

District Court, Water Division No. 1, State of Colorado 901 9 <sup>th</sup> Ave. Greeley, CO 80631 (970) 351-7300	<div style="border: 1px solid black; padding: 5px; text-align: center;">           FILED IN            DISTRICT COURT              MAY 23 '01              WEED COUNTY, COLO.            Court Use Only         </div>
CONCERNING THE APPLICATION FOR WATER RIGHTS OF CHATFIELD EAST PROPERTY OWNERS ASSOCIATION, ET AL.  IN DOUGLAS COUNTY	
Steven P. Jeffers, No. 17858 Attorneys for Chatfield East Property Owners Association Bernard, Lyons, Gaddis & Kahn, P.C. P.O. Box 978 Longmont, CO 80502-0978 Telephone: (303) 776-9900	Case No. 99CW198    Water Division No. 1
<b>FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT</b>	

THIS CLAIM was filed with the Water Clerk, Water Division No. 1 on November 29, 1999. The Referee, having considered the pleadings, the files herein, and the evidence presented, and being fully advised in the premises, hereby enters the following Findings and Ruling:

**FINDINGS OF FACT**

1. The name and address of the Applicants are:

Chatfield East Property Owner Association ("CEPOA")  
 c/o David White  
 6810 West Chatfield Lane  
 Littleton, CO 80125

The other individual Applicants who are lot owners within the Chatfield East subdivision are described on attached **EXHIBIT A**.

2. Timely and adequate notice of the pendency of this proceeding in rem has been given in the manner required by law. The Court has jurisdiction over the

subject matter of this proceeding and over all persons who have standing to appear as parties, whether they have appeared or not.

3. Timely statements of opposition were filed by the City of Englewood, Centennial Water and Sanitation District, Chatfield East Well Company, and the City and County of Denver, acting through its Board of Water Commissioners. No person or entity has sought to intervene. The time for filing statements of opposition and motions to intervene has expired.

4. Neither the land, the proposed wells, nor the water to be withdrawn through the wells, which are the subject of this application are located within the boundaries of any designated ground water basin.

**APPLICATION FOR NOT NONTRIBUTARY  
UNDERGROUND WATER RIGHTS**

5. Applicants seek a decree determining and confirming their right to withdraw and use all legally and physically available ground water recoverable from the Arapahoe aquifer underlying approximately 522.58 acres of land in the Chatfield East subdivision, generally located in portions of Section 21 and in the northwest quarter of Section 28, Township 6 South, Range 68 West, 6<sup>th</sup> P.M., in Douglas County, as more particularly described and depicted on attached **EXHIBIT B** (the "Subject Property"). Applicants have the sole right to withdraw and use all of the ground water in the Arapahoe aquifer under the Subject Property.

6. Applicants have supplemented the application herein with evidence that the State Engineer has issued within four months of the filing of the application in Water Court, a determination as to the facts of the application. The Referee has considered the State Engineer's Determinations of Fact ("the Determinations") concerning the ground water, which is the subject of the application herein. The Referee has also considered the Denver Basin Rules, 2 CCR 402-6 ("the Rules") as they apply to the ground water, which is the subject of the application herein. This decree is consistent with the Rules and the Determinations.

7. Underground water is available for withdrawal from the Arapahoe aquifer in the quantities set forth herein and in such quantities as may subsequently be determined pursuant to the provisions of paragraph 38 hereof. The withdrawal of water from the Arapahoe aquifer underlying the Subject Property through the wells decreed herein, including the additional or replacement wells described in paragraph 14 hereof, will, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in §§37-82-101(2) and 37-92-102(1)(b), C.R.S., at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal. The Referee therefore finds that such ground water is not nontributary ground water as that term is defined in §37-90-103(10.7), C.R.S. and that the withdrawal of such ground water at the rates and in the quantities set forth herein, including such additional quantities as may be determined pursuant to paragraph 38 hereof, will cause material injury to other vested water rights or decreed conditional water rights

unless such water is used pursuant to a decreed plan for augmentation. The Referee further finds that such ground water is located more than one mile from any point of contact between any natural surface stream, including its alluvium, and the Arapahoe aquifer. As a result, Applicants need only replace to the affected stream systems an amount of water equal to 4% of the total annual withdrawal of ground water from the Arapahoe aquifer under this plan during pumping, and an amount equal to actual stream depletions after withdrawals cease, pursuant to ¶20 hereof.

8. In order to calculate the amount of ground water in the Arapahoe aquifer underlying the Subject Property, it is necessary to determine, inter alia, the average specific yield of the materials and the thickness in feet of the saturated water yielding aquifer materials ("saturated thickness"). Applicants have requested the Court to retain jurisdiction to provide for the adjustment of the annual amount of withdrawal allowed to conform to actual local aquifer characteristics derived from adequate information obtained from the construction of wells or test holes. Pending the invocation of the Court's retained jurisdiction, the parties have agreed to the following specific yield, saturated thickness, and average annual withdrawals, all of which are based upon the best data currently available, and are consistent with the values set forth in the Rules and Determinations:

<u>Parcel</u>	<u>Acres</u>	<u>Saturated Sand Thickness (feet)</u>	<u>Specific Yield</u>	<u>Annual Average Withdrawal</u>
Open Space Tract A	120.35	299	17%	61.17 acre feet
Open Space Tract B	9.13	299	17%	4.64 acre feet
103 Individual Lots (combined)	393.1	299	17%	198.81 acre feet
TOTAL	522.58	299	17%	264.62 acre feet

The amount of ground water available under each of the individual lots is described in attached EXHIBIT C. The Referee finds that these values are reasonable.

9. The evidence indicates, and the Referee finds, that, utilizing the criteria set forth in § 37-90-137(4), C.R.S., and the Rules, groundwater in the amount of 264.62 acre feet is available annually for withdrawal and use by Applicants from that portion of the Arapahoe aquifer underlying the Subject Property. There are no existing wells, which withdraw water from the Arapahoe aquifer whose cylinders of appropriation extend under such lands. However, there is one existing well, which is permitted for withdrawal and use of 1 acre foot of nontributary ground water per year from the Arapahoe aquifer under the Subject Property, Well Permit No. 042876-F, for use on Lot 71, Chatfield East subdivision. Accordingly, the amount of ground water

determined in paragraph 8 to be available for withdrawal and use by Applicants under the individual lots, reflects a reduction of 1 acre foot per year from Lot 71.

10. Applicants propose initially to withdraw the ground water, which is the subject of this application through individual wells on 103 lots within the Chatfield East subdivision and on Open Space Tracts A, and B.

11. Well permits for the wells to be constructed shall be applied for at such time as the Applicants or their successors, assigns or heirs are prepared to construct and use the wells pursuant to the terms of this decree and applicable Colorado law. Applicants shall not be required to submit any additional proof or evidence of matters finally determined herein when making application for permits for such wells.

12. The wells decreed herein from the Arapahoe aquifer, including the wells described in paragraph 14 hereof, shall constitute a well field. The total amount of water which Applicants are entitled to withdraw and use each year from the Arapahoe aquifer pursuant to the provisions of this decree may be withdrawn from any well or combination of wells decreed herein which is completed into that aquifer, including the additional wells described in paragraph 14 hereof, so long as the total amount of water withdrawn in any year from the Arapahoe aquifer does not exceed the total annual amount available for withdrawal by Applicants from that aquifer pursuant to the provisions of this decree, except to the extent that such additional withdrawals are permitted by the provisions of paragraph 13 hereof. However, none of the Applicants may withdraw water from any well or combination of wells, on any property other than their own property, without the express written consent of the owner of that property.

13. The individual Applicants may withdraw more water each year from the Arapahoe aquifer through their individual wells decreed herein from that aquifer, including any additional or replacement wells described in paragraph 14 hereof, than the amount determined to be annually available from the aquifer pursuant to the provisions of this decree, so long as the sum of the withdrawals from all wells decreed to such Applicant from that aquifer does not exceed the product of the number of years since the date of this decree times the annual amount of withdrawal finally determined to be available to each Applicant from the Arapahoe aquifer pursuant to the provisions of this decree.

14. Applicants may need to construct additional or replacement wells in order to maintain their level of production and to recover the entire amount of ground water to which they are each entitled to pursuant to the provisions of this decree, including any additional amounts to which Applicants are determined to be entitled pursuant to the provisions of paragraph 38 hereof. As Applicants seek to utilize additional or replacement wells, Applicants shall file applications for well permits in accordance with the provision of § 37-90-137(10), C.R.S. In considering such applications, the State Engineer shall be bound by this decree and shall issue said permits in accordance with the provisions of § 37-90-137(10), C.R.S.

15. Applicants may use, reuse, and successively use the subject water; and after use, lease, sell or otherwise dispose of the water for municipal, domestic, agricultural, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection and any other beneficial use on or off the Subject Property. The water may be immediately used or stored for subsequent use, used for exchange purposes, for direct replacement of depletions, and for other augmentation purposes, including taking credit for all return flows resulting from the use of such water for augmentation for or as an offset against any out-of-priority depletions. Applicants shall have the right to reuse, successive use, and disposition by sale, exchange, or otherwise to extinction, of all such water withdrawn from the Arapahoe aquifer subject to the 4 percent replacement and augmentation requirements of this decree or any subsequent decreed plan for augmentation for such water. However, the return flows from use of the subject ground water under this plan for augmentation shall not be used in any other plan for augmentation.

16. Applicants have requested that the Court retain jurisdiction as necessary to adjust up or down the annual amount of withdrawal allowed to conform to actual local aquifer characteristics as determined from adequate information obtained from well drilling or test holes, in accordance with §37-92-305(11), C.R.S. The Referee finds that this request is reasonable.

#### PLAN FOR AUGMENTATION

17. **Name of Structures to be Augmented:** All wells completed into the not nontributary Arapahoe aquifer under the Subject Property and used pursuant to this decree. These structures include individual wells on up to 103 lots and on Open Space Tracts A and B within the Chatfield East subdivision.

18. **Water Rights to be Used for Augmentation:** Applicants will use return flows from the use of not nontributary ground water in the Arapahoe aquifer underlying the Subject Property decreed in this case, to provide replacement water to the South Platte River system equal to four percent of the total annual withdrawals from the subject wells during the pumping life of such wells. CEPOA shall use direct discharge of CEPOA's interest in the nontributary ground water decreed to the Chatfield East Laramie-Fox Hills Well No. 1-26751 ("CELFH Well"), or water from CEPOA's interest in the Guiraud 3T Ditch for augmentation of post-pumping out-of-priority depletions. Additional information regarding the CELFH Well and Guiraud 3T water rights follows:

A. Chatfield East Laramie-Fox Hills Well 1-26751:

(1) Date of decrees: 82CW203 entered March 21, 1986 and 83CW032 entered November 23, 1983, by the District Court, Water Division No. 1. Permit No. 26751-F was issued August 17, 1983.

(2) Legal description of point of diversion: In the NE¼ SW¼ of Section 21, Township 6 South, Range 68 West, 6<sup>th</sup> P.M., Douglas County,

Colorado, at a point 2,500 feet from the south section line and 2,350 feet from the west section line of Section 21.

(3) Decreed Source: Nontributary Laramie-Fox Hills aquifer.

(4) Amount: CEPOA owns a priority right to all 15 acre feet per year (up to 100 gpm) decreed in 82CW203, and a priority right to 13 acre feet per year out of 110 acre feet per year (up to 88 gpm) decreed in 83CW032, for a total of 28 acre feet of nontributary ground water per year.

(5) Decreed uses: This water is decreed for domestic, livestock, commercial, industrial, irrigation, municipal, replacement and augmentation purposes.

B. Guiraud 3T Ditch:

(1) Date of decrees: Original decree entered on October 18, 1889 by District Court, Park County, and change decrees entered in Case Nos. W-7590, and W-8568-77 on May 15, 1978, and 89CW068 on April 26, 1991, District Court, Water Division No. 1.

(2) Legal description of point of diversion: The original point of diversion was decreed on the Middle Fork of the South Platte River, and was changed for use in the Ravenwood Subdivision in South Park by Case No. W-7590, and then to the Chatfield East subdivision located on Plum Creek in Case No. W-8568-77.

(3) Decreed Source: North Fork of the South Platte River.

(4) Amount: The Guiraud 3T Ditch water right was originally decreed in the amount of 48.97 cfs. CEPOA owns 0.386 cfs, previously determined to provide 8.43 acre feet of consumptive use per year at the original point of diversion, and 8.055 acre feet at the Chatfield East subdivision after accounting for transit losses, as decreed in Case No. W-8568-77. 5.4 acre feet per year was dedicated to augmentation of post-pumping depletions from Denver aquifer wells in the subdivision in Case No. 89CW068. The remaining 2.655 acre feet of consumptive use is available for this plan.

(5) Appropriation date: July 1, 1867.

(6) Decreed use: Augmentation.

19. **Statement of Plan for Augmentation:** The Arapahoe aquifer ground water will be used by all lot owners within the Chatfield East subdivision pursuant to this plan for augmentation for domestic, irrigation and stock watering uses to serve up to 103 residential lots, and by the CEPOA, for irrigation of no more than 10 acres of

open space within the Chatfield East subdivision. Such ground water may be diverted through individual, group or central wells. Applicants estimate that the average annual water diversion requirement will be 0.35 acre feet per individual residential lot for in-house uses, assuming 3.5 people per dwelling and 90 gallons per person per day, 0.287 acre feet per lot for irrigation of 5,000 square feet of lawns and gardens (based on 2.5 feet applied per acre), and 0.011 acre feet per horse kept on any property in the subdivision. The maximum number of horses that may be kept on any lot is four. Individual lot owners shall be required to limit irrigation to no more than 5,000 square feet per lot from these wells. Each lot owner shall be required to report to the CEPOA each year the area of that lot irrigated with water from the Arapahoe aquifer, the number of horses, and the amount of water pumped from the Arapahoe aquifer to ensure that sufficient replacement water in the amount of at least 4% of annual pumping from that well is provided. Based on these assumptions, the average annual diversion from each well in the individual lots will be 0.681 acre feet. Total diversions from all 103 individual wells in the subdivision shall be limited to 70.143 acre feet per year if all lot owners use an Arapahoe well to the full extent authorized by this decree. Applicants also estimate that irrigation of the open space tracts or lots as pasture or native grasses will require an application rate of 18 inches per year. Based on irrigation of no more than 10 acres of open space, irrigation use by the CEPOA shall not exceed 15 acre feet per year. Total pumping of all Arapahoe wells under this plan for augmentation shall be limited to 85.143 acre feet per year. Applicants may also withdraw and use such additional amounts as may be allowed under the banking provisions of ¶13 hereof with respect to the 85.143 acre feet per year that is the subject of this augmentation plan only.

Applicants currently use individual non-evaporative septic systems for sewage disposal from in-house use of the water. Many of those systems have been in use for 15 to 20 years or more. Applicants propose to continue using such systems under this decree. Before any other type of sewage treatment is used in the future, including incorporation of the lots into a central sewage collection and treatment system, Applicants, their heirs, successors or assigns will seek to amend this decree, and thereby provide notice of the proposed change to other water users by publication procedures required by then existing law.

The Court finds that consumptive use from in-house uses will be 10%, or approximately 0.035 acre feet per lot on an average, with 90% of in-house use accruing to the stream as return flow, and that consumptive use from irrigation will be 90% of the water used, with 10% of the water accruing to the natural stream system as return flows. Assuming that each lot will have a maximum lawn size of 5,000 square feet, consumptive use from irrigation will be approximately 0.26 acre feet per lot. For purposes of this decree, stock use is assumed to be 100% consumptive. As a result, maximum water consumption on each lot will be 0.34 acre feet per year and return flows will be 0.34 acre feet, or 50% of annual pumping for the individual wells. Return flow from irrigation of 10 acres of open space will be 10% of annual pumping from the CEPOA's wells.

The wells to be used pursuant to this decree will be located more than one mile from any point of contact between the Arapahoe aquifer and any natural surface stream, including its alluvium. During the period of pumping, Applicants shall replace to the effected stream system a total amount of water equal to 4% of the total amount of water withdrawn through the subject wells on an annual basis pursuant to §37-90-137(9)(c), C.R.S. The evidence shows, and the Court finds that depletions will occur to the South Platte River at or below Chatfield Reservoir. The return flows from use of the subject ground water will accrue to Plum Creek and the South Platte River system, and these return flows are sufficient by themselves to replace more than four percent of the total annual withdrawals while the subject ground water is being pumped. For purposes of this decree, during the period of withdrawals from the subject wells, Applicants need not provide any additional replacement supplies, other than returns from their use of the subject water on the Subject Property.

20. The evidence shows and the Court finds that actual depletions to the South Platte River caused by withdrawals from the individual wells will continue after such withdrawals have ceased. CEPOA shall be required to replace actual depletions to the South Platte River following the cessation of pumping of the wells under this decree. The amount of depletions, which may actually accrue to the South Platte River after withdrawals have ceased, will depend upon the period of time that the wells have been pumped and the amount of that pumping prior to cessation of pumping. The evidence shows and the Court finds the amount of post-pumping depletions from all wells on the individual lots and open space parcels combined will be 0.53 acre feet per year, assuming all of the individual wells are used to the maximum extent allowed under this plan for augmentation. Such post-pumping depletions shall be replaced by CEPOA from its excess rights in the Guiraud 3T Ditch or the CELFH Well. Pursuant to the decrees entered in Case Nos. W-8568-77 and 89CW068, 8.055 acre feet of the Guiraud 3T Ditch was retained by CEPOA to replace up to 5.4 acre feet per year of post-pumping depletions. As a result, CEPOA owns 2.655 acre feet of the Guiraud 3T Ditch, which may be used to replace post-pumping depletions in this case. CEPOA shall dedicate 0.53 acre feet of the remaining 2.655 acre feet of the Guiraud 3T water right owned by CEPOA to meet the post-pumping replacement obligations in this case. In the alternative, CEPOA may use up to 0.53 acre feet of its interest in the nontributary ground water decreed to the CELFH Well to satisfy that replacement obligation. CEPOA shall not sell or dispose of its interest in the 0.53 acre feet of the Guiraud 3T water right dedicated to this plan.

#### CONCLUSIONS OF LAW

21. The application for determination of ground water rights and for approval of the plan for augmentation herein is one contemplated by law, and this Court has exclusive jurisdiction over the subject matter of this proceeding. §§37-92-203 and 37-90-137(6), C.R.S.

22. The application herein was filed with the Water Clerk in accordance with the provisions of §37-92-302(1)(a), C.R.S.



23. Timely and adequate notice of the filing and of the contents of the application herein was given in the manner provided by law, and this Court has jurisdiction over all persons or entities affected hereby, whether they have appeared or not. §37-92-302, C.R.S.

24. Timely statements of opposition were filed as indicated in paragraph 3 hereof. The time for filing additional statements of opposition and for motions to intervene has expired according to law. §§37-92-302(1)(c) and 37-92-304(3), C.R.S.

25. Applicants are entitled as a matter of law to a decree determining and confirming their rights to the water, which is the subject of this application for existing and future uses. §§37-90-137(4) and 37-90-137(6), C.R.S. Applicant's plan for augmentation will not result in injury to the owners or persons entitled to use water under a vested water right or decreed conditional water right so long as it is operated and administered in accordance with the terms of this decree. Accordingly, Applicants are entitled as a matter of law to a decree approving their plan for augmentation.

26. Applicants are entitled to permits to construct the wells described in this decree, §37-90-137(4), C.R.S., and such additional, supplemental, replacement, or alternate point of diversion wells as may be required or desired in the future. §37-90-137(10), C.R.S.

27. Applicants are entitled as a matter of law to use, reuse, successively use and otherwise dispose of all of the ground water decreed herein, provided that all replacement and augmentation requirements are complied with. §37-82-106, C.R.S. This includes the right to use said water or return flows there from to replace out-of-priority depletions under the plan for augmentation approved herein, and any other plan for augmentation approved in compliance with applicable law. This right may be exercised by Applicants, their successors, assigns, lessees, and contractors pursuant to §§37-82-101 and 37-82-106(2), C.R.S. However, Applicants shall limit the use of return flows from the withdrawals authorized by this plan for augmentation to use in only this plan for augmentation, and shall not use them for any other purpose.

28. The provisions of this decree pertaining to the aquifer characteristics are consistent with those established by the Rules, and those contained in the Determinations.

29. The rights to ground water determined herein shall not be administered in accordance with priority of appropriation. §37-92-305(11), C.R.S. 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 subsequent 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. §37-92-305(11), C.R.S.

30. The Court may retain jurisdiction over the determination of ground water herein as necessary to provide for the adjustment of the amount of water available for withdrawal on an annual basis to conform to the actual aquifer characteristics encountered upon the drilling of wells or test holes. §37-92-305(11), C.R.S. Applicants have given adequate notice that the amount decreed herein is subject to increase and/or decrease pursuant to the Court's retained jurisdiction.

### RULING

31. The application for determination of ground water rights and for approval of the plan for augmentation herein is granted subject to the limitations described herein.

32. Each of the foregoing Findings of Fact and Conclusions of Law is incorporated herein as if set out in full.

33. Applicants' rights to the ground water, which is the subject of this case, are hereby confirmed. The water may be used for the purposes and in the manner set forth herein. Applicants may withdraw the not nontributary ground water from the Arapahoe aquifer in the amount described in Paragraph 19 above under the plan for augmentation decreed herein pursuant to §37-90-137(9)(c), C.R.S. Applicants shall not withdraw the remaining Arapahoe 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.

34. Applicants shall replace to the South Platte River system during the period of well pumping four percent of the amount of water that is withdrawn on an annual basis from the Arapahoe aquifer pursuant to the provisions of this decree. This requirement shall be satisfied with return flows resulting from in-house uses and irrigation or by any other appropriate means. Applicants shall also provide post-pumping augmentation water from CEPOA's interest in nontributary ground water from the CELFH Well or water from CEPOA's interest in the Guiraud 3T Ditch as required in ¶20 hereof. 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 adequate return flows are provided to replace four percent of the amount of water withdrawn on an annual basis and post-pumping augmentation water is provided under the terms of this decree. CEPOA shall provide to the State Engineer an adequate annual accounting and calculations to assure that the Applicants have replaced four percent of the amount of the ground water withdrawn by them during pumping, and have replaced all required post-pumping depletions after pumping ceases, pursuant to the provisions of this decree. If Applicants fail 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.

35. The ground water decreed herein shall not be administered in accordance with the doctrine of priority of appropriation.

36. The State Engineer shall issue a well permit which conforms with this decree for each of the wells decreed herein, including any additional wells described in paragraph 14 hereof, upon application therefor, subject only to the following provisions:

- a) The State Engineer shall consider the water rights decreed herein as vested property rights and shall consider the ground water decreed herein to have been appropriated by Applicants, subject only to modification as provided in paragraph 38 hereof.
- b) Prior to drilling any of the wells decreed herein, Applicants shall apply to the State Engineer for a well permit, and the State Engineer shall issue such permit in conformity with the provisions of this decree not later than 45 days following application therefor.
- c) Any well for which a well permit is issued pursuant to the provisions of this decree which is drilled within 200 feet of the location specified in the permit shall be deemed to have been drilled at the permitted location, and Applicants shall not be required to apply for a new or amended permit.
- d) If Applicants desire to drill any well decreed herein, including the wells described in paragraph 14 hereof, after the expiration of a permit to construct that well, Applicants shall apply to the State Engineer for the issuance of a new well permit at the time Applicants are prepared to construct the well. The State Engineer shall promptly issue a new well permit with conditions identical to those of the expired permit. Failure to construct any well described herein within the period of time specified in any well permit therefor shall not be deemed to extinguish the underlying water right.
- e) In the event any of the amounts which Applicants are entitled to withdraw each year as decreed herein are modified in a proceeding held pursuant to paragraph 38 hereof, the existing permit for each affected well shall be amended to reflect the modified amount of annual withdrawal. New permits for wells to withdraw water from the Arapahoe aquifer shall likewise reflect any such modification.
- f) Prior to constructing any additional or replacement wells, Applicants shall submit well permit applications to the State Engineer. In considering the permit application for any such well, the State Engineer shall be governed by the provisions of §37-90-137(10), C.R.S., and shall apply the standards of §37-90-137(4), C.R.S., as if the application for any such well had been filed on the

same date as the application for the original well was filed. Any such permitting action may be reviewed by this Court pursuant to §37-92-305(6), C.R.S.

g) For the purpose of its well permit applications, Applicants need not submit separate proof, apart from the terms of this decree, of any matter, which has been determined herein.

h) No wells shall be permitted closer than 600 feet from any other existing well on the Subject Property, unless such well is limited to no more than 15 gpm, or the Applicant for such well permit obtains written consent from the owners of all wells located within 600 feet to allow a higher pumping rate.

37. In constructing and maintaining the wells decreed herein, including the wells described in paragraph 14 hereof, Applicants shall comply with the following conditions:

a) Each individual Applicant shall have the entire length of the open bore hole of their well geophysically logged prior to casing, unless the well is located within 1,320 feet of a well with an existing geophysical log in the Arapahoe Aquifer. A copy of the geophysical log shall be submitted to the CEPOA and Division of Water Resources as described in paragraphs 37(d) and 38 hereof.

b) Each individual Applicant shall case their well with an impervious lining at all levels, except the level of the Arapahoe aquifer from which it is entitled to produce water, in order to prevent withdrawal of ground water from other aquifers. Applicants shall also seal their well in such a way as to prevent the commingling of ground water from different aquifers.

c) Each individual Applicant shall install a totalizing flow meter on their individual well at such time as the water diverted is beneficially used.

d) Each individual Applicant shall provide a copy of their well permit and well completion report, including a copy of the geophysical log for their well to the CEPOA at the same time the well completion report or geophysical log is provided to the Division of Water Resources. Each individual Applicant shall maintain records of all withdrawals through their individual well and submit them to CEPOA by October 1 of each year. On October 31, following the date of issuance of this decree, and on October 31 of each year thereafter during which withdrawals from the individual wells continue under this decree, CEPOA shall report to the State Engineer the amount of water diverted from each well during the previous 12 month period. At the same time, CEPOA shall also report to the State Engineer the total amount of return flows from such uses, based on the factors determined in this case, during the previous 12 month period. If any lot is also served by an existing Denver aquifer well pursuant to the decrees in Case Nos. W-8568-77 or 89CW068, then CEPOA

shall first account for withdrawals through the Denver well toward in-house uses, and then irrigation and horse uses on that lot, and provide augmentation water pursuant to those decrees. Any additional water usage for that lot from the Arapahoe aquifer shall be accounted for under this augmentation plan. For any lot served only by an Arapahoe aquifer well under this decree, all water usage and replacement obligations shall be determined pursuant to this decree.

e) Each individual Applicant shall attach an identification tag to their individual well or well pumphouse specifying the name of the well, the number of the permit associated therewith, and the aquifer from which the well withdraws water.

**38. Retained Jurisdiction on Aquifer Characteristics.** The Water Judge shall retain jurisdiction over this matter pursuant to the provisions of §37-92-305(11), C.R.S. to provide for the adjustment of the amount of water available for annual withdrawal to conform to actual local aquifer characteristics. Each individual Applicant shall obtain a geophysical log for their well described in paragraph 10 hereof or a geophysical log of the applicable aquifer from another well or test hole located within 1,320 feet of the subject well, and may also obtain a porosity log or core sample suitable for a laboratory specific yield test. Each Applicant shall submit their logs to the State Engineer in accordance with the provisions of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Copies of the well logs shall be provided to CEPOA as described in Paragraph 37. Within 60 days after CEPOA has received notice of the completion of the tenth well in the Arapahoe aquifer within the subdivision, and its receipt of the geophysical logs for such wells, CEPOA shall notify each party to this case of the availability of such logs. Thereafter, any person and the State Engineer may, by petition, invoke the Court's retained jurisdiction under the above caption and case number and request a final determination of the amount of water available from the Arapahoe aquifer under the Subject Property. The petition shall state the quantity of water, which the petitioner believes is available for withdrawal annually from that aquifer based upon the site-specific data. The petition shall include a reference to the sixty-day objection period described below. Copies of the petition shall be served by certified mail, return receipt requested, upon each of the parties hereto or the successors-in-interest, if such successors have been identified and an address therefor provided in writing. Service of such documents shall initiate a sixty-day period during which any party or its successor-in-interest and the State Engineer may file an objection to the quantity stated in the petition. If any such objection is filed, the matter shall be set for hearing. If no such objection is filed, the Court shall, within sixty days following expiration of said sixty-day period, enter a final determination of the amount of water available from that aquifer, adopting the quantity stated in the petition. The Court's retained jurisdiction shall terminate upon entry of a final decree determining the amount of water available from the Arapahoe aquifer pursuant to this provision.

**39. Case Nos. W-8568-77 and 89CW068.** This decree addresses the use of Arapahoe aquifer ground water within the Chatfield East subdivision and shall in no way affect the existing decrees in Case Nos. W-8568-77 and 89CW068 involving the

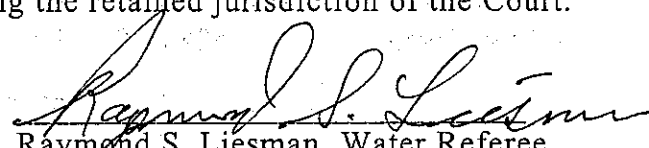
use of Denver aquifer ground water in the subdivision. Since the Arapahoe aquifer ground water underlying the Subject Property may provide an additional supply of water available for use within the subdivision, which will be fully augmented as required by this decree, the restrictions decreed in Case Nos. W-8568-77 and 89CW068 on maximum water usage on the individual lots shall not apply to use of Arapahoe aquifer ground water. However, total irrigation under this decree and the decrees in Case Nos. W-8568-77 and 89CW068 shall be limited to no more than 5,000 square feet of lawns and gardens per lot, and open space irrigation by the CEPOA shall be limited to no more than 10 acres. CEPOA may amend its protective covenants to reflect that the maximum allowable uses decreed in Case Nos. W-8568-77 and 89CW068 continue to apply to lots served solely by Denver aquifer wells, and the limitations of this decree shall apply to lots served by wells in the Arapahoe aquifer. Any amendment to the protective covenants to recognize this change shall be recorded with the Office of the Clerk and Recorder for Douglas County, Colorado.

40. **General Retained Jurisdiction.** The Court shall retain jurisdiction over this decree for a period of five years from the date of entry of the decree to reconsider the question of injury to vested water rights of the water users within the South Platte River System.

41. The nature and extent of the rights determined herein shall be defined by the provisions of §37-90-137(4), C.R.S. No findings of reasonable diligence are required in order to maintain the water rights determined herein. This proceeding is for the determination of the right to the water described herein for existing and future uses, and the rights to the use of ground water determined herein are vested property rights.

42. This Ruling shall become final and appealable upon entry as a Judgment and Decree of the Water Court notwithstanding the retained jurisdiction of the Court.

Dated: May 23, 2001

  
Raymond S. Liesman, Water Referee  
Water Division No. 1  
State of Colorado

**THE COURT FINDS THAT NO PROTEST HAS BEEN FILED IN THIS MATTER. THE COURT HEREBY CONFIRMS AND APPROVES THE FOREGOING RULING OF THE REFEREE, AND ENTERS THE SAME AS THE JUDGMENT AND DECREE OF THIS COURT.**

JUN 13 2001

Dated: \_\_\_\_\_


BY THE COURT:  
  
The Honorable Jonathan W. Hays  
District Court Judge  
Water Division No. 1

EXHIBIT "A" TO CHATFIELD EAST PROPERTY OWNERS ASSOCIATION

Ronald Ralph Martinez/Kathy Diane Shahan Martinez 10315 N. Chatfield Dr. Littleton, CO 80125	Don Cacace/Paulette Murphy 10239 N. Chatfield Pl. Littleton, CO 80125	Douglas & Joann Baker 6127 W. Lakeside Ct. Littleton, CO 80125
1 470-1133	11 791-7423	21 None
Randal S. Winberg / Brenda Winberg 10132 N. Chatfield Dr. Littleton, CO 80125	Martin L. & Georgette J. Walker 10238 N. Chatfield Pl. Littleton, CO 80125	Michael E. and Mary K. Greene 6040 W. Lakeside Ct. Littleton, CO 80125
2 791-8351	12 470-9026	22 683-1561
Jim & Diane Kelly 10198 Chatfield Dr. Littleton, CO 80125	Mr. & Mrs. William M. Ray 10308 N. Chatfield Pl. Littleton, CO 80125	Louis A. & Bernadette M. Rivera 6014 W. Lakeside Ct. Littleton, CO 80125
3 791-2601	13 471-9634	23 Louis 683-8256 (same address)
Frederick J. & Cheryl M. Wolf 10242 N. Chatfield Dr. Littleton, CO 80125	Stephen Thomas Foster & Doris Ann Foster 10422 N. Chatfield Dr. Littleton, CO 80125	Richard E. Dunham 6015 W. Lakeside Ct. Littleton, CO 80125
4 791-7886	14 None	24 791-3889 (o)762-1421 fax-1429
David D. & Laura Haber 10320 N. Chatfield Dr. Littleton, CO 80125	Gary L. & Donna L. Ross 10426 N. Chatfield Dr. Littleton, CO 80125	George T. & Lequita F. McMakin 10844 N. Chatfield Dr. Littleton, CO 80125
5 470-0112	15 791-1263	25,32 791-7044
Hermon V. & Virginia L. Chapman 10360 N. Chatfield Dr. Littleton, CO 80125	Louis A. & Mary Gross 10430 N. Chatfield Dr. Littleton, CO 80125	George & Vicky Christopher 6113 W. Lakeside Ct. Littleton, CO 80125
6 791-0023	16 791-8640	26 470-9460 (o)722-1211
John D. Pepper & Sally A. Pepper 6915 South Ulster Circle Englewood, CO 80112	Timothy & Joann Stover 10474 N. Chatfield Dr. Littleton, CO 80125	Jim & Alleen Spoon 6215 W. Lakeside Ct. Littleton, CO 80125
7 770-3287	17 791-3859	27 791-6771
Bud & Mary Lou McNeme 10390 N. Chatfield Dr. Littleton, CO 80125	William J. Heckman 6270 W. Lakeside Ct. Littleton, CO 80125	Michael C. Wilkinson 6245 W. Lakeside Ct. Littleton, CO 80125
8 791-7111	18 791-1530	28 791-2166
Pamela D. Lingle for P & M Lingle Co. 10416 N. Chatfield Dr. Littleton, CO 80125	Scott Barraclough 6242 W. Lakeside Ct. Littleton, CO 80125	Beverly A. Lascody 6289 W. Lakeside Ct. Littleton, CO 80125
9 791-1416	19 470-5727	29 791-7775
Richard W. & Susan Bell 10305 N. Chatfield Pl. Littleton, CO 80125	Joseph T. & Cathy E. Gunderson 6160 W. Lakeside Ct. Littleton, CO 80125	Robert W. & Karlene A. O'Brien 10732 N. Chatfield Dr. Littleton, CO 80125
10 791-6306	20 791-4902	30 791-7441

Anna Kay Johnstone  
10794 N. Chatfield Dr.  
Littleton, CO 80125

31  
791-8239

Michael & Patricia Kummer  
10886 N. Chatfield Dr.  
Littleton, CO 80125

33  
791-0387

Barry K. & Debbie Anderson  
10936 N. Chatfield Dr.  
Littleton, CO 80125

34  
683-9438

Roger W. Henning  
10962 N. Chatfield Dr.  
Littleton, CO 80125

35  
791-4585

Harold Dale Slaughter, Jr.  
10963 N. Chatfield Dr.  
Littleton, CO 80125

36  
791-1178

David N. & Rhonda R. Franklin  
10935 N. Chatfield Dr.  
Littleton, CO 80125

37  
791-7727

Terry & Linda Ohlsen  
10889 N. Chatfield Dr.  
Littleton, CO 80125

38  
470-0482

Trygve Lode  
6529 W. Lakeside Circle  
Littleton, CO 80125

39  
470-1011

Charles A. & Shirley M. Warren  
6529 W. Lakeside Circle  
Littleton, CO 80125

40  
791-7234

Karen W. Carter  
6681 W. Lakeside Circle  
Littleton, CO 80125

42  
None

Donald & Catherine Bottoms  
6719 W. Lakeside Circle  
Littleton, CO 80125

43  
791-6812

Arvin D. & Stephanie J. Bothof  
6767 W. Lakeside Circle  
Littleton, CO 80125

44  
None

Alan M. Krusnik  
6797 W. Lakeside Circle  
Littleton, CO 80125

45  
None

Diana Dee Davis  
10798 N. Lakeside Pl.  
Littleton, CO 80125

46  
791-6844

Donna Wells  
10815 N. Lakeside Pl.  
Littleton, CO 80125

47  
None

David Feldman  
10787 N. Lakeside Pl.  
Littleton, CO 80125

48  
791-7121

Anthony L. & Karen C. Zalatan  
19845 N. Lakeside Pl.  
Littleton, CO 80125

49  
791-6382

Bruce & Karen Haase  
6967 W. Lakeside Dr.  
Littleton, CO 80125

50  
791-6484

Suzanne Bettinger  
6831 W. Lakeside Circle  
Littleton, CO 80125

52  
791-0397

Richard A. & Mary H.  
Hoffschneider  
4202 So. Vrain St.  
Denver, CO 80236

53  
795-7577

Richard C. (Jr.) & Heather  
O'Mara  
6728 Lakeside Circle  
Littleton, CO 80125

54  
471-1585/791-9505

John F. & Nancy S. Polak  
9882 W. Kentucky  
Lakewood, CO 80226

55  
986-9334

Jim Lee Wolfe and Beverly  
Wolfe  
982 E. Quail Place  
Littleton, CO 80126

56  
None

Kim R. & Susan S. Perez  
6538 W. Lakeside Circle  
Littleton, CO 80125

57  
791-6579

Paul & Mary Susan Gibbooney  
6486 W. Lake Circle  
Littleton, CO 80125

58  
791-6064

Herbert J. & Libby Gregor  
6448 Lakeside Circle  
Littleton, CO 80125

59  
470-0325

Robert A. Mercer  
991 W. Kettle Ave.  
Littleton, CO 80120

60  
932-6043 p. 851-8746



James L. Balkema  
2946 W. Union Ave.  
Englewood, CO 80110

41  
None

Merrilee S. Ellis  
6913 W. Lakeside Dr.  
Littleton, CO 80125

51  
791-7121

Ivan & Audrey Jones  
10727 No. Chatfield Dr.  
Littleton, CO 80125

61  
791-7779

Michael E. & Sarah M. Gilsdorf  
6355 W. Lakeside Court  
Littleton, CO 80125

62  
791-9787

William T. Matthias, Jr.  
6924 W. Lakeside Dr.  
Littleton, CO 80125

72  
791-0258

John S. & Sherry Tracey  
6396 W. Lakeside Court  
Littleton, CO 80125

82  
791-1746

Paul Gutowski  
6419 W. Lakeside Court  
Littleton, CO 80125

63  
683-3341

David Loran & Martha Lynn  
Kremmel  
6864 W. Lakeside Drive  
Littleton, CO 80125

73  
791-2229

Alexander & Rita Fieldman  
6348 W. Lakeside Court  
Littleton, CO 80125

83  
791-6597

Michael D. & Barbara L. Troxel  
6493 W. Lakeside Court  
Littleton, CO 80125

64  
683-1361

Barry E. and Barbara H. Mathias  
6816 W. Lakeside Drive  
Littleton, CO 80125

74  
791-9131

Mary Patricia Miles  
10453 N. Chatfield Drive  
Littleton, CO 80125

84  
471-9597

James P. & Leslee J. Masolette  
6533 W. Lakeside Court  
Littleton, CO 80125

65  
791-1813

T. Lynn & Shelley Chism  
6762 W. Lakeside Drive  
Littleton, CO 80125

75  
791-3303

Thomas J. Mussallem & Gay D.  
Gude  
10419 N. Chatfield Drive  
Littleton, CO 80125

85  
791-1329/470-1182

Gloria Poljanec  
6576 W. Lakeside Court  
Littleton, CO 80125

66  
791-6937

Jerald L. & Bette Cox  
6714 W. Lakeside Drive  
Littleton, CO 80125

76  
791-7999

Gene Musso  
10415 N. Chatfield Drive  
Littleton, CO 80125

86  
683-8264

Gary L. & Carolyn McNee  
6649 W. Lakeside Drive  
Littleton, CO 80125

67  
470-7654

Veryl G. & Margaret D. Moser  
6663 W. Lakeside Drive  
Littleton, CO 80125

77  
791-1874

John P. & Brenda Gorzelanski  
10405 N. Chatfield Drive  
Littleton, CO 80125

87  
470-9057

Jane Rolph  
6683 W. Lakeside Dr.  
Littleton, CO 80125

68  
791-2329

Alan D. & Paulette R. Dunn  
6591 W. Lakeside Court  
Littleton, CO 80125

78  
791-6935

Duane D. & Alice I. Dunn  
10399 N. Chatfield Drive  
Littleton, CO 80125

88  
791-7160

John W. & Carolyn Steele  
6737 W. Lakeside Drive  
Littleton, CO 80125

69  
None

John F. & Deanna Cicero  
6540 W. Lakeside Court  
Littleton, CO 80125

79  
791-8197

Arteen A. & Theresa Bayani  
10371 N. Chatfield Drive  
Littleton CO 80125

89  
470-1918

Maria Isabel Chavez  
6832 W. Lakeside Drive  
Littleton, CO 80125

70  
470-7246 (o)470-7160

Geri & Barb Saye  
6976 W. Lakeside Drive  
Littleton CO 80125

71  
791-4243

Daniel M. & Donna L. Friesen  
6715 W. Chatfield Lane  
Littleton, CO 80125

92  
683-0707

Jon Ellefson & Tari Hamilton  
Ellefson  
6743 W. Chatfield Lane  
Littleton, CO 80125

93  
470-5292

Mitchell L. & Margaret Ann  
Koppel  
6771 W. Chatfield Lane  
Littleton, CO 80125

94  
791-6151

Frederick S. Walz  
6803 W. Chatfield Lane  
Littleton, CO 80125

95,96  
791-8757

Ernest H. Johnson  
11385 W. Powers  
Littleton, CO 80127

80  
933-4439

Jim Ducey  
6448 W. Lakeside Court  
Littleton, CO 80125

81  
791-3865

Daniel F. & Holly K. H. Bohlen  
6900 W. Chatfield Lane  
Littleton, CO 80125

97  
470-0654

David Duncan  
6888 W. Chatfield Lane  
Littleton, CO 80125

98  
791-7643

Larry D. & Sandra K. Johnson  
6894 W. Chatfield Lane  
Littleton, CO 80125

99  
470-0867

JoAnn & Darvin E. Robertson  
6885 W. Chatfield Lane  
Littleton, CO 80125

100  
470-0595

Melvin (Miles) & Martha  
Robison  
10353 N. Chatfield Drive  
Littleton, CO 80125

90  
791-1736

Donald J. & Jeanne M.  
Richardson  
6695 W. Chatfield Lane  
Littleton, CO 80125

91  
683-7355

Kathryn Voegtler-Drager,  
Trustee  
4634 S. Devinney Ct.  
Morrison, CO 80468

101  
697-5437

David B. & M. Jenet White  
6810 W. Chatfield Lane  
Littleton, CO 80125

102  
791-7222

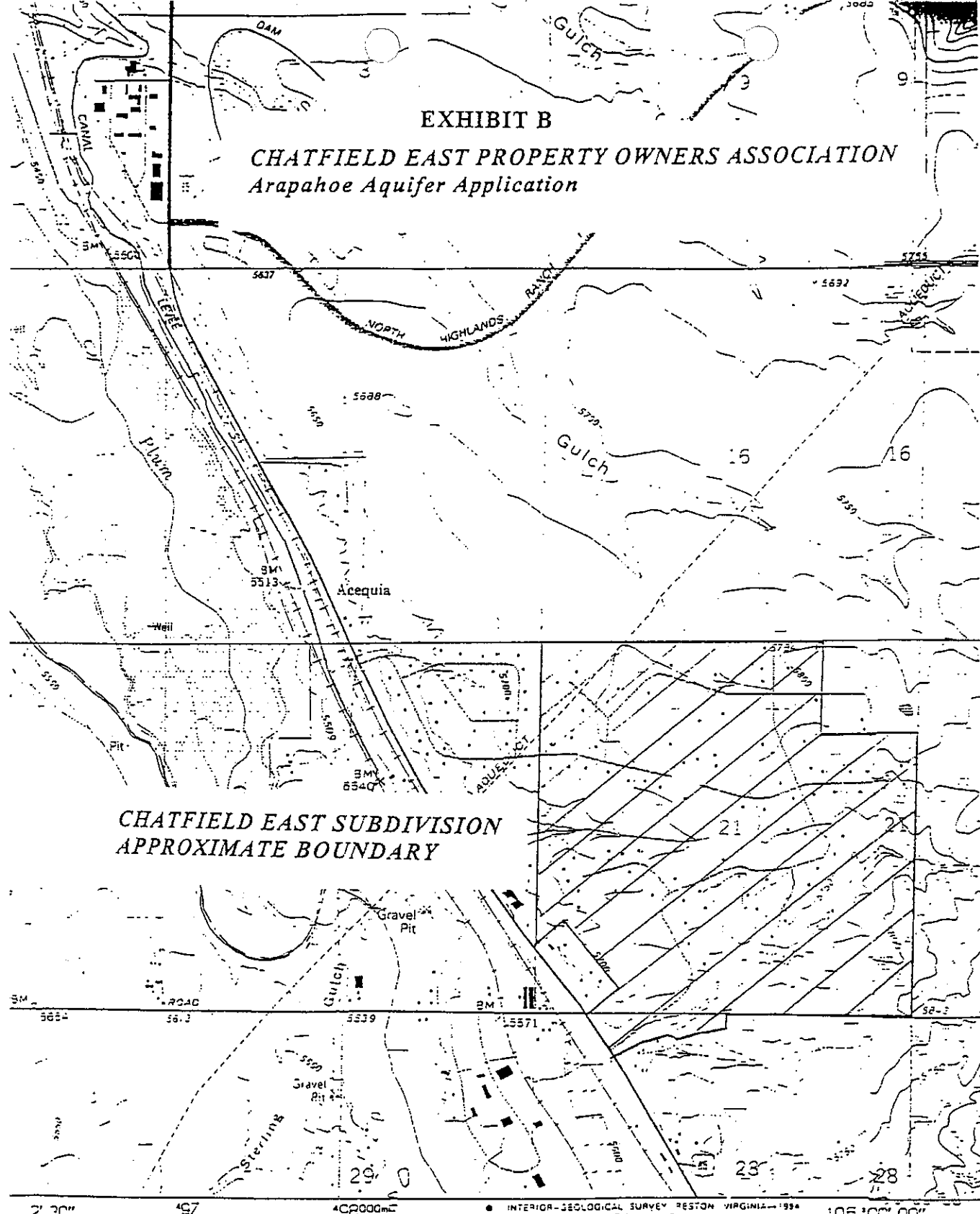
Keith E. & Valerie A. Lehmann  
6752 W. Chatfield Lane  
Littleton, CO 80125

103  
791-1864

Fire Station  
791-1034

EXHIBIT B

CHATFIELD EAST PROPERTY OWNERS ASSOCIATION  
 Arapahoe Aquifer Application

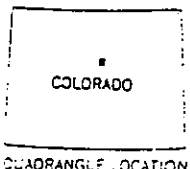


CHATFIELD EAST SUBDIVISION  
 APPROXIMATE BOUNDARY

2' 30" 1/87 40000m 105' 00" 00" INTERIOR- GEOLOGICAL SURVEY RESTON VIRGINIA-1994

ROAD CLASSIFICATION

- Primary highway, hard surface \_\_\_\_\_
- Secondary highway, hard surface \_\_\_\_\_
- Light-duty road, hard or improved surface \_\_\_\_\_
- Unimproved road \_\_\_\_\_
- Interstate Route \_\_\_\_\_
- U. S. Route \_\_\_\_\_
- State Route \_\_\_\_\_

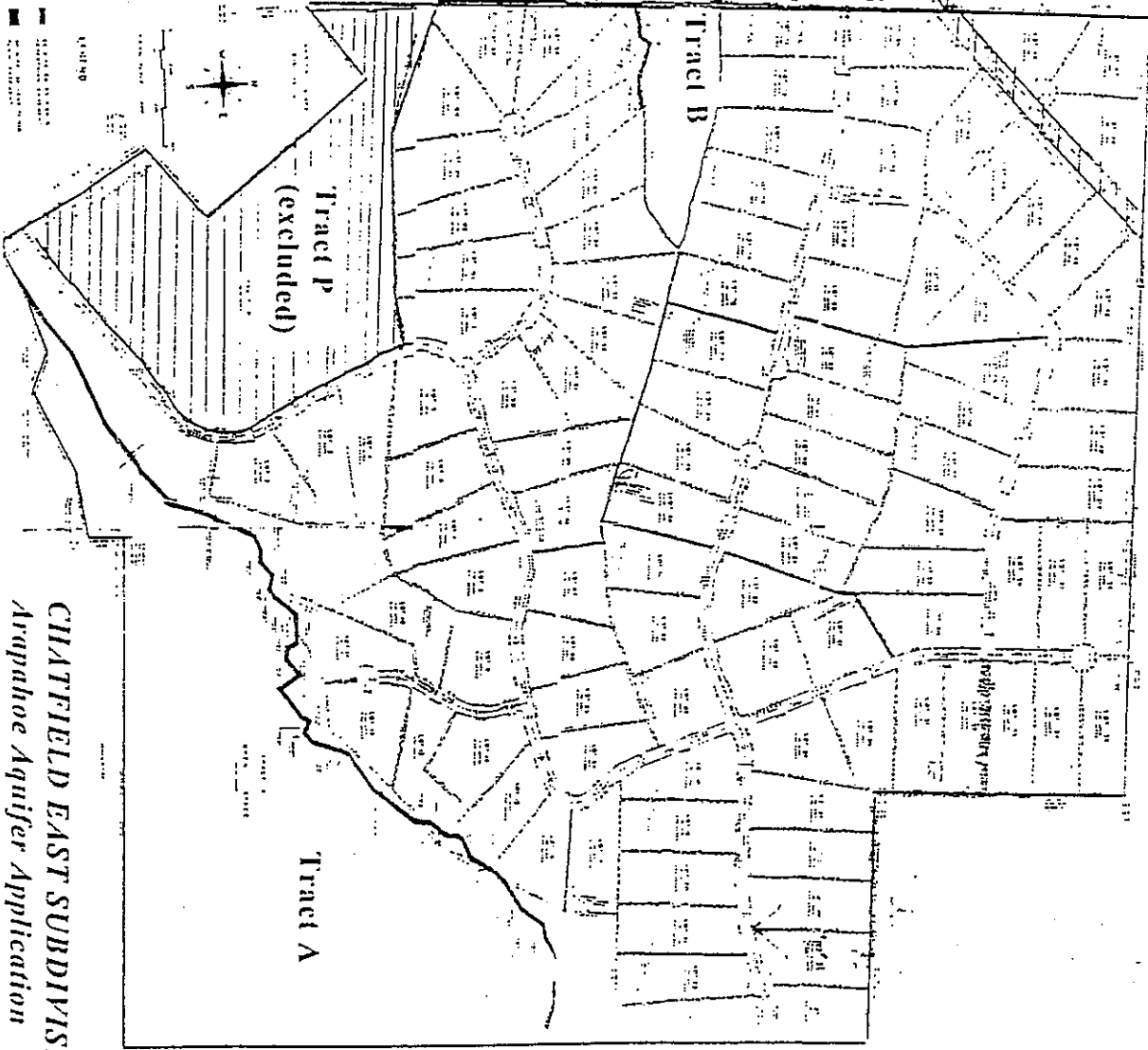


QUADRANGLE LOCATION

LITTLETON, CO  
 39105-E1-TF-024

1560ALIN  
 5062 1/11/11

Denver Water  
Pipeline (excluded)



**CHATFIELD EAST SUBDIVISION**  
*Arapahoe Aquifer Application*

Includes: Lots 1-103 and Open Space Tracts A and B  
Excludes: All dedicated roadways,  
Denver Water Pipeline, and Tract P.

**EXHIBIT C**  
**Case No. 99CW198**

<b>Lot No.</b>	<b>Acreage</b>	<b>Annual Amount (AF)</b>
1.	3.68	1.87
2.	3.81	1.93
3.	3.77	1.91
4.	3.83	1.94
5.	3.60	1.83
6.	3.94	2.00
7.	3.78	1.92
8.	3.71	1.88
9.	3.60	1.83
10.	3.91	1.99
11.	3.75	1.90
12.	3.72	1.89
13.	3.82	1.94
14.	3.80	1.93
15.	3.80	1.93
16.	3.87	1.97
17.	3.78	1.92
18.	3.60	1.83
19.	3.82	1.94
20.	3.85	1.96
21.	3.84	1.95
22.	3.83	1.95
23.	3.97	2.02
24.	3.92	1.99
25.	3.74	1.90
26.	3.82	1.94
27.	3.82	1.94
28.	3.79	1.93
29.	4.00	2.03
30.	3.71	1.89
31.	3.82	1.94
32.	3.83	1.95
33.	3.83	1.95
34.	3.80	1.93
35.	3.96	2.01
36.	3.93	2.00
37.	3.79	1.93
38.	3.60	1.83
39.	3.78	1.92
40.	3.76	1.91
41.	3.72	1.89

**EXHIBIT C**  
**Case No. 99CW198**

Lot No.	Acreage	Annual Amount (AF)
42.	3.88	1.97
43.	3.82	1.94
44.	3.82	1.94
45.	3.60	1.83
46.	3.87	1.97
47.	3.92	1.99
48.	3.82	1.94
49.	3.61	1.83
50.	3.79	1.93
51.	3.84	1.95
52.	3.60	1.83
53.	3.69	1.88
54.	3.65	1.86
55.	3.73	1.90
56.	3.83	1.95
57.	3.81	1.94
58.	4.18	2.12
59.	3.84	1.95
60.	3.93	2.00
61.	3.70	1.88
62.	3.95	2.01
63.	3.66	1.86
64.	3.83	1.95
65.	3.79	1.93
66.	3.93	2.00
67.	3.92	1.99
68.	3.78	1.92
69.	3.79	1.93
70.	4.17	2.12
71.	3.77	0.92 *
72.	3.81	1.94
73.	3.76	1.91
74.	3.81	1.94
75.	3.81	1.94
76.	3.81	1.94

\* Note: Lot 71 has an existing Permit, No. 042876-F to withdraw 1 acre foot of nontributary ground water from the Arapaho Aquifer. As a result, the total annual amount in this case has been reduced by 1 acre foot.

**EXHIBIT C**  
**Case No. 99CW198**

<b>Lot No.</b>	<b>Acreage</b>	<b>Annual Amount (AF)</b>
77.	3.93	2.00
78.	4.10	2.08
79.	3.80	1.93
80.	3.83	1.95
81.	3.81	1.94
82.	3.81	1.94
83.	3.64	1.85
84.	3.60	1.83
85.	3.83	1.95
86.	3.71	1.89
87.	3.79	1.93
88.	3.79	1.93
89.	3.81	1.94
90.	3.79	1.93
91.	3.89	1.98
92.	3.92	1.99
93.	3.91	1.99
94.	3.88	1.97
95.	3.88	1.97
96.	3.79	1.93
97.	3.90	1.98
98.	3.96	2.01
99.	3.97	2.02
100.	3.95	2.01
101.	3.79	1.93
102.	3.80	1.93
103.	4.00	2.03
Tract A	120.35	61.17
Tract B	9.13	4.64
	<b>Total 522.58</b>	<b>264.62 AF</b>