

Water Resource Narrative

for

Peterson Vacation and Replat

Owner/Applicant:

Brian and Tibby Peterson
17390 Shiloh Pines Drive
Monument, CO 80132
(719) 244-7391

Apr 22, 2022

This document has been prepared to satisfy the requirements of El Paso County for a Water Resource Report in support of Peterson Vacation and Replat for the new parcel being created between 17390 Shiloh Pines Drive, 17410 Shiloh Pines Drive, and 3125 North Monument Lake Road.

Project Description:

The intent of this project is to gain approval for replatting the current lots at 17390 Shiloh Pines Drive, 17410 Shiloh Pines Drive, and 3125 North Monument Lake Road to create a new lot based on a portion of the farm at 3125 North Monument Lake Road that is currently separated from the farm via an unregistered quit claim deed. The new lot is more common in altitude, terrain and character with the lots on Shiloh Pines Road than the remainder of the farm. The new lot will be 3.94 acres with a driveway flag to Shiloh Pines Drive while the replat will retain the acreage of the two other lots on Shiloh Pines Drive at 2.5 acres. The two existing Shiloh Pines Drive lots and the property for the new lot has been rezoned as RR-2.5 by prior El Paso County action. Only one total lot will be created as a result of this submittal. In accordance with Section 8.4.7.B of the El Paso County Land Development Code, a narrative discussion and a Water Supply Information Summary Form shall be provided in lieu of a complete Water Resources Report. No site work is proposed at this time. The individual owner and builder will conduct their own due-diligence when developing new lot.

The following documents pertaining to the water supply of this land are included as an attachment:

- Legal Description and map
- Findings of Fact and Amended Ruling of Fact of Referee Granting Underground Water Rights and Adjudication of Denver Basin Groundwater (Case 13CW3025, 21 February, 2104)
- Order Approving Petition to Correct Clerical Mistake and Order Entering and Amended Decree (Case 13CW3025, 22 July, 2015)
- Quitclaim Deed, Assignment of Assumption August 3, 2018

Land Development Code §8.4.7

Pursuant to 8.4.7 (A) (3), this vacation will not result in significantly greater total water use than previously anticipated for the subdivision except for the addition of the new lot, the Water Supply Summary and this Narrative will not address the other lots, which have established water supply sources which have been used for 35+ years and will not be impacted.

Pursuant to 8.4.7 (A) (3), since this is a narrative for a new parcel with which no building permits are being requested, does not require a full water supply report, and is surrounded by parcels which are using existing wells (for which the water quality is known and acceptable) or the Forest View Acres Water District, which has verified water quality standards, a waiver is requested for this narrative to be prepared by a qualified hydrologist. The data included are documented authoritative facts and exceed similar narratives submitted from 2019-2021. It is wasteful to have to spend \$5000 for a similar report to be submitted by a hydrological engineering firm with no additional information and zero reduction in risk.

Pursuant to 8.4.7 (B)(2)(d), this subdivision of less than 4 lots does not require a full Water Resources Report and this Narrative is being submitted with sufficient information on the quality, quantity, and dependability of the water supply.

Site Location, size and zoning:

This project of the new lot consists of 3.94 acres, more or less, located in the West 1 /2 of the Northwest 1 /4 of Section 15, and the East 1 /2 of the Northeast 1 /4 of Section 16, all in Township 11 South, Range 67 West of the 6th P.M. (the "Property"). A legal description of the Property is attached along with a map showing the Property. There are no encumbrances of record on the Property. The property zoned as RR-2.5 and is bordered by lots 7100000413 (zoned A-35), 7116101001 (RR-2.5) and 7116101002 (RR-2.5).

Background:

The properties at 17390 and 17410 Shiloh Pines Drive each have a single home and are served by the Forest View Acres Water District. The property at 3125 North Monument Lake Road has two home which

are served by a single well and the new lot has proportional water rights granted from the adjudicated water rights secured by the Monument Lake Road property. The new lot may acquire water from a well on the new lot (whose location and approval has not been determined) but also is close enough to the Forest View Acres Water District main on Shiloh Pines Drive to serve the property, expecting the water rights are provided to the Water District in that case. The Water District has indicated that is a possibility but no specific agreement has been negotiated. Any well would be outside the 400 foot limit from the FVAWD boundary but any home would likely be within 700 feet, making it feasible for inclusion in the district. The new lot shall be designated for a single family residential home.

Existing and Proposed facilities, structures, roads, etc:

No onsite or offsite roadway improvements are required for this Vacation and Replat. This lot may receive water from a well or provide water rights and join the Forest View Acres Water District. The Owner of the new lot shall provide all required documentation upon construction of potable water supply well. The proposed new lot will treat their wastewater by way of a septic system, as is what is currently being used for all surrounding lots. An existing roadway extends from Mount Herman Road to the north to the single-family residential homes on Shiloh Pines Drive and the proposed driveway flag of the new lot.

Site Conditions:

This property is densely covered with pine trees, native grasses and shrubs. No drainage modifications or features are proposed.

Water Supply:

A future approved well on this lot is expected for up to 0.83 acre-feet per year from the Dawson Aquifer. However, domestic household is expected to be limited to 0.26 acre-foot per year. Due to the heavily wooded terrain, significant irrigation for landscaping is not expected. Sufficient water supply has been confirmed and secured for the proposed Vacation and Replat. See attached Water Supply Information Summary Form for additional detail. This water supply may be provided to Forest View Acres Water District, by future agreement, in exchange for permission to join the district if the future residence owner chooses not to drill a well.

Water Quantity

A total of 251 acre-feet of Dawson Groundwater was deeded to the property owners by the Grantor, on August 3, 2018 (Attached). The annual appropriation is 0.837 acre-feet per year to serve a single residence on a well for 300 years. This amount is sufficient to supply the proposed new residential lot with 0.74 AF/Year.

Water Supply Dependability

The proposed source of water supply is the non-tributary Dawson aquifer which is the uppermost aquifer underlying the property. All groundwater will be used on the overlying land.

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Water Supply Quality

The proposed source(s) of water supply are the non-tributary Dawson aquifer which has been used by the adjacent farm property and residence with sufficient water quality since at least 1977 (Well Permit No. 48273-A, May 16, 1977). All groundwater will be used on the overlying land. If an agreement with Forest View Acres Water District is made, it will simply expand the supply authorization for the Water

District (used by the adjacent Shiloh Pines subdivision) and rely on the FWAWD water quality standards.

Conclusion

The proposed water supply is sufficient to meet the County's' requirement for a single home to be built in the future in terms of Quality, Quantity, and Dependability.

Property Legal Description

Lot 27, Block 1, together with Lot 28, Block 1, Shiloh Pines Subdivision, El Paso County, Colorado together with the following described parcel, to wit:

The West one half of the Northwest Quarter and the West one half of the Southwest Quarter of Section 15 and the East one half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 16, all in Township 11 South, Range 67 West of the 6th Principal Meridian, El Paso County Colorado,

Excepting therefrom the following portions thereof:

- A.) That portion of Section 15 conveyed to the people of the State of Colorado by warranty deed recorded July 12, 1892 in Book 192 at Page 586;
- B.) That portion conveyed to El Paso County for road purposes by quitclaim deed recorded June 22, 1902 in Book 331 at Page 163;
- C.) That portion lying within the North 10 feet of the Northwest Quarter of the Northwest Quarter of Section 15, conveyed to J.L. Freeman by warranty deed recorded November 15, 1923 in Book 706 at Page 505;
- D.) That portion conveyed to Norman C. Foote and Alice B. Foote by warranty deed recorded June 25, 1971 in Book 2417 at Page 843;
- E.) That portion conveyed to Panther Properties Inc., by warranty deed recorded June 19, 1979 in Book 3190 at Page 39;
- F.) That portion conveyed to Leigh C. Wilde by quitclaim deed recorded December 01, 2004 under Reception Number 204196943 of the El Paso County records.
Containing 79.42 Acres, more or less.



WATER SUPPLY INFORMATION SUMMARY

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

1. NAME OF DEVELOPMENT AS PROPOSED <u>Peterson Vacation and Replat</u>			
2. LAND USE ACTION <u>Vacation and Replat</u>			
3. NAME OF EXISTING PARCEL AS RECORDED <u>Unnamed</u>			
SUBDIVISION <u>See Above</u>		FILING <u>N/A</u>	BLOCK <u>N/A</u> Lot <u>N/A</u>
4. TOTAL ACERAGE <u>3.93</u>	5. NUMBER OF LOTS PROPOSED <u>1</u>	PLAT MAPS ENCLOSED <input checked="" type="checkbox"/>	
6. PARCEL HISTORY - Please attach copies of deeds, plats, or other evidence or documentation. (In submittal package)			
A. Was parcel recorded with county prior to June 1, 1972? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
B. Has the parcel ever been part of a division of land action since June 1, 1972? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
If yes, describe the previous action <u>Platted but not recorded.</u>			
7. LOCATION OF PARCEL - Include a map delineating the project area and tie to a section corner. (In submittal)			
<u>SE 1/4</u> OF <u>NE 1/4</u> SECTION 16 TOWNSHIP <u>11</u> <input type="checkbox"/> N <input checked="" type="checkbox"/> S RANGE <u>87</u> <input type="checkbox"/> E <input checked="" type="checkbox"/> W			
PRINCIPAL MERIDIAN: <input checked="" type="checkbox"/> 6TH <input type="checkbox"/> N.M. <input type="checkbox"/> UTE <input type="checkbox"/> COSTILLA			
8. PLAT - Location of all wells on property must be plotted and permit numbers provided.			
Surveyors plat <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		If not, scaled hand-drawn sketch <input type="checkbox"/> YES <input type="checkbox"/> NO	
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Foot per Year		10. WATER SUPPLY SOURCE	
HOUSEHOLD USE #* <u>1</u> of units <u>0.26</u> AF/SFEYR <u>0.26</u> AF		EXISTING <input type="checkbox"/> WELLS DEVELOPED <input type="checkbox"/> SPRING <input checked="" type="checkbox"/> NEW WELLS	
COMMERCIAL USE # <u>0</u> SF <u>-</u> GPD <u>-</u> AF		WELL PERMIT NUMBERS	
IRRIGATION #** <u>3200</u> SF <u>0</u> GPD <u>0.18</u> AF		Proposed Aquifers - (Check One)	
ANIMAL WATERING #*** <u>3</u> Horses <u>0</u> AF/Horse/Year <u>0.3</u> AF		<input type="checkbox"/> Alluvial <input type="checkbox"/> Upper Arapahoe	
TOTAL <u>0.74</u> AF*		<input checked="" type="checkbox"/> Upper Dawson <input type="checkbox"/> Lower Arapahoe	
		<input type="checkbox"/> Lower Dawson <input type="checkbox"/> Laramie Fox Hills	
		<input type="checkbox"/> Denver <input type="checkbox"/> Dakota	
		<input type="checkbox"/> Other	
		WATER COURT DECREE CASE NUMBERS	
		<u>Determination No.: Case 13CW3025</u>	
		<u>Note: The other 2 lots involved have established water sources on Forest View Acres Water District since at least 1986 and does not apply to these lots per 8.4.7 (A) (3). Trying to add their information would significantly complicate this Summary and obscure the true impact of this vacation</u>	
11. ENGINEER'S WATER SUPPLY REPORT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		If yes, please forward with this form. (This may be required before our review is completed)	
12. TYPE OF SEWAGE DISPOSAL SYSTEM			
<input checked="" type="checkbox"/> SEPTIC TANK/LEACH FIELD		<input type="checkbox"/> CENTRAL SYSTEM - DISTRICT NAME:	
<input type="checkbox"/> LAGOON		<input type="checkbox"/> VAULT - LOCATION SEWAGE HALLID TO:	
<input type="checkbox"/> ENGINEERED SYSTEM (Attach a copy of engineering design)		<input type="checkbox"/> OTHER:	

SPECIAL WARRANTY DEED

THIS DEED, made this 3rd day of August, 2018 between Thomas Puskas ("Grantor"), of the County of El Paso and State of Colorado and Brian Peterson ("Grantee") whose legal address is 17390 Shiloh Pines Drive, Monument, Colorado.

WITNESSETH, That the Grantor, for and in consideration of ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the Grantees, and their successors and assigns forever, all previously unsevered mineral rights associated with the 3.94 acres deed on 27 Jul 2017 and the following water and water rights, located in the County of El Paso, State of Colorado:

Aquifer	Saturated Thickness (Feet)	Depth (Feet)	Total water included (Acre Feet)	Total Water Adjudicated on Original 75 acre tract (Acre Feet)
Lower Dawson	320	645	251	4704
Denver	220	1115	150	2805
Arapahoe	460	1700	313	5865
Laramie Fox Hills	200	2160	120	2250

in accordance with Consolidated Case No. 13CW3025 (District Court, Water Division 2) filed February 21, 2014, pursuant to the terms and conditions of the augmentation plan as decreed in the referenced case. Grantor hereby reserves all remaining groundwater underlying said Lot.

TOGETHER WITH all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the Grantees, and their successors and assigns forever. The Grantor, for itself and its successors and assigns, does covenant and agree that it shall WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of the Grantees, and their successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor. Grantor provides no warranty as to the quantity or quality of the water conveyed herein.

The water and water rights conveyed herein are intended to provide a 300 year water supply for the referenced Lot. Therefore, the water and water rights shall run with the land, must be transferred to all successors and assigns of Grantee, may not be separated from transfer of title to the land, and may not be separately conveyed, bartered, liened or encumbered.

EXECUTED AND DELIVERED on the date set forth above.



Thomas Puskas
3125 Monument Lake Road
Monument, Colorado 80132

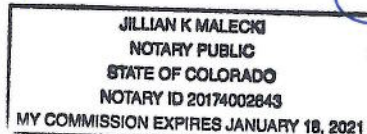


Brian S. Peterson
17390 Shiloh Pines Drive
Monument, CO 80132

STATE OF: COLORADO
COUNTY OF: EL PASO

The forgoing instrument was acknowledged before me on 03 August 2018 ~~29 July 2017~~
Witness my hand and official seal.

My commission expires: 01/18/2021


Notary Public

DISTRICT COURT, WATER DIVISION 2

Court Address: 320 West 10th Street
Pueblo, CO 81003

Phone: (719) 583-7048

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

THOMAS J. PUSKAS

IN EL PASO COUNTY

Attorneys for Applicant:

David M. Shohet, #36675
Felt, Monson & Culichia, LLC
319 N. Weber Street
Colorado Springs, Colorado 80903
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DATE FILED: February 21, 2014 11:11 AM
CASE NUMBER: 2013CW3025

Δ COURT USE ONLY Δ

Case No.: 13CW3025

**FINDINGS OF FACT AND AMENDED RULING OF REFEREE
GRANTING UNDERGROUND WATER RIGHTS AND ADJUDICATION
OF DENVER BASIN GROUNDWATER**

THIS MATTER comes before the Court on the Application for Underground Water Rights and for Adjudication of Denver Basin Ground Water filed by Thomas J. Puskas, and having reviewed said Application and being fully advised on this matter, the following amended findings and orders are made:

FINDINGS OF FACT**General Findings**

1. The Applicant in this case is Thomas J. Puskas, whose address is P.O. Box 1112, Monument, CO 80132 ("Applicant"). This case involves the adjudication of Denver Basin groundwater underlying Applicant's property in El Paso County, and adjudication of an exempt well pursuant to C.R.S. §37-92-602(4).

2. The Application in this case was filed in Water Division 2 on July 30, 2013, and was referred to the Water Referee by an Order of the Court dated August 2, 2013.

3. The Water Court caused publication of the Application as provided by statute and publication costs have been paid. Proof of Publication of the Application was filed with the Court on September 19, 2013. Timely and adequate notice of the pendency of these proceedings has, therefore, been given in the manner required by law.

4. The time for filing statements of opposition to the Application expired on September 30, 2013. No such statements of opposition were filed to the Application.

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

6. The Division Engineer for Water Division 2 filed his Consultation Report dated October 9, 2013, with the Court pursuant to C.R.S. §37-92-302(4). The Court has considered that Consultation Report in rendering this ruling. The Court has also considered the Determination of Facts of the State Engineer for each of the Denver Basin aquifers dated October 8, 2013, and provided to the Court.

Denver Basin Ground Water Rights

7. The land overlying the groundwater which is the subject of this case is owned by the Applicant and consists of 75 acres, more or less, located in the West 1/2 of the Northwest 1/4 of Section 15, and the East 1/2 of the Northeast 1/4 of Section 16, all in Township 11 South, Range 67 West of the 6th P.M. (the "Property"). A legal description of the Property is attached as Exhibit A and a map showing the Property is attached as Figure 1.

8. There are no encumbrances of record on the Property. Therefore, the notice provisions of C.R.S. §37-92-302(2)(b) did not apply to this Application.

9. Of the Denver Basin aquifers, the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers all exist beneath the Property. The Dawson and Denver aquifers underlying the Property contain not-nontributary water, while the water of the Arapahoe and Laramie-Fox Hills aquifers underlying the Property are nontributary. The quantity of groundwater in the Denver Basin aquifers exclusive of artificial recharge underlying the Property is as follows:

<u>Aquifer</u>	<u>Saturated Thickness (Feet)</u>	<u>Depth (Feet)</u>	<u>Total Water Adjudicated (Acre Feet)</u>	<u>Annual Average Withdrawal (Acre Feet)</u>
Lower Dawson	320	645	4704 ¹	47.0
Denver	220	1115	2805	28.1
Arapahoe	460	1700	5865	58.7
Laramie Fox Hills	200	2160	2250	22.5

10. Subject to the requirements and limitations of this decree, Applicant shall be entitled to withdraw all legally available ground water in the Denver Basin aquifers underlying the Property. Said amounts can be withdrawn over the 100 year life of the aquifers as set forth in C.R.S. § 37-90-137(4), or withdrawn over a longer time based upon local governmental regulations or Applicant's water needs. The average annual amounts of groundwater available for withdrawal from the Denver Basin aquifers underlying the Property have been determined as set forth above, based upon the October 8, 2013, Office of the State Engineer's Determination of Facts.

11. Applicant shall be entitled to withdraw an amount of groundwater in excess of the annual amount decreed from the Denver Basin aquifers underlying Applicant's Property, so long as the sum of the total withdrawals from all the wells in the aquifer does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of a decree herein, whichever comes first, and the annual volume of water which Applicant is entitled to withdraw from the aquifer underlying Applicant's Property.

12. Applicant shall be entitled to produce the full legal entitlement from the respective Denver Basin aquifers underlying Applicant's Property through any combination of wells constructed into each aquifer. These wells may be treated as a well field, and may be located at any point within the boundaries of the Applicant's Property without the necessity of filing an amendment to the application, republishing, or petitioning the Court for the opening of this decree. The pumping rates for each well may vary according to aquifer conditions and well production capabilities. The Applicant shall be entitled to withdraw groundwater at rates of flow necessary to withdraw the entire decreed amounts. Applicant waives the 600-foot well spacing requirement of C.R.S. §37-90-137(2)(b) with respect to the well spacing of Applicant's wells in relation to one another on Applicant's Property. All wells shall be cased to prevent withdrawal of water from more than one aquifer.

¹ The amount of water in the Dawson aquifer adjudicated herein has been reduced by 100 acre feet (1.0 annual acre-feet) as such amount is allocated to State Engineer Exempt Well Permit No. 48273-A adjudicated herein.

13. Well permit applications for the wells to be drilled pursuant to this decree shall be applied for prior to drilling wells into the Denver Basin aquifers. No exact location is required for the wells in this decree, as that information will be provided when the well permit applications are submitted.

14. The Applicant is awarded a vested right to the use the groundwater as quantified in paragraph 8, or as modified by the Court under its retained jurisdiction, for beneficial uses on the Property consisting of domestic, commercial, irrigation, stock water, recreation, wildlife, piscatorial, fire protection, replacement, and central water supply for such uses. This water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of stream depletions resulting from use of the water, and for augmentation purposes. The nontributary water may be used, reused, and successively used to extinction, both on and off the Applicant's Property. The nontributary water is subject, however, to the provisions of Rule 8 of the Denver Basin Rules, 2 CCR 402-6, limiting consumption to ninety-eight percent (98%) of the amount withdrawn. Provided however, except for the exempt Puskas Well decreed herein, Applicant shall not be entitled to construct a well or use water from the not nontributary Dawson and Denver aquifers until a decreed augmentation plan has been entered by the Court.

15. Water is available from the nontributary aquifers beneath the Applicant's Property and the withdrawal of that water from wells in the amounts of water determined in accordance with the provisions of this decree will not result in material injury to any other vested water rights or to any other owners or users of water.

Underground Water Rights

16. For the absolute ground water right claimed, the Applicant has completed all of the elements for the appropriation of a water right to wit:

A. Formation of the intent to appropriate water.

B. Performance of overt acts coincidentally with this intent to manifest the intention to appropriate water to beneficial use and to demonstrate taking of a substantial step toward applying water to beneficial use by applying for and drilling exempt domestic Well Permit No. 48273-A. These acts were of such a nature to provide interested third parties with notice of the nature and extent of the proposed diversion and consequent demand upon the river system.

C. Waters tributary to the Arkansas River have been diverted or otherwise captured, possessed, or controlled, and have been beneficially used in the amounts claimed and for the uses stated herein.

17. The following underground water right is hereby decreed pursuant to C.R.S. §37-92-602(3)(b)(I):

A. Name of Well: Puskas Well

B. Legal Description of Point of Diversion: The Puskas Well is located in the Southeast Quarter of the Northeast Quarter of Section 16, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, approximately 1450 feet south from the north section line of said Section 16, and 350 feet west from the east section line of said Section 16.

C. Means of Diversion: Well; Well Permit No. 48273-A.

D. Source: Groundwater from the Dawson Aquifer of the Denver Basin aquifer tributary to the Arkansas River and its tributaries.

E. Appropriation:

(i) Date of Initiation of Appropriation: May 16, 1977.

(ii) How Appropriation Was Initiated: Appropriation was initiated by the issuance by the Office of the State Engineer of Well Permit No. 48273-A, on May 16, 1977, together with an intent to appropriate the water from the well and apply the water to beneficial use.

(iii) Date Water Applied to Beneficial Use: June 3, 1977.

F. Well Depth. 215 feet.

G. Amount Claimed: 14 g.p.m. absolute.

H. Use: Ordinary household purposes inside two single family dwellings, the watering of domestic animals, and the irrigation of 1 acre of home, gardens and lawns.

I. Place of use: The water from this well can be used for the above uses upon Applicant's Property.

J. Exempt Decreed Status: This well is an exempt well under C.R.S. §37-92-602(3)(b)(1) for the uses set forth above, and is being decreed pursuant to C.R.S. §37-92-602(4). The priority date of this well shall, therefore, be the appropriation date set

forth above regardless of the date of application or the date of this decree. So long as the use of this well is limited to those uses allowed under Permit No. 48273-A, it is exempt from administration under the priority system pursuant to C.R.S. § 37-92-602.

18. By reason of this decree under C.R.S. 37-92-602(4), this exempt decreed well shall not lose its status as exempt from administration within the prior appropriation system under C.R.S. 37-92-602(1), or any other benefits to an exempt well structure. This decreed exempt well structure is a vested water right entitled to protection as such, and shall be entitled to assert injury in any pending or future water rights application. Provided however, that this decreed exempt well shall not be entitled to assert, by the Applicant or through the Colorado Division of Water Resources, its respective priority date for purposes of placing a call or curtailment upon other vested or conditional water rights junior in priority to it under the prior appropriation system.

19. The exempt decreed well is absolutely decreed only for its actual uses in place. These decreed uses may be for less than the full exempt use entitlement under C.R.S. 37-92-602(1)(b) for such structures. Any other statutory exempt uses authorized by the provision of C.R.S. 37-92-602 which have not been expressly decreed herein are not waived but are preserved in all respects by the Applicant.

CONCLUSIONS OF LAW

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

21. The Applicant has complied with C.R.S. §37-90-137(4), and the groundwater requested herein is legally available for withdrawal by the requested nontributary wells, and legally available for withdrawal by the requested not nontributary wells upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c), except for the Puskas Well as decreed herein. Applicant is entitled to a decree from this Court confirming his rights to withdraw groundwater pursuant to C.R.S. §37-90-137(4).

22. The Denver Basin water rights granted by this decree are not conditional water rights, but are absolute water rights determined pursuant to C.R.S. §37-90-137. No applications for diligence are required. The claims for nontributary and not nontributary groundwater meet the requirements of Colorado law.

23. The determination of the nontributary groundwater rights in the Denver Basin aquifers as set forth herein is contemplated and authorized by law. C.R.S. §37-90-137 and C.R.S. §37-92-302 to §37-92-305.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

24. All the foregoing Findings of Fact and Conclusions of Law are incorporated by reference herein, and are to be considered a part of this Ruling as though set out in full.

25. The Application for Underground Water Rights and Adjudication of Denver Basin Ground Water by the Applicant is granted, subject to the terms of this decree.

26. The Applicant shall comply with C.R.S. §37-90-137(9)(b) requiring the relinquishment of the right to consume of up to two percent of the amount of the nontributary groundwater withdrawn. Ninety-eight percent of the nontributary ground water withdrawn may thereby be consumed. No plan of augmentation shall be required to provide for such relinquishment.

27. The Court retains jurisdiction over this matter to make adjustments in the allowed average annual amount of withdrawal from the Denver Basin aquifers, either upwards or downwards, to conform to actual local aquifer characteristics, and that the Applicant need not refile, republish, or otherwise amend this application to request such adjustments.

28. The Court determines and orders that the State Engineer shall issue well permits in accordance with C.R.S. § 37-90-137(4) and/or (10) and the decree entered herein. Should Applicant fail to construct any well prior to the expiration of the well permit, Applicant may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit with terms and conditions no more burdensome than those contained herein.

29. The wells shall be installed and metered as reasonably required by the Division Engineer and the State Engineer. Each well shall be equipped with a totalizing flow meter and Applicant shall submit diversion records to the Division Engineer or his representative on an annual basis or as otherwise requested by the Division Engineer.

30. This decree shall be recorded. Copies of this decree, when entered by the Court, shall be mailed to the parties as required by statute.

31. The groundwater rights decreed herein are vested property rights decreed to the Applicant. The groundwater rights decreed herein shall be owned by the Applicant or the Applicant's successors until such time as the Applicant's or the Applicant's successors expressly convey all or a portion of the water to another entity through a deed that identifies this case 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 21st day of January, 2014.

BY THE REFEREE:



Mardell R. DiDomenico

Mardell R. DiDomenico
Water Referee, Water Division 2
State of Colorado

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

Dated: February 21, 2014.

BY THE COURT:

Larry C. Schwartz
LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2

Exhibit A
Legal Description

The West One Half of the Northwest Quarter and the West One Half of the Southwest Quarter of Section 15 and the East One Half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 16, all in Township 11 South, Range 67 West of the 6th P.M. EXCEPTING THEREFROM, the following portions thereof:

a) that portion of Section 15 conveyed to the People of the State of Colorado by Warranty Deed recorded July 12, 1892 in Book 129 at Page 586;

b) that portion conveyed to El Paso County for road purposes by Quitclaim Deed recorded June 22, 1902 in Book 331 at Page 163;

c) that portion lying within the North 10 feet of the Northwest Quarter of the Northwest Quarter of Section 15, conveyed to J. L. Freeman by Warranty Deed recorded November 15, 1923 in Book 706 at Page 505;

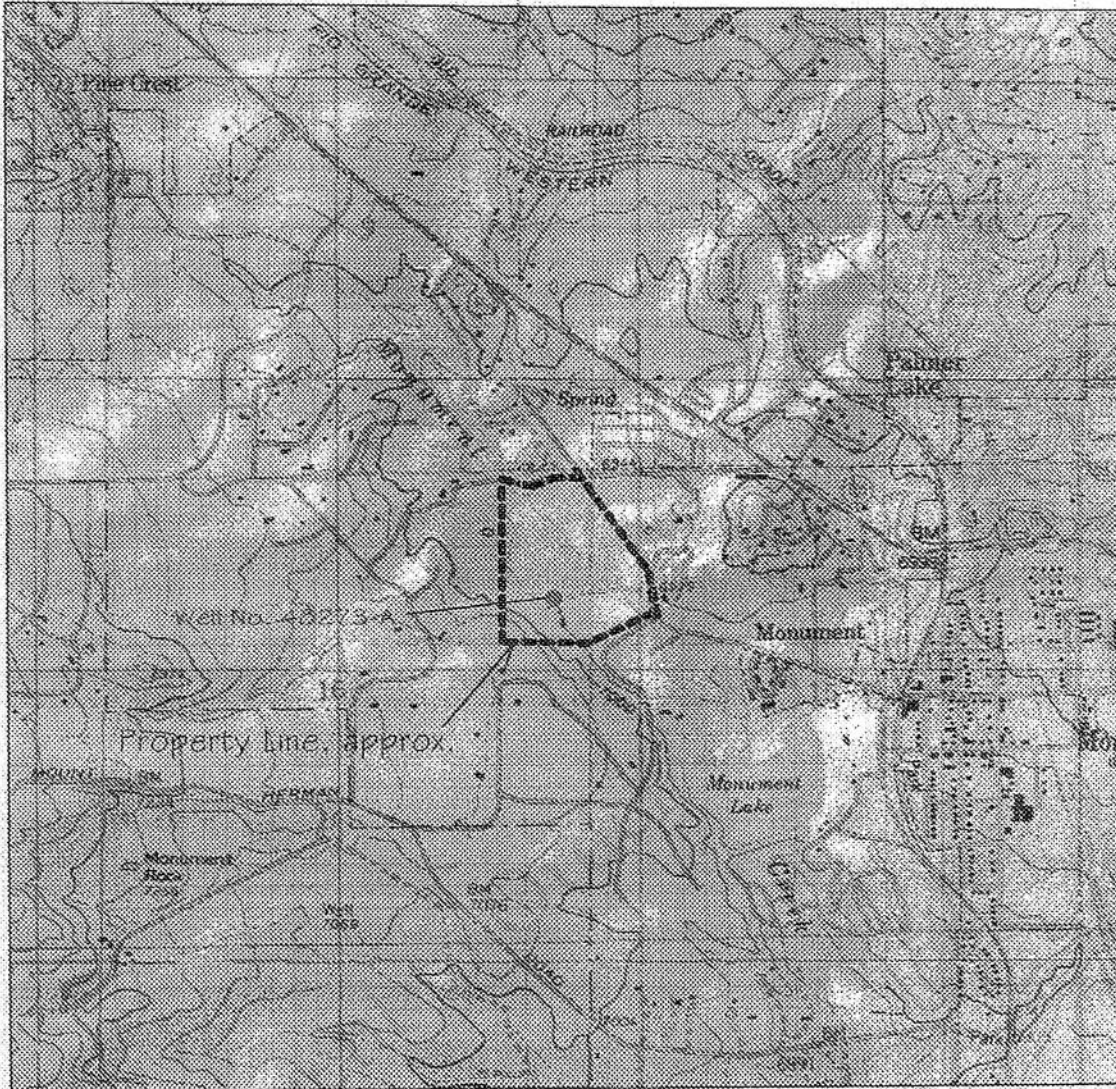
d) that portion conveyed to Norman c. Foote and Alice B. Foote by Warranty Deed recorded June 25, 1971 in Book 2417 at Page 843;

e) that portion conveyed to Panther Properties, Inc. by Warranty Deed recorded June 19, 1979 in Book 3190 at Page 39; and

f) that portion conveyed to Leigh C. Wilde from Thomas J. Puskas by Quit Claim Deed recorded on December 1, 2004 at Reception No. 204196943,

All recorded with the El Paso County Clerk and Recorder.

R 67 W



T 11 S

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Scale 1" = 2000'

Location Map

Thomas Puskas Property

Wm Curtis Wells & Co.
consulting ground water geologists

Figure 1

DISTRICT COURT, WATER DIVISION 2, COLORADO

Court Address: 501 North Elizabeth Street, Suite 116
Pueblo, CO 81003

**CONCERNING THE APPLICATION FOR WATER
RIGHTS OF:**

THOMAS J. PUSKAS

IN EL PASO COUNTY.

DATE FILED: July 22, 2015 10:44 PM
CASE NUMBER: 2013CW3025

▲ COURT USE ONLY ▲

Case No.: 13CW3025

**ORDER APPROVING PETITION TO CORRECT CLERICAL MISTAKE AND
ORDER ENTERING AN AMENDED DECREE**

THIS MATTER having come before the Water Judge upon the Petition to Correct a Clerical Mistake filed by the Applicant, Thomas J. Puskas, and the Water Judge being fully advised on this matter and having reviewed the filed Petition,


THE WATER JUDGE FINDS AND ORDERS that the correction of the clerical errors is appropriate under C.R.C.P. 60 and C.R.S. § 37-92-304(10) and the July 21, 2015 Petition to Correct Clerical Mistakes is hereby granted.

THE WATER JUDGE FURTHER FINDS AND ORDERS that Paragraph 14 of the February 21, 2014 Decree shall cross-reference paragraph 9 of the Decree.

THE WATER JUDGE FURTHER ORDERS the entry of an amended and restated decree in this matter correcting the above clerical error to conform the decree to the intent of the parties and the Water Court.

DONE this 22nd day of July, 2015.

BY THE COURT:


LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2