

<b>DISTRICT COURT, WATER DIVISION 2, COLORADO</b> Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 Phone Number: (719) 404-8832	DATE FILED February 18, 2025 9:32 AM CASE NUMBER: 2024CW3007
<b>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</b>  <b>FALCON AREA WATER AND WASTEWATER AUTHORITY</b>  <b>IN THE ARKANSAS RIVER OR ITS TRIBUTARIES IN EL PASO COUNTY</b>	<b>▲ COURT USE ONLY ▲</b>  Case No.: 24CW3007
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE</b>	

THIS MATTER comes before the Court on the Application filed by Falcon Area Water and Wastewater Authority, and having reviewed said Application and other pleadings on file, and being fully advised on this matter, the Court makes the following findings and orders:

**GENERAL FINDINGS OF FACT**

1. The applicant in this case is Falcon Area Water and Wastewater Authority, whose address is 1700 Lincoln Street, Suite 2000, Denver, Colorado 80203 ("Applicant" or "FAWWA<sup>TM</sup>"). The Applicant seeks the adjudication of groundwater rights, amendment of an augmentation plan, and approval of a plan for augmentation.
2. The land under which the Denver Basin groundwater rights adjudicated herein are located are within FAWWA's Service Area. FAWWA's Service Area is as it currently exists or as may exist in the future ("FAWWA's Service Area"). FAWWA's current service area is depicted on the attached **Exhibit C** map, and FAWWA is the owner of, or controls, all Denver Basin groundwater described herein. All land is located within FAWWA, where such water will be put to beneficial use.
3. The Applicant filed this Application with the Water Court for Water Division 2 on February 13, 2024. The Application was referred to the Water Referee Division 2 on the same day.
4. The time for filing statements of opposition to the Application expired on the last day of April 2024. A Statement of Opposition was timely filed by The City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities, on April 22, 2024.

5. On February 28, 2024, Water Court, Division 2, ordered that publication occur in El Paso County. The Clerk of this Court has caused publication of the Application filed in this matter as provided by statute and the publication costs have been paid. On March 20, 2024, proof of publication in *The Colorado Springs Gazette* was filed with the Division 2 Water Court. All notices of the Application have been given in the manner required by law.

6. On January 6, 2025 a stipulation between the Applicant and The City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities was filed with the Division 2 Water Court. By Order dated January 8, 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 has filed Determination of Facts for each aquifer with this Court on May 23, 2024.

8. The State and Division Engineers timely filed a Consultation Report pursuant to C.R.S. §37-92-302(4) on June 17, 2024, and no response was required. The referee has reviewed and considered the Consultation Report in the issuance 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 Applicant requested adjudication of underground Denver Basin water rights, including a 9 acre feet portion of Dawson groundwater underlying the Jaynes Property which is a portion of 12 acre feet of water which was previously excluded from Case No. 07CW56, as depicted on the attached **Exhibit A** map, pursuant to the plan for augmentation decreed herein. Applicant also requested to quantify the Denver Basin groundwater underlying the Rhetoric Property, as depicted on the **Exhibit B** map, and to add both such Denver Basin groundwater supplies to those supplies otherwise available to FAWWA for withdrawal from the FAWWA Wellfield, adjudicated in Case No. 23CW3009, and pursuant to the augmentation plan decreed in Case No. 20CW3059. This Court decrees that, to the extent wells or well fields constructed on nearby property owned or controlled by Applicant and its affiliates have or are legally interpreted to have contiguity, Applicant shall have the right to withdraw all groundwater entitlements quantified herein from such contiguous wells and be considered a well field. The following findings are made with respect to such groundwater rights:

11. The land overlying the groundwater subject to the adjudication in this case consists of two parcels, the Jaynes Property, and the Rhetoric Property. The Jaynes Property is owned by Classic SRJ, LLC, a Colorado Limited Liability Company, which has given its consent to the filing of this application. The Rhetoric Property is owned by

Rhetoric, LLC, a Colorado Limited Liability Company which has given its consent to the filing of this application. All groundwater rights adjudicated herein are owned or controlled by the Applicant. The Jaynes Property is approximately 142 acres located in the S½ of Section 28, and the NW¼ of Section 33 Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, described as the Jaynes Property, and depicted on the attached **Exhibit A** map ("Jaynes Property"). The Rhetoric Property is approximately 32.62 acres located in the NE¼ NE¼, of Section 5, Township 13 South, Range 65 West of the 6th P.M., El Paso County, Colorado, and depicted on the attached **Exhibit B** map ("Rhetoric Property"). All groundwater adjudicated herein shall be withdrawn from the overlying land, or from a contiguous parcel owned or controlled by the Applicant and its affiliates.

12. In accordance with the notice requirements of C.R.S. §37-92-302, a notice of no lienholders was filed with the District Court, Water Division 2, on October 9<sup>th</sup>, 2024.

13. Existing and Future Wells. All wells withdrawing the groundwater adjudicated herein will either be located on the Jaynes Property or the Rhetoric Property, or the FAWWA Well Field as adjudicated in Case No. 23CW3009, and/or on contiguous parcels thereto. There is an existing well on the Jaynes property permitted and constructed under Well Permit No. 285607 constructed to the Dawson aquifer. Applicant is awarded the vested right to maintain the exempt nature of Permit No. 285607 ("Prairie Ridge Well No. 6") consistent with C.R.S. §37-92-602(IV), for use on one of the six large lots to be developed as part of Prairie Ridge Filing No. 1, described herein, and maintains the reservation of 3 annual acre feet of water (1 annual acre foot on a 300-year basis) previously described in Case No. 07CW56, for such purposes. Upon entry of this decree and submittal by the Applicant of a complete well permit application and filing fee, the State Engineer shall issue a revised permit for the existing well, and new permits for any future well pursuant to C.R.S. §37-90-137(4) and/or (10), consistent with and referencing the decree herein.

14. Of the statutorily described Denver Basin aquifers, the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers all exist beneath the Rhetoric Property. The Dawson, Denver, and Arapahoe aquifers underlying the Rhetoric Property contain non-tributary water, while the water of the Laramie-Fox Hills aquifer underlying the Rhetoric Property is nontributary. The quantity of water in the Denver Basin aquifers exclusive of artificial recharge underlying the Rhetoric Property is as follows:

AQUIFER	NET SAND (ft)	Annual Average Withdrawal 100 Years (Acre Feet)	Annual Average Withdrawal 300 Years (Acre Feet)	Total Withdrawal (Acre Feet)
Dawson (NNT)	50	3.26	1.08	326
Denver (NNT)	305	16.90	5.63	1,690
Arapahoe (NNT)	250	13.90	4.63	1,390
Laramie-Fox Hills (NT)	190	9.3	3.1	930

15. Pursuant to C.R.S. §37-90-137(9)(c.5)(I)(B), the augmentation requirements for wells in the Dawson, Denver, and Arapahoe aquifers underlying the Rhetoric Property require the replacement to the affected stream systems of actual stream depletions on an annual basis. Pursuant to C.R.S. §37-90-137(9)(c.5)(I)(C), the water of the Laramie-Fox Hills aquifer underlying the Jaynes Property is nontributary, and pursuant to C.R.S. §37-90-137(9)(b) and the Denver Basin Rules, Applicant may not consumptively use more than ninety-eight percent (98%) of such water. The Applicant shall not be entitled to construct a well or use water from the not-nontributary Dawson, Denver, or Arapahoe aquifers except pursuant to an approved augmentation plan in accordance with C.R.S. §37-90-137(9)(c.5), including as decreed in Case No. 23CW3009, and Case No. 20CW3059.

16. As concerns the groundwater supplies underlying the Rhetoric Property, subject to the augmentation requirements described Case No. 23CW3009, and Case No. 20CW3059, and the other requirements and limitations in this decree, Applicant shall be entitled to withdraw all legally available groundwater in the Denver Basin aquifers underlying the Rhetoric 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 augmentation requirements of this decree. As concerns the augmentation plan decreed herein, this decree is based upon a pumping period of 300-years as required by El Paso County, Colorado Land Development Code §8.4.7(C)(1). The average annual amounts of groundwater available for withdrawal from the underlying Denver Basin aquifers, based upon a 300-year aquifer life, are determined and set forth above, based upon the May 23, 2024 Office of the State Engineer Determination of Facts described in Paragraph 7.

17. Applicant shall be entitled to withdraw an amount of groundwater in excess of the average annual amount decreed herein from the Denver Basin aquifers underlying the Rhetoric 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 entry of the decree herein, and the average annual volume of water which Applicant is entitled to withdraw from each of the aquifers underlying the Rhetoric Property, subject to the requirement that such banking and excess withdrawals do not violate the terms and conditions of the plan for augmentation decreed herein and any other plan for augmentation decreed by the Court that authorizes withdrawal of the Denver Basin groundwater adjudicated and decreed in Case No. 23CW3009, and Case No. 20CW3059.

18. Subject to the terms and conditions of the plan for augmentation decreed herein 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 for beneficial municipal uses including, without limitation, domestic, commercial, industrial, irrigation of any irrigable acreage within FAWWA's Service Area, stock water, recreation, fish and wildlife propagation, fire

protection, central water supply for such uses and also for exchange, aquifer recharge, replacement, and augmentation purposes. The amount of groundwater decreed for such uses is reasonable as such uses are to be made for the long-term use and enjoyment of those served by Applicant and is to establish and provide for adequate water reserves. The nontributary groundwater in the Laramie-Fox Hills aquifer underlying the Rhetoric Property may be used, reused, and successively used to extinction, both on and off the Rhetoric Property subject, however, to the requirement under C.R.S. §37-90-137(9)(b) that no more than 98% of the amount withdrawn annually shall be consumed. Applicant may use such water by immediate application or by storage and subsequent application to the beneficial uses and purposes stated herein. Provided, however, as set forth above, Applicant shall only be entitled to construct a well or use water from the not-nontributary Dawson, Denver, and Arapahoe aquifers pursuant to a decreed augmentation plan entered by the Court, including that plan for augmentation decreed in Case No. 23CW3009, and Case No. 20CW3059, and as decreed herein.

19. Withdrawals of groundwater available from the nontributary Laramie-Fox Hills aquifer beneath the Rhetoric Property in the amount 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.

#### **AMENDMENT TO EXISTING PLAN FOR AUGMENTATION**

20. SRMD (now a member of Applicant) previously obtained a plan for augmentation in Case No. 20CW3059 (as amended in Case No. 23CW3009) providing for the augmentation of not-nontributary Denver and Arapahoe aquifer supplies underlying the SRMD Properties, along with quantification of LIRFs derived from municipal irrigation uses thereof as a source of augmentation supply, including of evaporative depletions from certain water storage structures located on the SRMD Properties. SRMD has assigned to FAWWA all its rights, title and interest under the 20CW3059 Decree. By the application herein, FAWWA requested the inclusion of all not-nontributary Denver and Arapahoe aquifer groundwater underlying the Rhetoric Property both as augmented water supplies from the augmented structures constituting the FAWWA Well Field, and as a source of augmentation supply in the form of LIRFs to the extent such water supplies are included and accounted for as a source of municipal irrigation supply on the SRMD Properties. FAWWA did not request, and this Decree does not approve, expansion or change to the volumetric pumping entitlements, nor the quantities of LIRFs decreed to be available under the 20CW3059 Decree, nor to otherwise amend said decree, but rather only to include the water associated with all decreed not-nontributary Denver and Arapahoe aquifer groundwater supplies underlying the Rhetoric Property described herein as sources of supply within the 20CW3059 plan for augmentation, and any reusable return flows therefrom as sources of augmentation supply. All volumetric limitations described in the 20CW3059 decree remain of full force and effect, and the structures to be augmented by the 20CW3059 decree are the existing and future wells as constructed and to be constructed to the not-nontributary Denver and Arapahoe aquifers within the boundaries of the FAWWA Well Field available to FAWWA, subject to existing volumetric limitations. Augmentation sources under the amended

augmentation plan in 20CW3059 are LIRFs derived from municipal uses of such Denver and Arapahoe groundwater supplies, quantified and calculated in the same manner as originally decreed in 20CW3059

21. FAWWA is decreed an amendment to the plan for augmentation decreed in Case No. 20CW3059, and as amended in Case No. 23CW3009, to add the not-nontributary Arapahoe and Denver aquifer groundwater supplies beneath the Rhetoric Property, quantified by this application as additional sources of supply, including for production through the FAWWA Wellfield. FAWWA further adds as sources of augmentation supply in Case No. 20CW3059, as amended in Case No. 23CW3009, all reusable return flows generated from the use of such water, specifically including lawn irrigation return flows. FAWWA further adds the nontributary groundwater supplies in the Laramie-Fox Hills aquifer underlying the Rhetoric Property as a source of additional post-pumping replacement water in Case No. 20CW3059, allowing for increased production from the not-nontributary Denver and Arapahoe aquifers on the basis of such additional post-pumping supplies. By addition of these new supplies, FAWWA is decreed a corresponding increase in the pumping available from the FAWWA Well Field, on the same terms and conditions previously decreed in Case No. 20CW3059.

22. Amended Augmentation Plan Case No. 20CW3059 Applicant is hereby decreed an amendment to the augmentation plan previously decreed in Case No. 20CW3059. The augmentation plan in Case No. 20CW3059 is hereby amended, and all wells located on the overlying land described herein, excluding the Prairie Ridge Wells described in Paragraphs 25-35, are included as augmented structures, providing sources of physical supply from the not-nontributary Denver and Arapahoe groundwater sources from the FAWWA Well Field. The Case No. 20CW3059 augmentation plan is further amended to add a source of augmentation supply, being LIRFs resulting from the use of not-nontributary Denver and Arapahoe aquifer groundwater from the Rhetoric Property to be withdrawn through the FAWWA Well Field, for irrigation of public parks and open space within FAWWA's Service Area, to be calculated in the same manner and quantities as described in the 20CW3059 Decree.

23. No other changes were requested to the 20CW3059 Decree, nor does this Decree approve any other changes, and Applicant is specifically limited to the volumetric pumping limitations described in the 20CW3059 Decree and further limited in the quantities of LIRFs which may be claimed, as calculated thereunder.

24. Applicant is hereby granted, pursuant to the terms and conditions of the amended augmentation plan decreed herein, the right to withdraw all quantities of not-nontributary Denver and Arapahoe aquifer groundwater underlying the Rhetoric Property, through existing, additional or replacement wells located within said FAWWA'S Well Field, consistent with Rule 11.A. and Rule 11.B. of the Statewide Nontributary Ground Water Rules.

### PLAN FOR AUGMENTATION

25. The structures to be augmented are up to 5 residential wells constructed to the Dawson aquifer, to be located on up to 5 residential lots on a portion of the Jaynes Property (collectively the "Prairie Ridge Wells Nos. 1-5").

26. Applicant is hereby decreed a plan for augmentation for out-of-priority depletions associated with the Prairie Ridge Wells Nos. 1-5, and for the withdrawal of not-nontributary Denver Basin groundwater rights in the Dawson aquifer, underlying the Jaynes Property as decreed herein, to support subdivision and development of the Jaynes Property, more particularly described on the attached **Exhibit A** map. During the pumping life of wells to the Dawson aquifer described above, it is anticipated that any out-of-priority depletions will be replaced by return flows through non-evaporative onsite septic systems, resulting from domestic uses. Applicant shall dedicate a portion of the nontributary Denver Basin groundwater described herein for replacement of any injurious post-pumping depletions.

27. The not-nontributary Denver Basin groundwater underlying the property owned by FAWWA and its affiliates that is available for withdrawal in accordance with this plan for augmentation, and as quantified above, was previously reserved from the adjudication and quantification by the Division 2 Water Court in Case No. 07CW56:

Aquifer	Annual Average Withdrawal 100 years (Acre-Feet)	Annual Average Withdrawal 300 years (Acre-Feet)
Dawson (NNT)	9	3

28. The existing exempt permitted well to the Dawson aquifer, described above, shall remain exempt, and 3 annual acre feet has been left reserved to serve the purposes of that well, consistent with the rules and regulations of the State and Division Engineers. Applicant is hereby granted pursuant to the terms and conditions of the augmentation plan decreed herein, the right to withdraw 9 acre feet annually on a 100 year basis (3 acre-feet annually on a 300 year basis) of not-nontributary Denver Basin groundwater in the Dawson aquifer underlying the Jaynes Property through future or replacement wells located on the subject property.

29. Water Rights to be Used for Augmentation.

A. Depletions During Pumping. During the pumping life of the not-nontributary Dawson aquifer wells described herein, any out-of-priority depletions caused by the pumping of the wells, will be augmented by septic return flows through non-evaporative onsite septic systems, resulting from domestic uses. Maximum pumping of the not-nontributary Dawson aquifer described herein, in combination, shall be 1.6 annual

acre feet over the pumping life of the wells, or 0.32 annual acre feet per well. Maximum depletions from the pumping of the not-nontributary Dawson aquifer wells are 56.22% of pumping, or 0.90 maximum annual acre feet that are to be replaced under the plan for augmentation decreed herein. Depletions during pumping will be replaced by return flows from non-evaporative septic systems. The annual consumptive use for a non-evaporative septic system is 10% per year. Therefore, at conservatively estimated in-house use rates of 0.20 acre-feet per year, replacement amounts of 0.18 acre-feet accrue to the stream system annually from each well. With 5 wells this totals 0.9 acre feet annually, meeting the maximum amount of annual depletions required to be replaced hereunder. Thus, during pumping, stream depletion replacement requirements will be met by dedication of septic return flows from the described five large-lot residences within the Prairie Ridge Filing No. 1 subdivision (along with the 6th large lot continuing to utilize the exempt Prairie Ridge Well No. 6). Such return flows may be used only to replace depletions under this plan for augmentation, and may not be used, sold, traded, or assigned in whole or in part for any other purpose.

B. Post Pumping Depletions. The water rights to be used for augmentation of any injurious post-pumping depletions occurring after the anticipated 300-year pumping life of the wells resulting from the pumping of the not-nontributary groundwater described in this plan for augmentation is 480 acre feet of nontributary Denver Basin groundwater rights in the Laramie-Fox Hills aquifer underlying the Jaynes Property, as decreed in Case No. 07CW56 by the Division 2 Water Court, as owned and controlled by the Applicant:

i. Maximum annual post-pumping depletions resulting from the pumping of the not-nontributary Dawson aquifer underlying the Jaynes Property, as described herein, should not exceed 0.90 annual acre-feet, and total maximum post pumping depletions are 480 acre-feet, representing the total amount of pumping over a 300-year period. To replace any injurious post-pumping depletions Applicant shall dedicate 480 acre-feet, equivalent to an average of 1.6 annual acre-feet of pumping over 300 years, from the nontributary Laramie-Fox Hills aquifer underlying the Jaynes Property, as adjudicated in Case No. 07CW56, less the amount of actual stream depletions replaced hereunder during the plan pumping period. The total 480 acre feet of reserved post-pumping replacement water, less the amount of actual stream depletions replaced during the plan pumping period, will be sufficient to replace all calculated injurious post-pumping depletions. Applicant's dedication and reservation of up to 480 acre feet of nontributary Laramie-Fox Hills aquifer groundwater, being a portion of the Jaynes Property water previously adjudicated in Case No. 07CW56, will provide this maximum post-pumping augmentation supply. The total reserved nontributary groundwater supply, less the amount of actual stream depletions replaced during the plan pumping period, is sufficient to replace all estimated injurious post-pumping depletions.

30. Other Supplies of Augmentation Water of Limited Duration. Pursuant to C.R.S. §37-92-305(8), the Court may authorize FAWWA to use additional or alternative sources of augmentation water for replacement in this augmentation plan, including water leased by FAWWA, if such sources are part of a substitute water supply plan approved



pursuant to C.R.S. §37-92-308, or an interruptible supply agreement approved under C.R.S. §37-92-309, or other applicable and/or successor statutes, or if such sources are decreed for such use. In order to add these sources to this plan for augmentation, the procedures in Paragraphs 30.A. and 30.B. must be followed. These procedures are adequate to prevent injury to other water rights that might otherwise result from the addition of these sources to this plan.

A. Additional Water Rights Separately Decreed or Lawfully Available for Augmentation Use. If a water right is decreed or lawfully available for augmentation use and not already approved for such use under this Decree, FAWWA shall give at least 63 days advance written notice of use of the water right for augmentation to the Court, the Division Engineer, and all the objectors herein which shall describe: 1) the water right by name and decree, if any; 2) the annual and monthly amount of water available to FAWWA from the water right; 3) the manner by which the water will be used to replace out-of-priority depletions associated with this plan for augmentation; 4) the date of initial use of the water in this plan for augmentation; 5) the duration of use of the water in this plan for augmentation; 6) identification of any applicable exchanges, including the exchange reach, if the water is to be introduced downstream of the out-of-priority depletion; 7) if an exchange is required for the water to be used, proposed terms and conditions relative to the exchange operation; 8) the location or locations at which the water will be delivered to the stream; 9) evidence that the claimed amount of water is available for use in this plan for augmentation and is not and will not be used by any other person; and, 10) the manner in which FAWWA will account for use of the augmentation credits. Said notice shall specifically include a request that the Court enter an Order either affirming or denying the FAWWA's proposal, and that said Order be attached to this Decree.

i. Objection to Use of New Source. If any person wishes to object to the addition of the noticed water rights to this plan for augmentation, a written objection shall be filed with the court within 63 days after the date the Notice was given by FAWWA. If no objection is so filed, the Court shall promptly enter an Order affirming the FAWWA's immediate use of the noticed water rights. If an objection is so filed, then FAWWA may not use the noticed water rights until the Court has determined whether and under what terms and conditions the water rights may be used in this plan.

ii. Hearing on Use of New Source. Where an objection has been filed to the use of a noticed water right in this plan for augmentation, the Court shall promptly schedule a hearing to determine whether and under what terms and conditions the water right may be used in this plan for augmentation. The Court shall conduct whatever proceedings are needed to appropriately address and resolve the disputed issues. At such hearing, the Court shall impose such terms and conditions as necessary to prevent injury to vested water rights and decreed conditional water rights. If the Notice requested temporary use of the noticed water rights in this plan for augmentation for a period not to exceed one year, then the Court shall grant an expedited hearing.

iii. New Sources Requiring Operation of Exchange. Where the use of a noticed water right in this plan for augmentation requires the operation of any

new exchange(s), FAWWA must obtain approval of the Division Engineer and Water Commissioner prior to operating such exchanges. FAWWA must submit a separate Water Court application if seeking to adjudicate any such exchange(s).

B. Additional Water rights – Temporary Administrative Approval. If a water right is not decreed or otherwise lawfully available for augmentation use under the augmentation plan approved herein, and Colorado Statutes or other governing authority provides a mechanism for using such water right without the need of a decree, FAWWA shall provide written notice to the objectors herein of its request for approval of the State Engineer pursuant to C.R.S. §37-92-308, or C.R.S. §37-92-309, or any other applicable statute or rule. Such notice shall be in addition to any notice required by any applicable statute or rule. FAWWA may use such water rights in this plan for augmentation upon the State Engineer's approval of the underlying administrative application for the term of any such approval, unless such approval is reversed or modified on appeal or under the retained jurisdiction provisions of this Case No. 24CW3007.

31. As described in Paragraph 30, above, Applicant may substitute other legally available augmentation sources for replacement of any such injurious post-pumping depletions under this Court's retained jurisdiction,. Applicant claims that post-pumping depletions will be noninjurious and need not be replaced to prevent injury, though this Court makes no such finding by this decree. Applicant has reserved the right in the future to prove that said post-pumping depletions will be noninjurious under the Court's retained jurisdiction pursuant to paragraph 60.

32. Applicant shall replace post-pumping depletions for the shortest of the following: (a) the period provided by C.R.S. §37-90-137(9)(c); (b) the express period specified by the Colorado Legislature, should it specify one; (c) the period determined by the State Engineer, should he choose to set such a period and have jurisdiction to do so; (d) the period established through rulings of the Colorado Supreme Court on relevant cases, or (e) until Applicant petitions the Water Court, and after notice to parties in the case and the State Engineer's Office, proves that it has complied with any statutory requirement.

33. If operated pursuant to the terms and conditions set forth herein, the plan for augmentation decreed herein will allow Applicant to provide for the augmentation of any injurious out-of-priority stream depletions which may be caused by the pumping of the not-nontributary Dawson aquifer groundwater underlying the Jaynes Property. Applicant may utilize the not-nontributary Denver Basin groundwater in the Dawson aquifer underlying the Jaynes Property for municipal uses throughout the FAWWA's municipal Service Area, as currently exists or as may exist in the future, expressly including augmentation purposes. Applicant shall replace any out-of-priority depletions resulting from the Prairie Ridge Wells Nos. 1-5, and the Applicant's use of the not-nontributary Denver Basin ground water described in paragraph 29 above during the pumping life of the wells through return flows from non-evaporative septic systems as described above, and any injurious post-pumping or evaporative depletions through the dedication of nontributary Denver Basin groundwater supplies. Applicant has reserved

sufficient nontributary Denver Basin groundwater supplies for replacement of any injurious post-pumping depletions.

34. Curtailment. Applicant's plan for augmentation, as decreed herein, is sufficient to permit the pumping of not-nontributary supplies in the Dawson aquifer underlying the Jaynes Property as described herein to the extent FAWWA complies with all the terms and conditions of this decree including, but not limited to, providing the necessary replacement water as required by this decree. 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 to prevent injury to vested water rights.

35. Terms and Conditions. This Court finds that there will be no material injury to the owners or users of water diverted under vested water rights or conditional water rights as a result of operation of the plan for augmentation, so long as there is compliance with and proper administration of the protective terms and conditions herein.

a. The reserved nontributary Denver Basin groundwater rights are adequate for replacement of all anticipated post-pumping depletions resulting from the groundwater withdrawals from the not-nontributary Dawson aquifer underlying the Jaynes Property as described herein augmented under this plan for augmentation. FAWWA shall construct wells as necessary and initiate pumping of said nontributary Denver Basin groundwater, or provision of any alternative augmentation supply as may be decreed by the Court, for the replacement of any out-of-priority post-pumping depletions upon cessation of withdrawals from the Dawson aquifer as augmented herein. "Cessation of Withdrawals" occurs when (1) the total volume of water available from the Dawson aquifer allowed to be withdrawn under the plan for augmentation decreed herein has been withdrawn; (2) FAWWA has acknowledged in writing that all withdrawals from such aquifers have ceased permanently; (3) no withdrawals of groundwater have been made from the subject aquifer for a period of ten (10) consecutive calendar years; or (4) accounting shows that the augmentation sources described in Paragraph 29.B, above, are insufficient to replace depletions caused by withdrawals that have already occurred, and Applicant has not provided supplemental or additional augmentation supplies to remedy such insufficiency. Nothing herein shall preclude FAWWA or its successors from resuming withdrawals from such not-nontributary aquifer after cessation of withdrawals as defined above has occurred. If pumping is resumed, then FAWWA's augmentation requirements for such wells shall be determined in accordance with Paragraph 29.B of this Decree, and its post-pumping augmentation obligation shall be determined as if no cessation of withdrawals had occurred.

b. A copy of the Decree shall be recorded in the records of the Clerk and Recorder for El Paso County, Colorado, and shall constitute a covenant running with the land, requiring Applicant and its successors in interest to be bound by the terms, conditions, and requirements of this Decree and the plan for augmentation herein, including the requirement to construct and pump well(s) to the nontributary aquifers identified herein or take such other measures as necessary to replace any injurious post-pumping depletions upon Cessation of Withdrawals. Failure of Applicant or its

successors in interest to comply with such requirements of this Decree may result in enforcement actions from the State Engineer's Office including curtailment or elimination of pumping from the not-nontributary aquifers. The covenant represented by this Decree when so recorded shall be amended as necessary to conform to the provisions of any amendment to this plan for augmentation which may occur

c. While the adjudications of the Denver Basin groundwater to be utilized in this plan for augmentation anticipate an aquifer life of 300 years for each Denver Basin aquifer, the length of this plan for augmentation may be shorter than, or extend beyond, such time period provided the total pumping allocated to any augmented well or wells is not exceeded. Should the actual operation of this augmentation plan depart from the planned diversions described in this decree such that the plan may be extended beyond the anticipated 300-year aquifer life, Applicant may be required to develop a revised model of stream depletions caused by the actual pumping schedule by the State or Division Engineer. Any such revised model analysis shall utilize depletion modelling acceptable to the State Engineer, and shall represent the water use under the plan for the entire term of the plan to date. The analysis shall further demonstrate that return flows have equaled or exceeded actual stream depletions to date throughout the pumping periods and that reserved nontributary water remains sufficient to replace post-pumping and evaporative depletions. If such revised modeling is required by the State and Division Engineers, the FAVWWA shall serve the revised model on the Opposers and they shall have 63 days from service of the revised model and analysis to provide the Division Engineer with comments, concerns or objections regarding the revised model. The Division Engineer shall have 63 days from the receipt of the opposers comments on the revised model and analysis to consider the analysis and Opposers comments thereto, and to approve or disapprove the extension of the term of the plan, or to suggest terms and conditions appropriate to such an approval. Either Applicant or Opposers may appeal any such decision by the Division Engineer to this Court under the Court's retained jurisdiction as described in Paragraphs 60 and 61, below, and any such appealing party shall have the burden of proof in such an appeal. Applicant shall have the initial burden of proof that the extension of the term of the plan for augmentation will not result in injury to other water users.

36. Consideration has been given to the depletions from Applicant's use and proposed uses of water, in quantity, time and location, together with the amount and timing of augmentation water which will be provided by the Applicant, and the existence, if any, of injury to any owner of or person entitled to use water under a vested water right.

37. It is determined that the timing, quantity and location of replacement water under the terms and conditions of this decree are sufficient to protect the vested rights of other water users and eliminate injury thereto. The replacement water shall be of a quantity and quality so as to meet the requirements for which the water of senior appropriators has normally been used, and such replacement water shall be accepted by the senior appropriators in substitution for water derived by the exercise of their decreed rights pursuant to CRS § 37-92-305(5). The depletions from the wells withdrawing not-nontributary water underlying the Jaynes Property, and any additional or replacement

wells associated therewith will not result in injury to the vested water rights of others.

#### **CONCLUSIONS OF LAW**

38. Based upon and fully incorporating herein the Findings of Fact set forth above as though fully set forth herein, this Court concludes as a matter of law that:

39. Applicant's request for adjudication of the Denver Basin groundwater underlying the Rhetoric Property is contemplated and authorized by law, and this Court and the Water Referee have exclusive jurisdiction over these proceedings. §§ 37-92-302(1)(a), 37-92-203, and 37-92-305, C.R.S.

40. Subject to the terms and conditions of this decree, the Applicant is entitled to the sole right to withdraw all the legally available water in the Denver Basin aquifers underlying the parcels and property described herein, and the right to use that water to the exclusion of all others subject to the terms of this decree.

41. The Applicant has complied with C.R.S. §37-90-137(4), and the Laramie-Fox Hills groundwater underlying the Rhetoric Property is legally available for withdrawal, and the not-nontributary Dawson, Denver, and Arapahoe aquifer groundwater underlying the Rhetoric Property is legally available for withdrawal upon the entry of a decree approving an augmentation plan pursuant to C.R.S. §37-90-137(9)(c.5). Applicant is entitled to a decree from this Court confirming its rights to withdraw groundwater pursuant to §37-90-137(4), C.R.S.

42. The Denver Basin water rights described herein 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 not-nontributary groundwater meet the requirements of Colorado Law.

43. The confirmation, determination and quantification of the nontributary and not-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.

44. Satisfaction of Burdens of Proof. Applicant has complied with all requirements and satisfied all standards and burdens of proof including, but not limited to, C.R.S. §§37-92-302 through 305, excepting sections 305(3.5) and 305(3.6) which are inapplicable hereto, as amended. Applicant is entitled to a decree confirming and approving the quantification of Denver Basin groundwater, and the plan for augmentation decreed herein, which will not injuriously affect the owners of or persons entitled to use water under vested water rights or decreed conditional water rights as long as the plan for augmentation is operated and administered in accordance with the terms and conditions herein.

45. The augmentation plan decreed herein is one contemplated by law. If implemented in accordance with the terms and conditions of this decree, the plan will permit the use of water without material injury to the vested or conditionally decreed water rights of others.

46. The Court is required to retain jurisdiction in a decree approving an augmentation plan on the question of injury to vested or conditional water rights. C.R.S. §37-92-304(6). Such jurisdiction is retained and described in detail at Paragraphs 60 and 61, below.

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

47. 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.

48. The Application for Adjudication of Denver Basin Groundwater, for Approval of Plan for Augmentation, and for Amendment of a Plan for Augmentation filed by the Applicant is approved, subject to the terms of this decree.

49. The Applicant will 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 underlying the Rhetoric Property adjudicated herein. Ninety eight percent (98%) of the nontributary groundwater withdrawn may therefore be consumed. No plan for augmentation is or shall be required to provide for such relinquishment.

50. Applicant is awarded a vested right to 326 acre-feet of groundwater from the not-nontributary Dawson aquifer underlying the Rhetoric Property, as quantified in Paragraph 14 or as modified by the Court under its retained jurisdiction. Such amount may be withdrawn for any purpose described herein and pursuant to FAWWA's court-approved plan for augmentation as decreed in Case No. 23CW3009 and Case No 20CW3059.

51. Applicant is awarded a vested right to 1,690 acre-feet of groundwater from the not-nontributary Denver aquifer underlying the Rhetoric Property, as quantified in Paragraph 14 or as modified by the Court under its retained jurisdiction. Such amount may be withdrawn for any purpose described herein and pursuant to FAWWA's court-approved plan for augmentation as decreed in Case No. 23CW3009 and Case No 20CW3059.

52. Applicant is awarded a vested right to 1,390 acre-feet of groundwater from the not-nontributary Arapahoe aquifer underlying the Rhetoric Property, as quantified in Paragraph 14 or as modified by the Court under its retained jurisdiction. Such amount may be withdrawn for any purpose described herein and pursuant to FAWWA's court-

approved plan for augmentation as decreed in Case No. 23CW3009 and Case No. 20CW3059.

53. Applicant is awarded a vested right to 930 acre-feet of groundwater from the nontributary Laramie-Fox Hills aquifer underlying the Rhetoric Property, as quantified in Paragraph 14 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 (98%) 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 18.

54. The operation of FAWWA's augmentation plans as decreed herein provides for the replacement of all injurious out-of-priority depletions which may result from withdrawals of not-nontributary groundwater from the Dawson aquifer underlying the Jaynes Property, as described herein, augmented during pumping through by return flows from non-evaporative septic systems, or additional sources approved in accordance with the terms of this decree, and augmented post-pumping through dedication and pumping of the nontributary Denver Basin groundwater rights decreed in Case No. 07CW56, as more particularly described in Paragraph 29.B, herein. The terms and conditions of this decree are adequate to assure that no injury to any water users will result from operation of this plan for augmentation. The Court approves this plan subject to the terms and conditions contained in this decree.

55. The replacement and augmentation supplies that FAWWA will use for operation of the plan for augmentation decreed herein are of a quality and quantity so as to meet the requirements for which the water of senior appropriators has normally been used.

56. The State and Division Engineers and the Water Commissioner shall administer this augmentation plan in accordance with the terms and conditions contained in this decree. So long as FAWWA operates its wells to the not-nontributary Dawson aquifer in accordance with this decree, this augmentation plan can be operated without adversely affecting the owners or users of vested water rights or decreed conditional water rights on the Arkansas River or its tributaries. So long as water is used in conformance with the requirements of this decree, there will be no injurious effects to the vested or decreed conditional water rights of others related to the amount or timing of water availability.

57. The State Engineer, the Division Engineer, and/or the Water Commissioner shall not curtail the diversion and use of water covered by the plan for augmentation decreed herein, so long as return flows from non-evaporative septic systems necessary for augmentation during the pumping life of the not-nontributary Dawson aquifer described herein continue to accrue to the stream system pursuant to the conditions contained herein to replace depletions. To the extent that Applicant or its successors or assigns is unable to provide the replacement water required, then the wells shall not be entitled to continue under the protection of this plan, and shall be subject to administration

and curtailment in accordance with the laws, rules, and regulation of the State of Colorado. Pursuant to C.R.S. §37-92-305(8), the State Engineer shall curtail all out-of-priority diversions which are not so replaced as to prevent injury to vested water rights. In order for this plan for augmentation to operate, return flows from non-evaporative septic systems must at all times during pumping be in an amount sufficient to replace the amount of stream depletions. The State Engineer shall issue well permits in accordance with C.R.S. §37-90-137(4) and/or (10) and consistent with the terms and conditions of this Decree. All such wells constructed by Applicant pursuant to the augmentation plan decreed herein shall be geophysically logged consistent with applicable rules and regulations of the State and Division Engineers.

58. Applicant shall install such metering and measuring devices as may be reasonably required by the State and Division Engineers to ensure proper measurement and accounting of all withdrawals and pumping.

59. Accounting. FAWWA has demonstrated an appropriate method of accounting for diversions and stream depletions associated with the operation of this plan for augmentation. FAWWA's accounting under this decree shall include the following information: (1) the daily volume of water pumped from each not-nontributary Dawson aquifer wells; (2) the daily amount of water used for domestic uses from the Prairie Ridge Wells Nos. 1-5; (3) the weekly out-of-priority stream depletions from prior weeks' pumping and from the current week's pumping; (4) the source and amount of the replacement sources used for augmentation in this plan, which shall be accounted for daily and reported monthly; and (5) the amount of any additional or alternative augmentation supplies allowed under Paragraph 29, which shall be accounted for daily, balanced weekly, and reported monthly. Unless specifically indicated by this decree, all accounting records required by this decree shall be filed with the State Engineer and Division Engineer on a monthly basis. An example of FAWWA's current accounting forms, in which the accounting required by this plan for augmentation will be integrated, is attached as **Exhibit D**. Such Accounting forms are included as an example only and are not decreed herein. The Applicant's current accounting forms are adequate to account for the water rights and augmentation plan under this decree; however, said forms are not decreed herein and may be changed from time to time so long as the information required by this decree is included in the forms. Applicant shall serve the Opposers and the Division Engineer with any modified accounting forms. The Opposers will have 63 days thereafter to provide written comments concerning the modified accounting forms to Applicant and the Division Engineer. Applicant must obtain the Division Engineer's approval of the modified accounting forms prior to their use. Upon the Division Engineer's approval of the modified accounting forms, Applicant shall file the approved modified accounting forms with the Court, with service on the opposers herein. Applicant shall make its accounting available to the Water Commissioner and to any party who requests it, providing a summary of withdrawals, return flows, depletions, and augmentation releases associated with FAWWA's operation of the augmentation plan approved herein. The daily accounting and all backup and supporting information and documents shall also be provided to any objector making a written request for said accounting for the accounting year, upon payment of reasonable costs. The accounting shall be delivered



to the Division Engineer and Water Commissioner in the manner they prescribe and may be delivered to other objectors in paper or electronic format at FAWWA's option.

60. Retained Jurisdiction. Pursuant to the provisions of C.R.S. §37-92-304(6), this plan for augmentation decreed herein shall be subject to the reconsideration of this Court on the question of material injury to vested water rights of others, for a period of five years after Applicant begins operating this plan for augmentation. Any person, within such period, may petition the Court to invoke its retained jurisdiction. Any person seeking to invoke the Court's retained jurisdiction shall file a verified petition with the Court setting forth the factual basis for the relief requested in the petition, together with proposed decretal language to affect the petition. The party filing the petition shall have the burden of proof of going forward to establish the facts alleged in the petition. If the Court finds those facts are established, Applicant shall thereupon have the burden of proof to show: (a) that the petitioner is not injured, or (b) that any modification sought by the petitioner is not required to avoid injury to the petitioner, or (c) that any term or condition proposed by Applicant in response to the petition does avoid injury to the petitioner. The Division of Water Resources as a petitioner shall be entitled to assert injury to the vested water rights of others. If no such petition is filed within such period and the retained jurisdiction period is not extended by the Court in accordance with the revisions of the statute, this matter shall become final under its own terms. The Court also retains continuing jurisdiction for the purpose of determining whether the continued reservation of the nontributary Denver Basin water rights in the Laramie-Fox Hills aquifer, more particularly described in Paragraph 29.B., above, for augmentation use hereunder is required and retained jurisdiction for such purpose shall be perpetual. After notice to all objectors, if Applicant can demonstrate to the Court that post-pumping depletions need no longer be replaced and/or are non-injurious, the Court may remove the requirement that the nontributary groundwater must continue to be reserved.

61. Pursuant to C.R.S. §37-92-304(6), the Court shall retain continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others, as pertains to the use of Denver Basin groundwater supplies adjudicated herein for augmentation purposes. The Court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan. The Court further retains jurisdiction should the Applicant later seek to amend this decree by seeking to prove that post-pumping depletions are noninjurious, that the extent of replacement for post-pumping depletions is less than the amount of water reserved herein, and other post-pumping matters addressed in Paragraph 29.B. The Court's retained jurisdiction may be invoked using the process set forth in Paragraph 60.

62. 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 Engineers, 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 each well, or any additional or replacement wells

associated therewith and are required to include geophysical logging on each well. Applicant shall read and record their well meter readings on April 1<sup>st</sup> and November 1<sup>st</sup> of each year and shall submit their meter readings to the Water Commissioner by April 15<sup>th</sup> and November 15<sup>th</sup> of each year or more frequently as requested by the Water Commissioner.

63. This Ruling of Referee, when entered as a decree of the Water Court, shall be recorded in the real property records of El Paso County, Colorado. Copies of this ruling shall be mailed as provided by statute.

DATED: January 23, 2025.

BY THE REFEREE:




Kate Brewer, Water Referee  
Water Division 2

#### DECREE

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

Dated: February 18, 2025.




Honorable Gregory J. Styduhar  
Water Judge, Water Division 2  
State of Colorado

**ALTA/N****LEGAL DESCRIPTION:****PARCEL A:**

THAT PORTION OF THE E 1/2 OF THE SW 1/4 AND THAT PORTION OF THE W 1/2 OF THE SE 1/4 OF SECTION 28 AND THAT PORTION OF THE E 1/2 OF THE NW 1/4 OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, LAYING NORTHWESTERLY OF THE EXISTING COUNTY ROAD (VOLLMER ROAD), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST-WEST CENTERLINE OF SAID SECTION 28, SAID LINE ALSO BEING THE SOUTH LINE OF POCD ROAD AS DESCRIBED IN BOOK 2274 AT PAGE 314, SAID POINT ALSO BEING THE CENTER WEST 1/16 CORNER OF SAID SECTION 28, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 28 BEARS S89°45'22"W (BEARING BASED ON THE LINE BETWEEN THE WEST QUARTER CORNER OF SAID SECTION 28, MONUMENTED WITH A 3 1/4 INCH ALUMINUM CAP MARKED WITH PLS NO. 4842 AND THE NORTHWEST CORNER OF JAYNES SUBDIVISION, MONUMENTED WITH A NO.4 REBAR AND PLASTIC CAP MARKED WITH PLS NO.4842, SAID LINE BEARS N89°45'22"E), A DISTANCE OF 1310.67 FEET;

THENCE N89°45'22"E, ALONG SAID EAST-WEST CENTERLINE, A DISTANCE OF 717.48 FEET, TO THE NORTHWEST CORNER OF LOT 1, JAYNES SUBDIVISION (AS ESTABLISHED ON THAT PLAT OF JAYNES SUBDIVISION, FILED ON DECEMBER 20, 1984 IN THE EL PASO COUNTY CLERK AND RECORDERS OFFICE AT RECEPTION NO. 1194948 IN PLAT BOOK X-3 AT PAGE 96);

THENCE S00°14'39"E, ALONG THE WEST LINE OF LOT 1, A DISTANCE OF 544.41, TO THE SOUTHWEST CORNER OF SAID LOT 1;

THENCE N89°46'02"E ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 400.10 FEET;

THENCE S00°15'34"E, A DISTANCE OF 598.01 FEET;

THENCE N 89°45'22"E, A DISTANCE OF 1217.67 FEET TO A POINT ON THE APPARENT NORTHWESTERLY RIGHT OF LINE OF EXISTING VOLLMER ROAD;

THENCE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE OF VOLLMER ROAD THE FOLLOWING FOUR (4) COURSES:

1. ALONG THE ARC OF A NON-TANGENTIAL CURVE TO THE RIGHT, WHOSE CENTER BEARS N78°14'10"W, HAVING A CENTRAL ANGLE OF 27°06'29" AND A RADIUS OF 603.83 FEET, A DISTANCE OF 285.69 FEET;
2. THENCE S38°51'49"W, A DISTANCE OF 1375.53 FEET;
3. THENCE S39°37'46"W, A DISTANCE OF 376.52 FEET;
4. THENCE S41°07'37"W, A DISTANCE OF 1729.65 FEET, TO THE INTERSECTION OF SAID NORTHWESTERLY RIGHT OF WAY LINE AND THE WEST LINE OF THE SAID E 1/2 OF THE NW 1/4 OF SAID SECTION 33;

THENCE N00°25'04"E ALONG SAID WEST LINE OF THE SAID E 1/2 OF THE NW 1/4 OF SAID SECTION 33, A DISTANCE OF 1440.99 FEET;

THENCE N00°14'40"E ALONG THE WEST LINE OF THE E 1/2 OF THE SW 1/4 OF SAID SECTION 28, A DISTANCE OF 2611.39 FEET, TO THE POINT OF BEGINNING.

**PARCEL B:**

THAT PORTION OF THE SOUTH HALF OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO DESCRIBED AS FOLLOWS:

BEARINGS ARE RELATIVE TO NORTH AND ARE REFERENCED TO A PORTION OF THE EAST AND WEST CENTERLINE OF SAID SECTION 28. THE WEST END OF SAID CENTERLINE IS THE WEST QUARTER CORNER OF SAID SECTION 28 AND IS MONUMENTED WITH A 3 1/4 INCH ALUMINUM CAP MARKED WITH PLS NO. 4842. THE EAST END IS THE NORTHEAST CORNER OF JAYNES SUBDIVISION AND IS MONUMENTED WITH A NO. 4 REBAR WITH A PLASTIC CAP MARKED WITH PLS NO. 4842. SAID LINE BEARS N 89°45'22"E, 2428.08 FEET.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 28, SAID CORNER MONUMENTED WITH A 3 1/4 INCH ALUMINUM CAP MARKED WITH PLS NO. 4842; THENCE N 89°45'22"E, ALONG THE EAST AND WEST CENTERLINE OF SAID SECTION 28 A DISTANCE OF 2428.08 FEET TO THE NORTHEAST CORNER OF SAID JAYNES SUBDIVISION, SAID POINT BEING THE POINT OF BEGINNING:

1. THENCE N89°45'22"E, CONTINUING ALONG SAID EAST AND WEST CENTERLINE, 1457.61 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID VOLLMER ROAD AS DETERMINED BY AN EXISTING FENCE (THE FOLLOWING TWO COURSES ARE ALONG THE SAID WEST RIGHT-OF-WAY LINE);
2. THENCE S10°11'12"W, 114.56 FEET TO A SET NO.5 REBAR AND PLASTIC CAP MARKED WITH PLS NO.32439;
3. THENCE S11°45'20"W, 1052.84 FEET TO A SET NO.5 REBAR AND PLASTIC CAP MARKED WITH PLS NO.32439;
4. THENCE S89°45'22"W, 1217.67 FEET TO A SET NO. 5 REBAR AND PLASTIC CAP MARKED WITH PLS NO.32439 AT THE INTERSECTION OF THE SOUTHERLY PROLONGATION OF THE EAST LINE OF LOT 1, JAYNES SUBDIVISION AS DETERMINED BY FOUND MONUMENTATION;
5. THENCE N0°15'34"W, 598.01 FEET TO A NO. 4 REBAR AND PLASTIC CAP MARKED WITH PLS NO. 4842 AT THE SOUTHEAST CORNER OF SAID LOT 1;
6. THENCE N0°15'34"W, CONTINUING ALONG SAID EAST LINE, 544.49 FEET TO THE POINT OF BEGINNING.

**TITLE COMMITMENT NOTES:**

THIS ALTA/NSPS LAND TITLE SURVEY DOES NOT CONSTITUTE A OF RECORD OR CLASSIC CONSULTING ENGINEERS AND SURVEY OF THIS TRACT, VERIFY THE DESCRIPTION SHOWN, VERIFY THE WITH THAT OF ADJOINING PARCELS, VERIFY EASEMENTS OF RECORD. ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF SURVEYOR OF RECORD AND CLASSIC CONSULTING ENGINEERS AP ORDER NO. 211789 PREPARED BY CAPSTONE TITLE AGENT FOR WITH A COMMITMENT DATE OF JUNE 26, 2021 AT 8:00 A.M.

THE FOLLOWING COMMENTS ARE IN REGARDS TO THE ABOVE-RE NUMBERS IN OUR COMMENTS CORRESPOND TO THE NUMBERING COMMITMENT.

**SCHEDULE A**

ITEM	COMMENT
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1.	NOTED ABOVE
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2,3,4.	CLASSIC CONSULTING ENGINEERS AND SURVEYORS, L ADDRESS THESE ITEMS.
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5.	LEGAL DESCRIPTION AS CORRECTED IS NOTED ABOVE
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**SCHEDULE B - PART I (REQUIREMENTS)****REQUIREMENTS**

ITEM	COMMENT
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1,2,3,4, 5,6,7A,7B.	CLASSIC CONSULTING ENGINEERS AND SURVEYOR THESE ITEMS.
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7C.	THIS SURVEY IS IN RESPONSE TO THIS ITEM.
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7D.	CLASSIC CONSULTING ENGINEERS AND SURVEYOR THIS ITEM.
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**SCHEDULE B - PART II (EXCEPTIONS)**

ITEM	COMMENT
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1.	ANY DEFECT, LIEN, ENCUMBRANCE, ADVERSE CL APPEARS FOR THE FIRST TIME IN THE PUBLIC R ATTACHES, OR IS DISCLOSED BETWEEN THE COM WHICH ALL OF THE SCHEDULE B, PART I - REC HEREON, PER EVIDENCE THAT WAS VISIBLE AND TO THE BEST OF OUR INFORMATION, KNOWLEDGE
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2.	RIGHTS OR CLAIMS OF PARTIES IN POSSESSION, RECORDS ARE SHOWN HEREON, PER EVIDENCE I DURING THIS SURVEY, TO THE BEST OF OUR INF BELIEF.
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3.	EASEMENTS, OR CLAIMS OF EASEMENTS, NOT SH ARE SHOWN HEREON, PER EVIDENCE THAT WAS THIS SURVEY, TO THE BEST OF OUR INFORMATION
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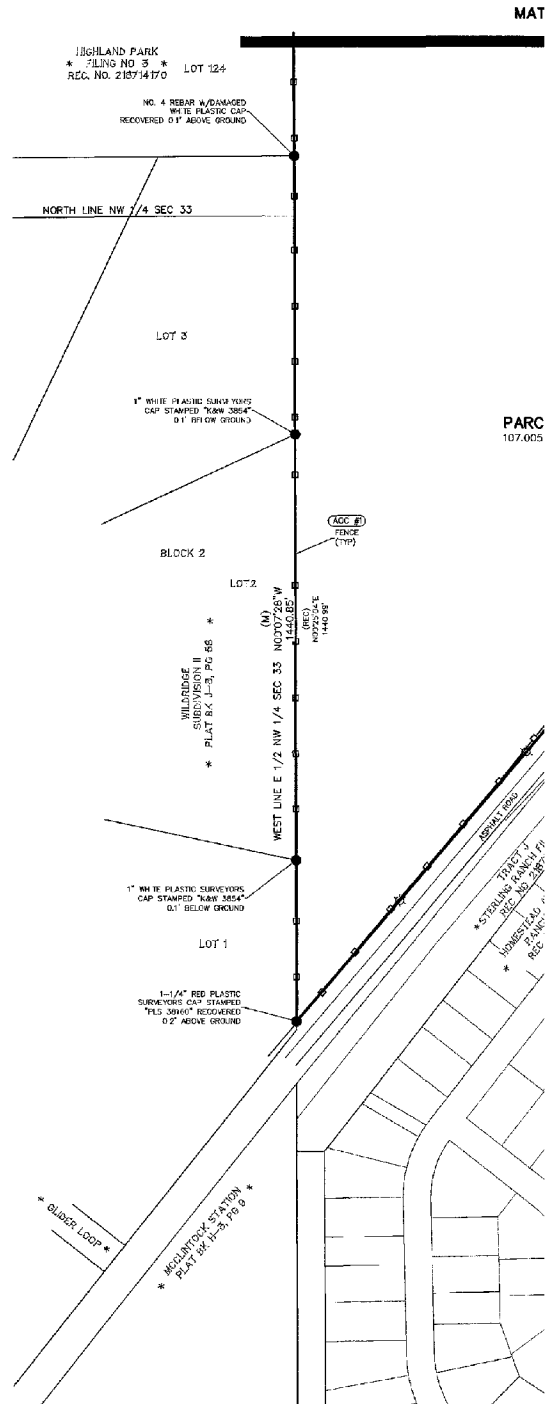
4.	ANY ENCROACHMENT, ENCUMBRANCE, VIOLATION CIRCUMSTANCE AFFECTING THE TITLE THAT WOU ACCURATE AND COMPLETE LAND SURVEY OF TH PUBLIC RECORDS ARE SHOWN HEREON, PER EVI APPARENT DURING THIS SURVEY, TO THE BEST AND BELIEF.
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5.	CLASSIC ENGINEERS AND SURVEYORS LLC DID N ITEM.
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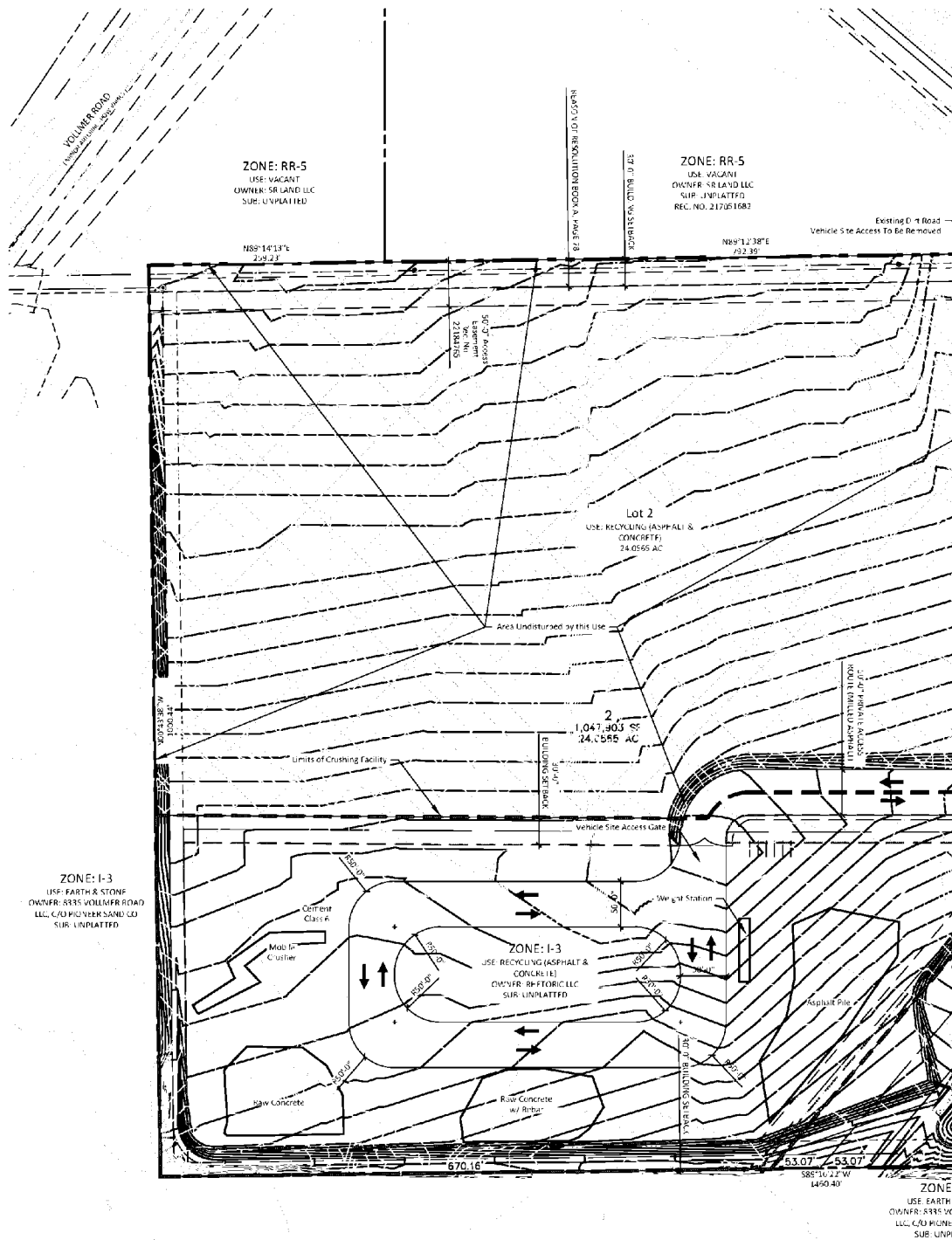
6.	CLASSIC CONSULTING ENGINEERS AND SURVEYOR ADDRESS MINERAL RIGHTS. CLASSIC CONSULTIN LLC, AND THE SURVEYOR OF RECORD, ASSUMES MINERAL RIGHTS ON THIS TRACT OF LAND. CLAS SURVEYORS, LLC DID NOT EXAMINE OR ADDRESS WATER RIGHTS. SHOULD THIS ITEM BECOME AN IN INTEREST, WE RECOMMEND THAT AN ATTORNEY BE CONTACTED.
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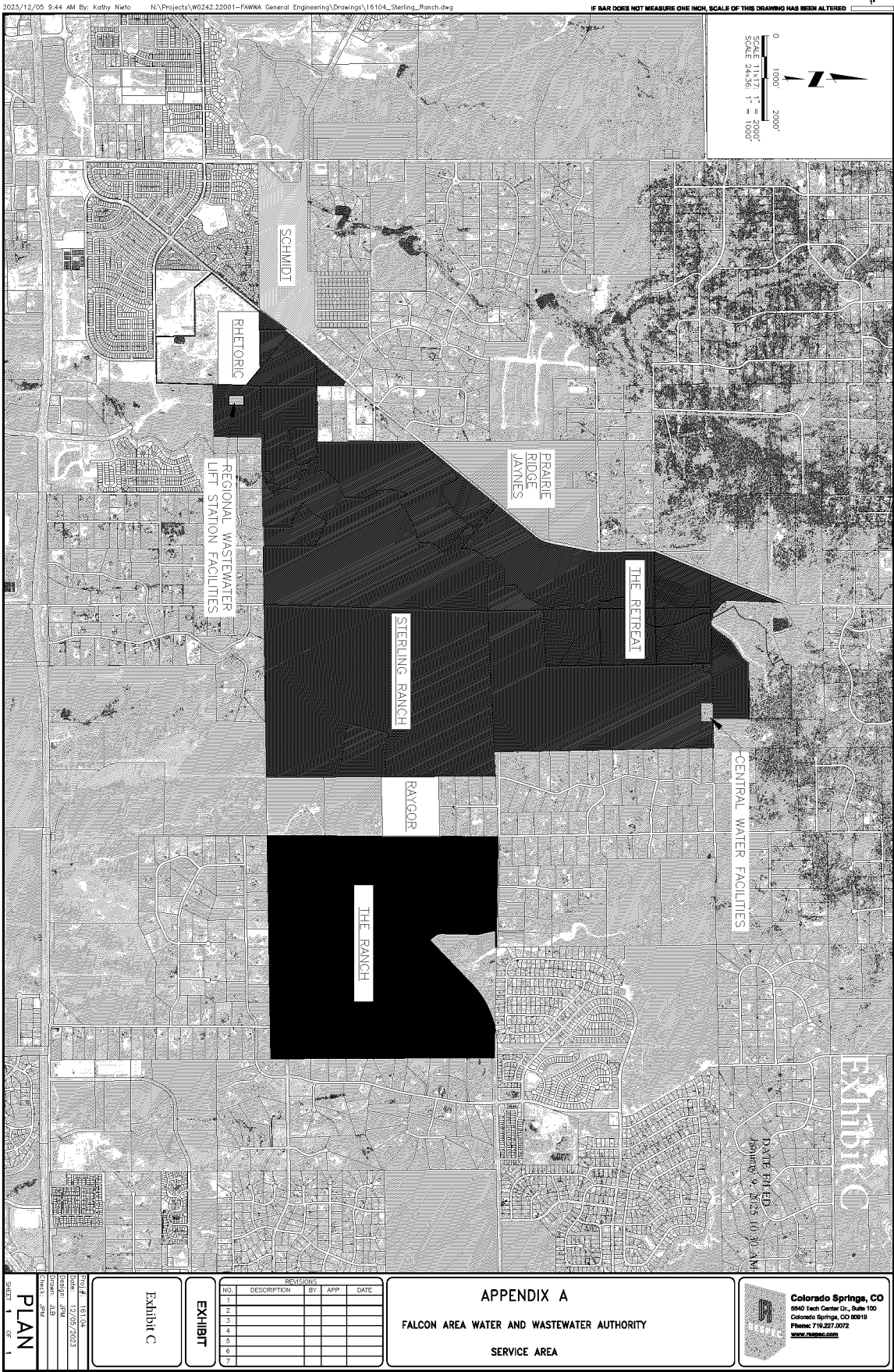
**ALTA/N**

ALTA/N



## SECTION 5 IN TOWNSHIP 12 SO















Falcon Area Water and Wastewater Authority  
Prairie Ridge Wells  
Case No. 24CW3007  
Well No.

OWNER	
LOT	
YEAR	
MONTH	
METER UNITS	
MULTIPLIER (or N/A)	

- Notes:
- 1) Record all numbers of the face of the meter (including non-rotating digits).  
Try to record at a similar time each day.
  - 2) If unable to record one or more days, record the next end-of-day reading and note the absence with an 'X'.
  - 3) Use the notes column to communicate about any other issues with meter readings.

DATE	END-OF-DAY READING	NOTES
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