

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND  
RESTRICTIONS OF WATER  
FOR THE  
RAPSON SUBDIVISION**

William Rapson and Andrea Rapson("Declarants") are the sole owners of real property more particularly described as the W ½ SE ¼ SE ¼ in Section 14, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M., in El Paso County also known as 10675 Hardy Road, Colorado Springs, CO 80908, containing approximately 19.6 acres, and depicted on the **Exhibit A** draft Plat, attached hereto and incorporated by this reference generally known as the Rapson Subdivision ("Rapson Subdivision"). The Declarant desires to place limited protective covenants, conditions, restrictions, and reservations, upon the Rapson Subdivision to protect the Subdivision's quality residential living environment, to protect its desirability, attractiveness, and value, and to ensure compliance with all applicable groundwater determinations concerning water and water rights to be utilized within the Subdivision.

The Declarants hereby declare that all of the Subdivision as hereinafter described, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision, and for assurance of legal water usage, and all of which shall run with the land and be binding on and inure to benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns.

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 Water Covenants as pertaining to the Subdivision. These include the Determinations of Water Rights for the underlying Denver Basin groundwater in Determination Nos. 3637-BD (Dawson), 3636-BD (Denver), 3635-BD (Arapahoe), and 3634-BD (Laramie-Fox Hills), and the associated Replacement Plan for 3637-BD (3637-RP), all attached hereto as **Exhibit B**.

**NOW, THEREFORE**, the following Declarations are made:

1. Water Replacement Plan

A. Order. The subdivision shall be subject to the obligations and requirements set forth in the December 29, 2020 Replacement Plan No. 2 for the Dawson aquifer, as recorded at Reception No. 220049996 of the El Paso County Clerk and Recorder, which is incorporated by reference ("Replacement Plan"). The Replacement Plan concerns the water rights and water supply for the Rapson Subdivision and creates obligations upon the Rapson Subdivision and the Lot owners, which run with the land.

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The water supply for the Rapson Subdivision shall be by individual wells to the non-tributary Dawson aquifer under the Replacement Plan.

**2. Water Rights Ownership.**

A. Declarants will transfer and assign to each Lot owner a proportionate prorata-per-acre interest in the not-nontributary Dawson aquifer, as well as the nontributary Denver aquifer, the nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer, as determined in the Ground Water Determinations as the physical source of supply. The Dawson aquifer well on each of the Lots with shall be augmented per the Replacement Plan. Based on the Declarants' intent expressed in these Covenants that each Lot owner will be able to withdraw water from the Dawson aquifer, in order to comply with El Paso County's 300-year water supply requirement, Declarant shall convey to each Lot owner at least 450 acre-feet total (1.5 acre-feet/year x 300 years) of Dawson aquifer water.

B. The Declarants will further assign to each Lot owner all obligations and responsibilities for compliance with the Replacement Plan, including monitoring, accounting and reporting obligations as applied to each Lot. The owners shall assume and perform these obligations and responsibilities, and by this assignment to the Lot owners, the Declarants are relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Replacement Plan. Such conveyance shall be subject to the obligations and responsibilities of the Replacement Plan and said water rights may not be separately assigned, transferred, or encumbered by the Lot owners. Notwithstanding an assignment by the Declarants to the Lot Owners, as long as the Declarants are also Lot Owners, the Declarants shall continue to bear all obligations and responsibilities for compliance with the Replacement Plan. The Lot owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such replacement responsibilities by determination of the Ground Water Commission, or other properly entered administrative relief.

C. Each Lot owner's water rights in the not-nontributary Dawson aquifer underlying their respective Lot shall remain subject to the Replacement Plan, and shall, transfer automatically upon the transfer of title to each Lot as an appurtenance, including the transfer by the Declarants to the initial owner of each Lot, whether or not separately deeded. The ground water rights in the Dawson aquifer subject to the Replacement Plan cannot and shall not be severable from each respective Lot, and each Lot owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

D. All not-nontributary Denver Basin groundwater in the Denver aquifer, nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer underlying each Lot, are likewise to be deeded, assigned and transferred to the overlying Lot owner on a prorata-per-acre basis, and may be used in said Lot owner's sole and complete discretion, subject to the terms and conditions of these Declarations and the Replacement Plan.

E. The Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifer water rights conveyed to each Lot Owner, and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Replacement Plan and these Covenants, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered.

### 3. Water Administration.

A. Each Lot owner shall limit the pumping of each individual Dawson aquifer well per Lot to a maximum of 1.5 acre feet annually, consistent with the Replacement Plan. Each Lot owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Replacement Plan is maintained, as between in-house, irrigation, stock water and other allowed uses permitted under the Replacement Plan. Each Lot owner shall use non-evaporative septic systems in order to ensure that return flows from such systems are made to the stream system to replace depletions during pumping and shall not be sold, traded or used for any other purpose. Each Lot owner shall administer the Replacement Plan and pumping of the individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Replacement Plan and taking all necessary and required actions under the Replacement Plan to protect and preserve the ground water rights for all Lot owners. Each Lot owner has the right to specifically enforce, by injunction if necessary, the Replacement Plan against any other Lot owner for failing to comply with the Lot owner's respective obligations under the Replacement Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Replacement Plan, and the reasonable legal costs and fees for such enforcement shall be borne by the party against whom such action is necessary. The use of the not-nontributary Dawson ground water rights owned by each Lot owner is restricted and regulated by the terms and conditions of the Replacement Plan and these Declarations, including, without limitation, that each Lot owner is subject to the maximum annual well pumping of 1.5 acre feet. Failure of a Lot owner to comply with the terms of the Replacement Plan may result in an order from the Division of Water Resources under the Replacement Plan to curtail use of ground water rights, or further actions as deemed necessary by a Water Court or regulating authority with applicable jurisdiction.

B. Each Lot owner shall promptly and fully account to the Division of Water Resources for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Lot, including for any domestic, irrigation, stockwater or other permitted/allowed uses as may be required under the Replacement Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources.

### 4. Well Permits.

A. Each Lot Owner shall be responsible for obtaining a well permit for the individual well to the not-nontributary Dawson aquifer for provision of water supply to their

respective Lot, to the extent quantities deeded to such Lot owner therein are sufficient for such Lot owner's needs or are responsible for ensuring an existing permit is in the Lot owners name. All such Dawson aquifer wells shall be constructed and operated in compliance with the Replacement Plan, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. The costs of the construction, operation, maintenance and repair of such individual well, and delivery of water therefrom to the residence located on such Lot, shall be at each Lot owner's respective expense. Each Lot owner shall comply with any and all requirements of the Division of Water Resources to log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Replacement Plan. It is acknowledged that well permits, and individual wells, may be in place on some of the Lots at the time of sale, and by these Declarations no warranty as to the suitability or utility of such permits or structures is made nor shall be implied.

B. No party guarantees to the Lot owners the physical availability or the adequacy of water quality from any well to be drilled under the Replacement Plan. The Denver Basin aquifers which are the subject of the Replacement Plan are considered a nonrenewable water resource and due to anticipated water level declines the useful or economic life of the aquifers' water supply may be less than the 100 years allocated by state statutes or the 300 years of El Paso County water supply requirements, despite current groundwater modelling to the contrary.

5. Compliance. The Lot owners shall perform and comply with all terms, conditions, and obligations of the Replacement Plan, and shall further comply with the terms and conditions of any well permits issued by the Division of Water Resources pursuant to the Replacement Plan, as well as all applicable statutory and regulatory authority.

6. Amendments. No changes, amendments, alterations, or deletions to these Declarations may be made which would alter, impair, or in any manner compromise the Replacement Plan, or the water rights of the Lot owners without the written approval of said parties, El Paso County, and from the Ground Water Commission.

7. El Paso County Requirements. El Paso County may enforce the provisions regarding the Replacement Plan as set forth in these Declarations, should the Lot owners fail to adequately do so.

IN WITNESS WHEREOF, the Declarants have caused these Declarations to be executed this 17 day of November, 2021.

By:   
William Rapson, Declarant

By:   
Andrea Rapson, Declarant

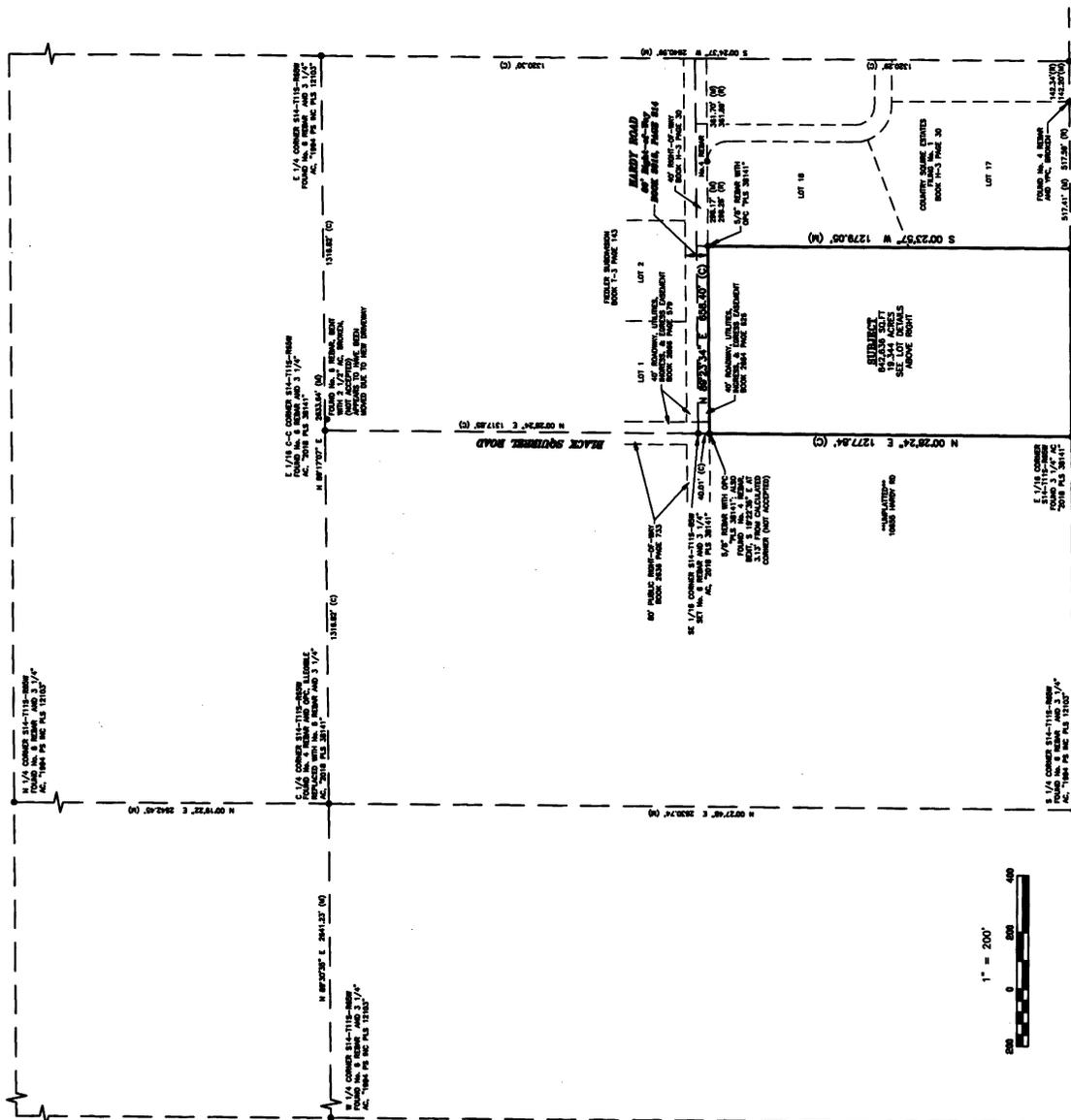




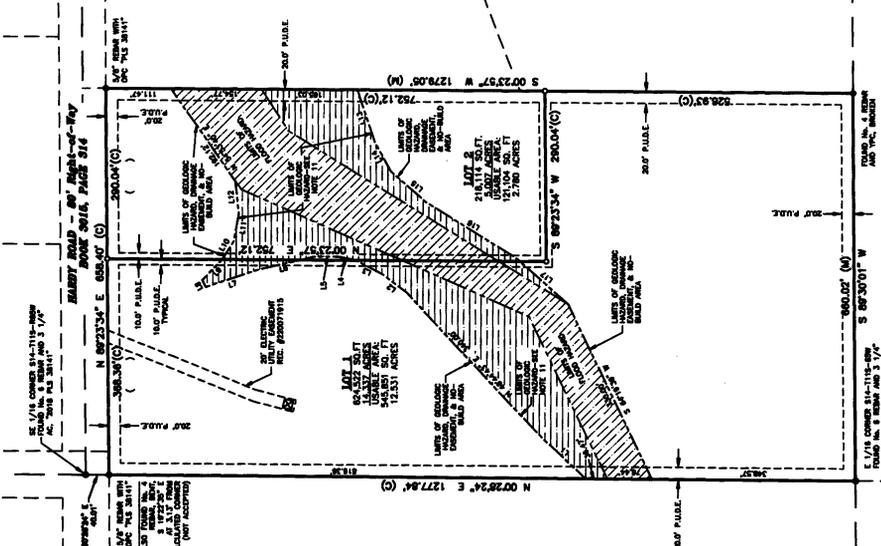
**FINAL PLAT**

**RAPSON SUBDIVISION**  
 A PORTION OF THE SOUTHEAST QUARTER OF  
 SECTION 14, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH P.M.,  
 COUNTY OF EL PASO, STATE OF COLORADO

**SECTION BREAKDOWN**



**AS PLATTED DETAILS**



- LEGEND**
- (R) RECORD DIMENSION
  - (M) FIELD MEASURED DIMENSIONS
  - (C) CALCULATED DIMENSIONS
  - REC. RECEIPTION
  - FOUND MONUMENT AS NOTED
  - SET NO. 5 REBAR AND ORANGE PLASTIC CAP, "PLS 38141"
  - SECTION MONUMENT AS NOTED
  - ORANGE PLASTIC CAP
  - YELLOW PLASTIC CAP
  - ALUMINUM CAP
  - AC ALUMINUM CAP
  - P.U.D.E. PUBLIC UTILITY AND DRAINAGE EASEMENT
  - ( ) PANEL ADDRESS
  - ⊠ ELECTRIC TRANSFORMER
  - SUBJECT PARCEL LINES
  - ADJACENT PARCEL LINES
  - EASEMENT LINES

| NO. | DATE    | DESCRIPTION |
|-----|---------|-------------|
| 1   | 5/10/21 | CONVEYANCE  |
| 2   | 6/17/21 | CONVEYANCE  |

PCD File No. MS-21-003  
**BARRON LAND**  
 INCREASE A JAMES A. BARRON & CONSTRUCTION  
 2700 N. Academy Blvd., Suite 311 P.O. Box 2827  
 Colorado Springs, Colorado 80907  
 Phone: 719.586.8227  
 Email: info@barronland.com  
 PROJECT No. 18-017

| NO. | DATE    | DESCRIPTION |
|-----|---------|-------------|
| 1   | 5/10/21 | CONVEYANCE  |
| 2   | 6/17/21 | CONVEYANCE  |

**SHEET LEGEND:**  
 SHEET 1: Notes, project information, and certification  
 SHEET 2: boundary and plat detailed information



# Exhibit B

## COLORADO GROUND WATER COMMISSION FINDINGS AND ORDER

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN

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DETERMINATION NO.: 3637-BD

AQUIFER: Dawson

APPLICANT: Carefree Properties, LLC

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

### FINDINGS

1. The application was received by the Colorado Ground Water Commission on October 23, 2018.
2. The Applicant requests a determination of right to designated ground water in the Dawson Aquifer (hereinafter "Aquifer") underlying 19.6 acres, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 22, 2018, attached hereto as Exhibit A, the Applicant owns the 19.6 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Kiowa-Bijou Designated Ground Water Basin. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 19.6 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 19.6 acres of Overlying Land claimed by the applicant is 1,670 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 20 percent.

- b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 425 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 16.7 acre-feet per year.
9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land 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 Underlying 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(s) of Kiowa 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, is required prior to approval of well permits for wells to be located on this land area to withdraw the Underlying Ground Water from the Aquifer.
13. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 20, 2018 and December 27, 2018. No objections to the application were received within the time limit set by statute.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Dawson Aquifer underlying 19.6 acres of land, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

14. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 16.7 acre-feet.
15. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 1,670 acre-feet.
16. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
17. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
18. 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.
19. Commission approval of a replacement plan, providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers, is required prior to approval of well permits that allow the withdrawal of the Underlying Ground Water.
20. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The place of use shall be limited to the above described 19.6 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission.
21. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
22. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
  - a. The wells must be located on the above described 19.6 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Dawson Aquifer.

- d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission.
  - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
23. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 19.6 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
24. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 31st day of January, 2019.

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

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

Prepared by: aat  
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**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

**IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN**

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**DETERMINATION NO.:** 3636-BD

**AQUIFER:** Denver

**APPLICANT:** Carefree Properties, LLC

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

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 23, 2018.
2. The Applicant requests a determination of right to designated ground water in the Denver Aquifer (hereinafter "Aquifer") underlying 19.6 acres, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 22, 2018, attached hereto as Exhibit A, the Applicant owns the 19.6 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Kiowa-Bijou Designated Ground Water Basin. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 19.6 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 19.6 acres of Overlying Land claimed by the applicant is 1,180 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

- b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 355 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 11.8 acre-feet per year.
9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land 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 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 Underlying Ground Water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the Underlying Ground Water withdrawn annually shall be consumed.
13. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 20, 2018 and December 27, 2018. No objections to the application were received within the time limit set by statute.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Denver Aquifer underlying 19.6 acres of land, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

14. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 11.8 acre-feet.
15. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 1,180 acre-feet.

16. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
17. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
18. 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.
19. No more than 98% of the allowed amount of Underlying Ground Water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the underlying ground water withdrawn is being consumed.
20. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The place of use shall be limited to the above described 19.6 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission.
21. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
22. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
  - a. The wells must be located on the above described 19.6 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Denver Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual

diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission.

- f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
23. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 19.6 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
24. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 31st day of January, 2019.

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

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

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

Prepared by: aat  
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**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

**IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN**

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**DETERMINATION NO.:** 3635-BD

**AQUIFER:** Arapahoe

**APPLICANT:** Carefree Properties, LLC

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

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 23, 2018.
2. The Applicant requests a determination of right to designated ground water in the Arapahoe Aquifer (hereinafter "Aquifer") underlying 19.6 acres, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 22, 2018, attached hereto as Exhibit A, the Applicant owns the 19.6 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Kiowa-Bijou Designated Ground Water Basin. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 19.6 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 19.6 acres of Overlying Land claimed by the applicant is 866 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.

- b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 260 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 8.66 acre-feet per year.
9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land 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 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 Underlying Ground Water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the Underlying Ground Water withdrawn annually shall be consumed.
13. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 20, 2018 and December 27, 2018. No objections to the application were received within the time limit set by statute.

#### **ORDER**

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Arapahoe Aquifer underlying 19.6 acres of land, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

14. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 8.66 acre-feet.
15. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 866 acre-feet.

16. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
17. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
18. 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.
19. No more than 98% of the allowed amount of Underlying Ground Water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the underlying ground water withdrawn is being consumed.
20. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The place of use shall be limited to the above described 19.6 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission.
21. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
22. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
  - a. The wells must be located on the above described 19.6 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Arapahoe Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual

diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission.

f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.

23. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 19.6 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.

24. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 31st day of January, 2019.

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

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

*Keith Vander Horst*

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

Prepared by: aat  
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**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

**IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE KIOWA-BIJOU DESIGNATED GROUND WATER BASIN**

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**DETERMINATION NO.:** 3634-BD

**AQUIFER:** Laramie-Fox Hills

**APPLICANT:** Carefree Properties, LLC

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

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 23, 2018.
2. The Applicant requests a determination of right to designated ground water in the Laramie-Fox Hills Aquifer (hereinafter "Aquifer") underlying 19.6 acres, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 22, 2018, attached hereto as Exhibit A, the Applicant owns the 19.6 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Kiowa-Bijou Designated Ground Water Basin. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 19.6 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 19.6 acres of Overlying Land claimed by the applicant is 559 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:
  - a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 15 percent.

- b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 190 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 5.59 acre-feet per year.
9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land 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 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 Underlying Ground Water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the Underlying Ground Water withdrawn annually shall be consumed.
13. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on December 20, 2018 and December 27, 2018. No objections to the application were received within the time limit set by statute.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Laramie-Fox Hills Aquifer underlying 19.6 acres of land, generally described as part of the W 1/2 of the SE 1/4 of the SE 1/4, Section 14, Township 11 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

14. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 5.59 acre-feet.
15. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 559 acre-feet.

16. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
17. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
18. 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.
19. No more than 98% of the allowed amount of Underlying Ground Water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the underlying ground water withdrawn is being consumed.
20. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock and replacement. The place of use shall be limited to the above described 19.6 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission.
21. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
22. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
  - a. The wells must be located on the above described 19.6 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual

diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission.

f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.

23. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 19.6 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.

24. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 31st day of January, 2019.

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

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

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

Prepared by: aat  
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**BARGAIN AND SALE DEED**

In connection with the purchase and sale of the West half of the Southeast quarter of the Southeast quarter of Section 14, Township 11 South, Range 65 West of the 6th P.M.; excepting a perpetual easement for roadway, utilities, ingress and egress purposes over and across the North 40 feet, El Paso County, Colorado, also known as 10675 Hardy Road, Colorado Springs, CO 80920,, Colorado Springs, CO 80908, El Paso County, Colorado ("Property"), Carefree Properties, LLC, a Colorado Limited Liability Company ("Grantor") of the County of El Paso and State of Colorado, for ten dollars and other good and valuable consideration in hand paid, hereby sells and conveys to Andrea Rapson and William Rapson, as joint tenants ("Grantee"), whose address is 10870 Elizabeth Way, Colorado Springs, CO 80908 of the County of El Paso, and State of Colorado, the following water rights, to wit:

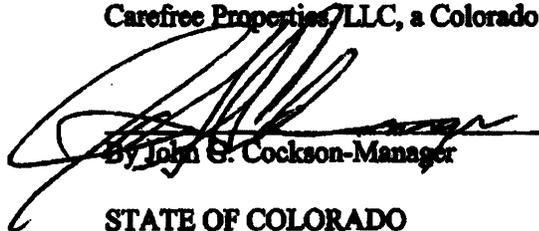
Those rights set forth in the Colorado Ground Water Commission Findings and Determination in Case Nos. 3637-BD (Dawson Aquifer and Replacement Plan), 3636-BD (Denver Aquifer), 3635-BD (Arapahoe Aquifer) and 3634-BD (Laramie-Fox Hills Aquifer).

TO HAVE AND TO HOLD together with any and all appurtenances and privileges, and all the estate, right, title, interest and claim whatsoever, of the Grantor, either in law or equity, to the proper use and benefit of the Grantee, his heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this deed on this 30<sup>th</sup> day of December, 2019.

GRANTOR

Carefree Properties, LLC, a Colorado Limited Liability Company

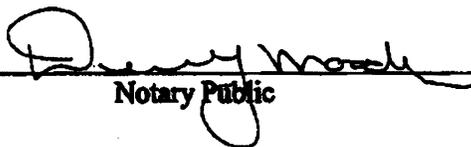
  
By John G. Cockson-Manager

STATE OF COLORADO

COUNTY OF EL PASO

ss: The foregoing document was acknowledged before me this 30<sup>th</sup> day of December, 2020 by John G. Cockson as Manager of Carefree Properties, LLC.

My commission expires 12-11-2020

  
Notary Public

Deborah J Moody  
NOTARY PUBLIC  
Haywood County, NC  
My Commission Expires 12/11/2020