

District Court, Water Division No. 1, Colorado 901 Ninth Avenue P.O. Box 2038 Greeley, CO 80632-2038	DATE FILED: May 18, 2023 9:52 AM CASE NUMBER: 2021CW3207
CONCERNING THE APPLICATION OF CHATFIELD EAST PROPERTY OWNERS ASSOCIATION, INC.	Court Use Only
IN DOUGLAS COUNTY	Case No. 2021CW3207 (W-8568-77, 82CW203 and 89CW068)
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE	

This matter comes before the Court on the application of Chatfield East Property Owners Association (“Chatfield East”) filed on November 30, 2021, to amend the Denver aquifer well augmentation plan decreed in Case Nos W-8568-77, 82CW203, and 89CW068 (“Denver Aquifer Plan”). The Court enters the following Findings of Fact, Conclusions of Law, and Ruling of the Referee.

FINDINGS OF FACT

1. Applicant:

Chatfield East Property Owners Association, Inc. (“Chatfield East”)
Janice Wiskamp, President
P.O. Box 192
Littleton, Colorado 80160

2. General Description of Application: The Chatfield East Subdivision consists of approximately 600 acres of land approved for construction of individual homes on 103 lots located generally in Section 21 and a portion of the North ½ NW ¼ of Section 28, T6S, R68W, 6th P.M. in Douglas County, Colorado (the “Subdivision”). The original proposed water supply for the lots in the Subdivision was individual wells constructed in the not nontributary Denver aquifer on 103 individual lots pursuant to a decreed augmentation plan obtained by the original developer, and subsequently amended by Applicant (the “Denver Aquifer Plan Decrees” described below). The decreed uses of the wells included indoor domestic use, and outdoor irrigation and livestock watering for up to four horses on each lot. Although 80 Denver wells were completed, only one remained in use in 2021 for domestic purposes and 33 were still in use for outdoor purposes. Chatfield East is a Colorado nonprofit corporation authorized to obtain decrees for augmentation plans on behalf of its individual member lot owners. Based on development of new sources of water supply for the Subdivision lots, and the need for flexibility to provide alternative sources of replacement water, Chatfield East requested approval of the Court to amend the Denver Aquifer Plan as described below.

3. **Notice and Jurisdiction:** All notices required by law have been fulfilled. The Court has jurisdiction over the subject matter of this application and over all persons and property affected by it whether or not they have appeared. None of the land or water rights in this case are located within the boundaries of a designated ground water basin.
4. **Statements of Opposition:** A timely statement of opposition was filed by Centennial Water & Sanitation District (“Centennial”). The time for filing statements of opposition has expired. Chatfield East and Centennial entered into a stipulation for entry of the Ruling and Decree in this case on April 4, 2023.
5. **Summary of Consultation:** On February 28, 2022, the Division Engineer filed a Summary of Consultation held February 14, 2022. A written response was not required. To the extent that the Division Engineer raised issues of concern, those concerns have been addressed in this Ruling.

PLAN FOR AUGMENTATION

6. Description of Denver Aquifer Plan Decrees:

- 6.1. **Case No. W-8568-77.** The original augmentation plan for the Subdivision was decreed in Case No. W-8568-77 on May 15, 1978. It authorized construction of individual wells on 100 lots to be used for indoor domestic uses and irrigation of 1,300 square-feet of lawn and garden on each lot. The decree required annual replacement of 13 acre-feet of depletions based on maximum decreed use on all 100 lots, using as replacement water 8.055 acre-feet of the Guiraud 3T Ditch water right (“Guiraud 3T”) and 4.945 acre-feet to be delivered from a proposed nontributary Arapahoe aquifer well described below (“Arapahoe Well”). The Guiraud 3T was originally decreed for diversion of 20 cfs from the North Fork of the South Platte River with headgate located on the right bank of the stream at a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T11S, R76W 6th P.M. for irrigation purposes, with an appropriation date of July 1, 1867, by decree of the Park County District Court on October 18, 1889. Applicant’s portion of the water right was changed to augmentation use in Case No. W-7590 on March 12, 1975. Applicant owns the full 0.386 cfs and 8.43 acre-feet of the Guiraud 3T water right included in Case No. W-8568-77 that is used to deliver 8.055 acre-feet per year for replacement water at Chatfield Reservoir after deduction for transit losses.
- 6.2. **Case No. 82CW203.** The decree in Case No. 82CW203, entered on March 21, 1986, approved the use of up to 15 acre-feet per year of nontributary groundwater from the Chatfield East LFH Well No. 1-26751-F (“the LFH Well”), at a rate up to 100 gpm, as a source of replacement water in Case No. W-8568-77 in place of the proposed Arapahoe Well to the extent needed for augmentation. The LFH Well is Permit No. 26751 and WDID No. 0808200. Applicant owns the full 15 acre-feet decreed in that case. The LFH Well is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, T6S, R68W, 6th P.M. in Douglas County, 2,500 feet from the south line and 2,350 feet

from the west line of Section 21. A map showing the location of the Subdivision and the LFH Well is attached as **EXHIBIT A**.

6.3. **Case No. 89CW068.** The decree in Case No. 89CW068, entered on April 26, 1991, approved the use of three (3) new wells for three additional residential lots under the prior decrees, confirmed all 103 individual wells were approved for diversion from the not nontributary Denver aquifer, and approved the use of all 103 wells for irrigation of up to an additional 2,600 square-feet of lawns and gardens and watering up to 4 horses on each of the 103 lots. Although the Decree in Case No. 89CW068 found that total annual depletion to the stream would not exceed 1.3 acre-feet from the new uses based on maximum annual use of all 103 wells, the decree required delivery of 16.1 acre-feet of replacement water per year. The approved sources of this additional replacement water are 3.3 acre-feet per year from the LFH Well decreed in Case No. 82CW203 and 13 acre-feet per year from the LFH Well decreed in Case No. 83CW32, at a rate up to 88 gpm.

6.4. The total annual replacement obligation under the Denver Aquifer Plan Decrees based on the assumed maximum use of 103 wells is 29.1 acre-feet per year, of which 8.055 acre-feet is delivered from the Guiraud 3T and 21.045 is delivered from the LFH Well.

7. Purpose and Need for Amendments:

7.1. Although the Denver Aquifer Plan Decrees assumed that all 103 Denver aquifer wells would be completed and used for residential purposes, three lots are still vacant, and twenty lot owners drilled Arapahoe aquifer wells that are augmented under the decree in Case No. 99CW198 instead of Denver aquifer wells.

7.2. Beginning in 2017, Centennial Water and Sanitation District extended its water delivery system into the Subdivision to provide municipal water to all lots in the Subdivision pursuant to agreement between Roxborough Park Water and Sanitation District and Centennial. Only one lot in the Subdivision with a home is not currently connected to and using the municipal water system for indoor domestic purposes. There are two other lots that are not connected that do not have existing homes. As a result, only one well owner in the Subdivision can physically use a Denver aquifer well for indoor uses under the Denver Aquifer Plan.

7.3. In 2021, only 33 lot owners continued to use a Denver aquifer well for outdoor use on their lots. None of those wells were used for the maximum decreed amount.

7.4. In the summer of 2021, the pump in the LFH Well failed and could not be repaired before the end of the water year. Applicant may not be able to replace the pump during 2022 because of supply problems. It may be too expensive to maintain or replace the LFH Well in the future. Chatfield East desires to reduce or eliminate certain uses of the Denver wells to reduce the Subdivision's reliance on the LFH Well, and desires greater flexibility to provide replacement water in the future.

- 7.5. Chatfield East entered into a lease with the Town of Castle Rock dated November 16, 2021, to deliver reusable water in Chatfield Reservoir to replace the full amount of stream depletions owed for the remainder of 2021 and in 2022 in place of the water normally delivered by the LFH Well under a substitute water supply plan (“SWSP”). On July 29, 2022 Chatfield East filed a request to renew its SWSP for the 2023 water year based on the new lease from Castle Rock. That lease was signed on September 14, 2022. The rest of the replacement water will continue to come from the Guiraud 3T Ditch.
- 7.6. Chatfield East desires the ability to obtain approval of this SWSP and future SWSPs as needed to deliver leased water supplies to replace stream depletions under the Denver Aquifer Plan without filing an application in water court to amend the Decrees.
- 7.7. Based on the recent availability of municipal water and the cost to maintaining the LFH Well, only 22 lot owners wish to continue using their Denver aquifer wells for outdoor purposes under the Decrees. One lot owner desires to continue using a well for domestic purposes, but that use may end soon.
8. **Structures to be Augmented:** The number of wells allowed by the Denver Aquifer Plan is reduced from 103 wells to 22 wells identified on **EXHIBIT B**.
9. **Uses:** Twenty-one (21) wells identified on EXHIBIT B are restricted to outdoor use for irrigation of up to a total of 3,900 square feet and watering of up to 3 horses, or irrigation of up to a total of 3,600 square feet and watering up to 4 horses from each well, with no indoor uses allowed. One well identified on EXHIBIT B is restricted to the same outdoor uses and indoor domestic use for one single-family dwelling. Chatfield East may discontinue domestic use from that well with written notice to the Court, Centennial and the Division Engineer that all indoor uses have stopped. These 22 wells are referred to as the “Remaining Wells.”
10. **Amount of Withdrawals:** The rate of diversion of each well shall not exceed 15 gpm. The maximum annual withdrawal from each of the 21 outdoor use only wells is 0.31 acre-feet. The maximum annual withdrawal from the one (1) Remaining well allowed for indoor and outdoor use is 0.65 acre-feet. The total maximum withdrawal from the Denver aquifer authorized by this decree for all of the Remaining Wells is 7.16 acre-feet. If Applicant provides written notice to the Court, Centennial, and the Division Engineer that all indoor uses have stopped, the total maximum annual withdrawal from the Denver Aquifer pursuant to this decree will be reduced to 6.82 are-feet. The Denver Aquifer Plan was approved to allow diversions from the individual wells for 100 years after entry of the decree in Case No. 89CW068 on April 26, 1991. Nothing in this decree changes that limitation.
11. **Water Rights to be used for Augmentation:** The following sources of water may be used to replace stream depletions from the Remaining Wells under this decree:

- 11.1. Guiraud 3T Ditch: Chatfield East owns the right to use 0.386 cfs out of 20 cfs originally decreed for diversion through the Guiraud 3T Ditch, up to 8.43 acre-feet per year, as changed to augmentation use in Case No. W-7590 on March 12, 1975, and further changed in Case No. W-8568-77 to deliver 8.055 acre-feet per year for replacement water at Chatfield Reservoir after deduction for transit losses between May 1 and September 30 each year.
- 11.2. 15 acre-feet of nontributary ground water decreed to the LFH Well in Case No. 82CW203.
- 11.3. 13 acre-feet nontributary ground water decreed to the LFH Well in Case No. 83CW32.
- 11.4. Lease of fully reusable water from the Town of Castle Rock, including but not limited to lease of reusable effluent delivered from the Town's wastewater treatment plant or released from storage in Chatfield Reservoir.
- 11.5. Pursuant to §37-92-305(8), C.R.S., after the entry of this decree, Chatfield East may be allowed to use additional or alternative sources of augmentation or replacement water to meet its well depletion replacement obligations provided that such sources are approved for such use pursuant to a Substitute Water Supply Plan (SWSP) approved by the State Engineer under §37-92-308, C.R.S., a water court decree, or other fully consumable water legally available for replacement purposes. If Chatfield East seeks to add additional or alternative sources of replacement water to this plan for augmentation, the following procedure must be followed. These procedures are adequate to prevent injury to other water rights that might otherwise result from the addition of these sources to this plan.
 - 11.5.1. Water rights separately decreed for augmentation or replacement purposes. If a water right is decreed and lawfully available to be used as a source of replacement water and is not already approved for such use under this decree, Chatfield East shall give at least 63 days advance written notice of the use of the water right to the Court, the Division Engineer and Centennial, which such notice shall describe; 1) the water right by name and decree, or well permit number; 2) the annual and monthly amount of water available to Chatfield East from the water right; 3) the timing and location or locations at which the water will be delivered to the stream; 4) evidence that the claimed amount of water is and will not be used by any other person or entity; 5) evidence that use of the water or water right(s) is consistent with the underlying decree for the water or water right(s) and 6) the manner in which Chatfield East will account for use of the replacement water, including a narrative summary of the proposed changes to the accounting and a copy of the accounting forms that include proposed changes to account for the use of the water right(s) sought to be added. For replacement

water not owned by Chatfield East, Chatfield East shall include with the notice of use a copy of the agreement demonstrating the monthly and annual amount of water available to Chatfield East and a specific reference to the relevant section of the agreement. If any person wishes to object to the addition of the noticed water rights to this plan, a written objection shall be filed with the Court within 63 days after the date the Notice served on the Division Engineer and Centennial. If no objection is so filed, then Chatfield East may use the noticed water rights in this plan in the manner stated in the Notice, without further action by the Court. If an objection is so filed, then Chatfield East may not use the noticed water rights until the Court shall determine if the water rights may be used in this plan, and if so, may impose such terms and conditions as necessary to prevent injury to vested water rights and decreed conditional rights. If the Notice requested temporary use of the noticed water rights in this case for a period not to exceed one year, then the Court shall grant an expedited hearing and promptly decide the disputed issues. If the Notice requested use for more than one year or permanent use of the noticed water rights in this case, then the Court shall conduct whatever proceedings are needed to appropriately address and resolve the disputed issues. This paragraph shall apply to all separately decreed sources, whether they are permanent additions to this plan for augmentation or of limited duration.

11.5.2. Water rights not separately decreed for augmentation or replacement purposes. If a water right is not decreed or otherwise lawfully available as a source of replacement water, but Colorado statutes or other governing authority provide a mechanism for using such water right without the need of a decree or well permit, Chatfield East shall provide written notice to the objectors herein of its request for approval of the State Engineer pursuant to §37-92-308, C.R.S., or other applicable statute. Such notice shall be in addition to any notice required by the applicable statute. Chatfield East shall not use the noticed water right in this case until the State Engineer's approval of Chatfield East's request for SWSP approval has become final, including any appeal. If any person wishes to appeal the decision of the State Engineer, a written objection shall be filed with the Court within the time frame required by statute. If no appeal is so filed, then Chatfield East may use the noticed water rights in this case in the manner stated in the State Engineer's approval, without further action by the Court. If an appeal from an SWSP approval is so filed, then the Court shall grant an expedited hearing and promptly decide the disputed issues in accordance with § 37-92-308 C.R.S. Neither the approval nor the denial by the State Engineer shall create any presumptions, shift the burden of proof, or serve as a defense in this case. In no event shall Chatfield East be allowed to use the same portion of a water right or shares for undecreed augmentation use under this case pursuant to an SWSP approval for more than the period allowed by § 37-92-308, C.R.S.

11.5.3. In any proceedings pursuant to paragraphs 10.5.1 and 10.5.2, Chatfield East will have the burden of proving no injury to vested water rights and decreed conditional water rights resulting from the proposed use of the noticed water right(s).

11.6. Agreements for additional sources of augmentation water required. In addition to complying with the Notice and other requirements of this paragraph 10.4, Chatfield East may not use additional sources of augmentation water to meet its return flow obligations pursuant to this paragraph 10 unless Chatfield East has a written agreement with the owner of the additional replacement supply permitting Chatfield East to do so, or unless Chatfield East has other documents evidencing its right to use the water.

12. Stream Depletions and Replacement Requirements: During the period of withdrawals from the Remaining Wells, Chatfield East will provide replacement supplies in the amount of withdrawals less return flows as determined pursuant to paragraph 2 of the Decree for Case No. W-8568 and paragraph 8 of the Decree in Case No. 89CW068. Based on assumed full build out of 103 lots in the Subdivision and full use of all wells, the prior Decrees required replacement of 29.1 acre-feet per year although actual depletions were determined to be much lower. The maximum estimated water per well based on indoor domestic use of 3.5 people per lot, 90 gpp x 365 days = 0.35 acre-feet per year, plus total irrigation of 3900 sf and watering 3 horses or irrigation of 3600 sf and watering 4 horses. Irrigation demand was assumed to be 3 acre-feet per acre per year and stock water use was assumed to be 10 gpd per animal. Total maximum demand for stock and irrigation under both decrees was approximately 0.31 acre feet per year. Annual depletions were determined to be 0.07 acre-feet per year per lot for indoor uses in paragraph 2 of the decree in and Case No. W-8568. Combined outdoor use depletions were determined to be 0.2125 acre-feet per year per lot in paragraph 2 of the decree in Case No. W-8568 together with paragraph 8.e. of the decree in Case No. 89CW068. Based on the reduced use allowed by this decree, the maximum annual net depletion from the remaining 22 wells, and the required amount of replacement will not exceed 4.745 acre-feet per year based on the maximum decreed diversions and use of those wells (22 wells x 0.2125 acre-feet per well outdoor use, plus 0.07 acre-feet for indoor use). If the remaining domestic well owner discontinues indoor use, with notice described in paragraph 9, the maximum annual depletion and replacement will be reduced to 4.675 acre-feet. These amounts of replacement are adequate because they exceed the projected depletions that would occur as a result of past pumping of the wells and proposed future proposed pumping of the wells based on the AUG3 model.

13. Post-Pumping Depletions and Replacement: Chatfield East shall be required to replace actual depletions to Plum Creek following cessation of pumping of the individual wells under the Decrees in Case Nos. W-8568-77 and 89CW068 as modified by this decree. The Court determined in Case No. 89CW068 that the depletions accruing to Plum Creek after 100 years of maximum diversions from 103 wells for all uses would not exceed 5.4 acre-feet per year. Actual depletions will be lower now that the number of wells and the allowed uses have been further limited, and will depend upon the period of time that the

individual wells have been pumped prior to cessation of pumping. Chatfield East may seek a determination that it may make replacements in a lesser amount if actual depletions are less than that amount (5.4 acre-feet per year). Chatfield East may replace actual depletions from the LFH Well, the Guiraud 3T, or any additional water made available by this decree, however, the Court previously determined that the Guiraud 3T was sufficient by itself to replace all post-pumping depletions under the Decrees. Chatfield East shall retain ownership of at least 5.4 acre-feet of the Guiraud 3T so that such water will be available to Chatfield East to use for replacement of post pumping depletions, unless and until the Court enters a subsequent order revoking this requirement because it is no longer necessary. Chatfield East shall make replacement supplies available on a specific monthly schedule as may be approved from time to time by the Division Engineer to affected water rights, but any required replacement supplies shall be made available daily by Chatfield East during the irrigation season.

- 14. Well Permits:** Within 6 months after entry of this decree, each of the owners of the individual wells shall file an application with the State Engineer for approval of a new well permit to use their Denver aquifer well under the terms of this decree, and the previous Denver aquifer well permit on each lot shall be cancelled. Upon application by owners of the individual lots in the Subdivision covered by this decree, the State Engineer shall issue well permits, under Section 37-90-137(4), C.R.S. for use of the individual wells within the Subdivision in accordance with the terms of this decree. In the issuance of well permits under this paragraph, the State Engineer, Chatfield East and the applicants for such well permits shall be bound by the determinations in this decree, and the determination of the amount of water available for withdrawal and use by the individual well owners shall be binding on the State Engineer only as to those lot owners who complete and sign an affidavit demonstrating that lot owner's ownership of the not nontributary groundwater in the Denver aquifer underlying that lot, and showing that lot owner's consent to be bound by this decree. The form of that affidavit is attached as **EXHIBIT C** to this decree.
- 15. No Injury:** The Court finds that Chatfield East will provide replacement water necessary to meet the lawful requirements of senior appropriators at the time and location and to the extent that such senior appropriators might otherwise be deprived of such lawful entitlement by out-of-priority depletions from the individual wells in the Subdivision. No injury will result to vested water rights or decreed conditional water rights of others as a result of the contemplated uses of water as long as Chatfield East complies with the terms and conditions of the decree. In the event Chatfield East does not comply with the terms and conditions hereof, the diversions from the wells pursuant to this decree shall be subject to curtailment pursuant to paragraph 26.
- 16. Accounting and Reporting:** The accounting is an administrative tool required by this Ruling to confirm that diversions and replacements are made in correct time, location, and amount in accordance with the terms and conditions of this Ruling. The accounting shall be sufficient in detail so that state water officials are not limited in their duty to administer, and make record of, the movement and use of water in accordance with this Ruling. All accounting must be acceptable to the Division Engineer, or a designated

representative, and shall adhere to all applicable administrative policies, guidelines, and protocols established by the Division Engineer that are not in conflict with this Ruling.

Applicant's initial proposed accounting form is attached to the Ruling as **EXHIBIT D**. However, this Ruling does not establish or require a specific accounting form. Upon entry of this Ruling, the accounting is subject to revision at the reasonable direction of the Division Engineer and may change from time to time if consistent with this Ruling. On or before November 15 of each year after entry of the Decree in this case, Chatfield East shall report to the water commissioner or Division Engineer the number of Denver aquifer wells pumped within the Subdivision, the number of horses kept and watered from each Denver aquifer well, the area of lawn and garden irrigated from each Denver aquifer well, and indoor use from each Denver aquifer well. At the same time, Chatfield East shall also report to the water commissioner or Division Engineer the total assumed maximum pumping from each well and all wells in total; the total maximum replacement water owed for depletions; the location where the replacement water is owed; the amount and source of replacement water; and a net river balance that summarizes the depletions and replacements for the year thus far; and any transit losses from any upstream replacement deliveries. Because replacement requirements under this decree were determined based on consumptive use resulting from the maximum allowed uses under this augmentation plan, no measuring, reporting, accounting or administrative requirements of the individual wells in addition to those set forth in this paragraph are necessary and none shall be imposed.

17. **Recording Requirements:** This decree shall be recorded by filing a copy with the office of the Clerk and recorder of Douglas County, Colorado, and shall be binding upon Chatfield East and all individual lot owners within the Subdivision. The protective covenants shall be amended to reflect these new limitations on use of water within the lots unless a further decree of this court to enlarge upon those uses is obtained. The amended covenants shall be recorded in the office of the Clerk and recorder of Douglas County, Colorado.
18. **Measuring Devices.** If not already in place, properly maintained measuring devices acceptable to the Division Engineer may be required for the administration of this decree as determined by the Division Engineer.
19. **Administration.** If the measuring and reporting of diversions, depletions, and/or replacements, or any other pertinent information required for the administration of this decree is insufficient for the administration, proper distribution, or regulation of water pursuant to section 37-92-501, C.R.S., then the Division Engineer may take action in accordance with section 37-92-502, C.R.S. Any dispute shall be heard as a water matter.
20. **Transit Losses.** Chatfield East shall be responsible for reasonable stream transit losses that are assessed by the Division Engineer or Water Commissioner, if any, for all circumstances where Chatfield East is using the natural stream channel to transport water. Transit losses shall be assessed from the point where the water is introduced to the stream to the point of replacement of depletions. Transit losses shall be assessed in

the same manner and at the same rate as for other water users on the same reaches of the South Platte River.

21. Delivery of Replacement Water. The Division Engineer, or his designated representative, shall administer all replacement water transported in the stream past intervening headgates to ensure that such water is not intercepted or otherwise diminished in quantity by diversions, use, or other interference by intervening water rights and to assure that such water remains available and suitable for Chatfield East's use. In the event that delivery past intervening headgates requires installation of a bypass structure or the use of an existing bypass structure by agreement with a third party as determined by the Division Engineer, Chatfield East shall be responsible for either installing a new bypass structure with a continuous recording device as approved by the Water Commissioner or securing an agreement with a third party to use an existing bypass structure and providing such information and agreement to the Division Engineer. Chatfield East shall contact the appropriate Water Commissioner prior to the installation of measuring and recording devices to ensure that the devices are adequate for proper administration. Until such new bypass structures have been installed and approved by state water officials, or until Chatfield East has provided to the Division Engineer a copy of its agreement to use an existing structure, Chatfield East will not be entitled to use that replacement water at times that state water officials are not capable of administering that water past intervening headgates, including headgates that are diverting all available flow of the river.

CONCLUSIONS OF LAW

22. Notice and Jurisdiction. The Court has jurisdiction over the subject matter of these proceedings and over all persons that may be affected hereby, pursuant to §37-92-203(1), §37-92-302 and §37-92-304, C.R.S. whether or not they have chosen to appear. The application was filed with the Water Clerk in accordance with the provisions of § 37-92-302(1)(a), C.R.S. All notices were given as required by law.

23. Plan for Augmentation. A plan for augmentation means "a detailed program ... to increase the supply of water available for beneficial use in a diversion or portion thereof by the development of new or alternative means or points of diversion, by pooling of water resources, by exchange projects, by providing substitute water supplies of water, by the development of new water sources, or by any other appropriate means." § 37-92-103(9), C.R.S. A plan for augmentation shall be sufficient to permit the continuation of diversion when curtailment would otherwise be required to meet a valid senior call for water, to the extent that the applicant shall provide replacement water necessary to meet the lawful requirements of a senior diverter at the time and location and to the extent the senior would be deprived of his or her lawful entitlement by the applicant's diversions. § 37-92-305(8)(c), C.R.S. A plan for augmentation for replacement of stream depletions from nontributary wells in the Denver aquifer may require the continuation of replacement water after withdrawal ceases if necessary to compensate for injurious stream depletions caused by prior withdrawals from those wells. § 37-90-

137(9)(c.5)(I)(C), C.R.S. The plan for augmentation described herein is contemplated by law and, if operated and administered in accordance with the Findings of Fact, will not injuriously affect any owner of or persons entitled to use water under a vested water right or a decreed conditional right. § 37-92-305(3), C.R.S.

24. **Substituted Water.** Any substituted water provided in the plan for augmentation shall be of a quality and quantity so as to meet the requirements for which the water for the senior appropriators has normally been used, and such substituted water shall be accepted by the senior appropriators in substitution for water diverted by the exercise of their decreed rights. § 27-92-305(5), C.R.S.
25. **Satisfaction of Legal Requirements.** Chatfield East has complied with all requirements and met all standards and burdens of proof, including but not limited to §§ 37-92-302, 37-92-304 and 37-92-305, to adjudicate its plan for augmentation.
26. **Retained Jurisdiction.** The Court is required in any decree approving a plan for augmentation to retain jurisdiction on the question of injury to vested or conditional water rights for such period after entry of the decree as is necessary or desirable to preclude or remedy any such injury. §37-92-304(6), C.R.S.
27. **No Injury.** The Court shall approve a plan for augmentation if it will not result in injury to other water users, or if injury is found but may be prevented by inclusion of terms and conditions, it shall be approved with such conditions. § 37-92-305(3)(a), C.R.S. An applicant may establish the absence of injury by demonstrating the amount, timing and location of depletions and the availability of replacement water to prevent injury from those depletions. *In re Application of Park County Sportsmen's Ranch*, 105 P.3d 595 (Colo. 2005). Pursuant to C.R.S. § 37-92-305(8), the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

RULING OF THE REFEREE

28. **Findings Incorporated.** The foregoing Findings of Fact and Conclusions of Law are incorporated herein by reference and made a part of this decree as if fully set forth.
29. **Claims Approved.** The plan for augmentation is hereby confirmed and approved, subject to the terms and conditions of this decree.
30. **Measurement and Accounting.** Applicant has demonstrated an appropriate method for accounting for diversions and delivery of water under this decree. In addition to those devices specifically required by this Decree, Chatfield East shall install measuring and recording devices as are reasonably determined by the Division Engineer to be necessary for the proper administration and operation of this decree. Diversions, deliveries and releases of water pursuant to this decree shall be recorded on an accounting form acceptable to the Water Commissioner and Division Engineer.

31. **No Precedent.** Parts of this decree are the result of substantial negotiations and settlement discussions between the parties. Its terms are based on the specific facts and circumstances of this case and compromises by the parties. By stipulating to the entry of this decree, no party in this case intends that it become a precedent to resolve legal or factual issues arising in any other case. All parties reserve their rights to advance legal theories inconsistent with the claims, terms, or conditions agreed to in this case.
32. **Retained Jurisdiction.** Pursuant to 37-92-304(6) C.R.S., the Court shall retain jurisdiction over the plan for augmentation approved herein on the question of injury to the vested rights of others until five (5) years after the date of entry of this decree. The Court shall also retain jurisdiction to determine the amount of injurious stream depletions that will occur after pumping ceases from all of the individual wells and the amount of replacement water needed to prevent injury from those depletions until 5 years after Applicant serves written notice to the Court, Centennial and the Division Engineer that post-pumping replacement has commenced under this plan for augmentation. Any person desiring to invoke the Water Court's retained jurisdiction must file a verified petition with the Water Court, setting forth with particularity sufficient facts that, if proved, meet the petitioner's burden of going forward to show that injury has occurred or is likely to occur based on operational experience involving the plan for augmentation, together with proposed decretal language that the petitioner contends would preclude or remedy the alleged injury that is the basis for the petition. The party lodging the petition will have the initial burden of going forward to make a showing of the injury alleged in the petition. Chatfield East will then have the burden of proof to show either that the alleged injury has not occurred or will not occur, or to propose additional terms and conditions that will prevent injury or violation from occurring. Any such petitions shall be filed with the Court under the above-styled caption and case number and shall be served on counsel of record for all parties who have appeared herein. Objections to any such petition shall be filed no later than 60 days after service of the petition on the parties hereto. If no such petitions are lodged within the retained jurisdiction period, and if the retained jurisdiction period is not extended by the Court in accordance with the provisions of statute, this decree shall become final under its own terms. It is accordingly ORDERED that this Ruling of Referee shall be filed with the Water Clerk subject to judicial review.

It is further ORDERED that a copy of this Ruling of Referee shall be filed with the appropriate Division Engineer and the State Engineer.

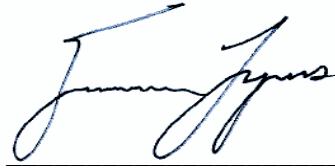
Date: April 25, 2023



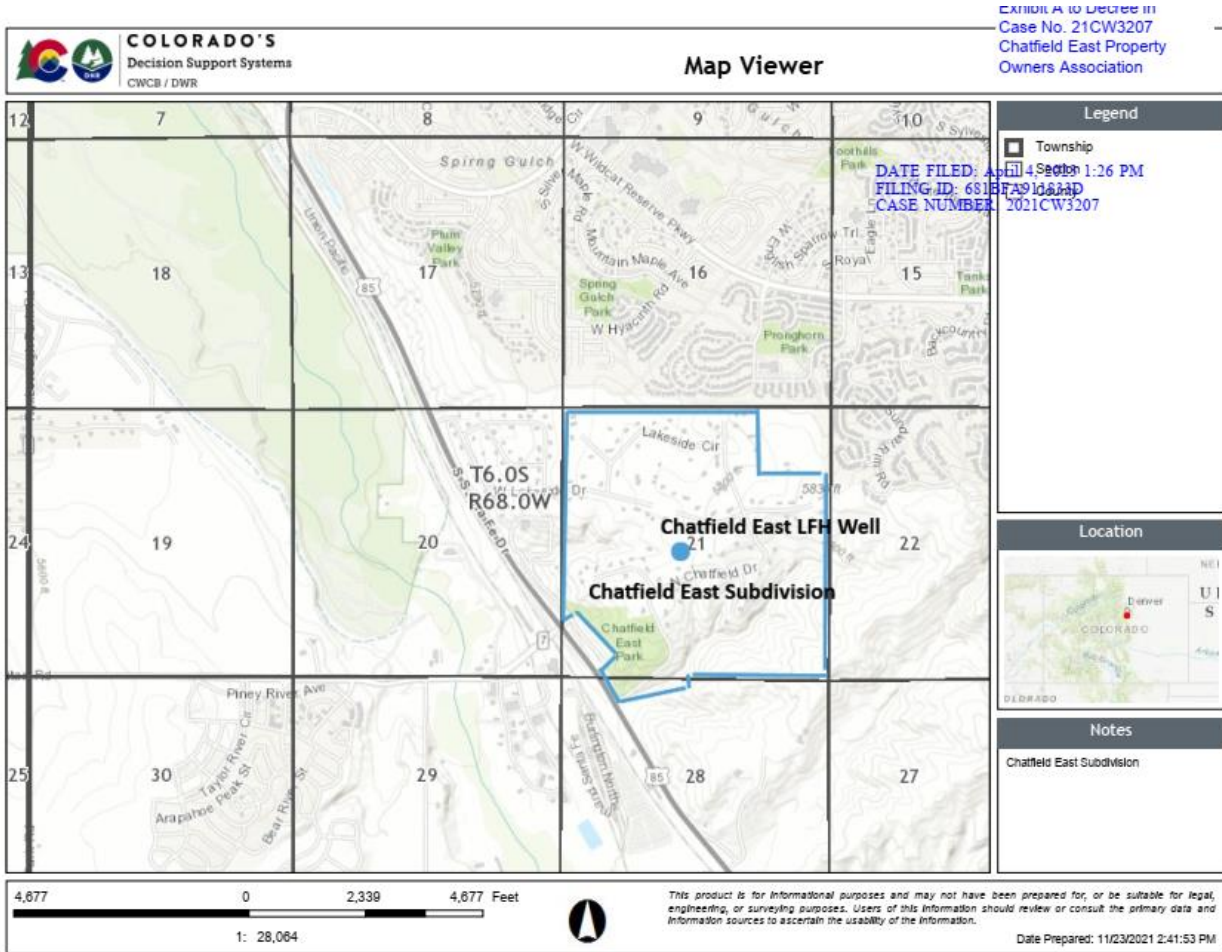
John S. Cowan
Water Referee
Water Division One

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

Date: May 18, 2023

A handwritten signature in blue ink, appearing to read "Shannon Lyons", written over a horizontal line.

Shannon Lyons
Alternate Water Judge
Water Division One



CHATFIELD EAST PROPERTY OWNERS ASSOCIATION OWNERS, WELLS AND USES as of 10/31/21				Irr. Use	AQUIFER	Dom Use
LOT	WELL PERMIT NO.	BILLING ADDRESS	ADDRESS City			
8	40041-F	10390 N CHATFIELD DR	Littleton, CO 80125	Yes	DEN	
14	40044-F	10422 N CHATFIELD DR	" "	Yes	DEN	
25	125288	6047 W LAKESIDE CT	" "	Yes	DEN	
38	39950-F	10889 N CHATFIELD DR	" "	Yes	DEN	
40	40180-F	6583 LAKESIDE CIR	" "	Yes	DEN	
41	39600-F	6639 LAKESIDE CIR	" "	Yes	DEN	
42	40624-F	6681 LAKESIDE CIR	" "	Yes	DEN	
45	105512	6797 LAKESIDE CIR	" "	Yes	DEN	
49	101795	10845 N LAKESIDE PL	" "	Yes	DEN	
57	56764-F	6538 LAKESIDE CIR	" "	Yes	DEN	
58	39596-F	6486 LAKESIDE CIR	" "	Yes	DEN	
60	53767-F	1100 80TH ST CT	St. Petersburg, FL	Yes	DEN	Yes
62	39598-F	6355 W LAKESIDE CT	Littleton, CO 80125	Yes	DEN	
63	110858	6419 W LAKESIDE CT	" "	Yes	DEN	
75	36300-F	6762 W LAKESIDE DR	" "	Yes	DEN	
76	39595-F	6714 W LAKESIDE DR	" "	Yes	DEN	
84	39178-F	10453 N CHATFIELD DR	" "	Yes	DEN	
86	42641-F	10415 N CHATFIELD DR	" "	Yes	DEN	
89	41147-F	10371 N CHATFIELD DR	" "	Yes	DEN	
90	121036	10353 N CHATFIELD R	" "	Yes	DEN	
99	39883-F	6894 W CHATFIELD LN	" "	Yes	DEN	
100	40053-F	6885 W CHATFIELD LN	" "	Yes	DEN	

DATE FILED: April 4, 2023 1:26 PM
 FILING ID: 681BFA911833D
 CASE NUMBER: 2021CW3207

Month: _____
 Year: _____

LIT NO.	WELL PERMIT NO.	Meters						Substance			Substance Sources									
		Assumed Inflow (GPM) (1)	Actual No. of Overstack (2)	Actual Irrigated Area (Ac. Ft.) (3)	Assumed Irrigated Area (Ac. Ft.) (4)	Total Outdoor Use (gallons) (5)	Total Indoor and Outdoor Use (gallons) (6)	Actual well pumping if metered (gallons) (7)	Assumed Inflow (10)	Assumed Outdoor (11)	Total Assumed Duplication (gallons) (12)	Ground Water (13)	NT UH BROWN (14)	NT UH BROWN (15)	Cattle Rack Leach (16)	Other Supplies (17)	Transect (18)	Total Replenishment (19)	Net Water Balance (20)	
8	68814																			
14	68814																			
25	174788																			
38	39950																			
60	65100																			
61	39900																			
62	68814																			
68	108611																			
69	381785																			
97	98794																			
98	39900																			
60	347474																			
62	39900																			
63	110868																			
75	36300																			
76	39900																			
81	391784																			
86	63813																			
88	611114																			
90	111036																			
99	39884																			
100	68814																			

TOTAL PUMPING AND REPLACEMENT

Notes for each numbered column:

- Note (1) Annual withdrawal for indoor use is assumed to be 0.25 acre-feet for lot 60 to 111 of this decree, equal to 9,000 gallons per month, zero for all other lots.
- Note (2) List actual number of overstack on each lot.
- Note (3) List actual irrigated area on each lot.
- Note (4) Each lot assumed to have at least 8 horses. If irrigated area is 4,000 sq. ft. or less, the lot is assumed to have 4 horses or 1/4 of this decree.
- Note (5) Each lot with 4 horses is assumed to have 4,000 sq. ft. of irrigation. Lots with 3 horses or less are assumed to have irrigation of 4,000 sq. ft. in 1/4 of this decree.
- Note (6) Maximum annual withdrawal for outdoor use is assumed to be 0.21 acre-feet per well in 1/4 of this decree, equal to 4,170 gallons per month.
- Note (7) Combine the assumed indoor use and assumed outdoor use for each lot.
- Note (8) If ordered by the State or Division Engineer pursuant to 11B of this decree, report the actual withdrawal in this column.
- Note (9) Annual indoor consumption use is 0.07 acre-feet in 1/4 of this decree, equal to 3,000 gallons per month for lot 60, and zero for all other lots.
- Note (10) Annual outdoor consumption use is 0.2125 acre-feet per well 1/4 of this decree, equal to 4,170 gallons per month.
- Note (11) Combine the indoor consumption use and outdoor consumption use for each lot.
- Note (12) 0.05 acre-feet per year is available at Chatfield other than for use pursuant to 11.1 of this decree between May 1 and Sep. 30, generally 1.00 acre-feet per month.
- Note (13) up to 15 acre-feet per year pursuant to 11.1 of this decree.
- Note (14) up to 15 acre-feet per year pursuant to 11.1 of this decree.
- Note (15) The correct lease pursuant to 11.4 of this decree provides up to 1.5 of each month through October 2014.
- Note (16) These sources may be used pursuant to 11.4 of this decree.
- Note (17) These amounts may be accessed by the Division Engineer pursuant to 11.2 of this decree.
- Note (18) Total of column 13, plus 11 through 18 minus any transect bases.
- Note (19) Column 18 minus column 11.