

MAYBERRY COLORADO SPRINGS

WATER RESOURCES REPORT FOR PUD AMMENDMENT:
240 HOMES
3 INDUSTRIAL LOTS (FILING 2 PREVIOUSLY APPROVED)
ALL LANDSCAPING PERTAINING TO THE PUD AMENDMENT

Prepared for:

Ellicott Utilities Company, LLC
P.O. Box 86
Rancho Santa Fe, CA 92067

Revised:

5-11-2021

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9-20-21

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Prepared By:



Bradley A. Simons, P.E.
Principal

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INTRODUCTION

The purpose of this Water Resources Report is to provide a summary of water resources planning issues in support of the development of Mayberry, Colorado Springs. This PUD Amendment addresses 240 Homes, 3 industrial lots, and all landscaping pertaining to the subject development. The report will identify water demands, plans for central water service, and fire flow requirements for the proposed development. This report is intended to fulfill the requirements set forth to satisfy the ultimate demand of water projected by the development as well as speak to owned water rights and commitments in place to fulfill the demand of the development.

Mayberry Communities, LLC currently has the following plats recorded for Mayberry, Colorado Springs that are located in the development. Mayberry, Colorado Springs Filing No. 1 consisting of 98 residential lots, and Mayberry, Colorado Springs Filing No. 2 consisting of 3 industrial lots. Filing No. 2 will also be amended in the near future to increase the size of the industrial lots. Subsequent filings are under way in order to plat and record the remaining 142 homes that would build out the amended PUD.

THIS WATER RESOURCE REPORT WILL REPLACE THE WATER RESOURCE REPORT SUBMITTED BY JPS ENGINEERING AND LAST REVISED ON NOVEMBER 17, 2020, AND APPROVED WITH THE ORIGINAL PUD. AS NO DEVELOPMENT HAS TAKEN PLACE AND FURTHER RESEARCH WAS CONDUCTED TO ESTABLISH DEMAND, THIS REPORT WILL ALSO REPLACE THE PREVIOUS COMMITMENT LETTERS FROM ELLICOTT UTILITIES COMPANY TO MAYBERRY. ALL PREVIOUS COMMITMENTS ARE VOID AND THE NEW ONES CONTAINED IN THIS REPORT STAND.

ESTABLISH DEMAND PER HOME

On behalf of the Mayberry Colorado Springs Metropolitan Districts (Districts), this report outlines Ellicott Utilities Company's establishment that less than the presumptive value of 0.26 AFY per home is required to meet the potable water needs of the Mayberry Colorado Springs development located in unincorporated El Paso County near the Town of Ellicott.

Chapter 8 (Subdivision Design, Improvements, and Dedications) of The El Paso County Land Development Code references values typically used to calculate annual water demands. Section 8.4.7(B)(7)(d) of the El Paso County Land Development Code indicates:

8.4.7(B)(7)(d) – In the absence of data on water use to the contrary or other minimum values established as acceptable by the State Engineer, the following presumptive values will be used to calculate the annual water demand:

- Residential inside use 0.26 acre feet per year for single family residences and 0.20 acre feet per year for each occupancy unit in multiple family residences other than single family. A duplex contains 2 occupancy units, a triplex contains 3 occupancy units, etc.
- Residential and commercial landscaping use 0.0566 acre per 1,000 square feet of landscaping.
- Commercial and industrial inside use 0.1 gallon per day for each square foot of developed space; and

Although the calculations contained within this report do provide contrary information on residential consumption ultimately showing a Residential Demand of less than 0.26 AFY per home, we are using the 0.26 AFY per home to calculate the projected water demand of single family residential housing for the development.

These calculations were determined by assessing actual water usage of two different developments (Viewpoint Estates/Antelope Park Ranchettes, and Sunset Village). Both developments are in close proximity of Mayberry, Colorado Springs and the water that is provided to these existing developments derives from existing water commitments held by Ellicott Utilities Company. The lot sizes in these developments exceed the lot sizes proposed by Mayberry. The lot sizes of Viewpoint Estates/ Antelope Park Ranchettes range from 2.5 acres – 5 acres, Sunset Village lot sizes range from 8,600 square feet to 16,000 square feet. Whereas Mayberry, Colorado Springs lot is an average 7,000 square feet. Research of calculations and determinations are detailed below.

Viewpoint Estates/ Antelope Park Ranchettes lot sizes from 2.5 acres to 5 acres.

Water usage calculations from the above referenced developments are from the existing contractual commitment from the Cherokee Metropolitan District to serve Viewpoint

Estates/Antelope Park Ranchettes 50 Acre Feet Per Year, this agreement is shown for support in Appendix A.

Under the terms of the 1988 water agreement between the Cherokee Metropolitan District and R. W. Case and C.H. McAllister, there is 50 acre feet of water available annually. The 1988 water agreement also includes a storage right of 200,000 gallons in the tank owned and operated by the Cherokee Metropolitan District.

In 2020, MMI Water Engineers conducted an analysis of the 50 acre feet per year contractual commitment and the status of annual usage. The analysis reviewed water usage in Viewpoint Estates/Antelope Park Ranchettes over two 12-month periods spanning 2019 and 2020 and projected the domestic and irrigation water usage for 114 homes to be 8,858,500 gallons annually (0.238 acre feet per year per tap).

The ultimate water demand for a total of 121 taps in Viewpoint Estates/Antelope Park Ranchettes allowing for the replating of Lots 71 and 72 therefore computes to be 31.46 acre feet per year.

- $0.238 \text{ AFY} \times 1.10 \text{ (10\% system loss)} = 0.26 \times 121 = 31.46$

In anticipation of low central distribution system losses on the new Mayberry Colorado Springs properties, the water loss percentage is five percent (5%), resulting in an average use per tap of less than 0.26 acre feet per year.

Sunset Village Lot sizes from 8,600 square feet to 16,000 square feet

Water usage calculations from the above referenced development is from the existing contractual commitment from the Cherokee Metropolitan District to serve Sunset Village 60 Acre Feet Per Year, this agreement is shown for support in Appendix A.

Cherokee Metropolitan District’s annual water usage as metered and billed to the customers in Sunset Village is tabulated below.

Year	Acre-Feet Billed	Accounts	Acre Feet/ Account
2011	16.03	90	0.178
2012	14.94	91	0.164
2013	13.79	89	0.155
2014	12.06	88	0.137
2015	11.13	87	0.128
2016	12.05	90	0.134
2017	13.91	91	0.153
2018	14.80	92	0.161
2019	16.22	92	0.176
2020	13.48	92	0.147

The two highest average water usages per account occurred in 2011 and 2019 at 0.178 and 0.176 acre feet annually per tap, respectively.

Allowing for a 10 percent loss in the distribution system, the average use per tap in Sunset Village computes to be 0.20 acre feet per year.

The ultimate water demand for the platted total of 143 taps in Sunset Village computes to be 28.60 acre feet per year.

- $0.178 \text{ AFY} \times 1.10 \text{ (10\% system loss)} = 0.20 \times 143 = 28.60$

In summary, historical data supports the projected balances of water from Viewpoint Estates/ Antelope Park Ranchettes and Sunset Village that will be moved to Mayberry. Based on the proposed 240 single family homes with proposed average lot size of 7,000 square feet, the historical data also supports demands of less than 0.26 acre feet per home.

PROJECTED WATER DEMAND

The PUD Amendment consists of 240 residential homes, 3 industrial lots, and associated parks and street landscaping.

The demands of the 240 residential homes with the use of 0.26 acre feet per year per home, there is an ultimate demand of 62.40 AF.

The demands of the 3 industrial lots are as follows:

- Lot 1 (Intelifab of Colorado, LLC) - The Intelifab facility will be located on 1.5 acres of industrial property and have 24,000 square feet of developed space. Based upon the presumed value of 0.1 gallon per day for each square foot of developed space, the inside use computes to 2.68 acre feet per year. Based upon the actual landscape plans for Intelifab, 4,115 square feet of the lot will be irrigated landscaping and based upon the presumed value of 0.0566 acre feet per 1,000 square feet of landscaping, the landscape use computes to 0.23 acre feet per year. The projected water demand for the Intelifab Facility is 2.91 acre feet per year.
- Lot 2 (Father Sons Whiskey, LLC) - A storage warehouse will be located on 1.48 acres of industrial property and have 35,000 square feet of developed space. Based upon the presumed value of 0.1 gallon per day for each square foot of developed space, the inside use computes to 3.92 acre feet per year. Based upon the assumption fifteen percent (15%) of the 1.48 acres will be landscaped and based upon the presumed value of 0.0566 acre feet per 1,000 square feet of landscaping, the landscape use computes to 0.55 acre feet per year. The projected water demand for the storage warehouse is 4.47 acre feet per year.
- Lot 3 (Mayberry RV Storage, LLC) - An RV storage facility will be located on 0.83 acres of industrial property and have 25,500 square feet of canopy style covered parking which will not have any indoor water demand. The inside use computes to 0.00 acre feet per year. Based upon the assumption fifteen percent (15%) of the 0.83 acres will be

landscaped and based upon the presumed value of 0.0566 acre feet per 1,000 square feet of landscaping, the landscape use computes to 0.31 acre feet per year. The projected water demand for Industrial Lot 3 is 0.31 acre feet per year.

The water demands of the proposed parks and street landscaping are determined using the guidance in the El Paso County Land Development Code.

The landscape area for the Log Road/Village Main open space is 100,166 square feet. Based upon the presumed value of 2.46 acre feet per acre of landscaping, the landscape use computes to 5.66 acre feet per year.

The landscape area for the Tract O Park open space is 109,427 square feet. Based upon the presumed value of 2.46 acre feet per acre of landscaping, the landscape use computes to 6.18 acre feet per year.

The projected water demands for the development are summarized in the following table.

MAYBERRY, COLORADO SPRINGS PROJECT WATER DEMAND SUMMARY

<u>USE</u>	<u>DEMAND</u>
240 Single Family Residential Homes at 0.26 AFY	62.40 AF
3 industrial Lots	7.7 AF
Parks and Street Landscaping	11.84
Total Demand	81.94

WATER SOURCES

Ellicott Utilities Company, LLC owns several water supply sources as detailed in Appendix A. EUC proposes to utilize Denver Basin groundwater wells determination number 598-BD, and a portion of the water interest from the Tipton Well that is also owned by EUC and further detailed in Appendix A.

Denver Basin Water Determination 598-BD Laramie Fox Hills Wells

The first water source immediately available to serve the development, Mayberry, Colorado Springs and support the PUD Amendment is the Denver basin water decreed through Determination No. 598-BD. Determination No. 598-BD allows for a total water supply of 161-acre feet per year over a 100-year period from the Laramie-Fox Hills aquifer. The Laramie-Fox Hills groundwater supply translates to an available supply of 53.67-acre feet per year under a 300-year rule. The 300-year requirement is based upon paragraph 8.4.7(B)(9)(a)(iii) of the El Paso

County Land Development Code. The Laramie-Fox Hills groundwater will be withdrawn from two existing wells under the assumption the wells can be re-equipped to produce the required amount of water annually. It is also assumed there will be a 5 percent loss of water from the wells through treatment/storage/distribution, leaving a balance of 50.98-acre feet of water available annually. The allocation of the 50.98 AFY is shown in the below table.

DENVER BASIN WATER DETERMINATION 598-BD WATER ALLOCATION 50.98 AFY

Determination No. 598-BD	Acre Feet Allocation to The Development
3 Industrial Lots	7.7 AFY
Parks and Street Landscaping	11.84 AFY
120.92 Single Family Residential at 0.26 AFY	31.44 AFY
Total AFY	50.98

Tipton Well Water Interest

The second water source immediately available to serve the development, Mayberry Colorado Springs, and support the PUD Amendment is 30.96 AFY of the 82 AFY of Tipton Well Interest owned by EUC. The Tipton Well is an exportable well located inside the Upper Black Squirrel Basin and is supported through Colorado Ground Water Commission Case No. 91-GW-01 attached in Exhibit A. This well is owned by Cherokee Water, LLC in which EUC holds an interest. Cherokee Metropolitan District is the manager of this LLC and further manages this well.

A PORTION OF THE 82 AFY TIPTON WELL WATER INTEREST

Tipton Well 91-GW-01	Acre Feet Allocation to the Development
119.08 Single Family Residential at 0.26 AFY	30.96 AFY
Total AFY	30.96

These two sources combined will satisfy the demand of 81.94 AFY that is created by the PUD Amendment containing 240 homes 3 industrial lots and the associated street and park landscaping. The projected balances of water from Viewpoint Estates/Antelope Park Ranchettes and Sunset Village which were mentioned previously will not be relied upon for this PUD Amendment, but the change of location process will be started, and that water will be utilized for future construction at Mayberry.

PLEASE BE ADVISED THIS WATER RESOURCE REPORT WILL REPLACE THE WATER RESOURCE REPORT SUBMITTED BY JPS ENGINEERING AND LAST REVISED ON NOVEMBER 17, 2020, AND APPROVED WITH THE ORIGINAL PUD. AS NO DEVELOPMENT HAS TAKEN PLACE AND FURTHER RESEARCH WAS CONDUCTED TO ESTABLISH DEMAND, THIS REPORT WILL ALSO REPLACE THE PREVIOUS COMMITMENT LETTERS FROM ELLICOTT UTILITIES COMPANY TO MAYBERRY. ALL PREVIOUS COMMITMENTS TO THIS DEVELOPMENT ARE VOID AND THE NEW ONES CONTAINED IN THIS REPORT STAND.

WATER SYSTEM PLAN

Water Service

The water service plan for the proposed development is to connect to the existing central public water system of Ellicott Utilities Company, LLC. EUC currently owns and operates the public water system serving the Viewpoint Estates and Antelope Park Ranchettes Subdivisions under PWSID No. 121245. EUC will serve the Mayberry, Colorado Springs Subdivision as an extension of the existing central water system.

EUC currently has sufficient water rights to serve the proposed 240 homes, 3 industrial lots, parks and street landscaping that are addressed in the PUD Amendment, by using Determination 598-BD, as well as a portion of the Tipton Well Water Interests. EUC has the system capacity to meet the anticipated demands for the proposed development. Builders will purchase water taps from EUC for each home and commercial building.

Ellicott Utilities Company, LLC's interests are expected to be acquired by the Mayberry, Colorado Springs Metropolitan District No. 2, so that long-term utility service will be provided by a quasi-governmental entity.

Fire Flow Requirements

Based on a report provided to El Paso County, and Pikes Peak Regional Building Department by JPS Engineering for Filing 1 and Filing 2, fire flow requirements are typically based on the largest building area and classification within the development. Within residential areas, assuming maximum home sizes of 4,800 square feet and Type V-N (wood frame) construction, the International Fire Code (IFC) requires a fire flow of 1,750-gpm for a duration of 2 hours. Fire hydrants will be installed to provide an average hydrant spacing of 500 feet in typical residential areas, consistent with IFC recommendations.

Within commercial areas, assuming a maximum building size of 12,600 square feet and Type II-B construction, the International Fire Code (IFC) requires a fire flow of 2,250-gpm and an average fire hydrant spacing of 450 feet. Fire protection requirements for commercial areas may also include sprinkler systems serving individual buildings depending on the building size and construction type.

EUC owns the existing 500,000-gallon Viewpoint Water Storage Tank located at the northwest corner of the Ellicott Town Center subdivision, and EUC also has the contractual water storage right of 200,000 gallons within the existing 500,000-gallon Cherokee Metropolitan District tank adjacent to the property.

SUMMARY

The PUD Amendment of Mayberry, Colorado Springs including 240 homes, 3 industrial lots, and respective landscaping, will connect to the existing central water systems currently owned and operated by Ellicott Utilities Company, LLC. EUC currently has adequate water rights and water system infrastructure to serve 240 single family residential homes, three industrial lots, and all parks and street landscaping in the development.

Water system improvements will be designed and constructed in accordance with Ellicott Utilities Company Standard Specifications for provision of municipal water and domestic wastewater treatment, and these facilities will ultimately be dedicated to EUC or Mayberry, Colorado Springs Metropolitan District No. 2 upon satisfactory completion.

APPENDIX A

WATER/ WASTEWATER COMMITMENT LETTERS



Ellicott Utilities Company, LLC
P.O. Box 86
Rancho Santa Fe, CA 92067

May 14, 2021
Revised June 2, 2021

Mayberry Communities, LLC
3296 Divine Heights No. 207
Colorado Springs, CO 80922

**Re: Mayberry, Colorado Springs
PUD Amendment
Water and Wastewater Service Commitment (240 Homes 3 industrial Lots and
associated landscaping)**

Gentlemen:

It is our understanding that Mayberry Communities, LLC (the “Developer”) is interested in obtaining water and sewer service from Ellicott Utilities Company, LLC (the “Company”) for that property known as Mayberry, Colorado Springs for the Amended PUD. (the “Development”). It is our understanding that the El Paso County has previously approved Filing No. 1 and No. 2 and that the property is undergoing a PUD Amendment for 240 single family residential homes, 3 industrial lots and associated landscaping.

Ellicott Utilities Company further recognizes that we have issued two prior commitments, one for Filing No. 1 and one for Filing No. 2 both attached hereto. *This commitment is intended to replace the prior two commitments and to further commit to provide water and wastewater service to the remaining 142 homes.*

Ellicott Utilities Company, LLC will provide water and sewer service to the Development in accordance with the Company Rules and Regulations. Ellicott Utilities Company, LLC understands that the Developer has committed to construct water and sewer facilities as required to serve the Development in accordance with the subdivision construction drawings, and the Developer has provided for dedication of necessary easements and rights of way for the water and sewer improvements through the subdivision plans and related plat documents.

The proposed development will be served by the Ellicott Utilities Company’s central water and sewer system. Ellicott Utilities Company, LLC hereby provides an unconditional commitment to serve this PUD amendment of 240 single family residential homes, 3 Industrial lots and associated landscaping within Mayberry, Colorado Springs. There is a projected water demand of 81.94 AFY.

This commitment is based on the following water sources owned and controlled by the Company:

- Determination No. 598-BD (Laramie Fox Hills Wells) 50.98 AFY
- A portion of the Tipton Well Water Interest 30.96 AFY



Ellicott Utilities Company, LLC commits to providing the water supply to meet the El Paso County 300-year water supply requirement for this subdivision.

Ellicott Utilities Company anticipates that this PUD Amendment for 240 homes and 3 industrial lots will generate 263.1 SFE of wastewater. This is equivalent to an average daily wastewater flow of 52,620 gallons. Under Permit No CO0047252, Ellicott Utilities Company has the capacity for 250,000 gallons per day. With the current flows and the addition of this PUD amendment the wastewater treatment plant will be operating at 45.88% capacity.

Ellicott Utilities Company commits to provide wastewater services to the Development.

ELLICOTT UTILITIES COMPANY, LLC

John Mick

John Mick (Jun 2, 2021 09:40 MDT)

Signature

John Mick

Jun 2, 2021

Name

Date

Ellicott Utilities Company, LLC
P.O. Box 86
Rancho Santa Fe, CA 92067

April 23, 2020

Colorado Springs Mayberry, LLC
32823 Temecula Parkway
Temecula, CA 92592

**Re: Mayberry, Colorado Springs (formerly known as "Ellicott Town Center")
Filing No. 2 Final Plat
Water and Wastewater Service Commitment**

Gentlemen:

It is our understanding that Colorado Springs Mayberry, LLC (the "Developer") is interested in obtaining water and sewer service from Ellicott Utilities Company, LLC (the "Company") for that property known as Mayberry, Colorado Springs Filing No. 2 (the "Development"). It is our understanding that the Development is being processed for a Final Plat approval through El Paso County for 3 Commercial Lots.

Ellicott Utilities Company, LLC will provide water and sewer service to the Development in accordance with the Company Rules and Regulations. Ellicott Utilities Company, LLC understands that the Developer has committed to construct water and sewer facilities as required to serve the Development in accordance with the subdivision construction drawings, and the Developer has provided for dedication of necessary easements and rights of way for the water and sewer improvements through the subdivision plans and related plat documents.

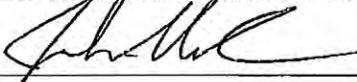
The proposed development will be served by the Ellicott Utilities Company's central water and sewer system. Ellicott Utilities Company, LLC hereby provides an unconditional commitment to serve 3 commercial lots within Mayberry, Colorado Springs Filing No. 2, with an estimated annual water demand of 2.78 af/yr.

This commitment is based on the following water source that is owned and controlled by the Company:

- Ellicott Town Center Denver Basin Wells – LFH rights (Determination of Water Right No. 598-BD)

Ellicott Utilities Company, LLC commits to providing the water supply from the source listed above to meet the El Paso County 300-year water supply requirement for this subdivision.

ELLICOTT UTILITIES COMPANY, LLC



Signature
John Mick 11/17/2020
Name Date

APPENDIX B

WATER QUALITY REPORT

ELLCOTT UTILITIES COMPANY LLC 2021 Drinking Water Quality Report Covering Data For Calendar Year 2020

Public Water System ID: CO0121245

Esta es información importante. Si no la pueden leer, necesitan que alguien se la traduzca.

We are pleased to present to you this year's water quality report. Our constant goal is to provide you with a safe and dependable supply of drinking water. Please contact PHILLIP W CROMWELL at 719-499-9993 with any questions or for public participation opportunities that may affect water quality. **Please see the water quality data from our wholesale system(s) (either attached or included in this report) for additional information about your drinking water.**

General Information

All drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that the water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (1-800-426-4791) or by visiting epa.gov/ground-water-and-drinking-water.

Some people may be more vulnerable to contaminants in drinking water than the general population. Immunocompromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV-AIDS or other immune system disorders, some elderly, and infants can be particularly at risk of infections. These people should seek advice about drinking water from their health care providers. For more information about contaminants and potential health effects, or to receive a copy of the U.S. Environmental Protection Agency (EPA) and the U.S. Centers for Disease Control (CDC) guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and microbiological contaminants call the EPA Safe Drinking Water Hotline at (1-800-426-4791).

The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity. Contaminants that may be present in source water include:

- **Microbial contaminants:** viruses and bacteria that may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.
- **Inorganic contaminants:** salts and metals, which can be naturally-occurring or result from urban storm water runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.
- **Pesticides and herbicides:** may come from a variety of sources, such as agriculture, urban storm water runoff, and residential uses.
- **Radioactive contaminants:** can be naturally occurring or be the result of oil and gas production and mining activities.
- **Organic chemical contaminants:** including synthetic and volatile organic chemicals, which are byproducts of industrial processes and petroleum production, and also may come from gas stations, urban storm water runoff, and septic systems.

In order to ensure that tap water is safe to drink, the Colorado Department of Public Health and Environment prescribes regulations limiting the amount of certain contaminants in water provided by public water systems. The Food and Drug Administration regulations establish limits for contaminants in bottled water that must provide the same protection for public health.

Lead in Drinking Water

If present, elevated levels of lead can cause serious health problems (especially for pregnant women and young children). It is possible that lead levels at your home may be higher than other homes in the community as a result of materials used in your home's plumbing. If you are concerned about lead in your water, you may wish to have your water tested. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water

for drinking or cooking. Additional information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline (1-800-426-4791) or at epa.gov/safewater/lead.

Source Water Assessment and Protection (SWAP)

The Colorado Department of Public Health and Environment may have provided us with a Source Water Assessment Report for our water supply. For general information or to obtain a copy of the report please visit wqcdcompliance.com/ccr. The report is located under “Guidance: Source Water Assessment Reports”. Search the table using 121245, ELLICOTT UTILITIES COMPANY LLC, or by contacting PHILLIP W CROMWELL at 719-499-9993. The Source Water Assessment Report provides a screening-level evaluation of potential contamination that **could** occur. It **does not** mean that the contamination **has or will** occur. We can use this information to evaluate the need to improve our current water treatment capabilities and prepare for future contamination threats. This can help us ensure that quality finished water is delivered to your homes. In addition, the source water assessment results provide a starting point for developing a source water protection plan. Potential sources of contamination in our source water area are listed on the next page.

Please contact us to learn more about what you can do to help protect your drinking water sources, any questions about the Drinking Water Quality Report, to learn more about our system, or to attend scheduled public meetings. We want you, our valued customers, to be informed about the services we provide and the quality water we deliver to you every day.

Our Water Sources

<u>Sources (Water Type - Source Type)</u>	<u>Potential Source(s) of Contamination</u>
PURCHASED WATER FROM CO0121125 (Groundwater-Consecutive Connection)	There is no SWAP report, please contact PHILLIP W CROMWELL at 719-499-9993 with questions regarding potential sources of contamination.

Terms and Abbreviations

- **Maximum Contaminant Level (MCL)** – The highest level of a contaminant allowed in drinking water.
- **Treatment Technique (TT)** – A required process intended to reduce the level of a contaminant in drinking water.
- **Health-Based** – A violation of either a MCL or TT.
- **Non-Health-Based** – A violation that is not a MCL or TT.
- **Action Level (AL)** – The concentration of a contaminant which, if exceeded, triggers treatment and other regulatory requirements.
- **Maximum Residual Disinfectant Level (MRDL)** – The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.
- **Maximum Contaminant Level Goal (MCLG)** – The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.
- **Maximum Residual Disinfectant Level Goal (MRDLG)** – The level of a drinking water disinfectant, below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.
- **Violation (No Abbreviation)** – Failure to meet a Colorado Primary Drinking Water Regulation.
- **Formal Enforcement Action (No Abbreviation)** – Escalated action taken by the State (due to the risk to public health, or number or severity of violations) to bring a non-compliant water system back into compliance.
- **Variance and Exemptions (V/E)** – Department permission not to meet a MCL or treatment technique under certain conditions.

- **Gross Alpha (No Abbreviation)** – Gross alpha particle activity compliance value. It includes radium-226, but excludes radon 222, and uranium.
- **Picocuries per liter (pCi/L)** – Measure of the radioactivity in water.
- **Nephelometric Turbidity Unit (NTU)** – Measure of the clarity or cloudiness of water. Turbidity in excess of 5 NTU is just noticeable to the typical person.
- **Compliance Value (No Abbreviation)** – Single or calculated value used to determine if regulatory contaminant level (e.g. MCL) is met. Examples of calculated values are the 90th Percentile, Running Annual Average (RAA) and Locational Running Annual Average (LRAA).
- **Average (x-bar)** – Typical value.
- **Range (R)** – Lowest value to the highest value.
- **Sample Size (n)** – Number or count of values (i.e. number of water samples collected).
- **Parts per million = Milligrams per liter (ppm = mg/L)** – One part per million corresponds to one minute in two years or a single penny in \$10,000.
- **Parts per billion = Micrograms per liter (ppb = ug/L)** – One part per billion corresponds to one minute in 2,000 years, or a single penny in \$10,000,000.
- **Not Applicable (N/A)** – Does not apply or not available.
- **Level 1 Assessment** – A study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system.
- **Level 2 Assessment** – A very detailed study of the water system to identify potential problems and determine (if possible) why an E. coli MCL violation has occurred and/or why total coliform bacteria have been found in our water system on multiple occasions.

Detected Contaminants

ELLCOTT UTILITIES COMPANY LLC routinely monitors for contaminants in your drinking water according to Federal and State laws. The following table(s) show all detections found in the period of January 1 to December 31, 2020 unless otherwise noted. The State of Colorado requires us to monitor for certain contaminants less than once per year because the concentrations of these contaminants are not expected to vary significantly from year to year, or the system is not considered vulnerable to this type of contamination. Therefore, some of our data, though representative, may be more than one year old. Violations and Formal Enforcement Actions, if any, are reported in the next section of this report.

Note: Only detected contaminants sampled within the last 5 years appear in this report. If no tables appear in this section then no contaminants were detected in the last round of monitoring.

Disinfectants Sampled in the Distribution System TT Requirement: At least 95% of samples per period (month or quarter) must be at least 0.2 ppm <u>OR</u> If sample size is less than 40 no more than 1 sample is below 0.2 ppm Typical Sources: Water additive used to control microbes						
Disinfectant Name	Time Period	Results	Number of Samples Below Level	Sample Size	TT Violation	MRDL

Chlorine	December, 2020	<u>Lowest period</u> percentage of samples meeting TT requirement: 100%	0	1	No	4.0 ppm
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Lead and Copper Sampled in the Distribution System								
Contaminant Name	Time Period	90 th Percentile	Sample Size	Unit of Measure	90 th Percentile AL	Sample Sites Above AL	90 th Percentile AL Exceedance	Typical Sources
Copper	09/23/2020 to 09/23/2020	0.24	5	ppm	1.3	0	No	Corrosion of household plumbing systems; Erosion of natural deposits
Lead	09/23/2020 to 09/23/2020	7.5	5	ppb	15	0	No	Corrosion of household plumbing systems; Erosion of natural deposits

Disinfection Byproducts Sampled in the Distribution System									
Name	Year	Average	Range Low – High	Sample Size	Unit of Measure	MCL	MCLG	MCL Violation	Typical Sources
Total Haloacetic Acids (HAA5)	2020	8.3	8.3 to 8.3	1	ppb	60	N/A	No	Byproduct of drinking water disinfection
Total Trihalomethanes (TTHM)	2020	38.9	38.9 to 38.9	1	ppb	80	N/A	No	Byproduct of drinking water disinfection



Violations, Significant Deficiencies, and Formal Enforcement Actions

No Violations or Formal Enforcement Actions

APPENDIX C

OWNED WATER RIGHTS AND COMMITMENT RIGHTS

C.1. DENVER BASIN WATER DETERMINATION NO. 598 BD LARAMIE FOX HILLS

**COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO
ALLOW THE WITHDRAWAL OF GROUND WATER IN THE UPPER BLACK SQUIRREL
CREEK DESIGNATED GROUND WATER BASIN

APPLICANT: ELLICOTT SPRINGS RESOURCES, LLC

AQUIFER: LARAMIE-FOX HILLS

DETERMINATION NO.: 598-BD

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

FINDINGS

1. The application was received complete by the Colorado Ground Water Commission on July 23, 2004.
2. The applicant requests a determination of rights to designated ground water in the Laramie-Fox Hills Aquifer (hereinafter "aquifer") underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated February 18, 2004, and two signed statements dated July 19, 2004, the applicant claims control of and right to allocation of the ground water in the aquifer under the above-described land area based on written consent of the overlying landowners, as further described in said affidavits which are attached hereto as Exhibit A.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The applicant's proposed place of use of the allocated ground water is the above described 551.26 acre land area.
6. The quantity of water in the aquifer underlying the 551.26 acres of land claimed by the applicant is 16,124 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

- a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 15 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 195 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
 8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 551.26 acres of overlying land claimed by the applicant is 161 acre-feet.
 9. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
 10. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the 551.26 acres of land claimed by the applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. No more than 98% of the amount of ground water withdrawn annually shall be consumed, as required by the Designated Basin Rules.
 11. A review of records in the Office of the State Engineer discloses that a portion of the ground water in the aquifer underlying the 551.26 acre land area has been previously allocated, based on ownership of overlying land and a one hundred year aquifer life. Such allocations occurred by issuance of well permits and construction of wells to appropriate and withdraw ground water from the aquifer, permit numbers 50040-F and 50041-F. The applicant claims ownership of these wells and water rights and has provided a written request, as an attachment to the application, that these permits and rights shall be cancelled by the Commission upon approval of this determination. For this reason, these previous allocations will not decrease the amount of ground water to be allocated for this determination. Except for these two wells, review of the records in the Office of the State Engineer has not disclosed any other water in the aquifer underlying the land claimed by the applicant that has been previously allocated or permitted for withdrawal.
 12. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.

13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
14. On July 29, 2004, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received in response to this request.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Gazette newspaper on August 5 and 12, 2004.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Laramie-Fox Hills Aquifer underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, is approved subject to the following conditions:

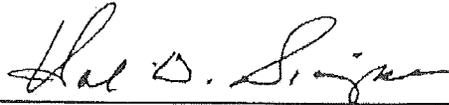
19. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed 161 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.

21. No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.
22. The use of ground water from this allocation shall be limited to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The place of use shall be limited to the above-described 551.26 acre land area.
23. Well permit numbers 50040-F and 50041-F are hereby cancelled and are of no further force or effect.
24. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 551.26 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
25. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
 - a. The wells shall be located on the above described 551.26 acre overlying land area.
 - b. The wells must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
 - e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
 - f. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.

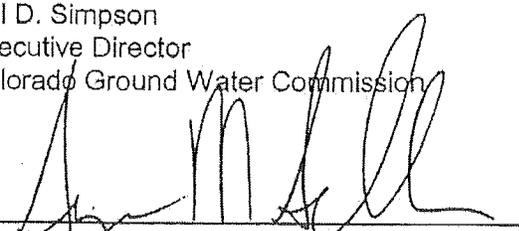
g. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.

26. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county – in which the claimed overlying land is located - so that a title examination of the above described 551.26 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 8th day of November, 2004.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: 

Suzanne M. Sellers, P.E.
Designated Basins Chief

Prepared by: RAC

FIND-510

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

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APR 06 2004

NONTRIBUTARY GROUND WATER CONSENT CLAIM
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

WATER RESOURCES
STATE ENGINEER
COLO.

Laramie Fox Hills AQUIFER

I (we) Ellicott Springs Resources, LLC
(Name)

claim and say that I (we) have the consent of the owners of 472.81 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

R.W. Case

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

[Signature] 2-18-04
(Signature) (Date)
Rayney J. PREISSEN partner Ellicott Springs RES. LLC.

.....
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

RECEIVED

GWS-3B (Rev. Sept. 1996)

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

APR 06 2004

WATER RESOURCES
STATE ENGINEER
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) R.W. Case
(Name)

whose mailing address is 102 E. Pikes Peak Ave., Suite 200
Street

Colorado Springs, CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 472.81 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Laramie Fox Hills aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

R.W. Case 3-2-04
(Signature) (Date)

(Signature) (Date)

.....
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

1313 SHERMAN ST RM 818 DENVER CO 80203 (303)866-3581

EXHIBIT A

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WATER RESOURCES
STATE ENGINEER
COLO.

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JAN 02 2004

WATER RESOURCES
STATE ENGINEER
COLO.

LEGAL DESCRIPTION: VIEWPOINT VILLAGE

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14,
ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY,
COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS, EXCEPT THAT PORTION
CONVEYED BY BOOK 5527 AT PAGE 376.

EXHIBIT A

Page 3 of 131

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

R.W. Case
102 E. Pikes Peak Ave., Suite 200
Colorado Springs, Colorado 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company
c/o Rodney J. Preisser, President
90 S. Cascade Avenue, Suite 950
Colorado Springs, CO 80903

PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

VIEWPOINT VILLAGE

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS, EXCEPT THAT PORTION CONVEYED BY BOOK 5527 AT PAGE 376.

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APR 06 2004

WATER RESOURCES
STATE ENGINEER
COLO.

Robert C. Balink El Paso
01/12/2004 03:
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EXHIBIT A

Page 5 of 123

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VIEWPOINT ESTATES

APR 06 2004

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 10 TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6TH P.M., COMMENCING NORTH 01°10'40" WEST ALONG THE WEST SECTION LINE A DISTANCE OF 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST SECTION LINE NORTH 01°10'40" WEST A DISTANCE OF 1271.31 FEET, THENCE SOUTH 89°52'52" EAST A DISTANCE OF 2617.39 FEET, THENCE NORTH 01°11'11" WEST A DISTANCE OF 3960.76 FEET, THENCE NORTH 89°54'31" EAST A DISTANCE OF 1311.15 FEET, THENCE SOUTH 00°55'21" EAST A DISTANCE OF 5214.40 FEET TO THE NORTH RIGHT OF WAY OF COLORADO STATE HIGHWAY 94, THENCE ALONG SAID NORTH RIGHT OF WAY LINE SOUTH 89°47'46" WEST A DISTANCE OF 3904.36 FEET TO THE TRUE POINT OF BEGINNING. SAID ACREAGE CONTAINS 231 ACRES MORE OR LESS.

WATER RESOURCES
STATE ENGINEER
COLO.

ANTELOPE PARK RANCHETTES

THAT PORTION OF SECTION 10, TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6TH P.M., AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SECTION 10, THENCE NORTH 89°54'31" EAST ON THE NORTH LINE OF SAID SECTION A DISTANCE OF 2622.49 FEET TO THE NORTH 1/4 CORNER THEREOF, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 3960.76 FEET ON THE CENTERLINE OF SAID SECTION TO THE SOUTHEAST CORNER OF THE NORTH 1/2, SOUTHWEST 1/4, THENCE NORTH 89°52'52" WEST ON THE SOUTH LINE OF SAID N1/2, SW1/4 A DISTANCE OF 660 FEET, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 1261.46 FEET TO INTERSECT THE NORTHERLY LINE OF STATE HIGHWAY NO. 94, THENCE SOUTH 89°49'51" WEST ON SAID NORTHERLY LINE A DISTANCE OF 60.02 FEET, THENCE NORTH 02°11'11" WEST A DISTANCE OF 1261.76 FEET TO INTERSECT THE AFOREMENTIONED SOUTH LINE OF THE N 1/2, SW 1/4, THENCE NORTH 89°52'52" WEST A DISTANCE OF 1897.37 FEET TO THE SW CORNER THEREOF, THENCE NORTH 01°15'48" WEST A DISTANCE OF 3951.26 FEET TO THE POINT OF BEGINNING, CONTAINING 239.63 ACRES, MORE OR LESS.

EXHIBIT A

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JUL 23 2004

WATER RESOURCES
STATE ENGINEER
COLO.

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

NONTRIBUTARY GROUND WATER CONSENT CLAIM
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

Laramie-Fox Hills AQUIFER

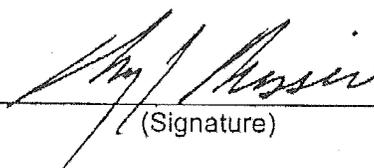
I (we) Ellicott Springs Resources, LLC
(Name)

claim and say that I (we) have the consent of the owners of 78.45 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

- Even-Preisser Investments, LLC
- Even-Preisser, Inc.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

 7-19-04
(Signature) (Date)

(Signature) (Date)

.....
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

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JUL 23 2004

WATER RESOURCES
STATE ENGINEER
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) Even-Preisser Investments, LLC
(Name)

whose mailing address is 520 E. Costilla Street
Street

Colorado Springs CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 38.99 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Laramie-Fox Hills aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser Investments, LLC
Ray R. [Signature] 7/19/04
(Signature) (Date)

(Signature) (Date)

.....
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

RECEIVED

JUL 23 2004

WATER RESOURCES
STATE ENGINEER
COLO

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Investments LLC
520 E. Costilla Street
Colorado Springs, CO 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company
c/o Rodney J. Preisser, President
90 S. Cascade Avenue, Suite 950
Colorado Springs, CO 80903

Robert C. Balink El Paso Cty, CO
04/02/2004 04:06
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Rec \$5.00 1 of 1

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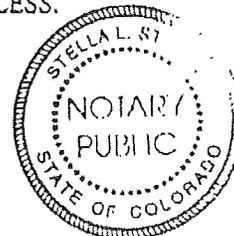
PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE WEST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO
COUNTY, COLORADO, EXCEPT THE NORTH 30 FEET FOR ROADWAY
PURPOSES, AND CONTAINING 38.99 ACRES MORE OR LESS.

PROPERTY ADDRESS:

22325 Highway 94
El Paso County, CO



RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on April 2, 2004

MY COMMISSION EXPIRES
09/01/2006

Even-Preisser Investments, LLC
Grantor

By [Signature]
Title: MEMBER

STATE OF COLORADO)
)ss:
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 02 day of April
David Even, as member of Even-Preisser Investment
liability company.

WITNESS my hand and official seal.
My commission expires: 09-01-2006

[Signature]

EXHIBIT A

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

RECEIVED

JUL 23 2004

WATER RESOURCES
STATE ENGINEER
COLORADO

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) Even-Preisser, Inc.
(Name)

whose mailing address is 520 E. Costilla St.
Street

Colorado Springs CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 39.46 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Laramie-Fox Hills aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser, Inc.
By [Signature], Secretary 7/19/04
(Signature) (Date)

(Signature) (Date)

INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

www.water.state.co.us



Bill Owens
Governor

Russell George
Executive Director

Hal D. Simpson, P.E.
State Engineer

November 10, 2004

RODNEY PREISSER
ELLICOTT SPRINGS RESOURCES LLC
90 S CASCADE AVENUE #950
COLO SPGS CO 80903

RE: Permit to Use Existing Well

Dear Mr. Preisser:

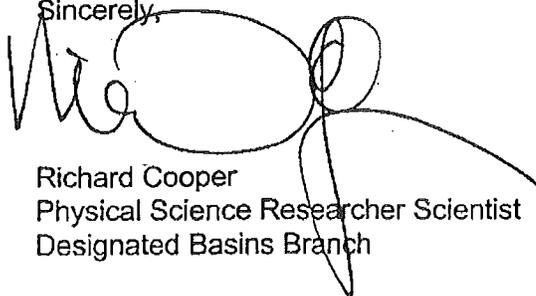
Enclosed is a copy of well Permit No. 61972-F, issued to use an existing well to withdraw ground water from the Laramie-Fox Hills aquifer in accordance with the Ground Water Commission's Findings and Order for Determination of Water Right No. 598-BD.

Please review the permit conditions of approval. Permit condition #10 requires that a totalizing flow meter shall be installed on the well and maintained in good working order. The well owner must maintain permanent records of total annual withdrawals from the well. Be advised that the total combined annual amount of ground water withdrawn by this well, together with any other wells permitted to withdraw the allowed allocation, shall not exceed 161 acre-feet, subject to the withdrawal limitations and conditions in the above described Order of the Commission.

Within 30 days after commencement of beneficial use of ground water, pumped from the well in accordance with the conditions of this permit, a Notice of Commencement of Beneficial Use, form no. GWS-19, must be completed and filed with this office. A copy of this notice is enclosed for your use.

If you have any questions, please contact this office.

Sincerely,



Richard Cooper
Physical Science Researcher Scientist
Designated Basins Branch

enclosures: a/s

cc: Upper Black Squirrel Creek GWMD

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

WELL PERMIT NUMBER 61972 -F-
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELLCOTT SPRINGS RESOURCES LLC
90 S CASCADE STE 950
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION

EL PASO COUNTY
NW 1/4 NE 1/4 Section 14
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line
2310 Ft. from East Section Line

UTM COORDINATES (NAD83)

Easting: Northing:

PERMIT TO USE AN EXISTING WELL

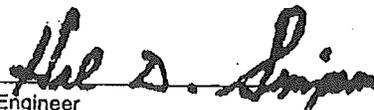
CONDITIONS OF APPROVAL

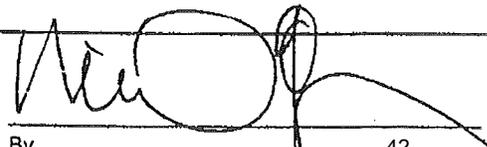
- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this existing well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50040-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED
RAC


State Engineer


By

Receipt No. 0522751A

DATE ISSUED 11-10-2004

EXPIRATION DATE 11-10-2005

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

www.water.state.co.us



Bill Owens
Governor

Russell George
Executive Director

Hal D. Simpson, P.E.
State Engineer

November 10, 2004

RODNEY PREISSER
ELLICOTT SPRINGS RESOURCES LLC
90 S CASCADE AVENUE #950
COLO SPGS CO 80903

RE: Permit to Use Existing Well

Dear Mr. Preisser:

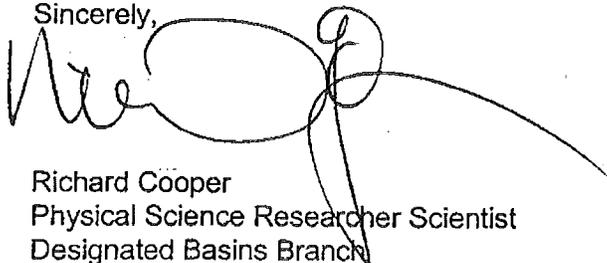
Enclosed is a copy of well Permit No. 61973-F, issued to use an existing well to withdraw ground water from the Laramie-Fox Hills aquifer in accordance with the Ground Water Commission's Findings and Order for Determination of Water Right No. 598-BD.

Please review the permit conditions of approval. Permit condition #10 requires that a totalizing flow meter shall be installed on the well and maintained in good working order. The well owner must maintain permanent records of total annual withdrawals from the well. Be advised that the total combined annual amount of ground water withdrawn by this well, together with any other wells permitted to withdraw the allowed allocation, shall not exceed 161 acre-feet, subject to the withdrawal limitations and conditions in the above described Order of the Commission.

Within 30 days after commencement of beneficial use of ground water, pumped from the well in accordance with the conditions of this permit, a Notice of Commencement of Beneficial Use, form no. GWS-19, must be completed and filed with this office. A copy of this notice is enclosed for your use.

If you have any questions, please contact this office.

Sincerely,



Richard Cooper
Physical Science Researcher Scientist
Designated Basins Branch

enclosures: a/s

cc: Upper Black Squirrel Creek GWMD

Form No.
GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

WELL PERMIT NUMBER 61973 -F-
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELLCOTT SPRINGS RESOURCES
90 S CASCADE STE 950
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION
EL PASO COUNTY
NW 1/4 NE 1/4 Section 14
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES
300 Ft. from North Section Line
1650 Ft. from East Section Line

UTM COORDINATES (NAD83)
Easting: Northing:

PERMIT TO USE AN EXISTING WELL

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this existing well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50041-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED
RAC

Hal D. Smith
State Engineer

By

[Signature]
EXPIRATION DATE 11-10-2005

Receipt No. 0522751B

DATE ISSUED 11-10-2004

ORDER OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF WELL PERMIT NO. 50040-F

LOCATION: NW1/4 OF THE NE1/4 OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63
WEST OF THE 6TH PRINCIPAL MERIDIAN

OWNER OF RECORD: ELLICOTT SPRINGS RESOURCES, LLC

The Colorado Ground Water Commission finds that:

1. Well permit no. 50040-F was issued by the Commission on June 10, 1998, to construct a well to withdraw and appropriate ground water in accordance with the Findings and Order of the Commission, dated May 26, 1998. A well completion report filed with the Commission indicates that the well was timely constructed to withdraw ground water from the Laramie-Fox Hills aquifer at its permitted location.
2. On July 23, 2004, Ellicott Springs Resources, LLC, filed a statement with the Commission claiming ownership of the subject well and requesting that permit no. 50040-F be cancelled upon approval of a determination of water right for the Laramie-Fox Hills aquifer underlying a 551.26 acre overlying land area. An application for said determination was filed with the Commission in a complete form on July 23, 2004.

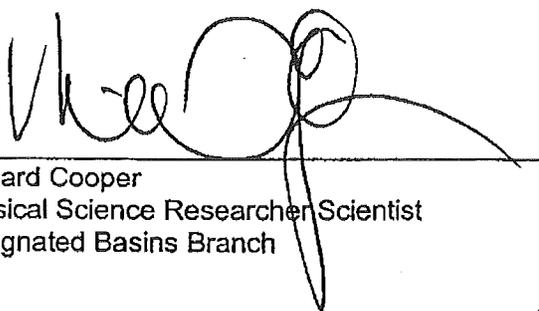
ORDER

3. At the request of the well owner, and in accordance with the Findings and Order of the Commission for Determination of Water Right No. 598-BD, dated November 8, 2004, well permit no. 50040-F is cancelled and is of no further force or effect. Any water right associated with this permit is abandoned.

Dated this 10th day of November, 2004.

Hal D. Simpson

Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: 
Richard Cooper
Physical Science Research Scientist
Designated Basins Branch

ORDER OF THE COLORADO GROUND WATER COMMISSION

IN THE MATTER OF WELL PERMIT NO. 50041-F

LOCATION: NW1/4 OF THE NE1/4 OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63
WEST OF THE 6TH PRINCIPAL MERIDIAN

OWNER OF RECORD: ELLICOTT SPRINGS RESOURCES, LLC

The Colorado Ground Water Commission finds that:

1. Well permit no. 50041-F was issued by the Commission on June 10, 1998, to construct a well to withdraw and appropriate ground water in accordance with the Findings and Order of the Commission, dated May 26, 1998. A well completion report filed with the Commission indicates that the well was timely constructed to withdraw ground water from the Laramie-Fox Hills aquifer at its permitted location.
2. On July 23, 2004, Ellicott Springs Resources, LLC, filed a statement with the Commission claiming ownership of the subject well and requesting that permit no. 50041-F be cancelled upon approval of a determination of water right for the Laramie-Fox Hills aquifer underlying a 551.26 acre overlying land area. An application for said determination was filed with the Commission in a complete form on July 23, 2004.

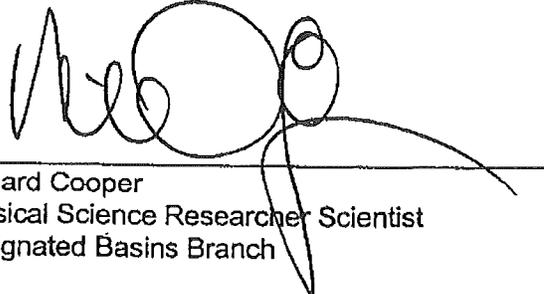
ORDER

3. At the request of the well owner, and in accordance with the Findings and Order of the Commission for Determination of Water Right No. 598-BD, dated November 8, 2004, well permit no. 50041-F is cancelled and is of no further force or effect. Any water right associated with this permit is abandoned.

Dated this 10th day of November, 2004.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission



By: _____
Richard Cooper
Physical Science Researcher-Scientist
Designated Basins Branch

Form No.
GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

WELL PERMIT NUMBER 61972 -F-
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELLICOTT SPRINGS RESOURCES LLC
90 S CASCADE STE 950
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION

EL PASO COUNTY
NW 1/4 NE 1/4 Section 14
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line
2310 Ft. from East Section Line

UTM COORDINATES (NAD83)

Easting: Northing:

PERMIT TO USE AN EXISTING WELL

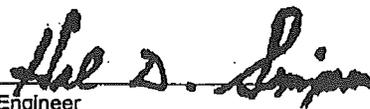
CONDITIONS OF APPROVAL

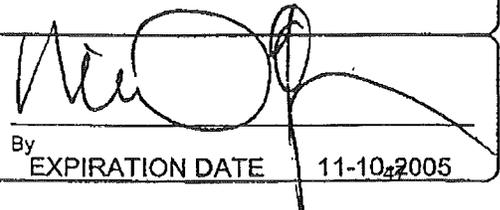
- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this existing well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50040-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED
RAC


State Engineer


By

Receipt No. 0522751A

DATE ISSUED 11-10-2004

EXPIRATION DATE 11-10-2005

Form No.
GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

WELL PERMIT NUMBER 61973 - F -
DIV. 8 WD 10 DES. BASIN 4 MD 12

APPLICANT

ELICOTT SPRINGS RESOURCES
90 S CASCADE STE 950
COLORADO SPRINGS, CO 80903-

(719) 442-2614

APPROVED WELL LOCATION

EL PASO COUNTY
NW 1/4 NE 1/4 Section 14
Township 14 S Range 63 W Sixth P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line
1650 Ft. from East Section Line

UTM COORDINATES (NAD83)

Easting: Northing:

PERMIT TO USE AN EXISTING WELL

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this existing well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to Section 37-90-107(7), C.R.S., and the Findings and Order of the Colorado Ground Water Commission, dated November 8, 2004, for Determination of Water Right No. 598-BD. This permit allows the use of an existing well originally constructed under cancelled permit no. 50041-F.
- 4) The maximum pumping rate of this well shall not exceed 200 GPM.
- 5) The annual withdrawal of ground water from this well shall not exceed 161 acre-feet, subject to the total annual withdrawal limitations and conditions in paragraphs 19, 20, and 25.e of the above described Order of the Commission.
- 6) The use of ground water from this well is limited to domestic, irrigation, commercial, industrial, firefighting, and recreation. Place of use shall be limited to the 551.26 acre land area claimed in the above described Order of the Commission.
- 7) This well must be constructed to withdraw ground water from only the Laramie-Fox Hills aquifer.
- 8) The owner shall mark the well in a conspicuous place with well permit number and name of aquifer as appropriate, and shall take necessary means and precautions to preserve these markings.
- 9) This well shall be located within 200 feet of the location specified on this permit, on overlying land claimed in the above Order. The well shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 10) A totalizing flow meter or other Commission approved measuring device must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District or the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the water withdrawn is being consumed.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.

NOTE: This well is located within a Ground Water Management District where local District Rules may apply to the withdrawal of designated ground water currently authorized under this permit.

APPROVED
RAC

She D. Smith

State Engineer

[Signature]

By

Receipt No. 0522751B

DATE ISSUED 11-10-2004

EXPIRATION DATE 11-10-2005

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581



WELL PERMIT NUMBER	050040	-	F
DIV. 8	CNTY. 21	WD 10	DES. BASIN 4 MD 12

APPLICANT

EVEN PREISSER INVESTMENTS, LLC
90 S CASCADE STE 950
COLO SPRINGS CO 80903-4217

(719)442-2514

APPROVED WELL LOCATION

EL PASO COUNTY

NW 1/4 NE 1/4 Section 14
Twp 14 S RANGE 63 W 6th P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line
2310 Ft. from East Section Line

PERMIT TO CONSTRUCT A WELL

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to Sections 37-90-107 and 37-90-111(5), C.R.S., and the findings of the Colorado Ground Water Commission dated May 26, 1998.
- 4) The maximum pumping rate shall not exceed 200 GPM.
- 5) The allowed average annual amount of ground water to be withdrawn is 9.3 acre-feet, subject to the conditions in paragraph 18.c of the above described Findings of the Commission.
- 6) The use of ground water from the well shall be limited to the following: commercial use for all uses associated with a concrete production facility, residential use and the irrigation of lawn, garden and landscaped areas. Place of use shall be limited to the 40 acre land area claimed in the above described Findings of the Commission.
- 7) The well must be constructed to withdraw water from only the Laramie-Fox Hills aquifer. The top of the aquifer is located approximately 650 feet below the ground surface. The bottom of the aquifer is located approximately 910 feet below the ground surface. Plain casing must be installed and sealed to prevent diversion of water from other aquifers and the movement of water between aquifers.
- 8) This well shall be constructed within 200 feet of the location specified on this permit, and shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 9) The entire length of the hole shall be geophysically logged according to the attached instructions prior to installing the casing.
- 10) A totalizing flow meter must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually from this well shall be consumed. The Commission may require the well owner to demonstrate periodically that no more than 98% of the ground water withdrawn by the well is being consumed.
- 12) The owner shall mark this well in a conspicuous place with the permit number and the name of the aquifer. He shall take necessary means and precautions to preserve these markings.

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines. RAC 8-13-98

APPROVED
RAC

State Engineer

Receipt No. 0422850

DATE ISSUED JUN 10 1998

EXPIRATION DATE JUN 10 1999

GWS-J
12/24

WELL CONSTRUCTION AND TEST REPORT
STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

For Office Use only

RECEIVED

DEC 29 1998

STATE OF COLORADO
STATE ENGINEER
D.D.

1. WELL PERMIT NUMBER D30040-F

2. OWNER NAME(S) EVEN PREISSER INVESTMENTS LLC
Mailing Address 90 S CASCADE STE 950
City, St. Zip CO, CO 80903-4217
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 14S, Range 63W 64N
DISTANCES FROM SEC. LINES:
300 ft from NORTH Sec. line. and 2310 ft from EAST Sec. line. OR
(north or south) (east or west)
SUBDIVISION: _____ LOT _____ BLOCK _____ FILING(UNIT) _____
STREET ADDRESS AT WELL LOCATION: _____

4. GROUND SURFACE ELEVATION _____ ft. DRILLING METHOD Mud Rotary
DATE COMPLETED 11/20/98 TOTAL DEPTH 900 ft. DEPTH COMPLETED 900 ft.

5. GEOLOGIC LOG:

Depth	Description of Material (Type, Size, Color, Water Location)
0-1	TOPSOIL
1/05	SAND, GRAVEL
1/25	CLAY
1/90	SHALE
2/10	SANDROCK
2/25	SHALE
2/50	SANDROCK
2/70	SHALE
2/90	SANDROCK
3/10	SHALE
3/50	SANDROCK
3/50	SHALE
4/00	SANDROCK
5/05	CLAY
5/50	SHALE
6/15	SANDROCK
6/25	SHALE
6/45	SANDROCK
6/70	SHALE
7/00	SANDROCK
7/15	SHALE
8/00	SANDROCK
8/30	SHALE
8/50	SANDROCK
REMARKS:	<u>900 SHALE</u> <u>Approved 8/23</u>

6. HOLE DIAM. (in.) From (ft) To (ft)

<u>12 1/2</u>	<u>0</u>	<u>130</u>
<u>7 3/8</u>	<u>190</u>	<u>650</u>
<u>6 1/2</u>	<u>650</u>	<u>900</u>

7. PLAIN CASING

OD (in)	Kind	Wall Size	From (ft)	To (ft)
<u>4 3/4</u>	<u>STEEL</u>	<u>1 3/8</u>	<u>±1</u>	<u>130</u>
<u>4 1/2</u>	<u>STEEL</u>	<u>1 3/8</u>	<u>7</u>	<u>650</u>

PERF. CASING: Screen Slot Size: Torched
1 1/2 STEEL 1 3/8 650 900

8. FILTER PACK: Material Gravel Size #4 Interval 20-350 410-590

9. PACKER PLACEMENT: Type Rubber Depth 650

10. GROUTING RECORD:

Material	Amount	Density	Interval	Placement
<u>Cement</u>	<u>450 lbs</u>	<u>142 pcf</u>	<u>6-20</u>	<u>Poured</u>
<u>Cement</u>	<u>350 lbs</u>	<u>142 pcf</u>	<u>110-140</u>	<u>Poured</u>
<u>Cement</u>	<u>350 lbs</u>	<u>142 pcf</u>	<u>350-410</u>	<u>Poured</u>
<u>Cement</u>	<u>350 lbs</u>	<u>142 pcf</u>	<u>590-650</u>	<u>Poured</u>

11. DISINFECTION: Type HTR Amt. Used 600

12. WELL TEST DATA: Check box if Test Data is submitted on Form No. GWS 39 Supplemental Well Test.
TESTING METHOD DAILED
Static Level 325 ft. Date/Time measured _____ Production Rate 25 gpm.
Pumping level 651 ft. Date/Time measured 11/24/98 Test length (hrs.) 4
Remarks _____

13. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.]

CONTRACTOR KUNAW DRILLING & EXC. Phone (719) 683-3720 Lic. No. 1148
Mailing Address 23945 LUCKY LN DAVENPORT, CO 80008

Name/Title (Please type or print) TIM KUNAW/OWNER Signature Tim Kunaw Date 11-24-98

FORM NO. GWS-32 10/94

PUMP INSTALLATION AND TEST REPORT

For Office Use only

STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

RECEIVED RECEIVED

DEC 29 1998 DEC 29 1998

WATER RESOURCES STATE ENGINEER COLO.

WATER RESOURCES STATE ENGINEER COLO.

1. WELL PERMIT NUMBER D50040-F

2. OWNER NAME(S) EVAN PEISER INVESTMENTS LLC
Mailing Address 90 S. CASCADE #930
City, St. Zip CO. CO. 80903-4817
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 14 S, Range 12W 6th
DISTANCES FROM SEC. LINES:
300 ft. from NORTH Sec. line, and 2310 ft. from EAST Sec. line.
(north or south) (east or west)
SUBDIVISION: _____ LOT _____ BLOCK _____ FILING(UNIT) _____
STREET ADDRESS AT WELL LOCATION: _____

4. PUMP DATA: Type SUBMERSIBLE Installation Completed 11/24/98
Pump Manufacturer BOWLUS Pump Model No. 76530412
Design GPM 7 at RPM 3450, HP 3.0, Volts 230, Full Load Amps 17
Pump Intake Depth 1251 Feet, Drop/Column Pipe Size 1" inches, Kind STEEL

ADDITIONAL INFORMATION FOR PUMPS GREATER THAN 50 GPM:

TURBINE DRIVER TYPE: Electric Engine Other _____
Design Head _____ feet, Number of Stages _____, Shaft size _____ inches.

5. OTHER EQUIPMENT:

Airline Installed Yes No, Orifice Depth ft. _____, Monitor Tube Installed Yes No, Depth ft. _____
Flow Meter Mfg. MASTER Meter Serial No. _____
Meter Readout Gallons, Thousand Gallons, Acre feet, Beginning Reading 0

6. TEST DATA:

Check box if Test data is submitted on Supplemental Form.
Date 11/24/98

Total Well Depth 900 Time _____
Static Level 325 Rate (GPM) 22
Date Measured 11/20/98 Pumping Lvl. 1251

7. DISINFECTION: Type H+H Amt. Used 6oz.

8. Water Quality analysis available. Yes No

9. Remarks _____

10. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.]

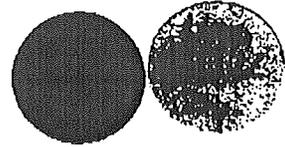
CONTRACTOR KUNAN DRILLING & EXC Phone (719) 683-3720 Lic. No. 1148
Mailing Address 23945 LUCKY LN, CALHAN, CO. 80909

Name/Title (Please type or print) TIM KUNAN / OWNER Signature Tom Kunan Date 11-24-98

618
Form No. GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581



1148

WELL PERMIT NUMBER 050041 - F
DIV. 8 CNTY. 21 WD 10 DES. BASIN 4 MD 12

APPLICANT

EVEN PREISSER INC
90 S CASCADE STE 950
COLO SPRINGS CO 80903-4217

(719)442-2614

Lot: Block: Filing: Subdiv:

APPROVED WELL LOCATION
EL PASO COUNTY

NW 1/4 NE 1/4 Section 14
Twp 14 S RANGE 63 W 6th P.M.

DISTANCES FROM SECTION LINES

300 Ft. from North Section Line
1650 Ft. from East Section Line

PERMIT TO CONSTRUCT A WELL

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to Sections 37-90-107 and 37-90-111(5), C.R.S., and the Findings of the Colorado Ground Water Commission dated May 26, 1998.
- 4) The maximum pumping rate shall not exceed 200 GPM.
- 5) The allowed average annual amount of ground water to be withdrawn is 9.3 acre-feet, subject to the conditions in paragraph 18.c of the above described Findings of the Commission.
- 6) The use of ground water from the well shall be limited to the following: commercial use for all uses associated with a concrete production facility, residential use and the irrigation of lawn, garden and landscaped areas. Place of use shall be limited to the 40 acre land area claimed in the above described Findings of the Commission.
- 7) The well must be constructed to withdraw water from only the Laramie-Fox Hills aquifer. The top of the aquifer is located approximately 640 feet below the ground surface. The bottom of the aquifer is located approximately 900 feet below the ground surface. Plain casing must be installed and sealed to prevent diversion of water from other aquifers and the movement of water between aquifers.
- 8) This well shall be constructed within 200 feet of the location specified on this permit, and shall not be located within 600 feet of another large-capacity well completed in the Laramie-Fox Hills aquifer.
- 9) The entire length of the hole shall be geophysically logged according to the attached instructions prior to installing the casing.
- 10) A totalizing flow meter must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (collected at least annually) and submitted to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission upon request.
- 11) No more than 98% of the ground water withdrawn annually from this well shall be consumed. The Commission may require the well owner to demonstrate periodically that no more than 98% of the ground water withdrawn by the well is being consumed.
- 12) The owner shall mark this well in a conspicuous place with the permit number and the name of the aquifer. He shall take necessary means and precautions to preserve these markings.

**GEOPHYSICAL LOGGING
REQUIREMENT WAIVED**
By SAC 7-27-99

NOTE: The ability of this well to withdraw its authorized amount of water from this non-renewable aquifer may be less than the 100 years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines. RAC 5-15-98

PERMIT EXPIRATION DATE EXTENDED TO JUNE 10, 2000 SAC 7-27-99

APPROVED
RAC

State Engineer

Hal D. Simpson

Purnell

Receipt No. 0422851

DATE ISSUED JUN 10 1998

By EXPIRATION DATE JUN 10 1999

FORM NO. 6WS-32 10/84

PUMP INSTALLATION AND TEST REPORT STATE OF COLORADO, OFFICE OF THE STATE ENGINEER

For Office Use only

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JUN 18 2000

WATER DIV. STATE ENGINEER - COLO.

1. WELL PERMIT NUMBER: D5D041 E

2. OWNER NAME(S) EVEN PREISSER INC.
Mailing Address 90 S CASCADE STE 950
City, St. Zip COLO SPRING CO 80903
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 19 S, Range 63 W
DISTANCES FROM SEC. LINES:
300 ft. from NORTH Sec. line. and 1150 ft. from EAST Sec. line.
(north or south) (east or west)
SUBDIVISION: _____ LOT _____ BLOCK _____ FILING(UNIT) _____
STREET ADDRESS AT WELL LOCATION: _____

4. PUMP DATA: Type SUBMERSIBLE installation Completed 6/9/00
Pump Manufacturer Goulds Pump Model No. 1D65AD912
Design GPM 10 at RPM 3450, HP 5, Volts 230, Full Load Amps 27.5
Pump Intake Depth 861 Feet, Drop/Column Pipe Size 1 1/4" inches, Kind _____

ADDITIONAL INFORMATION FOR PUMPS GREATER THAN 50 GPM:

TURBINE DRIVER TYPE: Electric Engine Other _____
Design Head _____ feet, Number of Stages _____, Shaft size _____ inches.

5. OTHER EQUIPMENT:

Airline Installed Yes No, Orifice Depth ft. _____, Monitor Tube Installed Yes No, Depth ft. _____
Flow Meter Mfg. MASTER Meter Serial No. 271D28
Meter Readout Gallons, Thousand Gallons, Acre feet, Beginning Reading 0

6. TEST DATA:

Check box if Test data is submitted on Supplemental Form.

Date 6-9-00
Total Well Depth 900 Time _____
Static Level 330 Rate (GPM) 15
Date Measured 6/7/00 Pumping Lvl. 861

7. DISINFECTION: Type HTH Amt. Used 6 oz.

8. Water Quality analysis available. Yes No

8. Remarks _____

10. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.]

CONTRACTOR KUNAU DRILLING LLC Phone (719) 683-3720 Lic. No. 1140
Mailing Address 23945 LUCKY LANE CAIHAN CO 80808

Name/Title (Please type or print)

Signature

Date

TIM KUNAU-OWNER

Tim Kunau

6-9-00

10/94

STATE OF COLORADO, OFFICE OF THE STATE ENGINEER
1313 Sherman St., Rm 818, Denver, CO 80203

RECEIVED

JUN 12 2000

WATER RESOURCES
STATE ENGINEER
COLO

1. WELL PERMIT NUMBER 050041 F

2. OWNER NAME(S) EVEN PREISSER INC
Mailing Address 90 S. CASCADE STE 950
City, St. Zip COLO SPRS CO 80903
Phone (719) 442-2614

3. WELL LOCATION AS DRILLED: NW 1/4 NE 1/4, Sec. 14 Twp. 14 S, Range 63 W
DISTANCES FROM SEC. LINES:
300 ft. from North Sec. line, and 1650 ft. from East Sec. line. OR
SUBDIVISION: _____ LOT _____ BLOCK _____ FILING(UNIT) _____
STREET ADDRESS AT WELL LOCATION: _____

4. GROUND SURFACE ELEVATION _____ ft. DRILLING METHOD Mud Rotary
DATE COMPLETED 6-7-00 TOTAL DEPTH 900 ft. DEPTH COMPLETED 900 ft.

5. GEOLOGIC LOG:

Depth	Description of Material (Type, Size, Color, Water Location)
D-1	Topsoil
170	SAND GRAVEL CLAY
205	CLAY SHALE
218	SANDROCK
240	CLAY SHALE
320	CLAY SANDROCK
345	CLAY SHALE
360	CLAY SANDROCK
380	SANDROCK
390	CLAY
410	SANDROCK
560	CLAY SHALE
585	SANDROCK
630	CLAY SHALE
695	SANDROCK COAL
697	ROCK
830	SANDROCK
890	CLAY SANDROCK

6. HOLE DIAM. (in.)

From (ft)	To (ft)
<u>12 1/4</u>	<u>0</u>
<u>6 1/2</u>	<u>185</u>
	<u>900</u>

7. PLAIN CASING

OD (in)	Kind	Wall Size	From (ft)	To (ft)
<u>8 5/8</u>	<u>STEEL</u>	<u>182</u>	<u>±1</u>	<u>185</u>
<u>4 1/2</u>	<u>STEEL</u>	<u>188</u>	<u>1</u>	<u>695</u>

PERF. CASING: Screen Slot Size: toeched
4 1/2 STEEL 188 695 900

8. FILTER PACK: Material GRAVEL Size 1/2" Interval 20-165/185-390

9. PACKER PLACEMENT: Type Rubber Depth 695

10. GROUTING RECORD:

Material	Amount	Density	Interval	Placement
<u>CEMENT</u>	<u>6 sacks</u>	<u>36 gal</u>	<u>6-20</u>	<u>Trimmed</u>
<u>CEMENT</u>	<u>6 sacks</u>	<u>36 gal</u>	<u>165-185</u>	<u>Trimmed</u>
<u>CEMENT</u>	<u>12 sacks</u>	<u>72 gal</u>	<u>390-420</u>	<u>Trimmed</u>
<u>CEMENT</u>	<u>2 sacks</u>	<u>12 gal</u>	<u>615-695</u>	<u>Pumped</u>

Am't Used 6.02

REMARKS: AROUND 8 5/8

11. DISINFECTION: Type HTH AROUND 6 1/2

12. WELL TEST DATA: Check box if Test Data is submitted on Form No. GWS 39 Supplemental Well Test.
TESTING METHOD Airlifted
Static Level 330 ft. Date/Time measured _____
Pumping level 610 ft. Date/Time measured 6/7/00 Production Rate 25 gpm.
Remarks _____ Test length (hrs.) 4

13. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. (Punishable to Section 24-4-104 (13)(e) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.)

CONTRACTOR KUNAU Drilling LLC Phone (719) 683-3720 Lic. No. 1148
Mailing Address 23945 LUCKY LANE CALHAN CO 80808

Name/Title (Please type or print) TIM KUNAU-DRAINER Signature [Signature] Date 6-9-00

C.2. DENVER BASIN WATER DETERMINATION NO. 599 BD ARAPAHOE AQUIFER

COLORADO GROUND WATER COMMISSION
FINDINGS AND ORDER

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO
ALLOW THE WITHDRAWAL OF GROUND WATER IN THE UPPER BLACK SQUIRREL
CREEK DESIGNATED GROUND WATER BASIN

APPLICANT: ELLICOTT SPRINGS RESOURCES, LLC

AQUIFER: ARAPAHOE

DETERMINATION NO.: 599-BD

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

FINDINGS

1. The application was received complete by the Colorado Ground Water Commission on July 23, 2004.
2. The applicant requests a determination of rights to designated ground water in the Arapahoe Aquifer (hereinafter "aquifer") underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, in El Paso County. According to a signed statement dated February 18, 2004, and two signed statements dated July 19, 2004, the applicant claims control of and right to allocation of the ground water in the aquifer under the above-described land area based on written consent of the overlying landowners, as further described in said affidavits which are attached hereto as Exhibit A.
3. The proposed annual amount of ground water to be allocated and withdrawn from the aquifer for intended beneficial uses is the maximum allowable amount.
4. The above described land area overlying the ground water claimed by the applicant is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction.
5. The applicant intends to apply the allocated ground water to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The applicant's proposed place of use of the allocated ground water is the above described 551.26 acre land area.
6. The quantity of water in the aquifer underlying the 551.26 acres of land claimed by the applicant is 7965 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

- a. The average specific yield of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
 - b. The average thickness of the saturated permeable material of the aquifer underlying the land under consideration that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 85 feet.
7. At this time, there is no substantial artificial recharge that would affect the aquifer within a one hundred year period.
 8. Pursuant to Section 37-90-107(7), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate ground water in the aquifer based on ownership of the overlying land and an aquifer life of one hundred years. Therefore, the maximum average annual amount of ground water in the aquifer that may be allocated for withdrawal pursuant to the data in the paragraphs above for the 551.26 acres of overlying land claimed by the applicant is 79.7 acre-feet.
 9. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable aquifer may be less than the one hundred years upon which the amount of water in the aquifer is allocated, due to anticipated water level declines.
 10. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the aquifer underlying the 551.26 acres of land claimed by the applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the ground water is considered to be not-nontributary ground water. Also, the location of the land claimed by the applicant is closer than one mile from the aquifer contact with the alluvium. Withdrawal of water from the aquifer underlying the claimed land area would impact the alluvial aquifer of Black Squirrel Creek or its tributaries, which has been determined to be over-appropriated. Commission approval of a replacement plan - pursuant to Section 37-90-107.5, C.R.S., and Rule 5.6 of the Designated Basin Rules - providing for the actual depletion of the alluvial aquifer and adequate to prevent any material injury to existing water rights, would be required prior to approval of well permits for wells to be located on this land area to withdraw the allocated ground water from the aquifer.
 11. In accordance with Rule 5.3.2.4 of the Designated Basin Rules, the maximum average annual amount of ground water available for allocation from the aquifer underlying the 551.26 acres of land claimed by the applicant is reduced to 78.7 acre-feet to allow for the annual withdrawal of a small capacity well which is completed in the aquifer, permit number 76247. Except for this well, review of the records in the Office of the State Engineer has disclosed that none of the water in the aquifer underlying the land claimed by the applicant has been previously allocated or permitted for withdrawal.
 12. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.

13. In accordance with Section 37-90-107(7), C.R.S., upon Commission approval of a determination of water right, well permits for wells to withdraw the authorized amount of water from the aquifer shall be available upon application, subject to the conditions of this determination and the Designated Basin Rules and subject to approval by the Commission.
14. On July 29, 2004, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. No written recommendations from the district were received in response to this request.
15. The Commission Staff has evaluated the application relying on the claims to control of the ground water in the aquifer made by the applicant.
16. In accordance with Sections 37-90-107(7) and 37-90-112, C.R.S., the application was published in the Gazette newspaper on August 5 and 12, 2004.
17. No objections to the determination of water right and proposed allocation of ground water were received within the time limit set by statute.
18. In order to prevent unreasonable impairment to the existing water rights of others within the Upper Black Squirrel Creek Designated Ground Water Basin it is necessary to impose conditions on the determination of water right and proposed allocation of ground water. Under conditions as stated in the following Order, no unreasonable impairment of existing water rights will occur from approval of this determination of water right or from the issuance of well permits for wells to withdraw the authorized amount of allocated ground water from the aquifer.

ORDER

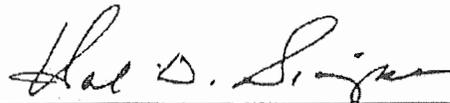
In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designated ground water in the Arapahoe Aquifer underlying 551.26 acres generally described as the W1/2 and the W1/2 of the NE1/4 of Section 14 and the E1/2 of the E1/2 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, is approved subject to the following conditions:

19. The allocated average annual amount of ground water to be withdrawn from the aquifer shall not exceed 78.7 acre-feet. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
20. To conform to actual aquifer characteristics, the Commission may adjust the allocated average annual amount of ground water to be withdrawn from the aquifer based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the volume of water in the aquifer was incorrect.

21. Commission approval of a replacement plan, providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers is required prior to approval of well permits for wells to be located on the overlying land area to withdraw ground water from the aquifer.
22. The use of ground water from this allocation shall be limited to the following beneficial uses: domestic, irrigation, commercial, industrial, firefighting, and recreation. The place of use shall be limited to the above-described 551.26 acre land area.
23. The applicant, or subsequent persons controlling this water right, shall record in the public records of the county - in which the claimed overlying land is located - notice of transfer of any portion of this water right to another within sixty days after the transfer, so that a title examination of the above described 551.26 acre land area, or any part thereof, shall reveal the changes affecting this water right. Such notice shall consist of a signed and dated deed which indicates the determination number, the aquifer, a description of the above described land area, the annual amount of ground water (acre-feet) transferred, name of the recipient, and the date of transfer.
24. Subject to the above conditions, well permits for wells to withdraw the authorized annual amount of water from the aquifer shall be available upon application subject to approval by the Commission and the following conditions:
 - a. The wells shall be located on the above described 551.26 acre overlying land area.
 - b. The wells must be constructed to withdraw water from only the Arapahoe Aquifer. Upon application for a well permit to construct such a well, the estimated top and base of the aquifer at the proposed well location will be determined by the Commission and indicated on the approved well permit. Plain non-perforated casing must be installed, grouted and sealed to prevent diversion of ground water from other aquifers and the movement of ground water between aquifers.
 - c. The entire depth of each well must be geophysically logged prior to installing the casing as set forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
 - d. Each well shall be constructed within 200 feet of the location specified on the approved well permit, but must be more than 600 feet from any existing large-capacity well completed in the same aquifer.
 - e. The wells may withdraw the allowed average annual amount of water from the aquifer together in any combination. The total combined annual withdrawal of the wells shall not exceed the allowed average annual amount described in this Order.
 - f. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and maintained by the well owner and submitted to the Commission or the Upper Black Squirrel Creek Ground Water Management District upon their request.

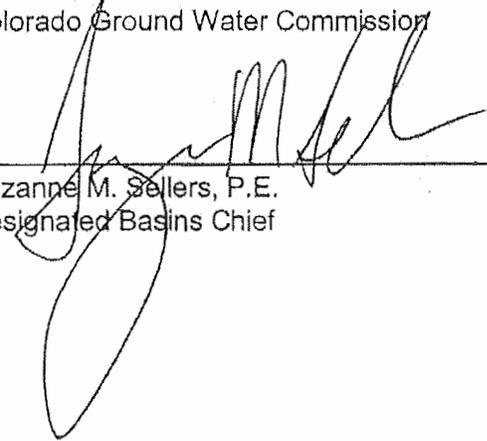
- g. The well owner shall mark the well in a conspicuous place with the permit number and the name of the aquifer. The well owner shall take necessary means and precautions to preserve these markings.
25. A copy of this Findings and Order shall be recorded by the applicant in the public records of the county – in which the claimed overlying land is located - so that a title examination of the above described 551.26 acre overlying land area, or any part thereof, shall reveal the existence of this determination.

Dated this 9th day of November, 2004.



Hal D. Simpson
Executive Director
Colorado Ground Water Commission

By: _____



Suzanne M. Sellers, P.E.
Designated Basins Chief

Prepared by: RAC

FIND-511

EXHIBIT A - 599-BD

Page 1 of 12

08/98-FORM NO. GWS-48

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

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APR 06 2004

WATER RESOURCES
STATE ENGINEER
COLO.

NONTRIBUTARY GROUND WATER CONSENT CLAIM
(FOR AREAS IN A DESIGNATED GROUND WATER BASIN)

Arapahoe AQUIFER

I (we) Ellicott Springs Resources, LLC
(Name)

claim and say that I (we) have the consent of the owners of 472.81 acres of overlying land to withdraw ground water from the aquifer indicated above.

The names of the landowners whose consent is claimed are as follows and their Landownership Statements (form GWS-3B), legal descriptions of all claimed land areas and copies of deeds or other transfer documents, recorded in the county or counties in which the land areas are located, are attached.

R.W. Case

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

[Signature] 2-18-04
(Signature) (Date)
Rodney J. Preisser partner Ellicott Springs Resources, LLC

(Signature) (Date)

.....
INSTRUCTIONS:

The consent claim must be submitted with an application for determination of water right in all cases where the applicant believes or claims that water to be withdrawn is ground water from the Dawson, Denver, Arapahoe or Laramie-Fox Hills aquifers and the applicant is claiming consent of the overlying landowners. Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means.

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

RECEIVED

APR 06 2004

WATER RESOURCES
STATE ENGINEER
COLORADO

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) R. W. Case
(Name)

whose mailing address is 102 E. Pikes Peak Ave., Suite 200
Street

Colorado Springs, CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 472.81 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Arapahoe aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Randy Wilson 3-2-04
(Signature) (Date)

(Signature) (Date)

INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

RECEIVED

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APR 06 2004

JAN 02 2004

LEGAL DESCRIPTION: VIEWPOINT VILLAGE

WATER RESOURCES
STATE ENGINEER
COLO.

WATER RESOURCES
STATE ENGINEER
COLO.

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14,
ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY,
COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS. EXCEPT THAT PORTION
CONVEYED BY BOOK 5527 AT PAGE 376.

EXHIBIT A

Page 3 of 123

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

R.W. Case
102 E. Pikes Peak Ave., Suite 200
Colorado Springs, Colorado 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company
c/o Rodney J. Preisser, President
90 S. Cascade Avenue, Suite 950
Colorado Springs, CO 80903

PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

VIEWPOINT VILLAGE

THE EAST HALF OF THE EAST HALF OF SECTION 15 AND THE WEST HALF OF SECTION 14, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO AND CONTAINING 472.814 ACRES MORE OR LESS, EXCEPT THAT PORTION CONVEYED BY BOOK 5527 AT PAGE 376.

RECEIVED

APR 06 2004

WATER RESOURCES
STATE ENGINEER
COLO.

Robert C. Balink El Par
01/12/2004 0.
Doc \$0.00 Paç
Rec \$15.00 1

None

PROPERTY ADDRESS:

N/A

RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on 12-19, 2003.

RECEIVED

APR 06 2004

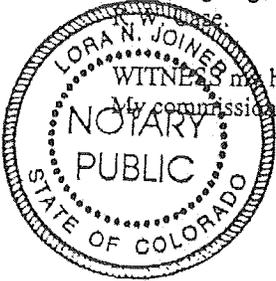
WATER RESOURCES
STATE ENGINEER
COLO.

R.W. Case
Grantor

By *RWC*
Title: _____

STATE OF COLORADO)
)ss:
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 19th day of December, 2003 by



WITNESSES my hand and official seal.
My commission expires: 06-07-2006

Lora N. Joiner
Notary Public

EXHIBIT A

Page 6 of 1266

RECEIVED

VIEWPOINT ESTATES

APR 06 2004

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 10 TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6TH P.M., COMMENCING NORTH 01°10'40" WEST ALONG THE WEST SECTION LINE A DISTANCE OF 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST SECTION LINE NORTH 01°10'40" WEST A DISTANCE OF 1271.31 FEET, THENCE SOUTH 89°52'52" EAST A DISTANCE OF 2617.39 FEET, THENCE NORTH 01°11'11" WEST A DISTANCE OF 3960.76 FEET, THENCE NORTH 89°54'31" EAST A DISTANCE OF 1311.15 FEET, THENCE SOUTH 00°55'21" EAST A DISTANCE OF 5214.40 FEET TO THE NORTH RIGHT OF WAY OF COLORADO STATE HIGHWAY 94, THENCE ALONG SAID NORTH RIGHT OF WAY LINE SOUTH 89°47'46" WEST A DISTANCE OF 3904.36 FEET TO THE TRUE POINT OF BEGINNING. SAID ACREAGE CONTAINS 231 ACRES MORE OR LESS.

WATER RESOURCES
STATE ENGINEER
COLO.

ANTELOPE PARK RANCHETTES

THAT PORTION OF SECTION 10, TOWNSHIP 14 SOUTH, RANGE 63 WEST, 6TH P.M., AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SECTION 10, THENCE NORTH 89°54'31" EAST ON THE NORTH LINE OF SAID SECTION A DISTANCE OF 2622.49 FEET TO THE NORTH 1/4 CORNER THEREOF, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 3960.76 FEET ON THE CENTERLINE OF SAID SECTION TO THE SOUTHEAST CORNER OF THE NORTH 1/2, SOUTHWEST 1/4, THENCE NORTH 89°52'52" WEST ON THE SOUTH LINE OF SAID N1/2, SW1/4 A DISTANCE OF 660 FEET, THENCE SOUTH 01°11'11" EAST A DISTANCE OF 1261.46 FEET TO INTERSECT THE NORTHERLY LINE OF STATE HIGHWAY NO. 94, THENCE SOUTH 89°49'51" WEST ON SAID NORTHERLY LINE A DISTANCE OF 60.02 FEET, THENCE NORTH 02°11'11" WEST A DISTANCE OF 1261.76 FEET TO INTERSECT THE AFOREMENTIONED SOUTH LINE OF THE N 1/2, SW 1/4, THENCE NORTH 89°52'52" WEST A DISTANCE OF 1897.37 FEET TO THE SW CORNER THEREOF, THENCE NORTH 01°15'48" WEST A DISTANCE OF 3951.26 FEET TO THE POINT OF BEGINNING, CONTAINING 239.63 ACRES, MORE OR LESS.

EXHIBIT A

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

RECEIVED

JUL 23 2004

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

WATER RESOURCES
STATE ENGINEER
COLO.

I (We) Even-Preisser Investments, LLC
(Name)

whose mailing address is 520 E. Castilla Street
Street

Colorado Springs CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 38.99 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Arapahoe aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser Investments, LLC
By [Signature], MEMBER 7/19/04
(Signature) (Date)

(Signature) (Date)

.....
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

RECEIVED

JUL 23 2004

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

WATER RESOURCES
STATE ENGINEER
COLO.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Investments LLC
520 E. Costilla Street
Colorado Springs, CO 80903.

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company
c/o Rodney J. Preisser, President
90 S. Cascade Avenue, Suite 950
Colorado Springs, CO 80903

Robert C. Balink El Paso Cty, CO 204053279
04/02/2004 04:06
Doc \$0.00 Page
Rec \$5.00 1 of 1

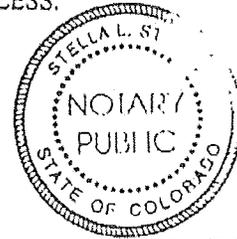
PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE WEST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO
COUNTY, COLORADO, EXCEPT THE NORTH 30 FEET FOR ROADWAY
PURPOSES, AND CONTAINING 38.99 ACRES MORE OR LESS.

PROPERTY ADDRESS:

22325 Highway 94
El Paso County, CO



RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on April 2, 2004

Even-Preisser Investments, LLC
Grantor

MY COMMISSION EXPIRES
09/04/2006

By [Signature]
Title: MEMBER

STATE OF COLORADO)
)ss:
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 02 day of April
David Even, as Member of Even-Preisser Investments
liability company.

WITNESS my hand and official seal
My commission expires: 09-04-2006

[Signature]

EXHIBIT A

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

RECEIVED

JUL 23 2004

WATER RESOURCES
STATE ENGINEER
COLO.

NONTRIBUTARY GROUND WATER CONSENT LANDOWNERSHIP STATEMENT

I (We) Even-Preisser, Inc.
(Name)

whose mailing address is 520 E. Castilla St.
Street

Colorado Springs CO 80903
(City) (State) (Zip)

claim and say that I (we) am (are) the owner(s) of the following described property consisting of 39.46 acres in the County of El Paso, State of Colorado: (Insert Property Legal Description)

See attached legal description

and that I (we) have granted written consent to others to withdraw ground water from the Arapahoe aquifer as evidenced by the attached copy of a deed or other document in the County or Counties in which the land is located, and that said ground water has not been conveyed or reserved to another, nor has consent been given for withdrawal by another except as indicated in the attached deed or other recorded document.

Further, I (we) claim and say that I (we) have read the statements made herein; know the contents hereof; and that the same are true to my (our) own knowledge.

Even-Preisser, Inc.
Ray [Signature], Secretary 2/19/04
(Signature) (Date)

(Signature) (Date)

.....
INSTRUCTIONS:

Please type or print neatly in black ink. This form may be reproduced by photocopy or word processing means. See additional instructions on back.

QUIT CLAIM DEED

THIS DEED is a conveyance from the person(s) or legal entity named below as GRANTOR to the person(s) or legal entity named below as GRANTEE of whatever interest the GRANTOR may have in the real property described below.

RECEIVED

JUL 23 2004

The GRANTOR hereby sells and quit claims to the GRANTEE the real property described below with all its appurtenances.

STELLA L. STEELE
STATE ENGINEER
COLO.

If the Grantor intends this Deed to convey less than his entire interest in the Property or if the Grantor intends to impose restrictions on the Grantee's use of the Property, then appropriate language has been added below under "Reservations And/Or Restrictions."

If there are two or more Grantees named in this Deed, they are accepting this conveyance as tenants in common, unless the words "joint tenancy with right of survivorship" or "joint tenancy" have been added below under "Form of Co-Ownership."

The following information completes this Deed:

GRANTOR: (Give Name(s), Address(es), and Marital Status)

Even-Preisser Inc.
520 E. Costilla Street
Colorado Springs, CO 80903

GRANTEE: (Give Name(s), Address(es))

Ellicott Springs Resources, LLC, a Colorado limited liability company
c/o Rodney J. Preisser, President
90 S. Cascade Avenue, Suite 950
Colorado Springs, CO 80903

Robert C. Ballink El Paso Cty, CO
04/02/2004 04:06 204053280
Doc \$0.00 Page
Rec \$5.00 1 of 1

PROPERTY DESCRIPTION:

All groundwater (including without limitation tributary, non-tributary, not non-tributary and other groundwater), rights to withdraw such groundwater, rights to consent to the withdrawal of such groundwater, and all water rights relating to such groundwater, including without limitation all groundwater and rights to withdraw groundwater within the Dawson, Denver, Arapahoe and Laramie Fox-Hills aquifers, that are appurtenant to or that underlie the following described real property:

THE EAST 1/2 OF THE WEST 1/2 OF THE NE 1/4 OF SECTION 14,
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH P.M., EL PASO
COUNTY, COLORADO, AND CONTAINING 39.46 ACRES MORE OR
LESS.

PROPERTY ADDRESS:

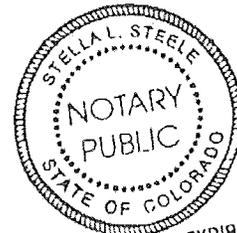
22325 Highway 94
El Paso County, CO

RESERVATIONS AND/OR RESTRICTIONS: (If none, leave blank)

Signed on April 2, 2004

Attest:

Even-Preisser Inc.
Grantor



By [Signature]
Title: SECRETARY/TREASURER

MY COMMISSION EXPIRES
09/04/2006

STATE OF COLORADO)

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 02 day of April
Rodney J. Preisser, as Vice President and David Eves
Sec./Treasurer of Even-Preisser Inc., a Colorado corporation.

WITNESS my hand and official seal.

[Signature]

EXHIBIT A

Page 12 of 1272

C.3. 50 AF 1988 CHEROKEE METROPOLITAN DISTRICT AGREEMENT

ASSIGNMENT

This Assignment is made from R.W. Case ("Assigner") to Ellicott Springs Resources, LLC, a Colorado limited liability company ("Assignee"), having an address of 90 S. Cascade Ave., Suite 950, Colorado Springs, CO 80903.

RECITALS

Assignor entered an Agreement entitled "Water Agreement" with Cherokee Water and Sanitation District dated June 9, 1998 (the "Water Agreement"). Assignor desires to assign to Assignee all right, title and interest of Assignor in the Water Agreement.

NOW THEREFORE, in consideration of the sum of Ten Dollars and other good and valuable consideration given by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns and transfers to Assignee, its successors and assigns, all right, title and interest of Assignor in the Water Agreement.

The undersigned has made this Assignment as of the 19th day of December, 2003.

By: *R.W. Case*
R.W. Case

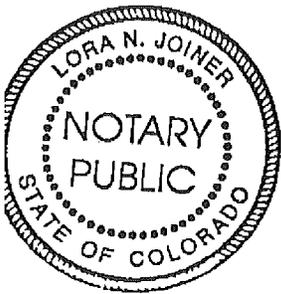
State of Colorado)
) ss
County of El Paso)

The foregoing instrument was acknowledged before me this 19th day of December, 2003 by R.W. Case.

Witness my hand and official seal.

My commission expires: 06-07-2006

Lora N. Joiner
Notary Public



WATER AGREEMENT

THIS AGREEMENT is made by and between R. W. CASE and C. H. McALLISTER, hereinafter referred to as "First Party", and CHEROKEE WATER AND SANITATION DISTRICT, hereinafter referred to as "Second Party".

WHEREAS, First Party is the owner of property described as follows:

The Northerly 180.00 feet of the Easterly 290.00 feet of the NW 1/4 of Section 14, T 14 S, Range 63 West, El Paso County, Colorado, except the Northerly 50.00 feet thereof for state highway right-of-way purposes and being more particularly described as follows:

Commencing at the Northeast corner of said NW 1/4; (the basis of bearing for the following described legal description is based upon the consideration that the North line of said Section 14 bears S88° 41'59"E) then S0°32'57"W along the East line of said NW 1/4, 50.00 feet to the point of beginning, which point is also on the Southerly right-of-way line of existing State Highway No. 94; thence continue S00°32'57" West along said East line, 130.00 feet; thence N88°41'59" W along a line 180.00 feet South of and parallel to the North line of said NW 1/4, 290.00 feet; thence N00°32'57"E along a line parallel to said East line, 130.00 feet to a point on said Southerly right-of-way line of State Highway No. 94; thence S88°41'59"E along said Southerly right-of-way line, 290.00 feet to the point of beginning and containing 0.865 acres, more or less

hereinafter referred to as the "Property"; and

WHEREAS, Second Party owns and controls certain water rights and delivery systems.

NOW, THEREFORE, in consideration of the mutual covenants herein stated, and other good and valuable consideration, the parties hereto agree as follows:

1. First Party shall convey Property to Second Party by Quit Claim Deed, in fee simple, free of all encumbrances.
2. Second Party shall construct and make operational a 500,000 gallon water storage tank on the Property which shall be completed not later than 2 months from the date of conveyance of the Property.
3. Upon completion of the storage tank and making it

41,713 ⁶²  *am*

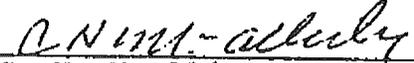
operational, First Party shall pay \$40,000 to Second Party in exchange for the right to store a minimum of 200,000 gallons of water in the tank. This storage right shall exist in perpetuity. This water shall be available to First Party and shall be applied and used as exclusively determined by First Party. Second Party will provide a 12-inch tap from the store tank for the use of First Party. First and Second Party agree to enter into such additional agreements concerning storage and use of the stored water as shall be necessary to carry out the full intent of this Agreement.

4. Second Party shall provide and First Party shall have the right to 50 acre feet per year of potable transdiversion water from the pipeline owned and maintained by Second Party and located on State Highway 94 which right shall exist in perpetuity. The water may be taken directly from the pipeline, or it may be stored in the water storage tank for later use. First Party shall have no obligation or duty to take, divert, or use the 50 acre feet per year of potable transdiversion water or the water stored in the tank until needed. First Party shall not loose, waive, forfeit or in any other way suffer the loss of any rights under this Agreement by not applying or using the said water or storage rights. First Party shall have no obligation to show due diligence in the use of said water or storage rights, and such rights shall be construed under contract law. The water may be used as and where determined exclusively by First Party.

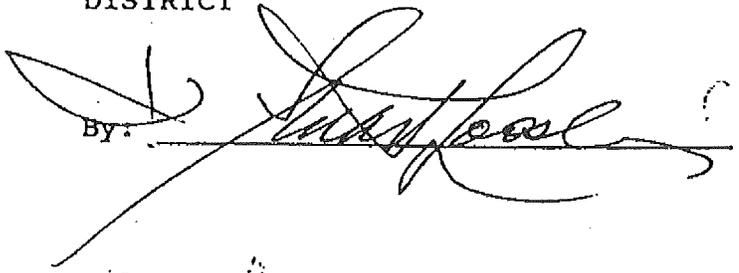
THIS AGREEMENT shall be binding upon the heirs, successors and assigns of all parties, construed under Colorado law, and enforceable in the District Court of El Paso County, Colorado. All parties shall have the right to specific performance, damages, or both, and the prevailing party shall have the right to recover reasonable attorney's fees and costs.

DATED: June 9, 1988.


R. W. Case, First Party


C. H. McAllister, First Party

CHEROKEE WATER AND SANITATION DISTRICT

BY: 

casemcal.agt

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone: (303) 866-3581
FAX: (303) 866-3589

<http://water.state.co.us/default.htm>

February 8, 1999

RECEIVED
FEB 09 1999
Planning Dept.



Bill Owens
Governor
Greg E. Walcher
Executive Director
Hal D. Simpson, P.E.
State Engineer

Mr. Mark Gebhart
El Paso County Planning Department
27 East Vermijo Avenue
Colorado Springs, CO 80903

Subject: Viewpoint Estates, SP-98-006
Sec. 10, T14S, R63W, 6th PM
Upper Black Squirrel Creek Designated Ground Water Basin
Division 2, District 10.

Dear Mr. Gebhart:

We have reviewed the additional information submitted by Pacific Summits Engineering concerning the above referenced subdivision since our last letter of December 15, 1998. Although we have not received a written request from your office to review and respond to this new information, the information submitted by Pacific Summits Engineering on January 6, 1999 appears to be clarifications to the previous filing. As a result, this office felt that it could provide comments to this additional information.

Based upon the new information provided by the applicant, 233 acres would be subdivided into 72 single family residences with the water for this subdivision to be supplied by Cherokee Metropolitan District (Cherokee), through a contract with C.H. McAllister. However, on November 5, 1998, C. H. McAllister transferred this contract to Viewpoint Estates, LLC. As a result, Cherokee is providing 50 acre-feet of water annually to Viewpoint Estates, LLC who will in turn provide water to the Viewpoint Estate subdivision. The estimated consumptive water usage per lot is proposed as 0.381 acre-feet per year, which will provide water for household use (0.3 acre-feet per year) and the irrigation of approximately 2,000 square feet of lawn or garden (0.081 acre-feet per year). The total annual amount of water required for the Viewpoint Estates subdivision is estimated at 27.43 acre-feet.

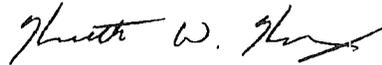
According to Pacific Summits Engineering, Viewpoint Estates, LLC is also committed to provide water for Antelope Park Ranchettes subdivision. This subdivision totals 46 lots and has the same proposed water usage per lot of 0.381 acre-feet per year, 17.52 acre-feet per year for the entire subdivision. As a result, the total commitment for Viewpoint Estates, LLC totals 44.96 acre-feet per year. Finally, Pacific Summits Engineering clarified the role of Global Water Systems, LLC. as the entity employed by Viewpoint Estates, LLC to manage and operate the water distribution system.

El Paso County Planning Department
View Point Estates
Page 2

Pursuant to Section 30-28-136(1)(h)(I), C.R.S., the State Engineer's office offers the opinion that the proposed water supply will not cause material injury to existing water rights, and the supply is adequate, provided that Cherokee Metropolitan District is the water supplier.

If you have any questions, please contact William H. Fronczak of this office.

Sincerely,



Kenneth W. Knox
Assistant State Engineer

KK/WHF/Globalwater3.doc

cc: Steve Witte, Division Engineer
Linda McCalib, Upper Black Squirrel Creek GWMD
Designated Basins Branch

C.4. 60 AF CHEROKEE METROPOLITAN DISTRICT COMMITMENT

**Cherokee Metropolitan District
 Meter Readings & Usage Report: In-Basin Users (AF)
 December 2019**

Meter Site Location	Meter Units	Nov-19 End of Month Reading	Dec-19 End of Month Reading	Nov-19 End of Month Usage (AF)	Dec-19 End of Month Usage (AF)	2019 Beginning Reading	2019 YTD Usage (AF)	Annual Max Usage (AF)	2019 Remaining (AF)	
Woodmen Hills	(gals.)	717,229,355.0	723,843,144.0	23.078	20.297	615,478,381.0	332,559	350	17,441	
Viewpoint / Antelope Acres (High Read)	(100 cu. ft.)	18,103.0	20,820.0	1.836	6.237	10,083.0	24,647 30	50	25,353	
EPC Telephone	(100 cu. ft.)	4,218.0	4,219.1	0.003	0.003	4,209.6	0.022	1	0.978	
Ellicott Springs	(gals.)	28,177,720.0	28,552,390.0	0.954	1.150	22,899,966.0	<u>17,347</u> 20	60	42,653	
Ellicott School	(100 cu. ft.)	3,057.2	3,229.7	0.474	0.396	1,061.0	4.978	10	5.022	
Diamond Moon Ranch	(100 cu. ft.)	909.8	974.1	0.168	0.148	25.0	2.179	2	-0.179	
Harding North	(gals.)	17,267,240.3	17,267,240.3	0.000	0.000	1,533,402.9	48,285	180	34,733	
Harding South	(gals.)	52,956,528.6	53,113,146.3	0.735	0.481	21,511,653.8	96,981			
				27.248	28.710					
				Combined Production for Wells 1 - 8 (AF)				526,999	653	126,001

66?

Permit # 24680-F
Receipt # 0201038

**BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO
CASE NO. 15-GW-15**

ORDER OF THE COMMISSION

CHEROKEE METROPOLITAN DISTRICT, PLAINTIFF

v.

**UPPER BLACK SQUIRREL GROUND WATER MANAGEMENT DISTRICT and
DICK WOLFE, IN HIS CAPACITY AS EXECUTIVE DIRECTOR OF THE
COLORADO GROUND WATER COMMISSION**

On July 17, 2017, the Hearing Officer entered his Findings of Fact, Conclusions of Law, and Initial Decision and Order of the Hearing Officer for the Colorado Ground Water Commission ("Order") in the above captioned matter. No appeal having been filed in a timely manner, the Order of July 17, 2017 is therefore the Final Order of the Commission in this case.

Dated this 6th day of September, 2017.



Kevin G. Rein
Executive Director
Colorado Ground Water Commission

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the within **ORDER OF THE COMMISSION** to the parties herein by email this 6th day of September 2017, addressed as follows:

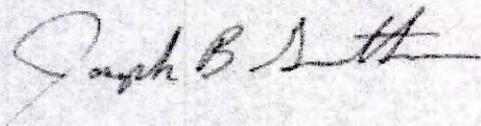
Peter C. Johnson, Esq
John C. Cyran, Esq.
Attorneys for Petitioner, Cherokee Metropolitan Dist.
pcjohnson2479@gmail.com
john@jicyranlaw.com

Lisa M. Thompson, Esq.
Attorney for Upper Black Squirrel Creek Ground Water Management District
lthompson@troutlaw.com

Jennifer M. DiLalla, Esq.
Attorney for Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust
jdilalla@mwhw.com

Jennifer Mele, Esq.
First Assistant Attorney General
Attorney for Staff of the Colorado Ground Water Commission
jennifer.mele@coag.gov

Keith Vander Horst and Rick Nielsen
Staff for the Colorado Ground Water Commission
keith.vanderhorst@state.co.us
rick.nielsen@state.co.us



Best Copy Available

BEFORE THE GROUND WATER COMMISSION, STATE OF COLORADO

CASE NO. 15-GW-15

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND INITIAL DECISION AND ORDER OF THE HEARING OFFICER FOR THE COLORADO GROUND WATER COMMISSION

CHEROKEE METROPOLITAN DISTRICT, PLAINTIFF

v.

UPPER BLACK SQUIRREL GROUND WATER MANAGEMENT DISTRICT, and DICK WOLFE, IN HIS CAPACITY AS EXECUTIVE DIRECTOR OF THE COLORADO GROUND WATER COMMISSION, DEFENDANTS

This matter has come before the Colorado Ground Water Commission (“Commission”) on the Complaint of the Cherokee Metropolitan District (“Cherokee”) for declaratory relief pursuant to C.R.C.P. 57 and C.R.S. § 13-51-101 *et seq.*

The Hearing Officer, having reviewed all pleadings, and otherwise being fully advised in the premises, does hereby enter the following Findings of Fact, Conclusions of Law, and Initial Order (“Order”) in this matter.

FINDINGS OF FACT

1. Parties and Jurisdiction:

- 1.1. Cherokee initiated this case by filing a complaint for declaratory judgment naming the Upper Black Squirrel Creek Ground Water Management District (“UBS”) and the Colorado Ground Water Commission as Defendants. The Colorado Ground Water Commission was dismissed as a Defendant and replaced by Dick Wolfe, in his capacity as the Executive Director of the Commission (“Director Wolfe”), by the Hearing Officer’s January 19, 2016 Order. Counsel for both UBS and Director Wolfe each accepted personal service of the complaint.
- 1.2. In order to alert any other water user who may have an interest in this application, Cherokee caused the complaint to be published in the Ranchland News pursuant to the Hearing Officer’s October 28, 2015 Order and in accordance with C.R.S. § 37-90-107 and 112.
- 1.3. Wayne E. Booker Revocable Living Trust and Frances G. Booker Revocable Living Trust (collectively “Booker Trusts”) timely filed a statement of opposition to the published notice.

- 1.4. UBS, Director Wolfe, and Booker Trusts are referred to collectively as the “Opposing Parties.”
 - 1.5. Staff of the Commission (“Staff”) works on behalf of Director Wolfe, and Director Wolfe supervises Staff in carrying out the day to day administrative duties of the Commission.
 - 1.6. Timely and adequate notice of the pendency of these proceedings in rem and matters determined herein was given in the manner required by law. The subject water rights are ground water rights with points of diversion located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin (the “UBS Basin”). Pursuant to C.R.S. § 37-90-111, the Commission has jurisdiction over the subject matter of these proceedings and over all persons and owners of property who may be affected hereby, whether they have appeared or not. UBS and the Ground Water Commission have jurisdiction over the administration and enforcement of the subject water rights and the subject water rights are subject to the rules and regulations of UBS and the Commission.
2. Description of subject water rights: Cherokee has the right to withdraw ground water from the alluvial aquifer of the UBS Basin from eight wells now known as Cherokee Wells 1-8 (“Wells 1-8”).
 - 2.1. Original Decree: Wells 1-8 were originally decreed by the Pueblo County District Court in Case No. 42135-B, by Water Court Decree issued on June 25, 1962 (the “Decree”).¹ Well #3 was decreed as an absolute water right in Case No. 42135-B, but the remaining wells 1, 2, 4, 5, 6, 7, and 8 were decreed therein as conditional water rights.
 - 2.2. Subsequent Diligence Decrees: Diligence was maintained and the subject water rights were partially perfected through the following series of cases: Case No. 42135-B (supplemental), Case No. W-46 on April 28, 1972, as amended on May 11, 1973, in Case No. W-4407(76), Case No. 80CW23 (W-46), Case No. 83CW47 (W-46); Case No. 84CW45; Case No. 87CW07; Case No. 88CW35; and consolidated Case Nos. 94CW23, 95CW19, and 95CW150.
 - 2.3. Absolute Decree: In Consolidated Case Nos. 94CW23, 95CW19, and 95CW150, Cherokee made portions of Wells 1-8 absolute and abandoned other portions, resulting in absolute water rights in the following amounts:
 - 2.3.1. Cherokee Well #1 (Well Permit nos. 4857-FP & 27577-FP): 1 cfs, 700 acre-feet per year, priority date of December 1, 1954.
 - 2.3.2. Cherokee Well #2 (Well Permit no. 16297-RFP): 1 cfs, 700 acre-feet per year, priority date of December 1, 1954.

¹ Cherokee’s water rights for Wells 1-8 are referenced in the Decree as: Ross #2 (Cherokee Well #1); Hill #2 (Cherokee Well #2); Hill #1 (Cherokee Well #3); Salladay #3 (Cherokee Well #4); Salladay #5 (Cherokee Well #5); Harding #1 (Cherokee Well #6); Harding #2 (Cherokee Well #7); and Guyer Ranch #7 (Cherokee Well #8).

- 2.3.3. Cherokee Well #3 (Well Permit no. 4854-FP): 1 cfs, 700 acre-feet per year, priority date of March 1, 1954
 - 2.3.4. Cherokee Well #4 (Well Permit no. 24680-F): 1 cfs, 700 acre-feet per year, priority date of November 25, 1954.
 - 2.3.5. Cherokee Well #5 (Well Permit no. 24976-F): 0.82 cfs, 591 acre-feet per year, priority date of November 24, 1954.
 - 2.3.6. Cherokee Well #6 (Well Permit no. 29089-F): 1 cfs, 700 acre-feet per year, priority date of September 15, 1932.
 - 2.3.7. Cherokee Well #7 (Well Permit no. 29088-F): 0.67 cfs, 469 acre-feet per year, priority date of December 1, 1954.
 - 2.3.8. Cherokee Well #8 (Well Permit no. 31060-F): 1 cfs, 700 acre-feet per year, priority date of August 1, 1954.
3. 1999 Stipulation in Case No. 98CW80: In a Stipulation and Release entered into in Case No. 98CW80, Water Division No. 2, on January 25, 1999 (“1999 Stipulation”), Cherokee agreed to use Wells 1-8 “only for supplying in-basin beneficial uses that discharge any unconsumed water back into the Upper Black Squirrel Designated Basin and for emergency and backup purposes.”
4. Active Controversy: There is an active controversy between Cherokee, UBS, and Staff with respect to the scope of uses of water from Wells No. 1-8 authorized by the Decree in Case No. 42135-B and the 1999 Stipulation in Case No. 98CW80. Cherokee asserts the Decree authorizes use of water from Wells 1-8 anywhere within the UBS Basin and that the 1999 Stipulation restricts Cherokee’s use of Wells 1-8 only insofar as such use must be within the UBS Basin and return flows from such use must return to the UBS Basin. The Opposing Parties assert that the Decree and 1999 Stipulation restrict in-basin use of water from Wells 1-8 to domestic and irrigation, both of which can only be used at the acreage identified in the Statements of Claim, and that any additional in-basin uses required a change of water right. Staff, however, is not claiming that Cherokee should be prohibited from providing water to satisfy its commitments for mechanical, irrigation and domestic uses that existed at or near the time of the 1999 Stipulation.
- 4.1. Cherokee has undertaken contractual obligations that are dependent on its ability to use Wells 1-8 within the UBS Basin. UBS and Staff have threatened to curtail or enjoin such uses of Wells 1-8. Accordingly, resolution of this controversy is necessary to afford Cherokee relief from the uncertainty and insecurity regarding the scope of its water rights, and to protect Cherokee’s interests.
 - 4.2. This controversy over the legal types and locations of use of Wells 1-8 involves the administration and enforcement of designated ground water, and is thus resolvable by the Commission. C.R.S. § 37-90-111.

CONCLUSIONS OF LAW

5. The Colorado Uniform Declaratory Judgment Law, C.R.S. §13-51-101 *et seq.*, is to be “liberally construed and administered” in order “to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations....” C.R.S. § 13-51-102.
6. Through a declaratory judgment action, a party may request a determination regarding the scope of water rights adjudicated in a prior decree. *S. Ute Indian Tribe v. King Consolidated Ditch Co.*, 250 P.3d 1226, 1235 (Colo. 2011).

INITIAL DECISION AND ORDER

7. To settle this dispute, the parties have stipulated and the Hearing Officer hereby orders as follows:
8. Cherokee’s use of the water rights associated with Wells 1-8 pursuant to the Decree is lawful so long as such use is restricted to providing such water to the following commitments within the UBS Basin:

Name	Place of Use	Type of Use	Maximum Production Amount (AF/YR)
Woodmen Hills Metro District	Within the boundaries of the Woodmen Hills Metropolitan District	Mechanical (Municipal)	350
Ellicott Springs/Sunset Village	The Northeast ¼ and the South ½ of Section 12 and the W ½ of Section 13, Township 15 South, Range 63 West, 6 th P.M.	Mechanical (Municipal)	60
View Point / Antelope Acres	The West ½, the West ½ of the Northeast ¼, and the West ½ of the Southeast ¼ of Section 10, Township 14 South, Range 63 West of the 6 th P.M.	Mechanical (Municipal)	50
Ellicott School District	The Southwest ¼ of the Southwest ¼ of Section 18, Township 14 South, Range 62 West of the 6 th P.M, and the Southeast ¼ of the Southeast ¼ of Section 13, Township 14 South, Range 63 West of the 6 th P.M.	Mechanical (Municipal)	10
El Paso County Telephone	A Tract 2 acres square in the Northeast Corner Section 17, Township 14 South, Range 63 of the P.M.	Mechanical (Municipal)	1
Diamond Moon Ranch	The Northeast ¼ of Section 18, Township 14 South, Range 63 West of the 6 th P.M.	Mechanical (Municipal)	2

Harding Nursery*	The Northwest ¼ of Section 7, Township 13 South, Range 62 West of the 6th P.M.; and the North ½ and the Northeast ¼ of Southeast ¼ of Section 12, Township 13 South, Range 63 West of the 6 th P.M.	Irrigation and Domestic (with limited mechanical (municipal) uses described below)	180
		Total Maximum Production (AF/YR)	653

*Cherokee delivers water for irrigation and domestic use to Harding Nursery pursuant to a reservation in a 1962 lease agreement, as well as water for limited mechanical (municipal) use at the Harding Nursery, from Cherokee Wells #6 and #7, also known as Harding #1 and Harding #2, in an amount up to 180 acre feet per year. Cherokee is limited to providing water to Harding Nursery from Cherokee Wells #6 and #7 only. See paragraph 12 below.

9. Cherokee's places of use for Wells 1-8 are limited to the above listed places of use. Cherokee's use of water from Wells 1-8 at any locations, or for any uses, other than those places of use and types of use listed in the above table is unlawful and in violation of the Decree unless Cherokee is awarded a change of such water rights.
10. Cherokee shall not deliver water to any of its commitments as listed above from Wells 1-8 in excess of the Maximum Production Amount listed in the table above for each commitment in acre-feet per year.
11. The total annual production of Wells 1-8 for the commitments listed above shall not exceed the Total Maximum Production Amount of 653 acre-feet in a given calendar year.
12. 1954 and 1962 Leases: Cherokee's predecessor-in-interest to its Wells 1-8 water rights executed leases related to these water rights in 1954, and supplements to those leases in 1962 (Cherokee's predecessor-in-interest being the Lessee and the other parties being the Lessors).
 - 12.1. This order applies only to Cherokee's interest in and use of the Wells 1-8 water rights for its commitments as listed above, and is not intended to alter, amend, confirm, authorize or affect the terms of the 1954 and 1962 Leases in any way, except as specifically stipulated for Harding Nursery herein.
 - 12.2. Harding Nursery: Cherokee owns the structures of wells CMD Well #6 and CMD Well #7 (Harding #1 and #2) and the pipelines leading away from those wells. Cherokee pumps water from those wells and delivers water by way of taps from its pipelines to Harding Nursery in an amount up to 180 acre-feet per year, and such is listed above as a commitment. This delivery occurs under a reservation in the lease agreement dated December 20, 1954, a reservation in the supplemental lease dated September 17, 1962 between Cherokee's predecessor-in-interest and Alvin and Effie Harding, a October 8, 1985 delivery agreement between Mr. Alvin Harding and Cherokee, and mechanical (municipal) deliveries by Cherokee, as described below. Such pumping and delivery of water to Harding Nursery for the nursery's non-irrigation and non-domestic uses occurs

under Cherokee's use of the mechanical (municipal) aspect of the wells' rights, and such pumping and delivery of water to the nursery for the nursery's irrigation and domestic uses occurs under the aspect of the of the rights reserved by the Lessors. The 1962 Lease and October 8, 1985 delivery agreement allow for use for the nursery's irrigation and domestic uses under the specific rights reserved by the Lessors, and limited to a total volume of 180 acre-feet per year at a flow rate of 1 cfs. Any mechanical (municipal) use at the Harding Nursery is limited use for drinking and sanitary at the Harding Nursery and are of such a limited amount (less than 5 acre-feet/year) that they are included within the 180 acre-feet per year total volume limit of delivery under the aspect of the rights reserved by the Lessors. Because Cherokee made such October 8, 1985 delivery agreement with the Hardings prior to 1999, for purposes of this decree, the parties stipulate that Cherokee's use of the water rights associated with Wells 1-8 pursuant to the Decree for this purpose is lawful. However, neither UBS nor the Commission waive any claims regarding use by the Harding Nursery beyond that which was expressly provided for under the 1962 lease and the October 8, 1985 delivery agreement, and within the legal uses provided for in the original water rights adjudicated in Case No. 42135-B .

- 12.3. Leases: Any pumping, delivery and use of water from Wells 1-8 that may be included in the 1954 and 1962 Leases, and claimed by Lessors, or the successors-in-interest to the Lessors, other than by Harding Nursery, are not herein addressed. Neither Cherokee, Staff, nor UBS waive any claims regarding the 1954 and 1962 Leases, and Lessors' (or Lessors' successors-in-interest) use of water based on such leases. Cherokee certifies that it is not delivering water to any other water users through Wells 1-8, other than what is provided for in the table above.

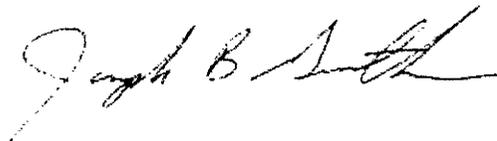
Specifically, except as provided for herein for Harding Nursery, this stipulated Initial Order makes no findings, factual or legal, as to any issue related to the Lessors' (or their successors) alleged existing or reserved water interests associated with the Wells 1-8 water rights, including without limitation, legal type and place of use, legal acreage of irrigation, abandonment and/or whether the Lessors' (or their successors) maintained diligence on any water rights.

13. Accounting: Cherokee shall conduct monthly accounting that includes pumping from each of the wells and amount of water delivered to each of its commitments as listed above, and submit that accounting on a monthly basis to the Upper Black Squirrel Creek Ground Water Management District and the Ground Water Commission Staff, unless otherwise required by Staff or the District. Because Cherokee cannot precisely match the production and demand for Wells 1-8 for any given month, the monthly amount of water Cherokee produces from Wells 1-8 is based on a projected in-Basin demand. At the end of each month, Cherokee reviews the well production for Wells 1-8 and compares such production with the actual in-Basin demand (the amount of water actually provided to Cherokee's in-Basin commitments) for the same month. To the extent the production of Wells 1-8 exceeds the in-Basin demand in any given month, Cherokee shall reconcile such excess by a corresponding reduction in its pumping of Wells 1-8 during the next month. This practice is reasonable, lawful, and may

continue as long as the production of Wells 1-8 for any given year does not exceed the annual volumetric limits described in the table above.

14. Mechanical Use: The mechanical type of use described in the Decree was intended by the original appropriators to describe what is now commonly known as municipal use, which includes various subcategories including, but not limited to, domestic, fire protection, sanitary, irrigation of lawns, parks and open spaces, commercial, and recreational purposes. Accordingly, the mechanical (municipal) uses as listed above are lawful for Wells 1-8 pursuant to the Decree.
15. Future Changes: This Order does not authorize Cherokee to make any uses of Wells 1-8 beyond those described herein. To change the type of use, place of use, or any other aspect of the subject water rights that requires a change of water rights adjudication, Cherokee must obtain the Commission's approval for such change pursuant to applicable laws and regulations.
16. No Effect on 1999 Stipulation: This Order does not alter, amend, or affect any provision pertaining to Wells 1-8 in the January 25, 1999 Stipulation between Cherokee, UBS, and the Commission in Case No. 98CW80, Water Division 2.
17. No Precedent: The findings and order in this matter were completed as a result of substantial discussions, negotiations, and compromises by, between and among the Parties pertaining to all parts of this Order. It is specifically understood and agreed by the parties hereto, and found by the Ground Water Commission, that the acquiescence of the parties to a stipulated order under the specific factual and legal circumstances of this contested matter and upon the numerous and interrelated compromises reached by the parties shall never give rise to any argument, claim, defense or theory of acquiescence, waiver, bar, merger, *stare decisis*, *res judicata*, estoppel, laches, or otherwise, nor to any administrative or judicial practice or precedent, by or against any of the parties hereto in any matter, case, or dispute involving other water rights, nor shall testimony concerning such acquiescence of any party to a stipulated finding and order herein be allowed in any matter, case or dispute involving other water rights. This order shall not be construed as a commitment to include any specific findings of fact, conclusions of law or specific engineering methodologies or administrative practices in proceedings before the Colorado Ground Water Commission, including any findings and orders entered by the Commission.

Dated this 17th day of July, 2017.



Joseph (Jody) Grantham, Hearing Officer
Colorado Ground Water Commission
Email: jody.grantham@state.co.us

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the within **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND INITIAL DECISION AND ORDER OF THE HEARING OFFICER FOR THE COLORADO GROUND WATER COMMISSION** to the parties herein by email at Denver, Colorado, this 17th day of July 2017, addressed as follows:

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Best Copy Available

Felt, Monson & Culichia, LLC
 319 North Weber
 Colorado Springs, CO 80903

WATER SERVICE AGREEMENT

THIS WATER SERVICE AGREEMENT (the "Agreement") is entered into as of this 11 day of October, 2006 (the "Effective Date") by and between **CHEROKEE METROPOLITAN DISTRICT ("Cherokee")** and Ellicott Springs Resources, LLC., and Triple Bar Ranch, LLC., **Colorado limited liability companies and/or their successors and assigns** (the "Customer"), all with respect to the following:

RECITALS

- A.** Cherokee is the owner of or has rights to acquire certain water rights, water infrastructure, facilities and assets associated with the provision of water services to the Serviced Property (as defined below),
- B.** Customer has an existing 1300 AF contractual commitment from Cherokee for water service to certain lands in El Paso County Colorado pursuant to the terms of that certain contract entered into between Cherokee and Customer dated January 13, 1999 (the "Serviced Property"). The legal description of the Serviced Property is set forth in Exhibit B, attached hereto and incorporated herein by this reference.
- C.** The State of Colorado Division of Water Resources has recognized Cherokee's 1300 AF commitment to Customer as a valid legal and physical supply of water for the Serviced Property which is located inside the Upper Black Squirrel Creek Designated Ground Water Basin (the "Basin"). Cherokee and Customer desire to modify the terms of that contractual commitment as set forth in this Water Service Agreement in order to provide a source of water for the proposed Development (as defined herein), to reduce the extent of Cherokee's commitment to Customer from 1300 acre feet to 800 acre feet, and to provide the terms and conditions governing Customer's connection to Cherokee's water system and Cherokee's providing water to Customer hereunder
- D.** Customer has advised Cherokee that Customer is in the process of selling to a third party approximately 960 acres of development land (the "Development") located in El Paso County, Colorado, part of which is "preliminarily planned" for high density residential development. The Development is located within the legal description of the overall property described on Exhibit "B" attached hereto. That third party (the "Developer") will be seeking to amend the existing preliminary planning to allow for single family residences, an executive golf course and a small commercial development. The Development is located within the Serviced Property;
- E.** Cherokee and Customer intend that this Agreement shall be appurtenant only to the Serviced Property which includes the Development and may be assigned to future owners of all or part of the Serviced Property in connection with development of such properties or to entities responsible for the provision of water service to the Development or the Serviced Property.

ROBERT C. "BOB" BALINK El Paso County, CO
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F. Cherokee and Customer desire to reduce their agreements to writing.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party, Cherokee and Customer agree as follows:

1. **Service Commitment.** Subject to the terms and conditions of this Agreement, Cherokee agrees to provide permanent water service to the Serviced Property. The water service commitment shall be for up to a maximum of 800 acre feet ("AF") per year to be used for residential units, an executive golf course, commercial uses and other permissible municipal or domestic uses anywhere within the Serviced Property, including the Development.

1.1. The source of the 800 acre feet of water from Cherokee to the Customer may be derived from all or any of Cherokee's water sources as determined in the sole discretion of Cherokee; provided, however, that Cherokee shall assure that at least 200 acre feet of return flows from the 800 acre feet are legally reusable to extinction by Customer and are available to Customer at its Ellicott wastewater plant after use in the Serviced Property or at a mutually agreeable location within the Upper Black Squirrel Designated Ground Water Basin, or at Cherokee's option, at Cherokee's future wastewater treatment recharge facility to be constructed within the Upper Black Squirrel Creek Designated Ground Water Basin. And further provided that if Cherokee determines in its sole discretion that it is necessary for the Customer to physically connect the Serviced Property to Cherokee's treated water distribution system at Cherokee's Highway 94 treated water transmission line, so that Cherokee's Wells 1-8 can constitute a direct physical water supply to the Property, then, as a condition to Cherokee's commitment hereunder, Customer or its assigns shall build a transmission line from Cherokee's Highway 94 treatment plant to the Serviced Property (the "Transmission Line"). Cost reimbursement for construction of this Transmission Line, if it is required by Cherokee and constructed, shall be as provided in the Cost Recovery provision of Paragraph 1.2 below. Any water provided to Customer from Cherokee Wells No. 1-8 shall be used in accordance with the Stipulation and Release dated January 25, 1999 entered into between Cherokee, the Upper Black Squirrel Creek Designated Ground Water Management District, Dean Goss, the Colorado Groundwater Commission and the State Engineer as now in effect or may hereafter be revised or amended.

1.2. **Cost Recovery.** In the event that Customer is required by Cherokee to construct the Transmission Line from below the discharge side of the booster station adjacent to the Highway 94 treatment plant and said Line is actually constructed per Cherokee's standards as provided below, then Cherokee will pay cost recovery reimbursements to Customer as follows: Cherokee will reimburse Customer up to fifty percent (50%) of the cost of construction of the Transmission Line, without interest accruing on the construction costs, by paying cost recovery

to Customer equal to fifty percent (50%) of the water tap fees collected by Cherokee for water taps issued within the Serviced Property. The Customer shall bear the other 50% of the cost of construction of the Transmission Line. For purposes of this Agreement, costs of construction shall include all costs actually incurred and paid by Customer for engineering, design, construction, right of way acquisition, mitigation requirements and interest. The parties agree that while a remittance obligation remains in effect, Cherokee is collecting and holding the Customer's portion of the water tap fee for remittance to Cherokee and such remittance shall be promptly paid by Cherokee. Cherokee's cost recovery obligation shall terminate upon payment of 50% of the construction costs of the Transmission Line or upon remittance of 50% of the Tap fees, whichever first occurs. In no event will Cherokee's cost recovery obligation exceed 50% of the Tap fees collected by Cherokee.

1.3. Customer shall bear all costs of construction of all infrastructure necessary to connect all or any part of the Serviced Property to Cherokee's potable water system, including but not limited to right-of-way acquisitions, if necessary. All water service will be provided by Cherokee to the "Responsible Entity" (as that term is defined in Section 4.5 below) for the Serviced Property at the same rates as Cherokee charges its in-District customers. Water tap fees payable for Cherokee's providing water service to the Service Property shall be charged under the provisions of this Agreement. As a condition to receiving taps or water service, Customer shall not be required to pay additional fees such as Cherokee's Water Development Charge adopted in Resolution 2006-6 (currently \$6,300.00 per Single Family Equivalent residential tap) or other fees in addition to the amount provided herein for Tap fees in this agreement for water service.

1.4 Customer agrees that except for the water commitment by Cherokee as expressly set forth in this Agreement, there are no other water or sewer service commitments, formal or informal, written or unwritten, between Cherokee and Rodney Preisser, PLW, Inc., Sunset Metropolitan District, or any other entity owned, controlled, managed or operated by Rodney Preisser (the "Preisser Entities") or any of the other entities mentioned herein and that this water service commitment represents all of Cherokee's obligations to Preisser or any such entity. The Preisser Entities are signatories to this Agreement solely for the purposes of this Subsection 1.4.

2. Out of District water service to the Serviced Property. The portions of the Serviced Property that are not already included in the Cherokee Metropolitan District shall not be formally included within the Cherokee Metropolitan District according the provisions of Title 32, Article 4 of the Colorado Revised Statutes. Rather, except as otherwise stated herein, this Agreement shall be considered to be solely an out-of-District water service agreement for those areas not already included in the Cherokee Metropolitan District. The Customer, or the owner of the Serviced Property, as the case may be, will be obligated to construct the Transmission Line, if required, and all water distribution lines, mains, hydrants, water storage tanks, water service lines and all additional water infrastructure within and without the Serviced Property as determined

by Cherokee as being necessary to provide water service to Customer at the Serviced Property (the "Water Infrastructure"), all of which Water Infrastructure shall be constructed and maintained to the specifications set forth in Cherokee's Rules and Regulations as a condition to receiving such services.

2.1 The parties acknowledge that the W ½ of Section 13 and the Northeast ¼, the Southeast ¼ and the Southwest ¼ of Section 12, Township 15 South, Range 63 West, 6th P.M., El Paso County, is already included within Cherokee's service area pursuant to previous inclusion agreements. With respect to this portion of the Serviced Property that is already included within the Cherokee boundaries, Cherokee and the Customer agree that the Customer, its successors and assigns, including the Responsible Entity (as defined in 4.5 below), shall assume and perform and hold Cherokee harmless from any obligations that Cherokee may have to provide services to such property pursuant to such inclusions other than the water services being provided by Cherokee pursuant to the terms herein.

2.2 The parties acknowledge and agree that Cherokee is only agreeing to provide water service to the Serviced Property and not any wastewater service. Though the Serviced Property may be included with Cherokee's service area, the Serviced Property shall not be entitled to any services from Cherokee other than water service which is to be provided in accordance with and subject to the terms of this Agreement. Any water service provided by Cherokee to the Serviced Property shall be as a bulk provider of water to Customer and not as a direct provider to residents and property owners within the Serviced Property. Rather, the direct service to individual customers and water users shall be by the Responsible Entity (as defined in Section 4.5). Any water supplied by Cherokee to the Responsible Entity for the Serviced Property shall be potable at the point of delivery by Cherokee and thereafter the quantity and quality of the water shall be the sole responsibility and obligation of the Responsible Entity. Though Cherokee will provide a bulk supply of water for the Serviced Property at the point of delivery, Cherokee shall be paid each month not at a bulk rate, but rather at Cherokee's in-District rate then in effect for each comparable use (i.e., a single family residence in the Serviced Property will pay the same monthly water service charge for an in-District single-family residence). Cherokee will provide the billing and collection of service charges.

2.3. Operation, maintenance and replacement of infrastructure. Cherokee and the Customer agree that Customer shall be solely responsible for all installation, construction, maintenance, repair and replacement of all Water Infrastructure necessary to provide water service to the Serviced Property. Customer's obligation does not apply to Cherokee's wells, treatment plants, mains or other points above where customer's connection to Cherokee's system is made, which points above shall be Cherokee's responsibility.

a. Cherokee agrees that to offset Customer's maintenance and other costs as provided in 2.3 above, Cherokee will remit to Customer thirty-three

percent (33%) of Cherokee's monthly water service charges received for water service within the Serviced Property. Said remittance shall be paid by the end of the month following collection by Cherokee of the applicable service charges for the previous month's service. Cherokee will continue to read the meters and bill the customers for the water service.

3. Water Tap Purchase Obligation. Customer agrees to purchase from Cherokee each year water taps equivalent to the quantity of acre feet from Cherokee's 800 AF service commitment according to the schedule set forth in Exhibit "A". For purposes of this Agreement, each acre foot shall yield the equivalent of three (3) single family equivalent residential taps utilizing a ¾" service line and an estimated annual demand of 0.33 acre feet ("SFE"). The parties agree that the 0.33 AF per SFE demand is an estimate only and that El Paso County and/or the State of Colorado may approve a higher or lower amount of water per SFE tap for uses within the Serviced Area.

Under no circumstances shall Cherokee be obligated to provide additional water to the Customer in the event that the Development is approved utilizing a higher AF quantity per SFE than the 0.33 AF per SFE that is the basis of Customer's prepayment obligation.

The Initial Tap purchase from Customer to Cherokee due on or before October 1, 2008 as provided in Exhibit A shall be based upon Cherokee's present water tap fee of \$5,608.00 per SFE tap. Thereafter, the Tap purchase obligation shall be based upon Cherokee's then existing water tap fee charged to all other "in-district" customers, adjusted as provided below.

Customer acknowledges that the 0.33 AF per year SFE used in this Agreement is based upon the projected average demand of a single family residence in the Serviced Property. For water uses that are potentially higher or lower than the estimated SFE equivalent, i.e., commercial, multi-family residential, residential lots with limited lawn irrigation, or turf irrigation, or other uses which will result in a water use that is less than or more than the SFE equivalent amount, the parties agree that SFE equivalent tap fee due Cherokee under this Agreement shall be adjusted up or down to assure that Cherokee is paid the same amount per AF as Cherokee then receives under the tap fees in effect for the same types of uses for in-District customers.

4. Water Tap Purchase Procedure: Cherokee agrees that the Tap Purchase Schedule in Exhibit A establishes the Customer's minimum purchase obligations and that, in accordance with the provisions of this Paragraph 3, Customer may purchase additional water Taps in a given year at the 0.33 AF per SFE as provided in Paragraph 2 above. Customer's purchase of any additional taps in excess of the minimum quantity specified in Exhibit A during a given year will not relieve the Customer of its obligations in future years.

4.1 Customer's Notices Regarding Expected Development Plans.
In order to provide Cherokee with reasonable advanced written notice of Customer's development plans and development schedule for the Serviced

Property, and to enable Cherokee to assure that it will be able to make timely provision for Customer's water needs, Customer agrees to provide Cherokee with annual updates as to the general status and timing of its future development plans, the status of any submittals then pending before El Paso County and/or the expected timing of any future submittals to El Paso County regarding future phases of development of the Development (or other lands as set forth in this Agreement) (hereinafter, the "Annual Updates"). Cherokee understands that the Annual Updates will represent Customer's reasonable estimates concerning the timing and extent of proposed development; provided, however, that such Annual Updates are not intended to be and shall not be interpreted as being an absolute commitment or assurance regarding the timing of any such future development.

In addition to the Annual Updates, Customer agrees to provide Cherokee with written notice at least three (3) months prior to Customer's appearance before the El Paso County Planning Commission or the El Paso Board of County Commissioners (the "County") in connection with any future phase or phases of development within the Development (or other lands as set forth in this Agreement). Upon receipt of such written notice Cherokee shall participate in good faith with Customer's submittals and to provide assurances to the County that Customer has sufficient quality, quantity and dependability of water service necessary to support such phase or phases of its development. Customer further agrees to keep Cherokee apprised of the status of the County's approvals for such phase or phases of its development, and of Customer's estimates as to when actual water service will be required (the "Proposed Service Date"). The intent of this provision is to allow Cherokee sufficient opportunity to effectively participate with Customer in the County development process and to allow Cherokee reasonable lead time before commencement of water service for any future phase of development within the Development (or other lands as set forth in this Agreement).

4.2 Cherokee's Cooperation and Obligation to Make Provision For Services. Upon Cherokee's receipt of Customer's Notice, and in furtherance of Cherokee's agreement to make provision for water service to the single family residential lots, executive golf course and commercial taps within the Development, as set forth in this Agreement, Cherokee agrees that it will cooperate in good faith with Customer and/or Developer and in connection with submittals to and appearances before the County, will appear with Customer and/or Developer before the County as reasonably required, and will provide Customer, Developer and/or the County with requisite documentation and information regarding Cherokee's then existing Assets and facilities, together with written assurances regarding Cherokee's willingness and ability to serve the proposed phase or phases of development on or before the Proposed Service Date (hereinafter, the "Cherokee Assurances"). Customer and Cherokee expect that such assurances shall be in the form of specific written commitments for the phase or phases of development for which County approval is sought.

4.3 Customer's Purchase Rights and Obligations; Status of Purchased Additional Taps. Customer agrees to purchase the minimum of 70 Taps for the initial water Tap purchase on or before October 1, 2008 and all subsequent purchases shall be within the time frames established in the Schedule shown in attached Exhibit "A". In the event Customer fails to timely purchase the minimum number of such Taps as provided in this Schedule, then Cherokee and Customer each agree that, as Cherokee's sole remedy for such failure, Cherokee will no longer be required under this Agreement to sell to Customer the Taps that have not been purchased in accordance with the schedule of minimum Tap purchases in the Schedule in attached Exhibit "A" under the terms and conditions of this Agreement. In such event, Cherokee's overall 800 AF annual commitment shall automatically be reduced on that date by the number of AF represented by the number of Taps not purchased under the Schedule multiplied by 0.33 AF, and the balance of the 800 AF commitment shall remain in place, subject to the schedule of minimum Tap purchases. The Customer and Cherokee agree that the purchased Taps do not constitute a perpetual obligation of Cherokee and that all taps not physically connected to Cherokee's system such that they are capable of being actually used to deliver water for beneficial use by the Customer within the Serviced Property or Alternate Serviced Property within thirty (30) years of the date of purchase under this Agreement shall expire and be cancelled, with no reimbursement or repayment obligation by Cherokee to the Customer. The Tap purchase schedule in Exhibit A represents the minimum obligation of the Customer and nothing herein shall prevent the Customer from purchasing additional Taps during a given year as provided herein. The parties understand and acknowledge that the Colorado State Engineer and El Paso County, and other regulatory authorities, may show the 800 acre foot water service commitment as being water that is unavailable for other water service commitments by Cherokee, whether inside or outside the Upper Black Squirrel Basin. However, subject to the other terms and conditions of this Agreement and until such time as the water Taps are actually purchased as provided herein, Cherokee's commitment vests Customer only with the right to obtain legal sufficiency findings from the State Engineer and El Paso County utilizing the 800 acre feet as the water source for development within the Serviced Property. Once purchased, and unless cancelled as provided above, then Customer shall have an enforceable commitment as of the date of such payment.

4.4 Use of Taps Purchased under this Agreement. Cherokee's 800 AF water service commitment is appurtenant only to the Serviced Property. All Taps that Customer purchases under this Agreement are intended for use only within the Serviced Property and may not be transferred or sold for use outside of the Serviced Property. The 800 acre foot commitment represents the total water commitment for the entire Serviced Property, including for any existing commitments or existing water services and water taps. The parties acknowledge and agree that although this Agreement refers to water Taps, and Taps are purchased pursuant to the schedule in Exhibit A, Cherokee's commitment is for up to 800 acre feet of water per year and Cherokee does not

guarantee that Customer, or the developers, will attain any certain number of water taps for development within the Serviced Property.

4.5 Assignment of Agreement. At such time as Customer determines is appropriate, Customer's rights and obligations under this Agreement may be assigned to a single entity with jurisdiction over the entire Serviced Property (a special district or homeowners association, hereafter the "Responsible Entity") without further consent of Cherokee provided that Customer provides Cherokee written notice of the effective date of the assignment. Such assignment shall relieve Customer of all further obligations under this Agreement.

5. Miscellaneous Provisions.

5.1 Binding Effect. This Agreement is a contractual obligation and shall be binding on and inure to the benefit of the parties hereto as provided herein and their respective successors and assigns. Each of the individuals executing this Agreement represent and warrant that they have the full power and authority to bind their respective parties, and that the contractual obligations herein set forth are binding on each party according to their terms. This Agreement shall be governed by and interpreted according to the laws of the State of Colorado, and there is no law or regulation that restricts or prohibits the enforcement of this Agreement. All recitals and the exhibits attached to this Agreement are incorporated herein by this reference. In the event of any dispute arising out of this Agreement, the prevailing party in any litigation shall be entitled to reimbursement of all costs, including reasonable attorneys' fees, court costs and the cost of expert witnesses. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall collectively constitute one and the same Agreement. If any term of this Agreement is determined to be invalid or unenforceable, it will not affect the validity of the remaining terms. This Agreement represents the entire agreement between the parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto with respect to the subject matter of this Agreement, unless stated in writing signed by the parties. All notices and payments required hereunder shall be sent to the following addresses:

Ellicott: Ellicott Springs Resources, LLC, Attn: Rodney Preisser, 31 East Platte Avenue, Suite 200, Colorado Springs, CO 80903, Fax No. (719) 314-0184 ;

Cherokee: 6250 Palmer Park Blvd., Colorado Springs, CO 80915, Fax No. (719) 597-5145

Addresses and Fax numbers for notice to a party may be changed at any time by providing notice of the changes to the other party as provided herein.

5.2 Liability of Cherokee. Cherokee shall not be liable for damages to Customer or any successor of all or any portion of the Serviced Property for any

losses or damages resulting from the inability of Cherokee to supply water services due to governmental regulations, statutes or orders imposed or that become the subject of enforcement after the date of this agreement, electrical or other power failures, temporary shut down due to repairs, maintenance, construction, alterations, acts of God, or other occurrences beyond the direct control of Cherokee, or resulting from the lack of availability of capacity of Cherokee's facilities. However, if any such events restrict Cherokee's ability to supply water services and taps under this Agreement, Customer's obligations to purchase a minimum number of taps under this Agreement shall be tolled automatically during such event and the dates for payment of minimum taps and provision of such taps by Cherokee shall be extended automatically an equal amount of time as the event restricting Cherokee's ability to supply water lasts. Cherokee may impose water usage restrictions as necessary, so long as Cherokee does so on an equitable or *pro rata* basis to all users for the type of in-Basin water service being restricted. However, if any such restrictions preclude Cherokee from issuing taps under this Agreement, Customer's obligations to purchase a minimum number of taps under this Agreement shall be tolled automatically during such the time such restrictions are in effect and the dates for payment of minimum taps and provision of such taps by Cherokee shall be extended automatically an equal amount of time as Cherokee keeps the restrictions in effect.

5.3. Non-Exclusive Water Provider. Cherokee shall be the primary water provider to the Serviced Property to the extent of the 800 AF available under this Agreement. Customer shall have the right, but not any obligation, to develop any other water source for use within the Serviced Property without Cherokee's consent to the extent Cherokee does not provide water for use under this Agreement and for uses in excess of the amount of water provided by Cherokee under this Agreement. Any water provided by Customer shall not reduce the amount of water committed by Cherokee under this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

**ELLCOTT SPRINGS RESOURCES, LLC, a
Colorado limited liability company**

By: _____

Rodney Preisser, Manager

**TRIPLE BAR RANCH, LLC., a
Colorado Limited Liability
Company**

By: _____

Rodney Preisser, Manager

APPROVED AND ACCEPTED AS TO PARAGRAPH 1.4:



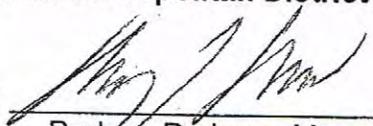
Rodney Preisser

PLW, Inc., a Colorado Corporation

By: 

Rodney Preisser, President

Sunset Metropolitan District

By: 

Rodney Preisser, Manager

Acknowledgment

This Agreement was executed before me this 11th day of October by Rodney Preisser, Manager of Ellicott Springs Resources, LLC.

Judith A. Delmer
Notary Public

319 N. Weber St. Colorado Springs, CO 80903
Address

4/20/10
My Commission Expires



Acknowledgment

This Agreement was executed before me this 11th day of October by Rodney Preisser, Manager of Triple Bar Ranch, LLC.

Judith A. Delmer
Notary Public

319 N. Weber St. Colorado Springs, CO 80903
Address

4/20/10
My Commission Expires



CHEROKEE METROPOLITAN DISTRICT

By: Theodore R. Schubert
Ted Schubert, President

Acknowledgment

This Agreement was executed before me this 11th day of October by Ted Schubert,
President of the Cherokee Metropolitan District Theodore R.

Dian D Hardekopf
Notary Public



6250 Palmer Park Blvd
Address As, CO 80915

2-26-07
My Commission Expires

EXHIBIT "A"
(Tap Purchase Schedule)

Takedown Schedule

# Taps/Takedown	Takedown Due on or Before:	Annual AF Equivalent
70 Taps	October 1, 2008	23.1 AF
70 Taps	October 1, 2009	23.1 AF
130 Taps	October 1, 2010	42.9 AF
130 Taps	October 1, 2011	42.9 AF
150 Taps	October 1, 2012	49.5 AF
150 Taps	October 1, 2013	49.5 AF
200 Taps	October 1, 2014	66.0 AF
200 Taps	October 1, 2015	66.0 AF
350 Taps	October 1, 2016	115.5 AF
350 Taps	October 1, 2017	115.5 AF
600 Taps	October 1, 2018	198.0 AF
Totals:		
2,400 Taps	On or before October 1, 2018	800 AF

EXHIBIT "B"

Description of Serviced Property

All of sections 14, 15 and 22;
the South $\frac{1}{2}$ of Section 11;
the West $\frac{1}{2}$ of Section 13;
the Northeast $\frac{1}{4}$ of Section 12,
the Southeast $\frac{1}{4}$ of Section 12;
the Southwest $\frac{1}{4}$ of Section 12;
the Southwest $\frac{1}{4}$ of Section 23;
the North $\frac{1}{2}$ of Section 21;
the North $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 21

All located in Township 15 South, Range 63 West, 6th P.M., El Paso County, CO.

C.5. 27.97 AFY OF THE TIPTON WELL WATER INTEREST

C.6. 54.03 AFY OF THE TIPTON WELL WATER INTEREST

AND SUPPORTING DOCUMENTS.



PURCHASE AND SALES AGREEMENT

This PURCHASE AND SALES AGREEMENT (“Agreement”) is dated May 7, 2021 (the “Effective Date”) and entered into by and among **Ellicott Utilities Company, LLC, a Colorado limited liability company/ and or Assigns**, as “Buyer”, and **Marksheffel Business Center, LLC a Colorado limited liability company, and Grant Langdon** (together as “Seller”).

RECITALS

WHEREAS, certain Tipton Well water rights are held in title by Cherokee Metropolitan District and Cherokee Metropolitan District committed water amounts to members of Cherokee Water, LLC

WHEREAS, Marksheffel Business Center, LLC entered into an operating agreement as a member of Cherokee Water, LLC on December 4, 2006 for the commitment of 68.29 acre-feet of water from the Tipton Well (the “MBC Tipton Water Rights”).

WHEREAS, based on information provided to Buyer by the Manager of Cherokee Water LLC, 27.97 acre-feet of the 68.29 acre-feet of water that comprises the MBC Tipton Water Rights remain unused because approximately 40.32 acre-feet of such water rights have been consumed by Seller as of the Effective Date. This 27.97 acre-feet constitutes excess water rights available for Seller to sell to Buyer (the “Excess Water Rights”), pursuant to the terms and conditions set forth in the Cherokee Water, LLC Operating Agreement (a copy of which is attached as Exhibit “A” hereto).

WHEREAS, Seller confirms that not more than 40.32 of the MBC Tipton Water Rights have been committed and used by Seller thus resulting in the Excess Water Rights.

WHEREAS, Seller is interested in selling the Excess Water Rights to Buyer through the process outlined in the Cherokee Water, LLC Operating Agreement attached hereto, and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, Buyer and Seller, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. **Agreement.** Subject to the terms and conditions of this Agreement, Seller agrees to sell and convey, and Buyer agrees to purchase the Excess Water Rights.

(a) *Further Assurances.* Buyer and Seller hereby agree to diligently work towards the completion of the sale of the Excess Water Rights, including taking such actions and executing such agreements, contracts, notices, filings, and/or instruments as may be required by the Cherokee Water, LLC Operating Agreement, or any and all other ancillary documents reasonably required or otherwise necessary to accomplish the transaction contemplated herein (collectively, the “Transaction”), all which must be, as to form and substance, satisfactory and acceptable to Buyer.



(b) *Time of Essence.* Time is of the essence for this Agreement.

2. **Purchase Price.** The purchase price for the purchase of the above-referenced interest shall be \$419,550.00 (“Purchase Price”). As independent consideration Buyer will pay \$100.00 to enter into this Agreement. If the Agreement is terminated at any time for any such reason this consideration will be non-refundable to Buyer. Upon payment of the Purchase Price by Buyer to Seller, Seller shall deliver or cause to be delivered to Buyer a valid warranty deed, or functional equivalent, conveying the Excess Water Rights.

3. **Due Diligence Review.** Buyer shall have 90 days from the Effective Date to conduct a due diligence review of the Transaction (the “Due Diligence Period”), which review shall include, but not be limited to: (i) verification of compliance with all Cherokee Metropolitan District documents pertaining to the conveyance of the Excess Water Rights; (ii) signed sufficiency letter from Cherokee Metropolitan District evidencing the current availability of the Excess Water Rights; and (iii) approval of the members of Cherokee Water, LLC as to Buyer’s purchase of the Excess Water Rights. Buyer shall be permitted to terminate this Agreement, in its sole and absolute discretion, at any time during the Due Diligence Period, provided that the \$100.00 consideration set forth in Section 2 above shall remain non-refundable to Buyer.

4. **Conditions to Closing.** Closing of the Transaction shall be subject to:

(a) **Financing.** Buyer shall have obtained lending approval, and proof thereof, on or before the Closing Date (as defined in Section 5 below) for the transaction and other financing in an amount and upon terms satisfactory to the Buyer, in the Buyer’s sole and absolute discretion.

(b) **Third-Party Consent.** Receipt of all required regulatory, governmental, and third-party consents or approvals necessary to consummate the Transaction.

(c) **Cherokee Metropolitan District Approval.** Buyer obtaining a written sufficiency letter executed by Cherokee Metropolitan District evidencing the current availability of the Excess Water Rights.

(d) **Cherokee Water, LLC Approval.** Buyer obtaining written approval signed by all members of Cherokee Water, LLC confirming, ratifying and consenting to Buyer’s purchase of the Excess Water Rights and the successful change of real property location the Excess Water Rights shall be appurtenant to, which location Seller shall specify after the Effective Date but prior to the Closing Date, as voted on by the members of Cherokee Water, LLC pursuant to its Operating Agreement.

(e) **Other Documents.** Buyer obtaining any and all other documents requested by Buyer from Seller that are necessary or reasonably required to consummate the Transaction, including, but not limited to, a warranty deed conveying the Excess Water Rights.



(f) Seller receiving confirmation from Cherokee Metropolitan District, satisfactory to Seller based on Seller's subjective criteria, that Cherokee Metropolitan District will have sufficient water to serve property of Seller and parties related to Seller, after sale of the water rights herein.

5. **Closing; Termination.** The closing of the Transaction (the "Closing") will occur no more than 30 days after expiration of the Due Diligence Period (whether such period expires on its own terms or if Buyer earlier waives any remaining balance of the Due Diligence Period), provided that Closing shall occur only after Buyer has determined that all Conditions to Closing set forth in Section 4 above have been satisfied (the "Closing Date"). Notwithstanding the foregoing, the Closing Date shall occur no later than October 1, 2021, subject to extension only by mutual agreement of both parties.

6. **Indemnification from Third-Parties.** The Buyer and Seller represent and warrant to the other that neither the matters set forth in this Agreement, nor the consummation of the Transaction contemplated herein, will breach or interfere with any contractual or other obligations to any third-party. Buyer and Seller hereby unconditionally agree to indemnify and hold harmless the other and their respective officers, directors, employees and agents from and against all liability, claim, injury, damage, cost, or expense of any kind, including reasonable attorney's fees, directly or indirectly related to, associated with, or arising out of any breach of any representation and warranties contained within this Agreement.

7. **Seller's Representations and Warranties.** Seller hereby represents and warrants to Buyer as follows:

(a) Seller is the true and lawful 100% owner of the Excess Water Rights being sold to Buyer, and the conveyance of the Excess Water Rights is not subject to any mortgages, encumbrances, pledges, or other encumbrances affecting title and ownership of the Excess Water Rights. Seller further covenants not to pledge, encumber or otherwise use the Excess Water Rights as security for any debt from the date hereof through the Closing Date.

(b) There is no action, suit, or legal proceedings or other proceedings pending or threatened (or, to the best knowledge of Seller, any basis therefor) against Seller which may adversely affect the transactions contemplated by this Agreement, or affecting any portion of the Excess Water Rights in any court or before any arbitrator of any kind or before any governmental body which may adversely affect the transactions contemplated by this Agreement.

(c) The execution and delivery of this Agreement by Seller and the consummation of the contemplated Transaction is not subject to the issuance of a novation by any applicable governmental authority, nor the approval or consent of any third-party, except as otherwise set forth herein.



(d) The undersigned representative of Seller has the full and complete authority to bind Seller and otherwise enter into this Agreement and convey the Excess Water Rights to Buyer on behalf of Seller.

8. **IRREVOCABILITY.** BUYER HEREBY ACKNOWLEDGES AND AGREES THAT THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT IS IRREVOCABLE BY SELLER AND SELLER SHALL HAVE AN OBLIGATION TO CONVEY THE EXCESS WATER RIGHTS TO BUYER IN STRICT ACCORDANCE WITH THIS AGREEMENT, SUBJECT ONLY TO BUYER'S UNILATERAL RIGHT TO TERMINATE THIS AGREEMENT AS SET FORTH HEREIN.

9. **Non-Disclosure.** Except as required by law or as the Buyer and Seller agree in connection with ongoing due diligence pursuant to this Agreement will be kept strictly confidential, and neither Buyer, nor Seller nor their affiliates, shall disclose Buyer's interest in the proposed transaction, or any of the terms and conditions thereof.

10. **Governing Law.** This Agreement shall be interpreted and enforced by the law of the State of Colorado.

11. **Survival of Representations, Warranties and Agreements.** All of the representations, warranties, covenants, promises and agreements of the parties contained in this Agreement shall survive the execution, acknowledgement, sealing and delivery of this Agreement.

12. **No Brokers.** Each party hereby represents and warrants to the other party that neither it nor its representatives have made any arrangements for the payment of any finders' fees, brokerage fees, agents' commissions, or like payments in connection with the Agreement. Each party shall indemnify and hold harmless the other party from any claim that is asserted by any person or entity for a finder's or broker's fee or like payment with respect to this Agreement arising from any act, representation or promise of the indemnifying party or its representative.

13. **Amendments; Waivers.** No provision of this Agreement may be amended, waived, or otherwise modified without the prior written consent of all of the parties. The waiver by any party hereto of a breach of any provision or condition contained in this Agreement shall not operate as a waiver of any subsequent breach or of any other conditions hereof.

14. **Attorney Fees.** In the event of any dispute arising out of this Agreement, the court or arbitrator shall award to the prevailing party all reasonable costs and expenses, including without limitation, attorneys' fees.

15. **Incorporation.** The Recitals set forth above and any and all exhibits to this Agreement are expressly incorporated into this Agreement as if fully set forth herein.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

“BUYER”

“SELLER”

**Ellicott Utilities Company, LLC,
a Colorado limited liability company/ and
or Assigns**

**Marksheffel Business Center, LLC,
a Colorado limited liability company**

By: 
R. Randy Goodson (May 8, 2021 19:00 PDT)
Randy Goodson, President

By: Grant Langdon
Grant Langdon (May 8, 2021 18:29 MDT)
Grant Langdon, Member

Date: May 8, 2021

Date: May 8, 2021

WATER SERVICE AGREEMENT BETWEEN
CHEROKEE METROPOLITAN DISTRICT AND
ELLCOTT UTILITIES COMPANY, LLC

This Agreement is effective September 21, 2021 between Cherokee Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado whose address is 6250 Palmer Park Blvd., Colorado Springs, Colorado 80915 ("Cherokee"); and, Ellicott Utilities Company, LLC, a California Limited Liability Company having an address of P.O. Box 231961, Encinitas, CA 92023 ("EUC").

RECITALS

WHEREAS, EUC is a water supply utility for a development of approximately 553 acres of real property located in El Paso County Colorado ("the Development"). A location map and the legal description of Development are attached as **Exhibit A**.

WHEREAS, Cherokee Water LLC was created in order to hold title to a certain water right and to provide water service commitments to Members of Cherokee Water, LLC's proposed new developments within Cherokee in order to satisfy water supply sufficiency requirements from El Paso County and the State of Colorado for those developments;

WHEREAS, in order to establish the framework for the holding of title to the Water Rights by Cherokee Water, LLC and for the treatment and delivery of the water right by Cherokee, Cherokee Water, LLC and Cherokee have entered into two agreements: the Cherokee Water, LLC Operating Agreement (the "LLC Operating Agreement") and the Water Service Agreement between Cherokee and Cherokee Water, LLC (the "Water Service Agreement");

WHEREAS, EUC has obtained the outstanding portion of a membership interest in Cherokee Water, LLC that was formerly owned by Marksheffel Business Center (Marksheffel). This membership interest includes an interest in 27.97 acre-feet per year derived from a certain water right (the "Water Right"), as more fully described in the Certificate of Ownership of Cherokee Water, LLC attached as **Exhibit B**; and

WHEREAS, EUC now desires to obtain a commitment from Cherokee to provide water from the Water Right to the Development.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

- I. Conditions Precedent: This Agreement, and all of Cherokee's obligations to deliver the Water Right as provided herein, including the obligations to accept the Water Right as a valid legal and physical supply of water for the Development, are expressly contingent upon: (1) EUC's compliance with the LLC Operating Agreement and the Water Service Agreement; (2) the acceptance by the State Engineer, the Upper Black Squirrel Creek Ground Water Management, and El Paso County of the Water Right as a valid and sufficient legal and physical supply of water for The Development; and, (3) full compliance by EUC and the Development owners with all of Cherokee's policies, rules and regulations, as they now exist, and as may be amended or adopted from time to time.

- II. Water Service to the Development to be Provided by Cherokee Water, LLC through its Water Service Agreement with Cherokee.
 - A. Delivery. Subject to the terms and conditions of this Agreement, the LLC Operating Agreement and the Water Service Agreement, Cherokee agrees to deliver to the Development up to 27.97 acre-feet per year of the water obtained from the Water Right (the "Subject Water"). Cherokee shall have no obligation to supply water service to the Development in excess of 27.97 acre-feet per year.

 - B. Delivery Location. The point of delivery to EUC shall be at a meter ("Meter") installed within the existing building located approximately at a point 80 feet South of a point 1300 feet east along the section line between sections 10 and 15 from the corner of sections 10, 11, 14, and 15 in Township 14 South, Range 63 West of the 6th Prime Meridian, as depicted in Exhibit A (the "Delivery Location").

 - C. Delivery Measurement and Accounting. EUC shall provide Cherokee with an accounting of all Subject Water delivered under this Agreement to Cherokee on a monthly basis, including readings from the Meter.

 - D. Place of Use. The Subject Water shall be used by EUC within the Development.

 - E. Cherokee agrees that the Subject Water will be dedicated solely for the purpose of delivery to the Development. The Parties understand and acknowledge that the

Subject Water is and will be commingled with other Cherokee water sources and that the water service actually delivered to the Development will not consist 100% of the actual physical water withdrawn from the Water Right.

- F. Price. The Price for the Subject Water shall not exceed four thousand dollars (\$4,000.00) per acre foot of Subject Water which rate is based on Cherokee's standard rate for bulk water deliveries to out-of-district customers. Every five (5) years, the Price will be adjusted based on the total change in the Consumer Price Index (CPI) for Denver-Boulder since the previous adjustment.
- G. Water Quality. The water provided pursuant to this Agreement shall be raw, untreated water. Cherokee does not guarantee the quality of the Subject Water, and EUC is solely responsible for meeting and maintaining compliance with all state and federal safe drinking water regulatory requirements or other applicable laws and regulations that may exist now or in the future. EUC is solely responsible for treating, disinfecting, or otherwise making the Subject Water suitable for its intended use.
- H. Delivery Infrastructure.
1. Connection to Cherokee System. The parties acknowledge that the Subject Water will be delivered to the Delivery Location from a pre-existing connection to Cherokee's water supply pipeline ("Connection Point"). EUC shall be solely responsible for all costs related to the infrastructure beyond the Connection Point, including but not limited to any pipelines, meters, valves, and backflow prevention devices.
 2. Installation of Meter. EUC shall provide Cherokee with plans for the specifications and design of the Meter, and the Meter shall not be installed until the plans have been approved by Cherokee in writing. EUC shall notify Cherokee upon completion of the Meter installation. Cherokee shall inspect the Meter within ten (10) days of such notice. Cherokee will not deliver any Subject Water hereunder until it has approved the Meter in writing. Subject to the warranty obligations as set forth in Cherokee's Rules and Regulations, and subject to EUC's maintenance and other obligations during the warranty period, EUC shall dedicate and Cherokee will accept the Meter. At such time as the warranty period expires, and Cherokee accepts the Meter, EUC shall convey the Meter to Cherokee, free and clear of all liens and encumbrances.

Once the Meter has been accepted by Cherokee and conveyed to Cherokee by EUC, the Meter shall become the property of Cherokee and shall be maintained and operated by Cherokee.

3. Security and Access. EUC shall timely provide Cherokee access to the Delivery Location as reasonably requested by Cherokee, for the purpose of inspecting infrastructure, confirming meter readings, or any other purposes related to this Agreement. EUC shall comply with all security requirements for public water supply infrastructure as required by law.
4. Infrastructure and Condition. Cherokee is not responsible for delivery of the Subject Water beyond the Delivery Location, including the construction of any infrastructure, as necessary. EUC is solely responsible for the development, operation, maintenance, and all other aspects of delivery and provision of water beyond the Delivery Location, including but not limited to the construction of water infrastructure, including final water treatment and water connections, procurement of a Public Water System ID (PWSID) number from the Colorado Department of Public Health & Environment, compliance with all public water system requirements, and any other actions necessary to take delivery from the Delivery Location and deliver the Subject Water to its customers. EUC shall remain responsible for the operation, maintenance, repair, and replacement of the infrastructure needed to deliver the Subject Water to its customers, absent express written agreement to the contrary. Cherokee expressly disclaims liability of any kind resulting from or arising out of the delivery of water beyond the Delivery Location.
5. Firefighting Capability. EUC shall be solely responsible for procuring, constructing, operating, and maintaining any water supply infrastructure and/or water necessary to supply water for firefighting purposes, including but not limited to the maintenance of storage reserves and system capacity sufficient to provide water at the rates and amounts required for such purposes. Cherokee shall have no obligation to provide Subject Water above the rates and amounts set forth herein, even in emergency situations.
6. No Retail Service by Cherokee. Cherokee shall have no obligation with respect to the retail services associated with the delivery of Water to EUC's customers. It will be the sole obligation of EUC to respond to the individual water demands of its users, including but not limited to billing and collecting payments for water service in a manner that ensures it meets its obligations under this Agreement.

III. General Provisions

- A. Billing and Payment. Cherokee shall bill EUC each month for any Subject Water delivered under this Agreement during the preceding month. EUC shall pay such invoices within thirty (30) days of receipt.
- B. Rules and Regulations. Cherokee's provision of the Subject Water pursuant to this Agreement shall be subject to the rules, regulations, policies and resolutions promulgated by Cherokee from time to time. Cherokee shall not be obligated to provide the Subject Water if EUC or its successors in interest to all or any part of the Development property are not in compliance with this Agreement.
- C. Remedies for Breach. In the event a Party deems the other Party to be in default, it shall provide written notice indicating the event of default. The defaulting party shall have thirty (30) days from the date of the notice to cure the stated default. In the event of a default which is not cured within the Cure Period or otherwise not subject to these cure provisions, the non-breaching Party shall be entitled to the following remedies, in addition to those otherwise provided at law or equity:
1. If EUC remains in breach of this Agreement following the Cure Period, Cherokee may suspend deliveries of the Subject Water to EUC until the default is cured following advance written notice to EUC of the forthcoming suspension. Once the default is cured, however, Cherokee agrees to resume delivery of the Subject Water pursuant to this Agreement.
 2. If the breach is EUC's failure to meet its monthly obligation to pay for the Subject Water delivered, Cherokee shall be entitled, in addition to any other remedies available at law, to collect a late fee of five percent (5%) of the amount not paid prior to expiration of the Cure Period, and interest shall accrue on all amounts past-due at an annual rate equal to the prime rate of interest announced by Wells Fargo Bank, Colorado Springs, Colorado, as of the expiration of the Cure Period, plus five percent (5%). Cherokee shall also be entitled to reimbursement for the costs of collection, including reasonable attorney fees.
 3. The non-breaching Party may file suit to recover amounts due and seek damages for breach of this Agreement by the other Party.
- D. Notices. Whenever notice is required to be given hereunder, it shall be in writing and may be sent by email or delivered or mailed to the Party entitled thereto by

registered or certified U.S. mail, return receipt requested. If delivered or sent by email, said notice shall be effective and complete upon delivery or transmission of the email. If mailed, said notice shall be effective and complete as of the date of mailing. Until changed by notice in writing, notice shall be given as follows:

To Cherokee: General Manager
 Cherokee Metropolitan District
 6250 Palmer Park Blvd.
 Colorado Springs, CO 80915

To EUC: Jason Kvols, Development Manager
 Ellicott Utilities Company, LLC
 P.O. Box 231961
 Encinitas, CA 92023

- E. No Operating Obligation. Nothing in this Agreement shall be deemed or construed as creating any obligation on Cherokee to operate its facilities in any particular manner, so long as Cherokee complies with the express terms of this Agreement.

- F. Indemnification. Subject to the provisions of the Colorado Governmental Immunity Act, and without waiving the provisions of same, EUC, to the fullest extent permitted by law, shall indemnify and hold harmless Cherokee and its directors, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including reasonable attorney fees and court costs, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or related to this Agreement, except to the extent they result from Cherokee's reckless or willful acts. This includes, but is not limited to, any damages which may arise from Cherokee's delivery of water and the transportation of water under this Agreement by means of any water carriage facilities beyond the Connection Point.

- G. No Waiver of Governmental Immunity Act. By entering into this Agreement, the Parties and their directors, agents and employees are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations and other rights, immunities and protections provided by the Colorado

Governmental Immunity Act, C.R.S. §§ 24-10-101 to 120, or otherwise available to the Parties.

- H. Entire Agreement. This Agreement contains the entire agreement between the Parties. The Parties agree there have been no representations made other than those contained herein; that this Agreement constitutes their entire Agreement; and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.
- I. Amendment. Amendments to this Agreement shall only be effective if entered into in writing with the same formality as this Agreement and mutually approved by the Parties.
- J. No Third Party Beneficiaries. There are no express or implied third party beneficiaries of this Agreement. No third party has the right to enforce this Agreement.
- K. No Assignment. No right hereunder shall be assigned by any of the Parties, except as mutually agreed to in writing.
- L. Governing Law and Venue. This Agreement shall be interpreted pursuant to the laws of the State of Colorado and venue for any disputes shall be in El Paso County, Colorado.
- M. Waiver of Rights. The failure of any Party to exercise any right under this Agreement shall not be deemed a waiver of such Party's right and shall not affect the right of such Party to exercise at some future time the right or rights or any other right it may have under this Agreement.
- N. Force Majeure. No Party to this Agreement shall be liable for any delay or failure to perform due solely to conditions or events of force majeure, as that term is defined in this paragraph; provided that: (i) the non-performing Party gives each other Party prompt written notice describing the particulars of the force majeure based upon satisfactory evidence; (ii) the suspension of performance is of no greater scope and of no longer duration than required by the force majeure event or condition; and (iii) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform. As used in this paragraph, force majeure shall mean any delay or failure of a Party to perform its obligations under this Agreement caused by events beyond the Party's reasonable control and without the fault or negligence of the Party, including, without limitation (a) acts of God; (b) sudden actions of the elements such as floods, earthquakes, hurricanes,

or tornadoes; (c) sabotage; (d) vandalism beyond that which can be reasonably prevented by the Party; (e) terrorism; (f) climate variability; (g) war; (h) riots; (i) fire; (j) explosion; (k) blockades; (l) insurrection; (m) strike, slow down or labor disruptions (even if such difficulties could be resolved by conceding to the demands of a labor group); (n) action of the government (except the parties hereto); (o) commandeering of material, products, plants or facilities by the federal, state or local government (except the parties hereto); and (p) national fuel shortage.

1. Subordination Clause. In the event of a force majeure event or condition as described above in this paragraph 25, until the event or condition is resolved, this Agreement shall be made expressly subordinate to any present or future use of water supply for municipal purposes within the service territory of Cherokee or to meet contracted water delivery obligations of Cherokee existing prior to the execution of this Agreement.
 2. Cooperation. Should there be evidence of force majeure that may affect, or has affected, the ability of any of the Parties to meet its obligations under this Agreement, the Parties agree to meet and negotiate in good faith any modifications to this Agreement to ensure a reasonable and coordinated response to such force majeure with the goal of forestalling the need for a force majeure declaration.
- O. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.
- P. Authority. The Parties each affirm and represent that they have the full power and authority to execute this Agreement and thereafter perform all of the terms and conditions set forth herein.
- Q. No Agency. This Agreement is not intended and shall not be construed to create any joint venture, agency relationship or partnership between the Parties. None of the Parties shall have any right or authority to act on behalf of or bind any other Party.

R. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one agreement.

THEREFORE, IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year above written.

CHEROKEE METROPOLITAN DISTRICT

By: [Signature]
Steven Hasbrouck, President
9/21/21
Date

By: [Signature]
Director
9-21-21
Date

By: [Signature]
Director
9-21-21
Date

By: [Signature]
General Manager
9-21-21
Date

ELLICOTT UTILITIES COMPANY, LLC

By: [Signature]
Signature
John Mide
Name
CFO 10/12/2021
Title Date

EXHIBIT A
Map and Legal Description of Development Property

EXHIBIT
Water Use Description

WATER USE DESCRIPTION

A Tract of land established for the purpose of water use, being part of the Northeast 1/4, all of the Northwest 1/4 and all of the Southwest 1/4 of Section 14, and part of the Northeast 1/4 and part of the Southeast 1/4 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, in the county of El Paso, state of Colorado, said Tract also encompassing all of the lands platted as MAYBERRY, COLORADO SPRINGS FILING NO. 1 and MAYBERRY, COLORADO SPRINGS FILING NO. 2, subdivisions of land in said county and state, the plats of said subdivisions recorded as Reception Numbers 220714655 and 221714698, respectively, in the office of the Clerk and Recorder of El Paso County, Colorado, said Tract more particularly described as follows:

BEGINNING at a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" found at the Northwest corner of said Section 14, Thence South 89° 44' 49" East 2606.52 feet on the North line of said Northwest 1/4 of Section 14 to a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" found at the North 1/4 corner of said Section 14, said North line being the basis of bearings of the land described herein and the record bearing as shown on the plat of said MAYBERRY, COLORADO SPRINGS FILING NO. 1, and all bearings herein are relative thereto; Thence South 89° 44' 50" East 1303.29 feet on the North line of said Northeast 1/4 of Section 14; Thence South 00° 21' 12" East 2633.63 feet on the East line of the West 1/2 of said Northeast 1/4 of Section 14 to the South line of said Northeast 1/4 of Section 14; Thence North 89° 36' 00" West 1308.58 on said South line to the Center corner of said Section 14; Thence South 00° 14' 15" East 2631.90 feet on the East line of said Southwest 1/4 of Section 14 to the South 1/4 corner of said Section 14; Thence North 89° 24' 37" West 2630.66 feet on the South line of said Southwest 1/4 of Section 14 to a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" found at the Southwest corner of said Section 14, also being the Southeast corner of said Section 15; Thence North 89° 25' 53" West 1313.35 feet on the South line of the East 1/2 of the Southeast 1/4 of said Section 15 to a 2-1/2 inch aluminum cap marked "RAMPART PLS 38560 2019" found at the East 1/16th corner common to Sections 15 and 22; Thence North 00° 05' 20" East 5253.60 feet on the West line of the East 1/2 of the East 1/2 of said Section 15 to the North line of the Northeast 1/4 of said Section 15; Thence South 89° 07' 06" East 1307.43 feet on said North line to the POINT OF BEGINNING, said Tract containing 24,074,435 square feet or 552.673 acres.



EXHIBIT - WATER USE DESCRIPTION			R&R ENGINEERS-SURVEYORS, INC 1635 W. 13TH AVENUE, SUITE 310 DENVER, COLORADO 80204 PH: 303-753-6730 WWW.RRENGINEERS.COM		
Date:	8/17/2021			Sheet	1
Drawn:	OO			of	1
Checked:	MAG				
Job No.:	MC21194				

EXHIBIT B

Certificate of Ownership – Marksheffel Business Center Water Interest

ASSIGNMENT OF MEMBERSHIP INTEREST

This Assignment of Membership Interest (the "Assignment") is entered into and effective as of October 1, 2021 (the "Effective Date"), by and between **MARKSHEFFEL BUSINESS CENTER, LLC**, a Colorado limited liability company ("Assignor") and **ELLCOTT UTILITIES COMPANY, LLC**, a Colorado limited liability company ("Assignee").

R E C I T A L S

WHEREAS, Assignor is a Member of Cherokee Water, LLC, a Colorado limited liability company (the "Company"), and as a Member of the Company has the exclusive rights to and interest in 68.29 acre feet of water ("MBC's Tipton Water Rights") as legally described on Exhibit A to the Operating Agreement for the Company dated November 30, 2006, as amended.

WHEREAS, as of the date hereof, Assignor has consumed 40.32 acre-feet of MBC's Tipton Water Rights resulting in 27.97 acre-feet of excess water rights (or 40.958 % of the total MBC Tipton Water Rights) currently available for transfer to Assignee pursuant to the terms of Section 6.2 of the Company's Operating Agreement.

WHEREAS, Assignor desires to assign and transfer to Assignee 40.958% of Assignor's Membership Interest in the Company (the "Transferred Interests"), representing the right and interest in and to 27.97 acre feet of water from the water rights legally described on Exhibit A to the Operating Agreement for the Company (the "Excess Water Interests").

WHEREAS, this Assignment is being entered into in furtherance of that certain Purchase and Sales Agreement, dated as of May 6, 2021 (the "Purchase Agreement"), by and between Assignor and Assignee to effectuate the transfer and assignment by Assignor to Assignee of the Excess Water Interests.

NOW, THEREFORE, the parties, for good and valuable consideration, hereby agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee and Assignee hereby assumes from Assignor, all of Assignor's right and interest in the Transferred Interests and the underlying Excess Water Interests.

2. Indemnification. Assignee agrees to indemnify, defend and hold Assignor harmless from and against any obligations or liabilities with respect to the Transferred Interests and/or the Excess Water Interests which may occur after the date of this Assignment. Assignor agrees to indemnify, defend and hold Assignee harmless from and against any obligations or liabilities with respect to the Transferred Interests and/or the Excess Water Interests which have occurred prior to the date of this Assignment.

3. Representations and Warranties.

a. By Assignor. As of the Effective Date, Assignor represents and warrants to Assignee the following:

i. Authority. Assignor has the full right, authority and power to enter into this Agreement, to consummate the transaction contemplated herein and to perform its obligations hereunder and under those documents and instruments to be executed by it, and the individual executing this Agreement on behalf of Assignor is authorized to do so, and this Assignment constitutes a valid and legally binding obligation of Assignor enforceable against Assignor in accordance with its terms.

ii. No Litigation. To the best of Assignor's knowledge, Assignor has not received written notice of any complaint, litigation, investigation or proceeding that is pending or threatened against Assignor, the Transferred Interests, the Excess Water Interests, or the Company.

iii. Company Documents. To the best of Assignor's knowledge, Assignor has provided Assignee with all material documentation and information in Assignor's possession relating to the Company, the Transferred Interests and/or the Excess Water Interests preceding the Effective Date of this Assignment. Assignor further agrees to reasonably cooperate with Assignee to provide such further information relating to the Company, the Transferred Interests, and/or the Excess Water Interests as may be reasonably requested by Assignee, to the extent in Assignor's actual possession or reasonable control.

iv. No Third-Party Rights. To the best of Assignor's knowledge, without duty of inquiry or investigation, and except as previously disclosed in any materials or other information provided to Assignee, there are no leases, occupancy agreements, licenses, or other agreements that grant third-parties any possessory or usage rights to all or any of the part of any Company property, including the Transferred Interests and/or the Excess Water Interests.

v. Bankruptcy. To Assignor's knowledge, there are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy, or any other debtor relief actions pending against the Company in any current judicial or administrative proceeding.

vi. No Violations. To the best of Assignor's knowledge, Assignor has not received written notice of any current violations of any laws, statutes, ordinances, regulations or other requirements of any governmental agency in connection with or related to the Company.

b. By Assignee. Assignee represents and warrants to Sellers as follows:

i. Formation. Assignee is a duly formed and validly existing limited liability company in good standing under the laws of Colorado.

ii. Authorization. Assignee has the full right, authority and power to enter into this Agreement, to consummate the transaction contemplated herein and perform its obligations hereunder. The individual executing this Assignment on behalf of the Assignee is authorized to do so and this Assignment constitutes a valid and legally binding obligation of Assignee enforceable against Assignee in accordance with its terms. Assignee has taken all necessary action to authorize the transaction contemplated by this Assignment and Assignee's execution and delivery of this Assignment and all documents required herein, and its performance hereunder. Assignee's execution and delivery of this Assignment, and the consummation of the transactions contemplated and required hereby, will not result in any violation of, or default under, any term or provision of any agreement to which Assignee is a party or by which Assignee is bound.

iii. No Litigation. To the best of Assignee's knowledge, there is no complaint, litigation, investigation or proceeding pending or, to Assignee's actual knowledge, contemplated or threatened against Assignee which would prevent Assignee from performing its obligations under this Assignment or any other instrument or document related hereto.

c. Survival. The representations, warranties and covenants of Assignor and Assignee above shall survive this Assignment following the Effective Date.

d. Assignors' Knowledge. For purposes hereof, any reference to "Assignor's knowledge" or any derivatives thereof as used in this Assignment means the current actual knowledge of Grant Langdon, without any duty of inquiry or investigation, and shall not be deemed to include any implied, imputed or constructive knowledge of Assignor or any other person or entity.

4. Successors and Assigns. This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties hereto.

5. Further Assurances. Assignor shall execute and deliver to Assignee, upon demand, such further documents, instruments and conveyances, including any necessary deeds to convey the Excess Water Interests if necessary, and shall take such further actions as Assignee may from time-to-time reasonably request, to vest fully in Assignee, the right, title and interest herein intended to be assigned.

6. Continuation of the Company. The parties acknowledge and agree that the assignment of the Transferred Interests and/or the Excess Water Interests by Assignor to Assignee shall in no way cause the dissolution of the Company, nor shall such assignment and transfer be deemed or construed to terminate the Company.

7. Counterparts. This Assignment may be executed in counterparts, each of which shall constitute an original, but all of which together, shall constitute one and the same agreement. digital signatures, including digital counterparts, shall be recognized and deemed as

an original signature to this Assignment.

8. Binding Effect; Entire Agreement. This Assignment shall be binding upon and inure to the benefit of Assignor's and Assignee, and their respective successors and assigns. This Assignment contains the entire agreement between Assignor and Assignee concerning the transfer of the Transferred Interests and supersedes all understandings or assignments in regard thereto.

9. Attorneys' Fees. If a suit, action or other proceeding of any nature whatsoever is instituted in connection with this Assignment, or to interpret or enforce any rights or remedies hereunder, the prevailing party shall be entitled to recover its attorneys' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith.

10. Governing Law. This Assignment shall be governed by, and interpreted in accordance with, the laws of the State of Colorado, all rights and remedies being governed by such laws.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first written above.

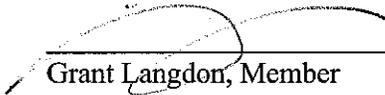
"ASSIGNOR"

"ASSIGNEE"

MARKSHEFFEL BUSINESS CENTER, LLC,
a Colorado limited liability company

ELLICOTT UTILITIES COMPANY, LLC,
a Colorado limited liability company

By:



Grant Langdon, Member

By:



Randy Goodson, President



PURCHASE AND SALES AGREEMENT

This PURCHASE AND SALES AGREEMENT (“Agreement”) is dated May 6, 2021 (the “Effective Date”) and entered into by and among **Ellicott Utilities Company, LLC**, a Colorado limited liability company, as “Buyer”, and **P.B. Patel and Savitaben P. Patel**, together, the “Seller”, as the sole owners of 100% of the partnership interests (the “Partnership Interests”) in **PB & Sons, a Colorado General Partnership** (the “Partnership”).

RECITALS

WHEREAS Legal title to the Tipton Well water rights are held in title by Cherokee Water, LLC as set forth in the Cherokee Water, LLC Operating Agreement with beneficial ownership of 54.03 acre feet of the Tipton water rights held by the Partnership through its membership in Cherokee Water, LLC.

WHEREAS Powers and Galley Water, LLC entered into an operating agreement as a member of Cherokee Water, LLC on December 4, 2006 for the commitment of 54.03 acre-feet of water from the Tipton Well (the “Tipton Water Rights”) of which REA Development Corporation (“REA”) and Butler, Patel, & Peets LLC (“BPP”) were initial members of Powers and Galley, LLC;

WHEREAS on December 3, 2008 REA and BPP entered into a purchase agreement for BPP to purchase all of REA’s interest in Powers and Galley Water, LLC. As of the date of that closing on December 3, 2008 BPP became the sole member and owner of Powers and Galley Water, LLC;

WHEREAS on August 18, 2015 BPP assigned all of its membership interest in the Cherokee Water, LLC to the Partnership. This assignment failed to comply with the procedures set forth in the Cherokee Water, LLC operating agreement for the assignment to be accepted and recognized by Cherokee Water, LLC as set forth in Section 6.2 of the Operating Agreement;

WHEREAS, on November 15, 2020, the general manager of Cherokee Metropolitan District, and general manager of Cherokee Water, LLC, being one in the same, duly acknowledged and recognized the previous transfers of the interest in Cherokee Water, LLC, from Powers and Galley Water LLC to Butler Peetz and Patel, LLC and Butler, Peetz and Patel, LLC to P.B. & Sons Partnership, including the assignment of the Powers and Galley Water, LLC’s membership interest in Cherokee Water, LLC to Butler, Peetz and Patel, LLC to the Partnership, notwithstanding any alleged violation of the assignment provisions set forth in the Cherokee Water, LLC operating agreement.

WHEREAS, Buyer now desires, through the purchase of the Partnership, to step into the shoes of the Partnership as the Cherokee Water, LLC member and beneficial owner of 54.03 acre feet of the Tipton Well water, subject to the Water Service Agreement dated December, 4 2006 between Cherokee Metropolitan District and Powers and Galley Water, LLC and the Cherokee Water Operating Agreement.



NOW, THEREFORE, Buyer and Seller, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. **Agreement.** Subject to the terms and conditions of this Agreement, Seller agrees to sell and convey, and Buyer agrees to purchase one-hundred percent (100%), and not less, of the Partnership Interests.

(a) *Further Assurances.* Buyer and Seller hereby agree to diligently work towards the completion of the sale of the Partnership Interests, including taking such actions and executing such agreements, contracts, notices, filings, and/or instruments as may be required or reasonably necessary to complete and effectuate said sale including, but not limited to: (i) an Assignment and Assumption conveying the Partnership Interests (the "Assignment") in a form substantially similar to the Assignment attached hereto as Exhibit A; (ii) a quit claim deed duly conveying that certain parcel of real property owned by the Partnership (the "Stetson Hills Property") to an entity yet-to-be-formed by Seller with an effective date prior to the Effective Date of this Agreement and the aforementioned Assignment, and (iii) any and all other ancillary documents to accomplish the transaction contemplated herein (collectively, the "Transaction"), all which must be, as to form and substance, satisfactory and acceptable to Buyer.

(b) *Upon execution.* Upon execution of this agreement and receipt of consideration the seller will take actions as directed by the buyer.

(c) *Time of Essence.* Time is of the essence for this Agreement.

2. **Purchase Price.** The purchase price for the purchase of the Partnership Interests shall be [REDACTED] ("Purchase Price"). Buyer will pay [REDACTED] refundable deposit to enter into this Agreement. If the Agreement is terminated at any time for any such reasons as maybe set forth in this agreement, this consideration will be refundable to Buyer. Upon payment of the Purchase Price by Buyer to Seller, Seller shall deliver or cause to be delivered to Buyer the Assignment.

3. **Due Diligence Review.** Buyer shall have 90 days from the Effective Date to conduct a due diligence review of the Transaction (the "Due Diligence Period"), which review shall include, but not be limited to: (i) verification of compliance with all Cherokee Metropolitan District documents pertaining to the Agreement and/or Transaction; (ii) verification that the Partnership is the rightful owner of the membership interests in Cherokee Water, LLC and thus indirectly the beneficial owner of the Tipton Water Rights as evidenced by the partnership membership interest in Cherokee Water, LLC, free and clear of all liens and encumbrances; (iii) approval of the members of Cherokee Water, LLC as to Buyer's purchase of the Partnership Interests; (iv) adequate assurances and indemnification of Buyer for of any and all liabilities that are not disclosed and accepted by Buyer; (v) confirmation and acceptance of the conditions and restrictions set forth in the Water Service Agreement dated December 4, 2006 between Cherokee Metropolitan District and Powers and Galley Water, LLC, as applicable to the Partnership, and the Cherokee Water Operating Agreement as applicable to the Partnership. and (vi) confirmation that



any environmental liabilities associated with the Powers Property either do not exist or will not be assumed by Buyer in any way whatsoever as a result of consummation of the Transaction. Buyer shall be permitted to terminate this Agreement, in its sole and absolute discretion, at any time during the Due Diligence Period. In the event of such a termination, the \$5,000.00 deposit set forth in Section 2 above shall be refunded. Seller confirms that it has or will provide to Buyer for its review and use, the Cherokee Water, LLC Operating Agreement and all amendments thereto; and the Powers and Galley – Cherokee Metro District Water Service agreement dated December 4, 2006 and all applicable amendments thereto within five (5) business days of the execution of this agreement.

4. **Conditions to Closing.** Closing of the Transaction shall be subject to:

(a) **Financing.** Buyer shall have obtained lending approval, and proof thereof, on or before the Closing Date (as defined in Section 5 below) for the transaction and other financing in an amount and upon terms satisfactory to the Buyer, in the Buyer's sole and absolute discretion.

(b) **Third-Party Consent.** Receipt of all required regulatory, governmental, and third-party consents or approvals necessary to consummate the Transaction.

(c) **Cherokee Metropolitan District Approval.** Buyer obtaining written verification signed by Cherokee Metropolitan District evidencing its approval and ratification of the previous transfers of the Tipton Water Rights listed above and confirming the Partnership as the beneficial owner of the Tipton Water Rights, through its membership in Cherokee Water, LLC.

(d) **Cherokee Water, LLC Approval.** Buyer obtaining written approval signed by all members of Cherokee Water, LLC confirming, ratifying and consenting to Buyer's purchase of the Partnership Interests and the successful change of real property location the Tipton Water Rights shall be appurtenant to, which location Buyer shall specify after the Effective Date but prior to the Closing Date, as voted on by the members of Cherokee Water, LLC pursuant to its Operating Agreement and Cherokee Metro District pursuant to the Water Service Agreement dated December, 4 2006.

(e) **Other Documents.** Buyer obtaining any and all other documents requested by Buyer from Seller that are necessary or reasonably required to consummate the Transaction, including, but not limited to, the Assignment.

5. **Closing; Termination.** The closing of the Transaction (the "Closing") will occur no more than 30 days after expiration of the Due Diligence Period (whether such period expires on its own terms or if Buyer earlier waives any remaining balance of the Due Diligence Period), provided that Closing shall occur only after Buyer has determined that all Conditions to Closing set forth in Section 4 above have been satisfied (the "Closing Date"). Notwithstanding the foregoing, the Closing Date shall occur no later than October 1, 2021, subject to extension only by mutual agreement of both parties.



6. **Indemnification from Third-Parties.** The Buyer and Seller represent and warrant to the other that neither the matters set forth in this Agreement, nor the consummation of the Transaction contemplated herein, will breach or interfere with any contractual or other obligations to any third-party. Buyer and Seller hereby unconditionally agree to indemnify and hold harmless the other and their respective officers, directors, employees and agents from and against all liability, claim, injury, damage, cost, or expense of any kind, including reasonable attorney's fees, directly or indirectly related to, associated with, or arising out of any breach of any representation and warranties contained within this Agreement.

7. **Seller's Representations and Warranties.** Seller hereby represents and warrants to Buyer as follows:

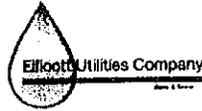
(a) Seller is the true and lawful 100% owner of the Partnership Interest being sold to Buyer, and the issuance of the Partnership Interest will be duly authorized by all necessary acts on the part of the Partnership. Further, the Partnership Interest is not subject to any mortgages, encumbrances, pledges, or other encumbrances affecting title and ownership of the Partnership Interest. Seller further covenants not to pledge, encumber or otherwise use the Partnership Interest as security for any debt from the date hereof through the Closing Date.

(b) There is no action, suit, or legal proceedings or other proceedings pending or threatened (or, to the best knowledge of Seller, any basis therefor) against Seller which may adversely affect the transactions contemplated by this Agreement, affecting the Partnership, or affecting any portion of the Tipton Water Rights or any portion of the Powers Property, in any court or before any arbitrator of any kind or before any governmental body which may adversely affect the transactions contemplated by this Agreement.

(c) The financial statements of operations and of assets and liabilities that have been or will be delivered to Buyer are in accordance with the books and records of the Partnership are true, correct, and complete; fairly represent the financial condition of the Partnership as of the dates of such financial statements and the results of the Partnership's operations for the periods then ended; and were prepared on a basis consistent with prior accounting periods.

(d) The execution and delivery of this Agreement by Seller and the consummation of the contemplated Transaction is not subject to the issuance of a novation by any applicable governmental authority, nor the approval or consent of any third-party, except as otherwise set forth herein.

8. **IRREVOCABILITY.** BUYER HEREBY ACKNOWLEDGES AND AGREES THAT THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT IS IRREVOCABLE BY SELLER AND SELLER SHALL HAVE AN OBLIGATION TO CONVEY THE PARTNERSHIP INTERESTS OF THE PARTNERSHIP, AND BENEFICIAL OWNER OF THE TIPTON WATER RIGHTS, TO BUYER IN STRICT ACCORDANCE WITH THIS AGREEMENT, SUBJECT TO THE CHEROKEE WATER, LLC OPERATING AGREEMENT AND THE CHEROKEE METROPOLITAN DISTRICT AND POWER AND GALLEY WATER



SERVICE AGREEMENT AND SUBJECT TO BUYER'S UNILATERAL RIGHT TO TERMINATE THIS AGREEMENT AS SET FORTH HEREIN.

9. **Non-Disclosure.** Except as required by law or as the Buyer and Seller agree in connection with ongoing due diligence pursuant to this Agreement will be kept strictly confidential, and neither Buyer, nor Seller nor their affiliates, shall disclose Buyer's interest in the proposed transaction, or any of the terms and conditions thereof.

10. **Governing Law.** This Agreement shall be interpreted and enforced by the law of the State of Colorado.

11. **Survival of Representations, Warranties and Agreements.** All of the representations, warranties, covenants, promises and agreements of the parties contained in this Agreement shall survive the execution, acknowledgement, sealing and delivery of this Agreement.

12. **No Brokers.** Each party hereby represents and warrants to the other party that neither it nor its representatives have made any arrangements for the payment of any finders' fees, brokerage fees, agents' commissions, or like payments in connection with the Agreement. Each party shall indemnify and hold harmless the other party from any claim that is asserted by any person or entity for a finder's or broker's fee or like payment with respect to this Agreement arising from any act, representation or promise of the indemnifying party or its representative.

13. **Amendments; Waivers.** No provision of this Agreement may be amended, waived, or otherwise modified without the prior written consent of all of the parties. The waiver by any party hereto of a breach of any provision or condition contained in this Agreement shall not operate as a waiver of any subsequent breach or of any other conditions hereof.

14. **Attorney Fees.** In the event of any dispute arising out of this Agreement, the court or arbitrator shall award to the prevailing party all reasonable costs and expenses, including without limitation, attorneys' fees.

15. **Incorporation.** The Recitals set forth above and any and all exhibits to this Agreement are expressly incorporated into this Agreement as if fully set forth herein.

SIGNATURE PAGE TO FOLLOW



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

“BUYER”

“SELLER”

**Ellicott Utilities Company, LLC,
a Colorado limited liability company**

By: R. Randy Goodson
R. Randy Goodson (May 11, 2021 15:47 PDT)
Randy Goodson, President

PB Patel 5-12-2021
PB Patel

Savitaben P. Patel 5-12-2021
Savitaben P. Patel

“PARTNERSHIP”

**PB & Sons,
a Colorado General Partnership**

By: P. B. Patel
Name: P. B. Patel
Title: Mgr.
5-12-2021

WATER SERVICE AGREEMENT BETWEEN
CHEROKEE METROPOLITAN DISTRICT AND
ELLCOTT UTILITIES COMPANY, LLC

This Agreement is effective August 17, 2021 between Cherokee Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado whose address is 6250 Palmer Park Blvd., Colorado Springs, Colorado 80915 ("Cherokee"); and, Ellicott Utilities Company, LLC, a California Limited Liability Company having an address of P.O. Box 231961, Encinitas, CA 92023 ("EUC").

RECITALS

WHEREAS, EUC is a water supply utility for a development of approximately 553 acres of real property located in El Paso County Colorado ("the Development"). A location map and the legal description of Development are attached as **Exhibit A**.

WHEREAS, Cherokee Water LLC was created in order to hold title to a certain water right and to provide water service commitments to Members of Cherokee Water, LLC's proposed new developments within Cherokee in order to satisfy water supply sufficiency requirements from El Paso County and the State of Colorado for those developments ;

WHEREAS, in order to establish the framework for the holding of title to the Water Rights by Cherokee Water, LLC and for the treatment and delivery of the water right by Cherokee, Cherokee Water, LLC and Cherokee have entered into two agreements: the Cherokee Water, LLC Operating Agreement (the "LLC Operating Agreement") and the Water Service Agreement between Cherokee and Cherokee Water, LLC (the "Water Service Agreement").

WHEREAS, EUC has obtained a membership interest in Cherokee Water, LLC that was formerly owned by Powers and Galley, LLC ("Powers and Galley"). This membership interest includes an interest in 54.03 acre-feet per year derived from a certain water right (the "Water Right"), as more fully described in the Certificate of Ownership of Cherokee Water, LLC attached as **Exhibit B**.

WHEREAS, EUC now desires to obtain a commitment from Cherokee to provide water from the Water Right to the Development.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

- I. Conditions Precedent: This Agreement, and all of Cherokee's obligations to deliver the Water Right as provided herein, including the obligations to accept the Water Right as a valid legal and physical supply of water for the Development, are expressly contingent upon: (1) EUC's compliance with the LLC Operating Agreement and the Water Service Agreement; (2) the acceptance by the State Engineer, the Upper Black Squirrel Creek Ground Water Management, and El Paso County of the Water Right as a valid and sufficient legal and physical supply of water for The Development; and, (3) full compliance by EUC and the Development owners with all of Cherokee's policies, rules and regulations, as they now exist, and as may be amended or adopted from time to time.

- II. Water Service to the Development to be Provided by Cherokee Water, LLC through its Water Service Agreement with Cherokee.
 - A. Delivery. Subject to the terms and conditions of this Agreement, the LLC Operating Agreement and the Water Service Agreement, Cherokee agrees to deliver to the Development up to 54.03 acre-feet per year of the water obtained from the Water Right (the "Subject Water"). Cherokee shall have no obligation to supply water service to the Development in excess of 54.03 acre-feet per year.

 - B. Delivery Location. The point of delivery to EUC shall be at a meter ("Meter") installed within the existing building located approximately at a point 80 feet South of a point 1300 feet east along the section line between sections 10 and 15 from the corner of sections 10, 11, 14, and 15 in Township 14 South, Range 63 West of the 6th Prime Meridian, as depicted in Exhibit A (the "Delivery Location").

 - C. Delivery Measurement and Accounting. EUC shall provide Cherokee with an accounting of all Subject Water delivered under this Agreement to Cherokee on a monthly basis, including readings from the Meter.

 - D. Place of Use. The Subject Water shall be used by EUC within the Development.

 - E. Cherokee agrees that the Subject Water will be dedicated solely for the purpose of delivery to the Development. The Parties understand and acknowledge that the

Subject Water is and will be commingled with other Cherokee water sources and that the water service actually delivered to the Development will not consist 100% of the actual physical water withdrawn from the Water Right.

F. Price. The Price for the Subject Water shall not exceed four thousand dollars (\$4,000.00) per acre foot of Subject Water which rate is based on Cherokee's standard rate for bulk water deliveries to out-of-district customers. Every five (5) years, the Price will be adjusted based on the total change in the Consumer Price Index (CPI) for Denver-Boulder since the previous adjustment.

G. Water Quality. The water provided pursuant to this Agreement shall be raw, untreated water. Cherokee does not guarantee the quality of the Subject Water, and EUC is solely responsible for meeting and maintaining compliance with all state and federal safe drinking water regulatory requirements or other applicable laws and regulations that may exist now or in the future. EUC is solely responsible for treating, disinfecting, or otherwise making the Subject Water suitable for its intended use.

H. Delivery Infrastructure.

1. Connection to Cherokee System. The parties acknowledge that the Subject Water will be delivered to the Delivery Location from a pre-existing connection to Cherokee's water supply pipeline ("Connection Point"). EUC shall be solely responsible for all costs related to the infrastructure beyond the Connection Point, including but not limited to any pipelines, meters, valves, and backflow prevention devices.

2. Installation of Meter. EUC shall provide Cherokee with plans for the specifications and design of the Meter, and the Meter shall not be installed until the plans have been approved by Cherokee in writing. EUC shall notify Cherokee upon completion of the Meter installation. Cherokee shall inspect the Meter within ten (10) days of such notice. Cherokee will not deliver any Subject Water hereunder until it has approved the Meter in writing. Subject to the warranty obligations as set forth in Cherokee's Rules and Regulations, and subject to EUC's maintenance and other obligations during the warranty period, EUC shall dedicate and Cherokee will accept the Meter. At such time as the warranty period expires, and Cherokee accepts the Meter, EUC shall convey the Meter to Cherokee, free and clear of all liens and encumbrances.

Once the Meter has been accepted by Cherokee and conveyed to Cherokee by EUC, the Meter shall become the property of Cherokee and shall be maintained and operated by Cherokee.

3. Security and Access. EUC shall timely provide Cherokee access to the Delivery Location as reasonably requested by Cherokee, for the purpose of inspecting infrastructure, confirming meter readings, or any other purposes related to this Agreement. EUC shall comply with all security requirements for public water supply infrastructure as required by law.
4. Infrastructure and Condition. Cherokee is not responsible for delivery of the Subject Water beyond the Delivery Location, including the construction of any infrastructure, as necessary. EUC is solely responsible for the development, operation, maintenance, and all other aspects of delivery and provision of water beyond the Delivery Location, including but not limited to the construction of water infrastructure, including final water treatment and water connections, procurement of a Public Water System ID (PWSID) number from the Colorado Department of Public Health & Environment, compliance with all public water system requirements, and any other actions necessary to take delivery from the Delivery Location and deliver the Subject Water to its customers. EUC shall remain responsible for the operation, maintenance, repair, and replacement of the infrastructure needed to deliver the Subject Water to its customers, absent express written agreement to the contrary. Cherokee expressly disclaims liability of any kind resulting from or arising out of the delivery of water beyond the Delivery Location.
5. Firefighting Capability. EUC shall be solely responsible for procuring, constructing, operating, and maintaining any water supply infrastructure and/or water necessary to supply water for firefighting purposes, including but not limited to the maintenance of storage reserves and system capacity sufficient to provide water at the rates and amounts required for such purposes. Cherokee shall have no obligation to provide Subject Water above the rates and amounts set forth herein, even in emergency situations.
6. No Retail Service by Cherokee. Cherokee shall have no obligation with respect to the retail services associated with the delivery of Water to EUC's customers. It will be the sole obligation of EUC to respond to the individual water demands of its users, including but not limited to billing and collecting payments for water service in a manner that ensures it meets its obligations under this Agreement.

III. General Provisions

- A. Billing and Payment. Cherokee shall bill EUC each month for any Subject Water delivered under this Agreement during the preceding month. EUC shall pay such invoices within thirty (30) days of receipt.
- B. Rules and Regulations. Cherokee's provision of the Subject Water pursuant to this Agreement shall be subject to the rules, regulations, policies and resolutions promulgated by Cherokee from time to time. Cherokee shall not be obligated to provide the Subject Water if EUC or its successors in interest to all or any part of the Development property are not in compliance with this Agreement.
- C. Remedies for Breach. In the event a Party deems the other Party to be in default, it shall provide written notice indicating the event of default. The defaulting party shall have thirty (30) days from the date of the notice to cure the stated default. In the event of a default which is not cured within the Cure Period or otherwise not subject to these cure provisions, the non-breaching Party shall be entitled to the following remedies, in addition to those otherwise provided at law or equity:
1. If EUC remains in breach of this Agreement following the Cure Period, Cherokee may suspend deliveries of the Subject Water to EUC until the default is cured following advance written notice to EUC of the forthcoming suspension. Once the default is cured, however, Cherokee agrees to resume delivery of the Subject Water pursuant to this Agreement.
 2. If the breach is EUC's failure to meet its monthly obligation to pay for the Subject Water delivered, Cherokee shall be entitled, in addition to any other remedies available at law, to collect a late fee of five percent (5%) of the amount not paid prior to expiration of the Cure Period, and interest shall accrue on all amounts past-due at an annual rate equal to the prime rate of interest announced by Wells Fargo Bank, Colorado Springs, Colorado, as of the expiration of the Cure Period, plus five percent (5%). Cherokee shall also be entitled to reimbursement for the costs of collection, including reasonable attorney fees.
 3. The non-breaching Party may file suit to recover amounts due and seek damages for breach of this Agreement by the other Party.
- D. Notices. Whenever notice is required to be given hereunder, it shall be in writing and may be sent by email or delivered or mailed to the Party entitled thereto by

registered or certified U.S. mail, return receipt requested. If delivered or sent by email, said notice shall be effective and complete upon delivery or transmission of the email. If mailed, said notice shall be effective and complete as of the date of mailing. Until changed by notice in writing, notice shall be given as follows:

To Cherokee: General Manager
Cherokee Metropolitan District
6250 Palmer Park Blvd.
Colorado Springs, CO 80915

To EUC: Jason Kvols, Development Manager
Ellicott Utilities Company, LLC
P.O. Box 231961
Encinitas, CA 92023

- E. No Operating Obligation. Nothing in this Agreement shall be deemed or construed as creating any obligation on Cherokee to operate its facilities in any particular manner, so long as Cherokee complies with the express terms of this Agreement.
- F. Indemnification. Subject to the provisions of the Colorado Governmental Immunity Act, and without waiving the provisions of same, EUC, to the fullest extent permitted by law, shall indemnify and hold harmless Cherokee and its directors, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including reasonable attorney fees and court costs, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or related to this Agreement, except to the extent they result from Cherokee's reckless or willful acts. This includes, but is not limited to, any damages which may arise from Cherokee's delivery of water and the transportation of water under this Agreement by means of any water carriage facilities beyond the Connection Point.
- G. No Waiver of Governmental Immunity Act. By entering into this Agreement, the Parties and their directors, agents and employees are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations and other rights, immunities and protections provided by the Colorado

Governmental Immunity Act, C.R.S. §§ 24-10-101 to 120, or otherwise available to the Parties.

- H. Entire Agreement. This Agreement contains the entire agreement between the Parties. The Parties agree there have been no representations made other than those contained herein; that this Agreement constitutes their entire Agreement; and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.
- I. Amendment. Amendments to this Agreement shall only be effective if entered into in writing with the same formality as this Agreement and mutually approved by the Parties.
- J. No Third Party Beneficiaries. There are no express or implied third party beneficiaries of this Agreement. No third party has the right to enforce this Agreement.
- K. No Assignment. No right hereunder shall be assigned by any of the Parties, except as mutually agreed to in writing.
- L. Governing Law and Venue. This Agreement shall be interpreted pursuant to the laws of the State of Colorado and venue for any disputes shall be in El Paso County, Colorado.
- M. Waiver of Rights. The failure of any Party to exercise any right under this Agreement shall not be deemed a waiver of such Party's right and shall not affect the right of such Party to exercise at some future time the right or rights or any other right it may have under this Agreement.
- N. Force Majeure. No Party to this Agreement shall be liable for any delay or failure to perform due solely to conditions or events of force majeure, as that term is defined in this paragraph; provided that: (i) the non-performing Party gives each other Party prompt written notice describing the particulars of the force majeure based upon satisfactory evidence; (ii) the suspension of performance is of no greater scope and of no longer duration than required by the force majeure event or condition; and (iii) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform. As used in this paragraph, force majeure shall mean any delay or failure of a Party to perform its obligations under this Agreement caused by events beyond the Party's reasonable control and without the fault or negligence of the Party, including, without limitation (a) acts of God; (b) sudden actions of the elements such as floods, earthquakes, hurricanes,

or tornadoes; (c) sabotage; (d) vandalism beyond that which can be reasonably prevented by the Party; (e) terrorism; (f) climate variability; (g) war; (h) riots; (i) fire; (j) explosion; (k) blockades; (l) insurrection; (m) strike, slow down or labor disruptions (even if such difficulties could be resolved by conceding to the demands of a labor group); (n) action of the government (except the parties hereto); (o) commandeering of material, products, plants or facilities by the federal, state or local government (except the parties hereto); and (p) national fuel shortage.

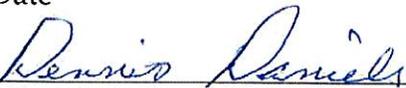
1. Subordination Clause. In the event of a force majeure event or condition as described above in this paragraph 25, until the event or condition is resolved, this Agreement shall be made expressly subordinate to any present or future use of water supply for municipal purposes within the service territory of Cherokee or to meet contracted water delivery obligations of Cherokee existing prior to the execution of this Agreement.
 2. Cooperation. Should there be evidence of force majeure that may affect, or has affected, the ability of any of the Parties to meet its obligations under this Agreement, the Parties agree to meet and negotiate in good faith any modifications to this Agreement to ensure a reasonable and coordinated response to such force majeure with the goal of forestalling the need for a force majeure declaration.
- O. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.
- P. Authority. The Parties each affirm and represent that they have the full power and authority to execute this Agreement and thereafter perform all of the terms and conditions set forth herein.
- Q. No Agency. This Agreement is not intended and shall not be construed to create any joint venture, agency relationship or partnership between the Parties. None of the Parties shall have any right or authority to act on behalf of or bind any other Party.

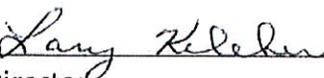
R. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one agreement.

THEREFORE, IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year above written.

CHEROKEE METROPOLITAN DISTRICT

By: 
Steven Hasbrouck, President
August 26, 2021
Date

By: 
Director
26 Aug 21
Date

By: 
Director
8-26-2021
Date

By: 
General Manager
8-26-21
Date

ELLCOTT UTILITIES COMPANY, LLC

By: 
Signature

John Mick
Name
Chief Financial Officer 9/22/2021
Title Date

EXHIBIT A
Map and Legal Description of Development Property

EXHIBIT
Water Use Description

WATER USE DESCRIPTION

A Tract of land established for the purpose of water use, being part of the Northeast 1/4, all of the Northwest 1/4 and all of the Southwest 1/4 of Section 14, and part of the Northeast 1/4 and part of the Southeast 1/4 of Section 15, all in Township 14 South, Range 63 West of the 6th Principal Meridian, in the county of El Paso, state of Colorado, said Tract also encompassing all of the lands platted as MAYBERRY, COLORADO SPRINGS FILING NO. 1 and MAYBERRY, COLORADO SPRINGS FILING NO. 2, subdivisions of land in said county and state, the plats of said subdivisions recorded as Reception Numbers 220714655 and 221714698, respectively, in the office of the Clerk and Recorder of El Paso County, Colorado, said Tract more particularly described as follows:

BEGINNING at a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" found at the Northwest corner of said Section 14, Thence South 89° 44' 49" East 2606.52 feet on the North line of said Northwest 1/4 of Section 14 to a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" found at the North 1/4 corner of said Section 14, said North line being the basis of bearings of the land described herein and the record bearing as shown on the plat of said MAYBERRY, COLORADO SPRINGS FILING NO. 1, and all bearings herein are relative thereto; Thence South 89° 44' 50" East 1303.29 feet on the North line of said Northeast 1/4 of Section 14; Thence South 00° 21' 12" East 2633.63 feet on the East line of the West 1/2 of said Northeast 1/4 of Section 14 to the South line of said Northeast 1/4 of Section 14; Thence North 89° 36' 00" West 1308.58 on said South line to the Center corner of said Section 14; Thence South 00° 14' 15" East 2631.90 feet on the East line of said Southwest 1/4 of Section 14 to the South 1/4 corner of said Section 14; Thence North 89° 24' 37" West 2630.66 feet on the South line of said Southwest 1/4 of Section 14 to a 2 inch aluminum cap marked "U.P. & E. PLS 11624 1999" found at the Southwest corner of said Section 14, also being the Southeast corner of said Section 15; Thence North 89° 25' 53" West 1313.35 feet on the South line of the East 1/2 of the Southeast 1/4 of said Section 15 to a 2-1/2 inch aluminum cap marked "RAMPART PLS 38560 2019" found at the East 1/16th corner common to Sections 15 and 22; Thence North 00° 05' 20" East 5253.60 feet on the West line of the East 1/2 of the East 1/2 of said Section 15 to the North line of the Northeast 1/4 of said Section 15; Thence South 89° 07' 06" East 1307.43 feet on said North line to the POINT OF BEGINNING, said Tract containing 24,074,435 square feet or 552.673 acres.



EXHIBIT - WATER USE DESCRIPTION			R&R ENGINEERS-SURVEYORS, INC. 1635 W. 13TH AVENUE, SUITE 310 DENVER, COLORADO 80204 PH. 303-753-6730 WWW.RRENGINEERS.COM
Date: 8/17/2021 Drawn: OD Checked: MAG Job No.: MC21194	Sheet 1 of 1		

EXHIBIT B

Certificate of Ownership – Powers and Galley, LLC

ASSIGNMENT AND ASSUMPTION OF PARTNERSHIP INTERESTS

(PB & Sons Partnership

EIN: 59-3073655)

THIS ASSIGNMENT AND ASSUMPTION OF PARTNERSHIP INTERESTS ("Assignment") is entered into and is to be made effective as of September 9, 2021 ("Effective Date"), by and among P.B. Patel and Savitaben P. Patel (together, the "Assignors"), and Ellicott Utilities Company, LLC, a Colorado limited liability company ("Assignee").

RECITALS

A. Assignors are the sole partners of PB & Sons, a Colorado General Partnership (the "Partnership") and hold 100% and not less of the partnership interests in and to the Partnership (collectively, the "Partnership Interests"). The Partnership was formed pursuant to that certain Partnership Agreement dated and executed on June 27, 1991 attached as exhibit "1".

B. The Partnership Agreement was amended subsequent to formation on August 3, 2017 that resulted in removing Hitesh P Patel and Sandhya H Patel as members, attached as exhibit "2".

C. The Partnership Agreement was subsequently amended on July 17, 2019 that resulted in removing Rajesh P Patel as a member attached as exhibit "3"

D. Assignors desire to transfer, assign and convey to Assignee, and Assignee desires to acquire, all of Assignors' right, title and interest in the Partnership Interests, subject to and in accordance with the terms and provisions of this Assignment.

E. This Assignment is being entered in furtherance of that certain Purchase and Sales Agreement, dated as of May 6, 2021 (the "Purchase Agreement"), by and between PB & Sons Partnership, and Assignee to effectuate the transfer, assignment and conveyance by Assignor to Assignee of all of the Assignors' Partnership Interests in the Partnership.

FOR VALUABLE CONSIDERATION, the receipt and adequacy of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Effective as of the Effective Date, Assignor hereby distributes, transfers, assigns and conveys to Assignee all of Assignors' Partnership Interests in the Partnership, together with all of Assignors' right, title and interest in and to the Partnership and its assets, including but not limited to, 54.03 AF interest in the Tipton Well Water Rights as defined in the Cherokee Water, LLC Operating Agreement, but specifically excluding the Stetson Hills Property as such real property is defined in the Purchase Agreement (collectively, the "Partnership Assets"), subject to the terms and conditions of this Assignment.

2. Acknowledgment and Acceptance of Assignment. Effective as of the Effective Date, Assignee hereby accepts Assignors' assignment of the Partnership Interests from Assignor and agrees to assume all of Assignors' rights and obligations with respect to the Partnership Interests to the extent accruing from and after the Effective Date.

3. Withdrawal as Partner; Resignation as Officer/Agent. Effective as of the Effective Date, Assignors hereby withdraw as partners of the Partnership and hereby resign as any and all officers, agents, and/or any other form of representative of the Partnership. By execution of this Assignment, Assignor acknowledges and agrees that it no longer has any right, title or interest in, to or under its former Partnership Interests in the Partnership and/or in or to the Partnership Assets. Simultaneously with the withdrawal of these Assignors as the sole partners of the Partnership pursuant to this Section 3, Assignee is admitted to the Company as the sole partners and all references to the "Partners" in the organizational documents for the Partnership shall mean and refer to Assignee.

4. Representations, Warranties and Disclaimer.

(a) Assignors. As of the Effective Date, Assignors represents and warrants to Assignee the following:

(i) Authority. Assignors have the full right, authority and power to enter into this Agreement, to consummate the transaction contemplated herein and to perform its obligations hereunder and under those documents and instruments to be executed by it, and each of the individuals executing this Agreement on behalf of each Assignor is authorized to do so, and this Assignment constitutes a valid and legally binding obligation of Assignor enforceable against Assignor in accordance with its terms.

(ii) Sole Partners. Assignors are the sole owners of the Partnership Interest as designated herein. Assignors have not alienated, encumbered, transferred, leased, assigned or otherwise conveyed the Partnership Interest or any portion thereof, nor entered into any agreement to do so, except for the Purchase Agreement.

(iii) No Litigation. To the best of Assignors' knowledge, Assignors' have not received written notice of any complaint, litigation, investigation or proceeding that is pending or threatened against Assignors', the Partnership Interest or the Partnership.

(iv) Partnership Documents. To the best of Assignors' knowledge, Assignors' have provided Assignee with all material documentation and information in Assignors' possession relating to the Partnership and its operations preceding the Effective Date of this Assignment. Assignors' further agrees to reasonably cooperate with Assignee to provide such further information relating to the Partnership as may be reasonably requested by Assignee, to the extent in Assignors' actual possession or reasonable control.

(v) No Third-Party Rights. To the best of Assignors' knowledge, without duty of inquiry or investigation, and except as previously disclosed in any materials or other information provided to Assignee, there are no leases, occupancy agreements, licenses, or other agreements that grant third-parties any possessory or usage rights to all or any of the part of any Partnership property.

(vi) Bankruptcy. To Assignors' knowledge, there are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy, or any other debtor relief actions pending against the Partnership in any current judicial or administrative proceeding.

(vii) No Violations. To the best of Assignors' knowledge, Assignor's have not received written notice of any current violations of any laws, statutes, ordinances, regulations or other requirements of any governmental agency in connection with or related to the Partnership.

(viii) Conveyance and Condition of Stetson Hills Property. Assignors have caused the Partnership to convey the Stetson Hills Property to a yet-to-be-formed entity owned or otherwise controlled by Assignors prior to the Effective Date of this Assignment. To the best of Assignors' knowledge, Assignors represent and warrant to Assignee that: (i) the Stetson Hills Property is not contaminated with any hazardous substance; (ii) Assignors nor the Partnership have not caused, will not cause, and there never has occurred, the release of any hazardous substance on the Powers Property; (iii) the Stetson Hills Property is not subject to any federal, state or local "superfund" lien, proceeding, claim, liability or action or the threat of likelihood thereof for the cleanup, removal, or remediation of any such hazardous substance in the Stetson Hills Property; (iv) there are no underground storage tanks on the Stetson Hills Property; (v) the Stetson Hills Property is not in violation of any Environmental Laws; and (vi) by acquiring the Partnership Interests, Assignee will not incur or be subjected to any "superfund" liability for the cleanup, removal or remediation of any hazardous substance from the Stetson Hills Property or any liability, cost or expense for the removal of underground storage tanks on the Stetson Hills Property. The terms "hazardous substance," "release" and "removal" as used herein shall have the same meaning and definitions as set forth in paragraphs 14, 22 and 23 respectively of Title 42 USC, §9601 and in the Colorado Statutes. PROVIDED, HOWEVER, that the term "hazardous substance" as used herein also shall include hazardous waste as defined in paragraph 5 of 42 USC, §6903, and "petroleum" as defined in paragraph 6 of 42 USC §6991, and as further defined in Colorado Statutes. The term "superfund" as used herein means the comprehensive environmental response compensation and liability act as Amended in Title 42 USC §6901, et seq. as amended in any similar state, or local statute or ordinance applicable to the Powers Property, including without limitation the applicable Colorado Statutes and all rules and regulations promulgated, administered and enforced by any governmental agency or authority pursuant thereto. The term "underground storage tank" as used herein shall have the same meaning and definition as set forth in paragraph (1) of 42 USC, §6991.

(b) By Assignee. Assignee represents and warrants to Sellers as follows:

(i) Formation. Assignee is a duly formed and validly existing limited liability company in good standing under the laws of Colorado.

(ii) Authorization. Assignee has the full right, authority and power to enter into this Agreement, to consummate the transaction contemplated herein and perform its obligations hereunder. Each individual executing this Assignment on behalf of the Assignee is authorized to do so and this Assignment constitutes a valid and legally binding obligation of Assignee enforceable against Assignee in accordance with its terms. Assignee has taken all

necessary action to authorize the transaction contemplated by this Assignment and Assignee's execution and delivery of this Assignment and all documents required herein, and its performance hereunder. Assignee's execution and delivery of this Assignment, and the consummation of the transactions contemplated and required hereby, will not result in any violation of, or default under, any term or provision of any agreement to which Assignee is a party or by which Assignee is bound.

(iii) No Litigation. To the best of Assignee's knowledge, there is no complaint, litigation, investigation or proceeding pending or, to Assignee's actual knowledge, contemplated or threatened against Assignee which would prevent Assignee from performing its obligations under this Assignment or any other instrument or document related hereto.

(c) Survival. The representations, warranties and covenants of Assignor and Assignee above shall survive this Assignment following the Effective Date.

(d) Assignors' Knowledge. For purposes hereof, any reference to "Assignors' knowledge" or any derivatives thereof as used in this Assignment means the current actual knowledge of PB Patel and Savitaben P. Patel, without any duty of inquiry or investigation, and shall not be deemed to include any implied, imputed or constructive knowledge of Assignor or any other person or entity.

5. Indemnity. Assignee agrees to indemnify, defend and hold Assignor harmless from and against any obligations or liabilities with respect to the Partnership and/or the Partnership Interest which may occur after the date of this Assignment. Assignor agrees to indemnify, defend and hold Assignee harmless from and against any obligations or liabilities with respect to the Partnership and/or the Partnership Interest which have occurred prior to the date of this Assignment.

6. Successors and Assigns. This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties hereto.

7. - Further Assurances. Assignor shall execute and deliver to Assignee, upon demand, such further documents, instruments and conveyances, and shall take such further actions as Assignee may from time to time reasonably request, to vest fully in Assignee, the right, title and interest herein intended to be assigned.

8. Continuation of the Partnership. The parties acknowledge and agree that the assignment of the Partnership Interests and/or Partnership Interests by Assignor to Assignee shall in no way cause the dissolution of the Partnership, nor shall such assignment and transfer be deemed or construed to terminate the Partnership.

9. Counterparts. This Assignment may be executed in counterparts, each of which shall constitute an original, but all of which together, shall constitute one and the same agreement. digital signatures, including digital counterparts, shall be recognized and deemed as

an original signature to this Assignment.

10. Binding Effect. This Assignment shall be binding upon and inure to the benefit of Assignor's and Assignee, and their respective successors and assigns. This Assignment contains the entire agreement between Assignor and Assignee concerning the transfer of the Partnership Interests and supersedes all understandings or assignments in regard thereto.

11. Attorneys' Fees. If a suit, action or other proceeding of any nature whatsoever is instituted in connection with this Assignment, or to interpret or enforce any rights or remedies hereunder, the prevailing party shall be entitled to recover its attorneys' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith.

12. Governing Law. This Assignment shall be governed by, and interpreted in accordance with, the laws of the State of Colorado, all rights and remedies being governed by such laws.

[Signature Pages to Follow]

This Assignment has been executed as of the day first written above and shall be made effective as of the Effective Date.

“ASSIGNORS”



PB Patel



Savitaben P. Patel

ASSIGNEE:

**Ellicott Utilities Company, LLC
A Colorado Limited Liability Company**

By: *R. Randy Goodson*
R. Randy Goodson (Sep 8, 2021 17:16 PDT)
Randy Goodson, President

Sep 8, 2021

B.7. BENTON WELL NO. 2 CHANGE OF WATER RIGHT APPLICATION (113 AF)

*Application for Change of Type of Use and/or Change in Place of Use within a Designated
Groundwater Basin*

BBA Water Consultants "Historical Consumptive Use Analysis for Well 17075-FP-R"



**HISTORICAL CONSUMPTIVE USE ANALYSIS
FOR WELL 17075-FP-R**

Prepared for

Ellicott Utilities Company, LLC

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LIST OF ACRONYMS AND ABBREVIATIONS

AF	acre-feet
af/yr	acre-feet per year
CDSS	Colorado's Decision Support Systems
DWR	Colorado Division of Water Resources
FSA	Farm Service Agency
gpm	gallons per minute
NAIP	National Agriculture Imagery Program
NOAA	National Oceanic and Atmospheric Administration
NRCS	Natural Resources Conservation Service
USDA	United States Department of Agriculture

HISTORICAL CONSUMPTIVE USE ANALYSIS FOR WELL 17075-FP-R

SECTION 1 – INTRODUCTION

This report provides technical information in support of Ellicott Utilities Company, LLC’s (“EUC”) application to the Colorado Ground Water Commission (“Commission”) for a Change of Water Rights for an alluvial water supply well filed together with this report. Well 17075-FP-R (the “Well”) is located in the Upper Black Squirrel Creek Designated Basin (“UBS Basin”) near Ellicott, Colorado. The application seeks a change in place and type of use of the ground water right associated with the Well.

1.1 Background and Farm Description

The area historically irrigated by the Well comprises approximately 280 acres located south of Ellicott, Colorado entirely within the west half of Section 14, Township 15 South, Range 63 West, as shown in Figure 1. The Well is located within the UBS Basin and is subject to the state rules governing the management and control of designated basin groundwater, as well as the rules specific to the UBS Basin¹. Well permit information for the Well is summarized in Table 1.

The Well is located on land owned by Dean Goss. Based on documents provided to us by EUC, Ellicott Springs Resources, LLC acquired the Well in 1999 and EUC acquired the Well in early 2013. It appears that the land irrigated by the Well was primarily farmed by Rodney Preisser and Mr. Goss until at least 2013. Well pumping data and crop history records were poorly maintained throughout the study period, as discussed in Section 3.

EUC is filing an application to the Commission to quantify the historical consumptive use (“HCU”) for the Well and for approval of a change in the type and place of use. Changed uses include municipal, irrigation (including irrigation at the historical place of use), commercial, industrial, domestic, stock watering, recreation, fish and wildlife purposes, residential, fire protection, replacement and augmentation, either through direct use or following storage (the

¹ *Upper Black Squirrel Creek Ground Water Management District Rules and Regulations and Statement of Policy As Amended through February 3, 2009.*

“Changed Uses”). The new place of use will be within Mayberry Colorado Springs Metropolitan District.

We completed an HCU analysis to determine the amount of water attributable to the Well that will be available for the Change Uses. This report summarizes the methodology and results of that analysis.

EUC is filing an application to the Commission to quantify the historical consumptive use (“HCU”) for the Well and for approval of a change in the type and place of use. The changed uses will be for municipal, irrigation (including irrigation at the historical place of use), commercial, industrial, domestic, stock watering, recreation, fish and wildlife purposes, residential, fire protection, replacement and augmentation, either through direct use or following storage purposes within Mayberry Colorado Springs Metropolitan District (the “Changed Uses”).

We completed an HCU analysis to determine the amount of water attributable to the Well that will be available for the Changed Uses. This report summarizes the methodology and results of that analysis.

SECTION 2 – GENERAL OVERVIEW OF METHODOLOGY FOR THE HCU ANALYSIS

To complete the HCU analysis for the Well, the historical operation of the Well and irrigation operations were investigated, including historical use, irrigated areas, crops grown and corresponding irrigation requirements, historical pumping, soil characteristics, and on-farm irrigation efficiencies. The elements above are described in further detail in Section 3.

2.1 Modified Blaney-Criddle Method

The HCU for the Well was quantified by conducting a site-specific water budget analysis based on the modified Blaney-Criddle method in Colorado State University’s Integrated Decision Support Consumptive Use (“IDSCU”) modeling software (version 3.3.162). Potential crop consumptive use (“PCU”) equals the maximum amount of water that may be consumed by a crop given a full water supply. The modified Blaney-Criddle method calculates PCU using monthly temperature data and empirically developed crop coefficients established in USDA Technical Release No. 21.

The crop irrigation requirement (“CIR”) is the amount of irrigation water that a crop will consume after accounting for effective precipitation. CIR is calculated in IDSCU using monthly precipitation data from a nearby climate station as described in Section 2.3. A water budget analysis was completed using historical pumping records and CIR to determine the amount of HCU attributable to the Well that was historically consumed by crops.

2.2 Study Period

According to the Rules and Regulations for the Management and Control of Designated Ground Water (the “Commission Rules”), consumptive use should be determined for at least the ten most recent years of irrigation. A study period of 2006 – 2020 (the “Study Period”) was chosen based on availability of pumping and crop data and years for which the Well owner submitted Requests to Register in a Water Conservation Program (“Conservation Program Requests”), as shown in Table 2. EUC submitted Conservation Program Requests to the DWR in 2012 – 2014 and 2017 - 2018 to exclude those years from any future consumptive use analysis. The stamped waivers are attached to this report as Appendix A.

2.3 Climate Data

As described in Section 2.1, use of the modified Blaney-Criddle methodology and calculation of HCU requires monthly inputs of air temperature and precipitation. The NOAA Ellicott station (USC00052668) (“Ellicott Station”) is the closest climate station that measured all necessary parameters over the study period. Where data for the Ellicott Station were not available, we used data from the Colorado Springs Municipal Airport climate station (USC00093037). Data for all climate parameters are publicly available through the DWR website.

SECTION 3 – HISTORICAL USE OF WELL 17075-FP-R

3.1 Final Well Permit No. 17075-FP-R

The Well is located in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 14, Township 15 South, Range 63 West and diverts ground water from the alluvial aquifer of UBS Basin as shown in Figure 1. The Well was permitted for a maximum pumping rate of 1,300 gpm, with an annual pumping limit of 850 AF. Well No. 11197-FP irrigates the E $\frac{1}{2}$ of Section 14, Township 15 South, Range 63 West which

is immediately adjacent to the area historically irrigated by the Well. Based on our review of the well permit files for both wells, the Well is not commingled with Well No. 11197-FP.

3.2 Description of Historical Farming Practices

Based on review of aerial imagery, the area historically irrigated by the Well has been irrigated by two center-pivot sprinklers throughout the Study Period. As shown in Figures 2 - 8, approximately 122 acres were irrigated by the center-pivot sprinkler in the NW ¼ of Section 14 and approximately 124 acres were irrigated by the center-pivot sprinkler in the SW ¼ of Section 14. We understand that both center-pivots are supplied by the Well. We understand that the former irrigator and Mr. Goss have not provided information regarding the sprinkler configuration.

3.3 HCU Analysis

The following section summarizes the HCU analysis inputs and results for the Well.

3.3.1 Irrigated Area and Crop History

We were unable to access FSA reports or conduct an interview with Mr. Goss regarding the area historically irrigated by the Well. We also reviewed historical aerial imagery from 2006 - 2016 to confirm the irrigated areas used in our HCU analysis and to confirm that no irrigation occurred in years in which the operator submitted Conservation Program Requests. We acquired NAIP and Google Earth images for 2006, 2009, 2011, and 2015. We used Landsat images in 2008, 2010, and 2016 due to lack of NAIP and Google Earth images in those years. Areas of green vegetation appear red in the false-color Landsat 5 images. As shown in Table 2, the average historical irrigated area equals 148.2 acres. Historical irrigated areas are shown in Figures 2 – 8.

Crop history was determined from CDSS records and historical records provided by EUC where available. We reviewed a change of use application submitted to the DWR in 2006 by Rodney Preisser. This application was ultimately withdrawn but included crop history information through 2006. The application states that 140 acres of oats and 140 acres of “mill/peas” were irrigated in 2006. The 280 acres of crops reported for 2006 appears overstated because the maximum area of the center-pivots is approximately 250 acres. Therefore, we have reduced the 2006 crop extents to the areas measured from aerial imagery, as shown in Figure 2. An excerpt of the 2006 change of

use application is included as Appendix B. Where CDSS data and historical records were not available, we assumed that pasture grass was irrigated.

3.3.2 Well Pumping

We used meter data and prorated annual pumping totals to estimate historical well pumping. We understand that the Well is equipped with a totalizing flow meter, but monthly pumping data were available for only a limited portion of the Study Period. We obtained meter data for the Well for 2008 – 2011 from EUC which are included as Appendix C. Meter readings were distributed daily and summed monthly when meter readings were recorded in the middle of a month. We also obtained annual pumping data for 2006 that was included in a collection of documents provided by UBS Ground Water Management District in response to a 2011 Colorado Open Records Act request made Ellicott Springs Resources, LLC and obtained by EUC. These data were distributed monthly based on the pumping volume distribution from 2008 to 2011 and are included as Appendix D.

No meter data were available for 2015 or 2016, as discussed in Section 3.3. The Well is operated using a diesel pump rather than a connection to an electrical provider and therefore electrical records cannot be used to estimate historical pumping volume for the periods without meter data. Based on available data, pumping from the Well averaged 110.46 AF, as shown in Table 3 including zeros for years in which no pumping data were available.

3.3.3 Ditch Loss and Farm Deliveries

The Well is located on the southern portion of the historically irrigated area shown in Figure 1. We understand that water is piped from the Well to the center-pivot sprinklers located in the center of each field. Based on this assumption, we assumed no transit loss from the Well to the two center-pivots.

3.3.4 Modeling of Historical Use of The Well

The following subsections describe inputs used to model the historical farming practices, including the crops grown, irrigated areas, irrigation practices, maximum farm efficiency, available water capacity of the soils, and potential consumptive use of the crops.

3.3.4.1 *Irrigation Methods and Farm Efficiency*

Maximum farm irrigation efficiency represents the maximum percentage of the sprinkler delivery that is available to meet the crop demands, either directly or after delivery to the soil moisture reservoir. Based on review of aerial imagery, the farm was irrigated by two center-pivot sprinklers for the duration of the study period. The Well is located on the southern center-pivot and we assumed no transit loss from the Well to the sprinklers. The maximum sprinkler efficiency was estimated to be 80% for this analysis, a commonly accepted value for sprinkler irrigation.

3.3.4.2 *Soils Data*

The available water capacity (“AWC”) of the soils underlying the historically irrigated area were determined using the NRCS soil survey data obtained from the NRCS Web Soil Survey. Using a soil profile depth of approximately 5 feet, a representative AWC for each soil type was weighted based on the AWC reported for each component within the soil profile. A composite AWC value was then determined by using an area-weighted average from the individual AWC values for each soil type and the percent of the irrigated area represented by each soil type. We calculated a composite AWC of 1.13 in/ft for the historically irrigated area.

3.3.5 PCU and Crop Irrigation Requirement

PCU was calculated using the modified Blaney-Criddle method implemented in IDSCU modeling software, as described in Section 2. The crop irrigation requirement (“CIR”) is the amount of water that can be consumed by a crop given a full irrigation water supply after accounting for effective precipitation. The total CIR for the crops grown on the lands historically irrigated by the Well was calculated for the Study Period using the IDSCU model and is equal to monthly PCU less effective precipitation. Effective precipitation was calculated in IDSCU using the Soil Conservation Service method. A summary of the average monthly CIR for the area historically irrigated by the Well is provided in Table 4. The CIR for the crops grown on the historically irrigated area averaged 257.32 af/yr. Based on comparison of average annual pumping and net CIR, it appears that the historically irrigated area was water short in most years if the Well was the only irrigation sourced utilized. We are unaware of any other water sources used to irrigate the historically irrigated area.

3.3.6 On-Farm Depletion of Water Supply

The on-farm depletion of water supply is equal to HCU and represents the amount of water delivered to the historically irrigated lands that was consumed by crops. The on-farm depletion occurs by both direct consumption by the crop of irrigation water and consumption of water in the soil moisture reservoir that was filled by the irrigation supply. For 2006 and 2008 – 2011, the on-farm depletion is equal to the amount of well pumping (either stored or applied) used to meet CIR in each month.

Because no pumping data are available for 2015 and 2016, on-farm depletion of irrigation supply is estimated by dividing CIR by the maximum irrigation efficiency of 80%, as described in the Commission Rules. This method resulted in consumptive use totals which exceeded any other year in the study period as shown in Table 5a. To estimate historical consumption of irrigation more accurately, we limited monthly consumptive use in 2015 and 2016 to the lesser of estimated consumptive use in 2015 and 2016 in Table 5a and average monthly consumptive use in 2008 – 2011.

On-farm depletion of water supplies from the Well averaged 113.00 af/yr as shown in Table 5b. This amount is claimed as the HCU credit.

SECTION 4 – OPINION OF HCU

It is our expert opinion that the average HCU of the water supplied by the Well is 113.00 af/yr. To the extent that irrigation water is no longer provided by the Well, this quantity of water can be changed to a new use, including uses off the farm and outside of the UBS Basin, without causing injury to other water rights and well users under the terms and conditions provided below.

SECTION 5 – TERMS AND CONDITIONS

It is our opinion that the following terms and conditions are adequate to prevent injury to other water users and to prevent expansion of use of the water rights associated with the Well.

1. Pumping amounts from the Well and any water delivered off the property shall be measured using certified totalizing flow meters in accordance with State requirements.

2. Before the Well is put to a changed use, continued irrigation use shall be limited to an annual pumping volume of 850 acre-feet per year in accordance with the existing well permit.
3. Pumping of the Well for the Changed Uses will be limited to 113.00 af/yr plus allowable withdrawals resulting from banking.

SECTION 6 – DOCUMENTS RELIED UPON

State of Colorado Ground Water Commission. Rules and Regulations for the Management and Control of Designated Ground Water. As amended January 14, 2020.

Upper Black Squirrel Ground Water Management District Rules and Regulations and Statement of Policy. As amended February 3, 2009.

Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Soil Survey Geographic (SSURGO) Database. Available online at <https://sdmdataaccess.sc.egov.usda.gov>.

USDA Soil Conservation Service. Colorado Irrigation Guide. Revised December 1988.

August 2020 BBA field visit.

Integrated Decision Support Consumptive Use (IDSCU) Model (v3.3.162) [Software]. Fort Collins, CO: Colorado State University. November 2019.

Irrigation Water Requirements, Technical Release No. 21, U.S. Department of Agriculture, Soil Conservation Service: April 1967, Revised September 1970.

Monthly climate data from the NOAA Ellicott and Colorado Springs Municipal Airport climate stations.

Division of Water Resources permit file for Well Permit Nos. 17075-FP and 17075-FP-R, including Conservation Program Requests in the well permit file.

Aerial photos of the lands historically irrigated by the Well for the following years: 2006, 2009, 2011, and 2015.

Landsat images of the lands historically irrigated by the Well for the following years: 2008, 2010, and 2016.