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DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 89CW068

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FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE CHATFIELD EAST PROPERTY OWNERS ASSOCIATION,

IN DOUGLAS COUNTY, COLORADO.

THIS MATTER, having come on for hearing on the application of the Chatfield East Property Owners Association ("Chatfield"), and the Court having considered the pleadings and evidence presented, does hereby find, conclude, adjudge and decree as follows:

FINDINGS OF FACT

1. Filing of Application: Chatfield filed its application herein seeking approval of a plan for augmentation on May 15, 1989.

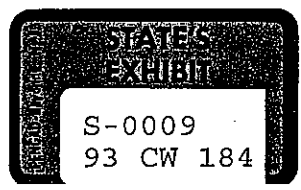
2. Notices and Jurisdiction: All notices of the application were given in the manner required by law and the Court has jurisdiction over the subject matter of this proceeding and over all persons and property affected hereby, regardless of whether those persons or owners of property have appeared.

3. Opposition: The time for filing statements of opposition has expired. Statements of opposition were filed by:

- a. The City and County of Denver, acting by and through its Board of Water Commissioners
- b. Centennial Water and Sanitation District.

The motion to intervene filed on behalf of the State Engineer and Division Engineer for Water Division 1 was granted, and the accompanying statement of opposition accepted for filing, by the order of this Court on February 20, 1991.

4. Description of the Subdivision: The Chatfield East Subdivision ("Subdivision") is located in sections 21 and 28, T. 6 S., R. 68 W., 6th P.M., Douglas County, Colorado. The Subdivision is comprised of 103 individually-owned residential lots, and accompanying open spaces, as shown on Exhibit A to this decree. This decree applies only to withdrawals of water underlying the 103 individual lots. No part of the Subdivision is located within a designated groundwater basin.



5. Description of the Applicant: Chatfield is a Colorado not-for-profit corporation whose address is 6576 West Lakeside Court, Littleton, Colorado, 80125. Each owner of one of the 103 individual lots within the Subdivision is a member of Chatfield. Among its specific functions, Chatfield owns and operates water rights and structures used for providing augmentation supplies on behalf of the individual members of Chatfield. The plan for augmentation applied for herein will allow Chatfield and its individual members to better utilize the structures and water rights which are the subject of this decree for service of water to the individual lots within the Subdivision. Chatfield is authorized to obtain this decree on behalf of its individual members and to seek and obtain all determinations upon which this decree is based. Only the individual lot owners, and not Chatfield, are authorized by this decree to withdraw water from the Denver aquifer underlying the 103 individual lots.

6. Structures to be Augmented: All water uses on the 103 individual lots within the Subdivision are supplied, or will be supplied after full build out of the Subdivision, by individual wells ("individual wells") located on each of the 103 individual lots as depicted on Exhibit A to this decree. The structures to be augmented under this plan are the individual wells. No water is used on the open areas of the Subdivision, which are owned by Chatfield and no wells will be located on those open areas under this decree, provided that nothing in this decree shall prevent Chatfield from in the future obtaining such authority as may be required to use water underlying the open areas of the Subdivision.

7. Augmentation Source: The water right to be used for augmentation under this plan is the nontributary Chatfield East Laramie Fox-Hills Well No. 1-26751-F ("Well"). The Well is the subject of two decrees of this court in cases no. 82CW203 and 83CW32. Pertinent information from those decrees is as follows:

- a. Date of decree:  
82CW203: March 21, 1986  
83CW32: November 23, 1983
- b. Location of Well: N.E. ¼, S.W. ¼, Sec. 21, T. 6 S., R. 68 W., 6th P.M., Douglas County, Colorado, at a point approximately 2,500 feet from the south line and 2350 feet from the west line of Section 21.
- c. Source: Nontributary Laramie Fox-Hills Aquifer
- d. Amount:  
82CW203, 15 acre-feet annually, at a rate of 100 g.p.m.,  
83CW32, 110 acre-feet, at a rate of 88 g.p.m

- e. Decreed Uses: Domestic, livestock, commercial, industrial, irrigation, municipal, replacement, and augmentation. Decrees do not specify the total irrigable acreage.

Chatfield is the owner of the right to use the entire 15 acre-feet annually decreed to the well in Case No. 82CW203, Water Division 1. Chatfield is the owner of a prior right to use 13 acre-feet annually of the 110 acre-feet annually decreed to the well in Case No. 83CW32. During the period following cessation of withdrawals from the individual wells under this decree, Chatfield will also provide augmentation supplies from its interest in the Guiraud 3T water right ("Guiraud 3T") as decreed by the District Court in and for Park County on October 18, 1889, with a date of appropriation of July 1, 1867, in a total amount of 48.97 c.f.s. Chatfield is the owner of the right to use 8.43 acre-feet of the Guiraud 3T, of which 8.055 acre-feet is available for augmentation purposes, at a rate of flow of 0.386 c.f.s.

8. Statement of Plan for Augmentation:

- a. Existing Plan for Augmentation: As of the date of this decree, 74 individual wells have been constructed and are in use on the 74 individual lots to supply all present water needs of the those lots. The individual wells withdraw their water supply from the Denver aquifer underlying the individual lots. Withdrawals and depletions resulting from the use of the individual wells are authorized by decree of this Court in Case No. W-8568-77, dated May 15, 1978. That decree authorizes the construction and operation of a total of 100 individual wells on 100 lots to be used for in-house domestic uses and the irrigation of 1,300 square feet of lawn and garden on each of the 100 lots. Replacement sources described in W-8568-77 are the Guiraud 3T water right and a non-tributary Arapahoe Aquifer well. By the decree of this Court in case no. 82CW203, the proposed Arapahoe well was replaced by the Well. The existing plan has been operated by Chatfield and administered by the State of Colorado since the date of the decree. The uses of the individual wells allowed under this decree are in addition to those authorized by the decree in W-8568-77 and by well permits issued by the State Engineer under that decree. Because the terms and conditions of this decree are more restrictive than those in the decree in W-8568-77, water uses allowed under the decree in W-8568-77 shall continue, or be commenced, unaffected by this decree, except that post pumping depletions resulting from withdrawals by the individual wells under W-8568-77 shall be replaced as required under this decree and a copy of this decree shall be attached to the decree in W-8568-77.

b. General Description of This Plan: Under this plan, individual lot owners within the Subdivision will make uses of water by the individual wells in addition to those uses allowed in W-8568-77. All water to be withdrawn by the individual wells under this plan will be supplied from the Denver aquifer underlying the individual lots. The maximum period of withdrawal from the individual wells under this decree will not exceed 100 years from the date of this decree. Use of the individual wells under this plan will result in depletions to Plum Creek in addition to those allowed by the decree in W-8568-77. Because the depletions under this decree will be junior to many water rights on the South Platte River system, the depletions will be replaced under the terms of this decree pursuant to §37-90-137(9)(c), C.R.S. 1973. Replacement under this decree will be supplied from the Well or, following the cessation of withdrawals under the individual wells, from the Guiraud 3T, by Chatfield on behalf of its individual members.

c. Use of the Individual Wells: Under this decree, each lot owner shall be authorized to use the individual wells to irrigate up to 2,600 square feet of lawn and garden area, in addition to the lawn and garden irrigation allowed under the decree in W-8568-77, and to water up to four horses on the owner's lot. The rate of withdrawal for each well shall not exceed a total of 15 g.p.m. under this decree and the decree in W-8568-77. The total amount of lawn and garden space which may be irrigated on a given lot will depend on the number of horses kept on that lot, except that, for the purposes of this decree, it will be assumed that each lot owner keeps at least three horses. Consequently, the maximum lawn and garden irrigation for each of the 100 lots previously incorporated into the decree in W-8568-77, shall be as shown on the following table:

Number of Horses	Irrigation Under W-8568-77 (Ft <sup>2</sup> )	Irrigation Under 89CW068 (Ft <sup>2</sup> )	Total Irrigation (Ft <sup>2</sup> )
3	1300	2600	3900
4	1300	2300	3600

As approved and constructed, the Subdivision includes a total of 103 lots. For the purposes of this decree, the three lots not incorporated into the decree in W-8568-77 are lots 91, 92 and 93. All water uses on those three lots shall be provided by the individual wells on those lots, at a rate not to exceed 15 g.p.m., in accordance with this decree and shall not be affected by the decree in W-8568-77. The individual wells on lots 91, 92 and 93 may be used under this decree for in-house domestic uses, irrigation of a maximum of 3900 sq. ft. of lawn and garden and watering of up to four horses, in accordance with the total amounts described in the preceding table. Treatment of water used for in-house domestic uses on lots 91, 92 and 93 shall be by on-site septic systems which return waste water to Plum Creek.

- d. Source and Amount of Withdrawals: The individual wells withdraw, and will withdraw, water from the Denver aquifer which is not nontributary under §37-90-103(10.5), C.R.S. 1973. Maximum annual withdrawals for each individual lot, other than lots 91 through 93, for the uses described in paragraph c., above, will be approximately 0.22 acre-feet. Maximum annual withdrawals for lots 91 through 93 for the uses described in paragraph c., above, will be approximately 0.65 acre-feet. At full build out of the Subdivision, use of the 103 individual wells as authorized in the preceding subparagraph c. will result in total maximum annual withdrawals from the Denver aquifer of no more than 24 acre-feet. Under §37-90-137(4), C.R.S. 1973, and applicable rules of the State Engineer, there is sufficient not nontributary water available in the Denver aquifer to permit the total maximum annual withdrawals of 24 acre-feet authorized by this paragraph, in addition to those withdrawals allowed by the decree in W-8586-77. Under the same authorities, there is also sufficient not nontributary water available in the Denver aquifer underlying each of the 103 individual lots to permit the maximum annual withdrawals of 0.22 acre-feet and 0.65 acre-feet by each individual well authorized by this paragraph, in addition to those withdrawals allowed by the decree in W-8586-77. Consistent with the limitations of Finding 10 and judgment and decree paragraph 7, nothing in this finding, or in this decree, shall, however, be interpreted to preclude a future application for or finding that there exists additional not nontributary water available for withdrawal from the Denver aquifer under the Subdivision or under the individual lots within the Subdivision. Withdrawals through the individual wells under this decree shall not continue beyond 100 years from the date of this

decree unless an amendment authorizing continuation of withdrawals is obtained.

- e. Stream Depletions and Replacement Requirements: This subparagraph determines replacement requirements under this decree during the 100 year period of withdrawals by the individual wells under the terms of this decree. Replacement requirements following the cessation of pumping of the individual wells will be as specified in paragraph 9, below. During the 100 year period of withdrawals from the individual wells authorized under this decree, the maximum annual withdrawals of 24 acre-feet described in the preceding paragraph d., will result in maximum actual depletions to Plum Creek in a total annual amount of no more than 1.3 acre-feet. The depletions will occur on an approximately uniform monthly basis resulting in maximum monthly depletions of no more than 0.11 acre-foot, or approximately 0.8 g.p.m. Depletions to Plum Creek resulting from withdrawals of water from the Denver aquifer by the individual wells under this plan must be replaced to Plum Creek in accordance with §37-90-137(9)(c), C.R.S. 1973. Depletions arising from withdrawals by individual wells completed more than one mile from Plum Creek and its alluvium must be replaced in a total amount of water equal to four percent of the amount of water withdrawn annually by such individual wells. Depletions arising from individual wells completed less than one mile from Plum Creek and its alluvium must be replaced in full under the assumption that the hydrostatic pressure level has been lowered at least to the top of the Denver aquifer throughout the aquifer. For the purposes of this decree, during the period of withdrawals from the individual wells, Chatfield will provide replacement supplies in the amount of withdrawals less returns from the uses described in paragraph 8.c., above. This shall require Chatfield to provide replacement supplies to Plum Creek in the amount of 16.1 acre-feet annually and 1.34 acre-feet monthly during the period of withdrawals from the individual wells. The maximum annual depletions described in this subparagraph e., would not be achieved, if at all, until full build out of the Subdivision and on the assumption that all owners or users of the individual wells would make the maximum uses of water specified in the preceding subparagraph c. For the purposes of this decree, however, Chatfield will provide replacement supplies in the amount of 16.1 acre-feet annually and 1.34 acre-feet monthly at all times that the plan is in operation. Replacement supplies will be made available regardless of

whether there is a call on the South Platte River senior to the depletions arising from use of the individual wells.

- f. Replacement Supply: During the period of withdrawals by the individual wells, Chatfield will replace depletions arising from use of the individual wells under this decree from its water rights in the Well. Of the 13 acre-feet of water owned by Chatfield and decreed in 83CW32, all are available for replacement purposes under this decree. Of the 15 acre-feet of water decreed in case No. 82CW203, 3.30 acre-feet are available for replacement purposes under this decree. The total amount available for replacement purposes under this decree is 16.30 acre-feet. Chatfield will make replacement supplies available monthly, on a specific monthly pumping schedule as may be approved from time to time by the Division Engineer, by pumping the Well to an unnamed draw tributary to Plum Creek located in SE/4 of section 20 and the NE/4 SW/4 of section 21, T. 6 S., R. 68 W, 6th P.M., Douglas County, Colorado.

9. Post-Pumping Depletions and Replacement: Actual depletions to Plum Creek caused by withdrawals from the individual wells will continue after such withdrawals have ceased. Chatfield shall be required to replace actual depletions to Plum Creek following the cessation of pumping of the individual wells under this decree and under the decree in W-8568-77 after withdrawals from the individual wells have ceased, provided that this requirement may be revoked by decree of this Court upon a finding that such post pumping depletions are not resulting in material injury to owners or users of vested water rights or decreed conditional water rights. The amount of depletions actually accruing to Plum Creek after the period of withdrawals ceases will depend upon the period of time that the individual wells have been pumped prior to cessation of withdrawals, but will not exceed 5.4 acre-feet annually if all the individual wells are used to the maximum extent allowed under the decree in W-8568-77 and under this decree. Chatfield shall be authorized to seek such determinations of the State Engineer or appropriate court, including but not limited to amendment of this decree or a new decree, authorizing it to make replacements in an amount less than 5.4 acre-feet annually if actual depletions after cessation of pumping are less than 5.4 acre-feet annually. Such actual depletions shall be replaced by Chatfield either from its rights (1) in the Well or (2) in the Guiraud 3T and it is specifically determined that the 8.055 acre-feet, at a rate of flow of 0.386 c.f.s., owned by Chatfield in the Guiraud 3T is sufficient in and of itself to replace all post pumping depletions under this decree and the decree in W-8568-77. Chatfield shall maintain ownership of the Guiraud 3T so that such will be available to Chatfield to use for replacement of post pumping depletions. Chatfield will make replacement supplies available on a specific monthly schedule as may be approved from time to time by the Division Engineer. Wintertime depletions shall be accounted for by the Division Engineer to affected water rights, but any required replacement supplies shall be made available by Chatfield during the irrigation season.

10. Well Permits: Upon application by owners of the individual lots in the Subdivision, or by others acting with the authority of the owner, the State Engineer shall grant permits, under §37-90-137(4), C.R.S. 1973, for the construction of new individual wells within the Subdivision, which permits shall be in accordance the terms of this decree and the decree in W-8568-77, except that permits for individual wells on lots 91, 92 and 93 will be in accordance with this decree only. Upon such application, the State Engineer shall also grant permits, under §37-90-137(4), C.R.S. 1973, to enlarge the use of existing individual wells within the Subdivision, which permits shall be in accordance with the terms of this decree. In the issuance of permits under this paragraph, the State Engineer, Chatfield, and the applicants for such permits shall be bound by the determinations herein, and there shall be no further determinations as to the matters determined by the these findings, conclusions, and judgment and decree, provided that determination of the quantity of water available for withdrawal by the individual wells under this decree shall be binding on the State Engineer only as to those lot owners who complete and execute the attached Exhibit B within six months of the date of this decree or such longer time as may be allowed by the State Engineer based upon circumstances applicable to individual lot owners. In the event that a lot owner does not so complete and execute a copy of Exhibit B within such time period, he shall be entitled to participate in this plan, but the determination of the amount of water available for withdrawal and the ability to replace depletions shall be determined on the basis of the laws and rules in effect at the time of the lot owner's application for a well permit. Completed and executed copies of Exhibit B shall be filed with the State Engineer. Filing of a completed and executed copy of Exhibit B shall suffice to show the lot owner's consent to this decree and to demonstrate his ownership of all not nontributary water in the Denver aquifer underlying his lot. Existing well permits issued prior to the date of this decree by the State Engineer under the terms of W-8568-77 shall continue in force and be unaffected by this decree, provided that this provision shall not effect Chatfield's obligation to provide replacement for post pumping depletions arising from withdrawals under both this decree and under the decree in W-8568-77.

11. Reporting and Accounting Requirements: On October 31, following the date of issuance of this Decree and on October 31st of each year thereafter during which withdrawals from the individual wells continues under this decree, Chatfield shall report to the State Engineer the number of horses kept and watered on each lot within the Subdivision and lawn and garden irrigation on each lot on the Subdivision. At the same time, Chatfield shall also report to the State Engineer the total amount of replacement water pumped under this decree from the Well in the previous 12-month period. Because replacement requirements under this decree were determined based on consumptive use resulting from the allowed uses, no reporting, accounting or administrative requirements in addition to those set forth in this paragraph are necessary and none shall be imposed.

12. Recording Requirements: This decree shall be filed with the office of the Clerk and Recorder for Douglas County, Colorado, and shall be binding upon Chatfield and all



individual lot owners within the Subdivision. The protective covenants presently applicable within the Subdivision, known as "Protective Covenants of Chatfield East", shall be amended to reflect the on-lot individual water uses described in the table in Finding of Fact 8. c., above and shall specify that said water uses are the maximum water uses which may be used on those lots unless a further decree of this Court to enlarge upon those uses is obtained. The protective covenants as amended shall also be recorded with the office of the Clerk and Recorder of Douglas County, Colorado.

13. Lawful Plan for Augmentation: The replacement supplies authorized by this decree are of a quality and quantity sufficient to meet the requirements for which water of senior appropriators on the South Platte River System has normally been used and shall be accepted by senior appropriators in substitution for water derived by the exercise of their decreed water rights. This plan for augmentation is sufficient to permit the continuation of diversions under the individual wells when curtailment of those wells would otherwise be required to meet valid senior calls for water, so long as Chatfield shall provide replacement water from the Well necessary to meet the lawful requirements of senior diverters under the terms of this decree. If Chatfield fails to provide replacement supplies under the terms of this Decree, the State Engineer shall curtail diversions under the individual wells to the extent necessary to prevent injury to vested water rights.

14. No Injury: So long as the plan for augmentation decreed herein is operated in accordance with the terms and conditions of this decree, there will be no injury to owners of or persons entitled to use water under vested water rights or decreed conditional water rights on the South Platte River system.

15. Retained Jurisdiction: This Court shall retain jurisdiction over this decree for a period of five years from the date of completion of construction of wells on each of the 103 lots of the Subdivision to reconsider the question of injury to vested water rights of other water users within the South Platte River system. Chatfield shall provide notice to the Court and the opponents within 60 days of the date of completion of the final well under this plan, which notice shall describe the date of completion of the final well and the date of expiration of the Court's retained jurisdiction.

#### CONCLUSIONS OF LAW

1. Notice and Jurisdiction: Timely and adequate notice of this application was given in the manner required by law and the Court has jurisdiction over the subject matter of this proceeding and over all persons and water rights affected hereby, regardless of whether those persons or water rights have appeared.

2. Location of Wells: Neither the Subdivision, the Well, nor the individual wells are located within a designated groundwater basin.

3. Sufficiency of Augmentation Supply: The replacement supplies authorized by this decree are of a quality and quantity sufficient to meet the requirements for which water of senior appropriators on the South Platte River System has normally been used and shall be accepted by senior appropriators in substitution for water derived by the exercise of their decreed water rights. This plan for augmentation is sufficient to permit the continuation of diversions under the individual wells when curtailment of those wells would otherwise be required to meet valid senior calls for water, so long as Chatfield shall provide replacement water from the well necessary to meet the lawful requirements of senior diverters under the terms of this decree.

4. No Injury: The plan for augmentation decreed herein is contemplated by law as provided for in §37-92-101, *et. seq.* C.R.S. 1973, and will not injuriously affect any owner of or person entitled to use water under a vested water right or a decreed conditional water right so long as operated and administered in accordance with the terms of this decree.

### JUDGMENT AND DECREE

1. Incorporation of Findings and Conclusions: The forgoing findings of fact and conclusions of law are incorporated into this judgment and decree as if set forth fully herein.

2. Application Approved: The application is hereby approved, adjudicated and decreed under the terms and conditions herein.

3. Use of Individual Wells: The individual wells may be used under this decree for in-house domestic uses, irrigation of lawns and gardens and the watering of horses as provided in Finding of Fact 8.c., above. No individual well shall be constructed, nor shall the use of any existing individual well be enlarged, under this decree until a permit authorizing such construction or enlarged use has first been obtained from the State Engineer pursuant to this decree. The State Engineer shall, however, issue such permits under the terms of this decree and the decree of this Court in W-8568-77.

4. Replacement Requirements During Period of Withdrawals: During the period of withdrawals of the individual wells under this plan, which shall not exceed 100 years from the date of this decree, Chatfield will make replacement supplies available monthly, on a specific monthly pumping schedule as may be approved from time to time by the Division Engineer, by pumping the Well to an unnamed draw tributary to Plum Creek located in SE/4 of section 20 and the NE/4 SW/4 of section 21, T. 6 S., R. 68 W, 6th P.M., Douglas County, Colorado. The annual replacement requirements under this decree shall be 16.1 acre-feet, in a uniform monthly amount of 1.34 acre-feet. If Chatfield fails to provide replacement supplies under the terms of this decree, the State Engineer shall curtail diversions under the individual wells to the extent necessary to prevent injury to vested water rights.

5. Post-Pumping Depletions and Replacement: Actual depletions to Plum Creek caused by withdrawals from the individual wells will continue after such withdrawals have ceased. Chatfield shall be required to replace actual depletions to Plum Creek following the cessation of pumping of the individual wells under this decree and under the decree in W-8568-77 after withdrawals from the individual wells have ceased, provided that this requirement may be revoked by decree of this Court upon a finding that such post pumping depletions are not resulting in material injury to owners or users of vested water rights or decreed conditional water rights. The amount of depletions actually accruing to Plum Creek after the period of withdrawals ceases will depend upon the period of time that the individual wells have been pumped prior to cessation of withdrawals, but will not exceed 5.4 acre-feet annually if all the individual wells are used to the maximum extent allowed under the decree in W-8568-77 and under this decree. Chatfield shall be authorized to seek such determinations of the State Engineer or appropriate court, including but not limited to amendment of this decree or a new decree, authorizing it to make replacements in an amount less than 5.4 acre-feet annually if actual depletions after cessation of pumping are less than 5.4 acre-feet annually. Such actual depletions shall be replaced by Chatfield either from its rights (1) in the Well or (2) in the Guiraud 3T and it is specifically determined that the 8.055 acre-feet, at a rate of flow of 0.386 c.f.s., owned by Chatfield in the Guiraud 3T is sufficient in and of itself to replace all post pumping depletions under this decree and the decree in W-8568-77. Chatfield shall maintain ownership of the Guiraud 3T so that such will be available to Chatfield to use for replacement of post pumping depletions. Chatfield will make replacement supplies available on a specific monthly schedule as may be approved from time to time by the Division Engineer. Wintertime depletions shall be accounted for by the Division Engineer to affected water rights, but any required replacement supplies shall be made available by Chatfield during the irrigation season.

6. Case No. W-8568-77: This decree shall be in addition to, and shall in no way limit, the decree of this Court in case no. W-8568-77, except as provided by Findings of Fact 8.a. and 9 and Judgment and Decree paragraph 5. The rights and obligations of Chatfield and the owners and users of the individual wells described in the decree in W-8568-77 shall otherwise continue as described therein.

7. Well Permits: Upon application by owners of the individual lots in the Subdivision, or by others acting with the authority of the owner, the State Engineer shall grant permits, under §37-90-137(4), C.R.S. 1973, for the construction of new individual wells within the Subdivision, which permits shall be in accordance the terms of this decree and the decree in W-8568-77, except that permits for individual wells on lots 91, 92 and 93 will be in accordance with this decree only. Upon such application, the State Engineer shall also grant permits, under §37-90-137(4), C.R.S. 1973, to enlarge the use of existing individual wells within the Subdivision, which permits shall be in accordance with the terms of this decree. In the issuance of permits under this paragraph, the State Engineer, Chatfield, and the applicants for such permits shall be bound by the determinations herein, and there shall be no further determinations as to the matters determined by the these findings, conclusions, and judgment and decree, provided that

determination of the quantity of water available for withdrawal by the individual wells under this decree shall be binding on the State Engineer only as to those lot owners who complete and execute the attached Exhibit B within six months of the date of this decree or such longer time as may be allowed by the State Engineer based upon circumstances applicable to individual lot owners. In the event that a lot owner does not so complete and execute a copy of Exhibit B within such time period, he shall be entitled to participate in this plan, but the determination of the amount of water available for withdrawal and the ability to replace depletions shall be determined on the basis of the laws and rules in effect at the time of the lot owner's application for a well permit. Completed and executed copies of Exhibit B shall be filed with the State Engineer. Filing of a completed and executed copy of Exhibit B shall suffice to show the lot owner's consent to this decree and to demonstrate his ownership of all not nontributary water in the Denver aquifer underlying his lot. Existing well permits issued prior to the date of this decree by the State Engineer under the terms of W-8568-77 shall continue in force and be unaffected by this decree, provided that this provision shall not effect Chatfield's obligation to provide replacement for post pumping depletions arising from withdrawals under both this decree and under the decree in W-8568-77.

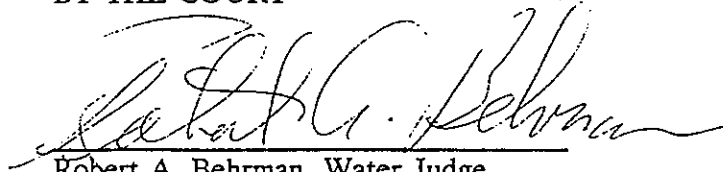
8. Reporting and Accounting Requirements: On October 31, following the date of issuance of this Decree and on October 31st of each year thereafter during which withdrawals from the individual wells continues under this decree, Chatfield shall report to the State Engineer the number of horses kept and watered on each lot within the Subdivision and lawn and garden irrigation on each lot on the Subdivision. At the same time, Chatfield shall also report to the State Engineer the total amount of replacement water pumped under this decree from the Well in the previous 12-month period. Because replacement requirements under this decree were determined based on consumptive use resulting from the allowed uses, no reporting, accounting or administrative requirements in addition to those set forth in this paragraph are necessary and none shall be imposed.

9. Recording Requirements: This decree shall be filed with the office of the Clerk and Recorder for Douglas County, Colorado, and shall be binding upon Chatfield and all individual lot owners within the Subdivision. The protective covenants presently applicable within the Subdivision, known as "Protective Covenants of Chatfield East", shall be amended to reflect the on-lot individual water uses described in the table in Finding of Fact 8. c., above and shall specify that said water uses are the maximum water uses which may be used on those lots unless a further decree of this Court to enlarge upon those uses is obtained. The protective covenants as amended shall also be recorded with the office of the Clerk and Recorder of Douglas County, Colorado.

10. Retained Jurisdiction: This Court shall retain jurisdiction over this decree for a period of five years from the date of completion of construction of wells on each of the 103 lots of the Subdivision to reconsider the question of injury to vested water rights of other water users within the South Platte River system. Chatfield shall provide notice to the Court and the opponents within 60 days of the date of completion of the final well under this plan, which notice shall describe the date of completion of the final well and the date of expiration of the Court's retained jurisdiction.

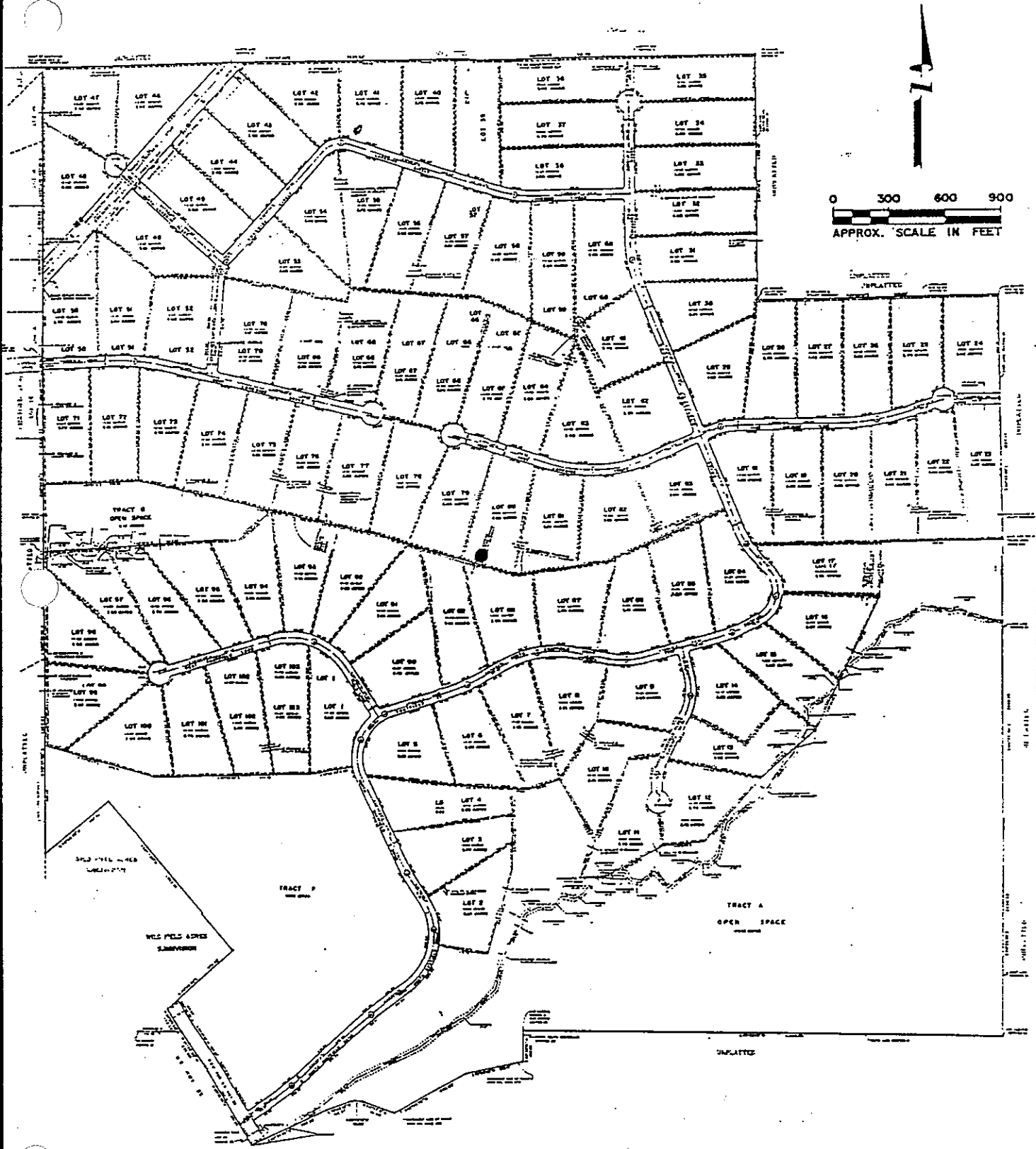
SIGNED AND ENTERED THIS 16<sup>th</sup> DAY OF April, <sup>1991</sup>~~1990~~.

BY THE COURT



Robert A. Behrman, Water Judge  
Water Division 1, State of Colorado

EXHIBIT A  
TO  
FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE  
89CW068, Water Division 1



● Chatfield East Laramie Fox-Hills  
Well No. 1-26751-F



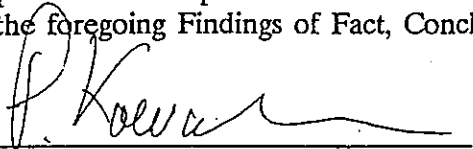
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
\_\_\_\_\_

My Commission Expires: \_\_\_\_\_



Approved and accepted as to form and content by the undersigned party, who consents to the entry of the foregoing Findings of Fact, Conclusions of Law, Judgment and Decree:



Patrick E. Kowaleski, Esq., #9598  
Assistant Attorney General  
Natural Resources Section  
110 Sixteenth Street, 10th Floor  
Denver, Colorado 80202  
(303) 620-4732

ATTORNEYS FOR THE STATE ENGINEER AND THE DIVISION ENGINEER FOR  
WATER DIVISION NO. 1

*March 4, 1991*  
~~February 1, 1991~~

Approved and accepted as to form and content by the undersigned party, who consents to the entry of the foregoing Findings of Fact, Conclusions of Law, Judgment and Decree:



Mary K. Brennan, #12734  
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ITS BOARD OF WATER COMMISSIONERS

February 22<sup>nd</sup>, 1991.