tube Installed  Yes  No, Depth ft. \_\_\_\_\_  
Flow Meter Mfg. MASTER Meter Serial No. \_\_\_\_\_  
Meter Readout  Gallons,  Thousand Gallons,  Acre feet,  Beginning Reading 0

6. TEST DATA:

Check box if Test data is submitted on Supplemental Form.  
Date 11/24/98

Total Well Depth 900 Time \_\_\_\_\_  
Static Level 325 Rate (GPM) \_\_\_\_\_  
Date Measured 11/20/98 Pumping Lvl. 1251

7. DISINFECTION: Type H+H Amt. Used 60z.

8. Water Quality analysis available.  Yes  No

9. Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. I have read the statements made herein and know the contents thereof, and that they are true to my 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.]

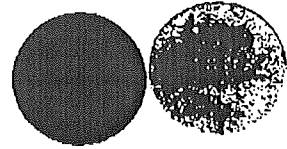
CONTRACTOR KUNAN DRILLING & EXC Phone (719) 683-3720 Lic. No. 1148  
Mailing Address 23945 LUCKY LN, CALHAN, CO. 80909

Name/Title (Please type or print) TIM KUNAN / OWNER Signature Tom Kunan Date 11-24-98

618  
Form No. GWS-25

OFFICE OF THE STATE ENGINEER  
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581



1148

WELL PERMIT NUMBER 050041 - F  
DIV. 8 CNTY. 21 WD 10 DES. BASIN 4 MD 12

APPLICANT

EVEN PREISSER INC  
90 S CASCADE STE 950  
COLO SPRINGS CO 80903-4217  
  
(719)442-2614

Lot: Block: Filing: Subdiv:

APPROVED WELL LOCATION  
EL PASO COUNTY

NW 1/4 NE 1/4 Section 14  
Twp 14 S RANGE 63 W 6th P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line  
1650 Ft. from East Section Line

PERMIT TO CONSTRUCT A WELL

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 the permit does not assure the applicant 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.
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**GEOPHYSICAL LOGGING  
REQUIREMENT WAIVED**  
RAC 5-13-98

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines. RAC 5-13-98

PERMIT EXPIRATION DATE EXTENDED TO JUNE 10, 2000 RAC 7-27-99

APPROVED  
RAC

*Hal D. Simpson*  
State Engineer

*Purnell*  
By

Receipt No. 0422851

DATE ISSUED JUN 10 1998

EXPIRATION DATE JUN 10 1999

FORM NO. 6WS-32 10/84

PUMP INSTALLATION AND TEST REPORT STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

For Office Use only

RECEIVED

JUN 18 2000

WATER DIV. STATE ENGINEER - COLO.

1. WELL PERMIT NUMBER: D50041 E

2. OWNER NAME(S) EVEN PREISSER INC.  
Mailing Address 90 S CASCADE STE 950  
City, St. Zip COLO SPRING CO 80903  
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 19 S, Range 63 W  
DISTANCES FROM SEC. LINES:  
300 ft. from NORTH Sec. line. and 1150 ft. from EAST Sec. line.  
(North or South) (East or West)  
SUBDIVISION: \_\_\_\_\_ LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ FILING(UNIT) \_\_\_\_\_  
STREET ADDRESS AT WELL LOCATION: \_\_\_\_\_

4. PUMP DATA: Type SUBMERSIBLE installation Completed 6/9/00  
Pump Manufacturer Goulds Pump Model No. 1065AD912  
Design GPM 10 at RPM 3450, HP 5, Volts 230, Full Load Amps 27.5  
Pump Intake Depth 861 Feet, Drop/Column Pipe Size 1 1/4" inches, Kind \_\_\_\_\_

ADDITIONAL INFORMATION FOR PUMPS GREATER THAN 50 GPM:

TURBINE DRIVER TYPE:  Electric  Engine  Other \_\_\_\_\_  
Design Head \_\_\_\_\_ feet, Number of Stages \_\_\_\_\_ Shaft size \_\_\_\_\_ inches.

5. OTHER EQUIPMENT:

Airline Installed  Yes  No, Orifice Depth ft. \_\_\_\_\_, Monitor Tube Installed  Yes  No, Depth ft. \_\_\_\_\_  
Flow Meter Mfg. MASTER Meter Serial No. 271D28  
Meter Readout  Gallons,  Thousand Gallons,  Acre feet,  Beginning Reading 0

6. TEST DATA:

Check box if Test data is submitted on Supplemental Form.

Date 6-9-00  
Total Well Depth 900 Time \_\_\_\_\_  
Static Level 330 Rate (GPM) 15  
Date Measured 6/7/00 Pumping Lvl. 861

7. DISINFECTION: Type HTH Amt. Used 6 oz.

8. Water Quality analysis available.  Yes  No

8. Remarks \_\_\_\_\_

10. I have read the statements made herein and know the contents thereof, and that they are true to my 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.]

CONTRACTOR KUNAU DRILLING LLC Phone (719) 683-3720 Lic. No. 1140  
Mailing Address 23945 LUCKY LANE CAHAN CO 80808

Name/Title (Please type or print)

Signature

Date

TIM KUNAU-OWNER

Tim Kunau

6-9-00

10/94

STATE OF COLORADO, OFFICE OF THE STATE ENGINEER  
1313 Sherman St., Rm 818, Denver, CO 80203

City and County

RECEIVED

JUN 1 2 2000

WATER RESOURCES  
STATE ENGINEER  
COLO

1. WELL PERMIT NUMBER 05D041 F

2. OWNER NAME(S) EVEN PREISSER INC  
Mailing Address 90 S. CASCADE STE 950  
City, St. Zip COLO SPRGS CO 80903  
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 14 S, Range 63 W  
DISTANCES FROM SEC. LINES:  
300 ft. from North Sec. line, and 1650 ft. from East Sec. line. OR  
SUBDIVISION: \_\_\_\_\_ LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ FILING(UNIT) \_\_\_\_\_  
STREET ADDRESS AT WELL LOCATION: \_\_\_\_\_

4. GROUND SURFACE ELEVATION \_\_\_\_\_ ft. DRILLING METHOD Mud Rotary  
DATE COMPLETED 6-7-00 TOTAL DEPTH 900 ft. DEPTH COMPLETED 900 ft.

5. GEOLOGIC LOG:

Depth	Description of Material (Type, Size, Color, Water Location)
D-1	Topsoil
170	SAND GRAVEL CLAY
205	CLAY SHALE
218	SANDROCK
240	CLAY SHALE
320	CLAY SANDROCK
345	CLAY SHALE
360	CLAY SANDROCK
380	SANDROCK
390	CLAY
410	SANDROCK
560	CLAY SHALE
585	SANDROCK
630	CLAY SHALE
695	SANDROCK COAL
697	ROCK
830	SANDROCK
890	CLAY SANDROCK

6. HOLE DIAM. (in.)

From (ft)	To (ft)
12 1/4	0
16 1/2	185
	900

7. PLAIN CASING

OD (in)	Kind	Wall Size	From (ft)	To (ft)
8 5/8	STEEL	182	±1	185
4 1/2	STEEL	188	1	695

PERF. CASING: Screen Slot Size: 1/2  
4 1/2 STEEL 188 695 900

8. FILTER PACK: Material GRAVEL Size 1/2" Interval 20-165/185-390

9. PACKER PLACEMENT: Type Rubber Depth 695

10. GROUTING RECORD:

Material	Amount	Density	Interval	Placement
CEMENT	6 sacks	36 gal	6-20	Trimmed
CEMENT	6 sacks	36 gal	165-185	Trimmed
CEMENT	12 sacks	72 gal	390-420	Trimmed
CEMENT	2 sacks	12 gal	695-695	Pumped

Am't Used 6.02

REMARKS: AROUND 8 5/8

11. DISINFECTION: Type HTH AROUND 16 1/2

12. WELL TEST DATA:  Check box if Test Data is submitted on Form No. GWS 39 Supplemental Well Test.  
TESTING METHOD Airlifted  
Static Level 330 ft. Date/Time measured \_\_\_\_\_  
Pumping level 610 ft. Date/Time measured 6/7/00 Production Rate 25 gpm.  
Remarks \_\_\_\_\_ Test length (hrs.) 4

13. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. (Punishable to Section 24-4-104 (13)(e) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.)

CONTRACTOR KUNAU Drilling LLC Phone (719) 683-3720 Lic. No. 1148  
Mailing Address 23945 LUCKY LANE CALHAN CO 80808

Name/Title (Please type or print) TIM KUNAU-DRAINER Signature [Signature] Date 6-9-00

W-1-25-9

RECEIVED

OCT 24 1984

WATER RESOURCES  
STATE - ENGINEER  
AFFIDAVIT

TYPE OR  
PRINT IN BLACK INK  
COPY OF ACCEPTED  
STATEMENT MAILED  
ON REQUEST.

COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St.

Denver, Colorado 80203

STATE OF COLORADO

COUNTY OF DENVER

SS.

- STATEMENT OF BENEFICIAL USE OF GROUND WATER
- AMENDMENT OF EXISTING RECORD
- LATE REGISTRATION

PERMIT NUMBER 84195

LOCATION OF WELL

THE AFFIANT(S) Diamond Six D Ranches, Inc.

Country El Paso

whose mailing address is Suite 1043 Three Park Central

SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  Section 14

City Denver, CO 80203

Twp. 15 S Rng. 63 W 6th P.M.

being duly sworn upon oath, deposes and says that he (they) is (are) the owner(s) of the well described hereon; the well is located as described above, at distances of \_\_\_\_\_ feet from the \_\_\_\_\_ section line and \_\_\_\_\_ feet from the \_\_\_\_\_ section line; water from this well was first applied to a beneficial use for the purpose(s) described herein on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; the maximum sustained pumping rate of the well is \_\_\_\_\_ gallons per minute, the pumping rate claimed hereby is \_\_\_\_\_ gallons per minute; the total depth of the well is \_\_\_\_\_ feet; the average annual amount of water to be diverted is \_\_\_\_\_ acre-feet; for which claim is hereby made for \_\_\_\_\_ purpose(s); the legal description of the land on which the water from this well is used is \_\_\_\_\_ of which \_\_\_\_\_

\_\_\_\_\_ acres are irrigated and which is illustrated on the map on the reverse side of this form; that this well was completed in compliance with the permit approved therefor; this statement of beneficial use of ground water is filed in compliance with law; he (they) has (have) read the statements made hereon; knows the contents thereof; and that the same are true of his (their) knowledge. **Diamond Six D Ranches, Inc. (COMPLETE REVERSE SIDE OF THIS FORM)**

Signature(s) Oren L. Benton

By: Oren L. Benton, President  
to before me on this 22<sup>nd</sup> day of October, 1984

My Commission expires: 8/24/88

Donna W. Foster  
STATE ENGINEER

ACCEPTED FOR FILING BY THE STATE ENGINEER OF COLORADO PURSUANT TO THE FOLLOWING CONDITIONS:

ACCEPTED FOR A CHANGE IN OWNERSHIP ONLY

AUG 03 1989

DATE

STATE ENGINEER

John A. Danilow

BY

Richard A. Nielsen

FOR OFFICE USE ONLY

Court Case No. \_\_\_\_\_

Prior. \_\_\_\_\_ Mo. \_\_\_\_\_ Day \_\_\_\_\_ Yr. \_\_\_\_\_

Div. 2 City. 21

Sec. \_\_\_\_\_ h. \_\_\_\_\_  $\frac{1}{4}$ . \_\_\_\_\_  $\frac{1}{4}$ .

Well Use 3, 9

Dist. 10 Basin 4 Mon. Dis. 12

50547

WRFE-74

COLORADO DIVISION OF WATER RESOURCES  
101 Columbine Bldg., 1846 Sherman St., Denver, Colorado 80203

dh  
RECEIVED  
JUN 02 '76  
WATER RESOURCES  
STATE ENGINEER

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in BLACK INK. No overstrikes or erasures unless initialed.

A PERMIT TO USE GROUND WATER  
 A PERMIT TO CONSTRUCT A WELL  
FOR:  A PERMIT TO INSTALL A PUMP

REPLACEMENT FOR NO. \_\_\_\_\_  
 OTHER \_\_\_\_\_

(1) APPLICANT - mailing address

NAME Jack Ledbetter  
STREET 5770 Bar N Rd.  
CITY Colorado Springs, Colo. 80909  
TELEPHONE NO. 683-2381

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. 708791  
Basin 4 Dist. -

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant 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) LOCATION OF PROPOSED WELL

County El Paso  
SEW 1/4 of the NE 1/4, Section 14  
Twp. 15 S. Rng. 11 W. 6 P.M.

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 15  
Average annual amount of ground water to be appropriated (acre-feet): 1  
Number of acres to be irrigated: 0  
Proposed total depth (feet): 210  
Aquifer ground water is to be obtained from: Aluvial  
Owner's well designation \_\_\_\_\_

GROUND WATER TO BE USED FOR:

- HOUSEHOLD USE ONLY - no irrigation (0)
- DOMESTIC (1)  INDUSTRIAL (5)
- LIVESTOCK (2)  IRRIGATION (8)
- COMMERCIAL (4)  MUNICIPAL (8)
- OTHER (9)

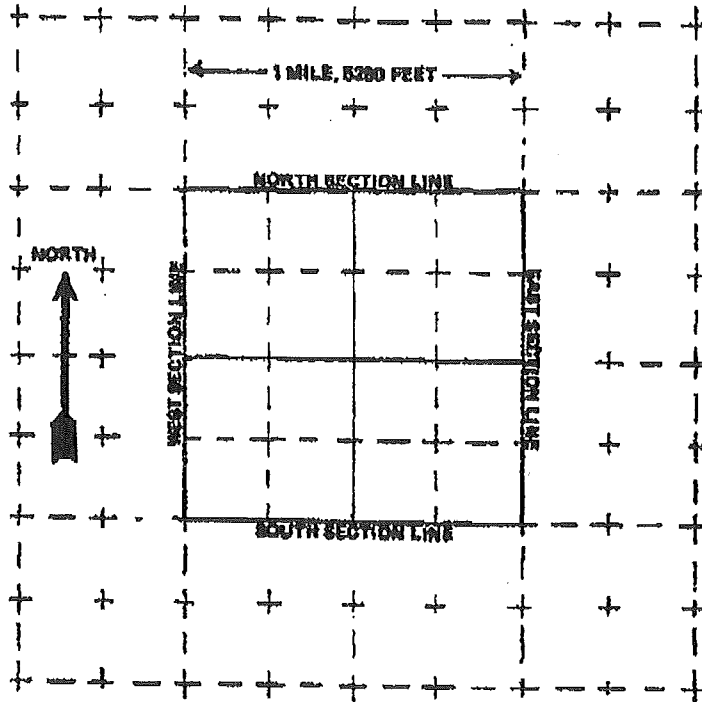
APPLICATION APPROVED

PERMIT NUMBER 84195  
DATE ISSUED JUN 08 1976  
EXPIRATION DATE JUN 08 1978  
Bruce E. DeBrie  
STATE ENGINEER  
BY [Signature]  
I.D. 2-10 COUNTY 21

(4) DRILLER

Name M. B. Drilling Co.  
Street Pl 7  
City Canon City, Colo. 81201  
Telephone No. 683-3877 Lic. No. 69

(5) THE LOCATION OF THE PROPOSED WELL and the area on which the water will be used must be indicated on the diagram below. Use the CENTER SECTION (1 section, 640 acres) for the well location.



**WATER EQUIVALENTS TABLE (Rounded Figures)**

An acre-foot covers 1 acre of land 1 foot deep

1 cubic foot per second (cfs) ... 448 gallons per minute (gpm)

A family of 8 will require approximately 1 acre-foot of water per year.

1 acre-foot ... 43,560 cubic feet ... 325,800 gallons.

1,000 gpm pumped continuously for one day produces 4.42 acre-feet.

(6) THE WELL MUST BE LOCATED BELOW by distances from section lines.

2400 ft. from N sec. line  
(north or south)

2500 ft. from E sec. line  
(east or west)

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ FILING # \_\_\_\_\_

SUBDIVISION \_\_\_\_\_

(7) TRACT ON WHICH WELL WILL BE LOCATED

Owner: \_\_\_\_\_

No. of acres 160. Will this be the only well on this tract? yes

(8) PROPOSED CASING PROGRAM

Plain Casing  
4 1/2 in. from 0 ft. to 110 ft.

Perforated casing  
4 1/2 in. from 110 ft. to 810 ft.

\_\_\_\_\_ in. from \_\_\_\_\_ ft. to \_\_\_\_\_ ft.

(9) FOR REPLACEMENT WELLS give distance and direction from old well and plans for plugging it:

(10) LAND ON WHICH GROUND WATER WILL BE USED:

Owner(s): Jack Ledbetter No. of acres: 160

Legal description: \_\_\_\_\_

(11) DETAILED DESCRIPTION of the use of ground water: Household use and domestic wells must indicate type of disposal system to be used.  
Home Hold Stock, Texas Marbles

(12) OTHER WATER RIGHTS used on this land, including wells.

Type or right	Used for (purpose)	Description of land on which used
<u>0</u>	<u>Drinking</u>	

(13) THE APPLICANT(S) STATE(S) THAT THE INFORMATION SET FORTH HEREON IS TRUE TO THE BEST OF HIS KNOWLEDGE.

Jack Ledbetter  
SIGNATURE OF APPLICANT(S)

WR-28-72

RECEIVED

THIS FORM MUST BE SUBMITTED WITHIN 60 DAYS OF COMPLETION OF THE WORK DESCRIBED HERE. ON, TYPE OR PRINT IN BLACK INK.

COLORADO DIVISION OF WATER RESOURCES

300 Columbine Bldg., 1945 Sherman St. Denver, Colorado 80203

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER 84195

JUL 14 78

WATER RESOURCE STATE ENGINEER COLO.

WELL OWNER Jack. Talbot

SW % of the 9 P % of Sec 14

ADDRESS 5770 Bar 10 Rd. Cimarron Colo.

T. 15 S. R. 63 W. 6 P.

DATE COMPLETED June 28, 1976

HOLE DIAMETER 8 in. from 0 to 215 ft

WELL LOG

From	To	Type and Color of Material	Water Log
0	6	Soil	
6	18	fine sand	
18	104	Clay & gravel	
104	197	Water sand	
197	315	Sand Rock	

\_\_\_\_\_ in. from \_\_\_\_\_ to \_\_\_\_\_ ft.  
\_\_\_\_\_ in. from \_\_\_\_\_ to \_\_\_\_\_ ft.

DRILLING METHOD Rotary

CASING RECORD: Plain Casing 406

Size 4 1/2 & kind PLASTIC from 1 to 140 f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Perforated Casing

Size 4 1/2 & kind PLASTIC from 140 to 215 f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

GROUTING RECORD

Material Cement

Intervals 0-25 ft

Placement Method L

GRAVEL PACK: Size 20

Interval 25-215 level

TEST DATA

Date Tested June 28, 1976

Static Water Level Prior to Test 171.6 f

Type of Test Pump 7

Length of Test 2

Sustained Yield (Metered) Bad test 2.0

First Pumping Water Level 125 ft

TOTAL DEPTH 315

Use additional pages necessary to complete log.



### PUMP INSTALLATION REPORT

Pump Make \_\_\_\_\_  
 Pump Model \_\_\_\_\_  
 Pump Size \_\_\_\_\_  
 Type \_\_\_\_\_

Powered by \_\_\_\_\_ HP \_\_\_\_\_

Pump Serial No. \_\_\_\_\_

Motor Serial No. \_\_\_\_\_

Date Installed \_\_\_\_\_

Pump Intake Depth \_\_\_\_\_

Remarks \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### WELL TEST DATA WITH PERMANENT PUMP

Date Tested \_\_\_\_\_

Static Water Level Prior to Test \_\_\_\_\_

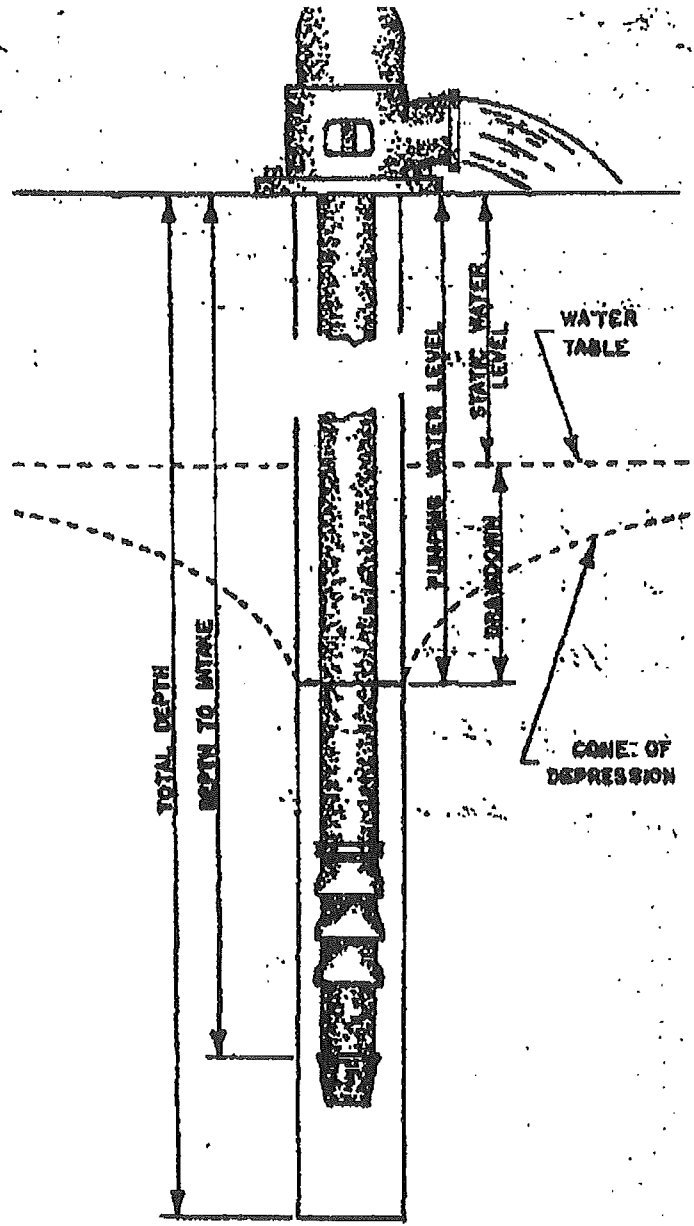
Length of Test \_\_\_\_\_ Hours

Sustained yield (Metered) \_\_\_\_\_ GPM

Pumping Water Level \_\_\_\_\_

Remarks \_\_\_\_\_

\_\_\_\_\_



#### CONTRACTORS STATEMENT

The undersigned, being duly sworn upon oath, deposes and says that he is the contractor of the well or pump installation described hereon; that he has read the statement made hereon; knows the content thereof, and that the same is true of his own knowledge.

Signature: [Signature] License No. 69

State of Colorado, County of El Paso SS

Subscribed and sworn to before me this 7 day of July, 1976

My Commission expires: May 25, 1978 1976

Notary Public: [Signature]

FORM TO BE MADE OUT IN QUADRUPPLICATE: WHITE FORM must be an original copy on both sides and signed. WHITE AND GREEN copies must be filed with the State Engineer. PINK COPY is for the Owner and YELLOW COPY is for the Driller.

**APPENDIX E**

**CHEROKEE-VIEWPOINT CONTRACT**

ASSIGNMENT

This Assignment is made from R.W. Case ("Assigner") to Ellicott Springs Resources, LLC, a Colorado limited liability company ("Assignee"), having an address of 90 S. Cascade Ave., Suite 950, Colorado Springs, CO 80903.

RECITALS

Assignor entered an Agreement entitled "Water Agreement" with Cherokee Water and Sanitation District dated June 9, 1998 (the "Water Agreement"). Assignor desires to assign to Assignee all right, title and interest of Assignor in the Water Agreement.

NOW THEREFORE, in consideration of the sum of Ten Dollars and other good and valuable consideration given by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns and transfers to Assignee, its successors and assigns, all right, title and interest of Assignor in the Water Agreement.

The undersigned has made this Assignment as of the 19<sup>th</sup> day of December, 2003.

By: [Signature]  
R.W. Case

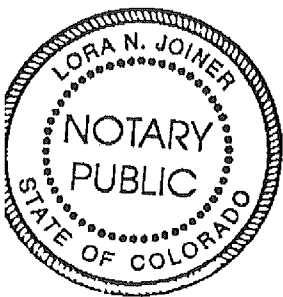
State of Colorado     )  
                                  ) ss  
County of El Paso     )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2003 by R.W. Case.

Witness my hand and official seal.

My commission expires: 06-07-2006

[Signature]  
Notary Public



## WATER AGREEMENT

THIS AGREEMENT is made by and between R. W. CASE and C. H. McALLISTER, hereinafter referred to as "First Party", and CHEROKEE WATER AND SANITATION DISTRICT, hereinafter referred to as "Second Party".

WHEREAS, First Party is the owner of property described as follows:

The Northerly 180.00 feet of the Easterly 290.00 feet of the NW 1/4 of Section 14, T 14 S, Range 63 West, El Paso County, Colorado, except the Northerly 50.00 feet thereof for state highway right-of-way purposes and being more particularly described as follows:


Commencing at the Northeast corner of said NW 1/4; (the basis of bearing for the following described legal description is based upon the consideration that the North line of said Section 14 bears S88°41'59"E) then S0°32'57"W along the East line of said NW 1/4, 50.00 feet to the point of beginning, which point is also on the Southerly right-of-way line of existing State Highway No. 94; thence continue S0°32'57" West along said East line, 130.00 feet; thence N88°41'59" W along a line 180.00 feet South of and parallel to the North line of said NW 1/4, 290.00 feet; thence N00°32'57"E along a line parallel to said East line, 130.00 feet to a point on said Southerly right-of-way line of State Highway No. 94; thence S88°41'59"E along said Southerly right-of-way line, 290.00 feet to the point of beginning and containing 0.865 acres, more or less

hereinafter referred to as the "Property"; and

WHEREAS, Second Party owns and controls certain water rights and delivery systems.

NOW, THEREFORE, in consideration of the mutual covenants herein stated, and other good and valuable consideration, the parties hereto agree as follows:

1. First Party shall convey Property to Second Party by Quit Claim Deed, in fee simple, free of all encumbrances.
2. Second Party shall construct and make operational a 500,000 gallon water storage tank on the Property which shall be completed not later than 2 months from the date of conveyance of the Property.
3. Upon completion of the storage tank and making it

# 41,713 <sup>62</sup>  *am*

operational, First Party shall pay \$40,000 to Second Party in exchange for the right to store a minimum of 200,000 gallons of water in the tank. This storage right shall exist in perpetuity. This water shall be available to First Party and shall be applied and used as exclusively determined by First Party. Second Party will provide a 12-inch tap from the store tank for the use of First Party. First and Second Party agree to enter into such additional agreements concerning storage and use of the stored water as shall be necessary to carry out the full intent of this Agreement.

4. Second Party shall provide and First Party shall have the right to 50 acre feet per year of potable transdiversion water from the pipeline owned and maintained by Second Party and located on State Highway 94 which right shall exist in perpetuity. The water may be taken directly from the pipeline, or it may be stored in the water storage tank for later use. First Party shall have no obligation or duty to take, divert, or use the 50 acre feet per year of potable transdiversion water or the water stored in the tank until needed. First Party shall not loose, waive, forfeit or in any other way suffer the loss of any rights under this Agreement by not applying or using the said water or storage rights. First Party shall have no obligation to show due diligence in the use of said water or storage rights, and such rights shall be construed under contract law. The water may be used as and where determined exclusively by First Party.

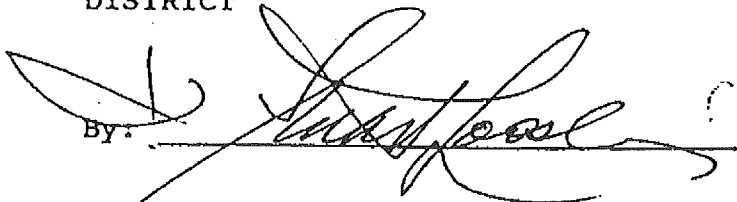
THIS AGREEMENT shall be binding upon the heirs, successors and assigns of all parties, construed under Colorado law, and enforceable in the District Court of El Paso County, Colorado. All parties shall have the right to specific performance, damages, or both, and the prevailing party shall have the right to recover reasonable attorney's fees and costs.

DATED: June 9, 1988.

  
R. W. Case, First Party

  
C. H. McAllister, First Party

CHEROKEE WATER AND SANITATION DISTRICT

BY: 

casemcal.agt

# 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>

February 8, 1999

RECEIVED

FEB 09 1999

Planning Dept.



Bill Owens  
Governor

Greg E. Walcher  
Executive Director

Hal D. Simpson, P.E.  
State Engineer

Mr. Mark Gebhart  
El Paso County Planning Department  
27 East Vermijo Avenue  
Colorado Springs, CO 80903

Subject: Viewpoint Estates, SP-98-006  
Sec. 10, T14S, R63W, 6<sup>th</sup> PM  
Upper Black Squirrel Creek Designated Ground Water Basin  
Division 2, District 10

Dear Mr. Gebhart:

We have reviewed the additional information submitted by Pacific Summits Engineering concerning the above referenced subdivision since our last letter of December 15, 1998. Although we have not received a written request from your office to review and respond to this new information, the information submitted by Pacific Summits Engineering on January 6, 1999 appears to be clarifications to the previous filing. As a result, this office felt that it could provide comments to this additional information.

Based upon the new information provided by the applicant, 233 acres would be subdivided into 72 single family residences with the water for this subdivision to be supplied by Cherokee Metropolitan District (Cherokee), through a contract with C.H. McAllister. However, on November 5, 1998, C. H. McAllister transferred this contract to Viewpoint Estates, LLC. As a result, Cherokee is providing 50 acre-feet of water annually to Viewpoint Estates, LLC who will in turn provide water to the Viewpoint Estate subdivision. The estimated consumptive water usage per lot is proposed as 0.381 acre-feet per year, which will provide water for household use (0.3 acre-feet per year) and the irrigation of approximately 2,000 square feet of lawn or garden (0.081 acre-feet per year). The total annual amount of water required for the Viewpoint Estates subdivision is estimated at 27.43 acre-feet.

According to Pacific Summits Engineering, Viewpoint Estates, LLC is also committed to provide water for Antelope Park Ranchettes subdivision. This subdivision totals 46 lots and has the same proposed water usage per lot of 0.381 acre-feet per year, 17.52 acre-feet per year for the entire subdivision. As a result, the total commitment for Viewpoint Estates, LLC totals 44.96 acre-feet per year. Finally, Pacific Summits Engineering clarified the role of Global Water Systems, LLC. as the entity employed by Viewpoint Estates, LLC to manage and operate the water distribution system.

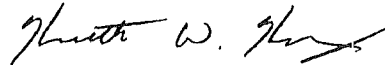
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2/9

El Paso County Planning Department  
View Point Estates  
Page 2

Pursuant to Section 30-28-136(1)(h)(I), C.R.S., the State Engineer's office offers the opinion that the proposed water supply will not cause material injury to existing water rights, and the supply is adequate, provided that Cherokee Metropolitan District is the water supplier.

If you have any questions, please contact William H. Fronczak of this office.

Sincerely,



Kenneth W. Knox  
Assistant State Engineer

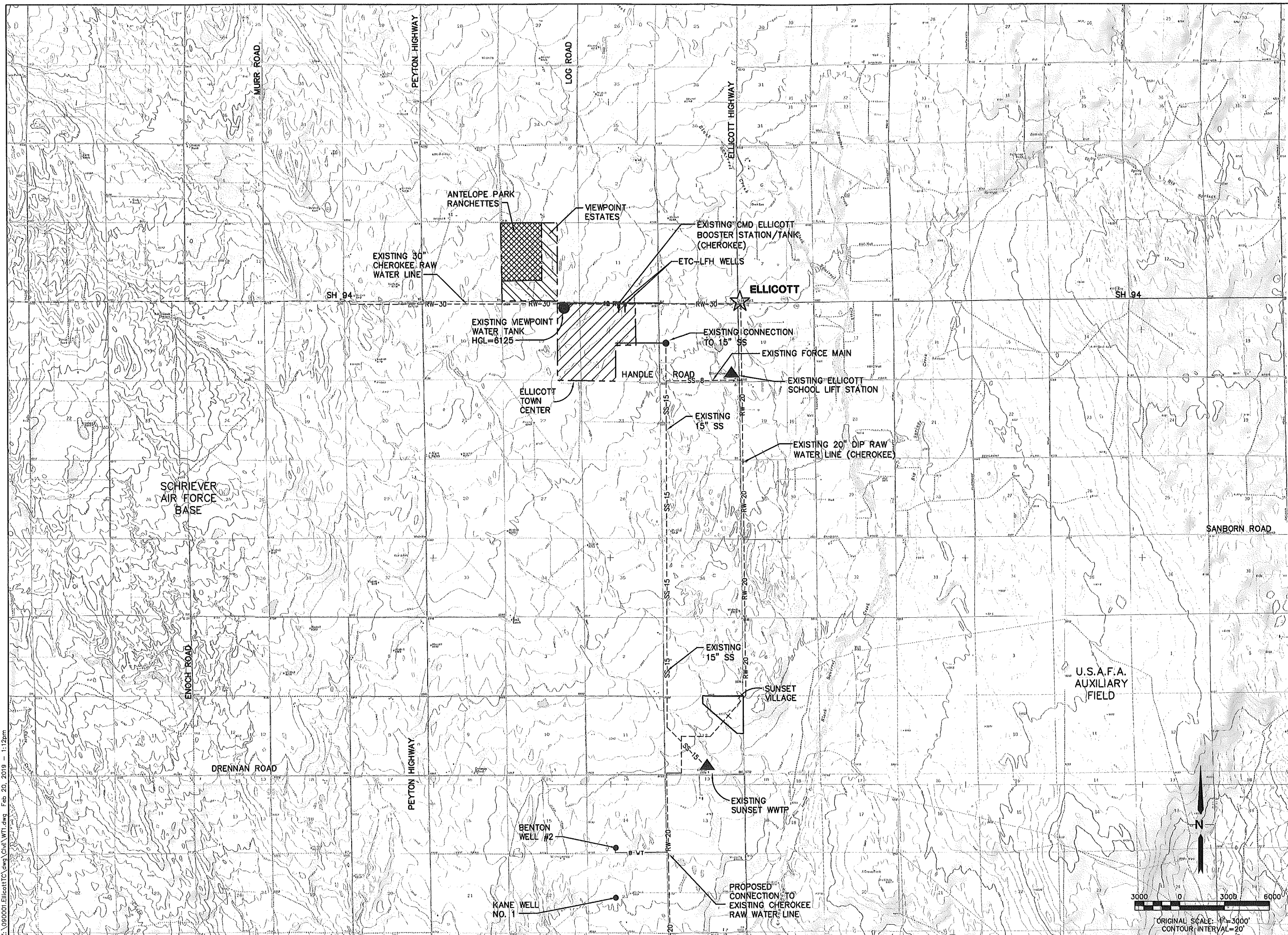
KK/WHF/Globalwater3.doc

cc: Steve Witte, Division Engineer  
Linda McCalib, Upper Black Squirrel Creek GWMD  
Designated Basins Branch

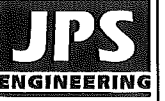
**APPENDIX F**

**DRAWINGS**





Z:\090001\Ellicott\TC\dwg\Chal\WT1.dwg Feb 20, 2019 - 1:12pm



19 E. Willamette Ave.  
 Colorado Springs, CO  
 80903  
 PH: 719-477-9429  
 FAX: 719-471-0766

# ELLICOTT UTILITIES COMPANY

No.	REVISION	BY	DATE

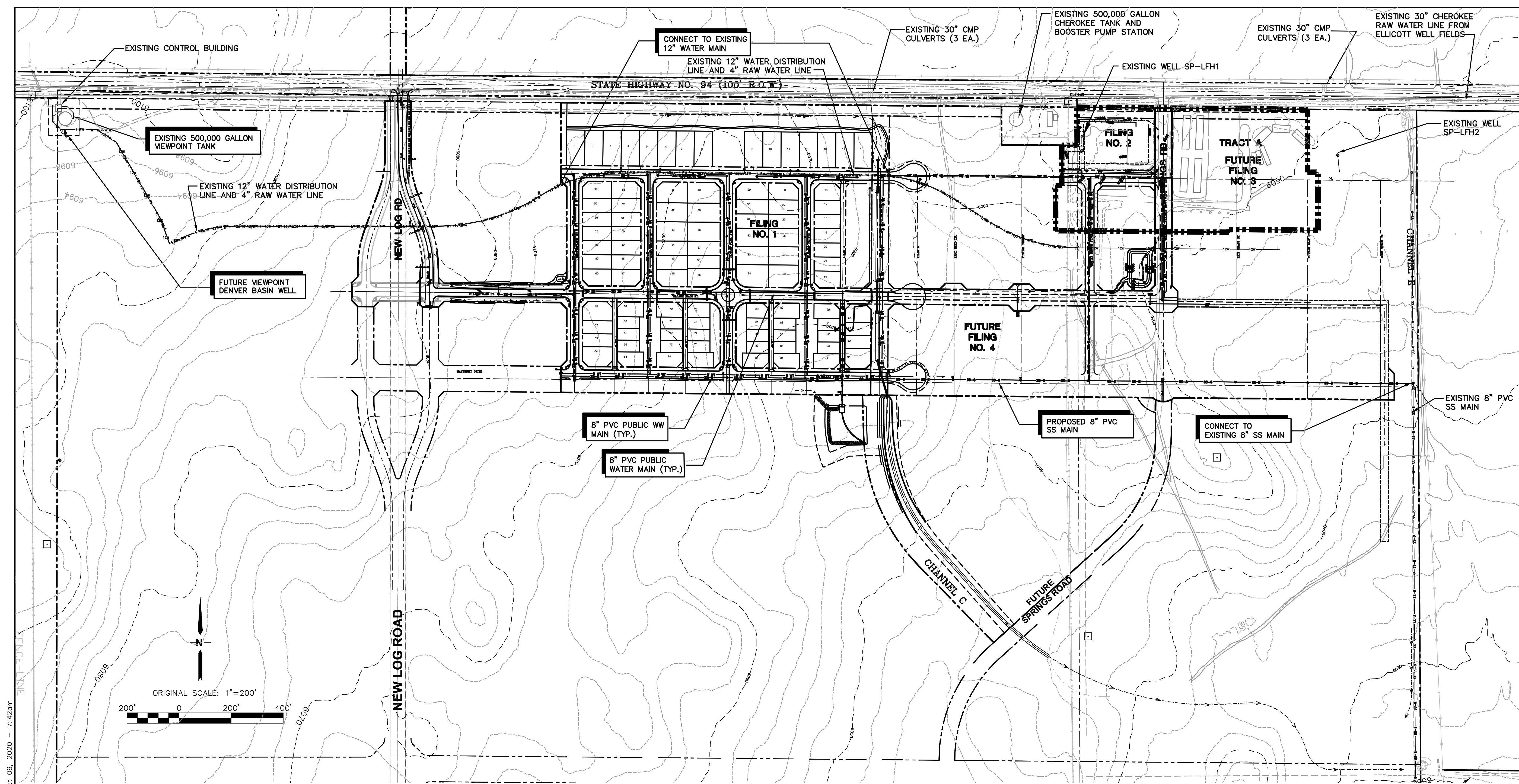
## WATER SYSTEM PLAN

HORIZ. SCALE: 1"=3000'	DRAWN: MJP
VERT. SCALE: N/A	DESIGNED: JPS
SURVEYED: N/A	CHECKED: JPS
CREATED: 2/20/19	LAST MODIFIED: 2/20/19
PROJECT NO: 090001	MODIFIED BY: BJJ
SHEET:	



ORIGINAL SCALE: 1"=3000'  
 CONTOUR INTERVAL=20'

WT1



**GENERAL UTILITY NOTES:**

1. ALL WATER AND SEWER INSTALLATIONS SHALL CONFORM TO ELLICOTT UTILITIES COMPANY STANDARD SPECIFICATIONS, WHICH FOLLOW CSU STANDARD SPECIFICATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE NOTIFICATION AND FIELD LOCATION OF ALL EXISTING UTILITIES, WHETHER SHOWN ON THE PLANS OR NOT, BEFORE BEGINNING CONSTRUCTION. LOCATION OF EXISTING UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO ACTUAL CONSTRUCTION.
3. STORM DRAIN PIPE SHALL BE RCP (CLASS III) UNLESS OTHERWISE NOTED.
4. STORM DRAIN PIPE BEDDING SHALL BE CLASS C.
5. SANITARY SEWER PIPE SHALL BE PVC ASTM D3034-SDR 35 OR ASTM F679 UNLESS OTHERWISE NOTED.
6. STATIONING IS AT CENTERLINE UNLESS OTHERWISE NOTED.
7. ALL ELEVATIONS ARE AT FLOWLINE UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE FROM FACE OF CURB UNLESS OTHERWISE NOTED.
8. WATER PIPES AND FITTINGS SHALL BE INSTALLED PER SMD SPECIFICATIONS. ALL TRENCH BEDDING, THRUST BLOCKS AND REVERSE ANCHORS SHALL BE INSTALLED PER CSU STANDARDS. ALL WATER PIPE SHALL BE PVC AWWA C900 (DR14). DISINFECTION AND TESTING SHALL BE COMPLETED PER CSU SPECIFICATIONS.
9. LENGTHS SHOWN FOR STORM SEWER PIPES ARE TO CENTER OF MANHOLE.
10. CONTRACTOR SHALL MAKE WATER CONNECTIONS WITHOUT SHUTDOWN OR NOTIFY OWNER AND AFFECTED RESIDENTS OF ANY SERVICE SHUTDOWNS NECESSARY TO CONNECT TO EXISTING LINES.

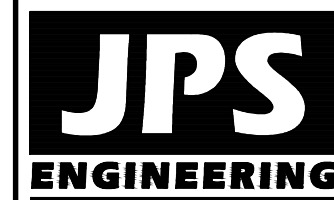
11. BENDS, DEFLECTION & CUT PIPE LENGTHS SHALL BE USED TO HOLD HORIZONTAL ALIGNMENT OF SEWER AND WATER LINES TO 10 FEET SEPARATION AT ALL POINTS REQUIRED. ALIGNMENT CONSTRUCTION STAKES SHALL BE PLACED AT 25' INTERVALS ALONG CURVES FOR PLACEMENT OF SEWER AND WATER LINES.
12. FIRE HYDRANT ASSEMBLIES SHALL BE INSTALLED PER CITY OF FOUNTAIN STANDARDS AND SHALL INCLUDE LATERAL, VALVE, ELBOW, HYDRANT, AND THRUST BLOCKS. FIRE HYDRANT MATERIALS SHALL CONSIST OF STANDARD 5-SIDED (HEX) NUT WITH NST THREAD & HYDRANT SHALL OPEN COUNTER-CLOCKWISE.
13. WHEREVER DUCTILE IRON PIPE IS USED, THE PIPE, FITTINGS AND HYDRANTS SHALL BE WRAPPED IN POLYETHYLENE.
14. SERVICE LINES SHALL BE INSTALLED PER CSU STANDARDS.
15. CONTRACTOR SHALL COORDINATE WITH GAS, ELECTRIC, TELEPHONE AND CABLE T.V. UTILITY SUPPLIERS FOR INSTALLATION OF ALL UTILITIES. MINIMUM COVER FOR ALL UTILITIES SHALL BE 36".
16. UTILITY BEDDING SHALL BE PLACED PER CSU REQUIREMENTS.
17. CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL EXISTING STRUCTURES, DEBRIS, WASTE AND OTHER UNSUITABLE FILL MATERIAL FOUND WITHIN THE LIMITS OF EXCAVATION.
18. REFER TO CSU SPECIFICATIONS FOR BACKFILL AND COMPACTION SPECIFICATIONS, ALSO MEET ALL EL PASO COUNTY BACKFILL SPECIFICATIONS IN THE ROADWAY R.O.W.'S.
19. CONTRACTOR SHALL OBTAIN ALL REQUIRED PERMITS.
20. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS FOR ALL MATERIALS TO OWNER FOR APPROVAL PRIOR TO BEGINNING WORK.
21. WATER MAIN FITTINGS 5' OR LESS APART REQUIRE ALL-THREAD (2 EA. 3/4").

22. INSTALLATION OF CURVILINEAR WATER & SANITARY SEWER MAINS SHALL FOLLOW MANUFACTURER'S RECOMMENDATIONS.
23. INSTALL POLY-WRAP AS BOND BREAKER AT ALL THRUST BLOCKS.
24. ALL WATER LINE LOWERINGS UNDER STORM DRAIN SHALL MEET CSU SPECIFICATIONS. ANY STEEL SLEEVES IN ROADWAY R.O.W. NEED TO MEET 50-YEAR DESIGN LIFE MINIMUM.
25. SEWER MAINS SHALL BE TV INSPECTED AFTER INSTALLATION FOR APPROVAL BY OWNER.
26. THE WATER MAIN HAS BEEN DESIGNED TO PROVIDE FOR A MINIMUM OF 4-FEET OF CLEARANCE BETWEEN THE GUTTER LIP AND THE CENTER LINE OF THE WATER MAIN. THE CONTRACTOR SHALL INSTALL THE WATER MAIN IN ACCORDANCE WITH THE CONSTRUCTION DRAWINGS, PROVIDING FOR A MINIMUM OF 4-FEET OF CLEARANCE AS DESIGNED.
27. CURBS TO BE MARKED WITH "W" AND "S" FOR RESPECTIVE LOCATIONS OF SERVICE LINES TO LOTS FOR WATER AND SEWER.
28. GATE VALVES ARE REQUIRED ON EACH SIDE OF ALL TEES AND CROSSES WITHIN THE PROJECT.

**STANDARD UTILITY DETAILS:**

1. REFER TO COLORADO SPRINGS UTILITIES FOR WATER & WASTEWATER STANDARD SPECIFICATIONS & DETAILS, UNLESS NOTED OTHERWISE.

**MAYBERRY, COLORADO SPRINGS - FILING NO. 1**



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CALL UTILITY NOTIFICATION  
CENTER OF COLORADO  
1-800-922-1987  
CALL 800-922-1987 IN ADVANCE  
BEFORE YOU DIG, GRADE, OR EXCAVATE  
FOR THE MARKING OF UNDERGROUND  
MEMBER UTILITIES.

NO.	REVISION	DATE	BY
1	2018 SUBMITTAL	8/22/18	JPS
2	EPC COMMENTS	1/15/19	JPS
3	EPC COMMENTS	9/12/19	JPS
4	EPC COMMENTS	1/31/20	JPS
5	EPC COMMENTS	10/09/20	JPS

**PHASE 1  
MASTER UTILITY PLAN**

HORZ. SCALE: 1"=200'	DRAWN: BJJ
VERT. SCALE: N/A	DESIGNED: JPS
SURVEYED: RAMPART	CHECKED: JPS
CREATED: 3/8/06	LAST MODIFIED: 10/09/20
PROJECT NO: 090001	MODIFIED BY: BJJ

SHEET: **U1.01**

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