



## PLANNING COMMISSION REGULAR MEETING

MONDAY, APRIL 1, 2024

### AGENDA

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Monday, April 1, 2024

6:00 PM

Hearing Room

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**Disclaimer - This packet is provided for informational purposes only and is subject to change. Some documents may have been unavailable at the time this agenda was prepared. For additional information, contact the responsible staff person.**

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Instructions to access the video or audio of the meeting are available here:  
<https://www.douglas.co.us/board-county-commissioners/boards-commissions/planning-commission/>  
To submit written public comment and/or exhibits for a Planning Commission meeting, please send them, in advance, to [planningcommission@douglas.co.us](mailto:planningcommission@douglas.co.us). Instructions for providing audio comments at the remote meeting are available at the webpage above.

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**1. Call to Order**

- a. Pledge of Allegiance
- b. Roll Call
- c. Attorney Certification of the Agenda
- d. Planning Commission Disclosures

**2. Approval of Minutes**

Unofficial Minutes from March 18, 2024

**Attachments:**    [Unofficial Meeting Minutes - 3.18.24](#)

**3. Land Use Hearing Items**

- a. Creekside Acres - Minor Development Final Plat & Appeal to Section 18A - Water Supply Overlay District - Project File: SB2023-055.

Eric Pavlinek, Principal Planner — *Department of Community Development*

**Attachments:**     [PC Staff Report - Creekside Acres - SB2023-055](#)  
                              [Staff Report – Supplemental Information](#)

#### 4. Adjournment

*\*\*The Next Regular Meeting Will be Held on Monday, April 15, 2024 @ 6:00 p.m.\*\**

[www.douglas.co.us](http://www.douglas.co.us)

**MEETING DATE:** April 1, 2024

**DESCRIPTION:** Unofficial Minutes from March 18, 2024

**ATTACHMENTS:**

Unofficial Meeting Minutes - 3.18.24



## PLANNING COMMISSION REGULAR MEETING

MONDAY, MARCH 18, 2024

### MINUTES

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Monday, March 18, 2024

6:00 PM

Hearing Room

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#### 1. Call to Order

Commissioner Browning presented virtual hearing instructions.

a. Pledge of Allegiance

b. Roll Call

**PRESENT** Commissioner Jim Browning  
Commissioner Edward A. Rhodes  
Commissioner C.J. Garbo  
Commissioner Steven S. Allen  
Commissioner Jay Longmire  
Commissioner Priscilla S. Rahn

**EXCUSED** Commissioner Jack Gilmartin  
Commissioner John Griffith  
Commissioner Barrett Miller  
Commissioner Mike McKesson  
Commissioner Matt Collitt

c. Attorney Certification of the Agenda

Andrew Steers, Sr. Assistant County Attorney, stated that all items on today's agenda have been reviewed by the County Attorney's Office, they have been properly noticed and the Commission has jurisdiction to hear them.

d. Planning Commission Disclosures

None.

#### 2. Approval of Minutes

a. Unofficial Minutes from February 26, 2024

Commissioner Browning motioned to approve the Minutes from February 26, 2024.

**RESULT:** Approved

**MOVER:** Jim Browning

**SECONDER:** Edward A Rhodes

**AYES:** Rhodes, Garbo, Allen, Longmire, Rahn,  
Browning



**3. Land Use Hearing Items**

- a. 9255 Roxborough Park Road - Location and Extent. Project File: LE2024-004.

Heather Scott, Principal Planner - Department of Community Development - presented the proposed application.

The applicant's representative, Andrea Cole, Dominion Water & Sanitation District, 9250 E. Costilla Ave, Greenwood Village, CO 80012 presented the proposed application.

The applicant's representative, Pamela Grover, Dominion Water & Sanitation District, 9250 E. Costilla Ave, Greenwood Village, CO 80012 presented the proposed application

Commissioner Browning opened citizen comment.

Citizen comment:

Ephrem Glass (online) – Roxborough Village Metro District – provided comment.

Commissioner Browning closed citizen comment.

Commissioner Browning opened Planning Commission discussion.

Commissioner Garbo motioned to continue 9255 Roxborough Park Road Location and Extent. Project File: LE2024-004 to April 15, 2024, at 6:00 p.m.

**RESULT:** Continued  
**MOVER:** C. J. Garbo  
**SECONDER:** Edward A. Rhodes  
**AYES:** Rhodes, Garbo, Allen, Longmire, Rahn, Browning

- b. 2249 Hess Road – Location and Extent. Project File: LE2024-006.

Heather Scott, Principal Planner - Department of Community Development presented the proposed application.

The applicant's representative, Amy McGlensey, HDR Inc, 1670 Broadway, Denver, CO 80202 presented the proposed application.

Commissioner Browning opened citizen comment.

Citizen comment:

None.

Commissioner Browning closed citizen comment.

Commissioner Browning opened Planning Commission discussion.

Commissioner Rahn motioned to approve 2249 Hess Road – Location and Extent. Project File: LE2024-006.

**RESULT:**       Approved  
**MOVER:**       Priscilla S. Rahn  
**SECONDER:**   Jim Browning  
**AYES:**       Rhodes, Garbo, Allen, Longmire, Rahn, Browning

- c. Proposed Zoning Amendment to Fencing and Outdoor Storage Standards – Project File: DR2023-004.

Marcco Higham, Planner - Department of Community Development presented the proposed application.

The applicant's representative, Jessica Towles, Director of Community Experience, Sterling Ranch Community Authority Board, 9350 Roxborough Park Road, Littleton, CO 80125 - presented the proposed application.

The applicant's representative, Gary Debus, General Manager, Sterling Ranch Community Authority Board, 9350 Roxborough Park Road, Littleton, CO 80125 - provided additional comment.

Commissioner Browning opened citizen comment.

Citizen comment:

None.

Commissioner Browning closed citizen comment.

Commissioner Browning opened Planning Commission discussion.

Commissioner Garbo motioned to recommend approval of Proposed Zoning Amendment to Fencing and Outdoor Storage Standards – Project File: DR2023-004.

**RESULT:** Approved

**MOVER:** C.J. Garbo

**SECONDER:** Priscilla S Rahn

**AYES:** Rhodes, Garbo, Allen, Longmire, Rahn, Browning

#### 4. Adjournment

The meeting was adjourned at 7:18 p.m.

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Mike McKesson, Secretary

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Kristy Mann, Recording Secretary

**MEETING DATE:** April 1, 2024

**STAFF PERSON RESPONSIBLE:** Eric Pavlinek, Principal Planner

**DESCRIPTION:** Creekside Acres - Minor Development Final Plat & Appeal to Section 18A - Water Supply Overlay District - Project File: SB2023-055.

**SUMMARY:** The request is for two separate approvals which will require separate consideration and motions by the Planning Commission.

1. Approval of a minor development final plat to subdivide a 35.17-acre parcel into two lots.
2. Approval of an appeal to the water supply standards in Section 1804A and 1806A of the Douglas County Zoning Resolution related to the reservation of all Denver Basin aquifer water rights beneath the property for future landowners (the "18A Appeal").

**STAFF ASSESSMENT:**

Staff has evaluated the appeal to Sections 1804A and 1806A of the Water Supply Overlay District in accordance with Section 18A of the DCZR. Should the Planning Commission find that the approval standards for the appeal are met, the following proposed condition should be considered for inclusion in the motion:

1. Concurrent with the recordation of the associated minor development final plat, a Declaration of Restrictive Covenants to reserve all water contained within the Denver and Arapahoe aquifers for future landowners within the subdivision shall be recorded.

Staff has evaluated the minor development final plat request in accordance with Article 6 of the Douglas County Subdivision Resolution (DCSR). If the water appeal is approved by the Board, and if the Planning Commission find that the approval standards for the appeal are met, the following proposed conditions should be considered for inclusion in the motion:

1. Prior to recordation of the minor development final plat, the applicant shall pay school land dedication cash-in-lieu fees in the amount of \$500.00 to the Douglas County School District.
2. Prior to recordation of the minor development final plat, the applicant shall pay park land dedication cash-in-lieu fees of \$250.00 to Douglas County.

3. During construction activity within the development, the applicant, its successors and assigns shall take all reasonable care to watch for historic resources, paleontological resources, and other cultural history resources and shall immediately notify Douglas County and complete appropriate Colorado Office of Archaeology and Historic Preservation data management forms in the event of such discovery.
4. Prior to recordation of the minor development final plat, technical corrections to the plat exhibit shall be made to the satisfaction of Douglas County.

**REVIEW:**

Kati Carter	Approve	3/21/2024
Sabrina Bach - FYI	Notified - FYI	3/21/2024

**ATTACHMENTS:**

PC Staff Report - Creekside Acres - SB2023-055  
Staff Report – Supplemental Information

## Minor Development Staff Report

**DATE:** MARCH 20, 2024  
**TO:** DOUGLAS COUNTY PLANNING COMMISSION  
**FROM:** ERIC PAVLINEK, PRINCIPAL PLANNER *EP*  
JEANETTE BARE, AICP, PLANNING MANAGER *JB*  
STEVEN E. KOSTER, AICP, ASSISTANT DIRECTOR OF PLANNING SERVICES *SEK*  
**SUBJECT:** CREEKSIDE ACRES - MINOR DEVELOPMENT FINAL PLAT & APPEAL TO SECTION  
18A – WATER SUPPLY OVERLAY DISTRICT

**PROJECT FILE:** SB2023-055

**OWNER & APPLICANT:**  
JEFF ELLIS  
11979 S. ALLERTON CIRCLE  
PARKER, CO 80138

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**PLANNING COMMISSION HEARING:**

**APRIL 1, 2024 @ 6:00 P.M.**

**BOARD OF COUNTY COMMISSIONERS HEARING:**

**APRIL 9, 2024 @ 2:30 P.M.**

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### **I. EXECUTIVE SUMMARY**

The applicant is requesting approval of a minor development final plat to subdivide a 35.17-acre parcel into two lots. The property is located approximately a half mile southwest of the intersection of E. State Highway 86 and N. Castlewood Canyon Road in Franktown. The property is zoned Large Rural Residential (LRR) and is located in the Franktown Subarea as designated in the Douglas County Comprehensive Master Plan (CMP). Both lots will be served by individual well and septic systems.

Additionally, the applicant requests approval of an appeal to the water supply standards for the Central Basin Water Supply Zone as set forth in Section 18A, Water Supply Overlay District, of the DCZR. Specifically, the request is for an appeal of Section 1804.05 which states: "The water rights in all Denver Basin aquifers shall be reserved in perpetuity, for the benefit of future landowners within the proposed development, pursuant to the declaration of restrictive covenants in a form prescribed by the County." For a minor development final plat, Section 1806A.01.6 requires that the declaration of restrictive covenants be provided as part of the water documentation for the subdivision.

## **II. REQUEST**

### **A. Request**

The request is for two separate approvals which will require separate consideration and motions by the Planning Commission:

- Approval of a minor development final plat to subdivide a 35.17-acre parcel into two lots.
- Approval of an appeal to the water supply standards in Section 1804A and 1806A of the *DCZR* related to the reservation of all Denver Basin aquifer water rights beneath the property for future landowners (the "18A Appeal").

### **B. Process**

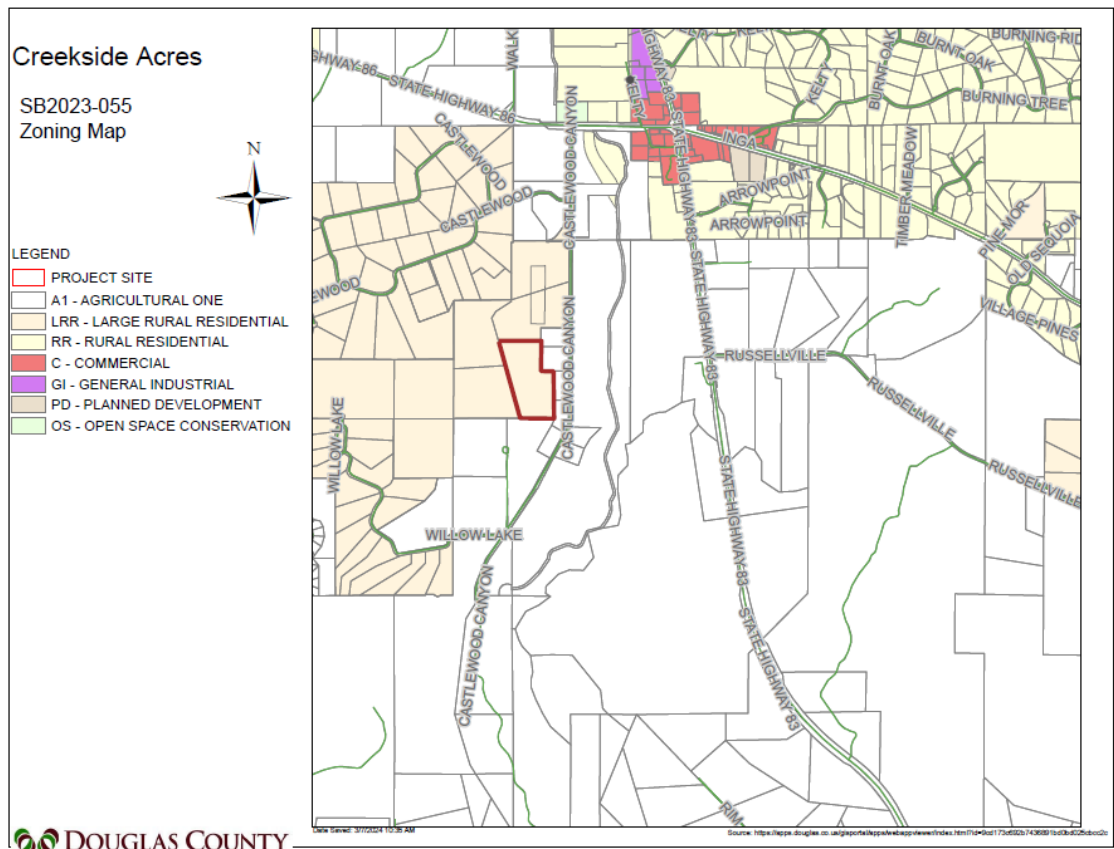
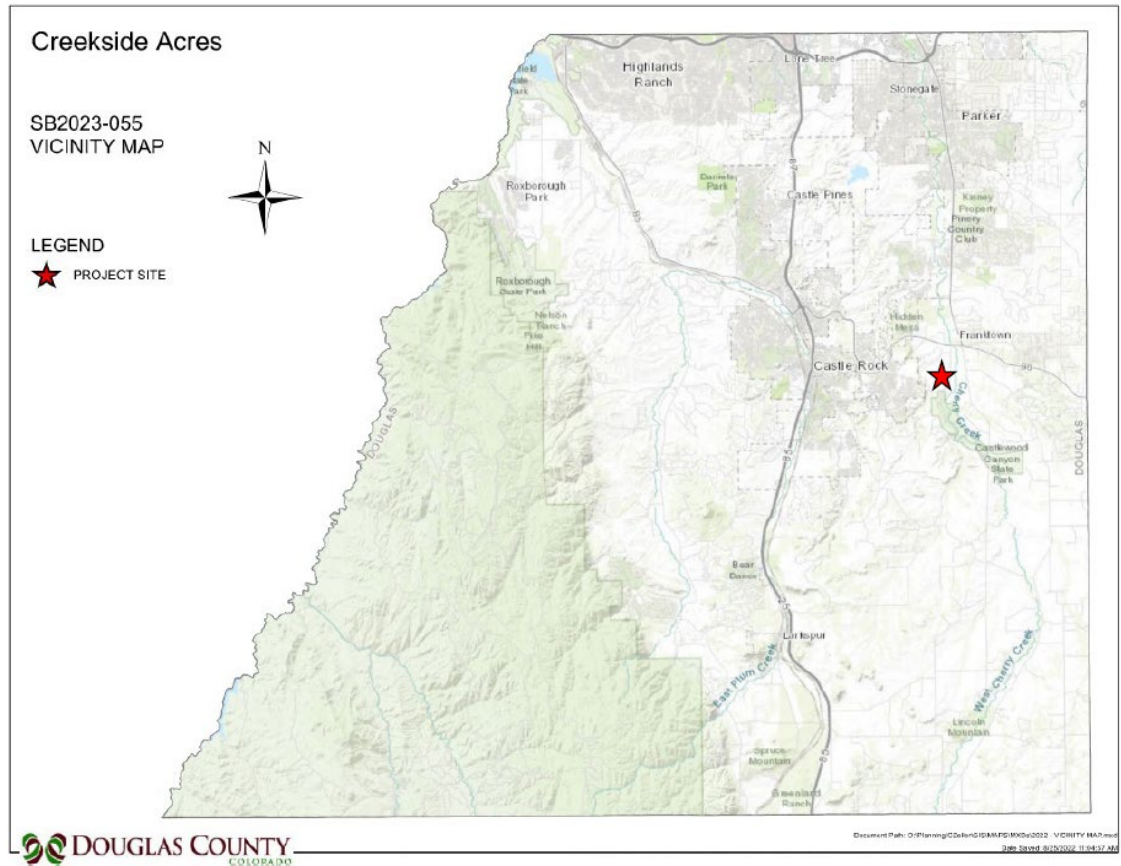
A residential minor development application is processed pursuant to Article 6 of the *Douglas County Subdivision Resolution (DCSR)*. Article 6 states the intent of the process is "to provide a streamlined review process for the creation of 10 or fewer single-family residential lots."

Per Section 604.06 of the *DCSR*, "The Planning Commission shall evaluate the minor development final plat, staff report, referral agency comments, applicant responses, and public comment and testimony, and make a recommendation to the Board to approve, approve with conditions, continue, table for further study, or deny the minor development request. The Planning Commission's decision shall be based on the evidence presented; compliance with adopted County standards, regulations, and policies; and other guidelines."

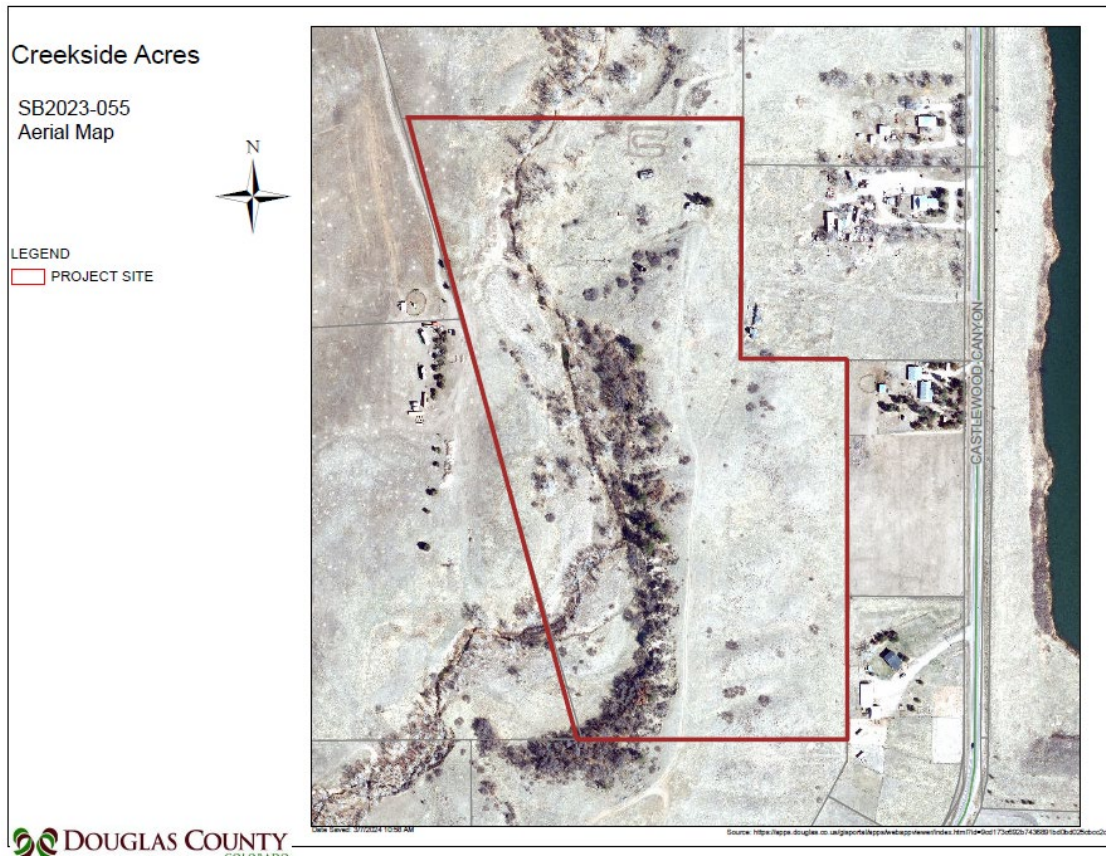
The appeal to the water supply standards is processed pursuant to Section 1808A of the *DCZR*. Per Section 1808A.06, "the Planning Commission shall evaluate the application based on the technical data, the water consultants' opinions, site-specific data, the water demand standards, the staff report, and public testimony and shall make a recommendation to the Board to approve, conditionally approve, or deny the appeal. The Planning Commission's comments shall be based on the evidence presented."

### **C. Location**

The site is located approximately a half mile southwest of the E. State Highway 86 and N. Castlewood Canyon Road intersection. The following vicinity, zoning and aerial maps highlight site location and existing conditions.







#### D. Project Description

The applicant is requesting a minor development final plat to subdivide a 35.17-acre parcel into 2 lots. The property is located within the LRR zone district which allows for single-family residential development at a maximum gross density of one dwelling unit per ten acres. Building envelopes are located on the eastern edge of each proposed lot and depict the area of future development on each lot. The building envelopes are located outside of the steep slopes and floodplain that encumber the property.

Lots will be served by individual wells and onsite wastewater treatment systems (OWTS). The proposed source of water for the 2 residential lots is individual wells. Well and septic permits must be obtained as part of the building permit process. Due to the limited amount of water deeded to the applicant at the time of the purchase of the property, wells must be drilled to the non-tributary Denver aquifer at estimated depths of 1000 or more feet.

The property has cross-access easements which will allow for the shared use of existing driveways on both the north and south ends of the proposed minor development.

Project Details	
<b>Zoning</b>	Large Rural Residential
<b>Gross Site Acreage</b>	35.17 acres
<b>Residential Lots</b>	2 single-family residential lots
<b>Residential Lot Size</b>	Lot 1 – 16.58 acres Lot 2 – 18.59 acres

### III. **CONTEXT**

#### **A. Background**

The subject property was included in a rezoning request known as Willow Creek Acres. Approximately 337 acres of property was rezoned from Agricultural One and General Industrial to Large Rural Residential approved in January of 2007. The subject property was one of five 35-acre parcels established via a land survey plat in 2020. Limited water rights were deeded to the property at the time of sale.

#### **B. Adjacent Land Uses and Zoning**

The project area is immediately adjacent to properties zoned Large Rural Residential to the north and west, and zoned Agricultural One to the south and east.

	<b>Zoning</b>	<b>Land Use</b>
<b>North</b>	Large Rural Residential	Residential, Agricultural
<b>South</b>	Agricultural One	Church, Residential, Agricultural
<b>East</b>	Agricultural One	Residential, Agricultural
<b>West</b>	Large Rural Residential	Residential, Agricultural

### IV. **PHYSICAL SITE CHARACTERISTICS**

#### **A. Site Characteristics and Constraints**

Willow Creek bisects the property on the western portion of the property.

#### **B. Access**

Access to the site is from E State Highway 86 and N. Castlewood Canyon Road via existing access easements. The northern lot will primarily take access over an existing easement on the property to the north. The southern lot will primarily take access over existing easement on properties to the south. As the easements and driveways already exist, no off-site access improvements are required.

#### **C. Soils and Geology**

The Colorado Geological Survey (CGS) reviewed the proposed minor development final plat and had concerns with the building envelopes relative to the high point, east of Willow Creek. CGS recommended that the applicant recommended a non-

buildable from the crest of the steep slope of 40-feet. The applicant coordinated with CGS and amended their building envelopes as depicted on the minor development final plat exhibit. CGS indicated that the revised exhibit maintains an approximate 20-foot setback from the steep slope above willow creek which is acceptable to CGS. Standard geotechnical explorations of individual building sites will be required at the time of construction as part of the building permit process.

**D. Drainage and Erosion**

The applicant worked with Public Works Engineering to map the refined 100-year flood plain. All of Engineer's comments have been addressed regarding drainage. No drainage improvements are required.

**E. Floodplain**

The Willowcreek 100-year floodplain is present on the site. The building envelopes for each lot are located outside of the floodplain.

**F. Wildlife**

The CMP Wildlife Resources map identifies the site as being an area of low habitat value for wildlife. It is not anticipated that wildlife will be significantly impacted by the two lots.

**G. Historic Preservation**

The Douglas County Historic Preservation Board (HPB) provided referral comments on the application. HPB recommended a Class II cultural resource survey be conducted by the applicant prior to any earth moving activities on-site, to identify and record any new sites. The applicant responded to the referral comment and noted that a Class III Cultural Resource Survey will not be performed at this time but committed to doing a Class 1 cultural resource survey and that if such discoveries are found on the subject property than the applicant will notify the County in the event of such discovery. Each lot has building envelopes to limit site disturbance.

**V. PROVISION OF SERVICES**

**A. Schools**

The minor development is subject to the school's dedication standards found within Section 1004.05.4 of the DCSR. Cash-in-lieu of land dedication in the amount of \$500.00 to be paid to the Douglas County School District prior to recordation of the plat. This provision is included within proposed condition of approval #1 and is applicable to the one additional residential lot created with this request.

**B. Fire Protection**

Franktown Fire Protection District (Franktown Fire) provides services to the site. Franktown Fire did not provide a referral response to the referral request.

**C. Sheriff Services**

The Douglas County Sheriff's Office (DCSO) provides emergency services to the site. Office of Emergency Management has no concerns with the project. No response was received from DCSO or the DCSO E911.

**D. Water**

The water underlying the property is adequate to serve the proposed 2 residential lots. The proposed source of water for the residential lots is individual wells. The Colorado Division of Water Resources reviewed the application and stated the proposed water supply is adequate and can be provided without causing injury to decreed water rights. The County's water consultant, Lytle Water Solutions (LWS), has reviewed the water supply for the proposal and concluded that there is a sufficient water supply to serve the minor development. A Declaration of Restrictive Covenants reserving the water in all the Denver Basin aquifers for the benefit of future landowners is submitted.

**E. Sanitation**

Sewer will be provided by an OWTS for each lot. Douglas County Health Department has no comments to the proposed subdivision.

**F. Utilities**

Utility providers were provided a referral response request for the proposed subdivision. AT&T reviewed the requested and there should be no conflicts with AT&T Long Line facilities. CenturyLink had no objection to the request. Core Electric Cooperative had no comment and Xcel Energy had no apparent conflict. Black Hills Energy or Comcast did not provided a comment on the application. General purpose utility easements for these providers are established on the plat.

**G. Dedications**

The County will accept general purpose utility easements via the plat.

**H. Parks, Trails, and Open Space**

There are no parks, trails, or open space areas associated with this proposal. Per Article 10 of the DCSR, the minimum cash-in-lieu fee for minor development final plats, which create ten or fewer residential lots shall be \$250.00 for each new residential lot. A payment of \$250.00 is required prior to plat recordation per proposed condition of approval #2.

**VI. PUBLIC NOTICE AND INPUT**

Courtesy notices were mailed to abutting property owners and referral response requests were sent to the referral agencies during the referral period on November 16, 2023 through December 14, 2023. No formal comments or concerns were received from the public regarding this application at the writing of the staff report. Staff did receive phone

calls and walk-ins from members of the public once the signs were posted on the property regarding access, density, and process.

All referral agency comments are outlined in the Referral Agency Response Report attached to the staff report, and the applicant has provided responses to referral comments within letters included in the staff report appendix.

Published and posted public notice is required for both the minor development plat and the water appeal request as provided for in Section 608 of the DCSR and Section 1810A of the DCZR.

## **VII. STAFF ANALYSIS**

Per Article 603 of the DCSR, a minor development final plat may be approved upon the finding by the Board of County Commissioners that the following standards have been met:

### **603.01 Conforms with the goals, objectives, and policies of the Master Plan.**

*Staff Comment: The proposed subdivision is located within the Franktown Subarea as identified in Section 4 of the CMP, specifically within the designated Transition Area. Policy 4-1C.1 allows up to one dwelling unit per 10 acres where the land serves as a logical transition between rural site plan density and historical large-lot development patterns. The plan preserves important site characteristics such as existing vegetation and steep slopes through the implementation of building envelopes within the proposed lots.*

### **603.02 Addresses the design elements established in Section 404 – Preliminary Plan, herein.**

*Staff Comment: The minor development final plat is in conformance with the design elements listed in 404, as follow:*

*.01 – The proposed lots meet the minimum lot size standards of the LRR zone district and are compatible with the adjacent area. Lots are of a size and configuration that can accommodate the LRR for minimum setbacks and residential parking requirements.*

*.02 – There are no known geological hazards, wildfire or other hazardous conditions located on the proposed lots. Site specific analysis and foundation designs will occur at the time of building permit request.*

*.03 – The proposed lots are compatible with the adjacent area.*

*.04 – Existing access easements provide access to the subject site.*

*.05 – The size and scale of the minor development final plat will not involve grading that will alter the site's natural terrain.*

*.06 – There are no known historic, archaeological, or paleontological resources on the site. The applicant will take care to watch for resources during grading and construction activities.*

*.07 – The minor development final plat for two lots is not the scale that triggers the requirements for vehicular, pedestrian, or other connections within the subdivision or adjacent neighborhoods.*

*.08 – There were no additional requirements for development reports or technical studies due to the scope and size of the minor development final plat.*

**603.03 Conforms with Section 18A, Water Supply - Overlay District, of the Zoning Resolution.**

Staff Comment: *The two lots will be served by individual wells. The water supply source and demand standards conform with the requirements of 18A. However, a declaration of restrictive covenants reserving all Denver Basin Aquifer water rights for future landowners is not possible, and the applicant has requested an appeal of this requirement. The Colorado Division of Water Resources has reviewed the application and issued an opinion that the water is adequate and can be provided without causing injury to decreed water rights.*

**1803A.01 The applicant has demonstrated that the water rights can be used for the proposed use(s).**

Staff comment: *The applicant has submitted water documentation that demonstrates water rights are available to serve the two residential lots. CDWR and LWS reviewed the application and indicated that the amount of water is adequate to annually serve the subdivision, and that water is physically available based on current conditions. A water appeal is necessary given that the applicant does not own all the water rights beneath the property.*

**1803A.02 The reliability of a renewable right has been analyzed and is deemed sufficient by the County based on its priority date within the Colorado System of Water Rights Administration.**

Staff comment: *No renewable water rights are proposed as part of the application.*

**1803A.03 The Water Plan is deemed adequate and feasible by the County to ensure that water supply shortages will not occur due to variations in the hydrologic cycle.**

Staff comment: *Non-tributary wells will serve the subdivision. While not all water beneath the property will be available for future landowners to use, water in the non-tributary Denver aquifer (2.5-acre feet/year) and the Arapahoe aquifer (2.5-acre feet per year) is available to serve the two lots and provide backup supplies if necessary.*

**1803A.04 The Water Plan is sufficient to meet the demand applicable to the project based on the minimum water demand standards in Section 1805A herein.**

Staff comment: *The applicant has submitted water documentation that demonstrates adjudicated water rights are available to adequately to serve the presumed water demand of 2-acre feet for the development (2-acre foot per year for 2 single-family residences). adequate to annually serve the subdivision, and that water is physically available based on current conditions. Wells must be drilled to the Denver aquifer.*

**603.04 Provides for a public wastewater collection and treatment system, and, if other methods of wastewater collection and treatment are proposed, such systems shall comply with State and local laws and regulations.**

Staff Comment: *Sanitation will be provided through the use of two individual OWTS, which will comply with Douglas County Health Department permitting and maintenance requirements. During the referral period, DCHD had no comments to the proposal.*

**603.05 Identifies all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions and that the proposed uses of these areas are compatible with such conditions.**

Staff Comment: *CGS has no objection to the minor development final plat.*

**603.06 Provides adequate drainage improvements.**

Staff Comment: *Given the proposal, a Phase III Drainage Report was not required for this application. No subdivision improvements agreement was required.*

**603.07 Provides adequate transportation improvements.**

Staff Comment: *The applicant submitted a traffic conformance letter for the project that has been reviewed and accepted as adequate by Engineering. No road improvements are required, and existing easements will provide access to the subject property. No subdivision improvements agreement was required.*

**603.08 Protects significant cultural, archaeological, natural, and historical resources, and unique landforms.**

Staff Comment: *No unique landforms are associated within the property. Further, there are no known archeological or paleontological resources onsite. As provided within condition of approval #3, the applicant will take care to look for any such items during development and construction of the site.*

**603.09 Demonstrates the extraction of any known commercial mining deposit shall not be impeded.**

Staff Comment: *There are no known commercial mining deposits or significant mineral deposits on site per the Douglas County Mineral Extraction Plan.*

**603.10 Has available all necessary services, including fire and police protection, recreation facilities, utility service facilities, streets, and open space to serve the proposed subdivision.**

*Staff Comment: All such services are available to the subdivision. Fire protection is provided by Franktown Fire, and the Douglas County Sheriff's Office provides police protection. Utility service facilities are available to the to the lots that are being established.*

### **18A Appeal Criteria**

Per Section 1808A.07 of the DCZR, the 18A Appeal shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

**(1) The request will not be detrimental to the health, safety, or welfare of the present or future inhabitants of the County.**

*Staff Comment: While the intent of the regulations is to reserve all Denver Basin aquifer water beneath the subdivision for future landowners, certain water rights were previously severed from the property and are unavailable for use by the applicant. However, the applicant will record a Declaration of Restrictive Covenants to tie all remaining water rights to the land. As noted by the County's Water Consultant (LWS) in its review of the appeal request, there is a total of 5.0-acre feet of water available to supply the subdivision. Water in the Arapahoe Aquifer can serve as backup supply to the Denver aquifer wells. The applicant will deed 2.5-acre feet of water to each lot owner. Notes on the plat will put future lot owners on notice that wells may not be drilled to the Upper or Lower Dawson aquifers as these water rights have been severed from the property.*

**(2) For appeals to the Water Demand Standards set forth in Section 1805A or to the Documentation Standards set forth in Section 1806A, the application provides sufficient supporting data of alternate water demand criteria so the water supply is still considered sufficient in terms of quantity, quality, and dependability.**

*Staff Comment: The information provided by the applicant is sufficient for determining that the water supply is sufficient to serve the two-lot subdivision.*

**(3) For appeals to the timing of determining the adequacy of the water supply, the application identifies the stage at which the determination of adequacy shall be made.**

*Staff Comment: This criterion is not applicable, as the appeal is not related to the timing of the determination of the adequacy of the water supply.*

## **VIII. STAFF ASSESSMENT**

Two motions are required for the project, one for the appeal to Section 18A and the second for the minor development plat as noted herein:

Staff has evaluated the appeal to Sections 1804A and 1806A of the Water Supply Overlay District in accordance with Section 18A of the DCZR. Should the Planning Commission



find that the approval standards for the appeal are met, the following proposed condition should be considered for inclusion in the motion:

1. Concurrent with the recordation of the associated minor development final plat, a Declaration of Restrictive Covenants to reserve all water contained within the Denver and Arapahoe aquifers for future landowners within the subdivision shall be recorded.

Staff has evaluated the minor development final plat request in accordance with Article 6 of the *DCSR*. If the water appeal is approved by the Board, and if the Planning Commission find that the approval standards for the appeal are met, the following proposed conditions should be considered for inclusion in the motion:

1. Prior to recordation of the minor development final plat, the applicant shall pay school land dedication cash-in-lieu fees in the amount of \$500.00 to the Douglas County School District.
2. Prior to recordation of the minor development final plat, the applicant shall pay park land dedication cash-in-lieu fees of \$250.00 to Douglas County.
3. During construction activity within the development, the applicant, its successors and assigns shall take all reasonable care to watch for historic resources, paleontological resources, and other cultural history resources and shall immediately notify Douglas County and complete appropriate Colorado Office of Archaeology and Historic Preservation data management forms in the event of such discovery.
4. Prior to recordation of the minor development final plat, technical corrections to the plat exhibit shall be made to the satisfaction of Douglas County.

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## LAND USE APPLICATION

Please fill in this application form completely. An incomplete application will not be processed.

Note: Neither the Planning Commission nor the Board of County Commissioners should be contacted regarding an open application.

### OFFICE USE ONLY

PROJECT NAME: **Creekside Acres**

PROJECT FILE #:  
**SB2023-055**

PROJECT TYPE: Minor Subdivision

PLANNING FEES:

**\$2,600.00**

MARKETING NAME: N/A

ENGINEERING FEES:

**\$7,500.00**

SITE ADDRESS: 1481 Castlewood Canyon Rd

OWNER(S):

TOTAL FEES:

**\$10,100.00**

Name(s): JEFF ELLIS & Laura Gehrke

Address: 11979 S Allerton Cir, Parker 80138

Phone: 262-475-4436

Email: JEFFIS7777@YAHOO.COM

RELATED PROJECTS:

**PS2023-138**

AUTHORIZED REPRESENTATIVE (requires notarized letter of authorization if other than owner)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

### LEGAL DESCRIPTION:

Subdivision Name: N/A

Filing #: \_\_\_\_\_ Lot #: 3 Block #: \_\_\_\_\_ Section #: 10 Township: T8S Range: R66W

STATE PARCEL NUMBER(S): 2507-101-00-001

### ZONING:

Present Zoning: Ag Proposed Zoning: Ag Gross Acreage: 35

Gross Site Density (DU per AC): \_\_\_\_\_ # of Lots or Units Proposed: 2

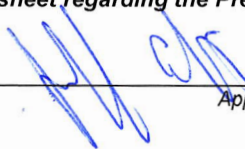
### SERVICE PROVIDERS:

Fire District: Franktown Metro District: \_\_\_\_\_ Gas: Excel

Water: well Sewer: Septic Electric: CORE

Roads: ☐ Public ☒ Private (please explain): Lot is served by 2 easements

To the best of my knowledge, the information contained on this application is true and correct. **I have received the County's information sheet regarding the Preble's Meadow Jumping Mouse.**



Applicant Signature

10-31-2023

Date

100 Third Street, Castle Rock, Colorado 80104 • 303.660.7460

Revised 03.04.2021

## Creekside Acres – Narrative

Our attorney has drafted a blanket easement to the effect that each lot owner must allow the other lot emergency access via their lot. Any fencing that is put up must also have an unlocked gate for said access. This is to satisfy the 2 points of egress/ingress because the lots will not border a public road.

We have included all of the soil, erosion control, plats, etc in the application packet. If anything is missing or incomplete, I will get it remedied on the priority as soon as I am notified.

605.02.1 The total land area to be subdivided.

35 acres M/L

605.02.2 The total number of lots and proposed use.

We are looking to divide our 35 acres at 1481 Castlewood Canyon Rd into two lots (approx 18 and 17 acres m/l).

605.02.3 The residential density.

The 35 acres to be divided is bounded on the north and west by 3 other 35 acre residential lots. To the east are smaller 2-3 acre residential lots. To the south is Castlewood Church and one other residential lot.

605.02.4 The total land area to be preserved as open space.

No acreage is to be set aside as open space as this is only a 2 lot division.

605.02.5 Roads, tracts, and easements, including ownership and maintenance responsibility.

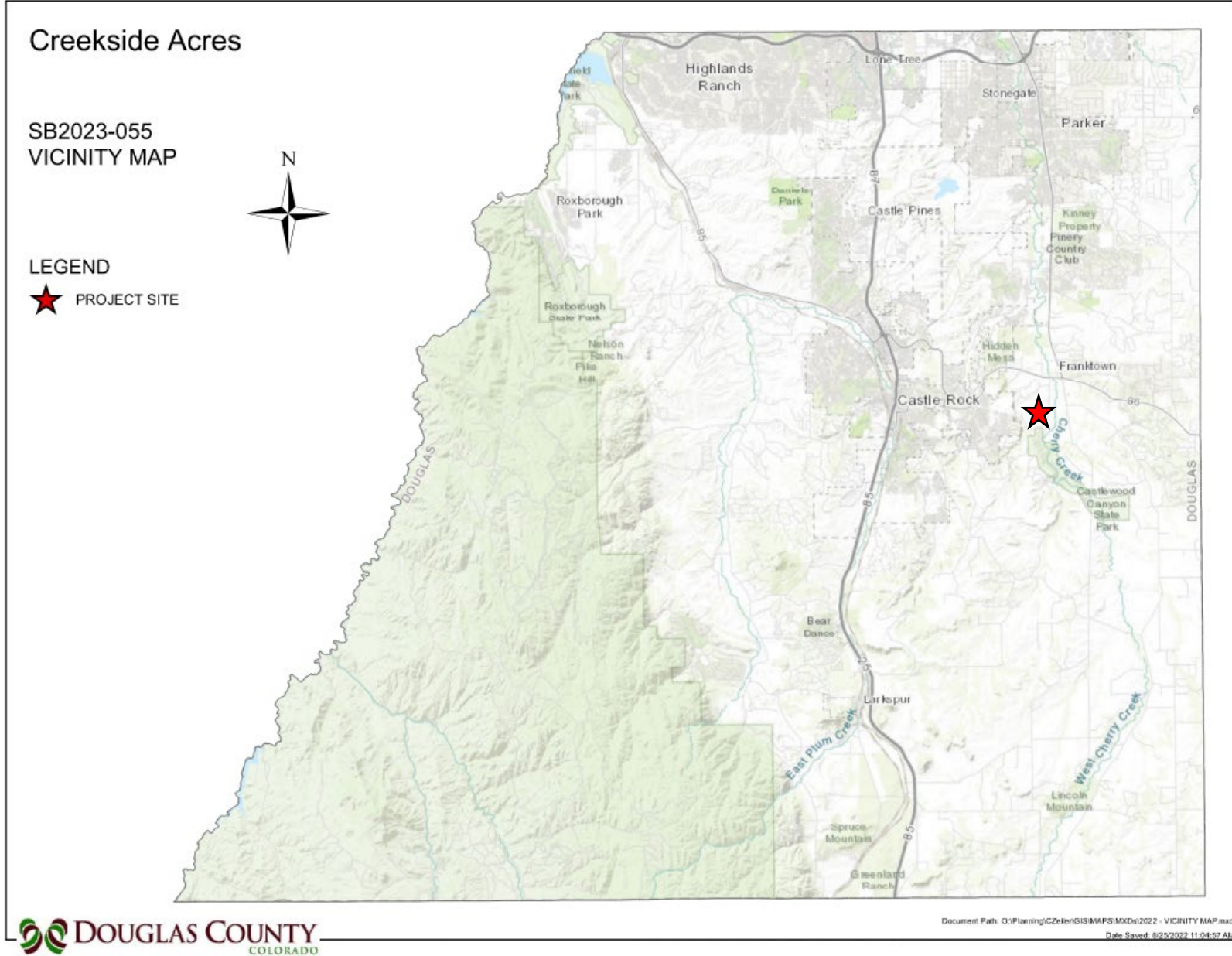
The division will be more or less east to west, creating a north lot and a south lot. The north lot will be serviced by an existing easement and shared driveway agreement with 1489 Castelwood Canyon Rd. The south lot will be served by an existing easement off the end of the private drive that serves Castlewood Canyon Church to the south of the subject lot. Driveway maintenance is a shared responsibility as declared in the original easement docs.

605.02.6 Land dedications for parks and schools.

There is no land dedication for parks and schools as this is only a 2 lot minor division.

605.02.7 Provision of water, sewer, and other utilities.

Water is available as declared in the included water decree. Water will be from private well installed at owners expense. Neither property has existing natural gas available nearby. It is expected that both lots will need to have propane systems installed. Electric for the north lot is already on the property as a CORE electric line goes across that property and serves primary power. The south lot will have electricity available on the east lot line as we are in the process of procuring and easement for CORE from the neighboring property there.

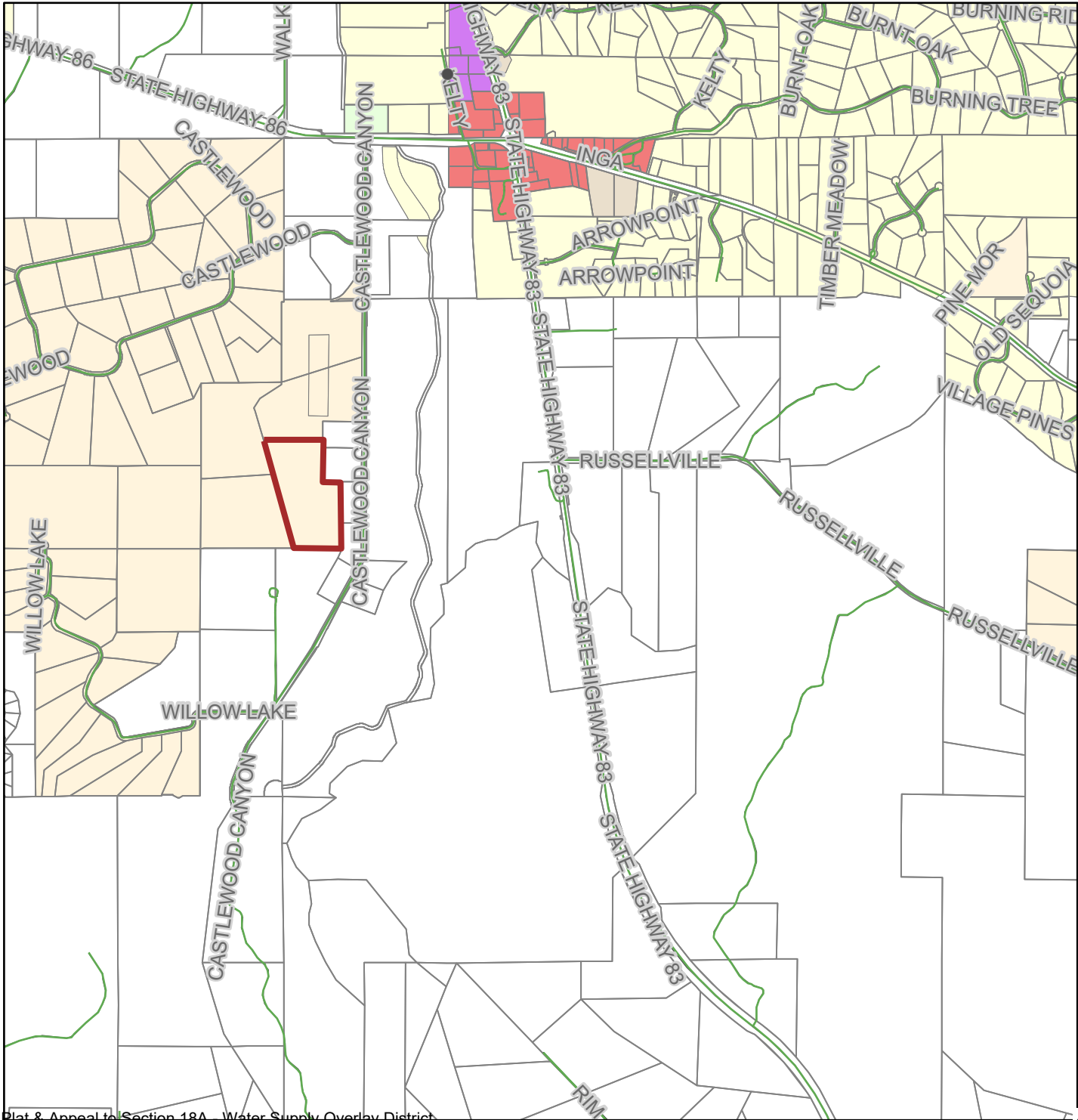


# Creekside Acres

SB2023-055  
Zoning Map



- LEGEND
- PROJECT SITE
  - A1 - AGRICULTURAL ONE
  - LRR - LARGE RURAL RESIDENTIAL
  - RR - RURAL RESIDENTIAL
  - C - COMMERCIAL
  - GI - GENERAL INDUSTRIAL
  - PD - PLANNED DEVELOPMENT
  - OS - OPEN SPACE CONSERVATION





# Creekside Acres

SB2023-055  
Aerial Map



LEGEND  
 PROJECT SITE



**Referral Agency Response Report****Page 1 of 4****Project Name:** Creekside Acres**Project File #:** SB2023-055**Date Sent:** 11/16/2023**Date Due:** 12/14/2023

Agency	Date Received	Agency Response	Response Resolution
Addressing Analyst	11/17/2023	Verbatim Response: The existing address on this property refers to Engineering's requirements regarding driveway locations and impacts to mapped floodplain per Debbie Kula, 2/19/2020. New addresses for the residential lots may be requested by email following approval and recordation of the Minor Development Plat.  Contact DCAddressing@douglas.co.us or 303.660.7411 with questions.	No action required at this time.
Assessor	12/14/2023	Verbatim Response: Please be aware of the following comments and concerns: -Please add owner's name and signature block  Regards, Mark Rankin	The minor development final plat exhibit was revised accordingly.
AT&T Long Distance - ROW	11/22/2023	Summary of Response: There should be no conflicts with AT&T Long Line facilities.	No action required.
Black Hills Energy		No Response Received.	
Building Services	12/01/2023	No Comment.	No action required.
Burning Tree Ranch HOA	12/04/2023	Verbatim Response: BTRHOA has no issues with this referral	No action required.
Castlewood Canyon State Park		No Response Received.	
Castlewood Subdivision ACC		No Response Received.	
CenturyLink	12/13/2023	Summary of Response: CenturyLink has no objections to the proposed subdivision. See letter attached for detail.	No action required.

**Referral Agency Response Report****Page 2 of 4****Project Name:** Creekside Acres**Project File #:** SB2023-055**Date Sent:** 11/16/2023**Date Due:** 12/14/2023

<b>Agency</b>	<b>Date Received</b>	<b>Agency Response</b>	<b>Response Resolution</b>
Cherry Creek Basin Water Quality Authority	11/21/2023	Verbatim Response: The Cherry Creek Basin Water Quality Authority (Authority) acknowledges notification from Douglas County that the proposed development plans for SB2023-055, Creekside Acres Minor Development have been or will be reviewed by Douglas County for compliance with the applicable Regulation 72 construction and post-construction requirements. Based on the Authority's current policy, the Authority will no longer routinely conduct a technical review and instead the Authority will defer to Douglas County's review and ultimate determination that the proposed development plans comply with Regulation 72. If a technical review of the proposed development plan is needed, please contact LandUseReferral@ccbwqa.org. The review may include consultation with the Authority's Technical Manager to address specific questions or to conduct a more detailed Land Use Review, if warranted.	No action required.
Colorado Division of Water Resources	11/20/2023	Summary of Response: The proposed water supply is adequate and can be provided without causing injury to decreed water rights. See letters attached for detail.	The applicant has submitted water documentation that demonstrates water rights are available to serve the two residential lots



**Referral Agency Response Report****Page 3 of 4****Project Name:** Creekside Acres**Project File #:** SB2023-055**Date Sent:** 11/16/2023**Date Due:** 12/14/2023

Agency	Date Received	Agency Response	Response Resolution
Colorado Geological Survey	12/13/2023	Verbatim Response: The Colorado Geological Survey georeferenced the 11/15/2023 Creekside Acres plat relative to slopes calculated using a high-resolution LiDAR-derived digital elevation model (map attached). I am concerned that the western building envelope limits in the southern half of proposed Lot 1 and all of proposed Lot 2 are too close (or on) the steep, 40+ ft. high slope above (east of) Willow Creek. To reduce the risk of damage to yards and structures due to erosion, slope failure, and shallow slumping, CGS recommends a non-buildable setback from the crest of the steep slope. The setback should be equal to at least the height of the slope, approximately 40 feet in this case. --Jill Carlson, Engineering geologist, Colorado Geological Survey, carlson@mines.edu	The applicant coordinated with CGS and amended their building envelopes as depicted on the minor development final plat exhibit. CGS indicated that the revised exhibit maintains an approximate 20-foot setback from the steep slope above willow creek which is acceptable to CGS.  Standard geotechnical explorations of individual building sites will be required at the time of construction as part of the building permit process
Colorado Parks and Wildlife		No Response Received.	
Comcast		No Response Received.	
CORE Electric Cooperative	12/13/2023	No Comment.	No action required.
Douglas County Conservation District		No Response Received.	
Douglas County Health Department	12/14/2023	Summary of Response: DCHD has no comments. See letter attached for detail.	No action required.
Douglas County Historic Preservation	12/14/2023	Summary of Response: HPB recommended a Class II cultural resource survey be conducted by the applicant prior to any earth moving activities on-site, to identify and record any new sites. See letter and correspondence attached for detail.	The applicant responded to the referral comment and noted that a Class III Cultural Resource Survey will not be performed at this time but committed to doing a Class 1 cultural resource survey and that if such discoveries are found on the subject property than the applicant will notify the County in the event of such discovery

**Referral Agency Response Report****Page 4 of 4****Project Name:** Creekside Acres**Project File #:** SB2023-055**Date Sent:** 11/16/2023**Date Due:** 12/14/2023

<b>Agency</b>	<b>Date Received</b>	<b>Agency Response</b>	<b>Response Resolution</b>
Douglas County Parks and Trails	12/18/2023	Summary of Response: Per Article 10 of the DCSR, \$250 per new lot for park land dedication cash-in-lieu is required.	A payment of \$250.00 is required prior to plat recordation per proposed condition of approval #2.
Douglas County School District RE 1		No Response Received.	
East Rim Ranch POA		No Response Received.	
Engineering Services	12/12/2023	Public Works Engineering provided technical comments related to the project. See letters attached for detail.	The applicant addressed all comments provided by Engineering.
Franktown Citizens Coalition II Inc		No Response Received.	
Franktown FD		No Response Received.	
Kelty Farms HOA		No Response Received.	
Legacy Pines HOA		No Response Received.	
Mile High Flood District		No Response Received.	
Office of Emergency Management	11/17/2023	Verbatim Response: OEM has no concerns with this project.	No action required.
Open Space and Natural Resources		No Response Received.	
Rural Water Authority of Douglas County		No Response Received.	
Sheriff's Office		No Response Received.	
Sheriff's Office E911		No Response Received.	
Town of Castle Rock	11/21/2023	Summary of Response: Town has no concerns with the request. Please refer to attached TOCR Memo.	No action required.
Village Pines Circle HOA		No Response Received.	
Whispering Pines HOA		No Response Received.	
Wildfire Mitigation		No Response Received.	
Xcel Energy-Right of Way & Permits	11/21/2023	Summary of Response: Xcel Energy has no apparent conflict.	No action required.

## Eric Pavlinek

---

**From:** annb cwc64.com <annb@cwc64.com>  
**Sent:** Wednesday, November 22, 2023 2:40 PM  
**To:** Eric Pavlinek  
**Cc:** Pam Choy (pc2914@att.com); duanew cwc64.com; jt cwc64.com  
**Subject:** N Castlewood Canyon Rd Castle Rock, Colorado Douglas County eReferral #SB2023-055  
**Attachments:** N Castlewood Canyon Rd Castle Rock, Colorado.jpg

Hi Eric,

This is in response to your eReferral with a utility map showing any buried AT&T Long Line Fiber Optics near N Castlewood Canyon Rd Castle Rock, Colorado. The Earth map shows the project area in red and the buried AT&T Long Line Fiber Optics in yellow. Based on the address and/or map you provided, there should be NO conflicts with the AT&T Long Line facilities.

Please feel free to contact us with any questions or concerns.

Ann Barnowski  
Clearwater Consulting Group Inc  
120 9th Avenue South  
Suite 140  
Nampa, ID 83651  
Annb@cwc64.com

The attached google earth maps are intended to show approximate locations of the buried AT&T long line fiber optic cable. The maps are provided for informational purposes only. In no way should the maps be used for anything other than general guidelines as to where the fiber is or is not and any other use of these maps is strictly prohibited.

-----Original Message-----

From: epavlinek@douglas.co.us <epavlinek@douglas.co.us>  
Sent: Thursday, November 16, 2023 11:12 AM  
To: annb cwc64.com <annb@cwc64.com>  
Subject: Douglas County eReferral (SB2023-055) Is Ready For Review

There is an eReferral for your review. Please use the following link to log on to your account:  
<https://apps.douglas.co.us/planning/projects/Login.aspx>

SB2023-055, Creekside Acres Minor Development, The applicant proposes a Minor Development to subdivide their property into 2 residential lots.

This referral will close on Thursday, December 14, 2023.

If you have any questions, please contact me.

Sincerely,

Eric Pavlinek  
Planning Services  
100 Third Street





**PROJECT AREA**

**AT&T LONG LINE FIBER OPTICS**

Baird Reservoir Number 1

Russellville Gulch

Castlewood Canyon Rd

Castlewood

Castlewood Canyon Rd

Castlewood Dr





12/13/23

Eric Pavlinek, Planning Services - Castle Rock - Douglas County Planning

**SUBJECT: CASE: SB2023-055 APPROVAL TO PROCEED:** Subject Location:

PID: 2507-101-00-001: 1481 N Castlewood Canyon Rd, Franktown, CO 80116

To Whom It May Concern:

CenturyLink of Colorado, Inc. d/b/a CenturyLink ("CenturyLink") is the holder of rights granted by that certain plat, Creekside Acres, dated October 30, 2023, located in the office of the Clerk and Recorder of Douglas County, Colorado.

CenturyLink has reviewed your request to proceed with improvements as shown on Exhibit "A" ("Improvements"), said Exhibit "A" attached hereto and incorporated by this reference, within the Easement Tract and has no objections providing, however, the following terms and conditions are agreed to, and met, by Landowner:

- 1. Locates must be performed by a state recognized organization (i.e. Call Before You Dig, Blue Stake, etc.).**
- 2. A minimum of three feet of cover above CenturyLink facilities is maintained at all times and the final grade provides for no less than three feet of cover.**
- 3. If any CenturyLink facilities are damaged or require relocation as a result of said Improvements, or the act of installing, maintaining or removing said Improvements, Landowner agrees to bear the cost of repair and/or relocation of said CenturyLink facilities.**
- 4. No buildings or structures are to be placed within the Easement Tract other than those, if any, that are approved by this APPROVAL TO PROCEED**
- 5. ENGINEER NOTES: I have NO RESERVATIONS regarding this request.**

It is the intent and understanding of CenturyLink that this action shall not reduce our rights to any existing easements or rights we have on this site or in the area.

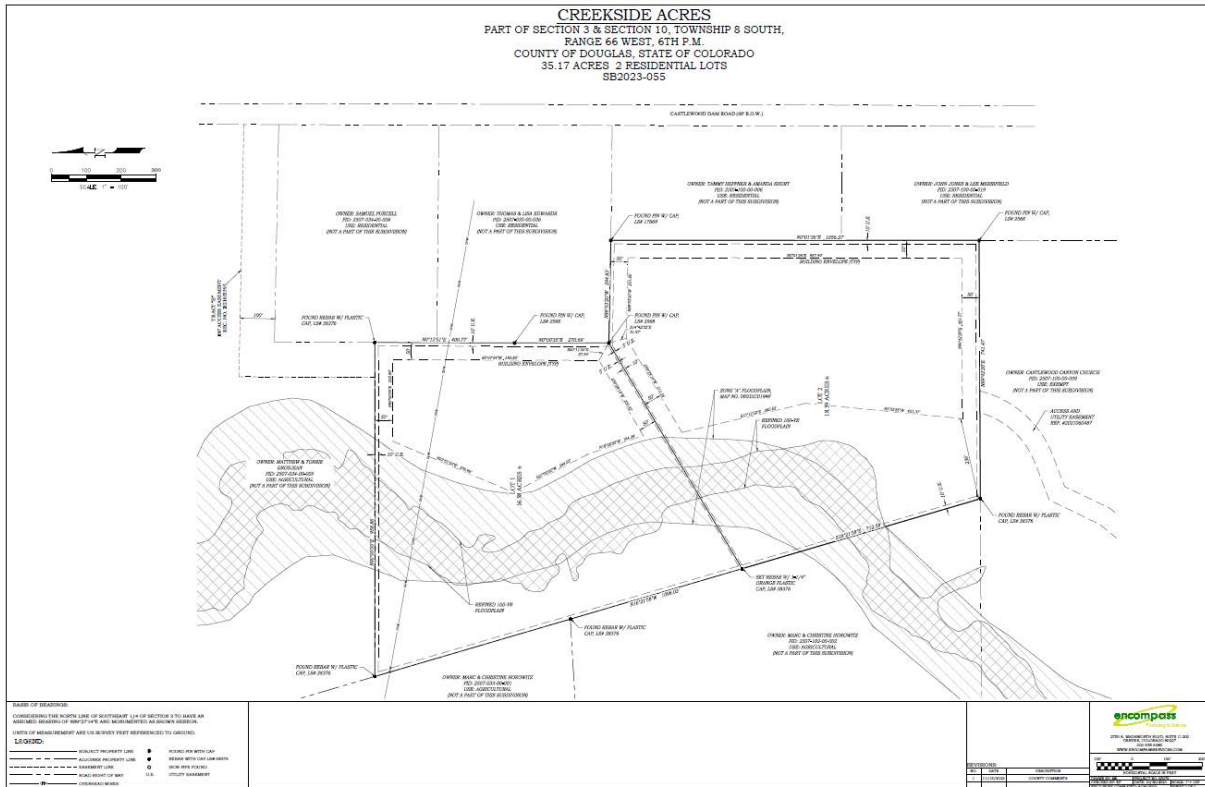
Sincerely yours,

/s/

CenturyLink Right of Way Team

**EXHIBIT A**

**CREEKSIDE ACRES**  
PART OF SECTION 3 & SECTION 10, TOWNSHIP 8 SOUTH,  
RANGE 66 WEST, 6TH P.M.  
COUNTY OF DOUGLAS, STATE OF COLORADO  
35.17 ACRES 2 RESIDENTIAL LOTS  
SB2023-055



### Location Description

TRACT IN NW1/4NE1/4 & NE1/4NW1/4 10-8-66 AND  
SW1/4SE1/4 & SE1/4SW1/4 3-8-66 35.17 AM/L  
PARCEL 3 LSP 10005469

## Eric Pavlinek

---

**Subject:** RE: [EXTERNAL] FW: Creekside Acres SB2023-055

---

**From:** Jill Carlson <carlson@mines.edu>  
**Sent:** Wednesday, January 17, 2024 1:53 PM  
**To:** Eric Pavlinek <epavlinek@douglas.co.us>  
**Subject:** Re: [EXTERNAL] FW: Creekside Acres SB2023-055

Hi Eric,

I georeferenced the 12/18/2023 Creekside Acres plat with revised building envelopes. There is now an adequate setback of at least 20 feet between the crest of the steep slope above Willow Creek and proposed building envelopes. I would have preferred 40 feet, but 20 ft. is acceptable.

Thanks,  
Jill Carlson

---

**From:** Eric Pavlinek <[epavlinek@douglas.co.us](mailto:epavlinek@douglas.co.us)>  
**Sent:** Tuesday, January 16, 2024 9:51 AM  
**To:** Jill Carlson <[carlson@mines.edu](mailto:carlson@mines.edu)>  
**Subject:** [EXTERNAL] FW: Creekside Acres SB2023-055

**CAUTION:** This email originated from outside of the Colorado School of Mines organization. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Jill,

I am reaching out to see if you have additional comments based on the applicant's revised plans provided for review. Below are your comments provided during the referral period for this application:

The Colorado Geological Survey georeferenced the 11/15/2023 Creekside Acres plat relative to slopes calculated using a high-resolution LiDAR-derived digital elevation model (map attached). I am concerned that the western building envelope limits in the southern half of proposed Lot 1 and all of proposed Lot 2 are too close (or on) the steep, 40+ ft. high slope above (east of) Willow Creek. To reduce the risk of damage to yards and structures due to erosion, slope failure, and shallow slumping, CGS recommends a non-buildable setback from the crest of the steep slope. The setback should be equal to at least the height of the slope, approximately 40 feet in this case. --Jill Carlson, Engineering geologist, Colorado Geological Survey, [carlson@mines.edu](mailto:carlson@mines.edu)

Thanks,  
**Eric Pavlinek** | Principal Planner  
**Douglas County Department of Community Development**  
**Planning Services Division**  
**Address** | 100 Third St., Castle Rock, CO 80104  
**Direct** | 303.814.4377 **Main** | 303.660.7460  
**Email** [epavlinek@douglas.co.us](mailto:epavlinek@douglas.co.us)



November 20, 2023

Eric Pavlinek  
Douglas County Planning Department  
Transmission via email: [epavlinek@douglas.co.us](mailto:epavlinek@douglas.co.us)

**RE: Creekside Acres Minor Subdivision**  
**Project File No. SB2023-055**  
**Part of the SE ¼ of the SW ¼, and part of the SW ¼ of the SE ¼, Section 3, T8S,**  
**R66W, 6<sup>th</sup> P.M. and part of the NE ¼ of the NW ¼ and part of NW ¼ of the NE ¼,**  
**Section 10, T8S, R65W, 6<sup>th</sup> P.M.**  
**Water Division 1, Water District 8**

Dear Eric Pavlinek:

We have reviewed the information received November 16, 2023 regarding the above referenced proposal to subdivide 35 acres into 2 single-family residential lots of 16.58 acres and 18.59 acres.

### **Water Supply Demand**

According to a letter dated August 23, 2023 from Jehn Water Consultants (“Letter”), the annual water demand for each lot is 1 acre-foot based on Douglas County’s Zoning Resolution 1805A-02-1. According to the letter the applicant owns a portion of the groundwater rights in Division 1 Water Court case nos. 89CW150, 89CW151, 88CW026 and 04CW24.

### **Source of Water Supply**

The proposed water source for each residential lot was not provided. Based on the special warranty deed provided with the Letter, the applicant owns 2.5 acre-feet from the nontributary Denver aquifer and 2.5 acre-feet from the nontributary Arapahoe aquifer decreed in Division 1 Water Court case nos. 89CW150, 89CW151, 88CW026 and 04CW24. The deed also indicates the applicant owns 2.56 acre-feet of not-nontributary Upper Dawson aquifer groundwater removed from the decrees to be available for drilling exempt wells under CRS 37-92-602.

The letter also indicates a well decreed in case no. W-2232 withdrawing groundwater from the alluvial aquifer is located on the subject property. Section 37-92-602(3)(b)(III), C.R.S., requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. **The applicant must clarify if the well will be used within the subdivision. Should the well be used within the subdivision the applicant must clarify if they will either re-permit the well decreed in case no. W-2232 pursuant to a water court approved plan for augmentation or else plug and abandon the well in accordance with the Water Well Construction Rules prior to approval of the final plat.**

### **State Engineer’s Office Opinion**

Based on the above and pursuant to Section 30-28-136(1)(h)( I), C.R.S., the State Engineer’s Office has not received enough information to render an opinion regarding the adequacy of the





proposed water supply. **Prior to further review of the subdivision water supply plan the following information is required:**

1. The Applicant must clarify which aquifer(s) will be the water supply for each lot.
2. Should the proposed water supply be well(s) in the Dawson aquifer, a water court approved augmentation plan must be approved prior to approval of the subdivision.
3. The Applicant must clarify if the well decreed in case no. W-2232 will be used within the subdivision and if so, if the well will be re-permitted pursuant to a water court approved augmentation plan or if the well will be plugged and abandoned prior to subdivision approval.

If you, or the Applicant, have any questions please contact Ailis Thyne at 303-866-3581 x8216.

Sincerely,



Ioana Comaniciu, P.E.  
Water Resource Engineer

Ec: Referral No. 31069



December 14, 2023

Eric Pavlinek  
Douglas County Planning Department  
Transmission via email: [epavlinek@douglas.co.us](mailto:epavlinek@douglas.co.us)

**RE: Creekside Acres Minor Subdivision**  
**Project File No. SB2023-055**  
**Part of the SE ¼ of the SW ¼, and part of the SW ¼ of the SE ¼, Section 3, T8S,**  
**R66W, 6<sup>th</sup> P.M. and part of the NE ¼ of the NW ¼ and part of NW ¼ of the NE ¼,**  
**Section 10, T8S, R65W, 6<sup>th</sup> P.M.**  
**Water Division 1, Water District 8**

Dear Eric Pavlinek:

We have reviewed the additional information received November 27, 2023 regarding the above referenced proposal to subdivide 35 acres into 2 single-family residential lots of 16.58 acres and 18.59 acres.

### **Water Supply Demand**

According to a letter dated August 23, 2023 from Jehn Water Consultants (“Letter”), the annual water demand for each lot is 1 acre-foot based on Douglas County’s Zoning Resolution 1805A-02-1. According to the letter the applicant owns a portion of the groundwater rights in Division 1 Water Court case nos. 89CW150, 89CW151, 88CW026 and 04CW24.

### **Source of Water Supply**

Per the correspondence dated November 27, 2023 from Gina Burke the proposed water source for each residential lot is wells in either the Denver or Arapahoe aquifers since an augmentation plan for the Upper Dawson aquifer has not been applied for. Based on the special warranty deed provided with the Letter, the applicant owns 2.5 acre-feet from the nontributary Denver aquifer and 2.5 acre-feet from the nontributary Arapahoe aquifer decreed in Division 1 Water Court case nos. 89CW150, 89CW151, 88CW026 and 04CW24. The deed also indicates the applicant owns 2.56 acre-feet of not-nontributary Upper Dawson aquifer groundwater removed from the decrees to be available for drilling exempt wells under CRS 37-92-602.

The estimated aquifer depths for the Denver aquifer on the property are 565 feet to 1345 feet below ground surface and for the Arapahoe aquifer is 1430 feet to 1945 feet below ground surface. Wells constructed in these aquifers would have to penetrate multiple confining layers and be constructed with solid steel casing and grouted in accordance with Well Construction Rule 10.4.5.2 (2 CCR 402-2). Given the depth interval for the Denver and Arapahoe aquifer wells, and the requirement of Rule 10.4.5.2, we recommend that prior to the subdivision approval, the County considers the high cost of drilling a well into these aquifers and determine if individual on lot wells in these aquifers is an economically feasible water supply for future lot owners in this subdivision.



The Letter also indicates a well decreed in case no. W-2232 withdrawing groundwater from the alluvial aquifer is located on the subject property. Section 37-92-602(3)(b)(III), C.R.S., requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. **The correspondence states the applicant will plug and abandon the well in accordance with the Water Well Construction Rules prior to approval of the final plat.**

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to section 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in case nos. 89CW150, 89CW151, 88CW026 and 04CW24 are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

Applications for on lot well permits, submitted by an entity other than the current water right holder, Laura Gehrke and Jeff Ellis, must include evidence that the applicant has acquired the right to the portion of water being requested on the application.

#### **State Engineer's Office Opinion**

Based upon the above and pursuant to section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed uses is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

**The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.**

If you, or the Applicant, have any questions please contact Ailis Thyne at 303-866-3581 x8216.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ioana Comaniciu".

Ioana Comaniciu, P.E.  
Water Resource Engineer

Ec: Referral No. 31069

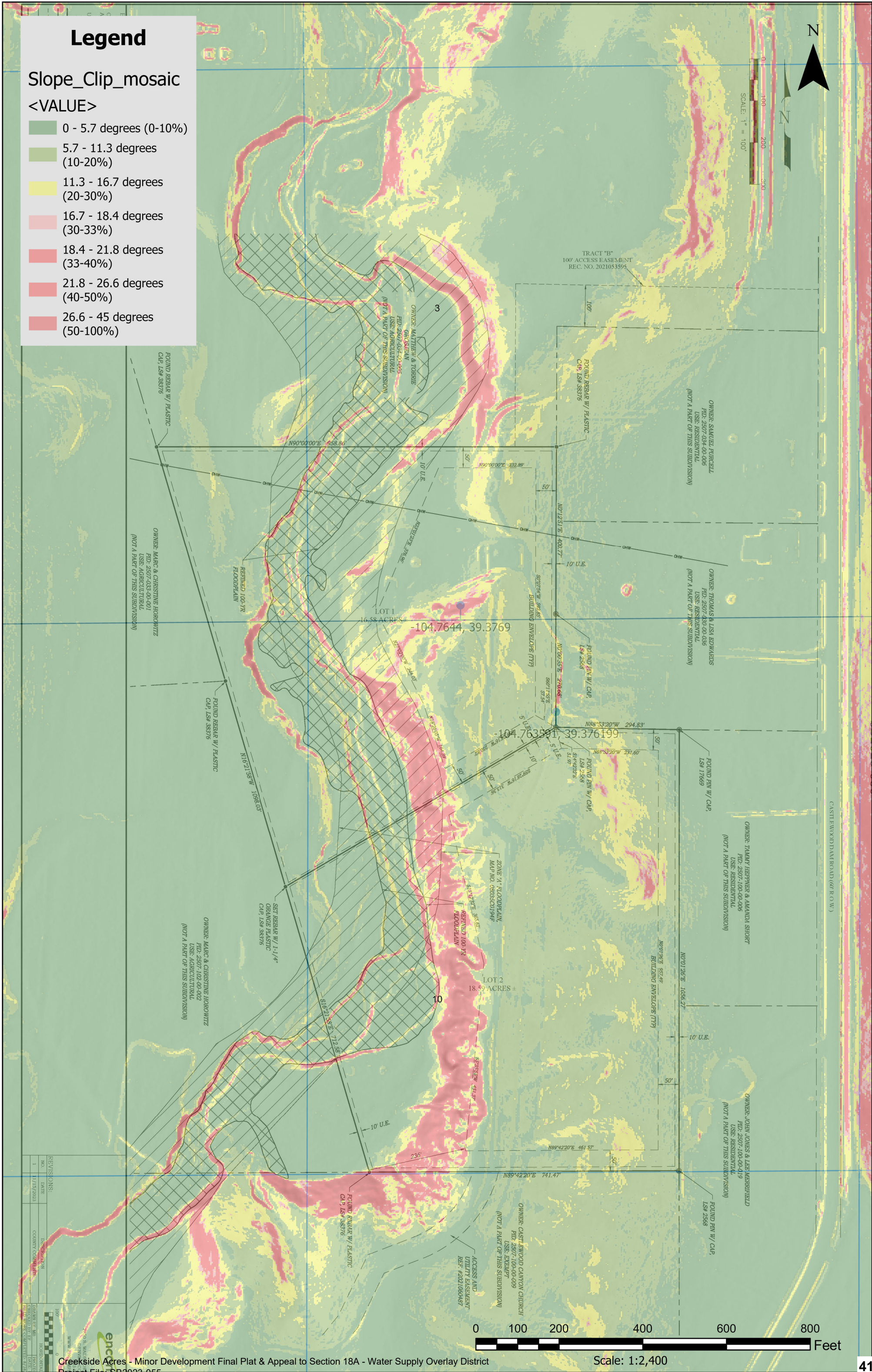
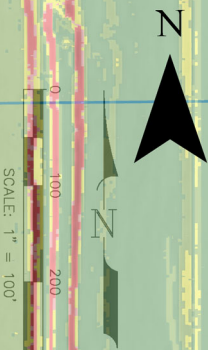


Legend

Slope\_Clip\_mosaic

<VALUE>

- 0 - 5.7 degrees (0-10%)
- 5.7 - 11.3 degrees (10-20%)
- 11.3 - 16.7 degrees (20-30%)
- 16.7 - 18.4 degrees (30-33%)
- 18.4 - 21.8 degrees (33-40%)
- 21.8 - 26.6 degrees (40-50%)
- 26.6 - 45 degrees (50-100%)



REVISIONS:			
NO.	DATE	DESCRIPTION	DRAWN BY
1	11/15/2023	COUNTY COMMENTS	DATE



Scale: 1:2,400



---

12/14/2023

Eric Pavlinek  
100 Third St.  
Castle Rock, CO 80104

RE: SB2023-055

Dear Eric Pavlinek,

Thank you for the opportunity to review and comment on the request to create two single family residential lots and an appeal to the standards of section 18A. Douglas County Health Department (DCHD) staff have reviewed the application for compliance with applicable environmental and public health regulations. After reviewing the application, DCHD has no comments.

Sincerely,

Jacob Deitz

cc: Caitlin Gappa

December 14, 2023

Erik Pavlinek  
Principal Planner  
100 Third Street  
Castle Rock, CO 80104

Re: SB2023-055, Creekside Acres Minor Development

Dear Mr. Pavlinek:

This letter provides comments regarding the proposal to subdivide a Minor Development into 2 residential lots.

Upon researching the cultural resources on the property, the Douglas County Curator recommends a Class II cultural resource survey of the project area or recommends the applicant provide a cultural resource survey report if the work is already completed.

There is potential for buried archaeological resources related to prehistoric activities in the project area and potential for the discovery of subsurface cultural deposits during ground moving activities. Should buried artifacts and features be discovered, we recommend completion of the appropriate Colorado Office of Archaeology and Historic Preservation (OAHP) Data Management and Historic and/or Prehistoric Component forms, following OAHP guidelines, with accompanying sketch maps and photographs. Completed forms are submitted to OAHP to ensure that Douglas County's historic or prehistoric data is included in the Colorado OAHP state-wide database of cultural resources.

Thank you in advance for your attention to the preservation and protection of Douglas County's cultural resources for future generations.

Sincerely,

*Brittany Cassell*

Brittany Cassell, Curator

## Eric Pavlinek

---

**Subject:** RE: Project File: SB2023-055

---

**From:** Brittany Cassell <bcassell@douglas.co.us>

**Sent:** Thursday, January 25, 2024 2:34 PM

**To:** Eric Pavlinek <epavlinek@douglas.co.us>

**Cc:** Lauren Pulver <lpulver@douglas.co.us>

**Subject:** RE: Project File: SB2023-055

Hi Eric,

Due to the nature of this subdivision request and the limited ground disturbance that is planned, a Class I survey will suffice for this minor development request. Depending on the extent of significant resources that may be identified through the Class 1 survey process, additional mitigation or consideration for these resources may need to be addressed through more detailed site survey work or a condition of approval that during construction activity within the development, the applicant, its successors and assigns shall take all reasonable care to watch for historic resources, paleontological resources, and other cultural resources and shall immediately notify Douglas County and complete appropriate Colorado Office of Archaeology and Historic Preservation data management forms in the event of such discovery.

Please let me know if there are any additional questions.

Thank you,  
Brittany



## Eric Pavlinek

---

**From:** Nick Giauque  
**Sent:** Monday, December 18, 2023 9:38 AM  
**To:** Eric Pavlinek  
**Subject:** SB2023-055 Creekside Acres Minor Development

Good Morning Eric,

With this development being less than 10 residential lots it requires a cash-in -lieu fee of \$250 for each new lots. In article 10 of the Douglas County Subdivision Resolution it reads "The minimum cash-in-lieu fee for minor development final plats or replats which create ten or fewer residential lots shall be \$250 for each new residential lot."

Thanks,  
Nick

**Nick Giauque, CPRP, CPSI** | Parks Program Manager  
**Douglas County Department of Community Development**  
**Parks, Trails & Building Grounds Division**  
**Address** | 9651 S. Quebec St., Littleton, CO 80130  
**Phone** | 720-733-6983  
**Email** | [ngiauque@douglas.co.us](mailto:ngiauque@douglas.co.us)



## REFERRAL RESPONSE REQUEST

Date Sent: November 16, 2023


Comments due by: December 14, 2023

**Project Name:** Creekside Acres

**Project File #:** SB2023-055

**Project Summary:** This is a request for a minor development to create two lots on approximately 35.17 acres. The property is zoned Large Rural Residential and is located approximately 1 mile south of the intersection of State Highway 86 and N Castlewood Canyon Road. The lots are proposed to be 16.58 acres, and 18.59 acres in size.

Information on the identified development proposal located in Douglas County is enclosed. Please review and comment in the space provided.

<input type="checkbox"/> No Comment	
<input type="checkbox"/> Please be advised of the following concerns:  	
<input checked="" type="checkbox"/> See letter attached for detail.	
<b>Agency:</b> Douglas County Public Works	<b>Phone #:</b> 303-660-7490
<b>Your Name:</b> Ken Murphy, P.E. (please print)	<b>Your Signature:</b>  <b>Date:</b> 12 DEC 2023

Agencies should be advised that failure to submit written comments prior to the due date, or to obtain the applicant's written approval of an extension, will result in written comments being accepted for informational purposes only.

Sincerely,  
  
 Eric Pavlinek, Project Planner

Enclosures

December 13, 2023

**DV2023-448**

Jeff Ellis  
11979 S Allerton Circle  
Parker, CO 80138  
[jellis7707@yahoo.com](mailto:jellis7707@yahoo.com)

RE: Creekside Acres – Minor Development Plat  
PWE Comments - **rev1**

Mr. Ellis,

Douglas County Public Works Engineering has reviewed your submittal. Our comments are below.

## TECHNICAL DOCUMENTATION

### Project Narrative and Planning Exhibit

- The plat shows Tract B as a 100-foot access easement through the lot addressed at 1489 N Castlewood Canyon Road. Please provide a copy of the recorded easement for review.

### Project Access

- Note that per Douglas County criteria, a residential driveway, or portion thereof, providing access to four or more lots is required to be designed and constructed to a County-approved roadway criteria.
  - In the case of this project, as proposed, the driveway providing access to Lot 2 would provide access to four properties (355 Willow Lake Drive, 385 and 389 N Castleton Canyon Road, and Lot 2.
  - This would require upgrading the segment of the driveway within 355 Willow Lake Drive to a roadway standard.
- To avoid needing to upgrade the driveway, we recommend having both Lot 1 and Lot 2 take access via the easement through the property addressed at 1489 N Castlewood Canyon Road.
  - This would require establishing an access easement through Lot 1 for the benefit of Lot 2.
  - If desired, an emergency access easement could be granted over Lot 2 for the benefit of Lot 1.
- Please amend the easement agreement, the narrative introduction, and the narrative section addressing DCSR 605.02.5 as needed to reflect any changes to the access configuration.

### Traffic Impact Analysis

- Thank you for providing the traffic impact letter. We have no comments for this item.

### Drainage Study

- Thank you for providing the documents related to mapping the refined floodplain. Please have the engineer provide a letter describing the purpose of the mapping and methods used to remap the floodplain. The letter should include and reference the technical documents as needed such that the letter can serve as a standalone document.

### Construction Documents (CDs)

**100 Third Street, Castle Rock, Colorado 80104 • 303.660.7490**

- Construction Documents are not required for this application.

#### **Grading Erosion and Sediment Control (GESC) Report and Plan**

- A GESC report and plans are not required for this application.

#### **Storm Drainage Operation & Maintenance (O & M) Manual**

- An O & M Manual is not required for this application.

### **ADMINISTRATIVE DOCUMENTATION**

Documents described below are required for final approvals and/or to start construction.

#### **Improvements Agreement (IA)**

- An IA is NOT required with this development.

#### **Temporary Construction Easement (TCE)**

- A recorded TCE is required for work on private land outside the project boundary.
- A TCE is an agreement between the project owner and off-site landowner. The project owner is responsible to execute, record and provide Public Works with copies of necessary recorded easements.
- County can provide a template easement upon request.

#### **Drainage Easement**

- Stormwater detention facilities are not planned with the project, therefore the easement is NOT required.

#### **GESC Permit**

- The project does not appear to include grading outside of the driveway. If additional grading is planned, please contact Public Works Engineering to obtain a GESC permit.

#### **Right-of-Way / Construction Permit**

- The project does not appear to include work which would require a ROW/Construction permit. If a permit is needed, e.g. for construction of a driveway connection to the right-of-way, contact the Permits and Inspections Division to apply for a ROW/Construction permit or other required permits.
- <https://www.douglas.co.us/public-works/permits/>

### **POST-CONSTRUCTION DOCUMENTATION**

- Post-construction documentation is not required with this project.

### **DOUGLAS COUNTY PUBLIC WORKS DEVELOPMENT RESOURCES**

Many resources including criteria manuals, agreement forms, warranty and maintenance applications, templates for O & M manuals and other items are available at the web page below:

- <https://www.douglas.co.us/public-works/development-review/>

Please let me know if you have any questions regarding the items above.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ken Murphy".

Kenneth M Murphy, P.E.  
Senior Development Review Engineer  
[kmurphy@douglas.co.us](mailto:kmurphy@douglas.co.us)

cc: DV File

January 31, 2024

**DV2023-448**

Jeff Ellis  
11979 S Allerton Circle  
Parker, CO 80138  
[jellis7707@yahoo.com](mailto:jellis7707@yahoo.com)

RE: Creekside Acres – Minor Development Plat  
PWE Comments – **rev2**

Mr. Ellis,

Douglas County Public Works Engineering has reviewed your submittal. Our comments are below.

#### **TECHNICAL DOCUMENTATION**

##### **Project Narrative and Planning Exhibit**

- Thank you for providing copies of the easements per the rev1 comment. We have no additional comments regarding access.

##### **Project Access**

- Per our discussions we understand three properties (Lot 2 of this project and two other existing parcels with habitable buildings) will take access via the southern easement and two properties (Lot 1 of this project and one other parcel) will take access via the northern easement. Given this, the plan to construct the access on a driveway section is consistent with Douglas County Driveway Regulations.

##### **Traffic Impact Analysis**

- Thank you for providing the traffic impact letter. We have no comments regarding traffic.

##### **Drainage Study**

- Thank you for providing the letter and supporting documentation to map the refined 100-year floodplain. We have no additional comments regarding drainage.

##### **Construction Documents (CDs)**

- Construction Documents are not required for this application.

##### **Grading Erosion and Sediment Control (GESC) Report and Plan**

- A GESC report and plans are not required for this application.

##### **Storm Drainage Operation & Maintenance (O & M) Manual**

- An O & M Manual is not required for this application.

#### **ADMINISTRATIVE DOCUMENTATION**

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- An IA is NOT required with this development.

**100 Third Street, Castle Rock, Colorado 80104 • 303.660.7490**

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Please let me know if you have any questions regarding the items above.

Respectfully,



Kenneth M Murphy, P.E.  
Senior Development Review Engineer  
[kmurphy@douglas.co.us](mailto:kmurphy@douglas.co.us)

cc: DV File





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### External Referral Comments

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**TO:** Eric Pavlinek, Douglas County Planning

**FROM:** Darcie Hartman, Development Services Technician, Development Services Department

**DATE:** November 21, 2023

**SUBJECT:** COU23-0027, Project No. SB2023-055

---

Thank you for the opportunity to review and respond to the proposed subdivision into four single family residential lots. The application was reviewed by various Town Departments with no concerns from the Town reviewers. Please keep us informed of any changes to the proposal. Thank you.

DEVELOPMENT SERVICES  
100 North Wilcox Street, Castle Rock, CO 80104. P: 720.733.2205 F: 720.733.2217 E: phall@crgov.com

EXCELLENCE • DEDICATION • SERVICE



**Right of Way & Permits**

1123 West 3<sup>rd</sup> Avenue  
Denver, Colorado 80223  
Telephone: 303.285.6612  
[violeta.ciocanu@xcelenergy.com](mailto:violeta.ciocanu@xcelenergy.com)

November 21, 2023

Douglas County Planning Services  
100 Third Street  
Castle Rock, CO 80104

Attn: Eric Pavlinek

**Re: Creekside Acres Minor Development, Case # SB2023-055**

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the plan for **Creekside Acres Minor Development** and has **no apparent conflict**.

As a safety precaution, PSCo would like to remind the developer to call the Utility Notification Center by dialing 811 for utility locates prior to construction.

Violeta Ciocanu (Chokanu)  
Right of Way and Permits  
Public Service Company of Colorado dba Xcel Energy  
Office: 303-285-6612 – Email: [violeta.ciocanu@xcelenergy.com](mailto:violeta.ciocanu@xcelenergy.com)

Dec 22, 2023

**Creekside Acres  
SB2023-055 (Minor Development)  
Post Referral Review**

**Addressing Analyst**

The existing address on this property refers to Engineering's requirements regarding driveway locations and impacts to mapped floodplain per Debbie Kula, 2/19/2020. New addresses for the residential lots may be requested by email following approval and recordation of the Minor Development Plat.

Contact

DCAddressing@douglas.co.us or  
303.660.7411 with questions.

Address(es) will be requested at the appropriate time, as indicated.

---

**Assessor - Douglas County**

Please add owner's name and  
signature block

Completed but not signed until approval per Eric

---

**Century Link**

CenturyLink has reviewed your request to proceed with improvements as shown on Exhibit "A" ("Improvements"), said Exhibit "A" attached hereto and incorporated by this reference, within the Easement Tract and has no objections providing, however, the following terms and conditions are agreed to, and met, by Landowner:

1. Locates must be performed by a state recognized organization (i.e. Call Before You Dig, Blue Stake, etc.).
2. A minimum of three feet of cover above CenturyLink facilities is maintained at all times and the final grade provides for no less than three feet of cover.
3. If any CenturyLink facilities are damaged or require relocation as a result of said Improvements, or the act of installing, maintaining or removing said Improvements, Landowner agrees to bear the cost of repair and/or relocation of said CenturyLink facilities.
4. No buildings or structures are to be placed within the Easement Tract other than those, if any, that are approved by this APPROVAL TO PROCEED
5. ENGINEER NOTES: I have NO RESERVATIONS regarding this request.

Above terms are accepted

---

**Cherry Creek Basin Water Quality Authority**

The Cherry Creek Basin Water Quality Authority (Authority) acknowledges notification from Douglas County that the proposed development plans for SB2023-055, Creekside Acres Minor Development have been or will be reviewed by Douglas County for compliance with the applicable Regulation 72 construction and post-construction requirements. Based on the Authority's current policy, the Authority will no longer routinely conduct a technical review and instead the Authority will defer to Douglas County's review and ultimate determination that the proposed development plans comply with Regulation 72. If a technical review of the proposed development plan is needed, please contact LandUseReferral@ccbwwqa.org. The review may include consultation with the Authority's Technical Manager to address specific questions or to conduct a more detailed Land Use Review, if warranted.

Douglas County is reviewing the water requirements.

---

## Colorado Division of Water Resources

### State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights. Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision. Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer. **The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.**

If you, or the Applicant, have any questions please contact Ailis Thyne at 303-866-3581 x8216.

The original water resource request accidentally omitted the amounts of water from each basin that will be granted to each lot. A follow up letter was submitted to DC as well as the state that clarified the amounts, and which aquifers.

As far as the state is concerned, there seems to be no issue as long as DC gives approval.

---

### **Colorado Geological Survey**

The Colorado Geological Survey georeferenced the 11/15/2023 Creekside Acres plat relative to slopes calculated using a high-resolution LiDAR-derived digital elevation model (map attached). I am concerned that the western building envelope limits in the southern half of proposed Lot 1 and all of proposed Lot 2 are too close (or on) the steep, 40+ ft. high slope above (east of) Willow Creek. To reduce the risk of damage to yards and structures due to erosion, slope failure, and shallow slumping, CGS recommends a non-buildable setback from the crest of the steep slope. The setback should be equal to at least the height of the slope, approximately 40 feet in this case.

--Jill Carlson, Engineering geologist,

Colorado Geological Survey,

[carlson@mines.edu](mailto:carlson@mines.edu)

We have redrawn the survey so that there is no building envelope at all in the areas below the steep ridgeline mentioned in the response. This survey was submitted to Douglas County as well as back to Jill at CGS. As of this writing we have not heard a response from CGS.

Subsequent response from CGS:

**From:** Jill Carlson <[carlson@mines.edu](mailto:carlson@mines.edu)>

**Sent:** Wednesday, January 17, 2024 1:53 PM

**To:** Eric Pavlinek <[epavlinek@douglas.co.us](mailto:epavlinek@douglas.co.us)>

**Subject:** Re: [EXTERNAL] FW: Creekside Acres SB2023-055

Hi Eric,

I georeferenced the 12/18/2023 Creekside Acres plat with revised building envelopes. There is now an adequate setback of at least 20 feet between the crest of the steep slope above Willow Creek and proposed building envelopes. I would have preferred 40 feet, but 20 ft. is acceptable.

Thanks,  
Jill Carlson

---

### **Douglas County Historic Preservation**

This letter provides comments regarding the proposal to subdivide a Minor Development into 2 residential lots. Upon researching the cultural resources on the property, the Douglas County Curator recommends a Class II cultural resource survey of the project

Creekside Acres - Minor Development Final Plat & Appeal to Section 18A - Water Supply Overlay District

Project File: SB2023-055

Planning Commission Staff Report - Page 46 of 200

area or recommends the applicant provide a cultural resource survey report if the work is already completed. There is potential for buried archaeological resources related to prehistoric activities in the project area and potential for the discovery of subsurface cultural deposits during ground moving activities. Should buried artifacts and features be discovered, we recommend completion of the appropriate Colorado Office of Archaeology and Historic Preservation (OAHP) Data Management and Historic and/or Prehistoric Component forms, following OAHP guidelines, with accompanying sketch maps and photographs. Completed forms are submitted to OAHP to ensure that Douglas County's historic or prehistoric data is included in the Colorado OAHP state-wide database of cultural resources.

Thank you in advance for your attention to the preservation and protection of Douglas County's cultural resources for future generations.

Sincerely,

*Brittany Cassell*

Brittany Cassell, Curator

After discussion with Brittany and several archeologists, Brittany relaxed that position and created a new requirement:

**Eric Pavlinek**

**Subject:** RE: Project File: SB2023-055

**From:** Brittany Cassell <bcassell@douglas.co.us>  
**Sent:** Thursday, January 25, 2024 2:34 PM  
**To:** Eric Pavlinek <epavlinek@douglas.co.us>  
**Cc:** Lauren Pulver <lpulver@douglas.co.us>  
**Subject:** RE: Project File: SB2023-055

Hi Eric,

Due to the nature of this subdivision request and the limited ground disturbance that is planned, a Class I survey will suffice for this minor development request. Depending on the extent of significant resources that may be identified through the Class 1 survey process, additional mitigation or consideration for these resources may need to be addressed through more detailed site survey work or a condition of approval that during construction activity within the development, the applicant, its successors and assigns shall take all reasonable care to watch for historic resources, paleontological resources, and other cultural resources and shall immediately notify Douglas County and complete appropriate Colorado Office of Archaeology and Historic Preservation data management forms in the event of such discovery.

Please let me know if there are any additional questions.

Thank you,  
Brittany

[Class 1 study performed by Metcalf and Associates and submitted to the DC Curator on 2/13/2024](#)  
[Here is the response from the DC Curator](#)



• **Brittany Cassell**

**From:** bcassell@douglas.co.us  
**To:** Jeff Ellis, Eric Pavlinek  
**Cc:** Lauren Pulver

Thu, Feb 15 at 2:43 PM ☆

Hello Mr. Ellis,

Thank you for providing the Class I report. This report will suffice for the project to move forward. I do recommend that you have the property recorded before removal of any debris and any ground disturbance. As Metcalf stated in the report this site has never formally been recorded and is surrounded by resources. They also state that there is a historic ranch complex, windmill and associated historic roads that have not been formally documented. You would provide a great service to the archaeological record for historic and prehistoric resources by taking the extra step to have it surveyed by an archaeologist.

Thank you for your time,  
Brittany Cassell

## Douglas County Parks and Trails

Summary of Response: Per Article 10 of the DCSR, \$250 per new lot for park land dedication cash-in-lieu is required.

[This is understood and will be paid at the designated time.](#)

## Douglas County Water Consultant

Our initial request was flagged in that we could not give the water rights we had from Denver and Arapahoe basins to the new lots because the statute states that unless you own ALL of the water under the property, you cannot do that without filing an appeal. We drafted the appeal letter and submitted to the county. After review, here is the pertinent portion of the response from the water consultant.

presumptive standards has been submitted. In a letter dated December 11, 2023 from Jehn Water Consultants, Inc., it is requested that an appeal be approved based on:

- 1) There is sufficient water in both the nontributary Denver and Arapahoe aquifers to meet the presumptive water demand of 1.0 ac-ft/yr per lot. This allows for wells to be drilled in the Denver aquifer, with the Arapahoe aquifer serving as a backup water supply should the Denver aquifer supply become unreliable in the future.
- 2) The applicant will deed all of the Denver Basin aquifer water it does own to the property in perpetuity in accordance with Section 1804A.05.

Given the limited demand associated with this minor development, it is our opinion that this appeal can be granted under the conditions described above, i.e., there will be only two residences and all of the deeded Denver Basin aquifer water is reserved to the property in perpetuity.

If you have any questions regarding our review of the appeal of Section 18A standards for this proposed minor development, please do not hesitate to contact us.

Yours truly,



Bruce A. Lytle, P.E.  
President

The next step I believe is to bring the appeal in front of the DC board for final approval.

---

## Engineering Services (Douglas County)

### Project Narrative and Planning Exhibit

- The plat shows Tract B as a 100-foot access easement through the lot addressed at 1489 N Castlewood Canyon Road. Please provide a copy of the recorded easement for review.

[Ken Murphy in the Engineering Department has located this document](#)

### Project Access

- Note that per Douglas County criteria, a residential driveway, or portion thereof, providing access to four or more lots is required to be designed and constructed to a County-approved roadway criteria.
  - o In the case of this project, as proposed, the driveway providing access to Lot 2 would provide access to four properties (355 Willow Lake Drive, 385 and 389 N Castleton Canyon Road, and Lot 2.
  - o This would require upgrading the segment of the driveway within 355 Willow Lake Drive to a roadway standard.
- To avoid needing to upgrade the driveway, we recommend having both Lot 1 and Lot 2 take access via the easement through the property addressed at 1489 N Castlewood Canyon Road.
  - o This would require establishing an access easement through Lot 1 for the benefit of Lot 2.
  - o If desired, an emergency access easement could be granted over Lot 2 for the benefit of Lot 1.
- Please amend the easement agreement, the narrative introduction, and the narrative section addressing DCSR 605.02.5 as needed to reflect any changes to the access configuration.

[I pointed out to Ken that there are currently only 2 residences using the shared driveway. After further research on his part, this was his response.](#)





**Ken Murphy**  
From: kmurphy@douglas.co.us  
To: Jeff Ellis  
Cc: Eric Pavlinek

Mon, Dec 18 at 3:38 PM ☆

Hi Jeff,

Per our discussion earlier today I looked for a source document granting your property access over the properties south of the church property. I believe I found this in the attached R357470 which references various tracts established by Ram-Hi Ltd in 1979. The document seems to track with the map included in document R2021060487 which established Easement #4. The 1979 documents the establishment of Easements Number One, Two and Three and describes how these were created for the benefit of Tract 5 (your property) among others. With this I am satisfied that Lot 2 will have perpetual legal access to Castlewood Canyon Road.

When you revise the project narrative, please include a brief description of the easements described above so that readers understand Lot 2 will have access to Castlewood Canyon Road through the four easements.

Regarding the driveway, as we discussed on the phone it appears the property addressed 355 Willow Lake Drive has no residential structures (this is borne out by information on the Assessor's website) and is not taking access via Easement One. Therefore only three properties (385 Castlewood Canyon, 389 Castlewood Canyon, and your Lot 2) will be accessing via the existing driveway on Easement One. Given this, I believe the driveway does not need to be upgraded to a roadway standard per Douglas County criteria.

Regards,

Ken

**Ken Murphy, MSCE, P.E.** | Senior Development Review Engineer  
Douglas County Department of Public Works Engineering  
Engineering Services

### Traffic Impact Analysis

- Thank you for providing the traffic impact letter. We have no comments for this item.

### Drainage Study

- Thank you for providing the documents related to mapping the refined floodplain. Please have the engineer provide a letter describing the purpose of the mapping and methods used to remap the floodplain. The letter should include and reference the technical documents as needed such that the letter can serve as a standalone document.

2NCivil has drafted a letter and it was submitted to Ken and Eric at Douglas County.

### **Additional Comments from DC Engineering dated 1/31/2024**

January 31, 2024

DV2023-448

Jeff Ellis  
11979 S Allerton Circle  
Parker, CO 80138  
[jellis7707@yahoo.com](mailto:jellis7707@yahoo.com)

RE: Creekside Acres - Minor Development Plat  
PWE Comments - rev2

Mr. Ellis,

Douglas County Public Works Engineering has reviewed your submittal. Our comments are below.

#### TECHNICAL DOCUMENTATION

##### Project Narrative and Planning Exhibit

- Thank you for providing copies of the easements per the rev1 comment. We have no additional comments regarding access.

##### Project Access

- Per our discussions we understand three properties (Lot 2 of this project and two other existing parcels with habitable buildings) will take access via the southern easement and two properties (Lot 1 of this project and one other parcel) will take access via the northern easement. Given this, the plan to construct the access on a driveway section is consistent with Douglas County Driveway Regulations.

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- Thank you for providing the traffic impact letter. We have no comments regarding traffic.

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- Thank you for providing the letter and supporting documentation to map the refined 100-year floodplain. We have no additional comments regarding drainage.

##### Construction Documents (CDs)

- Construction Documents are not required for this application.

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Please let me know if you have any questions regarding the items above.

Respectfully,

Kenneth M. Murphy, P.E.  
Senior Development Review Engineer  
[kmurphy@douglas.co.us](mailto:kmurphy@douglas.co.us)

cc: DV File

#### ADMINISTRATIVE DOCUMENTATION

Documents described below are required for final approvals and/or to start construction.

##### Improvements Agreement (IA)

- An IA is NOT required with this development.

100 Third Street, Castle Rock, Colorado 80104 • 303.660.7490

Page 2 of 2

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- A recorded TCE is required for work on private land outside the project boundary.
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- County can provide a template easement upon request.

#### Drainage Easement

- Stormwater detention facilities are not planned with the project; therefore the easement is NOT required.

#### GESC Permit

- The project does not appear to include grading outside of the driveway. If additional grading is planned, please contact Public Works Engineering to obtain a GESC permit.

#### Right-of-Way / Construction Permit

- The project does not appear to include work which would require a ROW/Construction permit. If a permit is needed, e.g. for construction of a driveway connection to the right-of-way, contact the Permits and Inspections Division to apply for a ROW/Construction permit or other required permits.

• <https://www.douglas.co.us/public-works/permits/>

#### POST-CONSTRUCTION DOCUMENTATION

- Post-construction documentation is not required with this project.

## **MEMORANDUM**

**TO:** Jeff Ellis  
**FROM:** Gina Burke and Hillary Banks  
**DATE:** August 23, 2023  
**SUBJECT:** Water Availability Study for Ellis Property  
**JOB NO:** 1051.1

---

Pursuant to your request, we have completed a review of the available ground water in the Denver Basin aquifers underlying the property located in Sections 3 and 10, Township 8 South, Range 66 West, 6<sup>th</sup> P.M., Douglas County, Colorado (the Property). The Property consists of approximately 35.17 acres as shown on the attached map (Figure 1). This Memorandum provides a preliminary review of the water supply underlying the 35.17 acres. Please note that we offer no opinion relating to ownership of land or water rights herein.

### **Ground Water**

We completed a document review at the State Engineer's Office to determine if there were any existing wells on the Property. There was one well found within the State's database. Documentation for the well may be found attached to this Memorandum. The Williamson Well (WDID 0808047) is a shallow well completed to a depth of 80 feet. It was decreed in Case No. W-2232 for a flowrate of 0.111 cubic feet per second (cfs) (approximately 50 gallons per minute (gpm)) and has an appropriation date of February 2, 1902. It is decreed for domestic, stock, industrial, and commercial uses. It is unknown if the well is still in existence.

We also completed a pre-213 well search for the Property to determine if any existing water rights impacted the Property. Based on the State Engineer's Office maps, there are no wells whose circles of appropriation impact the property.

There are five Denver Basin aquifers underlying the Property, the Upper Dawson, the Lower Dawson, the Denver, the Arapahoe, and the Laramie-Fox Hills. The ground water under the property in each aquifer has been previously adjudicated. In Case 88CW026, ground water in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills were decreed under 70 acres of land, a portion being the Subject Property. In companion Case Nos. 89CW150 and 89CW151; the Upper Dawson, Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills were decreed under 109.06 acres of land, a portion being the Subject Property. Finally, in Case 2004CW024, the remaining Upper Dawson ground water was decreed, and decrees 88CW026, 89CW150 and 89CW151 were changed to allow the combined decreed amounts of ground water in each aquifer to be withdrawn through wells located on either of the original properties, totaling 179.06 acres as shown on Figure 2. All decrees are attached to this Memorandum for your records. In each case, the State Engineer determined the saturated sand thickness of each aquifer and estimated the volume of water underlying the applicant's property.

A portion of the ground water included in the decrees discussed above and underlying the Property was deeded with the recent purchase of the Property. Table 1 includes the deeded decreed annual amount of withdrawal from each aquifer as written in the Special Warranty Deed for Water Rights in the Closing Documents (recorded in Douglas County August 8, 2022, Reception Number 2022054679). The ground water decreed in Cases 88CW026, 89CW150, and 89CW151 may be used for municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, fire protection and augmentation uses. The additional Upper Dawson aquifer ground water decreed in Case 2004CW024 may be used for all the same uses, excluding municipal.

Table 1 also indicates the status of each aquifer as being considered not-nontributary or nontributary. The ground water in the Upper Dawson aquifer is considered not-nontributary and can be placed to beneficial use by obtaining an approved plan for augmentation from the Division 1 Water Court. In our document search, we did not find

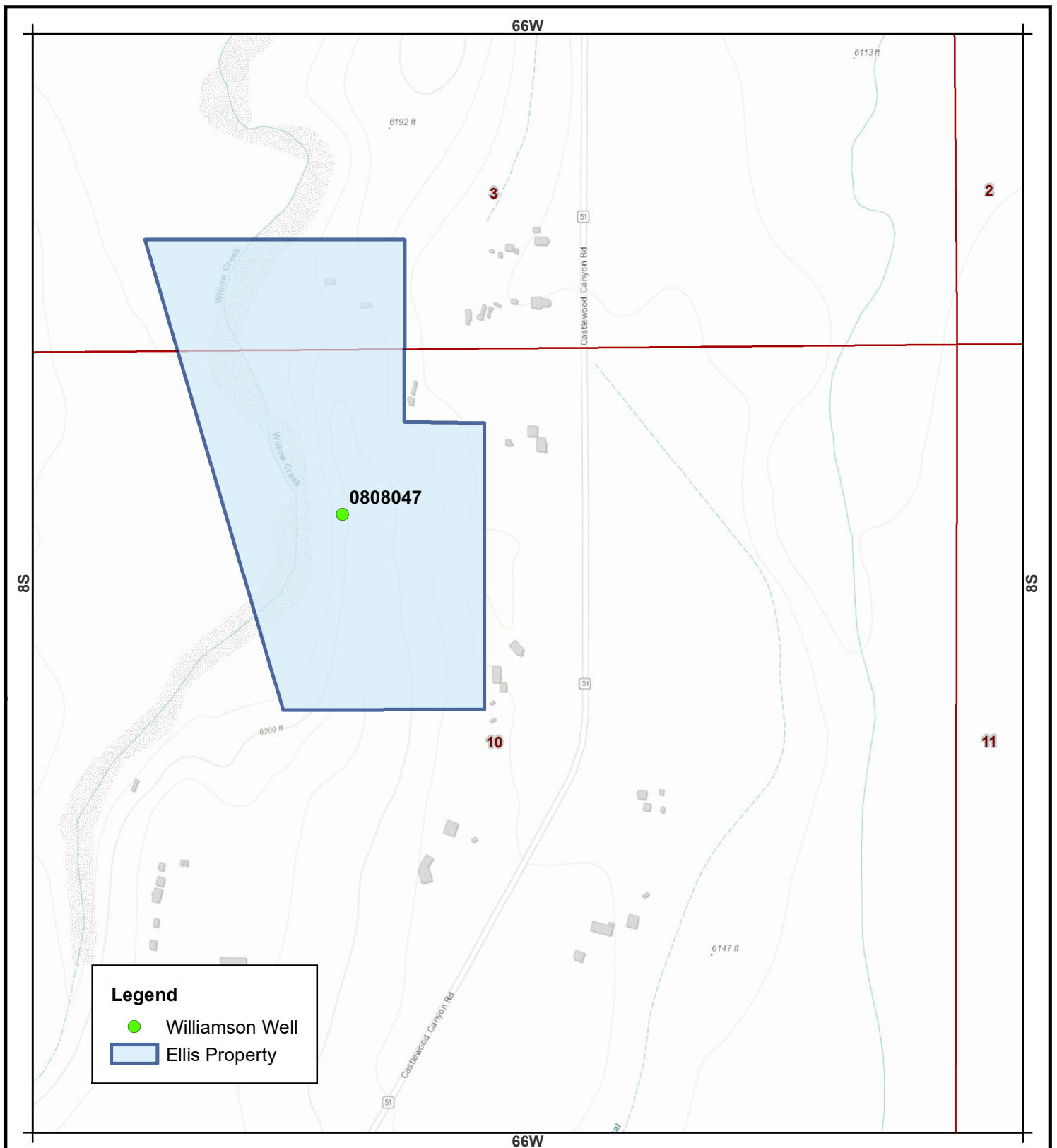
a decreed augmentation plan for the Upper Dawson ground water decreed in Case No. 2004CW024.

### **Demands**

In our conversations with you, we understand that you plan to subdivide the Property into two lots. We have reviewed the Douglas County Zoning of the parcel and the County's water supply requirements. The Property is zoned as Agricultural One (A-1), and pursuant to Douglas County Zoning Resolution 1805A.02.1, the minimum water demand standard for A-1 zoned districts is 1 acre-foot/year/residence. Thus, each newly created lot will require 1 acre-foot per year (af/yr) of ground water.

The lot sizes you contemplate are either two 17-acre lots or one 20-acre lot and one 15 acre-lot, and it is our understanding that the deeded water volumes will be equally split between the two newly created lots, regardless of how the Property is subdivided. Thus, each lot will have 3.78 af/yr of ground water available to meet demands, 1.28 af/yr in the not-nontributary Upper Dawson aquifer, 1.25 af/yr in the nontributary Denver aquifer, and 1.25 af/yr in the nontributary Arapahoe aquifer. Because the ground water in the Upper Dawson aquifer is considered not-nontributary and can only be placed to beneficial use by obtaining an approved plan for augmentation from the Division 1 Water Court, the lots will rely on using either the Denver or Arapahoe aquifer to meet demands. The nontributary Denver or Arapahoe aquifer water may be placed to beneficial use by applying for a well permit with the Colorado Division of Water Resources and drilling a well.

If you have any questions, or if you would like to discuss this Memorandum, please do not hesitate to call.



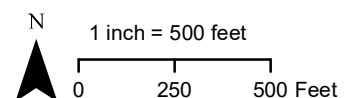
#### Legend

- Williamson Well
- Ellis Property

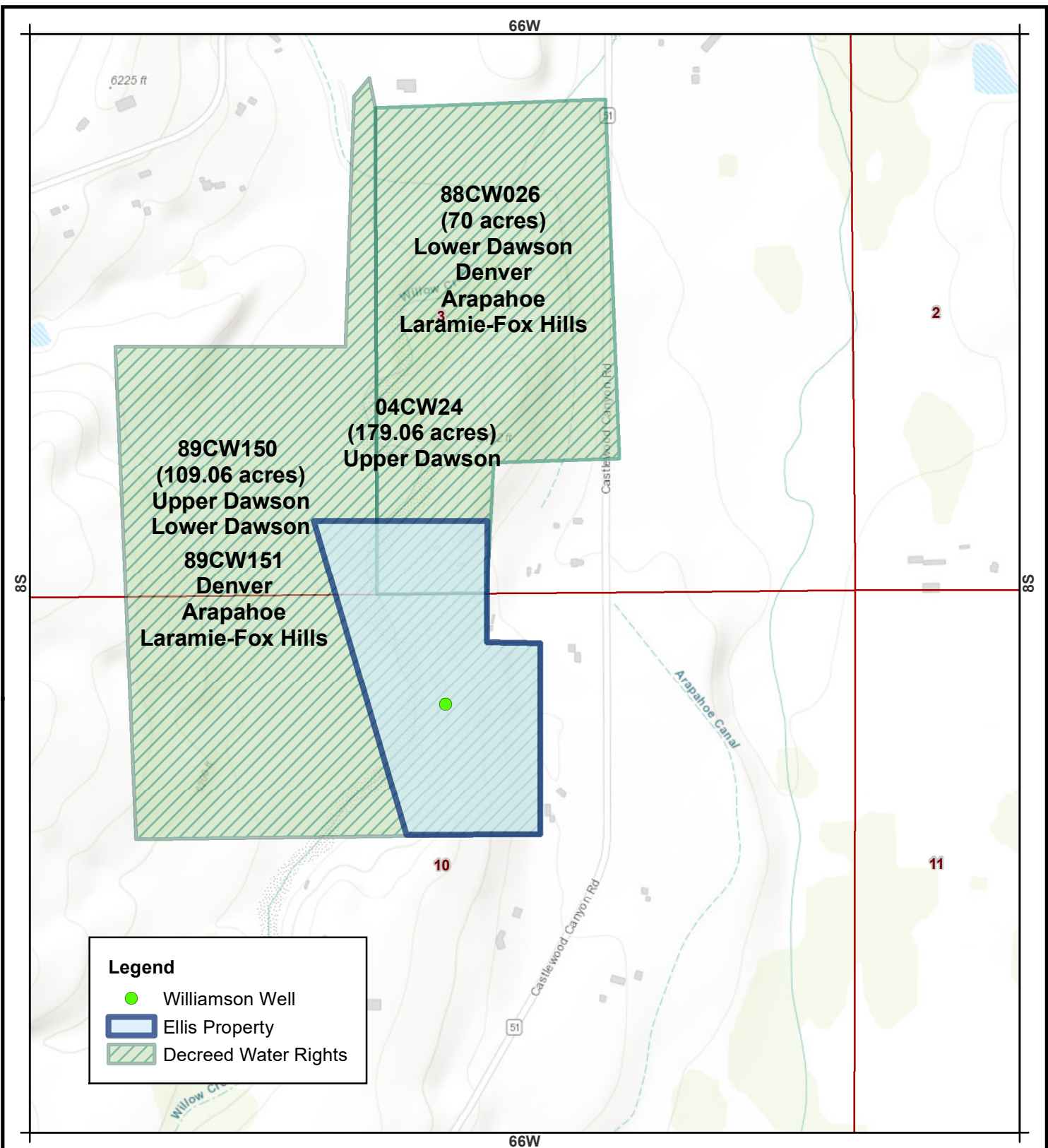
**Jehn Water Consultants, Inc.**  
 88 Inverness Circle East,  
 Suite K-102  
 Englewood, CO 80112  
 (303) 321-8335  
[www.jehnwater.com](http://www.jehnwater.com)

## FIGURE 1

### Ellis Property General Location



Job No. 1051.1  
 Projection: UTM NAD83  
 Prepared By: AAW 8/7/2023  
 Checked By: HLB 8/21/2023  
 Sources:  
 Esri USA Topo Map Basemap



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(303) 321-8335  
[www.jehnwater.com](http://www.jehnwater.com)

## FIGURE 2

### Ellis Property Water Rights Under Property

N  
1 inch = 750 feet  
0 250 500 750 Feet  
Job No. 1051.1  
Projection: UTM NAD83  
Prepared By: AAW 8/9/2023  
Checked By: HLB 8/21/2023  
Sources:  
Esri USA Topo Map Basemap



**TABLE 1  
WATER AVAILABILITY  
ELLIS PROPERTY  
35.17 acre parcel in Douglas  
County**

Aquifer	Water Available (af/yr) <sup>1</sup>	Status <sup>2</sup>
Upper Dawson	2.56	NNT
Denver	2.5	NT
Arapahoe	2.5	NT

Notes:

1. Water available to the 35.17 acre parcel is a portion of the ground water Decreed in Division 1 Water Court Case Nos. 88CW150, 89CW151, and 04CW024.

Ground water was conveyed to the Ellis Property owners by Special Warranty Deed, August 8, 2022, Reception Number 2022054679.

2. NNT= Not-Nontributary, NT=Nontributary

**Special Warranty Deed**  
(Water Rights)


**THIS DEED**, made on **August 8th, 2022** by **NATHAN TYLER CONLEY AND BRANDYE LEIGH CONLEY** Grantor(s), of the County of **Douglas** and State of **Colorado** for the consideration of **\*\*\* Ten Dollars and Other Good and Valuable Consideration** \*\*\* dollars in hand paid, hereby sells and conveys to **LAURA GEHRKE AND JEFF ELLIS** Grantee(s), as Joint Tenants, whose street address is **11979 S Allerton Cir, Parker, CO 80138**, County of **Douglas**, and State of **Colorado**, the following described water rights:

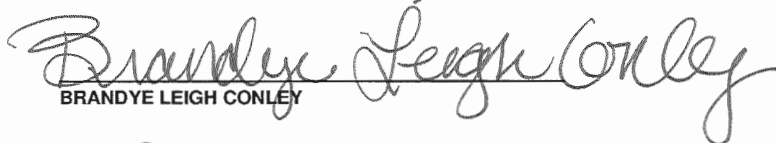
**2.5 acre feet of Denver formation non tributary groundwater and 2.5 acre feet of Arapahoe formation non tributary groundwater as decreed in Division One Water Court cases 88CW026, 89CW150, 89CW151 and 04CW24 ("Decrees") and 2.56 acre feet of Upper Dawson not non tributary groundwater, removed from the Decrees for drilling exempt wells under CRS 37-92-602 and underlying the property.**

Appurtenant to:

See attached "Exhibit A"

also known by street and number as: **1481 NORTH CASTLEWOOD CANYON ROAD (VACANT LAND), FRANKTOWN, CO 80116**  
and warrants the title against all persons claiming under the Grantor(s).

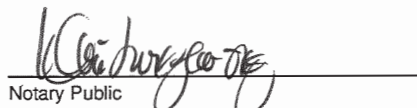
  
NATHAN TYLER CONLEY

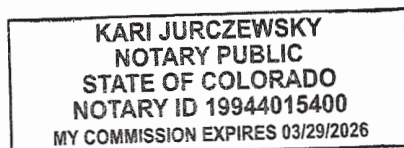
  
BRANDYE LEIGH CONLEY

State of Colorado )  
County of Douglas ) ss.

The foregoing instrument was acknowledged before me on this day of August 5, 2022 by **NATHAN TYLER CONLEY AND BRANDYE LEIGH CONLEY**

Witness my hand and official seal

My Commission expires: 3/29/26   
Notary Public



When recorded return to: **LAURA GEHRKE AND JEFF ELLIS**  
**11979 S Allerton Cir, Parker, CO 80138**



**Williamson Well**  
**WDID 0808047**

IN THE WATER COURT IN AND FOR  
WATER DIVISION I, STATE OF COLORADO  
CASE NO. W-2232

IN THE MATTER OF THE APPLICATION ) FOR WATER RIGHTS OF ) ONEITA K. WILLIAMSON ) IN DOUGLAS COUNTY )	FINDINGS AND RULING OF THE REFEREE
--	---------------------------------------

THIS CLAIM, having been filed with the Water Clerk, Water Division I, on March 28, 1972, and the Referee being fully advised in the premises, does hereby find:

All notices required by law of the filing of this Application have been fulfilled, and the Referee has jurisdiction of this Application.

No statement of opposition to said Application has been filed, and the time for filing such statement has expired.

All matters contained in the Application having been reviewed, and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein,

IT IS HEREBY DECREED:

1. The name and address of the claimant:

Oneita K. Williamson  
P.O. Box 8  
Parker, Colorado 80134

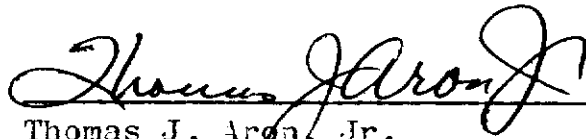
2. The name of the structure to which a right is hereby Decreed: Well No. 1-Unregistered

3. The legal description of the structure:

Located in the NW¼ NE¼, Section 10, Township 8 South, Range 66 West of the 69 P.M., Douglas County, Colorado, more particularly located 5,040 feet East and 600 feet South of the Northwest Corner of said Section 10.

4. The source of water is: Groundwater
5. The date of appropriation: February 2, 1906
6. The amount of water: .111 Cubic Feet Per Second
7. The use of the water: Domestic, stock, industrial and commercial.

DATED this 14<sup>th</sup> day of November, 1972.

  
Thomas J. Aron, Jr.  
Water Referee, Water Division I  
State of Colorado

No protest was filed in this matter. The foregoing ruling is confirmed and approved, and is made the Judgment and Decree of this Court.

Dated: January 2, 1973

  
Donald O. Carpenter  
Water Judge

STATE OF COLORADO

County of Jefferson

ss.

AFFIDAVIT

2232

COMES NOW the undersigned Mr. A. C. Christensen,  
and being first duly sworn states as follows:

1. That he is, and has been, a resident of Douglas County,  
for 76 years.

2. That he is well acquainted with that certain well, on property legally described  
as follows: NW¼NE¼ Sec. 10, T. 8 S., R. 66 W. of the 6th P.M.

3. That he states, of his own personal knowledge, that said well was drilled and put  
to beneficial use on or about the 2nd day of February, 1906

(Signature)

A. C. Christensen

Subscribed and sworn to before me this 22 day of March, 1972.

WITNESS my hand and official seal.

My commission expires My Commission expires Oct. 4, 1975.

James H. Leeper  
Notary Public

STATE OF COLORADO

County of \_\_\_\_\_

ss.

AFFIDAVIT

COMES NOW the undersigned \_\_\_\_\_,  
and being first duly sworn states as follows:

1. That he has legal access to the records of \_\_\_\_\_

2. That these same records show that on the \_\_\_\_\_ day of \_\_\_\_\_,  
said \_\_\_\_\_, did drill a well located on property now owned by \_\_\_\_\_  
which location is legally described as: \_\_\_\_\_

(Signature) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Witness my hand and official seal.

My commission expires \_\_\_\_\_.

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



'72 MAR 28 PM 1:29

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. I

JOY W. ARLBORN  
CLERK

STATE OF COLORADO

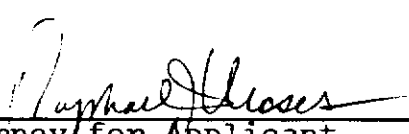
CASE NO. W-

2232

IN THE MATTER OF THE APPLICATION )  
FOR WATER RIGHTS OF ONEITA K. )  
WILLIAMSON IN THE PLATTE RIVER OR )  
ITS TRIBUTARIES )  
TRIBUTARY INVOLVED )  
WILLOW CREEK )  
IN DOUGLAS COUNTY )

APPLICATION FOR  
UNDERGROUND WATER RIGHT

1. Name of applicant: Oneita K. Williamson  
P. O. Box 8  
Parker, Colorado 80134
2. Legal description of location of well:  
NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 10, T. 8 S., R. 66 W. of the  
6th P.M.
3. Depth of well: 80 feet
4. Date of initiation of appropriation: 1906
5. Amount of water claimed in cubic feet per second of time:  
50 gpm = .111 c.f.s.
6. Proposed use of water:  
Domestic, stock, industrial, commercial.
7. Number of well as registered in State Engineer's Office  
or, if a new well, the number on the permit:  
Not registered.

  
\_\_\_\_\_  
Attorney for Applicant  
P. O. Box 34  
Boulder, Colorado 80302  
Telephone: 443-8782

State of Colorado  
County of Douglas

)  
) ss.  
)

2232 1

Oneita K. Williamson, being first duly sworn upon oath, deposes and says that she has read the foregoing application, knows the contents thereof and that the same is true.

Oneita K. Williamson

Subscribed and sworn to before me this 24<sup>th</sup> day of March, 1972.

My commission expires: October 1, 1974

Dorothy J. Hurd  
Notary Public

WELL INFORMATION DATA

CASE NO. W- 2232

Name of applicant: Oneita K. Williamson  
P. O. Box 8  
Mailing Address: Parker, Colorado 80134

Well Permit or Registration Number unregistered.

Location of Well :

Section 10, Township 8 S, Range 66 W.

Give bearing and distance from Section corner or distance  
N - S and E - W from section lines. 3040' E of W line  
600' S of N line

DATA: DATE: February 23, 1972

Depth of well 80 feet.

Depth to Static Water Level 48 feet.

Horsepower of electric motor working barrel

Diameter - discharge pipe 2 inches.

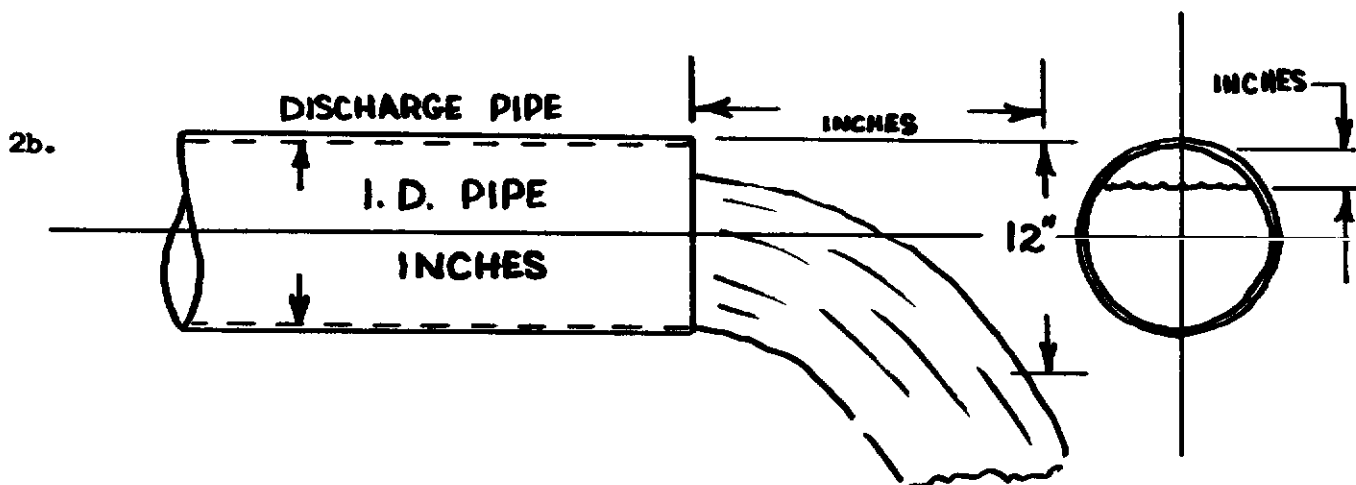
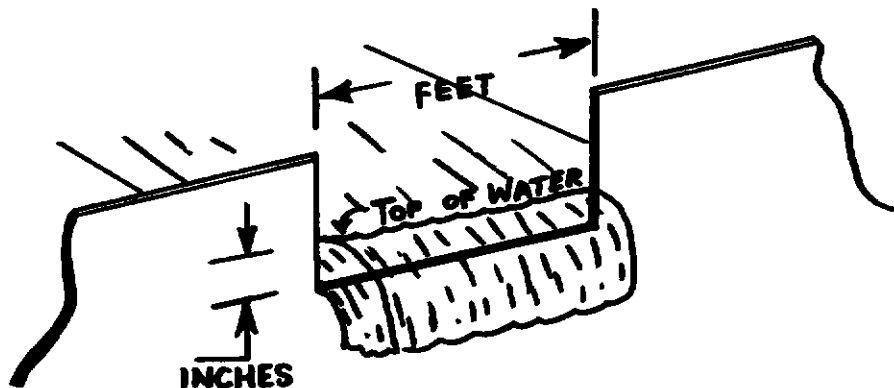
Pressure at sprinkler head \_\_\_\_\_ per sq. inch.

CAPACITY OF WELL:

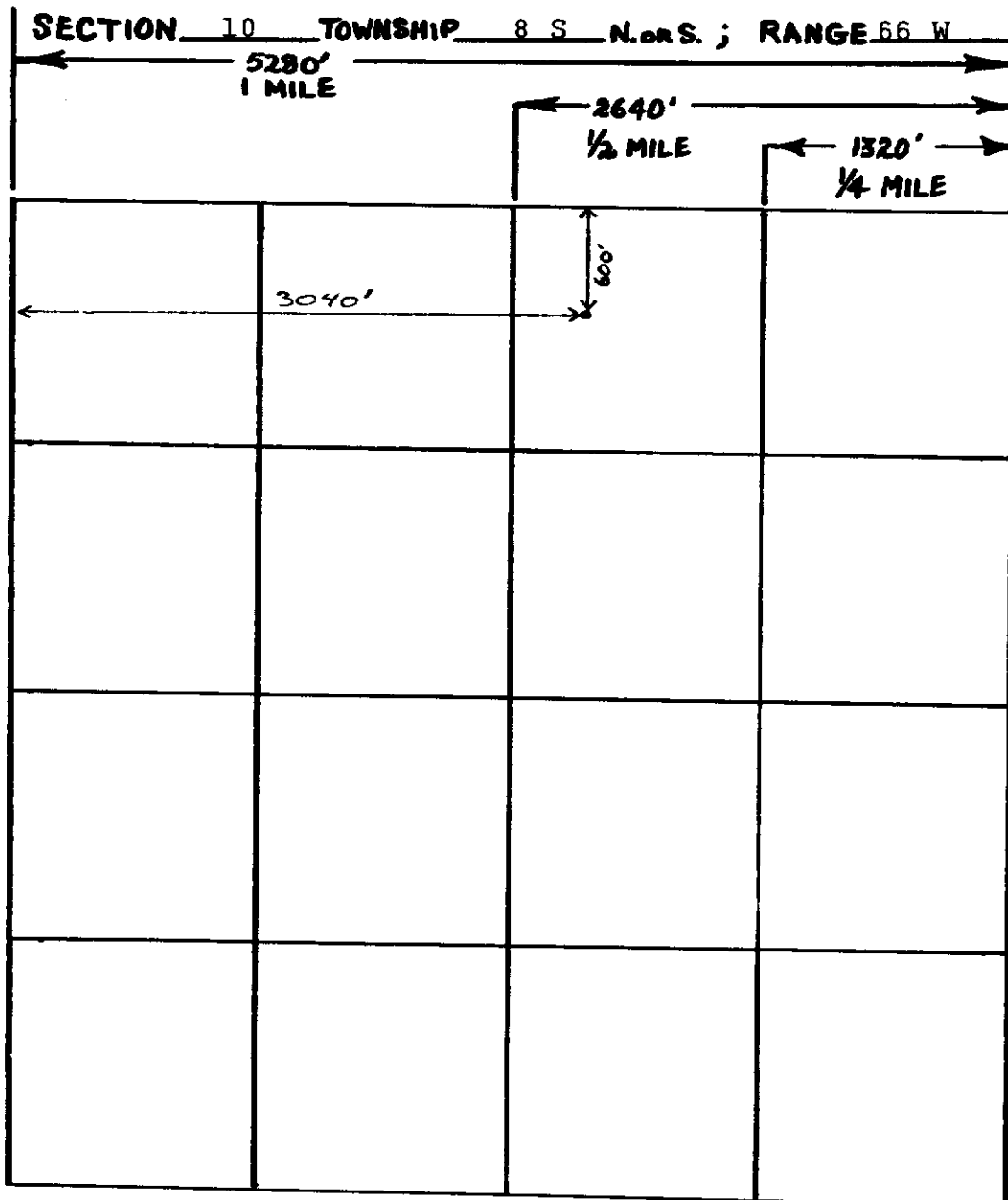
1. Actual measurement 80 gpm (do not use pump-test data)

2. Or one of the following measurements:

2a. WEIR



# MAP SHOWING WELL LOCATION



SCALE 1" = 1000'

State of Colorado )  
County of Douglas ) ss.

Oneita K. Williamson, being first duly sworn upon oath, deposes and says that he has read the foregoing information, knows the contents thereof and that the same is true.

Oneita K. Williamson

Subscribed and sworn to before me this 24<sup>TH</sup> day of March, 19 72.

My commission expires: October 1, 1974

Sorothy J. Hurd  
Notary Public

## **Water Court Decrees**

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. 88CW026

FILED IN DISTRICT COURT

29 JUL 10 4 9:13

**DECREE OF THE WATER COURT**

DISTRICT WATER COURT  
DOUGLAS COUNTY COLO.

**CONCERNING THE APPLICATION FOR WATER RIGHTS OF OWENS BROTHERS  
CONCRETE, INC., IN DOUGLAS COUNTY (LOWER DAWSON, DENVER,  
ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS)**

THIS CLAIM was originally filed with the Water Clerk, Water Division No. 1, on February 10, 1988.

Timely and adequate Notice of the Application was published as required by statute, and the Court has jurisdiction over the subject matter of this Application and over all parties affected hereby, whether they have appeared or not. None of the lands or waters involved in this case are within the boundaries of a designated ground water basin.

No Statements of Opposition were filed herein. The time period for filing Statements of Opposition has expired, and no additional parties have entered their appearance.

On July 27, 1988, Applicant submitted a proposed ruling to the referee. That proposed ruling was approved and signed by the referee on January 20, 1989. On February 8, 1989, the State Engineer and Division Engineer for Water Division No. 1, through the Attorney General for the State of Colorado ("State Engineer"), submitted a timely protest to that ruling.

All matters contained in the Application have been reviewed, including the Determinations as to the Facts of the Application issued by the State Engineer on June 6, 1988, and testimony has been taken where such was necessary, and such corrections made as were indicated by the evidence presented.

IT IS HEREBY THE DECREE OF THE COURT:

1. Name and Address of Applicant

Owens Brothers Concrete, Inc.  
1475 Orchard Drive  
Golden, Colorado 80401

d/find026.&



2. Names of Structures

- (A) Dawson No. 1
- (B) Denver No. 1
- (C) Arapahoe No. 1
- (D) Laramie-Fox Hills No. 1

3. Legal Description of Structures

(A) Dawson No. 1 (Permit No. 30929-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W, of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 560 feet

(B) Denver No. 1 (Permit No. 30927-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 1410 feet

(C) Arapahoe No. 1 (Permit No. 30928-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W, of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 1940 feet

(D) Laramie-Fox Hills No. 1 (Permit No. 28677-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 2545 feet

Any well decreed herein which is constructed within 200 feet of the above-described locations shall be deemed to have been drilled at the given location and shall not require approval of this Court or the State Engineer.

d/find026.&

4. Description of Property

The land owned by the Applicant is a parcel of land in the SE 1/4 of Section 3, T 8 S, R 66 W of the 6th P.M., Douglas County, Colorado, consisting of 70 acres more or less as more particularly described in Exhibit A attached hereto and incorporated herein by this reference and illustrated in Exhibit B attached hereto and also incorporated herein by this reference (hereinafter "Applicant's Property"). Applicant shall be allowed to withdraw all of the legally available and unappropriated ground water in those portions of the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property.

5. Court Jurisdiction

The Court has jurisdiction over this proceeding pursuant to C.R.S. § 37-90-137(6) and § 37-92-203. The Court concludes as a matter of law that the application for a decree determining Applicant's right to divert and use ground water from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath Applicant's Property pursuant to C.R.S. § 37-90-137 should be granted, subject to the provisions of this Decree. Further, the Court concludes that the provisions of C.R.S. § 37-92-305(11) are applicable to the ground water to be withdrawn from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath Applicant's Property, and that the rights confirmed by this Decree are vested property rights.

6. Source of Ground Water

Applicant is entitled to withdraw all of the legally available and unappropriated ground water in those portions of the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property. All of the ground water claimed in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath Applicant's Property is "nontributary ground water" within the meaning of the applicable statutes, regulations, and judicial opinions. The withdrawal of this ground water will not, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in C.R.S. § 37-82-101(2) and § 37-92-102(1)(b), at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. The withdrawal of ground water from these aquifers in accordance with the terms of

d/find026.&

this Decree will not result in material injury to the vested water rights of others.

7. Use of Ground Water

The ground water withdrawn under this Decree may be used for all beneficial purposes, including but not limited to municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, sanitary purposes, exchange, replacement, and augmentation purposes. Applicant may proceed to construct the wells pursuant to properly issued permits and divert the water described herein at such time as the water is needed. The ground water may be produced for immediate application to beneficial use and/or for storage and subsequent application to beneficial use. In addition, Applicant is entitled to the right to make any reuse, successive use, or disposition of the ground water claimed herein free of any limitations, restrictions, or requirements as to the place of use, amount of discharge, or location of discharge after such reuse, successive use, or disposition, subject only to the provisions of Paragraph 11.

8. Average Annual Amounts of Withdrawal

A. Estimated Amount

The criteria used in determining the estimated annual amount of withdrawal of ground water from those portions of the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers located beneath Applicant's Property are those criteria prescribed by C.R.S. § 37-90-137(4) as it presently exists and the currently existing Rules and Regulations adopted by the State Engineer. The estimated annual amount of withdrawal and the values used for its calculation for each aquifer are as follows:

<u>Aquifer</u>	<u>No. of Acres</u>	<u>Specific Yield</u>	<u>Estimated Saturated Thickness</u>	<u>Estimated Average Annual Withdrawal</u>
Lower Dawson	70	20%	50 feet	7.0 acre feet
Denver	70	17%	255 feet	30.3 acre feet
Arapahoe	70	17%	275 feet	32.7 acre feet
Laramie-Fox Hills	70	15%	190 feet	19.9 acre feet

d/find026.&

None of the ground water underlying the Applicant's Property contained within the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers has been claimed or appropriated by any existing wells or other water rights.

B. Final Determinations

Final determinations of the average annual amount of withdrawal for each aquifer will be based on geophysical data describing actual local aquifer characteristics, and on the fact that Applicant has appropriated all of the unappropriated water in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property in accordance with the following formula:

$$\begin{array}{lcl} \text{Average Annual Amount} & = & 70 \text{ acres} \times \text{actual saturated thickness} \\ \text{of Withdrawal} & & \text{x actual specific yield} \\ \text{(acre-feet)} & & \underline{\hspace{2cm}} \\ & & 100 \text{ years} \end{array}$$

Geophysical logs will be taken in accordance with the applicable rules promulgated by the State Engineer. Within 60 days after the completion of construction of the wells, the Applicant shall file with the State Engineer copies of the well logs and any other geophysical information regarding actual local aquifer characteristics obtained from the drilling of any well or test hole. Any person, including the State Engineer, can petition to invoke the Court's retained jurisdiction to make a Final Determination of Water Right. The State Engineer upon notification of retained jurisdiction shall utilize data submitted by the Applicant and other data available to him and calculate the average annual amount of withdrawal for each aquifer and submit his determination to the Water Court. If no protest to the State Engineer's determination is made within 60 days of the State Engineer's filing of his determination with the Water Court, the respective amounts set forth in the State Engineer's determination of the average annual amount of withdrawal for each aquifer shall be determined as final by order of the Court and shall be incorporated into the decree of the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within 4 months of notice of retained jurisdiction, such final determination shall be made by

d/find026.&

the Water Court after notice and a hearing. In either event, the Water Court shall conduct a de novo hearing for the final determination of the average annual amount of withdrawal for each aquifer.

9. Ground Water Pumping Rates

The maximum pumping rate for each well is estimated as follows:

(A) Dawson No. 1	--	50 g.p.m.
(B) Denver No. 1	--	50 g.p.m.
(C) Arapahoe No. 1	--	50 g.p.m.
(D) Laramie-Fox Hills No. 1	--	50 g.p.m.

Applicant may exceed the above estimated maximum pumping rates as necessary in order to withdraw the amount of ground water available to Applicant pursuant to this Decree.

10. Ground Water Banking

In any given year, Applicant may withdraw from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers more than the finally determined average annual amount of withdrawal for each aquifer, so long as the total amount of ground water withdrawn by the Applicant from any given aquifer pursuant to this Decree does not exceed the product of: the number of years since the date of issuance of this Decree, times the finally determined average annual amount of withdrawal for such aquifer.

11. Limitation on Consumption of Nontributary Ground Water

Applicant may not consume more than 98% of the annual amount of nontributary ground water withdrawn from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property. Relinquishment to the stream system of 2% of the annual amount of water withdrawn may be satisfied by any method selected by the Applicant, so long as Applicant can demonstrate to the reasonable satisfaction of the State Engineer that an amount equal to 2% of such annual withdrawals (by volume) will be relinquished to the stream system by quantifiable return flows or otherwise.

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12. Additional Wells

In addition to the wells described in paragraphs 2 and 3, Applicant may construct such additional wells as are required to recover the entire amount of ground water decreed herein, without the necessity of opening this Decree. Applicant may then withdraw the allowed annual withdrawal for any of the aquifers from any combination of the respective original wells listed in paragraphs 2 and 3 and such additional wells constructed in the same aquifer. As additional wells are planned, permit applications shall be filed with the State Engineer.

13. Construction of Wells

For each well drilled pursuant to this Decree, Applicant shall comply with the following conditions:

- A. The entire length of the open bore hole, except the surface casing, shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the State Engineer within 60 days. In satisfaction of this requirement, Applicant may provide a geophysical log from an adjacent well or test hole in accordance with the Statewide Rules and Regulations.
- B. Non-perforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of ground water between other aquifers.
- C. The permit number and name of the aquifer shall be permanently displayed on or near the well at a location easily accessible to water officials.
- D. Applicant shall comply with C.R.S. § 37-91-101, et seq., and the Rules and Regulations promulgated thereto, and with such other requirements for constructing and equipping the wells as the State Engineer may reasonably require.
- E. Applicant shall install a totalizing flow meter on each well. The meter shall be installed according to the manufacturer's recommendations and shall be inspected at least annually and promptly repaired or recalibrated as needed. If Applicant's meter becomes inoperable, it

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shall be repaired as soon as possible so that measurements can continue.

- F. The Applicant shall keep records of the amount of water pumped and perform the calculations necessary to determine whether Applicant is in compliance with this Decree. Applicant shall supply the Division Engineer with those records at least on an annual basis or upon request by the Division Engineer.

14. Well Permits

- A. In the issuance and administration of well permits for the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, the State Engineer shall consider the water described herein and decreed to the Applicant as "appropriated," as that term is used in C.R.S. § 37-90-137, and the State Engineer shall consider the rights granted herein as valid.
- B. Applicant shall submit modified permit applications consistent with the provisions of this Decree. When such well permit Applications are filed, the State Engineer shall issue well permits within 60 days with restrictions no more burdensome than are found in this Decree. If Applicant fails to construct the well for which the permit was issued within the period of time authorized by statute, including legally authorized extensions of any such time period, then when Applicant is ready to drill the well, Applicant shall file a second application for such well and the State Engineer shall issue a well permit within 60 days with restrictions no more burdensome than are found in this Decree.

15. Ground Water Withdrawal Initiation

As of May 25, 1982, Applicant had performed open and physical acts on Applicant's Property which, when coupled with its intent to beneficially use the ground water, support the determination of the rights awarded herein.

16. No Diligence Required

Pursuant to C.R.S. § 37-92-305(11), the ground water decreed herein shall not be administered in accordance with priority

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of appropriations, and no findings of reasonable diligence are required to maintain the right to withdraw the nontributary ground water awarded herein. Accordingly, the nontributary rights awarded herein are vested property rights.

17. Retained Jurisdiction

The Court retains jurisdiction pursuant to C.R.S. § 37-92-305(11) for the purpose of finally determining the average annual amount of withdrawal for each aquifer in accordance with paragraph 8. The Court's retained jurisdiction may be invoked by any person, including the Applicant or the State Engineer. Copies of any pleadings filed with the Court within this retained jurisdiction period shall be served on the Applicant and the State Engineer by mailing a copy to each of them at the address shown herein or to the latest address as known to the party serving such notice.

Dated: JUL 10 1989

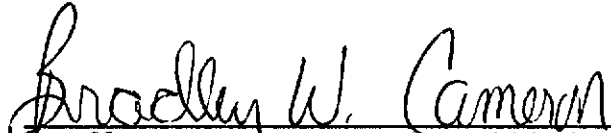


ROBERT A. BEHRMAN  
Water Judge  
Water Division No. 1  
State of Colorado

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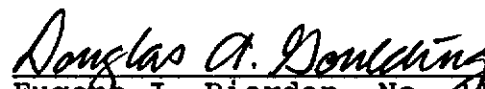
APPROVED AS TO FORM AND CONTENT:

FOR THE PROTESTANT

  
Bradley W. Cameron, No. 11183  
Assistant Attorney General  
Natural Resources Section  
1525 Sherman Street, Third Floor  
Denver, Colorado 80203

ATTORNEYS FOR THE STATE ENGINEER  
AND DISTRICT ENGINEER FOR WATER  
COURT DIVISION NO. 1, STATE OF  
COLORADO

FOR THE APPLICANT

  
Eugene J. Riordan, No. 11605  
Douglas A. Goulding, No. 16875  
Vranesh and Raisch  
P.O. Box 871  
Boulder, Colorado 80306

ATTORNEYS FOR OWENS BROTHERS  
CONCRETE, INC.

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EXHIBIT A

to

Decree of the Water Court  
Case No. 88CW026, Division No. 1.

Legal Description of Applicant's Property

A tract of land in the SE 1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M., more particularly described as follows:

Commencing at the South one-quarter corner of said Section 3, said point being the true point of beginning; thence North 00° 07' 51" East a distance of 2642.94 feet to the center of said Section 3; thence North 89° 27' 21" East a distance of 1322.15 feet to the Northeast corner of the NW 1/4 of the SE 1/4 of said Section 3; thence South 00° 06' 49" West and along the North-South centerline of the said SE 1/4 a distance 1972.16 feet; thence North 89° 04' 12" West a distance of 684.51 feet; thence South 00° 14' 23" West a distance of 691.43 feet to a point on the South line of said Section 3; thence South 89° 43' 43" West and along the South line of said Section 3 a distance of 636.91 feet to the true point of beginning, except the Northerly 33.00 feet thereof, and except the Easterly 60.00 feet thereof for Castlewood Dam Road, and except any part lying within the property described in Book 263 at Page 570, Book 263 at Page 571, and Book 293 at Page 614, also except that portion described in Book 402 at Page 228.

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General Location of Well Structures

Boundary of Applicant's Property

Section 3

ARAPAHOE

FRANKTOWN (BM 6153)

WELL 6055

PIKES PEAK GRANGE

6115

6100

6065

6095

6000

6200

6210

6220

6230

6240

6250

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6280

6290

6300

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Creekside Acres - Minor Development Final Plat & Appeal to Section 18A - Water Supply Overlay District  
Project File: SB2023-055  
Planning Commission Staff Report - Page 77 of 200

PLANNING COMMISSION STAFF REPORT

20 MAY 23 9:20

PLANNING COMMISSION STAFF REPORT  
W. CO. CO. CO. CO. CO.

PLANNING COMMISSION STAFF REPORT  
mailed to the Planning Commission  
for their review and approval.  
Douglas A. Goulding  
Bradley W. Cameron  
Staff 10w

Date of Mailing 9/10/89  
Kauris Park

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO

Case No. 89CW150

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF THE COURT

CONCERNING THE APPLICATION FOR WATER RIGHTS OF SIR RERESBY  
SITWELL, BT., D.L.

IN DOUGLAS COUNTY.

The Application in this case was filed on September 29, 1989 and the Court, having reviewed the pleadings and having received evidence regarding the Application, does hereby enter the following Findings of Fact, Conclusions of Law and Decree of the Court:

FINDINGS OF FACT

1. The name, address, and telephone number of Applicant is as follows:

Sir Reresby Sitwell, Bt., D.L.  
4 Southwick Place  
London, England W2 2TN  
011-44-1-262-3939

2. The Application was published in the resume for Water Division No. 1, and in the appropriate newspaper in Douglas County in conformance with the requirements of Section 37-92-302(3), C.R.S. All notices required by law for the filing of this Application have been fulfilled and the Court has jurisdiction over the subject matter of this Application.

3. No Statements of Opposition to the Application were filed. The time for filing Statements of Opposition has expired and the Court has jurisdiction over all parties affected hereby, irrespective of whether they have appeared.

4. A Motion to Rerefer the case to the Water Judge was filed on December 3, 1989. The Referee entered a Ruling on February 28, 1990. A Protest to the Ruling of the Referee was filed by the Applicant.

5. Applicant has requested that the Court enter a Decree approving the Application for Underground Water Rights in the Not Nontributary Upper Dawson Aquifer and the Nontributary Lower Dawson Aquifer, and retaining jurisdiction pursuant to Section



37-92-305(11), C.R.S., for the purpose of adjusting the allowed average annual amount of withdrawal decreed from the Dawson Aquifer underlying the property, described herein, to conform to the actual local aquifer characteristics as determined by well drilling or test holes.

6. This Application seeks a determination of the Applicant's rights to the groundwater in the Upper Dawson Aquifer and Lower Dawson Aquifer underlying approximately 109.06 acres comprising the subject property of Sir Reresby Sitwell, and described as follows:

Parcel 1: Portions of the SE1/4 of the SW1/4 of Section 3, and of the N1/2 of the N1/2 of Section 10, all in Township 8 South, Range 66 West of the 6th P.M.;

Tract A: A portion of the NE1/4 of the SW1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract B: A portion of the SW1/4 of the NE1/4, and a portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract C: A portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.; and

Tract D: A tract of land located in the SW1/4 of the NE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.

The approximate boundaries of the property are depicted on the attached Appendix A and the full legal description of the property is on the attached Appendix B.

7. The State Engineer has issued a Determination of Facts in this case and the Determination of Facts has been considered by the Court. To the extent the Determination of Facts differs from this Decree, the Decree shall be determinative. This Decree does not make any determination regarding the quantity of Upper Dawson Aquifer water to be replaced to the affected stream system pursuant to the plan for augmentation required by Section 37-90-137(9)(c), C.R.S., and the determination regarding the

quantity of water to be replaced shall be made in the proceedings regarding the plan for augmentation.

8. An investigation has failed to identify any other permitted or decreed wells, or any other claimants of water from the Upper Dawson or the Lower Dawson Aquifer underlying the Sitwell property.

9. The appropriation date of the water rights which are the subject of this Decree is September 26, 1989.

10. The groundwater in the Upper Dawson Aquifer underlying the Sitwell property is not "nontributary groundwater" as defined by Section 37-90-103(10.5), C.R.S., and as defined by 2 CCR 402-6, Rule 5.A. The groundwater in the Lower Dawson Aquifer underlying the Sitwell property is "nontributary groundwater" as defined by Section 37-90-103(10.5), C.R.S., and as defined by 2 CCR 402-6, Rule 5.B.

11. The specific yield of the Upper Dawson Aquifer and Lower Dawson Aquifer is twenty percent (20.0%). See, 2 CCR 402-6, Rule 6.

12. The Applicant estimates the average number of feet of saturated aquifer materials in the Upper Dawson Aquifer underlying 109.06 acres of the Sitwell property to be 110 feet. The Applicant estimates the average number of feet of saturated aquifer materials in the Lower Dawson Aquifer underlying the 109.06 acres of the Sitwell property to be 50 feet. In his Determination of Facts, the State Engineer estimated the average number of feet of saturated aquifer materials in the Upper Dawson Aquifer underlying 109.06 acres of the land claimed in the application to be 70 feet. The State Engineer estimated the average number of feet of saturated aquifer materials in the Lower Dawson Aquifer underlying the land claimed in the application to be 45 feet. There is insufficient data regarding the saturated sand thickness of the Upper Dawson and Lower Dawson Aquifers to finally determine the quantity of water which may be withdrawn by the Applicant.

13. The Applicant estimates that there is approximately 2,399 acre feet of Not Nontributary Upper Dawson Aquifer groundwater, and approximately 1,091 acre-feet of Lower Dawson Aquifer groundwater underlying the Sitwell property. In his Determination of Facts, the State Engineer estimates that there

is 1,527 acre-feet of Upper Dawson Aquifer groundwater, and 982 acre-feet of Lower Dawson Aquifer groundwater underlying the subject Sitwell property.

14. The water will be used for all beneficial purposes, including but not limited to, municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, and fish and wildlife uses within the South Platte River drainage, including reuse and successive uses until such water has been entirely consumed. Such water may be used through immediate application to beneficial uses, for storage and subsequent application to beneficial uses, for exchange purposes, for replacement of depletions and for augmentation purposes.

15. Applicant has identified proposed well locations on the Sitwell property. The proposed locations of the wells are as follows:

Sitwell Well UD-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2400 feet from the West section line and 1000 feet from the South section line of said Section 3.

Sitwell Well UD-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 3000 feet from the West section line and 400 feet from the North section line of said Section 10.

Sitwell Well LD-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2400 feet from the West section line and 1050 feet from the South section line of said Section 3.

Sitwell Well LD-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 3000 feet from the West section line and 450 feet from the North section line of said Section 10.

Applicant may locate the wells and any additional or alternate point of diversion wells at any location determined by Applicant within the boundaries of the subject property, without the

necessity of filing an amendment to this Application, republishing, or petitioning the Court for the opening of any Decree hereafter entered, but such wells shall not be located within 600 feet of any well not owned by the Applicant which withdraws water from the same aquifer or within 600 feet of any boundary line of the Sitwell property. See, 2 CCR 402-7, Rule 11 and Rule 12.

16. Wells completed into the Upper Dawson Aquifer will be completed to the bottom of the Aquifer, which the Applicant has estimated to be 300 feet in depth. The State Engineer has estimated the bottom of the Aquifer to be 160 feet below the surface at the site of Well UD-1, and 220 feet below the surface at the site of Well UD-2. Wells completed into the Lower Dawson Aquifer will be completed to the bottom of the Aquifer, which the Applicant has estimated to be 650 feet in depth. The State Engineer has estimated the bottom of the Aquifer to be 515 feet below the surface at the site of Well LD-1, and 570 feet below the surface at the site of Well LD-2. The specified depths are approximate and will be determined at the time of drilling the wells according to the actual, topographic location of the wells and the depth to the bottom of the aquifer, and in compliance with 2 CCR 402-7, Rule 9.

17. Subject to the following terms and conditions, this Application is approved:

- a. The allowed average annual amount of withdrawal for each well constructed by Applicant shall be equivalent to one percent (1%) of the product of the specific yield of the aquifer, the actual saturated sand thickness, in feet, at the location of the well, and the land area, in acres, of the Sitwell property.

Upper Dawson Aquifer: The specific yield shall be twenty percent (20%). The total land area of the Sitwell property allocated to the wells is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Upper Dawson Aquifer shall be considered to be 15.3 acre-feet. Each well constructed to withdraw water from the

Upper Dawson Aquifer shall be an alternate point of diversion for every other well constructed in the Upper Dawson Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Upper Dawson Aquifer through any combination of wells drilled into the Upper Dawson Aquifer, subject to the terms of the plan for augmentation to be approved in a subsequent proceeding.

Lower Dawson Aquifer: The specific yield shall be twenty percent (20%). The total land area of the Sitwell property allocated to the wells is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Lower Dawson Aquifer shall be considered to be 9.8 acre-feet. Each well constructed to withdraw water from the Lower Dawson Aquifer shall be an alternate point of diversion for every other well constructed in the Lower Dawson Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Lower Dawson Aquifer through any combination of wells drilled into the Lower Dawson Aquifer. Applicant shall also have the right to construct such additional wells as may be required to maintain the allowed average annual amount of withdrawal.

- b. The allowed annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn from each Aquifer does not exceed the product of the number of years since the date of entry of a Decree in this case times the allowed average annual amount of withdrawal. 2 CCR 402-7, Rule 8.A.
- c. Two percent (2%) of the annual amount of Nontributary Lower Dawson Aquifer groundwater withdrawn from the aquifer shall be released to the stream as required by Section 37-90-137(9)(b), C.R.S., and by 2 CCR 402-6, Rule 8.

- d. Applicant will not withdraw water from the Upper Dawson Aquifer until the court has approved a plan for augmentation pursuant to Section 37-90-137(9)(c), C.R.S.
- e. Well permit applications shall be filed with the Colorado Division of Water Resources ("State Engineer") at such time as the Applicant is ready to drill the wells described in this Decree. The State Engineer shall issue well permits in accordance with this Decree upon Applicant's filing of well permit applications. In the event Applicant should fail to construct any well prior to the expiration of the corresponding well permit, Applicant may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit identical to the expired permit.
- f. The groundwater may be withdrawn at any reasonable pumping rate. Construction and equipping of the wells will be pursuant to the following conditions:
  - 1) Groundwater production from Wells UD-1 and UD-2 shall be limited to the Upper Dawson Aquifer. Wells LD-1 and LD-2 shall be limited to the Lower Dawson Aquifer. Plain, unperforated casing shall be installed and properly sealed to prevent withdrawal of water from more than one aquifer.
  - 2) A totalizing flow meter shall be installed on the pump discharge prior to diversion of water.
  - 3) Each well shall be equipped so that the water level may be measured and monitored.
  - 4) The bore hole of each well below the surface casing shall be geophysically logged prior to installation of final casing in conformance with the Statewide Nontributary Groundwater Rules. 2 CCR 402-7, Rule 9.

18. No material injury to vested water rights will occur if this Application is granted, subject to the terms and conditions described herein.

CONCLUSIONS OF LAW

19. To the extent that any of the Findings of Fact constitute Conclusions of Law, the Findings of Fact are incorporated herein.

20. The Court has jurisdiction over this Application and over all parties.

21. The Application herein is in accordance with law and should be granted, subject to the terms and conditions contained within this Decree.

22. The water rights that are the subject of this Application are not "conditional water rights" as that term is defined by Section 37-92-103(6), C.R.S., but are water rights determined pursuant to Section 37-90-137, C.R.S. Applicant shall not be required to file applications for findings of reasonable diligence for the water rights which are the subject of this Application.

DECREE

23. Paragraphs 1 through 22 of the Findings of Fact and Conclusions of Law are incorporated herein by this reference.

24. The Application for Underground Water Rights in the Not Nontributary Upper Dawson Aquifer and the Nontributary Lower Dawson Aquifer as described herein is granted, subject to the terms and conditions described in this Decree.

25. Pursuant to Section 37-92-305(11), C.R.S., the Court retains jurisdiction of this Application to provide for any necessary adjustment, either increase or decrease, of the allowed average annual amount of withdrawal to conform to actual local aquifer characteristics as determined from analyses of the saturated thickness of the aquifer obtained as described above. Within sixty days after the completion of well(s) or test hole(s) the applicant shall file with the State Engineer copies of the well logs from such well(s) or test hole(s). Any person,

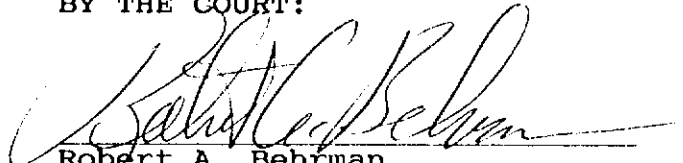


Findings of Fact, Conclusions of Law and  
Decree of the Court  
Case No. 89CW150  
Page 9

including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. The State Engineer, upon notification of invocation of retained jurisdiction, shall utilize data available to him and make a final Determination of Water Rights Finding within four months and submit the same to the Water Court.

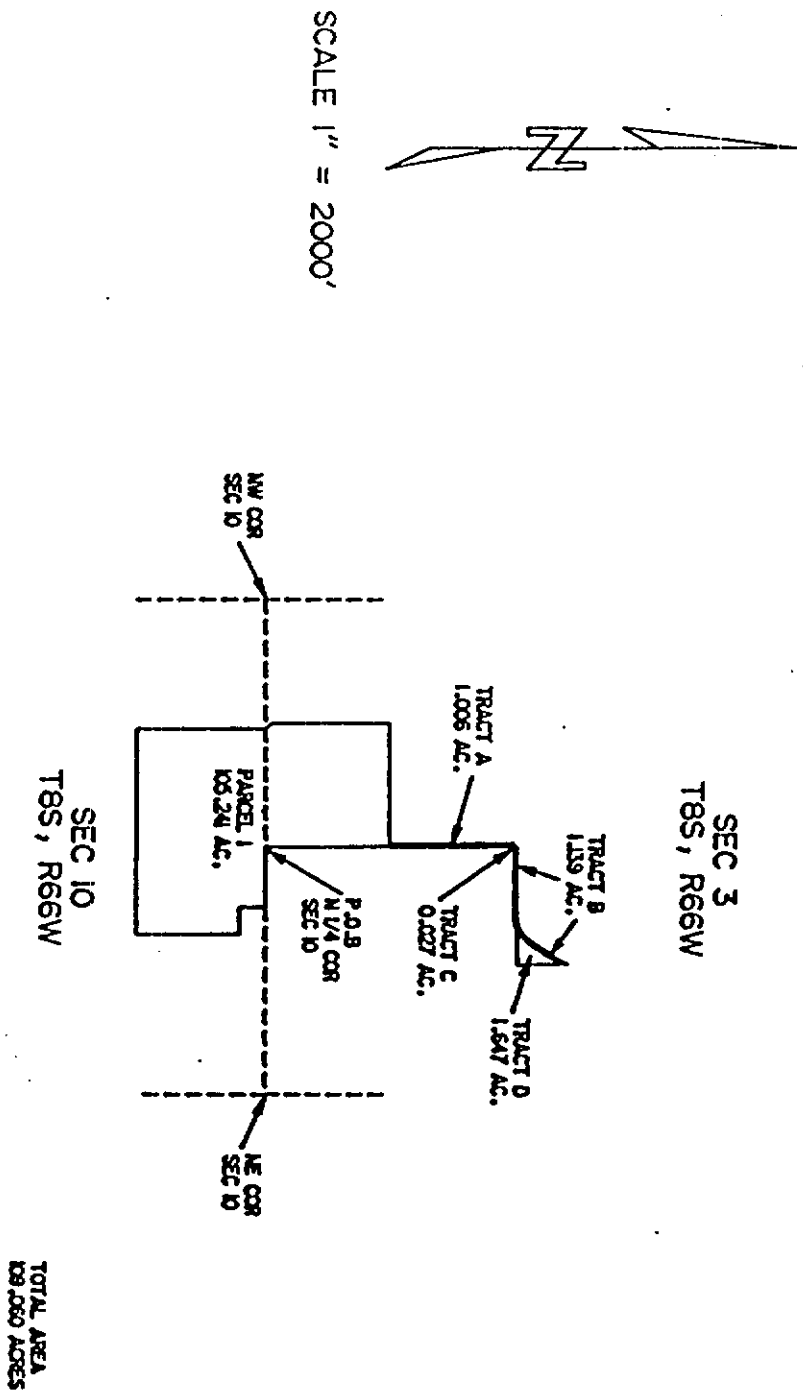
Entered this 28<sup>th</sup> day of December, 1990.

BY THE COURT:

  
Robert A. Behrman  
Water Judge

# EXHIBIT OF STEWELL PROPERTY BOOK 402, PAGE 230 DOUGLAS COUNTY RECORDS

## APPENDIX "A"



BY: JACK DE GROOT DATE: SEPT 22, 1989 FOR: HRS WATER CONSULTANTS, INC.



**NOLTE and ASSOCIATES**

Engineers / Planners / Surveyors

8655 So. Ridgeway Boulevard, Highlands Ranch, Colorado 80126

(303) 781-0666

NO. 305 CERTIFICATE OF COPY OF RECORD

STATE OF COLORADO,

County of DOUGLAS

ss.

ATTACHMENT "B"

I, RETA A. CRAIN, County Clerk

and Recorder in and for said County, in the State aforesaid, do hereby certify that the foregoing is a full, true and correct MICROFILM COPY of WARRANTY DEED IN B. 402 P. 230-232 as the same appears upon the records of my office.

Given under my hand and official seal, this 14 TH day of

SEPTEMBER, A. D. 1989, 1:55 o'clock P. M.

*Wanda W. Bailey, Deputy*  
County Clerk and Recorder

THE C. F. BRICKER CO., DENVER 80202 6-1

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO.

Case No. 89CW151

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF THE COURT

CONCERNING THE APPLICATION FOR WATER RIGHTS OF SIR RERESBY  
SITWELL, BT., D.L.

IN DOUGLAS COUNTY.

The Application in this case was filed on September 29, 1989 and the Court, having reviewed the pleadings and having received evidence regarding the Application, does hereby enter the following Findings of Fact, Conclusions of Law and Decree of the Court:

FINDINGS OF FACT

1. The name, address, and telephone number of Applicant is as follows:

Sir Reresby Sitwell, Bt., D.L.  
4 Southwick Place  
London, England W2 2TN  
011-44-1-262-3939

2. The Application was published in the Resume for Water Division No. 1 and in the appropriate newspaper in Douglas County in conformance with the requirements of Section 37-92-302(3), C.R.S. All notices required by law for the filing of this Application have been fulfilled and the Court has jurisdiction over the subject matter of this Application.

3. No Statements of Opposition to the Application were filed. The time for filing Statements of Opposition has expired and the Court has jurisdiction over all parties affected hereby, irrespective of whether they have appeared.

4. A Motion to Rerefer the case to the Water Judge was filed on December 3, 1989. The Referee entered a Ruling on February 28, 1990. A Protest to the Ruling of the Referee was filed by the Applicant.

5. Applicant has requested that the Court enter a Decree approving the Application for Underground Water Rights in the Nontributary Denver, Arapahoe and Laramie-Fox Hills Aquifers, and retaining jurisdiction pursuant to Section 37-92-305(11), C.R.S., for the purpose of adjusting the allowed average annual amount of

withdrawal decreed from the Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying the property, described herein, to conform to the actual local aquifer characteristics as determined by well drilling or test holes.

6. This Application seeks a determination of the Applicant's rights to the groundwater in the Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying approximately 109.06 acres comprising the subject property of Sir Reresby Sitwell, and described as follows:

Parcel 1: Portions of the SE1/4 of the SW1/4 of Section 3, and of the N1/2 of the N1/2 of Section 10, all in Township 8 South, Range 66 West of the 6th P.M.;

Tract A: A portion of the NE1/4 of the SW1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract B: A portion of the SW1/4 of the NE1/4, and a portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract C: A portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.; and

Tract D: A tract of land located in the SW1/4 of the NE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.

The approximate boundaries of the property are depicted on the attached Appendix A and the full legal description of the property is on the attached Appendix B.

7. The State Engineer has issued a Determination of Facts in this case for the Denver Aquifer, the Arapahoe Aquifer and the Laramie-Fox Hills Aquifer, and all three (3) Determinations of Facts have been considered by the Court. To the extent the Determination of Facts differs from this Decree, the Decree shall be determinative.

8. An investigation has failed to identify any other permitted or decreed wells, or any other claimants of water from

the Denver, Arapahoe or Laramie-Fox Hills Aquifers underlying the Sitwell property.

9. The groundwater in the Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying the boundaries of the Sitwell property is "nontributary groundwater" as defined by Section 37-90-103(10.5), C.R.S., and by 2 CCR 402-6, Rule 5.B.

10. The specific yields of the Aquifers are as follows:

Denver Aquifer - seventeen percent (17.0%)  
Arapahoe Aquifer - seventeen percent (17.0%)  
Laramie-Fox Hills Aquifer - fifteen percent (15.0%)

See, 2 CCR 402-6, Rule 6.

11. The Applicant estimates the saturated sand thickness of the Denver Aquifer underlying the total acreage of the Sitwell property of 109.06 acres to be 250 feet. The Applicant estimates the saturated sand thickness of the Arapahoe Aquifer underlying the 109.06 acres of the Sitwell property to be 285 feet. The Applicant estimates the saturated sand thickness of the Laramie-Fox Hills Aquifer underlying the 109.06 acres of the Sitwell property to be 190 feet. In his Determination of Facts, the State Engineer estimated the average number of feet of saturated aquifer materials in the Denver Aquifer underlying the land claimed in the application to be 255 feet, the average number of feet of saturated aquifer materials in the Arapahoe Aquifer to be 280 feet, and the average number of feet of saturated aquifer materials in the Laramie-Fox Hills Aquifer to be 185 feet. There is insufficient data regarding the saturated sand thickness of the Denver, Arapahoe and Laramie-Fox Hills Aquifers to finally determine the quantity of water which may be withdrawn by the Applicant.

12. The Applicant estimates that there are approximately 4,635 acre-feet of Denver Aquifer groundwater, approximately 5,284 acre-feet of Arapahoe Aquifer groundwater, and 3,108 acre-feet of Laramie-Fox Hills Aquifer groundwater underlying the subject Sitwell property. In his Determination of Facts, the State Engineer estimates there to be 4,728 acre-feet of Denver Aquifer groundwater, 5,191 acre-feet of Arapahoe Aquifer groundwater, and 3,026 acre-feet of Laramie-Fox Hills Aquifer groundwater underlying the subject Sitwell property.

13. The water will be used for all beneficial purposes, including without limitation, municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, and fish and wildlife uses within the South Platte River drainage, including reuse and successive uses until such water has been entirely consumed. Such water may be used through immediate application to beneficial uses, for storage and subsequent application to beneficial uses, for exchange purposes, for replacement of depletions and for augmentation purposes.

14. Applicant has identified proposed well locations on the Sitwell property. The proposed locations of the wells are as follows:

Sitwell Well D-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2450 feet from the West section line and 1000 feet from the South section line of said Section 3.

Sitwell Well D-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 3050 feet from the West section line and 400 feet from the North section line of said Section 10.

Sitwell Well A-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2350 feet from the West section line and 1000 feet from the South section line of said Section 3.

Sitwell Well A-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2950 feet from the West section line and 400 feet from the North section line of said Section 10.

Sitwell Well LFH-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2350 feet from the West section line and 1050 feet from the South section line of said Section 3.

Sitwell Well LFH-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th



P.M., Douglas County, Colorado at a point 2950 feet from the West section line and 450 feet from the North section line of said Section 10.

Applicant may locate the wells and any additional or alternate point of diversion wells at any location determined by Applicant within the boundaries of the subject property, without the necessity of filing an amendment to this application, republishing, or petitioning the Court for the opening of any decree hereafter entered, but such wells shall not be located within 600 feet of any well not owned by the Applicant which withdraws water from the same aquifer or within 600 feet of any boundary line of the Sitwell property. See, 2 CCR 402-7, Rules 11 and 12.

15. Wells will be completed to the bottom of the aquifers, which the Applicant has estimated to be 1,400 feet in depth for the Denver Aquifer, 2,000 feet for the Arapahoe Aquifer, and 2,600 feet in depth for the Laramie-Fox Hills Aquifer. The State Engineer has estimated the bottom of the Denver Aquifer to be 1,300 feet below the surface at the site of Well D-1 and 570 feet below the surface at the site of Well D-2, the bottom of the Arapahoe Aquifer to be 1,895 feet below the surface at the site for Well A-1, and 1,955 feet below the surface at the site of Well A-2, and the bottom of the Laramie-Fox Hills Aquifer to be 2,515 feet below the surface of the site of Well LFH-1 and 2,570 feet below the surface of the site of Well LFH-2. The specified depths are approximate and will be determined at the time of drilling the wells according to the actual, topographical location of the wells and the depth to the bottom of the aquifer, and in compliance with 2 CCR 402-7, Rule 9.

16. Subject to the following terms and conditions, this Application is approved:

- a. The allowed average annual amount of withdrawal for each well constructed by Applicant shall be equivalent to one percent (1%) of the product of the specific yield of the aquifer, the actual saturated sand thickness, in feet, at the location of the well, and the land area, in acres, allocated to the well.

Denver Aquifer: The specific yield of the Denver Aquifer will be seventeen percent (17%). The total land area of the subject property allocated

to Wells D-1 and D-2 is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Denver Aquifer shall be considered to be 47.3 acre-feet. Each well constructed to withdraw water from the Denver Aquifer shall be an alternate point of diversion for every other well constructed in the Denver Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Denver Aquifer through any combination of wells drilled into the Denver Aquifer.

Arapahoe Aquifer: Specific yield of the Arapahoe Aquifer shall be seventeen percent (17%). The total land area of the subject property allocated to Wells A-1 and A-2 is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Arapahoe Aquifer is 52.0 acre-feet. Each well constructed to withdraw water from the Arapahoe Aquifer shall be an alternate point of diversion for every other well constructed in the Arapahoe Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Arapahoe Aquifer through any combination of wells drilled into the Arapahoe Aquifer. Applicant shall also have the right to construct such additional wells as may be required to maintain the allowed average annual amount of withdrawal.

Laramie-Fox Hills Aquifer: Specific yield of the Laramie-Fox Hills Aquifer shall be fifteen percent (15%). The total land area of the subject property allocated to Wells LFH-1 and LFH-2 is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Laramie-Fox

Hills Aquifer is 30.3 acre-feet. Each well constructed to withdraw water from the Arapahoe Aquifer shall be an alternate point of diversion for every other well constructed in the Arapahoe Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Arapahoe Aquifer through any combination of wells drilled into the Arapahoe Aquifer. Applicant shall also have the right to construct such additional wells as may be required to maintain the allowed average annual amount of withdrawal.

- b. The allowed annual amount of withdrawal from the Denver, Arapahoe, and the Laramie-Fox Hills Aquifers may exceed the allowed average annual amount of withdrawal from each aquifer as long as the total volume of water withdrawn from the each aquifer does not exceed the product of the number of years since the date of entry of the Decree in this case times the allowed average annual amount of withdrawal. 2 CCR 402-7, Rule 8.A.
- c. Two percent (2%) of the annual amount of Nontributary Denver, Arapahoe and Laramie-Fox Hills Aquifer groundwater withdrawn from the aquifer shall be released to the stream as required by Section 37-90-137(9)(b), C.R.S., and by 2 CCR 402-6, Rule 8.
- d. Well permit applications shall be filed with the Colorado Division of Water Resources ("State Engineer") at such time as the Applicant is ready to drill the wells described in this Decree. The State Engineer shall issue well permits in accordance with this Decree upon Applicant's filing of well permit applications. In the event Applicant should fail to construct any well prior to the expiration of the corresponding well permit, Applicant may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit identical to the expired permit.

- e. The groundwater may be withdrawn at any reasonable pumping rate. Construction and equipping of the wells will be pursuant to the following conditions:
- 1) Groundwater production from Wells D-1 and D-2 shall be limited to the Denver Aquifer. Wells A-1 and A-2 shall be limited to the Arapahoe Aquifer. Wells LFH-1 and LFH-2 shall be limited to the Laramie-Fox Hills Aquifer. Plain, unperforated casing shall be installed and properly sealed to prevent withdrawal of water from more than one aquifer.
  - 2) A totalizing flow meter shall be installed on the pump discharge prior to diversion of water.
  - 3) Each well shall be equipped so that the water level may be measured and monitored.
  - 4) The bore hole of each well below the surface casing shall be geophysically logged prior to installation of final casing in conformance with the Statewide Nontributary Groundwater Rules. 2 CCR 402-7, Rule 9.

17. No material injury to vested water rights will occur if this Application is granted, subject to the terms and conditions described herein.

#### CONCLUSIONS OF LAW

18. To the extent that any of the Findings of Fact constitute Conclusions of Law, the Findings of Fact are incorporated herein.

19. The Court has jurisdiction over this Application and over all parties.

20. The Application herein is in accordance with law and should be granted, subject to the terms and conditions contained within this Decree.

21. The water rights that are the subject of this Application are not "conditional water rights" as that term is defined by Section 37-92-103(6), C.R.S., but are water rights determined pursuant to Section 37-90-137, C.R.S. Applicant shall

not be required to file applications for findings of reasonable diligence for the water rights which are the subject of this Application.

DECREE

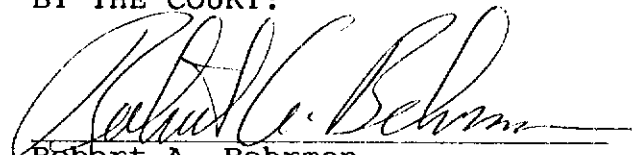
22. Paragraphs 1 through 21 of the Findings of Fact and Conclusions of Law are incorporated herein by this reference.

23. The Application for Underground Water Rights in the Denver, Arapahoe and Laramie-Fox Hills Aquifers as described herein is granted, subject to the terms and conditions described in this Decree.

24. Pursuant to Section 37-92-305(11), C.R.S., the Court retains jurisdiction of this Application to provide for any necessary adjustment, either increase or decrease, of the allowed average annual amount of withdrawal to conform to actual local aquifer characteristics as determined from analyses of the saturated thickness of the aquifers obtained as described above. Within sixty days after the completion of well(s) or test hole(s) the applicant shall file with the State Engineer copies of the well logs from such well(s) or test hole(s). Any person, including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. The State Engineer, upon notification of invocation of retained jurisdiction, shall utilize data available to him and make a final Determination of Water Rights Finding within four months and submit the same to the Water Court.

Entered this 28<sup>th</sup> day of December, 1990.

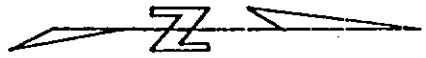
BY THE COURT:

  
Robert A. Behrman  
Water Judge

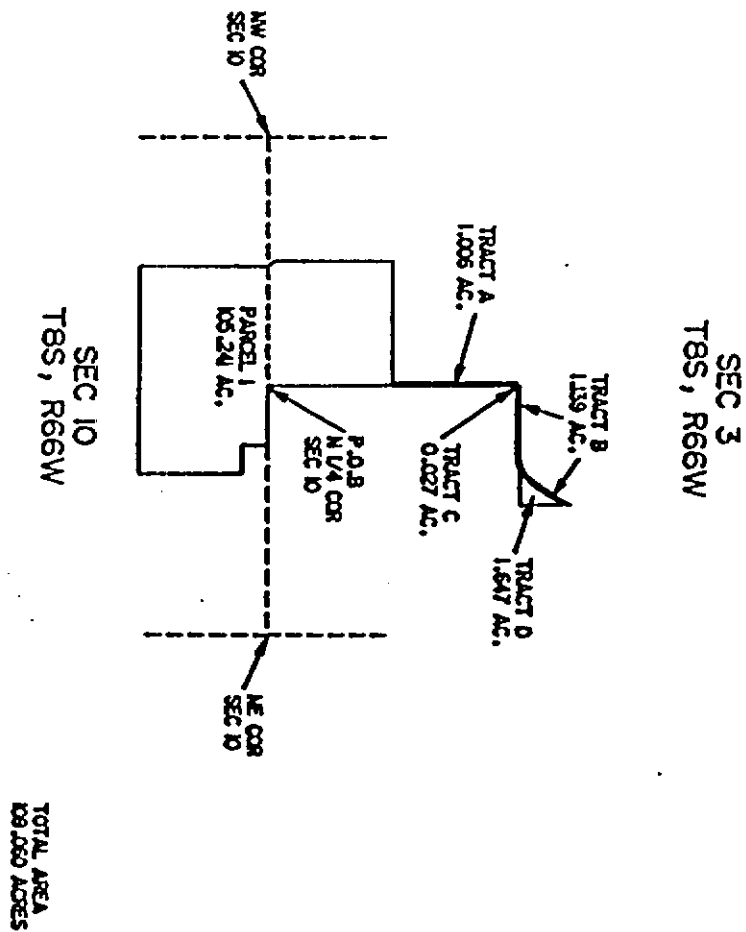
# EXHIBIT OF STEWELL PROPERTY

## BOOK 402, PAGE 230 DOUGLAS COUNTY RECORDS

APPENDIX "A"



SCALE 1" = 2000'



BY: JACK DE GROOT DATE: SEPT 22, 1989 FOR: HRS WATER CONSULTANTS, INC.



**NOLTE and ASSOCIATES**

Engineers / Planners / Surveyors

6855 So. Ridgeway Boulevard, Highlands Ranch, Colorado 80126

(303) 784-0666

NO. 305 CERTIFICATE OF COPY OF RECORD

STATE OF COLORADO,

County of DOUGLAS

ss.

ATTACHMENT "B":

I, RETA A. CRAIN, County Clerk

and Recorder in and for said County, in the State aforesaid, do hereby certify that the foregoing is a full, true and correct MICROFILM COPY of WARRANTY DEED IN B 402 P 230-232 as the same appears upon the records of my office.

Given under my hand and official seal, this 14 TH day of  
SEPTEMBER, A. D. 1989, 1:55 o'clock P. M.

*Reta A. Crain*  
County Clerk and Recorder

THE C. F. MUECKEL CO., DENVER 35534 1-7

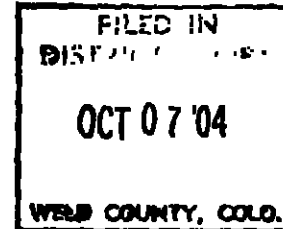


DISTRICT COURT, WATER DIVISION 1,  
COLORADO

Court Address:  
901 9<sup>th</sup> Street  
Greeley, CO 80632

**J & C PROPERTIES, LLC, Applicant,**  
**IN DOUGLAS COUNTY.**

Attorneys:  
Petrock & Fendel, P.C.  
Scott M. Huyler, Atty. Reg. #27342  
700 Seventeenth Street, Suite 1800  
Denver, Colorado 80202  
Telephone: (303) 534-0702



σ COURT USE ONLY σ

Case Number: 2004CW24

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,  
JUDGMENT AND DECREE,  
IN THE NOT NONTRIBUTARY UPPER DAWSON AQUIFERS**

THIS APPLICATION, having been filed with the Water Clerk, Water Division 1, in January, 2004, and all matters contained in the application having been reviewed, and such testimony having been taken and evidence presented as was necessary, and being otherwise fully advised in the premises, it is hereby the Ruling of the Referee as follows:

**FINDINGS OF FACT**

1. Name, Address and Telephone Number of Applicant:  
  
J & C Properties, LLC  
10415 Roxborough Park Road  
Littleton, CO 80125  
(303) 791-7656
2. Objections. No statements of opposition were filed and the time for filing such statements has expired.
3. Subject Matter Jurisdiction. Notice of the application was duly given in the manner required by law and the Court has jurisdiction over the subject matter and over all who have standing to appear as parties, whether they have appeared or not.

**APPROVAL OF GROUNDWATER RIGHT**

4. **Aquifers and Location of Groundwater:** Applicant is granted a decree for rights to groundwater recoverable from the not nontributary Upper Dawson aquifer underlying 67 acres of land located in part of the W1/2SE1/4 of Section 3, T8S, R66W of the 6th P.M., as described and shown on Attachment A hereto ("Subject Property"). Applicant is the owner of the Subject Property, and such land is not located within the boundaries of a designated groundwater basin.

5 **Well Locations and Annual Amounts:** The wells which will withdraw the groundwater not nontributary Upper Dawson aquifer will be located at any location on the Subject Property, pursuant to §37-90-137(4), C.R.S. Applicant hereby waives any 600 foot spacing rule for its own wells, but must satisfy §37-90-137(4), C.R.S., for wells owned by others on adjacent properties. The following amount is available for withdrawal subject to the Court's retained jurisdiction in this matter:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Annual Amount</u>
Upper Dawson	75 feet	7.1 acre-feet(NNT)*

\*Annual amount reduced by 3 acre-feet per year for any uses which are legally available at the time a well permit application is filed. Said 3 acre-feet (300 acre-feet total) may also be available to be withdrawn through one exempt well on the Subject Property pursuant to Section 37-92-602, C.R.S. (4.47 acre-feet per surface acre).

The amount and values conform with the State Engineer's Determination of Facts dated June 15, 2004.

6. **Uses of Water.** The groundwater will be used for domestic, commercial, irrigation, stock watering, fire protection, and augmentation purposes.

7. **Estimated Average Pumping Rate and Well Depths.** Wells will withdraw the subject groundwater at rates of flow necessary to efficiently withdraw the groundwater

8. **Final Average Annual Amounts of Withdrawal:**

A. Final determination of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicant will be made pursuant to the retained jurisdiction of this Court, as described in Paragraph 19 hereinbelow. In the event this decree is not reopened for a further quantitative determination, the findings herein are final and controlling.

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

9. Source of Groundwater and Limitations on Consumption:

A. The groundwater to be withdrawn from the Upper Dawson aquifer is "not nontributary" as defined in §§37-90-137(9)(c) and 37-90-103(10.7), C.R.S., and such water may not be withdrawn until such time as a plan for augmentation has been approved by this court in a separate application.

C. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years.

10. Additional Wells and Well Fields:

A. In addition to the wells described above, Applicant may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property, as described herein. As additional wells are planned, applications shall be filed in accordance with §37-90-137(10), C.R.S., for evaluation by the Division of Water Resources. The Upper Dawson aquifer water decreed herein may also be withdrawn in combination with the same type of water decreed in Case No. 89CW150 underlying a contiguous parcel of land, through wells located on the Subject Property or wells located on the land which is the subject of Case No. 89CW150.

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

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

D. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court, Applicant shall obtain permits to reflect such adjusted average annual amounts prior to withdrawing the adjusted amounts.

Subsequent permits for any wells herein shall likewise reflect any such adjustment of the average annual amounts decreed herein.

11. 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 the well discharge pipe prior to withdrawing any water therefrom, and shall be maintained and operational at all times for the life of the well. 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 entire length of the open bore hole shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicant may provide a geophysical log from an adjacent well or test hole, pursuant to Rule 9A of the Statewide Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

C. Groundwater production shall be limited to the subject aquifer. 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.

D. 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.

REQUEST FOR APPROVAL OF CHANGE OF WATER RIGHTS

12. Decree information for changed water rights: Case No. 89CW150 and 89CW151, both decreed on December 28, 1990, and Case No. 88CW026 as decreed on July 10, 1989 (The Upper and Lower Dawson water is decreed in Case No. 89CW150 and the Denver, Arapahoe, and Laramie-Fox Hills aquifer water is decreed in Case No. 89CW151) The land associated with Case No. 89CW150 and 89CW151 is approximately 109 acres located in the SE1/4SW1/4 of Section 3 and part of the N1/2N1/2 of Section 10, T8S, R66W of the 6<sup>th</sup> P.M., as described and shown on Attachment A hereto. The land associated with Case No. 88CW026 is approximately 67 acres of land located in part of the W1/2SE1/4 of Section 3, T8S, R66W of the 6<sup>th</sup> P.M., as described and shown on Attachment A hereto. Said parcels are contiguous and the land and water decreed in these cases are owned by Applicant. The decreed annual amounts of water in acre-feet are as follows:

<u>Case Nos. 89CW150 and 151</u>		<u>Case No. 88CW026</u>	<u>Total Amounts</u>	
Upper Dawson:	15.3(NNT)	Upper Dawson	0.0	22.4 acre-feet(NNT)*
Lower Dawson.	9.8(NT)	Lower Dawson:	7.0(NT)	15.8 acre-feet(NT)
Denver:	47.3(NT)	Denver:	30.3(NT)	77.6 acre-feet(NT)
Arapahoe:	52.0(NT)	Arapahoe:	32.7(NT)	84.7 acre-feet(NT)
Laramie-Fox Hills:	30.3(NT)	Laramie-Fox Hills:	19.9(NT)	50.2 acre-feet(NT)

\*Includes amount decreed in this decree

13. Decreed change: The original decrees require that wells to withdraw the decreed groundwater be located on the land which is the subject of that specific decree. By this decree, the decreed amounts in Case No. 89CW150 and 89CW151 may be withdrawn in combination with the decreed amounts in the same aquifers as decreed in Case No. 88CW026, and the total decreed amounts may be withdrawn through wells located on the land which is the subject of either decree, as long as the total annual amounts are not exceeded. No other parts of the original decrees are changed herein.

#### CONCLUSIONS OF LAW

14. The Water Court has jurisdiction over this proceeding pursuant to §37-90-137(6), C.R.S. and over all who may be affected thereby, whether they have chosen to appear or not pursuant to Section 37-92-302, 37-92-304, and 37-92-305, C.R.S.

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

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

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

**IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED THAT:**

18. The Findings of Fact and Conclusions of Law are incorporated into this Decree of the Water Court.

19. Retained Jurisdiction:


A The Court retains jurisdiction as necessary to adjust the average annual amount of Upper Dawson aquifer groundwater available under the Subject 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 finding. The State Engineer shall submit such finding to the Water Court and Applicant or successor and assigns.

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.

D. In the interim, the Court retains jurisdiction in this matter pursuant to §37-92-305(11), C.R.S.

RULING ENTERED October 7, 2004.

  
Water Referee  
Water Division 1

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

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

\_\_\_\_\_  
Roger A. Klein  
Water Judge  
Water Division 1

67 Acres  
04CW24(Upper Dawson)  
and 88CW026

A tract of land in the SE 1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M., more particularly described as follows:

Commencing at the South one-quarter corner of said Section 3, said point being the true point of beginning; thence North 00° 07' 51" East a distance of 2642.94 feet to the center of said Section 3; thence North 89° 27' 21" East a distance of 1322.15 feet to the Northeast corner of the NW 1/4 of the SE 1/4 of said Section 3; thence South 00° 03' 49" West and along the North-South centerline of the said SE 1/4 a distance 1972.16 feet; thence North 89° 04' 12" West a distance of 684.51 feet; thence South 00° 14' 23" West a distance of 691.43 feet to a point on the South line of said Section 3; thence South 89° 43' 43" West and along the South line of said Section 3 a distance of 636.91 feet to the true point of beginning, except the Northerly 33.00 feet thereof, and except the Easterly 60.00 feet thereof for Castlewood Dam Road, and except any part lying within the property described in Book 263 at Page 570, Book 263 at Page 571, and Book 293 at Page 614, also except that portion described in Book 402 at Page 228.

89CW150 and 151 (109 ac)

Those portions of the Southeast 1/4 of the Southwest 1/4 of Section 3 and of the North half of the North half of Section 10, all in Township 8 South, Range 66 West of the 6th P.M., County of Douglas, State of Colorado, described as follows:

Beginning at the North one-quarter corner of said Section 10; thence N 89°43'43" E, along the North line of the Northeast quarter of said Section 10, a distance of 636.91 feet to a point on the Westerly line of a tract of land described in deed recorded August 9, 1976 in Book 293, Page 614; thence S 00°05'35" W, along said Westerly line described in Book 293, Page 614, a distance of 268.81 feet; thence S 89°05'46" E, along the Southerly line of said tract described in Book 293, Page 614, a distance of 294.88 feet to a point on the Westerly line of a tract described in deed recorded September 21, 1967 in Book 179, Page 58; thence S 00°02'59" E, along the Westerly line of said tract described in Book 179, Page 58, and along the Westerly line of a tract described in deed recorded December 10, 1968 in Book 189, Page 101, a distance of 1056.30 feet to a point on the South line of the Northwest 1/4 of the Northeast 1/4 of said Section 10; thence S 89°41'17" W along the said South line of the Northwest 1/4 of the Northeast 1/4 and along the South line of the Northeast 1/4 of the Northwest 1/4 of said Section 10, a distance of 2198.09 feet to a point on the East line of the West 60 feet of the Northeast 1/4 of the Northwest 1/4 of said Section 10; thence N 00°11'55" E, along said East line of the West 60 feet, 1326.92 feet to the North line of the Northwest 1/4 of said Section 10; thence N 45°12'21" W, 84.36 feet to a point on the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 3 which is 60 feet North of the North line of said Section 10; thence N 00°07'39" E along the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 3, a distance of 1261.27 feet to the Northwest corner of said Southeast 1/4 of the Southwest 1/4; thence N 89°26'48" E, along the North line of said Southeast 1/4 of the Southwest 1/4, 1321.38 feet to the Northeast corner thereof; thence S 00°07'52" W, along the East line of said Southeast 1/4 of the Southwest 1/4, 1321.68 feet to the POINT OF BEGINNING.



St. C Properties  
04CW24

R66W

Franktown  
(BM 6153)

Whispering Pines

Burning

ARAPAHOE

89CW150 and 151 (109 ac)

88CW026 (67 ac)  
and  
04CW24 (Upper Dawson) 1d

Barnes Bird  
Reservoir No. 1  
Barnes Bird  
Reservoir No. 1

Russellville

CANAL

SANITIZED CANYON  
FLOODING AREA

December 11, 2023

Douglas County Department of Community Development  
Mr. Eric Pavlinek  
100 Third Street  
Castle Rock, Colorado 80104

Re: Creekside Acres Minor Development Section 18A Water Appeal Request  
Job No. 1051.1

Dear Mr. Pavlinek:

The purpose of this letter is to provide a narrative of the 18A – Water Supply Overlay District Water Appeal being requested for the Creekside Acres Minor Development application. Included in the application was the Water Availability Study completed by this office, dated August 23, 2023. The Water Availability Study provided a summary of the water rights owned by the applicant, Mr. Jeff Ellis and has been attached to this appeal request for your records.

It was brought to our attention that the County and its water consultant, Bruce Lytle, do not believe that the application as provided meets the requirements of Section 1804A.05 of the Douglas County Zoning Resolution (DCZR). As allowed for in 1808A of the DCZR, this letter is being submitted in support of an appeal request of Section 1804A.05.

Under Section 1804A.05, it states that “The water rights in all Denver Basin aquifers shall be reserved in perpetuity, for the benefit of future landowners within the proposed development, pursuant to a declaration of restrictive covenants in a form prescribed by the County.” As outlined in the attached Water Availability Study, the applicant owns 2.5 acre-feet per year (af/yr) in the nontributary Denver aquifer, 2.5 af/yr in the nontributary Arapahoe aquifer, and 2.56 af/yr in the not-nontributary Upper Dawson aquifer. This water was conveyed to the applicant under a Special Warranty Deed when you purchased the property (attached). It is the applicant’s intent to meet the requirements of 1804A.05 by reserving in perpetuity all the Denver Basin aquifer ground water rights he owns underlying Creekside Acres by a restrictive covenants as prescribed by the County.

As outlined in the Water Availability Study, the project property is zoned as Agricultural One (A-1), and pursuant to Douglas County Zoning Resolution 1805A.02.1, the minimum water demand standard for A-1 zoned districts is 1 acre-foot/year/residence. Thus, each newly created lot will require 1 acre-foot per year (af/yr) of ground water. It is the applicant's intent to split the owned water rights equally between both proposed lots, which exceeds the requirements of 1805A.02.1.

If there are any questions, please do not hesitate to contact me. We reserve the right to supplement this appeal request with additional supporting information as needed.

Sincerely,  
*JEHN WATER CONSULTANTS, INC.*

A handwritten signature in cursive script, reading "Gina Burke".

Gina Burke  
President

## **MEMORANDUM**

**TO:** Jeff Ellis  
**FROM:** Gina Burke and Hillary Banks  
**DATE:** August 23, 2023  
**SUBJECT:** Water Availability Study for Ellis Property  
**JOB NO:** 1051.1

---

Pursuant to your request, we have completed a review of the available ground water in the Denver Basin aquifers underlying the property located in Sections 3 and 10, Township 8 South, Range 66 West, 6<sup>th</sup> P.M., Douglas County, Colorado (the Property). The Property consists of approximately 35.17 acres as shown on the attached map (Figure 1). This Memorandum provides a preliminary review of the water supply underlying the 35.17 acres. Please note that we offer no opinion relating to ownership of land or water rights herein.

### **Ground Water**

We completed a document review at the State Engineer's Office to determine if there were any existing wells on the Property. There was one well found within the State's database. Documentation for the well may be found attached to this Memorandum. The Williamson Well (WDID 0808047) is a shallow well completed to a depth of 80 feet. It was decreed in Case No. W-2232 for a flowrate of 0.111 cubic feet per second (cfs) (approximately 50 gallons per minute (gpm)) and has an appropriation date of February 2, 1902. It is decreed for domestic, stock, industrial, and commercial uses. It is unknown if the well is still in existence.

We also completed a pre-213 well search for the Property to determine if any existing water rights impacted the Property. Based on the State Engineer's Office maps, there are no wells whose circles of appropriation impact the property.

There are five Denver Basin aquifers underlying the Property, the Upper Dawson, the Lower Dawson, the Denver, the Arapahoe, and the Laramie-Fox Hills. The ground water under the property in each aquifer has been previously adjudicated. In Case 88CW026, ground water in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills were decreed under 70 acres of land, a portion being the Subject Property. In companion Case Nos. 89CW150 and 89CW151; the Upper Dawson, Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills were decreed under 109.06 acres of land, a portion being the Subject Property. Finally, in Case 2004CW024, the remaining Upper Dawson ground water was decreed, and decrees 88CW026, 89CW150 and 89CW151 were changed to allow the combined decreed amounts of ground water in each aquifer to be withdrawn through wells located on either of the original properties, totaling 179.06 acres as shown on Figure 2. All decrees are attached to this Memorandum for your records. In each case, the State Engineer determined the saturated sand thickness of each aquifer and estimated the volume of water underlying the applicant's property.

A portion of the ground water included in the decrees discussed above and underlying the Property was deeded with the recent purchase of the Property. Table 1 includes the deeded decreed annual amount of withdrawal from each aquifer as written in the Special Warranty Deed for Water Rights in the Closing Documents (recorded in Douglas County August 8, 2022, Reception Number 2022054679). The ground water decreed in Cases 88CW026, 89CW150, and 89CW151 may be used for municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, fire protection and augmentation uses. The additional Upper Dawson aquifer ground water decreed in Case 2004CW024 may be used for all the same uses, excluding municipal.

Table 1 also indicates the status of each aquifer as being considered not-nontributary or nontributary. The ground water in the Upper Dawson aquifer is considered not-nontributary and can be placed to beneficial use by obtaining an approved plan for augmentation from the Division 1 Water Court. In our document search, we did not find

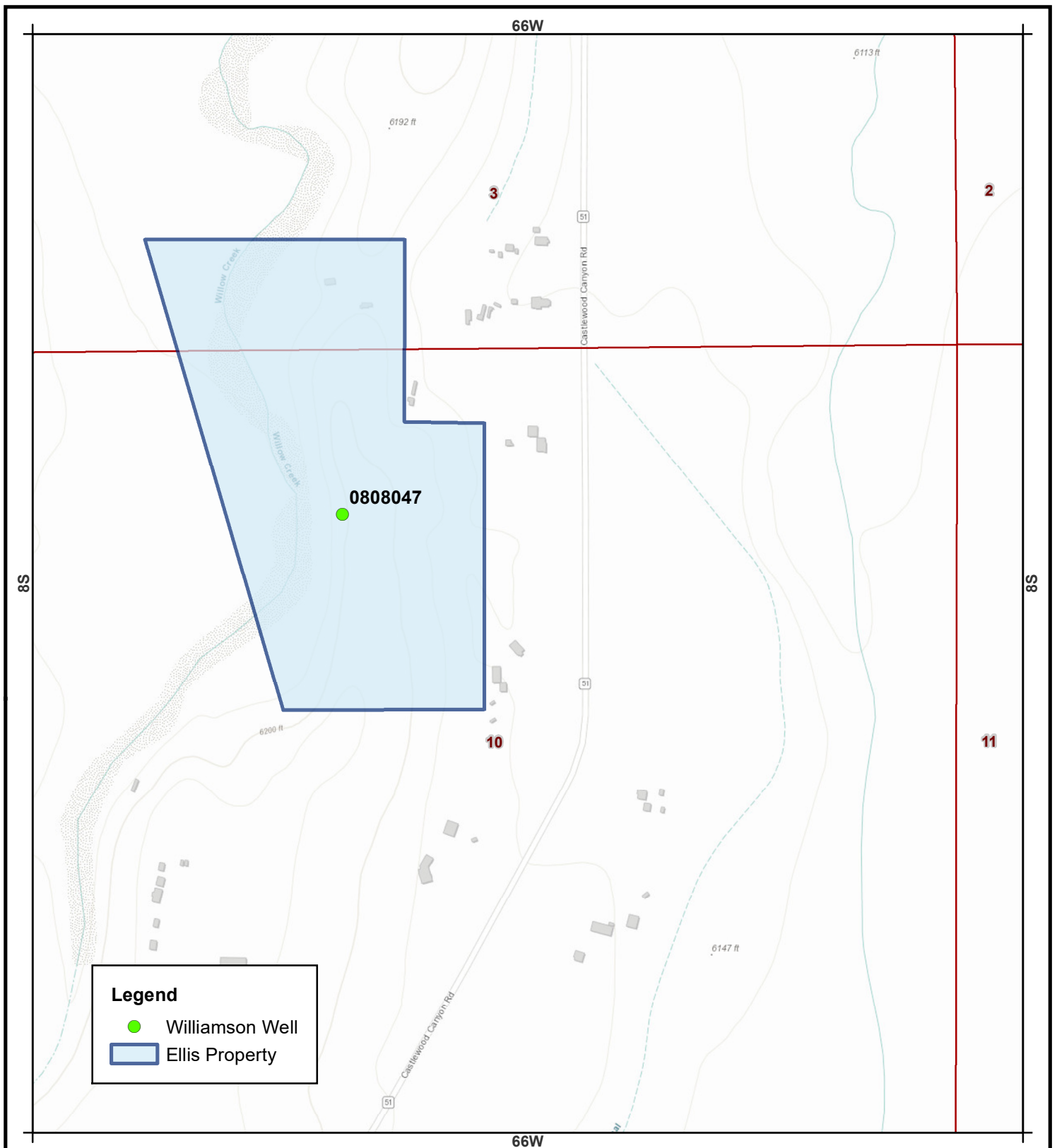
a decreed augmentation plan for the Upper Dawson ground water decreed in Case No. 2004CW024.

### **Demands**

In our conversations with you, we understand that you plan to subdivide the Property into two lots. We have reviewed the Douglas County Zoning of the parcel and the County's water supply requirements. The Property is zoned as Agricultural One (A-1), and pursuant to Douglas County Zoning Resolution 1805A.02.1, the minimum water demand standard for A-1 zoned districts is 1 acre-foot/year/residence. Thus, each newly created lot will require 1 acre-foot per year (af/yr) of ground water.

The lot sizes you contemplate are either two 17-acre lots or one 20-acre lot and one 15 acre-lot, and it is our understanding that the deeded water volumes will be equally split between the two newly created lots, regardless of how the Property is subdivided. Thus, each lot will have 3.78 af/yr of ground water available to meet demands, 1.28 af/yr in the not-nontributary Upper Dawson aquifer, 1.25 af/yr in the nontributary Denver aquifer, and 1.25 af/yr in the nontributary Arapahoe aquifer. Because the ground water in the Upper Dawson aquifer is considered not-nontributary and can only be placed to beneficial use by obtaining an approved plan for augmentation from the Division 1 Water Court, the lots will rely on using either the Denver or Arapahoe aquifer to meet demands. The nontributary Denver or Arapahoe aquifer water may be placed to beneficial use by applying for a well permit with the Colorado Division of Water Resources and drilling a well.

If you have any questions, or if you would like to discuss this Memorandum, please do not hesitate to call.



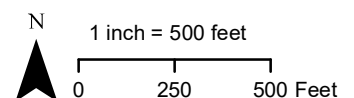
#### Legend

- Williamson Well
- Ellis Property

**Jehn Water Consultants, Inc.**  
 88 Inverness Circle East,  
 Suite K-102  
 Englewood, CO 80112  
 (303) 321-8335  
[www.jehnwater.com](http://www.jehnwater.com)

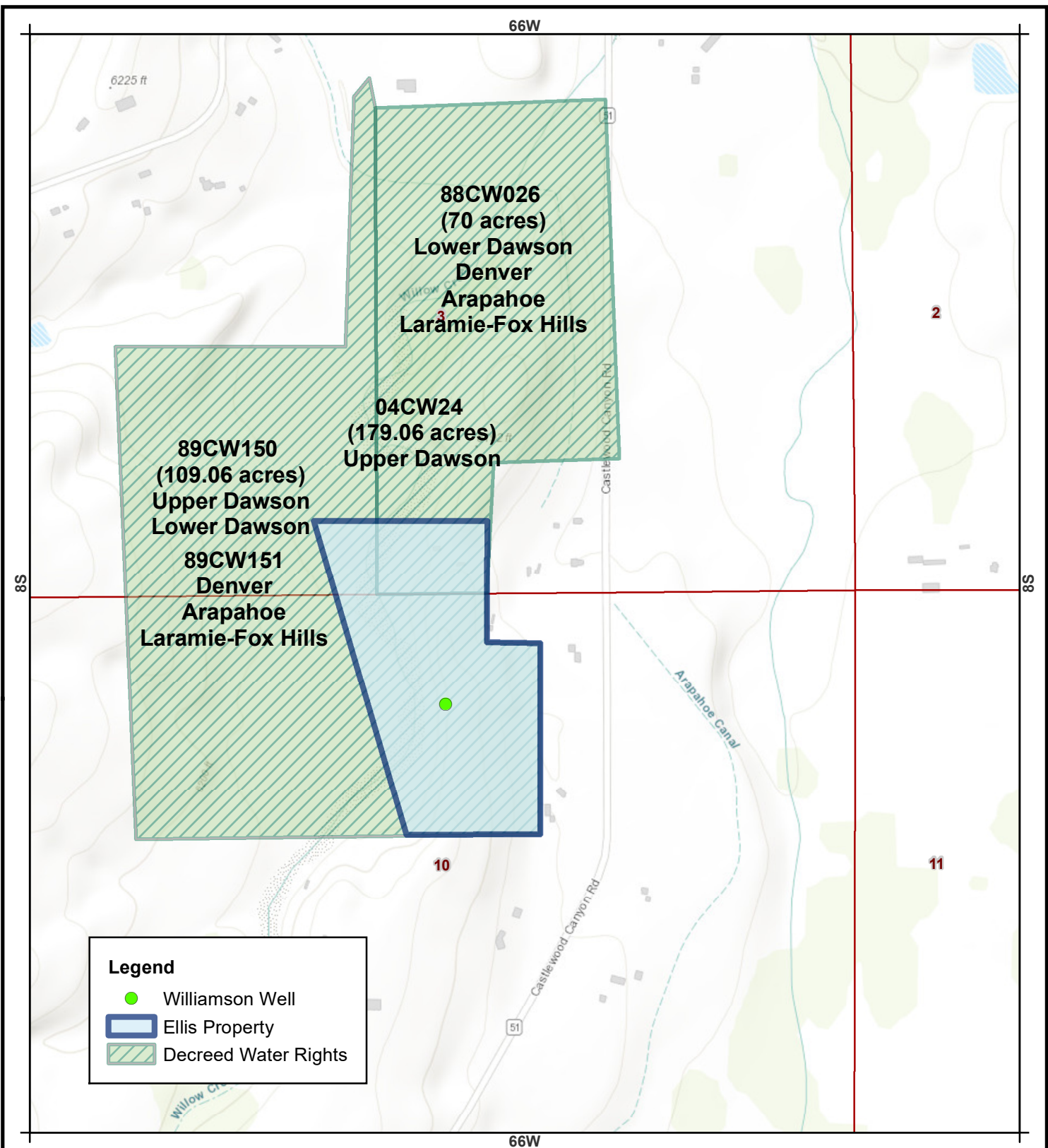
## FIGURE 1

### Ellis Property General Location



Job No. 1051.1  
 Projection: UTM NAD83  
 Prepared By: AAW 8/7/2023  
 Checked By: HLB 8/21/2023  
 Sources:  
 Esri USA Topo Map Basemap





**Jehn Water Consultants, Inc.**  
88 Inverness Circle East,  
Suite K-102  
Englewood, CO 80112  
(303) 321-8335  
[www.jehnwater.com](http://www.jehnwater.com)

## FIGURE 2

### Ellis Property Water Rights Under Property

N  
1 inch = 750 feet  
0 250 500 750 Feet  
Job No. 1051.1  
Projection: UTM NAD83  
Prepared By: AAW 8/9/2023  
Checked By: HLB 8/21/2023  
Sources:  
Esri USA Topo Map Basemap



**TABLE 1  
WATER AVAILABILITY  
ELLIS PROPERTY  
35.17 acre parcel in Douglas  
County**

Aquifer	Water Available (af/yr) <sup>1</sup>	Status <sup>2</sup>
Upper Dawson	2.56	NNT
Denver	2.5	NT
Arapahoe	2.5	NT

Notes:

1. Water available to the 35.17 acre parcel is a portion of the ground water Decreed in Division 1 Water Court Case Nos. 88CW150, 89CW151, and 04CW024.

Ground water was conveyed to the Ellis Property owners by Special Warranty Deed, August 8, 2022, Reception Number 2022054679.

2. NNT= Not-Nontributary, NT=Nontributary

**Special Warranty Deed**  
(Water Rights)

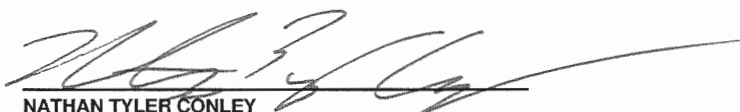
**THIS DEED**, made on **August 8th, 2022** by **NATHAN TYLER CONLEY AND BRANDYE LEIGH CONLEY** Grantor(s), of the County of **Douglas** and State of **Colorado** for the consideration of **\*\*\* Ten Dollars and Other Good and Valuable Consideration** \*\*\* dollars in hand paid, hereby sells and conveys to **LAURA GEHRKE AND JEFF ELLIS** Grantee(s), as Joint Tenants, whose street address is **11979 S Allerton Cir, Parker, CO 80138**, County of **Douglas**, and State of **Colorado**, the following described water rights:

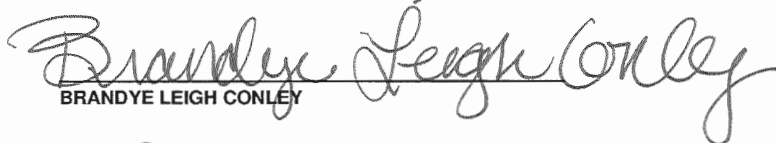
**2.5 acre feet of Denver formation non tributary groundwater and 2.5 acre feet of Arapahoe formation non tributary groundwater as decreed in Division One Water Court cases 88CW026, 89CW150, 89CW151 and 04CW24 ("Decrees") and 2.56 acre feet of Upper Dawson not non tributary groundwater, removed from the Decrees for drilling exempt wells under CRS 37-92-602 and underlying the property.**

Appurtenant to:

See attached "Exhibit A"

also known by street and number as: **1481 NORTH CASTLEWOOD CANYON ROAD (VACANT LAND), FRANKTOWN, CO 80116**  
and warrants the title against all persons claiming under the Grantor(s).

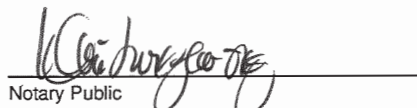
  
NATHAN TYLER CONLEY

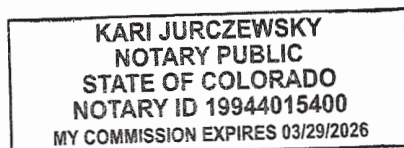
  
BRANDYE LEIGH CONLEY

State of Colorado )  
County of Douglas ) ss.

The foregoing instrument was acknowledged before me on this day of August 5, 2022 by **NATHAN TYLER CONLEY AND BRANDYE LEIGH CONLEY**

Witness my hand and official seal

My Commission expires: 3/29/26   
Notary Public



When recorded return to: **LAURA GEHRKE AND JEFF ELLIS**  
**11979 S Allerton Cir, Parker, CO 80138**



**Williamson Well**  
**WDID 0808047**

IN THE WATER COURT IN AND FOR  
WATER DIVISION I, STATE OF COLORADO  
CASE NO. W-2232

IN THE MATTER OF THE APPLICATION ) FOR WATER RIGHTS OF ) ONEITA K. WILLIAMSON ) IN DOUGLAS COUNTY )	FINDINGS AND RULING OF THE REFEREE
--	---------------------------------------

THIS CLAIM, having been filed with the Water Clerk, Water Division I, on March 28, 1972, and the Referee being fully advised in the premises, does hereby find:

All notices required by law of the filing of this Application have been fulfilled, and the Referee has jurisdiction of this Application.

No statement of opposition to said Application has been filed, and the time for filing such statement has expired.

All matters contained in the Application having been reviewed, and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein,

IT IS HEREBY DECREED:

1. The name and address of the claimant:

Oneita K. Williamson  
P.O. Box 8  
Parker, Colorado 80134

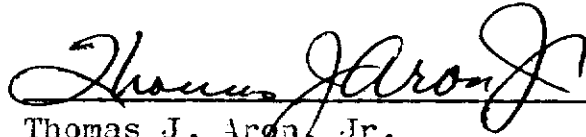
2. The name of the structure to which a right is hereby Decreed: Well No. 1-Unregistered

3. The legal description of the structure:

Located in the NW¼ NE¼, Section 10, Township 8 South, Range 66 West of the 69 P.M., Douglas County, Colorado, more particularly located 5,040 feet East and 600 feet South of the Northwest Corner of said Section 10.

4. The source of water is: Groundwater
5. The date of appropriation: February 2, 1906
6. The amount of water: .111 Cubic Feet Per Second
7. The use of the water: Domestic, stock, industrial and commercial.

DATED this 14<sup>th</sup> day of November, 1972.

  
Thomas J. Aron, Jr.  
Water Referee, Water Division I  
State of Colorado

No protest was filed in this matter. The foregoing ruling is confirmed and approved, and is made the Judgment and Decree of this Court.

Dated: January 2, 1973

  
Donald O. Carpenter  
Water Judge

STATE OF COLORADO

County of Jefferson } ss.

AFFIDAVIT

2232

COMES NOW the undersigned Mr. A. C. Christensen,  
and being first duly sworn states as follows:

1. That he is, and has been, a resident of Douglas County,  
for 76 years.

2. That he is well acquainted with that certain well, on property legally described  
as follows: NW¼NE¼ Sec. 10, T. 8 S., R. 66 W. of the 6th P.M.

3. That he states, of his own personal knowledge, that said well was drilled and put  
to beneficial use on or about the 2nd day of February, 1906

(Signature)

A. C. Christensen

Subscribed and sworn to before me this 22 day of March, 1972.

WITNESS my hand and official seal.

My commission expires My Commission expires Oct. 4, 1975.

James H. Leeper  
Notary Public

FOR USE BY WELL DRILLER OR ANYONE HAVING LEGAL POSSESSION OF HIS RECORDS

STATE OF COLORADO

County of \_\_\_\_\_ } ss.

AFFIDAVIT

COMES NOW the undersigned \_\_\_\_\_,  
and being first duly sworn states as follows:

1. That he has legal access to the records of \_\_\_\_\_

2. That these same records show that on the \_\_\_\_\_ day of \_\_\_\_\_,  
said \_\_\_\_\_, did drill a well located on property now owned by \_\_\_\_\_  
which location is legally described as: \_\_\_\_\_

(Signature) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Witness my hand and official seal.

My commission expires \_\_\_\_\_.

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

'72 MAR 28 PM 1:29

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. I

JOY W. ARLBORN  
CLERK

STATE OF COLORADO

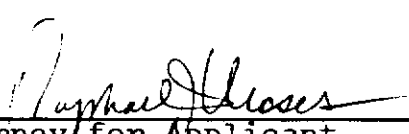
CASE NO. W-

2232

IN THE MATTER OF THE APPLICATION )  
FOR WATER RIGHTS OF ONEITA K. )  
WILLIAMSON IN THE PLATTE RIVER OR )  
ITS TRIBUTARIES )  
TRIBUTARY INVOLVED )  
WILLOW CREEK )  
IN DOUGLAS COUNTY )

APPLICATION FOR  
UNDERGROUND WATER RIGHT

1. Name of applicant: Oneita K. Williamson  
P. O. Box 8  
Parker, Colorado 80134
2. Legal description of location of well:  
NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 10, T. 8 S., R. 66 W. of the  
6th P.M.
3. Depth of well: 80 feet
4. Date of initiation of appropriation: 1906
5. Amount of water claimed in cubic feet per second of time:  
50 gpm = .111 c.f.s.
6. Proposed use of water:  
Domestic, stock, industrial, commercial.
7. Number of well as registered in State Engineer's Office  
or, if a new well, the number on the permit:  
Not registered.

  
\_\_\_\_\_  
Attorney for Applicant  
P. O. Box 34  
Boulder, Colorado 80302  
Telephone: 443-8782

State of Colorado  
County of Douglas

)  
) ss.  
)

2232 1

Oneita K. Williamson, being first duly sworn upon oath, deposes and says that she has read the foregoing application, knows the contents thereof and that the same is true.

Oneita K. Williamson

Subscribed and sworn to before me this 24<sup>th</sup> day of March, 1972.

My commission expires: October 1, 1974

Dorothy J. Hurd  
Notary Public



WELL INFORMATION DATA

CASE NO. W- 2232

Name of applicant: Oneita K. Williamson  
P. O. Box 8  
Mailing Address: Parker, Colorado 80134

Well Permit or Registration Number unregistered.

Location of Well :

Section 10, Township 8 S, Range 66 W.

Give bearing and distance from Section corner or distance  
N - S and E - W from section lines. 3040' E of W line  
600' S of N line

DATA: DATE: February 23, 1972

Depth of well 80 feet.

Depth to Static Water Level 48 feet.

Horsepower of electric motor working barrel

Diameter - discharge pipe 2 inches.

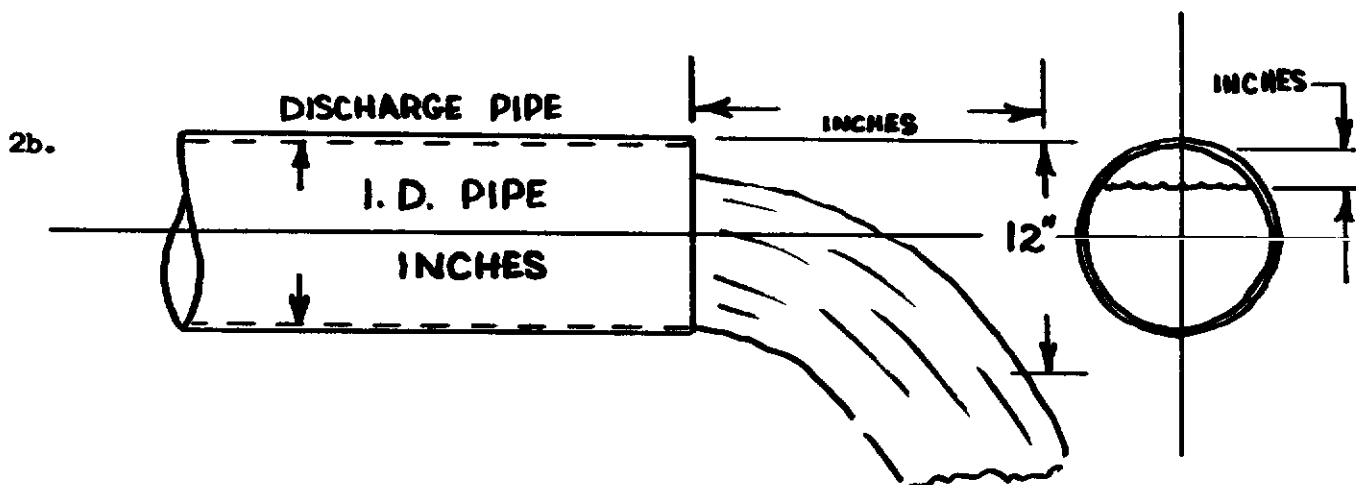
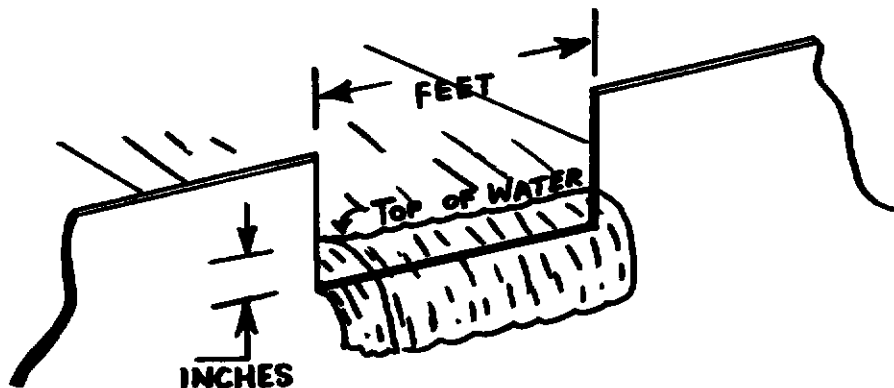
Pressure at sprinkler head \_\_\_\_\_ per sq. inch.

CAPACITY OF WELL:

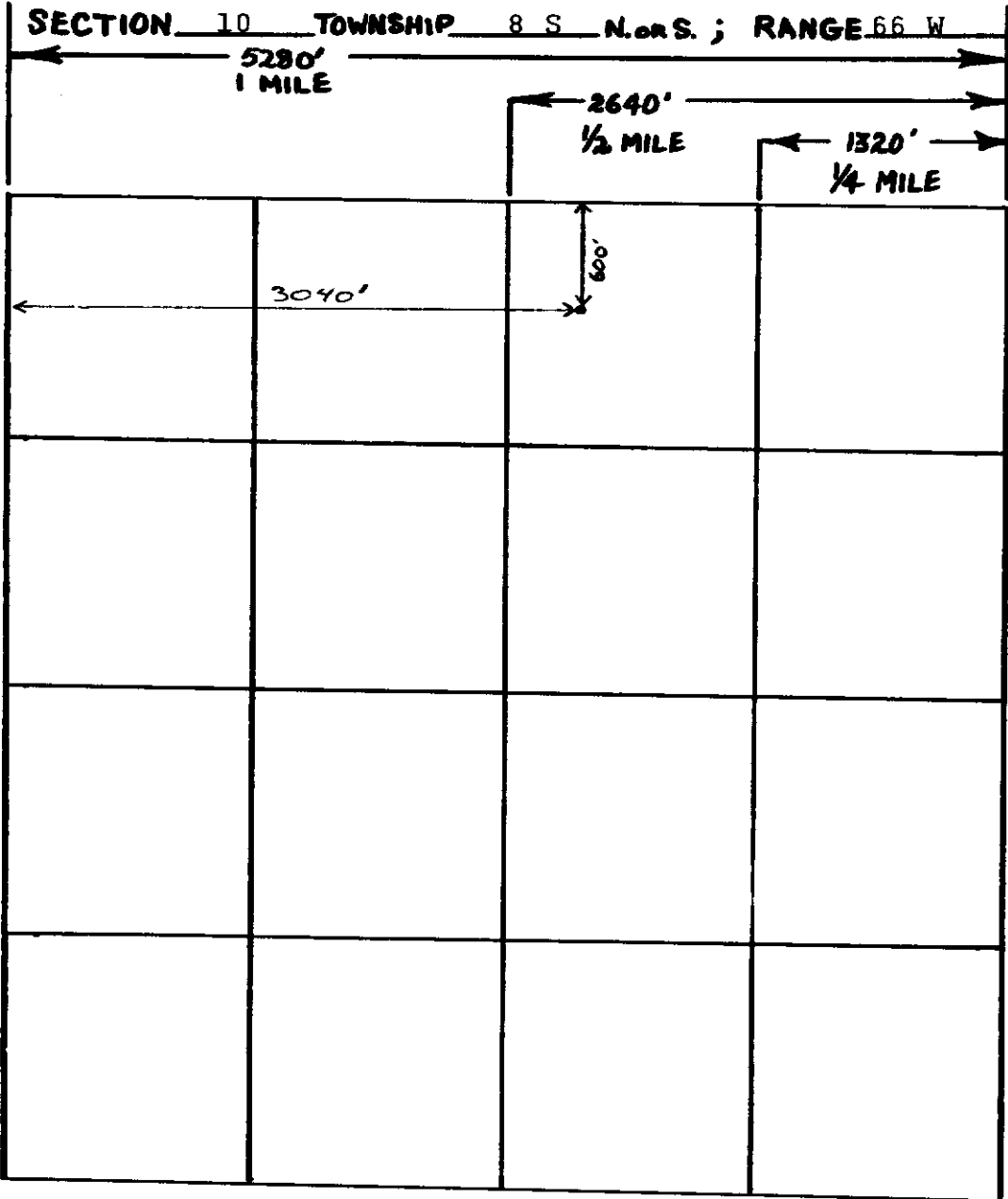
1. Actual measurement 80 gpm (do not use pump-test data)

2. Or one of the following measurements:

2a. WEIR



MAP SHOWING WELL LOCATION



SCALE 1" = 1000'

State of Colorado )  
County of Douglas ) ss.

Oneita K. Williamson, being first duly sworn upon  
oath, deposes and says that he has read the foregoing information, knows  
the contents thereof and that the same is true.

Oneita K. Williamson

Subscribed and sworn to before me this 24<sup>TH</sup> day of March,  
19 72.

My commission expires: October 1, 1974

Sorothy J. Hurd  
Notary Public

## **Water Court Decrees**

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. 88CW026

FILED IN DISTRICT COURT

29 JUL 10 4 9:13

**DECREE OF THE WATER COURT**

DISTRICT WATER COURT  
DOUGLAS COUNTY COLO.

**CONCERNING THE APPLICATION FOR WATER RIGHTS OF OWENS BROTHERS  
CONCRETE, INC., IN DOUGLAS COUNTY (LOWER DAWSON, DENVER,  
ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS)**

THIS CLAIM was originally filed with the Water Clerk, Water Division No. 1, on February 10, 1988.

Timely and adequate Notice of the Application was published as required by statute, and the Court has jurisdiction over the subject matter of this Application and over all parties affected hereby, whether they have appeared or not. None of the lands or waters involved in this case are within the boundaries of a designated ground water basin.

No Statements of Opposition were filed herein. The time period for filing Statements of Opposition has expired, and no additional parties have entered their appearance.

On July 27, 1988, Applicant submitted a proposed ruling to the referee. That proposed ruling was approved and signed by the referee on January 20, 1989. On February 8, 1989, the State Engineer and Division Engineer for Water Division No. 1, through the Attorney General for the State of Colorado ("State Engineer"), submitted a timely protest to that ruling.

All matters contained in the Application have been reviewed, including the Determinations as to the Facts of the Application issued by the State Engineer on June 6, 1988, and testimony has been taken where such was necessary, and such corrections made as were indicated by the evidence presented.

IT IS HEREBY THE DECREE OF THE COURT:

1. Name and Address of Applicant

Owens Brothers Concrete, Inc.  
1475 Orchard Drive  
Golden, Colorado 80401

d/find026.&

2. Names of Structures

- (A) Dawson No. 1
- (B) Denver No. 1
- (C) Arapahoe No. 1
- (D) Laramie-Fox Hills No. 1

3. Legal Description of Structures

(A) Dawson No. 1 (Permit No. 30929-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W, of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 560 feet

(B) Denver No. 1 (Permit No. 30927-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 1410 feet

(C) Arapahoe No. 1 (Permit No. 30928-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W, of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 1940 feet

(D) Laramie-Fox Hills No. 1 (Permit No. 28677-F)--to be located in the NW 1/4 of the SE 1/4, Section 3, T 8 S, R 66 W of the 6th P.M., Douglas County, Colorado, at a point approximately 1485 feet from the south section line and 1840 feet from the east section line of said Section 3.

Estimated Depth - 2545 feet

Any well decreed herein which is constructed within 200 feet of the above-described locations shall be deemed to have been drilled at the given location and shall not require approval of this Court or the State Engineer.

d/find026.&

4. Description of Property

The land owned by the Applicant is a parcel of land in the SE 1/4 of Section 3, T 8 S, R 66 W of the 6th P.M., Douglas County, Colorado, consisting of 70 acres more or less as more particularly described in Exhibit A attached hereto and incorporated herein by this reference and illustrated in Exhibit B attached hereto and also incorporated herein by this reference (hereinafter "Applicant's Property"). Applicant shall be allowed to withdraw all of the legally available and unappropriated ground water in those portions of the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property.

5. Court Jurisdiction

The Court has jurisdiction over this proceeding pursuant to C.R.S. § 37-90-137(6) and § 37-92-203. The Court concludes as a matter of law that the application for a decree determining Applicant's right to divert and use ground water from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath Applicant's Property pursuant to C.R.S. § 37-90-137 should be granted, subject to the provisions of this Decree. Further, the Court concludes that the provisions of C.R.S. § 37-92-305(11) are applicable to the ground water to be withdrawn from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath Applicant's Property, and that the rights confirmed by this Decree are vested property rights.

6. Source of Ground Water

Applicant is entitled to withdraw all of the legally available and unappropriated ground water in those portions of the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property. All of the ground water claimed in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers beneath Applicant's Property is "nontributary ground water" within the meaning of the applicable statutes, regulations, and judicial opinions. The withdrawal of this ground water will not, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in C.R.S. § 37-82-101(2) and § 37-92-102(1)(b), at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. The withdrawal of ground water from these aquifers in accordance with the terms of

d/find026.&

this Decree will not result in material injury to the vested water rights of others.

7. Use of Ground Water

The ground water withdrawn under this Decree may be used for all beneficial purposes, including but not limited to municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, sanitary purposes, exchange, replacement, and augmentation purposes. Applicant may proceed to construct the wells pursuant to properly issued permits and divert the water described herein at such time as the water is needed. The ground water may be produced for immediate application to beneficial use and/or for storage and subsequent application to beneficial use. In addition, Applicant is entitled to the right to make any reuse, successive use, or disposition of the ground water claimed herein free of any limitations, restrictions, or requirements as to the place of use, amount of discharge, or location of discharge after such reuse, successive use, or disposition, subject only to the provisions of Paragraph 11.

8. Average Annual Amounts of Withdrawal

A. Estimated Amount

The criteria used in determining the estimated annual amount of withdrawal of ground water from those portions of the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers located beneath Applicant's Property are those criteria prescribed by C.R.S. § 37-90-137(4) as it presently exists and the currently existing Rules and Regulations adopted by the State Engineer. The estimated annual amount of withdrawal and the values used for its calculation for each aquifer are as follows:

<u>Aquifer</u>	<u>No. of Acres</u>	<u>Specific Yield</u>	<u>Estimated Saturated Thickness</u>	<u>Estimated Average Annual Withdrawal</u>
Lower Dawson	70	20%	50 feet	7.0 acre feet
Denver	70	17%	255 feet	30.3 acre feet
Arapahoe	70	17%	275 feet	32.7 acre feet
Laramie-Fox Hills	70	15%	190 feet	19.9 acre feet

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None of the ground water underlying the Applicant's Property contained within the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers has been claimed or appropriated by any existing wells or other water rights.

B. Final Determinations

Final determinations of the average annual amount of withdrawal for each aquifer will be based on geophysical data describing actual local aquifer characteristics, and on the fact that Applicant has appropriated all of the unappropriated water in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property in accordance with the following formula:

$$\begin{array}{lcl} \text{Average Annual Amount} & = & 70 \text{ acres} \times \text{actual saturated thickness} \\ \text{of Withdrawal} & & \text{x actual specific yield} \\ \text{(acre-feet)} & & \underline{\hspace{2cm}} \\ & & 100 \text{ years} \end{array}$$

Geophysical logs will be taken in accordance with the applicable rules promulgated by the State Engineer. Within 60 days after the completion of construction of the wells, the Applicant shall file with the State Engineer copies of the well logs and any other geophysical information regarding actual local aquifer characteristics obtained from the drilling of any well or test hole. Any person, including the State Engineer, can petition to invoke the Court's retained jurisdiction to make a Final Determination of Water Right. The State Engineer upon notification of retained jurisdiction shall utilize data submitted by the Applicant and other data available to him and calculate the average annual amount of withdrawal for each aquifer and submit his determination to the Water Court. If no protest to the State Engineer's determination is made within 60 days of the State Engineer's filing of his determination with the Water Court, the respective amounts set forth in the State Engineer's determination of the average annual amount of withdrawal for each aquifer shall be determined as final by order of the Court and shall be incorporated into the decree of the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within 4 months of notice of retained jurisdiction, such final determination shall be made by

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the Water Court after notice and a hearing. In either event, the Water Court shall conduct a de novo hearing for the final determination of the average annual amount of withdrawal for each aquifer.

9. Ground Water Pumping Rates

The maximum pumping rate for each well is estimated as follows:

(A) Dawson No. 1	--	50 g.p.m.
(B) Denver No. 1	--	50 g.p.m.
(C) Arapahoe No. 1	--	50 g.p.m.
(D) Laramie-Fox Hills No. 1	--	50 g.p.m.

Applicant may exceed the above estimated maximum pumping rates as necessary in order to withdraw the amount of ground water available to Applicant pursuant to this Decree.

10. Ground Water Banking

In any given year, Applicant may withdraw from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers more than the finally determined average annual amount of withdrawal for each aquifer, so long as the total amount of ground water withdrawn by the Applicant from any given aquifer pursuant to this Decree does not exceed the product of: the number of years since the date of issuance of this Decree, times the finally determined average annual amount of withdrawal for such aquifer.

11. Limitation on Consumption of Nontributary Ground Water

Applicant may not consume more than 98% of the annual amount of nontributary ground water withdrawn from the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying Applicant's Property. Relinquishment to the stream system of 2% of the annual amount of water withdrawn may be satisfied by any method selected by the Applicant, so long as Applicant can demonstrate to the reasonable satisfaction of the State Engineer that an amount equal to 2% of such annual withdrawals (by volume) will be relinquished to the stream system by quantifiable return flows or otherwise.

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12. Additional Wells

In addition to the wells described in paragraphs 2 and 3, Applicant may construct such additional wells as are required to recover the entire amount of ground water decreed herein, without the necessity of opening this Decree. Applicant may then withdraw the allowed annual withdrawal for any of the aquifers from any combination of the respective original wells listed in paragraphs 2 and 3 and such additional wells constructed in the same aquifer. As additional wells are planned, permit applications shall be filed with the State Engineer.

13. Construction of Wells

For each well drilled pursuant to this Decree, Applicant shall comply with the following conditions:

- A. The entire length of the open bore hole, except the surface casing, shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the State Engineer within 60 days. In satisfaction of this requirement, Applicant may provide a geophysical log from an adjacent well or test hole in accordance with the Statewide Rules and Regulations.
- B. Non-perforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of ground water between other aquifers.
- C. The permit number and name of the aquifer shall be permanently displayed on or near the well at a location easily accessible to water officials.
- D. Applicant shall comply with C.R.S. § 37-91-101, et seq., and the Rules and Regulations promulgated thereto, and with such other requirements for constructing and equipping the wells as the State Engineer may reasonably require.
- E. Applicant shall install a totalizing flow meter on each well. The meter shall be installed according to the manufacturer's recommendations and shall be inspected at least annually and promptly repaired or recalibrated as needed. If Applicant's meter becomes inoperable, it

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shall be repaired as soon as possible so that measurements can continue.

- F. The Applicant shall keep records of the amount of water pumped and perform the calculations necessary to determine whether Applicant is in compliance with this Decree. Applicant shall supply the Division Engineer with those records at least on an annual basis or upon request by the Division Engineer.

14. Well Permits

- A. In the issuance and administration of well permits for the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers, the State Engineer shall consider the water described herein and decreed to the Applicant as "appropriated," as that term is used in C.R.S. § 37-90-137, and the State Engineer shall consider the rights granted herein as valid.
- B. Applicant shall submit modified permit applications consistent with the provisions of this Decree. When such well permit Applications are filed, the State Engineer shall issue well permits within 60 days with restrictions no more burdensome than are found in this Decree. If Applicant fails to construct the well for which the permit was issued within the period of time authorized by statute, including legally authorized extensions of any such time period, then when Applicant is ready to drill the well, Applicant shall file a second application for such well and the State Engineer shall issue a well permit within 60 days with restrictions no more burdensome than are found in this Decree.

15. Ground Water Withdrawal Initiation

As of May 25, 1982, Applicant had performed open and physical acts on Applicant's Property which, when coupled with its intent to beneficially use the ground water, support the determination of the rights awarded herein.

16. No Diligence Required

Pursuant to C.R.S. § 37-92-305(11), the ground water decreed herein shall not be administered in accordance with priority

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of appropriations, and no findings of reasonable diligence are required to maintain the right to withdraw the nontributary ground water awarded herein. Accordingly, the nontributary rights awarded herein are vested property rights.

17. Retained Jurisdiction

The Court retains jurisdiction pursuant to C.R.S. § 37-92-305(11) for the purpose of finally determining the average annual amount of withdrawal for each aquifer in accordance with paragraph 8. The Court's retained jurisdiction may be invoked by any person, including the Applicant or the State Engineer. Copies of any pleadings filed with the Court within this retained jurisdiction period shall be served on the Applicant and the State Engineer by mailing a copy to each of them at the address shown herein or to the latest address as known to the party serving such notice.

Dated: JUL 10 1989

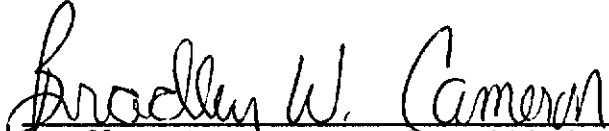


ROBERT A. BEHRMAN  
Water Judge  
Water Division No. 1  
State of Colorado

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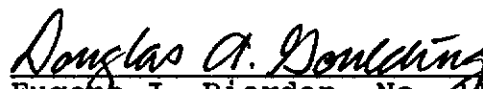
APPROVED AS TO FORM AND CONTENT:

FOR THE PROTESTANT

  
Bradley W. Cameron, No. 11183  
Assistant Attorney General  
Natural Resources Section  
1525 Sherman Street, Third Floor  
Denver, Colorado 80203

ATTORNEYS FOR THE STATE ENGINEER  
AND DISTRICT ENGINEER FOR WATER  
COURT DIVISION NO. 1, STATE OF  
COLORADO

FOR THE APPLICANT

  
Eugene J. Riordan, No. 11605  
Douglas A. Goulding, No. 16875  
Vranesh and Raisch  
P.O. Box 871  
Boulder, Colorado 80306

ATTORNEYS FOR OWENS BROTHERS  
CONCRETE, INC.

d/find026.&

EXHIBIT A

to

Decree of the Water Court  
Case No. 88CW026, Division No. 1.

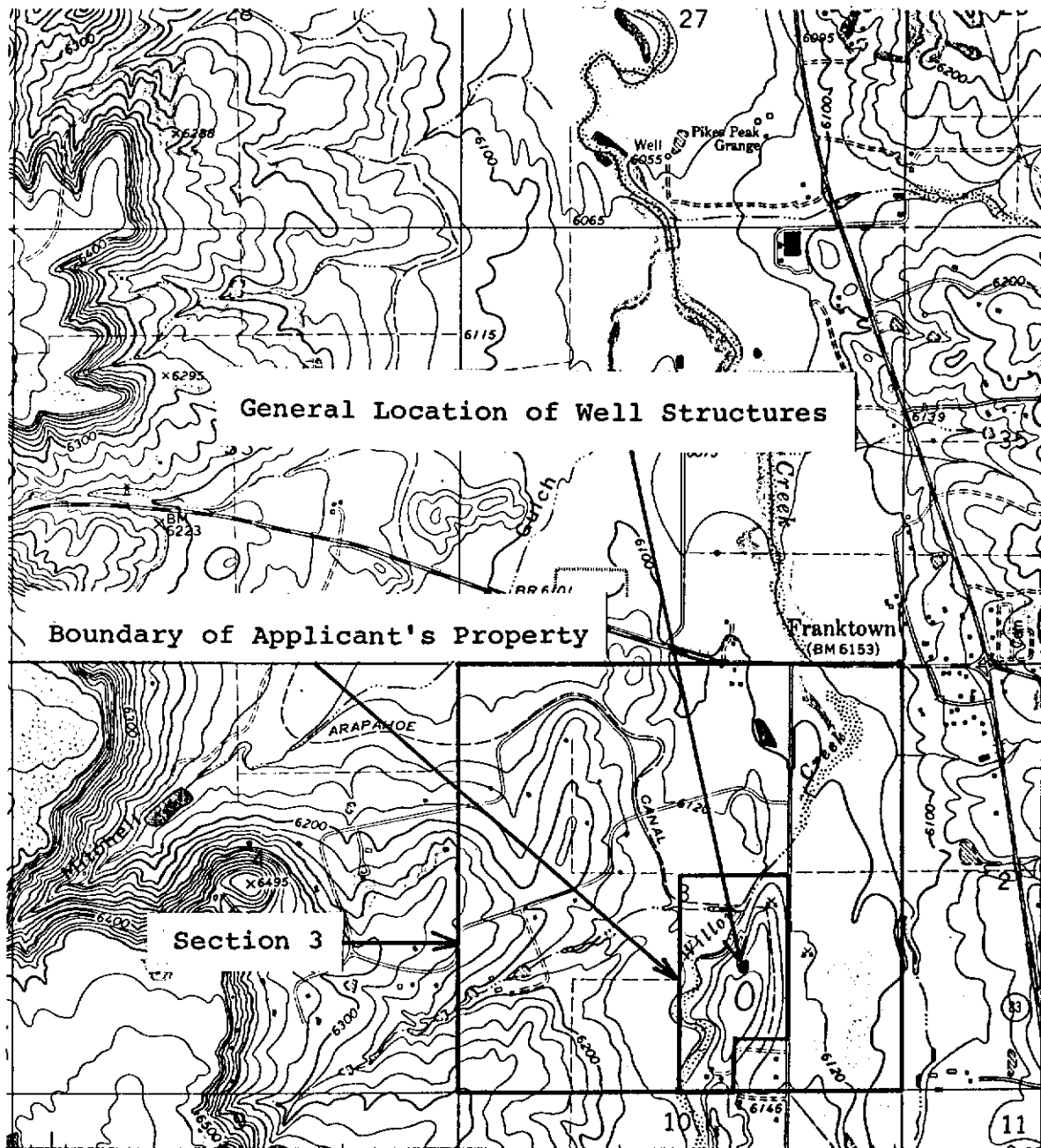
Legal Description of Applicant's Property

A tract of land in the SE 1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M., more particularly described as follows:

Commencing at the South one-quarter corner of said Section 3, said point being the true point of beginning; thence North 00° 07' 51" East a distance of 2642.94 feet to the center of said Section 3; thence North 89° 27' 21" East a distance of 1322.15 feet to the Northeast corner of the NW 1/4 of the SE 1/4 of said Section 3; thence South 00° 06' 49" West and along the North-South centerline of the said SE 1/4 a distance 1972.16 feet; thence North 89° 04' 12" West a distance of 684.51 feet; thence South 00° 14' 23" West a distance of 691.43 feet to a point on the South line of said Section 3; thence South 89° 43' 43" West and along the South line of said Section 3 a distance of 636.91 feet to the true point of beginning, except the Northerly 33.00 feet thereof, and except the Easterly 60.00 feet thereof for Castlewood Dam Road, and except any part lying within the property described in Book 263 at Page 570, Book 263 at Page 571, and Book 293 at Page 614, also except that portion described in Book 402 at Page 228.

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SECTION 3, T 8 S, R 66 W.



**EXHIBIT B  
TO  
Decree of the Water Court  
Case No. 88CW026**

PLANNING COMMISSION STAFF REPORT

20 MAY 23 9:20

PLANNING COMMISSION STAFF REPORT  
WATER SUPPLY DISTRICT

PLANNING COMMISSION STAFF REPORT  
WATER SUPPLY DISTRICT  
Douglas A. Goulding  
Bradley W. Cameron  
Staff 10w

Date of Mailing 9/10/89  
Lauris Park



DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO

Case No. 89CW150

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF THE COURT

CONCERNING THE APPLICATION FOR WATER RIGHTS OF SIR RERESBY  
SITWELL, BT., D.L.

IN DOUGLAS COUNTY.

The Application in this case was filed on September 29, 1989 and the Court, having reviewed the pleadings and having received evidence regarding the Application, does hereby enter the following Findings of Fact, Conclusions of Law and Decree of the Court:

FINDINGS OF FACT

1. The name, address, and telephone number of Applicant is as follows:

Sir Reresby Sitwell, Bt., D.L.  
4 Southwick Place  
London, England W2 2TN  
011-44-1-262-3939

2. The Application was published in the resume for Water Division No. 1, and in the appropriate newspaper in Douglas County in conformance with the requirements of Section 37-92-302(3), C.R.S. All notices required by law for the filing of this Application have been fulfilled and the Court has jurisdiction over the subject matter of this Application.

3. No Statements of Opposition to the Application were filed. The time for filing Statements of Opposition has expired and the Court has jurisdiction over all parties affected hereby, irrespective of whether they have appeared.

4. A Motion to Rerefer the case to the Water Judge was filed on December 3, 1989. The Referee entered a Ruling on February 28, 1990. A Protest to the Ruling of the Referee was filed by the Applicant.

5. Applicant has requested that the Court enter a Decree approving the Application for Underground Water Rights in the Not Nontributary Upper Dawson Aquifer and the Nontributary Lower Dawson Aquifer, and retaining jurisdiction pursuant to Section

37-92-305(11), C.R.S., for the purpose of adjusting the allowed average annual amount of withdrawal decreed from the Dawson Aquifer underlying the property, described herein, to conform to the actual local aquifer characteristics as determined by well drilling or test holes.

6. This Application seeks a determination of the Applicant's rights to the groundwater in the Upper Dawson Aquifer and Lower Dawson Aquifer underlying approximately 109.06 acres comprising the subject property of Sir Reresby Sitwell, and described as follows:

Parcel 1: Portions of the SE1/4 of the SW1/4 of Section 3, and of the N1/2 of the N1/2 of Section 10, all in Township 8 South, Range 66 West of the 6th P.M.;

Tract A: A portion of the NE1/4 of the SW1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract B: A portion of the SW1/4 of the NE1/4, and a portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract C: A portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.; and

Tract D: A tract of land located in the SW1/4 of the NE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.

The approximate boundaries of the property are depicted on the attached Appendix A and the full legal description of the property is on the attached Appendix B.

7. The State Engineer has issued a Determination of Facts in this case and the Determination of Facts has been considered by the Court. To the extent the Determination of Facts differs from this Decree, the Decree shall be determinative. This Decree does not make any determination regarding the quantity of Upper Dawson Aquifer water to be replaced to the affected stream system pursuant to the plan for augmentation required by Section 37-90-137(9)(c), C.R.S., and the determination regarding the

quantity of water to be replaced shall be made in the proceedings regarding the plan for augmentation.

8. An investigation has failed to identify any other permitted or decreed wells, or any other claimants of water from the Upper Dawson or the Lower Dawson Aquifer underlying the Sitwell property.

9. The appropriation date of the water rights which are the subject of this Decree is September 26, 1989.

10. The groundwater in the Upper Dawson Aquifer underlying the Sitwell property is not "nontributary groundwater" as defined by Section 37-90-103(10.5), C.R.S., and as defined by 2 CCR 402-6, Rule 5.A. The groundwater in the Lower Dawson Aquifer underlying the Sitwell property is "nontributary groundwater" as defined by Section 37-90-103(10.5), C.R.S., and as defined by 2 CCR 402-6, Rule 5.B.

11. The specific yield of the Upper Dawson Aquifer and Lower Dawson Aquifer is twenty percent (20.0%). See, 2 CCR 402-6, Rule 6.

12. The Applicant estimates the average number of feet of saturated aquifer materials in the Upper Dawson Aquifer underlying 109.06 acres of the Sitwell property to be 110 feet. The Applicant estimates the average number of feet of saturated aquifer materials in the Lower Dawson Aquifer underlying the 109.06 acres of the Sitwell property to be 50 feet. In his Determination of Facts, the State Engineer estimated the average number of feet of saturated aquifer materials in the Upper Dawson Aquifer underlying 109.06 acres of the land claimed in the application to be 70 feet. The State Engineer estimated the average number of feet of saturated aquifer materials in the Lower Dawson Aquifer underlying the land claimed in the application to be 45 feet. There is insufficient data regarding the saturated sand thickness of the Upper Dawson and Lower Dawson Aquifers to finally determine the quantity of water which may be withdrawn by the Applicant.

13. The Applicant estimates that there is approximately 2,399 acre feet of Not Nontributary Upper Dawson Aquifer groundwater, and approximately 1,091 acre-feet of Lower Dawson Aquifer groundwater underlying the Sitwell property. In his Determination of Facts, the State Engineer estimates that there

is 1,527 acre-feet of Upper Dawson Aquifer groundwater, and 982 acre-feet of Lower Dawson Aquifer groundwater underlying the subject Sitwell property.

14. The water will be used for all beneficial purposes, including but not limited to, municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, and fish and wildlife uses within the South Platte River drainage, including reuse and successive uses until such water has been entirely consumed. Such water may be used through immediate application to beneficial uses, for storage and subsequent application to beneficial uses, for exchange purposes, for replacement of depletions and for augmentation purposes.

15. Applicant has identified proposed well locations on the Sitwell property. The proposed locations of the wells are as follows:

Sitwell Well UD-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2400 feet from the West section line and 1000 feet from the South section line of said Section 3.

Sitwell Well UD-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 3000 feet from the West section line and 400 feet from the North section line of said Section 10.

Sitwell Well LD-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2400 feet from the West section line and 1050 feet from the South section line of said Section 3.

Sitwell Well LD-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 3000 feet from the West section line and 450 feet from the North section line of said Section 10.

Applicant may locate the wells and any additional or alternate point of diversion wells at any location determined by Applicant within the boundaries of the subject property, without the

necessity of filing an amendment to this Application, republishing, or petitioning the Court for the opening of any Decree hereafter entered, but such wells shall not be located within 600 feet of any well not owned by the Applicant which withdraws water from the same aquifer or within 600 feet of any boundary line of the Sitwell property. See, 2 CCR 402-7, Rule 11 and Rule 12.

16. Wells completed into the Upper Dawson Aquifer will be completed to the bottom of the Aquifer, which the Applicant has estimated to be 300 feet in depth. The State Engineer has estimated the bottom of the Aquifer to be 160 feet below the surface at the site of Well UD-1, and 220 feet below the surface at the site of Well UD-2. Wells completed into the Lower Dawson Aquifer will be completed to the bottom of the Aquifer, which the Applicant has estimated to be 650 feet in depth. The State Engineer has estimated the bottom of the Aquifer to be 515 feet below the surface at the site of Well LD-1, and 570 feet below the surface at the site of Well LD-2. The specified depths are approximate and will be determined at the time of drilling the wells according to the actual, topographic location of the wells and the depth to the bottom of the aquifer, and in compliance with 2 CCR 402-7, Rule 9.

17. Subject to the following terms and conditions, this Application is approved:

- a. The allowed average annual amount of withdrawal for each well constructed by Applicant shall be equivalent to one percent (1%) of the product of the specific yield of the aquifer, the actual saturated sand thickness, in feet, at the location of the well, and the land area, in acres, of the Sitwell property.

Upper Dawson Aquifer: The specific yield shall be twenty percent (20%). The total land area of the Sitwell property allocated to the wells is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Upper Dawson Aquifer shall be considered to be 15.3 acre-feet. Each well constructed to withdraw water from the

Upper Dawson Aquifer shall be an alternate point of diversion for every other well constructed in the Upper Dawson Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Upper Dawson Aquifer through any combination of wells drilled into the Upper Dawson Aquifer, subject to the terms of the plan for augmentation to be approved in a subsequent proceeding.

Lower Dawson Aquifer: The specific yield shall be twenty percent (20%). The total land area of the Sitwell property allocated to the wells is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Lower Dawson Aquifer shall be considered to be 9.8 acre-feet. Each well constructed to withdraw water from the Lower Dawson Aquifer shall be an alternate point of diversion for every other well constructed in the Lower Dawson Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Lower Dawson Aquifer through any combination of wells drilled into the Lower Dawson Aquifer. Applicant shall also have the right to construct such additional wells as may be required to maintain the allowed average annual amount of withdrawal.

- b. The allowed annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of water withdrawn from each Aquifer does not exceed the product of the number of years since the date of entry of a Decree in this case times the allowed average annual amount of withdrawal. 2 CCR 402-7, Rule 8.A.
- c. Two percent (2%) of the annual amount of Nontributary Lower Dawson Aquifer groundwater withdrawn from the aquifer shall be released to the stream as required by Section 37-90-137(9)(b), C.R.S., and by 2 CCR 402-6, Rule 8.

- d. Applicant will not withdraw water from the Upper Dawson Aquifer until the court has approved a plan for augmentation pursuant to Section 37-90-137(9)(c), C.R.S.
- e. Well permit applications shall be filed with the Colorado Division of Water Resources ("State Engineer") at such time as the Applicant is ready to drill the wells described in this Decree. The State Engineer shall issue well permits in accordance with this Decree upon Applicant's filing of well permit applications. In the event Applicant should fail to construct any well prior to the expiration of the corresponding well permit, Applicant may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit identical to the expired permit.
- f. The groundwater may be withdrawn at any reasonable pumping rate. Construction and equipping of the wells will be pursuant to the following conditions:
  - 1) Groundwater production from Wells UD-1 and UD-2 shall be limited to the Upper Dawson Aquifer. Wells LD-1 and LD-2 shall be limited to the Lower Dawson Aquifer. Plain, unperforated casing shall be installed and properly sealed to prevent withdrawal of water from more than one aquifer.
  - 2) A totalizing flow meter shall be installed on the pump discharge prior to diversion of water.
  - 3) Each well shall be equipped so that the water level may be measured and monitored.
  - 4) The bore hole of each well below the surface casing shall be geophysically logged prior to installation of final casing in conformance with the Statewide Nontributary Groundwater Rules. 2 CCR 402-7, Rule 9.

18. No material injury to vested water rights will occur if this Application is granted, subject to the terms and conditions described herein.

CONCLUSIONS OF LAW

19. To the extent that any of the Findings of Fact constitute Conclusions of Law, the Findings of Fact are incorporated herein.

20. The Court has jurisdiction over this Application and over all parties.

21. The Application herein is in accordance with law and should be granted, subject to the terms and conditions contained within this Decree.

22. The water rights that are the subject of this Application are not "conditional water rights" as that term is defined by Section 37-92-103(6), C.R.S., but are water rights determined pursuant to Section 37-90-137, C.R.S. Applicant shall not be required to file applications for findings of reasonable diligence for the water rights which are the subject of this Application.

DECREE

23. Paragraphs 1 through 22 of the Findings of Fact and Conclusions of Law are incorporated herein by this reference.

24. The Application for Underground Water Rights in the Not Nontributary Upper Dawson Aquifer and the Nontributary Lower Dawson Aquifer as described herein is granted, subject to the terms and conditions described in this Decree.

25. Pursuant to Section 37-92-305(11), C.R.S., the Court retains jurisdiction of this Application to provide for any necessary adjustment, either increase or decrease, of the allowed average annual amount of withdrawal to conform to actual local aquifer characteristics as determined from analyses of the saturated thickness of the aquifer obtained as described above. Within sixty days after the completion of well(s) or test hole(s) the applicant shall file with the State Engineer copies of the well logs from such well(s) or test hole(s). Any person,

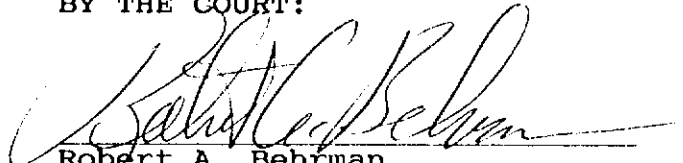


Findings of Fact, Conclusions of Law and  
Decree of the Court  
Case No. 89CW150  
Page 9

including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. The State Engineer, upon notification of invocation of retained jurisdiction, shall utilize data available to him and make a final Determination of Water Rights Finding within four months and submit the same to the Water Court.

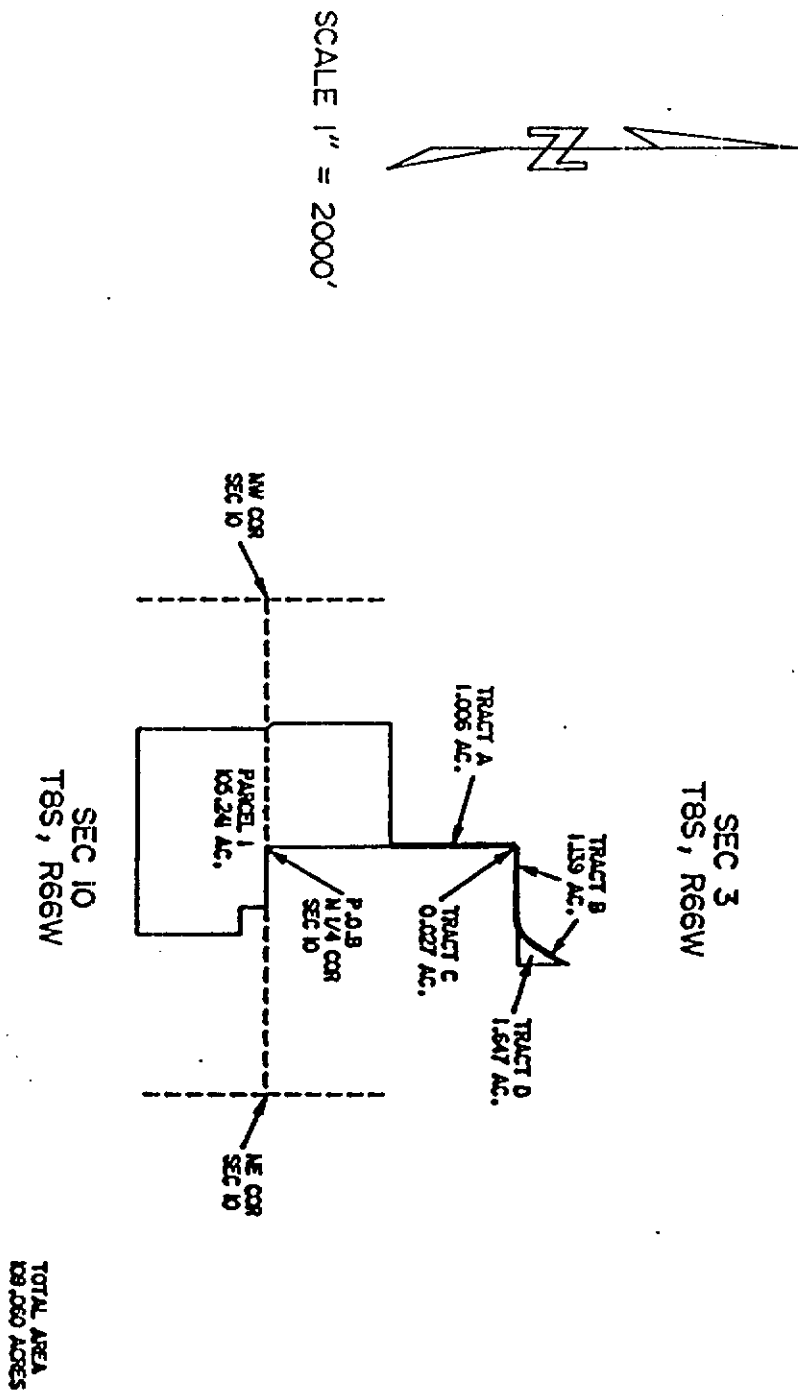
Entered this 28<sup>th</sup> day of December, 1990.

BY THE COURT:

  
Robert A. Behrman  
Water Judge

# EXHIBIT OF STEWELL PROPERTY BOOK 402, PAGE 230 DOUGLAS COUNTY RECORDS

## APPENDIX "A"



BY: JACK DE GROOT DATE: SEPT 22, 1989 FOR: HRS WATER CONSULTANTS, INC.



**NOLTE and ASSOCIATES**

Engineers / Planners / Surveyors

8655 So. Ridgeway Boulevard, Highlands Ranch, Colorado 80126

(303) 781-0666

NO. 305 CERTIFICATE OF COPY OF RECORD

STATE OF COLORADO,

County of DOUGLAS

ss.

ATTACHMENT "B"

I, RETA A. CRAIN, County Clerk

and Recorder in and for said County, in the State aforesaid, do hereby certify that the foregoing is a full, true and correct MICROFILM COPY of WARRANTY DEED IN B 402 P 230-232 as the same appears upon the records of my office.

Given under my hand and official seal, this 14 TH day of

SEPTEMBER, A. D. 1989, 1:55 o'clock P. M.

*Wanda W. Bailey, Deputy*  
County Clerk and Recorder

THE C. F. BRICKER CO., DENVER 80202 6-1

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO.

Case No. 89CW151

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF THE COURT

CONCERNING THE APPLICATION FOR WATER RIGHTS OF SIR RERESBY  
SITWELL, BT., D.L.

IN DOUGLAS COUNTY.

The Application in this case was filed on September 29, 1989 and the Court, having reviewed the pleadings and having received evidence regarding the Application, does hereby enter the following Findings of Fact, Conclusions of Law and Decree of the Court:

FINDINGS OF FACT

1. The name, address, and telephone number of Applicant is as follows:

Sir Reresby Sitwell, Bt., D.L.  
4 Southwick Place  
London, England W2 2TN  
011-44-1-262-3939

2. The Application was published in the Resume for Water Division No. 1 and in the appropriate newspaper in Douglas County in conformance with the requirements of Section 37-92-302(3), C.R.S. All notices required by law for the filing of this Application have been fulfilled and the Court has jurisdiction over the subject matter of this Application.

3. No Statements of Opposition to the Application were filed. The time for filing Statements of Opposition has expired and the Court has jurisdiction over all parties affected hereby, irrespective of whether they have appeared.

4. A Motion to Rerefer the case to the Water Judge was filed on December 3, 1989. The Referee entered a Ruling on February 28, 1990. A Protest to the Ruling of the Referee was filed by the Applicant.

5. Applicant has requested that the Court enter a Decree approving the Application for Underground Water Rights in the Nontributary Denver, Arapahoe and Laramie-Fox Hills Aquifers, and retaining jurisdiction pursuant to Section 37-92-305(11), C.R.S., for the purpose of adjusting the allowed average annual amount of

withdrawal decreed from the Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying the property, described herein, to conform to the actual local aquifer characteristics as determined by well drilling or test holes.

6. This Application seeks a determination of the Applicant's rights to the groundwater in the Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying approximately 109.06 acres comprising the subject property of Sir Reresby Sitwell, and described as follows:

Parcel 1: Portions of the SE1/4 of the SW1/4 of Section 3, and of the N1/2 of the N1/2 of Section 10, all in Township 8 South, Range 66 West of the 6th P.M.;

Tract A: A portion of the NE1/4 of the SW1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract B: A portion of the SW1/4 of the NE1/4, and a portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.;

Tract C: A portion of the NW1/4 of the SE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.; and

Tract D: A tract of land located in the SW1/4 of the NE1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M.

The approximate boundaries of the property are depicted on the attached Appendix A and the full legal description of the property is on the attached Appendix B.

7. The State Engineer has issued a Determination of Facts in this case for the Denver Aquifer, the Arapahoe Aquifer and the Laramie-Fox Hills Aquifer, and all three (3) Determinations of Facts have been considered by the Court. To the extent the Determination of Facts differs from this Decree, the Decree shall be determinative.

8. An investigation has failed to identify any other permitted or decreed wells, or any other claimants of water from

the Denver, Arapahoe or Laramie-Fox Hills Aquifers underlying the Sitwell property.

9. The groundwater in the Denver, Arapahoe and Laramie-Fox Hills Aquifers underlying the boundaries of the Sitwell property is "nontributary groundwater" as defined by Section 37-90-103(10.5), C.R.S., and by 2 CCR 402-6, Rule 5.B.

10. The specific yields of the Aquifers are as follows:

Denver Aquifer - seventeen percent (17.0%)  
Arapahoe Aquifer - seventeen percent (17.0%)  
Laramie-Fox Hills Aquifer - fifteen percent (15.0%)

See, 2 CCR 402-6, Rule 6.

11. The Applicant estimates the saturated sand thickness of the Denver Aquifer underlying the total acreage of the Sitwell property of 109.06 acres to be 250 feet. The Applicant estimates the saturated sand thickness of the Arapahoe Aquifer underlying the 109.06 acres of the Sitwell property to be 285 feet. The Applicant estimates the saturated sand thickness of the Laramie-Fox Hills Aquifer underlying the 109.06 acres of the Sitwell property to be 190 feet. In his Determination of Facts, the State Engineer estimated the average number of feet of saturated aquifer materials in the Denver Aquifer underlying the land claimed in the application to be 255 feet, the average number of feet of saturated aquifer materials in the Arapahoe Aquifer to be 280 feet, and the average number of feet of saturated aquifer materials in the Laramie-Fox Hills Aquifer to be 185 feet. There is insufficient data regarding the saturated sand thickness of the Denver, Arapahoe and Laramie-Fox Hills Aquifers to finally determine the quantity of water which may be withdrawn by the Applicant.

12. The Applicant estimates that there are approximately 4,635 acre-feet of Denver Aquifer groundwater, approximately 5,284 acre-feet of Arapahoe Aquifer groundwater, and 3,108 acre-feet of Laramie-Fox Hills Aquifer groundwater underlying the subject Sitwell property. In his Determination of Facts, the State Engineer estimates there to be 4,728 acre-feet of Denver Aquifer groundwater, 5,191 acre-feet of Arapahoe Aquifer groundwater, and 3,026 acre-feet of Laramie-Fox Hills Aquifer groundwater underlying the subject Sitwell property.

13. The water will be used for all beneficial purposes, including without limitation, municipal, domestic, industrial, commercial, irrigation, stock watering, recreation, and fish and wildlife uses within the South Platte River drainage, including reuse and successive uses until such water has been entirely consumed. Such water may be used through immediate application to beneficial uses, for storage and subsequent application to beneficial uses, for exchange purposes, for replacement of depletions and for augmentation purposes.

14. Applicant has identified proposed well locations on the Sitwell property. The proposed locations of the wells are as follows:

Sitwell Well D-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2450 feet from the West section line and 1000 feet from the South section line of said Section 3.

Sitwell Well D-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 3050 feet from the West section line and 400 feet from the North section line of said Section 10.

Sitwell Well A-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2350 feet from the West section line and 1000 feet from the South section line of said Section 3.

Sitwell Well A-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2950 feet from the West section line and 400 feet from the North section line of said Section 10.

Sitwell Well LFH-1: The proposed well location is in Section 3, Township 8 South, Range 66 West of the 6th P.M., Douglas County, Colorado at a point 2350 feet from the West section line and 1050 feet from the South section line of said Section 3.

Sitwell Well LFH-2: The proposed well location is in Section 10, Township 8 South, Range 66 West of the 6th

P.M., Douglas County, Colorado at a point 2950 feet from the West section line and 450 feet from the North section line of said Section 10.

Applicant may locate the wells and any additional or alternate point of diversion wells at any location determined by Applicant within the boundaries of the subject property, without the necessity of filing an amendment to this application, republishing, or petitioning the Court for the opening of any decree hereafter entered, but such wells shall not be located within 600 feet of any well not owned by the Applicant which withdraws water from the same aquifer or within 600 feet of any boundary line of the Sitwell property. See, 2 CCR 402-7, Rules 11 and 12.

15. Wells will be completed to the bottom of the aquifers, which the Applicant has estimated to be 1,400 feet in depth for the Denver Aquifer, 2,000 feet for the Arapahoe Aquifer, and 2,600 feet in depth for the Laramie-Fox Hills Aquifer. The State Engineer has estimated the bottom of the Denver Aquifer to be 1,300 feet below the surface at the site of Well D-1 and 570 feet below the surface at the site of Well D-2, the bottom of the Arapahoe Aquifer to be 1,895 feet below the surface at the site for Well A-1, and 1,955 feet below the surface at the site of Well A-2, and the bottom of the Laramie-Fox Hills Aquifer to be 2,515 feet below the surface of the site of Well LFH-1 and 2,570 feet below the surface of the site of Well LFH-2. The specified depths are approximate and will be determined at the time of drilling the wells according to the actual, topographical location of the wells and the depth to the bottom of the aquifer, and in compliance with 2 CCR 402-7, Rule 9.

16. Subject to the following terms and conditions, this Application is approved:

- a. The allowed average annual amount of withdrawal for each well constructed by Applicant shall be equivalent to one percent (1%) of the product of the specific yield of the aquifer, the actual saturated sand thickness, in feet, at the location of the well, and the land area, in acres, allocated to the well.

Denver Aquifer: The specific yield of the Denver Aquifer will be seventeen percent (17%). The total land area of the subject property allocated



to Wells D-1 and D-2 is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Denver Aquifer shall be considered to be 47.3 acre-feet. Each well constructed to withdraw water from the Denver Aquifer shall be an alternate point of diversion for every other well constructed in the Denver Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Denver Aquifer through any combination of wells drilled into the Denver Aquifer.

Arapahoe Aquifer: Specific yield of the Arapahoe Aquifer shall be seventeen percent (17%). The total land area of the subject property allocated to Wells A-1 and A-2 is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Arapahoe Aquifer is 52.0 acre-feet. Each well constructed to withdraw water from the Arapahoe Aquifer shall be an alternate point of diversion for every other well constructed in the Arapahoe Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Arapahoe Aquifer through any combination of wells drilled into the Arapahoe Aquifer. Applicant shall also have the right to construct such additional wells as may be required to maintain the allowed average annual amount of withdrawal.

Laramie-Fox Hills Aquifer: Specific yield of the Laramie-Fox Hills Aquifer shall be fifteen percent (15%). The total land area of the subject property allocated to Wells LFH-1 and LFH-2 is 109.06 acres. The actual saturated thickness shall be determined at the time the wells are constructed. Until such time as the Court makes a final determination, the estimated allowed average annual amount of withdrawal from the Laramie-Fox

Hills Aquifer is 30.3 acre-feet. Each well constructed to withdraw water from the Arapahoe Aquifer shall be an alternate point of diversion for every other well constructed in the Arapahoe Aquifer. Applicant shall have the right to withdraw the allowed average annual amount of withdrawal from the Arapahoe Aquifer through any combination of wells drilled into the Arapahoe Aquifer. Applicant shall also have the right to construct such additional wells as may be required to maintain the allowed average annual amount of withdrawal.

- b. The allowed annual amount of withdrawal from the Denver, Arapahoe, and the Laramie-Fox Hills Aquifers may exceed the allowed average annual amount of withdrawal from each aquifer as long as the total volume of water withdrawn from the each aquifer does not exceed the product of the number of years since the date of entry of the Decree in this case times the allowed average annual amount of withdrawal. 2 CCR 402-7, Rule 8.A.
- c. Two percent (2%) of the annual amount of Nontributary Denver, Arapahoe and Laramie-Fox Hills Aquifer groundwater withdrawn from the aquifer shall be released to the stream as required by Section 37-90-137(9)(b), C.R.S., and by 2 CCR 402-6, Rule 8.
- d. Well permit applications shall be filed with the Colorado Division of Water Resources ("State Engineer") at such time as the Applicant is ready to drill the wells described in this Decree. The State Engineer shall issue well permits in accordance with this Decree upon Applicant's filing of well permit applications. In the event Applicant should fail to construct any well prior to the expiration of the corresponding well permit, Applicant may reapply to the State Engineer for a new well permit and the State Engineer shall issue a new well permit identical to the expired permit.

- e. The groundwater may be withdrawn at any reasonable pumping rate. Construction and equipping of the wells will be pursuant to the following conditions:
- 1) Groundwater production from Wells D-1 and D-2 shall be limited to the Denver Aquifer. Wells A-1 and A-2 shall be limited to the Arapahoe Aquifer. Wells LFH-1 and LFH-2 shall be limited to the Laramie-Fox Hills Aquifer. Plain, unperforated casing shall be installed and properly sealed to prevent withdrawal of water from more than one aquifer.
  - 2) A totalizing flow meter shall be installed on the pump discharge prior to diversion of water.
  - 3) Each well shall be equipped so that the water level may be measured and monitored.
  - 4) The bore hole of each well below the surface casing shall be geophysically logged prior to installation of final casing in conformance with the Statewide Nontributary Groundwater Rules. 2 CCR 402-7, Rule 9.

17. No material injury to vested water rights will occur if this Application is granted, subject to the terms and conditions described herein.

#### CONCLUSIONS OF LAW

18. To the extent that any of the Findings of Fact constitute Conclusions of Law, the Findings of Fact are incorporated herein.

19. The Court has jurisdiction over this Application and over all parties.

20. The Application herein is in accordance with law and should be granted, subject to the terms and conditions contained within this Decree.

21. The water rights that are the subject of this Application are not "conditional water rights" as that term is defined by Section 37-92-103(6), C.R.S., but are water rights determined pursuant to Section 37-90-137, C.R.S. Applicant shall

not be required to file applications for findings of reasonable diligence for the water rights which are the subject of this Application.

DECREE

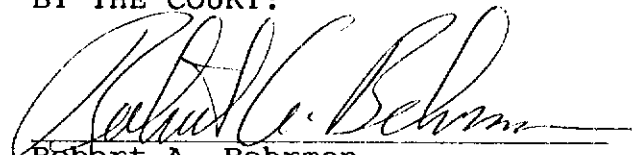
22. Paragraphs 1 through 21 of the Findings of Fact and Conclusions of Law are incorporated herein by this reference.

23. The Application for Underground Water Rights in the Denver, Arapahoe and Laramie-Fox Hills Aquifers as described herein is granted, subject to the terms and conditions described in this Decree.

24. Pursuant to Section 37-92-305(11), C.R.S., the Court retains jurisdiction of this Application to provide for any necessary adjustment, either increase or decrease, of the allowed average annual amount of withdrawal to conform to actual local aquifer characteristics as determined from analyses of the saturated thickness of the aquifers obtained as described above. Within sixty days after the completion of well(s) or test hole(s) the applicant shall file with the State Engineer copies of the well logs from such well(s) or test hole(s). Any person, including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. The State Engineer, upon notification of invocation of retained jurisdiction, shall utilize data available to him and make a final Determination of Water Rights Finding within four months and submit the same to the Water Court.

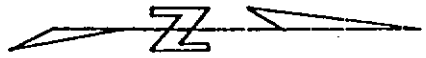
Entered this 28<sup>th</sup> day of December, 1990.

BY THE COURT:

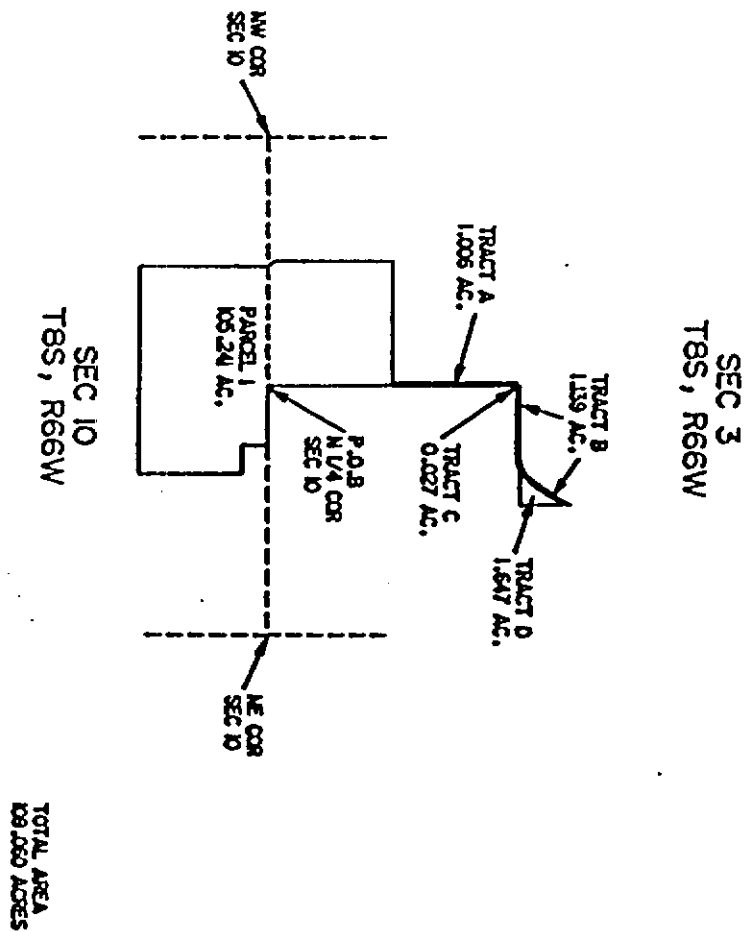
  
Robert A. Behrman  
Water Judge

# EXHIBIT OF STEWELL PROPERTY BOOK 402, PAGE 230 DOUGLAS COUNTY RECORDS

## APPENDIX "A"



SCALE 1" = 2000'



BY: JACK DE GROOT DATE: SEPT 22, 1989 FOR: HRS WATER CONSULTANTS, INC.



**NOLTE and ASSOCIATES**

Engineers / Planners / Surveyors

6855 So. Ridgeway Boulevard, Highlands Ranch, Colorado 80126

(303) 784-0666

NO. 305 CERTIFICATE OF COPY OF RECORD

STATE OF COLORADO,  
County of DOUGLAS } ss. ATTACHMENT "B":

I, RETA A. CRAIN, County Clerk  
and Recorder in and for said County, in the State aforesaid, do hereby certify that the foregoing is a  
full, true and correct MICROFILM COPY of WARRANTY DEED IN B 402 P 230-232  
as the same appears upon the records of my office.

Given under my hand and official seal, this 14 TH day of  
SEPTEMBER, A. D. 1989, 1:55 o'clock P. M.

*Reta A. Crain*  
County Clerk and Recorder

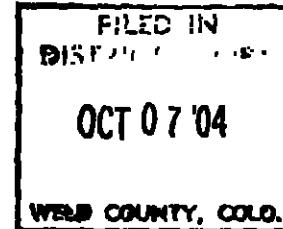
THE C. F. MUECKEL CO., DENVER 35534 1-7

DISTRICT COURT, WATER DIVISION 1,  
COLORADO

Court Address:  
901 9<sup>th</sup> Street  
Greeley, CO 80632

**J & C PROPERTIES, LLC, Applicant,**  
**IN DOUGLAS COUNTY.**

Attorneys:  
Petrock & Fendel, P.C.  
Scott M. Huyler, Atty. Reg. #27342  
700 Seventeenth Street, Suite 1800  
Denver, Colorado 80202  
Telephone: (303) 534-0702



σ COURT USE ONLY σ

Case Number: 2004CW24

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,  
JUDGMENT AND DECREE,  
IN THE NOT NONTRIBUTARY UPPER DAWSON AQUIFERS**

THIS APPLICATION, having been filed with the Water Clerk, Water Division 1, in January, 2004, and all matters contained in the application having been reviewed, and such testimony having been taken and evidence presented as was necessary, and being otherwise fully advised in the premises, it is hereby the Ruling of the Referee as follows:

**FINDINGS OF FACT**

1. Name, Address and Telephone Number of Applicant:

J & C Properties, LLC  
10415 Roxborough Park Road  
Littleton, CO 80125  
(303) 791-7656

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

3. Subject Matter Jurisdiction. Notice of the application was duly given in the manner required by law and the Court has jurisdiction over the subject matter and over all who have standing to appear as parties, whether they have appeared or not.

**APPROVAL OF GROUNDWATER RIGHT**

4. **Aquifers and Location of Groundwater:** Applicant is granted a decree for rights to groundwater recoverable from the not nontributary Upper Dawson aquifer underlying 67 acres of land located in part of the W1/2SE1/4 of Section 3, T8S, R66W of the 6th P.M., as described and shown on Attachment A hereto ("Subject Property"). Applicant is the owner of the Subject Property, and such land is not located within the boundaries of a designated groundwater basin.

5 **Well Locations and Annual Amounts:** The wells which will withdraw the groundwater not nontributary Upper Dawson aquifer will be located at any location on the Subject Property, pursuant to §37-90-137(4), C.R.S. Applicant hereby waives any 600 foot spacing rule for its own wells, but must satisfy §37-90-137(4), C.R.S., for wells owned by others on adjacent properties. The following amount is available for withdrawal subject to the Court's retained jurisdiction in this matter:

<u>Aquifer</u>	<u>Saturated Thickness</u>	<u>Annual Amount</u>
Upper Dawson	75 feet	7.1 acre-feet(NNT)*

\*Annual amount reduced by 3 acre-feet per year for any uses which are legally available at the time a well permit application is filed. Said 3 acre-feet (300 acre-feet total) may also be available to be withdrawn through one exempt well on the Subject Property pursuant to Section 37-92-602, C.R.S. (4.47 acre-feet per surface acre).

The amount and values conform with the State Engineer's Determination of Facts dated June 15, 2004.

6. **Uses of Water.** The groundwater will be used for domestic, commercial, irrigation, stock watering, fire protection, and augmentation purposes.

7. **Estimated Average Pumping Rate and Well Depths.** Wells will withdraw the subject groundwater at rates of flow necessary to efficiently withdraw the groundwater

8. **Final Average Annual Amounts of Withdrawal:**

A. Final determination of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicant will be made pursuant to the retained jurisdiction of this Court, as described in Paragraph 19 hereinbelow. In the event this decree is not reopened for a further quantitative determination, the findings herein are final and controlling.



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

9. Source of Groundwater and Limitations on Consumption:

A. The groundwater to be withdrawn from the Upper Dawson aquifer is "not nontributary" as defined in §§37-90-137(9)(c) and 37-90-103(10.7), C.R.S., and such water may not be withdrawn until such time as a plan for augmentation has been approved by this court in a separate application.

C. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years.

10. Additional Wells and Well Fields:

A. In addition to the wells described above, Applicant may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property, as described herein. As additional wells are planned, applications shall be filed in accordance with §37-90-137(10), C.R.S., for evaluation by the Division of Water Resources. The Upper Dawson aquifer water decreed herein may also be withdrawn in combination with the same type of water decreed in Case No. 89CW150 underlying a contiguous parcel of land, through wells located on the Subject Property or wells located on the land which is the subject of Case No. 89CW150.

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

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

D. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court, Applicant shall obtain permits to reflect such adjusted average annual amounts prior to withdrawing the adjusted amounts.

Subsequent permits for any wells herein shall likewise reflect any such adjustment of the average annual amounts decreed herein.

11. 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 the well discharge pipe prior to withdrawing any water therefrom, and shall be maintained and operational at all times for the life of the well. 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 entire length of the open bore hole shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicant may provide a geophysical log from an adjacent well or test hole, pursuant to Rule 9A of the Statewide Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

C. Groundwater production shall be limited to the subject aquifer. 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.

D. 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.

REQUEST FOR APPROVAL OF CHANGE OF WATER RIGHTS

12. Decree information for changed water rights: Case No. 89CW150 and 89CW151, both decreed on December 28, 1990, and Case No. 88CW026 as decreed on July 10, 1989 (The Upper and Lower Dawson water is decreed in Case No. 89CW150 and the Denver, Arapahoe, and Laramie-Fox Hills aquifer water is decreed in Case No. 89CW151) The land associated with Case No. 89CW150 and 89CW151 is approximately 109 acres located in the SE1/4SW1/4 of Section 3 and part of the N1/2N1/2 of Section 10, T8S, R66W of the 6<sup>th</sup> P.M., as described and shown on Attachment A hereto. The land associated with Case No. 88CW026 is approximately 67 acres of land located in part of the W1/2SE1/4 of Section 3, T8S, R66W of the 6<sup>th</sup> P.M., as described and shown on Attachment A hereto. Said parcels are contiguous and the land and water decreed in these cases are owned by Applicant. The decreed annual amounts of water in acre-feet are as follows:

<u>Case Nos. 89CW150 and 151</u>		<u>Case No. 88CW026</u>	<u>Total Amounts</u>	
Upper Dawson:	15.3(NNT)	Upper Dawson	0.0	22.4 acre-feet(NNT)*
Lower Dawson.	9.8(NT)	Lower Dawson:	7.0(NT)	15.8 acre-feet(NT)
Denver:	47.3(NT)	Denver:	30.3(NT)	77.6 acre-feet(NT)
Arapahoe:	52.0(NT)	Arapahoe:	32.7(NT)	84.7 acre-feet(NT)
Laramie-Fox Hills:	30.3(NT)	Laramie-Fox Hills:	19.9(NT)	50.2 acre-feet(NT)

\*Includes amount decreed in this decree

13. Decreed change: The original decrees require that wells to withdraw the decreed groundwater be located on the land which is the subject of that specific decree. By this decree, the decreed amounts in Case No. 89CW150 and 89CW151 may be withdrawn in combination with the decreed amounts in the same aquifers as decreed in Case No. 88CW026, and the total decreed amounts may be withdrawn through wells located on the land which is the subject of either decree, as long as the total annual amounts are not exceeded. No other parts of the original decrees are changed herein.

#### CONCLUSIONS OF LAW

14. The Water Court has jurisdiction over this proceeding pursuant to §37-90-137(6), C.R.S. and over all who may be affected thereby, whether they have chosen to appear or not pursuant to Section 37-92-302, 37-92-304, and 37-92-305, C.R.S.

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

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

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

**IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED THAT:**

18. The Findings of Fact and Conclusions of Law are incorporated into this Decree of the Water Court.

19. Retained Jurisdiction:


A The Court retains jurisdiction as necessary to adjust the average annual amount of Upper Dawson aquifer groundwater available under the Subject 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 finding. The State Engineer shall submit such finding to the Water Court and Applicant or successor and assigns.

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.

D. In the interim, the Court retains jurisdiction in this matter pursuant to §37-92-305(11), C.R.S.

RULING ENTERED October 7, 2004.

  
Water Referee  
Water Division 1

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

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

\_\_\_\_\_  
Roger A. Klein  
Water Judge  
Water Division 1

67 Acres  
04CW24(Upper Dawson)  
and 88CW026

A tract of land in the SE 1/4 of Section 3, Township 8 South, Range 66 West of the 6th P.M., more particularly described as follows:

Commencing at the South one-quarter corner of said Section 3, said point being the true point of beginning; thence North 00° 07' 51" East a distance of 2642.94 feet to the center of said Section 3; thence North 89° 27' 21" East a distance of 1322.15 feet to the Northeast corner of the NW 1/4 of the SE 1/4 of said Section 3; thence South 00° 05' 49" West and along the North-South centerline of the said SE 1/4 a distance 1972.16 feet; thence North 89° 04' 12" West a distance of 684.51 feet; thence South 00° 14' 23" West a distance of 691.43 feet to a point on the South line of said Section 3; thence South 89° 43' 43" West and along the South line of said Section 3 a distance of 636.91 feet to the true point of beginning, except the Northerly 33.00 feet thereof, and except the Easterly 60.00 feet thereof for Castlewood Dam Road, and except any part lying within the property described in Book 263 at Page 570, Book 263 at Page 571, and Book 293 at Page 614, also except that portion described in Book 402 at Page 228.

89CW150 and 151 (109 ac)

Those portions of the Southeast 1/4 of the Southwest 1/4 of Section 3 and of the North half of the North half of Section 10, all in Township 8 South, Range 66 West of the 6th P.M., County of Douglas, State of Colorado, described as follows:

Beginning at the North one-quarter corner of said Section 10; thence N 89°43'43" E, along the North line of the Northeast quarter of said Section 10, a distance of 636.91 feet to a point on the Westerly line of a tract of land described in deed recorded August 9, 1976 in Book 293, Page 614; thence S 00°05'35" W, along said Westerly line described in Book 293, Page 614, a distance of 268.81 feet; thence S 89°05'46" E, along the Southerly line of said tract described in Book 293, Page 614, a distance of 294.88 feet to a point on the Westerly line of a tract described in deed recorded September 21, 1967 in Book 179, Page 58; thence S 00°02'59" E, along the Westerly line of said tract described in Book 179, Page 58, and along the Westerly line of a tract described in deed recorded December 10, 1968 in Book 189, Page 101, a distance of 1056.30 feet to a point on the South line of the Northwest 1/4 of the Northeast 1/4 of said Section 10; thence S 89°41'17" W along the said South line of the Northwest 1/4 of the Northeast 1/4 and along the South line of the Northeast 1/4 of the Northwest 1/4 of said Section 10, a distance of 2198.09 feet to a point on the East line of the West 60 feet of the Northeast 1/4 of the Northwest 1/4 of said Section 10; thence N 00°11'55" E, along said East line of the West 60 feet, 1326.92 feet to the North line of the Northwest 1/4 of said Section 10; thence N 45°12'21" W, 84.36 feet to a point on the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 3 which is 60 feet North of the North line of said Section 10; thence N 00°07'39" E along the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 3, a distance of 1261.27 feet to the Northwest corner of said Southeast 1/4 of the Southwest 1/4; thence N 89°26'48" E, along the North line of said Southeast 1/4 of the Southwest 1/4, 1321.38 feet to the Northeast corner thereof; thence S 00°07'52" W, along the East line of said Southeast 1/4 of the Southwest 1/4, 1321.68 feet to the POINT OF BEGINNING.

St. C Properties  
04CW24

R66W

Franktown  
(BM 6153)

Whispering Pines

Burning

ARAPAHOE

89CW150 and 151 (109 ac)

88CW026 (67 ac)  
and  
04CW24 (Upper Dawson) 1d

Barnes Bird  
Reservoir No. 1  
Barnes Bird  
Reservoir No. 1

ARAPAHOE  
CANAL

SAN JUAN CANYON  
FLOOD AREA



January 12, 2024

Douglas County Department of Community Development  
100 Third Street  
Castle Rock, Colorado 80104

Attn: Mr. Eric Pavlinek  
Principal Planner

Subject: Review of Appeal of Section 18A Standards for the Creekside Acres Minor  
Development, 1481 North Castlewood Canyon Road, File No. SB2023-055.

Project No. 1633-24

Dear Eric:

In a letter dated November 29, 2023, Lytle Water Solutions, LLC (“LWS”) reviewed the pertinent documents provided related to the proposed minor development at 1481 North Castlewood Canyon Road, File No. SB2023-055. This property encompasses 35.17 acres in portions of Sections 3 and 10 of Township 8 South, Range 66 West. As such, this property is located within the Central Basin according to the Douglas County Water Supply Standards map.

It is proposed that this property be divided into two residential lots with each lot being served by an individual Denver Basin aquifer well. Based on the County’s presumptive demand standard of 1.0 acre-foot per year (“ac-ft/yr”) per lot, the total water demand in this application is 2.0 ac-ft/yr.

The proposed water supply to serve these residences is from the Denver Basin aquifers. The Denver Basin aquifer water beneath this property has been adjudicated in multiple Water Court cases, as portions of the property have been adjudicated along with other property. The full adjudication of the available water in the five Denver Basin aquifers has occurred through decrees entered in 88CW026, 89CW150, 89CW151, and 04CW24.

However, based on an August 8, 2022 Special Warranty Deed, only 2.56 ac-ft/yr in the non-tributary Upper Dawson aquifer, 2.5 ac-ft/yr in the nontributary Denver aquifer, and 2.5 ac-ft/yr in the nontributary Arapahoe aquifer were deeded to the applicant, which is significantly less than the full Denver Basin aquifer water supply beneath the property (estimated to be 49.7 ac-ft/yr in our November 29, 2023 letter). In addition, the Upper Dawson not-nontributary aquifer water



that was deeded is unavailable for use since there is no decreed augmentation plan. Therefore, there is a total of 5.0 ac-ft/yr of nontributary water in the Denver and Arapahoe aquifers available to serve the two proposed residences.

Section 1804A.05 requires the “water rights in all Denver Basin aquifers shall be reserved in perpetuity, for the benefit of future landowners within the proposed development, pursuant to a declaration of restrictive covenants in a form prescribed by the County.” Because the applicant does not own all of the Denver Basin aquifer water beneath this property, an appeal to the presumptive standards has been submitted. In a letter dated December 11, 2023 from Jehn Water Consultants, Inc., it is requested that an appeal be approved based on:

- 1) There is sufficient water in both the nontributary Denver and Arapahoe aquifers to meet the presumptive water demand of 1.0 ac-ft/yr per lot. This allows for wells to be drilled in the Denver aquifer, with the Arapahoe aquifer serving as a backup water supply should the Denver aquifer supply become unreliable in the future.
- 2) The applicant will deed all of the Denver Basin aquifer water it does own to the property in perpetuity in accordance with Section 1804A.05.

Given the limited demand associated with this minor development, it is our opinion that this appeal can be granted under the conditions described above, i.e., there will be only two residences and all of the deeded Denver Basin aquifer water is reserved to the property in perpetuity.

If you have any questions regarding our review of the appeal of Section 18A standards for this proposed minor development, please do not hesitate to contact us.

Yours truly,



Bruce A. Lytle, P.E.  
President

October 30, 2023

Ken Murphy  
Douglas County Engineering  
100 Third St.  
Castle Rock, CO 80104

RE: Traffic Impact Letter  
Creekside Acres  
2N Civil Project No: 23014

This letter serves to outline the traffic impact of the proposed Creekside Acres, located in Douglas County. The project site is located west of N Castlewood Canyon Rd. in Franktown, Colorado. It lies in the south 1/2 of Section 3, Township 8 South, Range 66 West of the Sixth Principal Meridian, County of Douglas, State of Colorado.

### N Castlewood Canyon Rd.

The existing public N Castlewood Canyon Rd, which this project will gain one roadway access from, is categorized as a Collector by CDOT. The roadway is currently a paved two-lane road with approximately 12-foot-wide travel lanes and 2' gravel shoulders. The current Right-of-Way is 60'.

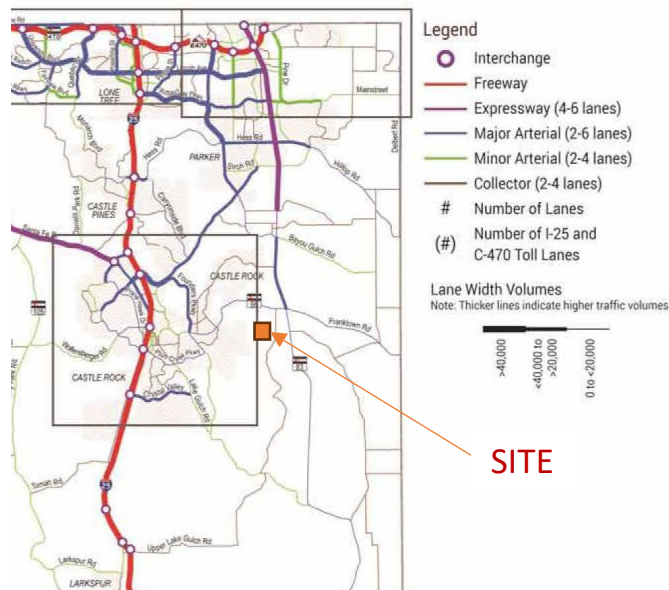


Figure 1 – Figure 8 of Douglas County Transportation Master Plan

The TMP does not designate any improvements in the future.

The project will have one parcel that will be accessed off of this roadway.

### Trip Generation

Trip generation rates for this development were obtained from the ITE Trip Generation Manual, 7<sup>th</sup> Edition for Land Use 210 (Single-Family Detached Housing). Table 1 shows the Daily, AM peak, and PM peak hour trip generation estimates. The estimated trips generated by this development are 19 two-way trips out of which 2 two-way trips occur in the AM peak hour and 2 two-way trips occur in the PM peak hour. Please see the following table:

Time of Day	Description	ITE Land Use Category	Land Use Code	New Lots	Daily Trip Rate	Daily 2-Way Trips	Directional Distribution IN	Directional Distribution OUT	Daily Trips In (vpd)	Daily Trips Out (vpd)
Daily	SF Housing	SF Housing	210	2	9.57	19	50%	50%	9.5	9.5
AM Peak	SF Housing	SF Housing	210	2	0.77	2	26%	74%	1	1
PM Peak	SF Housing	SF Housing	210	2	1.02	2	64%	36%	1	1

### Conclusion

The assumed proposed trips generated will have minimal impact on the traffic on N Castlewood Canyon Rd.

Respectfully,



Ryan Eichele, PE  
Project Manager  
2N Civil, LLC

January 3, 2024

Ken Murphy  
Douglas County Engineering  
100 Third St.  
Castle Rock, CO 80104

RE: Floodplain Letter  
Creekside Acres (SB2023-055)  
2N Civil Project No: 23014

This letter serves to outline the design procedures used to analyze Willow Creek to establish base flood elevations through the proposed Creekside Acres, located in Douglas County. The project site is located west of N Castlewood Canyon Rd. in Franktown, Colorado. It lies in the south 1/2 of Section 3, Township 8 South, Range 66 West of the Sixth Principal Meridian, County of Douglas, State of Colorado.

### **Willow Creek**

The existing Willow Creek is a tributary to Cherry Creek. It flows from south to north through the subject property. FEMA Firm Map 08035C0194F, September 30, 2005, shows the Special Flood Hazard Area as Zone A. Douglas County requested that this area be re-analyzed to provide base flood elevations through the subject property.

Basin flow characteristics for Willow Creek were taken from USGS StreamStats Streamflow. There is another small tributary into Willow Creek that also utilized the USGS StreamStats information, these values can be found in the attachments. The basin information was input into GeoHECRAS to analyze and model the floodplain. All data was pulled from public sources. The vertical datum for the analysis was NAVD88. 2-foot and 10-foot contours were acquired from Douglas County and were used for the elevation background in the model. Mannings “n” roughness coefficients were acquired from the National Land Cover Database.

### **Conclusion**

Using the above-described data, a model was run using the GeoHECRAS program to produce a floodplain boundary with base flood elevations at each cross section. The limits of the revised floodway matched closely to the FEMA mapped Zone A from the above-mentioned map panel.

Based upon this analysis the proposed building envelopes for the subject property are well out of the floodplain limits. There should be no adverse effects to any proposed structures on the subject property.

If there are any questions, please feel free to contact me at [ryan@2ncivil.com](mailto:ryan@2ncivil.com).

Respectfully,



Ryan Eichele, PE  
Project Manager  
2N Civil, LLC



Attachments:

StreamStats for Willow Creek  
StreamStats for Tributary to Willow Creek  
FEMA Firm Map  
Hydraulic Work Map  
Channel Cross Sections



# USGS StreamStats Streamflow Statistics Report

## General Information

Site Location: 1481 Castlewood Canyon Rd, Franktown, CO 80116, USA  
Lat, Long: 39.38021226, -104.76528979  
Site Drainage Area: 9.56 mi<sup>2</sup> (6118.4 acres)

## Peak Flow Basin Characteristics

Parameter	Value
Drainage Area (mi <sup>2</sup> )	9.56
Drainage Area (acres)	6118.4
6 Hour 100 Year Precipitation (in)	3.59
STATSGO Percentage of Clay Soils (%)	22.07
Elevation of Gage (feet)	6141

## Peak Flow Basin Characteristics (Foothills Region Peak Flow Report 2016-5099)

Parameter	Value	Regression Equation Valid Range	
		Minimum	Maximum
Drainage Area (mi <sup>2</sup> )	9.56	0.6	2850
6 Hour 100 Year Precipitation (in)	3.59	2.38	4.89
STATSGO Percentage of Clay Soils (%)	22.07	9.87	37.5
Elevation of Gage (feet)	6141	4290	8270

## Peak Flow Streamflows (Foothills Region Peak Flow Report 2016-5099)

Streamflow Statistic	Return Frequency (year)	Flows (cfs)	Prediction Error (%)	Equivalent Years of Record	90% Prediction (cfs)	
					Minimum	Maximum
PK2	2 year	90.8	117	0		
PK5	5 year	261	87	0		
PK10	10 year	445	80	0		
PK25	25 year	776	80	0		
PK50	50 year	1100	83	0		
PK100	100 year	1520	88	0		
PK200	200 year	2020	94	0		
PK500	500 year	2810	104	0		



# USGS StreamStats Streamflow Statistics Report

## General Information

Site Location: 385 Castlewood Canyon Rd, Franktown, CO 80116, USA  
 Lat, Long: 39.37179527, -104.76883803  
 Site Drainage Area: 0.59 mi<sup>2</sup> (377.6 acres)

## Peak Flow Basin Characteristics

Parameter	Value
Drainage Area (mi <sup>2</sup> )	0.59
Drainage Area (acres)	377.6
6 Hour 100 Year Precipitation (in)	3.59
STATSGO Percentage of Clay Soils (%)	14.14
Elevation of Gage (feet)	6181

## Peak Flow Basin Characteristics (Foothills Region Peak Flow Report 2016-5099)

Parameter	Value	Regression Equation Valid Range	
		Minimum	Maximum
Drainage Area (mi <sup>2</sup> )	0.59	0.6	2850
6 Hour 100 Year Precipitation (in)	3.59	2.38	4.89
STATSGO Percentage of Clay Soils (%)	14.14	9.87	37.5
Elevation of Gage (feet)	6181	4290	8270



## Peak Flow Streamflows (Foothills Region Peak Flow Report 2016-5099)

Streamflow Statistic	Return Frequency (year)	Flows (cfs)	Prediction Error (%)	Equivalent Years of Record	90% Prediction (cfs)	
					Minimum	Maximum
PK2	2 year	10.8				
PK5	5 year	32.2				
PK10	10 year	55.5				
PK25	25 year	97.2				
PK50	50 year	138				
PK100	100 year	192				
PK200	200 year	255				
PK500	500 year	357				



## NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The **community map repository** should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations** (BFEs) and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Boundaries of the **floodways** were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was Colorado State Plane central zone (FIPZONE 502). The **horizontal datum** was NAD 83, GRS80 spheroid. Differences in datum, spheroid, projection or State Plane zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988 (NAVD 88). These flood elevations must be compared to structure and ground elevations referenced to the same **vertical datum**. An average offset between NAVD 88 and the National Geodetic Vertical Datum of 1929 (NGVD 29) has been computed for each Douglas County flooding source. This offset was then applied to the NGVD 29 flood elevations that were not revised during the creation of this countywide format FIRM. The offsets for each flooding source shown on this FIRM are shown in the Douglas County Vertical Datum Offset Table below. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

Spatial Reference System Division  
National Geodetic Survey, NOAA  
Silver Spring Metro Center  
1315 East-West Highway  
Silver Spring, Maryland 20910  
(301) 713-3191

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>. For information about additional control points maintained by Douglas County, please visit <http://www.publicstaging.douglas.co.us/website/control/viewer.htm>.

**Base map** information shown on this FIRM was provided by the Douglas County GIS Department and the Town of Castle Rock GIS Department. Additional input was provided by the City of Lone Tree and Town of Parker. These data are current as of 2003.

This map reflects more detailed and up-to-date **stream channel configurations** and **floodplain delineations** than those shown on the previous FIRM for this jurisdiction. As a result, the Flood Profiles and Floodway Databanks in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map. Also, the road to floodplain relationships for unrevised streams may differ from what is shown on previous maps.

**Corporate limits** shown on this map are based on the best data available at the time of publication. Because changes due to annexations or deannexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

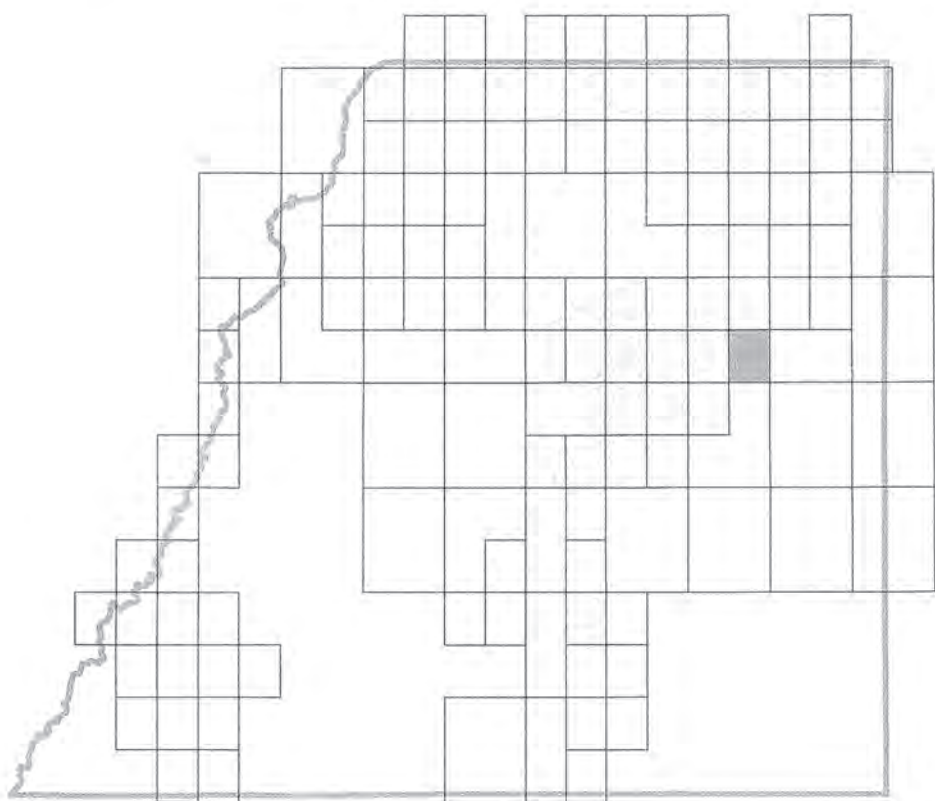
Contact the **FEMA Map Service Center** at 1-800-358-9616 for information on available products associated with this FIRM. Available products may include previously issued Letters of Map Change, a Flood Insurance Study report, and/or digital versions of this map. The Map Service Center may also be reached by Fax at 1-800-358-9620 and its website at <http://www.msc.fema.gov>.

If you have **questions about this map** or questions concerning the National Flood Insurance Program in general, please call 1-877-FEMA MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov>.

Douglas County Vertical Datum Offset Table			
Flooding Source	Vertical Datum Offset (ft)	Flooding Source	Vertical Datum Offset (ft)
Baldwin Gulch	3.10	Newlin Gulch	3.14
Bayou Gulch	3.22	Plum Creek, Cross Section A to D	3.12
Big Dry Creek Tributary C	3.15	Section 34 Tributary	3.62
Carpenter Creek	3.93	Sellers Gulch	3.43
Cherry Creek, Cross Section B2 to CZ	3.23	Sellers Gulch, Unnamed Tributary	3.39
East Plum Creek, Cross Section W to AY	3.26	Sulphur Gulch	3.13
East Plum Creek, Cross Section AZ to CZ	3.49	Talman Gulch	3.16
East Plum Creek, Cross Section DK to EM	3.71	West Plum Creek, Cross Section W to AM	3.68
Glade Gulch	3.65		
Happy Canyon Creek	3.12		

Example: To convert Baldwin Gulch elevations to NAVD 88, 3.10 feet were added to the NGVD 29 elevations.

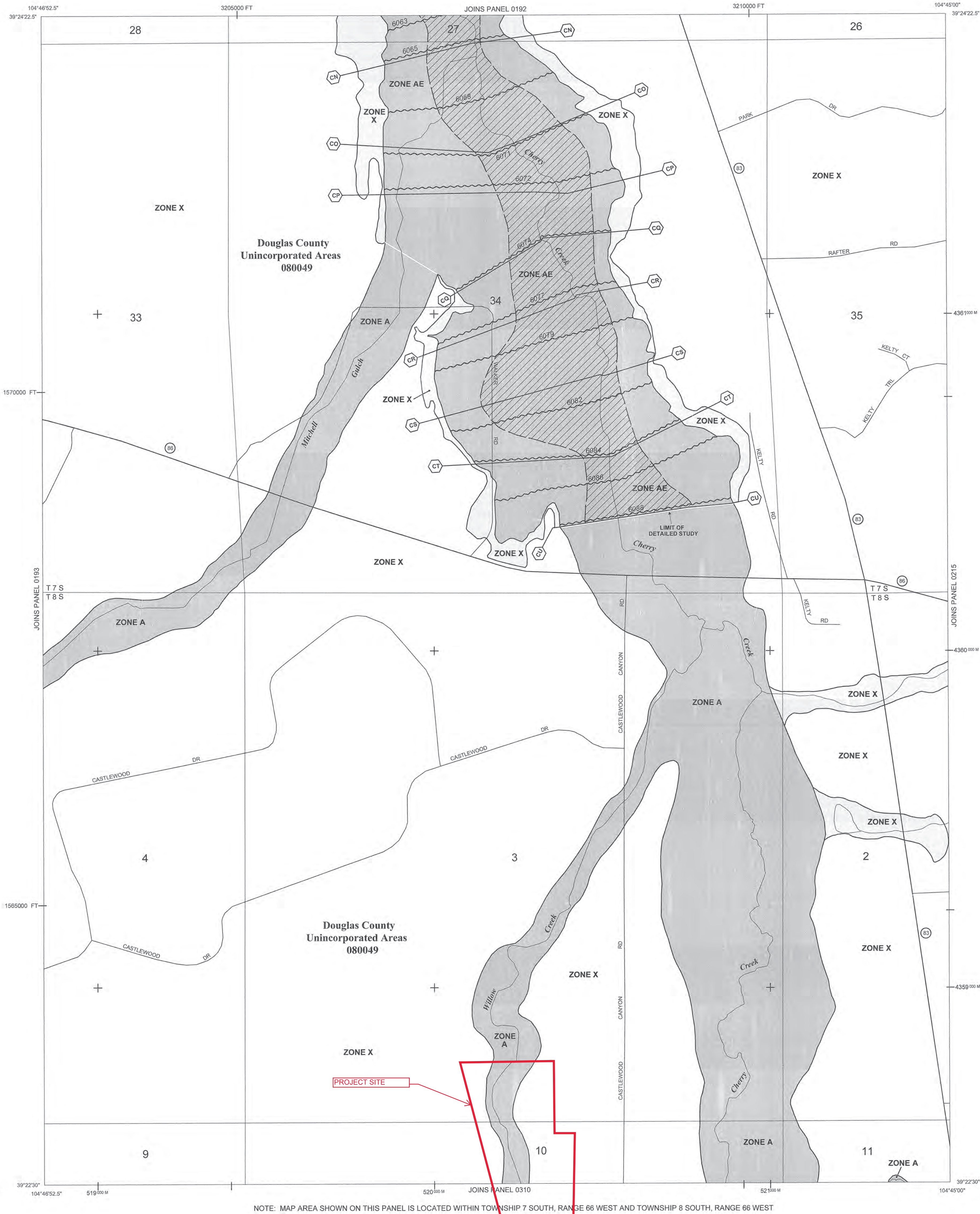
Panel Location Map



This digital Flood Insurance Rate Map (FIRM) was produced through a cooperative partnership between the State of Colorado Water Conservation Board, the Urban Drainage and Flood Control District, and the Federal Emergency Management Agency (FEMA). The State of Colorado Water Conservation Board and the Urban Drainage and Flood Control District have implemented a long-term approach of floodplain management to reduce the costs associated with flooding. As part of this effort, both the State of Colorado and the Urban Drainage and Flood Control District have joined in Cooperating Technical Partner agreements with FEMA to produce this digital FIRM.

Additional flood hazard information and resources are available from local communities, the Colorado Water Conservation Board, and the Urban Drainage and Flood Control District. For more information, contact the Colorado Water Conservation Board at (303) 441-1111 or the Urban Drainage and Flood Control District at (303) 441-1111. For more information, contact the Colorado Water Conservation Board at (303) 441-1111 or the Urban Drainage and Flood Control District at (303) 441-1111.

Project File: SB2023-055  
Planning Commission Staff Report - Page 162 of 200



NOTE: MAP AREA SHOWN ON THIS PANEL IS LOCATED WITHIN TOWNSHIP 7 SOUTH, RANGE 66 WEST AND TOWNSHIP 8 SOUTH, RANGE 66 WEST

## LEGEND

### SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD

The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.

**ZONE A** No Base Flood Elevations determined.  
**ZONE AE** Base Flood Elevations determined.  
**ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.  
**ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.  
**ZONE AR** Special Flood Hazard Areas formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.  
**ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.

### FLOODWAY AREAS IN ZONE AE

The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

### OTHER FLOOD AREAS

**ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

### OTHER AREAS

**ZONE X** Areas determined to be outside the 0.2% annual chance floodplain.  
**ZONE D** Areas in which flood hazards are undetermined, but possible.

Floodplain boundary  
Floodway boundary  
Zone D boundary  
Boundary dividing Special Flood Hazard Area zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths or flood velocities.  
Base Flood Elevation line and value; elevation in feet\*  
Base Flood Elevation value where uniform within zone; elevation in feet\*  
(EL 987)  
Cross section line  
Geographic coordinates referenced to the North American Datum of 1983 (NAD 83), Western Hemisphere  
1000-meter Universal Transverse Mercator grid ticks, zone 13  
5000-foot ticks: Colorado State Plane coordinate system, central zone (FIPZONE 502), Lambert Conformal Conic projection  
National Geodetic Survey bench mark (see explanation in Notes to Users section of this FIRM panel)

\*Referenced to the North American Vertical Datum of 1988

A A Cross section line

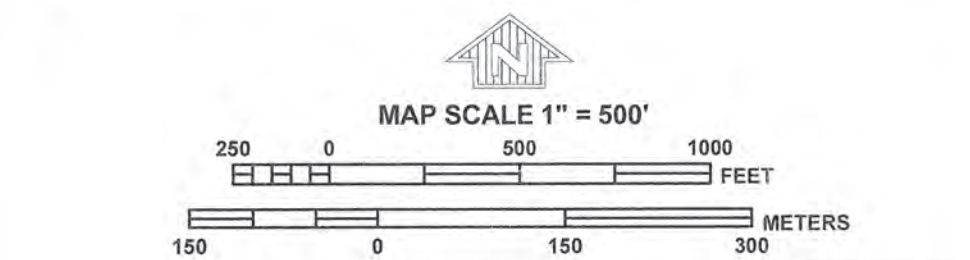
104° 50' 37.5", 39° 30' 00"  
4276000 M  
3180000 FT  
X KK6400  
Geographic coordinates referenced to the North American Datum of 1983 (NAD 83), Western Hemisphere  
1000-meter Universal Transverse Mercator grid ticks, zone 13  
5000-foot ticks: Colorado State Plane coordinate system, central zone (FIPZONE 502), Lambert Conformal Conic projection  
National Geodetic Survey bench mark (see explanation in Notes to Users section of this FIRM panel)

MAP REPOSITORY  
Refer to listing of Map Repositories on Map Index

EFFECTIVE DATE OF COUNTYWIDE  
FLOOD INSURANCE RATE MAP  
SEPTEMBER 30, 2005  
EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-8620.



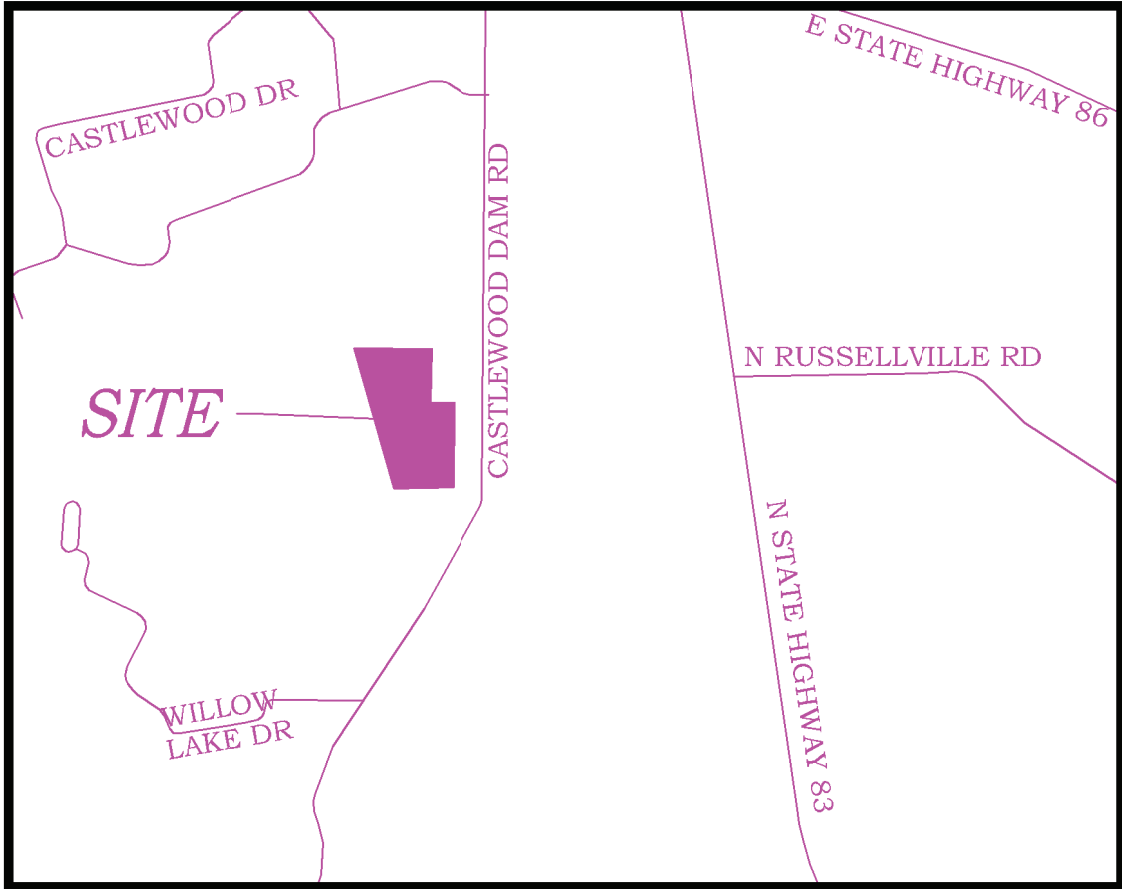
NATIONAL FLOOD INSURANCE PROGRAM

FIRM  
FLOOD INSURANCE RATE MAP  
DOUGLAS COUNTY,  
COLORADO  
AND INCORPORATED AREAS  
PANEL 194 OF 495  
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)  
CONTAINS  
COMMUNITY NUMBER PANEL SUFFIX  
DOUGLAS COUNTY 080049 0194 F  
Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.  
MAP NUMBER  
08035C0194F  
EFFECTIVE DATE:  
SEPTEMBER 30, 2005  
Federal Emergency Management Agency



1481 N CASTLEWOOD CANYON RD.

HYDRAULIC WORK MAP



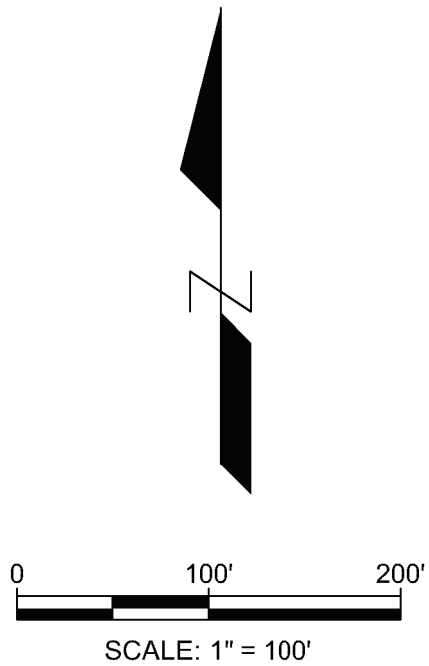
VICINITY MAP  
SCALE N.T.S.

NOTES:

1. WORK MAP USES NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), CONTOURS WERE ACQUIRED FROM DOUGLAS COUNTY.
2. REFINED FLOODPLAIN WAS ANALYZED USING GeoHECRAS FOR THE MODELING TOOL. FLOWS FOR WILLOW CREEK WERE ACQUIRED FROM STREAMSTATS. MANING'S ROUGHNESS COEFFICIENTS WERE ACQUIRED FROM THE NATION LAND COVER DATABASE.
3. TOPOGRAPHY IS SHOWN AT 2' CONTOUR INTERVALS FOR MINOR AND 10' CONTOUR INTERVALS FOR MAJOR.
4. THE LOWEST FINISHED FLOOR ELEVATION OF ANY FUTURE BUILDINGS SHALL BE 1' ABOVE THE CLOSEST RIVER STATION WATER SURFACE ELEVATION (WSE).

LEGEND

- HEC-RAS CROSS SECTIONS
- EFFECTIVE STREAMLINE
- REFINED 100-YR FLOODPLAIN
- EXISTING ZONE "A" FLOODPLAIN
- EXISTING MINOR CONTOUR
- EXISTING MAJOR CONTOUR



PREPARED FOR:  
JEFF ELLIS  
11979 S ALLERTON CR.  
PARKER, COLORADO 80138

HYDRAULIC WORK MAP  
FLOODPLAIN STUDY  
1481 N CASTLEWOOD CANYON RD.  
FRANKTOWN, COLORADO

DATE:  
BY:

REVISIONS:  
1.  
2.  
3.  
4.

PROJECT NUMBER:  
23014

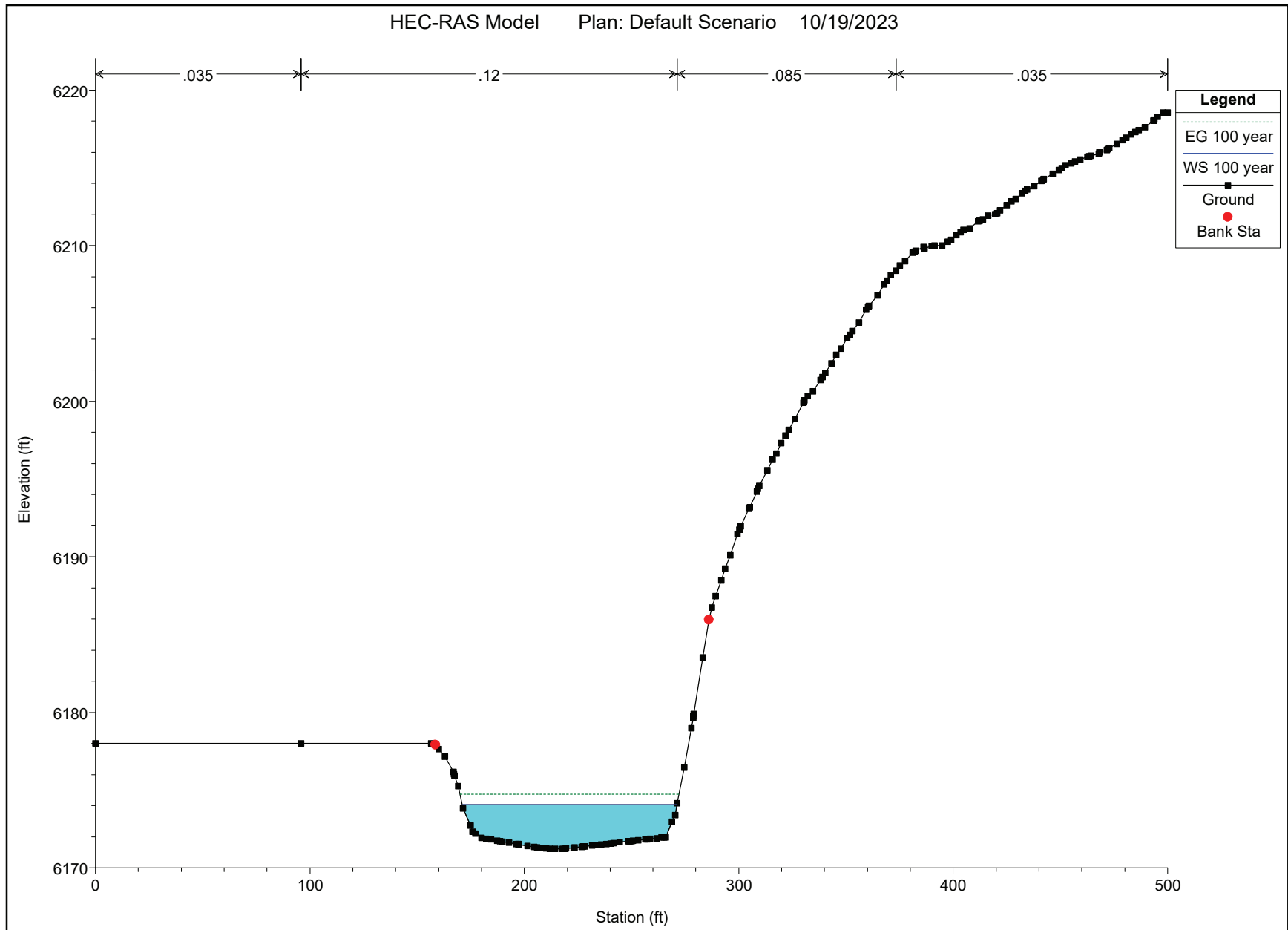
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10/19/2023

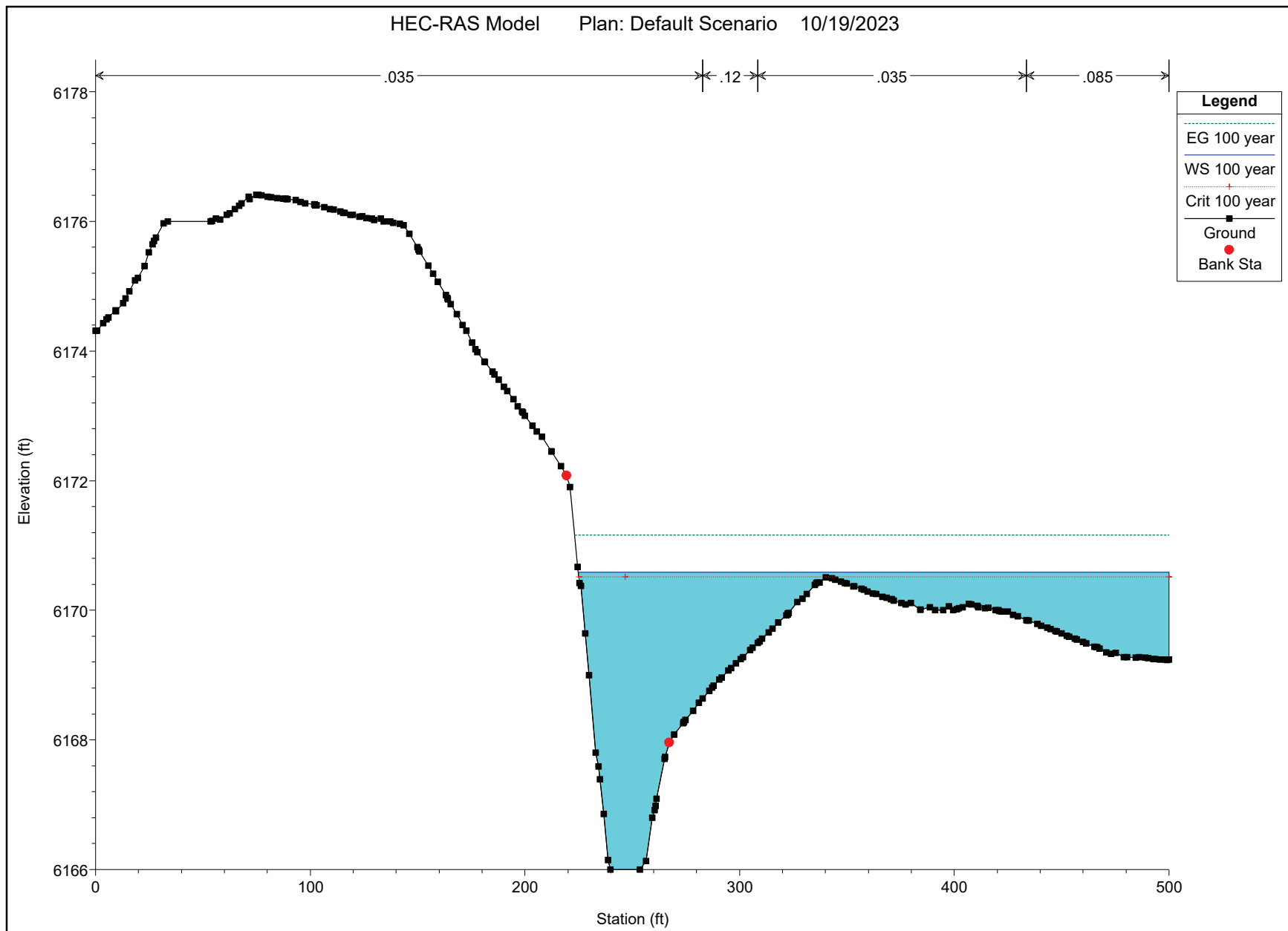
DESIGNED BY:  
RCE

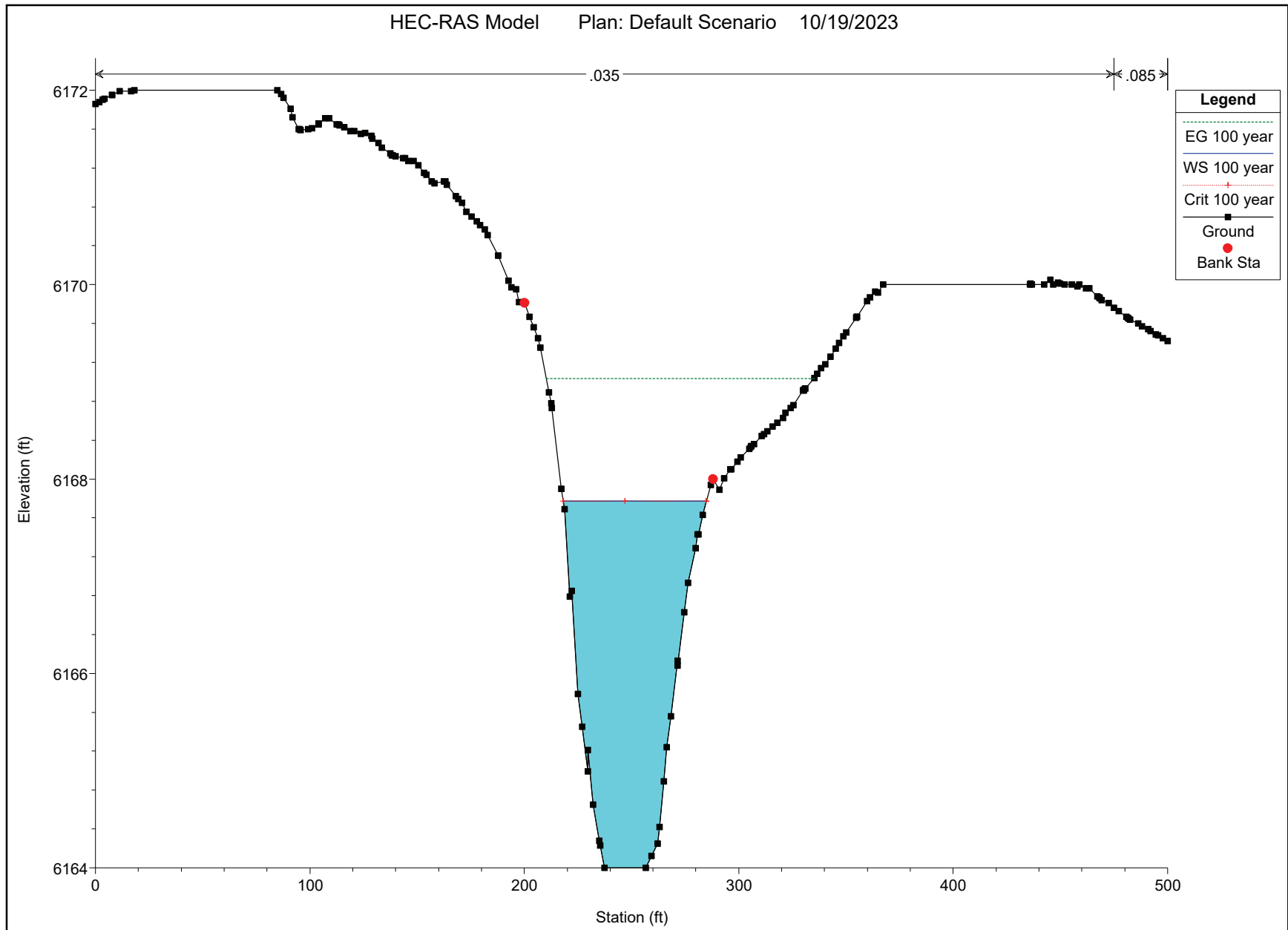
REVIEWED BY:  
EPT

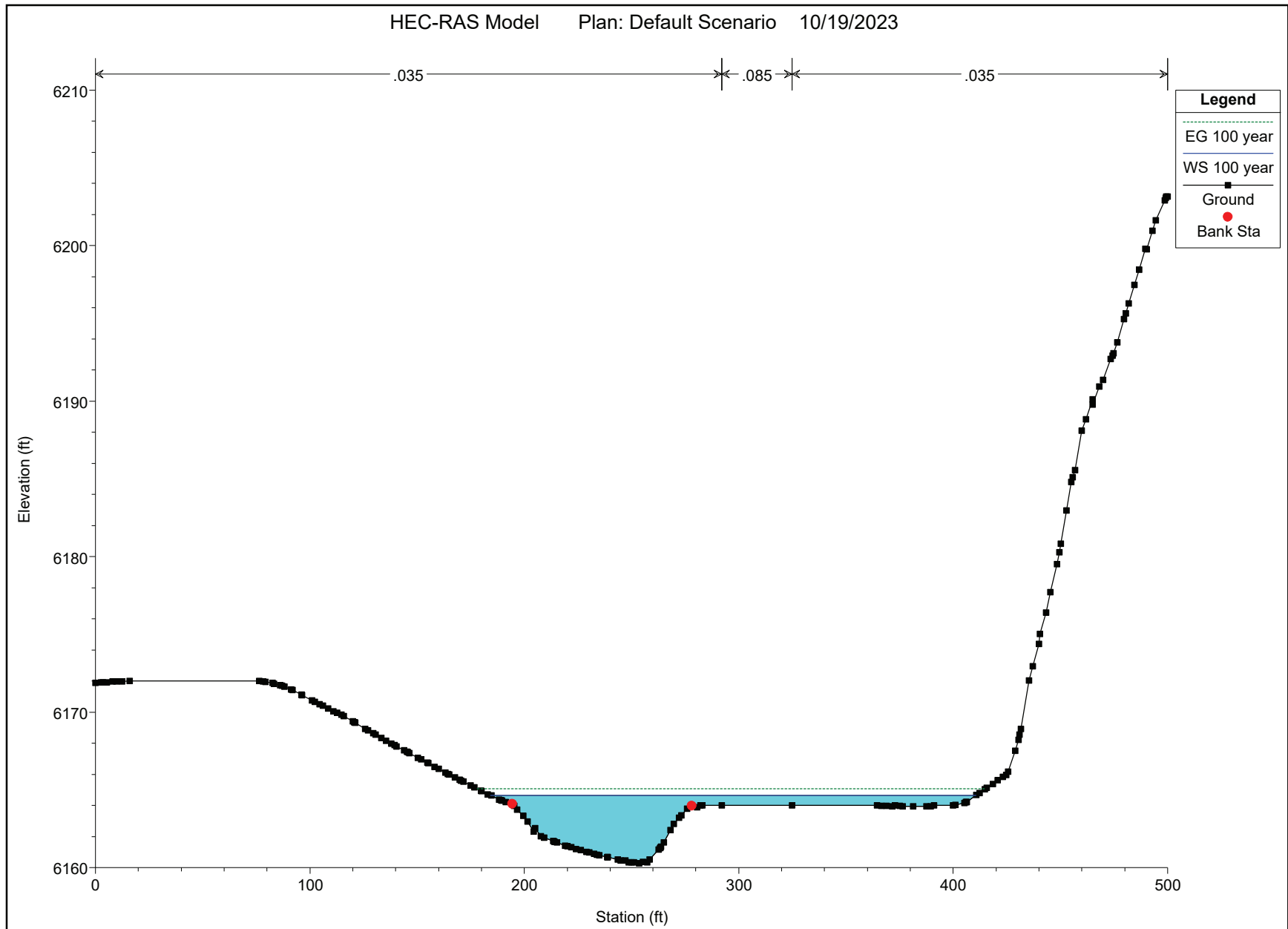
WORK MAP

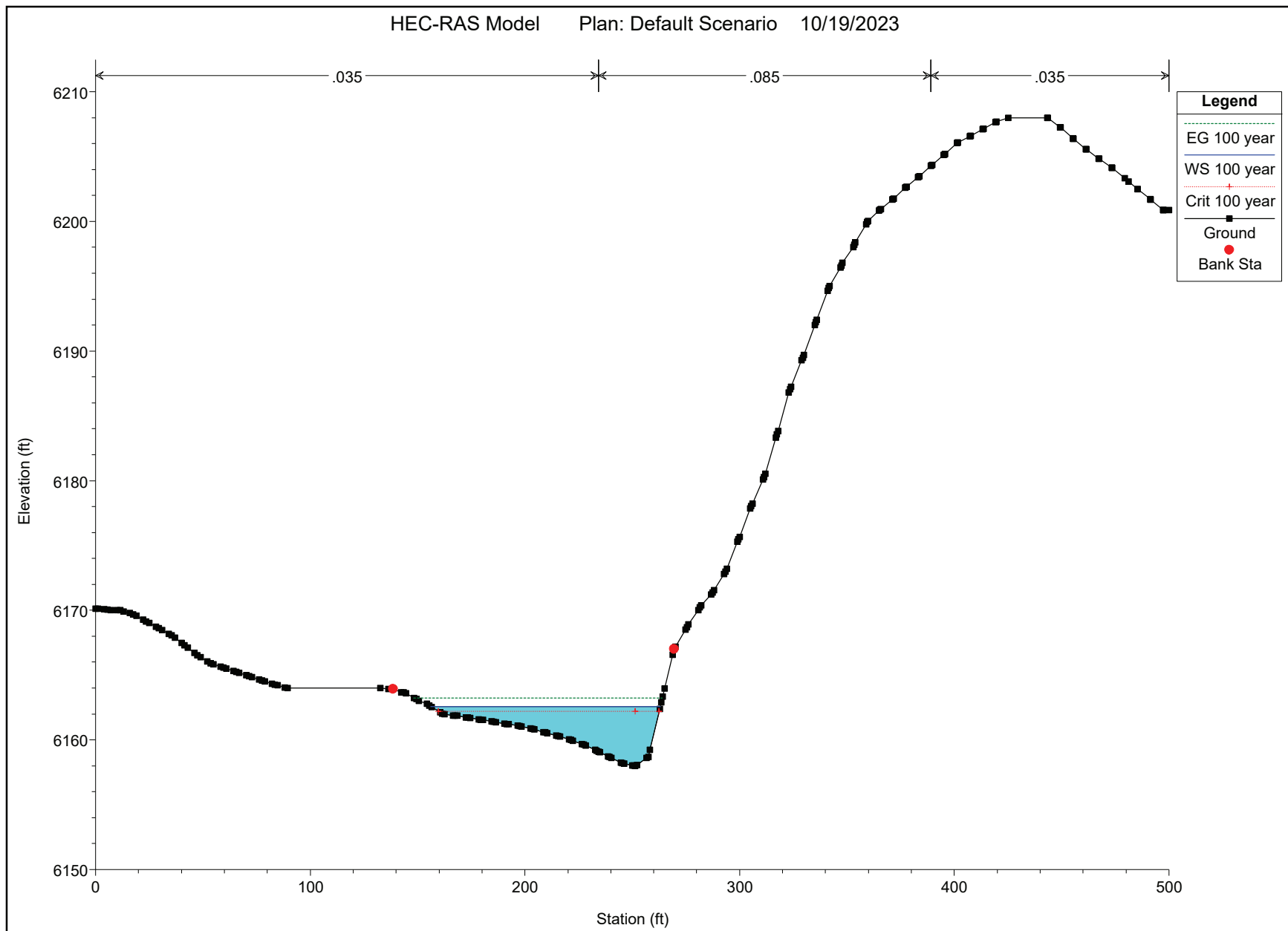




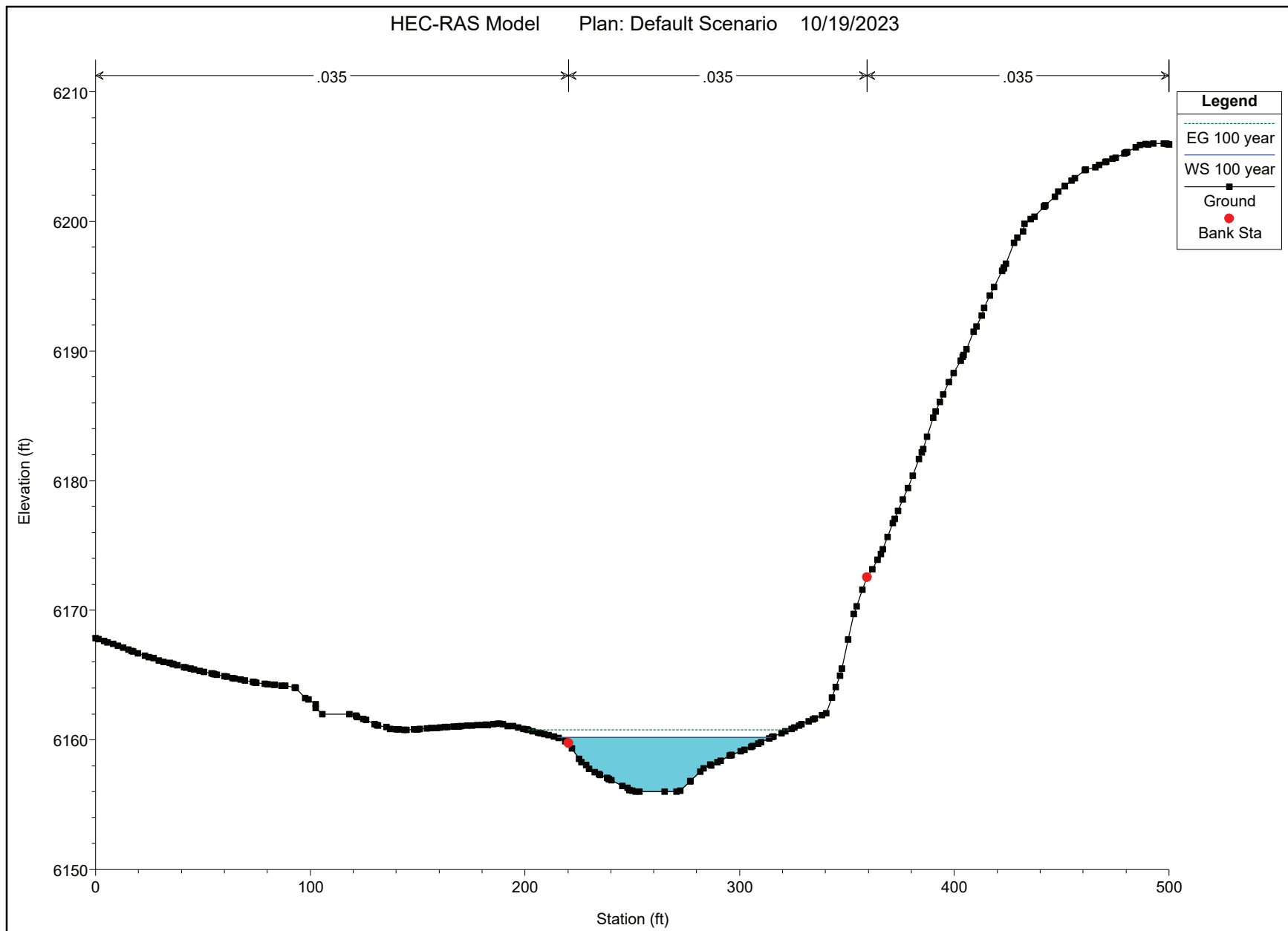


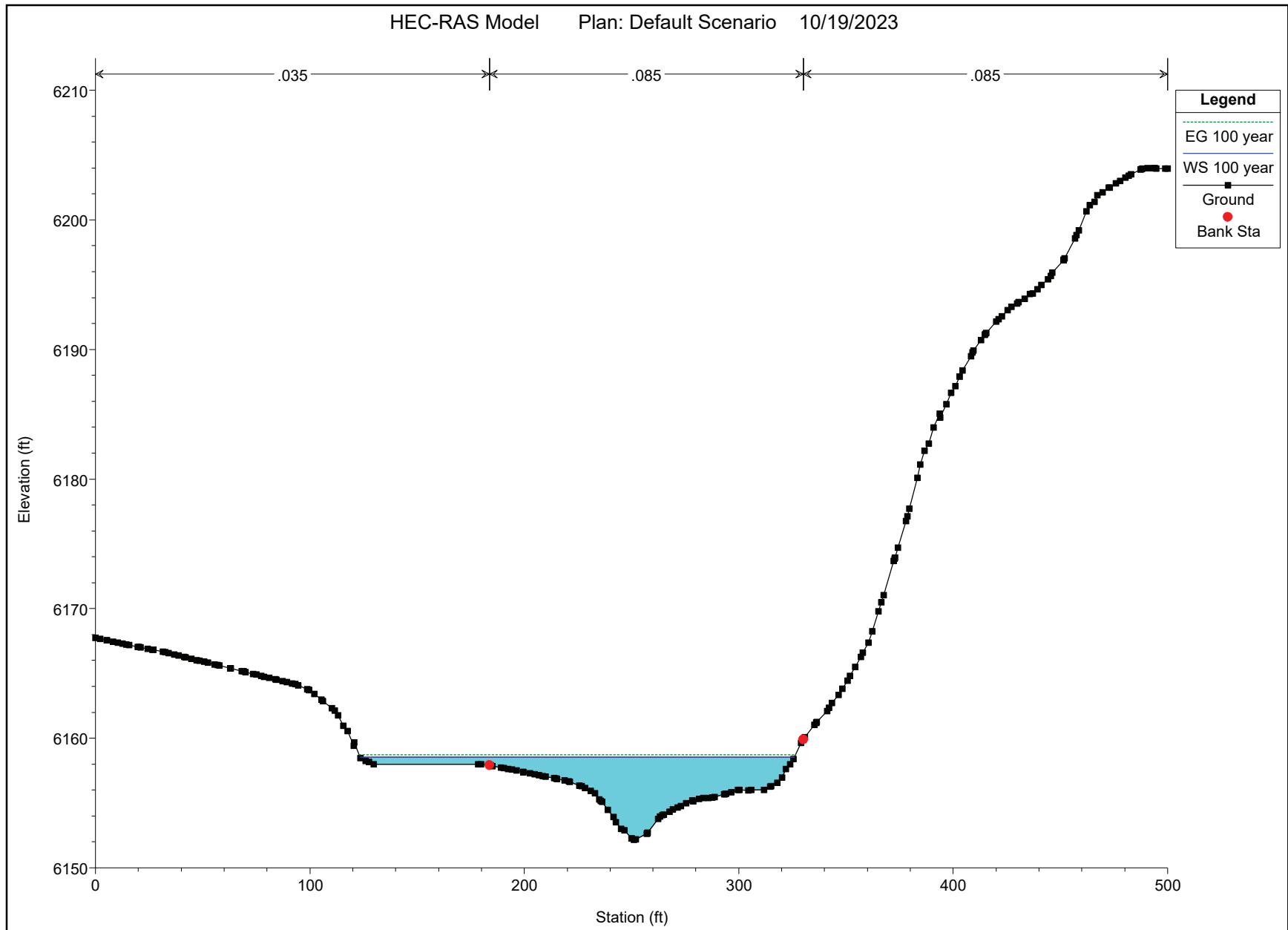


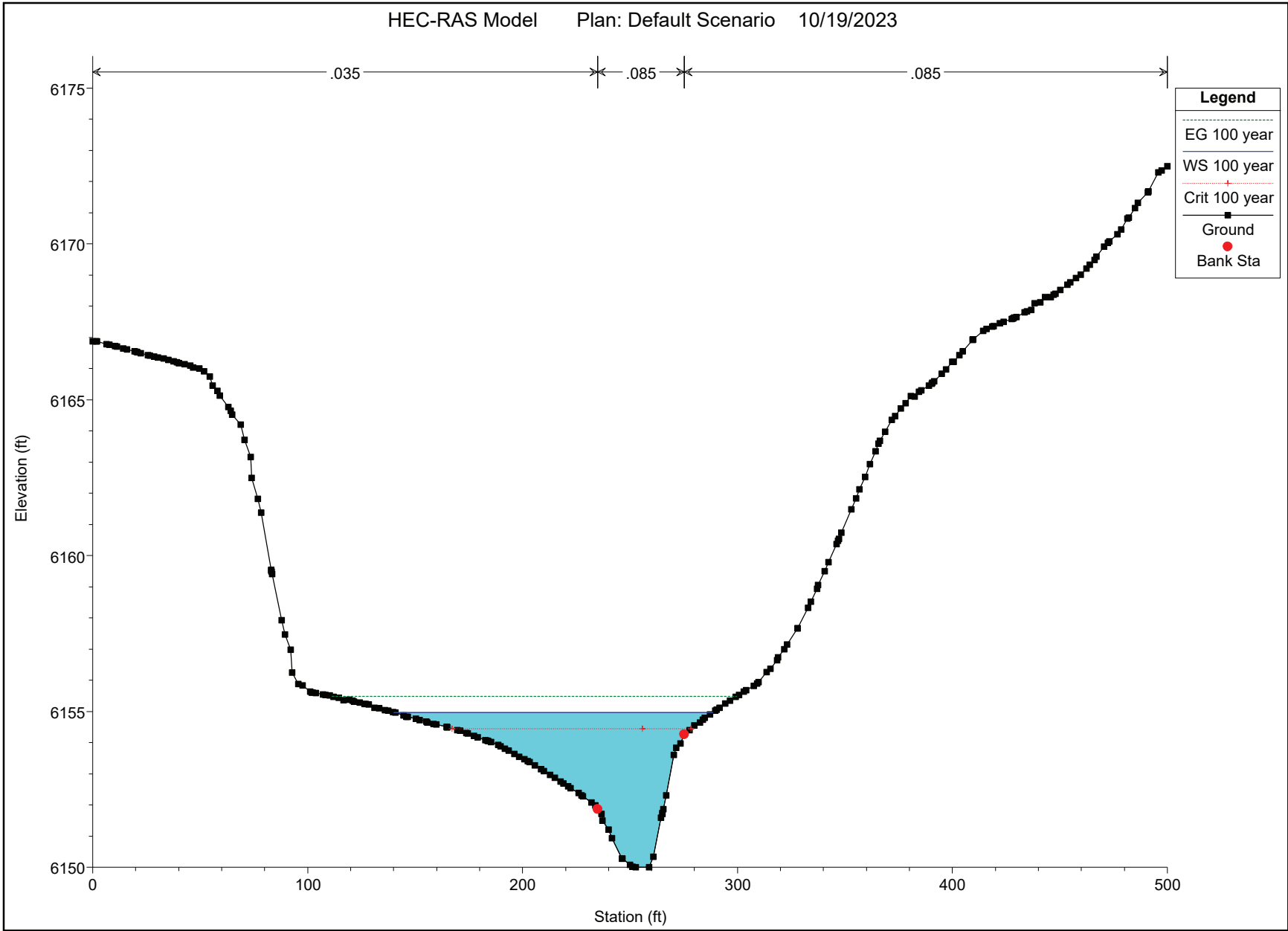


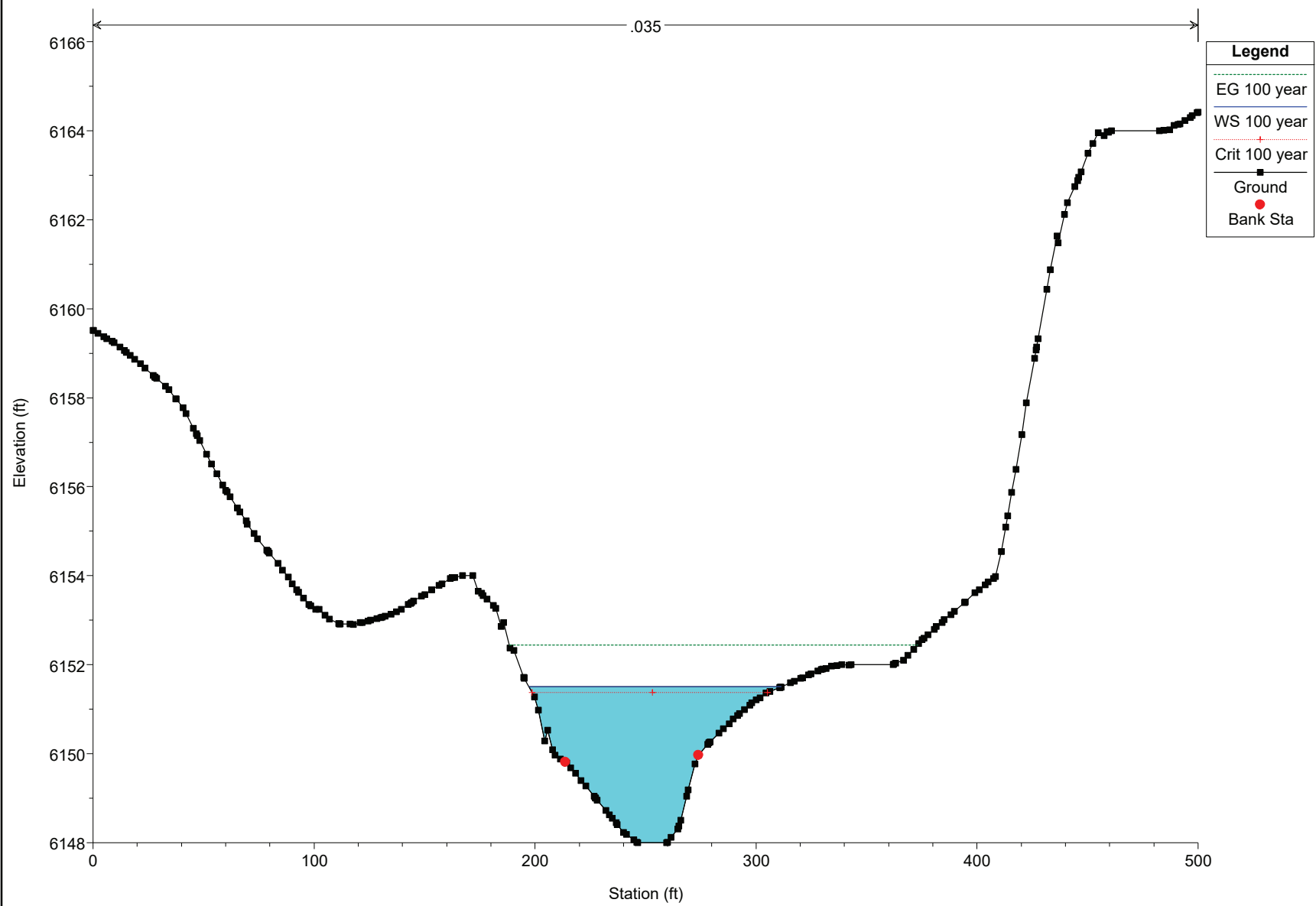


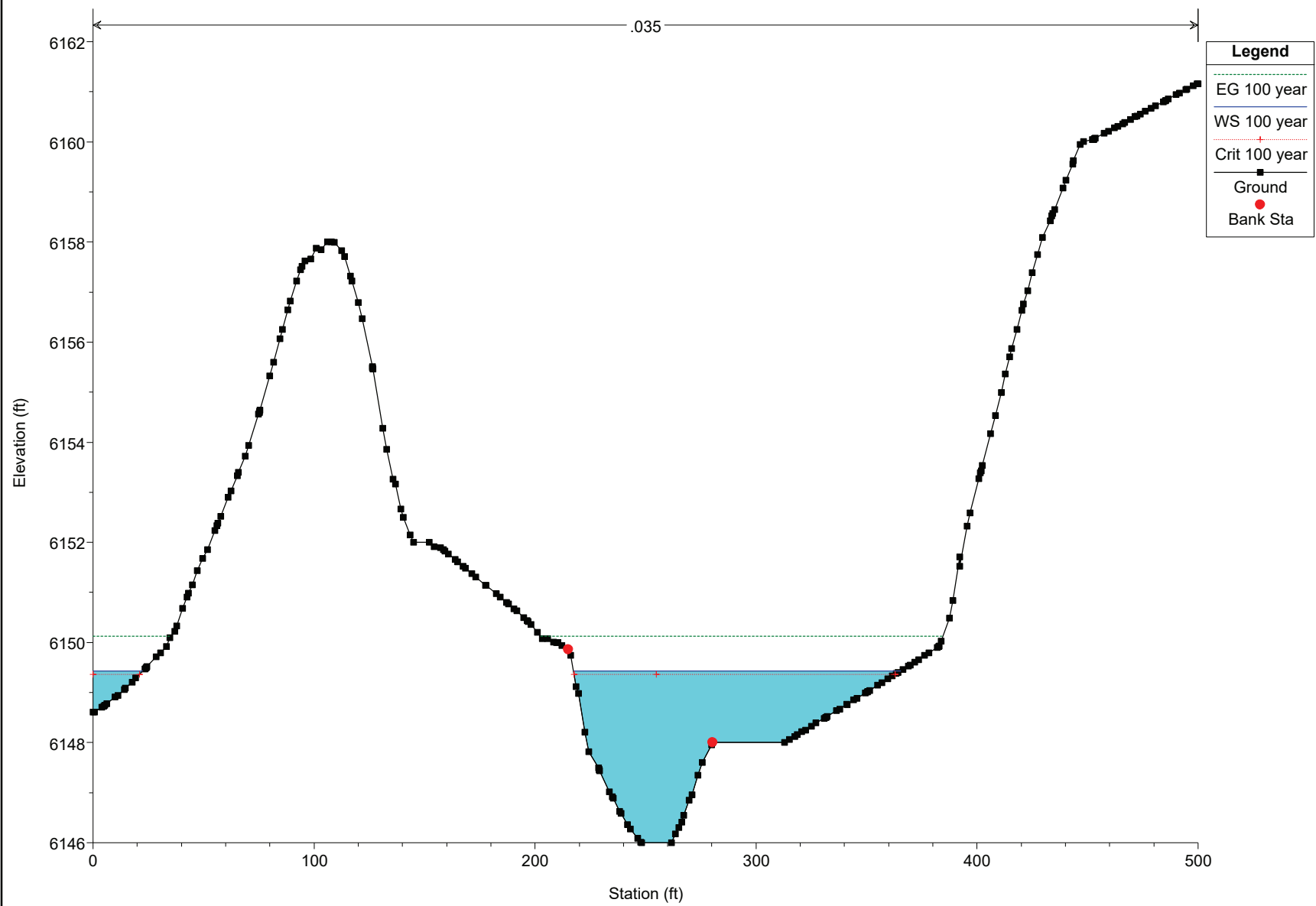


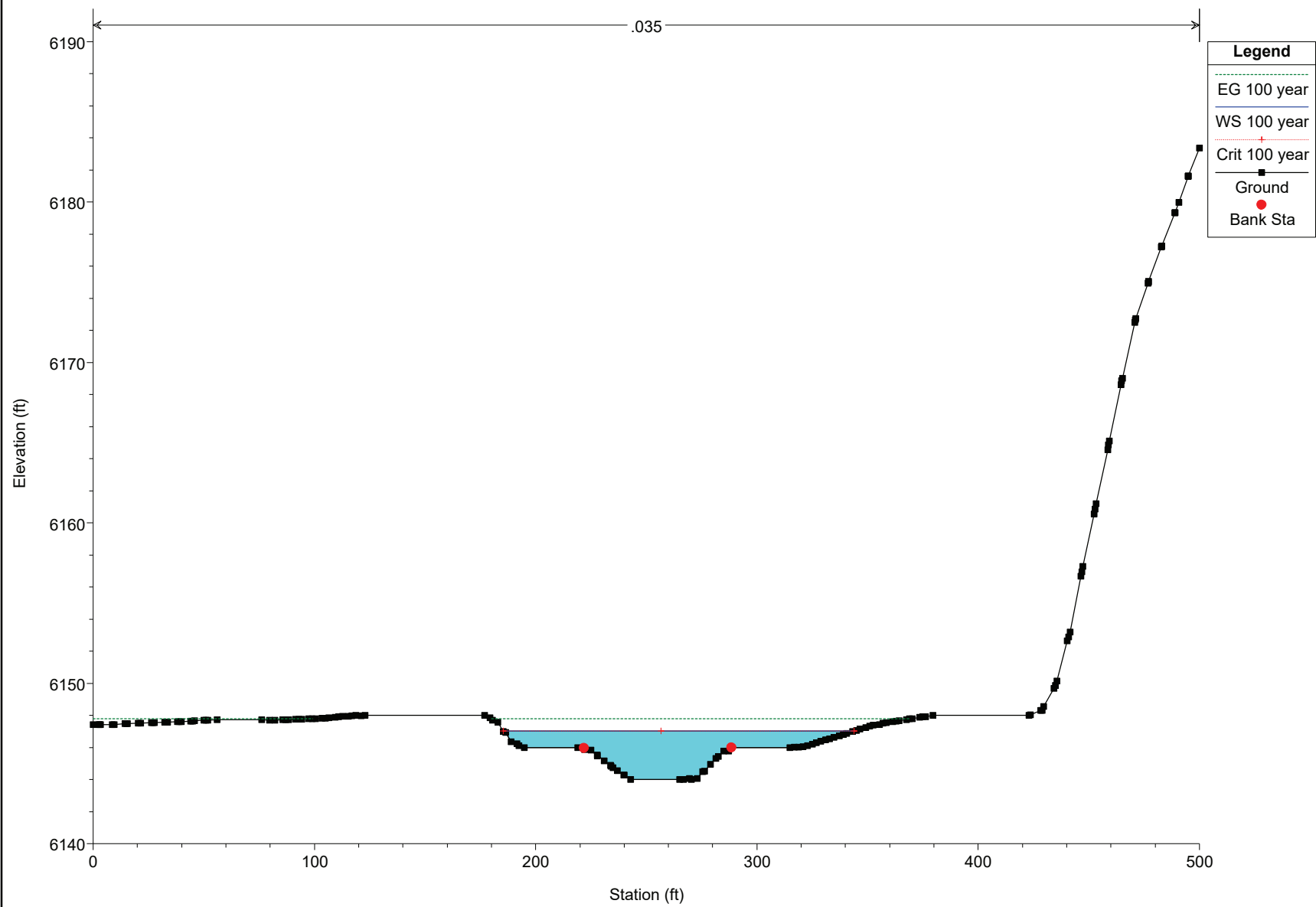


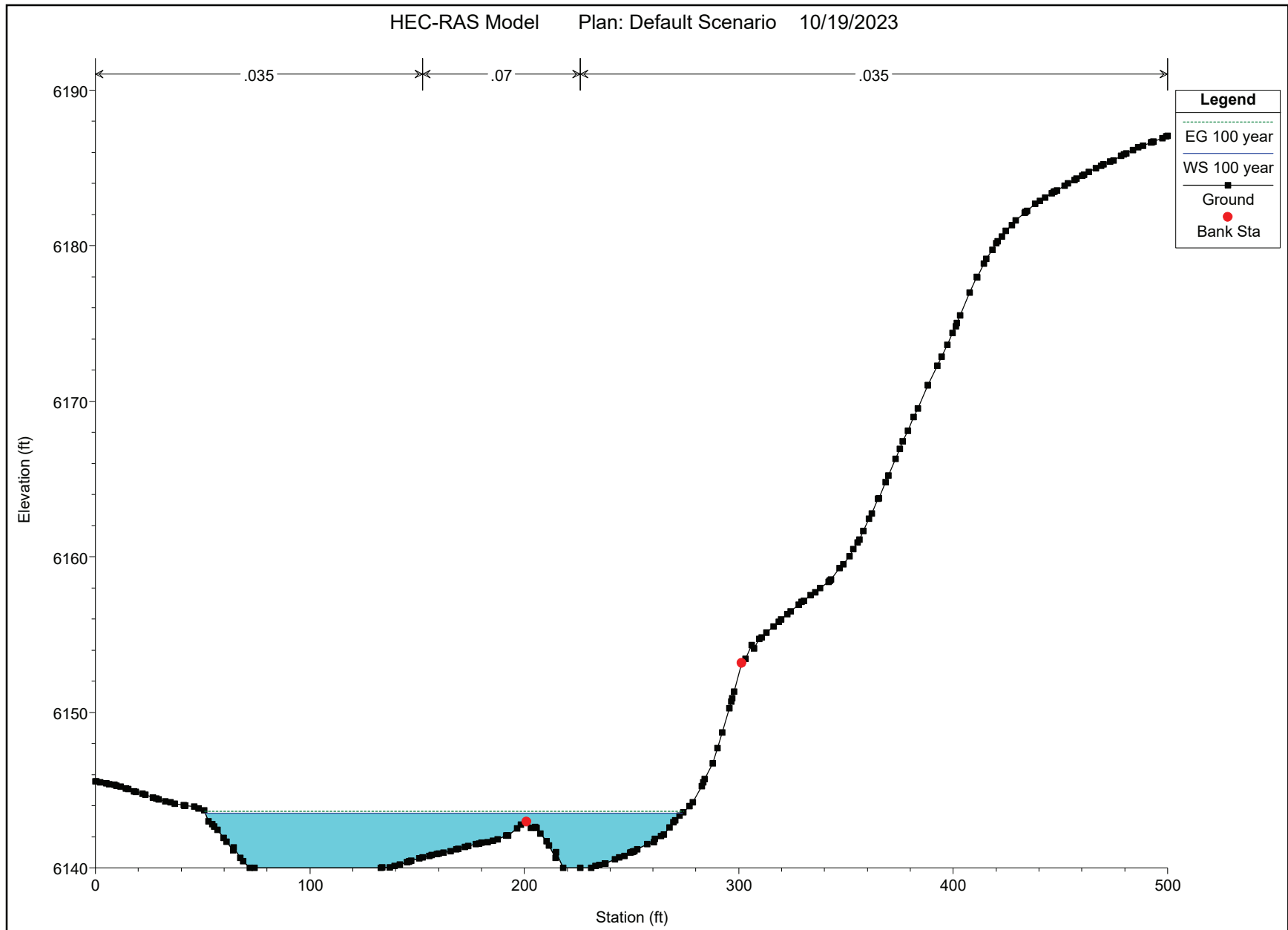




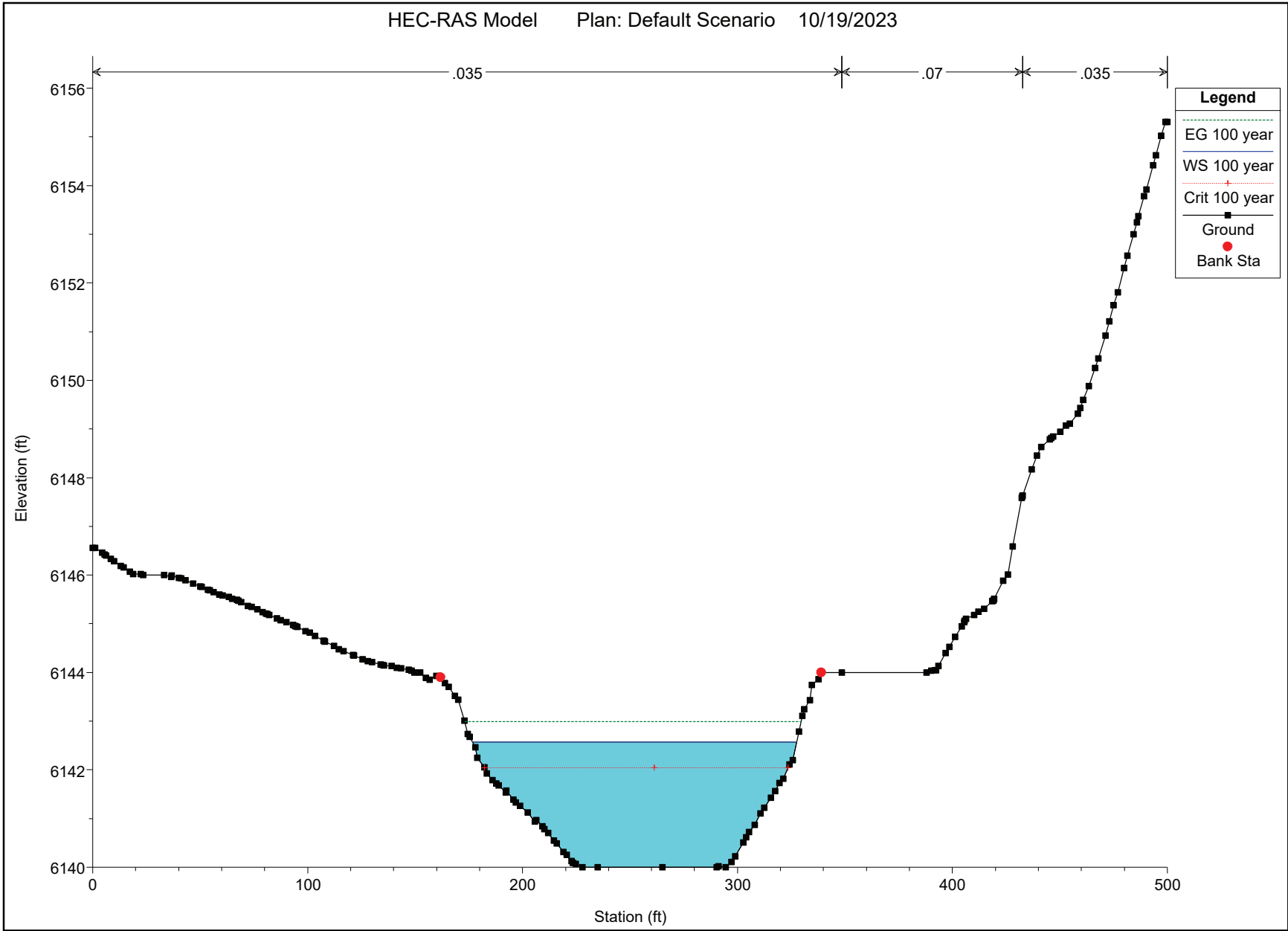


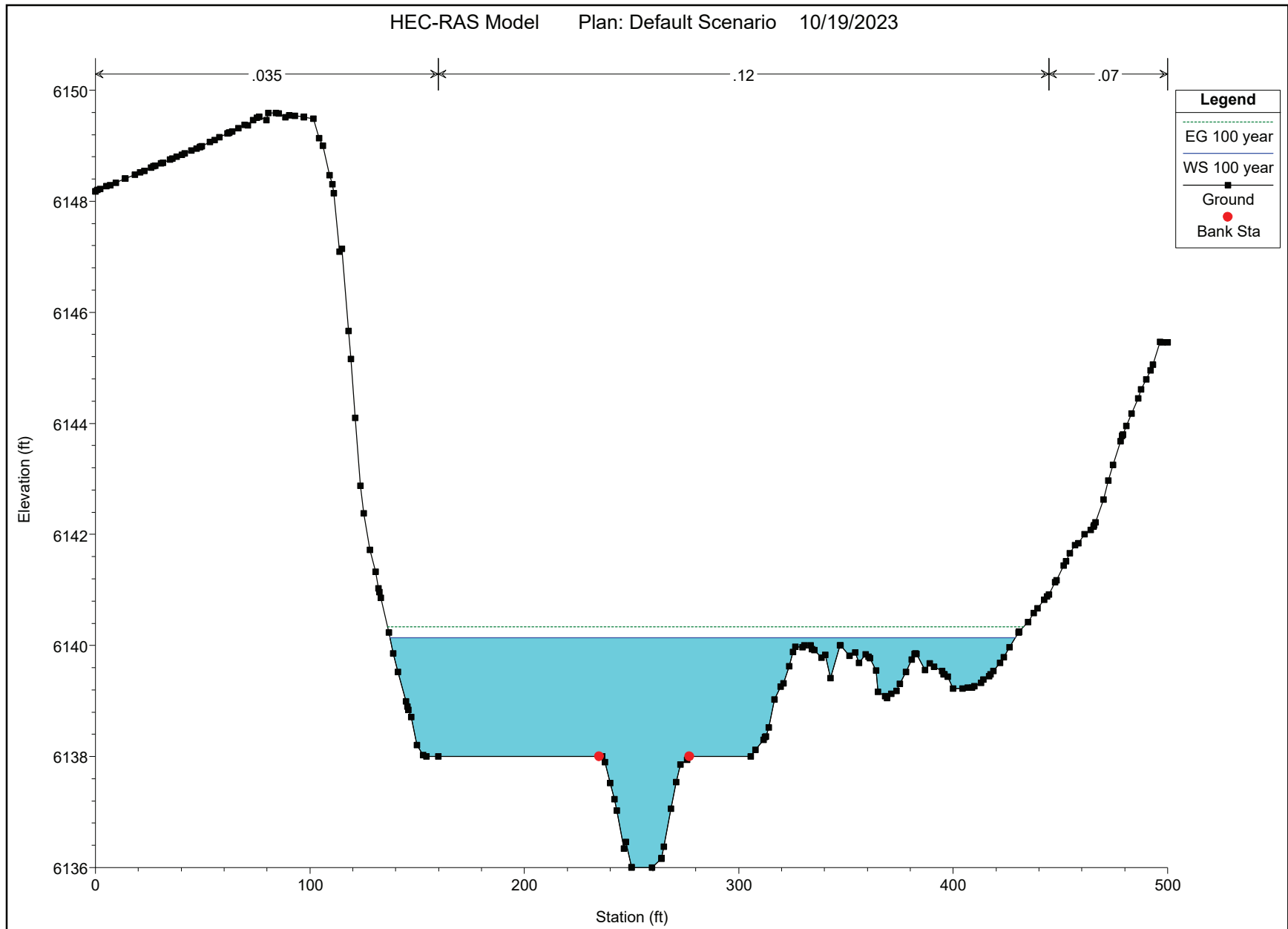


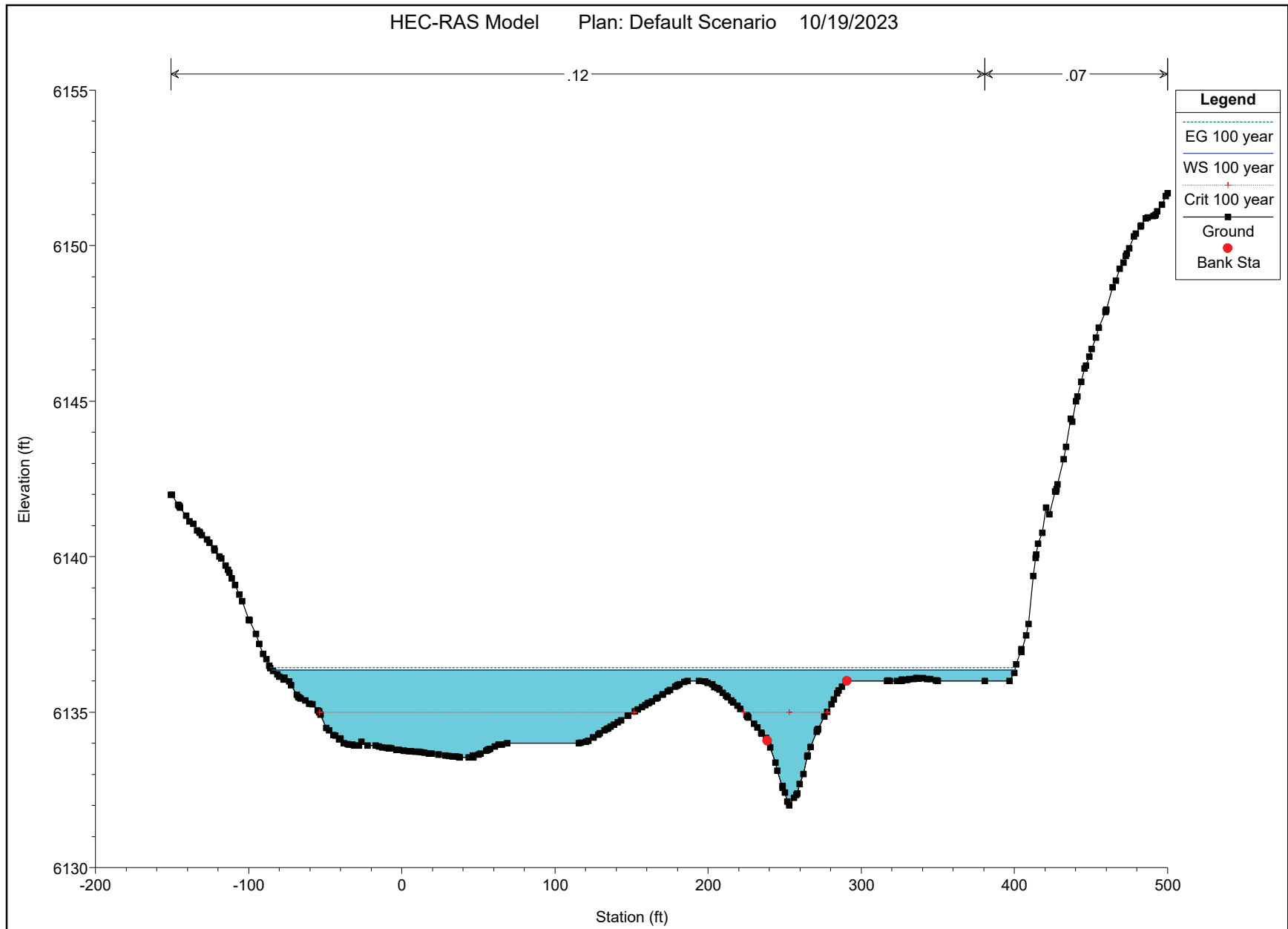












CREEKSIDE ACRES  
PART OF SECTION 3 & SECTION 10, TOWNSHIP 8 SOUTH,  
RANGE 66 WEST, 6TH P.M.  
COUNTY OF DOUGLAS, STATE OF COLORADO  
35.17 ACRES 2 RESIDENTIAL LOTS  
SB2023-055

LEGAL DESCRIPTION: (RECEPTION NO. 2022054678)

A PARCEL OF PROPERTY LOCATED IN THE SOUTH HALF OF SECTION 3 AND THE NORTH HALF OF SECTION 10, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 3 AND CONSIDERING THE NORTH LINE OF SAID SOUTHEAST 1/4 TO BEAR N 89° 27' 14" E WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE, N 89° 27' 14" E ALONG SAID NORTH LINE FOR A DISTANCE OF 1261.85 FEET TO THE POINT ON THE WEST RIGHT-OF-WAY LINE OF CASTLEWOOD DAM ROAD; THENCE, S 00° 08' 44" W ALONG SAID WEST RIGHT-OF-WAY, ALSO BEING A LINE 60.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 3 FOR A DISTANCE OF 1973.50 FEET TO A POINT ON THE NORTH LINE OF BOOK 293, PAGE 614 OF THE DOUGLAS COUNTY RECORDS; THENCE, N 88° 52' 52" W ALONG SAID NORTH LINE FOR A DISTANCE OF 624.35 FEET TO THE NORTHWEST CORNER OF SAID BOOK 293, PAGE 614; THENCE, S 00° 12' 51" W ALONG THE WEST LINE OF SAID BOOK 293, PAGE 614 FOR A DISTANCE OF 287.88 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING, S 00° 12' 51" W ALONG THE WEST LINE OF SAID BOOK 293, PAGE 614 FOR A DISTANCE OF 400.77 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3; THENCE, S 00° 00' 35" W FOR A DISTANCE OF 270.68 FEET TO THE SOUTHWEST CORNER OF SAID BOOK 293, PAGE 614; THENCE, S 88° 53' 20" E ALONG THE SOUTH LINE OF SAID BOOK 293, PAGE 614, FOR A DISTANCE OF 294.83 FEET TO A POINT ON THE WEST LINE OF BOOK 179 AT PAGE 58 OF THE DOUGLAS COUNTY RECORDS; THENCE, S 00° 01' 26" W ALONG THE WEST LINE OF A PARCEL OF PROPERTY DESCRIBED IN BOOK 189, PAGE 101 OF THE DOUGLAS COUNTY RECORDS, FOR A DISTANCE OF 1056.27 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 10; THENCE, S 89° 42' 20" W ALONG SAID SOUTH LINE FOR A DISTANCE OF 741.47 FEET; THENCE N 16° 21' 58" W FOR A DISTANCE OF 1810.61 FEET; THENCE N 90° 00' 00" E A DISTANCE OF 958.86 FEET TO THE POINT OF BEGINNING.  
CONTAINING 35.17 ACRES MORE OR LESS.

TRACT B:  
EASEMENT RIGHTS AS DESCRIBED IN THE DECLARATION OF SHARED DRIVEWAY EASEMENT RECORDED APRIL 26, 2021 AT RECEPTION NO. 2021053595.

DEDICATION STATEMENT

THE UNDERSIGNED, BEING ALL THE OWNERS, MORTGAGES, BENEFICIARIES OF DEEDS OF TRUST AND HOLDERS OF OTHER INTERESTS IN THE LAND DESCRIBED HEREIN, HAVE LAID OUT, SUBDIVIDED AND PLATTED SAID LANDS INTO LOTS, TRACTS, STREETS AND EASEMENTS AS SHOWN HEREON UNDER THE NAME AND SUBDIVISION OF "CREEKSIDE ACRES". THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR PUBLIC UTILITIES AND CABLE COMMUNICATION SYSTEMS AND OTHER PURPOSES AS SHOWN HEREON. THE ENTITIES RESPONSIBLE FOR PROVIDING THE SERVICES FOR WHICH THE EASEMENTS ARE ESTABLISHED ARE HEREBY GRANTED THE PERPETUAL RIGHT OF INGRESS AND EGRESS FROM AND TO ADJACENT PROPERTIES FOR INSTALLATION, MAINTENANCE AND REPLACEMENT OF UTILITY LINES AND RELATED FACILITIES. THE STREETS AND EASEMENTS SHOWN HEREON ARE DEDICATED AND CONVEYED TO DOUGLAS COUNTY, CO, IN FEE SIMPLE ABSOLUTE, WITH MARKETABLE TITLE, FOR PUBLIC USES AND PURPOSES.

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_ BY \_\_\_\_\_ (NAME)

MY COMMISSION EXPIRES: \_\_\_\_\_  
\_\_\_\_\_  
NOTARY PUBLIC

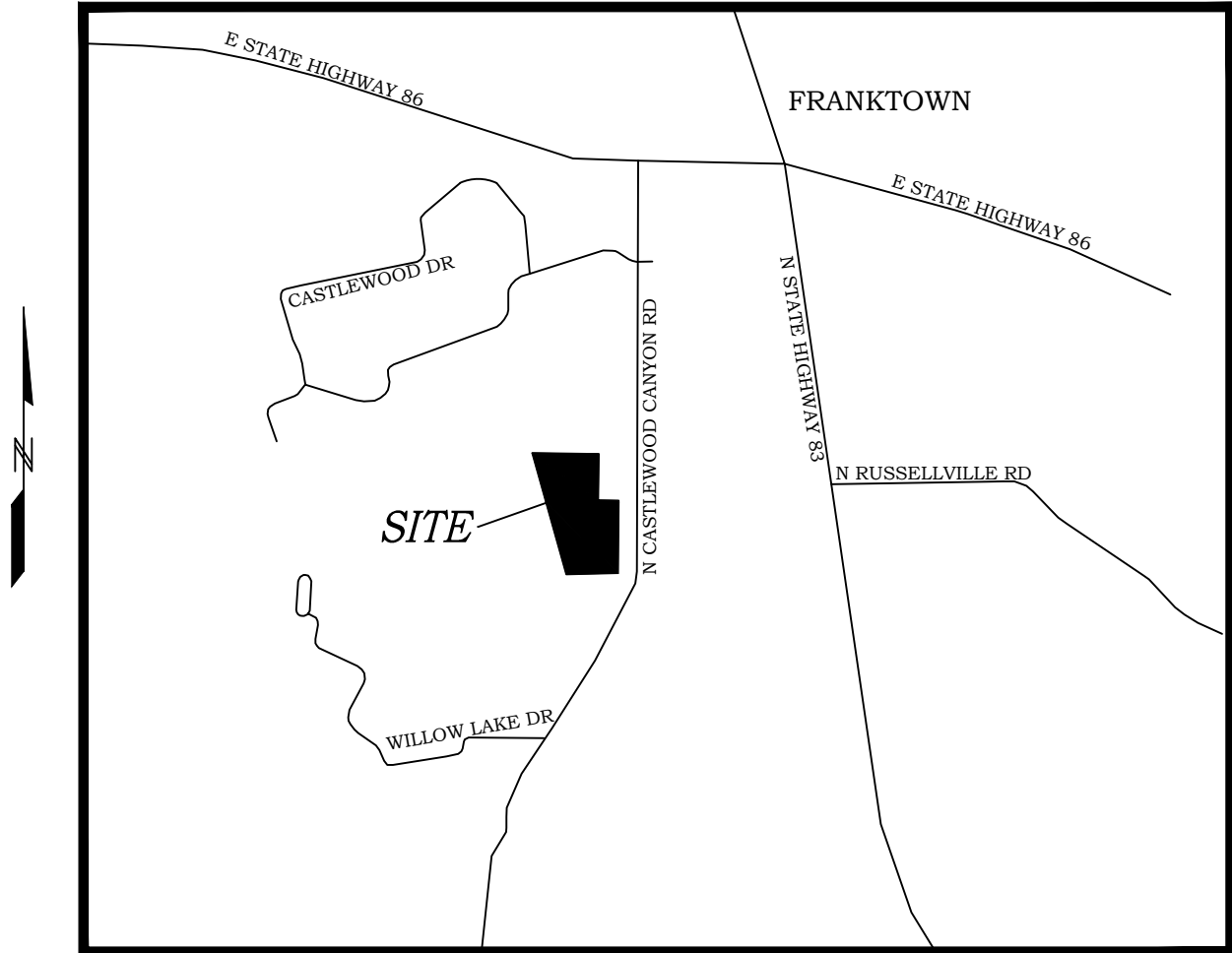
BOARD OF COUNTY COMMISSIONERS

THIS PLAT WAS APPROVED FOR FILING BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, CO, ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_, SUBJECT TO ANY CONDITIONS SPECIFIED HEREON. THE DEDICATIONS OF UTILITY EASEMENTS, ARE HEREBY ACCEPTED.

ALL EXPENSES INCURRED WITH RESPECT TO IMPROVEMENTS FOR ALL UTILITY SERVICES, PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS, ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES, AND ALL OTHER IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER AND NOT DOUGLAS COUNTY.

THIS ACCEPTANCE DOES NOT GUARANTEE THAT THE SOIL CONDITIONS, SUBSURFACE GEOLOGY, GROUNDWATER CONDITIONS OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT A BUILDING PERMIT, WELL PERMIT OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED.

\_\_\_\_\_  
CHAIR, BOARD OF DOUGLAS COUNTY COMMISSIONERS



VICINITY MAP  
SCALE N.T.S.

NOTES

- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY, ACCESSORIES, OR LEGAL LAND-BOUND MONUMENT COMMITS O CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
- THE LINEAL UNITS USED IN THIS DRAWING ARE U.S. SURVEY FEET.
- THIS SURVEY WAS PERFORMED IN THE FIELD ON AUGUST 28, 2023.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY ENCOMPASS SERVICES, LLC TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND TITLE OF RECORD, ENCOMPASS SERVICES, LLC RELIED UPON TITLE COMMITMENT NO. \_\_\_\_\_, WITH AN EFFECTIVE DATE OF \_\_\_\_\_. AS PROVIDED BY \_\_\_\_\_.
- ACCORDING TO THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP PANEL 0194F, MAP NUMBER 08035C0194F WITH ON EFFECTIVE DATE OF SEPTEMBER 30, 2005, AND MAP PANEL310F, MAP NUMBER 08035C0310F WITH AN EFFECTIVE DATED OF SEPTEMBER 30, 2005 THE SUBJECT PROPERTY IS LOCATED IN ZONE X (ON AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), ZONE (X) (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1 % ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOD OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1 % ANNUAL CHANCE FLOOD.) AND ZONE A (NO BASE FLOOD ELEVATIONS DETERMINED, AS SHOWN ON HEREON.
- WORK MAP USES NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), CONTOURS WERE ACQUIRED FROM DOUGLAS COUNTY.
- REFINED FLOODPLAIN WAS ANALYZED USING GeoHECRAS FOR THE MODELING TOOL. FLOWS FOR WILLOW CREEK WERE ACQUIRED FROM STREAMSTATS. MANNINGS ROUGHNESS COEFFICIENTS WERE ACQUIRED FROM THE NATION LAND COVER DATABASE.
- THE LOWEST FINISHED FLOOR ELEVATION OF ANY FUTURE BUILDINGS SHALL BE 1' ABOVE THE CLOSEST RIVER STATION WATER SURFACE ELEVATION (WSE).

PLANNING COMMISSION

THE MINOR DEVELOPMENT FINAL PLAT SB2023-055 WAS REVIEWED BY THE PLANNING COMMISSION ON \_\_\_\_\_.

\_\_\_\_\_  
PLANNING DIRECTOR, ON BEHALF OF THE PLANNING COMMISSION

\_\_\_\_\_  
DATE

TITLE VERIFICATION

WE \_\_\_\_\_, DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TITLE OF ALL LAND PLATTED HEREON AND THAT TITLE TO SUCH LAND IS IN THE DEDICATOR(S) FREE AND CLEAR OF ALL LIENS, TAXES AND ENCUMBRANCES.

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_ DATE \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_ BY \_\_\_\_\_ (NAME)

MY COMMISSION EXPIRES: \_\_\_\_\_  
\_\_\_\_\_  
NOTARY PUBLIC

CERTIFICATE OF SURVEY:

I, ELIJAH FRANE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON OCTOBER 30, 2023, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:50,000 (SECOND ORDER); AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISIONS OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE DOUGLAS COUNTY SUBDIVISION RESOLUTION. THIS CERTIFICATION IS BASED ON MY KNOWLEDGE, INFORMATION, AND BELIEF AND IS NOT A GUARANTY OR WARRANTY, EITHER EXPRESS OR IMPLIED.

I ATTEST THE ABOVE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
ELIJAH FRANE,  
COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR #38376  
FOR AND ON BEHALF OF  
ENCOMPASS SERVICES, LLC

CLERK AND RECORDER

STATE OF COLORADO )  
 ) SS  
COUNTY OF DOUGLAS )

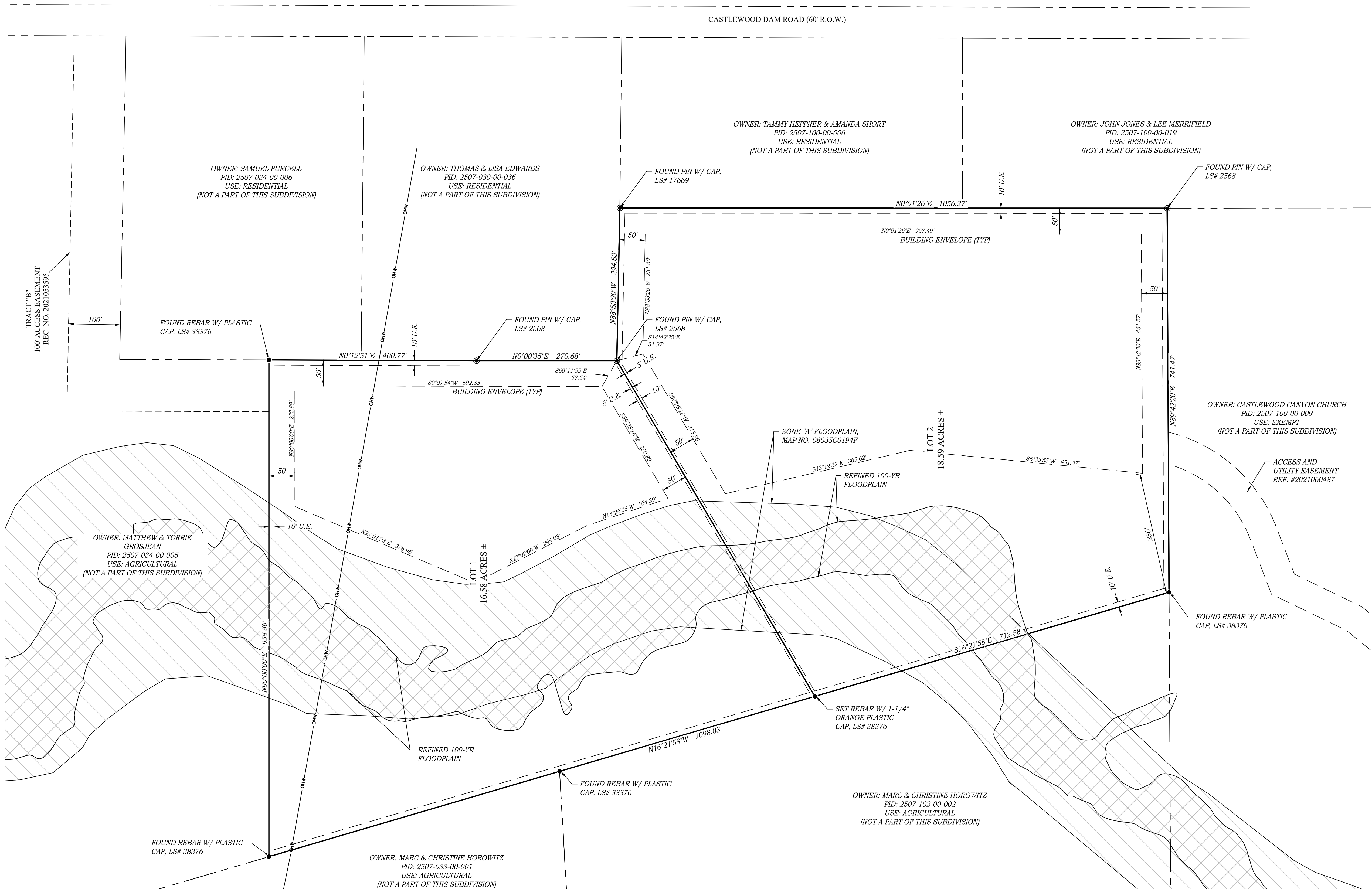
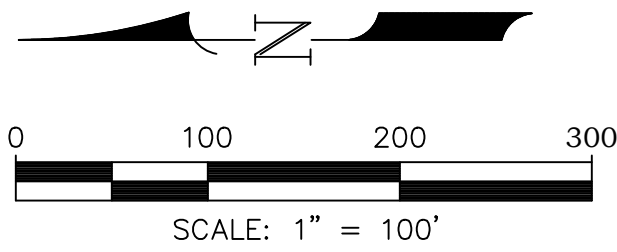
I HEREBY CERTIFY THAT THIS PLAT WAS FILED IN MY OFFICE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D., AT \_\_\_\_\_, A.M./P.M. AND WAS RECORDED AT RECEPTION NUMBER \_\_\_\_\_.

\_\_\_\_\_  
DOUGLAS COUNTY CLERK AND RECORDER

2750 S. WADSWORTH BLVD, SUITE C-202 DENVER, COLORADO 80227 303-955-6080 WWW.ENCOMPASSSERVICES.COM		
REVISIONS:		
NO.	DATE	DESCRIPTION
1	11/15/2023	COUNTY COMMENTS
DRAWN BY: MB		PROJECT NO. 65079
CHECKED BY: BF		DATE: 10/30/2023
FIELD WORK COMPLETED: 3/29/2023		SCALE: NTS



CREEKSIDE ACRES  
PART OF SECTION 3 & SECTION 10, TOWNSHIP 8 SOUTH,  
RANGE 66 WEST, 6TH P.M.  
COUNTY OF DOUGLAS, STATE OF COLORADO  
35.17 ACRES 2 RESIDENTIAL LOTS  
SB2023-055



BASIS OF BEARINGS:

CONSIDERING THE NORTH LINE OF SOUTHEAST 1/4 OF SECTION 3 TO HAVE AN ASSUMED BEARING OF N89°27'14"E AND MONUMENTED AS SHOWN HEREON.

UNITS OF MEASUREMENT ARE US SURVEY FEET REFERENCED TO GROUND.

LEGEND:

—	SUBJECT PROPERTY LINE	●	FOUND PIN WITH CAP
---	ADJOINER PROPERTY LINE	●	REBAR WITH CAP LS# 38376
- - - - -	EASEMENT LINE	○	IRON PIPE FOUND
---	ROAD RIGHT OF WAY	○	UTILITY EASEMENT
CHW	OVERHEAD WIRES		

2750 S. WADSWORTH BLVD, SUITE C-202  
DENVER, COLORADO 80227  
303-955-6080  
WWW.ENCOMPASSSERVICES.COM

100' 0 100' 200'

HORIZONTAL SCALE IN FEET

REVISIONS:	
NO.	DATE
1	11/15/2023
DESCRIPTION	
COUNTY COMMENTS	

DRAWN BY: MB	PROJECT NO. 65079
CHECKED BY: EF	DATE: 10/30/2023
FIELD WORK COMPLETED: 3/28/2023	SCALE: 1" = 100'
	SHEET 2 OF 2

## Staff Report Addendum

**DATE:** MARCH 28, 2024  
**TO:** DOUGLAS COUNTY PLANNING COMMISSION  
**FROM:** ERIC PAVLINEK, PRINCIPAL PLANNER *EP*  
JEANETTE L. BARE, AICP, CURRENT PLANNING MANAGER  
STEVEN E. KOSTER, AICP, ASSISTANT DIRECTOR OF PLANNING SERVICES  
**SUBJECT: CREEKSIDE ACRES - MINOR DEVELOPMENT FINAL PLAT & APPEAL TO SECTION 18A – WATER SUPPLY OVERLAY DISTRICT – SUPPLEMENTAL INFORMATION**  
**PROJECT FILE: SB2023-055**

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Staff requested plat notes to be added to the minor development final plat exhibit regarding the water supply for the two lots. General notes 10 and 11 were added to sheet 1. The applicant resubmitted the revised exhibit on March 28, 2024.

ATTACHMENT

Minor Development Final Plat Exhibit – Updated 3-28-24



CREEKSIDE ACRES  
PART OF SECTION 3 & SECTION 10, TOWNSHIP 8 SOUTH,  
RANGE 66 WEST, 6TH P.M.  
COUNTY OF DOUGLAS, STATE OF COLORADO  
35.17 ACRES 2 RESIDENTIAL LOTS  
SB2023-055

LEGAL DESCRIPTION: (RECEPTION NO. 2022054678)

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CONTAINING 35.17 ACRES MORE OR LESS.

TRACT B:  
EASEMENT RIGHTS AS DESCRIBED IN THE DECLARATION OF SHARED DRIVEWAY EASEMENT RECORDED APRIL 26, 2021 AT RECEPTION NO. 2021053595.

DEDICATION STATEMENT

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OWNER CERTIFICATE

OWNER: JEFF ELLIS

\_\_\_\_\_  
(OWNER NAME)  
  
STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20 \_\_\_\_ BY \_\_\_\_\_ (NAME) .

MY COMMISSION EXPIRES: \_\_\_\_\_  
\_\_\_\_\_  
NOTARY PUBLIC

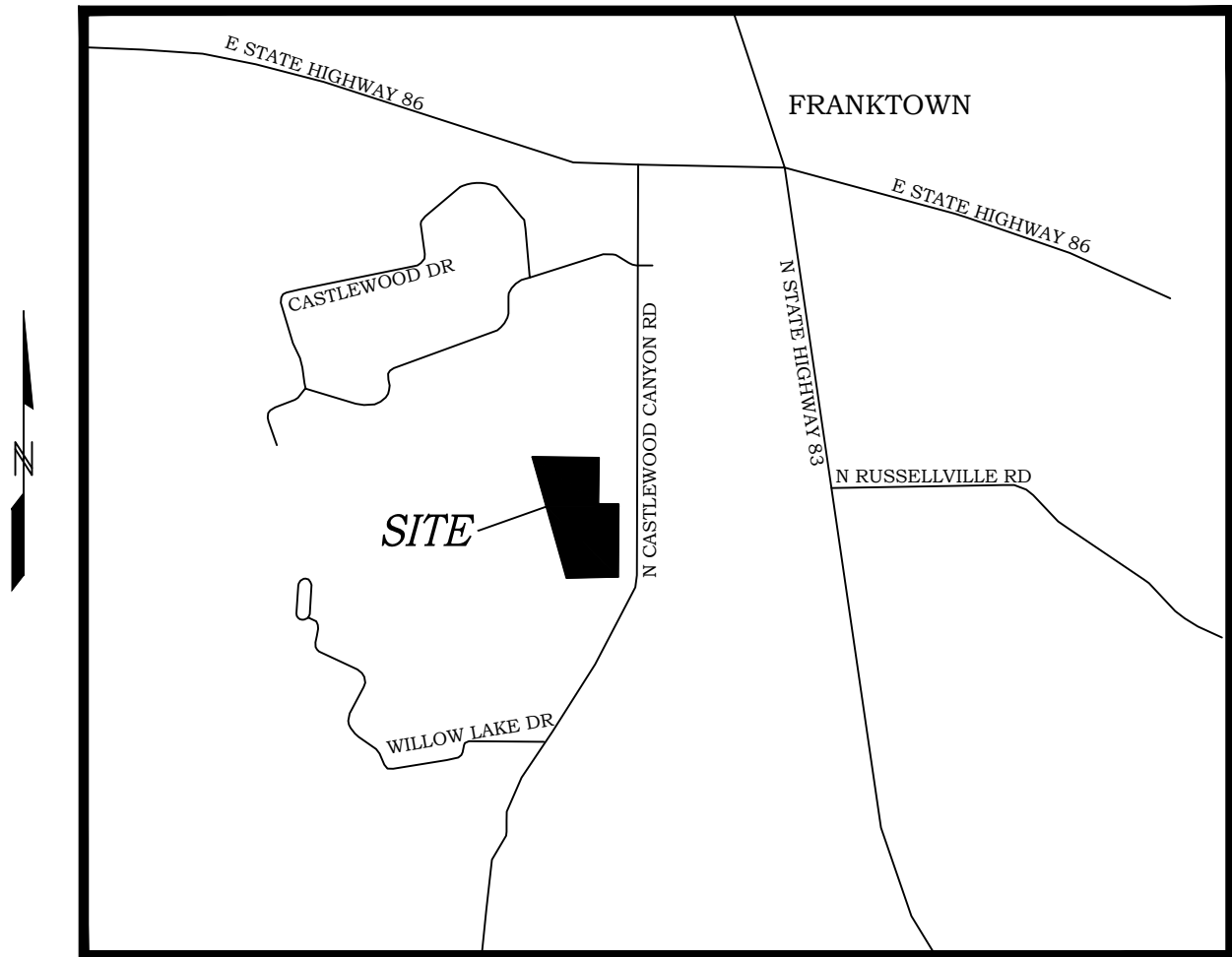
BOARD OF COUNTY COMMISSIONERS

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CHAIR, BOARD OF DOUGLAS COUNTY COMMISSIONERS



VICINITY MAP  
SCALE N.T.S.

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- THIS SURVEY WAS PERFORMED IN THE FIELD ON AUGUST 28, 2023.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY ENCOMPASS SERVICES, LLC TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND TITLE OF RECORD, ENCOMPASS SERVICES, LLC RELIED UPON TITLE COMMITMENT NO. \_\_\_\_\_, WITH AN EFFECTIVE DATE OF \_\_\_\_\_. AS PROVIDED BY \_\_\_\_\_.
- ACCORDING TO THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP PANEL 0194F, MAP NUMBER 08035C0194F WITH ON EFFECTIVE DATE OF SEPTEMBER 30, 2005, AND MAP PANEL310F, MAP NUMBER 08035C0310F WITH AN EFFECTIVE DATED OF SEPTEMBER 30, 2005 THE SUBJECT PROPERTY IS LOCATED IN ZONE X (ON AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), ZONE (X) (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1 % ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOD OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1 % ANNUAL CHANCE FLOOD.) AND ZONE A (NO BASE FLOOD ELEVATIONS DETERMINED, AS SHOWN ON HEREON.
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- THE WATER SUPPLY FOR LOTS 1 AND 2 SHALL BE PROVIDED BY INDIVIDUAL WELLS FROM THE DENVER AQUIFER. WELLS SHALL NOT BE PERMITTED WITHIN THE UPPER OR LOWER DAWSON AQUIFERS.
- ALL DENVER BASIN AQUIFER WATER BENEATH THIS PROPERTY OWNED BY THE SUBDIVIDER IS DEDICATED THROUGH A DECLARATION OF RESTRICTIVE COVENANTS RECORDED IN THE DOUGLAS COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. \_\_\_\_\_.

PLANNING COMMISSION

THE MINOR DEVELOPMENT FINAL PLAT SB2023-055 WAS REVIEWED BY THE PLANNING COMMISSION ON \_\_\_\_\_.

\_\_\_\_\_  
PLANNING DIRECTOR, ON BEHALF OF THE PLANNING COMMISSION

\_\_\_\_\_  
DATE

TITLE VERIFICATION

WE \_\_\_\_\_, DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TITLE OF ALL LAND PLATTED HEREON AND THAT TITLE TO SUCH LAND IS IN THE DEDICATOR(S) FREE AND CLEAR OF ALL LIENS, TAXES AND ENCUMBRANCES.

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_ DATE \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20 \_\_\_\_ BY \_\_\_\_\_ (NAME) .

MY COMMISSION EXPIRES: \_\_\_\_\_  
\_\_\_\_\_  
NOTARY PUBLIC

CERTIFICATE OF SURVEY:

I, ELIJAH FRANE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON OCTOBER 30, 2023, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:50,000 (SECOND ORDER); AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISIONS OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE DOUGLAS COUNTY SUBDIVISION RESOLUTION. THIS CERTIFICATION IS BASED ON MY KNOWLEDGE, INFORMATION, AND BELIEF AND IS NOT A GUARANTY OR WARRANTY, EITHER EXPRESS OR IMPLIED.

I ATTEST THE ABOVE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.


\_\_\_\_\_  
ELIJAH FRANE,  
COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR #38376  
FOR AND ON BEHALF OF  
ENCOMPASS SERVICES, LLC

CLERK AND RECORDER

STATE OF COLORADO )  
 ) SS  
COUNTY OF DOUGLAS )

I HEREBY CERTIFY THAT THIS PLAT WAS FILED IN MY OFFICE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_ A.D., AT \_\_\_\_\_, A.M./P.M. AND WAS RECORDED AT RECEPTION NUMBER \_\_\_\_\_.

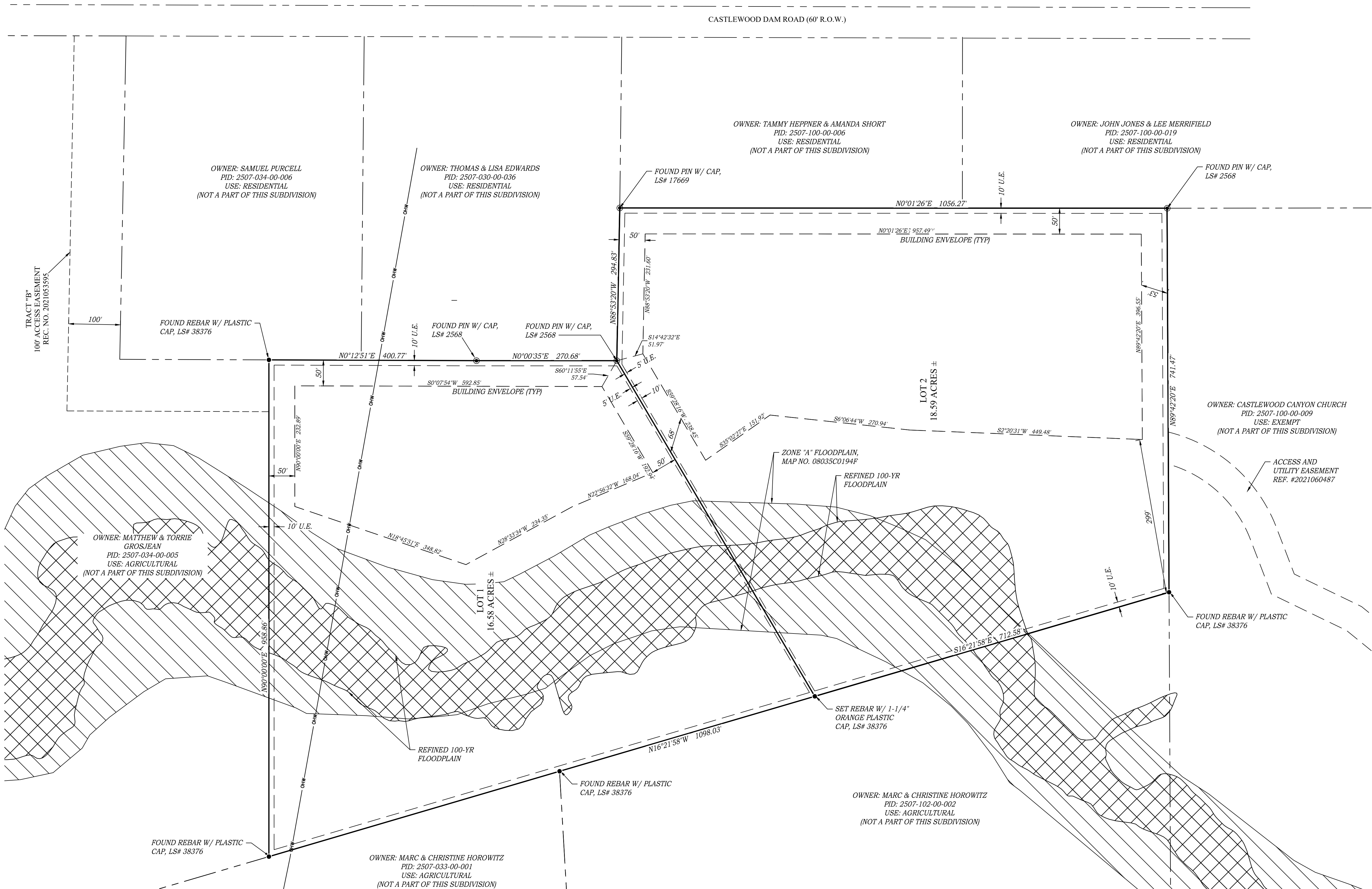
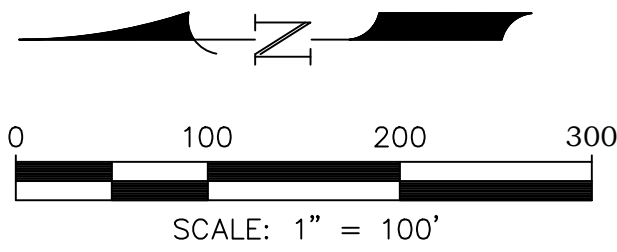
\_\_\_\_\_  
DOUGLAS COUNTY CLERK AND RECORDER

REVISIONS:				
NO.	DATE	DESCRIPTION		
1	11/15/2023	COUNTY COMMENTS	 2750 S. WADSWORTH BLVD, SUITE C-202 DENVER, COLORADO 80227 303-955-6080 WWW.ENCOMPASSSERVICES.COM	
2	12/18/23	REVISE BUILDING ENVELOPE		
3	03/28/24	ADD NOTES 10-11		
			<div>DRAWN BY: MB PROJECT NO. 65079</div> <div>CHECKED BY: EF DATE: 10/30/2023 SCALE: NTS</div> <div>FIELD WORK COMPLETED: 9/29/2023 SHEET 1 OF 2</div>	

21 SHARED PROJECTS 00000 - CIVIL PROJECTS 65079 -JEFF ELLIS - 1481 N CASTLEWOOD CANYON, CO - DRAWINGS 01 - WORKING 65079-SUB PLATTING



CREEKSIDE ACRES  
PART OF SECTION 3 & SECTION 10, TOWNSHIP 8 SOUTH,  
RANGE 66 WEST, 6TH P.M.  
COUNTY OF DOUGLAS, STATE OF COLORADO  
35.17 ACRES 2 RESIDENTIAL LOTS  
SB2023-055



**BASIS OF BEARINGS:**  
CONSIDERING THE NORTH LINE OF SOUTHEAST 1/4 OF SECTION 3 TO HAVE AN ASSUMED BEARING OF N89°27'14"E AND MONUMENTED AS SHOWN HEREON.

UNITS OF MEASUREMENT ARE US SURVEY FEET REFERENCED TO GROUND.

**LEGEND:**

—	SUBJECT PROPERTY LINE	●	FOUND PIN WITH CAP
- - -	ADJOINER PROPERTY LINE	●	REBAR WITH CAP LS# 38376
- - - - -	EASEMENT LINE	○	IRON PIPE FOUND
- - - - -	ROAD RIGHT OF WAY	U.E.	UTILITY EASEMENT
— OHW —	OVERHEAD WIRES		

REVISIONS:		
NO.	DATE	DESCRIPTION
1	11/15/2023	COUNTY COMMENTS
2	12/18/23	REVISE BUILDING ENVELOPE
3	03/28/24	ADD NOTES 10-11

2750 S. WADSWORTH BLVD, SUITE C-202  
DENVER, COLORADO 80227  
303-955-6080  
WWW.ENCOMPASSSERVICES.COM

DRAWN BY: MB	PROJECT NO: 65079
CHECKED BY: EF	DATE: 10/30/2023
FIELD WORK COMPLETE: 3/29/2023	SCALE: 1" = 100'
	SHEET 2 OF 2