

DISTRICT COURT, WATER DIVISION ONE STATE OF COLORADO 901 9 <sup>th</sup> Avenue P. O Box 2038 Greeley, Colorado 80632  <hr/> <b>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</b>  <b>LOGAN WELL USERS, INC.</b>   IN LOGAN, MORGAN & WASHINGTON COUNTIES	DATE FILED: June 1, 2020 6:41 AM CASE NUMBER: 2018CW3227    COURT USE ONLY Case Number: 18CW3227
<b>1 FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING AND DECREE OF WATER COURT</b>	

An application for Water Rights, Add Wells to Augmentation Plan and Transfer Augmentation Supplies was filed in this case in the Water Court, Water Division No. 1 by Logan Well Users, Inc. The Court, having considered the pleadings and evidence presented, and being fully advised in the premises hereby finds, concludes, adjudicates and decrees as follows.

#### FINDINGS OF FACT

1. **The Applicant; Summary of Application.** Applicant is Logan Well Users, Inc., P.O. Box 1172, Sterling, Colorado, 80751. Applicant operates an augmentation plan decreed in Case No. 03CW195, Corrected Findings of Fact, Conclusions of Law and Decree of Water Court dated February 21, 2006 (2003 Decree) as supplemented by the Corrected Order on Calculation of Recharge Well Depletions and Order Vacating Hearing dated October 9, 2008 ("Recharge Well Order"). ¶49.6 of the 2003 Decree allows the addition of wells to the plan subject to notice and terms and conditions. Applicant seeks to adjudicate water rights for 16 Wells and to add 18 Wells, including the 16 Wells for which water rights are adjudicated herein, to its plan for augmentation. Applicant also requests approval to transfer augmentation supplies from the augmentation plan decreed in Case No. 04CW86 and add such supplies into Applicant's augmentation plan.
2. **The Application.** Applicant filed the Application for Water Rights and Approval of Augmentation Plan on December 28, 2018.
3. **Notice and Jurisdiction.** All notices of this matter required by law have been fulfilled and the Court has jurisdiction over the subject matter of this Application and all amendments and over all persons and property affected by it, irrespective of whether they or their owners have appeared. The water and lands that are the subject of this Application are not located in a designated groundwater basin.
4. **Statements of Opposition.** Statements of Opposition were filed in this matter by the

Harmony Ditch Company on February 26, 2019, Public Service Company of Colorado on February 26, 2019 and Centennial Water and Sanitation District on February 27, 2019. No other Statements of Opposition were filed and the time for filing Statements of Opposition has expired.

5. **Summary of Consultation.** The Division Engineer for Water Division No. 1 filed a Summary of Consultation dated March 31, 2019. Applicant responded to the Summary of Consultation on May 22, 2019. The Court has duly considered the Summary of Consultation and the Applicant's Response.

### **APPLICATION FOR WATER RIGHTS**

6. **Name of Structure:** Wernsman Family Farm Well (Permit No. 78739-F, 2nd LWU ID No. 471). (At the time of filing the Application, this Well was referred to as the "Baney Land LLC / Haas No. 1 Well" in reference to the owner at that time. Since the filing of the Application, the well and property have been conveyed to the owners described below).
  - 6.1 Owner: Wernsman Family Farms, LLC, 15725 C R 34, Sterling, CO 80751.
  - 6.2 Location: In the SE1/4 SW1/4 of Section 10, Township 8 North, Range 53 West of the 6th P.M., Logan County Colorado, 891 ft from the South section line and 2,444 ft from the West section line. UTM Coordinates (NAD 83 Zone 13): Easting 644661, Northing 4503539.
  - 6.3 Appropriation Date: December 28, 2018.
  - 6.4 Amount Claimed: 925 g.p.m., conditional.
  - 6.5 Source: Groundwater tributary to South Platte River.
  - 6.6 Use: Irrigation of 120 acres in the SE1/4 of Section 10, Township 8 North, Range 53 West of the 6th P.M. in Logan County, Colorado.
  - 6.7 Remarks: A water right for Wernsman Family Farms Well was previously decreed on March 12, 1976 in Case No. W-5807, with an appropriation date of July 6, 1971, for 2.06 c.f.s. to be used for irrigation of 104 acres in the SW1/4 of Section 10 Township 8 North, Range 53 West of the 6th P.M. in Logan County, Colorado. The water right for Wernsman Family Farms Well decreed in W-5807 is already included in the Applicant's augmentation plan decreed in the 2003 Decree (as LWU ID No. 6). Nothing in this Decree modifies the terms of the W-5807 decree.
7. **Name of Structure:** McKay Brothers LLC / Schafer Well No. 1 (Permit No. 7075-RR, 2nd LWU ID No. 500).
  - 7.1. Owner: McKay Brothers LLC, 18385 County Road 22, Sterling, CO 80751.

- 7.2. Location: In the SE1/4NW1/4 of Section 7, Township 7 North, Range 52 West of the 6<sup>th</sup> P.M., Logan County Colorado, located at a point from which the NW corner of Section 7 bears North 43°31'10" East, a distance of 3,597 feet. UTM Coordinates (NAD 83 Zone 13): Easting 649754, Northing 4496601.
- 7.3. Appropriation Date: December 28, 2018.
- 7.4. Amount Claimed: 1300 g.p.m., conditional.
- 7.5. Source: Groundwater tributary to South Platte River.
- 7.6. Use: Irrigation of 86 acres in the E1/2SW1/4 and SE1/4 of Section 6, Township 7 North, Range 52 West of the 6<sup>th</sup> P.M. in Logan County, Colorado.
- 7.7. Remarks: A water right for McKay Brothers LLC was previously decreed on June 9, 1972 in Case No. W-944, with an appropriation date of December 31, 1940, for 2.22 c.f.s. to be used for irrigation of land in Section 7, Township 7 North, Range 52 West of the 6<sup>th</sup> P.M. in Logan County, Colorado. The water right for McKay Brothers LLC decreed in Case No. W-944 is already included in the Applicant's augmentation plan decreed in the 2003 Decree (as LWU ID No. 214). Nothing in this Decree modifies the terms of the W-944 decree.
8. **Name of Structure**: Platte Valley Real Estate LLC (LWU ID No. 501).
- 8.1. Owner: Platte Valley Real Estate LLC, 116 Spruce Road, Sterling, CO 80751.
- 8.2. Location: In the SW1/4NW1/4 of Section 33, Township 8 North, Range 52 West of the 6<sup>th</sup> P.M., Logan County Colorado, 2,616 ft from the North section line and 68 ft from the West section line. UTM Coordinates (NAD 83 Zone 13): Easting 652145, Northing 4497966.
- 8.3. Appropriation Date: December 28, 2018.
- 8.4. Amount Claimed: 20 g.p.m., conditional.
- 8.5. Source: Groundwater tributary to South Platte River.
- 8.6. Use: Commercial drinking and sanitary uses associated with the Platte Valley Industrial Park Subdivision.
- 8.7. Remarks: In Case No. W-2093 (entered June 22, 1978), this structure was decreed as an alternate point of diversion for 4.10 c.f.s. of the Sterling No. 2 Ditch to irrigate 64 acres of land in the S1/2 NW1/4 of Section 33, Township 8 North, Range 52 West of the 6<sup>th</sup> P.M. in Logan County, Colorado. The alternate point of diversion water right and the irrigation water right decreed in Case No. W-2093 are already included in the Applicant's augmentation plan decreed in

Case No. 03CW195 (as LWU ID No. 363). Nothing in this Decree modifies the terms of the W-2093 decree.

9. **Name of Structure:** Timmerman Feedyards LLC Well (LWU ID No. 503).
  - 9.1. Owner: Timmerman Feedyards LLC, PO Box 1826, Sterling, CO 80751.
  - 9.2. Location: In the SE1/4SE1/4 of Section 8, Township 7 North, Range 53 West of the 6th P.M., Logan County Colorado, 60 ft from the South section line and 1,200 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 642183, Northing 4493489.
  - 9.3. Appropriation Date: December 28, 2018.
  - 9.4. Amount Claimed: 100 g.p.m., conditional.
  - 9.5. Source: Groundwater tributary to South Platte River.
  - 9.6. Use: Commercial feedlot and stock watering.
10. **Name of Structure:** Jason & Nicole Koester Well (Permit No. 274697, LWU No. 504).
  - 10.1. Owner: Jason & Nicole Koester, 11101 C R 35, Sterling, CO 80751.
  - 10.2. Location: In the NE1/4SE1/4 of Section 2, Township 7 North, Range 53 West of the 6th P.M., Logan County Colorado, 1,321 ft from the South section line and 411 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 647230, Northing 4495694.
  - 10.3. Appropriation Date: December 28, 2018.
  - 10.4. Amount Claimed: 15 g.p.m., conditional.
  - 10.5. Source: Groundwater tributary to South Platte River.
  - 10.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering) associated with a single family residence and indoor uses associated with an RV park located on the property described in ¶ 10.2, as permitted by Logan County, not to exceed 10 RV units.
11. **Name of Structure:** Caleb & Alexandra Weddle Well (Permit No. 135035, LWU ID No. 505).
  - 11.1. Owner: Caleb & Alexandra Weddle, 11481 C R 370, Sterling, CO 80751.

- 11.2. Location: In the NW1/4SE1/4 of Section 4, Township 7 North, Range 52 West of the 6th P.M., Logan County Colorado, 2,200 ft from the South section line and 1,980 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 653196, Northing 4496239.
- 11.3. Appropriation Date: December 28, 2018.
- 11.4. Amount Claimed: 15 g.p.m., conditional.
- 11.5. Source: Groundwater tributary to South Platte River.
- 11.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering).
- 12. **Name of Structure**: Donald Lebsack - River View Meadows Lot 1 Well (Permit No. 223997, LWU ID No. 506).
  - 12.1. Owner: Donald Lebsack, 15140 C R 370, Sterling, CO 80751.
  - 12.2. Location: In the SW1/4NE1/4 of Section 13, Township 8 North, Range 52 West of the 6th P.M., Logan County Colorado, 1,680 ft from the North section line and 2,763 ft from the West section line. UTM Coordinates (NAD 83 Zone 13): Easting 657631, Northing 4503304.
  - 12.3. Appropriation Date: December 28, 2018.
  - 12.4. Amount Claimed: 15 g.p.m., conditional.
  - 12.5. Source: Groundwater tributary to South Platte River.
  - 12.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering).
- 13. **Name of Structure**: Donald Lebsack - River View Meadows Lot 2 Well (LWU ID No. 507).
  - 13.1. Owner: Donald Lebsack 15140 C R 370, Sterling, CO 80751.
  - 13.2. Location: In the SW1/4NE1/4 of Section 13, Township 8 North, Range 52 West of the 6th P.M., Logan County Colorado, 2,230 ft from the North section line and 2,650 ft from the West section line. UTM Coordinates (NAD 83 Zone 13): Easting 657582, Northing 4503155.
  - 13.3. Appropriation Date: December 28, 2018.
  - 13.4. Amount Claimed: 15 g.p.m., conditional.

- 13.5. Source: Groundwater tributary to South Platte River.
- 13.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering).
14. **Name of Structure**: Donald Lebsack - River View Meadows Lot 3 Well (LWU ID No. 508).
- 14.1. Owner: Donald Lebsack, 15140 C R 370, Sterling, CO 80751.
- 14.2. Location: In the SE1/4NW1/4 of Section 13, Township 8 North, Range 52 West of the 6th P.M., Logan County Colorado, 2,470 ft from the North section line and 2,440 ft from the West section line. UTM Coordinates (NAD 83 Zone 13): Easting 657524, Northing 4503074.
- 14.3. Appropriation Date: December 28, 2018.
- 14.4. Amount Claimed: 15 g.p.m., conditional.
- 14.5. Source: Groundwater tributary to South Platte River.
- 14.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering).
15. **Name of Structure**: Kenneth & Alisa Lechman Well (LWU ID No. 509).
- 15.1. Owner: Kenneth & Alisa Lechman, 475 Logan St., Sterling, CO 80751.
- 15.2. Location: In the SW1/4NW1/4 of Section 17, Township 8 North, Range 52 West of the 6th P.M., Logan County Colorado, 2,615 ft from the North section line and 415 ft from the West section line. More specifically located on Lot 3 Block 2 of the Pleasant View Replat Subdivision. UTM Coordinates (NAD 83 Zone 13): Easting 650452, Northing 4502735.
- 15.3. Appropriation Date: December 28, 2018.
- 15.4. Amount Claimed: 15 g.p.m., conditional.
- 15.5. Source: Groundwater tributary to South Platte River.
- 15.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering)
16. **Name of Structure**: Brian & Tyler Barton Industrial Well (LWU ID No. 510).

- 16.1. Owner: Brian & Tyler Barton, 16653 HWY 14, Sterling, CO 80751.
- 16.2. Location: In the SW1/4SE1/4 of Section 8, Township 6 North, Range 51 West of the 6th P.M., Logan County Colorado, 295 ft from the South section line and 2,320 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 661602, Northing 4484627.
- 16.3. Appropriation Date: December 28, 2018.
- 16.4. Amount Claimed: 500 g.p.m., conditional.
- 16.5. Source: Groundwater tributary to South Platte River.
- 16.6. Use: Industrial and commercial use associated with aggregate and concrete production.
17. **Name of Structure**: Mark & Carrie Bauder Well (LWU ID No. 511).
- 17.1. Owner: Mark & Carrie Bauder, 11329 C R 33, Sterling, CO 80751.
- 17.2. Location: In the NE1/4SE1/4 of Section 3, Township 7 North, Range 53 West of the 6th P.M., Logan County Colorado, 1,430 ft from the South section line and 675 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 645509, Northing 4495649.
- 17.3. Appropriation Date: December 28, 2018.
- 17.4. Amount Claimed: 15 g.p.m., conditional
- 17.5. Source: Groundwater tributary to South Platte River.
- 17.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering).
18. **Name of Structure**: Kelly & Patti Pickering Well (LWU ID No. 512).
- 18.1. Owner: Kelly & Patti Pickering, 15451 C R 22, Sterling, CO 80751.
- 18.2. Location: In the SE1/4SW1/4 of Section 10, Township 7 North, Range 53 West of the 6th P.M., Logan County Colorado, 215 ft from the South section line and 2,470 ft from the West section line. UTM Coordinates (NAD 83 Zone 13): Easting 644916, Northing 4493625.
- 18.3. Appropriation Date: December 28, 2018.

- 18.4. Amount Claimed: 15 g.p.m., conditional
- 18.5. Source: Groundwater tributary to South Platte River.
- 18.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering) associated with a single family residence and indoor uses associated with an RV park located on the property described in ¶ 18.2, as permitted by Logan County, not to exceed 10 RV units.
19. **Name of Structure**: David & Cynthia Pickering Well (LWU ID No. 513).
- 19.1. Owner: David & Cynthia Pickering, 14765 HWY 14, Sterling, CO 80751.
- 19.2. Location: In the SE1/4SE1/4 of Section 28, Township 8 North, Range 53 West of the 6th P.M., Logan County Colorado, 180 ft from the South section line and 1,265 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 643706, Northing 4498438.
- 19.3. Appropriation Date: December 28, 2018.
- 19.4. Amount Claimed: 15 g.p.m., conditional.
- 19.5. Source: Groundwater tributary to South Platte River
- 19.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering) associated with a single family residence and indoor uses associated with a RV park located on the property described in ¶ 19.2, as permitted by Logan County, not to exceed 10 RV units.
20. **Name of Structure**: Lori Serrato Well (Permit No. 167979, LWU ID No. 514). (At the time of filing the Application, this Well was referred to as the “Frank Briedenbach Revocable Trust Well” in reference to the owner at that time. Since the filing of the Application, the well and property have been conveyed to the owners described below).
- 20.1. Owner: Lori Serrato, 107 Parkview Dr., Sterling, CO 80751.
- 20.2. Location: In the NE1/4NE1/4 of Section 36, Township 8 North, Range 53 West of the 6th P.M., Logan County Colorado, 975 ft from the North section line and 400 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 648747, Northing 4498291.
- 20.3. Appropriation Date: December 28, 2018.
- 20.4. Amount Claimed: 15 g.p.m., conditional.



20.5. Source: Groundwater tributary to South Platte River.

20.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering).

21. **Name of Structure**: Orlando & Rachel Munoz Well (Permit No. 206788-A, LWU ID No. 515).

21.1. Owner: Orlando & Rachel Munoz, PO Box 14, Sterling, CO 80751.

21.2. Location: In the SE1/4SE1/4 of Section 23, Township 7 North, Range 53 West of the 6th P.M., Logan County Colorado, 400 ft from the South section line and 400 ft from the East section line. UTM Coordinates (NAD 83 Zone 13): Easting 647441, Northing 4490588.

21.3. Appropriation Date: December 28, 2018.

21.4. Amount Claimed: 15 g.p.m., conditional.

21.5. Source: Groundwater tributary to South Platte River.

21.6. Use: Residential (Domestic, 1 acre of home lawn and garden irrigation, domestic animal and livestock watering) for 3 houses.

**OTHER STRUCTURES TO BE ADDED TO AND AUGMENTED BY  
APPLICANT'S PLAN FOR AUGMENTATION DECREED IN THE 2003  
DECREE**

22. **Name of Structure**: TVBAR, LLC Well (Permit No. 4355-F, LWU ID No. 502).

22.1. Owner: TVBAR, LLC, 3524 C R 31, Atwood, CO 80722.

22.2. Location: The location of the TVBAR, LLC Well was originally decreed in Case No. W-1573 as being in the SE1/4NE1/4 of Section 3, Township 6 North, Range 53 West of the 6th P.M., Logan County Colorado, 2,260 ft from the North section line and 1,277 ft from the East section line 6. A decree was entered in Case No. 19CW3014 on June 17, 2019 to correct the established but erroneously described point of diversion for the TVBAR, LLC Well. As described in the 19CW3014 decree, the actual location of the TVBAR, LLC Well is in the SE ¼ of NE ¼ Section 3, Township 6 North, Range 53 West of the 6th P.M. in Logan County, Colorado at a point 2,120 feet from the north section line and 1,260 feet from the east section line. UTM Coordinates (NAD 83 Zone 13): Easting 645707, Northing 4486489.

22.3. Appropriation Date: June 21, 1963.

- 22.4. Amount: 1,280 g.p.m., absolute.
- 22.5. Source: Groundwater tributary to South Platte River.
- 22.6. Use: Irrigation of 65 acres in the SE1/4 NE1/4 of Section 3 and 70 acres in the W1/2 NW1/4 of Section 2, Township 6 North, Range 53 West, and 35 acres in the SW1/4 SW1/4 of Section 35, Township 7 North, Range 53 West of the 6th P.M., Logan County, Colorado.
- 22.7. Remarks: A water right for the TVBAR LLC Well was decreed on December 26, 1972 in Case No. W-1573. There are no out-of-priority depletions owed as a result of diversions from this well. This Decree adds the TVBAR LLC Well to Applicant's augmentation plan decreed in the 2003 Decree. Applicant will replace all out of priority depletions that occur after entry of this Decree, whether resulting from pumping of the TVBAR LLC Well before or after entry of this Decree, and out of priority depletions resulting from any pumping of this well pursuant to any administrative approval prior to this Decree being entered. Nothing herein is intended to modify the terms of the W-1573 Decree.
23. **Name of Structure**: T4 Livestock LLC Well (Permit No. 1091-R, LWU ID No. 516).
- 23.1. Owner: T4 Livestock LLC, PO Box 68, Sterling, CO 80751.
- 23.2. Location: In the SW1/4NE1/4 of Section 21, Township 7 North, Range 53 West of the 6th P.M., Logan County Colorado, located at a point bearing South 40°03'450" West from the NE corner of Section 21, a distance of 2,624 feet. UTM Coordinates (NAD 83 Zone 13): Easting 643765, Northing 4491296.
- 23.3. Appropriation Date: July 6, 1954.
- 23.4. Amount: 3.1 cfs, absolute.
- 23.5. Source: Groundwater tributary to South Platte River.
- 23.6. Use: Irrigation of approximately 160 acres in the NE1/4 of Section 21, Township 7 North, Range 53 West of the 6th P.M.
- 23.7. Remarks: A water right for this structure was decreed on September 12, 1973 in Case No. W-632. Out of priority depletions from pumping this well are currently augmented pursuant to the terms of the augmentation plan decreed in Case No. 04CW86 (the "Vandemoer Decree"). This Decree adds the T4 Livestock LLC Well to Applicant's augmentation plan decreed in the 2003 Decree. Applicant will replace all out of priority depletions that occur after entry of this Decree resulting from pumping of the T4 Livestock LLC Well following entry of this Decree, and depletions resulting from any pumping of this well pursuant to any administrative approval prior to this Decree being

entered. As of the date this Decree is entered, there are no depletions resulting from prior pumping authorized pursuant to the Vandemoer Decree. Nothing herein is intended to modify the terms of the W-632 Decree.

### **Addition of Wells to Augmentation Plan**

24. **Addition of Water Rights to Augmentation Plan.** Applicant seeks to add the wells described in ¶¶6-23 of this Decree (collectively the “Wells” or individually a “Well”) to the augmentation plan decreed in the 2003 Decree. Figure 1, attached, shows the location of the Wells. ¶49.6 of the 2003 Decree allows the addition of wells to the plan subject to notice and terms and conditions.

24.1. Description of the Plan. The wells to be added to the plan, hereinafter “Wells” are the 18 Wells described in ¶¶6-23. Figure 1, attached, shows the location of the Wells.

24.2. Aquifer Parameters. The aquifer parameters and other information required by the 2003 Decree for each Well are set out in Table 1, attached hereto **Exhibit 1.**

24.3. Consumptive Use and Depletions. The consumptive use factors used will be those set out in the 2003 Decree at ¶52.3.4. Out of priority depletions from use of the Wells that have occurred prior to the date the court allows the Wells to be added to the plan will be replaced by Applicant. Out of priority depletions from use of the Wells after entry of this Decree, whether or not such depletions result from pumping before or after the entry of this Decree, will be replaced by the Applicant.

24.3.1. *Consumptive Use and Depletions associated with the Platte Valley Real Estate LLC Real Estate Well described in ¶ 8 (“Platte Valley Well”).* The water rights decreed to the Platte Valley Well in this Decree are conditional water rights. In accordance with ¶ 52.3.4 of the 2003 Decree, if return flows from the Platte Valley Well are treated by an individual septic waste water disposal system, then the consumptive use factor shall be 10%; however if such return flows are collected and piped to the City of Sterling Waste Water Treatment Plant, then the consumptive use factor shall be 100%.

24.3.2. *Consumptive Use and Depletions associated with the Wells that are decreed herein for domestic uses, which include outdoor uses.* In accordance with ¶ 52.3.4 of the 2003 Decree, for domestic wells with outdoor uses, the amount of pumping for outdoor uses shall be calculated as the monthly pumping minus indoor use, where indoor use is the average monthly ground water pumping during the previous December, January, and February. If the outdoor uses are limited to irrigation of lawn and gardens, the consumptive use of the outdoor use amount will be 85%. If the outdoor uses include livestock watering, the consumptive use of the outdoor use amount

will be 100%.

24.3.3. *Consumptive Use and Depletions associated with TVBAR, LLC Well described in ¶ 22.* The TVBAR, LLC Well will irrigate the lands described in ¶ 22.6 by both flood irrigation and by use of a sprinkler system. For purposes of determining the consumptive use factor applicable to the TVBAR, LLC Well, Applicant shall apportion the total pumping from said well according to the acreage under flood irrigation and the acreage irrigated by a sprinkler system, and then apply the consumptive use factors in ¶ 52.3.4 of the 2003 Decree to the pumping amount for each irrigation method.

24.4. Water Rights to be used for Augmentation. All water rights decreed for augmentation, either directly or by exchange, recharge, and replacement in Case Nos. 03CW195, 07CW300, and 13CW3162.

24.5. Names and Address of Owners of the Wells. The names and addresses of the owners of the Wells are set out above.

24.6. Operation of the Plan for Augmentation. Diversions from the Wells described in ¶¶ 6-23 and listed in Exhibit 1 cause depletions to the South Platte River and its tributaries. To the extent that those depletions are out of priority, the purpose of this plan is to provide for replacement of such out of priority depletions in time, location and amount, under the terms and conditions of this Decree. The court approves the addition of the Wells to the plan for augmentation subject to the terms and conditions of this Decree.

24.7. Incorporated Terms. The terms of the 2003 Decree are incorporated herein to the extent they are not in conflict with terms set out herein or to the extent a term is not addressed herein.

24.8. Curtailment. The plan for augmentation decreed in the 2003 Decree, as supplemented by this Decree, is sufficient to permit the continuation of diversions by the Wells when curtailment would otherwise be required to meet a valid senior call for water, to the extent Applicant complies with all the terms and conditions of the 2003 Decree and this Decree including, but not limited to providing the necessary replacement water as required by the 2003 Decree and this Decree. 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.

**APPLICATION TO REMOVE AUGMENTATION SUPPLY FROM THE PLAN OF  
AUGMENTATION DECREED IN CASE NO. 04CW86 AND INCLUDE SAID  
AUGMENTATION SUPPLY IN APPLICANT'S PLAN OF AUGMENTATION  
DECREED IN THE 2003 DECREE**

25. **Transfer of Augmentation Supply from 04CW86 to 03CW195.** T4 Livestock LLC is the pro rata owner of recharge credits decreed in Case No. 95CW263 by virtue of its ownership of 5 Farmers' Pawnee Ditch Company shares which are currently used pursuant to the Vandemoer Decree described in paragraph 23.7 of this Decree ("T4 FP Recharge Credits"). As of the date of this Decree, T4 FP

Recharge Credits will not be used under the Vandemoer Decree, and upon entry of this Decree, shall be used for augmentation under Applicant's plan for augmentation in the 2003 Decree, by agreement between T4 Livestock LLC and Applicant, and pursuant to the terms of Applicant's plan for augmentation decreed in the 2003 Decree, including but not limited to ¶ 50.2 of the 2003 Decree, the decree in Case No. 95CW263, ¶ 9 of the Decree entered in Case No. 09CW74, and the terms of this Decree. Prior to use of the T4 FP Recharge Credits under this Decree and the 2003 Decree, notice of the removal of the T4 FP Recharge Credits shall be filed pursuant to the terms of the Vandemoer Decree.

**25.1. Terms applicable to Applicant's Use and Accounting of T4 FP Recharge Credits.**

Applicant shall claim credit for the T4 FP Recharge Credits in its augmentation plan decreed in the 2003 Decree in an amount equal to T4 Livestock's pro rata interest in the total diversions of the Farmers Pawnee Canal Recharge Project attributable to T4 Livestock's ownership of 5 Farmers' Pawnee Shares not to exceed T4 Livestock's pro rata interest in the Farmers' Pawnee Canal Company Recharge Right volumetric limit described in ¶ 9 of the Decree entered in Case No. 09CW74. Applicant shall include in its accounting the pro rata amount attributed to T4 Livestock's ownership of 5 Farmers Pawnee shares, as well as a link to the Farmers Pawnee Canal diversions which is, at the time of this Decree, publicly available from the Division of Water Resources which provides the total diversions by the Farmers Pawnee Canal Recharge Project.

### **CONCLUSIONS OF LAW**

- 26. Incorporation of Findings of Fact.** The foregoing Findings of Fact are incorporated herein.
- 27. Notice and Jurisdiction.** The Water Court for Water Division No. 1 has jurisdiction over the subject matter of these proceedings and over all persons, owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The application in this matter and the resume publication of the application placed such persons on notice of the relief requested by the application and granted by this decree.
- 28. Groundwater Rights Contemplated by Law.** The application for groundwater rights in ¶¶6-21 of this decree is contemplated by law and satisfies the requirements of §§37-92-103 (14)(a), 37-92-101 et seq., including but not limited to §§37-92-103, 37-92-302, 37-92-305(1), 37-92-305(9) and 37-92-305(12), *C.R.S.* The appropriations for the groundwater rights were lawfully initiated on the dates shown in the Findings of Fact, and were pursued with reasonable diligence from the date of initiation.
- 29. Addition of Wells to Plan for Augmentation Contemplated by Law.** The application to add Wells to the plan for augmentation decreed in the 2003 Decree is contemplated by law and satisfies the requirements of §§37-92-101 et seq., *C.R.S.*, including but not limited to §§37-92-302, 37-92-304(6), 37-92-305(3), 37-92-305(5), 37-92-305(8) and 37-92-305(12). Operation of the plan for augmentation will not injuriously affect any owner of or person entitled to use water under a vested water right or decreed conditional water right, so long as operated and administered in accordance with the terms of 2003 Decree and this Decree.
- 30. Burden of Proof.** Applicant has met its burden of proof and is therefore entitled to a Decree approving its application herein, as amended.
- 31. Administrability.** This Decree is administrable by the officials of the State of Colorado.

## RULING AND DECREE

32. **Incorporation of Findings and Conclusions.** The foregoing Findings of Fact and Conclusions of Law are incorporated herein as if set forth.
33. **Approval of Water Rights and Plan for Augmentation.** The groundwater rights set out in ¶¶6-21, and the addition of wells to the 2003 Decree plan for augmentation set out in ¶24 are hereby confirmed, approved, adjudicated and decreed.
34. **Adequacy of Replacement and Augmentation Supplies.** The replacement and augmentation supplies which Applicant will use for operation of the Plan for Augmentation for the Wells have been and shall be of a quality and continuity satisfactory to meet, in time, location and amount, the requirements for which the water of senior appropriators has normally been used.
35. **No Material Injury.** The terms and conditions provided for in this Decree are adequate to assure that no material injury to any water users will result from the addition of wells to the plan for augmentation approved herein.
36. **Measuring Devices.** The terms of the 2003 Decree with respect to the measurement of all well diversions are incorporated herein. In addition Applicant shall install and maintain, at Applicant's expense, such additional meters, gauges, or other measuring devices as are required by the Water Commissioner or Division Engineer, and shall report at the times required by the 2003 Decree to the Water Commissioner and/or Division Engineer the readings of such meters, gauges, or other measuring devices pursuant to §37-92-502(5)(a), C.R.S. subject to the Stipulation between Applicant and the State Engineer in Case No. 11CW292 regarding the Rules Governing Measurement of Tributary Ground Water in the South Platte River Basin in Colorado.
- 36.1. Measurement of Well Pumping for Wells with the Same Use and Different Priority Dates.
- 36.1.1. *Wernsman Family Farm Well described in ¶ 6:* LWU ID No. 6 and 2nd LWU ID No. 471 have different priorities for the irrigation use and operate with a shared meter. Applicant shall apportion the total metered pumping to the two priorities by the decreed acreage for each priority which is 104 acres for LWU ID No. 6 and 120 acres for 2nd LWU ID No. 471.
- 36.1.2. *McKay Brothers LLC/Schafer Well No. 1 described in ¶ 7:* LWU ID No. 214 and 2nd LWU ID No. 500 have different priorities for the irrigation use and operate with a shared meter. Applicant shall apportion the total metered pumping to the two priorities by the decreed acreage for each priority which is 70 acres for LWU ID No. 214 and 86 acres for 2nd LWU ID No. 500.
- 36.2. Measurement of Well Pumping for Wells with Multiple Uses.
- 36.2.1. *Platte Valley Real Estate Well described in ¶ 8.* To the extent that the Platte Valley Real Estate Well (LWU ID No. 363 and 2nd LWU ID No.



501) is used for both irrigation purposes and commercial drinking and sanitary uses, then such different uses shall be separately metered to apply different consumptive use factors as follows: 1) 60% for groundwater applied by flood irrigation and 80% for groundwater applied by sprinkler irrigation in accordance of ¶ 52.3.4 of the 2003 Decree; and 2) commercial drinking and sanitary uses in accordance with ¶ 24.3.1 of this Decree.

37. **Satisfaction of Senior Water Rights.** So long as operated and administered in accordance with this Decree, the operation of the plan for augmentation decreed in the 2003 Decree will be sufficient to permit the continuation of withdrawals, and resulting depletions, from the Wells without impairing the water rights of others, in the amounts and for the purposes adjudicated herein, when curtailment of such operations would otherwise be required to meet valid senior calls for water. 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.
38. **Accounting.** Applicant shall account for the diversions and plan of augmentation in the same manner as required by the 2003 Decree. Accounting shall be added to or incorporated into the accounting for the 2003 Decree.
39. **Binding Effect of Decree.** Applicant shall record this Decree with the clerk and recorder for Logan County within 10 days after the Decree becomes final upon the expiration of the right of all parties to appeal this Decree. The terms and conditions of this Decree shall bind, and be enforceable against, the owners of the Wells, the water rights decreed to or otherwise associated with those wells, and the lands upon which the Wells included in this Decree are located, and the successors and assigns of such owners, until all obligations under the 2003 Decree and this Decree have been fulfilled. In the event Applicant is unable or unwilling, for any reason, to fully comply with the terms of the 2003 Decree and this Decree, including, but not limited to, as a result of dissolution of the Applicant in accordance with the procedures required by law, the owners of such lands, wells and water rights, shall comply with the terms and conditions of the 2003 Decree and this Decree, as it relates to the wells owned by that owner, and shall replace all out of priority well depletions which are occurring or which will occur from operation of that owners wells in the 2003 Decree and this Decree. So long as the terms and conditions of the 2003 Decree and this Decree are fully complied with, nothing in this paragraph is intended to prohibit the owners of the wells in this Decree from adjudicating an additional plan for augmentation to replace depletions from the wells or from establishing another corporation for replacement of depletions under the 2003 Decree or this Decree or an additional decree. Nor is anything in this paragraph intended to affect the exercise of any remedy which may be available to any person affected by the failure of the Applicant or the land owners to comply with the terms and conditions of the 2003 Decree and this Decree.
40. **Retained Jurisdiction.** Pursuant to §37-92-304(6) C.R.S., the Court retains jurisdiction over the addition of the Wells to the plan for augmentation decreed in the 2003 Decree and herein on the issue of injury to vested water rights of others for five years from the date this Decree is entered. Except to the extent subject to retained jurisdiction, the findings, conclusions and decree herein are final. The retained jurisdiction provisions of

this paragraph are in addition to the retained jurisdiction provisions included in the 2003 Decree which are incorporated herein by reference.

41. **Administration by State and Division Engineers.** The State Engineer and Division Engineer shall administer this Decree in accordance with the terms and conditions set forth herein.
42. **Diligence.** The conditional water rights herein are continued in full force and effect until June 30, 2026. If Applicant desires to maintain such conditional rights, an application for finding of reasonable diligence shall be filed on or before June 30, 2026, or a showing made on or before such date that the conditional water rights have become absolute water rights by reason of the completion of the appropriation.
43. **Priorities.** The priorities herein awarded to the Wells in ¶¶6-21 were filed in the Water Court in the year of 2018, and shall be administered as having been filed in that year; and shall be junior to all priorities filed in previous years. As between all rights, filed in the same calendar year, priority shall be determined by decreed date of appropriation and not affected by date of the entry of ruling.

Date: May 8, 2020

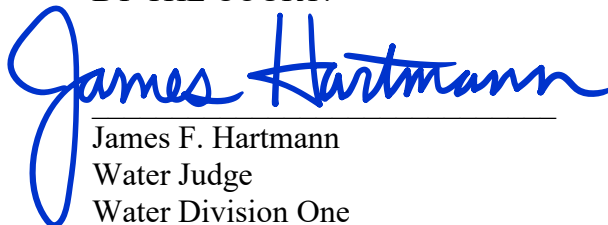


John Cowan  
Water Referee  
Water Division One

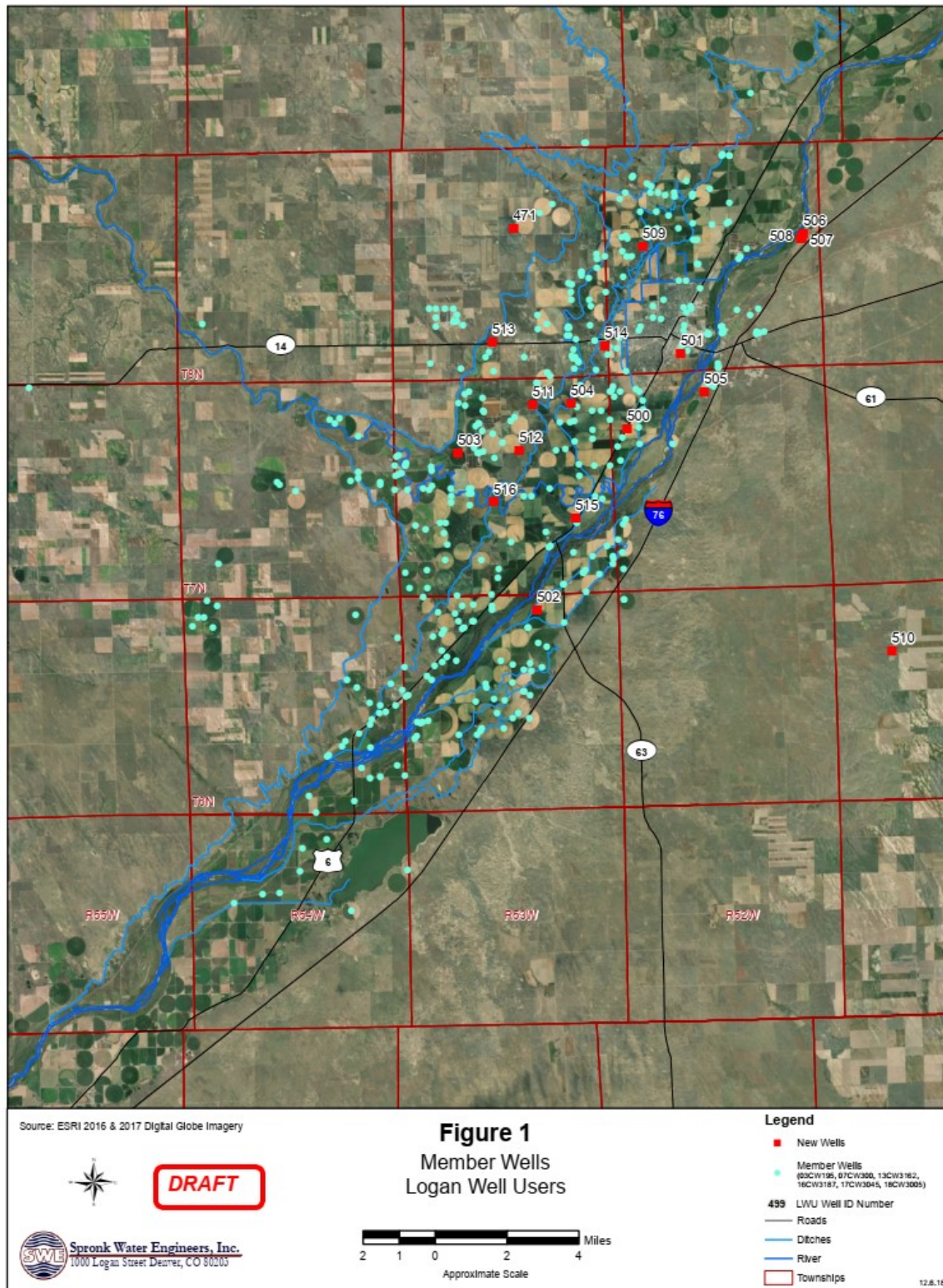
The court finds that no protest was filed in this matter. The foregoing ruling is confirmed and approved and is made the judgment and decree of this Court.

Dated: June 1, 2020

BY THE COURT:

  
James F. Hartmann  
Water Judge  
Water Division One





Logan Well Users Inc.  
18CW3227

FIGURE 1

# EXHIBIT 1

## Logan Well Users Member Wells to be Added to Plan Case No. 18CW3227

Well No.	2nd LWU ID No. <sup>1</sup>	Name	Permit No.	WORD	Case No.	Qtr/Ctr	Sec	Town	Rge	Well Location			Abv/Bc <sup>4</sup> SK <sup>4</sup>	USE <sup>5</sup>	Aquifer Parameters <sup>6</sup>			
										UTM X <sup>2</sup>	UTM Y <sup>2</sup>	In LUD <sup>3</sup>			W	X	Harm T	Lag to
6	-	Wernman Family Farms LLC	78729-F Pending	64 5591	W-5807 18CW3227	SE SW	10	08N	S3W	64 6601	45 03539		b	I	36,749	31,749	109,400	R
214	-	McGoy Brothers LLC	7075-R Pending	64 6198	W-0444 18CW3227	SE NW	7	07N	S2W	64 9754	44 94601	x	b	I	26,017	3,468	338,600	R
363	-	Philo Valley Road Estate LLC	RPT 214 Pending	64 6443	W-2093 18CW3227	SW NW	33	08N	S2W	65 2145	44 97966		b	I	23,235	21,87	201,400	R
502	-	TV Bar LLC	04155F Pending	64 5917	W-1573 & 18CW3227	SE NE	3	06N	S3W	64 5707	44 86489		a	I	11,605	1,750	366,900	R
503	-	Timmerman Feedyards LLC	Pending		18CW3227	SE SE	8	07N	S3W	64 3183	44 93489		a	F, S	22,130	21,790	160,000	PC
504	-	Jason & Nicole Koeber	274657 1550 35		18CW3227	NE SE	2	07N	S3W	64 7230	44 95604	x	b	R	28,835	12,310	315,900	R
505	-	Caleb & Alexandra Westde	223937 Pending		18CW3227	NW SE	4	07N	S2W	65 3196	44 96239		b	R	5,205	1,350	1210,000	R
506	-	Donald Unstuck - River View Meadows Lot 1	Pending		18CW3227	SW NE	13	08N	S2W	65 7651	45 03304		b	R	5,915	900	110,000	R
507	-	Donald Unstuck - River View Meadows Lot 2	Pending		18CW3227	SW NW	13	08N	S2W	65 7552	45 03155		b	R	3,890	1,140	105,000	R
508	-	Donald Unstuck - River View Meadows Lot 3	Pending		18CW3227	SW NW	17	08N	S2W	65 0452	45 03074		b	R	3,895	1,265	105,000	R
509	-	Kenneth & Allen Lechman	3117 05		18CW3227	SW NW	17	08N	S2W	65 0452	45 02735	x	b	C, Ind	48,325	43,325	401,000	PD
510	-	Brian & Tyler Barton	Pending		18CW3227	SW NE	3	06N	S1W	66 1509	44 84627		b	R	28,085	17,210	164,500	R
511	-	Mark & Carrie Bauder	Pending		18CW3227	NE SE	3	07N	S3W	64 5509	44 95669		b	R	25,760	16,300	114,600	R
512	-	Kelly & Paul Pickering	233750-A Pending		18CW3227	SE SW	10	07N	S3W	64 4916	44 93625		b	R	28,655	26,860	144,400	R
513	-	David & Cynthia Pickering	167979 Pending		18CW3227	SE SE	28	08N	S3W	64 4706	44 98438		b	R	14,580	3,220	252,700	PD
514	-	Orlando & Rachel Munoz	206788-A Pending		18CW3227	NE NE	36	08N	S3W	64 8747	44 98291	x	b	R	22,320	2,470	390,000	R
515	-				18CW3227	SE SE	23	07N	S3W	64 7441	44 90588		a	R	20,239	11,459	282,200	PC
516	-	TJ Livestock, LLC	1091-R Pending	64 5619	W-4532 18CW3227	SW NE	21	07N	S3W	64 3765	44 91296	x	a	I				

### NOTES:

- The second LWU ID No. is for the new priority decreed to existing wells.
- UTM Coordinates are in NAD 83 Zone 13
- In LUD = Located inside boundaries of Logan Irrigation District as of December 2008
- Abv/Bc SK = Location of depletion with respect to Sterling No. 1 Ditch headgate. Above = a, Below = b
- Type of Use  
C = Commercial  
D = Domestic  
F = Feed Lot  
FP = Fire Protection  
G = Gravel Pit  
I = Irrigation  
Ind = Industrial  
M = Municipal  
R = Residential (Domestic, lawn and garden watering, domestic animal and livestock watering)  
S = Stock
- Aquifer Parameters  
W = Width of aquifer on side of river where well is located (ft)  
X = Distance from the river to the location of structure (ft)  
Harm T = Harmonic Transmissibility of the aquifer in the vicinity of structure (gpd/ft)  
S = OL2  
Lag to: R = River, PD = Pioneer Drain, PC = Pawnee Creek