

**DECLARATION OF PROTECTIVE AND RESTRICTIVE COVENANTS**  
**(Pine View Estates Subdivision)**

Alice J. Owens ("Declarant") is the sole owner of real property which is more particularly described as the SW ¼ of the NW ¼ of Section 13, Township 11 South, Range 64 West of the 6<sup>th</sup> P.M., and depicted on the **Exhibit A** map (the "Property").

The Declarant intends to subdivide the Property into seven (7) lots (each, a "Lot" and collectively, the "Lots") and such subdivision will be known and referred to herein as the "Pine View Estates Subdivision."

This Declaration is executed and recorded (a) in furtherance of a common and general plan for the Pine View Estates Subdivision, to include all Lot owners' compliance with the Replacement Plan (defined below) to insure legal water usage; (b) to protect and enhance the quality, value, desirability and attractiveness of the Property; (c) to provide for covenant enforcement within the Property; and (d) to define duties, powers and rights of Declarant and the owners of Lots within the Property.

The Declarant hereby declares that all of the Property shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the covenants set forth herein. The covenants set forth herein shall run with the Property and be binding on and inure to benefit of all parties having any right, title or interest in the Property, and said persons or entities shall hereby also be bound by the dedications, restrictions, easements and notes on the Pine View Estates Subdivision Final Plat, to be recorded in the records of the Clerk and Recorder of El Paso County, Colorado, as well as the regulations and ordinances of the County of El Paso, Colorado..

Certain documents are recorded in the real estate records of the Clerk and Recorder of El Paso County, Colorado at the reception numbers noted below, and referred to in this Declaration of Covenants as pertaining to the Pine View Estates Subdivision. These documents are the Colorado Ground Water Commission Determination of Water Right No. 1588-BD for the Dawson aquifer recorded at Reception No. 208078396 ("Dawson Determination") and associated Replacement Plan for the Dawson aquifer recorded at Reception No. 220016204 ("Replacement Plan"), all attached hereto as **Exhibit B**.

**NOW, THEREFORE**, the following Declarations of Protective and Restrictive Covenants are made:

**A. WATER COVENANTS**

1. Declarant sought the determination for Dawson aquifer water as set forth in the Dawson Determination. Additionally, the Declarant sought the approval of the Replacement Plan in order to use water from the Dawson aquifer to provide water to the Pine View Estates Subdivision. Pursuant to the Replacement Plan, a total supply of 1,008 acre-feet of not-nontributary Dawson aquifer water is available for use in the Pine

View Estates Subdivision to satisfy El Paso County's 300 year water supply requirement for the seven (7) Lots. Pursuant to the Replacement Plan, each Lot will be served by an individual well and a non-evaporative septic system. Each individual well will be entitled to 0.48 annual acre-feet of withdrawal for use in one single-family dwelling, irrigation, stock watering, commercial use, and replacement purposes. All wells will be permitted pursuant to the Replacement Plan.

2. Each Lot owner will be conveyed 0.48 acre-feet per year of Dawson aquifer groundwater (the "Water Rights") to be withdrawn over a period of 300 years, and to be permitted pursuant to the Replacement Plan. All Lot owners shall be subject to the obligations and requirements of the Replacement Plan and Dawson Determination, as applicable. The Water Rights shall run with all seven (7) Lots of the Pine View Estates Subdivision and must be transferred to all successors and assigns of each grantee, may not be separated from transfer of title of each Lot on the Property, and may not be separately sold, traded, bartered, assigned, liened, or encumbered in whole or in part for any other purpose. The Water Rights shall be considered an appurtenance to said Lots and shall be conveyed as such with all future deeds to said Lots. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quality or quantity of water conveyed, only as to the title. No separate deed is required to effect a conveyance of the water rights.

3. Because the amount of water available from the Dawson aquifer will diminish over time, Declarant is not required to warrant the amount of water in the Dawson aquifer, but shall warrant title against all persons or entities claiming title under them.

4. Declarant and all subsequent owners of the Lots within the Pine View Estates Subdivision shall be subject to and shall carry out all provisions of the Replacement Plan and Dawson Determination, as applicable, including without limitation the following:

a. Pumping from each Dawson aquifer well may occur only if there is an occupied single-family dwelling that is generating return flows via a non-evaporative septic system on the Lot upon which the well is located. This will provide for in-house use return flows necessary to replace depletions during the pumping period through an individual, on-lot, non-evaporative septic system. The septic system shall be constructed in compliance with all applicable regulations. Each Lot owner shall ensure that return flows from such septic system are made to the stream system to replace depletions during pumping, and shall reserve said return flows to replace depletions during pumping.

b. Each lot may use a maximum of 0.48 acre-foot per year of Dawson aquifer groundwater pursuant to the Replacement Plan. Said groundwater is the water supply for the Lot and sale or use off the Lot is prohibited.

c. The return flows from the non-evaporative septic system on each Lot shall comply with the amounts, if any, set forth in the Replacement Plan. Such return flows shall only be used to replace groundwater depletions and shall not be sold, traded, or assigned in whole or in part for any other purpose.

d. At least one Dawson aquifer well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any irrigation, stock watering, or commercial use is allowed to be served by any of the wells.

e. A totalizing flow meter must be installed on each well, and the Lot owner will maintain the meter in good working order. Annual withdrawal records shall be maintained for each well on a form acceptable to the Division Engineer, Water Division 2, Colorado Division of Water Resources.

5. Each Lot owner or its successors in interest are fully responsible for the operation, monitoring, and accounting required by the Replacement Plan for the well on their Lot. In the event the Lot is sold, evidence of the sale and notification to the new owner of their responsibility under the Replacement Plan shall accompany that year's accounting.

6. Each Lot owner shall be responsible for obtaining a well permit for the construction of an individual well to the Dawson aquifer for provision of water supply to their respective Lot. After issuance of a permit, each new Lot owner shall be responsible for updating the ownership information of the well permit with the Colorado Division of Water Resources.

7. The Water Rights herein shall be explicitly conveyed; however, if a successor Lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said Lot, whether or not the Replacement Plan or Dawson Determination are specifically referenced in such deed.

8. Failure to comply with all terms of the Replacement Plan and applicable terms of the Dawson Determination may result in an order of the Division Engineer to curtail or eliminate pumping of the Dawson aquifer well of any non-complying Lot owner.

9. All the foregoing terms and conditions constitute covenants running with the Lots and shall be binding upon the owners of the Lots, their heirs and successors, and all subsequent owners of the Lots.

10. These Water Covenants shall not terminate unless the requirements of the Replacement Plan are also terminated by order of the Colorado Ground Water Commission or by an order of the Water Court, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County. No changes, amendments, alterations or deletions to these Water Covenants

may be made which would alter, impair or in any manner compromise the water supply for the Pine View Estates Subdivision pursuant to the Replacement Plan. Further, written approval of the proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to a Determination by the Colorado Ground Water Commission approving such amendment or by Water Court approval, with prior notice to El Paso County Planning and Community Development for an opportunity for the County to participate in any such adjudication.

## **B. GENERAL COVENANTS**

1. Animals. Except for horses and large livestock, which restrictions are set forth in Section B.2 below, a reasonable number of small livestock and poultry may be raised, bred or kept upon a Lot, provided that the livestock is adequately fenced and does not materially damage the existing vegetation on a Lot. However, pigs shall not be raised, bred, or kept upon a Lot. An aggregate number of not more than four cats or dogs may be kept on a Lot. No animal of any kind shall be permitted which makes an unreasonable amount of noise or odor or is otherwise a nuisance. No animals may be kept, bred or maintained on a Lot for any commercial purpose. All animals must be kept on a Lot in compliance with all El Paso County regulations and ordinances. The owner of a Lot upon which an animal is kept is responsible for payment of any and all damage caused to the property of others. Owners are responsible for cleaning up after their animals on any portion of the Property. All animals kept or present on a Lot may not be allowed to run loose off the Lot. No dangerous dogs or other animals are allowed to be kept or be present on any Lot.

2. Horses and Large Livestock. No more than an aggregate of four (4) horses, cattle, llamas, alpacas, sheep, goats or similar livestock may be kept on a Lot. Horses and other livestock must be kept within an enclosure (corral, stable or barn) at all times when not being used and shall be supplementally fed. Grazing of horses or other livestock outside a corral, stable or barn must be limited to ensure that the natural vegetation on a Lot is not overgrazed. Corrals must have three (3) or more rails or be constructed of sturdy fencing to ensure retention of livestock. All stables and corrals shall be maintained in a sanitary condition.

3. Use of Off Road Motorized Vehicles. Off road motorized vehicles, including but not limited to, dirt bikes, off-road motorcycles, quads and ATVs, may not be operated on any shared driveway for recreational purposes. An owner may use such motorized vehicles on the owner's Lot, provided the use occurs only during daylight hours and does not create a nuisance such as excessive noise or dust.

4. Construction Type. All construction shall be new. No mobile home, pre-cut, manufactured or modular home may be placed on a Lot. No building previously used at another location, nor any building or Improvement originally constructed as a

mobile dwelling may be moved onto a Lot, except for temporary construction storage purposes (and not for a temporary residence) for a period not to exceed 12 months.

5. Diseased Trees. Each Lot owner is responsible for immediately removing any diseased trees which might contaminate or spread to adjacent trees and lots, and to meet any other Colorado State Forest Service recommendations or requirements pertaining to thinning of trees, or removal or treatment of pine beetle infested trees.

6. Weeds and Insects. All Lots must be kept free of noxious weeds, diseased vegetation and harmful insects.

7. Abandoned/Project Vehicles. No stripped down, abandoned, unlicensed, partially wrecked or junk motor vehicle or part thereof shall be permitted to be parked on any street or in any Lot within the Subdivision in such a manner as to be visible at ground level from any neighboring Lot within the Subdivision, or street.

8. Nuisance. No noxious or offensive activity shall be permitted upon any Lot, nor shall actions intended to or tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood be permitted on any Lot. No hazardous activities may be permitted upon any Lot. No annoying lights, sounds or odors shall be permitted to emanate from any Lot. Outdoor lighting will be permitted to the extent it does not create a visual nuisance to neighboring or nearby Lot owners. Any exterior lighting on any Lot shall either be indirect or of such controlled focus and intensity or in such a location as not to disturb residents of adjacent or nearby Lots within the Subdivision. Lighting designs consistent with the design provisions of the "International Dark-Sky Association" are encouraged, minimizing local and regional light pollution. No activities which pollute or have the potential to pollute any well, surface water right, groundwater aquifer, or other water resource shall be permitted within the Subdivision. No activity shall be permitted which will generate a noise level sufficient to interfere with the peaceful and reasonable quiet enjoyment of the persons on any adjoining or nearby Lots within the Subdivision.

9. Marijuana Cultivation and Use. No owner or occupant of a Lot may utilize any portion of a Lot, including the home or any other building or structure on the Lot, for the purpose of cultivation or production of marijuana, including medical marijuana, for other than their own personal use as allowed by applicable laws and ordinances. If an owner or occupant grows or produces marijuana for personal use only, the noise and odor arising from such operation must not emanate from the Lot and must be in full compliance with state and local laws and ordinances. No owner or occupant may use any portion of a Lot for the distribution or sale of marijuana.

10. Persons Entitled to Enforce Declaration; Attorney Fees. Declarant or any owner (acting on such owner's own behalf), shall have the right but not the obligation to enforce any or all of the provisions, covenants, conditions and restrictions contained in this Declaration. The right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation of any provision of this

Declaration, and all other rights and remedies provided in this Declaration or available at law or in equity. In any action or proceeding to enforce any provision of this Declaration, the party who prevails shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney fees, costs and expert witness fees.

11. Violations of Law. Any violation of any federal, state or county law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

12. Governing Law. This Declaration shall be interpreted and governed in accordance with the laws of the State of Colorado. Exclusive venue for any legal proceeding shall be in El Paso County, Colorado.

13. Severability. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision.

14. Notices. Except as may be otherwise provided in this Declaration, any notice must be in writing and may be served either personally, or by nationally recognized overnight delivery service or by U.S. certified mail. If served by mail or overnight delivery upon an Owner, notice shall be sent postage prepaid, addressed to the Owner's address shown in the El Paso County Assessor records.

15. Amendment of Declaration by Owners or Declarant. Except for any portion of the Water Covenants set forth above, any other covenant, condition or restriction contained in this Declaration may be amended, added, modified or repealed upon the unanimous approval of all owners, with each Lot having one vote. No amendment may be made to a provision that will eliminate any easement or government-required obligation, to include the Replacement Plan and the Water Covenants, or that will diminish the quality, value, desirability, and attractiveness of the Property. An approved amendment shall be evidenced in a written instrument acknowledged by all Owners and recorded in the records of El Paso County, Colorado.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Alice J. Owens





**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 KIOWA BIJOU DESIGNATED  
GROUND WATER BASIN

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APPLICANT: ALICE JOLENE OWENS

AQUIFER: DAWSON

DETERMINATION NO.: 1588-BD

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

**FINDINGS**

1. The application was received complete by the Colorado Ground Water Commission on March 11, 2008.
2. The applicant requests a determination of rights to designated ground water in the Dawson Aquifer (hereinafter "aquifer") underlying 74.5 acres, generally described as part of the W1/2 of the NW1/4 of Section 13, Township 11 South, Range 64 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated March 12, 2008, the applicant owns the 74.5 acres of land, as further described in said affidavit which is attached hereto as Exhibit A, and claims control of the ground water in the aquifer underlying this land area.
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 Kiowa Bijou Designated Ground Water Basin. 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, stock watering, irrigation, commercial and replacement. The applicant's proposed place of use of the allocated ground water is the above described 74.5 acre land area.
6. The quantity of water in the aquifer underlying the 74.5 acres of land claimed by the applicant is 2235 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 20 percent.

Applicant: Owens, Alice Jolene  
Aquifer: Dawson  
Determination No.: 1588-BD

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- 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 150 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 allowed 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 74.5 acres of overlying land claimed by the applicant is 22.4 acre-feet.
  9. 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 74.5 acres of land claimed by the applicant is reduced to 19.4 acre-feet to allow for the annual withdrawal of a small capacity well which is completed in the aquifer, permit number 260301. 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.
  10. 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.
  11. 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.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the land claimed by the applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Withdrawal of water from the aquifer underlying the claimed land area would impact the alluvial aquifer of Bijou 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.
  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.

Applicant: Owens, Alice Jolene  
Aquifer: Dawson  
Determination No.: 1588-BD

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14. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
15. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on April 3 and April 10, 2008.
16. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
17. In order to prevent unreasonable impairment to the existing water rights of others within the Kiowa Bijou 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 Dawson Aquifer underlying 74.5 acres of land, generally described as part of the W1/2 of the NW1/4 of Section 13, Township 11 South, Range 64 West of the 6th Principal Meridian, is approved subject to the following conditions:

18. The allowed average annual amount of withdrawal of ground water from the aquifer shall not exceed 19.4 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.
19. To conform to actual aquifer characteristics, the Commission may adjust the allowed 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.
20. The applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
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.

Applicant: Owens, Alice Jolene  
Aquifer: Dawson  
Determination No.: 1588-BD

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22. The use of ground water from this allocation shall be limited to the following beneficial uses: domestic, stock watering, irrigation, commercial and replacement. The place of use shall be limited to the above described 74.5 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 74.5 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 allocated 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 74.5 acre overlying land area.
  - b. The wells must be constructed to withdraw water from only the Dawson 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. 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 upon their request.
  - f. 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 74.5 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Applicant: Owens, Alice Jolene  
Aquifer: Dawson  
Determination No.: 1588-BD

Dated this 20th day of May, 2008.



\_\_\_\_\_  
Dick Wolfe, P.E.  
Executive Director  
Colorado Ground Water Commission

By: Keith Vander Horst

\_\_\_\_\_  
Keith Vander Horst, P.E.  
Water Resource Engineer

Prepared by: MAP

F&O1588-BD

GWS 1  
03/2005

EXHIBIT A

1588-BD

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STATE OF COLORADO  
OFFICE OF THE STATE ENGINEER  
DIVISION OF WATER RESOURCES  
1313 Sherman St. Room 821  
Denver, CO 80203  
(303) 866-3581 Fax (303) 866-3589

RECEIVED

MAR 11 2008

WATER RESOURCES  
STATE ENGINEER  
COLORADO

NONTRIBUTARY GROUND WATER LANDOWNERSHIP STATEMENT

I (We) Alice Solene Owens  
(Name(s))

claim and say that I (we) am (are) the owner(s) of the following described property consisting of  
74.50 acres in the County of El Paso  
State of Colorado:

(Insert the property legal description)

TR IN W2NW4 SEC 13-11-64

(Refer to attachment)

and, that the ground water sought to be withdrawn from the Dawson  
aquifer underlying the above-described land has not been conveyed or reserved to another, nor has  
consent been given to its withdrawal by another.

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) knowledge.

Alice Solene Owens 3/12/08  
Signature Date

\_\_\_\_\_  
Signature Date

INSTRUCTIONS:

Please type or print neatly in black or blue ink. This form may be reproduced by photocopy or word  
processing means. See additional information on the reverse side.

**ASSESSOR PROPERTY APPRAISAL INFORMATION**  
**EL PASO COUNTY**

RECEIVED

APR 09 2008

**Parcel No:** 41000-00-306

**Master Parcel No:** 41000-00-106  
 STATE ENGINEER  
 COLO

**Owner:** OWENS ALICE J  
 PO BOX 322  
 PEYTON, CO

80831-0322

EXHIBIT A

1588-BD

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**Location:** RED BARN RD

**Legal Description:** TR IN W2NW4 SEC 13-11-64 DESC AS FOLS; COM AT NW COR OF SD SEC 13; TH S 89<02'04'' E 300.00 FT TO POB; TH S 00<39'33'' W 435.60 FT, N 89<02'04'' W 300.00 FT, S 00<39'33'' W 2202.71 FT TO W4 COR OF SD SEC 13, ELY ALG E/W C/L 1286.16 FT M/L TO SE COR OF SD W2NW4, NLY 2631.43 FT M/L ALG ELY LN OF SD W2NW4 TO NE COR THEREOF, TH WLY 977.34 FT M/L ALG N SEC LN TO POB

<u>Txd</u>	<u>Levy</u>	<u>Neighborhood</u>	<u>Plat</u>	<u>Create Date</u>
MBM	51.976	95	0	05/02/1996

	<u>Use Code</u>	<u>Area</u>	<u>Assessed Value</u>	<u>Market Value</u>	<u>Appraisal Date</u>
Land:	85	74.50AC	790	2741	3/07
<b>Totals:</b>			790	2741	

<u>Sales:</u>	<u>Date</u>	<u>Sale Price</u>	<u>Doc Fee</u>	<u>Reception #</u>	<u>Sale Code</u>	<u># Parcels</u>
	08/15/1996		0.00	96103570		0

<u>Taxing Entities</u>	<u>Mill Rate</u>
EL PASO COUNTY	7.514
PEYTON SCHOOL NO. 23	35.000
PIKES PEAK LIBRARY	3.325
PEYTON FIRE DISTRICT	6.137
KIOWA CONSERVATION DISTRICT	
<b>2007 Tax Rate:</b>	51.976 mills

Mark Lowderman  
 Assessor, El Paso County



Please note that appraisal records are subject to change without notification.

Printed: 04/01/2008 By: AMIDEI

*This is a 5 acre parcel with no existing well.  
This 5 acres is included in the 74.50 acreage amount.*

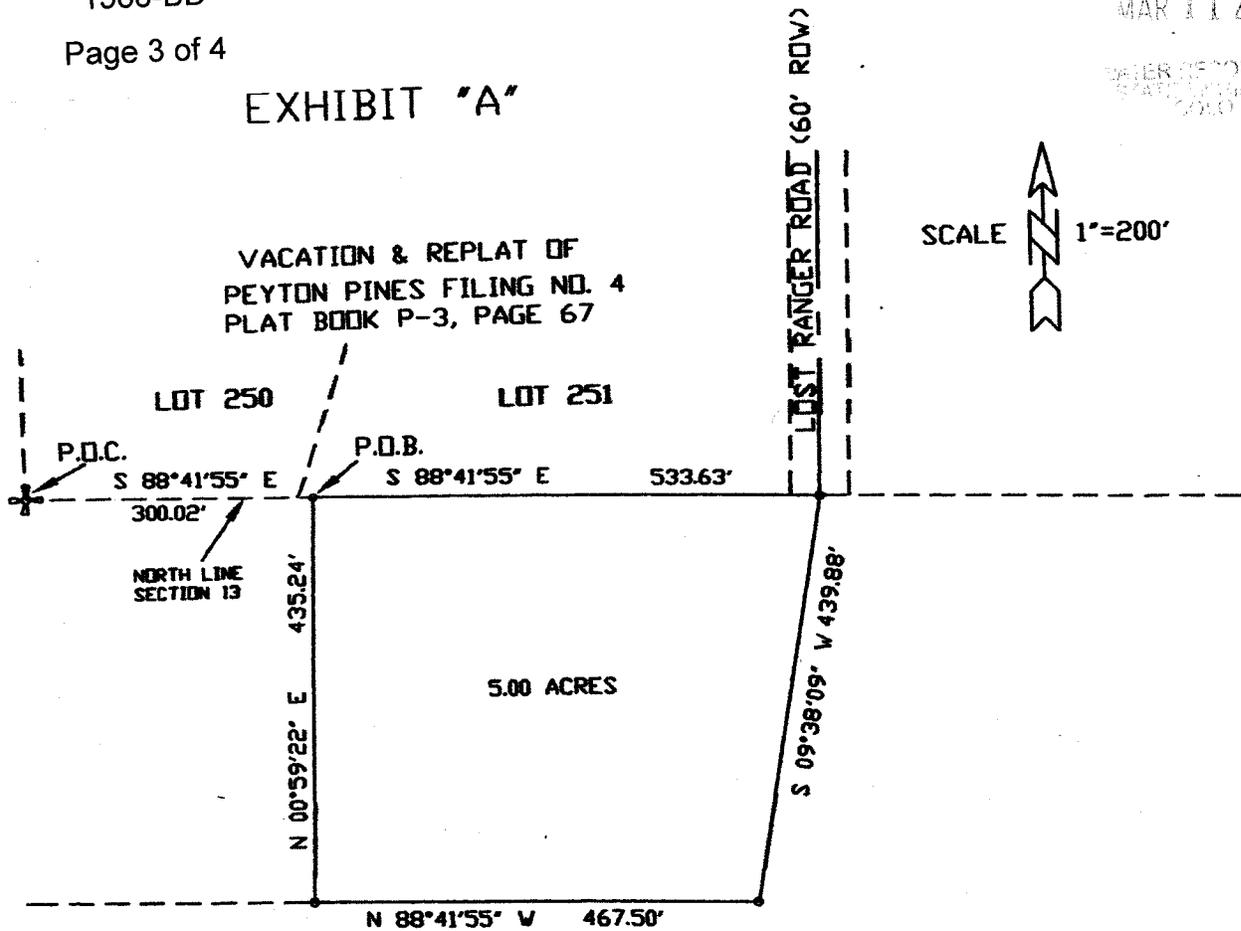
EXHIBIT A

1588-BD

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EXHIBIT "A"

VACATION & REPLAT OF  
PEYTON PINES FILING NO. 4  
PLAT BOOK P-3, PAGE 67



RECEIVED

MAR 11 2008

WATER RESOURCES  
STATE ENGINEER  
2010



4575 GALLEY ROAD SUITE 200  
COLORADO SPRINGS COLORADO  
(719) 597-9900 80915

PROJECT	DATE	DRAWN
05-0102	1-26-05	J.L.K.

**UNITED**

**PLANNING &  
ENGINEERING**

planners • consultants • engineers • landscape architects • surveyors

**(719) 597-9900 FAX (719) 597-9905**

RECEIVED

MAR 11 2008

WATER RESOURCES  
STATE ENGINEER  
OFFICE

JANUARY 25, 2005

EXHIBIT A

1588-BD

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**LEGAL DESCRIPTION:**

A PORTION OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6<sup>TH</sup> P.M., EL PASO COUNTY, COLORADO. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13; THENCE S 88°41'55" E ALONG THE NORTH LINE OF SAID SECTION 13, 300.02 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID NORTH LINE, S 88°41'55" E, 533.63 FEET; THENCE S 09°38'09" W, 439.88 FEET; THENCE N 88°41'55" W PARALLEL TO SAID NORTH LINE, 467.50 FEET; THENCE N 00°59'22" E, 435.24 FEET TO THE POINT OF BEGINNING AND CONTAINING 5.000 ACRES MORE OR LESS. (SEE EXHIBIT "A")

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COLORADO GROUND WATER COMMISSION  
DIVISION OF WATER RESOURCES  
DEPARTMENT OF NATURAL RESOURCES  
1313 Sherman St, Room 818, Denver, CO 80203

RECEIVED

MAR 11 2008

**APPLICATION FOR DETERMINATION OF WATER RIGHT  
WITHIN A DESIGNATED GROUND WATER BASIN  
PURSUANT TO SECTION 37-90-107(7), C.R.S.**

WATER RESOURCES  
STATE ENGINEER  
COLORADO

Please note: This application may only be used to apply for a determination of rights to ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifer underlying land areas located within a Designated Ground Water Basin. Review the instructions on the reverse of this form. This form must be completed, signed, dated and submitted to the Ground Water Commission with a non-refundable \$60 filing fee. A separate form must be used for each aquifer determination. Type or print in black ink.

<b>1. APPLICANT INFORMATION</b>	
Name of Applicant <i>Alice Solene Owens</i>	
Applicant Mailing Address <i>18430 Lost Ranger Rd. Peyton, Co. 80831</i>	
Applicant Telephone Number (include area code) <i>719-596-7447</i>	
<b>2. AMOUNT OF OVERLYING LAND</b> - the total land area claimed and described by the applicant in Item #8 below, consisting of <i>74.50 AC</i> acres.	<b>3. AQUIFER</b> <i>Dawson</i>
<b>4. EXISTING WELLS</b> - Are there any wells located on the claimed and described overlying land? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, provide a complete list of all wells located on the overlying land area as an attachment to this application.	
<b>5. ANNUAL AMOUNT OF GROUND WATER</b> - to be withdrawn, for intended beneficial uses, from the aquifer underlying the described land area claimed by the applicant in Item #8 below. Please specify one of the following: <input checked="" type="checkbox"/> Maximum allowable annual acre-feet <input type="checkbox"/> _____ acre-feet annually <input type="checkbox"/> Maximum allowable annual acre-feet, excluding _____ acre-feet from that amount	
<b>6. USE OF GROUND WATER</b> - description of intended beneficial uses of the ground water to be withdrawn from the aquifer <i>Domestic, stock watering, irrigation, commercial and replacement supply. Also, allocating and reserving 2 acre feet annually for existing well.</i>	
<b>7. PLACE OF USE</b> - of the ground water shall be considered to be that overlying land area claimed and described by the applicant in Item #8 below, unless a legal description or accurate scale map is provided which describes an alternate/additional place of use.	
<b>8. REQUIRED LANDOWNERSHIP DOCUMENTATION</b> - The Ground Water Commission shall allocate ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifer on the basis of ownership of overlying land. For this reason, a Nontributary Ground Water Landownership Statement (form GWS-1) or Nontributary Ground Water Consent Claim (form GWS-48), including a description of the overlying land area subject to this determination, must be submitted as an attachment to the application.	
<b>9. SIGNATURE OF APPLICANT</b> - must be original signature - The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.	
Signature <i>Alice Solene Owens</i>	Date <i>3/12/08</i>
- print name and title <i>Alice Solene Owens</i>	

FOR OFFICE USE ONLY	
Trans Number: 3626756 3/11/2008 2:30:28 PM James Martin (19) Total Trans Amt: \$60.00 CHECK Check Number: 12970 Check Amount: \$60.00	
DIV <i>8</i> CO <i>WD</i> 1 BASIN <i>2</i> MD	Form GWS-53 (6/2006)

**DETERMINATION OF WATER RIGHT EVALUATION SHEET  
SECTION 37-90-107(7)**

APPLICANT: **Owens, Alice Jolene**  
BASIN: Kiowa-Bijou GWMD: None  
COUNTY: El Paso  
AQUIFER: **Dawson** RECEIPT NO. 3626757  
NUMBER OF ACRES IN TRACT: 74.5  
GENERAL LOCATION: W1/2 of the NW1/4 of Section 13, T11S, R64W

**AQUIFER DATA**

AMOUNT AVAILABLE FOR APPROPRIATION: (150 SS)(74.5 Acres)(0.2 SY) = 2235 AF = 22.4 AFyr  
ADJUSTMENTS: -3 AF/yr for small capacity well  
ANNUAL AMOUNT: **19.4 AFyr**

PRE.NOV.19, 1973 WELLS (COMPLETED IN AQUIFER) IN VICINITY:

AREA CHECKED: Sections 11, 12, 13, 14, 23, 24 in T11S, R64W  
Sections 7, 18, 19 in T11S, R63W

SMALL-CAPACITY WELLS (COMPLETED IN AQUIFER) LOCATED ON CLAIMED TRACT: 1

Permit No. 260301 – Domestic well screened from 275 to 355 feet in the Dawson aquifer (485 to 565 feet bgs). Location NW1/4 of the NW1/4 of Section 13, T11S, R64W. Permitted for a maximum annual withdrawal of 3 AF/yr.

REPLACEMENT WATER STATUS OF CLAIMED LAND AREA: **Not-nontributary (actual impact replacement)**

REPLACEMENT PLAN REQUIRED: **Yes**

AQUIFER INTERVAL (CENTRAL DATA POINT): 210 to 790 bgs

COMMENTS: The SS was considered to be 150 feet based on the static water level and depth to the base of the aquifer at the location of a small-capacity well located on the property, Permit No. 260301.

SS = (Base – SWL)/2  
SS = (775 ft -475 ft) /2 = 150 ft

Evaluated by MAP, 3/26/2008  
Reviewed by SKR, Ground Water Commission Staff

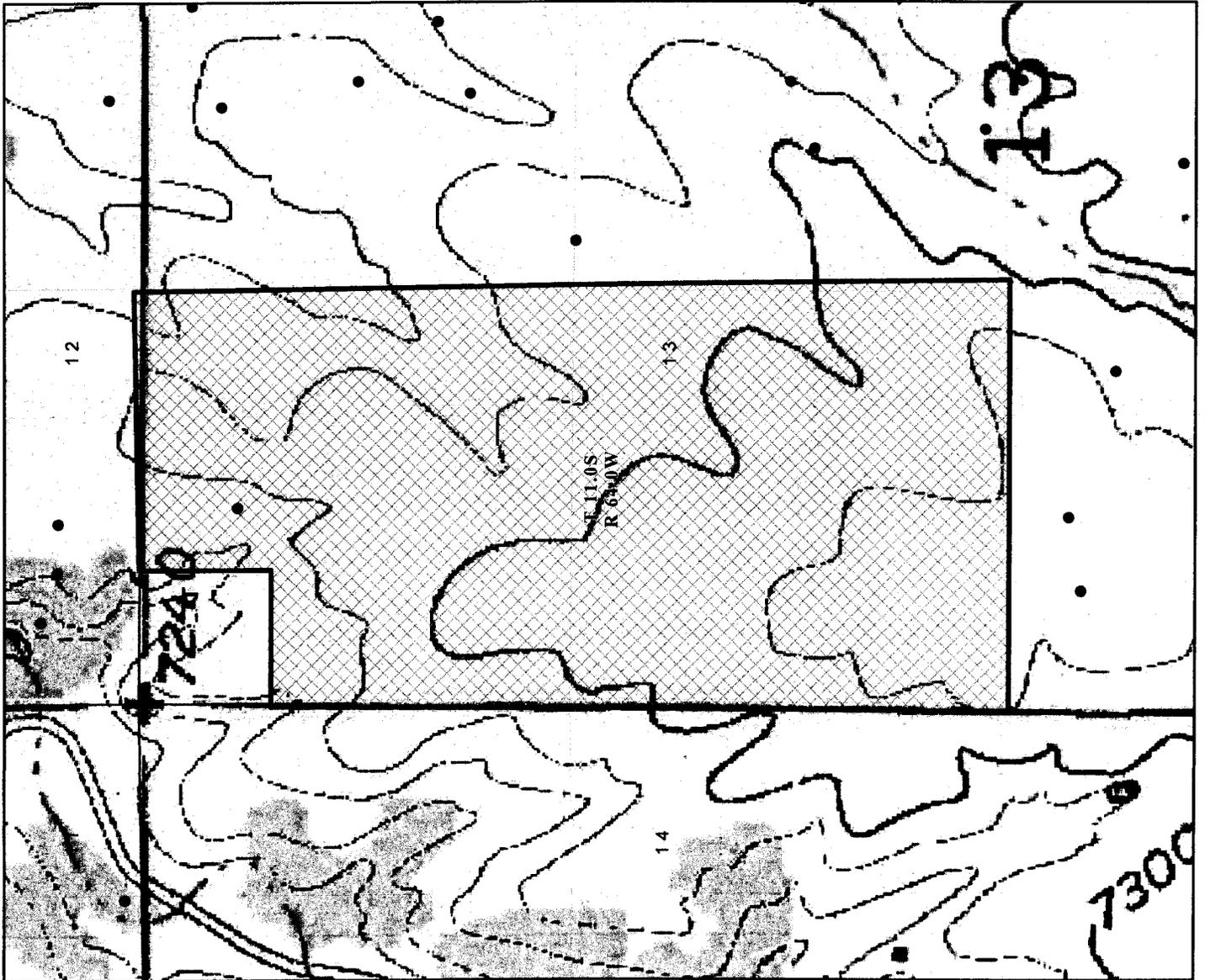
**COLORADO DIVISION OF  
WATER RESOURCES**

**BASIN: Kiowa Bijou**

**Wells**

**Alice Jolene Owens  
Section 13  
Township 11 South  
Range 64 West**

**El Paso County  
Area claimed: 74.5 acres**



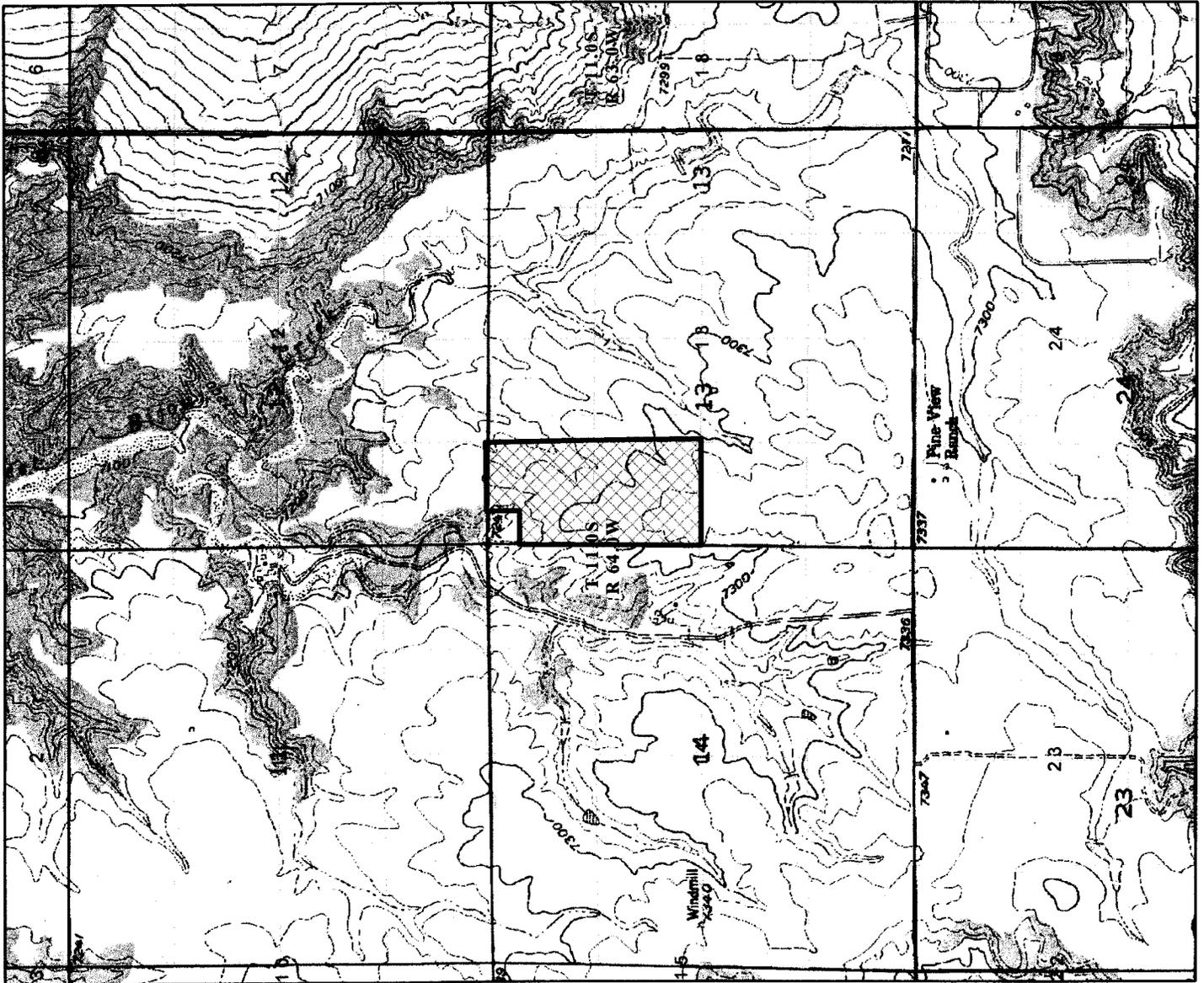
**COLORADO DIVISION OF  
WATER RESOURCES**

**BASIN: Kiowa Bijou**

**Property Location**

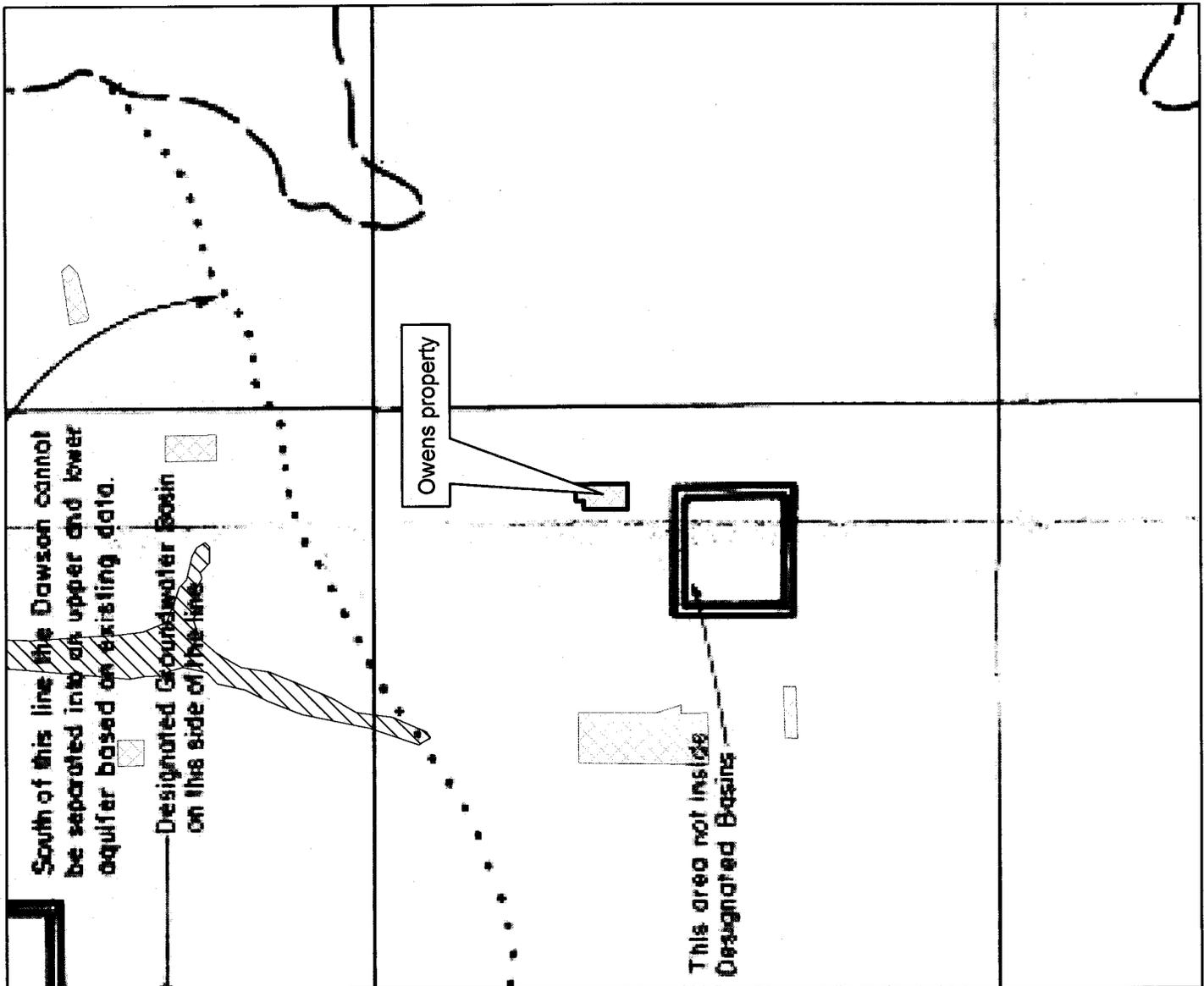
**Alice Jolene Owens  
Section 13  
Township 11 South  
Range 64 West**

**El Paso County  
Area claimed: 74.5 acres**



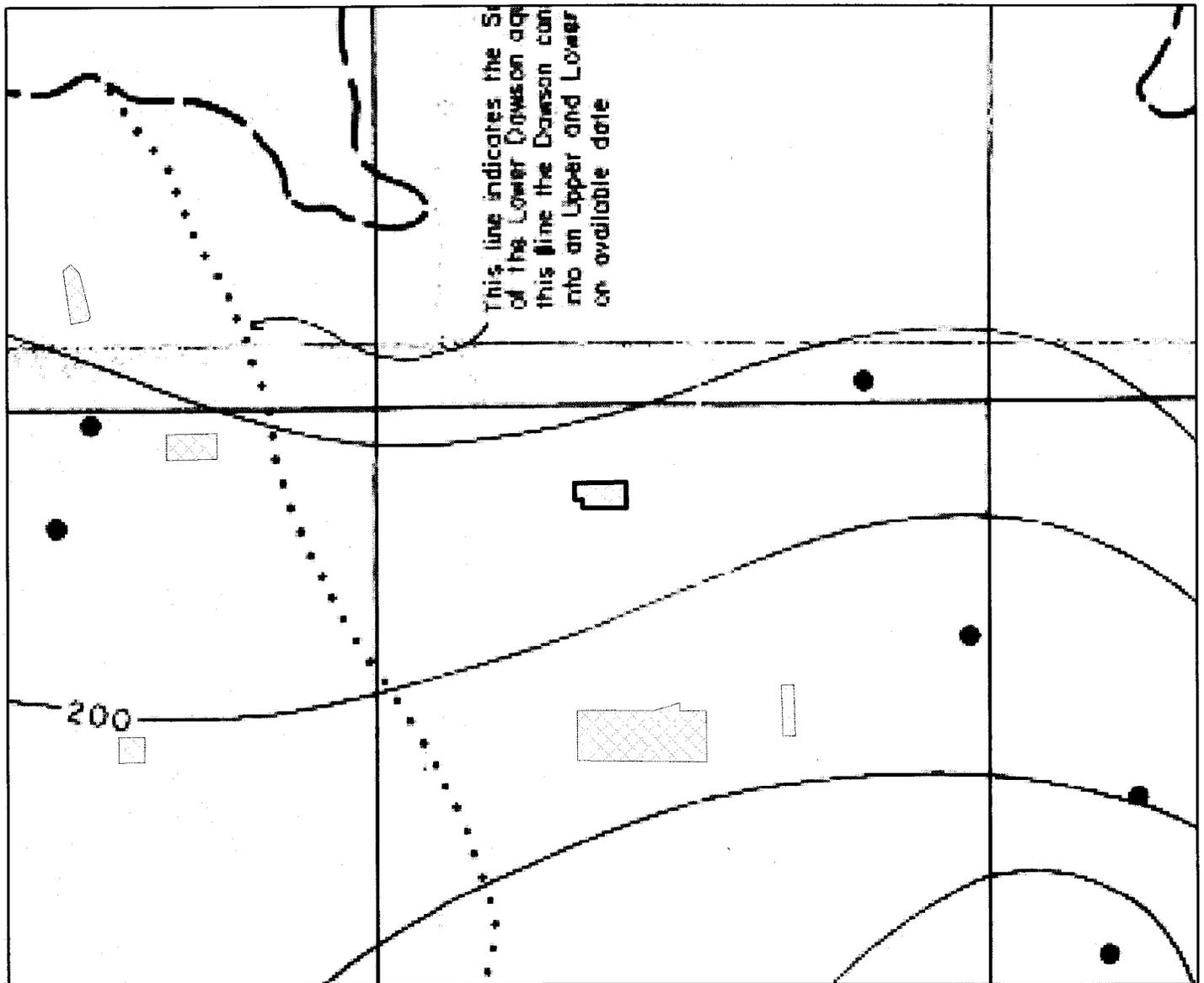
COLORADO DIVISION OF  
WATER RESOURCES

BASIN: Kiowa Bijou  
Tributary map  
Upper Dawson aquifer  
Alice Jolene Owens  
Section 13  
Township 11 South  
Range 64 West  
El Paso County  
Area claimed: 74.5 acres  
NNT AIR



COLORADO DIVISION OF  
WATER RESOURCES

BASIN: Kiowa Bijou  
Saturated Sands map  
Upper Dawson aquifer  
Alice Jolene Owens  
Section 13  
Township 11 South  
Range 64 West  
El Paso County  
Area claimed: 74.5 acres  
NNT AIR



FORM NO. GWS-31 10/94	<b>WELL CONSTRUCTION AND TEST REPORT</b> STATE OF COLORADO, OFFICE OF THE STATE ENGINEER 1313 Sherman St., Rm 818, Denver, CO 80203	For Office Use only  <b>RECEIVED</b>  JAN 27 2005  WATER RESOURCES STATE ENGINEER COLO.																																				
1. WELL PERMIT NUMBER <u>260301</u>																																						
2. OWNER NAME(S) <u>Alice Jolene Owens</u> Mailing Address <u>Box 322</u> City, St. Zip <u>Peyton Co 80831</u> Phone (719) <u>598-7661</u>																																						
3. WELL LOCATION AS DRILLED: <u>NW 1/4 NW 1/4, Sec. 13 Twp. 11 S, Range 64 W</u> DISTANCES FROM SEC. LINES: <u>300</u> ft. from <u>North</u> Sec. line. and <u>600</u> ft. from <u>West</u> Sec. line. OR <small>(north or south) (east or west)</small> SUBDIVISION: _____ LOT _____ BLOCK _____ FILING(UNIT) _____ STREET ADDRESS AT WELL LOCATION: <u>18430 Lost Ranger Road</u>																																						
4. GROUND SURFACE ELEVATION _____ ft. DRILLING METHOD <u>Rotary Air</u> DATE COMPLETED <u>Jan 21 2005</u> TOTAL DEPTH <u>565</u> ft. DEPTH COMPLETED <u>565</u> ft.																																						
5. GEOLOGIC LOG: <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;">Depth</th> <th>Description of Material (Type, Size, Color, Water Location)</th> </tr> </thead> <tbody> <tr><td>0-2</td><td>Top Soil</td></tr> <tr><td>2-29</td><td>Sand &amp; Rocks</td></tr> <tr><td>29-51</td><td>Sand &amp; Clay</td></tr> <tr><td>51-73</td><td>Clay</td></tr> <tr><td>73-121</td><td>Sand &amp; Gravel</td></tr> <tr><td>121-125</td><td>Clay</td></tr> <tr><td>125-143</td><td>Sand &amp; Clay Mix</td></tr> <tr><td>143-164</td><td>Sand</td></tr> <tr><td>164-170</td><td>Gray Clay</td></tr> <tr><td>170-303</td><td>Sand</td></tr> <tr><td>303-308</td><td>Clay</td></tr> <tr><td>308-447</td><td>Sand</td></tr> <tr><td>447-462</td><td>Grey Clay</td></tr> <tr><td>462-565</td><td>Sand</td></tr> </tbody> </table>		Depth	Description of Material (Type, Size, Color, Water Location)	0-2	Top Soil	2-29	Sand & Rocks	29-51	Sand & Clay	51-73	Clay	73-121	Sand & Gravel	121-125	Clay	125-143	Sand & Clay Mix	143-164	Sand	164-170	Gray Clay	170-303	Sand	303-308	Clay	308-447	Sand	447-462	Grey Clay	462-565	Sand	6. HOLE DIAM. (in.) From (ft) To (ft) <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>9</td><td>0</td><td>41</td></tr> <tr><td>6 1/8</td><td>41</td><td>565</td></tr> </table>	9	0	41	6 1/8	41	565
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		7. PLAIN CASING <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>OD (in)</th> <th>Kind</th> <th>Wall Size</th> <th>From (ft)</th> <th>To (ft)</th> </tr> </thead> <tbody> <tr><td>7</td><td>Steel</td><td>188</td><td>+1</td><td>41</td></tr> <tr><td>4 1/2</td><td>pvc</td><td>1/4</td><td>10</td><td>485</td></tr> </tbody> </table> PERF. CASING: Screen Slot Size: <u>30th</u> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>4 1/2</td><td>pvc</td><td>1/4</td><td>485</td><td>565</td></tr> </table>	OD (in)	Kind	Wall Size	From (ft)	To (ft)	7	Steel	188	+1	41	4 1/2	pvc	1/4	10	485	4 1/2	pvc	1/4	485	565																
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		8. FILTER PACK: Material <u>Gravel</u> Size <u>1/4</u> Interval <u>73-565</u>																																				
		9. PACKER PLACEMENT: Type _____ Depth _____																																				
REMARKS: _____		10. GROUTING RECORD: <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Material</th> <th>Amount</th> <th>Density</th> <th>Interval</th> <th>Placement</th> </tr> </thead> <tbody> <tr> <td>Cement</td> <td>7 Sk</td> <td>49 Gal</td> <td>10-73</td> <td>Preemie</td> </tr> </tbody> </table>	Material	Amount	Density	Interval	Placement	Cement	7 Sk	49 Gal	10-73	Preemie																										
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11. DISINFECTION: Type <u>HTH</u> Amt. Used <u>1/2 Cup</u>																																						
12. WELL TEST DATA: <input type="checkbox"/> Check box if Test Data is submitted on Form No. GWS 39 Supplemental Well Test. TESTING METHOD <u>Aired and Bailed</u> Static Level <u>475</u> ft. Date/Time measured <u>Jan 21 2005</u> , Production Rate <u>10</u> gpm. Pumping level <u>530</u> ft. Date/Time measured <u>Jan 21 2005</u> , Test length (hrs.) <u>4</u> 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 <u>Hamacher Well Works Inc</u> Phone (719) <u>541-2460</u> Lic. No. <u>71</u> Mailing Address <u>Box 86 Simla Co 80835</u>																																						
Name/Title (Please type or print) <u>T.R. Hamacher</u>		Signature <u>J.R. Hamacher</u>																																				
		Date <u>Jan 25 2005</u>																																				

Form No. **OFFICE OF THE STATE ENGINEER**  
GWS-25 **COLORADO DIVISION OF WATER RESOURCES**  
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

LIC

**WELL PERMIT NUMBER** 260301  
**DIV. 8** **WD 1** **DES. BASIN 2** **MD**

APPLICANT

ALICE JOLENE OWENS  
P O BOX 322  
PEYTON, CO 80831-

(719) 598-7661

APPROVED WELL LOCATION

EL PASO COUNTY  
NW 1/4 NW 1/4 Section 13  
Township 11 S Range 64 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line  
600 Ft. from West Section Line

UTM COORDINATES (NAD83)

Easting: Northing:

**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 this permit does not ensure that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-90-105.
- 4) Water from this well may be used for domestic purposes inside 1 single family dwelling(s), and the watering of the owner's own large non-commercial domestic animals.
- 5) The pumping rate of this well shall not exceed 15 GPM.
- 6) The annual withdrawal of ground water from this well shall not exceed 3 acre-feet.
- 7) The irrigated area shall not exceed 1 acre of lawn and garden.
- 8) Water from this well may be used for the watering of livestock on range and pasture.
- 9) The total depth of the well shall not exceed 775 feet, which corresponds to the base of the Dawson aquifer. At a minimum, plain casing shall be installed and grouted through all unconsolidated materials and shall extend a minimum of ten feet into the bedrock formation to prevent production from other zones.
- 10) This well must be constructed within 300 feet of the location specified on this permit.

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.

NOTICE: This permit has been approved with a change to the permit application form from that applied for by the applicant. You are hereby notified that you have the right to appeal the issuance of this permit, by filing a written request with this office within sixty (60) days of the date of issuance, pursuant to the State Administrative Procedures Act. (See Section 24-4-104 through 106, C.R.S.)

APPROVED  
SMJ

*He D. Simon*  
State Engineer

*Sandy Johnson*  
By

Receipt No. 0531706

DATE ISSUED 11-08-2004

EXPIRATION DATE 11-08-2006





DEPARTMENT OF NATURAL RESOURCES

**DIVISION OF WATER RESOURCES**

May 20, 2008

Bill Ritter, Jr.  
Governor

Harris D. Sherman  
Executive Director

Dick Wolfe, P.E.  
Director

Alice Jolene Owens  
18430 Lost Ranger Road  
Peyton, CO 80831

**RE: Determination of Water Right**

Dear Ms. Owens:

Enclosed are 2 copies of the Colorado Ground Water Commission's Findings and Order for Determination of Water Right No. **1588-BD**, for the allocation of ground water in the **Dawson** aquifer. This Findings and Order is the Commission's approval of your application for determination of rights to ground water in the above stated aquifer. This document contains important information about your water right and should be reviewed and retained for your records.

As indicated in the Order, a copy of this determination must be recorded by the applicant in the public records of the county – in which the overlying land is located – so that a title examination of the overlying land claimed in the application, or any part thereof, shall reveal this determination. An additional copy of the Findings and Order is enclosed for this purpose.

If you have any questions, please contact this office.

Sincerely,

Melissa A. Peterson, P.E.  
Water Resources Engineer  
Designated Basins Team

enclosures: a/s

**Office of the State Engineer**

1313 Sherman Street, Suite 818 • Denver, CO 80203 • Phone: 303-866-3581 • Fax: 303-866-3589

[www.water.state.co.us](http://www.water.state.co.us)

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR REPLACEMENT PLAN TO ALLOW THE WITHDRAWAL OF GROUND WATER FROM THE DAWSON AQUIFER IN THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN.

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REPLACEMENT PLAN - DETERMINATION OF WATER RIGHT NO. 1588-BD

AQUIFER: DAWSON

APPLICANT: ALICE JOLENE OWENS

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In compliance with Section 37-90-107.5, C.R.S. and the Designated Basin Rules, 2 CCR 410-1 ("Rules" or "Rule"), Alice Jolene Owens ("Applicant") submitted an application for a replacement plan to allow the withdrawal of ground water from the Dawson Aquifer that has been allocated by Determination of Water Right No. 1588-BD.

**FINDINGS**

1. Pursuant to Section 37-90-107(7), C.R.S., in a Findings and Order dated May 20, 2008, the Ground Water Commission ("Commission") approved a Determination of a Right to an Allocation of Ground Water, No. 1588-BD, from the Dawson Aquifer ("Aquifer"), summarized as follows.
  - a. The determination quantified an amount of water from beneath 74.5 acres of overlying land generally described as part of the W ½ of the NW ¼ of Section 13, Township 11 South, Range 64 West, 6th P.M., in El Paso County.
  - b. The allowed average annual amount of withdrawal shall not exceed 19.4 acre-feet, which based on an aquifer life of one hundred years results in an amount of water allocated of 1,940 acre-feet (subject to adjustment by the Commission to conform to actual local aquifer characteristics).
  - c. The use of ground water is limited to the following beneficial uses: domestic, stock watering, irrigation, commercial, and replacement.
  - d. In accordance with Rule 5.3.6 the withdrawal of the subject ground water 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, the ground water is considered to be not-nontributary, and 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 withdraw the subject ground water.
2. The subject water is Designated Ground water located within the boundaries of the Kiowa-Bijou Designated Ground Water Basin. The Commission has jurisdiction over the withdrawal of the water by large capacity wells that are permitted pursuant to section 37-90-107(7), C.R.S
3. Withdrawal of the subject ground water would deplete the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin, the alluvial aquifer of the Upper Big Sandy Designated Ground Water Basin, and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin, all of which, according to Rules 5.2.4.2, 5.2.7.2, and 5.2.6.2,

Replacement Plan - Determination No.: 1588-BD  
Aquifer: Dawson  
Applicant: Alice Jolene Owens

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respectively, have been determined to be over appropriated. Such depletion would unreasonably impair existing large capacity alluvial rights withdrawing water from those alluvial aquifers.

4. Pursuant to Rule 5.6.1.A this plan must be adequate to prevent any material injury to water rights of other appropriators, which for purposes of this plan means large capacity wells withdrawing water from the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin, the alluvial aquifer of the Upper Big Sandy Designated Ground Water Basin, and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin.
5. Pursuant to Rule 5.3.6.2(C) the amount of replacement water shall provide for the depletion of alluvial water for the first 100 years due to all previous pumping and if pumping continues beyond 100 years, shall replace actual impact until pumping ceases.
6. The application for the replacement plan was received by the Commission on September 17, 2019.
7. The Applicant proposes to divert 3.36 acre-feet annually from the Dawson Aquifer for a period of 300 years through 7 wells to be located on 7 residential lots on a 38.8-acre parcel described as the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 13, Township 11 South, Range 64 West, 6th P.M., as shown on Exhibit B. Each Dawson Aquifer well is proposed to divert 0.48 acre-feet of water annually for in-house use in one single family dwelling, irrigation, stock watering, commercial, and replacement.
8. At a continuous withdrawal of 3.36 acre-feet annually for 300 years, depletions to the alluvial aquifer systems of the Kiowa-Bijou Designated Ground Water Basin, Upper Big Sandy Designated Ground Water Basin and Upper Black Squirrel Creek Designated Ground Water Basin would steadily increase to 0.214 acre-feet per year in the 300th year, which is equal to 6.36% of pumping, as shown in Exhibit A.
9. The Applicant proposes to provide 1.575 acre-feet per year of replacement water to the alluvial aquifer system of the Kiowa-Bijou Designated Ground Water Basin. The proposed source of replacement water is septic and leaching field return flows from the in-house use of the ground water to be pumped under the plan. The Applicant estimates that return flows from each lot will consist of 90% of the water used for in-house purposes. Assuming each lot uses an estimated annual amount of 0.25 acre-feet for in-house use, the return flow per lot would be 0.225 acre-feet annually, and the return flows under the plan would total 1.575 acre-feet per year for all 7 lots at full build out.
10. The subject property is located within the drainage of Kiowa Creek, and the return flows will flow to the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin. The Applicant proposes to aggregate all replacements to the drainage in which the well or wells will operate, in accordance with Guideline 2007-1.
11. Pursuant to Rule 5.6.1.B this plan must be adequate to prevent unreasonable impairment of water quality. Pursuant to Rule 5.6.1.B.1.b, if the replacement source water is from an onsite wastewater treatment system permitted by a local health agency and the applicant demonstrates the source is in compliance with that permit there shall be a rebuttable presumption of no unreasonable impairment of water quality.
12. Pursuant to Rule 5.6.1.C this plan, including the proposed uses of the water withdrawn pursuant to the plan, must not be speculative, and must be technically and financially

Replacement Plan - Determination No.: 1588-BD  
Aquifer: Dawson  
Applicant: Alice Jolene Owens

Page 3

feasible and within the Applicant's ability to complete. The plan, including the proposed uses of the water withdrawn pursuant to the plan, is not speculative. The plan appears technically and financially feasible and within the Applicant's ability to complete.

13. Pursuant to Rule 5.6.1.D this plan must be able to be operated and administered on an ongoing and reliable basis. The plan appears to be able to be operated and administered on an ongoing and reliable basis.
14. Pursuant to Rule 5.6.1.F replacement source water must be physically and legally available in time, place and amount to prevent material injury. As determined in Determination of Water Right No. 1588-BD water is currently available in the amounts and for the number of years proposed to be diverted.
15. Pursuant to Rule 5.6.1.G the replacement source water must be legally available for use. Records in this office indicate that the Applicant controls the water right to be used as the source of replacement water, consisting of the Applicant's portion of the water allocated by Determination of Water Right No. 1588-BD, the Applicant's portion being 10.1 acre-feet of water per year (based on a 100 year aquifer life), and such water is legally available for use pursuant to this plan.
16. In accordance with Sections 37-90-107.5 and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 12, 2019 and December 19, 2019. No objections to the application were received within the time limit set by statute.
17. According to Rule 5.6.1:
  - a. The Applicant has the burden of proving the adequacy of the plan in all respects.
  - b. If the applicant meets its burden of proof, the Commission shall grant approval of the plan which shall include any terms and conditions established the Commission.
18. The Commission Staff has evaluated the application pursuant to Section 37-90-107.5, C.R.S., and the requirements of Rule 5.3.6.2(C) and Rule 5.6, finds that the requirements have been meet, and the plan may be approved to allow diversions from the Dawson Aquifer if operated subject to the conditions given below.

#### ORDER

In accordance with Section 37-90-107.5, C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for a replacement plan to allow the withdrawal of ground water from the Dawson Aquifer underlying 74.5 acres that are the subject of Determination of Water Right no. 1588-BD is approved subject to the following conditions:

19. The allowed use of ground water for the well(s) under this plan is in-house use in 1 single family dwelling, irrigation, stock watering, commercial, and replacement, by each of 7 wells to be located on 7 residential lots on a 38.8-acre parcel described as the SW ¼ of the NW ¼ of Section 13, Township 11 South, Range 64 West, 6th P.M., as shown on Exhibit B.
20. The allowed annual amount of ground water to be withdrawn from the aquifer by all wells operating under this plan shall not exceed 3.36 acre-feet. The allowed annual amount of water to be withdrawn from each on-lot well shall not exceed 0.48 acre-feet.

Replacement Plan - Determination No.: 1588-BD  
Aquifer: Dawson  
Applicant: Alice Jolene Owens

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21. A totalizing flow meter shall be installed on each well. The well owner shall maintain the meter in good working order.
22. Permanent records of all withdrawals of ground water from each well shall be recorded at least annually by the well owners, permanently maintained, and provided to the Commission.
23. Pumping under this plan is limited to a period of 300 years. The year of first use of this replacement plan shall be the calendar year of construction of a well permitted pursuant to this plan or permitting of an existing well pursuant to the plan.
24. Return flows from in-house use of ground water shall occur through individual on-lot non-evaporative septic systems located within the above described 38.8 acres described as the SW ¼ of the NW ¼ of Section 13, Township 11 South, Range 64 West, 6th P.M. The septic systems must be constructed and operated in compliance with a permit issued by a local health agency.
25. Replacement of depletions must be provided annually in the acre-feet amounts shown in Exhibit A. Annual replacement requirements may be computed by pro-rating between the values given on Exhibit A, or for simplicity may be taken as the amount shown in the next succeeding 5 year increment.
26. The Applicant or their successor(s) are responsible for ensuring that replacement water is provided to the alluvial aquifer as required by this plan. The annual replacement requirement and the annual amount of replacement water provided shall be calculated and reported on a form acceptable to the Commission. The annual amount of replacement water provided must be no less than the annual replacement requirement on a yearly basis. No credit shall be claimed by the Applicant for an oversupply of replacement water provided to the alluvium during previous years.
27. The Applicant must provide the required annual amount of replacement water for the first 100 years, or for as long as a well is operated pursuant to this plan, whichever is longer.
28. To assure adequate return flows, at least one well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any irrigation or animal watering is allowed to be served by any of the wells.
29. So long as at least one well continues to pump and supply an occupied dwelling, the plan's required replacement obligations, shown in Exhibit A, will be met. Should all wells cease pumping for in-house use within the first 100 years, then:
  - a. Water from a well must be delivered directly into the ground in amounts sufficient to provide the required amount of replacement water, using a below ground recharge structure constructed in a manner that prevents evapotranspiration losses from occurring as a result of operation of the structure. **OR**
  - b. An amended or alternate replacement plan must be applied for and approved that will prevent injury to the water rights of other appropriators.
30. The Applicant (and their successors) must gather and maintain permanent records of all information pertaining to operation of this plan, which shall include, but is not be limited

Replacement Plan - Determination No.: 1588-BD  
Aquifer: Dawson  
Applicant: Alice Jolene Owens

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to, those items identified below. The Applicant must submit records to the Commission on forms acceptable to the Commission, on an annual basis for the previous calendar year, by February 15th of the following year.

- a. Identification of all well permits issued and wells constructed under this plan.
  - b. The amount of water diverted by each well and all wells in total, both annually and cumulatively since operation of the plan began.
  - c. The number of occupied dwellings served by each well.
  - f. The return flows occurring from use of all wells operating under the plan, assuming 0.225 acre-feet per year per occupied single family dwelling (90% of the water used for in-house purposes) enters the alluvial aquifer as replacement water.
  - g. Any other information the Commission deems relevant and necessary to operation, monitoring, accounting, or administration of the plan.
31. The Applicant (and their successors) are fully responsible for the operation, monitoring, and accounting of the replacement plan. In the event a lot with a well permitted or operating pursuant to this plan is sold, identification of the well that was sold and evidence that the new owner has been notified of their responsibilities under the replacement plan shall accompany that year's accounting.
32. Any covenants adopted for this subdivision should contain a description of the replacement plan, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be reported and the plan is to be administered.
33. In the event the permitted well or wells are not operated in accordance with the conditions of this replacement plan, they shall be subject to administration, including orders to cease diverting ground water.
34. All terms and conditions of Determination of Water Right No. 1588-BD must be met.
35. Pursuant to Rule 5.6.1.E, a copy of this Findings and Order shall be recorded by the Applicant in the clerk and recorder's records of El Paso County, so that a title examination of the land on which the structures involved in this plan are located reveals the existence of this plan.

Dated this 24th day of January, 2020.



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

By: 

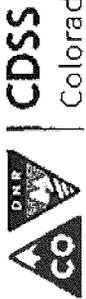
Keith Vander Horst, P.E.  
Chief of Water Supply, Designated Basins

Exhibit A  
 Replacement Plan - Determination No.: 1588-BD  
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Designated Basin Summary Table for Alice Jolene Owens Pumping Rate of 3.36 acre-feet per year for 300 Years from the Dawson aquifer Section(s): Section 13, T11S, R64W, 6th P.M.							
Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)	Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)
5	3.4	0.000	0.01	155	3.4	0.112	3.34
10	3.4	0.001	0.03	160	3.4	0.116	3.45
15	3.4	0.002	0.06	165	3.4	0.120	3.57
20	3.4	0.004	0.12	170	3.4	0.124	3.68
25	3.4	0.006	0.19	175	3.4	0.128	3.79
30	3.4	0.009	0.27	180	3.4	0.131	3.91
35	3.4	0.012	0.37	185	3.4	0.135	4.02
40	3.4	0.016	0.48	190	3.4	0.139	4.13
45	3.4	0.020	0.59	195	3.4	0.142	4.24
50	3.4	0.024	0.71	200	3.4	0.146	4.35
55	3.4	0.028	0.83	205	3.4	0.150	4.46
60	3.4	0.032	0.96	210	3.4	0.153	4.56
65	3.4	0.036	1.09	215	3.4	0.157	4.67
70	3.4	0.041	1.21	220	3.4	0.160	4.77
75	3.4	0.045	1.34	225	3.4	0.164	4.88
80	3.4	0.050	1.47	230	3.4	0.167	4.98
85	3.4	0.054	1.60	235	3.4	0.171	5.09
90	3.4	0.058	1.73	240	3.4	0.174	5.19
95	3.4	0.063	1.86	245	3.4	0.178	5.29
100	3.4	0.067	1.99	250	3.4	0.181	5.39
105	3.4	0.071	2.12	255	3.4	0.185	5.49
110	3.4	0.075	2.24	260	3.4	0.188	5.59
115	3.4	0.080	2.37	265	3.4	0.191	5.69
120	3.4	0.084	2.49	270	3.4	0.194	5.79
125	3.4	0.088	2.62	275	3.4	0.198	5.88
130	3.4	0.092	2.74	280	3.4	0.201	5.98
135	3.4	0.096	2.86	285	3.4	0.204	6.08
140	3.4	0.100	2.98	290	3.4	0.207	6.17
145	3.4	0.104	3.10	295	3.4	0.211	6.27
150	3.4	0.108	3.22	300	3.4	0.214	6.36

Created by Wenli Dickinson, E.I.T. on November 13, 2019  
 Values for 'Depletion as a % of Pumping' (q/Q) are not calculated when the pumping rate (Q) is changed to anything but zero





Colorado's Decision Support Systems

# Owens Property for Subdivision

**Legend**

County

Exhibit B  
Replacement Plan  
Determination No.:  
1588-BD  
Page 2 of 2

RECEIVED

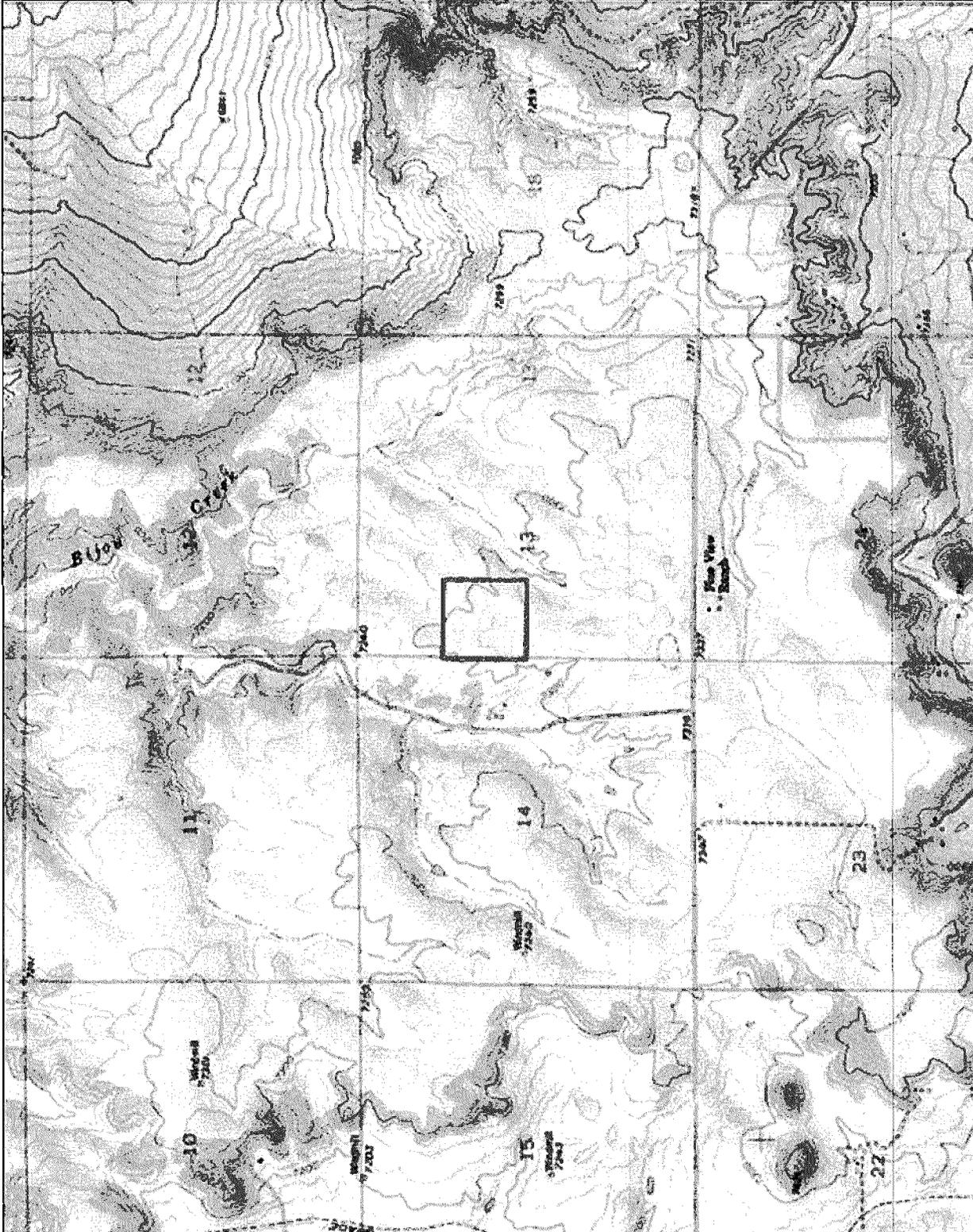
SEP 17 2019

WATER RESOURCES  
STATE ENGINEER  
COLO

**Location**



**Notes**



4,677 0 2,339 4,677 Feet



1: 28,064



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Date Prepared: 8/14/2019 12:48:16 PM