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DISTRICT COURT, WATER DIVISION 2, COLORADO

Case No. 93 CW 75

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 93 CW 147

Filed in the office of the Clerk,
District Court Water Division
No. 2, State of Colorado.

JUN 20 '94 AM



M. R. R. R. R.
CLERK

FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF FIRETREE CORPORATION

IN THE NOT NONTRIBUTARY DAWSON AND DENVER AQUIFERS,
IN EL PASO COUNTY.

THIS MATTER has come before the Water Judge upon the application of Firetree Corporation for adjudication of ground water in the not nontributary Dawson and Denver aquifers 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 Judgment and Decree of the Court.

FINDINGS OF FACT

1. Name and Address of Applicant. The Firetree Corporation, c/o Dan Potter, 6189 Lehman Drive, Colorado Springs, Colorado 80918; (719) 592-9700. As used below, "Applicant" refers to The Firetree Corporation, its successors and assigns, including the Property Owners Association described in paragraph 14.
2. History of Case. The Applicant is represented by Holly I. Holder. The original applications for underground water rights from not nontributary and nontributary sources and for approval of a plan for augmentation were filed in Case No. 93CW75 in Water Division 2 and in Case No. 93CW147 in Water Division 1 on November 30, 1993. Subsequent to the filing of the applications, it was discovered that the nontributary ground water in the

Arapahoe and Laramie-Fox Hills aquifers underlying Applicant's property had previously been adjudicated in Case No. 85CW230 in Water Division 1. The claims for nontributary Arapahoe and Laramie-Fox Hills aquifers ground water are not a part of this Ruling and Decree. Amendments to the applications were filed to add an alternative source of augmentation water on January 31, 1994. Statements of opposition were filed by the State Engineer of Colorado and the Division Engineers of Water Divisions 1 and 2 and the City of Colorado Springs in both Case Nos. 93CW75 and 93CW147 and Woodmoor Water and Sanitation District in Case No. 93CW75. 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 June 15, 1994. An Order rereferring Case No. 93CW75 to the Water Judge for Water Division 2 was entered June 8, 1994.

DESCRIPTION OF WATER RIGHTS

3. Well Permits. Well permits will be applied for when Applicant is prepared to drill the wells.

4. Names and Legal Description of Wells: Applicant may locate the wells which will withdraw ground water from the not nontributary Dawson and Denver aquifers anywhere on the Subject Property, which is described in Paragraph 8 below, and subject to paragraph 22 below.

5. Source of Water Rights:

A. The ground water to be withdrawn from the Dawson and Denver 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 amounts of withdrawal available from the subject aquifers as indicated below, is based upon the Denver Basin Rules, 2 C.C.R. 402-6 and conform with the Determination of Facts issued by the Office of the State Engineer on April 7,

1994. Applicant estimates the following average annual amounts are representative of the Dawson and Denver aquifers underlying the subject property:

<u>Aquifer</u>	<u>Acres</u>	<u>Saturated Thickness</u>	<u>Annual Average Withdrawal (Acre-Feet)</u>
Dawson	366	435 feet	316*
Denver	366	545 feet	339

*The amount in the Dawson aquifer was reduced by 2 acre-feet to protect existing wells.

B. The average annual amounts available for withdrawal from the subject aquifers will depend upon the hydrogeology and the legal entitlement of Applicant to all ground water in those aquifers underlying the described property.

7. Well Field. The Court finds that Applicant has the right to withdraw all of the legally available ground water in each 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 Applicant's well fields, subject to paragraph 22 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. The wells in each aquifer, along with any additional wells completed into the same 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 from each aquifer 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. Applicant hereby waives the 600 foot spacing rule for wells within their own boundaries.

8. Description of the Land Overlying Subject Ground Water:

Applicant is the owner of approximately 366 acres of land in Sections 7, 8 and 17, Township 11 South, Range 66 West of the 6th P.M., known as the King's Deer Park Subdivision, as more

particularly described on Exhibit A and as shown on the map attached as Exhibit B (the "Subject Property").

9. Proposed Use. All water withdrawn from the Dawson and Denver aquifers 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, Applicant shall comply with the following conditions:

A. A totalizing flow meter shall be installed on each well discharge prior to withdrawing any water therefrom. Applicant shall 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 groundwater 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 up to 54.2 acre-feet per year may be withdrawn pursuant to the augmentation plan decreed herein. The water in the Denver aquifer is not nontributary and that water and the remainder of the not nontributary Dawson aquifer water may not be withdrawn until the Applicant completes adjudication of an augmentation plan pursuant to paragraph 22 below.

PLAN FOR AUGMENTATION

11. Description of Plan for Augmentation:

A. Structures to be augmented: Up to 120 individual wells in the not nontributary Dawson aquifer. 119 of the wells will withdraw at a rate of flow not to exceed 15 gpm or an annual amount of 0.38 acre-feet. One additional well will serve a school to withdraw at a rate of flow of between 250 and 500 gpm for an approximate annual amount of 8.8 acre-feet. The maximum total annual withdrawal shall be limited to 54.2 acre-feet per year under this plan for augmentation.

B. Development and Consumptive Use: The subject property will be developed as a residential development, consisting of up to 119 homes and a school to be served by individual Dawson aquifer wells. Sewage treatment for 118 of the residential units will be provided by non-evaporative septic systems and 1 unit will utilize a evaporative septic system. Water use at total buildout of the 119 units is estimated to be 32 acre-feet annually for inhouse use based on water use of approximately 240 gallons per day per unit. Consumptive use for the 118 units is estimated to be 10% of use or approximately 3.17 acre-feet annually. The remaining residential unit will consume approximately .3 acre-feet annually. Water use for the school will be approximately 7.2 acre-feet annually for in-house use. Sewage treatment for the school will be by non-evaporative septic system. Consumptive use is estimated to be 10% of use or .72 acre-feet for in-house use. Total consumptive use for in-house use for the residential units and the school will be approximately 4.19 acre-feet annually.

Outside irrigation for the 119 residential units shall be limited to an average of 3,000 square feet per unit, for a total of 8.2 acres in the development and consumptive use of approximately 13.4 acre-feet annually. Outside irrigation for the school shall be limited to approximately 1 acre. Total consumptive use for irrigation of the school will be 1.6 acre-feet. Total consumptive use for irrigation of the residential units and school is estimated to be 15

acre-feet annually. The estimated total annual diversion for the residential units and the school shall be limited to 54.2 acre-feet annually.

Alternatively, if the school district elects not to construct a school, the school district may sell four lots which are being deeded to the district, in which case the four additional lots will be developed as residential units in which case the total inhouse consumptive use will be 3.58 acre-feet and consumptive use for irrigation use will be 13.81 acre-feet and total diversion would be 46.9 acre-feet annually.

C. Water rights to be used for augmentation:

1. Applicant has contracted with Northgate Company for the use of nontributary water from well U.D. No. 1-17798-F, from the Dawson aquifer decreed for use for domestic, municipal, commercial, industrial and irrigation purposes. Northgate Company's Well U.D. No. 1-17798-F is further described as :

Well U.D. No. 1-17798-F
Decreed: December 30, 1976
Case No. W-8269-76, 80CW369, and 84CW621
Court: Water Division 1
Type of water right: Nontributary well
Legal description of the structure: Located in the NE¼ of the NE¼, of Section 17, Township 11 South, Range 66 West of the 6th P.M., El Paso County at a point 100 feet South and 75 feet West of the Northeast Corner of said Section 17.
Source: Nontributary Dawson Arkose aquifer
Pumping rate: 0.167 cfs (75 gpm) with an annual limitation of 121 acre-feet.
Decreed uses: domestic, municipal, commercial, industrial, and irrigation.
Owned by Northgate Company, 3720 Sinton Road, Suite 106D, Colorado Springs, Colorado 80907

Northgate Company also owns rights to Denver aquifer water described below. Applicant

understands that Northgate Company may choose to substitute this water at some time in the future for the water from Well U.D. No. 1-17798-F, and such substitution is approved subject to continued compliance with the terms of this decree.

Northgate Well A-D-2

Decreed: November 23, 1983

Case No.: 82CW295 and 87CW193

Court: Water Division 1

Type of water right: nontributary well

Legal description of the structure: In the NW1/4 of the SE1/4 of Section 17, Township 11 South, Range 66 West of the 6th P.M., El Paso County, Colorado, at a point approximately 2300 feet north of the south section line and 2010 feet west of the east section line of said Section 17.

Decreed uses: Municipal, domestic, commercial, industrial, irrigation, recreational including fishery and wildlife, fire protection, stockwatering, and the maintenance of adequate storage systems and reserves.

Source: Nontributary Denver aquifer

Pumping rate: 0.455 cfs, 87 acre-feet annually

2. Should the Northgate Company source of water fail for any reason, Applicant may use its nontributary Arapahoe or Laramie-Fox Hills water for augmentation or any other legally available augmentation supply that is in sufficient quantity, quality, time and place to meet the requirements of this decree. Applicant, its successors and assigns 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 30 days to file objections with the Court to such proposed other legally available augmentation supply. The Court retains jurisdiction in this matter to determine if the supply is adequate. Applicant shall reserve in any deeds of the property, all of the nontributary Arapahoe and Laramie-Fox Hills

aquifer water underlying the land for possible use in this augmentation plan; and shall convey by recorded deed the reserved nontributary Arapahoe and Laramie-Fox Hills aquifer water to the Property Owners Association to be created in connection with subdivision of the property.

3. During the pumping phase, applicant will also utilize return flows from the nontributary rights requested herein to replace depletions to Cherry Creek drainage only.

D. Replacement during pumping: During pumping Applicant will replace depletions to the affected stream system in an amount of water equal to the actual depletions in the Dawson aquifer pursuant to §37-90-137(9)(c). In the 100th year, the total depletion to the stream system is approximately 8.63% of the water withdrawn from the Dawson aquifer, of which 5.63% of the depletions accrue to the South Platte, particularly the Cherry Creek River System and 3.0% accrue to the Arkansas River, particularly the Monument Creek system.

i. South Platte/Cherry Creek.

Return flows from the development accrue to the Cherry Creek system and those return flows are sufficient to replace to Cherry Creek actual depletions caused by pumping of up to 54.2 acre-feet per year from the Dawson aquifer wells while the wells are being pumped. Because return flows from indoor uses are estimated rather than measured, Applicant agrees 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/Monument Creek/Dirty Woman Creek

Depletions to the Arkansas River will be 3% of the water pumped from the Dawson aquifer in the 100th year. Replacements in an amount equal to 3% of

the previous year's pumping shall be made to Monument Creek at or above its confluence with Dirty Woman Creek via the Northgate water supply. After notice from Woodmoor Water and Sanitation District No. 1 that it will commence exercise of its conditionally decreed right for exchange on Dirty Woman Creek, Applicant will make the total replacements to Monument Creek required hereunder, including post-pumping replacements described below, upstream of Woodmoor's Dirty Woman Creek decreed wells, at a location agreeable to Woodmoor, subject to paragraph 28 below.

E. Postpumping Depletion Augmentation: Assuming maximum pumping of 54.2 acre-feet per year from the Dawson aquifer for one hundred years, the maximum depletion to Monument Creek/Dirty Woman Creek will be 3.218% or 1.74 acre-feet in the 134th year, and to Kettle Creek will be 0.347% or 0.19 acre-feet in the 218th year, for a total maximum depletion to the Monument Creek Basin of 3.565% or 1.93 acre-feet. The maximum depletion to the Cherry Creek basin is 6.218% or 3.37 acre-feet, and the maximum depletion occurs to West Cherry Creek, East Cherry Creek, and Cherry Creek in the 100th, 151st and the 393rd years, respectively. Year to year depletions shall be calculated according to the State Engineer's model and replacements will be made to Monument Creek on Dirty Woman Creek described above and to Cherry Creek on the Subject Property. It is the Applicant's position that depletions which occur after pumping ceases are not injurious, pursuant to Danielson v. Castle Meadows, 791 P.2d 1106 (Colo. 1990). The State and Division Engineers and Woodmoor Water and Sanitation District No. 1 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 Woodmoor, Applicant has purchased an additional 2.0 acre-feet per year of water from the Northgate Company which will be reserved for and will provide augmentation water to replace depletions after cessation of pumping to the Arkansas River System. Pursuant to paragraph 11(D)ii above, the Monument Creek portion of those replacements will be made upstream of Woodmoor's Dirty Woman Creek wells at a location agreeable to Woodmoor,

subject to paragraph 28 below. In the South Platte River System, or if the Northgate Company source of augmentation water fails to replace depletions to Monument Creek for any reason, Applicant shall replace post-pumping depletions by pumping of the reserved nontributary Arapahoe or Laramie-Fox Hills aquifer water, or any other legally available augmentation supply that is in sufficient quantity, quality, time and place to meet the requirements to either stream system of this decree, directly to the stream to meet the requirements of this decree. Applicant acknowledges that this may require construction and pumping of Arapahoe and Laramie-Fox Hills aquifers wells to replace post-pumping depletions. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

F. Applicant 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 Applicant 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 Applicant petitions the water court and after notice to parties in the case and proves that he has complied with any statutory requirement.

12. Administration of Plan for Augmentation.

A. Reporting Frequency. Applicants or the Homeowner's Association shall report to the Division Engineers for both Water Division 1 and Water Division 2 no later than November 30 of each year on an accounting form acceptable to the Division Engineer for Water Division No. 1.

B. Meters. All well withdrawals from structures described in this decree will be metered and collected by the Property Owners Association, which will summarize and forward the data to the Division Engineer for Water Division 1 and the Water Commissioner by the 30th of January for each year.

C. Timing of Replacements. Applicant agrees to make the replacements required hereunder when required by the Division Engineer for Water Division No. 1, but not less than monthly during the irrigation season.

D. Curtailment. 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. In the event the Homeowner's Association is unable to obtain withdrawal rates needed for each well for the accounting form required above, the owner of the well for which such information is not provided shall be subject to cease and desist orders by the State Engineer.

13. Applicant and its successors in interest shall pay the cost imposed by operation of this augmentation plan, and the Northgate Company contract(s) so long as an obligation for augmentation of depletions exists. The Applicant on behalf of itself and its successors and assigns, understands that the terms and conditions of this decree may require construction and pumping of Arapahoe and Laramie-Fox Hills aquifer wells to replace post-pumping depletions pursuant to this decree and paragraph 11(E).

14. Property Owners Association. Upon subdivision of the property, the Applicant shall create a Property Owners Association which all purchasers of lots in the property shall be required to join. Applicant shall assign to the property owners association Applicant's interest and rights and responsibilities in and under the Northgate Contract and this plan for augmentation; Applicant shall also assign to the ⁹⁵⁴Property Owners Association 170 acre-feet per year out of ~~612~~ acre feet per year of the Arapahoe aquifer water and 111 acre-feet per year out of ~~954~~ acre feet per year of the Laramie-Fox Hills aquifer water as decreed in Case No. 85CW230, Water Division No. 1. These amounts are based on the amount of water in the aquifers beneath the Subject Property which is a portion of the area which is the subject of Case No. 85CW230. Applicant shall also create restrictive covenants upon and running with the property, which shall obligate the individual purchasers and the Property Owners Association to carry out the requirements of the Northgate Contract and of this decree. Said covenants shall indicate clearly that failure of either the property owners or the

Property Owners Association 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 owners' wells. Applicant shall provide the articles and bylaws of such Association, and the document assigning to it the Applicant'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. Section 37-90-137(4), C.R.S. The application for a decree confirming Applicant's right to withdraw and use all ground water from the named 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 nature and extent of the rights to not nontributary ground water determined herein are defined by §§37-90-137(4), 37-90-137(9) and 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 groundwater 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 quadrennial 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 54.2 acre-feet per year from the Dawson aquifer during and after pumping.

18. Material injury to vested water rights of others requires factual determination based on the evidence presented in a particular case. Danielson v. Jones, 698 P.2d 240 (Colo. 1985); State Engineer v. Castle Meadows, 856 P.2d 496 (Colo. 1993).

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.

19. 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.

20. 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.

21. The Applicant 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 the limitations herein and the retained jurisdiction by this Court.

22. Applicant may withdraw up to 54.2 acre-feet per year of nontributary ground water from the Dawson aquifer under the plan for augmentation decreed herein pursuant to § 37-90-137(9)(c), C.R.S. Applicant will not withdraw the remaining Dawson aquifer water or the Denver aquifer water until the Court has adjudicated a plan for augmentation to use that water in a subsequent proceeding brought for that purpose.

23. Applicant 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.

24. 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.

25. 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.

26. 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.

27. 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), Applicant 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 Applicant.

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.

28. 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.

Dated this 20 day of June, 1994.





John R. Tracey
Water Judge
Water Division 2
Colorado

THE FOREGOING IS HEREBY APPROVED AS TO CONTENT AND FORM AND APPROVED FOR ENTRY BY THE WATER JUDGE.

HOLLY I. HOLDER, P.C.

Date: June 10, 1994

By Holly Holder
Holly I. Holder, #10216
518 - 17th Street, #1500
Denver, Colorado 80202
(303) 534-6315

ATTORNEYS FOR APPLICANTS

MOSES, WITTEMYER, HARRISON &
WOODRUFF, P.C.


Date: June 13, 1994

By Veronica A. Sperling
David L. Harrison, #2590
Veronica A. Sperling, #14310
1002 Walnut, #300
Boulder, Colorado 80306
(303) 443-8782

ATTORNEYS FOR OBJECTOR
WOODMOOR WATER AND SANITATION
DISTRICT NO. 1

OFFICE OF THE ATTORNEY
GENERAL

By



Patrick E. Kowaleski, #9598
Assistant Attorney General
Natural Resources Section
1525 Sherman Street
Fifth Floor
Denver, Colorado 80203
(303) 866-5129

ATTORNEYS FOR THE OBJECTOR
STATE AND DIVISION ENGINEER

EXHIBIT A

KING'S DEER PROPERTY DESCRIPTION

A TRACT OF LAND BEING PORTIONS OF THE SOUTHWEST QUARTER OF SECTION 5, THE NORTHEAST QUARTER OF SECTION 7, SECTION 8, AND THE NORTH HALF OF SECTION 17, ALL IN TOWNSHIP 11 SOUTH RANGE 66 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 5, THENCE NORTHERLY ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5 A DISTANCE OF 25.01 FEET; THENCE N89°49'07"E A DISTANCE OF 2617.96 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 5; THENCE SOUTHERLY ON SAID EAST LINE A DISTANCE OF 26.72 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE S00°02'39"W ON THE NORTH-SOUTH CENTERLINE OF SECTION 8 A DISTANCE OF 1534.87 FEET; THENCE S89°57'21"E A DISTANCE OF 600.00 FEET; THENCE S00°02'39"W A DISTANCE OF 544.50 FEET; THENCE N89°57'21"W A DISTANCE OF 160.00 FEET; THENCE S00°02'39"W A DISTANCE OF 60.00 FEET; THENCE N89°57'21"W A DISTANCE OF 440.00 FEET TO A POINT ON SAID NORTH-SOUTH CENTERLINE OF SECTION 8; THENCE S00°02'39"W ON SAID NORTH-SOUTH CENTERLINE A DISTANCE OF 3147.50 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 8; THENCE S00°22'05"E A DISTANCE OF 1233.68 FEET TO A POINT ON A LINE 50 FEET, MORE OR LESS, NORTH OF AND PERPENDICULAR TO THE CENTER OF THE PAVEMENT OF COLORADO STATE HIGHWAY 105; THENCE ON SAID LINE 50 FEET, MORE OR LESS, NORTH OF AND PARALLEL TO THE CENTER OF THE PAVEMENT OF COLORADO STATE HIGHWAY 105 THE FOLLOWING FIVE COURSES; 1) THENCE S44°17'23"W A DISTANCE OF 172.92 FEET TO A POINT OF CURVATURE; 2) THENCE ON A CURVE TO THE LEFT WITH A RADIUS OF 950.00 FEET, A CENTRAL ANGLE OF 13°34'25", AN ARC LENGTH OF 225.06 FEET AND A CHORD BEARING S51°04'36"W A DISTANCE OF 224.53 FEET; 3) THENCE S57°51'49"W A DISTANCE OF 472.77 FEET TO A POINT OF CURVATURE; 4) THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 730.00 FEET, A CENTRAL ANGLE OF 17°18'50", AN ARC LENGTH OF 220.89 FEET AND A CHORD BEARING S66°31'14"W A DISTANCE OF 219.75 FEET; 5) THENCE S75°10'18"W A DISTANCE OF 113.57 FEET TO A POINT ON THE EAST LINE OF A TRACT DESCRIBED IN AN INSTRUMENT RECORDED IN BOOK 2014 AT PAGE 761; THENCE N00°25'02"W ON THE EAST LINE OF SAID TRACT A DISTANCE OF 782.70 FEET TO THE NORTHEAST CORNER OF SAID TRACT; THENCE S89°35'19"W ON THE NORTH LINE OF SAID TRACT A DISTANCE OF 315.07 FEET TO THE NORTHWEST CORNER OF SAID TRACT, SAID CORNER ALSO BEING A POINT ON THE EAST LINE OF FOREST HEIGHTS SUBDIVISION (PLAT BOOK A-2 AT PAGE 79); THENCE N00°22'38"W ON THE EAST LINE OF SAID

FOREST KNIGHTS SUBDIVISION A DISTANCE OF 1079.17 FEET TO THE NORTHEAST CORNER OF SAID FOREST KNIGHTS SUBDIVISION, SAID CORNER ALSO BEING THE SOUTHEAST CORNER OF A TRACT DESCRIBED BY AN INSTRUMENT RECORDED IN BOOK 5779 AT PAGE 845; THENCE $N00^{\circ}01'01''E$ ON THE EAST LINE OF SAID TRACT AND THE EAST LINE OF A TRACT OF LAND DESCRIBED BY AN INSTRUMENT RECORDED IN BOOK 5784 AT PAGE 702 A DISTANCE OF 2643.88 FEET TO THE NORTHEAST CORNER OF SAID TRACT DESCRIBED IN BOOK 5784 AT PAGE 702; THENCE $S89^{\circ}45'56''W$ ON THE NORTH LINE OF SAID TRACT A DISTANCE OF 1317.79 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE $S89^{\circ}40'10''W$ ON THE SOUTH LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 1319.02 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID NORTHEAST QUARTER OF SECTION 7; THENCE $N00^{\circ}49'52''E$ ON THE WEST LINE OF SAID EAST HALF A DISTANCE 2653.24 FEET TO THE NORTHEAST CORNER OF SAID EAST HALF OF SECTION 7; THENCE $S89^{\circ}30'03''E$ ON THE NORTH LINE OF SAID EAST HALF OF SECTION 7 A DISTANCE OF 1310.75 FEET TO THE POINT OF BEGINNING.

THE DESCRIBED TRACT CONTAINING 379.3525 ACRES, MORE OR LESS.

(THE BASIS FOR BEARINGS USED IN THIS DESCRIPTION IS THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M. THE LINE IS MONUMENTED BY A 1/2 INCH O.D. IRON PIPE ON THE WEST END AND A #4 REBAR ON THE EAST END. THIS LINE BEARS $S89^{\circ}45'56''W$ AS CALLED FOR IN INSTRUMENT RECORDED IN BOOK 5784 AT PAGE 702.)

KING'S DEER PARK
SUBDIVISION

Exhibit B

T.11S, R.66W, 6th P.M.

