

Red Rock Acres filing No. 1 Subdivision

SF2513

WATER RESOURCES REPORT

For
GTG Red Rock, LLC

Per §8.4.7.B.3.d
provide information
regarding sufficient
quality.

April 15, 2025

Prepared By:

Please see comments from
El Paso County Attorney
regarding water for
irrigation and stock
reported in Water Supply
Information Summary



13511 Northgate Estates Dr., Ste. 250, Colorado Springs, Colorado 80921

Executive Summary:

Water Resources Report – Red Rock Acres Filing No. 1 Subdivision

W. James Tilton and Chris D. Cummins of Monson, Cummins, Shohet & Farr, LLC, on behalf of the Applicant, GTG Red Rock, LLC, a Colorado limited liability company (“Owner”), provide the following Water Resources/Wastewater Disposal Report in support of the Red Rock Acres Filing No. 1 Subdivision. The attorneys at Monson, Cummins, Shohet & Farr, LLC (“MCSF”) have extensive experience in water related matters, with Mr. Cummins having practiced water law almost exclusively for nearly 21 years. MCSF has substantial experience with Denver Basin groundwater resources, augmentation plans, designated basin replacement plans, subdivision proceedings, and rural water usage. Given his experience Mr. Cummins should be considered a “qualified professional” as concerns water resources, as discussed at Section 8.4.7(B)(1)(c) of the El Paso County Land Development Code. This Report, overseen by Mr. Cummins and prepared in conjunction with other professionals, is intended to demonstrate to the El Paso County Planning Commission and the BoCC, the sufficiency in terms of quantity and dependability, of the water rights and resources to be utilized in the proposed Red Rock Acres Filing No. 1 Subdivision (the “Subdivision”), in El Paso County, Colorado.

The Subdivision is on approximately 14.957 acres located in the NE¼ SW¼ and NW¼ SE¼ of Section 9, Township 11 South, Range 67 West of the 6th P.M; El Paso County, including Parcel Nos. 7109000024 and 7109014003. Owner’s two adjacent parcels are approximately 54.5 acres in size total, with the Subdivision being along the southern boundary of the two parcels. Each of the five (5) lots in the Subdivision is to be provided water and sewer/septic services through an on-site individual well and individual ~~Septic Disposal Systems (“ISDS”)~~. The proposed subdivision is currently unimproved. The five (5) planned lots will be 2.637 to 3.538 acres in size. See **Exhibit A**.

OWTS

There are no existing wells within the Subdivision. Each lot within the Subdivision will be allotted 0.952 annual acre-feet of water, totaling 4.76 annual acre feet of water. The Subdivision wells will withdraw water from the nontributary Denver aquifer, consistent with the April 14, 2025 decree issued in Water Court, Division 2, Case No. 24CW3020. Such water supply demand is similar to other rural residential homes’ historical demand. The Decree in Case No. 24CW3020 provides for a 300-year water supply for each lot within the Subdivision, with each lot utilizing an ~~ISDS~~ of a non-evaporative nature.

OWTS

The water resources to be utilized on the residential lots in the Subdivision are typical of rural residential development in this area of El Paso County, Colorado. The decree issued by Water Court, Water Division 2 in Case No. 24CW3020 demonstrates a sufficient quantity and reliability of water to support compliance with El Paso County’s 300-year water supply rules for subdivisions of this nature.

I. INTRODUCTION

The purpose of this report is to provide an overview of the water resources and

associated wastewater requirements necessary for approval of the Subdivision, as proposed.

1.1 New Development Description: The Subdivision consists of 14.957 acres located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 11 South, Range 67 West of the 6th P.M; El Paso County. The Subdivision will include five (5) lots. **Exhibit A**, attached hereto, is the plan for the Subdivision as proposed, prepared by Barron Land, LLC, a Colorado limited liability company. This analysis accounts for El Paso County's 300-year supply requirement for multiple individual wells in the Subdivision.

II. PROJECTION OF WATER NEEDS

2.1 Analysis of Water Demands: It is expected that the five residential lots in the Subdivision will utilize five individual wells (one well per lot) drilled to the Denver aquifer for domestic-type uses, including in-house, irrigation for lawn, garden, and greenhouse; domestic animal and livestock watering, fire protection, and also for storage and augmentation purposes associated with such uses. It is anticipated that the residence on each lot will utilize a minimum of 0.26 acre-feet and up to 0.952 acre-feet annually for in-house residential purposes, irrigation of lawn and garden, and watering of livestock consistent with the decree in Case No. 24CW3020 and the El Paso County Land Development Code Section 8.4.7. Based on state records for wells on nearby properties it is expected that wells to the nontributary Denver aquifer will have a flow rate of 10 to 15 gallons per minute.

There are no wells currently constructed on the property. Based on past experience with the numerous Denver aquifer wells serving rural residential properties throughout El Paso County, this rate of production should be more than sufficient to meet demand for in-house use.

III. PROPOSED WATER RIGHTS AND FACILITIES

3.1 Water Rights: Owner's Denver Basin groundwater rights were adjudicated by the Water Court, Water Division 2 on April 14, 2025. A copy of the recorded decree is attached hereto as **Exhibit B**, which includes the following specific quantities of water supplies that will meet both legal and physical needs on a 300-year basis:

AQUIFER	Saturated Thickness (ft)	Total Water Adjudicated (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)	Annual Average Withdrawal – 300 Years (Acre Feet)
Denver (NT)	153	1,428	14.3	4.76
Arapahoe (NT)	470	4,355	43.6	14.53
Laramie Fox Hills (NT)	184	1,505	15.1	5.0

Owner did not seek adjudication of the Dawson aquifer at this location due to it being within the cone of depression of the Dawson aquifer well associated with well permit no. 40213-F. These projected amounts do not include the Dawson aquifer groundwater reserved for Owner's existing exempt well.

3.2 Source of Supply: Rural residential water supply demand will be met using

wells to be drilled to the Denver aquifer formation well. Consistent with El Paso County Land Development Code Section 8.4.7(B)(3)(c)(v), a minor subdivision utilizing individual wells need not make a further showing as to source of supply.

3.3 Pumping Rates for Service: The Denver aquifer in the location of the Subdivision is generally known to produce approximately 10-15 gallons per minute, more than sufficient for single family residential and accessory uses.

OWTS

IV. WASTEWATER AND WASTEWATER TREATMENT – While soils, geology and geotechnical analysis will be provided by other of Owners' consultants, the Owners provide a summary of ~~ISDS~~ to be utilized herein, as relates to water usage and resulting return flows which support the approved Augmentation Plan.

4.1 Septic/Wastewater Loads: Septic projections are based on similar Denver Basin residential uses on rural residential lots. Average daily wastewater loads are expected to be approximately 160 gallons per day per single-family residence assuming residential in-house use at the conservative 0.20 acre-feet per year rate. Maximum daily wastewater loads are expected to be roughly 210 gallons per day per single-family residence based on the El Paso County Land Development Code residential demand standard of 0.26 acre-feet per year.

4.2 On-Site Wastewater Treatment Systems: The five residential lots within the Subdivision will be served by individual on-site wastewater treatment systems. The on-site wastewater treatment systems have and will be installed according to El Paso County Guidelines and properly maintained to prevent contamination of surface and subsurface water resources.

Respectfully submitted this 15th day of April, 2025.

MONSON, CUMMINS, SHOHET & FARR, LLC

/s/ W. James Tilton

W. James Tilton

Chris D. Cummins

Exhibits:

A – Final Plat of Red Rock Acres Filing No. 1

B – Decree 24CW3020

FINAL PLAT
RED ROCK ACRES FILING NO. 1
A PORTION OF THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF
SECTION 9, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH P.M.
COUNTY OF EL PASO, STATE OF COLORADO

Exhibit A

KNOW ALL BY THESE PRESENTS:

That GTG RED ROCK, LLC, a Colorado limited liability company, being the owners of the following described tract of land to wit:

LEGAL DESCRIPTION:

A parcel of land being a portion of the SW 1/4 and the SE 1/4 of Section 9, Township 11 South, Range 67 West of 6th P.M., County of El Paso, State of Colorado, being more particularly described as follows:

BEGINNING at a point on the North-South Center Section line of said Section 9, from which the Center Quarter corner of said Section 9 bears N 00°12'16" E, (Bearings are based upon the West line of the Southeast Quarter, Section 9, Township 11 South, Range 67 West of the 6th P.M., monumented on the North with a No. 6 rebar and 2.5" aluminum cap stamped "23875" and on the South with a 3.25" BLM brass cap stamped "1961" and is assumed to bear S 00°12'16" W, a field measured distance of 2649.40 feet) a distance of 1334.88 feet;
thence S 89°24'31" W along the North line of Cloven Hoof Estates as established on that subdivision plat recorded on September 16, 1959, in Plat Book B-2 at Page 3, under reception No. 126527 in the official records of the El Paso County Clerk and Recorder, a distance of 1337.00 feet to a point on the easterly right of way line of Red Rock Ranch Drive as recorded in that Deed recorded March 12, 1971, in Book 2395 at Page 210, under Reception No. 787633 in the official records of the El Paso County Clerk and Recorder;
thence along the said easterly right of way line the following three (3) courses:

- 140.91 feet along the arc of a 116.24 foot radius curve to the right, having a central angle of 69°27'21" and a chord that bears N 41°35'04" E, a distance of 132.44 feet;
- N 76°20'29" E, a distance of 183.22 feet;
- 574.44 feet along the arc of a 780.00 foot radius curve to the left, having a central angle of 42°11'45" and a chord that bears N 55°14'03" E, a distance of 561.54 feet;

thence N 89°24'31" E, a distance of 288.53 feet;
thence S 80°53'36" E, a distance of 326.72 feet to a point on said North-South Center Section line of said Section 9;
thence S 78°32'13" E, a distance of 688.29 feet;
thence S 43°56'19" E, a distance of 132.45 feet;
thence S 00°55'21" E, a distance of 144.88 feet, to a point on the south line of that parcel of land as established on Subdivision Exemption Apaphoe Well – Forest View Acres Water District plat recorded on November 2, 2016, at Reception Number 216713864 in the official records of the El Paso County Clerk and Recorder;
thence along said south line the following five (5) courses:

- S 89°04'39" W, a distance of 144.88 feet;
- S 01°11'06" E, a distance of 10.74 feet, to a point on the north of said Cloven Hoof Estates, said north line also being said south line of Subdivision Exemption Apaphoe Well – Forest View Acres Water District;
- S 88°02'21" W, a distance of 49.99 feet;
- S 89°15'47" W, a distance of 357.08 feet;
- S 89°03'21" W, a distance of 218.60 feet to the POINT OF BEGINNING.

Containing a calculated area of 651,505 square feet (14.957 acres) of land, more or less.

DEDICATION:

The undersigned owner has caused said tract of land to be platted into lots as shown on the plat. This tract of land as herein platted shall be known as "RED ROCK ACRES FILING NO. 1", County of El Paso, State of Colorado.

OWNERSHIP AND ACKNOWLEDGMENT STATEMENT:

The aforementioned, GTG RED ROCK, LLC, a Colorado limited liability company has executed this instrument this ____ day of _____, 2024, A.D.

_____, Manager,
GTG RED ROCK, LLC, a Colorado limited liability company

OWNERS CERTIFICATE

The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interests in the land described herein, have laid out, subdivided, and platted said lands into lots, and easements as shown hereon under the name and subdivision of RED ROCK ACRES FILING NO. 1. All public improvements so platted are hereby dedicated to public use and said owner does hereby covenant and agree that the public improvements will be constructed to El Paso County standards and that proper drainage and erosion control for same will be provided at said owner's expense, all to the satisfaction of the Board of County Commissioners of El Paso County, Colorado. Upon acceptance by resolution, all public improvements so dedicated will become matters of maintenance by El Paso County, Colorado. The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the service for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance, and replacement of utility lines and related facilities.

By: _____, Manager, GTG RED ROCK, LLC, a Colorado limited liability company, its successors and assigns.

By: _____
Title: _____

ATTEST: (if corporation)

Secretary/Treasurer

STATE OF _____ }
COUNTY OF _____ } SS

The above and aforementioned instrument was acknowledged before me this ____ day of _____, 2023, A.D.

By: _____, Manager,

Witness my hand and seal:

My Commission expires _____

Notary Public _____

EASEMENT STATEMENT:

Unless otherwise indicated, all side, front and rear lot lines are hereby platted on either side with a 10 foot public utility and drainage easement unless otherwise indicated. All exterior subdivision boundaries are here by platted with a 20 foot public utility and drainage easement. The sole responsibility for maintenance o these easements are hereby bested with the individual property owners.

FLOOD PLAIN CERTIFICATION:

According to The Federal Emergency Management Agency, Flood Insurance Rate Map No. 08041C0257G, effective date December 7, 2018, indicates that portions of this parcel of land to be located in:
Zone AE – Floodway area – (The channel of a stream plus any adjacent floodway areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increase in flood heights)
Zone AE** – (Base flood elevations determined)
Zone X – (Areas determined outside the 0.2% annual chance floodplain).
Zone X** – Other flood areas – (Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood)

SURVEYOR'S NOTES

1. NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

2. Any person who knowingly removes, alters or defaces any public land survey monument or land boundary monument or accessory commits a class 2 misdemeanor pursuant to the Colorado Revised Statute 18-4-508.

3. The lineal units used in this drawing are U.S. Survey Feet. A U.S. Survey Foot is defined as 1200/3937 meters.

4. This survey does not constitute a title search by Barron Land, LLC to determine ownership, rights-of-way, or easements of record. For information regarding ownership, rights-of-way, and easements of record, Barron Land, LLC relied upon Title Commitment 1735477, with an effective date of June 20, 2022 as provided by Stewart Title Guaranty Company.

5. This survey was performed in the field on January 11, 2023.

6. The overall subject parcel contains a calculated area of 651,505 square feet (14.957 acres) of land, more or less.

7. BASIS OF BEARINGS: Bearings are based upon the West line of the Southeast Quarter, Section 9, T11S, R67W, monumented on the North with a #6 rebar and 2.5" aluminum cap stamped "23875" and on the South with a 3.25" BLM brass cap stamped "1961" and is assumed to bear S 00°12'16" W, a field measured distance of 2649.40 feet.

8. Unless stated otherwise, all found or set monuments are flush with grade.

9. The approval of this Replat vacates all prior plats for the area described by this plat.

10. Geologic hazard note:

11. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County road impact fee program resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittal. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on Plat notes to ensure that a title search would find the fee obligation before sale of the Property.

12. All property owners are responsible for maintaining proper storm water drainage in and through their Property. Public drainage easements as specifically noted on the Plat shall be maintained by the individual Lot owners unless otherwise indicated. Structures, fences, materials or landscaping that could impede the flow of runoff shall not be placed in drainage easements.

13. No driveway shall be established unless an access permit has been granted by El Paso County.

14. Mailboxes shall be installed in accordance with all El Paso County and United States Postal Service regulations.

15. The following reports have been submitted in association with the preliminary plan or Final Plat for this Subdivision and are on file at the County Planning and Community Development Department: transportation impact study; drainage report; water resources report; wastewater disposal report; geology and soils report; fire protection report; noise report.

16. Developer shall comply with Federal and State laws, regulations, ordinances, review and permit requirements, and other Agency requirements, if any, of applicable Agencies including, but not limited to, the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife service regarding the endangered species act, particularly as it relates to the listed species (e.g., Preble's Meadow jumping mouse).

17. The addresses exhibited on this Plat are for informational purposes only. They are not the legal description and are subject to change.

18. The property is subject to the effect of a LOMR issued on April 29, 2019 with and effective date of September 11, 2019 under Case No. 18-08-1108P.

19. BENCHMARK STATEMENT: Elevations are based upon NGS Benchmark V 395 (Elevation=7346.57 NAVD88).

20. The property is subject to the effects of Resolution No. 14-209, regarding Subdivision Exemption for Forest View Red Rock Exemption (EXBL-14-002) recorded June 11, 2014, at Reception Number 214050022.

21. The property is subject to the effects of Public Disclosure Document, regarding Forest View Acres Water District, recorded December 29, 2014, at Reception Number 214119317.

22. The property is subject to the effects of Subdivision Exemption Boundary Line Adjustment Between Unplatted Parcels recorded December 31, 2014, at Reception Number 214120308.

23. The property is subject to the effects of Quit Claim Deed (Water Rights) recorded April 10, 2015, at Reception Number 215034495.

24. The property is subject to the effects of Subdivision Exemption Arapahoe Well – Forest View Acres Water District, recorded November 2, 2016, at Reception Number 216713864.

25. The property is subject to the effects of Agreement between Forest View Acres Water District and Red Rock Ranch, Inc., recorded October 19, 2017, at Reception Number 217126926.

26. The property is subject to the effects of Easement Agreement (Line from El Rancho to Rockbrook) recorded December 12, 2017, at Reception Number 217149779, and recorded February 8, 2018, at Reception Number 218015013.

27. The property is subject to the effects of Quit Claim Deed (Water Deed) recorded November 20, 2018, at Reception Number 218135130.

28. The property is subject to the effects of Quit Claim Deed (Water Deed) recorded March 2, 2020, at Reception Number 220029454.

29. The property is subject to the effects of Rights of upper and lower riparian owners in and to the free and unobstructed flow of the water of Monument Creek, extending through the land, without diminution.

30. The property is subject to the effects of Reservations contained in Deed recorded December 30, 1949, in Book 1237, at Page 91.

31. The property is subject to the effects of Notice of Organization, regarding The Tri-Lakes Fire Protection District, recorded July 18, 1977, at Reception Number 341358.

32. The property is subject to the effects of Resolution No. 21-348, Approval of the Red Rocks Acres Map Amendment (Rezoning) (P-20-010), recorded September 15, 2021, at Reception Number 221173495.

33. Lots 1 and 3 are required to have an engineered site plan to be submitted and approved by El Paso County prior to lot development.

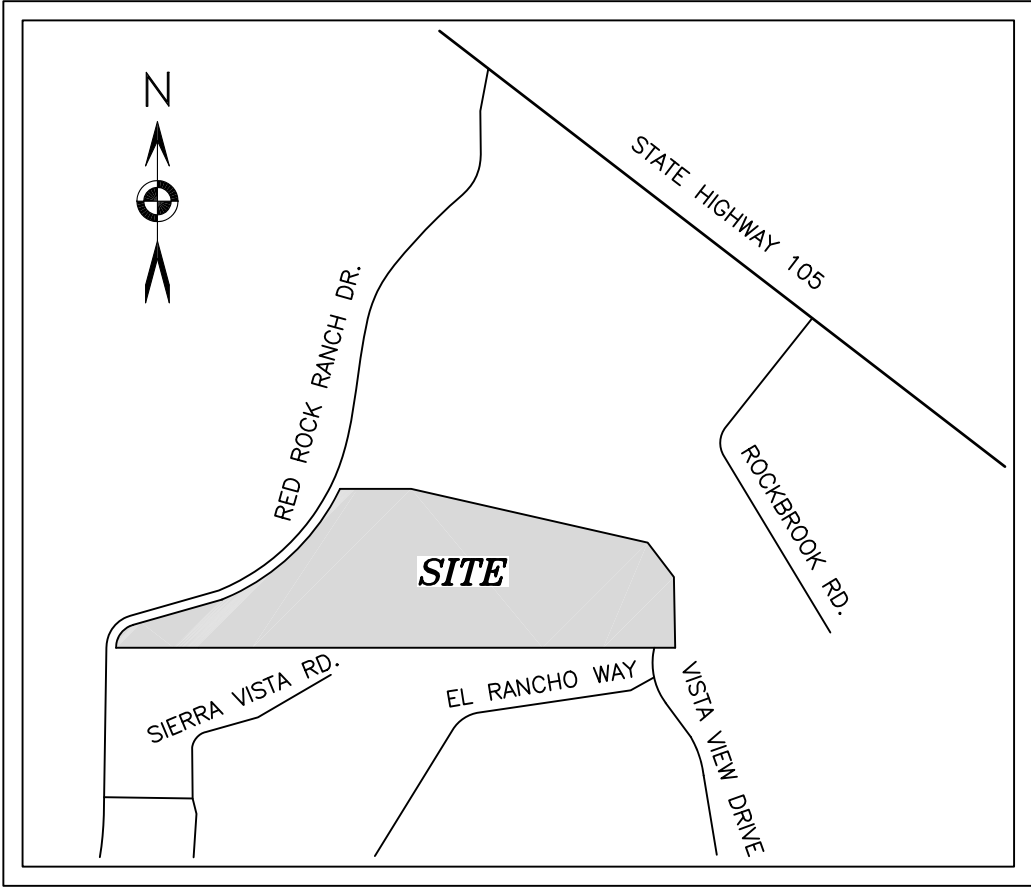
34. Utility Providers:

Sanitary Sewer: Septic System; Sewage treatment is the responsibility of each individual property owner. The El Paso County Department of Health and Environment must approve each system and, in some cases the Department may require an engineer designed system prior to permit approval. These systems may cost more to design, install and maintain.

Water: Private Well System; Individual wells are the responsibility of each property owner. Permits for individual wells must be obtained frm the State Engineer who by law has the authority to set conditions for the issuance of these permits.

Electric: Core Electric Cooperative

Gas: Black Hills Energy



VICINITY MAP
(NOT TO SCALE)

SURVEYOR'S CERTIFICATE:

I Spencer J. Barron, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat truly and correctly represents the results of a survey made on January 11, 2023, by me or under my direct supervision and that the monuments exist as shown herein; that mathematical closure errors are less than 1:10,000; and that said plat has been prepared in compliance with the applicable laws of the State of Colorado dealing with monuments, subdivision, or surveying of land and the applicable provisions of the El Paso County Land Development Code.

This certification is neither a warranty nor guarantee, either expressed or implied.

Spencer J. Barron
Colorado Professional Land Surveyor No. 38141
For and on behalf of Barron Land, LLC

COUNTY APPROVAL

This plat for RED ROCK ACRES FILING NO. 1 was approved for filing by the El Paso County, Colorado Board of

County Commissioners on the _____ day of _____, 2024, subject to any notes specified hereon and any conditions included in the resolution of approval. The prior dedications of land to the public (easements) are accepted, but public improvements thereon will not become the maintenance responsibility of El Paso County until preliminary acceptance of the public improvements in accordance with the requirements of the Land Development Code and Engineering Criteria Manual.

Chair, Board of County Commissioners

Date

Planning and Community Development Director

Date

RECORDING

STATE OF COLORADO }
COUNTY OF EL PASO } SS

I hereby certify that this instrument was filed for record at my office at ____ o'clock ____ this ____ day of _____, 20____ A.D., and is duly recorded under Reception Number _____ of the records of El Paso County, Colorado.

Fee: _____

Surcharge: _____

Steve Schleiker, Recorder

BY: _____
Deputy

FEEES:

School Fee (School District ____): _____

Bridge Fee: _____

Urban Park Fee: _____

Regional Park Fee: _____

Drainage Fee: _____

DATE: 10/23/2024				REVISIONS			
No.	Remarks	Date	By	No.	Remarks	Date	By

SFXXXX

BARRON

LAND

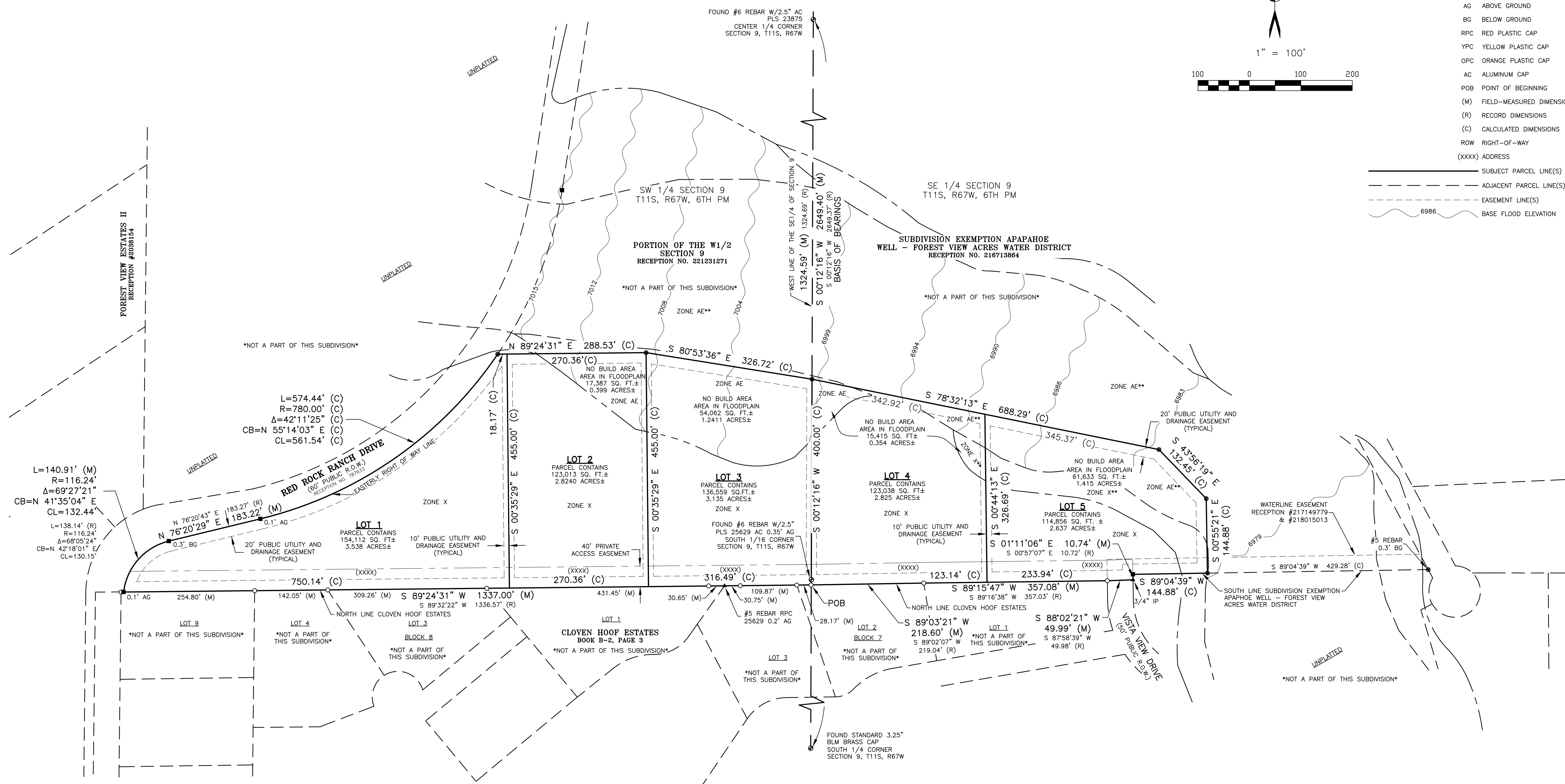
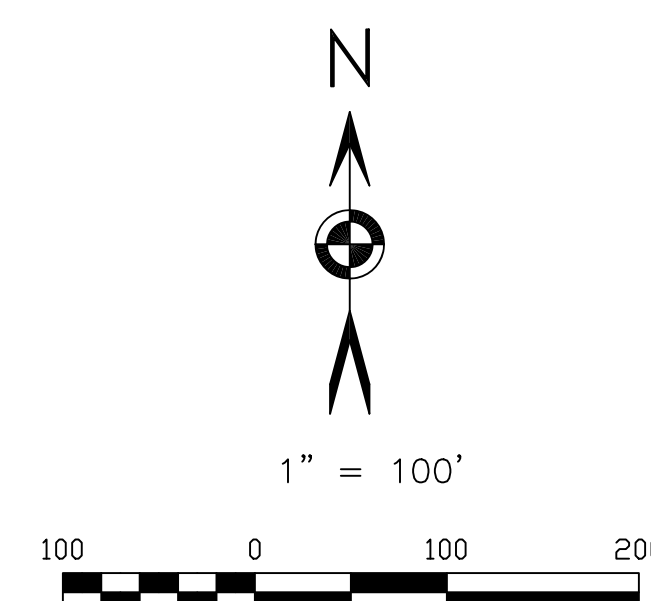
BOUNDARY & MAPPING & SURVEYING & CONSTRUCTION
2790 N. Academy Blvd., Suite 311 P: 719.360.6827
Colorado Springs, CO 80917 F: 719.466.6527
www.BARRONLAND.com


PROJECT No.: 22-016

SHEET 1 OF 2

LEGEND

-
- _____ SUBJECT PARCEL LINE(S)
 - - - - - ADJACENT PARCEL LINE(S)
 EASEMENT LINE(S)
 ~~~~~ BASE FLOOD ELEVATION



|                  |         |           |    |                                                                                                                                                                                                                                    |  |
|------------------|---------|-----------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| DATE: 10/23/2024 |         | REVISIONS |    |                                                                                                                                               |  |
| No.              | Remarks | Date      | By | <b>BARRON LAND</b><br>BOUNDARY Δ MAPPING Δ SURVEYING Δ CONSTRUCTION<br>2790 N. Academy Blvd, Suite 311 P: 719.360.6822<br>Colorado Springs, CO 80917 F: 719.466.6522<br><a href="http://www.BARRONLAND.com">www.BARRONLAND.com</a> |  |
|                  |         |           |    | PROJECT No.: 22-016 SHEET 2 OF 2                                                                                                                                                                                                   |  |

|                                                                                                                                                                          |                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| <b>DISTRICT COURT, WATER DIVISION 2,<br/>COLORADO</b><br><br>Court Address: 501 North Elizabeth Street,<br>Suite 116<br>Pueblo, CO 81003<br>Phone Number: (719) 404-8832 | DATE FILED<br>April 14, 2025 1:28 PM<br>CASE COURT USE ONLY ▲ |
| <b>CONCERNING THE APPLICATION FOR WATER<br/>RIGHTS OF:</b><br><br><b>GTG RED ROCK, LLC</b><br><br><b>IN EL PASO COUNTY, COLORADO</b>                                     | Case No.: 24CW3020                                            |
| <b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND<br/>DECREE ADJUDICATING DENVER BASIN GROUNDWATER</b>                                                      |                                                               |

THIS MATTER comes before the Water Court on the Application filed by GTG Red Rock, LLC, a Colorado limited liability company, and having reviewed said Application and other pleadings on file, and being fully advised on this matter, the Water Court makes the following findings and orders:

### **GENERAL FINDINGS OF FACT**

1. The Applicant in this case is GTG Red Rock, LLC, a Colorado limited liability company, c/o Jeff Mandarich, whose address is 8605 Explorer Dr., Suite # 250, Colorado Springs, Colorado 80920 ("Applicant"). The Applicant is the owner of two adjacent parcels of land in El Paso County, Colorado. These two parcels total approximately 54.5 acres, which overlie the Denver Basin groundwater adjudicated in this decree and is the place where the water will be put to beneficial use, except for any potential off-property uses as described in Paragraph 15.

2. The time for filing statements of opposition to the Application expired on the last day of August 2024. A Statement of Opposition was timely filed by Forest View Acres Water District on August 29, 2024 in Water Division 2.

3. On July 2, 2024, the Division 2 Water Court ordered that publication occur in *The Gazette* within El Paso County, and in the *Douglas County News Press* in Douglas County.

4. The Clerk of this Court caused publication of the Application filed in this matter as provided by statute and the publication costs have been paid. On July 30, 2024, proof of publication in *The Gazette* was filed with the Division 2 Water Court. On July 30, 2024, proof of publication in the *Douglas County News Press* was filed with the

Division 2 Water Court. All notices of the Application have been given in the manner required by law.

5. Applicant filed a Notice of No Lienholders with the Division 2 Water Court on August 28, 2024 in compliance with C.R.S. § 37-92-302.

6. On February 14, 2025, a Stipulation between the Applicant and Forest View Acres Water District was filed with the Division 2 Water Court. By Order dated February 18, 2025, the Division 2 Water Court approved such stipulation.

7. Pursuant to C.R.S. § 37-92-302(2), the Office of the State Engineer filed Determinations of Facts for the Denver, Arapahoe, and Laramie-Fox Hills aquifers with this Court on September 12, 2024, which have been considered by the Court in the entry of this decree. Applicant did not include the Dawson aquifer in its application and so no Determination of Fact was provided for that aquifer.

8. Pursuant to C.R.S. § 37-92-302(4), the office of the Division Engineer for Water Division No. 2 filed its Consultation Report dated October 24, 2024, and a response to the Consultation Report was not required by the Water Court. The Consultation Report has been considered by the Water Court in the entry of this decree.

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

## **GROUNDWATER RIGHTS**

10. The Application requested quantification and adjudication of vested groundwater rights for all not-nontributary and nontributary groundwater from the Denver, Arapahoe, and Laramie-Fox Hills Denver Basin aquifers underlying the Applicant's Property. The following findings are made with respect to the groundwater rights adjudicated in this decree for the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant's Property as described herein.

11. The land overlying the groundwater subject to this adjudication is owned by the Applicant and consists of 54.5 acres located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , and the NW  $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 9, Township 11 South, Range 67 West of the 6th P.M. in El Paso County, Colorado, as more particularly described in **Exhibit A** ("Applicant's Property"). Within the footprint of the Applicant's Property, there are two tracts of land owned by Forest View Acres Water District ("Forest View"), which are currently assigned El Paso County Assessor Parcel Numbers 71090-14-004 and 71090-00-088 ("Forest View Tracts") and for which Forest View Acres Water District has an easement across the Applicant's Property. The Forest View Tracts and easement are



also depicted on **Exhibit A**. Although they are located within the footprint of the Applicant's Property, the Forest View Tracts are not part of Applicant's Property, and the Applicant does not claim the groundwater underlying the Forest View Tracts. All references herein to Applicant's Property explicitly exclude the Forest View Tracts. Further, Forest View owns and utilizes the well constructed under Well Permit No. 39865-F ("Forest View Well"), which is located within a Forest View Tract. Based on Forest View's "deemed consent" claim pursuant to C.R.S. § 37-90-137(8), Forest View holds rights to the groundwater underlying the collective 144.3 acres depicted on the two maps attached hereto as **Exhibit B** ("Deemed Consent Lands"), which include properties adjacent to Applicant's Property. Well Permit No. 39865-F was issued to allow Forest View to withdraw groundwater from the Arapahoe aquifer underlying the Deemed Consent Lands. In addition, Forest View holds Denver Basin groundwater rights that were decreed in Water Division 2, District Court, State of Colorado, Case No. 99CW161 on May 16, 2003. Applicant does not claim Forest View's aforementioned groundwater rights, and nothing herein adjudicates, modifies, or otherwise impacts Forest View's aforementioned groundwater rights, which remain in full force and effect. All groundwater adjudicated herein shall be withdrawn from the overlying land that is comprised of Applicant's Property only, not the Forest View Tracts, any of the Deemed Consent Lands, or any other lands under which Forest View holds Denver Basin groundwater rights.

12. Of the statutorily described Denver Basin aquifers, the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers all exist beneath the Applicant's Property. However, the Dawson aquifer beneath this property has previously been appropriated by the Forest View Acres Water District and Applicant made no claim upon the Dawson aquifer in its application in this case. The Applicant does not claim, and this Decree does not adjudicate or otherwise impact, any portion of Forest View's Denver Basin groundwater underlying the Forest View Tracts or the Deemed Consent Lands, including but not limited to the Forest View Well. The Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant's Property contain nontributary groundwater. The quantity of water in the Denver Basin aquifers included in Applicant's Application for Adjudication of Groundwater, exclusive of artificial recharge underlying the Applicant's Property, is as follows:

| <b>AQUIFER</b>         | <b>NET<br/>SAND<br/>(ft)</b> | <b>Annual<br/>Average<br/>Withdrawal 100<br/>Years<br/>(Acre Feet)</b> | <b>Annual<br/>Average<br/>Withdrawal<br/>300 Years<br/>(Acre Feet)</b> | <b>Total<br/>Withdrawal<br/>(Acre Feet)</b> |
|------------------------|------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------------|---------------------------------------------|
| Denver (NT)            | 153                          | 14.3                                                                   | 4.76                                                                   | 1,428                                       |
| Arapahoe (NT)          | 470                          | 43.6                                                                   | 14.53                                                                  | 4,355                                       |
| Laramie-Fox Hills (NT) | 184                          | 15.1                                                                   | 5.00                                                                   | 1,505                                       |

The terms and conditions set forth in this decree governing the withdrawal and use of groundwater from the Denver Basin aquifers underlying the Applicant's Property are

applicable only to permitted non-exempt wells constructed into the aquifers.

13. Subject to any future augmentation plan requirements and the other requirements and limitations in this decree, Applicant shall be entitled to withdraw all legally available groundwater in the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property. Said amounts can be withdrawn over the 100-year life for the aquifers as set forth in C.R.S. § 37-90-137(4), or withdrawn over a longer period of time based upon local governmental regulations or Applicant's water needs, provided withdrawals during such longer period are in compliance with the total amounts available to Applicant as decreed herein and the augmentation requirements of this decree. This decree describes a pumping period of 300 years as may be required by El Paso County, Colorado Land Development Code. The average annual amounts of ground water available for withdrawal from the underlying Denver, Arapahoe, and Laramie-Fox Hills aquifers, based upon the 100-year and 300-year aquifer life calculations, are determined and set forth in Paragraph 12, above, based upon the September 10, 2024, Office of the State Engineer Determination of Facts described in Paragraph 7, as filed with the Court on September 12, 2024.

14. Applicant shall be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed herein from the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property, so long as the sum of the total withdrawals from wells in each of the aquifers does not exceed the product of the number of years since the date of issuance of the original well permit or the date of entry of the decree herein, whichever comes first, and the average annual volume of water which Applicant is entitled to withdraw from each of the aquifers underlying Applicant's Property. This right is subject to the requirement that such banking and excess withdrawals do not violate the terms and conditions decreed herein or of any plan for augmentation decreed by the Court that authorizes withdrawal of the Denver Basin groundwater decreed herein.

15. Subject to the terms and conditions decreed herein and any subsequently decreed augmentation plan, and final approval by the State Engineer's Office pursuant to the issuance of well permits in accordance with C.R.S. §§ 37-90-137(4) or 37-90-137(10), the Applicant shall have the right to use the groundwater from the Denver, Arapahoe, and Laramie-Fox Hills aquifers for beneficial uses upon the Applicant's Property consisting of domestic, irrigation for lawn, garden, and greenhouse; domestic animal and livestock watering, fire protection, and also for storage and augmentation purposes associated with such uses. The amount of groundwater decreed for such uses upon the Applicant's Property is reasonable as such uses are to be made for the long-term use and enjoyment of the Applicant's Property and is to establish and provide for adequate water reserves. The nontributary groundwater may be used, reused, and successively used to extinction, both on and off the Applicant's Property subject, however, to the limitations imposed on the use of the Denver, Arapahoe, and Laramie-Fox Hills aquifer groundwater by any future augmentation plan that utilizes nontributary groundwater to replace depletions and

the requirement under C.R.S. § 37-90-137(9)(b) that no more than 98% of the amount withdrawn annually shall be consumed. Return flows from use of the Denver, Arapahoe, and Laramie-Fox Hills water decreed herein may only be used to replace depletions and may not be used, sold, traded, or assigned in whole or in part for any other purpose. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein.

16. Applicant has waived the 600-foot well spacing requirement for any well(s) to be constructed upon the Applicant's Property. The actual pumping rates for any well(s) constructed on Applicant's Property will vary according to aquifer conditions, well production capabilities, and any limitations imposed pursuant to a subsequently entered augmentation plan, not to exceed 100 g.p.m. The Applicant may withdraw groundwater at rates of flow necessary to withdraw the entire amounts decreed herein. The actual depth of any well to be constructed within the respective aquifers will be determined by topography and actual aquifer conditions.

17. Withdrawals of groundwater available from the nontributary Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath the Applicant's Property in the amounts determined in accordance with the provisions of this decree will not result in injury to any other vested water rights or to any other owners or users of water.

### **CONCLUSIONS OF LAW**

18. The application for underground water rights and adjudication of Denver Basin groundwater was filed with the Water Clerk for Water Division 2, pursuant to C.R.S. §§ 37-92-302(1)(a) and 37-90-137(9)(c.5).

19. The Applicant's request for adjudication of these water rights is contemplated and authorized by law, and this Court and the Water Referee have exclusive jurisdiction over these proceedings. C.R.S. §§ 37-92-302(1)(a), 37-92-203, and 37-92-305.

20. Subject to the terms of this decree and any subsequently decreed augmentation plan, the Applicant is entitled to the sole right to withdraw all the legally available groundwater in the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Applicant's Property as decreed herein, and the right to use that water to the exclusion of all others.

21. The Applicant has complied with C.R.S. § 37-90-137(4), and the groundwater is legally available for withdrawal by nontributary well(s) and not-nontributary well(s) upon the entry of a decree approving an augmentation plan pursuant to C.R.S. § 37-90-137(9)(c.5), and the issuance of well permits by the State Engineer's Office. Applicant is entitled to a decree from this Court confirming its vested rights to the groundwater underlying Applicant's Property pursuant to C.R.S. § 37-90-137(4).

22. The Denver Basin water rights applied for in this case are not conditional water rights, but are vested water rights determined pursuant to C.R.S. § 37-90-137(4). No applications for diligence are required. The claims for nontributary and nontributary groundwater meet the requirements of Colorado Law.

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

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

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

25. The Application for Adjudication of Denver Basin Groundwater filed by the Applicant is approved, subject to the terms of this decree.

A. Applicant is awarded a vested right to 1,428 acre-feet of groundwater from the nontributary Denver aquifer underlying Applicant's Property, as quantified in Paragraph 12 or as modified by the Court under its retained jurisdiction. Subject to the provisions of Rule 8 of the Denver Basin Rules, 2 CCR 402-6, limiting consumption to ninety-eight percent of the amount withdrawn, and the other terms and conditions of this decree, Applicant's Denver aquifer groundwater may be utilized for all purposes described in Paragraph 15.

B. Applicant is awarded a vested right to 4,355 acre-feet of groundwater from the nontributary Arapahoe aquifer underlying Applicant's Property, as quantified in Paragraph 12 or as modified by the Court under its retained jurisdiction. Subject to the provisions of Rule 8 of the Denver Basin Rules, 2 CCR 402-6, limiting consumption to ninety-eight percent of the amount withdrawn, and the other terms and conditions of this decree, Applicant's Arapahoe aquifer groundwater may be utilized for all purposes described in Paragraph 15.

C. Applicant is awarded a vested right to 1,505 acre-feet of groundwater from the nontributary Laramie-Fox Hills aquifer underlying Applicant's Property, as quantified in Paragraph 12 or as modified by the Court under its retained jurisdiction. Subject to the provisions of Rule 8 of the Denver Basin Rules, 2 CCR 402-6, limiting consumption to ninety-eight percent of the amount withdrawn, and the other terms and conditions of this decree, Applicant's Laramie-Fox Hills aquifer groundwater may be utilized for all purposes described in Paragraph 15.

26. The Applicant has furnished acceptable proof as to all claims and, therefore, the Application for Adjudication of Denver Basin Groundwater as filed by the Applicant, is granted and approved in accordance with the terms and conditions of this decree. Approval of this Application will not result in any injury to senior vested water rights.

27. The Applicant shall comply with C.R.S. § 37-90-137(9)(b), requiring the relinquishment of the right to consume two percent (2%) of the amount of the nontributary groundwater withdrawn annually. Ninety-eight percent (98%) of the nontributary groundwater withdrawn annually may therefore be consumed. No plan for augmentation shall be required to provide for such relinquishment. Applicant shall be required to demonstrate to the State Engineer prior to issuance of a well permit that no more than ninety-eight percent of the groundwater withdrawn annually will be consumed.

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

29. The Denver Basin groundwater decreed herein must be withdrawn from the "overlying land" as defined in Rule 4.A.8 of the Statewide Nontributary Ground Water Rules, and any wells shall be constructed on the overlying land.

30. The Court retains jurisdiction over this matter to make adjustments in the allowed average annual amount of withdrawal from the Denver Basin aquifers, either upwards or downwards, to conform to actual local aquifer characteristics, and the Applicant need not file a new application to request such adjustments. The retained jurisdiction of this paragraph is applicable only to the quantities of water available underlying Applicant's Property. At such time as adequate data may be available, Applicant or the State Engineer may invoke the Court's retained jurisdiction as provided in this Paragraph 30 for purposes of making a final determination of water rights as to the quantities of water available and allowed average annual withdrawals from any of the Denver Basin aquifers quantified and adjudicated herein. Any person seeking to invoke the Court's retained jurisdiction for such purpose shall file a verified petition with the Court setting forth with particularity the factual basis for such final determination of Denver Basin water rights under this decree, together with the proposed decretal language to implement the petition. Within four months of the filing of such verified petition, the State Engineer's Office shall utilize such information as available to make a final determination of water rights finding, and shall provide such information to the Court, Applicant, opposer, and the petitioning party.

A. If no protest is filed with the Court to such findings by the State Engineer's Office within sixty (60) days, this Court shall incorporate by entry of an Amended Decree such "final determination of water rights", and the provisions of this Paragraph 30 concerning adjustments to the Denver Basin ground water rights based

upon local aquifer conditions shall no longer be applicable. In the event of a protest being timely filed, or should the State Engineer's Office make no timely determination as provided in Paragraph 30, above, the "final determination of water rights" sought in the petition may be made by the Water Court after notice to all parties and following a full and fair hearing, including entry of an Amended Decree, if applicable in the Court's reasonable discretion.

31. Pursuant to C.R.S. § 37-92-502(5)(a), the Applicant shall install and maintain such water measurement devices and recording devices as are deemed necessary by the State Engineer or Division Engineer, and the same shall be installed and operated in accordance with instructions from said entities. Applicant is to install and maintain a totalizing flow meter on any well drilled on Applicant's Property, or any replacement well drilled thereafter, and is required to include geophysical logging on each newly constructed well. Applicant shall read and record its well meter readings each year and shall submit the meter readings to the Water Commissioner by March 31<sup>st</sup> and October 31<sup>st</sup> of each year, or more frequently as requested by the Water Commissioner.

32. Subject to the terms and conditions decreed herein, any separately decreed augmentation plan, and final approval by the State Engineer's Office pursuant to the issuance of well permits in accordance with C.R.S. §§ 37-90-137(4) or 37-90-137(10), the Applicant shall have the right to use the groundwater from the Denver, Arapahoe, and Laramie-Fox Hills aquifers for beneficial uses as described in this decree.

33. A site specific evaluation must be conducted with any future well permits to identify the correct aquifer interval on Applicant's Property. Applicant shall complete geophysical logging of all wells drilled into the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property.

34. Applicant shall be permitted to produce the full legal entitlement from the Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property through any combination of wells. Use by a combination of wells will be treated as a well field.

35. The vested water rights decreed herein shall be subject to all applicable administrative rules and regulations, as currently in place or as may in the future be promulgated, of the offices of Colorado State and Division Engineers for administration of such water rights, to the extent such rules and regulations are uniformly applicable to other similarly situated water rights and water users. The State Engineer shall identify in any permits issued pursuant to this decree the specific uses which can be made of the groundwater to be withdrawn, and, to the extent the well permit applications request a use that has not been specifically identified in this decree, shall not issue a permit for any proposed use, which use the State Engineer determines to be speculative at the time of



the well permit application or which would be inconsistent with the requirements of this decree, any separately decreed plan for augmentation, or any modified decree.

36. This decree of the Water Court shall be recorded in the real property records of El Paso County, Colorado. Copies of this decree shall be mailed as provided by statute.

DATED: February 25, 2025.

BY THE REFEREE:



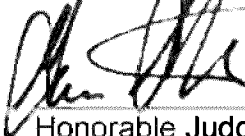

Kate Brewer, Water Referee  
Water Division 2

### DECREE

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

DATED: April 14, 2025.

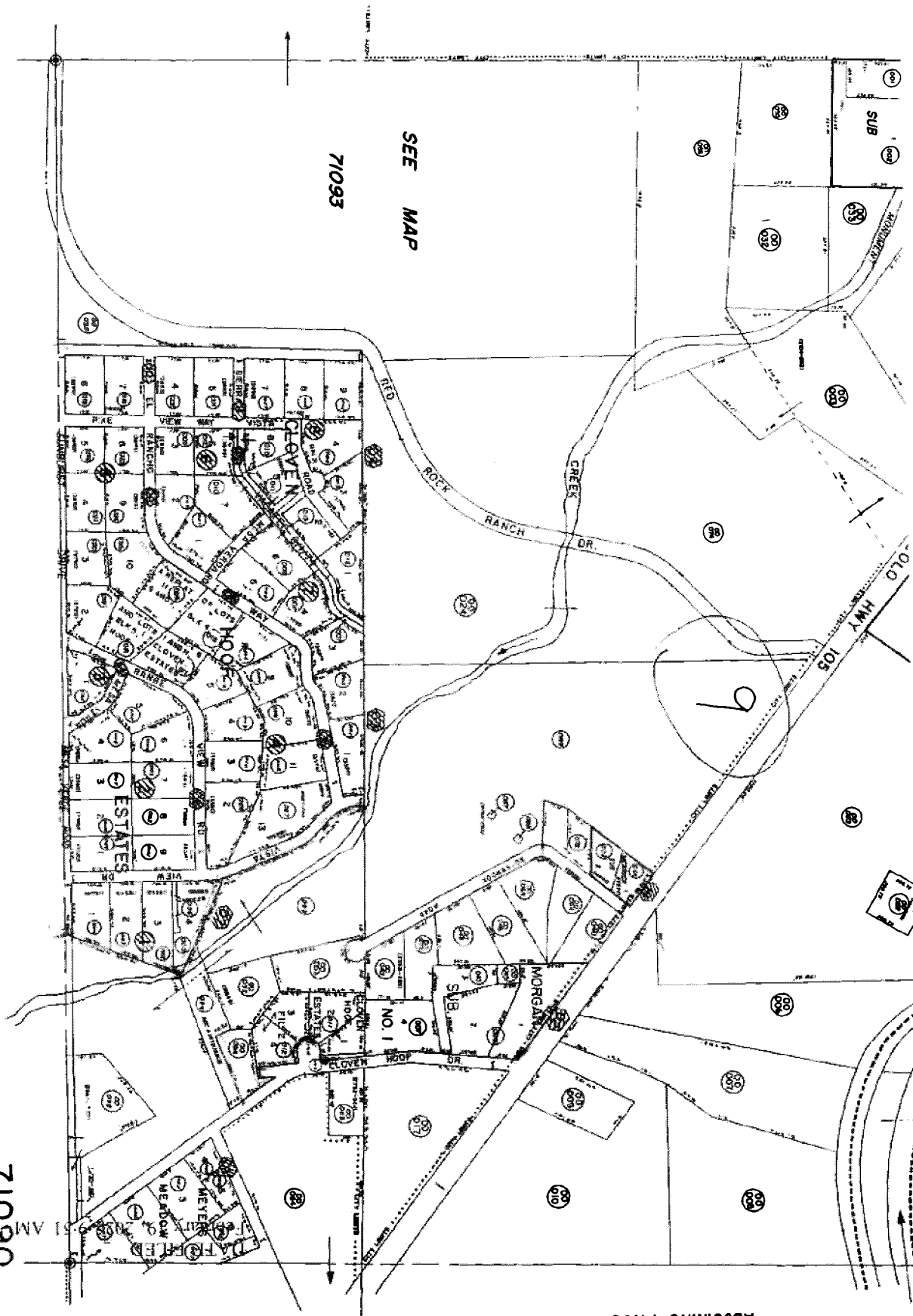
BY THE COURT:



Honorable Judge Styduhar  
Water Judge, Water Division 2  
State of Colorado



Exhibit B



COPY OF MAP RECEIVED 7-23-2000

ADJOINING 71000

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ADJOINING 71100

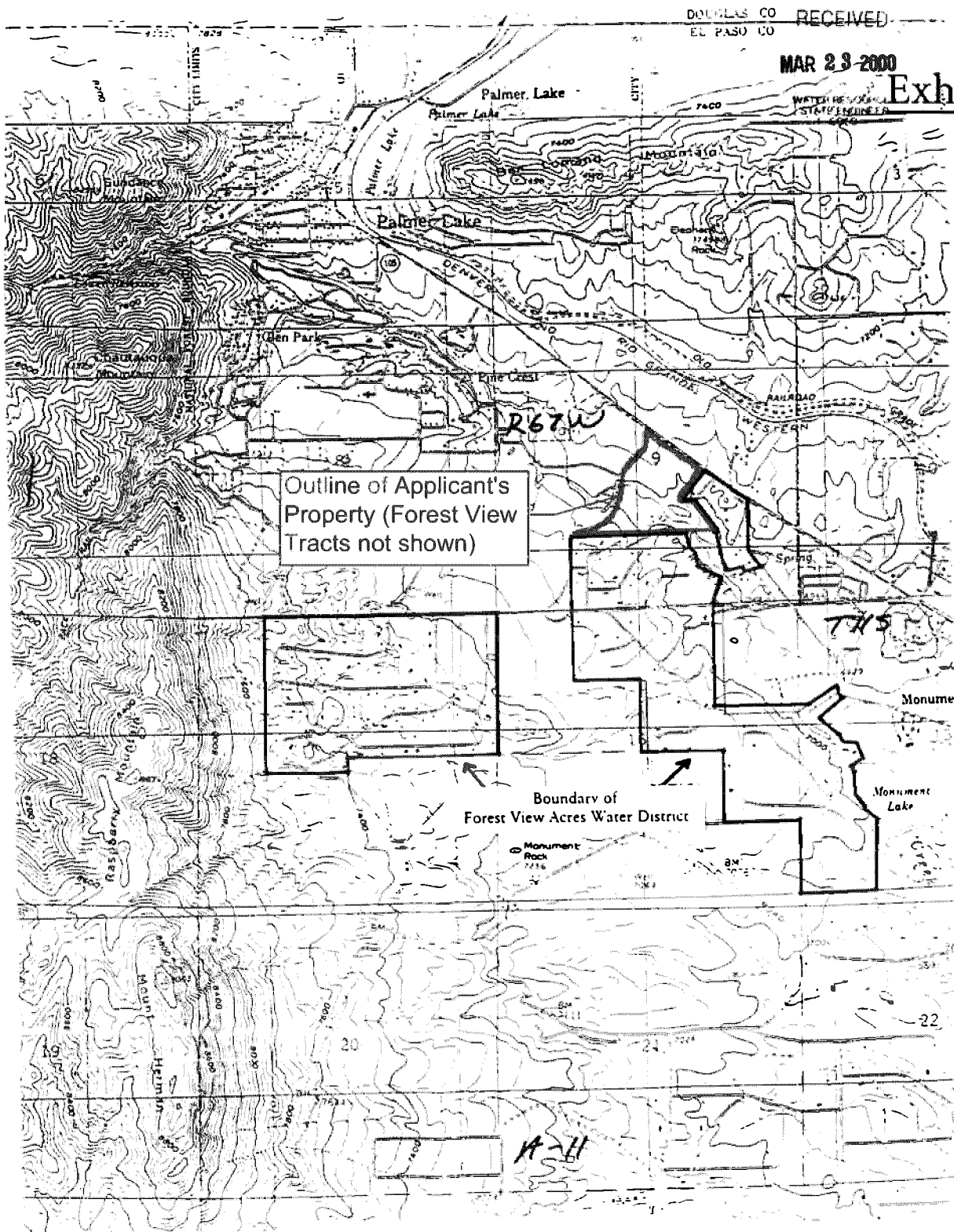



Exhibit B

Red line is located  
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# V1 - Water Resources Report - RLR.pdf Markup Summary

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The Subdivision is on approximate NW 1/4 SE 1/4 of Section 9, Township 11 S County, including Parcel Nos. 71000000 parcels are approximately 54.5 acres in southern boundary of the two parcels. It provided water and sewer/septic services (Septic Drainage Systems (SIDS)). The The five (5) planned lots will be 2.637 to 1.

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Please see comments from El Paso County Attorney regarding water for irrigation and stock reported in Water Supply Information Summary

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