

Colorado Water Protective and Development Association



205 South Main Street
Fowler, Colorado, 81039
Phone: 719-826-2597
www.cwpda.org

TO: Division of Mining, Reclamation and Safety (DRMS) Board
FROM: Colorado Water Protective and Development Association
Kent Ricken, General Manager
DATE: August 13, 2021
SUBJECT: **CWPDA Security Interest in Unreclaimed Land and Water Shares [PERMIT M-1986-015]**

INTRODUCTION:

The Colorado Water Protective and Development Association (CWPDA) is a non-profit organization, incorporated in 1965. The Association protects and develops underground and surface waters in the Fountain Creek and Arkansas River basins, primarily providing replacement and augmentation water supplies for members' well pumping. CWPDA membership consists of approximately 600 individuals, corporations, municipalities, and other entities that own or control over 950 wells in the Arkansas River Basin. CWPDA member irrigation wells provide irrigation water to over 71,000 acres of land. CWPDA municipal members provide treated water to approximately 38,000 people in the agricultural communities between Fowler and Las Animas.

Through recent purchase of unreclaimed mined and unmined river property adjacent to the Arkansas River, CWPDA intends to provide much-needed lined gravel pit water storage to help firm up its water supplies and provide additional storage options for itself and other users in the Arkansas River basin. As indicated in the Statewide Water Plan, as well as in the Arkansas River Basin Implementation Plan, the availability of augmentation water for new uses, and to supplement increased irrigation efficiency, is expected to diminish in the future. Increased storage capacity, which will be provided by CWPDA's gravel pit project, is essential to sustain agricultural productivity in the Arkansas River Basin.

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PROPOSAL FOR SECURITY INTEREST:

As current owner of the property subject to DRMS Permit Nos. M-1986-015 and M-1977-573, and future Successor Operator, CWPDA must provide sufficient financial warranties to cover the costs of reclamation of the mined property. CWPDA proposes a deed of trust, or security agreement, encumbering portions of its real property, creating a first lien in favor of the State. CWPDA will encumber approximately 514 acres, out of approximately 640 acres, owned by CWPDA of riverfront, unmined property, appraised for a value of \$2,790,000.00 located within the permit boundary for DRMS Permit No. M-1986-015. A summary of land owned by CWPDA, and its value, is depicted below in Table 1. The appraisal report attached to the email containing this letter, performed for Castle Concrete Company and dated November 19th, 2019, also provides further information supporting Table 1; in particular, maps are available showing the location of each tract given in the table below.

Table 1. A Summary of Encumbered Properties and Assessed Property Values Owned by CWPDA.

Tract	Parcels	Acres	Value/Acre	Value Total
Sewer Plant Tract	4	137.52	\$5,450	\$750,000
Booth Gardens Tract	13	129.24	\$5,500	\$710,000
Drive Road Tract	10	232.24	\$5,350	\$1,240,000
Baxter Bridge Tract	1	15.3	\$6,000	\$90,000
Total	28	514.3	--	\$2,790,000

Together with the real estate, CWPDA will encumber 87.354 changed shares in the Bessemer Irrigating Ditch Company owned by CWPDA, estimated at a value of \$1,300,000. The Bessemer shares are currently decreed for augmentation of out-of-priority depletions for structures in the Arkansas River Basin. The Bessemer decree is identified as Case No. 07CW127, Water Division 2, and can be found in Exhibit C.

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CWPDA currently owns clear title to both the 514 acres of land and the Bessemer Ditch shares as evidenced by the Special Warranty deeds, water stock certificate, and Bessemer Ditch shares water court decree attached hereto as Exhibits A, B, and C. An auditors' opinion of market value of the Bessemer Ditch shares is attached as Exhibit D.

As a non-profit organization, CWPDA is not in the business of, nor has resources available to easily secure reclamation bonds similar to mining companies. Nevertheless, CWPDA owns significant assets available to help secure its ability to reclaim this property in accordance with the Reclamation plan. Moreover, CWPDA intends to reclaim the property and, in turn, provide much-needed additional water storage for the Arkansas River Basin. According to the Arkansas River Basin Implementation Plan, increasing available storage is “critical to the future of the Arkansas Basin.” (Arkansas Basin Implementation Plan, Section 1.6.1 (2015)). Allowing CWPDA to pledge its current assets as security for reclamation will facilitate CWPDA’s efforts to finalize a new water storage project on the Arkansas, providing more reliable augmentation water to CWPDA’s members and other Arkansas River users.

Best Regards,



Kent Ricken

General Manager

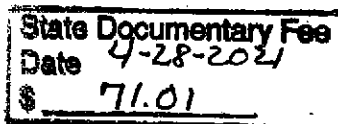
Colorado Water Protective and Development Association

Colorado **W**ater **P**rotective and **D**evelopment **A**ssociation



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Exhibit A Special Warranty Deeds



(Space above this line for recording purposes)

When Recorded Return to:

Davis Graham & Stubbs LLP
Attention: Courtney Shephard, Esq.
1550 17th Street, Suite 500
Denver, CO 80202

SPECIAL WARRANTY DEED
(Statutory Form C.R.S § 38-30-113)

THIS SPECIAL WARRANTY DEED is dated as of this 28th day of April, 2021 and is made by Castle Concrete Company, a Colorado corporation ("Grantor"), to Colorado Water Protective and Development Association, a Colorado nonprofit corporation ("Grantee").

WITNESS, that the Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee's heirs, successors and assigns forever, all the real property, together with any improvements thereon, located in the County of Pueblo and State of Colorado more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Land").

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining to the Land, the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, in and to the Land (hereinafter, collectively, the "Property");

TO HAVE AND TO HOLD the said Property above bargained and described with the appurtenances, unto Grantee, and Grantee's heirs, successors and assigns forever. The Grantor, for itself and its successors and assigns, does covenant and agree that the Grantor shall and will warrant and defend title against all persons claiming by, through or under Grantor subject to the statutory exceptions.

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IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed in its name and on its behalf under seal as of the day and year first above written.

GRANTOR:

Castle Concrete Corporation,
a Colorado corporation

By: 

Name: Jerald Schnabel

Title: President

ACKNOWLEDGEMENT

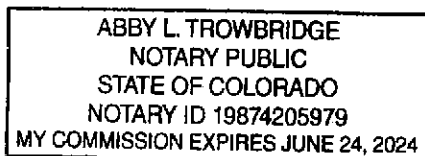
STATE OF COLORADO

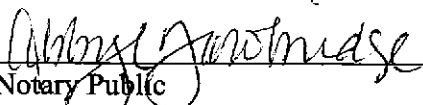
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COUNTY OF EL PASO

On this, the 28th day of April, 2021, before me, a Notary Public, the undersigned, personally appeared Jerald Schnabel, as President of Castle Concrete Company, a Colorado corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.




Notary Public

[Notarial Seal]

My commission expires: 6-24-2024

[Signature Page to Castle Concrete Deed]

EXHIBIT A

TO SPECIAL WARRANTY DEED

Property

SURVEY PARCEL 36:

THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 35, TOWNSHIP 20 SOUTH OF RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, EXCEPTING HEREFROM THAT PORTION HERETOFORE DEEDED TO THE COLORADO STATE HIGHWAY DEPARTMENT AND EXCEPTING THAT PARCEL CONVEYED IN DEED RECORDED FEBRUARY 26, 1979 IN BOOK 1974 AT PAGE 12 AND EXCEPTING THAT PORTION CONVEYED AND SHOWN AS PARCEL B IN DEED RECORDED SEPTEMBER 16, 2013 AT RECEPTION NO. 1955226, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 37:

A PART OF THE W1/2 OF THE NW1/4 OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT A POINT WHICH IS 1372.21 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION 35, THENCE SOUTH 88 ° 00' EAST A DISTANCE OF 289 FEET; THENCE NORTH TO THE INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF THE BOOTH-ORCHARD-GROVE DITCH; THENCE IN A SOUTHEASTERLY DIRECTION ALONG THE SOUTH RIGHT OF WAY LINE OF SAID BOOTH-ORCHARD-GROVE DITCH TO THE INTERSECTION WITH THE EAST LINE OF THE W1/2 OF THE NW1/4 OF SAID SECTION 35; THENCE SOUTH ALONG SAID EAST LINE TO THE SOUTHEAST CORNER OF THE W1/2 OF THE NW1/4 OF SAID SECTION 35; THENCE WEST ALONG THE SOUTHERLY BOUNDARY LINE OF THE W1/2 OF THE NW1/4 OF SAID SECTION 35 TO THE WEST QUARTER OF SAID SECTION 35; THENCE NORTH ALONG THE WEST LINE OF SAID SECTION 35 TO THE POINT OF BEGINNING, EXCEPTING THAT PORTION CONVEYED AND SHOWN AS PARCEL B IN DEED RECORDED SEPTEMBER 16, 2013 AT RECEPTION NO. 1955226, COUNTY OF PUEBLO, STATE OF COLORADO.

PUEBLO EAST PHASE 1 PARCELS:

SURVEY PARCEL 9:

PARCEL B, OF LOT LINE REARRANGEMENT NO. 97-02, RECORDED JULY 15, 1997 IN BOOK 3016 AT PAGE 309, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 1:

A PARCEL OF LAND BEING A PORTION OF LOTS 13 AND 14, BARNUM'S GARDENS ACCORDING TO THE RECORDED PLAT THEREOF FILED FOR RECORD JULY 2, 1895 UNDER RECEPTION NO. ~~75249~~ IN BOOK 8 AT PAGE ~~23~~ IN THE RECORDS OF THE PUEBLO COUNTY AND RECORDER AND BEING A PORTION OF THE N ½ OF THE SE ¼ OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, PUEBLO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY BANK OF THE ARKANSAS RIVER AND THE NORTH LINE OF THE SAID N ½ OF THE SE ¼ OF SECTION 34; THENCE SOUTHWESTERLY AND NORTHWESTERLY ALONG SAID NORTHERLY BANK ARKANSAS RIVER THE FOLLOWING TWENTY ONE (21) COURSES:

S 41°42'10" W A DISTANCE OF 72.36 FEET;
S 49°50'21" W A DISTANCE OF 63.95 FEET;
S 19°33'42" W A DISTANCE OF 123.24 FEET;
S 37°53'30" W A DISTANCE OF 49.51 FEET;
S 22°02'33" W A DISTANCE OF 49.18 FEET;
S 26°15'06" E A DISTANCE OF 85.92 FEET;
S 14°06'03" E A DISTANCE OF 52.73 FEET;
S 01°33'06" E A DISTANCE OF 81.63 FEET;
S 34°53'27" W A DISTANCE OF 88.72 FEET;
S 15°09'48" W A DISTANCE OF 109.67 FEET;
S 10°12'40" W A DISTANCE OF 112.03 FEET;
S 28°59'04" W A DISTANCE OF 142.90 FEET;
S 43°33'26" W A DISTANCE OF 165.28 FEET;
S 79°52'46" W A DISTANCE OF 125.51 FEET;
N 68°38'21" W A DISTANCE OF 108.98 FEET;
N 35°15'38" W A DISTANCE OF 225.51 FEET;
N 35°20'19" W A DISTANCE OF 171.66 FEET;
N 12°06'02" W A DISTANCE OF 126.30 FEET;
N 32°56'41" W A DISTANCE OF 507.16 FEET;
N 55°09'39" W A DISTANCE OF 150.55 FEET;
N 78°21'39" W A DISTANCE OF 104.25 FEET TO A POINT ON THE SAID NORTH LINE OF THE N ½ OF THE SE ¼ OF SECTION 34;
THENCE N 88°47'55" E ALONG SAID NORTH LINE A DISTANCE OF 1399.60 FEET TO THE POINT OF BEGINNING.

PUEBLO EAST PHASE 2 PARCELS:

SURVEY PARCEL 8:

BLOCKS 10, 11 AND 12, HARTMAN & WILCOX'S SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 7:

BLOCK 9, HARTMAN & WILCOX'S SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 6:

BLOCKS 7 AND 8, HARTMAN & WILCOX'S SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 33:

ALL OF THE W1/2 OF THE NW1/4 OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY N O. 96, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION BETWEEN THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY NO. 96 AND THE WEST LINE OF THE SAID SECTION 34, WHENCE THE NORTHWEST CORNER OF SAID SECTION BEARS N. 00° 06' E. A DISTANCE OF 720.40 FEET; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, ALONG THE ARC OF A CURVE TO THE LEFT, WHOSE RADIUS IS 1348.3 FEET, AND WHOSE CHORD BEARS S. 68° 11' E., A DISTANCE OF 496.60 FEET; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE N. 11° 16' E., A DISTANCE OF 25.00 FEET; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE ALONG THE ARC OF A CURVE TO THE LEFT; WHOSE RADIUS IS 1323.3 FEET, AND WHOSE CHORD BEARS N. 82° 23' 30" E., A DISTANCE OF 871.80 FEET TO A POINT ON THE EAST LINE OF THE SAID W1/2 OF THE NW1/4 OF SECTION 34; THENCE S. 00° 31' E., ALONG SAID EAST LINE OF THE W1/2 OF THE NW1/4, A DISTANCE OF 1879.12' TO A POINT ON THE SOUTH LINE OF THE SAID W1/2 OF THE NW1/4; THENCE S. 88° 58' W. ALONG THE SAID SOUTH LINE OF THE W1/2 OF THE NW1/4, A DISTANCE OF 1333.00 FEET TO THE WEST ONE-QUARTER CORNER OF THE SAID SECTION 34; THENCE N. 00° 06' E. ALONG THE WEST LINE OF THE SAID SECTION 34; A DISTANCE OF 1946.00 FEET TO THE POINT OF BEGINNING.

ALSO

ALL OF THE NW1/4 OF THE SW1/4 OF SECTION 34, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, LYING NORTH OF THE NORTHERLY BANK OF THE ARKANSAS RIVER, EXCEPTING THE FOLLOWING PORTIONS CONVEYED BY DEED RECORDED MARCH 13, 1967 IN BOOK

1611 AT PAGE 202 AND DEED RECORDED JULY 08, 1976 IN BOOK 1853 AT PAGE 171 AND DEED RECORDED JANUARY 04, 1979 IN BOOK 1967 AT PAGE 194, COUNTY OF PUEBLO, STATE OF COLORADO.

OTHER PARCELS:

SURVEY PARCEL 31:

A TRACT OF LAND IN THE SW1/4 OF SECTION 33, TOWNSHIP 20 SOUTH, RANGE 64 WEST DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 33, THENCE WEST 1302 FEET TO THE EAST LINE OF LOT 21 OF BOOTH GARDENS, THENCE NORTH 713.3 FEET TO THE SOUTHWEST CORNER OF LOT 17, BOOTH GARDENS, THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 17 AND LOT 16 OF BOOTH GARDENS 835.8 FEET TO PITNEY CORNER, THENCE SOUTH 466.7 FEET, THENCE EAST 466.7 FEET, THENCE SOUTH 291.8 FEET TO THE PLACE OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 32:

ALL OF LOT 1 OF THE SE1/4 OF SECTION 33, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., EXCEPT THEREFROM A PART OF LOT 1, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE S.E. CORNER OF THE SAID LOT 1 A DISTANCE OF 458 FEET TO A POINT AT THE TOE OF THE BLUFF; THENCE S. 88° 40' W., ALONG THE SAID TOE OF BLUFF, A DISTANCE OF 384.20 FEET; THENCE S. 49° 17' W., CONTINUING ALONG SAID TOE OF BLUFF, A DISTANCE OF 356.75 FEET; THENCE S. 36° 26' W. CONTINUING ALONG SAID TOE OF BLUFF, A DISTANCE OF 261 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SAID LOT 1; THENCE EAST, ALONG SAID SOUTH LINE OF LOT 1 A DISTANCE OF 800 FEET, TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 2:

ALL OF LOT 9 EXCEPT THE WESTERLY 191.47 FEET; ALL OF LOT 14 EXCEPT THE NORTHERLY 80.00 FEET OF THE WESTERLY 191.47 FEET; AND ALL OF LOT 15, ALL BEING IN BOOTH GARDENS, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 4:

THE SOUTH 420 FEET OF LOT 20 IN BOOTH GARDENS, EXCEPT ANY PORTION CONVEYED BY DEED RECORDED JULY 02, 1982 IN BOOK 2120 AT PAGE 368, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 5:

LOT 21, IN BOOTH GARDENS, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 3:

LOTS 16 AND 17, IN BOOTH GARDENS, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 10:

LOT 6, BLOCK 1, AND LOT 6, BLOCK 2, MEADOW GARDENS, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 11:

LOTS 7 AND 8, BLOCK 2, MEADOW GARDENS, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 12:

LOTS 5, 6 AND 7, BLOCK 3, MEADOW GARDENS, COUNTY OF PUEBLO, STATE OF COLORADO EXCEPT THAT PORTION OF THE LOT 5 CONVEYED TO PUEBLO COUNTY FOR HIGHWAY PURPOSES BY DEED RECORDED AUGUST 18, 1938 IN BOOK 857 AT PAGE 295.

SURVEY PARCEL 47:

A TRACT OF LAND IN SECTION 5, TOWNSHIP 21 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE INTERSECTION OF THE CENTER LINE OF SECTION 5, TOWNSHIP 21 SOUTH, RANGE 64 WEST OF THE 6TH P.M. AND THE BOOTH DITCH RIGHT-OF-WAY; THENCE SOUTH ALONG THE CENTER LINE OF SAID SECTION 5 A DISTANCE OF 506 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID SECTION LINE A DISTANCE OF 508.18 FEET; THENCE NORTH 87 DEGREES 00 MINUTES EAST A DISTANCE OF 356.80 FEET; THENCE SOUTH 88 DEGREES 40 MINUTES EAST A DISTANCE OF 165 FEET; THENCE NORTH 81 DEGREES 40 MINUTES EAST A DISTANCE OF 676.00 FEET; THENCE NORTH 62 DEGREES 40 MINUTES EAST A DISTANCE OF 220.00 FEET; THENCE NORTH 59 DEGREES 20 MINUTES EAST A DISTANCE OF 360.0 FEET; THENCE NORTH 37 DEGREES 05 MINUTES EAST A DISTANCE OF 201.86 FEET; THENCE DUE NORTH 300 FEET, MORE OR LESS, TO THE SOUTHERLY BOUNDARY LINE OF THE PROPERTY CONVEYED TO ARKANSAS VALLEY INVESTMENT COMPANY BY RAINEY L. BARNHART, WILLARD C. BARNHART AND LLOYD V. BARNHART BY WARRANTY DEED RECORDED IN BOOK 1384 AT PAGE 43 OF THE RECORDS OF THE COUNTY CLERK AND RECORDER OF PUEBLO COUNTY, COLORADO; THENCE SOUTHERLY AND WESTERLY ALONG THE SOUTHERLY BOUNDARY LINE OF SAID TRACT TO THE POINT OF BEGINNING, AND AMENDED BY DEED RECORDED JULY 9, 1987 IN BOOK 2356 AT PAGE 62, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 15:

A CERTAIN PARCEL OF LAND, BEING A PORTION OF LOT 1, BLOCK 14, ST. CHARLES MESA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE NORTH LINE OF THE SAID LOT 1, 720 FEET WEST OF THE NORTHEAST CORNER THEREOF, AND AT THE NORTHWEST CORNER OF RIVERBLUFF ACRES, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF RIVERBLUFF ACRES, AND THE NORTHWESTERLY LINE EXTENDED, TO A POINT WHICH IS 130 FEET NORTH AND 30 FEET EAST OF THE SOUTHWEST CORNER OF THE SAID LOT 1; THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF THE SAID LOT 1, A DISTANCE OF 110 FEET; THENCE WESTERLY, PARALLEL WITH THE SOUTH LINE OF THE SAID LOT 1, A DISTANCE OF 30 FEET; THENCE NORTHERLY, ALONG THE WEST LINE OF THE SAID LOT 1, TO THE NORTHWEST CORNER THEREOF; THENCE EASTERLY ALONG THE NORTH LINE OF THE SAID LOT 1, TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 48:

ALL OF LOTS 1 AND 2 LYING SOUTH AND EAST OF THE SOUTHEASTERLY LINE OF THE BOOTH DITCH, AND NORTH OF THE CENTER OF THE ARKANSAS RIVER IN SECTION 5, TOWNSHIP 21 SOUTH, RANGE 64 WEST, EXCEPTING THEREFROM THAT TRACT DESCRIBED IN DEED RECORDED IN BOOK 272 AT PAGE 69, AND EXCEPTING THAT TRACT DESCRIBED IN DECREE RECORDED IN BOOK 849 AT PAGE 400, AND EXCEPTING THAT TRACT DESCRIBED IN DEED RECORDED IN BOOK 1585 AT PAGE 150, ALL OF THE RECORDS OF THE CLERK AND RECORDER OF THE COUNTY OF PUEBLO, COLORADO; AND FURTHER EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT OF LAND: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5, THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 5 A DISTANCE OF 313 FEET TO THE POINT OF BEGINNING; THENCE TO THE LEFT AT AN ANGLE OF 68 DEGREES 45 MINUTES AND ALONG THE LINE OF SAID ANGLE A DISTANCE OF 991 FEET MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE RIGHT OF WAY OF THE SEWAGE WATER OUTLET OF THE PUEBLO SEWAGE DISPOSAL PLANT; THENCE WESTERLY ALONG THE NORTH LINE OF SAID OUTLET TO THE EASTERLY LINE OF THE SAID BOOTH DITCH; THENCE IN A NORTHERLY DIRECTION ALONG SAID EASTERLY LINE, OF SAID DITCH TO THE NORTH LINE OF SECTION 5; THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 5 A DISTANCE OF 882 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, EXCEPT RIGHT OF WAYS FOR THE BOOTH DITCH AND THE MESA DITCH, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 49:

ALL OF LOTS 1 AND 2 LYING SOUTH AND EAST OF THE SOUTHEASTERLY LINE OF THE BOOTH DITCH, AND NORTH OF THE CENTER OF THE ARKANSAS RIVER IN SECTION 5, TOWNSHIP 21 SOUTH, RANGE 64 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5, THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 5 A DISTANCE OF 313 FEET TO THE POINT OF BEGINNING; THENCE TO THE LEFT AT AN ANGLE OF 68 DEGREES 45 MINUTES AND ALONG THE LINE OF SAID ANGLE A DISTANCE OF 991 FEET MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE RIGHT OF WAY OF THE SEWAGE WATER OUTLET OF THE PUEBLO SEWAGE DISPOSAL PLANT; THENCE WESTERLY ALONG THE NORTH LINE OF SAID OUTLET TO THE EASTERLY LINE OF THE SAID BOOTH DITCH; THENCE IN A NORTHERLY DIRECTION ALONG SAID EASTERLY LINE, OF SAID DITCH TO THE NORTH LINE OF SECTION 5; THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 5 A DISTANCE OF 882 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, EXCEPT RIGHT OF WAYS FOR THE BOOTH DITCH AND THE MESA DITCH, COUNTY OF PUEBLO, STATE OF COLORADO.

SURVEY PARCEL 42:

A PARCEL OF LAND BEING A PORTION OF THE SW $\frac{1}{4}$ AND A PORTION OF S $\frac{1}{2}$ OF THE NW $\frac{1}{4}$ AND A PORTION OF THE W $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF SECTION 32, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF THE SW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SAID SECTION 32; THENCE N $01^{\circ}01'40''$ W (BEARINGS BASED THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SAID SECTION 32 MONUMENTED ON THE SOUTH END WITH A 30° X $2\frac{1}{2}^{\circ}$ ALUMINUM MONUMENT PLS 16128 AND ON THE NORTH END WITH A BLM BRASS CAP ON A $2\frac{1}{2}^{\circ}$ PIPE IN MOUND OF STONES ASSUMED TO BEAR N $01^{\circ}01'40''$ W) ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SAID SECTION 32, A DISTANCE OF 375.14 FEET; THENCE N $79^{\circ}45'24''$ E, A DISTANCE OF 74.39 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF $117^{\circ}42'05''$ AND A RADIUS OF 130.00 FEET, A DISTANCE OF 267.06 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL

ANGLE OF 51°59'49" AND A RADIUS OF 200.00 FEET, A DISTANCE OF 181.50 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 18°55'13" AND A RADIUS OF 800.00 FEET, A DISTANCE OF 264.18 FEET; THENCE N 32°58'21" E, A DISTANCE OF 128.12 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 55°41'21" AND A RADIUS OF 1182.00 FEET, A DISTANCE OF 1148.86 FEET; THENCE N 88°39'42" E, A DISTANCE OF 532.57 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 47°07'12" AND A RADIUS OF 160.00 FEET, A DISTANCE OF 131.58 FEET; THENCE S 44°13'08" E, A DISTANCE OF 556.65 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 34°19'44" AND A RADIUS OF 300.00 FEET, A DISTANCE OF 179.75 FEET; THENCE S 78°32'50" E, A DISTANCE OF 176.30 FEET TO A POINT ON THE WEST LINE OF SUBDIVISION EXEMPTION NO. 96-04 ACCORDING TO THE RECORDED PLAT THEREOF, FILED FOR RECORD JANUARY 27, 1997 IN BOOK 2964 AT PAGE 564 IN THE RECORDS OF THE PUEBLO COUNTY CLERK AND RECORDER; THENCE ALONG SAID WEST LINE AND THE SOUTHERLY LINE OF SAID SUBDIVISION EXEMPTION NO. 96-04 THE FOLLOWING SIX (6) COURSES:

- 1) S 01°28'42" E, A DISTANCE OF 160.93 FEET
- 2) ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT WHOSE CENTER BEARS S 19°43'39" W HAVING A CENTRAL ANGLE OF 1°21'11" AND A RADIUS OF 900.00 FEET, A DISTANCE OF 21.25 FEET;
- 3) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 29°36'44" AND A RADIUS OF 570.00 FEET, A DISTANCE OF 294.59 FEET;
- 4) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 30°47'55" AND A RADIUS OF 480.00 FEET, A DISTANCE OF 258.02;
- 5) S 67°43'59" E, A DISTANCE OF 81.06 FEET;
- 6) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 28°28'32" AND A RADIUS OF 770.00 FEET, A DISTANCE OF 382.68 FEET;

THENCE S 22°31'25" W, A DISTANCE OF 310.82 FEET; THENCE S 17°36'13" W, A DISTANCE OF 288.13 FEET, TO A POINT ON THE NORTHERLY BANK OF THE ARKANSAS RIVER; THENCE IN A WESTERLY DIRECTION ALONG SAID NORTHERLY BANK THE FOLLOWING SIXTEEN (16) COURSES:

- 1) S 53°05'49" W, A DISTANCE OF 465.25 FEET;
- 2) S 34°10'59" W, A DISTANCE OF 412.14 FEET;
- 3) S 53°10'55" W, A DISTANCE OF 401.12 FEET;
- 4) S 45°25'41" W, A DISTANCE OF 182.71 FEET;
- 5) S 66°02'50" W, A DISTANCE OF 442.53 FEET;
- 6) S 72°57'46" W, A DISTANCE OF 201.55 FEET;
- 7) N 84°45'25" W, A DISTANCE OF 152.18 FEET;
- 8) N 28°57'13" W, A DISTANCE OF 397.87 FEET;
- 9) N 38°30'32" W, A DISTANCE OF 114.51 FEET;
- 10) N 30°11'01" W, A DISTANCE OF 467.70 FEET;
- 11) N 39°04'38" W, A DISTANCE OF 478.83 FEET;
- 12) N 60°37'21" W, A DISTANCE OF 372.65 FEET;
- 13) S 83°41'27" W, A DISTANCE OF 262.98 FEET;
- 14) S 09°43'30" W, A DISTANCE OF 167.83 FEET;
- 15) S 42°15'20" W, A DISTANCE OF 182.17 FEET;
- 16) S 28°02'16" W, A DISTANCE OF 177.34 FEET;

TO A POINT ON THE WEST LINE OF THE SW ¼ OF THE SW ¼ OF SECTION 32; THENCE N 01°01'42" W ALONG SAID WEST LINE, A DISTANCE OF 78.70 TO THE POINT OF BEGINNING.

COUNTY OF PUEBLO, STATE OF COLORADO

EASEMENT PARCEL A:

THOSE EASEMENT RIGHTS CREATED AND RESERVED IN SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENTS RECORDED MAY 10, 2004 UNDER RECEPTION NO. 1564982 AND IN EASEMENT AGREEMENT RECORDED MAY 10, 2004 UNDER RECEPTION NO. 1564983.

(GROUP B)

BARNHART NORTH PARCEL:

PARCEL 30:

ALL THAT PORTION OF THE E1/2 OF THE SE1/4 OF SECTION 32, TOWNSHIP 20 SOUTH RANGE 64 WEST, LYING SOUTH OF THE MISSOURI PACIFIC RAILROAD RIGHT OF WAY, EXCEPTING THAT PORTION CONVEYED BY DEED RECORDED JANUARY 07, 1927 IN BOOK 649 AT PAGE 331, COUNTY OF PUEBLO, STATE OF COLORADO.

DRIVE ROAD TRACT PARCELS:

PARCEL 34:

A CERTAIN PARCEL OF LAND, BEING A PART OF THE SW1/4 OF THE SW1/4 OF SECTION 36; A PART OF THE SE1/4 OF THE SE1/4 OF SECTION 35, (INCLUDING LOT 6 NORTH OF THE ARKANSAS RIVER, AND LOT 1 IN THE SE1/4 OF SECTION 35) AND A PART OF THE NE1/4 OF THE SE1/4 OF SAID SECTION 35, ALL BEING IN TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SECTION LINE COMMON TO SAID SECTIONS 35 AND 36, 3831.00 FEET SOUTHERLY FROM THE CORNER COMMON TO SECTIONS 25, 26, 35 AND 36; THENCE SOUTH 0°25' EAST, ALONG SAID SECTION LINE, A DISTANCE OF 1029.92 FEET; THENCE SOUTH 89°20' EAST, A DISTANCE OF 746.7 FEET; THENCE SOUTH 01°00' EAST, A DISTANCE OF 420.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 36; THENCE WEST, ALONG THE SAID SOUTH LINE A DISTANCE OF 745.5 FEET TO THE SOUTHWEST CORNER OF THE SAID SECTION 36; THENCE WESTERLY, ALONG THE SOUTH LINE TO ITS INTERSECTION WITH THE EAST LINE OF THE W 1/2 OF THE SE 1/4 OF THE SAID SECTION 35; THENCE NORTHERLY, ALONG THE SAID EAST LINE TO THE SOUTHWEST CORNER OF THE NE1/4 OF THE SE1/4 OF THE SAID SECTION 35; THENCE EAST A DISTANCE OF 38.00 FEET; THENCE SOUTH 08°00' EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 29°00' EAST, A DISTANCE OF 169.80 FEET (RECORD) 160.20 FEET (CALCULATED); THENCE EAST A DISTANCE OF 531.00 FEET (RECORD) 526.34 FEET (CALCULATED) TO A POINT, (WHICH IS THE SOUTHWEST CORNER OF A TRACT FORMERLY SOLD TO D. R. SLAUSON); THENCE NORTH 0°25' WEST, A DISTANCE OF 323.20 FEET; THENCE SOUTH 89°20' EAST, A DISTANCE OF 555.00 FEET TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

AND

A CERTAIN PARCEL OF LAND, BEING A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36 BEING DESCRIBED AS THE EAST 594.5 FEET OF THE SOUTH 1,466 FEET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 36, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., EXCEPT THAT PART CONVEYED TO DELLA WEINLAND BY DEED

RECORDED MARCH 22, 1918, IN BOOK 446 AT PAGE 472, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL 35:

A PARCEL OF LAND BEING A PORTION OF THE NE1/4 SW1/4 OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, PUEBLO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF THE SAID NE1/4 OF THE SW1/4 OF SECTION 35; THENCE S 02°10'01" E ALONG THE EAST LINE OF THE SAID NE1/4 OF THE SW1/4 OF SECTION 35 A DISTANCE OF 879.84 FEET TO A POINT ON THE EASTERLY BANK OF THE ARKANSAS RIVER; THENCE NORTHERLY ALONG SAID EASTERLY BANK OF ARKANSAS RIVER THE FOLLOWING NINE COURSES;

1. N 45°21'29" W A DISTANCE OF 12.88 FEET;
 2. N 38°40'38" W A DISTANCE OF 150.83 FEET;
 3. N 25°09'41" W A DISTANCE OF 111.06 FEET;
 4. N 19°46'43" W A DISTANCE OF 80.08 FEET;
 5. N 09°45'24" W A DISTANCE OF 152.92 FEET;
 6. N 15°33'47" W A DISTANCE OF 118.56 FEET
 7. N 01°00'10" W A DISTANCE OF 73.66 FEET
 8. N 05°42'47" E A DISTANCE OF 165.67 FEET;
 9. N 29°45'28" E A DISTANCE OF 75.95 FEET TO A POINT ON THE NORTH LINE OF THE SAID NE1/4 OF THE SW 1/4 OF SECTION 35;
- THENCE N 87°14'31" E ALONG THE SAID NORTH LINE OF NE1/4 OF THE SW 1/4 A DISTANCE OF 149.47 FEET TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL 38:

A CERTAIN PARCEL OF LAND, BEING A PART OF THE SE1/4 OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., COUNTY OF PUEBLO, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, WHENCE THE NORTHEAST CORNER OF THE SAID SECTION 35 BEARS N, 10°06'09" E. A DISTANCE OF 3581.60 FEET; THENCE ALONG THE FOLLOWING TWELVE (12) COURSES TO THE CENTER OF THE SAID SECTION 35:

1. N. 76°05'40" W. A DISTANCE OF 35.64 FEET;
2. N. 76°05'40" W. A DISTANCE OF 126.63 FEET;
3. S. 80°01'21" W. A DISTANCE OF 852.87 FEET;
4. N. 16°29'44" W. A DISTANCE OF 427.16 FEET;
5. N. 04°05'32" W. A DISTANCE OF 142.08 FEET;
6. N. 35°51'36" W. A DISTANCE OF 154.90 FEET;
7. S. 85°54'13" W. A DISTANCE OF 303.63 FEET;
8. N. 78°53'11" W. A DISTANCE OF 241.23 FEET;
9. N. 14°14'53" W. A DISTANCE OF 261.50 FEET;
10. N. 82°20'09" W. A DISTANCE OF 43.43 FEET;
11. N. 82°56'48" W. A DISTANCE OF 124.80 FEET;
12. S. 89°35'00" W. A DISTANCE OF 30.00 FEET;

THENCE SOUTHERLY, ALONG THE NORTH-SOUTH CENTERLINE OF THE SAID SECTION 35, A DISTANCE OF 324 FEET; THENCE S. 31°11' E. A DISTANCE OF 1800 FEET; THENCE S. 41°51' E. (CALCULATED), S. 41° * E. (RECORD) A DISTANCE OF 684.23 FEET (CALCULATED) 571 FEET (RECORD), TO A POINT ON THE EAST LINE OF THE W1/2 OF THE SE 1/4 OF THE SAID SECTION 35; THENCE NORTHERLY, ALONG SAID EAST LINE, A DISTANCE OF 1059.14 FEET (CALCULATED); (WHICH IS THE

SOUTHWEST CORNER OF THE NE1/4 OF THE SE1/4 OF SAID SECTION 35); THENCE EAST ALONG THE 1/16 LINE, A DISTANCE OF 38 FEET, MORE OR LESS, TO A POINT AT THE INTERSECTION OF THE MEANDER SURVEY OF NOVEMBER 1871, OF THE NORTH BANK OF THE ARKANSAS RIVER; THENCE S. 8° E., A DISTANCE OF 12.0 FEET, MORE OR LESS; THENCE S. 29° E., A DISTANCE OF 160.20 FEET (CALCULATED) 169.8 FEET (RECORD); THENCE EAST A DISTANCE OF 526.34 FEET (CALCULATED) 531 FEET (RECORD) TO A POINT (WHICH IS THE SOUTHWEST CORNER OF A TRACT FORMERLY SOLD TO D. R. SLAUSON); THENCE N. 0° 25' 00" W., A DISTANCE OF 599.56 FEET (CALCULATED) TO THE POINT OF BEGINNING, EXCEPTING THAT PORTION CONVEYED IN QUIT CLAIM DEED RECORDED NOVEMBER 20, 2014 AT RECEPTION NO. 1990380.

TOGETHER WITH:

A PARCEL OF LAND BEING A PORTION OF THE SE ¼ OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF PUEBLO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THAT PARCEL OF LAND DESCRIBED IN THAT QUIT CLAIM DEED FILED FOR RECORD AUGUST 14, 2014 AT RECEPTION NUMBER 1982563 IN THE RECORDS OF THE PUEBLO COUNTY CLERK AND RECORDER, SAID LINE ALSO BEING THE NORTH LINE OF THE SAID SE ¼ FROM WHICH THE CENTER OF SAID SECTION 35 BEARS S 88° 34' 09" W (BEARINGS BASED ON THE LINE BETWEEN THE SAID CENTER OF SECTION 35 MONUMENTED WITH A NO. 6 REBAR WITH A 2 ½" ALUMINUM CAP PLS 16128 AND THE S ¼ OF SAID SECTION 35 MONUMENTED WITH A NO. 6 REBAR WITH A 2 ½" ALUMINUM CAP PLS 10093 ASSUMED TO BEAR S 02° 10' 02" E) A DISTANCE OF 29.97 FEET (30.00 FEET DEED); THENCE N 88° 34' 09" E ALONG SAID NORTH LINE A DISTANCE OF 166.77 FEET; THENCE S 01° 35' 51" E A DISTANCE OF 19.83 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL DESCRIBED IN THAT QUIT CLAIM DEED FILED FOR RECORD AUGUST 14, 2014 AT RECEPTION NUMBER 1982563; THENCE N 84° 05' 45" W ALONG SAID SOUTH LINE A DISTANCE OF 43.17 FEET; THENCE N 84° 50' 37" W CONTINUING ALONG SAID SOUTH LINE A DISTANCE OF 124.78 FEET TO THE POINT OF BEGINNING.

PARCEL 41:

THAT PORTION OF LOT 1 OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., LYING WITHIN THE BOUNDARIES OF THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 36, AND A PART OF THE SOUTHWEST QUARTER OF SAID SECTION 36, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SAID WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36; THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 36 A DISTANCE OF 30 FEET; THENCE NORTH AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE WEST HALF OF THE SAID SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 35.75 FEET; THENCE NORTHWESTERLY, AT A DEFLECTION ANGLE OF 40 DEGREES 00 MINUTES WESTERLY FROM THE EAST LINE OF THE SAID WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, A DISTANCE OF 303.33 FEET; THENCE ANGLE LEFT, 41 DEGREES 00 MINUTES WESTERLY, A DISTANCE OF 400 FEET; THENCE ANGLE LEFT, 24 DEGREES 05 MINUTES SOUTHWESTERLY A DISTANCE OF 600 FEET, MORE OR LESS TO A POINT 175.0 FEET NORTH OF THE SOUTHWEST CORNER OF A TRACT CONVEYED BY ANNA MARIA JOXEN TO MICHAEL POWERS; THENCE NORTH A DISTANCE OF 563 FEET TO A POINT 1,902 FEET SOUTH OF THE EAST-WEST CENTERLINE OF SAID SECTION 36; THENCE NORTHEASTERLY, ALONG THE SOUTHERLY BOUNDARY OF A TRACT HERETOFORE CONVEYED BY ALBERT E. JAMNICK TO FOUNTAIN SAND & GRAVEL COMPANY, BY WARRANTY DEED, RECORDED IN BOOK 1612 AT PAGE 216, OF THE RECORDS OF THE PUEBLO COUNTY CLERK AND RECORDER, A DISTANCE OF 540 FEET TO A POINT ON THE NORTH-SOUTH CENTERLINE OF THE SAID SECTION 36; SAID POINT BEING 1,859 FEET SOUTH OF THE CENTER OF SAID SECTION 36; THENCE SOUTHEASTERLY, ALONG THE BANK OF THE ARKANSAS RIVER, A DISTANCE OF 706 FEET, MORE OR

LESS, TO THE EAST LINE OF THE SAID WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE SOUTH ALONG THE SAID EAST LINE, A DISTANCE OF 530 FEET TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL 39:

A TRACT OF LAND LYING IN THE SOUTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., PUEBLO COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT WHICH IS 1,158.3 FEET, MORE OR LESS, DUE SOUTH OF THE EAST-WEST CENTERLINE OF SAID SECTIONS 36 AND 538.0 FEET, MORE OR LESS, WEST OF THE CENTER CORNER OF SAID SECTION; THENCE DUE WEST 264.0 FEET, MORE OR LESS, THENCE DUE SOUTH 371.2 FEET; MORE OR LESS, THENCE DUE EAST 264.0 FEET, MORE OR LESS, THENCE DUE NORTH 371.2 FEET, MORE OR LESS; TO THE TRUE POINT OF BEGINNING.

ALSO

A PORTION OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SECTION 36, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., PUEBLO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE CENTER OF SAID SECTION 36, THENCE N 87 DEGREES 55 MINUTES W ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 36 A DISTANCE OF 538.0 FEET TO A POINT; THENCE DUE SOUTH 1,902.6 FEET, MORE OR LESS, TO THE NORTH BANK OF THE PRINCIPAL CHANNEL OF THE ARKANSAS RIVER AS IT PRESENTLY EXISTS; THENCE EASTERLY ALONG THE SAID PRINCIPAL CHANNEL OF THE ARKANSAS RIVER A DISTANCE OF 540 FEET, MORE OR LESS, TO ITS INTERSECTION WITH THE NORTH-SOUTH CENTERLINE OF SAID SECTION 36; THENCE DUE NORTH ALONG THE SAID NORTH-SOUTH CENTERLINE OF SAID SECTION 36, 1,859.0 FEET, MORE OR LESS TO THE TRUE POINT OF BEGINNING, EXCEPTING HEREFROM A TRACT BEGINNING AT THE CENTER OF SAID SECTION 36, THENCE N 87 DEGREES 55 MINUTES W ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 36 A DISTANCE OF 538.0 FEET TO A POINT; THENCE DUE SOUTH 1,158.3 FEET, MORE OR LESS, TO A POINT; THENCE EAST A DISTANCE OF 538.0 FEET, MORE OR LESS, TO A POINT ON THE NORTH-SOUTH CENTER LINE OF SAID SECTION 36; THENCE DUE NORTH ALONG THE SAID NORTHSOUTH CENTERLINE OF SAID SECTION 36, 1,158.3 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL 40:

A TRACT OF LAND BEING THE WEST 782 FEET OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 36, IN TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE EAST AND WEST QUARTER SECTION LINE OF SECTION 36 IN TOWNSHIP 20 SOUTH OF RANGE 64 WEST, A DISTANCE OF 538 FEET WEST OF THE CENTER OF SAID SECTION; THENCE WESTERLY ON SAID SECTION LINE TO THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE SOUTH ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION TO THE SOUTH LINE OF SAID SECTION; THENCE EASTERLY ALONG SAID LAST NAMES LINE A DISTANCE OF 782 FEET; MORE OR LESS, TO THE SOUTHWEST CORNER OF THE LAND CONVEYED BY ANNA MAUD JOXEN TO MICHAEL POWERS; THENCE NORTH TO THE PLACE OF BEGINNING. EXCEPT 1 ACRE IN THE NORTHEAST CORNER CONVEYED TO MICHAEL POWERS BY DEED RECORDED IN BOOK 171 AT PAGE 292, AND ALSO EXCEPT THE NORTH 20 ACRES OF SAID ABOVE DESCRIBED TRACT CONVEYED TO JOHN ALFS BY DEED RECORDED JUNE 2, 1910, IN BOOK 359 AT PAGE 349, AND ALSO EXCEPT 2 ¼ ACRES OF SAID

TRACT CONVEYED TO ROBERT KREMBZOW BY DEED RECORDED MARCH 20, 1911 IN BOOK 360 AT PAGE 456, AND EXCEPT ANY AND ALL ROADS AND RIGHT OF WAYS, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL 45:

LOT 2 OF THE NW1/4 OF SECTION 1 LYING NORTH OF THE ARKANSAS RIVER IN TOWNSHIP 21 SOUTH, RANGE 64 WEST OF THE 6TH P.M., COUNTY OF PUEBLO, STATE OF COLORADO AND ANY PORTION OF LOT 1 IN SAID SECTION 1 THAT MAY LIE WEST OF THE WEST LINE OF THE 51 ACRES IN SAID SECTION 36, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., FORMERLY OWNED BY HERBERT W. SLAUSON IF SAID LINE WERE PROJECTED TO THE SOUTH BOUNDARY LINE OF SAID LOTS 1 AND 2.

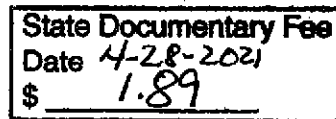
PARCEL 46:

THAT PORTION OF LOTS 1 AND 2 OF THE NW1/4 OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 64 WEST OF THE 6TH P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF A TRACT CONVEYED BY ANNA JOXEN TO MICHAEL POWERS; THENCE SOUTH, A DISTANCE OF 103.12 FEET; THENCE S 84 ° 33' 53" W., A DISTANCE OF 10.94 FEET; THENCE SOUTHWESTERLY TO A POINT ON THE SOUTH BANK OF THE ARKANSAS RIVER, AS LOCATED IN MARCH 1987, SAID POINT AL BEING ON THE WEST LINE OF THE E1/2 OF THE SW1/4 OF SAID SECTION 36, IF PRODUCED SOUTHERLY; THENCE NORTHERLY ALONG SAID WEST LINE OF SAID SECTION 1; THENCE EASTERLY ALONG THE SAID NORTH LINE OF SECTION 1, A DISTANCE OF 782 FEET, TO THE POINT OF BEGINNING, COUNTY OF PUEBLO, STATE OF COLORADO.

PARCEL 44:

ALL OF LOT 1 AND THE EAST ½ OF LOT 2 OF THE NE ¼ OF SECTION 1, IN TOWNSHIP 21 SOUTH OF RANGE 64 WEST OF THE 6TH P.M., COUNTY OF PUEBLO, STATE OF COLORADO. EXCEPTING THEREFROM THAT PORTION OF SAID LOTS WHICH LIES SOUTH OF THE NORTH BOUNDARY LINE OF THE TRACT CONVEYED BY ALVAH C. GANGLOFF AND MYRTLE GANGLOFF TO EARL E. MCCLUNG AND MAJORIE J. MCCLUNG, BY DEED RECORDED MARCH 27, 1954 IN BOOK 1232 AT PAGE 407, (SAID NORTH BOUNDARY LINE BEING APPROXIMATELY 828 FEET NORTH OF THE SOUTH LINE OF DANIEL ROAD); AND ALSO EXCEPTING THAT PORTION OF SAID LOTS WHICH LIES SOUTH OF A LINE ON THE BEARING OF SOUTH 87 ° WEST COMMENCING AT THE NORTHWEST CORNER OF THE ABOVE DESCRIBED MCCLUNG TRACT AND RUNNING TO THE NORTH-SOUTH CENTER LINE OF SAID LOT 2.



(Space above this line for recording purposes)

When Recorded Return to:

Davis Graham & Stubbs LLP
Attention: Courtney Shephard, Esq.
1550 17th Street, Suite 500
Denver, CO 80202

SPECIAL WARRANTY DEED
(Statutory Form C.R.S § 38-30-113)

THIS SPECIAL WARRANTY DEED is dated as of this 28th day of April, 2021 and is made by TMOP Legacy Company, a Colorado corporation (f/k/a Transit Mix of Pueblo, Inc., a Colorado corporation) ("**Grantor**"), to Colorado Water Protective and Development Association, a Colorado nonprofit corporation ("**Grantee**").

WITNESS, that the Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee's heirs, successors and assigns forever, all the real property, together with any improvements thereon, located in the County of Pueblo and State of Colorado more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (the "**Land**").

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining to the Land, the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, in and to the Land (hereinafter, collectively, the "**Property**");

TO HAVE AND TO HOLD the said Property above bargained and described with the appurtenances, unto Grantee, and Grantee's heirs, successors and assigns forever. The Grantor, for itself and its successors and assigns, does covenant and agree that the Grantor shall and will warrant and defend title against all persons claiming by, through or under Grantor subject to the statutory exceptions.

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IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed in its name and on its behalf under seal as of the day and year first above written.

GRANTOR:

TMOP Legacy Company,
a Colorado corporation

By: 

Name: Ryan Sullivan

Title: President

ACKNOWLEDGEMENT

STATE OF Texas)
) SS
COUNTY OF Bexar)

On this, the 23 day of April, 2021, before me, a Notary Public, the undersigned, personally appeared Ryan Sullivan, as President of TMOP Legacy Company, a Colorado corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public

[Notarial Seal]

My commission expires:

4-12-2022

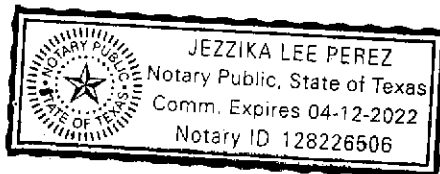


EXHIBIT A

TO SPECIAL WARRANTY DEED

Property

A TRACT OF LAND IN THE W1/2 OF THE NE1/4 OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M., COUNTY OF PUEBLO, STATE OF COLORADO: COMMENCING AT THE QUARTER SECTION CORNER BETWEEN SECTIONS 26 AND 35, TOWNSHIP 20 SOUTH, RANGE 64 WEST AND RUNNING THENCE EASTERLY ON THE SECTION LINE 308 FEET TO A POINT; THENCE SOUTH 0 DEG. 15 MIN. EAST, 2634 FEET, MORE OR LESS; THENCE WESTERLY 308 FEET, MORE OR LESS TO THE INTERSECTION OF THE QUARTER SECTION LINE; THENCE NORTH ON THE QUARTER SECTION LINE 2634 FEET, MORE OR LESS TO THE POINT OF BEGINNING, EXCEPT PART CONVEYED TO FRANK RANDL BY DEED RECORDED MARCH 18, 1965 IN BOOK 1565 AT PAGE 142.

Colorado **W**ater **P**rotective and **D**evelopment **A**ssociation



205 South Main Street
Fowler, Colorado, 81039
Phone: 719-826-2597
www.cwpda.org

Exhibit B

Bessemer Ditch Water Stock Certificate

CERTIFICATE NUMBER

12595

CERTIFICATE OF CAPITAL STOCK IN

THE

SHARES

87-354



Colorado Water Protective and Development Association and Community Banks of Southern Colorado are entitled to
This is to Certify that ~~shares of the Capital Stock of the Bessmer Irrigating Ditch Company~~
EIGHTY SEVEN AND 354/1000 shares of the Capital Stock of the Bessmer Irrigating Ditch Company
of the par value of Ten (10) Dollars per share.

The stock represented by this certificate is subject to assessments, as provided by the Articles of Incorporation and By-laws of this Company, and is transferable only on the books of the Company.

CSM

The Witness Whereof said Company has caused these presents to be subscribed by its
President and Secretary under its corporate Seal this 15th day of Dec. 19th 2000

William O. MacLean
Secretary

John H. Langston
President

Colorado **W**ater **P**rotective and **D**evelopment **A**ssociation



205 South Main Street
Fowler, Colorado, 81039
Phone: 719-826-2597
www.cwpda.org

Exhibit C

Final Decree – Water Court Case # 07CW127

FINDINGS OF FACT

1. The applicant is Colorado Water Protective and Development Association ("CWPDA"), P.O. Box 604, La Junta, CO 81050, (719) 384-2754. The Applicant filed its Application in this matter on December 31, 2007.
2. The Water Clerk caused publication of the Application as provided by statute. Publication costs have been paid. Timely statements of opposition were filed by Amity Mutual Irrigation Company, the City of Aurora, Colorado Springs Utilities, Board of Water Works of Pueblo, District 67 Irrigating Canals Association, the Lower Arkansas Water Management Association, the Southeastern Colorado Water Conservancy District, the Fort Lyon Canal Company, the City of Rocky Ford, State of Colorado Department of Corrections, the State and Division Engineers, the St. Charles Mesa Water District, Pueblo West Metropolitan District, the Arkansas Valley Ditch Association, and Tri-State Generation and Transmission Association, Inc.

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3. The Applicant has entered into stipulations with the following parties: St. Charles Mesa Water District, Amity Mutual Irrigation Company, District 67 Irrigating Canals Association, Arkansas Valley Ditch Association, Board of Water Works of Pueblo Colorado, Colorado Springs Utilities, Lower Arkansas Water Management Association, Pueblo West Metropolitan District, City of Rocky Ford, Southeastern Colorado Water Conservancy District, Fort Lyon Canal Company, City of Aurora, the State and Division Engineers, and Tri-State Generation and Transmission Association. The Colorado Department of Corrections withdrew its Statement of Opposition. The Court finds that this decree incorporates the requirements of these stipulations.
4. The Division Engineer submitted a Consultation Report on March 27, 2008, which has been considered.
5. Timely and adequate notice of the application was published as required by law, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected thereby, whether they have appeared or not.
6. Applicant is a Colorado non-profit corporation that provides replacement water for its members.
7. Water Rights to Be Changed: Applicant owns 87.354 out of 19,738.593 outstanding shares in the Bessemer Irrigating Ditch Company ("Bessemer"), or 0.443% of the outstanding shares, including a pro rata share of the water rights of Bessemer. Applicant seeks to change its pro rata share of the water rights decreed to the Bessemer Ditch from the Arkansas River (excluding the Warrant, Barnes & Baxter water right and other water not diverted pursuant to the water rights described below but that were diverted through the Bessemer Ditch) ("Bessemer Water Rights"). Applicant's pro rata share of the Bessemer Water Rights shall be referred to herein as "CWPDA's Water Rights".

7.1. The Bessemer Water Rights include the following: ^{/1}

^{/1} Although the Warrant, Barnes & Baxter water right, decreed on March 23, 1896, appropriation date April 30, 1861, irrigation uses, 2.0 c.f.s. is also diverted by the Bessemer Ditch, this water right is owned and/or used by a separate entity and is not included as part of CWPDA's Water Rights to be changed in this action. The diversions associated with this priority have been subtracted from the Bessemer Ditch headgate

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Water Right Name	Original Decree	Amount of water right owned by Bessemer (c.f.s.)	Decreed Use	Appropriation Date
Excelsior Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County ^{/2}	20.0	Irrigation	Dec. 31, 1861
Canon City & Oil Creek Ditch	Feb. 3, 1894 District Court, Fremont County	3.74	Irrigation and domestic	May 31, 1864
Rogers Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	3.0	Irrigation	June 30, 1866
Arkansas Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	2.5	Irrigation and domestic	Jan. 8, 1867
Canon City & Oil Creek Ditch	Feb. 3, 1894 District Court, Fremont County	5.13	Irrigation and domestic	May 31, 1867
Hamp-Bell Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	1.47	Irrigation	Nov. 30, 1870

diversions to determine CWPDA's share of the Bessemer water rights. Further, Applicant makes no claim of entitlement to the remaining priorities of the Excelsior Ditch, specifically the 20 c.f.s. of the 5/1/1887 priority and the 40 c.f.s. of the 1/6/1890 priority that are subject to the decree in Case No. 04CW62, Water Division No. 2.

^{/2} The decree dated March 23, 1896 modified and confirmed an earlier decree in a general adjudication dated May 9, 1892.

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Barnum Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	3.4	Irrigation	Dec. 31, 1870
Cape Horn Ranch Ditch	March 23, 1896 Case No. 2535 District Court, Pueblo County	2.0	Irrigation	Sept. 18, 1873
Cape Horn Ranch Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	2.5	Irrigation	Dec. 31, 1876
Cape Horn Ranch Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	0.5	Irrigation and domestic	Dec. 31, 1876
Hamp-Bell Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	0.41	Irrigation	Dec. 31, 1878
Collier Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	14.0	Irrigation	May 4, 1881
I.N. Slater Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	2.0	Irrigation	June 20, 1881
Collier Ditch	March 23, 1896 Case No. 2535, District Court, Pueblo County	8.0	Irrigation	March 31, 1882
Bessemer flood right	March 23, 1896 Case No. 2535, District Court, Pueblo County	322.0	Irrigation	May 1, 1887
Reservoir No. 9	March 23, 1896	883.8384 acre		Feb. 7, 1891

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	Case No. 2535, District Court, Pueblo County	feet		
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7.2. CWPDA's pro-rata share, or 0.443% of the Bessemer Water Rights expressed as a rate of flow assuming the entire flow of each water right is described in Table 1 below:

TABLE 1:

WATER RIGHT	APPROPRIATION DATE	AMOUNT (c.f.s.)	CUMULATIVE AMOUNT (c.f.s.)	CWPDA PRO-RATA OWNERSHIP (c.f.s.)	CWPDA'S CUMULATIVE AMOUNT (c.f.s.)
Excelsior	12/31/1861	20	22	0.09	0.09
Canon City & Oil Creek	5/31/1864	3.74	25.74	0.02	0.11
Rogers	6/30/1866	3	28.74	0.01	0.12
Arkansas Ditch	1/8/1867	2.5	31.24	0.01	0.13
Canon City & Oil Creek	5/31/1867	5.13	36.37	0.02	0.15
Hamp-Bell	11/30/1870	1.47	37.84	0.01	0.16
Barnum	12/31/1870	3.4	41.24	0.02	0.17
Cape Horn Ranch	9/18/1873	2	43.24	0.01	0.18
Cape Horn Ranch	12/31/1876	2.5	45.74	0.01	0.19
Cape Horn Ranch	12/31/1876	0.5	46.24	0.00	0.20

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Hamp-Bell	12/31/1878	0.41	46.65	0.00	0.20
Collier	5/4/1881	14	60.65	0.06	0.26
I.N. Slater	6/20/1881	2	62.65	0.01	0.27
Collier	3/31/1882	8	70.65	0.04	0.30
Bessemer Flood Right	5/1/1887	322	392.65	1.43	1.73
Reservoir No. 9	2/7/1891	883.8 a.f.			

7.3. Bessemer participates in the Winter Water Storage Program ("WWSP"), storing a portion of its water rights during the winter months in Pueblo Reservoir pursuant to a decree dated November 10, 1990 in Case No. 84CW179 ("Winter Water"). Bessemer's water rights were changed by operation of that decree. Water is stored pursuant to the WWSP during the period of November 15 through March 15 and is delivered to the headgate of the ditch. CWPDA's Water Rights include Applicant's pro-rata share of WWSP deliveries.

8. Historical use: CWPDA's Water Rights were historically used to irrigate up to 85 acres with an average of approximately 83.9 acres of alfalfa, feed corn, and a variety of crops in the NE¼ of Sec. 20, T.21S., R.62W., 6th P.M. shown on the map attached hereto as Exhibit 1 ("Historically Irrigated Land"). CWPDA's Water Rights have not been used to irrigate this property since 2001. Since 2002, CWPDA's Water Rights have been used in Applicant's administratively approved replacement plans and substitute water supply plans.

8.1. Historical Diversions: Applicant conducted an analysis of the historical diversions of CWPDA's Water Rights using a 1911-2000 study period. Applicant determined the amount of Bessemer Water Rights diversions attributable to its 87.354 shares by pro-rating the total ditch diversions of Bessemer's Water Rights. Applicant estimated that diversions of CWPDA's Water Rights at the Bessemer Ditch river headgate averaged 256.3 acre-feet per year or 2.93 acre-feet per year per share. For purposes of determining terms and conditions applicable to the change of water rights, Applicant estimated conveyance losses in the Bessemer Ditch as 14.1 percent of diversions and lateral losses as 3.5 percent of diversions. After reducing total river headgate diversions by these

losses, Applicant estimated average deliveries of CWPDA's Water Rights at the farm headgate that served the Historically Irrigated Land were 211.2 acre-feet per year or 2.42 acre-feet per share.

8.2. Historical Consumptive Use: Applicant conducted an investigation of the historical use of CWPDA's Water Rights on the Historically Irrigated Land and documented its findings in reports provided to opposers in this case. Irrigation of the historically irrigated lands resulted in surface and subsurface return flows to the Arkansas River. Applicant estimated that 9.65% of farm headgate deliveries of CWPDA's Water Rights returned to the Arkansas River as surface return flows in the same month in which it was applied to irrigation. Applicant estimated that 27.34% of farm headgate deliveries of CWPDA's Water Rights returned to the Arkansas River as subsurface return flows. Applicant estimated that return flows returned to the Arkansas River just below the USGS gage known as 0710500 Arkansas River Near Avondale, CO. Based on this analysis and negotiations and for purposes of determining terms and conditions applicable to this change of water rights, Applicant and the opposers have agreed to an estimated average annual historical consumptive use of CWPDA's Water Rights of 133.4 acre-feet and estimated average annual historical return flows of 122.9 acre-feet prior to any discounts for the effects of subirrigation.

9. Change of Use: CWPDA's Water Rights are hereby changed for use to replace and augment out-of-priority depletions from all beneficial uses of water made by structures owned or operated by Applicant's members' throughout the Fountain Creek and Arkansas River basins, pursuant to separately decreed or approved augmentation, replacement, or substitute water supply plans. Any person or entity other than Applicant applying for use of the consumptive use credits derived from CWPDA's Water Rights in a decreed plan for augmentation, replacement plan, or substitute water supply plan other than Applicant's shall ensure that service of such an application is made upon all opposers in this case. In the event of any use of the consumptive use credits derived from CWPDA's Water Rights in a decreed plan for augmentation, replacement plan, or substitute water supply plan other than Applicant's, Applicant shall remain responsible for meeting its historical return flow obligations decreed herein and for tracking, accounting for, and operating within all volumetric limits imposed by this decree. There will be no change in point of diversion for CWPDA's Water Rights and, therefore, CWPDA's Water Rights will continue to be diverted through the Bessemer Ditch point of diversion (reported in the records of the State Engineer to be in Sec. 36, T.20S., R.66W, 6th P.M.) or to

storage as part of the WWSP for subsequent delivery to the Bessemer Ditch. Pueblo Reservoir is located in all or portions of Sections 7, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of Township 20 South, Range 66 West, of the 6th P.M., and Sections 1, 2, 3, 4, 5, 9, 10 and 11 of Township 21 South, Range 66 West of the 6th P.M., and Sections 5, 8, 9, 13, 14, 15, 16, 22, 23, 24 and 25 of Township 20 South, Range 67 West, of the 6th P.M., all in Pueblo County, Colorado. The Pueblo Reservoir Dam axis and the center line of the Arkansas River intersect at a point in Section 36, Township 20 South, Range 66 West of the 6th P.M., from which the Northeast corner of said Section 36 bears North 61° 21' 20" East, a distance of 2,511.05', all more particularly described in the decree in Case No. B-42135, District Court, Pueblo County, Colorado, as corrected in Case No. 02CW37.

10. Revegetation: The lateral that served the Historically Irrigated land has been removed and the Historically Irrigated Land has been removed from irrigation by CWPDA's Water Rights. Pueblo County has rezoned the Historically Irrigated Land as a Planned Unit Development. This zoning requires the individual lot owners to manage noxious weeds. Residential structures have been constructed on all lots and domestic water is being provided to the lots by the Avondale Water and Sanitation District. The revegetation and noxious weed management requirement of C.R.S. §37-92-305 (4.5) (a) has been met.

11. Dry Up: The Historically Irrigated Land is subject to a Covenant Not to Irrigate recorded in the Pueblo County real estate records at Reception Number 1361796.

12. Operation of Change: Exercise of CWPDA's Water Rights will be subject to the following terms and conditions:

12.1. CWPDA's Water Rights will be diverted only when in-priority and the Bessemer Ditch is diverting water pursuant to its decrees. The rate of diversion for CWPDA's Water Rights, including diversions for return flow replacement purposes shall not exceed its pro-rata entitlement of CWPDA's Water Rights to the Bessemer's in-priority diversions of the Bessemer Water Rights.

12.2. CWPDA's Water Rights must be diverted at the Bessemer Ditch headgate; and unless approved as a change to this decree pursuant to a new court application and unless Bessemer agrees otherwise at Bessemer's sole discretion, CWPDA's Water Rights must be delivered to and diverted at the Avondale Augmentation Station located on the Bessemer Ditch at Six Mile Creek

("Avondale Augmentation Station").

12.3. The quantity and timing of deliveries of CWPDA's Water Rights, including deliveries at the Avondale Augmentation Station shall be as determined by Bessemer in its sole discretion pursuant to any current or future methods Bessemer may develop in determining Applicant's pro-rata entitlement after ditch losses. The amount of water available to Applicant at the Avondale Augmentation Station shall be limited to the actual amount of CWPDA's Water Rights delivered by Bessemer.

12.4. Ditch and lateral losses on deliveries of CWPDA's Water Rights will be determined by Bessemer and will be left in the Bessemer Ditch.

12.5. On a daily basis from March 15th through November 14th ("Irrigation Season"), Applicant will calculate and record the consumptive use credits and return flow obligations attributable to CWPDA's Water Rights delivered at the Avondale Augmentation as follows:

12.5.1. Applicant shall calculate its daily return flow obligation during the Irrigation Season as follows:

$$RF = SRF + \text{Lagged DP}.$$

Where:

RF = Daily Return Flow Obligation;

SRF = Surface Runoff component of the return flow obligation
= FHGD x 9.65%;

FHGD = Daily amount of CWPDA's Water Rights delivered at the Avondale Augmentation Station after conveyance losses have been assessed by Bessemer;

Lagged DP = Lagged deep percolation component of the return flow obligation at the Arkansas River;

= Unlagged DP input into the Alluvial Water Accounting

System (AWAS) computer model, with unit response functions (URF's) as defined in the Exhibit 2 attached hereto;

For its daily lagging analysis Applicant shall input: 1) estimated daily deliveries of CWPDA's Water Rights calculated as ditch headgate diversions less 17.6 percent to account for ditch loss (14.1 percent) and off-farm lateral losses (3.5 percent) from March 15, 1976 through November 14, 2002; 2) actual daily deliveries of CWPDA's Water Rights at the Avondale Augmentation Station since March 15, 2003;

Unlagged DP = Unlagged Deep Percolation component of the return flow obligation;

= (FHGD x Deep Percolation Monthly RF%);

Deep Percolation Monthly RF% =

TABLE 2 Deep Percolation Monthly RF%

Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
37.97%	39.45%	32.69%	30.81%	30.55%	30.55%	30.55%	32.56%	37.68%

Note: Derivation of these factors is provided in Exhibits 6.A and 6.B.

12.5.2. Applicant shall calculate the daily consumptive use credit attributable to CWPDA's Water Rights as follows:

CU = FHGD – RF.

Where:

CU = Daily Consumptive Use Credit attributable to CWPDA's Water Rights;

FHGD = Daily amount of CWPDA's Water Rights delivered at the Avondale Augmentation Station after conveyance losses have been assessed by Bessemer;

RF = Daily Return Flow Obligation, as determined in section 12.5.1. above.

12.5.3. Should Applicant not have adequate FHGD to meet its return flow obligations for a period of 10 consecutive days, Applicant shall provide for a release of fully consumable water from Pueblo Reservoir to make up the deficit. Applicant shall apply any Consumptive Use Credits towards its return flow obligations for the current day and any prior days before using the Consumptive Use Credits for changed uses.

12.6. The Consumptive Use Credits derived from CWPDA's Water Rights will be delivered to the Avondale Augmentation Station to Six Mile Creek and conveyed to the Arkansas River for immediate use by Applicant or for exchange to storage pursuant to separately decreed exchanges or administrative exchanges for later release and use by Applicant, subject to reasonable conveyance losses suffered on Six Mile Creek that may be assessed by the Division Engineer and any additional conveyance loss determined by the Applicant using the process below:

12.6.1. Subject to Applicant's ability to obtain access to the stream, Applicant shall perform a gain/loss assessment for a reach of Six Mile Creek extending approximately 0.6 miles below the Avondale Augmentation Station;

12.6.2. On one day per month for five months beginning on or near April 1, 2016, Applicant shall take measurements of Six Mile Creek at the outfall of the augmentation station and of the stream at a point on Six Mile Creek that is approximately 0.6 miles below the Avondale Augmentation Station;

12.6.3. Assuming these measurements reflect that losses occur in this reach of Six Mile Creek, Applicant shall average the five monthly measurements and shall apply that average as an additional transit loss over that reach; and

12.6.4. Applicant shall report the results of this gain/loss study in its next regular accounting report.

12.7. During the Irrigation Season, the Return Flow Obligations will be delivered from the Avondale Augmentation Station to Six Mile Creek and conveyed to the Arkansas River to replicate historical irrigation season return flows. This delivery

shall occur on a daily basis during all days when Bessemer is delivering water to CWPDA's Bessemer shares.

12.8. Diversions of CWPDA's Water Rights to the Avondale Augmentation Station will be limited to the monthly and yearly rolling average and maximum delivery limits described in Table 3:

TABLE 3

Time Period	Monthly Maximum Delivery Limits	30-year rolling average of monthly delivery limits
March 15-31	14.7 a.f.	9.0 a.f.
April	32.5 a.f.	17.2 a.f.
May	46.5 a.f.	26.8 a.f.
June	56.6 a.f.	42.0 a.f.
July	64.3 a.f.	34.2 a.f.
August	52.4 a.f.	25.9 a.f.
September	29.2 a.f.	17.0 a.f.
October	23.5 a.f.	14.7 a.f.
November 1-14	15.3 a.f.	6.4 a.f.
Total yearly delivery limits	281.5 a.f.	193.3 a.f.

12.9. When any of the volumetric delivery limits described in Table 3 are reached, or if CWPDA's Water Rights are not being used for changed purposes decreed herein, Applicant will continue to take delivery of CWPDA's Water Rights at the Avondale Augmentation Station and return the water to Six Mile Creek and the Arkansas River.

12.10. From November 15th through March 14th ("Non-irrigation Season") Applicant will calculate and record the return flow obligations for CWPDA's Water Rights based upon the output of AWAS lagging model for the lagging procedure set out in section 12.5.

12.11. Each year, to meet its Non-irrigation Season return flow obligation, for the period of November 15th through March 14th, Applicant will secure and account for and provide for releases of fully consumable water from Pueblo Reservoir in an amount calculated pursuant to section 12.10. Such water will be booked over to the WWSP account in Pueblo Reservoir or released to the Arkansas River to replace historical return flows depending on the location of the calling water right

as determined by the Division Engineer. To the extent that replacement of return flows is required downstream of Pueblo Reservoir, as determined by the Division Engineer, Applicant shall make up any transit loss on releases for water from Pueblo Reservoir for replacement of historical Non-irrigation Season return flow obligations for the stretch from Pueblo Reservoir to the USGS Arkansas River at Avondale gage (the approximate location where historical return flows accrued to the river) with additional releases of such fully consumable water from Pueblo Reservoir in the amount of the transit loss determined by the Division Engineer.

12.12. Applicant may use any of the following sources of fully consumable water to replace Non-irrigation Season return flows:

- a. Consumptive use credits from CWPDA's Water Rights stored in Applicant's account in Pueblo Reservoir;
- b. Fully consumable water that lawfully may be used for return flow maintenance and is acceptable to the Division Engineer and available to Applicant and stored in Applicant's account(s) in Pueblo Reservoir; or
- c. Fully consumable water that lawfully may be used for return flow maintenance and is acceptable to the Division Engineer and available to Applicant above any calling water right on the Arkansas River downstream of the Bessemer Ditch point of diversion.

12.13. Return flows from Fryingpan-Arkansas Project Water ("Project Return Flows") shall not be used for maintenance of return flows from irrigation use of any changed water rights unless such use of Project Return Flows is approved by the Board of Directors of the Southeastern Colorado Water Conservancy District ("Southeastern").

12.14. Purchase and use of Project Return Flows will be made consistent with: (1) Federal Reclamation law; (2) Water Court decrees; (3) Southeastern's Allocation Principles (as they may from time to time be amended); and (4) such policies, procedures, contracts, charges, and terms as lawfully may be determined from time to time by Southeastern in its discretion. The decree in this case does not give Applicant any rights of ownership or rights to purchase or receive allocation of Project Return Flows; but it does not alter any existing right

the Applicant may otherwise have.

12.15. Should Applicant's agreements for storage in Pueblo Reservoir not be renewed for any given year, or Applicant anticipates that such will not be renewed, Applicant shall promptly notify the Division Engineer and opposers and shall identify and secure alternatives for replacing Non-irrigation return flows in a manner acceptable to the Division Engineer and that prevents injury to other water rights in accordance with the terms and conditions of this decree. In the absence of such renewed agreements for sufficient storage or an approved alternate means for replacing all Non-irrigation Season return flows, Applicant will forego taking consumptive use credits derived from CWPDA's Water Rights at the Avondale Augmentation Station and return all deliveries of CWPDA's Water Rights as return flows at this location until such time as Applicant's Non-irrigation Season return flow obligation is met. For purposes of implementing this requirement, the annual diversion limit for the CWPDA Water Rights each year shall be the lesser of the annual amounts in section 12.8 or the value determined by the following equation: $\text{limit} = (\text{water secured, documented, and committed by Applicant as of March 1}^{\text{st}} \text{ for Non-irrigation Season return flow replacement water, minus reasonably projected losses}) \div 5.9\%$. Applicant may increase its annual diversion limit up to the annual amounts in section 12.8 after March 1st with the prior approval of the Division Engineer, based on the securing, documentation, and commitment of additional sources of replacement supply for its Non-irrigation Season return flow obligation and re-calculation of the equation described in the preceding sentence. On a yearly basis and prior to February 28th each year Applicant shall report to the Division Engineer and the opposers the source of and amount of fully consumable water available to Applicant to meet its Non-irrigation Season return flow obligation for the upcoming year by filing a notice that includes such information with the Court under the above-captioned case number and shall serve such notice on counsel for all opposers in this case. At a minimum, as of February 28th of each year Applicant shall have available to it sufficient fully consumable water that meets the requirements of this decree to replace the average Non-irrigation Season return flow obligations including sufficient water to cover any evaporative losses on such water and any transit losses on such water. To the extent Applicant is unable to demonstrate that it has sufficient water that meets the requirements of this decree available to meet its Non-irrigation Season return flow obligation for the coming year as of March 1st of a specific year, Applicant will forego taking consumptive use credits derived from CWPDA's Water Rights at the Avondale Augmentation Station. The

retained jurisdiction provision below also is applicable to claims of injury due to use of alternate means for replacing Non-irrigation Season return flows described in this decree.

12.16. CWPDA's Water Rights shall not be used to irrigate any of the Historically Irrigated Lands.

12.17. To verify no expansion of use associated with CWPDA's Water Rights and for purposes of compliance with the "Administration of Parcels Claimed for Augmentation Agreement" described below for its substitute water supply plans, in 2014 and 2015 Applicant conducted dry-up investigations and depth to ground water monitoring on the Historically Irrigated Land to identify potential sub-irrigation that would affect the amount of consumptive use it may claim from CWPDA's Water Rights. Applicant's investigation to date has identified the potential for sub-irrigation contribution to consumptive use on 2 of 6 parcels of the Historically Irrigated Land as shown on Exhibit 3. Applicant's measurements of the depth to ground water level through November of 2015 are summarized in Exhibit 4, Table 5. Using the process described below, Applicant has calculated that 92% of full dry-up of the Historically Irrigated Land has been accomplished. Applicant, shall, therefore, reduce its daily consumptive use credits from CWPDA's Water Rights calculated at the Augmentation Station by 8%. This reduction percentage, as it may be updated as described below shall be referred to herein as the Consumptive Use Discount. Applicant shall reduce its daily consumptive use credits calculated at the Augmentation Station by the Consumptive Use Discount and shall on a daily basis return the amount of calculated consumptive use credits equal to the Consumptive Use Discount to the stream at the Avondale Augmentation Station as return flows. Applicant shall continue its monitoring and investigations through November of 2019 and shall update its Consumptive Use Discount on a yearly basis by February 1st as part of its annual accounting, using the process described below. On or before February 1st after the end of the monitoring period, Applicant shall calculate and report an average Consumptive Use Discount and that average Consumptive Use Discount shall be used for all subsequent years. Applicant shall not be required to continue its monitoring program and updating of its Consumptive Use Discount after November of 2019, except that Applicant may extend its monitoring period and postpone the final calculation of the average Consumptive Use Discount for an additional five-year period if the annual direct flow diversions and Winter Water diversions of the Bessemer Water Rights exceeds 71,095

acre-feet in three of five years of the current monitoring period and prevents an accurate calculation of the five year average. Applicant shall use the process described below to calculate and update its overall average Consumptive Use Discount:

12.17.1. On a monthly basis from March through November Applicant shall measure the average water level for each of the parcels identified on Exhibit 3 using an arrangement of monitoring wells similar to that described on Exhibit 3; and

12.17.2. On a yearly basis, on or before February 1st, Applicant shall calculate Consumptive Use Discount to be used by Applicant until the next annual update using Tables 1 through 5 on Exhibit 4 attached hereto.

12.18. Dry-up requirements: To the extent required by law, dry up of the Historically Irrigated Land shall be administered in accordance with the "Administration of Parcels Claimed for Augmentation Agreement" signed by the Colorado State Engineer and the Kansas State Engineer in September 2005.

12.19. Measurement and accounting: Applicant shall install and maintain such measuring devices and recording devices as are reasonably required by the Division Engineer for the proper administration and operation of CWPDA'S Water Rights. Applicant shall provide to the Division Engineer on a monthly basis the measurements and accounting reasonably required by the Division Engineer. Applicant's accounting forms attached hereto as Exhibit 5 are not decreed herein and may be changed from time to time provided that the forms contain at least the following information, otherwise comply with the terms and conditions of this decree, and are acceptable to the Division Engineer:

- a. Calculated daily diversions of CWPDA's Water Rights at the Bessemer ditch headgate;
- b. Measured daily total deliveries attributable to CWPDA's Water Rights at the Avondale Augmentation Station and the calculation of ditch loss assessed on such deliveries by the Bessemer prior to delivery to the Avondale Augmentation Station;
- c. calculated daily consumptive use credits delivered to the Avondale Augmentation Station, delivered to Six Mile Creek at the Avondale Augmentation Station, and delivered to the Arkansas River and available

for the changed uses after reductions for transit losses as provided by this decree;

- d. Accumulated deliveries and accumulated consumptive use credits compared to monthly and annual volumetric diversion limits;
- e. Return flow replacement water delivered to Six Mile Creek at the Avondale Augmentation Station and delivered to the Arkansas;
- f. Any unmet return flow obligation
- g. Calculated Non-irrigation Season return flow obligations; and
- h. Amounts and sources of water secured, documented, and committed to satisfy Applicant's Non-irrigation Season return flow obligations.

12.20. Transit losses: When water available under CWPDA's Water Rights or Applicant's return flow replacement sources are transported in the Arkansas River or its tributaries to the point of required location of replacement of return flows or stream depletions, such water shall be subject to transit losses reasonably assessed by the Division Engineer from the point of introduction to the stream to the point of replacement of return flows or stream depletions in the same manner as for other water users using the stream for carriage. Such transit losses also shall be assessed when water available under CWPDA's Water Rights is transported for use by others in decreed augmentation plans, replacement plans, or substitute water supply plans other than Applicant's.

12.21. To the extent return flows historically accrued above downstream calling water rights, they will be delivered to the river at or above the point of diversion of any such calling downstream water right. Applicant shall satisfy the return flow obligations for CWPDA's Water Rights at all times as required by this decree.

13. Winter Water Storage Program:

13.1. Applicant acknowledges that water delivered pursuant to the WWSP is not fully consumptive.

13.2. The portion of CWPDA's Water Rights converted to the changed uses that is derived from Winter Water shall be stored in an excess capacity storage account in Pueblo Reservoir. Applicant shall obtain space in an excess capacity storage account to allow storage of Applicant's Winter Water, and such water shall be available to Applicant for changed uses or for the replacement of return flows. If no excess capacity account is available in a given year, Applicant will

not take delivery of Applicant's Winter Water associated with its changed uses during that year. All of Applicant's Winter Water shall be delivered through the Bessemer Ditch during the period of March 16 through November 14 at the same time as deliveries of Winter Water are made to other Bessemer shareholders. If the WWSP terminates, Applicant's return flow obligations owed shall continue to be calculated as set forth in this decree.

13.3. Applicant's ownership of shares in Bessemer entitle it to a pro rata share of the Winter Water made available to the Bessemer Ditch that shall be accounted for as released to Applicant's excess capacity account in Pueblo Reservoir. This Winter Water will be available for release at any time during the year subject to the operating rules of the WWSP and may be carried over until May 1st of the water year (November 1 through October 31) following the water year in which the Winter Water is stored. Any Winter Water unused by that date will be released from Pueblo Reservoir to the system as decreed in Case No. 84CW179. Delivery of Winter Water is also subject to the rules and regulations of Bessemer regarding orders and assessments for such deliveries.

13.4. To the extent Applicant stores non-Project Water in an excess capacity account in Pueblo Reservoir, such water may be booked over to replace winter return flow on a monthly or weekly basis or as otherwise required by the Division Engineer, to participants in the WWSP as necessary to prevent injury to the water rights included in the WWSP.

14. Pueblo Reservoir:

14.1. Applicant shall store CWPDA's Water Rights in Pueblo Reservoir only so long as it has a contract with the owners of that structure, and such storage and use is within the effective time period of such contract. Applicant recognizes Pueblo Reservoir is owned by the U. S. Department of Interior Bureau of Reclamation, in whole or in part, and operated as part of the Fryingpan-Arkansas Project. Any use of the Fryingpan-Arkansas Project Facilities by Applicant, for storage, exchange, or otherwise, will occur only with the written permission of the owner of said reservoir, and will be made consistent with such policies, procedures, contracts, charges and terms as may be lawfully determined by the U. S. Bureau of Reclamation and, where applicable, Southeastern, or their successors in interest, in their good faith discretion. This decree does not give Applicant any rights to ownership or use of any Fryingpan-Arkansas Project

structure, or any rights of ownership or rights to purchase or receive allocation of Project Water or Project Return Flows, and does not alter any existing rights (including any right to renew existing contracts) Applicant may otherwise have, and does not alter the respective rights or authority of Reclamation or Southeastern. Moreover, Applicant shall not operate the rights decreed herein in a manner that would interfere with the lawful operation of the Fryingpan-Arkansas Project.

14.2. Unless approved in writing by the U. S. Bureau of Reclamation and Southeastern, any water stored by Applicant in Pueblo Reservoir must be used within Southeastern's District boundaries.

14.3. This decree shall not be interpreted to give Applicant any rights to use Fryingpan-Arkansas Project structures nor any water from the Fryingpan-Arkansas Project, nor shall anything in this decree (or omissions from this decree) limit or diminish any absolute or conditional water rights of Southeastern.

14.4. Storage of any of CWPDA's Water Rights in the presently existing capacity of Pueblo Reservoir is subject to evacuation in accordance with applicable contracts governing the evacuation of water stored in the presently existing capacity of Pueblo Reservoir.

14.5. The description of, reference to, or omission of description of or reference to Fryingpan-Arkansas Project structures and the decrees of Southeastern for the Fryingpan-Arkansas Project in the decree in this case does not, in any way, amend, limit or act to the detriment of those decrees.

14.6. Applicant acknowledges that entry of a decree in this matter in and of itself does not create any right, title, or interest in the use of Pueblo Reservoir. Any use of Fryingpan-Arkansas Project Facilities must be pursuant to contract with the United States Department of the Interior, Bureau of Reclamation, and Applicant. Applicant further acknowledges that it has no right to the use of Pueblo Reservoir beyond that granted by any such contract.

15. Applicant intends to and has the right to use and dispose of any historical consumptive use credits for replacement and augmentation purposes in separately decreed or approved augmentation, replacement, and substitute supply plans. Because such use is typically 100% consumptive, there is no reuse or successive use of such

water. If such use should not be 100% consumptive, Applicant has the right to reuse and successively use such water to the extent provided for by law in separately decreed or approved augmentation, replacement, and substitute supply plans and for so long as it retains dominion and control over such water.

16. Applicant is not requesting any appropriative rights of exchange in this case and none are being adjudicated by this decree.

17. The rights of Applicant as a shareholder in the Bessemer in no way are changed by this change of water rights or this decree. Such rights are subject to the bylaws of the Bessemer, as the same may be amended from time to time.

CONCLUSIONS OF LAW, JUDGMENT AND DECREE

18. The foregoing Findings of Fact are incorporated herein by this reference.

19. Timely and adequate notice of the pendency of these proceedings was given in the manner required by law. This Court has jurisdiction over the subject matter of this proceeding and over all who have standing to appear as parties, whether they have appeared or not.

20. The land and water rights involved in this plan are not included within the boundaries of a designated ground water basin.

21. Applicant has furnished acceptable proof as to the claims made.

22. Subject to the terms and conditions of this decree, the change of water rights granted herein will not injuriously affect the owners of or persons entitled to use water under vested water rights or decreed conditional water rights.

23. The change of water rights granted herein is contemplated by law.

24. The change of water rights is granted as described herein, subject to the terms and conditions contained herein.

25. Subject to the terms and conditions of this decree, Applicant is entitled to claim credit for the historical consumptive use associated with CWPDA's Water Rights, and to use, reuse, and successively use and dispose of such credits in separately decreed or

approved augmentation, replacement, or substitute supply plans so long as it retains dominion and control over such water.

26. Pursuant to C.R.S. §37-92-304(6), the approval of this change of water rights shall be subject to reconsideration by the Water Judge on the question of injury to the vested rights of others for a period of ten years from the date of the decree as entered by the Water Judge and the Court shall retain jurisdiction for this purpose.

27. The change of water rights that is the subject of this decree is based on an analysis of the historical use of CWPDA's Water Rights, and is not based upon a ditch-wide analysis of historical consumptive use. Accordingly, this decree does not quantify the historical usage for the Bessemer Ditch system as a whole or the historical consumptive use credit per share for any other shares in the Bessemer. As such, this decree does not fall within the ambit of the holding in *Williams v. Midway Ranches Property Owners Assn.*, 938 P.2d 515, 526 (Colo. 1997) concerning the effect of change of water rights or augmentation plan decrees entered based upon a ditch-wide analysis of the historical use of water rights. Likewise, because this decree is not based on a ditch-wide analysis, it does not determine what study period or ditch loss is appropriate for purposes of determination of historical use of any other shares in the Bessemer Ditch, or what terms and conditions may be necessary to prevent injury from a change of any other shares in the Bessemer.

28. It is further ordered that copies of this decree shall be mailed as provided by statute.

29. There was no trial in this matter and no issues were litigated. The findings of fact, conclusions of law, and decree were completed as a result of substantial discussions, negotiations, and compromises by, between, and among Applicant and the opposers pertaining to all parts of the findings, conclusions, judgment, and decree. No findings of fact, conclusions of law, or decretal terms herein shall be applicable to or be deemed to be of precedential value in any other proceedings. It is specifically understood and agreed by the parties thereto, and found and concluded by the Court that the acquiescence by parties to stipulated terms for this decree under the factual and legal circumstances of this matter and upon the numerous and interrelated compromises reached by the parties shall never give rise to any argument, claim, defense, or theory of acquiescence, waiver, bar, merger, stare decisis, res judicata, estoppel, or laches, or to any administrative practice or precedent by or against any of the parties to this matter in any other matter, case, practice or dispute; and no testimony concerning such acquiescence of any party to a stipulated decree herein shall be allowed in any other

Findings of Fact, Conclusions of Law, Judgment and Decree

Case No. 07CW127

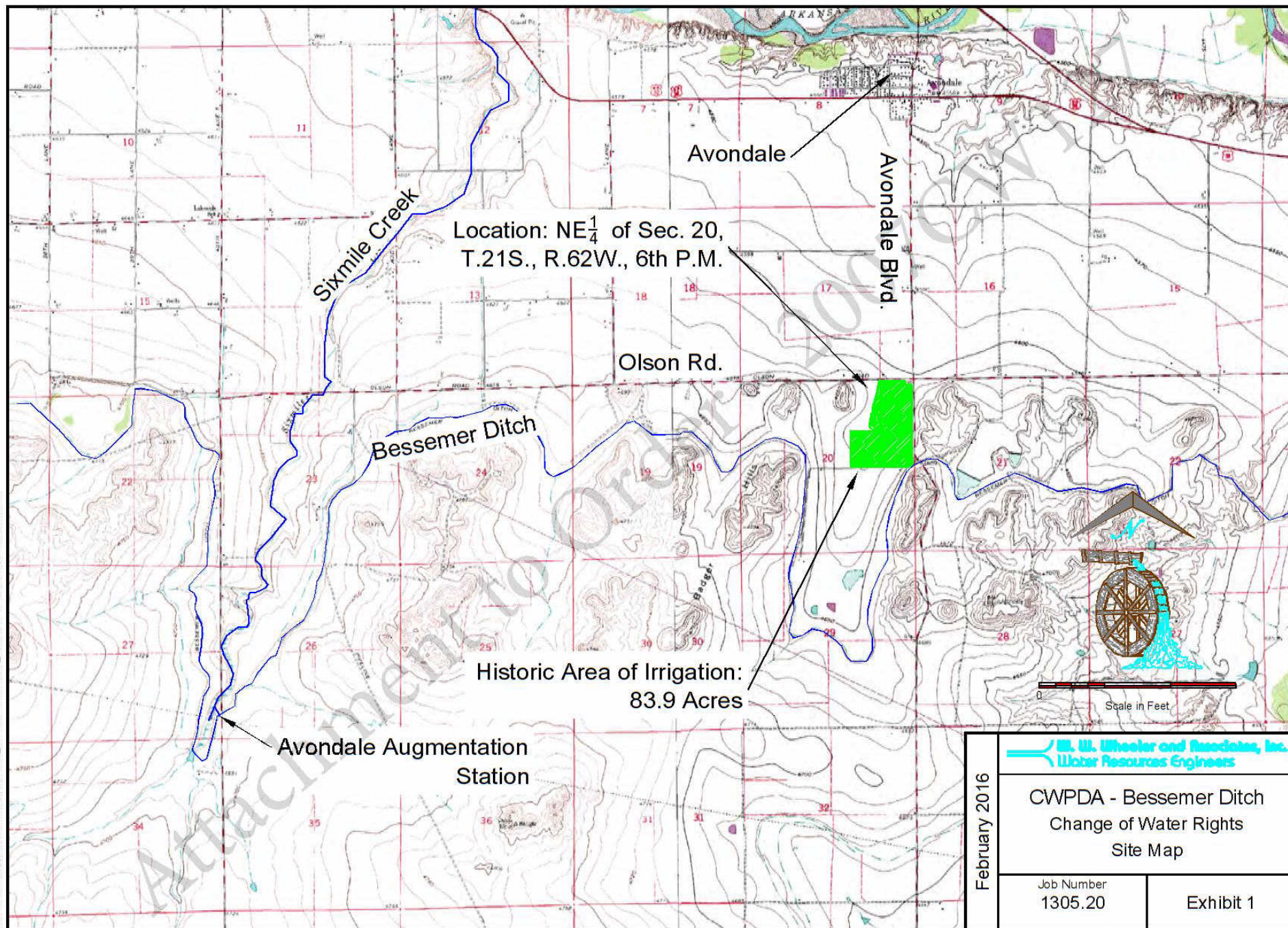
Page 22 of 22

matter, case, or dispute. Each and every stipulating party reserves the right to propose or to challenge any legal or factual position in any other matter filed in this or any other court, without limitation by these findings, conclusions, judgment, and decree.

Dated: May 26, 2016

BY THE COURT:


LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2




February 2016		
	CWPDA - Bessemer Ditch Change of Water Rights Site Map	
	Job Number 1305.20	Exhibit 1

Exhibit 2

Unit Response Functions Utilized to Determine the Return Flow Function Fased on the Specific
Location of the Historically Irrigated Area

Month	URF	Month	URF	Month	URF	Month	URF
1	0.0000	37	0.0138	73	0.0048	109	0.0017
2	0.0000	38	0.0121	74	0.0042	110	0.0015
3	0.0006	39	0.0130	75	0.0045	111	0.0016
4	0.0016	40	0.0122	76	0.0043		
5	0.0046	41	0.0123	77	0.0043		
6	0.0082	42	0.0115	78	0.0040		
7	0.0123	43	0.0116	79	0.0040		
8	0.0157	44	0.0112	80	0.0039		
9	0.0177	45	0.0106	81	0.0037		
10	0.0203	46	0.0106	82	0.0037		
11	0.0210	47	0.0100	83	0.0035		
12	0.0226	48	0.0100	84	0.0035		
13	0.0232	49	0.0097	85	0.0034		
14	0.0219	50	0.0085	86	0.0030		
15	0.0235	51	0.0092	87	0.0032		
16	0.0226	52	0.0086	88	0.0030		
17	0.0231	53	0.0086	89	0.0030		
18	0.0221	54	0.0081	90	0.0028		
19	0.0224	55	0.0082	91	0.0028		
20	0.0219	56	0.0079	92	0.0028		
21	0.0208	57	0.0074	93	0.0026		
22	0.0209	58	0.0075	94	0.0026		
23	0.0198	59	0.0070	95	0.0024		
24	0.0199	60	0.0070	96	0.0025		
25	0.0194	61	0.0068	97	0.0024		
26	0.0170	62	0.0062	98	0.0021		
27	0.0184	63	0.0065	99	0.0023		
28	0.0173	64	0.0061	100	0.0021		
29	0.0174	65	0.0061	101	0.0021		
30	0.0163	66	0.0057	102	0.0020		
31	0.0164	67	0.0057	103	0.0020		
32	0.0159	68	0.0056	104	0.0019		
33	0.0150	69	0.0052	105	0.0018		
34	0.0150	70	0.0053	106	0.0018		
35	0.0141	71	0.0049	107	0.0017		
36	0.0142	72	0.0050	108	0.0017		
Total	0.5831		0.3057		0.1064	0.0048	1.0000

Legend

MW#_: Monitoring Well ID Number

● : Monitoring Well

P#: Parcel ID Number

Avondale Blvd.

Olson Rd.

Area of Potential
Sub-Irrigation
Associated with
MW#6. 3.4 Acres.

P5:Area of No
Sub-Irrigation.
25.8 Acres.

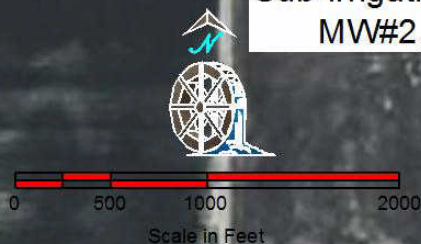
Area of Potential
Sub-Irrigation
Associated with
MW#5. 3.2 Acres.

P5:Area of No
Sub-Irrigation.
25.0 Acres.

P1:Area of Potential
Sub-Irrigation
Associated with
MW#1. 4.1 Acres.

P2: Area of Potential
Sub-Irrigation Associated with
MW#2,3,& 4. 22.4 Acres.

Bessemer Ditch



W. W. WHEELER
& ASSOCIATES, INC.
Water Resources Engineers

February 2016

CWPDA - Bessemer Ditch
Dry Up - 2011 Photo
Case No. 07CW127

Job Number
1305.02

Exhibit 3

Exhibit 4, Table 1
Summary of Ground Water Levels on Subject Parcel

Well ID	Depth to Ground Water										
	10/15/14	11/13/14	3/26/15	4/23/15	5/18/15	6/18/15	7/14/15	8/18/15	9/15/15	10/14/2015	11/15/2015
1	>8	>8	>8	>8	>8	>8	>8	>8	>8	>8	>8
2	>8	>8	>8	>8	3.4	5.1	6.6	>8	>8	>8	>8
3	>8	>8	>8	>8	6.1	7.0	>8	>8	7.3	6.7	>8
4	>8	>8	>8	7.20	4.3	5.1	1.8	7.0	6.2	7.3	>8
5	>8	>8	>8	>8	>8	>8	5.0	>8	7.1	7	>8
6	>8	>8	>8	>8	>8	>8	>8	>8	>8	>8	>8

Exhibit 4, Table 2
Sub-Irrigation Adjustment Table

Depth to Groundwater (feet)	Percent in Consumptive Use Credit
	Native Grass
1	85
2	50
3	30
4	20
5	15
6	10
7	5
8	0

Exhibit 4, Table 3
Crop Irrigation Requirement Weighting Factor¹

Item	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Total
Avg CIR for 1911 - 2000 Study Period (acre-feet)	0.0	9.7	20.6	40.4	45.2	30.9	22.2	4.3	0.1	173.4
Percent of Total Avg CIR for 1911 - 2000 Study Period	0.0%	5.6%	11.9%	23.3%	26.1%	17.8%	12.8%	2.5%	0.1%	100%

¹The Monthly values calculated as (Monthly CIR / Annual Total CIR) x 100. (E.E. for in Apr: (9.7 / 173.4) x 100 = 5.6%).

Exhibit 4, Table 4
Derivation of Weighted Percent of CIR Attributable to Sub-Irrigation

Parcel 2										
Item	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Weighted Percent of CIR Attributable to Sub-Irrigation ⁴
Monthly Percent of Crop Irrigation Requirement ¹	0.0%	5.6%	11.9%	23.3%	26.1%	17.8%	12.8%	2.5%	0.1%	
Average Water Level for Well ID's 2, 3, & 4 ²	8.0	7.7	4.6	5.7	5.5	7.7	7.2	7.66	8	
Consumptive Use Discount Factor ³	0.0%	5.0%	17.0%	11.3%	12.7%	5.0%	5.0%	0.0%	0.0%	9.8%
Parcel 3										
Monthly Percent of Crop Irrigation Requirement ¹	0.0%	5.6%	11.9%	23.3%	26.1%	17.8%	12.8%	2.5%	0.1%	
Average Water Level for Well ID 5 ²	8.0	8.0	8.0	8.0	5.0	8.0	7.1	8	8	
Consumptive Use Discount Factor ³	0.0%	0.0%	0.0%	0.0%	14.8%	0.0%	5.0%	0.0%	0.0%	4.5%

¹Derived in Table 3 - Crop Irrigation Requirement Weighting Factor

²Updated each year as part of the annual projection accounting submittal for CWPDA's augmentation plan under Case No. 07CW128 through the end of the monitoring period.

³Derived from measured water levels and linearly interpolated based on data in Table 5 of the 07CW127 decree.

⁴Weighted Percent of CIR Attributable to Sub-Irrigation derived as: ((Mar% of CIR/100%) x Mar CIR Discount Factor)+(Apr% of CIR/100%) x Apr CIR Discount Factor)+(May% of CIR/100%) x May CIR Discount Factor)+(Jun% of CIR/100%) x Jun CIR Discount Factor)+(Jul% of CIR/100%) x Jul CIR Discount Factor)+(Aug% of CIR/100%) x Aug CIR Discount Factor)+(Sep% of CIR/100%) x Sep CIR Discount Factor)+(Oct% of CIR/100%) x Oct CIR Discount Factor)+(Nov% of CIR/100%) x Nov CIR Discount Factor)

Exhibit 4, Table 5
Consumptive Use Discount

Parcel ID As Shown in Exhibit	Acres	Acres of Potential Subirrigation	Associated Monitoring Wells	Weighted Percent of CIR Attributable to Sub-Irrigation ²	Percent of CIR Attributable to Subject Bessmer Ditch Shares	Parcel as a Percent of Total Acreage	Consumptive Use Discount
Row 1	Row 2	Row 3	Row 4	Row 5	Row 6	Row 7	Row 8
					100% - Row 5	(Row 2 / 83.9 ac) x 100	Row 6 x Row 7
1 ¹	4.1	4.1	1	100%	0%	5%	0%
2	22.4	22.4	2, 3, 4	9.8%	90%	27%	24%
3	3.2	3.2	5	4.5%	95%	4%	4%
4	3.4	3.4	6	0%	100%	4%	4%
5	25.8	0	NA	0%	100%	31%	31%
6	25.0	0	NA	0%	100%	30%	30%
Total	83.9	33.1				100%	92%

¹Parcel 1 was disqualified as a dry-up area due to deep rooted vegetation that could not be removed. However, the exact amount of disqualified acres is still a subject being reviewed in settlement discussions.

²The values for Parcel ID's #2 and #3 are determined as shown in the last column of Exhibit 4, Table 3.

Exhibit 5
Month _____ & Year _____
Sample Accounting Form

Date	Delivery to Avondale Augmentation Station Attributable to CWPDA's 87.354 shares (cfs)	Surface Water Runoff Return Flow (cfs)	Unlagged Deep Percolation Return Flow (cfs)	Lagged Deep Percolation Return Flow (cfs)	Daily Return Flow Obligation (cfs)	Gross Consumptive Use Credit (cfs)	Net Consumptive Use Credit (cfs)
	Row 1	Row 2	Row 3	Row 4	Row 5	Row 6	Row 7
		Row 1 x 9.65%	Row 1 x 30.80%	From AWAS Model Based on Historic Input & Input from Row 3	Row 2 + Row 4	Row 1 - Row 5	
Last Day of Previous Month							1
1-Jun-15	1.04	0.10	0.32	0.6	0.70	0.34	0.34
2-Jun-15	1.17	0.11	0.36	0.6	0.71	0.46	0.46
3-Jun-15	1.15	0.11	0.35	0.6	0.71	0.44	0.44
4-Jun-15	1.12	0.11	0.35	0.6	0.71	0.41	0.41
5-Jun-15	1.12	0.11	0.35	0.6	0.71	0.41	0.41
6-Jun-15	1.09	0.11	0.34	0.6	0.71	0.38	0.38
7-Jun-15	1.09	0.11	0.34	0.6	0.71	0.38	0.38
8-Jun-15	1.09	0.11	0.34	0.6	0.71	0.38	0.38
9-Jun-15	1.12	0.11	0.35	0.6	0.71	0.41	0.41
10-Jun-15	1.23	0.12	0.38	0.6	0.72	0.51	0.51
11-Jun-15	1.2	0.12	0.37	0.6	0.72	0.48	0.48
12-Jun-15	1.2	0.12	0.37	0.6	0.72	0.48	0.48
13-Jun-15	1.17	0.11	0.36	0.6	0.71	0.46	0.46
14-Jun-15	1.23	0.12	0.38	0.6	0.72	0.51	0.51
15-Jun-15	1.17	0.11	0.36	0.6	0.71	0.46	0.46
16-Jun-15	1.12	0.11	0.35	0.6	0.71	0.41	0.41
17-Jun-15	1.15	0.11	0.35	0.6	0.71	0.44	0.44
18-Jun-15	1.28	0.12	0.39	0.6	0.72	0.56	0.56
19-Jun-15	1.25	0.12	0.39	0.6	0.72	0.53	0.53
20-Jun-15	1.34	0.13	0.41	0.6	0.73	0.61	0.61
21-Jun-15	1.36	0.13	0.42	0.6	0.73	0.63	0.63
22-Jun-15	1.36	0.13	0.42	0.6	0.73	0.63	0.63
23-Jun-15	1.42	0.14	0.44	0.6	0.74	0.68	0.68
24-Jun-15	1.59	0.15	0.49	0.6	0.75	0.84	0.84
25-Jun-15	1.56	0.15	0.48	0.6	0.75	0.81	0.81
26-Jun-15	1.53	0.15	0.47	0.6	0.75	0.78	0.78
27-Jun-15	1.51	0.15	0.47	0.6	0.75	0.76	0.76
28-Jun-15	1.45	0.14	0.45	0.6	0.74	0.71	0.71
29-Jun-15	1.45	0.14	0.45	0.6	0.74	0.71	0.71
30-Jun-15	1.45	0.14	0.45	0.6	0.74	0.71	0.71
Total - CFS	38.01	3.67	11.71	18.00	21.67	16.34	16.34
Total - Acre-Feet	75.39	7.28	23.23	35.70	42.98	32.41	32.41

SRO Factor 9.65%

Monthly Deep Percolation Return Flow Factors:

Item	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Row 1: Deep Percolation as a Percent of Historic FHGD Without the Influence of Groundwater	33.42%	35.02%	27.68%	25.63%	25.35%	25.35%	25.35%	27.53%	33.10%
Row 2: Surface Runoff as a Percent of Historic FHGD	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%
Row 3: Consumptive Use as a Percent of Historic FHGD (1 - Row 1 + Row 2)	56.93%	55.33%	62.67%	64.72%	65.00%	65.00%	65.00%	62.82%	57.25%
Row 4: Deep Percolation as a Percent of Historic FHGD With the Influence of Groundwater (Row 1 + (Row 3 x DP Adj Factor (8%)))	37.97%	39.45%	32.69%	30.81%	30.55%	30.55%	30.55%	32.56%	37.68%

Estimated Deep Percolation Adjustment Factor to Account for the Influence of Groundwater (1 - Consumptive Use Discount Factor)

8%

Exhibit 6.A - Derivation Deep Percolation Monthly Return Flow Factors:

Item	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Row 1: Deep Percolation as a Percent of Historic FHGD Without the Influence of Groundwater (See Exhibit 6.B for Method of Derivation)	33.42%	35.02%	27.68%	25.63%	25.35%	25.35%	25.35%	27.53%	33.10%
Row 2: Surface Runoff as a Percent of Historic FHGD	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%	9.65%
Row 3: Consumptive Use as a Percent of Historic FHGD (1 - (Row 1 + Row 2))	56.93%	55.33%	62.67%	64.72%	65.00%	65.00%	65.00%	62.82%	57.25%
Row 4: Deep Percolation as a Percent of Historic FHGD With the Influence of Groundwater (Row 1 + (Row 3 x DP Adj Factor (8%))	37.97%	39.45%	32.69%	30.81%	30.55%	30.55%	30.55%	32.56%	37.68%

DP Adj Factor: Estimated Deep Percolation Adjustment Factor to Account for the Influence of Groundwater (1 - Consumptive Use (CU) Discount Factor (92%)):

Note: The CU Discount Factor, 92%, is based on groundwater level measurements through November 15, 2015 and the assumption that Parcel 1 is disqualified from any claim of consumptive use credit because of on-going deep rooted vegetation on the parcel. The value is being used for example purposes only.

Exhibit 6.B - Derivation of Deep Percolation as a Percent of Historic FHGD Without the Influence of Groundwater

Item		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Row 1	TABLE 13 - October 2015 Engineering Report - 1976 - 2000 Average Unlagged Deep Percolation (ac-ft)	3.00	7.16	8.78	11.33	10.50	7.97	4.88	4.61	2.13
Row 2	TABLE 7 - October 2015 Engineering Report - 1976 - 2000 Average FHGD (ac-ft)	8.98	20.44	31.73	44.22	41.42	31.45	19.25	16.76	6.44
Row 1 / Row 2		33.42%	35.02%	27.68%	25.63%	25.35%	25.35%	25.35%	27.53%	33.10%

Colorado **W**ater **P**rotective and **D**evelopment **A**ssociation



205 South Main Street
Fowler, Colorado, 81039
Phone: 719-826-2597
www.cwpda.org

Exhibit D

Bessemer Ditch Shares - Opinion of Market Value



McCarty Land & Water Valuation, Inc.

P.O. Box 407, Berthoud, CO 80513 Phone: 970-635-0900

August 12, 2021

Kent Ricken
General Manager
Colorado Water Protective and Development Association
Arkansas Groundwater Users Association
205 S. Main Street
Fowler, CO 81039

RE: Market value of Bessemer Ditch water rights

Dear Mr. Ricken:

This letter and associated documentation are being provided in order to provide market data on CWPDA and AUGA's Bessemer Ditch shares which were changed to augmentation uses in Case 07CW127.

Due to time constraints, I will not be able to produce a full appraisal report, nor will I be able to certify a specific value for the subject water rights. However, I did produce a comprehensive report on Arkansas Basin water transactions in early 2020. I have also been able to track down a few relevant transactions that have occurred in the past year and a half. Those sales suggest the value of water rights in the Arkansas watershed have continued to appreciate, which would be true of the subject water rights.

Because of time constraints, I have been unable to do a comprehensive search for water rights transactions and given that additional market data may have not been considered, that is one of the primary reasons why I am unable to certify a specific value for the subject water rights. However, because I have been able to find and document some important comparable sales, I can provide a value range that can help to provide parameters to value.

I understand that the Division of Reclamation, Mining and Safety (DRMS) will be considering the subject water rights as collateral for the proposed project along the Arkansas River in Pueblo County. CWPDA/AGUA is considered the client and intended user for this consultation report. DRMS is also an intended user.

Subject Water Rights

A copy of 07CW127 is included along with this letter. That case changed the subject's 87.354 shares of Bessemer Ditch to *"replace and augment out-of-priority depletions from all beneficial uses of water made by structures owned or operated by Applicant's members' throughout the Fountain Creek and Arkansas River basins, pursuant to separately decreed or approved augmentation, replacement, or substitute water supply plans."*

The change case resulted in 133.4 consumptive acre feet of water being available for the aforementioned uses. The decree was issued prior to CWPDA's merger with AGUA, and CWPDA was the sole applicant for the change of use.

I am including a detailed description of the Bessemer Ditch that I prepared for a 2016 assignment. The Bessemer Ditch is highly thought of because of its senior decrees. Possibly the most valuable characteristic of the Bessemer Ditch is the fact its point of diversion is directly out of Pueblo Reservoir. As a result, unlike other water rights below Pueblo Reservoir, the water doesn't have to be exchanged or moved upstream to reach Pueblo Reservoir, an issue that other water rights below Pueblo Reservoir would encounter when being considered for a change of use.

Recent Transactions

Historically, there have been two regularly traded municipally influenced water rights in the Arkansas Watershed, one being Twin Lakes and the other being Fountain Mutual Irrigation Company. Twin Lakes is considered superior to the subject and I did not attempt to research any new Twin Lakes transactions. However, with municipal ownership of Twin Lakes now being in excess of 99%, there has only been a smattering of sales in recent years. At last check, Twin Lakes values had reached \$40,000 per share which puts per acre foot values in excess of \$42,000 per acre foot.

While the availability of Fountain Mutual Irrigation Company (FMIC) shares have been dwindling, transactions continue to occur on a fairly regular basis. In the past three years, Triview Metropolitan District has become the dominant buyer in the market. Triview indicates they recently paid \$17,000 per share for FMIC water. Due to a number of historic change cases it is assumed in the market that a share of FMIC will yield .70 consumptive acre feet. As a result, the \$17,000 per share price calculates to \$24,285 per acre foot.

Because the FMIC water is generally used for augmentation and is generally changed or easily changed water, it is a good comparable for the subject's changed Bessemer shares. It does have a little greater utility for some of the historic FMIC buyers, so some minus adjustment for location may be warranted.

Triview Metropolitan District has been involved in three other Arkansas watershed transactions over the course of the past year and half. Those transactions are summarized as follows:

Stonewall Springs Reservoir Company to Triview Metropolitan District: In May 2020, Triview closed on 2,000 acre feet of water storage along with 532 consumptive acre feet of water at a price of \$16,140,000. The water rights were changed Excelsior Ditch shares. Without the storage component, the Excelsior Ditch water would be considered significantly inferior to the Bessemer Ditch. Although, in this case, the associated storage helps to shore up the Excelsior's dry year shortcomings.

The difficulty with considering the Stonewall Springs sale is how much should be allocated to storage versus water rights. The buyer and seller have differing opinions, with the seller feeling that the water pushed towards \$20,000 per acre foot while the buyer feels that number is considerably lower. However, even a fairly high allocation of the water storage at \$5,000 per acre foot, still leaves \$11,500/consumptive acre foot +/- for the water. Picking a point in the mid-range between the buyer and seller's opinion at \$15,000 per acre foot seems to be a reasonable number. That would place the water storage near \$4,000 per acre foot, which is still at the high side of lined gravel pit sales, even for the South Platte.

The subject water rights are superior to the Excelsior Ditch water in the Stonewall Springs sale.

Chicago Springs Ranch (Quarter Circle 2 Ranches and Sailor Investments) to Triview Metropolitan District: On December 30, 2020, Triview acquired this 350 acre property near Buena Vista with water rights coming out of the main stem of the Arkansas River. The total purchase price was \$10,900,000 and it included an estimated 492 acre feet of water. The District manager indicates that the value per consumptive acre feet is at or slightly above \$8,000 per acre foot. This is an unchanged water right that would incur a significant amount of transit loss before reaching Pueblo Reservoir. The value of the subject water rights would be significantly higher than \$8,000 per acre foot based on this transaction.

Bale Ditch (Triview Metropolitan District) – Triview is in the process of finalizing the acquisition of the Bale Ditch water rights. This ditch diverts out of the South Fork of the Arkansas River at the south edge of Salida. Details are still limited on this pending transaction, but the District Manager has indicated that it too has a price on the order of \$8,000 per consumptive acre foot. Once again based on the subject's existing change case and the transit loss to get the Bale Ditch water into Pueblo Reservoir, a value significantly above \$8,000 per acre foot is indicated.

Pending Fountain Creek transaction – A client has provided me with a letter of intent from an El Paso County water provider (not Triview) for a Fountain Creek water right. The offered price is \$12,500 per consumptive acre foot. Based on the location and other factors, particularly the subject's change of use, this would suggest a value for the subject's water in excess of \$12,500 per acre foot.

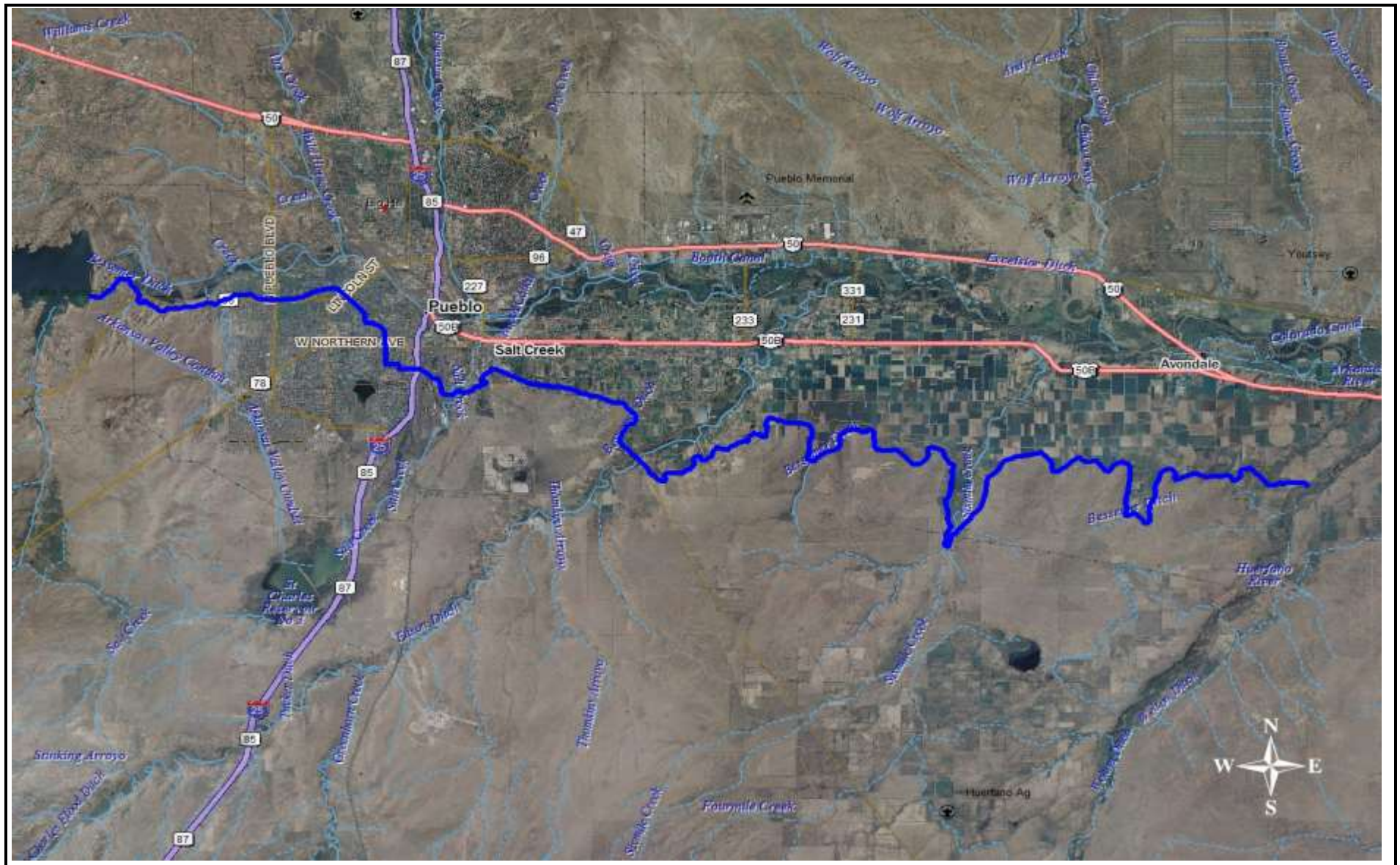
Conclusion - The market for water rights in the Arkansas watershed is strong, especially for water rights along Fountain Creek and water that can make its way into Pueblo Reservoir, which is the hub for water movement throughout Pueblo and El Paso County. The two new sales above Pueblo Reservoir suggest values substantially above \$8,000 per acre foot. The pending Fountain Creek transaction suggests a value above \$12,500 per acre foot. The Stonewall Springs sale is difficult to pin down, but generally suggests a value above \$15,000 per acre foot. The most recent FMIC sale is the highest indicator, but given the use and seniority of that water right can be considered a fairly good indicator of value, although it does tend to establish an upper limit to value.

Without further research to refine values, the available recent sales that have been analyzed suggest values in the \$15,000 to \$25,000 per acre foot range.

Sincerely,



Kevin McCarty
Colorado Certified General Appraiser, CG01319902



Description of the Bessemer Ditch

The Bessemer Ditch is released from Pueblo Reservoir to the south bank of the Arkansas River. The original headgate and first four miles of the ditch was inundated by the construction of Pueblo Reservoir. Water is diverted into the ditch from an outlet in the Pueblo Reservoir dam. The Bureau of Reclamation is responsible for maintaining the outlet. The Bessemer Ditch then extends for approximately 38 miles before terminating at the Huerfano River, southeast of Avondale.

The history of the Bessemer ditch is tied to the development of the steel mill and due to various events that took place, it has a large number of decrees that ended up making up the company's water rights. Many of these decrees are very senior and as a result, the Bessemer is considered a very reliable water supply. The Bessemer is also highly thought of due to water quality since water is released directly out of Pueblo Reservoir. The Bessemer water rights are summarized as follows:

Bessemer Water Rights

Identification of Water Right	Date Original Decree Entered	Amount owned by Bessemer (c.f.s.)	Decreed Use	Appropriation Date
Warrant, Barnes & Baxter*	March 23, 1896**	2.0	Irrigation	April 30, 1861
Excelsior	March 23, 1896**	20.0	Irrigation	Dec. 31, 1861
Canon City & Oil Creek	Feb. 3, 1894	3.74	Irrigation and Domestic	May 31, 1864
Rogers	May 21, 1898	3.0	Irrigation	June 30, 1866
Arkansas Ditch	March 23, 1896**	2.5	Irrigation and Domestic	Jan. 8, 1867
Canon City & Oil Creek	Feb. 3, 1894	5.13	Irrigation and Domestic	May 31, 1867
Hamp-Bell	March 23, 1896**	1.47	Irrigation	Nov. 30, 1870
Barnum	March 23, 1896**	3.4	Irrigation	Dec. 31, 1870
Cape Horn Ranch	Dec. 22, 1896	2.0	Irrigation	Sept. 18, 1873
Cape Horn Ranch	Dec. 22, 1896	2.5	Irrigation	Dec. 31, 1876
Cape Horn Ranch	Dec. 22, 1896	0.5	Irrigation and Domestic	Dec. 31, 1876
Hamp-Bell	March 23, 1896**	0.41	Irrigation	Dec. 31, 1878
Collier	March 23, 1896**	14.0	Irrigation	May 4, 1881
I.N. Sater	March 23, 1896**	2.0	Irrigation	June 20, 1881
Collier	March 23, 1896**	8.0	Irrigation	March 31, 1882
Bessemer Flood Right	March 23, 1896**	322.0	Irrigation	May 1, 1887
Total, excluding Warrant, Barnes & Baxter		390.65		

* This water right is independently owned by the City of Pueblo and is not included in the Bessemer Water Rights. The diversions associated with this priority have been subtracted from the Bessemer Ditch headgate diversions to determine the District's share of the Bessemer Water Rights.

** These water rights were originally decreed in a general adjudication for Water District 14 on May 9, 1892. The decree entered at that time was modified and confirmed by decree dated March 23, 1896.

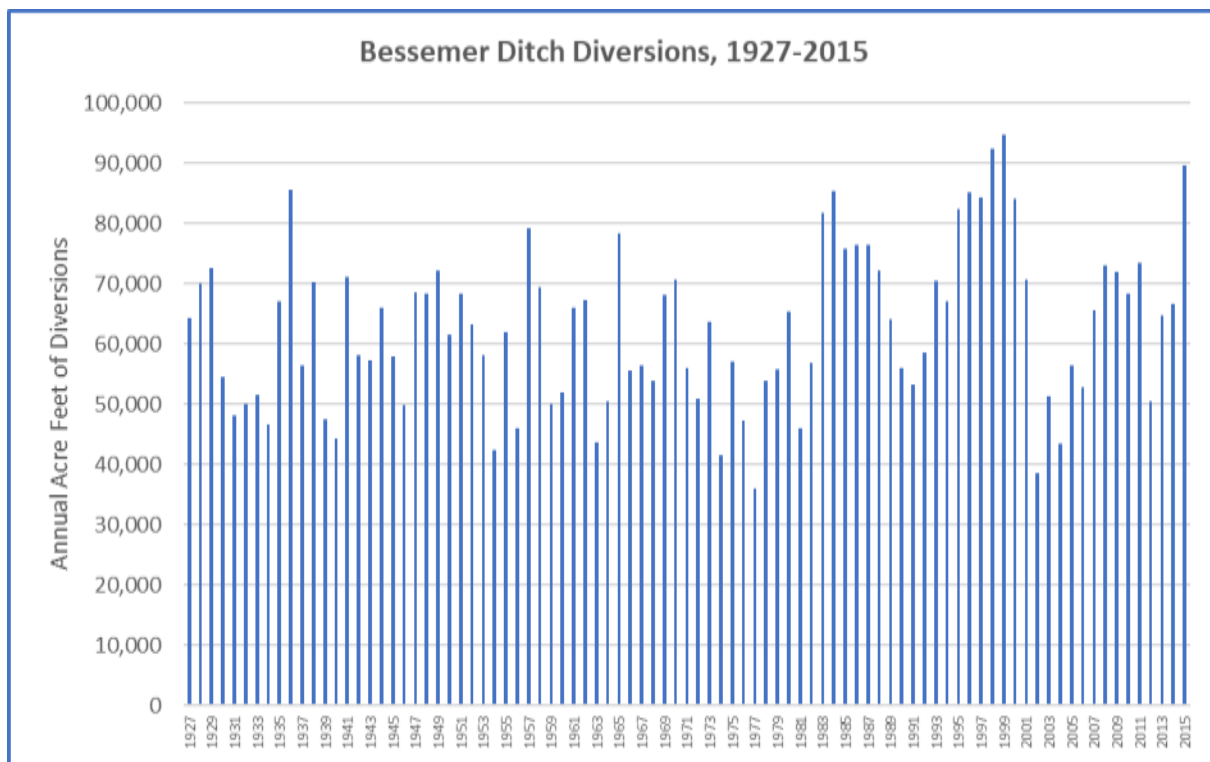
The Bessemer Ditch Company has a total of 19,738.593 shares. The Pueblo Board of Water Works owns 5,540.88 shares (28%) and the St. Charles Mesa Water District owns 2,218 shares (11%), leaving 61% of the shares in farmer's hands.

Bessemer Ditch Description - Continued

Assessments have historically been in the \$40 to \$50 per share range with the 2016 assessment being at \$50 per share. The company does not have indebtedness and it does have the significant advantage of no financial liability for its headgate since the Bureau of Reclamation maintains the outlet from the Pueblo Reservoir dam. The Suburban Lateral Company is the only incorporated lateral company associated with the Bessemer.

The Bessemer Ditch was originally based on one share per acre and that continues to be the basis for most of the farms, although a few farms may have more or less than that due to historic sales of shares. David Simpson of the St Charles Mesa Water District reports that historic water deliveries have been near 2.4 acre feet per acre of vegetables and 2.94 acre feet per acre of hay and conventional crops. The St Charles Mesa Water District change case 09CW91 produced a consumptive use determination of 1.28 acre feet per share. The prior case (04CW08) concluded a consumptive use of 1.47 acre feet per share and 1.44 acre feet per acre.

Colorado Division of Water Resource records date back to 1911 with continuous diversion records since 1927. Diversions have averaged 62,805 acre feet per year since 1927 or 3.18 acre feet per share. Farm deliveries would be slightly less after consideration for some transit loss. These numbers do appear to correspond with comments from the St Charles Mesa Water District and their change cases.



Bessemer Neighborhoods

The Bessemer Ditch is commonly considered as three distinct neighborhoods, being the Mesa, Vineland and Avondale. The southern boundary of the neighborhoods is the Bessemer Ditch, and the northern boundary is the Arkansas River. Highway 50 runs east/west through the northern portion of the neighborhoods and is the primary transportation route, although there is an extensive network of county roads throughout the Bessemer Ditch system.

Bessemer Ditch Description - Continued

The Mesa may be the most well-known of the neighborhoods since it supports numerous vegetable farms which have vegetable stands, retail outlets and restaurants on Highway 50.

The Mesa neighborhood starts just east of the steel mill and extends easterly to the St Charles River. The Mesa is best known for producing peppers, although a wide variety of vegetables are grown. Historically, onions were a major crop, although current market conditions have severely curtailed onion plantings. Some conventional crops, including alfalfa, corn, pinto beans and wheat are grown in the Mesa neighborhood. Nearly all of the irrigated land on the Mesa is level and very high quality ground. Parcels have been subdivided to a significant degree, although some scattered larger tracts do still exist. Rural residential development is widespread.

The Vineland neighborhood is located between the St Charles River and Six Mile Creek. Farms tend to be larger and there is somewhat less residential development, although rural residential development is common, particularly to the west. Some vegetable farming takes place, although conventional crops tend to dominate. Most of the land is high quality level ground, with only a few areas with some slope.

The Avondale neighborhood is less populated with some of the largest farms under the ditch. Most of the land is utilized for conventional cropping with only a small portion devoted to vegetables. Most of the land is level, although there are a few areas with sloping ground.

Southeast Water Conservancy District

In addition to the native water rights associated with the Bessemer Ditch, the company along with other agricultural and municipal users is entitled to share of "project water" coming from Pueblo Reservoir. A total of 80% of the water must be used within the year and 20% of the water can be carried over to the following year by agricultural users. The assessment is \$9 per acre foot and the quantity of water delivered to the ditch is near 0.1 acre foot per acre. Thus, this water adds slightly to the water supply and does have the advantage of being stored water.

Winter Water Program

A decree was finalized in 1990 that allowed the Southeast Colorado Water Conservancy District to administer what is known as the winter water program. Most ditches between Pueblo and John Martin Reservoirs participate in this program. Historically, some diversions had taken place on these ditches during the winter months. Participating ditches agreed to discontinue diversions during these months and store those foregone diversions in Pueblo Reservoir. As a result, this program did not create additional yield, but it did have the significant benefit of re-timing water deliveries.

Water held in Pueblo Reservoir can be diverted during summer months as needed. Storage fees for the program are only \$3 to \$4 per acre foot and evaporation (shrink) costs are relatively nominal. The Bessemer's share of this water over the past five years has ranged from 4,155 to 8,799 acre feet, averaging 6,700 acre feet. As a result, each share of Bessemer has about .3 to .4 acre feet of stored water available on an annual basis, which was previously only available as direct flow water during winter months.

St Charles Mesa Water District

The St Charles Mesa Water District is currently the only domestic user of Bessemer Ditch water. The district changed 1,710.609 share of Bessemer in Case 04CW08 and expanded the use of another 166.745 shares previously decreed in Cases W-373 and W-374. Case 09CW91 changes another 180.34 shares.

Bessemer Ditch Description - Continued

The district covers 64 square miles and serves a population of 10,978. The district covers most of the land historically served by the Bessemer Ditch. In addition, the 33 square mile +/- Huerfano Water District was annexed in 2001. It is now identified as St Charles Mesa Water District Zone 2. The district will only allow a maximum of 150 taps in Zone 2, so this zone will not have an impact on future water demands on the Bessemer Ditch.

The district has two small reservoirs, with only Reservoir #2 now being utilized in their system. They have a treatment plant located at Reservoir #2.

The district requires dedication of one share of Bessemer Ditch for each new tap. The district has had a water bank for 12 years and the bank started with a total of 500 shares with 467 shares remaining in the bank. Shares can be purchased out of the bank for purposes of water dedication at a cost of \$5,028 per share. Since 2006, the district has had a policy where they will acquire shares of Bessemer. They will pay \$6,500 per share for water with a demonstrated consumptive use history. They will also pay \$3,500 per share for water without a good consumptive use history. A total of 19 shares have been acquired in this manner, all of which were at the \$6,500 per share level.

The St Charles Mesa Water District is not particularly aggressive in acquiring Bessemer shares, nor does that appear to be poised to change. When development does take place in the district, the developer often brings their own water anyway. The district has an abundance of water which is not already being used for domestic purposes. In fact, they leased back 867 shares on three farms. That lease is currently a five-year lease, tending to underscore the fact the district has an abundance of water available.

Another factor indicating the St Charles District is unlikely to have a substantial impact on the Bessemer market in the near future is the lack of anticipated development within the district. Clearly, the District has no intention of increasing capacity in Zone 2. The Vineland and Avondale neighborhoods are designated for limited land division in the County Comprehensive Plan and it is unlikely that significant demands for domestic use of Bessemer water will come from those locations. The Mesa neighborhood could have some higher density development, but the lack of sanitary sewer lines would be a major factor limiting development there.

Water Quality

One distinct advantage of the Bessemer Ditch is that it diverts water directly from Pueblo Reservoir, which gives it better quality water than virtually any other ditch in the Arkansas Valley below Pueblo Reservoir. The fact the ditch runs through the City of Pueblo, does create some issues with people dumping trash into the ditch. It can also be an issue during rain events. St. Charles Mesa Water District tries to discontinue diversions during rain events in order to deal with impaired water quality during these periods. However, even with some occasional water quality issues relating to the ditch going through an urban area, the Bessemer does enjoy the benefit of high quality water coming out of Pueblo Reservoir.

Pueblo Board of Water Works Acquisitions

The Pueblo Board of Water Works (PBWW) initially attempted to acquire share of the Bessemer Ditch Company in 2007 with an offer of \$6,500 per share. Only one share was acquired at that time.

A seller's group contacted PBWW in late 2008 to renew negotiations. The seller's group indicated a group of El Paso County water providers was prepared to offer \$10,000 per share. PBWW decided to offer \$10,150 per share at that point. The offer was conditioned on the Bessemer Ditch changing its bylaws to allow the sale and removal of the water. The company bylaws were then modified in May 2009 to meet this condition.

Bessemer Ditch Description - Continued

PBWW began closing on Bessemer shares in October 2009, with a few closings in 2010 and the remainder in 2011. PBWW eventually acquired 5,540.88 shares of the Bessemer, equating to 28% of all company shares. Nearly all of the shares acquired were at a price of \$10,150 per share. One exception was a farm which had about 2 ½ shares per acre. That owner was paid \$7,075 per share due to the impaired consumptive use per share. Another exception of one of the last deals which was reduced to \$10,000 per share to cover extra closing costs.

PBWW only acquired shares which had a demonstrated consumptive use history. Most of the shares came from larger farms in the Vineland and Avondale neighborhoods and only a few came from the Mesa neighborhood. A significant portion of the shares came from a handful of farms.

Nearly all of the shares included a 20-year leaseback to the seller, with a few exceptions. Subsequent leases resulted in all of the acquired shares being leased back.

PBWW did put an interruptible supply clause in the leases. However, the lease itself strongly indicates this would be an unlikely event. Nonetheless, PBWW does have the right to interrupt the lease if they notify the lessee by January 31. The lessees also have termination rights if they make a notification by October 31 for the following year.

Lease payments are based on annual assessments. Assessments have been in the \$40 to \$50 per share range in recent years, with the 2016 assessment being at \$50/share.

There is a renewal clause in the lease, which indicates that annual renewals may occur at the end of the 20 year leases.

The PBWW transactions require dry-up of the irrigated farmland with PBWW being responsible for the re-vegetation costs. A number of sellers retained a few shares of Bessemer water in order to meet water dedications requirements of the St Charles Mesa Water District, should they elect to construct a dwelling or dwellings at some point in the future. Thus, a number of the transactions include proposed dry-up maps with small areas of continued irrigation associated with the shares that were held back.

PBWW states they are no longer in the market for Bessemer shares, and they have no plans to acquire additional shares. They are working on a change of use case which may be filed later in 2016.

School District 70 Water Sale

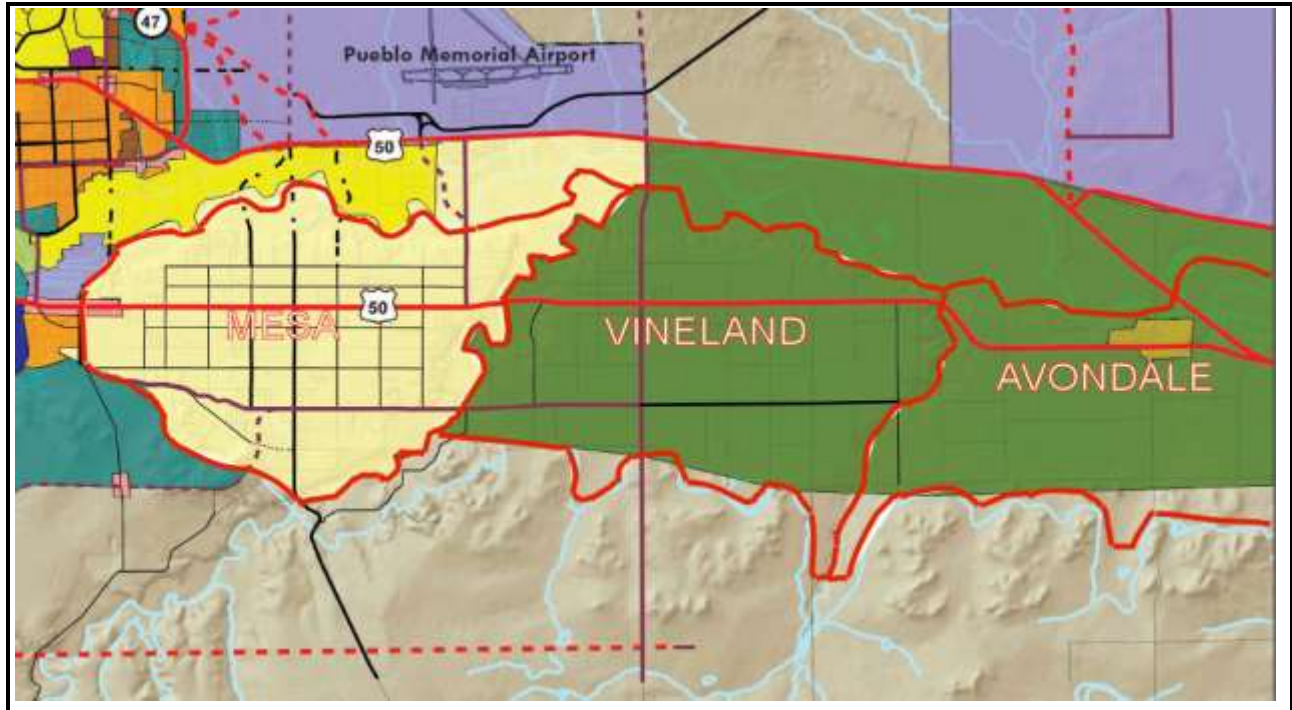
In June 2015, School District No. 70 sold 58.5 shares of water to Rocky Disanti for \$438,750 or \$7,500 per share. Another 12 shares were sold to Mark Faoro for \$120,000 or \$10,000 per share. These shares reportedly were not associated with a specific farm and do not have a consumptive use history.

Development Potentials Under the Bessemer

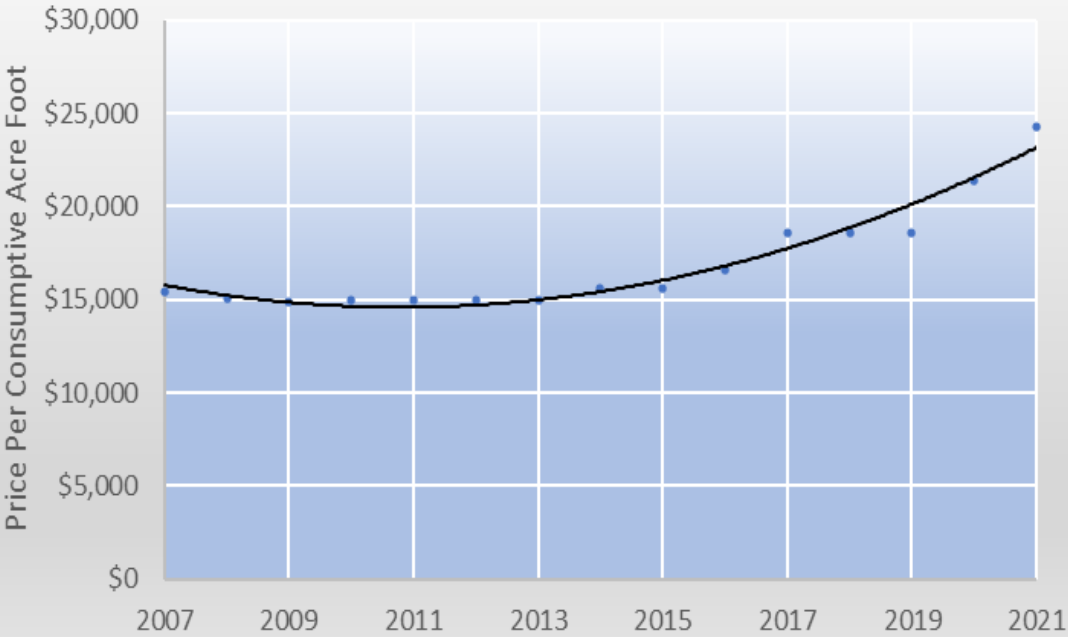
Pueblo County's comprehensive plan specifically intends to limit development east of the St Charles River, including all of the Vineland and Avondale neighborhoods, with those areas being designated as "Production Agriculture" (shown in green on the following map). Land division below 35 acres is strongly discouraged under the plan in this area. The Mesa is designated as "Country Residential" (shown in light yellow on the map) which would allow one unit per acre.

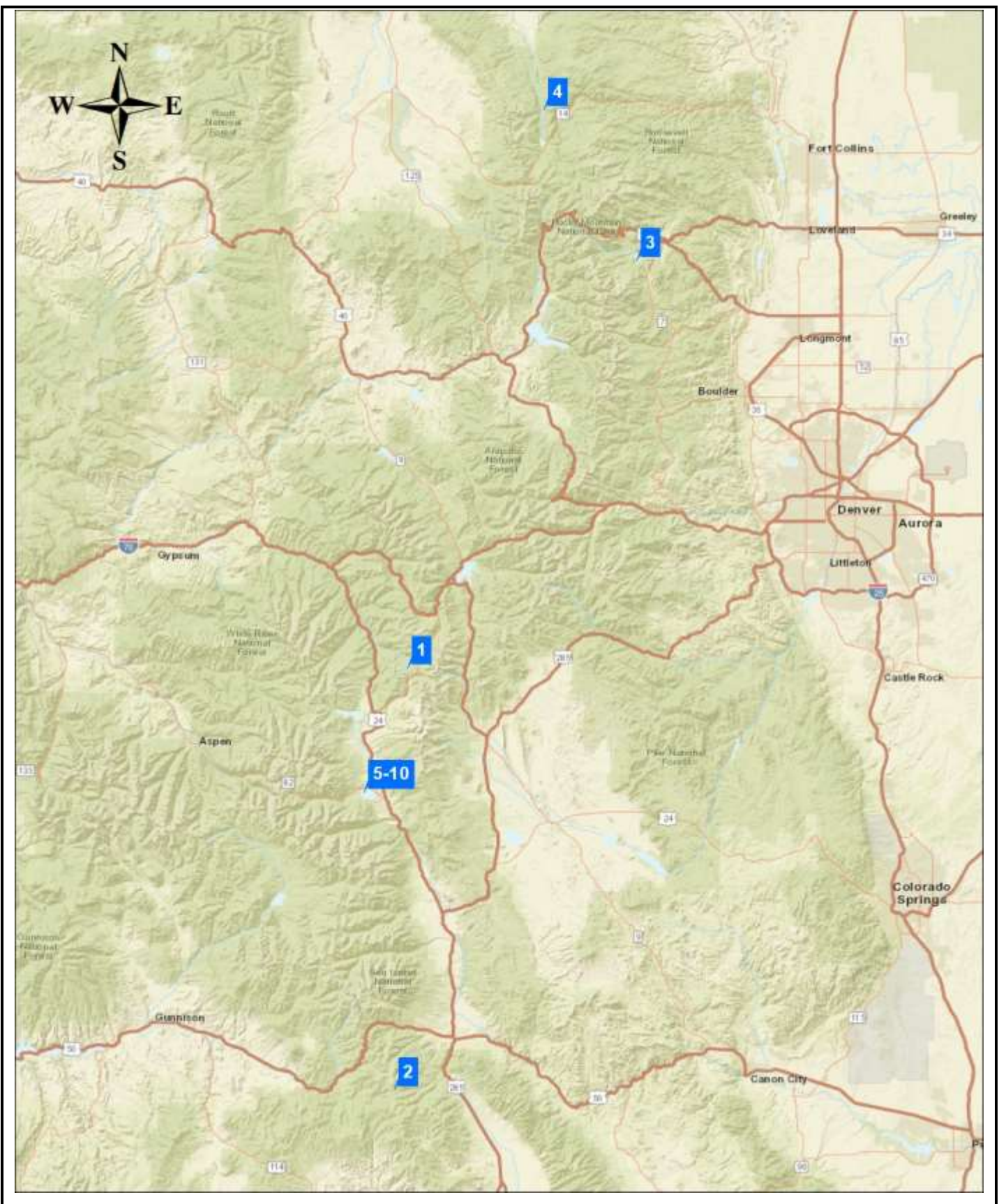
Bessemer Ditch Description - Continued

One drawback to the density of development theoretically possible within the Mesa is the lack of sanitary sewer lines. Salt Creek, Blende and St Charles Mesa Sanitation District (not affiliated with the water district) all serve a few homes with lines connecting to the Pueblo treatment plant. However, none have significant service lines. The St Charles Mesa Water District reports that only 230 of their tap holders are served by these sewer districts.



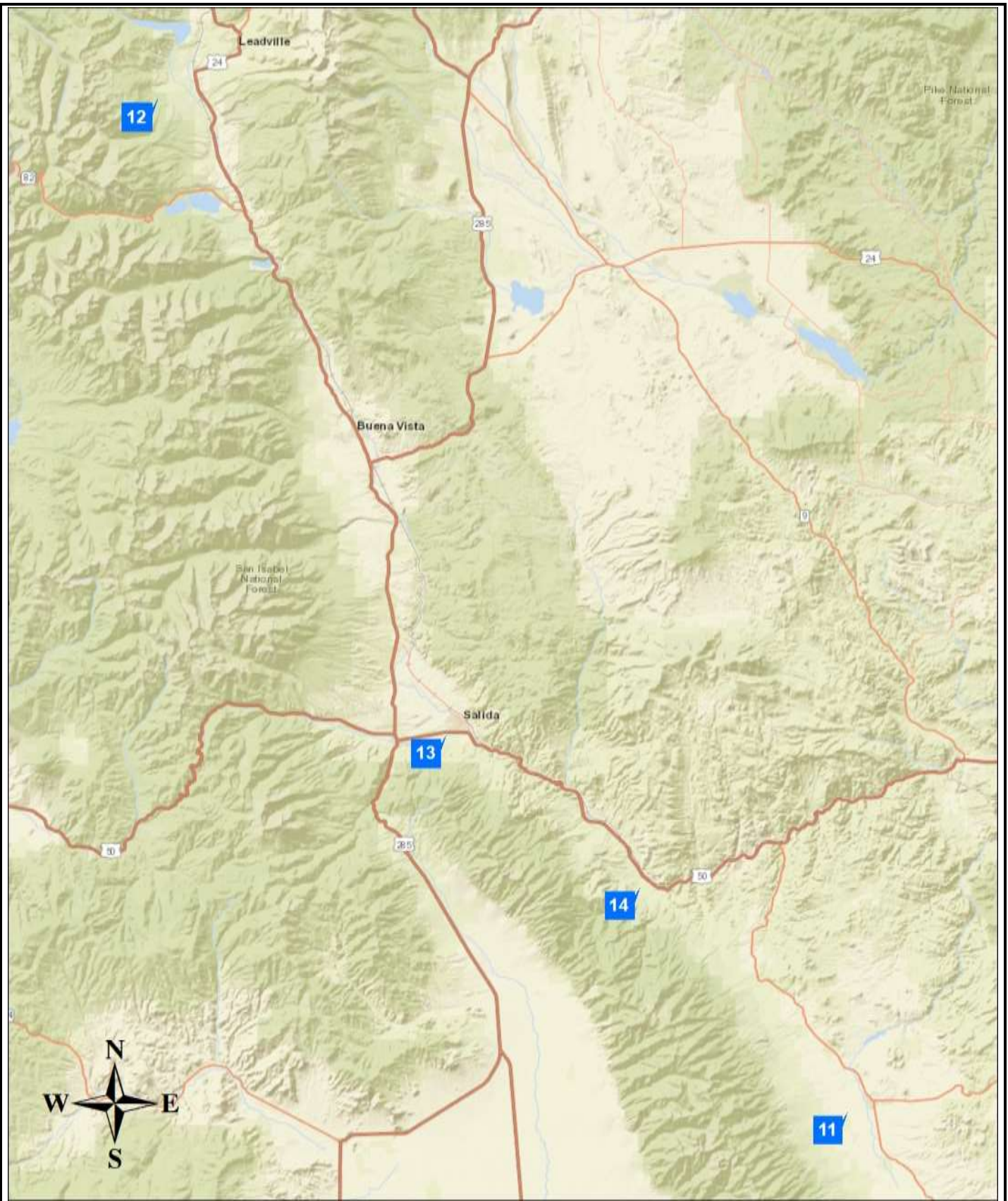
Fountain Mutual Value Trends





Trans-basin Water Rights Transactions

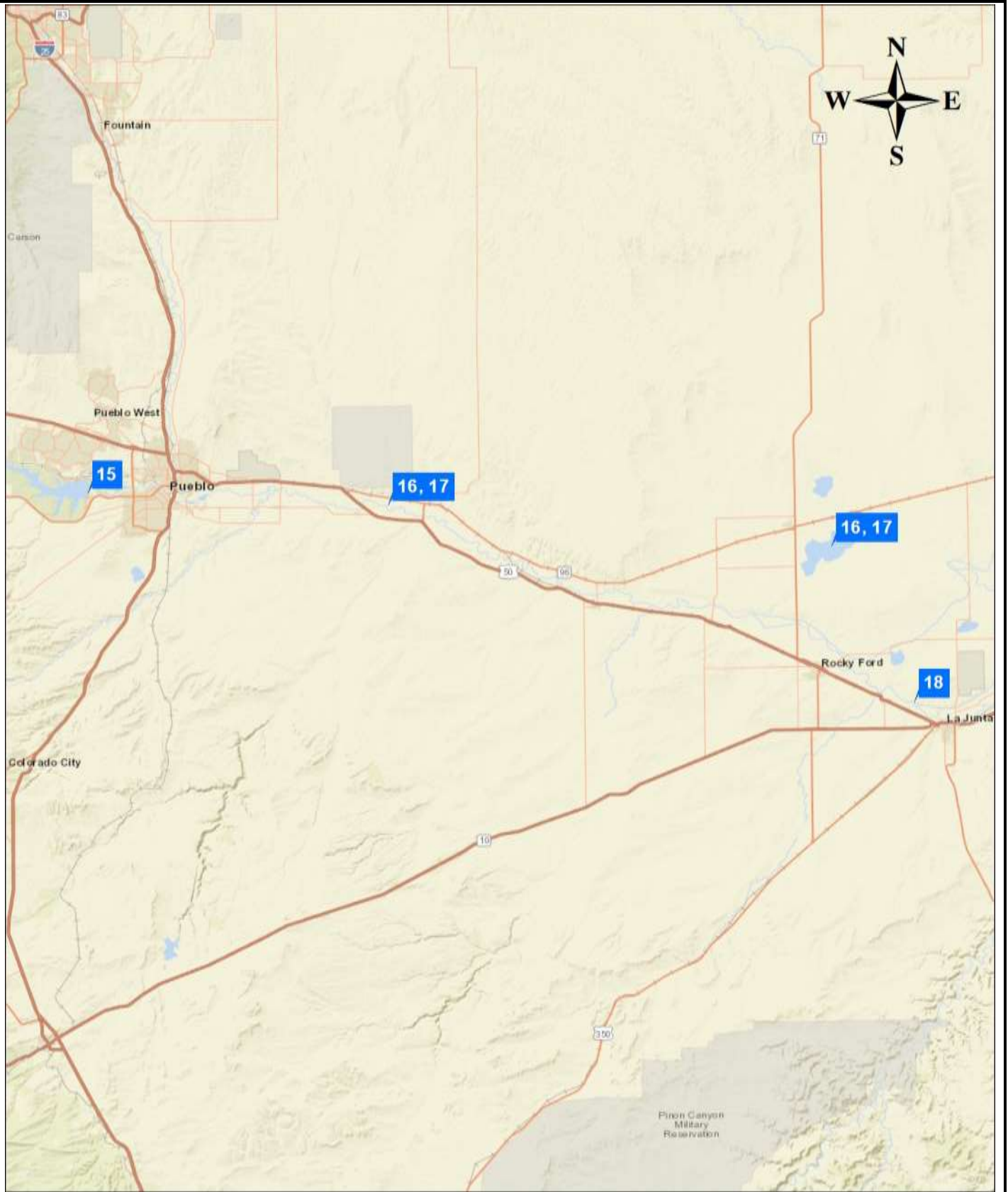
Water Sale #	Name of Ditch	Buyer	Seller	Sale Date	Sale Price	Allocated Water Value	Number of Shares	Price Per Share	Avg. Annual Cons. Acre Ft Per Share	Total Avg. Annual Cons. AF	Comments	Price Per Avg. Annual Cons. Acre Ft
1	Columbine Ditch	Fremont Pass Ditch Company	Pueblo Board of Water Works	9/15/2009	\$30,480,000	\$30,480,000	N/A	N/A	N/A	1,337.00	2002 diversions were 48% of 1974 to 2009 average annual – Eagle River to Arkansas	\$22,797
2	Larkspur Ditch	Lower Arkansas Valley Water Conservancy District	Catlin Canal Co.	2004/2009	\$1,400,000	\$1,400,000	N/A	N/A	N/A	450.00	Ditch in disrepair - 2002 not available as a basis. – Gunnison River to Arkansas	\$3,111
3	Northern Colorado Water Conservancy District	Multiple municipal and developer buyers	Primarily irrigators	2019	\$58,000/unit +/-	\$0	Multiple sales	\$58,000 /unit +/-	0.70	0.70/unit	(Annual quotas vary & dry years will often be higher based on quota setting) – Colorado River to South Platte	\$83,000 +/-
4	Tunnel Water Company	Greeley, Fort Collins Loveland WD, North Weld WD	Windsor Reservoir and Canal	2006	\$29,000,000	\$29,000,000	150.0	\$193,333	15.01	1,110.00	Dry year yields are rare, being at about 67% of average when they occur N. Platte to S Platte	\$12,880
5	Twin Lakes Reservoir and Canal Company	Pueblo West Metropolitan District	Irrigator	2013	?	?	?	\$35,000	0.95	?	2002 diversions were 41% of 1950 to 2003 diversions – Colorado to Arkansas	\$36,842
6	Twin Lakes Reservoir and Canal Company	Unknown	3 Elk Creek	2014	\$38,325	\$38,325	1.0	\$25,000	0.95	0.95	2002 diversions were 41% of 1950 to 2003 diversions	\$40,342
7	Twin Lakes Reservoir and Canal Company	Woodland Park	Irrigator	2015	\$90,850	\$90,850	2.3	\$39,500	0.95	2.185	2002 diversions were 41% of 1950 to 2003 diversions	\$41,579
8	Twin Lakes Reservoir and Canal Company	Olsen	Irrigator	2017	\$81,250	\$81,250	2.0	\$40,625	0.95	1.90	2002 diversions were 41% of 1950 to 2003 diversions	\$42,763
9	Twin Lakes Reservoir and Canal Company	Pueblo West Metropolitan District	Irrigator	2018	\$40,000	\$40,000	1.0	\$40,000	0.95	0.95	2002 diversions were 41% of 1950 to 2003 diversions	\$42,105
10	Twin Lakes Reservoir and Canal Company	Pueblo West Metropolitan District	Irrigator	2019	\$40,000	\$40,000	1.0	\$40,000	0.95	0.95	2002 diversions were 41% of 1950 to 2003 diversions	\$42,105



Upper Arkansas Water Rights Transactions

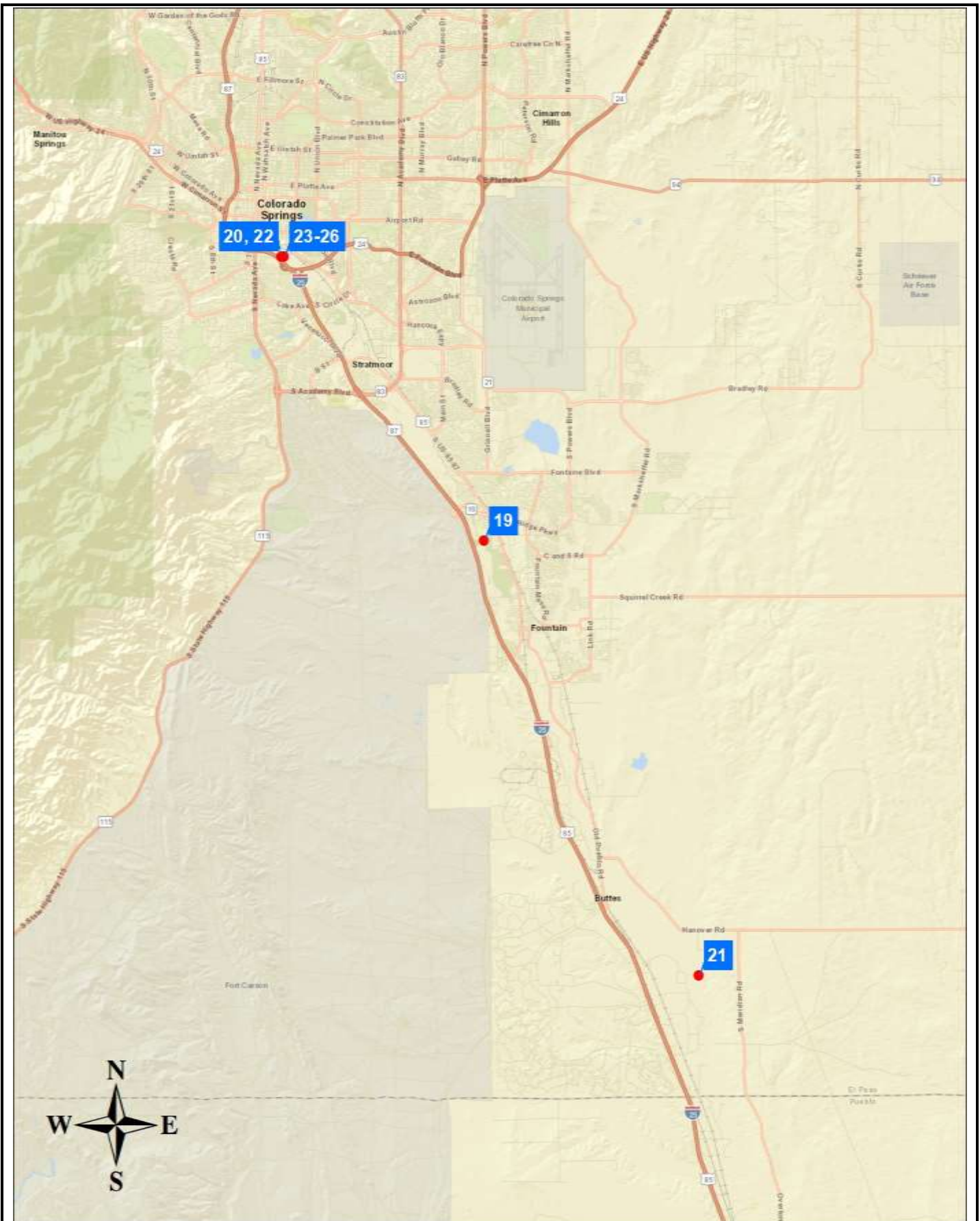
Upper Arkansas Water Rights Transactions

Water Sale #	Name of Ditch	Buyer	Seller	Sale Date	Sale Price	Allocated Water Value	Number of Shares	Price Per Share	Avg. Annual Cons. Acre Ft Per Share	Total Avg. Annual Cons. AF	Comments	Price Per Avg. Annual Cons. Acre Ft
11	W. A. Bell Ditches #1-#3 (H2O Ranch)	City of Fountain and Widefield Water	Irrigator	2008	\$3,500,000	\$2,000,000	N/A	N/A	N/A	778	Water court determined yield of 778 af – No water available in 2002	\$3,856
12	Abbott Placer, Willow Creek, etc. (Willow Creek Ranch)	Donala Water & Sanitation District	Stritch, Ronald F.	11/21/2008	\$4,780,000	\$3,680,000	N/A	N/A	N/A	280	2002 diversions on the three ditches ranged from 6 to 10% of 1970 to 2008 diversions	\$13,143
13	Tennessee Ditch	City of Salida	Vandaveer, Glenn and Julie	April 2009	\$3,200,000	\$2,880,000	N/A	N/A	N/A	300	2002 yield was at 98% of 1970 to 2006 average yield	\$9,600
14	Hayden, Hoagg	Security	Base, Tammy & Apache Drilling	12/31/2013	\$1,225,000	\$925,000	N/A	N/A	N/A	207	Water court determined yield of 207 cons. Avg. AF	\$4,500



Middle Arkansas Water Rights Transactions

Middle Arkansas Water Rights Transactions												
Water Sale #	Name of Ditch	Buyer	Seller	Sale Date	Sale Price	Allocated Water Value	Number of Shares	Price Per Share	Avg. Annual Cons. Acre Ft Per Share	Total Avg. Annual Cons. AF	Comments	Price Per Avg. Annual Cons. Acre Ft
15	Bessemer Ditch	Pueblo Board of Water Works	Bessemer Irrigating Ditch Company shareholders	Nov-2009	\$53,642,822	\$53,642,822	5,406.55	\$10,150	1.43	7,704.00	2002 diversions were 62% of 1911-2009 diversions	\$7,123
16	Colorado Canal Company and Lake Meredith Reservoir	Crowley County Water Assoc.	Medina	Fall 2018	\$100,000	\$100,000	40.00	\$5,000	0.56	22.40	2002 diversions were 30% of 1950 to 2003 diversions	\$8,929
17	Colorado Canal Company and Lake Meredith Reservoir	Crowley County Water Assoc.	Jordan	Fall 2018	\$100,000	\$100,000	40.00	\$5,000	0.56	22.40	2002 diversions were 30% of 1950 to 2003 diversions	\$8,929
18	LAWMA shares (Ft Lyon)	Colorado Springs Utilities	Arkansas River Farms	3/16/2017	\$8,750,000	\$8,750,000	2,500 (Common)	\$3,500	0.90	1,125	Water sharing agreement, 5 in 10 year diversion – Not contingent on water court approval	\$7,777



Fountain Creek Sales

Fountain Creek Sales												
Water Sale #	Name of Ditch	Buyer	Seller	Sale Date	Sale Price	Allocated Water Value	# of Shares	Price Per Share	Avg. Annual Cons. Acre Ft Per Share	Total Avg. Annual Cons. AF	Comments	Price Per Avg. Annual Cons. Acre Ft
19	Chilcott Ditch	Colorado Springs	Osage Trust	7/17/2014 contract, 12/14 closing	\$1,283,000	\$1,283,000	8	\$160,375	24.61	196.88	2002 yield was 85% of 1989 to 2009 yields (that period also included Lock and Miller ditches)	\$6,517
20	Chilcott Ditch	Colorado Springs	Reamy	10/20/2015	\$160,375	\$160,375	1	\$160,375	24.61	24.61	2002 yield was 85% of 1989 to 2009 yields (that period also included Lock and Miller ditches)	\$6,517
21	"Cody" (Laughlin, Owen & Hall, CO College Well	Widefield	Cody Land and Water, LLC	8/31/2010	\$15,000,000	\$15,000,000	-	-	-	1272.93	\$500,000 down with the balance paid in full by 2016	\$11,739
22	Dr Rogers	City of Fountain	Five Shareholders	12/8/2015	\$1,277,850	\$1,277,850	-	-	-	170.38	Plan to exchange water into Pueblo Reservoir – Final payment upon water court approval in April 2019	\$7,500
23	Laughlin	Donala Water & Sanitation	Stratmoor Water & Sanitation	5/15/2017	\$3,800,000	\$3,800,000	-	-	-	324	Already changed water, but Donala had to go back through water court	\$11,728
24	Fountain Mutual Ditch Company	Multiple Buyers	Irrigators	2007-2010			302	\$10,250 to \$10,500	0.70	18.90	2002 yield was .40 consumptive acre feet (57% of average annual yield)	\$14,543 to \$15,000
25	Fountain Mutual Ditch Company	Colorado Springs	Osage Trust	7/17/2014	\$1,617,000	\$1,617,000	147	\$11,000	0.70	102.9	Purchased along with Chilcott water	\$15,714
26	Fountain Mutual Ditch Company	Multiple buyers	Irrigators	2014-2015	-	-	-	\$10,800-\$11,000	0.70	-	2002 yield was .40 consumptive acre feet (57% of average annual yield)	\$15,571
27	Fountain Mutual Ditch	Triview	Multiple Sellers	2016-2019	\$13,741,000	\$13,741,000	1,057	\$13,000	0.70	739.9	2002 yield was .40 consumptive acre feet (57% of average annual yield)	\$18,571