

# VALLEY AT WINTER PARK WATER DISTRICT

GRAND COUNTY, COLORADO

PREPARED FOR

**THE VALLEY AT WINTER PARK SUBDIVISION**

PREPARED BY

**COLLINS AND COCKREL, P.C.**

390 UNION BOULEVARD

SUITE 400

DENVER, COLORADO 80228

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## CHAPTER I

### INTRODUCTION

#### A. GENERAL

In accordance with the requirements of Section 32-1-101, et seq., Colorado Revised Statutes ("Act"), more particularly Section 32-1-202, C.R.S., this Service Plan for Valley at Winter Park Water District ("District") consists of a financial plan and engineering report showing how the water facilities and service of the District will be provided and financed. The following information is included in the Service Plan:

1. A description of the proposed water services;
2. A financial plan showing how water services are to be financed;
3. A preliminary engineering survey showing how water services are to be provided;
4. A map and legal description of the District boundaries and an estimate of the population and valuation for assessment of the District;

5. A general description of the facilities to be constructed and the standards of such construction;
6. A general description of the estimated cost of land, engineering, legal and administrative services, and other major expenses related to the organization and initial operation of the District; and
7. A description of the arrangements and agreements with other political subdivisions for the performance of services between the District and such political subdivisions.

**B. PURPOSE OF THE DISTRICT**

The purpose of the District is to own, administer and operate on a permanent basis the water augmentation plan and water distribution system installed for, and provide water services to the residents of the Valley at Winter Park Subdivision, located in Grand County, Colorado ("Development"). The District service area shall consist of all land within the Development and any area subsequently included within or served by the District. The Development contains approximately 205.11 acres with 48 residential development lots averaging 2.56 acres each; approximately 5.10 acres of common area; approximately 53.41 acres of open space tracts, which includes the proposed development of a nine-hole golf course; and approximately 23.66 acres of road rights-of-way. A location map of the Development

is shown in Exhibit A attached hereto and incorporated herein by this reference.

The District will install or acquire a central water distribution system ("Water System") as described in this Service Plan to provide water services to the residential lots and other property within the District. The District, if requested, will provide water service to the golf course, once it has been constructed. The District will also monitor ground water quality within the District to protect its water supplies and the public health and safety in accordance with the Wastewater/Water Quality Agreement with the County.

The owners of the Development, Pole Creek Associates, a Limited Partnership, and The Woods at Pole Creek, L.L.C. ("Developers"), will pay for the costs of the Water System. The Water System will be installed in accordance with standards compatible with applicable State and County regulations. After installation, the Developers will transfer the Water System and water augmentation plan to the District for ownership, operation and maintenance.

The Developers and District will enter into a cost recovery agreement for reimbursement by the District of a portion of the Developers' costs associated with the installation of the Water System. Cost recovery terms will include payment to the Developers of \$6,500 from fees collected by the District from each lot purchaser. The balance of the Water System improvement

costs incurred by the Developers will, in effect, be contributed to the District.

In order to maximize use of existing governmental structures and personnel, the District intends to utilize existing entities as much as possible for operations and maintenance of the Water System. The District will explore the feasibility of entering into an intergovernmental agreement with another district to provide operational and management services for the District.

The District will incur no general obligation indebtedness and will not levy property taxes for either debt repayment or operations, unless (i) the County approves such indebtedness or tax as a material modification of the Service Plan pursuant to the provisions of Section 32-1-207, C.R.S., and (ii) the electors of the District subsequently approve a new tax in accordance with Article X, Section 20 of the Colorado Constitution. Operational and administrative expenses of the District will be funded by the assessment of user fees and other charges.

C. **BOUNDARY MAP AND LEGAL DESCRIPTION**

A map of the boundaries of the District is attached hereto as Exhibit B and incorporated herein by this reference. The legal description of the area to be included in the District is attached hereto as Exhibit C and incorporated herein by this reference. The boundaries of the District may be expanded by the inclusion of property in accordance with all provisions under the Act.

**D. POPULATION AND ASSESSED VALUATION**

The estimated population of the District at build-out of the Development is expected to be 168 persons, assuming an average of 3.5 persons per residence.

Residential lots are expected to sell for \$90,000 to \$450,000, and the market value of each lot with residential improvements is expected to average \$650,000. Build-out of the Development is expected to occur over a ten-year period beginning in 1999. Build-out projections have been provided by the Developers as follows:

<u>Year</u>	<u>Units Constructed</u>	<u>Cumulative Total</u>
1999	5	5
2000	5	10
2001	5	15
2002	5	20
2003	5	25
2004	5	30
2005	5	35
2006	5	40
2007	5	45
2008	3	48

The current assessed valuation of all taxable real property within the District is approximately \$184,171. At build-out, the



assessed valuation of all taxable real property within the District (using present statutory methods of valuation) is estimated to be \$4,150,000.

**E. GENERAL POWERS OF THE DISTRICT**

The District will have all powers and authorities described in the Service Plan or conferred by law. The powers of the District will be exercised by its publicly-elected Board of Directors as necessary to provide the water services contemplated in the Service Plan. The installation of the Water System and provision of water services, along with all other activities permitted by law, will be undertaken in accordance with, and pursuant to the procedures and conditions set forth in the Act, other applicable statutes, and the Service Plan, as amended from time to time.

In addition, the Board of Directors of the District shall have the following authority:

1. To amend the Service Plan as needed, subject to compliance with appropriate statutory procedures, including but not limited to Section 32-1-207, C.R.S.;
2. After the installation of the Water System in accordance with the provisions of the County Subdivision Improvement Agreement, to replan, reschedule, or restructure the construction and

financing of water improvements and facilities in order to accommodate actual development, resource availability, or other necessary considerations;

3. To furnish additional services and exercise such powers as are expressly or impliedly granted by law, which the District is required to provide or exercise or, in its discretion, elects to provide or exercise;
4. To exercise all necessary and implied powers under the Act in the discretion of the Board of Directors of the District; and
5. Any amendment to the Service Plan or other changes with respect to the construction of improvements or the provision of additional services shall be subject to the provisions of the Service Plan, or if not provided in the Service Plan, to approval by the County pursuant to the Act.

**F. NEED FOR A WATER DISTRICT**

The Development is not within the boundaries of any special district which provides water services. There are no other existing municipal or quasi-municipal corporations, including special districts, which could provide adequate water services to the Development within a reasonable time and on a comparable

basis. Adequate water service is not and will not be available from the County.

The organizers have determined that the organization of the District is the most viable institutional alternative for: (i) administering the water augmentation plan; (ii) the collection of revenue needed to fund operations of the Water System; (iii) contracting and working with other governmental agencies; and (iv) controlling and assuring the long-term operation and maintenance of the Water System. The District will provide a reliable, permanent, governmental organization for the provision of necessary water services to the Development. The organization of the District will meet the water needs of the Development with no financial burden being placed on other residents of the County.

## CHAPTER II

### DESCRIPTION OF WATER SERVICES

#### A. SUMMARY

Pursuant to the Act, the District will have the ability and authority to exercise all powers of a water district consistent with the Service Plan. As more specifically described below, the District may acquire, design, construct, install, operate, and maintain a complete water supply, treatment, storage, transmission, and distribution system and facilities for domestic, irrigation and other public or private purposes, together with all necessary and proper water rights, wells, reservoirs, treatment works and facilities, equipment and appurtenances incidental thereto, including without limitation transmission lines, distribution lines, storage facilities, fire hydrants, lands and easements, together with extensions of and improvements to such facilities and systems ("Water System").

#### B. DESCRIPTION OF FACILITIES AND IMPROVEMENTS

##### 1. Overall Plan.

The Developers will finance, construct and install the Water System in accordance with the provisions of the County Subdivision Improvement Agreement and then transfer it to the District for ownership, operation and maintenance thereafter,

pursuant to the terms of a cost recovery agreement that will provide for partial reimbursement of the Developers' costs by the District in future years.

2. Design and Construction Standards.

In order to ensure that the District's facilities and improvements are compatible with the standards of the County, all applicable design criteria of the County will be adhered to. The District will also comply with and adhere to all applicable design and construction standards promulgated by other governmental agencies, including the State.

3. Preliminary Engineering Survey.

A preliminary engineering survey of the Water System, prepared by Richard G. Zinn, P.E., is set forth in Exhibit D attached hereto and incorporated herein by this reference.

4. Water Rights and Augmentation Plan.

Water supply for the Development, including the proposed golf course, clubhouse, and maintenance building, will be provided by the PCA Well, more specifically described in the water augmentation plan. Sewage treatment will be provided by individual non-evaporative septic/leach field systems.

After transfer by the Developers, the District will have adequate water rights and interests in water supplies to serve the Development. The value of the water rights is approximately \$250,000. A complete description of the water rights and water augmentation plan is attached hereto as Exhibit E and incorporated herein by this reference. The water augmentation plan will be transferred to the District at the time that the final plat for the Development is recorded.

5. Cost Estimates.

The installation cost of the Water System is estimated to be approximately \$622,000 as set forth in Exhibit F attached hereto and incorporated herein by this reference. The Developers will pay such costs and receive partial reimbursement from the District as provided in this Service Plan. The aggregate value of the water rights and Water System to be transferred to the District by the Developers is approximately \$872,000.

6. Metering.

All water use within the boundaries of the District will be metered. Rates for water service will be determined by the Board of Directors of the District.

## CHAPTER III

### FINANCIAL ANALYSIS

#### A. OPERATING EXPENSES

It is anticipated that the Board of Directors of the District will retain an attorney, auditor, and engineer, and contract for operational and management services with public or private providers to assist the Board in fulfilling all of its statutory and administrative obligations.

It is expected that the District may, by intergovernmental agreement, contract with another district for management services, which would include performing all operations, the collection of fees and charges, and providing daily management.

The estimated costs associated with the organization and initial operations of the District, including legal, engineering, administrative and financial services, are expected to be approximately \$30,000. These costs will be paid by the Developers.

**B. OPERATING REVENUE**

1. User Fees.

The primary source of revenue will be derived from user fees in the approximate amount of \$37.50 per month for each lot, the exact amount of which will be based upon actual water usage and the operational costs of the Water System.

2. Connection Fees.

The District will collect a connection fee in the amount of \$6,500 per residential lot at the time of the first sale of each lot. The revenue derived from these connection fees will be the source of cost reimbursement to the Developers.

3. Interest Income.

Some interest income is expected to be received, but for conservative estimating purposes is not shown.

**C. FINANCIAL PLAN**

A summary of the estimated operating revenue and costs, including engineering, legal, and administrative services and other major expenses related to the facilities and organization of the District, is attached hereto as Exhibit G and incorporated herein by this reference.



**D. COST REIMBURSEMENT**

Although the estimated installation cost of the Water System is \$622,359, only a portion of these costs will be reimbursed to the Developers. The District will pay the Developers the amount of \$6,500 per residential lot at the time of the first sale of each lot. The terms of cost recovery to the Developers will be set forth in a cost recovery agreement.

**E. ENTERPRISE STATUS**

It is anticipated that the operations of the District will qualify as an "enterprise" under Article X, Section 20 of the Colorado Constitution ("TABOR").

## CHAPTER IV

### DESCRIPTION OF PROPOSED INTERGOVERNMENTAL AGREEMENTS

To the extent that it is feasible, the District will enter into intergovernmental agreements with other special districts or governmental agencies to provide necessary services, if it is in the best interests of the District.

## **CHAPTER V**

### **ELECTIONS**

Following approval of the Service Plan by the County and after acceptance of the organizational petition and issuance of orders by the District Court, an election will be conducted to organize the District and elect the first Board of Directors. The District does not intend to request electoral approval for any new tax or indebtedness at this time. TABOR exemptions may be requested. All District elections will be conducted in accordance with court orders, the Act, Uniform Election Code, and TABOR, as appropriate.

## CHAPTER VI

### STATUTORY COMPLIANCE

#### A. CONTINUING REQUIREMENTS

The District, once organized, shall be subject to the following additional requirements:

1. Submission of annual reports as described in Section 32-1-207(3), C.R.S., unless waived by the County.
2. Material modifications of the Service Plan, except as contemplated herein, shall be subject to approval by the County in accordance with the provisions of Section 32-1-207, C.R.S.

#### B. CONCLUSIONS

It is submitted that the Service Plan for the District contains the following information and demonstrates full compliance with the Act:

1. A description of the proposed water services.
2. A financial plan showing how the proposed water services are to be financed.

3. A preliminary engineering survey showing how the proposed water services are to be provided.
4. A map and legal description of the proposed District boundaries, and an estimate of the population and valuation for assessment of the District.
5. A general description of the facilities to be constructed and the standards by which they are to be designed and constructed.
6. A general description of the estimated costs of engineering, legal, and administrative services and other major expenses.
7. A description of proposed intergovernmental agreements with other political subdivisions for the performance of services.
8. The information presented within the Service Plan is sufficient to establish that all criteria set forth in Section 32-1-203, C.R.S. have been adequately answered. More specifically:
  - a. There is sufficient projected need for organized water service in the area to be serviced by the

District. This need, when satisfied, will benefit the property owners within the District.

- b. The existing water service in the area of the Development is inadequate for projected needs.
- c. The District is capable of providing economical and sufficient water service to the area within the District's boundaries.
- d. The District does not initially intend to issue indebtedness.
- e. The area within the District will not obtain the water service proposed from any other governmental entity.
- f. The facility and service standards of the District will be compatible with those of the County and State.
- g. The proposal is in compliance with the County Master Plan.
- h. The proposal is in compliance with the duly adopted county, regional, or state long-range water quality management plan for the area.

- i. The organization of the District will be in the best interest of the area proposed to be served.

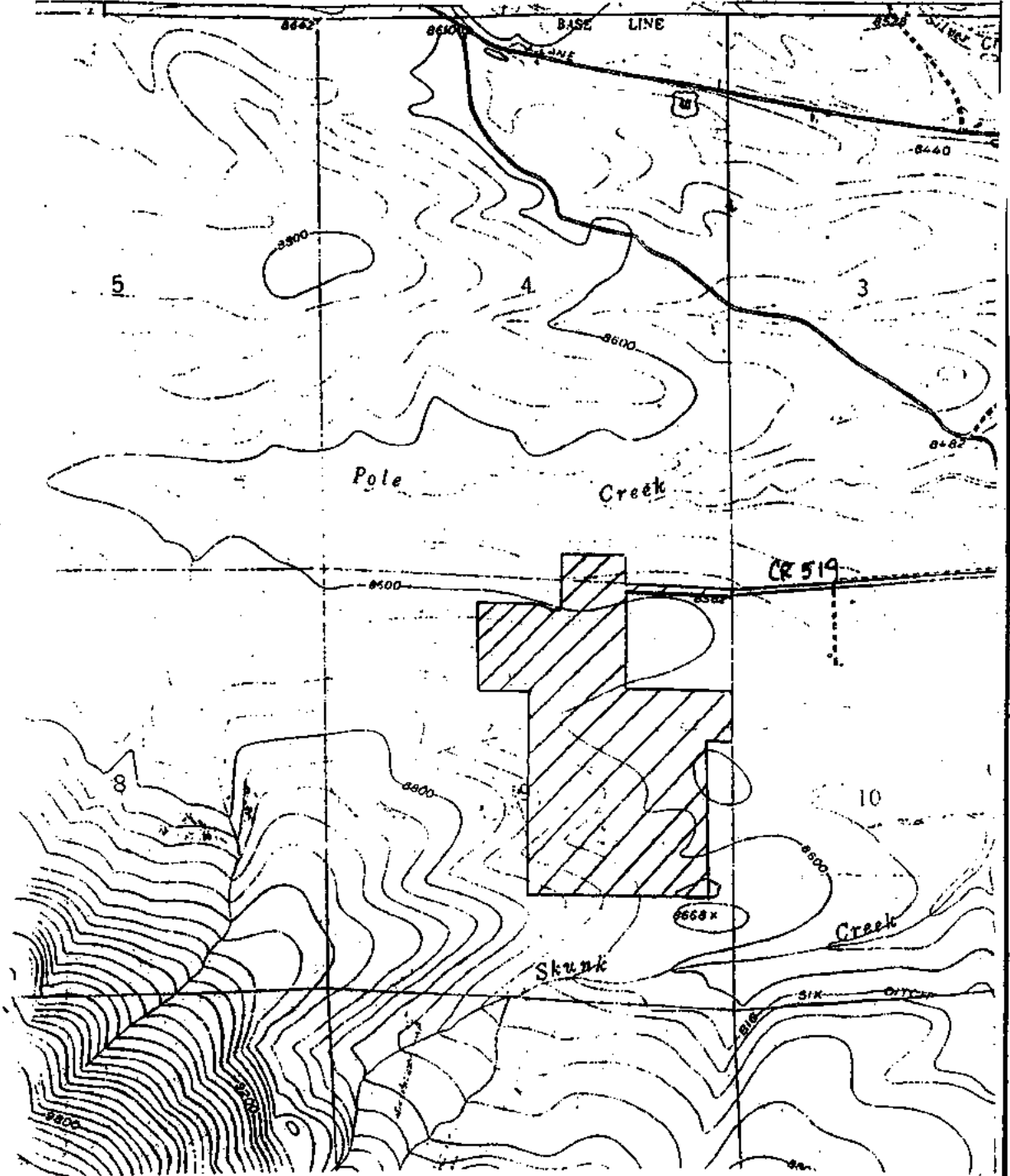
It is, therefore, requested that the County Commissioners of Grand County, Colorado, who have jurisdiction to approve this Service Plan pursuant to Section 32-1-204, C.R.S., adopt a resolution of approval of the Service Plan without conditions.

# EXHIBIT A

## VICINITY MAP



SCALE 1" = 2000'







## **EXHIBIT C**

**OF A TRACT OF LAND BEING A PORTION OF SECTIONS 4 AND 9 OF TOWNSHIP 1 SOUTH, RANGE 76 WEST OF THE 6TH P.M., GRAND COUNTY, COLORADO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**Beginning at a point being the Northeast corner of said Section 9:**

**THENCE South 00 degrees 45 minutes 03 seconds East for a distance of 60.14 feet to a point;**

**THENCE North 87 degrees 20 minutes 22 seconds West for a distance of 1325.92 feet to a point;**

**THENCE South 00 degrees 41 minutes 52 seconds East for a distance of 1256.01 feet to a point;**

**THENCE South 87 degrees 17 minutes 58 seconds East for a distance of 1327.14 feet to the North 1/16th corner of Sections 9 and 10, T1S, R76W of the 6th P.M., Grand County, Colorado;**

**THENCE South 00 degrees 42 minutes 03 seconds East for a distance of 658.33 feet to a point;**

**THENCE North 87 degrees 17 minutes 01 seconds West for a distance of 300.47 feet to a point;**

**THENCE South 00 degrees 40 minutes 47 seconds East for a distance of 1975.25 feet to a point;**

**THENCE North 87 degrees 13 minutes 15 seconds West for a distance of 2353.56 feet to a point;**

**THENCE North 00 degrees 40 minutes 41 seconds West for a distance of 2630.30 feet to a point;**

**THENCE North 87 degrees 17 minutes 58 seconds West for a distance of 664.00 feet to a point;**

**THENCE North 00 degrees 40 minutes 48 seconds West for a distance of 1076.88 feet to a point;**

**THENCE along a curve to the right having a radius of 1360.00 feet and an arc length of 136.68 feet, being subtended by a chord of North 89 degrees 46 minutes 53 seconds East for a distance of 136.62 feet to a point;**

**THENCE South 87 degrees 20 minutes 22 seconds East for a distance of 891.68 feet to a point;**

**THENCE along a curve to the right having a radius of 385.00 feet and an arc length of 123.15 feet, being subtended by a chord of South 78 degrees 10 minutes 32 seconds East for a distance of 122.63 feet to a point;**

**THENCE along a curve to the left having a radius of 305.00 feet and an arc length of 97.56 feet, being subtended by a chord of South 78 degrees 10 minutes 32 seconds East for a distance of 97.15 feet to a point;**

**THENCE North 02 degrees 56 minutes 12 seconds East for a distance of 471.63 feet to a point;**

**THENCE South 87 degrees 03 minutes 47 seconds East for a distance of 448.26 feet to a point;**

**THENCE North 82 degrees 35 minutes 28 seconds East for a distance of 269.52 feet to a point;**

**THENCE South 01 degrees 03 minutes 43 seconds East for a distance of 251.57 feet to a point;**

**THENCE South 87 degrees 20 minutes 22 seconds East for a distance of 1324.57 feet to the POINT OF BEGINNING.**

**Together with and subject to covenants, easements, and restrictions of record.**

**Said property contains 205.11 acres more or less.**

**EXHIBIT D**

**UTILITY STUDY**

**PREPARED FOR**

**VALLEY AT WINTER PARK WATER DISTRICT**

August, 1998

**UTILITY STUDY**  
for  
**VALLEY AT WINTER PARK WATER DISTRICT**

**1.0 PURPOSE AND LOCATION**

The purpose of this report is to evaluate the construction of a water distribution system to provide service to Valley at Winter Park Water District. The report discusses the design criteria, sizing and special requirements for service to this subdivision.

**1.1 Scope**

The scope of this report is limited to that area contained within Valley at Winter Park Subdivision. Offsite system analysis are beyond the scope of this study.

**1.2 Location**

The Subdivision is located in Sections 4 and 9, Township 1 South, Range 76 West of the Sixth Principal Meridian, Grand County, Colorado. The site drains generally to the East, with the extreme northern portion of the property draining to the North.

The site is bounded on the North by the Estates at Pole Creek - Ley Subdivision and the West by the Black Forrest Subdivision and on all other sides by unplatted land.

**2.0 WATER SERVICE**

Water service to the subdivision will be provided by drilling a deep well within the boundaries of the Subdivision. This well will be located at a point as described on the well permit and will pump water to a 30,000 gallon storage tank situated at a high point along the west boundary of the property. The well water will be chlorinated at the well head, with contact time being provided in the storage tank. Distribution to the individual lots will be through a 4" diameter distribution system, with an 8" diameter pipe being installed between the fire hydrant and the storage tank at a location where fire trucks can access the system and fill from the hydrant.

Individual in-line booster pumps would be required in order to maintain a 40 psi pressure for some of the higher lots. Maximum static pressure at the lowest point in the system would be approximately 65 psi.

## 2.1 Design Criteria

The water distribution system for this Subdivision has been designed based on the following design criteria:

- Average Daily Flow 80 gallons per day per capita
- People per unit 3.5
- Total number of units 48
- Irrigation 1,000 square feet (max)
- Fire Flow Fill tankers, one hydrant with 1,000 gpm flow capacity, min. 5,000 storage capacity
  
- Peak Flow Factors
  - Max. day/Avg. Day 3.0
  - Peak Hour/Max. Day 1.9

## 2.2 Design Flows

Based on the above noted criteria, design flows for the Subdivision are as follows:

- Average Daily Flow (including golf club house) 16,000 gpd
- Maximum Daily Flow 48,000 gpd
- Peak Hourly Flow 91,200 gpd  
= 66 gpm

## 3.0 SEWER SERVICE

Sewer service will be provided by individual systems to be installed on each individual lot.

## 3.0 CONCLUSIONS

Based on the fact that the peak hour flow for the Subdivision is only 66 gpm, the system has been sized to be 4" diameter, rather than 6" diameter. Since there is no fire flow demand on the distribution system, velocities in a 6" diameter main would be very low (approximately 0.7 feet per second). In addition, the 4" diameter system will allow for the system to purge itself more frequently.

The water system proposed for serving Valley at Winter Park Subdivision will consist of the following elements:

- **Water Source** – one deep well to be equipped to provide an approximately flow of 50 gpm. Chlorination will be provided at the well head with detention time available in the storage tank. Additional treatment, if required, will be provided at or near the well head prior to pumping to storage.
- A 3" diameter force main will be constructed between the well head and the storage facility. There will be no services off of this line.
- Initially, 30,000 gallons of storage will be included in the system. Additional storage could be added in the future.
- The pipeline from storage to the distribution system will be 8" in diameter and will feed directly to the fire hydrant situated on the main road. The fire department is in agreement with the single hydrant location. The 8" main will provide adequate flow to the hydrant for this purpose. Additional hydrants at the low end of the system are provided to allow for flushing of the system when necessary.
- The 8" main from the storage tanks will feed into a 4" loop that will service the entire subdivision. The smaller pipe is recommended to allow for better circulation in the system both from a cleaning standpoint and from a fresh water standpoint. Fire flows are not required from the system, and domestic flows for the 48 units are quite low, even during the peak hour.

Land Use Technology  
Richard G. Zinn, P.E.  
7009 S. Locust Place  
Englewood, CO 80112  
(303) 773-2182

## EXHIBIT E

DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO

Case No. 80CW67, consolidated with Case Nos. 80CW456 and 84CW175

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FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

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REGARDING THE APPLICATION OF POLE CREEK ASSOCIATES AND WINTER PARK ASSOCIATES

IN GRAND COUNTY, COLORADO

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THIS MATTER has come before the Court upon the application of Pole Creek Associates and Winter Park Associates for water rights, change of water rights and for approval of an augmentation plan. The Court, having considered the pleadings, the stipulations of the parties, and the evidence presented, and being fully advised in the premises makes the following findings of fact:

### FINDINGS OF FACT

1. Name and Address of Applicant.

Pole Creek Associates and Winter Park Associates c/o Chuck Anema, 1660 South Corona, Denver, Colorado 80210; telephone (303) 744-0688

2. History of Case. The Applicants are represented by Holly I. Holder. The applications as originally published in 1980 requested nontributary water from the wells. Rulings of the referee were entered finding that both wells are nontributary in 1985, which rulings were protested by the State Engineer. In 1985, the Applicants obtained an order awarding attorneys fees against the State Engineer in the amount of \$1,338.75. The cases were consolidated in 1986. On March 31, 1987, the Applicants signed a stipulation with the State Engineer that, among other things, waived the award for attorney fees, conceded that the subject ground water is tributary, and required the Applicants to seek a plan for augmentation. Due to the change in the law defining nontributary water in Senate Bill 5, and pursuant to the stipulation with the State Engineer, the application was amended on December 8, 1992 to provide that the water from the Troublesome formation to be withdrawn from the subject wells is tributary to the Fraser River or its tributaries and to request approval of an augmentation plan to provide for replacement of depletions from pumping of the wells with water from other sources.

Statements of opposition were filed by the State Engineer of Colorado and the Division Engineer of Water Division 5 (the "State"), the City and County of Denver, acting by and through its Board of Water Commissioners, Winter Park Recreational Association and Fraser Valley Metropolitan Recreation District. No other statements of opposition have been filed and the time for filing such statements has expired. All of the parties have stipulated to the entry of this decree.

3. Water rights and structures to be augmented.

A. Skigate Well.

- (1) Location: In the NW1/4 of the SW1/4 of Section 1, T. 1 S., R. 76 W. of the 6th P.M. at a point 2300 feet north of the south section line and 200 east of the west section line of said Section 1.
- (2) Depth: 600 feet.
- (3) Pumping Rate: 200 gpm (0.44 cfs).
- (4) Amount: Not to exceed 136.5 acre-feet per year.
- (5) Date of Appropriation: July 17, 1972.

B. PCA Well.

- (1) Location: In the NW1/4 SE1/4 of Section 9, T. 1 S., R. 76 W. of the 6th P.M., at a point 2090 feet north of the south section line and 1470 feet west of the east section line of said Section 9.
- (2) Depth: 800 feet.
- (3) Pumping Rate: 300 gpm.
- (4) Amount: Not to exceed 99 acre-feet per year.
- (5) Date of Appropriation: October 12, 1983.

4. Description of property to be served. The Applicants intend to develop 173.3 acres described as shown on attached Exhibit A located in Section 9, Township 1 South, Range 76 West (the "Subject Property") into residential units and a golf course. Sewage treatment will be provided by a central Wastewater treatment the discharges of which will be located on Pole Creek at a point approximately 1400 feet from the East Section line and 850 feet from the South Section line of Section 4, Township 1 South, Range 76 West.

5. Water rights to be used for augmentation.

- A. Return flows after use, or reuse, or by direct discharge from the subject wells.
- B. Releases from Pole Creek Meadows Reservoir No. 1.

- (1) Location: the right abutment is located in the NE1/4 of the SE1/4 of Section 2, T. 1 S., R. 76 W. of the 6th P.M. at a point whence the Southeast corner of said Section 2 bears S24°00'E 1,740 feet.



- (2) Use: Recreational, piscatorial, fire protection, augmentation.
- (3) Date of appropriation: August, 1972.
- (4) Capacity: 52.2 acre feet, storage of which PCA has rights to 37.52 acre feet per year.
- (5) Decree: Case No. 85CW148, October 30, 1985.

C. Pearl Ditch and Rich Ditch.

(1) Pearl Ditch

- (a) Decreed location: Headgate located on the North bank of Pole Creek at a point whence the Southeast corner of Section 10, T. 1 S., R. 76 W. of the 6th P.M., bears N35° 15'W, 1311 feet.
- (b) Use: Irrigation.
- (c) Date of appropriation: May 18, 1891.
- (d) Flow Rate: PCA owns 1.445 cfs of the 2.0 cfs. 1.445 cfs is the subject of this case.
- (e) Decree: Civil Action No. 112 in District Court of Grand County entered August 11, 1906.

(2) Rich Ditch

- (a) Decreed location: Headgate located on the West bank of Crooked Creek at a point whence the Northeast corner of Section 4, T. 1 S., R. 76 W. of the 6th P.M., bears N15°E, 2600 feet.
- (b) Use: Irrigation.
- (c) Date of appropriation: May 5, 1892.
- (d) Flow Rate: PCA owns 0.891 cfs of the 3.75 cfs. 0.891 cfs is the subject of this case.
- (e) Decree: Civil Action No. 183 in District Court of Grand County, entered August 3, 1911.

In addition, by stipulation and agreement with the State, the Applicants have agreed to store and release into Pole Creek one acre foot of water upstream from the proposed development, from a location acceptable to the State. At the present time, the Applicants

For each acre of land permanently removed from irrigation, the Applicants shall be credited with 0.90 and 0.75 acre-feet per acre for the Rich and Pearl Ditches, respectively, subject to the following limitations.

1. The maximum consumptive use diversion rate shall not exceed 40% of the applicant's ownership of the subject water rights, provided the water is physically and legally available.
2. The Applicants shall maintain headgates, measuring devices, and by-pass structures to verify physical availability for the Rich and Pearl Ditches to the satisfaction of the Division Engineer.

For each acre removed from irrigation, the Applicants ownership of allowable ditch diversions shall be reduced by dividing the number of acres removed by the Applicants' total irrigated acres, which are 33.98 acres and 26.73 acres for the Rich and Pearl Ditches, respectively, and multiplied by the Applicants' ownership flow rate of the ditches. The Applicant shall be allowed to convey the consumptive use flow rates of the ditches to the Pole Creek Meadow Reservoir No. 1.

Return flows from the subject wells as metered by direct discharge from the wastewater treatment plant into Pole Creek may be utilized to replace depletions or for reuse purposes, along with any other return flows approved by the State Engineer pursuant to Para 8(E), herein.

Water stored in Pole Creek Meadows Reservoir No. 1 and Snow Mountain Reservoir under the Applicants ownership shall be charged, if applicable, with evaporation losses when out-of-priority at the rate schedule below:

<u>Month</u>	<u>Evaporation Rate</u> (feet)
July	0.40
August	0.38
September	0.31
October	0.21
Total	1.30

#### CONCLUSIONS OF LAW

8. The Water Court has jurisdiction over this proceeding pursuant to §§ 37-92-302, 37-92-304(6) and 37-92-305, C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law.

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

### JUDGMENT AND DECREE

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

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

11. The withdrawal of ground water through the Skigate Well and the PCA Well will continue to deplete stream flows long after pumping from those wells has ceased. Consequently, Applicants hereby dedicate and the Court hereby decrees Applicants ownership portion of the water rights associated with the Pearl and Rich Ditches described in Paragraph 5 above to this Plan for Augmentation. Applicants shall retain ownership, control, and the right to use their portion of the Pearl and Rich Ditch water rights together with the herein decreed Plan for Augmentation, which means that they shall not sell, convey, encumber, or take any other action that would result in the separation of the Pearl and Rich Ditch water rights from this Plan for Augmentation. Furthermore, in order to provide notice to all potential purchasers of the terms and conditions of this decree, within ten (10) days of the date when this Findings of Fact, Conclusions of Law, Judgment and Decree is signed by the Court, Applicants shall record it with the Clerk and Recorder for Grand County, Colorado. This provision shall be binding on all successors-in-interest to the Applicants, including any homeowner association or similar common interest ownership entity that may be a beneficiary of this Plan for Augmentation.

12. Administration of Plan for Augmentation.

A. Reporting Frequency. Applicants shall report on accounting forms suitable to the Division Engineer for Water Division 5 all accounting necessary for the administration of this plan.

B. Meters. The Applicants shall install all meters and other measuring devices as required by the Division Engineer for the administration of this decree.

C. Curtailment. Pursuant to 37-92-305(8), C.R.S., the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

D. Delayed Implementation. Applicants shall not withdraw any water from the Skigate Well or the PCA Well until they have (i) secured the annual legal right to store no less than one (1) acre foot of water for release year round into Pole Creek as provided in Paragraph 5(C) above, and (ii) submitted adequate documentation of such legal right to the State Engineer. In the event that

such storage right is ever denied, lost, abandoned, or otherwise unavailable, Applicants shall immediately cease using all water withdrawn from the Skigate Well and the PCA Well for any uses other than in-house domestic until such right is restored.

E. Except for sewer return flows that can be quantified by a measuring device, Applicants shall not use or reuse any portion of its return flows until the State Engineer has issued a written statement finding that the Applicants have demonstrated to the satisfaction of the State Engineer the exercise of dominion and control over such return flows. If the State Engineer declines to issue such a written statement when requested by the Applicants, then the Applicants may petition the Court for such a finding. Applicants shall provide written notice of the petition to the parties herein, and shall also pay for the water clerk to provide notice of the petition to the general public similar to that given a regular water court application pursuant to §37-92-302(3), C.R.S. Any person may participate in the proceedings concerning Applicants' petition, and the Applicants shall bear the burden of proof.

F. Due to the filing of the subject amended application involving a new source of water in 1992 and the republication of the same, Applicants' two wells are to be administered with a 1992 filing or adjudication date. Applicants agree to the administration of their water rights decreed herein as junior in priority to, and agree not to exercise or precipitate a call to the extent it would curtail Winter Park Recreational Association's water rights decreed, or to be decreed in Case Nos. 91CW240, 92CW319, 92CW332 and 92CW333.

13. The Applicants may withdraw the groundwater herein through the wells listed above at the locations listed above and in the average annual amounts and at the estimated average rates of flow specified therefor, subject to the limitations herein and the retained jurisdiction by this Court. Under no circumstances shall Applicants withdraw more than 136.5 acre feet annually from the Skigate well and 99 acre feet annually from the PCA well, for the purposes described in this plan for augmentation.

14. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to §§ 37-90-137, 37-92-302, 37-92-304(6), and 37-92-305, C.R.S., to adjudicate their plan for augmentation, and are therefore entitled to a decree confirming and approving their plan for augmentation as described in the findings of fact.

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

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

17. Continuing Jurisdiction.

A. Pursuant to § 37-92-304(6), C.R.S., the Court shall retain jurisdiction over the Plan for Augmentation decreed herein for reconsideration of the question whether the provisions of this decree

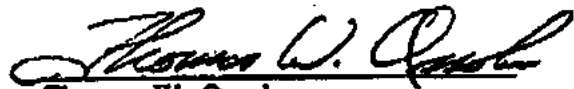
are sufficient to prevent injury to vested water rights of others. The Court shall also have jurisdiction for the purpose of determining compliance with the terms of the augmentation plan.

B. The amount of replacement water available under this Plan for Augmentation is expected to be adequate to satisfy the stream depletions that are anticipated to result from the pumping of Skigate Well and PCA Well only if those wells are pumped for a period of one hundred (100) years or less. If the wells are pumped longer than one hundred (100) years, then additional augmentation water will probably be necessary. Therefore, if any amount of water is still being pumped from either of the wells listed herein after one hundred (100) years from the date of this decree, a rebuttable presumption shall exist that the now-decreed amount of replacement water available under this Plan for Augmentation is inadequate, and that vested water rights owned by others are being and will continue to be injured unless additional replacement water is made available.

C. Any person may invoke the Court's retained jurisdiction by filing a verified petition with the Court. That petition shall set forth with particularity the factual basis upon which the requested reconsideration is premised, together with proposed decretal language to effect the petition. The person lodging the petition shall have the burden of going forward to establish prima facie facts alleged in the petition, except as otherwise provided for herein. If the Court finds those facts to be established, Applicants (or their successors-in-interest) shall thereupon have the burden of proof to show that no owners of or persons entitled to use water under a vested water right will be injuriously affected by the operation of the Plan for Augmentation decreed herein.

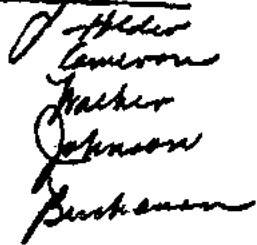
ENTERED this 27th day of June, 1994

BY THE COURT:



Thomas W. Ossola  
Water Judge  
Water Division 5  
Colorado

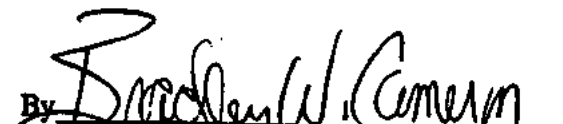
... the foregoing mailed to all  
Council of record - Water  
Referee, - Div. Engineer - and  
State Engineer - Date 6-27-94  
Dorey D. ...  
County Clerk, Water Div. No. 5




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

FOR THE STATE AND DIVISION ENGINEERS FOR THE APPLICANT

HOLLY I. HOLDER, P.C.

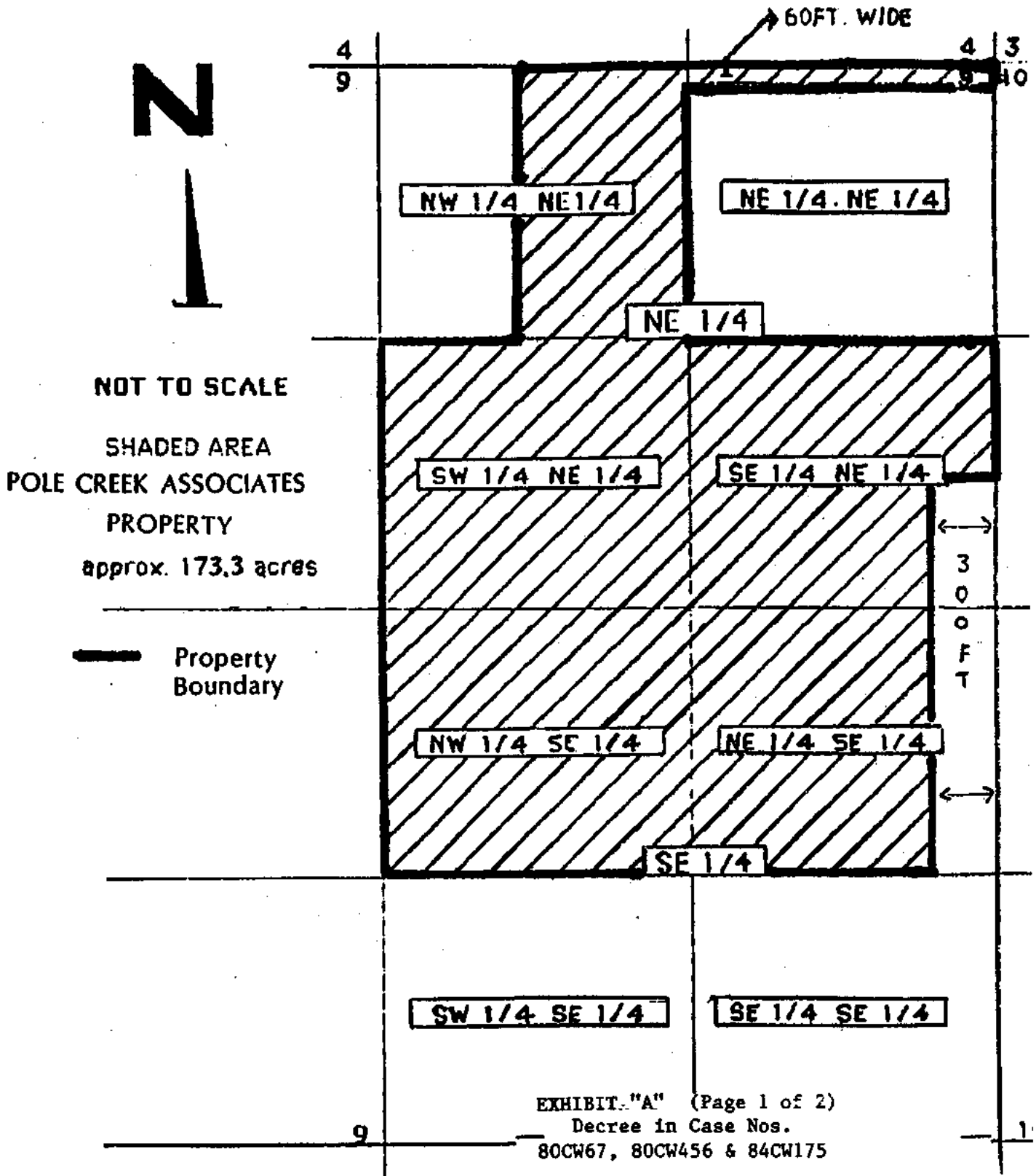
By   
Bradley W. Cameron, #11183  
Assistant Attorney General  
Natural Resources Section  
1525 Sherman St., 5th Floor  
Denver, CO 80203  
(303)866-5006

Attorney for the State and  
Division Engineer

By   
Holly I. Holder, #10206  
518 - 17th Street, Suite 1500  
Denver, CO 80202  
(303) 534-3636

Attorney for Applicant

SECTION 9, TOWNSHIP 1 SOUTH, RANGE 76 W, 6th P.M.



## PROPERTY LEGAL DESCRIPTION

SECTION 9, TOWNSHIP 1 SOUTH, RANGE 76 WEST 6TH P.M.

GRAND COUNTY

EAST 1/2 N.W. 1/4 N.E. 1/4	--- 20.0 ACRES
EAST 1/2 E. 1/2 W. 1/2 N.W. 1/4 N.E. 1/4	--- 5.0 ACRES
NORTH 1/2 S.W. 1/4 N.E. 1/4	--- 20.0 ACRES
NORTH 1/2 S.E. 1/4 N.E. 1/4	--- 20.0 ACRES
SOUTH 1/2 S.W. 1/4 N.E. 1/4	--- 20.0 ACRES
SOUTH 1/2 S.E. 1/4 N.E. 1/4 EXCEPT THE EAST 300ft.	--- 15.5 ACRES
NORTH 1/2 S.E. 1/4 EXCEPT THE EAST 300ft.	--- 71.0 ACRES
NORTH 60ft. OF THE N.E. 1/4 N.E. 1/4	--- 1.8 ACRES

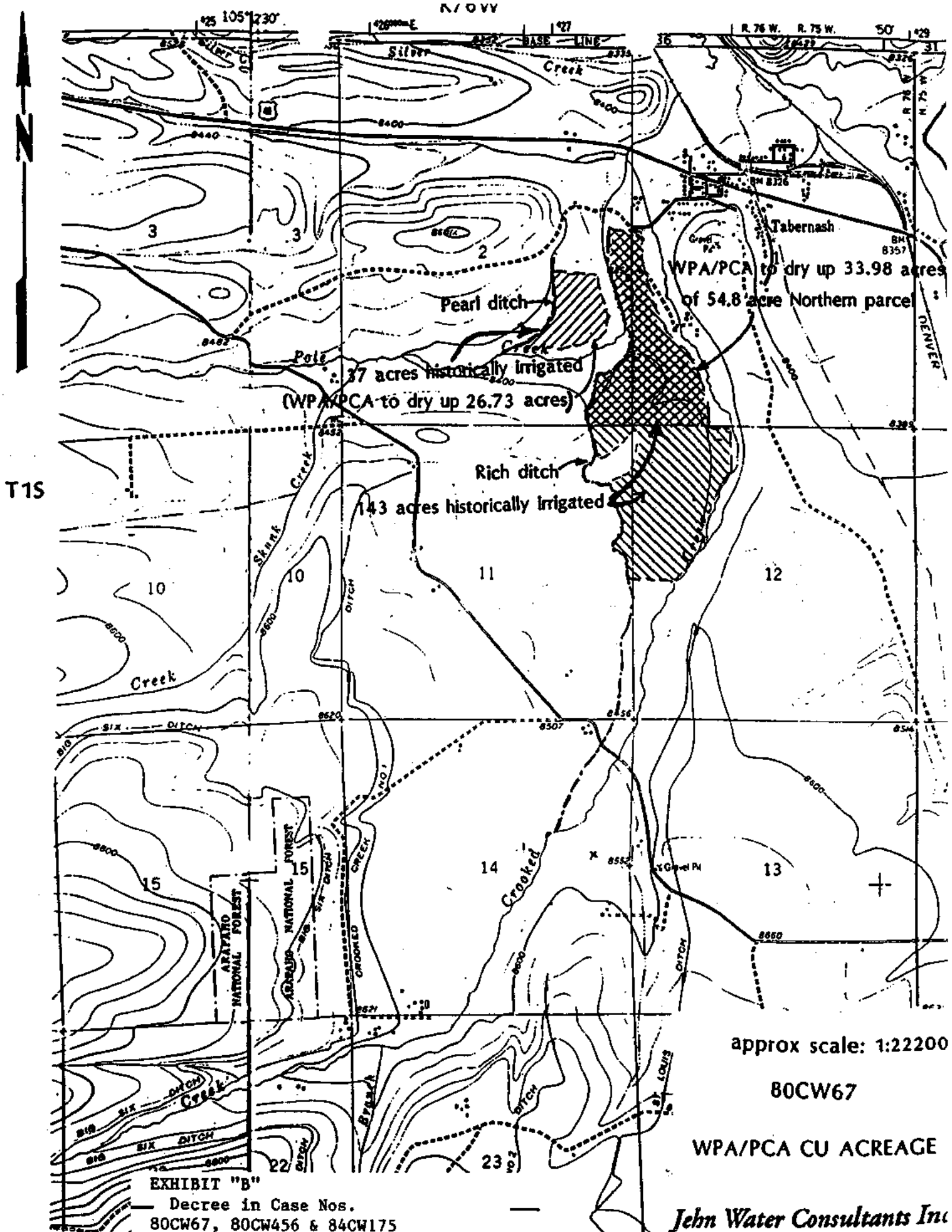
TOTAL ACREAGE IS APPROXIMATELY 173.3 ACRES.

EXHIBIT "A" (Page 2 of 2)

— Decree in Case Nos.

80CW67, 80CW456 & 84CW174





T15

approx scale: 1:22200

80CW67

WPA/PCA CU ACREAGE

EXHIBIT "B"  
 Decree in Case Nos.  
 80CW67, 80CW456 & 84CW175

*Jehn Water Consultants Inc*  
 1565 Gilpin Street

DISTRICT COURT, WATER DIVISION 5, COLORADO

Case No. 95CW178

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FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

---

CONCERNING THE APPLICATION OF WATER RIGHTS OF WINTER PARK ASSOCIATES,

IN GRAND COUNTY.

---

This claim for water rights from a spring, having been filed in the District Court, Water Division 5, on September 1, 1995, all matters contained in the application having been reviewed, and testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein, it is hereby the Decree of the Water Court:

FINDINGS OF FACT

1. Name, address, and telephone number of Applicant:

Winter Park Associates  
1660 South Corona  
Denver, Colorado 80210  
(303) 744-0688

2. Background: No statements of opposition have been filed to this application and the time for filing of such statements of opposition has expired. The Water Referee entered a ruling regarding this application on April 25, 1997. The State and Division Engineers for Water Division 5, State of Colorado, protested this ruling on May 12, 1997, on the basis that the water application appeared speculative and sought an underground water right. The Applicant and the State and Division Engineers reached a resolution and a Stipulation to that effect is filed herewith.

3. Subject Matter Jurisdiction: Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected hereby, whether they have appeared or not.

4. **Name and Location of structure:** Winter Park Spring No. 1: Located in the SE1/4NE1/4 of Section 9, Township 1 South, Range 76 West of the 6th P.M., at a point approximately 1780 feet from the north and 400 feet from the east section lines of said Section 9, as shown of Attachment A.

5. **Appropriation date:** August 1, 1995 by location of the spring on the property, measurement of flow and intent to appropriate the water for the specified uses.

6. **Amount:** 0.2 cfs (conditional).

7. **Source:** The source of the spring is a tributary of Skunk Creek, a tributary of the Fraser River.

8. **Uses:** Irrigation of a golf course on approximately 208.3 acres of land in the E1/2 of Section 9 Township 1 South, Range 76 West of the 6th P.M., as shown on Attachment A hereto.

9. The application in this case was filed in the Water Court for Water Division 5 in the year 1995, and the priority awarded herein shall be administered as having been filed in that year, and shall be junior to all priorities awarded in earlier years for water derived from the same source. As between water rights awarded in the same calendar year, priorities shall be determined by the date of appropriations as decreed and shall not be affected by the date of this Decree.

#### CONCLUSIONS OF LAW

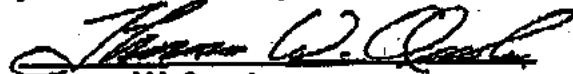
10. The Court has jurisdiction as stated above and notice has been given to all parties of the subject of this matter.

#### JUDGMENT AND DECREE

11. The foregoing Findings of Fact and Conclusions of Law are approved and incorporated herein by reference.

12. If Applicant desires to maintain such conditional right, an application for a finding of reasonable diligence shall be filed on or before May 2003 or a showing made on or before such date that the conditional water right has become an absolute water right by reason of the completion of the appropriation.

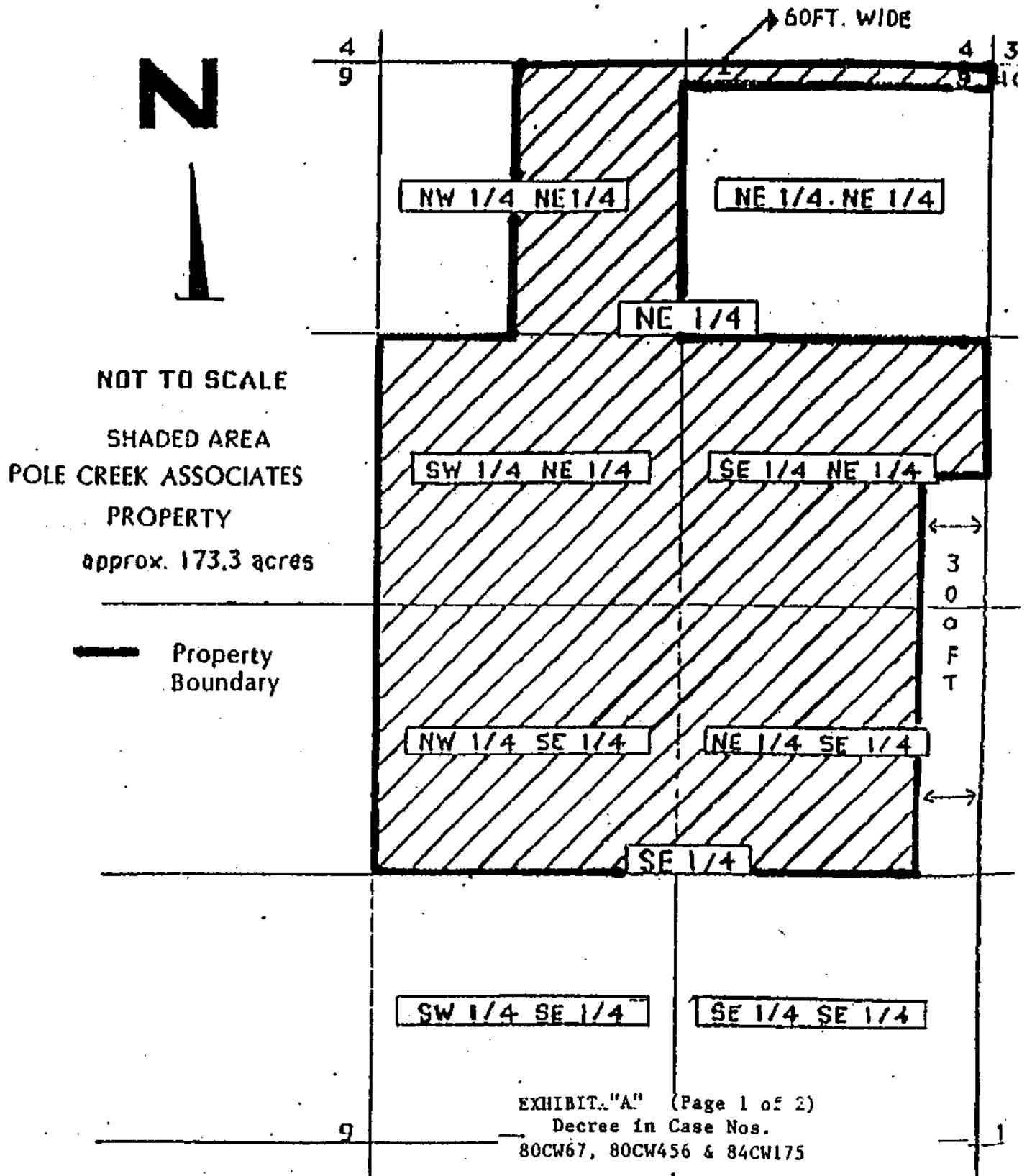
Dated: May 14, 1998

  
Thomas W. Ossola  
Water Judge  
Water Division 5

Cop<sup>y</sup> of the foregoing mailed to all  
Div. of Water Resources  
State Engineer Date 05-11-98  
DLF

Holder  
Member

SECTION 9, TOWNSHIP 1 SOUTH, RANGE 76 W, 6th P.M.



1-25-94

*Jehn Water Consultants Inc.*  
1565 Gilpin Street

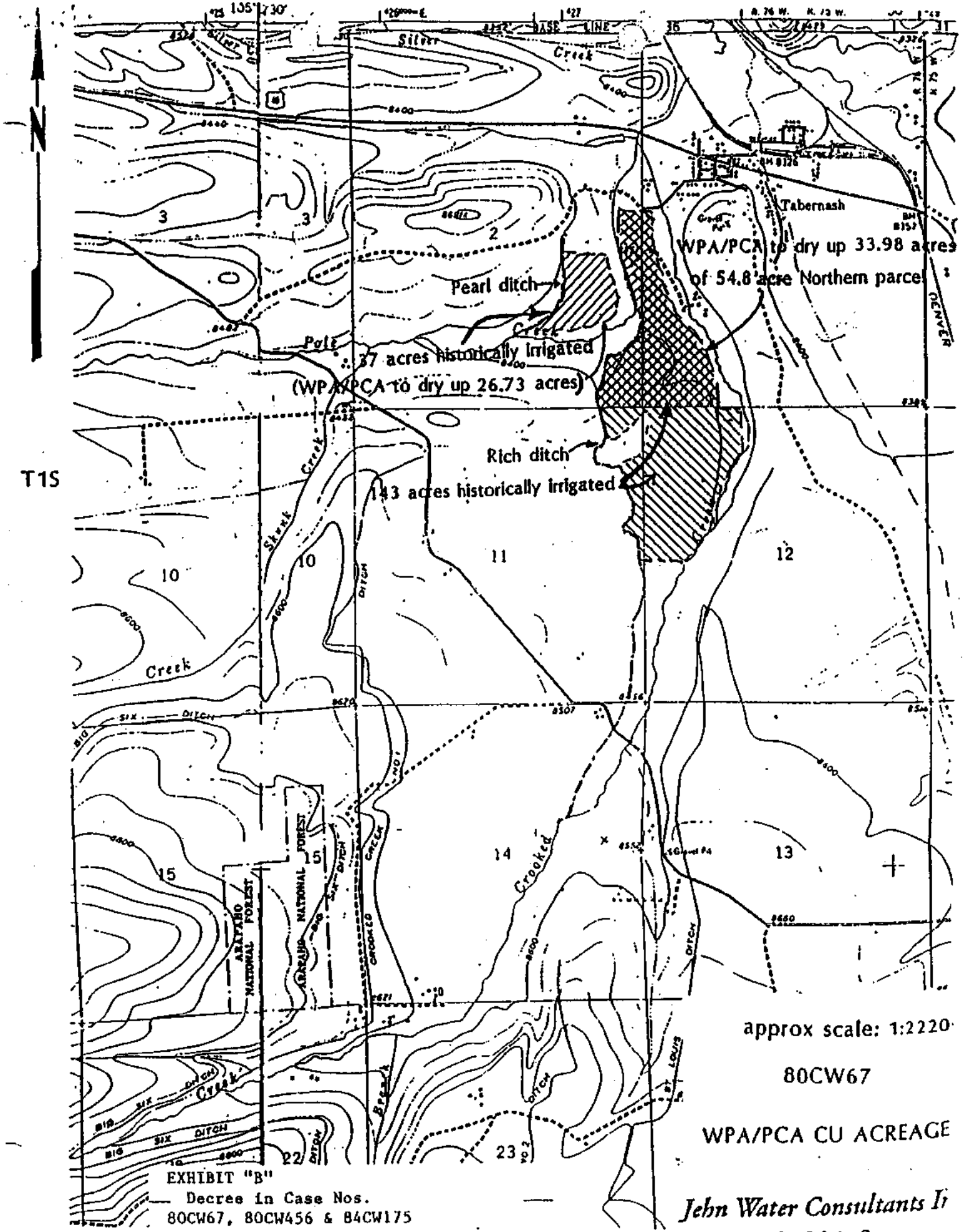
# PROPERTY LEGAL DESCRIPTION

SECTION 9, TOWNSHIP 1 SOUTH, RANGE 76 WEST 6TH P.M.

GRAND COUNTY

EAST 1/2 N.W. 1/4 N.E. 1/4	--- 20.0 ACRES
EAST 1/2 E. 1/2 W. 1/2 N.W. 1/4 N.E. 1/4	--- 5.0 ACRES
NORTH 1/2 S.W. 1/4 N.E. 1/4	--- 20.0 ACRES
NORTH 1/2 S.E. 1/4 N.E. 1/4	--- 20.0 ACRES
SOUTH 1/2 S.W. 1/4 N.E. 1/4	--- 20.0 ACRES
SOUTH 1/2 S.E. 1/4 N.E. 1/4 EXCEPT THE EAST 300ft.	--- 15.5 ACRES
NORTH 1/2 S.E. 1/4 EXCEPT THE EAST 300ft.	--- 71.0 ACRES
NORTH 60ft. OF THE N.E. 1/4 N.E. 1/4	--- 1.8 ACRES

TOTAL ACREAGE IS APPROXIMATELY 173.3 ACRES.



T15

WPA/PCA to dry up 33.98 acres of 54.8 acre Northern parcel

37 acres historically irrigated (WPA/PCA to dry up 26.73 acres)

143 acres historically irrigated

approx scale: 1:2220

80CW67

WPA/PCA CU ACREAGE

*Jehn Water Consultants II*  
1565 Gilpin Street

EXHIBIT "B"  
Decree in Case Nos.  
80CW67, 80CW456 & 84CW175

**EXHIBIT F**  
**THE VALLEY AT WINTER PARK**  
**WATER SYSTEM**  
**PRELIMINARY COST ESTIMATE**

**WATER DISTRIBUTION SYSTEM**

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL COST
1	3" dia. Pipe, well to Storage	L.F.	1,850	\$ 15	\$ 27,750
2	3" dia. Pipe, well to Pond 1	L.F.	900	\$ 15	\$ 13,500
3	4" Dia. Class 150 (DR18) PVC Pipe	L.F.	14,830	\$ 18	\$ 266,940
4	6" Dia. Class 150 (DR18) PVC Pipe	L.F.	600	\$ 25	\$ 15,000
5	Fire Hydrant Assembly	Ea.	3	\$ 1,500	\$ 4,500
6	Service Line (excluding meter)	Ea.	25	\$ 150	\$ 3,750
7	Service Line (excluding meter)	Ea.	25	\$ 225	\$ 5,625
8	Well House				
	Motor Control Center	Ea.	1	\$ 3,000	\$ 3,000
	Tank Level Control System	Ea.	1	\$ 3,000	\$ 3,000
	Hypochlorinator	Ea.	1	\$ 2,500	\$ 2,500
	Structure - 10' X 20' Well/Treatment	Ea.	1	\$ 15,000	\$ 15,000
	Security Fence	L.F.	600	\$ 10	\$ 6,000
	Alarm System	Ea.	1	\$ 2,000	\$ 2,000
9	Storage Tank - 30,000 gallon (fiberglass)	Ea.	1	\$ 40,000	\$ 40,000
<b>Sub Total</b>					<b>\$ 408,568</b>
<b>20% Contingency</b>					<b>\$ 81,713</b>
<b>TOTAL ESTIMATED COST</b>					<b>\$ 490,278</b>



## WELL & EQUIPMENT COST

### WELL DRILLING AND DEVELOPMENT

ITEM NO	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST
1	MOBILIZATION	1.00	EACH	\$15,000.00	\$15,000.00
2	DRILL 18" HOLE	40.00	VF	\$150.00	\$6,000.00
3	DRILL 12" HOLE	780.00	VF	\$25.00	\$19,500.00
4	WELL LOG	1.00	EACH	\$3,000.00	\$3,000.00
5	STEEL CASING	550.00	VF	\$15.00	\$8,250.00
6	WELL SCREEN	250.00	VF	\$80.00	\$20,000.00
7	GRAVEL PACK	270.00	VF	\$12.00	\$3,240.00
8	GROUT WELL CASING	530.00	VF	\$10.00	\$5,300.00
9	WELL DEVELOPMENT	48.00	HOURS	\$200.00	\$9,600.00
10	24 HOUR STEP TEST	1.00	EACH	\$8,000.00	\$8,000.00
11	WELL CAP AND CDHE REQD.	1.00	EACH	\$1,200.00	\$1,200.00
12	CHLORINATE WELL	1.00	EACH	\$500.00	\$500.00
	<b>SUBTOTAL</b>				\$97,000.00
	<b>15 % CONTINGENCY</b>				\$14,563.50
	<b>TOTAL ESTIMATED COST</b>				\$111,563.50

### WELL EQUIPMENT

ITEM NO	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST
1	MOBILIZATION	1.00	EACH	\$2,000.00	\$2,000.00
2	50 G.P.M. PUMP	1.00	EACH	\$1,500.00	\$1,500.00
3	PUMP MOTOR	1.00	EACH	\$1,500.00	\$1,500.00
4	MOTOR CONTROL	1.00	EACH	\$1,000.00	\$1,000.00
5	2" DROP PIPE	515.00	VF	\$3.50	\$1,802.50
6	POWER WIRE	548.00	VF	\$1.50	\$822.00
7	AIRLINE	1,030.00	VF	\$0.50	\$515.00
8	SET PUMP AT REC. DEPTH	1.00	EACH	\$2,000.00	\$2,000.00
9	START PUMP	1.00	EACH	\$500.00	\$500.00
10	CHLORINATE WELL	1.00	EACH	\$500.00	\$500.00
11	M SCOPE TUBE	515.00	EACH	\$1.00	\$515.00
12	STATE REQUIRED TESTING	1.00	EACH	\$5,109.00	\$5,109.00
	<b>SUBTOTAL</b>				\$17,763.50
	<b>15 % CONTINGENCY</b>				\$2,664.53
	<b>TOTAL ESTIMATED COST</b>				\$20,428.03

\*\*\*\* REVISED DUE TO MULTIPLICATION ERROR

**TOTAL CAPITAL COST**

<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>TOTAL COST</b>
1	Water Distribution	\$490,278.00
2	Well Drilling & Development	\$111,653.50
3	Well Equipment	\$20,428.03
	Total Estimated Capital Cost	\$622,359.53

CAPITAL CONSTRUCTION COST TO BE RECOVERED BY TAP FEES OF \$6,500 PER TAP (HOME) BASED ON CONSTRUCTION SCHEDULE OF 5 HOMES PER YEAR STARTING IN 1999 UNTIL BUILD OUT. SEE CAPITAL RECOVERY. THE DEVELOPERS WILL CONTRIBUTE THE BALANCE ESTIMATED TO BE \$6,500 PER SITE.

## EXHIBIT G

### OPERATION & MAINTENANCE COST (PER YEAR)

ITEM NO	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST
1	CERTIFIED OPERATOR AND EMERGENCY RESPONSE, CLASS "D", VERIFIED WITH TREATMENT TECHNOLOGY	1	YEARLY	\$4,000.00	\$4,000.00
2	CHEMICALS	12	MONTHS	\$200.00	\$2,400.00
3	POWER & PHONE	12	MONTHS	\$350.00	\$4,200.00
4	MAINTENANCE AND REPAIRS	1	YEARLY	\$1,200.00	\$1,200.00
5	MISC. ENGINEERING	1	YEARLY	\$1,200.00	\$1,200.00
6	STATE TESTING COLIFORM	12	MONTHS	\$35.00	\$420.00
8	UTILITY BILLING	1	YEARLY	\$500.00	\$500.00
9	LEGAL/MANAGEMENT	1	YEARLY	\$1,500.00	\$1,500.00
10	STATE REQUIRED WELL TEST	1	YEARLY	\$1,200.00	\$1,200.00
	SUBTOTAL				\$16,620.00
	10% RESERVE				\$1,662.00
	SUBTOTAL				\$18,282.00
	15% CONTINGENCY				\$2,742.30
	TOTAL ESTIMATED COST				\$21,024.30

**ESTIMATED COST BASED ON CURRENT ESTIMATES OF QUANTITIES AND CURRENT ASSUMPTIONS**