

**COPY**

DISTRICT COURT, WATER DIVISION 2, COLORADO

Case No. 94CW49(A) and (B)

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DISTRICT COURT WATER DIV. NO. 2  
STATE OF COLORADO

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 94CW144(A) and (B)

APR 08 1999

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REVISED FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND  
DECREE

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CONCERNING THE APPLICATION OF WATER RIGHTS OF KING'S DEER  
DEVELOPMENT, LLC, FOXTAIL GOLF, LLC, AND KING'S DEER HIGHLANDS  
HOMEOWNERS ASSOCIATION, INC., IN THE NOT NONTRIBUTARY DAWSON  
AQUIFER,

IN EL PASO COUNTY.

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THIS MATTER having come before the Water Judge upon the Motion to Amend  
of King's Deer Development, LLC, FoxTail Golf, LLC, and King's Deer Highlands  
Homeowners Association, Inc., for adjudication of ground water in the not nontributary  
Dawson aquifer and for approval of an augmentation plan. The Water Judge, having  
considered the pleadings, the stipulations of the parties, and the evidence presented, and  
being fully advised in the premises, it is hereby the Revised Judgment and Decree of the  
Court.

#### FINDINGS OF FACT

1. Name and address of Applicants. King's Deer Development, LLC, 6189 Lehman  
Drive, Suite 200, Colorado Springs, CO 80918; (719) 592-9700, FoxTail Golf, LLC, P.  
O. Box 10, Yuma, CO 80759; (970) 848-3833, and King's Deer Highlands Homeowners  
Association, Inc. (also referenced as Property Owner's Association herein). The original  
decree entered in this matter on May 2, 1996, was decreed under Applicant, Wiley Ewton.  
Applicants are the successors-in-interest of Wiley Ewton

2. History of Case. The Applicants are represented by Holly I. Holder, P.C. The  
original applications for underground water rights from not nontributary sources and for  
approval of a plan for augmentation were filed in Case No. 94CW49 in Water Division 2  
and in Case No. 94CW144 in Water Division 1 in August, 1994. Statements of  
Opposition were filed by the State Engineer of Colorado and the Division Engineers of  
Water Division 1 and 2 and the City of Colorado Springs in both Case Nos. 94CW49 and  
94CW144 and Woodmoor Water and Sanitation District in Case No. 94CW49. The

objectors stipulated to the entry of this decree. No other statements of opposition have been filed, and the time for filing such statements has expired. A motion to consolidate the cases was filed before the Panel on Consolidated Multi-District Litigation, and an Order consolidating the cases in Water Division 2 was entered on February 28, 1995. An Order referring the cases to the Water Judge for Water Division 2 was entered on August 11, 1995. A decree was entered in this matter on May 2, 1996, which allowed the original Applicant, Wiley Ewton, and his successors in interest to withdraw up to 140.37 acre-feet per year for 300 years to serve 335 residential lots. Upon motion by Applicant and successors, the Court entered an Order on December 1, 1998, allowing Applicants to revise this decree to allow additional amounts of Dawson aquifer water to be withdrawn pursuant to the plan for augmentation herein.

### DESCRIPTION OF WATER RIGHTS

3. Well Permits. Well permits will be applied for when Applicants are prepared to drill the wells.

4. Names and Legal Descriptions of Wells. Applicants may locate the wells which will withdraw ground water from the not nontributary Dawson aquifer anywhere on the Subject Property, which is described in Paragraph 8 below, and subject to Paragraph 20 below.

5. Source of Water Rights. The ground water to be withdrawn from the Dawson aquifer is not nontributary ground water as defined in §37-90-137(9)(c), C.R.S.

6. Estimated Amounts.

A. Estimated Average Annual Amounts Available: The estimated average annual amount of withdrawal available from the Dawson aquifer is indicated below, based upon the Denver Basin Rules, 2 C.C.R. 402-6 and in conformance with the Determination of Facts issued by the Office of the State Engineer on December 28, 1994.

<u>Aquifer</u>	<u>Acres</u>	<u>Saturated Thickness</u>	<u>Annual Average Withdrawal (Acre-feet)</u>
Dawson	1436	424 feet	1184*

\*The total amount available was reduced to protect existing wells as described in the State Engineer's Determination of Facts.

B. The average annual amounts available for withdrawal from the Dawson aquifer are subject to adjustment in accordance with Paragraph 26.A. below.

7. Well Field. The Court finds that Applicants have the right to withdraw all of the legally available ground water in the Dawson aquifer lying below the Subject Property through the wells described in Paragraph 4 above and any additional wells which may in the future become a part of the Applicants' well fields, subject to Paragraph 21 below. The wells may be located anywhere on the Subject Property as long as they are not within 600 feet of any existing wells on an adjacent property, subject to Paragraph 20 below. The wells in the Dawson aquifer, along with any additional wells completed into the Dawson aquifer, shall be treated as a well field. The pumping rates for each of these wells may exceed the normal pumping rates set forth above to the extent necessary to withdraw the full annual acre-foot allocation of water or to meet system peaking demands, provided that the pumping rates are approved in well permits issued by the State Engineer. As additional wells are constructed, applications will be filed in accordance with §37-90-137(10), C.R.S. Applicants hereby waive the 600 foot spacing rule for wells within the Subject Property.

8. Description of the Land Overlying Subject Ground Water. Applicants, King's Deer Development, LLC, and FoxTail Golf, LLC, are the owners of parts of approximately 1436 acres of land in Sections 4, 5, 8, 9, and 17, Township 11 South, Range 66 West of the 6th P.M., as more particularly described and shown on Exhibit A ("Subject Property").

9. Proposed Use. All water withdrawn from the Dawson aquifer will be part of a unified water system to 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, to be used on or 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.

10. Conditions. For each well constructed pursuant to this decree, Applicants shall comply with the following conditions:

A. A totalizing flow meter shall be installed on each well discharge prior to withdrawing any water therefrom. Applicants shall maintain the meter in good working order and keep accurate records of all withdrawals by the well, make any calculations necessary, and submit such records to the Water Division 1 Engineer upon request.

B. The ground water production shall be limited to the specific aquifer for which the well was designed. Plain, unperforated casing must be installed and properly

grouted to prevent withdrawal from or intermingling of water from zones other than those for which the well was designed.

C. Each well shall be permanently identified by its permit number, this Water Court Case Number, and the name of the producing aquifer on the above-ground portion of the well casing or on the pumphouse.

D. The water in the Dawson aquifer is not nontributary and a total of 49,023 acre-feet, at a rate of 163.41 acre-feet per year for 300 years and a total of 6650 acre-feet, at a rate of 66.5 acre-feet per year for 100 years, may be withdrawn pursuant to the augmentation plan decreed herein. The remainder of the not nontributary Dawson aquifer water may not be withdrawn until the Applicants complete adjudication of an augmentation plan to withdraw those additional amounts.

#### PLAN FOR AUGMENTATION

##### 11. Description of plan for augmentation.

A. Structures to be augmented: Applicant, King's Deer Development, is the owner of 163.41 acre-feet per year of Dawson aquifer water decreed herein which will be withdrawn through up to 390 individual wells to serve up to 390 individual residential lots in the not nontributary Dawson aquifer which will withdraw at rates of flow not to exceed 15 gpm and an annual amount of 0.419 acre-feet annually per well. The maximum total annual withdrawal by King's Deer Development shall be limited to 163.41 acre-feet per year and the total withdrawal shall be limited to 49,023 acre-feet under this decree (hereinafter "Development Water"). Said augmentation provides a 300-year water supply for the residential lots.

Applicant, FoxTail Golf, LLC, is the owner of and may withdraw up to 9.5 acre-feet per year of the Dawson aquifer water decreed herein for 100 years (950 acre-feet total) through an individual well for commercial use in a golf course club house and maintenance facility, and up to 57 acre-feet per year of the Dawson aquifer water decreed herein for 100 years (5700 acre-feet total) for irrigation use, including storage (hereinafter "Golf Course Water"). The Golf Course Water will be withdrawn through wells to be located in Section 5, Township 11 South, Range 66 West of the 6th P.M. and such wells may withdraw the subject amounts at rates of flow which may be necessary to withdraw the entire annual amount of Golf Course Water.

B. Consumptive Use: Sewage treatment for the individual residential lots and the club house and maintenance facility will be provided primarily by non-evaporative septic systems, although it is expected that 5% of the sewage systems for the residential lots will be evaporative sewage systems, for a total estimated overall consumptive use

from both systems to be approximately 15% or 15.80 acre-feet per year for the residential lots. Inhouse demand for the 390 lots is estimated to be 105.3 acre-feet annually, based on water demand of approximately 240 gallons per day per lot (0.27 acre-feet per lot). Commercial demand for the club house and maintenance facility is 9.5 acre-feet per year, and it is estimated that 10% of that amount will be consumed or 0.95 acre-feet per year during the 100 year pumping period.

Outside irrigation shall be limited to an average of 3,000 square feet per residential unit, for an irrigation application of approximately 0.149 acre-feet per residential lot. Irrigation application for the 390 residential lots is estimated to be 58.11 acre-feet annually. Total annual consumptive use for the 390 residential lots is estimated to be approximately 59.38 acre-feet per year (15.80 acre-feet for inhouse consumptive use and 43.58 acre-feet for irrigation consumptive use based on 25% of the amount used returning to the stream system). Also, approximately 42.75 acre-feet per year of the 57 acre-feet per year of irrigation Golf Course Water will be consumed during the 100 year pumping period.

C. Water rights to be used for augmentation: Applicants, King's Deer Development and King's Deer Highlands Homeowners Association, Inc., are the owners of nontributary Denver aquifer water as decreed in Case No. 85CW230, District Court, Water Division 1 and will use part of said nontributary Denver aquifer ground water, for augmentation hereunder, or any other legally available augmentation supply that is sufficient in quantity, quality, time and place to meet the requirements of this decree. The Property Owner's Association is responsible for all replacement requirements associated with the Development Water and Golf Course Water pursuant to this decree. The Property Owner's Association shall give notice to the parties herein identifying such other legally available augmentation supply, its nature, quantity, quality, and method of delivery. The parties receiving such notice shall have 60 days to file objections with the Court to such proposed other legally available augmentation supply. The Court shall, after an evidentiary hearing if necessary, determine if the supply is adequate, including whether the proposed replacement water will be or needs to be available at the location described in Paragraph 11.F. and retains continuing jurisdiction in this matter for that purpose. Applicant, King's Deer Development, shall reserve in any deeds of the property, the nontributary Denver aquifer groundwater to be used in this augmentation plan and has conveyed by recorded deed the reserved nontributary Denver aquifer water to the Property Owner's Association.

D. Replacement during pumping: During an estimated 300 years of pumping of the Development Water serving the 390 residential lots and an estimated 100 years of pumping of the Golf Course Water, the Property Owner's Association will replace depletions to the affected stream systems in an amount of water equal to the actual depletions in the Dawson aquifer pursuant to §37-90-137(9)(c). Charts depicting the

estimated stream depletions for each stream affected by pumping of the Development Water from beginning of pumping to 300 years or until the total 49,023 acre-feet associated with the Development Water has been withdrawn, and by pumping of the Golf Course Water from the beginning of pumping to 100 years or until the 6,650 acre-feet associated with the Golf Course Water has been withdrawn pursuant to this augmentation plan are attached hereto as Exhibit B and C, respectively.

i. South Platte River System

Return flows from use of the Development Water and Golf Course Water accrue to the West Cherry Creek system and those return flows are sufficient to replace actual depletions to the South Platte River system caused by pumping of up to 229.91 acre-feet per year from the Dawson aquifer wells while the wells are being pumped pursuant to the terms and conditions herein. Because those return flows 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.

ii. Arkansas River System

According to the State Engineer's model, depletions to the Arkansas River system in the 300th year that occur from pumping of the Development Water are estimated to be 7.943% of the amount withdrawn. Depletions to the Arkansas River system in the 100th year that occur from the pumping of the Golf Course Water are estimated to be 2.08% of the amount withdrawn. In order to settle this case, the parties agree that replacements in amounts of depletions to the Arkansas River system as shown in Exhibits B and C, which were calculated using the State Engineer's model for the number of wells constructed on the Subject Property, shall be made to Monument Creek via a pipeline or direct pumping. As shown by Exhibits B and C, depletions will not begin to occur to the Arkansas River system until approximately 30 years after pumping begins, and the Property Owner's Association will not be required to make any replacements to Monument Creek until that time. After that period, the Property Owner's Association will make replacements to Monument Creek pursuant to the percentages as shown on Exhibits B and C hereto for the Development Water and the Golf Course Water respectively. The Property Owner's Association acknowledges it will drill a nontributary Denver aquifer ground water well in such a location that said water may be piped or discharged into Monument Creek at such a time that depletions from pumping of the Dawson aquifer ground water begin to occur to the Arkansas River. However, the Property Owner's Association reserves the right to use another source of water for augmentation if available pursuant to Paragraph 11.C. above.

E. Postpumping Depletion Augmentation: According to the State Engineer's model, assuming maximum pumping of the Development Water for three hundred years, the maximum depletions to the Arkansas River system, are estimated to be 8.33% of the amount withdrawn from wells located on the Subject Property in the 334th year, and assuming maximum pumping of the Golf Course Water for 100 years, the maximum depletions to the Arkansas River system are estimated to be 2.96% of the amount withdrawn in the 180th year. The maximum depletions to the South Platte River system are estimated to be 16% of the amount withdrawn from the Development Water in the 300th year, and 6.84% of the amount withdrawn of the Golf Course Water in the 100th year. Depletions and the corresponding replacements to the Arkansas River system shall be calculated according to Exhibits B and C and shall be made to Monument Creek at the location described below and to the South Platte River system on the Subject Property. It is the Applicants' position that depletions which occur after pumping ceases are not injurious, pursuant to Danielson v. Castle Meadows, 791 P. 2d 1106 (Colo. 1990). The Objectors disagree with this interpretation. Nevertheless, in order to meet a schedule for plat approval in the county and obtain favorable referral to the County from the State Engineer on the water supply and a settlement with Objectors, Applicant, King's Deer Development, LLC, has conveyed to the Property Owner's Association 55,673 acre-feet total of nontributary Denver aquifer water, being a part of the total amount of such water decreed in Case No. 85CW230, District Court, Water Division 1, for use in this plan for augmentation. The Property Owner's Association also reserves the right to use another source of water for post-pumping augmentation if available pursuant to Paragraph 11.C. above. The Property Owner's Association will construct wells in the Denver aquifer for replacement of depletions to Monument Creek during pumping and to Monument Creek and West Cherry Creek after pumping ceases as more particularly described above.

F. Location of replacements to Monument Creek: Replacements to Monument Creek under this decree, during pumping and after pumping ceases shall be made to Monument Creek or its tributaries at or above its confluence with Dirty Woman Creek in the N1/2 of Section 22, Township 11 South, Range 67 West, El Paso County, Colorado.

G. Ground water to be used for pumping period and post-pumping period replacements: 55,673 acre-feet total of nontributary ground water in the Denver aquifer underlying the Subject Property, decreed in Case No. 85CW230, District Court, Water Division 1, has been conveyed by King's Deer Development, LLC, to the Property Owner's Association for use to meet the pumping period replacement obligations to the Arkansas River system and the post-pumping period replacement obligations to the Arkansas River system and the South Platte River system under this decree. Such water shall not be available for use by the Property Owner's Association, for any purpose other than replacement of depletions hereunder unless a substitute source of replacement water sufficient to satisfy the replacement obligations under this decree is approved by the Court

pursuant to Paragraph 11.C. above. Until a substitute source of replacement water is approved by the Court, withdrawals of ground water from the Denver aquifer underlying the Subject Property decreed in Case No. 85CW230, District Court, Water Division 1, for purposes other than replacement of depletions under this decree, shall be limited to a total of 66,927 acre-feet, at a rate of 669.27 acre-feet per year.

H. Applicants shall replace post-pumping depletions for the shortest of the following periods: the period provided by §37-90-137(9)(c), C.R.S.; the expressed period specified by the Colorado Legislature, should it specify one and providing the Applicants or the Property Owner's Association obtains 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 or the Property Owner's Association petitions the water court and, after notice to parties in the case, proves that it has complied with any statutory requirement.

12. Administration of Plan for Augmentation.

A. Reporting Frequency. The Property Owner's Association shall report to the Division Engineers for both Water Division 1 and Water Division 2 no later than December 31 of each year on an accounting form acceptable to the Division Engineers. Withdrawals of the Development Water and the Golf Course Water shall be accounted for separately based on their respective depletions as referenced on Exhibits B and C hereto.

B. Meters. All of the withdrawals from structures described in this decree will be metered and the data collected by the Property Owner's Association, which will summarize and forward the data to the Division Engineer for Water Division 1 and the Water Commissioners no later than the 31st of December for each year.

C. Timing of Replacements. The Property Owner's Association agrees to make the replacements required hereunder on a weekly basis during the irrigation season (April 1-October 31) and on a monthly basis during the non-irrigation season (November 1-March 31), or more frequently if required by the Division Engineers for Water Division 1 or Water Division 2, provided, however, that the Division Engineer may aggregate replacements when necessary to maximize beneficial use by downstream water users.

D. Curtailment. Pursuant to §37-92-305(8), C.R.S., the State Engineer shall curtail all diversions, the out-of-priority depletions from which are not so replaced as to prevent injury to vested water rights. In the event the Property Owner's Association is unable to obtain the meter data needed for any well for the accounting form required



above, the well for which such information is not provided shall be curtailed by means of a cease and desist order by the State Engineer until the information is provided.

13. The Property Owner's Association shall pay the cost imposed by operation of this augmentation plan so long as an obligation for augmentation of depletions exists. The Property Owner's Association understands that the terms and conditions of this decree may require construction and pumping of a Denver aquifer well or wells to replace depletions which may occur during pumping and after pumping ceases pursuant to Paragraphs 11.D. and 11.E. of this decree.

14. Property Owner's Association. Applicant, King's Deer Development, has created a Property Owner's Association which all purchasers of lots in the property are required to join. Applicant, King's Deer Development, has conveyed to the Property Owner's Association its interest and rights and responsibilities in and under this plan for augmentation and has also conveyed to the Property Owner's Association 55,673 acre-feet total out of the Denver aquifer ground water decreed in Case No. 85CW230, District Court, Water Division 1. Applicant, King's Deer Development, has also created restrictive covenants upon and running with the property, which shall obligate the Property Owner's Association and the individual lot owners to carry out the augmentation plan. Said covenants shall indicate clearly that failure of the individual lot owners or the Property Owner's Association to comply with the terms of this decree may result in an order of the Division Engineer's office to curtail or eliminate pumping of wells operating under this plan for augmentation. Applicant, King's Deer Development, shall provide the articles and bylaws of such Association, and the document assigning to it the King's Deer Development's interest in the augmentation water, to Objectors in this case. This decree and the restrictive covenants shall be recorded in the real property records of El Paso County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree and the restrictive covenants.

#### CONCLUSIONS OF LAW

15. 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. §37-90-137(4), C.R.S. The application for a decree confirming Applicants' right to withdraw and use all ground water from the Dawson aquifer beneath the Subject Property as described herein pursuant to §37-90-137(4), C.R.S., should be granted, subject to the provisions of this decree. The nature and extent of the rights to nontributary ground water determined herein are defined by §§37-90-137(4), 37-90-137(9)(c), C.R.S. The withdrawal of the ground water decreed herein in accordance with the terms of this decree will not result in material injury to vested water rights of others.

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. The provisions of §37-92-301(4), 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.

17. This Plan for Augmentation satisfies the requirements of §37-90-137(9)(c), C.R.S., for replacement of water in an amount of water equal to actual depletions from the pumping and withdrawal of up to a total of 49,023 acre-feet at the rate of 163.41 acre-feet per year for 300 years, and a total of 6650 acre-feet at the rate of 66.5 acre-feet per year for 100 years from the Dawson aquifer during and after pumping.

#### JUDGMENT AND DECREE

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

18. 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.

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

20. The Applicants may withdraw the Development Water through wells to be located anywhere on the property described in Paragraph 8 above and owned by Applicant, King's Deer Development, LLC, or its successors in interest, and the Golf Course Water may be withdrawn through wells to be located at any location in Section 5, Township 11 South, Range 66 West, of the 6th P.M., 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.

21. Applicants may withdraw the not nontributary ground water from the Dawson aquifer in the amounts described in Paragraph 17 above under the plan for augmentation decreed herein pursuant to §37-90-137(9)(c), C.R.S. Applicants shall not withdraw the remaining Dawson aquifer water decreed herein until the Court has adjudicated a plan for augmentation to use that water in a subsequent proceeding brought for that purpose.

22. Applicants have 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 the plan for augmentation as described herein.

23. Pursuant to §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.

24. The proposed plan for augmentation as described herein is hereby approved, confirmed and adjudicated, including and subject to the terms and conditions specified herein.

25. 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.

26. Retained Jurisdiction.

A. The Court retains jurisdiction as necessary to adjust the average annual amounts of ground water 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 such log(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 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 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.

27. Continuing Jurisdiction. Pursuant to §37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for consideration 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, and the purpose set forth in Paragraph 11.C.

Revised decree entered this 21 day of April, 1999.



John E. Anderson, III  
Water Judge  
Water Division 2

The West half, the Northwest Quarter of the Northeast Quarter and the West half of the Southeast Quarter of Section 4; the East half, the east half of the Southwest Quarter and the Southwest Quarter of the Southwest Quarter of Section 5; the East half of Section 8; the Northwest Quarter and the Northwest Quarter of the Northeast Quarter of Section 9; and that part of the Northwest Quarter of the Northeast Quarter of Section 17 lying North of the Northerly Right-of-Way of State Highway #50 (now known as Colorado State Highway #105) except that portion lying within the roads of Section 4 & 5, all in Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado, described as follows:

A Tract of land located in Sections 4, 5, 8, 9 and 17, Township 11 South, Range 66 West of the 6th P.M., El Paso County Colorado, more particularly described as follows:

Commencing at the Southeast Corner of said Section 8; Thence N 00° 28' 52" W, 30.00 feet to the Point Of Beginning which is also on the Northerly Right-of-Way line of Colorado State Highway #105; Thence continue N 00° 28' 52" W along the East line of said Section 8, 2608.01 feet to the East 1/4 Corner of said Section 8; Thence N 89° 58' 40" E along the east-west centerline of said Section 9, 2652.15 feet to the centerline thereof; Thence N 00° 04' 11" W along the north-south centerline thereof, 1320.20 feet; Thence N 89° 58' 12" E, 1315.58 feet; Thence S 00° 02' 11" E, 1320.37 feet to a point on the Northerly line of said Section 9; Thence N 00° 49' 05" W, 2644.78 feet to a point on the east-west centerline of said Section 4; Thence S 89° 53' 29" W along the east-west centerline thereof, 1314.45 feet; Thence W 00° 44' 18" W, 1321.55 feet; Thence N 89° 51' 21" E, 1312.61 feet; Thence N 00° 49' 05" W, 1522.14 feet to a point 30.00 Southerly of the Northwest Corner of the Northeast 1/4 of the Northeast 1/4 of said Section 4; Thence N 89° 58' 11" W along a line 30.00 feet south of and parallel to the North line of said Section 4, 3931.61 feet to a point 30.00 feet Southerly of the Northwest Corner of said Section 4; Thence S 89° 59' 53" W along a line 30.00 south of and parallel to the North line of said Section 5, 2617.19 feet to a point 30.00 feet south of the North 1/4 Corner of said Section 5; Thence S 00° 20' 04" E along the north-south centerline thereof, 2865.92 feet; Thence S 89° 44' 04" W along the east-west centerline of said Section 5, 1314.69 feet; Thence S 00° 12' 45" E, 1318.39 feet; Thence S 89° 45' 21" W, 1317.49 feet; Thence S 00° 05' 26" E, 1317.91 feet to the Southwest Corner of said Section 5; Thence N 89° 46' 38" E along the North line of said Section 8, 2640.60 feet to the North 1/4 Corner thereof; Thence S 00° 01' 09" E along the north-south centerline of said Section 9, 5256.56 feet to the South 1/4 Corner thereof; Thence S 00° 33' 58" E along the north-south centerline of said Section 17, 1263.86 feet to a point on the Northerly Right-of-Way of Colorado State Highway #105; (the next six courses will be along the Northerly Right-of-Way of said Highway #105) [1] Thence N 44° 19' 13" E, 1557.55 feet; [2] Thence along the arc of a curve to the right with a radius of 666.60 feet, a central angle of 27° 32' 06", an arc length of 320.35 feet and whose chord bears N 58° 05' 16" E, 317.28 feet; [3] Thence N 71° 51' 19" E, 16.62 feet; [4] Thence along the arc of a curve to the right with a radius of 746.20 feet, a central angle of 18° 14' 06", an arc length of 237.49 feet and whose chord bears N 80° 58' 22" E, 236.49 feet; [5] Thence S 89° 34' 15" E, 791.80 feet; [6] Thence S 88° 38' 14" E, 235.05 feet to the Point of Beginning and containing 1445.649 acres more or less.

Except for the following 3 parcels:

1. A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 8 AS MONUMENTED BY A 2" BRASS CAP; THENCE  $50^{\circ}02'19''$  W ON THE NORTH SOUTH CENTERLINE OF SAID SECTION 8 A DISTANCE OF 1834.87 FEET TO THE POINT OF BEGINNING FOR THE TRACT DESCRIBED HEREIN; THENCE CONTINUE  $50^{\circ}02'19''$  W ON SAID CENTERLINE A DISTANCE OF 604.50 FEET; THENCE  $S89^{\circ}57'21''$  E A DISTANCE OF 440.00 FEET; THENCE  $N0^{\circ}02'19''$  E A DISTANCE OF 60.00 FEET; THENCE  $S89^{\circ}57'21''$  E A DISTANCE OF 160.00 FEET; THENCE  $N0^{\circ}02'19''$  E A DISTANCE OF 544.50 FEET; THENCE  $S89^{\circ}57'21''$  W A DISTANCE OF 600.00 FEET TO THE POINT OF BEGINNING; CONTAINING 2.1061 ACRES, MORE OR LESS.

2. A tract of land located in the Southwest quarter of Section 5, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado, being more particularly described as follows:

Beginning at the Southwest corner of said Section 5; thence N 89 degrees 51 minutes 21 seconds E on the South line of the Southwest quarter of said Section 5, a distance of 2617.95 feet to the South quarter corner of said Section 5; thence North on the North-South centerline of said Section 5 a distance of 26.72 feet, more or less, to a point; thence S 89 degrees 49 minutes 37 seconds W a distance of 2617.96 feet, more or less, to a point on the West line of the Southwest quarter of said Section 5; thence South on said West line a distance of 25.31 feet, more or less to the point of beginning. (The Basis of Bearings for this description is the South line of the Southwest quarter of Section 5, N 89 degrees 51 minutes 21 seconds E, as monumented by a 1" O.D. Pipe on the West and a 2" brass cap on the East. The direction is assumed.)

1.5 ac.

3. A Tract of Land located in the North half of Section 17, Township 11 South Range 66 West of the 6th Principal Meridian, El Paso County, Colorado, being more particularly described as follows:

Commencing at the northeast corner of the northwest quarter of said Section 17, thence S  $0^{\circ}22'05''$  E a distance of 1219.46 to the point of beginning for the tract described herein; thence N  $52^{\circ}49'14''$  E a distance of 202.24 feet to a point that is thirty (30) feet, more or less, northerly of the centerline of Colorado State Highway 105; thence S  $44^{\circ}17'23''$  W on a line that is thirty (30) feet northerly of and parallel with said centerline a distance of 230.36 feet; thence N  $0^{\circ}22'05''$  W a distance of 42.68 feet to the point of beginning.

Containing 3.455 square feet, more or less.

266W

PALMER DIVIDE RD COUNTY LINE RD.

T115

Site

EL PASO CO



Forest Dr. W

Forest Dr. E

Lake Dr.

FOREST HEIGHTS

SPRING PARK SUB

Roller Center Dr.

Canterbury Dr.

Saddlewood

RT. 105

RT. 83

17 VICINITY

16 MAP

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
5	0.01	0.74
10	0.04	1.41
15	0.09	1.91
20	0.16	2.34
25	0.24	2.73
30	0.33	3.10
35	0.44	3.45
40	0.55	3.78
45	0.67	4.10
50	0.80	4.41
55	0.93	4.71
60	1.07	5.00
65	1.21	5.29
70	1.35	5.57
75	1.50	5.85
80	1.65	6.12
85	1.81	6.39
90	1.96	6.66
95	2.11	6.92
100	2.27	7.18
105	2.42	7.44
110	2.58	7.69
115	2.73	7.95
120	2.89	8.20
125	3.04	8.45
130	3.20	8.69
135	3.35	8.94
140	3.51	9.18
145	3.66	9.41
150	3.81	9.65
155	3.96	9.89
160	4.12	10.12
165	4.27	10.35
170	4.42	10.58
175	4.57	10.81
180	4.71	11.03
185	4.86	11.26
190	5.01	11.48
195	5.16	11.70
200	5.30	11.92
205	5.44	12.14
210	5.58	12.36

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
215	5.72	12.57
220	5.86	12.78
225	6.00	12.99
230	6.14	13.20
235	6.27	13.41
240	6.41	13.62
245	6.54	13.82
250	6.68	14.03
255	6.81	14.23
260	6.94	14.43
265	7.07	14.63
270	7.19	14.83
275	7.32	15.03
280	7.45	15.23
285	7.57	15.42
290	7.69	15.61
295	7.82	15.80
300	7.94	16.00
305	8.06	16.20
310	8.18	16.40
315	8.29	16.60
320	8.40	16.80
325	8.51	17.00
330	8.62	17.20
335	8.73	17.40
340	8.84	17.60
345	8.95	17.80
350	9.06	18.00
355	9.17	18.20
360	9.28	18.40
365	9.38	18.60
370	9.49	18.80
375	9.59	19.00
380	9.69	19.20
385	9.79	19.40
390	9.89	19.60
395	9.99	19.80
400	10.09	20.00
405	10.19	20.20
410	10.29	20.40
415	10.39	20.60
420	10.49	20.80

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
425	10.59	21.00
430	10.69	21.20
435	10.79	21.40
440	10.89	21.60
445	10.99	21.80
450	11.09	22.00
455	11.19	22.20
460	11.29	22.40
465	11.39	22.60
470	11.49	22.80
475	11.59	23.00
480	11.69	23.20
485	11.79	23.40
490	11.89	23.60
495	11.99	23.80
500	12.09	24.00
505	12.19	24.20
510	12.29	24.40
515	12.39	24.60
520	12.49	24.80
525	12.59	25.00
530	12.69	25.20
535	12.79	25.40
540	12.89	25.60
545	12.99	25.80
550	13.09	26.00
555	13.19	26.20
560	13.29	26.40
565	13.39	26.60
570	13.49	26.80
575	13.59	27.00
580	13.69	27.20
585	13.79	27.40
590	13.89	27.60
595	13.99	27.80
600	14.09	28.00
605	14.19	28.20
610	14.29	28.40
615	14.39	28.60
620	14.49	28.80
625	14.59	29.00
630	14.69	29.20



YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
835	5.19	8.95
840	5.14	8.89
845	5.10	8.83
850	6.06	8.77
855	6.00	8.72
860	4.98	8.66
865	4.91	8.60
870	4.87	8.56
875	4.82	8.49
880	4.78	8.43
885	4.73	8.38
890	4.69	8.32
895	4.65	8.27
700	4.60	8.21
705	4.56	8.16
710	4.52	8.10
715	4.48	8.06
720	4.44	8.00
725	4.40	7.95
730	4.36	7.89
735	4.32	7.84
740	4.28	7.79
745	4.24	7.74
750	4.21	7.69
755	4.17	7.64
760	4.13	7.58
765	4.09	7.54
770	4.06	7.49
775	4.02	7.44
780	3.99	7.39
785	3.95	7.34
790	3.92	7.29
795	3.88	7.25
800	3.85	7.20
805	3.82	7.15
810	3.78	7.10
815	3.75	7.06
820	3.72	7.01
825	3.68	6.97
830	3.66	6.92
835	3.62	6.87
840	3.58	6.83

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
845	3.58	6.79
850	3.53	6.74
855	3.50	6.70
860	3.47	6.65
865	3.44	6.61
870	3.41	6.57
875	3.39	6.52
880	3.36	6.48
885	3.33	6.44
890	3.30	6.40
895	3.28	6.35
900	3.25	6.31
905	3.21	6.26
910	3.18	6.21
915	3.15	6.17
920	3.12	6.12
925	3.09	6.08
930	3.06	6.04
935	3.03	5.99
940	3.00	5.95
945	2.97	5.90
950	2.94	5.86
955	2.91	5.82
960	2.88	5.77
965	2.85	5.73
970	2.82	5.68
975	2.78	5.64
980	2.76	5.59
985	2.72	5.55
990	2.69	5.51
995	2.66	5.46
1000	2.63	5.42
1005	2.60	5.37
1010	2.57	5.33
1015	2.54	5.29
1020	2.51	5.24
1025	2.48	5.20
1030	2.46	5.15
1035	2.42	5.11
1040	2.38	5.06
1045	2.36	5.02
1050	2.33	4.98

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
1055	2.30	4.93
1060	2.27	4.89
1065	2.24	4.84
1070	2.21	4.80
1075	2.18	4.75
1080	2.15	4.71
1085	2.12	4.67
1090	2.09	4.62
1095	2.06	4.58
1100	2.03	4.53
1105	2.00	4.49
1110	1.97	4.45
1115	1.94	4.40
1120	1.91	4.36
1125	1.88	4.31
1130	1.85	4.27
1135	1.82	4.22
1140	1.79	4.18
1145	1.76	4.14
1150	1.73	4.09
1155	1.70	4.06
1160	1.67	4.00
1165	1.64	3.96
1170	1.61	3.91
1175	1.58	3.87
1180	1.55	3.83
1185	1.52	3.78
1190	1.49	3.74
1195	1.46	3.69
1200	1.43	3.65
1205	1.40	3.61
1210	1.37	3.56
1215	1.34	3.52
1220	1.31	3.47
1225	1.28	3.43
1230	1.25	3.38
1235	1.22	3.34
1240	1.19	3.30
1245	1.16	3.25
1250	1.13	3.21
1255	1.10	3.16
1260	1.07	3.12

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
1265	1.04	3.08
1270	1.01	3.03
1275	0.98	2.99
1280	0.95	2.94
1285	0.92	2.90
1290	0.89	2.85
1295	0.86	2.81
1300	0.83	2.77
1305	0.80	2.72
1310	0.77	2.68
1315	0.74	2.63
1320	0.71	2.59
1325	0.68	2.54
1330	0.65	2.50
1335	0.62	2.46
1340	0.59	2.41
1345	0.56	2.37
1350	0.53	2.32
1355	0.50	2.28
1360	0.47	2.24
1365	0.44	2.19
1370	0.41	2.15
1375	0.38	2.10
1380	0.35	2.06
1385	0.32	2.01
1390	0.29	1.97
1395	0.26	1.93
1400	0.23	1.88
1405	0.20	1.84
1410	0.17	1.79
1415	0.14	1.75
1420	0.11	1.70
1425	0.08	1.66
1430	0.05	1.62
1435	0.02	1.57
1440	0.00	1.53
1445		1.48
1450		1.44
1455		1.40
1460		1.35
1465		1.31
1470		1.28

YEAR	ARKANSAS RIVER SYSTEM	SOUTH PLATTE RIVER SYSTEM
1475		1.22
1480		1.17
1485		1.13
1490		1.09
1495		1.04
1500		1.00
1505		0.95
1510		0.91
1515		0.87
1520		0.82
1525		0.78
1530		0.73
1535		0.69
1540		0.64
1545		0.60
1550		0.56
1555		0.51
1560		0.47
1565		0.42
1570		0.38
1575		0.33
1580		0.29
1585		0.25
1590		0.20
1595		0.16
1600		0.11
1605		0.07
1610		0.03
1615		0.00

TABLE I  
 LOWER DAWSON AQUIFER STREAM DEPLETION FACTORS  
 KINGS DEER GOLF COURSE WELL  
 AS % q/Q

YRS	ARKANSAS SYSTEM	SO. PLATTE SYSTEM
10	0.04	0.95
20	0.14	1.85
30	0.50	2.64
40	0.48	3.35
50	0.71	3.99
60	0.96	4.60
70	1.22	5.18
80	1.50	5.75
90	1.79	6.30
100	2.08	6.84
110	2.34	6.42
120	2.54	6.04
130	2.67	5.76
140	2.79	5.56
150	2.87	5.40
160	2.91	5.27
170	2.95	5.18
180	2.96	5.06
190	2.95	4.98
200	2.94	4.89
210	2.92	4.83
220	2.89	4.75
230	2.86	4.67
240	2.82	4.60
250	2.79	4.54
260	2.74	4.46
270	2.71	4.41
280	2.66	4.35
290	2.63	4.27
300	2.57	4.22
310	2.53	4.16
320	2.49	4.11
330	2.43	4.04
340	2.40	3.98
350	2.34	3.92
360	2.31	3.88
370	2.26	3.82
380	2.21	3.77
390	2.18	3.72
400	2.13	3.65

Well in J/1/S/66W