



# PEERLESS FARMS

EL PASO COUNTY, COLORADO

WATER RESOURCE REPORT

Comments  
provided on page  
4 of this report.

OCTOBER 12, 2023

Prepared by:

**Kimley»»Horn**

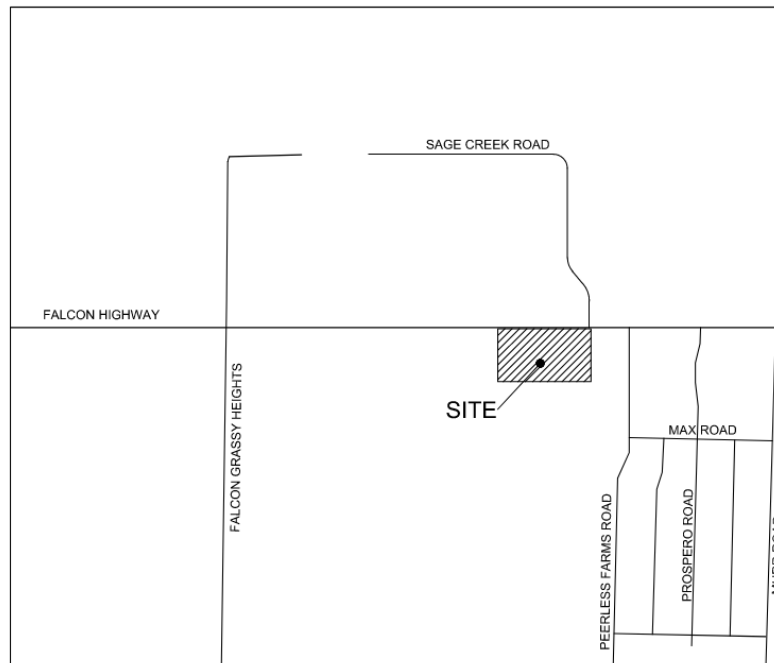
## TABLE OF CONTENTS

SUMMARY OF THE PROPOSED SUBDIVISION.....	3
SITE LOCATION.....	3
DESCRIPTION OF PROPERTY .....	3
INFORMATION REGARDING SUFFICIENT QUANTITY OF WATER .....	4
WATER SYSTEM LAYOUT AND DEMANDS.....	4
CALCULATION OF QUANTITY OF WATER AVAILABLE .....	4
INFORMATION REGARDING SUFFICIENT DEPENDABILITY OF WATER SUPPLY .....	4
INFORMATION REGARDING SUFFICIENT WATER QUALITY .....	4
PUBLIC AND PRIVATE COMMERCIAL WATER PROVIDERS .....	4
APPENDIX A – PEERLESS FARMS PRELIMINARY PLAN .....	5
APPENDIX B – WATER RESOURCES MEMORANDUM (WATER RIGHTS INFORMATION) ...	6
APPENDIX C – PEERLESS WATER INFORMATION SUMMARY SHEET.....	7
APPENDIX D – PEERLESS FIRE PROTECTION REPORT .....	8

# SUMMARY OF THE PROPOSED SUBDIVISION

## SITE LOCATION

The Site is located at the southeast corner of Falcon Highway and Sage Creek Road at 16975 Falcon Hwy in Peyton, CO (the “Site”). More specifically, the Site is located in a portion of the northwest quarter of Section 13, Township 13 south, Range 64 west of the 6th P.M., County of El Paso, State of Colorado. The Property is bounded by Falcon Hwy to the north, privately owned pastures to the west and south, and Sagecreek South Filing No. 1 to the east. A vicinity map is provided below for reference:



## DESCRIPTION OF PROPERTY

The Site is approximately 40 acres of mostly undeveloped land. The Site is mostly vacant but contains two single family houses, one large barn and multiple small chicken coops and sheds. Development for Peerless Farms (the “Project”) involves the construction of a public road with two private driveways, roadside ditches, and culverts. The public road will be an extension of Sage Creek Road on the east side of the Site, providing access to the two proposed private gravel driveways within the Site. The existing access road west of Sage Creek Road will be demolished. The Site will be subdivided into large-lot residential lots for future single-family residences.

An existing private water line runs along the North side of the Site from Sage Creek Road to the existing access road, and then runs south through the Site. This line is assumed to be abandoned and does not provide water service currently. There is also a public water line on the east side within an existing utility easement. It is not anticipated that the Project will utilize these existing lines for water service.

The water system information presented herein will focus on the water supply needs anticipated with proposed development of the Site.

This report needs to include an analysis of the available water pursuant to the water rights, which aquifers are proposed to be drawn from, and an analysis of the proposed water usage for the subdivision based on the presumptive use values of Section 8.4.7.B.7.d.

How is this possible?

## INFORMATION REGARDING SUFFICIENT QUANTITY OF WATER

### WATER SYSTEM LAYOUT AND DEMANDS

The Site currently consists of two single family homes. **At the time of authoring this report, it is unknown how these homes are provided water services, if any.** As part of the Project development, the Site will be divided into 7 large residential lots, and each will be provided water services by proposed individual wells for each lot.

Previous submittals for this Project had water service being provided by Sage Creek Water Association via a service agreement with Mid Colorado Investment Company dated December 2021. However, it is understood that Sage Creek Water Association no longer has the ability to provide potable water service the Project; therefore, the developer has decided to move forward with providing water service with new water wells. Water rights information for the proposed wells can be found in **Appendix B**. The Water Information Summary sheet required by El Paso County is included in **Appendix C**.

The proposed wells have not been drilled at the time of writing this report. Water Quantity, dependability, and quality for each well can be provided once the wells are drilled and tested.

The Falcon Fire Protection District will provide fire protection services. Information on fire protection for Peerless Farms has been included in **Appendix D**. It is not anticipated that the proposed wells will provide fire protection capacity.

### CALCULATION OF QUANTITY OF WATER AVAILABLE

Each home within the Site will be supplied water from individual on-site wells. Availability of water to the project from the well will be calculated upon the completion of flow testing.

### INFORMATION REGARDING SUFFICIENT DEPENDABILITY OF WATER SUPPLY

Each home within the Site will be supplied water from individual on-site wells. Water rights information is provided in **Appendix B**. Proposed wells have not been drilled yet, therefore, no water supply testing has been performed. Once wells are established, water supply tests can be provided upon request.

### INFORMATION REGARDING SUFFICIENT WATER QUALITY

Each home within the Site will be supplied water from individual on-site wells. Water rights information is provided in **Appendix B**. Proposed wells have not been drilled yet, therefore, no water quality testing has been performed. Once wells are established, water quality tests can be provided upon request.

### PUBLIC AND PRIVATE COMMERCIAL WATER PROVIDERS

Each home within the Site will be supplied water from individual on-site wells. Commercial water providers are not involved or responsible for the water system discussed in this report.

A finding of sufficiency cannot be made until the water quality tests are complete and meet the requirements of the LDC.

## APPENDIX A – PEERLESS FARMS PRELIMINARY PLAN

# PEERLESS FARMS

## PRELIMINARY PLAN

### 16975 FALCON HIGHWAY, PEYTON, CO

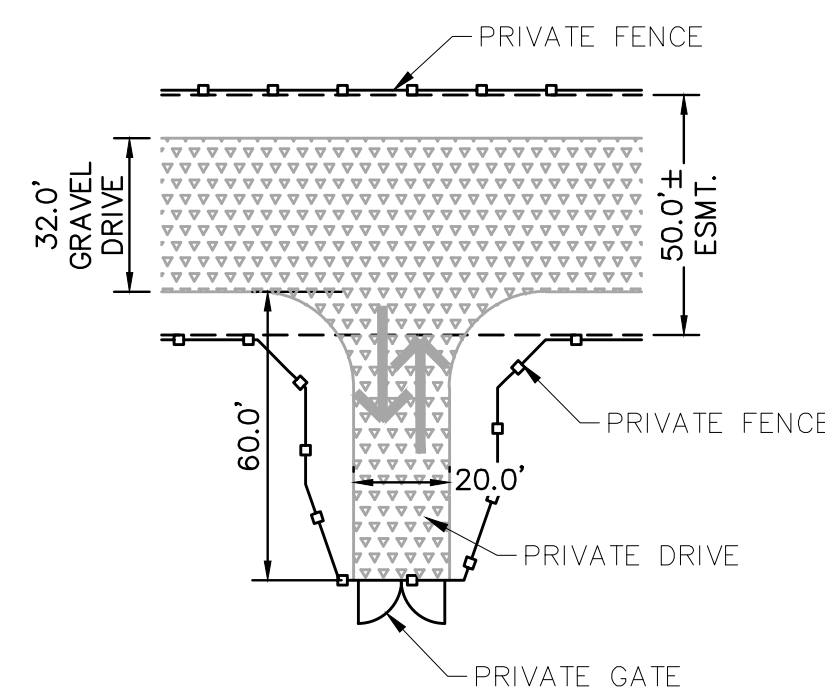
SITUATED IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE  
6TH P.M., CITY OF PEYTON, COUNTY OF EL PASO, STATE OF COLORADO

LOT TABLE		
LOT NO.	SF/AC±	USE
1	219,785SF± / 5.046AC±	RESIDENTIAL
2	218,572SF± / 5.018AC±	RESIDENTIAL
3	272,926SF± / 6.266AC±	RESIDENTIAL
4	222,638SF± / 5.112AC±	RESIDENTIAL
5	299,089SF± / 6.866AC±	RESIDENTIAL
6	243,136SF± / 5.582AC±	RESIDENTIAL
7	221,582SF± / 5.087AC±	RESIDENTIAL

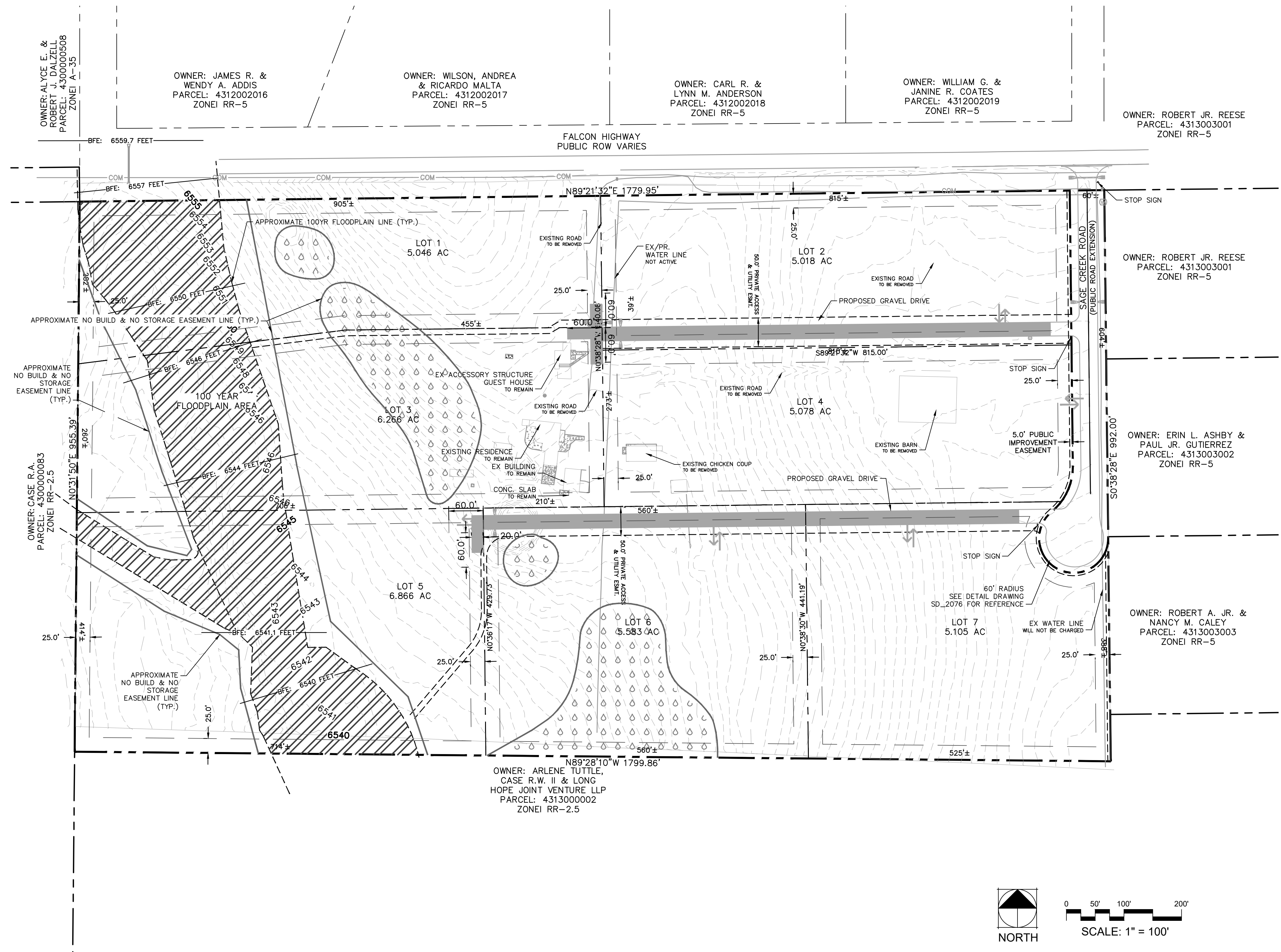
#### LEGEND

- GRAVEL ROAD
- ASPHALT ROAD
- FLOODPLAIN
- SEASONALLY WET AREAS\*  
(NO BUILD AREAS)
- PROPERTY BOUNDARY
- LOT LINE
- PROPERTY SETBACK
- FEMA 100YR FLOODPLAIN
- NO BUILD AND NO STORAGE EASEMENT LINE
- ACCESS AND UTILITY EASEMENTS
- EXISTING GRAVEL ROAD TO BE REMOVED
- BFE: XXXX- BASE FLOOD ELEVATION

\*NOTE: SEE FIG. 11 FROM RMG ARCHITECTS AND ENGINEERS SOILS AND GEOLOGY REPORT. JOB NO.:180213 FOR FURTHER INFORMATION.



1 ALTERNATIVE HAMMERHEAD/PRIVATE FENCE LAYOUT DETAIL  
TYPICAL TURN ROUND



0 50' 100' 200'  
SCALE: 1" = 100'

# Kimley»Horn

© 2023 KIMLEY-HORN AND ASSOCIATES, INC.  
2 NORTH NEVADA AVENUE, SUITE 900  
COLORADO SPRINGS, COLORADO 80903 (719) 453-0180

PRELIMINARY PLAN  
SHEET 2 OF 3

## APPENDIX B – WATER RESOURCES MEMORANDUM (WATER RIGHTS INFORMATION)



## MEMORANDUM

To: El Paso County C/O Ryan Howser  
From: Larry Salazar  
Kimley-Horn and Associates, Inc.  
Date: 06/19/2023  
Subject: Water Resources

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This is an electronic memo of determination.

Upon application for determination of an allocation right for groundwater in the upper black Squirrel Creek Designated Groundwater Basin, three (3) aquifers were found.

Findings of Determination Numbers are as follows:

- 4475-BD
  - Rec. No. 223007800
  - Aquifer: Laramie-Fox Hills
- 4476-BD
  - Rec. No. 223007799
  - Aquifer: Arapahoe
- 4477-BD
  - Red. No. 223007798
  - Aquifer: Denver



DN-4475-BD  
REC. NO. 223007800

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR A DETERMINATION OF A RIGHT TO AN ALLOCATION OF  
GROUNDWATER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUNDWATER BASIN

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DETERMINATION NO.: 4475-BD

AQUIFER: Laramie-Fox Hills

APPLICANT: Robert S. Williams and Wendy K. Williams

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In compliance with section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Robert S. Williams and Wendy K. Williams (Applicant) submitted an application to the Colorado Ground Water Commission (Commission) for a determination of a right to an allocation of designated groundwater from the Laramie-Fox Hills Aquifer.

**FINDINGS**

1. The application was received by the Commission on August 2, 2022.
2. The Applicant requests a determination of right to an allocation of designated groundwater (Determination) in the Laramie-Fox Hills aquifer (Aquifer) underlying 40.01 acres, generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., in El Paso County (Overlying Land). According to a Nontributary Groundwater Landownership Statement dated July 31, 2022, attached hereto as Exhibit A, the Applicant owns the 40.01 acres of land, which are further described in said Ownership Statement, and claims control of the right to the groundwater in the Aquifer underlying the land.
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Groundwater Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Commission has jurisdiction over the designated groundwater that is the subject of this Determination.
4. The Commission's Staff has evaluated the application relying on the claims to control of the groundwater in the Aquifer underlying the Overlying Land made by the Applicant.
5. The Applicant intends to apply the groundwater in the Aquifer underlying the Overlying Land to the following beneficial uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The Applicant's proposed place of use of the groundwater in the Aquifer underlying the Overlying Land is the above described 40.01 acres of Overlying Land.
6. Pursuant to section 37-90-107(7)(a), and in accordance with the Designated Basin Rules, the Commission shall allocate the groundwater in the Aquifer underlying the Overlying Land on the basis of the ownership of the Overlying Land.
7. The amount of water in storage in the Aquifer underlying the 40.01 acres of Overlying Land claimed by the Applicant is 1,290 acre-feet. This determination was based on the following as specified in the Designated Basin Rules.

- a. The average specific yield of those saturated aquifer materials containing sufficient water that can be drained by gravity and placed to beneficial use is 15 percent.
  - b. The average thickness of those saturated aquifer materials containing sufficient water that can be drained by gravity and placed to beneficial use is 215 feet.
8. A review of the records in the Office of the State Engineer has disclosed that none of the groundwater in the Aquifer underlying the Overlying Land has been either previously determined to be allocated by the Commission, has been permitted for withdrawal by large capacity wells that have rights that were initiated prior to November 19, 1973 that are subject to section 37-90-107(7)(b), or has been permitted for withdrawal by existing small capacity wells withdrawing water under permits issued pursuant to section 37-90-105, C.R.S. The amount of designated groundwater in the Aquifer underlying the Overlying Land that is available for allocation in this Determination is 1,290 acre-feet.
9. Pursuant to section 37-90-107(7)(c)(III), an approved determination of a right to an allocation shall be considered a final determination of the amount of groundwater 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.
10. Pursuant to section 37-90-107(7)(d), the Commission has authority to issue well permits pursuant to subsection 107(7) (i.e. permits for large capacity wells) for the withdrawal of designated groundwater from the Aquifer. Pursuant to section 37-90-107(7)(a) the Commission shall adopt the necessary rules to carry out the provisions of subsection (7). Pursuant to section 37-90-111(h), C.R.S., the Commission is empowered to adopt rules necessary to carry out the provisions of Article 90 of Title 37. In accordance with that authority, the Commission has adopted the Rules and Regulations for the Management and Control of Designated Ground Water (2 CCR 410-1) (“Designated Basin Rules”, or “Rules”).
11. Large capacity well permits issued pursuant to section 37-90-107(7) are subject to the following provisions of statute and the Designated Basin Rules.
- a. Pursuant to section 37-90-107(7)(a) well permits issued pursuant to subsection 107(7) shall allow withdrawals on the basis of an aquifer life of one hundred years. The 1,290 acre-feet of water in the Aquifer underlying the Overlying Land available for allocation in this Determination, if permitted for withdrawal by large capacity wells on the basis of an aquifer life of one hundred years, would result in an allowed average annual amount of withdrawal of 12.9 acre-feet per year.
  - b. Any amounts of groundwater in the Aquifer allocated in this Determination that are permitted for withdrawal pursuant to section 37-90-105, by small capacity well permits issued after the issuance of this Determination reduce the amount of water, and the allowed average annual amount of withdrawal, that may be withdrawn by wells permitted pursuant to section 37-90-107(7).
  - c. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of groundwater from the Aquifer underlying the Overlying Land 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 groundwater in the Aquifer underlying the Overlying Land is

nontributary groundwater as defined in Rule 4.2.22 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the groundwater in the Aquifer underlying the Overlying Land withdrawn annually shall be consumed.

12. Pursuant to section 37-90-105(1), the State Engineer has the authority to approve small capacity well permits. While water withdrawn from the Aquifer from beneath the Overlying Land by small capacity wells may consist of the groundwater allocated herein, the Commission recognizes that in approving small capacity permits the State Engineer is not bound by the terms and conditions of this Determination, and may approve small capacity permits based on standards and with such conditions as the State Engineer considers appropriate.
13. The ability of wells permitted to withdraw the authorized amount of water from this nonrenewable 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.
14. On September 1, 2022, in accordance with Rule 9.1 of the Designated Basin Rules, written recommendations concerning this application were requested from the Upper Black Squirrel Creek Ground Water Management District. Written recommendations from the District were received on September 21, 2022.
15. 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 September 15, 2022 and September 22, 2022.
  - a. Objections to the application were submitted by Upper Black Squirrel Creek Ground Water Management District on September 22, 2022.
  - b. The application and objections were forwarded to the Hearing Officer and assigned case no. 22-GW-23.
  - c. The Hearing Officer entered an order dated January 23, 2023 dismissing the case and remanding the application to Staff for administrative processing.

#### **ORDER**

In accordance with section 37-90-107(7) and the Designated Basin Rules, the Commission hereby determines a right to an allocation of designated groundwater in the Laramie-Fox Hills Aquifer underlying 40.01 acres of land, generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., further described in Exhibit A, subject to the following conditions.

16. The amount (i.e. volume) of water in the Aquifer underlying the 40.01 acres of Overlying Land allocated herein is 1,290 acre-feet (Underlying Groundwater).
17. The amount (i.e. volume) of Underlying Groundwater allocated herein shall be considered final, 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, if such information indicates that the initial estimate of the amount of Underlying Groundwater in the Aquifer was incorrect.

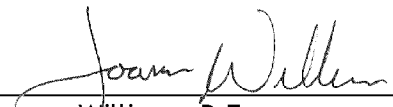
18. Approval of this Determination meets the requirements of section 37-90-107(7)(d)(II), that requires a determination of groundwater to be withdrawn by a well be made prior to the granting of a well permit pursuant to section 37-90-107(7).
19. Well permits issued pursuant to section 37-90-107(7), (i.e. large capacity wells) and this Determination are subject to the following conditions.
  - a. The total amount of Underlying Groundwater that may be withdrawn from the Aquifer by all large capacity wells permitted pursuant to this Determination may not exceed a volume of 1,290 acre-feet, less any amount of the Underlying Groundwater allocated herein permitted to be withdrawn by small capacity wells issued permits pursuant to section 37-90-105 after the issuance of this Determination. The amounts of water permitted to be withdrawn by such small capacity wells shall be considered to be one-hundred times the annual withdrawals permitted to be withdrawn by those wells.
  - b. The allowed average annual amount of withdrawal by any large capacity well (or well field) permitted to withdraw the allocated water shall be equal to the volume of water permitted to be withdrawn by that well (or well field) divided by one-hundred years.
  - c. The allowed maximum annual amount of withdrawal by any large capacity well (or well field) permitted to withdraw the allocated water may exceed the allowed average annual amount of withdrawal allowed by the well permit(s) as long as the total volume of water withdrawn by such well(s) does not exceed the product of the number of years since the date(s) of issuance of the well permit(s) times the allowed average annual amount of withdrawal allowed by the well permit(s).
  - d. 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.
  - e. No more than 98% of the amount of Underlying Groundwater withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the Underlying Groundwater withdrawn annually is being consumed.
  - f. The use of the Underlying Groundwater shall be limited to the following beneficial uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The place of use of the Underlying Groundwater shall be limited to the above described 40.01 acres of Overlying Land. The Underlying Groundwater 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. The Underlying Groundwater is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated groundwater.
  - g. The wells must be located on the above described 40.01 acres of Overlying Land.
  - h. 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.
- i. The wells must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer.
  - j. The entire depth of each well must be geophysically logged prior to installing the casing in the same manner as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - k. 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 and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - l. 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.
20. A copy of this Determination 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 40.01 acres of Overlying Land area, or any part thereof, shall reveal the existence of this Determination.
21. The right to an allocation of designated groundwater determined herein is a vested property right with specific ownership. Some or all of the 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 number, the specific Aquifer, and the total amount (i.e. volume) of the right that is being conveyed.

Dated this 25th day of January, 2023.



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

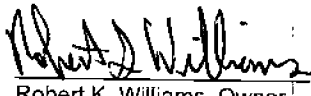
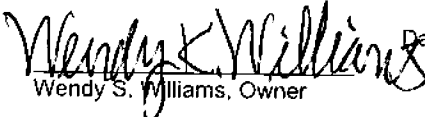
By:   
Joanna Williams, P.E.  
Chief of Water Supply, Designated Basins

Form no. **DIVISION OF WATER RESOURCES**  
 GWS-1 **DEPARTMENT OF NATURAL RESOURCES**  
 (1/2020) **1313 Sherman St, Room 821, Denver, CO 80203**  
**(303) 866-3581, [www.colorado.gov/water](http://www.colorado.gov/water), [dwrpermitsonline@state.co.us](mailto:dwrpermitsonline@state.co.us)**

RCVD DWR  
 08/02/2022

**NONTRIBUTARY GROUNDWATER LANDOWNERSHIP STATEMENT**

This form is to be submitted with applications for the following, when the applicant is the owner of the overlying land.  
 1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR  
 2) A determination of water right in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or a well permit to withdraw groundwater from those aquifers that are subject to Designated Basin Rule 5.4, within a Designated Groundwater Basin.  
 NOTE: Form submittal instructions can be found on our website [Colorado.gov/water](http://Colorado.gov/water). See instructions on the reverse of this form.  
 Type or print in black or blue ink.

<b>1. APPLICANT INFORMATION</b>			
Name of Applicant Robert S Williams and Wendy K Williams			
Mailing Address 16975 Falcon Hwy	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) 406-438-1874	Email stuing@protonmail.com; stm@cowaterlaw.com		
<b>2. AQUIFER</b> Laramie-Fox Hills			
<b>3. CLAIM OF OWNERSHIP</b> – I hereby claim that I am the owner of the following described property, as evidenced by the attached copy of a deed recorded in the county in which the property is located.  Number of acres: <u>40.01</u> in the county of: <u>El Paso</u> described as follows (insert legal description).  <b>THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13 IN TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13; THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE, A DISTANCE OF 60.01 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°21'32" EAST ON A LINE PARALLEL TO THE NORTH SECTION LINE A DISTANCE OF 1,779.95 FEET; THENCE SOUTH 00°38'28" EAST, A DISTANCE OF 992.00 FEET; THENCE NORTH 89°28'10" WEST A DISTANCE OF 1,799.86 FEET; THENCE NORTH 00°31'50" EAST 955.39 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.</b>  - I further claim that the right to withdraw the groundwater in the aquifer underlying the above described property has not been reserved by another, nor has consent been given to another for the right to its withdrawal.			
<b>4. THE APPLICANT MUST PROVIDE</b> – a Verification of Notice of Application (form no. GWS-43) (see instructions for exceptions). Please see attached.			
<b>5. SIGNATURE</b> – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.			
Signature:			Date: <u>31 July, 2022</u>
Print name and title:	Robert K. Williams, Owner	Wendy S. Williams, Owner	

DN-4476-BD  
REC. NO. 223007799



**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR A DETERMINATION OF A RIGHT TO AN ALLOCATION OF  
GROUNDWATER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUNDWATER BASIN

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DETERMINATION NO.: 4476-BD

AQUIFER: Arapahoe

APPLICANT: Robert S. Williams and Wendy K. Williams

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In compliance with section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Robert S. Williams and Wendy K. Williams (Applicant) submitted an application to the Colorado Ground Water Commission (Commission) for a determination of a right to an allocation of designated groundwater from the Arapahoe Aquifer.

**FINDINGS**

1. The application was received by the Commission on August 2, 2022.
2. The Applicant requests a determination of right to an allocation of designated groundwater (Determination) in the Arapahoe aquifer (Aquifer) underlying 40.01 acres, generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., in El Paso County (Overlying Land). According to a Nontributary Groundwater Landownership Statement dated July 31, 2022, attached hereto as Exhibit A, the Applicant owns the 40.01 acres of land, which are further described in said Ownership Statement, and claims control of the right to the groundwater in the Aquifer underlying the land.
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Groundwater Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Commission has jurisdiction over the designated groundwater that is the subject of this Determination.
4. The Commission's Staff has evaluated the application relying on the claims to control of the groundwater in the Aquifer underlying the Overlying Land made by the Applicant.
5. The Applicant intends to apply the groundwater in the Aquifer underlying the Overlying Land to the following beneficial uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The Applicant's proposed place of use of the groundwater in the Aquifer underlying the Overlying Land is the above described 40.01 acres of Overlying Land.
6. Pursuant to section 37-90-107(7)(a), and in accordance with the Designated Basin Rules, the Commission shall allocate the groundwater in the Aquifer underlying the Overlying Land on the basis of the ownership of the Overlying Land.
7. The amount of water in storage in the Aquifer underlying the 40.01 acres of Overlying Land claimed by the Applicant is 1,360 acre-feet. This determination was based on the following as specified in the Designated Basin Rules.
  - a. The average specific yield of those saturated aquifer materials containing sufficient water that can be drained by gravity and placed to beneficial use is 17 percent.

- b. The average thickness of those saturated aquifer materials containing sufficient water that can be drained by gravity and placed to beneficial use is 200 feet.
8. A review of the records in the Office of the State Engineer has disclosed that none of the groundwater in the Aquifer underlying the Overlying Land has been either previously determined to be allocated by the Commission, has been permitted for withdrawal by large capacity wells that have rights that were initiated prior to November 19, 1973 that are subject to section 37-90-107(7)(b), or has been permitted for withdrawal by existing small capacity wells withdrawing water under permits issued pursuant to section 37-90-105, C.R.S. The amount of designated groundwater in the Aquifer underlying the Overlying Land that is available for allocation in this Determination is 1,360 acre-feet.
9. Pursuant to section 37-90-107(7)(c)(III), an approved determination of a right to an allocation shall be considered a final determination of the amount of groundwater 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.
10. Pursuant to section 37-90-107(7)(d), the Commission has authority to issue well permits pursuant to subsection 107(7) (i.e. permits for large capacity wells) for the withdrawal of designated groundwater from the Aquifer. Pursuant to section 37-90-107(7)(a) the Commission shall adopt the necessary rules to carry out the provisions of subsection (7). Pursuant to section 37-90-111(h), C.R.S., the Commission is empowered to adopt rules necessary to carry out the provisions of Article 90 of Title 37. In accordance with that authority, the Commission has adopted the Rules and Regulations for the Management and Control of Designated Ground Water (2 CCR 410-1) ("Designated Basin Rules", or "Rules").
11. Large capacity well permits issued pursuant to section 37-90-107(7) are subject to the following provisions of statute and the Designated Basin Rules.
  - a. Pursuant to section 37-90-107(7)(a) well permits issued pursuant to subsection 107(7) shall allow withdrawals on the basis of an aquifer life of one hundred years. The 1,360 acre-feet of water in the Aquifer underlying the Overlying Land available for allocation in this Determination, if permitted for withdrawal by large capacity wells on the basis of an aquifer life of one hundred years, would result in an allowed average annual amount of withdrawal of 13.6 acre-feet per year.
  - b. Any amounts of groundwater in the Aquifer allocated in this Determination that are permitted for withdrawal pursuant to section 37-90-105, by small capacity well permits issued after the issuance of this Determination reduce the amount of water, and the allowed average annual amount of withdrawal, that may be withdrawn by wells permitted pursuant to section 37-90-107(7).
  - c. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of groundwater from the Aquifer underlying the Overlying Land 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 groundwater in the Aquifer underlying the Overlying Land is nontributary groundwater as defined in Rule 4.2.22 of the Designated Basin Rules.

Pursuant to the Rules, no more than 98% of the amount of the groundwater in the Aquifer underlying the Overlying Land withdrawn annually shall be consumed.

12. Pursuant to section 37-90-105(1), the State Engineer has the authority to approve small capacity well permits. While water withdrawn from the Aquifer from beneath the Overlying Land by small capacity wells may consist of the groundwater allocated herein, the Commission recognizes that in approving small capacity permits the State Engineer is not bound by the terms and conditions of this Determination, and may approve small capacity permits based on standards and with such conditions as the State Engineer considers appropriate.
13. The ability of wells permitted to withdraw the authorized amount of water from this nonrenewable 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.
14. On September 1, 2022, in accordance with Rule 9.1 of the Designated Basin Rules, written recommendations concerning this application were requested from the Upper Black Squirrel Creek Ground Water Management District. Written recommendations from the District were received on September 21, 2022.
15. 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 September 15, 2022 and September 22, 2022.
  - a. Objections to the application were submitted by Upper Black Squirrel Creek Ground Water Management District on September 22, 2022.
  - b. The application and objections were forwarded to the Hearing Officer and assigned case no. 22-GW-23.
  - c. The Hearing Officer entered an order dated January 23, 2023 dismissing the case and remanding the application to Staff for administrative processing.

#### **ORDER**

In accordance with section 37-90-107(7) and the Designated Basin Rules, the Commission hereby determines a right to an allocation of designated groundwater in the Arapahoe Aquifer underlying 40.01 acres of land, generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., further described in Exhibit A, subject to the following conditions.

16. The amount (i.e. volume) of water in the Aquifer underlying the 40.01 acres of Overlying Land allocated herein is 1,360 acre-feet (Underlying Groundwater).
17. The amount (i.e. volume) of Underlying Groundwater allocated herein shall be considered final, 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, if such information indicates that the initial estimate of the amount of Underlying Groundwater in the Aquifer was incorrect.


18. Approval of this Determination meets the requirements of section 37-90-107(7)(d)(II), that requires a determination of groundwater to be withdrawn by a well be made prior to the granting of a well permit pursuant to section 37-90-107(7).
19. Well permits issued pursuant to section 37-90-107(7), (i.e. large capacity wells) and this Determination are subject to the following conditions.
  - a. The total amount of Underlying Groundwater that may be withdrawn from the Aquifer by all large capacity wells permitted pursuant to this Determination may not exceed a volume of 1,360 acre-feet, less any amount of the Underlying Groundwater allocated herein permitted to be withdrawn by small capacity wells issued permits pursuant to section 37-90-105 after the issuance of this Determination. The amounts of water permitted to be withdrawn by such small capacity wells shall be considered to be one-hundred times the annual withdrawals permitted to be withdrawn by those wells.
  - b. The allowed average annual amount of withdrawal by any large capacity well (or well field) permitted to withdraw the allocated water shall be equal to the volume of water permitted to be withdrawn by that well (or well field) divided by one-hundred years.
  - c. The allowed maximum annual amount of withdrawal by any large capacity well (or well field) permitted to withdraw the allocated water may exceed the allowed average annual amount of withdrawal allowed by the well permit(s) as long as the total volume of water withdrawn by such well(s) does not exceed the product of the number of years since the date(s) of issuance of the well permit(s) times the allowed average annual amount of withdrawal allowed by the well permit(s).
  - d. 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.
  - e. No more than 98% of the amount of Underlying Groundwater withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the Underlying Groundwater withdrawn annually is being consumed.
  - f. The use of the Underlying Groundwater shall be limited to the following beneficial uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The place of use of the Underlying Groundwater shall be limited to the above described 40.01 acres of Overlying Land. The Underlying Groundwater 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. The Underlying Groundwater is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated groundwater.
  - g. The wells must be located on the above described 40.01 acres of Overlying Land.
  - h. 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.
- i. The wells must be constructed to withdraw water from only the Arapahoe Aquifer.
  - j. The entire depth of each well must be geophysically logged prior to installing the casing in the same manner as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - k. 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 and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - l. 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.
20. A copy of this Determination 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 40.01 acres of Overlying Land area, or any part thereof, shall reveal the existence of this Determination.
21. The right to an allocation of designated groundwater determined herein is a vested property right with specific ownership. Some or all of the 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 number, the specific Aquifer, and the total amount (i.e. volume) of the right that is being conveyed.

Dated this 25th day of January, 2023.



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

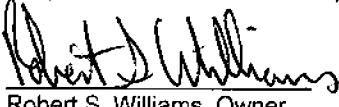
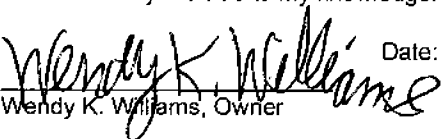
By:   
Joanna Williams, P.E.  
Chief of Water Supply, Designated Basins

Form no. **DIVISION OF WATER RESOURCES**  
 GWS-1 **DEPARTMENT OF NATURAL RESOURCES**  
 (1/2020) **1313 Sherman St, Room 821, Denver, CO 80203**  
**(303) 866-3581, [www.colorado.gov/water](http://www.colorado.gov/water), [dwrpermitsonline@state.co.us](mailto:dwrpermitsonline@state.co.us)**

RCVD DWR  
 08/02/2022

**NONTRIBUTARY GROUNDWATER LANDOWNERSHIP STATEMENT**

This form is to be submitted with applications for the following, when the applicant is the owner of the overlying land.  
 1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR  
 2) A determination of water right in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or a well permit to withdraw groundwater from those aquifers that are subject to Designated Basin Rule 5.4, within a Designated Groundwater Basin.  
 NOTE: Form submittal instructions can be found on our website [Colorado.gov/water](http://Colorado.gov/water). See instructions on the reverse of this form.  
 Type or print in black or blue ink.

<b>1. APPLICANT INFORMATION</b>			
Name of Applicant Robert S Williams and Wendy K Williams			
Mailing Address 16975 Falcon Hwy	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) 406-438-1874	Email stuing@protonmail.com; stm@cowaterlaw.com		
<b>2. AQUIFER</b> Arapahoe			
<b>3. CLAIM OF OWNERSHIP</b> – I hereby claim that I am the owner of the following described property, as evidenced by the attached copy of a deed recorded in the county in which the property is located.  Number of acres: <u>40.01</u> in the county of: <u>El Paso</u> described as follows (insert legal description).  <b>THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13 IN TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13; THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE, A DISTANCE OF 60.01 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°21'32" EAST ON A LINE PARALLEL TO THE NORTH SECTION LINE A DISTANCE OF 1,779.95 FEET; THENCE SOUTH 00°38'28" EAST, A DISTANCE OF 992.00 FEET; THENCE NORTH 89°28'10" WEST A DISTANCE OF 1,799.86 FEET; THENCE NORTH 00°31'50" EAST 955.39 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.</b>  - I further claim that the right to withdraw the groundwater in the aquifer underlying the above described property has not been reserved by another, nor has consent been given to another for the right to its withdrawal.			
<b>4. THE APPLICANT MUST PROVIDE</b> – a Verification of Notice of Application (form no. GWS-43) (see instructions for exceptions). Please see attached.			
<b>5. SIGNATURE</b> – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.  Signature:   Date: <u>31 July, 2022</u> Robert S. Williams, Owner Wendy K. Williams, Owner  Print name and title:			

DN-4477-BD  
REC. NO. 223007798

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR A DETERMINATION OF A RIGHT TO AN ALLOCATION OF  
GROUNDWATER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUNDWATER BASIN

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DETERMINATION NO.: 4477-BD

AQUIFER: Denver

APPLICANT: Robert S. Williams and Wendy K. Williams

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In compliance with section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Robert S. Williams and Wendy K. Williams (Applicant) submitted an application to the Colorado Ground Water Commission (Commission) for a determination of a right to an allocation of designated groundwater from the Denver Aquifer.

**FINDINGS**

1. The application was received by the Commission on August 2, 2022.
2. The Applicant requests a determination of right to an allocation of designated groundwater (Determination) in the Denver aquifer (Aquifer) underlying 40.01 acres generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., in El Paso County (Overlying Land). According to a Nontributary Groundwater Landownership Statement dated July 31, 2022 attached hereto as Exhibit A, the Applicant owns the 40.01 acres of land, which are further described in said Ownership Statement, and claims control of the right to the groundwater in the Aquifer underlying the land.
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Groundwater Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Commission has jurisdiction over the designated groundwater that is the subject of this Determination.
4. The Commission's Staff has evaluated the application relying on the claims to control of the groundwater in the Aquifer underlying the Overlying Land made by the Applicant.
5. The Applicant intends to apply the groundwater in the Aquifer underlying the Overlying Land to the following beneficial uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The Applicant's proposed place of use of the groundwater in the Aquifer underlying the Overlying Land is the above described 40.01 acres of Overlying Land.
6. Pursuant to section 37-90-107(7)(a), and in accordance with the Designated Basin Rules, the Commission shall allocate the groundwater in the Aquifer underlying the Overlying Land on the basis of the ownership of the Overlying Land.
7. The replacement water requirement for withdrawal of groundwater from the Aquifer consists of two different requirements, which effectively divides the Overlying Land into two areas. The amount of groundwater in the Aquifer and a maximum annual amount available for allocation will be determined specifically for the Aquifer underlying each of the two areas. These areas are designated and described as follows:



Aquifer: Denver

Applicant: Robert S. Williams and Wendy K. Williams

- a. Area A containing 38.51 acres generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., which overlies not-nontributary groundwater located closer than one mile from the Aquifer contact with the alluvium; and
- b. Area B containing 1.50 acres generally described as a portion of the N 1/2 of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., all in El Paso County, which overlies not-nontributary groundwater located farther than one mile from the Aquifer contact with the alluvium.

These two areas are further depicted on a map attached hereto as Exhibit B.

8. The amount of water in storage in the Aquifer underlying the 40.01 acres of Overlying Land claimed by the Applicant is as follows: 1,150 acre-feet for Area A and 44.6 acre-feet for Area B. This determination was based on the following as specified in the Designated Basin Rules.
  - a. The average specific yield of those saturated aquifer materials containing sufficient water that can be drained by gravity and placed to beneficial use is 17 percent.
  - b. The average thickness of those saturated aquifer materials containing sufficient water that can be drained by gravity and placed to beneficial use is 175 feet for both Area A and Area B.
9. A review of the records in the Office of the State Engineer has disclosed that a well operating pursuant to section 37-90-105, C.R.S., (i.e. a small-capacity well), permit no. 8141, is located on Area A of the Overlying Land and is permitted to withdraw 3 acre-feet per year of groundwater from the alluvial aquifer and Denver aquifer from beneath Area A. The amount of water considered to be withdrawn from the Denver aquifer by this well over a period equal to an aquifer life of one hundred years is 163 acre-feet. In applying Rule 5.3.2.5 of the Designated Basin Rules to computing the amount of water available for allocation in this Determination, the amount of groundwater in the Aquifer underlying Area A available for allocation in this Determination is reduced by 163 acre-feet to 987 acre-feet. Except for this well, review of the records in the Office of the State Engineer finds no other previous allocations or permitted withdrawals from the Aquifer underlying the Overlying Land.
10. Pursuant to section 37-90-107(7)(c)(III), an approved determination of a right to an allocation shall be considered a final determination of the amount of groundwater 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. Pursuant to section 37-90-107(7)(d), the Commission has authority to issue well permits pursuant to subsection 107(7) (i.e. permits for large capacity wells) for the withdrawal of designated groundwater from the Aquifer. Pursuant to section 37-90-107(7)(a) the Commission shall adopt the necessary rules to carry out the provisions of subsection (7). Pursuant to section 37-90-111(h), C.R.S., the Commission is empowered to adopt rules necessary to carry out the provisions of Article 90 of Title 37. In accordance with that authority, the Commission has adopted the Rules and Regulations for the Management and Control of Designated Ground Water (2 CCR 410-1) ("Designated Basin Rules", or "Rules").

12. Large capacity well permits issued pursuant to section 37-90-107(7) are subject to the following provisions of statute and the Designated Basin Rules.
  - a. Pursuant to section 37-90-107(7)(a) well permits issued pursuant to subsection 107(7) shall allow withdrawals on the basis of an aquifer life of one hundred years. The 987 acre-feet of water in the Aquifer underlying Area A and 44.6 acre-feet of water in the Aquifer underlying Area B available for allocation in this Determination, if permitted for withdrawal by large capacity wells on the basis of an aquifer life of one hundred years, would result in an allowed average annual amount of withdrawal of 9.87 acre-feet per year for Area A and 0.446 acre-feet per year for Area B.
  - b. Any amounts of groundwater in the Aquifer allocated in this Determination that are permitted for withdrawal pursuant to section 37-90-105, by small capacity well permits issued after the issuance of this Determination reduce the amount of water, and the allowed average annual amount of withdrawal, that may be withdrawn by wells permitted pursuant to section 37-90-107(7).
  - c. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that the replacement water requirements for withdrawal of groundwater from the Aquifer underlying the Overlying Land is as follows:
    - i. Area A - Withdrawal of groundwater from the Aquifer underlying Area A will, within one hundred years, deplete the flow of a natural stream or an alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the groundwater in the Aquifer underlying Area A is considered to be not-nontributary groundwater as defined in Rule 4.2.23 of the Designated Basin Rules. Also, the location of Area A is closer than one mile from the Aquifer contact with the alluvium. Withdrawal of water from the Aquifer underlying Area A would impact the alluvial aquifer of the Upper Black Squirrel Creek Designated Groundwater Basin, 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, that provides for the replacement of the actual depletion to the alluvial aquifer and is adequate to prevent any material injury to existing water rights of other appropriators, is required prior to approval of well permits for wells to be located on this land area to withdraw the groundwater in the Aquifer underlying Area A.
    - ii. Area B - Withdrawal of groundwater from the Aquifer underlying Area B will, within one hundred years, deplete the flow of a natural stream or an alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the groundwater in the Aquifer underlying Area B is considered to be not-nontributary groundwater as defined in Rule 4.2.23 of the Designated Basin Rules. Also, the location of Area B is farther than one mile from the Aquifer contact with the alluvium. Pursuant to the Rules, at least four percent (4%) of the amount of the underlying water withdrawn annually must be returned to the alluvial aquifer in the vicinity of the permitted point or points of withdrawal, unless other locations are approved by the Commission. Pursuant to the Rules the Applicant may at any time be required to identify the proposed, or actual, location of the delivery of the replacement water and how the required four percent (4%) of water diverted will be, or is being, delivered into the alluvial aquifer.

13. Pursuant to section 37-90-105(1), the State Engineer has the authority to approve small capacity well permits. While water withdrawn from the Aquifer from beneath the Overlying Land by small capacity wells may consist of the groundwater allocated herein, the Commission recognizes that in approving small capacity permits the State Engineer is not bound by the terms and conditions of this Determination, and may approve small capacity permits based on standards and with such conditions as the State Engineer considers appropriate.
14. The ability of wells permitted to withdraw the authorized amount of water from this nonrenewable 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.
15. On September 1, 2022, in accordance with Rule 9.1 of the Designated Basin Rules, written recommendations concerning this application were requested from the Upper Black Squirrel Creek Ground Water Management District. Written recommendations from the District were received on September 21, 2022.
16. 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 September 15, 2022 and September 22, 2022.
  - a. Objections to the application were submitted by Upper Black Squirrel Creek Ground Water Management District on September 22, 2022.
  - b. The application and objections were forwarded to the Hearing Officer and assigned case no. 22-GW-23.
  - c. The Hearing Officer entered an order dated January 23, 2023 dismissing the case and remanding the application to Staff for administrative processing.

#### **ORDER**

In accordance with section 37-90-107(7) and the Designated Basin Rules, the Commission hereby determines a right to an allocation of designated groundwater in the Denver Aquifer underlying 40.01 acres generally described as a portion of the N 1/2 of the NW 1/4 of Section 13, Township 13 South, Range 64 West of the 6th P.M., in El Paso County, further described in Exhibit A, subject to the following conditions.

17. The amount (i.e. volume) of water in the Aquifer underlying the 40.01 acres of Overlying Land allocated herein is 987 acre-feet for Area A and 44.6 acre-feet for Area B (Underlying Groundwater).
18. The amount (i.e. volume) of Underlying Groundwater allocated herein shall be considered final, 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, if such information indicates that the initial estimate of the amount of Underlying Groundwater in the Aquifer was incorrect.
19. Approval of this Determination meets the requirements of section 37-90-107(7)(d)(II), that requires a determination of groundwater to be withdrawn by a well be made prior to the granting of a well permit pursuant to section 37-90-107(7).

20. Well permits issued pursuant to section 37-90-107(7), (i.e. large capacity wells) and this Determination are subject to the following conditions.
- a. The total amount of Underlying Groundwater that may be withdrawn from the Aquifer by all large capacity wells permitted pursuant to this Determination may not exceed a volume of 987 acre-feet for Area A and 44.6 acre-feet for Area B, less any amount of the Underlying Groundwater allocated herein permitted to be withdrawn by small capacity wells issued permits pursuant to section 37-90-105 after the issuance of this Determination. The amounts of water permitted to be withdrawn by such small capacity wells shall be considered to be one-hundred times the annual withdrawals permitted to be withdrawn by those wells.
  - b. The allowed average annual amount of withdrawal by any large capacity well (or well field) permitted to withdraw the allocated water shall be equal to the volume of water permitted to be withdrawn by that well (or well field) divided by one-hundred years.
  - c. The allowed maximum annual amount of withdrawal by any large capacity well (or well field) permitted to withdraw the allocated water may exceed the allowed average annual amount of withdrawal allowed by the well permit(s) as long as the total volume of water withdrawn by such well(s) does not exceed the product of the number of years since the date(s) of issuance of the well permit(s) times the allowed average annual amount of withdrawal allowed by the well permit(s).
  - d. 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.
  - e. Replacement water requirements shall be as follows:
    - i. For the aquifer underlying the above described 38.51 acres of Area A, Commission approval of a replacement plan, that provides for the replacement of the actual depletion to the alluvial aquifer and is adequate to prevent any material injury to existing water rights of other appropriators in the alluvial aquifer, is required prior to approval of well permits that allow the withdraw of the groundwater in the Aquifer underlying Area A.
      1. Upon withdrawal of the total allowed average amount of water underlying Area A, in any calendar year, the allowed average annual amount of water underlying the above described Area B may be withdrawn through wells located on Area A, subject to Commission approval of a replacement plan, that provides for the replacement of the actual depletion to the alluvial aquifer and is adequate to prevent any material injury to existing water rights of other appropriators in the alluvial aquifer.
    - ii. For the aquifer underlying the above described 1.50 acres of Area B, at least four percent (4%) of the amount of groundwater in the Aquifer underlying Area B withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal, unless other locations are approved by the Commission.

1. Upon withdrawal of the total allowed average amount of water underlying Area B, in any calendar year, the allowed average annual amount of water underlying the above described Area A may be withdrawn through wells located on Area B, subject to Commission approval of a replacement plan, that provides for the replacement of the actual depletion to the alluvial aquifer and is adequate to prevent any material injury to existing water rights of other appropriators in the alluvial aquifer.
  - f. The use of the Underlying Groundwater shall be limited to the following beneficial uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The place of use of the Underlying Groundwater shall be limited to the above described 40.01 acres of Overlying Land. The Underlying Groundwater 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. The Underlying Groundwater is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated groundwater.
  - g. The wells must be located on the above described 40.01 acres of Overlying Land.
  - h. 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.
  - i. The wells must be constructed to withdraw water from only the Denver Aquifer.
  - j. The entire depth of each well must be geophysically logged prior to installing the casing in the same manner as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - k. 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 and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - l. 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.
21. A copy of this Determination 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 40.01 acres of Overlying Land area, or any part thereof, shall reveal the existence of this Determination.

Aquifer: Denver

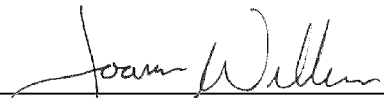
Applicant: Robert S. Williams and Wendy K. Williams

22. The right to an allocation of designated groundwater determined herein is a vested property right with specific ownership. Some or all of the 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 number, the specific Aquifer, and the total amount (i.e. volume) of the right that is being conveyed.

Dated this 25th day of January, 2023.



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

By:   
Joanna Williams, P.E.  
Chief of Water Supply, Designated Basins

Prepared by: wad  
F&O4477-BD.doc

Form no. **DIVISION OF WATER RESOURCES**  
 GWS-1 **DEPARTMENT OF NATURAL RESOURCES**  
 (1/2020) **1313 Sherman St, Room 821, Denver, CO 80203**  
**(303) 866-3581, [www.colorado.gov/water](http://www.colorado.gov/water), [dwrpermitsonline@state.co.us](mailto:dwrpermitsonline@state.co.us)**

RCVD DWR  
 08/02/2022

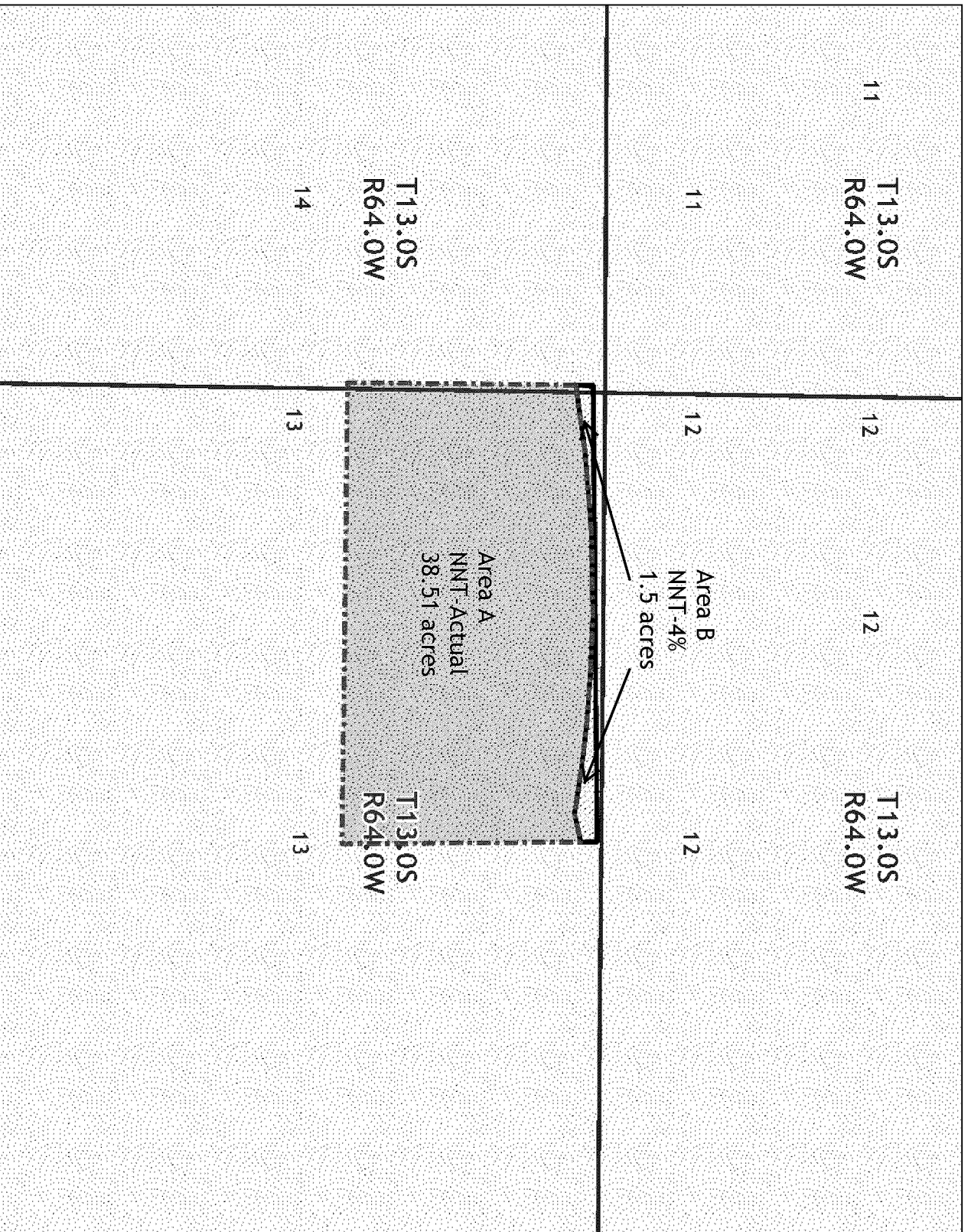
**NONTRIBUTARY GROUNDWATER LANDOWNERSHIP STATEMENT**

This form is to be submitted with applications for the following, when the applicant is the owner of the overlying land.  
 1) A well permit to withdraw groundwater from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or other aquifer the applicant claims contains nontributary groundwater, outside of a Designated Groundwater Basin subject to section 37-90-137(4), C.R.S., except when the right to withdraw the groundwater has been determined by a valid decree; OR  
 2) A determination of water right in the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers, or a well permit to withdraw groundwater from those aquifers that are subject to Designated Basin Rule 5.4, within a Designated Groundwater Basin.  
 NOTE: Form submittal instructions can be found on our website [Colorado.gov/water](http://Colorado.gov/water). See instructions on the reverse of this form.  
 Type or print in black or blue ink.

<b>1. APPLICANT INFORMATION</b>			
Name of Applicant Robert S Williams and Wendy K Williams			
Mailing Address 16975 Falcon Hwy	City Peyton	State CO	Zip Code 80831
Telephone Number (include area code) 406-438-1874	Email stuing@protonmail.com; stm@cowaterlaw.com		
<b>2. AQUIFER</b> Denver			
<b>3. CLAIM OF OWNERSHIP</b> – I hereby claim that I am the owner of the following described property, as evidenced by the attached copy of a deed recorded in the county in which the property is located.  Number of acres: <u>40.01</u> in the county of: <u>El Paso</u> described as follows (insert legal description).  <b>THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13 IN TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13; THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE, A DISTANCE OF 60.01 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°21'32" EAST ON A LINE PARALLEL TO THE NORTH SECTION LINE A DISTANCE OF 1,779.95 FEET; THENCE SOUTH 00°38'28" EAST, A DISTANCE OF 992.00 FEET; THENCE NORTH 89°28'10" WEST A DISTANCE OF 1,799.86 FEET; THENCE NORTH 00°31'50" EAST 955.39 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.</b>  - I further claim that the right to withdraw the groundwater in the aquifer underlying the above described property has not been reserved by another, nor has consent been given to another for the right to its withdrawal.			
<b>4. THE APPLICANT MUST PROVIDE</b> – a Verification of Notice of Application (form no. GWS-43) (see instructions for exceptions). Please see attached.			
<b>5. SIGNATURE</b> – Sign or enter name(s) of applicant(s) or authorized agent. The making of false statements herein constitutes perjury in the second degree, which is punishable as a class 1 misdemeanor pursuant to C.R.S. 24-4-104(13)(a). I have read the statements herein, know the contents thereof, and state that they are true to my knowledge.  Signature: <u>Robert S. Williams</u> <u>Wendy K. Williams</u> Date: <u>31 July, 2022</u> <u>Robert S. Williams, Owner</u> <u>Wendy K. Williams, Owner</u> Print name and title:			



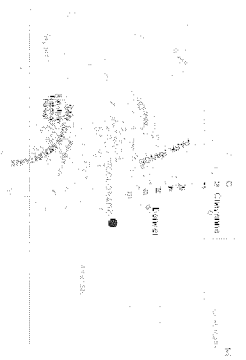
**Exhibit B, Determination no. 4477-BD, Page 1 of 1**



**Legend**

- Township
- Section
- Alluvium
- Subtrop
- Zone Type**
- NON TRIBUTARY
- NNT 4%
- NNT ACTUAL

**Location**



**Notes**

Applicant: Robert S. Williams and Wendy K. Williams  
Receipt No.: 10023310

1,142



1 : 6,850



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date Prepared: 8/10/2022 1:23:35 PM



APPENDIX C – PEERLESS WATER INFORMATION SUMMARY SHEET

## 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 <b>PEERLESS FARMS PRELIMINARY PLAN</b>			
2. LAND USE ACTION <b>PRELIMINARY PLAN FOR SEVEN (7) RURAL RESIDENTIAL LOTS</b>			
3. NAME OF EXISTING PARCEL AS RECORDED <b>4313000001</b>			
SUBDIVISION	FILING	BLOCK	Lot
4. TOTAL ACERAGE <b>40</b>	5. NUMBER OF LOTS PROPOSED <b>7</b>	PLAT MAPS ENCLOSED <b>YES</b> <input 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 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 type="checkbox"/> NO			
If yes, describe the previous action			
7. LOCATION OF PARCEL - Include a map delineating the project area and tie to a section corner.			
<b>NW 1/4 SECTION 13 and TOWNSHIP 13</b> <input type="checkbox"/> N <input checked="" type="checkbox"/> S RANGE <b>64</b> <input type="checkbox"/> E <input checked="" type="checkbox"/> W			
PRINCIPAL MERIDIAN: <input checked="" type="checkbox"/> BTH <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. - no wells have been drilled at this time, and no existing wells are located on the property.			
Surveyors plat <input type="checkbox"/> YES <input type="checkbox"/> NO		If not, scaled hand-drawn sketch <input type="checkbox"/> Y <input type="checkbox"/> NO	
9. ESTIMATED WATER REQUIREMENTS - Gallons per Day or Acre Foot per Year			
HOUSEHOLD USE #* _____ of units _____ AF/SFE/YR _____ AF			
COMMERCIAL USE # _____ SF _____ GPD _____ AF			
IRRIGATION #** _____ AF/lot/year _____ GPD _____ AF			
ANIMAL WATERING #*** _____ 244 _____ AF/Horse/Year _____ AF			
TOTAL _____ GPD _____ AF*			
* Per Part 10 of the Findings from Rep. Plan No. 2 and Part 11 of Rep. Plan No. 3			
** Assuming 0.25 AF/year/res. lot and 2.46 AF/acre/year for commercial irrigation			
*** Per Part 2.c. Rep. Plan No. 2, Appendix C of Report (assuming 4 horses/SFE)			
10. WATER SUPPLY SOURCE		NEW WELLS	
<input type="checkbox"/> EXISTING <input checked="" type="checkbox"/> DEVELOPED <input checked="" type="checkbox"/> WELLS <input type="checkbox"/> SPRING WELL PERMIT NUMBERS _____		Proposed Aquifers - (Check One) <input type="checkbox"/> Alluvial <input type="checkbox"/> Upper Arapahoe <input type="checkbox"/> Upper Dawson <input checked="" type="checkbox"/> Lower Arapahoe 2 <input type="checkbox"/> Lower Dawson <input checked="" type="checkbox"/> Laramie Fox Hills 3 <input checked="" type="checkbox"/> Denver 1 <input type="checkbox"/> Dakota <input type="checkbox"/> Other	
<input type="checkbox"/> MUNICIPAL <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> COMPANY <input type="checkbox"/> DISTRICT		WATER COURT DECREE CASE NUMBERS <b>NO. 223007800(3)</b> <b>NO. 223007799(2)</b> <b>NO. 223007798(1)</b>	
NAME: _____			
LETTER OF COMMITMENT FOR SERVICE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
11. ENGINEER'S WATER SUPPLY REPORT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <span style="float: right; font-size: small;">If yes, please forward with this form. (This may be required before our review is completed)</span>			
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 HAULED TO: _____	
<input type="checkbox"/> ENGINEERED SYSTEM (Attach a copy of engineering design)		<input type="checkbox"/> OTHER: _____	





**Fire Protection Report**

**Fire District:** Falcon Fire Protection District

**Parcel ID Nos.:** 4313000001

**Area/Acreage:** ±40.01 AC

**Existing Zoning:** RR-5

**Site Location:** The development limits are generally defined by Falcon Highway on the northern boundary and Sage Creek Road located at the northeast corner of said property.

**Project Summary:** This application includes the requested approval for a proposed site development plan of the 40.01-acre site of seven (7) lots RR-5 zone development. The site plan includes platted boundary descriptions, ROW dedications and improvements, private parking and drives, stormwater and water quality facilities, utilities, pedestrian amenities and landscape buffers and setbacks).

**FIRE PROTECTION REPORT**

Note: The information provided in this report was provided by the Falcon Fire Protection District.

**About the Department**

The Falcon Fire Protection District (FFPD) is composed entirely of unincorporated areas of El Paso County, Colorado’s most populous county. The District has no organized towns or cities.

The District is governed by a five-member, publicly-elected Board of Directors who may serve up to two consecutive four-year terms. The Falcon Fire Department is managed by a career Fire Chief and a Deputy Chief of Operations. It is staffed primarily with career (paid) firefighter/emergency medical technicians (EMTs) and uses reserve (volunteer) firefighter/EMTs to augment staffing.

The District covers 113 square miles of unincorporated El Paso County. It serves more than 66,300 people (per El Paso County Assessor, Oct. 2018) and protects more than 16,100 structures with a 2018 estimated market value of \$4.2 billion.

Falcon F.D. operates from five stations:

- Station 1, the newest station, is at Meridian Ranch Boulevard and Stapleton Road. It is staffed 24/7.
- Station 2, on North Meridian Road in the north end of the District, is not staffed.
- Station 3 (also Headquarters), at Old Meridian Road and Highway 24, is staffed 24/7.

- Station 4, located on Capital Drive north of Constitution Avenue in the southwest section of the District, is staffed 24/7.
- Station 6, on Jones Road in the east end of the District, is not staffed.

The project is located within five (5) miles of Station 6 and has a project response time of five (5) to ten (10) minutes. The site has been designed to not include fire hydrants and internal circulation.

As of February 1, 2017, FFPD has an Insurance Services Office (ISO) rating of Class 3 for all residential properties located within five road miles of any FFPD or Automatic Aid partner fire stations, regardless of proximity to a fire hydrant. ISO Class 10 applies to residential properties located more than five road miles from an FFPD or Automatic Aid fire station.

The FFPD is supported primarily by a property tax rate of 8.612 mills. The District does not receive funding from El Paso County or the State of Colorado. The District board of directors and administrators work hard to utilize taxpayer funds as efficiently as possible while still providing effective emergency services to the Falcon community.

## **Historical Background**

The Falcon Volunteer Fire Department was organized in 1975 and incorporated on March 3, 1977 by a group of volunteers who saw a need in the community. The Department owned and operated the assets of the department until the formation of the Falcon Fire Protection District, a special district under the statutes of the state of Colorado, in 1981.

## **Builders/Developers Information**

The Falcon Fire Department works closely with local builders and developers to help ensure they have all the information they need to plan, design, construct and complete residential and commercial projects within the Department's jurisdiction.

The links on the Falcon Fire PD site include information, regulations and forms builders and developers are most likely to need during the planning, design and construction process.

For more information regarding development and construction contact Chief Harwig at (719) 495-4050.

## **Fire Stations & Apparatus**

Visit the FFPD contact page for a complete listing of hours, addresses, and locations, as well as information about Community Rooms.

**STATION 1**

Located in the Woodmen Hills neighborhood, this is the primary response station for areas north of Woodmen Road. Groundbreaking for the 15,500-square foot station took place July 31, 2009, and the station became operational in May 2010. The station has a Community Room and a First Aid room. It also serves as the District's primary fitness center for its personnel.

Falcon F.D. apparatus at Station 1 include:

- An engine
- A water tender (water truck)
- A brush truck
- A utility truck
- A command vehicle
- An ambulance

**STATION 2**

Falcon F.D. apparatus at Station 2 include:

- A 4-wheel drive engine
- A water tender
- A brush truck

**STATION 3 / HEADQUARTERS / TRAINING**

With the opening of Station 1, the Falcon Fire Department's building on Old Meridian Road became a true headquarters facility that houses administration offices as well as a fire crew 24/7. It hosts the monthly Falcon Fire Protection District Board meetings and serves as the Department's primary classroom and training facility for emergency medical services, fire, hazardous materials, and technical rescue disciplines. A new fire station is in the process of being built in order to house all of the firefighters and ambulance crew and to accommodate the apparatus and supplies. It will also have a First Aid room. The building has the same floorplan as Station 4. The old building will be renovated into administrative offices and will have a larger training/community room.

Falcon F.D. apparatus at Station 3 include:

- An engine
- A tender
- A utility truck
- A brush truck
- An ambulance

## **STATION 4**

Falcon Fire Department's newest station is located on Capital Drive north of Constitution Avenue. It is the primary response station for areas along the Marksheffel corridor that are in the jurisdiction of the Falcon Fire Protection District. Groundbreaking for the station took place June 15, 2016 and the station became operational on May 13, 2017. The station has a Community Room and a First Aid room. Falcon F.D. apparatus at Station 4 include:

- An engine
- A water tender
- A brush truck
- An ambulance

## **STATION 6**

Falcon F.D. apparatus at Station 6 include:

- A water tender
- A brush truck