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CASE NUMBER: 2016CW3066

DISTRICT COURT, WATER DIVISION 2, COLORADO

Court Address:
501 N. Elizabeth Street, Suite 116
Pueblo, Colorado 81003

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

CLIVE AND KAREN GRANT REVOCABLE TRUST

IN EL PASO COUNTY.

• COURT USE ONLY •

Consolidated Case Numbers:
2016CW3066, Water Division 2,
2016CW3128, Water Division 1

FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT

This claim for nontributary and not nontributary groundwater and approval of plan for augmentation, having been filed in Water Divisions 1 and 2 in September, 2016, and all matters contained in the application having been reviewed, and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein, the following is hereby the Ruling and Decree of the Court:

FINDINGS OF FACT

1. Name, address and telephone number of Applicants:

   Clive and Karen Grant Revocable Trust
   1315 Walsen Road
   Colorado Springs, CO 80921
   (507) 254-3163

2. Objection: Statements of opposition were filed by Kettle Creek, LLC, and the City of Colorado Springs, acting by and through its enterprise Colorado Springs Utilities. No other objections were filed and the time for filing has expired.

3. Subject matter jurisdiction: Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of

this proceeding and over persons affected hereby, whether they have appeared or not. The applications were filed to decree groundwater and for approval of a plan for augmentation for use of not nontributary Dawson aquifer groundwater. A motion to consolidate the cases was filed before the Panel on Consolidated Multidistrict Litigation in Case No. 16MD20. On December 12, 2016, the Panel on Consolidated Multidistrict Litigation certified to the Colorado Supreme Court that the two actions should be consolidated and that venue is proper in Water Division 2. On January 5, 2017, the Colorado Supreme Court entered an Order consolidating the two actions and assigning them to Water Division 2.

APPROVAL OF GROUNDWATER RIGHTS

4. Aquifers and location of groundwater: Applicants are granted a decree for vested rights to groundwater in the not nontributary Dawson, Denver and Arapahoe aquifers and the nontributary Laramie-Fox Hills aquifer underlying 40 acres being the SW1/4 NE1/4 of Section 5, T12S, R66W of the 6th P.M., El Paso County, as shown on Attachment A hereto ("Subject Property"). Applicants are the owners of the Subject Property.

5. Well locations, pumping rates and annual amounts: The groundwater may be withdrawn at rates of flow necessary to withdraw the annual amounts decreed herein. Subject to the requirements of this decree, the groundwater will be withdrawn through any number of wells necessary, to be located at any location on the Subject Property, including an existing Dawson aquifer well permitted as of the date of entry of this Ruling and Decree as an exempt well under Well Permit No. 69076, when this well is required. Applicants waive any 600 foot spacing rule for wells located on the Subject Property, but must satisfy Section 37-90-137(4), C.R.S. for wells owned by others on adjacent properties. The following average annual amounts are available for withdrawal based on a 100-year aquifer life, subject to the Court's retained jurisdiction in this matter:

Aquifer	Saturated Thickness	Specific Yield	Annual Amount
Dawson	105 feet	20%	6.0 acre-feet (NNT)*
Denver	220 feet	17%	15.0 acre-feet (NNT)
Arapahoe	240 feet	17%	16.3 acre-feet (NNT)
Laramie-Fox Hills	185 feet	15%	11.1 acre-feet (NT)

*Available annual amount of 8.4 acre-feet per year reduced by 0.33 acre-feet per year associated with existing Well Permit No. 69076 and by an additional 2.07 acre-feet annually. Said 2.07 acre-feet (207 acre-feet total) may also be available for well permitting purposes pursuant to Section 37-92-602, C.R.S. (5.175 acre-feet per surface acre). When the well with Permit No. 69076 is re-permitted as a non-exempt well for use under the plan for augmentation decreed herein, pumping of that well will utilize a portion of the 6.0 acre-

feet adjudicated to the Dawson aquifer, and the remaining 2.4 acre-feet per year will remain available only for pumping by an exempt well or wells.

The amounts conform to the values and amounts referenced in the State Engineer's Determination of Facts reports dated November 4, 2016.

6. Decreed Uses: Subject to the terms and conditions of this decree and the issuance by the State Engineer of a well permit that authorizes the specific use or uses, the water adjudicated herein and withdrawn hereunder will and may be used, reused, and successively used for domestic, commercial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property.

7. Final average annual amounts of withdrawal:

A. Final determination of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicants will be made pursuant to the retained jurisdiction of this Court, as described in paragraph 25 below. The Court shall use the acre-foot amounts in paragraph 5 herein in the interim period, until a final determination of water rights is made.

B. The allowed annual amount of groundwater which may be withdrawn through the wells specified above and any additional and replacement wells, pursuant to Section 37-90-137(10), C.R.S., may exceed the average annual amount of withdrawal from each aquifer, as long as the total volume of water withdrawn through such wells and any additional and replacement wells therefor subsequent to the date of this decree does not exceed the product of the number of years since the date of the issuance of the first non-exempt well permit or the date of this decree, whichever is earliest in time, and the average annual amount of withdrawal, as specified above or as determined pursuant to the retained jurisdiction of the Court, subject to the requirement that such banking and excess withdrawals do not violate the terms and conditions of the plan for augmentation decreed herein and any other plan for augmentation decreed by the Court that authorizes withdrawal of the Denver Basin groundwater decreed herein. In addition, the amounts of withdrawal authorized and set forth in the well permits will not be exceeded.

8. Source of groundwater and limitations on consumption:

A. The groundwater to be withdrawn from the Laramie-Fox Hills aquifer hereunder is "nontributary groundwater" as defined in Section 37-90-103(10.5), C.R.S., and in the Denver Basin Rules, the withdrawal of which will not, within 100 years of continuous withdrawal, deplete the flow of a natural stream, including a natural stream as defined in Section 37-82-101(2) and Section 37-92-102(1)(b), C.R.S., at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. The groundwater to be withdrawn from the Dawson, Denver, and Arapahoe aquifers is "not nontributary" as

defined in Sections 37-90-103(10.7) and 37-90-137(9)(c.5), C.R.S., and the Dawson aquifer groundwater decreed herein may be withdrawn pursuant to the augmentation plan decreed herein. The Denver and Arapahoe aquifer groundwater decreed herein will not be withdrawn and used until such time as that groundwater is included in a separate plan for augmentation.

B. Applicants may not consume more than 98% of the annual quantity of water withdrawn from the nontributary aquifer. The relinquishment of 2% of the annual amount of water withdrawn to the stream system, as required by the Denver Basin Rules effective January 1, 1986, may be satisfied by any method selected by the Applicants and satisfactory to the State Engineer, so long as Applicants can demonstrate that an amount equal to 2% of such withdrawals (by volume) has been relinquished to the stream system.

C. There is unappropriated groundwater available for withdrawal from the subject aquifers beneath the Subject Property, and the vested water rights of others will not be materially injured by such withdrawals as described herein. The amounts of Denver Basin groundwater adjudicated herein were determined on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years. If withdrawals and use are made in accordance with the requirements of this decree, no material injury to vested water rights of others will result from the issuance of permits for wells which will withdraw not nontributary and nontributary groundwater or the exercise of the rights and limitations specified in this decree.

9. Additional wells and well fields:

A. With the exception of the wells constructed into the Dawson aquifer, which shall be operated in accordance with the pumping limits and plan for augmentation decreed herein, Applicants may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property (40 acres). Said wells shall only be drilled pursuant to permits approved by the State Engineer and as additional wells are planned, applications for well permits shall be filed in accordance with Section 37-90-137(10), C.R.S.

B. Two or more wells constructed into a given aquifer shall be considered a well field. In effecting production of water from such well field, Applicants may produce the entire amount which may be produced from any given aquifer through any combination of wells within the well field, subject to the condition that such withdrawals do not result in violation of the requirements of the plan for augmentation decreed herein.

C. In considering applications for permits for wells or additional and replacement wells to withdraw the groundwater which is the subject of this decree, the

State Engineer shall be bound by this decree and shall issue said permits in accordance with provisions of Section 37-90-137(10), C.R.S.

D. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court, Applicants shall obtain new well permits to reflect such adjusted average annual amounts. Subsequent permits for any wells hereunder shall likewise reflect any such adjustment of the average annual amounts decreed herein.

10. Conditions:

For each well constructed pursuant to this decree, Applicants shall comply with the following conditions:

A. A totalizing flow meter shall be installed on the well discharge pipe prior to withdrawing any water therefrom, and the meter shall be maintained and operational at all times for the life of the well. Applicants shall keep accurate records of all withdrawals by the well, make any calculations necessary, and submit such records to the Water Division 2 Engineer upon request or as required by this decree.

B. The entire length of the open bore hole shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicants may provide a geophysical log from an adjacent well or test hole, pursuant to Rule 9A of the Statewide Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

C. Groundwater production shall be limited to the subject aquifers. Plain, unperforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of water from zones other than those for which the well was permitted.

D. Each well shall be permanently identified by its permit number, this Water Court Case Number, and the name of the producing aquifer on the above-ground portion of the well casing or on the pump house.

APPROVAL OF PLAN FOR AUGMENTATION

11. Approval of plan for augmentation:

A. Water to be augmented: Up to 2 acre-feet per year for 300 years (600 acre-feet total) of not nontributary Dawson aquifer groundwater decreed herein, subject to the measurement requirements and pumping limitation set forth in paragraph 11.D.

B. Water to be used for augmentation: Return flows associated with use of the

not nontributary Dawson aquifer and direct discharge of nontributary groundwater decreed herein.

C. The Dawson aquifer groundwater will be used through two wells, including existing well Permit No. 69076, which if used pursuant to this plan for augmentation shall be re-permitted as a non-exempt well, to serve 2 residences at rates of flow not to exceed 15 gpm. Each well will withdraw up to 1 acre-foot annually for 300 years for in-house use (0.35 acre-feet), irrigation of 10,500 square-feet of lawn, garden, and trees (0.6 acre-feet), and stockwatering of up to 4 large domestic animals (0.05 acre-feet). Conservatively, water use in single-family dwellings will equal at least 0.2 acre-feet of water annually, and use of non-evaporative septic systems typically results in consumption of approximately 10% of such amount, resulting in return flows of at least 0.18 acre-feet annually per single-family dwelling. Various components of this plan for augmentation are predicated on these estimations, and Applicants shall be required to use a non-evaporative septic system to treat and dispose of water used for in-house use. To generate return flow to replace depletions during pumping, each well must be used for in-house use, and such use must occur in order for water from the Dawson aquifer to also be used for irrigation or animal watering. Applicants agree that return flows shall be used only to replace depletions under this plan for augmentation and will not be sold, leased, traded, or assigned in whole or in part for any other purpose. Any proposed change in the method of wastewater treatment and disposal shall require water court approval after the filing of a separate water court application, and notice in the water resume and publication in a newspaper of general circulation in El Paso County.

D. Replacement during pumping: During pumping of the Dawson aquifer groundwater for 300 years, Applicants will replace actual depletions to the affected stream system pursuant to Section 37-90-137(9)(c.5), C.R.S. In the 300th year, the total depletion is approximately 25.4% of the amount withdrawn, being 0.254 acre-feet per well (1 acre-foot x 0.254) and 0.508 acre-feet total for both wells. Based on the pumping depletion model used by the State Engineer's Office, the total depletion in year 196 of the plan for augmentation is approximately 17.9% of the amount withdrawn. The 0.36 acre-feet of return flows generated by in-house use in two single-family dwellings and returned through non-evaporative septic systems will adequately replace annual depletions from pumping of 2 acre-feet per year of the Dawson aquifer groundwater through year 196 (2 acre-feet x 0.179 = 0.358). Return flows from use of the Dawson aquifer water through each well for both in-house use and irrigation are estimated to be approximately 0.27 acre-feet per year (0.09 acre-feet from irrigation use and 0.18 acre-feet from in house use), for a total of 0.54 acre-feet per year. Beginning in year 197 of the plan for augmentation decreed herein, if the Applicants or their successors want to pump the full 2 acre-feet of Dawson aquifer water, they shall be required to install separate measuring systems for water pumped and used for irrigation purposes, and shall in addition prove to the satisfaction of the Division Engineer or Water Commissioner for Water Division 2 at that time that the return flows from the irrigation use are sufficient to replace annual depletions from pumping in accordance with

the requirements of this Decree. If such showing cannot be made, pumping of the two Dawson aquifer wells shall be reduced to 0.7 acre-feet per year per well, and 1.4 acre-feet per year total. The return flows accrue to the Arkansas River system. Total actual depletion at 100 years from pumping 2 acre-feet is approximately 9.9% of average annual pumping or 0.198 acre-feet. Actual depletion to the Arkansas River stream system at 300 years is approximately 17.2% of average annual pumping or 0.344 acre-feet and actual depletion to the South Platte River stream system at 300 years is approximately 7.25% of average annual pumping or 0.145 acre-feet. Applicants do not have the physical ability to replace depletions to the South Platte River stream system, but shall instead replace all such depletions to the Arkansas River stream system.

E. Post-pumping Depletion Augmentation: Assuming maximum pumping of 2 acre-feet per year for 300 years from the Dawson aquifer, the maximum total depletion to the affected stream systems is approximately 25.4% of the annual amount withdrawn. Applicants will reserve 6.12 acre-feet per year and 612 acre-feet total of the nontributary Laramie-Fox Hills aquifer groundwater decreed herein for use in this plan, but reserve the right to substitute the use of other nontributary groundwater, including return flows, either underlying the Subject Property, or from another location which is legally available for such purpose, for replacement of post-pumping depletions at such time that post-pumping depletions may begin, subject to the requirement that such substitution be noticed and approved by the Court. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate. Applicants and successors in interest shall be required by the terms of this decree to construct a Laramie-Fox Hills aquifer well pursuant to this plan for augmentation at the time replacement of post-pumping depletions must commence pursuant to this decree, unless a different source of water is approved by the court for replacement of post-pumping depletions as described above, or unless the obligation is modified or terminated pursuant to paragraph 11.G below.

F. Applicants will begin making post-pumping replacements when the earliest of the following events has occurred: the total amount of Dawson aquifer groundwater allowed to be withdrawn (600 acre-feet) has been withdrawn from the wells; or the Applicants or successors in interest have acknowledged in writing that all withdrawals for beneficial use of the groundwater have permanently ceased; or for a period of 10 consecutive years no groundwater has been withdrawn; or accounting shows that return flows from the use of the water being withdrawn from the Dawson aquifer are insufficient to replace depletions that already occurred. However, wells will only operate pursuant to this augmentation plan for 300 years from the date that the first well begins to withdraw Dawson aquifer groundwater pursuant to this plan for augmentation.

G. Unless this decree is modified by the Court under its retained jurisdiction, Applicants shall replace actual post-pumping depletions resulting from the Dawson aquifer pumping authorized under the plan for augmentation decreed herein pursuant to Section 37-90-137(9)(c.5), C.R.S. Should Applicants' obligation hereunder to account for and

replace such post-pumping stream depletions be reduced or abrogated for any reason, Applicants may petition the Court pursuant to Paragraph 14.C below to modify or terminate the reservation of the Laramie-Fox Hills aquifer groundwater and the requirement to replace post-pumping depletions decreed herein.

12. Failure of Applicants or successors in interest to comply with the terms of the decree may result in an order of the Division Engineer's office to curtail or eliminate pumping of the wells. A certified copy of the decree shall be recorded in the real property records of El Paso County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree, and shall constitute a covenant running with the land, requiring Applicants and successors to comply with the requirements of this decree and plan for augmentation, including the requirement to construct a Laramie-Fox Hills aquifer well or take other measures as necessary to replace post-pumping depletions. The decree shall be for the benefit of, and enforceable by, the State and Division Engineers and third parties owning vested water rights that could be injured by the failure to provide for the replacement of depletions from pumping of the Dawson aquifer wells as decreed herein, and specific performance shall be a remedy available to such third parties against the owner(s) of the Subject Property and Dawson aquifer wells.

13. Administration of plan for augmentation:

A. Applicants shall record the metered use from the prior year of pumping on November 1 and report that reading to the Division Engineer for Water Division 2 by December 31st of that year. Annual pumping is based on withdrawals from November 1 through October 31 of the following year.

B. All withdrawals which are the subject of this decree will be metered.

C. Pursuant to Section 37-92-305(8), C.R.S., the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

D. The Applicants or successors in interest at the direction of the Division Engineer for Water Division 2 shall make post-pumping replacements to the Arkansas River stream system pursuant to the amounts to be calculated using the percentage for each year of post-pumping referenced on the depletion curve attached hereto as Attachment B.

14. Retained jurisdiction for plan for augmentation:

A. Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this Decree are necessary and/or sufficient to prevent

injury to vested water rights of others. The Court also has jurisdiction for the purposes of determining compliance with the terms of the augmentation plan.

B. Any person seeking to invoke the retained jurisdiction of the Court shall file a verified petition with the Court. The petition to invoke retained jurisdiction or to modify the Decree shall set forth with particularity the factual basis and the requested decretal language to effect the petition. The party lodging the petition shall have the burden of going forward to establish prima facie facts alleged in the petition. If the Court finds those facts to be established, Applicants shall thereupon have the burden of proof to show: (1) that any modification sought by Applicants will avoid injury to other appropriators, or (2) that any modification sought by Objector is not required to avoid injury to other appropriators, or (3) that any term or condition proposed by Applicants in response to the Objector's petition does avoid injury to other appropriators.

C. The Court retains jurisdiction for the purpose of determining whether the continued reservation of the nontributary water for use on the Subject Property is required. After notice to the State Engineer's Office and opposers, if Applicants can demonstrate to the Court that post-pumping depletions need no longer be replaced in order to prevent injury to other appropriators, the Court may remove the requirement that the nontributary water must be reserved as described in paragraph 11.G.

CONCLUSIONS OF LAW

15. The Water Court has jurisdiction over this proceeding pursuant to Section 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law. Section 37-90-137(4), C.R.S. The application for a decree confirming Applicants' right to withdraw and use unappropriated groundwater from the nontributary aquifer beneath the Subject Property as described herein pursuant to Section 37-90-137(4), C.R.S., should be granted, subject to the provisions of this decree. The application for a decree confirming Applicants' right to withdraw and use groundwater decreed herein from the not nontributary aquifers should be granted pursuant to Section 37-90-137(4) and (9)(c.5), C.R.S., subject to the provisions of this decree. The withdrawal of up to 2 acre-feet per year for 300 years and no more than 600 acre-feet total of the Dawson aquifer groundwater and in accordance with the terms of this decree will not result in material injury to vested water rights of others.

16. This plan for augmentation satisfies the requirements of Section 37-90-137(9)(c.5), C.R.S., for replacement of required depletions to the affected stream systems for withdrawals of the Dawson aquifer groundwater underlying the Subject Property.

JUDGMENT AND DECREE

The Findings of Fact and Conclusions of Law set forth above are hereby incorporated into the terms of this Ruling and Decree as if the same were fully set forth herein.

17. Full and adequate notice of the application was given, and the Court has jurisdiction over the subject matter and over the parties whether they have appeared or not.

18. Applicants may withdraw the subject groundwater herein through wells to be located anywhere on the Subject Property in the average annual amounts and at the estimated average rates of flow specified herein, subject to the limitations herein and the retained jurisdiction by this Court.

19. Adjudication of Groundwater Rights.

A. Applicants are granted a vested right to 600 acre-feet from the not nontributary Dawson aquifer, subject to adjustment under the Court's retained jurisdiction, and may withdraw up to 2 acre-feet per year and no more than 600 acre-feet total of the Dawson aquifer groundwater under the plan for augmentation decreed herein pursuant to Section 37-90-137(9)(c.5), C.R.S.

B. Applicants are granted a vested right to 1,496 acre-feet of groundwater from the not nontributary Denver aquifer, subject to adjustment under the Court's retained jurisdiction. The plan for augmentation decreed herein does not include withdrawal of the Denver aquifer groundwater, and pumping of such water is not authorized by this decree.

C. Applicants are granted a vested right to 1,632 acre-feet of groundwater from the not nontributary Arapahoe aquifer, subject to adjustment under the Court's retained jurisdiction. The plan for augmentation decreed herein does not include withdrawal of the Arapahoe aquifer groundwater, and pumping of such water is not authorized by this decree.

D. Applicants are granted a vested right to 1,110 acre-feet of groundwater from the nontributary Laramie-Fox Hills aquifer, subject to adjustment under the Court's retained jurisdiction. Of this amount, 612 acre-feet have been reserved for the purpose of replacing post-pumping depletions associated with the plan for augmentation decreed herein, unless and until the Water Court has approved an alternate source of water to replace post-pumping depletions under its retained jurisdiction and modified the amount reserved. The remaining 498 acre-feet of Laramie-Fox Hills groundwater decreed herein that has not been reserved may

be withdrawn for use in accordance with the terms and conditions of this decree.

20. In considering applications for permits for wells to withdraw the groundwater which is the subject of this decree, the State Engineer shall issue permits in accordance with Section 37-90-137(4) and or (10), C.R.S., and the terms of this decree. The State Engineer shall identify in any permits issued pursuant to this decree the specific uses that can be made of the ground water to be withdrawn, and, to the extent the well permit application requests a use that has not been specifically identified in this decree, shall not issue a permit for any such proposed use that the State Engineer determines to be speculative at the time of the application or which would be inconsistent with the requirements of this decree, any separately decreed plan for augmentation, or any modified decree and plan.

21. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to Sections 37-90-137(9)(c.5), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(3), (4), (6), (8), (9), C.R.S., to adjudicate the plan for augmentation and are entitled to a decree confirming and approving the plan for augmentation as described in the findings of fact.

22. Pursuant to Section 37-92-305(5), C.R.S., the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally used.

23. The plan for augmentation as described in the findings of fact is hereby approved, confirmed, and adjudicated, including and subject to the terms and conditions specified herein.

24. No owners of or person entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the operation of the plan for augmentation as decreed herein.

25. Retained Jurisdiction for Adjustment to Adjudicated Amounts:

A. The Court retains jurisdiction as necessary to adjust the average annual amounts of groundwater available under the Subject Property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to Section 37-92-305(11), C.R.S. Within 60 days after completion of any well decreed herein or any test hole(s), Applicants or any successor in interest to these water rights shall serve copies of such log(s) upon the State Engineer.

B. At such time as adequate data is available, any person, including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of

Water Right. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final determination of water rights findings. The State Engineer shall submit such finding to the Water Court and the Applicants, and shall serve a copy of such findings on opposers.

C. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within four months, such final determination shall be made by the Water Court after notice and hearing.

26. Continuing Jurisdiction:

Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan. The procedure for invoking and proceeding under the Court's retained jurisdiction under this Paragraph 26 is describeed at Paragraph 14.B above.

27. The groundwater rights decreed herein are vested property rights decreed to the Applicants and shall be owned by the Applicants until such time as the Applicants expressly convey all the groundwater underlying the Subject Property, or a portion of the groundwater 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 a total volume of groundwater being conveyed. If any deed for the Subject Property is silent to the conveyance of the water rights decreed herein, it is assumed that the water rights have been conveyed with the Subject Property, unless all or part of the water rights have been specifically reserved by the Grantor in that deed.

RULING ENTERED this 1st day of August, 2017.

Mardell R. DiDomenico

Mardell R. DiDomenico
Water Referee
Water Division 2

THE COURT DOTH FIND THAT NO PROTEST TO THE RULING OF THE REFEREE HAS BEEN FILED. THE FOREGOING RULING IS CONFIRMED AND APPROVED AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Date: August 25th, 2017

BY THE COURT:

LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2