

December 21, 2023

WATER PLAN for 95CW288 and 2022CW3071 decrees

Oak Bluff and Sundown Subdivisions Water Plan, approximately 179 acres

Oak Bluff subdivision consists of 21 Rural Residential home sites roughly 4.5 to 5 acres on 106 acres. Sundown subdivision consists of 17 homesites, approximately 2 acres each, on 73 acres. Combined these subdivisions are approximately 179 acres. These sites are located east of Franktown near the southwest corner of Burning Tree Drive and Tanglewood Road. The site lies in the NE quarter of Section 1, Township 8S, Range 66W and in the NW quarter of Section 6, Township 8S, Range 65W of the 6th P.M. The Rural Residential single family home sites will be served by individual well and septic systems. There are no wells currently on the property.

Source of Water

A water supply letter by Hayes Poznanovic Korver, LLC. dated 4-18-23 defines the amounts of water available under two decreed cases see attachment A. The water decreed in Case No. 95CW288 for Parcel A(190.73 acres) and in Case No. 2022CW3071 used to serve the lot owners and the Home Owner’s Association (HOA). Upper Dawson water will have groundwater reserved by the HOA’s for augmentation.

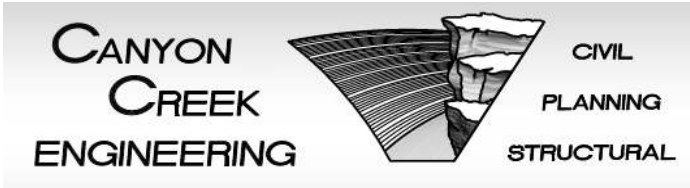
Aquifer	Decreed volumes in Case No. 1995CW288	<u>Prorated amount for 179 acres</u>
Upper Dawson	44.2 acre feet (NNT)	41.5 af (NNT)
Lower Dawson	24.0 acre feet (NT)	22.5 af (NT)
Denver	64.8 acre feet (NT)	60.8 af (NT)
Arapahoe	89.2 acre feet (NT)	83.7 af (NT)
Laramie-Fox Hills	55.8 acre feet (NT)	52.4 af (NT)

Aquifer	Decreed volumes in Case No. 2022CW3071
Upper Dawson	11.15 acre feet (NNT)*decreed augmentation plan, 10.8 af (NNT)

Water Demand

As per the water demand standards in Douglas County Zoning Resolution Section 18A, the home sites will require 1 acre foot of water per year, and irrigated areas will require 2.5 acre feet per acre. In addition, a 30,000 gallon water tank will be constructed and filled on Tract A, 0.1 acre foot of water demand is dedicated for use to fill the 30,000 gallon fire water storage tank as necessary (proposed for Lower Dawson well). Augmentation water for the Upper Dawson aquifer withdraws will also be reserved in the Laramie-Fox Hills aquifer and dedicated to the Oak Bluff and Sundown Home Owner’s Associations.

38 Rural Residential home sites (1acre foot, Douglas County requirement)	38.0 acre feet
.8 acre irrigated area at 2 entries	2.0 acre feet
Fire water storage and use	<u>0.1 acre feet</u>
Total demand from development	40.1 acre feet



Water Allocation Plan

OAK BLUFF and SUNDOWN

Upper Dawson Aquifer Total Available: $41.5 + 10.8 = 52.3$ acre feet per year (100 year supply)

Although the expected use is 1 acre foot per year (100 year supply), all 38 lots will be allocated 1.3 acre feet as follows: Lots 1 through 12 in Sundown will be allocated 0.9af from Case No. 2022CW3071 for a total of 10.8af. Lots 1 through 12 Sundown will also be allocated 0.4af from Case No. 95CW288 for a total of 4.8af.

The remaining allocations are from Case No. 95CW288; Lots 13 through 17, Sundown and Lots 1 through 21, Oak Bluff will be allocated 1.3 acre feet per year. The Oak Bluff HOA will be allocated 1.6 acre feet for irrigation. The Sundown Home Owner's Association will be allocated 1.3 acre feet for irrigation or other uses allowed in the decree. The total 52.3 acre feet will be augmented with water from the Laramie-Fox Hills aquifer, if necessary, augmentation water will be reserved by the respective HOA's.

Lower Dawson Aquifer Total: 22.5 acre feet

All 38 lots will be allocated 0.5 acre feet each (19 acre feet) in the Lower Dawson Aquifer for future use, the Oak Bluff Home Owners Association will be allocated 2 acre feet and Sundown HOA allocated 1.5 acre feet for a total of 22.5 acre feet. The Oak Bluff Home Owners Association may access the Lower Dawson Aquifer for filling of the 30,000gal. fire suppression water tank, if other methods of filling the tank are not chosen.

Denver Aquifer Total: 60.8 acre feet

All 38 residential lots will be allocated 1.6 acre feet per lot for a total of 60.8 acre feet.

Arapahoe Aquifer Total: 83.7 acre feet

All 38 residential lots will be allocated 2.1 acre feet per lot (79.8 acre feet).

The Oak Bluff Home Owners Association will be allocated 2.2 acre feet and Sundown HOA will be allocated 1.7 acre feet. Total allocation of Arapahoe aquifer 83.7 acre feet per year (100yr supply).

Laramie-Fox Hills Aquifer Total: 52.4 acre feet

The Oak Bluff Home Owners Association will be allocated $27.5af + 1.6af = 29.1$ acre feet.

The Sundown Home Owner's Association will be allocated $22.3af + 1af = 23.3$ acre feet.

To be reserved by the HOA's for future augmentation.

These amounts in each aquifer will be conveyed at time of lot purchase and will remain attached to the lot and/or the respective Oak Bluff or Sundown Home Owners Associations. The property will have restrictive covenants to enforce this water plan and dedicate the water to the land owners and Home Owners Associations with the restriction the water cannot be conveyed or sold.

Attachment A Water Supply Letter

Attachment B Water decrees

Attachment C Vicinity Map

Prepared by: Phil Giesing P.E.27384

HAYES POZNANOVIC KORVER LLC

ATTORNEYS AT LAW

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FACSIMILE (303) 825-1983

April 18, 2023

Douglas County Community & Development Services
100 Third St, #220
Castle Rock, CO 80104

Re: Oakbluff Minor Development
Sundown Minor Development

To Whom it May Concern:

The following provides an overview of the proposed water supplies that will serve up to thirty-eight (38) residential lots, on a total of 177.323 acres, generally located in the N1/2 of the NE1/4 of Section 1, Township 8 South, Range 66 West of the 6th P. M., and the N1/2 of the NW1/4, and the NW1/4 of the NW1/4 of Section 6, Township 8 South, Range 65 West of the 6th P.M., in Douglas County ("Subject Property"). This letter is based on amounts of groundwater decreed and the augmentation plan approved in Case Nos. 1995CW288 and 2022CW3071, District Court, Water Division 1. The groundwater appears to be owned by the Applicant. This letter provides no opinion on the actual physical supply of groundwater available and is not a title opinion. Each lot will each be served by an individual well.

Each subdivision will have the following number of single-family units:

- Oak Bluff – 21 lots
- Sundown – 17 Lots

Each subdivision will use individual wells into the Upper Dawson Aquifer.

Decreed Annual Volumes

The following volumes are available and approved for use, reuse, and successively use and, after use, leased, sold, or otherwise disposed of for the municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, and any other beneficial purpose, to be used on or off the land. Said water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes both on and off the Subject Property. The groundwater in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers is nontributary ("NT") as defined in C.R.S. §§ 37-82-101(2) and 37-92-102(1)(b), and the groundwater in the Upper Dawson is nontributary ("NNT") as described in C.R.S. §§ 37-90-103(10.7) and 37-90-137(9)(c.5).

Decreed Volumes in Case No. 1995CW288:

Aquifer	Annual Amount (100 Years)
Upper Dawson (NNT)*	44.2 acre-feet
Lower Dawson (NT)	24.0 acre-feet
Denver (NT)	64.8 acre-feet
Arapahoe (NT)	89.2 acre-feet
Laramie-Fox Hills (NT)	55.8 acre-feet

* 12 acre-feet was reserved for future exempt wells, a portion of which was decreed in Case No. 22CW3071.

Decreed Volumes in Case No. 2022CW3071:

Aquifer	Annual Amount (100 Years)
Upper Dawson (NNT)	11.15 acre-feet

Augmentation Plans

Case No. 1995CW288:

The 1995CW288 Decree approved an augmentation plan for the use of up to 44.2 acre-feet per year of NNT Upper Dawson Aquifer groundwater for 100 years for in-house, stock watering, and irrigation uses.

Case No. 2022CW3071:

The 2022CW3071 Decree approved an augmentation plan for the use of up to 10.8 acre-feet per year NNT Upper Dawson Aquifer groundwater for 100 years for in-house, irrigation, and fire protection uses.

Water Supply Sufficiency

The amount of groundwater in the NNT Upper Dawson Aquifer underlying the Subject Property allowed to be withdrawn under the augmentation plans is sufficient to provide in-house and irrigation use on the Subject Property for up to 38 residential wells, each withdrawing up to 1.3 acre-feet per year for 100 years.

If you have any questions or comments, please feel free to call.

Sincerely,

HAYES POZNANOVIC KORVER LLC



Eric K. Trout

DISTRICT COURT, WATER DIVISION 1, COLORADO Weld County Courthouse P.O. Box 2038 Greeley, CO 80632	DATE FILED: October 27, 2022 3:36 PM CASE NUMBER: 2022CW3071 ▲ COURT USE ONLY ▲
APPLICATION FOR UNDERGROUND WATER RIGHTS AND PLAN FOR AUGMENTATION OF OAK BLUFF SUBDIVISION, LLC. and SUNDOWN SUBDIVISION, LLC., Applicants, IN DOUGLAS COUNTY	Case Number: 2022CW3071
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE	

A claim for a plan for augmentation was filed in this case on May 26, 2022. All matters contained in the application having been reviewed, such testimony having been taken and evidence presented as was necessary, and being otherwise fully advised in the premises, it is hereby the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Judgment and Decree, as follows:

FINDINGS OF FACT

1. Name and address of Applicants:

Oak Bluff Subdivision, LLC., a Colorado limited liability company
Sundown Subdivision, LLC., a Colorado limited liability company
609 W Littleton Blvd, Suite 206
Littleton, CO 80120

2. Statements of Opposition: No statements of opposition were filed and the time for filing of such statements has expired.

3. Subject Matter Jurisdiction: Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected hereby, whether they have appeared or not.

4. Consultation: The Water Referee consulted with the Division Engineer, as required by C.R.S. § 37-92-302(4), on the application, on August 8, 2022, and the Division Engineer filed its summary of consultation on August 31, 2022. The amounts herein are consistent with and conform to the values and amounts referenced in the State Engineer's Determinations of Facts dated August 9, 2022.

GROUNDWATER RIGHTS

5. **Subject Property:** Approximately 177.323 acres on 4 contiguous parcels generally located in the N1/2 of the NE1/4 of Section 1, Township 8 South, Range 66 West of the 6th P.M., and the N1/2 of the NW1/4, and the NW1/4 of the NE1/4,
6. of Section 6, Township 8 South, Range 65 West of the 6th, P.M., Douglas County, State of Colorado, as shown on Exhibit A (“Subject Property”).
7. **Prior Decree Information:** The groundwater underlying the Subject Property was decreed in Case No. 1995CW288, District Court, Water Division 1 on July 25, 1996, (the “95CW288 Decree”). The groundwater was conveyed to the Applicants via the quitclaim deeds recorded at Reception Nos. 2020061315, 2020061316, 2020061328, 2020061329 on July 13, 2020, at the Douglas County Clerk and Recorder’s Office.
8. **Annual Amount:** Upper Dawson Aquifer groundwater was reserved for exempt uses under Parcel A in the 95CW288 Decree. The Subject Property is a part of Parcel A. This decree adjudicates a portion of the reserved Upper Dawson Aquifer groundwater. The volume below is based on a 100-year aquifer life:

Aquifer	Annual Amount (acre-feet)	Total Amount (acre-feet)
Upper Dawson (NNT)	11.15	1,115

7. **95CW288 Decreed Uses:** The water withdrawn from the subject aquifers will be used, reused, and successively used and, after use, leased, sold or otherwise disposed of for the municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, and any other beneficial purpose, to be used on or off the land. Said water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes.
8. **Decreed Uses:** Domestic, including in-house use, commercial, irrigation, stockwatering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property.

PLAN FOR AUGMENTATION

9. **Plan for Augmentation:**
 - 9.1 **Groundwater to be Augmented:** 10.8 acre-feet per year for 100 years of non-tributary Upper Dawson Aquifer groundwater.
 - 9.2 **Water to be Used for Augmentation:** Return flows associated with use of the non-tributary Upper Dawson Aquifer and return flows or direct discharge of non-tributary groundwater.

- 9.3 The Upper Dawson Aquifer groundwater will be used on up to twelve (12) lots, in up to twelve (12) individual wells (0.9 acre-feet per well), for in-house use in one single-family residence (0.3 acre-feet per year per well, 3.6 acre-feet per year total), irrigation, including lawn, garden, and trees of up to 12,000 square-feet per lot (0.6 acre-feet per well, 7.2 acre-feet per year), and fire protection, through one or more wells on the Subject Property. Conservatively, water use in single-family dwellings will equal at least 0.2 acre-feet of water annually for in-house uses, and the use of non-evaporative septic systems typically results in consumption of approximately 10% of such use, resulting in return flows of at least 0.18 acre-feet per year from each single-family residence, and 2.16 acre-feet per year at full build-out. Various components of this plan for augmentation are predicated on these estimations, and Applicants shall be required to use a non-evaporative septic system to treat and dispose of water used for in-house use.
- 9.4 Replacement During Pumping: During pumping of the Upper Dawson Aquifer groundwater, Applicants will replace actual depletions to the affected stream system pursuant to C.R.S. § 37-90-137(9)(c.5). In the 100th year, the total depletion is 12.49% of the amount withdrawn or 1.35 acre-feet total. Return flow from in-house use of the Upper Dawson Aquifer water for the residences is at least 0.18 acre-feet per year, and 2.16 acre-feet per year at full build-out, as described above, and such return flow is sufficient to replace actual depletions for pumping of the entire 10.8 acre-feet per year for 100 years. Return flows accrue to the South Platte River system via Cherry Creek. Because return flows from all uses are estimated rather than measured, Applicants agree that such return flows shall be used only to replace depletions under this plan for augmentation and will not be sold, leased, traded, or assigned in whole or in part for any other purpose. If for any reason, sufficient return flows are not available to replace the actual depletions shown on **Exhibit B**, the Applicants, or successors in interest, are required to pump water directly into the stream in the amount that has not been replaced by return flows. If such water is withdrawn from the Upper Dawson Aquifer well(s) operated under the augmentation plan the amount of water being pumped from the well(s) for other purposes must be reduced so that the allowed annual withdrawal from the well(s) is not exceeded. Such replacement must be made prior to the irrigation season for the following year.
- 9.5 Post-pumping Depletion Augmentation: Assuming maximum pumping of 10.8 acre-feet per year for 100 years from the Upper Dawson Aquifer, the maximum total depletion to the affected stream systems is approximately 13.92% of the annual amount withdrawn or 1.50 acre-feet in the 130th year. Applicants will reserve 10.8 acre-feet per year, 1,080 acre-feet total, of the nontributary Laramie-Fox Hills Aquifer groundwater decreed in the 95CW288 Decree, owned by Applicants, for use in this plan, but reserves the right to substitute the use of other nontributary groundwater, including return flows, either underlying the Subject Property, or from another location which is legally available for such purpose, for replacement of post-pumping depletions at such time that post-pumping

depletions may begin. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

- 9.6 Applicants will begin making post pumping replacements when (1) the Applicants or successors in interest have acknowledged in writing that all withdrawals for beneficial use of the Upper Dawson Aquifer groundwater has permanently ceased, or (2) for a period of 10 consecutive years that no Upper Dawson Aquifer groundwater has been withdrawn. Until such time as the post pumping depletions begin the Applicant must continue to replace during pumping depletions to the stream using return flows, by pumping water directly to the stream to replace such depletions or using another replacement source approved by the Division Engineer. At the time that post pumping depletions begin as described in this paragraph, Applicant or successors in interest will be required to construct a well and pump groundwater to replace post-pumping depletions, subject to the terms and conditions of Paragraph 8.5. This condition constitutes a covenant running with the land.
- 9.7 Applicants will replace post-pumping depletions for the shortest of the following periods: (1) The period provided by C.R.S. § 37-90-137(9)(c.5), or (2) the expressed period specified by the Colorado Legislature, should it specify one and providing the Applicant obtain Water Court approval for such modification, or (3) the period determined by the State Engineer, should they choose to set such a period and have jurisdiction to do so, or (4) the period established through rulings of the Colorado Supreme Court on relevant cases, or (5) until Applicant petition the Water Court and the State Engineer's Office and prove that they have complied with any statutory requirement.
10. Failure of Applicants and/or successors in interest to comply with the terms of the decree may result in an order of the Division Engineer's office to curtail or eliminate pumping of the well. This decree shall be recorded in the real property records of Elbert County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree.
11. Administration of Plan for Augmentation:
 - 11.1 Applicants shall report to the Division Engineer for Water Division 1 upon request, a summary of the amount of water pumped by each Denver Basin well, the annual depletion, the amount of replacement water provided by each replacement source, the net impact on the stream and any other information required by the Division Engineer to properly administer the decree on an accounting form acceptable to the Division Engineer.
 - 11.2 All withdrawals which are the subject of this decree will be metered.

- 11.3 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.
- 11.4 The Applicants, or successors in interest, at the direction of the Division Engineer shall make post-pumping replacements to the South Platte River stream system via Cherry Creek, or its tributaries, pursuant to the amounts referenced on the depletion curve attached on **Exhibit B**.
12. Retained Jurisdiction for Plan for Augmentation:
- 12.1 Pursuant to C.R.S. § 37-92-304(6), the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also has jurisdiction for the purposes of determining compliance with the terms of the augmentation plan.
- 12.2 Any party seeking to invoke the retained jurisdiction of the Court shall file a verified petition with the Court. The petition to invoke retained jurisdiction or to modify this decree shall set forth with particularity the factual basis and the requested decretal language to effect the petition. The party lodging the petition shall have the burden of going forward to establish prima facie facts alleged in the petition. If the Court finds those facts to be established, Applicants shall thereupon have the burden of proof to show: (1) that any modification sought by Applicants will avoid injury to other appropriators, or (2) that any modification sought by Objector is not required to avoid injury to other appropriators, or (3) that any term or condition proposed by Applicants in response to the objector's petition does avoid injury to other appropriators.
- 12.3 The Court retains jurisdiction for the purpose of determining whether the continued reservation of the nontributary water for use on the Subject Property is required. After notice to the State Engineer's Office, if Applicants can demonstrate to the Court that post-pumping depletions need no longer be replaced, the Court may remove the requirement that the nontributary water must be reserved.

CONCLUSIONS OF LAW

13. Full and adequate notice of the application was given, and the Court has jurisdiction over the subject matter and over the parties whether they have appeared or not.
14. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to C.R.S. §§ 37-90-137(9)(c.5), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(3), (4), (6), (8), to adjudicate the plan for augmentation and are

entitled to a decree confirming and approving the plan for augmentation as described in the Findings of Fact.

15. The Water Court has jurisdiction over this proceeding pursuant to C.R.S. § 37-90-137(6). This Court concludes as a matter of law that the application herein is one contemplated by law pursuant to C.R.S. § 37-90-137(4). The application for a decree confirming Applicants' right to withdraw and use groundwater decreed herein from the Upper Dawson Aquifer should be granted pursuant to C.R.S. §§ 37-90-137(4) and (9)(c.5), subject to the provisions of this decree. The withdrawal of up to 10.8 acre-feet per year and 1,080 acre-feet total of the Upper Dawson Aquifer groundwater, and in accordance with the terms of this decree and the 95CW288 Decree, will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right. The remaining amount of Upper Dawson Aquifer groundwater decreed in Case No. 95CW288 and herein will not be withdrawn and used until it is included in a separate plan for augmentation.

JUDGMENT AND DECREE

16. The Findings of Fact and Conclusions of Law set forth above are hereby incorporated into the terms of this Ruling and Decree as if the same were fully set forth herein.
17. Applicants and/or successors may withdraw the subject groundwater herein through wells to be permitted by the State Engineer's Office located anywhere on the Subject Property in the average annual amounts and at the estimated average rates of flow specified herein, subject to the limitations herein and the retained jurisdiction by this Court.
18. Applicants may withdraw an average annual amount of 10.8 acre-feet per year and not more than 1,080 acre-feet total of the Upper Dawson Aquifer groundwater under the plan for augmentation decreed herein pursuant to § 37-90-137(9)(c.5), C.R.S.
19. The groundwater rights described in the Findings of Fact are hereby approved, confirmed and adjudicated, including and subject to the terms and conditions specified herein and in the 95CW288 Decree. No owners of or persons entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the pumping of Applicants' groundwater resources as decreed herein.
20. Pursuant to C.R.S. § 37-92-305(5), the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally used.
21. The plan for augmentation as described in the Findings of Fact is hereby approved, confirmed, and adjudicated, including and subject to the terms and conditions specified herein.

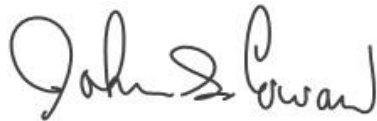
22. No owners of or person entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the operation of the plan for augmentation as decreed herein.
23. Retained Jurisdiction:
 - 23.1 The Court retains jurisdiction as necessary to adjust the average annual amounts of groundwater available under the Subject Property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to C.R.S. § 37-92-305(11). Within 60 days after completion of any well decreed herein or any test hole(s), Applicants or any successor in interest to these water rights shall serve copies of such log(s) upon the State Engineer.
 - 23.2 At such time as adequate data is available, any person, including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final determination of water rights findings. The State Engineer shall submit such finding to the Water Court and the Applicants.
 - 23.3 If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within four months, such final determination shall be made by the Water Court after notice and hearing.
 - 23.4 Except as otherwise provided in Paragraphs 23.1-23.3, above, pursuant to C.R.S. § 37-92-304(6), the 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 other, for a period of five (5) years. 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 with particularity the factual basis for requesting that the Court reconsider injury to petitioner's vested water rights associated with the operation of this decree, together with proposed decretal language to effect the petition. The party filing the petition shall have the burden of proof of going forward to establish a prima facie case based on the facts alleged in the petition. If the Court finds those facts are established, Applicants shall thereupon have the burden of proof to show: (i) that the petitioner is not injured, or (ii) that any modification sought by the petitioner is not required to avoid injury to the petitioner, or (iii) that any term or condition proposed by Applicants 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 provisions of the statute, this matter shall become final under its own terms.

Continuing Jurisdiction: Pursuant to C.R.S. § 37-92-304(6), the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration by the water judge on the question of injury to the vested rights of others for such period after the entry of such decision as is necessary or desirable to preclude or remedy any such injury.

24. The groundwater rights decreed herein are vested property rights appurtenant to the Subject Property and shall remain appurtenant unless expressly severed by conveyance to someone other than the property owner. If any deed for the Subject Property is silent to the conveyance of the water rights decreed herein, it is assumed that the water rights have been conveyed as an appurtenance to the Subject Property, unless all or part of the water rights have been previously severed.

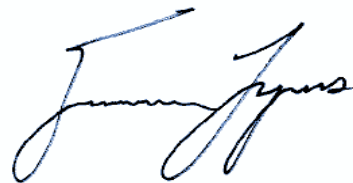
Date: October 5, 2022



John S. Cowan
Water Referee
Water Division One

The Court finds that no protest was filed in this matter. The foregoing is confirmed and is made the judgment and decree of this Court.

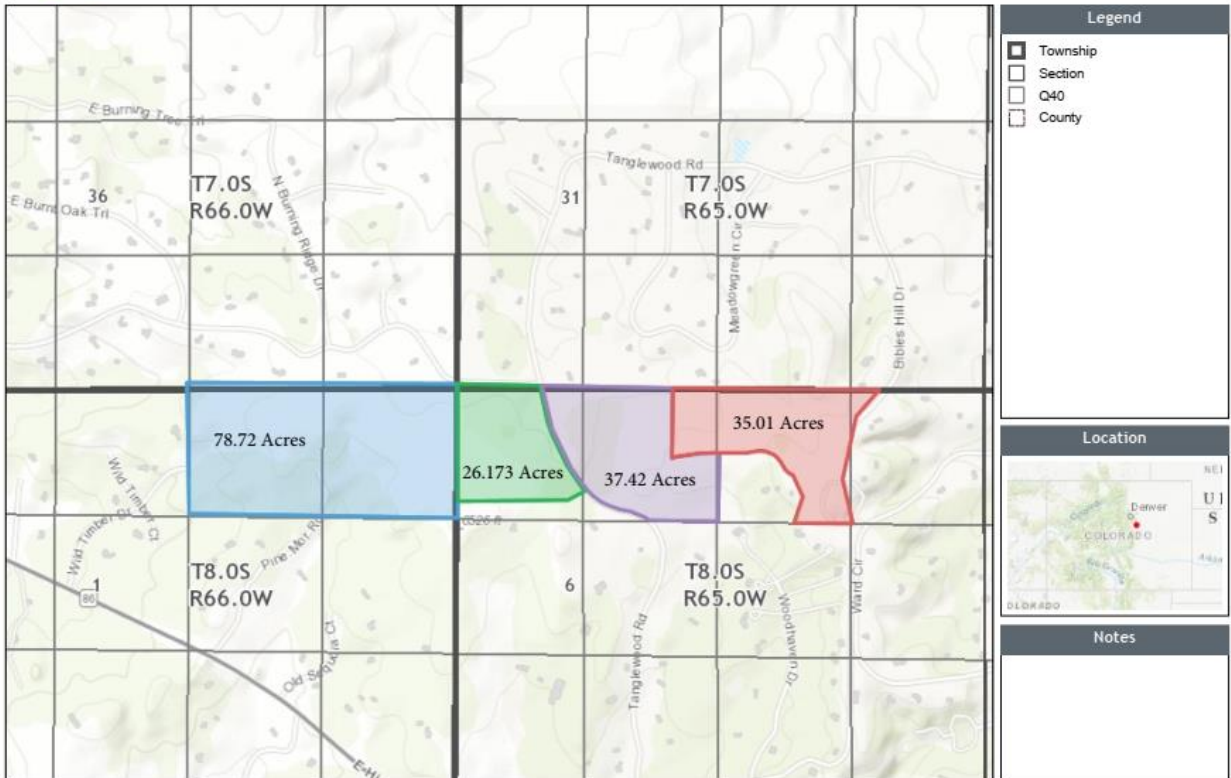
Date: October 27, 2022



Shannon Lyons
Alternate Water Judge
Water Division One



Exhibit A - Map of Oak Bluff & Sundown Properties



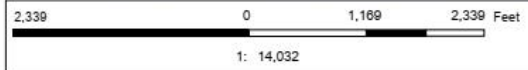
Legend

- Township
- Section
- Q40
- County

Location

NE
U
S
COLORADO
Dawson
44.1

Notes



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

Date Prepared: 5/26/2022 4:09:40 PM

Oak Bluff & Sundown Properties – Legal Descriptions

78.72 Acres – Oak Bluff Subdivision – Legal Description

N1/2 NE1/4, Section 1, Township 8 South, Range 66 West of the 6th P.M.

26.173 Acres – Oak Bluff Subdivision – Legal Description

A part of the W1/2 of Section 6, Township 8 South, Range 65 West of the 6th P.M., being more particularly described as follows: Commencing at the NW corner of said Section 6, said point being the point of beginning; thence South 88 degrees 47 minutes 54 seconds West and along the North line of the NW¼ of said Section 6, a distance of 814.21 feet to a point on the centerline of an 80.00 foot wide ingress and egress easement; thence Southerly distance of 299.99 feet to a point of curve; 2. Along a curve to the left have a delta of 11 degrees 14 minutes 18 seconds, a radius of 1,016.35 feet, a distance of 199.35 feet measured along the arc to a point of tangent; 3. South 24 degrees 07 minutes 28 seconds East, a distance of 295.52 feet to a point of curve; 4. Along a curve to the left having a delta of 22 degrees 51 minutes 10 seconds, a radius of 406.95 feet, a distance of 162.31 feet measured along the arc to a point of reverse curve; 5. Along a curve to the right having a delta of 14 degrees 49 minutes 25 seconds, a radius of 730.30 feet, a distance of 188.94 feet measured along the arc to a point of reverse curve; thence South 61 degrees 02 minutes 29 seconds West, a distance of 209.52 feet; thence South 89 degrees 40 minutes 30 seconds West, a distance of 1,088.84 feet to a point on the West line of the NW1/4 of said Section 6; thence North 00 degrees 19 minutes 25 seconds West, a distance of 1,152.05 feet to the point of beginning. Basis of bearing is the West center line of the NW1/4 of said Section 6, being considered to bear North 00 degrees 19 minutes 25 second West.

37.42 Acres – Sundown Subdivision – Legal Description

A tract of land situated in the Northwest ¼ of Section 6, Township 8 South, Range 65 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the North 1/4 corner of Section 6 and considering the North line of the Northwest ¼ Section 6 to bear N 88°55'53"W with all bearings contained herein relative thereto;

Thence N 88°55'53"W along said North line a distance of 479.21 feet to the True Point of Beginning; Thence N 88°55'53"W along said North line a distance of 1310.70 feet to a point on the centerline of an 80 foot easement recorded at Book 636 at Page 142; Thence Southeasterly along said centerline the following 9 courses;

1. Thence S 13°01'07"E a distance of 300.00 feet to a point of curve;
2. Thence Southeasterly along the arc of a curve to the left a distance of 199.35 feet, said curve has a radius of 1016.35 feet, a central angle of 11 °14'18" to a point of tangent;
3. Thence S 24°15'27"E a distance of 295.52 feet to a point of curve;
4. Thence Southeasterly along the arc of a curve to the left a distance of 162.31 feet, said curve has a radius of 406.95 feet, a central angle of 22°51 '07" to a point of reverse curve;
5. Thence Southeasterly along the arc of a curve to the right a distance of 188.94 feet, said curve has a radius of 730.31 feet, a central angle of 14°49'25" to a point of reverse curve;
6. Thence Southeasterly along the arc of a curve to the left ° a distance of 257.09 feet, said curve has a radius of 369.42 feet, a central angle of 39 52'28" to a point of tangent;
7. Thence S 72°09'37"E a distance of 112.92 feet to a point of curve;
8. Thence Southeasterly along the arc of a curve to the right a distance of 219.63 feet, said curve has a radius of 4169.13 feet, a central angle of 3°01 '06" to a point of a compound curve;
9. Thence Southeasterly along the arc of a curve to the right a distance of 75.70 feet, said curve has a radius of 311.60 feet, a central angle of 13°55'11" to a point of nontangent;

Thence S 88°49'13"E a distance of 716.83 feet to a point on the East line of the Northwest¼ of Section 6;
Thence N 1°06'41"E along said East line a distance of 674.50 feet to a point on the South right of way line of a 60 foot easement;
Thence Westerly along said South right of way line the following 4 courses;

1. Thence N 88°53'53"W a distance of 34.04 feet to a point of curve;
2. Thence Westerly along the arc of a curve to the left a distance of 215.18 feet, said curve has a radius of 1470.00 feet, a central angle of 8°23'13" to a point of tangent;
3. Thence S 82°42'54"W a distance of 135.66 feet to a point of curve;
4. Thence Westerly along the arc of a curve to the left a distance of 99.75 feet, said curve has a radius of 420.00 feet, a central angle of 13°36'28" to a point of nontangent;

Thence N 1°04'07"E a distance of 691.60 feet to the Point of Beginning.

35.01 Acres – Sundown Subdivision – Legal Description

A tract of land situated in the North 1/2 of Section, Township 8 South, Range 65 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Beginning at the North 1/4 corner of Section 6 and considering the North line of the Northwest ¼ Section 6 to bear N 88°55'53"W with all bearings contained herein relative thereto;

Thence N 88°55'53"W along said North line a distance of 479.21 feet;

Thence S 1°04'07"W a distance of 691.60 to a point on the South right of way line of a 60 foot easement;

Thence Westerly along said South right of way line the following 9 courses;

1. Thence Easterly along the arc of a curve to the right a distance of 99.75 feet, said curve has a radius of 420.00 feet, a central angle of 13°36'28" and a cord that Bears N 75°54'40"E a distance of 99.52 to a point of tangent;
2. Thence N 82°42'54"E a distance of 135.66 feet to a point of curve;
3. Thence Easterly along the arc of a curve to the Right a distance of 215.18 feet, said curve has a radius of 1470.00 feet, a central angle of 8°23'13" to a point of tangent;
4. Thence S 88°53'53"E a distance of 264.50 feet to a point of curve;
5. Thence Easterly along the arc of a curve to the left a distance of 16.64 feet, said curve has a radius of 500.00 feet, a central angle of 1°54'26" to a point of tangent;
6. Thence N 80°19'56"E a distance of 119.06 feet to a point of curve;
7. Thence Southeasterly along the arc of a curve to the right a distance of 290.99 feet, said curve has a radius of 230.00 feet, a central angle of 72°29'20" to a point of tangent;
8. Thence S 27°12'34"E a distance of 25.30 feet to a point of curve;
9. Thence Southeasterly along the arc of a curve to the left a distance of 140.13 feet, said curve has a radius of 199.00 feet, a central angle of 40° 20'47" to a point of nontangent;

Thence S 25°22'25"E a distance of 232.32 feet;

Thence S 18°19'51"W a distance of 278.59 feet;

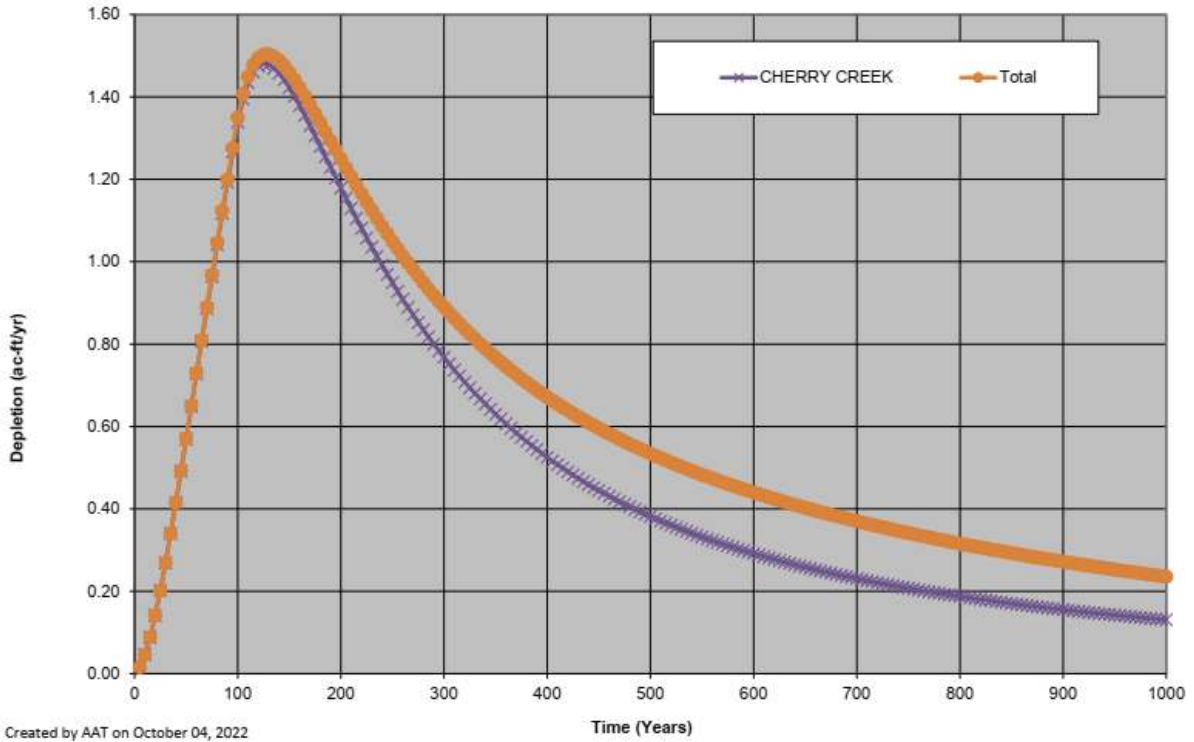
Thence S 89°29'09"E a distance of 576.25 feet;

Thence N 13°28'32"W a distance of 450.11 feet;

Thence N 12°44'04"E a distance of 633.61 feet;

Thence N 42°22'33"E a distance of 350.63 feet to a point on the North line of the Northeast¼ of section 6; Thence N 89°29'42"W along said North line a distance of 1567.21 feet to the Point of Beginning.

Stream Depletion from Pumping in SEC 1 T8S R66W & SEC 6 T8S R65W

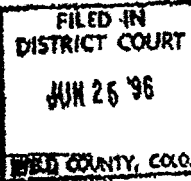


CENTRAL FILES

DISTRICT COURT, WATER DIVISION 1, COLORADO RECEIVED

Case No. 95CW288

AUG 01 1996



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

CONCERNING THE APPLICATIONS FOR WATER RIGHTS OF CARROLL LAND
COMPANY, INC. AND THE ESTATE OF WALLACE E. CARROLL,

IN DOUGLAS COUNTY.

This claim for for nontributary and not nontributary groundwater and approval of plan for augmentation, having been filed on December 29, 1995, and all matters contained in the application having been reviewed, and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein, the following is hereby the Ruling of the Referee as follows:

FINDINGS OF FACT

1. Name, address and telephone number of Applicants:

Carroll Land Company, Inc. and the Estate of Wallace E. Carroll
c/o 6300, South Syracuse Way, Suite 300
Englewood, Colorado 80111
(303) 773-2800

2. No statements of opposition were filed and the time for filing of such statements has expired.
3. Subject matter jurisdiction: Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected hereby, whether they have appeared or not.

APPROVAL OF GROUNDWATER RIGHTS

4. Aquifers and location of ground water: Applicants seek a decree for rights to all ground water recoverable from the not nontributary Upper Dawson and nontributary Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying two noncontiguous parcels of land. Parcel A is comprised of approximately 190.73 acres of land, located in parts of Section 1, T88, R66W and Section 5, T88, R65W, both of the 6th P.M., as more particularly described on Attachment A hereto. Parcel B is comprised of approximately 82.28 acres of land, located in parts of Section 2, T88, R66W of the 6th P.M., as more particularly described and shown on Attachment B hereto. Both Parcels A and B are shown on Attachment C hereto and are hereafter referred to as the "Subject Property". The Subject Property is not located within the boundaries of a designated ground water basin.

5. Well locations, pumping rates and annual amounts: The ground water may be withdrawn at rates of flow necessary to efficiently withdraw the amounts decreed herein so long as the permitted rates are not exceeded. The ground water underlying Parcel A will be withdrawn through any number of wells necessary, to be located at any location on Parcel A, and the ground water underlying Parcel B will be withdrawn through any number of wells necessary, to be located at any location on Parcel B, so long as the wells are located within 200 feet of their respective permitted locations. Applicants hereby waive any 500 foot spacing rule. Applicants may withdraw Upper Dawson groundwater decreed herein as associated with Parcel A through existing well Permit No. 103741, which well is completed into the Upper Dawson aquifer as described in the Determination of Facts for the Upper Dawson dated February 9, 1996. Applicants will apply for a new well permit for the existing well to change the well from an exempt to a fee well to withdraw the Upper Dawson groundwater decreed herein. The estimated annual amounts available for withdrawal underlying Parcels A and B are as follows:

PARCEL A

Aquifer	Saturated Thickness	Amount
Upper Dawson	150 feet	44.2 acre-feet (NNT)*
Lower Dawson	63 feet	24.0 acre-feet (NT)

Ruling and Decree 95CW288

Denver	200 feet	64.8 acre-feet(NT)
Arapahoe	275 feet	89.2 acre-feet(NT)
Laramie-Fox Hills	195 feet	55.8 acre-feet(NT)

*Amount reduced for Permit No. 103741 pursuant to the Determination of Facts for this aquifer, and reduced by 12 acre-feet per year for uses which are legally available pursuant to Section 37-92-602, C.R.S., on four 47.68 acre tracts of land. The amount of excluded groundwater for use through these exempt wells is approximately 1200 acre-feet from the total amount of groundwater available in the Upper Dawson aquifer underlying Parcel A, or 6.29 acre-feet per surface acre.

PARCEL B

Aquifer	Saturated Thickness	Amount
Upper Dawson	98 feet	10.1 acre-feet(NNT)*
Lower Dawson	46 feet	7.6 acre-feet(NT)
Denver	250 feet	35.0 acre-feet(NT)
Arapahoe	270 feet	37.8 acre-feet(NT)
Laramie-Fox Hills	190 feet	23.4 acre-feet(NT)

*Amount reduced by 6 acre-feet per year for uses which are legally available pursuant to Section 37-92-602, C.R.S., on two 41.14 acre tracts of land. The amount of excluded groundwater for use through these exempt wells is approximately 600 acre-feet from the total amount of groundwater available in the Upper Dawson aquifer underlying Parcel B, or 7.29 acre-feet per surface acre.

The amounts conform with the values and amounts referenced in the State Engineer's Determination of Facts dated February 9, 1996.

6. Proposed Use: The water withdrawn from the subject aquifers will be used, reused, successively used, and after use leased, sold, or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, and any other beneficial purpose, both on and off the Subject Property. Said water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes.

7. Final average annual amounts of withdrawal:

A. Final determination of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicants will be made pursuant to the retained jurisdiction of this Court, as described in paragraph 25 below. The court shall use the acre-foot

amounts in paragraph 5 herein in the interim period, until a final determination of water rights is made.

B. The allowed annual amount of ground water which may be withdrawn through the wells specified above and any additional wells, pursuant to 37-90-137(10), C.R.S., may exceed the average annual amount of withdrawal decreed herein for that aquifer, as long as the total volume of water withdrawn through such wells and any additional wells therefor subsequent to the date of this decree does not exceed the product of the number of years since the date of the issuance of any well permits or the date of this decree, whichever is earliest in time, multiplied by the average annual amount of withdrawal decreed herein for that aquifer, as specified above or as determined pursuant to the retained jurisdiction of the Court. However, amounts set forth in well permits will not be exceeded.

8. Source of ground water and limitations on consumption:

A. The ground water to be withdrawn from the Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers in "nontributary groundwater" as defined in 37-90-103(10.5), C.R.S., and in the Denver Basin Rules, the withdrawal of which will not, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in 37-82-101(2) and 37-92-102(1)(b), C.R.S., at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. The ground water to be withdrawn from the Upper Dawson aquifer is "not nontributary" as defined in 37-90-137(9)(c), C.R.S. and such water may be withdrawn pursuant to the plan for augmentation approved herein.

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

C. There is unappropriated groundwater available for withdrawal from the subject aquifers beneath the Subject Property, and the vested water rights of others will not be materially injured by such withdrawals as described herein. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years. No material injury to vested water rights of others will result from the issuance of permits for wells which will withdraw nontributary groundwater or the exercise of the rights and limitations specified in this decree.

9. Additional wells and well fields:

A. Applicants may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property. As additional wells are planned, applications shall be filed in accordance with 37-90-137(10), C.R.S. However, water underlying Parcels A and B will only be withdrawn through wells located on each specific parcel.

B. Two or more wells constructed into a given aquifer on a specific parcel shall be considered a well field. In effecting production of water from such well field, Applicants may produce the entire amount which may be produced from any given aquifer through any combination of wells within the well field.

C. In considering applications for permits for wells or additional wells to withdraw the groundwater which is the subject of this decree, the State Engineer shall be bound by this decree and shall issue said permits in accordance with provisions of 37-90-137(10), C.R.S., subject to paragraph 5 herein.

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

E. The water in the Upper Dawson aquifer is not nontributary and up to 54.3 acre-feet per year and no more than 54.3 acre-feet total may be withdrawn pursuant to the augmentation plan decreed herein.

APPROVAL OF PLAN FOR AUGMENTATION

10. Approval of plan for augmentation:

A. Water to be augmented: Up to 44.2 acre-feet per year and 10.1 acre-feet per year of not nontributary Upper Dawson aquifer, underlying Parcels A and B, respectively.

B. Water to be used for augmentation: Return flows associated with use of the not nontributary Upper Dawson ground water and return flows or direct discharge of not nontributary or nontributary ground water decreed herein.

C. Development and Consumptive Use: The Upper Dawson aquifer groundwater may be used on the Subject Property for inhouse, stockwatering, and irrigation uses. Approximately 90% of the amount used for inhouse use and approximately 20% of water used for irrigation will return to the stream systems. All water used for stockwatering is considered to be consumed. Sewage treatment of inhouse use will be provided by non-evaporative septic systems.

D. Replacement during pumping: During pumping of the Upper Dawson ground water, Applicants will replace depletions to Cherry Creek in an amount of water equal to the actual depletions pursuant to §37-90-137(9)(c). In the 100th year, the total depletion to the stream system from withdrawals from the Upper Dawson aquifer on the Subject Property is approximately 14.472% of the amount withdrawn on an annual basis (7.86 acre-feet). Return flows from inhouse use and irrigation use accrues to Cherry Creek and those return flows are sufficient to replace actual depletions caused by pumping of up to 54.3 acre-feet per year from the Upper Dawson aquifer while the wells are being pumped. However, if there is not enough inhouse use or land being irrigated to supply the necessary return flows, Applicants may be required to directly discharge the not nontributary groundwater underlying the Subject Property to Cherry Creek. Because return flows from all uses are estimated rather than measured, Applicants agree that such return flows shall be used only to replace depletions under this plan for augmentation, and will not be sold, traded or assigned in whole or in part for any other purpose.

Ruling and Decree 95CW288

E. Postpumping Depletion Augmentation: Assuming maximum pumping of 54.3 acre-feet per year from the Upper Dawson aquifer for one hundred years, the maximum depletion based on a total withdrawal of 5430 acre-feet under this plan for augmentation is 15.869% (8.616 acre-feet) which occurs to Cherry Creek in the 119th year. It is Applicants' position that depletions which occur after pumping ceases are not injurious. The Office of the State Engineer does not agree with this position. Nevertheless, in order to reach settlement with the Office of the State Engineer, Applicants will reserve 4420 acre-feet and 1010 acre-feet of nontributary Laramie-Fox Hills water underlying Parcels A and B, respectively, decreed herein for use in this plan. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

F. Applicants shall replace post-pumping depletions for the shortest of the following periods: the period provided by C.R.S. 37-90-137(9)(c); the expressed period specified by the Colorado Legislature, should it specify one and providing the Applicants obtain water court approval for such modification; the period determined by the State Engineer, should he choose to set such a period and have jurisdiction to do so; the period established through rulings of the Colorado Supreme Court on relevant cases, or until Applicants petition the water court and after notice to the State Engineer and any parties in the case and proves that he has complied with any statutory requirement.

11. Applicants shall pay the cost imposed by operation of this augmentation plan. Failure of either the Applicants or successors in interest to the Subject Property to comply with the terms of the decree may result in an order of the Division Engineer's office to curtail or eliminate pumping of the Upper Dawson groundwater. This decree shall be recorded in the real property records of Douglas County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree.

12. Administration of plan for augmentation:

A. Applicants shall report annually to the Division Engineer for Water Division 1 and the appropriate Water Commissioner the monthly metered withdrawals of each well, on an accounting form acceptable to the Division Engineer.

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

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

D. The Applicants at the direction of the Division Engineer, shall make post pumping replacements to the Cherry Creek stream system pursuant to the amounts referenced on the depletion curve attached hereto on Attachment D.

13. Retained jurisdiction for plan for augmentation:

A. Pursuant to 37-92-304(6), C.R.S. the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also has jurisdiction for the purposes of determining compliance with the terms of the augmentation plan.

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

C. The Court retains jurisdiction for the purpose of determining whether the continued reservation of the nontributary water for use on the property is required. IF

Applicants can demonstrate to the Court or by agreement with Objector that post-pumping depletions need no longer be replaced, the court may remove the requirement that the Laramie-Fox Hills nontributary water described above must be reserved.

CONCLUSIONS OF LAW

14. The Water Court has jurisdiction over this proceeding pursuant to 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law, Section 37-90-137(4), C.R.S. The application for a decree confirming Applicant's right to withdraw and use all unappropriated ground water from the nontributary aquifers beneath the property as described herein pursuant to 37-90-137(4), C.R.S., should be granted, subject to the provisions of this decree. The application for a decree confirming Applicant's right to withdraw and use all ground water from the Upper Dawson aquifer should be granted pursuant to 37-90-137(4) and (9)(c), C.R.S., subject to the provisions of this decree. The withdrawal of up to 54.3 acre-feet annually of the Upper Dawson aquifer water in accordance with the terms of this decree will not result in material injury to vested water rights of others. Applicants shall apply for a new well permit for the existing well Permit No. 103741 to allow that well to withdraw Upper Dawson aquifer groundwater decreed herein.

15. This plan for augmentation satisfies the requirements of 37-90-137(9)(c), C.R.S. for replacement of actual depletions to the affected stream systems for withdrawals of up to 54.3 acre-feet per year and no more than 5430 acre-feet total from the Upper Dawson aquifer.

16. The rights to ground water determined herein shall not be administered in accordance with priority of appropriation. Such rights are not "conditional water rights" as defined by 37-92-103(6), C.R.S., requiring findings of reasonable diligence are not applicable to the ground water rights determined herein. The determination of ground water rights herein need not include a date of initiation of the withdrawal project. See 37-92-305(11), C.R.S.

JUDGMENT AND DECREE

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

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

18. For purposes of jurisdiction in this case, § 37-92-302(2), C.R.S., does not require that the application be supplemented with a well permit or evidence of its denial.

19. The Applicants may withdraw the subject ground water herein through wells to be located anywhere on the property, in the average annual amounts and at the estimated average rates of flow specified herein, subject to paragraph 5 above, and the retained jurisdiction by this Court.

20. Applicants may withdraw up to 54.3 acre-feet per year and no more than 5430 acre-feet total of net nontributary ground water from the Upper Dawson aquifer under the plan for augmentation decreed herein pursuant to § 37-90-137(9)(c), C.R.S.

21. Applicants has complied with all requirements and met all standards and burdens of proof, including but not limited to §§37-90-137(9)(c), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(1), (2), (3), (4), (6), (8) and (9), C.R.S., to adjudicate their plan for augmentation, and is therefore entitled to a decree confirming and approving their plan for augmentation as described in the findings of fact.

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

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

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

25. Retained Jurisdiction:

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

B. At such time as adequate data is available, any person including the State Engineer may invoke the Court's retained jurisdiction to make a finding and determination of water rights availability. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final finding and determination of water rights availability. The State Engineer shall submit such finding to the Water Court and to the Applicants.


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

26. Continuing Jurisdiction.

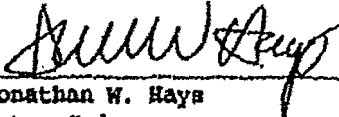
A. Pursuant to § 37-92-304(6), C.R.S. the court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The court also retains continuing jurisdiction for the purposes of determining compliance with the terms of the augmentation plan, or for the purpose of amending this decree to provide for a different type of wastewater treatment.

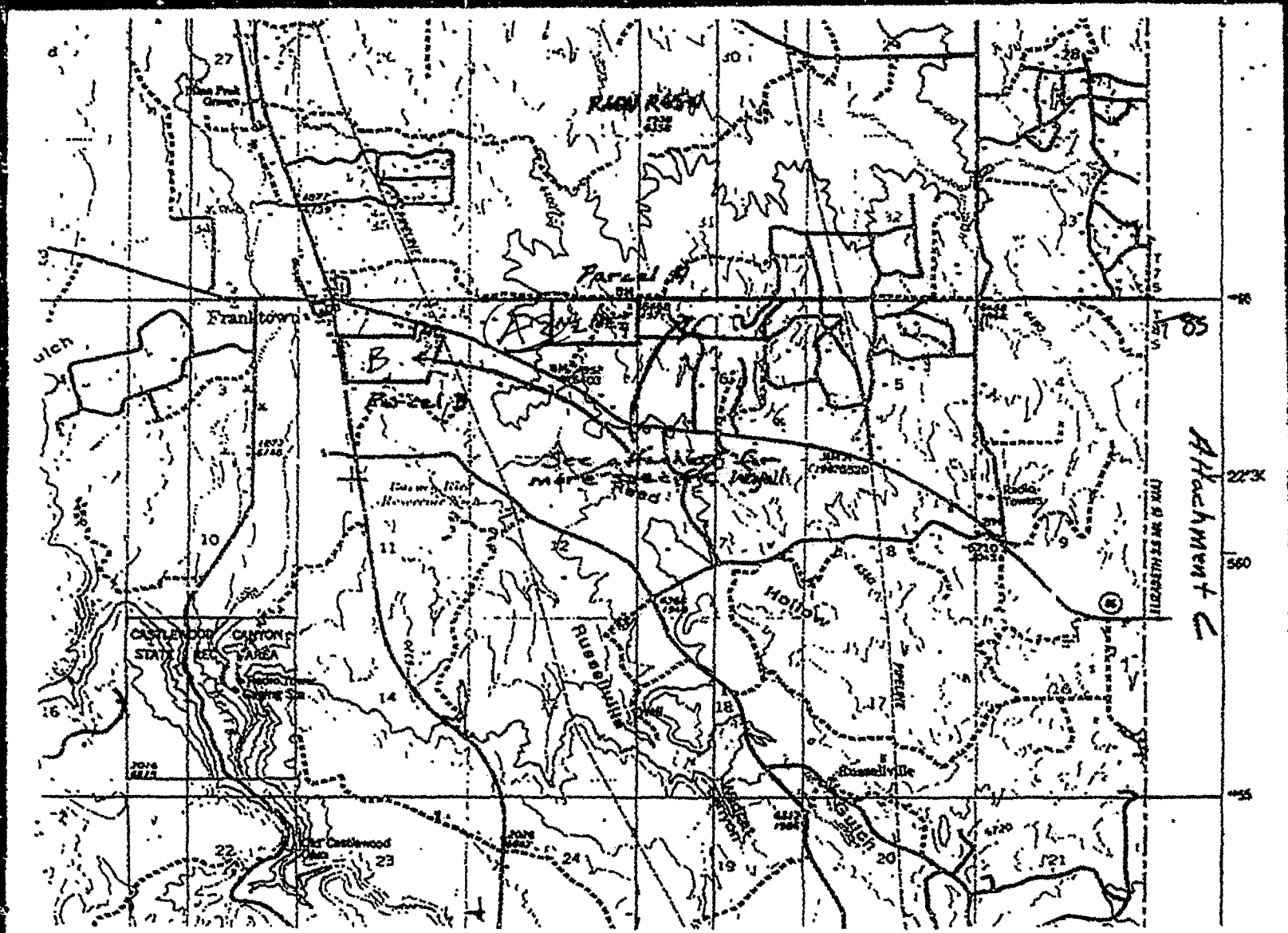
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Dated this 25 day of June, 1996.


Raymond S. Liesman
Water Referee
Water Division 1

THE COURT DOETH FIND THAT NO PROTEST WAS FILED IN THIS
MATTER, THEREFOR THE FOREGOING RULING IS CONFIRMED AND
APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS
COURT.

Dated: July 25, 1996 
Jonathan W. Hays
Water Judge
Water Division 1



Attachment C

THE U.S. GEOLOGICAL SURVEY

22 X
58

EXHIBIT B

DISTRICT COURT, WATER DIVISION 1, COLORADO Court Address: P.O. Box 2038 Greeley, Colorado 80632	DATE FILED: December 2, 2015 11:01 AM CASE NUMBER: 2015CW3059
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: CARROLL LAND COMPANY AND FRANKTOWN DEVELOPMENT COMPANY, Applicants, IN DOUGLAS COUNTY.	Δ COURT USE ONLY Δ Case Number: 2015CW3059
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT	

A claim for approval of change of water right was filed in this case on May 29, 2015. All matters contained in the application having been reviewed, testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein, the following is hereby the Ruling of the Referee:

FINDINGS OF FACT

1. Name and address of Applicant:

Carroll Land Company and Franktown Development Company
 7505 Village Square Drive, #200
 Castle Pines, CO 80108

2. Opposers: No statements of opposition have been filed, and the time for filing of such statements has expired.

3. Subject matter jurisdiction: Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected hereby, whether they have appeared or not.

4. Decree information: Case No. 95CW288, Water Division 1, decreed on July 25, 1996. The property which is the subject of the decree is approximately 273 acres located in parts of Sections 1 and 2, T8S, R66W, and Section 6, T8S, R65W of the 6th P.M., as shown on Attachment A (Subject Property).

5. Decreed change: In Case No. 95CW288, an augmentation plan was approved for the use of 54.3 acre-feet per year of not nontributary Upper Dawson aquifer groundwater for in-house, stock watering and irrigation uses. The decree also requires that an equal amount of nontributary

Laramie-Fox Hills aquifer groundwater be reserved for future use in the plan. By this change the augmentation plan is revised to reduce the annual amount of Upper Dawson aquifer groundwater which may be withdrawn pursuant to the plan for augmentation decreed in Case No. 95CW288 to 18.7 acre-feet per year. Also pursuant to this change, the amount of nontributary aquifer groundwater reserved for use in the augmentation plan is reduced to 18.7 acre-feet per year and 1870 acre-feet total.

6. No other parts of the decree in Case No. 95CW288 are changed herein.

CONCLUSIONS OF LAW

7. This Court has jurisdiction over the subject matter of these proceedings and over all who may be affected thereby, whether they have chosen to appear or not pursuant to Section 37-92-302, 37-92-304, and 37-92-305, C.R.S.

8. Timely and adequate notice of the pendency of this action was given in the manner provided by law.

9. The change of water rights decreed herein is, as a matter of law, permissible and comes within the definitions authorized by statute.

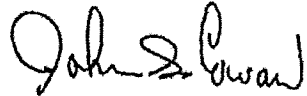
10. The terms and conditions as set forth in this decree are adequate to prevent injury to the owners of, or persons entitled to use, water under a vested water right or a decreed conditional water right pursuant to Section 37-92-305, C.R.S.

11. Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation as decreed in Case No. 95CW288 for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan associated with the water herein.

JUDGMENT AND DECREE

12. The foregoing Findings of Fact and Conclusions of Law are fully incorporated herein.

Date: November 9, 2015



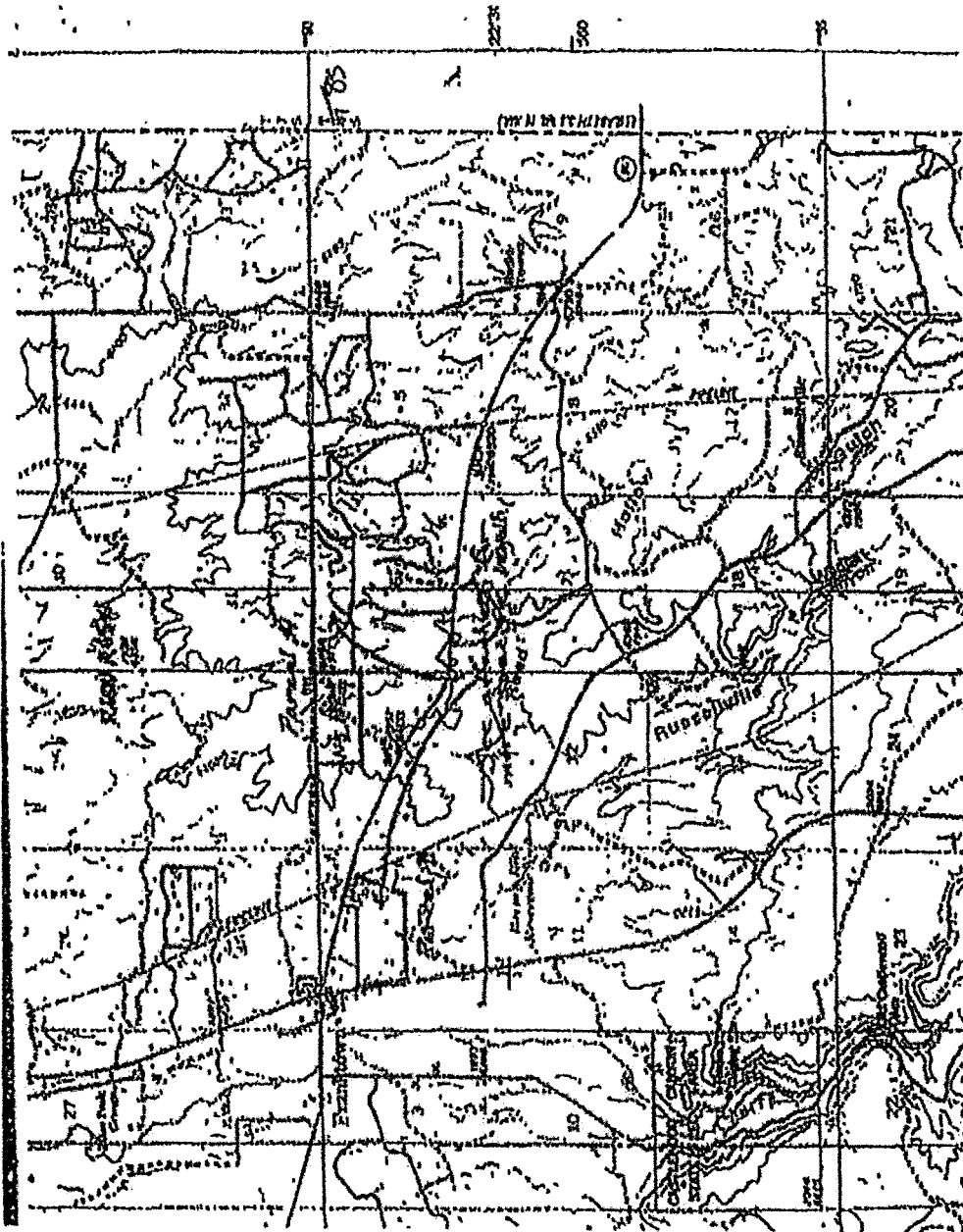
John S. Cowan
Water Referee
Water Division 1

The court finds that no protest was filed in this matter. The foregoing ruling is confirmed and approved, and is made the judgment and decree of this Court.

Date: December 2, 2015.

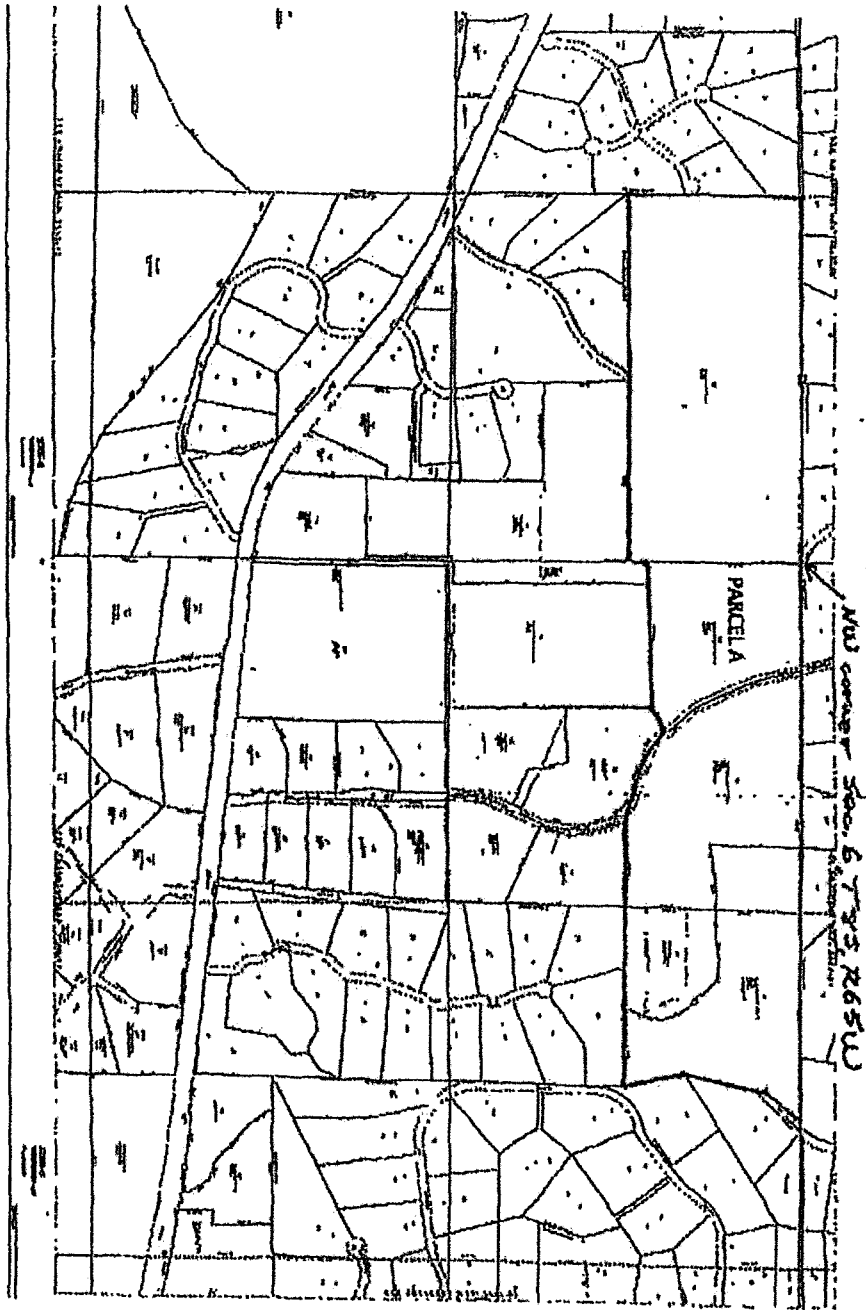


James F. Hartmann
Water Judge, Water Division 1



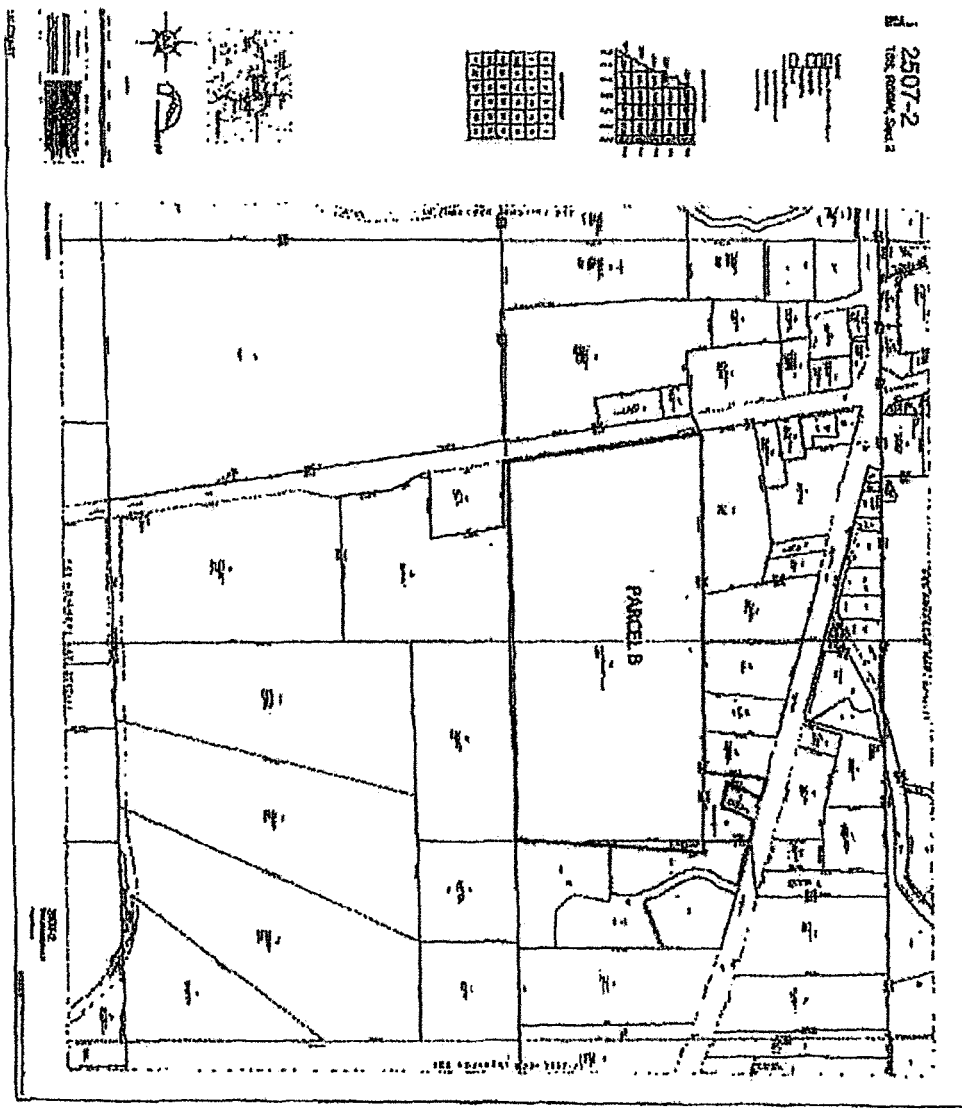
Carroll Land Company, et al.
15CW3059

ATTACHMENT A-1



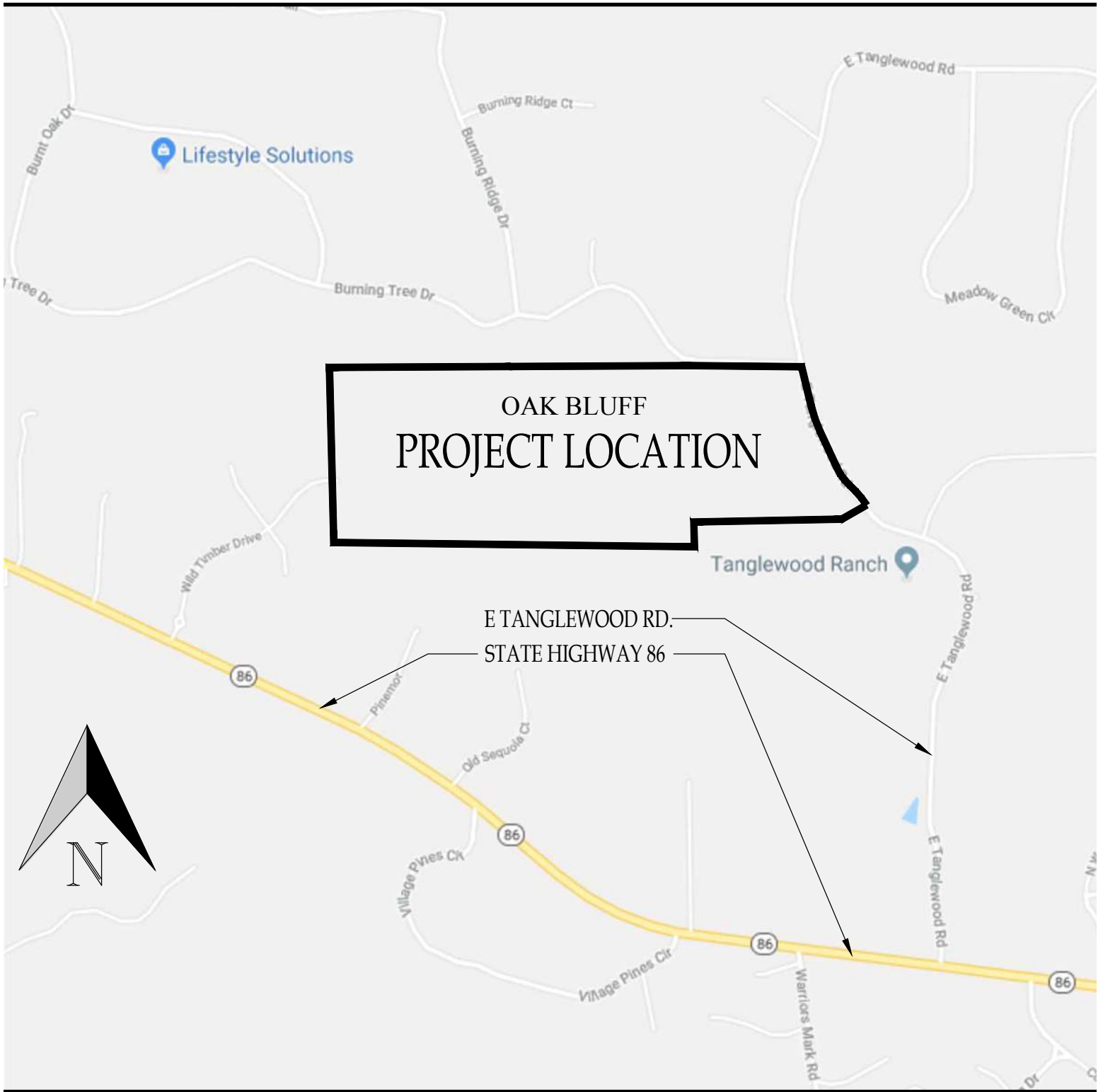
Carroll Land Company, et al.
15CW3059

ATTACHMENT A-2



Carroll Land Company, et al.
 15CW3059

ATTACHMENT A-3



VICINITY MAP

SCALE: 1" = 1000'-0"

SECTIONS-1&6 TOWNSHIP-8 S

RANGES-65&66 W