

DISTRICT COURT, WATER DIVISION 2, COLORADO

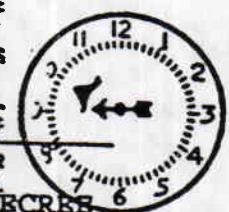
Case No. 94CW28

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 94CW101

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

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FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

M. J. R. R. R.
CLERK

CONCERNING THE APPLICATION FOR WATER RIGHTS OF JOE GASSNER,
IN THE NOT NONTRIBUTARY DAWSON AND DENVER AND NONTRIBUTARY
ARAPAHOE AND LARAMIE-FOX HILLS AQUIFERS,
IN EL PASO COUNTY.

THIS MATTER has come before the Water Judge upon the application of Joe Gassner for adjudication of ground water in the not nontributary Dawson and Denver aquifers and nontributary Arapahoe and Laramie-Fox Hills aquifers and for approval of an augmentation plan. The Water Judge, having considered the pleadings, the stipulations of the parties, and the evidence presented, and being fully advised in the premises, it is hereby the Judgment and Decree of the Court.

FINDINGS OF FACT

1. Name and Address of Applicant. Joe Gassner, 545 Somerset Lane, Northfield, Illinois 60093 (708)559-0166. As used below, "Applicant" refers to Joe Gassner, and his successors and assigns, including the Property Owners Association described in paragraph 14.
2. History of Case. The Applicant is represented by Holly I. Holder, P.C. The applications for underground water rights from not nontributary and nontributary sources and for approval of a plan for augmentation were filed in Case No. 94CW28 in Water Division 2 and in Case No. 94CW101 in Water Division 1 in June 1994. Statements of opposition were filed by the State Engineer of Colorado and the Division Engineers of Water Divisions 1 and 2 and the City of Colorado Springs in both Case Nos. 94CW28 and

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

6. 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 27 hereinbelow.

B. Except as otherwise provided in paragraph 11.A. below, the allowed annual amounts of ground water 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 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.

7. Source of Groundwater and Limitations on Consumption:

A. The groundwater to be withdrawn from the Arapahoe and Laramie-Fox Hills aquifers is "nontributary groundwater" as defined in 37-90-103(10.5), C.R.S., and in the Denver Basin Rules, the withdrawal of which will not, within 100 years, deplete the flow of a natural stream, including a natural stream as defined in 37-82-101(2) and 37-92-102(1)(b), C.R.S., at an annual rate greater than $\frac{1}{10}$ of 1% of the annual rate of withdrawal. The groundwater to be withdrawn from the Dawson and Denver aquifers is "not nontributary" as defined in 37-90-137(9)(c), C.R.S.

B. Applicant may not consume more than 98% of the annual quantity of water withdrawn from the nontributary sources herein. The relinquishment of 2% of the annual amount of water withdrawn to the stream system, as required by the Denver Basin Rules, may be satisfied by any method selected by the Applicant

94CW101 and Woodmoor Water and Sanitation District ("Woodmoor") in Case No. 94CW28. No other statements of opposition have been filed and the time for filing such statements has expired. A motion to consolidate the cases was filed before the Panel on Consolidated Multidistrict Litigation, and an order consolidating the cases to be heard by the Water Judge in Water Division 2 was entered on December 28, 1994.

DESCRIPTION OF WATER RIGHTS

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

4. Names and Legal Description of Wells: Applicant may locate the wells which will withdraw ground water from the subject aquifers anywhere on 80 acres in the W1/2NE1/4 of Section 7, Township 11 South, Range 66 West of the 6th P.M. ("Subject Property"), subject to paragraph 22 below. Applicant is the owner of the Subject Property and waives the 600 foot spacing rule for wells located on the Subject Property.

5. Estimated Amounts:

A. Estimated Average Annual Amounts Available: The estimated average annual amounts of withdrawal available from the subject aquifers as indicated below, are based on the Denver Basin Rules, 2 C.C.R. 402-6 and conform with the Determination of Facts issued by the Office of the State Engineer on September 26, 1994. Applicant estimates the following average annual amounts are representative of the not nontributary Dawson and Denver and the nontributary Arapahoe and Laramie-Fox Hills aquifers underlying the Subject Property:

<u>Aquifer</u>	<u>Acres</u>	<u>Saturated Thickness</u>	<u>Specific Yield</u>	<u>Annual Amount (Acre-Feet)</u>
Dawson	80	445 feet	20%	68.2*
Denver	80	522 feet	17%	71.0
Arapahoe	80	279 feet	17%	37.9
Laramie- Fox Hills	80	200 feet	15%	24.0

*The amount in the Dawson aquifer was reduced by 3 acre-feet to protect existing wells.

and satisfactory to the State Engineer, so long as Applicant can demonstrate that an amount equal to 2% of such withdrawals (by volume) has been relinquished to the stream system.

C. There is unappropriated groundwater available for withdrawal from the subject aquifers beneath the Subject Property, and the vested water rights of others will not be materially injured by such withdrawals as described herein. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years. No material injury to vested water rights of others will result from the issuance of permits for the subject wells or the exercise of the rights and limitations specified in this decree.

8. Well Field. The Court finds that Applicant has the right to withdraw all of the legally available ground water in each aquifer lying below the Subject Property through the wells described in Paragraph 4 above and any additional wells which may in the future become a part of the Applicant's well fields, subject to paragraphs 11.A. and 22 below. The wells in each aquifer, along with any additional wells completed into the same aquifer, shall be treated as a well field. As additional wells are constructed, applications will be filed in accordance with §37-90-137(10), C.R.S.

9. Proposed Use. Subject to the provisions of paragraphs 11.C. and 14 below, the subject water may be used, reused, successively used and, after use, leased, sold or otherwise disposed of for the following beneficial purposes: municipal, domestic, industrial, commercial, irrigation, stock watering, recreational, fish and wildlife, and any other beneficial purpose, to be used on or off the Subject Property. Said water will be produced for immediate application to said uses, for storage and subsequent application to said uses, for exchange purposes, for replacement of depletions resulting from the use of water from other sources, and for augmentation purposes.

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

A. A totalizing flow meter shall be installed on each well discharge prior to withdrawing any water therefrom. Applicant shall keep accurate records of all withdrawals by the well, make

any calculations necessary, and submit such records to the Water Division 1 and 2 Engineers upon request.

B. The groundwater production shall be limited to the specific aquifer for which the well was designed. Plain, unperforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of water from zones other than those for which the well was designed, decreed, and permitted.

C. Each well shall be permanently identified by its permit number, this water court case number and the name of the producing aquifer on the above ground portion of the well casing or on the pumphouse.

D. The water in the Dawson aquifer is not nontributary and up to 11.34 acre-feet per year over a 300 year period may be withdrawn pursuant to the terms and conditions of the augmentation plan decreed herein. The water in the Denver aquifer is not nontributary and that water and the remainder of the not nontributary Dawson aquifer water may not be withdrawn until the Applicant completes adjudication of an additional augmentation plan pursuant to paragraph 22 below.

PLAN FOR AUGMENTATION

11. Description of Plan for Augmentation:

A. Structures to be augmented: Up to 27 individual wells in the not nontributary Dawson aquifer. The 27 wells will withdraw at a rate of flow not to exceed 15 gpm and an annual amount of 0.42 acre-feet per well. The maximum total annual withdrawal shall be limited to 11.34 acre-feet per year under this plan for augmentation and the maximum total withdrawal shall be limited to 3402 acre-feet under this plan for augmentation.

B. Development and Consumptive Use: The subject property will be developed as a residential development, consisting of up to 27 homes to be served by individual Dawson aquifer wells. Sewage treatment for the 27 homes will be provided by non-evaporative septic systems. Water use at total buildout is estimated to be 0.27 acre-feet annually per household for a total of 7.29 acre-feet annually for inhouse use. Consumptive use for the 27 homes is estimated to be 10% of use or approximately 0.729 acre-feet annually.

Outside irrigation will be limited to 4,000 square feet per unit is estimated to be 0.15 acre-feet annually per household for a total of approximately 4.05 acre-feet annually. Consumptive use associated with irrigation for the 27 homes is estimated to be 85% of use or approximately 3.44 acre-feet annually. Total annual consumptive use for the 27 homes is estimated to be approximately 4.17 acre-feet (0.729 for inhouse use and 3.44 for irrigation use).

C. Water rights to be used for augmentation:

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

Well U.D. No. 1-17798-F

Decreed: December 30, 1976

Case No. W-8269-76, 80CW369, and 84CW621

Court: Water Division 1

Type of water right: Nontributary well

Legal description of the structure: Located in the NE¼ of the NE¼, of Section 17, Township 11 South, Range 66 West of the 6th P.M., El Paso County at a point 100 feet South and 75 feet West of the Northeast Corner of said Section 17.

Source: Nontributary Dawson Arkose aquifer

Pumping rate: 0.167 cfs (75 gpm) with an annual limitation of 121 acre-feet.

Decreed uses: domestic, municipal, commercial, industrial, and irrigation.

Owned by Northgate Company, 3720 Sinton Road, Suite 106D, Colorado Springs, Colorado 80907

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

Northgate Well A-D-2

Decreed: November 23, 1983

Case No.: 82CW295 and 87CW193

Court: Water Division 1

Type of water right: nontributary well

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

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

Source: Nontributary Denver aquifer

Pumping rate: 0.455 cfs, 87 acre-feet annually

2. Should the Northgate Company source of water fail for any reason, Applicant shall use nontributary Arapahoe water for augmentation. Any other legally available augmentation supply that is in sufficient quantity, quality, time and place to meet the requirements of this decree may be used upon Court approval pursuant to the provisions of paragraph 28(a). Applicant, its successors and assigns shall give notice to the parties herein identifying such other legally available augmentation supply, its nature, quantity, quality, and method of delivery. The parties receiving such notice shall have 30 days to file objections with the Court to such proposed other legally available augmentation supply. The Court retains jurisdiction in this matter to determine if the supply is adequate. Applicant shall reserve in any deeds of the property, all of the nontributary Arapahoe aquifer water underlying the Subject Property for use in this augmentation plan; and shall convey by recorded deed said reserved nontributary water to the Property Owners Association to be created in connection with subdivision of the Subject Property.

3. During the pumping phase, Applicant will also utilize return flows from the 27 individual Dawson aquifer wells described above to replace depletions to Cherry Creek drainage only.

D. Replacement during pumping: During pumping Applicant will replace depletions to the affected stream system in an amount of water equal to the actual depletions in the Dawson aquifer pursuant to §37-90-137(9)(c), C.R.S. From 0 to the 50th year, the total depletion to the stream system is an average of

2.18% of the water withdrawn from the Dawson aquifer, of which 1.12% of the depletions occur to the Arkansas River/Monument /Dirty Woman Creek system, and 1.06% of the depletions occur to the South Platte River/Cherry Creek stream system. From the 50th to the 100th year, the total depletion to the stream system is an average of 7.02% of the water withdrawn from the Dawson aquifer, of which 3.90% of the depletions occur to the Arkansas River /Monument/Dirty Woman Creek system, and 3.12% of the depletions occur to the South Platte River/Cherry Creek stream system. From the 101st to the 150th year, the total depletion to the stream system is an average of 12.2% of the water withdrawn from the Dawson aquifer, of which 6.84% of the depletions occur to the Arkansas River/Monument/Dirty Woman Creek system. From the 151st to the 200th year, the total depletion to the stream system is an average of 17.17% of the water withdrawn from the Dawson aquifer, of which 9.62% of the depletions occur to the Arkansas River/Monument /Dirty Woman Creek system. From the 201st to the 250th year, the total depletion to the stream system is an average of 22.48% of the water withdrawn from the Dawson aquifer, of which 12.17% of the depletions occur to the Arkansas River/Monument/Dirty Woman Creek system. From the 251st to the 300th year, the total depletion to the stream system is an average of 27.17% of the water withdrawn from the Dawson aquifer, of which 14.45% of the depletions occur to the Arkansas River/Monument/Dirty Woman Creek system. A chart showing estimated stream depletions is attached hereto as Exhibit A.

South Platte/Cherry Creek: Return flows from the development accrue to the South Platte system and those return flows are sufficient to replace to Cherry Creek and the South Platte actual depletions caused by pumping of up to 11.34 acre-feet per year from the Dawson aquifer wells while the wells are being pumped. Because return flows from indoor uses are estimated rather than measured, Applicant agrees that such return flows shall be used only to replace depletions under this plan for augmentation, and will not be sold, traded or assigned in whole or in part for any other purpose.

Arkansas/Monument/Dirty Woman Creek Replacement: In any calendar year following the commencement of withdrawals and prior to cessation of withdrawals from the Dawson aquifer through the wells described in paragraph 11.A. above, Applicant shall deliver augmentation water to Dirty Woman Creek upstream of Woodmoor's Dirty Woman Creek wells, at a

location agreeable to Woodmoor, in amounts equal to the percentages as described in paragraph 11.D. above, multiplied by the amount pumped from the Dawson aquifer wells in the previous year. These amounts shall be released on a weekly basis during the irrigation season and on a monthly basis during the non-irrigation season. If Northgate water is not available, the Applicant must drill the Arapahoe well(s) to provide replacement water. Applicant also acknowledges that by the year 150, they will have to construct the Arapahoe wells(s) to replace excess pumping depletions that occur to Monument Creek above and beyond the available Northgate supply.

E. Postpumping Depletion Augmentation: Assuming maximum pumping of 11.34 acre-feet per year from the Dawson aquifer for three hundred years, the maximum depletion to Monument/Dirty Woman Creek and Cherry Creek will be 24.74% between the 301th and 350th year or 1.7 acre-feet to Monument/Dirty Woman Creek and 1.1 acre-feet to Cherry Creek. Year to year depletions shall be calculated according to the State Engineer's model (including nodes in Dirty Woman Creek by request of Woodmoor) as shown on Exhibit A and replacements equal to such depletions shall be made to Monument/Dirty Woman Creek at the location described in paragraph 11.D. above, and to Cherry Creek on the Subject Property. It is the Applicant's position that depletions which occur after pumping ceases are not injurious, pursuant to Danielson v. Castle Meadows, 791 P.2d 1106 (Colo. 1990). The State and Division Engineers disagree with this position. Nevertheless, in order to meet a schedule for plat approval in the County and obtain favorable referral to the County from the State Engineer on the water supply and settlement with Woodmoor, Applicant will use the water purchased from the Northgate Company and/or the reserved nontributary Arapahoe aquifer water as described in paragraph 11(C)(2) above, or any other legally available augmentation supply, pursuant to the retained jurisdiction of the Court, that is in sufficient quantity, quality, time and place to meet the requirements to either stream system of this decree, by pumping such water directly to the stream to meet the requirements of this decree. Applicant acknowledges that this may require construction and pumping of Arapahoe aquifer wells to replace post-pumping depletions by the year 150 or earlier if Northgate water is not available.

F. Applicant shall replace post-pumping depletions for the shortest of the following periods: the period provided by C.R.S.

37-90-137(9)(c); the express period specified by the Colorado Legislature, should it specify one and providing the Applicant obtains water court approval for such modification; the period determined by the State Engineer, should he choose to set such a period and have jurisdiction to do so; the period established through rulings of the Colorado Supreme Court on relevant cases, or until Applicant petitions the water court and, after notice to parties in the case, proves that he has complied with any statutory requirement.

12. Administration of Plan for Augmentation.

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

B. Meters. All well withdrawals from structures described in this decree will be metered and collected by the Property Owners Association, which will summarize and forward the data to the Division Engineers for Water Division 1 and 2 and the Water Commissioner by the 30th of January for each year.

C. Timing of Replacements. Applicant agrees to make the replacements required hereunder when required by the Division Engineers for Water Division 1 and 2, but not less than weekly during the irrigation season and monthly during the non-irrigation season.

D. Curtailment. Pursuant to 37-92-305(8), C.R.S., the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights. In the event the Property Owner's Association is unable to obtain withdrawal rates needed for each well for the accounting form required above, the owner of the well for which such information is not provided shall be subject to cease and desist orders by the State Engineer.

13. Applicant and its successors in interest shall pay the cost imposed by operation of this augmentation plan, and the Northgate Company contract(s) so long as an obligation for augmentation of depletions exists. The Applicant on behalf of itself and its successors and assigns, understands that the terms and conditions

of this decree may require construction and pumping of Arapahoe aquifer wells, to replace the pumping period depletions not augmented by Northgate water and post-pumping depletions pursuant to this decree and paragraph 11(E).

14. Property Owners Association. Upon subdivision of the property, the Applicant shall create a Property Owners Association which all purchasers of lots in the property shall be required to join. Applicant shall assign to the Property Owners Association, Applicant's interest and rights and responsibilities in and under the Northgate Contract and this plan for augmentation; Applicant shall also assign to the the Property Owners Association, all of the Arapahoe aquifer water as decreed herein. Applicant shall also create restrictive covenants upon and running with the property, which shall obligate the individual purchasers and the Property Owners Association to carry out the requirements of the Northgate Contract and of this decree. Said covenants shall indicate clearly that failure of either the property owners or the Property Owners Association to comply with the terms of the decree may result in an order of the Division Engineer's office to curtail or eliminate pumping of the owners' wells. Applicant shall provide the articles and bylaws of such Association, and the document assigning to it the Applicant's interest in the augmentation water, to Objectors in this case. This decree and the restrictive covenants shall be recorded in the real property records of El Paso County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree and the restrictive covenants. Arapahoe aquifer water cannot be used, sold, conveyed or assigned for any other purpose than to replace depletions under this plan for augmentation.

CONCLUSIONS OF LAW

15. The Water Court has jurisdiction over this proceeding pursuant to §37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law. Section 37-90-137(4), C.R.S. The application for a decree confirming Applicant's right to withdraw and use all ground water from the named aquifers beneath the property as described herein pursuant to §37-90-137(4), C.R.S. should be granted, subject to the provisions of this decree. The nature and extent of the rights to not nontributary ground water determined herein are defined by §§37-90-137(4), 37-90-137(9) and 37-90-137(9)(c), C.R.S. The withdrawal of the ground water decreed herein in

accordance with the terms of this decree will not result in material injury to vested water rights of others.

16. The rights to groundwater determined herein shall not be administered in accordance with priority of appropriation. Such rights are not "conditional water rights" as defined by §37-92-103(6), C.R.S. The provisions of §37-92-301(4), C.R.S., requiring findings of reasonable diligence are not applicable to the ground water rights determined herein. The determination of ground water rights herein need not include a date of initiation of the withdrawal project. See §37-92-305(11), C.R.S.

17. The Plan for Augmentation decreed herein satisfies the requirements of §37-90-137(9)(c), C.R.S. for replacement of water in an amount of water equal to actual depletions from the pumping and withdrawal of up to a total of 3402 acre-feet at an annual amount not to exceed 11.34 acre-feet from the Dawson aquifer, during and after pumping.

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

JUDGMENT AND DECREE

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

19. Full and adequate notice of the application was given and the Court has jurisdiction over the subject matter, and over the parties whether they have appeared or not.

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

21. The Applicant may withdraw the subject ground water herein through wells to be located anywhere on the property, in the average annual amounts and at the estimated average rates of flow specified herein, subject to the limitations herein and the retained jurisdiction by this Court.

22. Applicant may withdraw up to a maximum of 3402 acre-feet at an annual amount not to exceed 11.34 acre-feet of not nontributary ground water from the Dawson aquifer under the plan for augmentation decreed herein pursuant to § 37-90-137(9)(c), C.R.S. Applicant will not withdraw the remaining Dawson aquifer water or the Denver aquifer water until the Court has adjudicated a plan for augmentation to use that water in a subsequent proceeding brought for that purpose. The ground water in the Arapahoe and Laramie-Fox Hills aquifers is nontributary as described in Section 37-90-137(10.5), C.R.S.

23. Applicant has complied with all requirements and met all standards and burdens of proof, including but not limited to §§37-90-137(9)(c), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(1), (2), (3), (4), (6), (8) and (9), C.R.S., to adjudicate the plan for augmentation, and is therefore entitled to a decree confirming and approving the plan for augmentation as described in this decree.

24. Pursuant to section 37-92-305(5), C.R.S., the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally been used.

25. The proposed plan for augmentation as described in the findings of fact, is hereby approved, confirmed and adjudicated, including and subject to the terms and conditions specified herein.

26. No owners of, or person entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the operation of the plan for augmentation as decreed herein.

27. Retained Jurisdiction:

A. The Court retains jurisdiction as necessary to adjust the average annual amounts of groundwater available under the property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to § 37-92-305(11), C.R.S. Within 60 days after completion of any well decreed herein, or any test hole(s), Applicant or any successor in interest to these water rights shall serve copies of such log(s) upon the State Engineer.

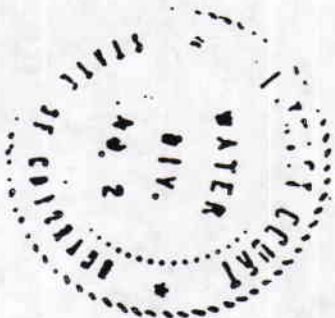
B. At such time as adequate data is available, any person including the State Engineer may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final determination of water rights findings. The State Engineer shall submit such finding to the Water Court and to the Applicant.


C. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within four months, such final determination shall be made by the Water Court after notice and hearing.

28. Continuing Jurisdiction.

A. Pursuant to § 37-92-304(6), C.R.S. the court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The court also retains continuing jurisdiction for the purposes of determining compliance with the terms of the augmentation plan, or for the purpose of amending this decree to provide for a different type of wastewater treatment or replacement water.

Dated this 10 day of Feb., 1994.5




John R. Tracey
Water Judge
Water Division 2
Colorado

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

HOLLY I. HOLDER, P.C.

Date: February 9, 1995

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Date: February 10, 1995

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DISTRICT NO. 1

Decree 94CW28 and 94CW101

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