

DISTRICT COURT, WATER DIVISION NO. 2, STATE OF COLORADO

Consolidated Cases Nos. 82CW370 (Water Division No. 1) and
82CW180 (Water Division No. 2)

FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF PLAN FOR AUGMENTATION INCLUDING EXCHANGE AND PROVISION OF SUBSTITUTE SUPPLIES OF WATER OF NORTHGATE CO., A COLORADO GENERAL PARTNERSHIP, IN THE ARKANSAS AND SOUTH PLATTE RIVER SYSTEMS AND THEIR TRIBUTARIES, IN EL PASO COUNTY, COLORADO.

THIS MATTER having come on to be heard upon the application of Northgate Co., a Colorado general partnership, and the Court having considered the application, the evidence submitted herein, and the stipulations of the parties hereto, FINDS:

1. Applicant. The name and address of the applicant is Northgate Co., P.O. Box 280, Colorado Springs, Colorado 80901.

2. Jurisdiction. The application herein was filed in both Water Division No. 1 and Water Division No. 2 on October 29, 1982. The application was filed with both courts because some of the wells to be augmented will be located within the drainage basin of the South Platte River and its tributaries, thereby vesting jurisdiction in the District Court for Water Division No. 1 over the part of the augmentation plan relating to those wells, while the remainder of the wells to be augmented pursuant to this plan will be located within the drainage basin of the Arkansas River and its tributaries, thereby vesting jurisdiction in the District Court for Water Division No. 2 over the part of the augmentation plan relating to those wells. The application was published in the October resumes for Water Divisions No. 1 and No. 2.

On January 14, 1983, Applicant petitioned the Colorado Supreme Court, under Case No. 83SA19, for an order temporarily assigning the District Judge for Water Division

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No. 2 as district judge for Water Division No. 1, so that Case No. 82CW370 in Water Division No. 1 could be consolidated with Case No. 82CW180 in Water Division No. 2. The Supreme Court granted Applicant's motion on February 17, 1983, and Case No. 82CW370 in Water Division No. 1 was thereupon transferred to the District Judge for Water Division No. 2. Upon motion of Applicant, Case No. 82CW370 was consolidated with Case No. 82CW180 in this Court.

Timely and adequate notice of this proceeding has been provided in the manner required by law, and this Court therefore has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, in both Water Division No. 1 and Water Division No. 2, whether they have appeared or not.

3. Parties. Statements of opposition have been filed herein by Woodmoor Water and Sanitation District No. 1 and by the State Engineer and Division Engineers for Water Divisions Nos. 1 and 2. Entries of appearance have been filed herein by District 10 Water Users Association and by Gary Construction Company. No other parties have entered their appearance in this proceeding and the time for filing statements of opposition has expired.

4. - The Development. The plan of augmentation decreed herein is intended to provide water service to 736 acres of land which Applicant owns and intends to develop as a residential subdivision known as Arrowwood IV. The land will be subdivided into lots ranging in size from 2.5 to 3.1 acres, on which a maximum of 221 single-family homes will be constructed. The development is located four miles east of the Town of Monument and includes portions of Sections 17, 19, and 20, all within Township 11 South, Range 66 West, 6th P.M., as more fully described on the attached Exhibit A (the "subject property"). Approximately 60% of the property is within the surface water drainage basin of West Cherry Creek, a tributary of the South Platte River. The other 40% of the property is located within the surface water drainage basin of Jackson Creek, a tributary of Monument Creek, which is tributary to the Arkansas River. The location of the surface water divide is shown on the attached Exhibit B.

5. Water Supply. Water service to the homes at Arrowwood IV will be provided by means of wells constructed

by the homeowners into the Dawson Arkose Formation. Each well is anticipated to serve only one single-family home, so that a maximum of 221 wells will be drilled; however, some of the wells may serve more than one home, thereby reducing the total number of wells. The water to be withdrawn from these wells is tributary groundwater, and the State Engineer has indicated that he will not approve well permits unless a decreed plan for augmentation is in effect. The purpose of this plan therefore is to provide for the replacement of depletions caused by wells at Arrowwood IV, in order to protect senior water rights, so that well permits may be secured.

6. Groundwater Divide. Applicant's engineers have estimated, using the best engineering information currently available, that the groundwater divide is north of the subject property, so that all of the water to be withdrawn from the Dawson Arkose wells would be tributary to Monument Creek and the Arkansas River System. The State Engineer's Office believes, however, that the groundwater divide may be coincident with the surface water divide, so that approximately 60% of the wells would be tributary to the South Platte River System and approximately 40% of the wells would be tributary to the Arkansas River System. The Court finds that the exact location of the groundwater divide in the vicinity of Arrowwood IV cannot be determined on the basis of currently available information, but further finds that this determination may be made most accurately using information obtained from the individual Dawson Arkose wells once they are drilled.

7. Water Uses. Arrowwood IV is intended to be a permanent, year-round residential subdivision. Consequently, water at the development will be used for in-house domestic purposes, and for outdoor uses incidental to home ownership, including the irrigation of lawns and the filling and maintenance of swimming pools. The protective covenants to be recorded for Arrowwood IV will limit lawn size to 2,000 square feet per residence and will restrict the number of pools to a maximum of 5% of the homes, or 11 pools in total.

8. Water Demand. In-house water demand per residence has been calculated based on an average of 3-1/2 people per unit, use of 80 gallons per day per person, and

occupancy 365 days per year, for an in-house demand of 0.314 acre-foot per household per year. In addition, irrigation water demand has been estimated using an average of 2,000 square-feet of irrigated lawn per residence, and an average annual application of 2.0 acre-feet per acre, for an irrigation demand of 0.09 acre-foot per residence per year. Furthermore, it is estimated that each residence having a swimming pool will require an additional 15,000 gallons or 0.045 acre-foot per year to maintain the water level of the pool. Based upon these assumptions total gross water demand for 221 homes will be 90.1 acre-feet per year.

9. Consumptive Use. Disposal of household wastewater at Arrowwood IV will be by means of individual septic tanks and leach fields, resulting in consumption of 10% of in-house demand, or 0.0314 acre-foot per household, for a total of 6.93 acre-feet at full buildout. Irrigation consumption has been estimated as 1.55 acre-feet per acre per year, using modified Blaney-Criddle coefficients for blue grass and using an assumption of a full water supply. Consumptive use resulting from irrigation at Arrowwood IV, assuming an average lawn of 2,000 square feet will be approximately 0.071 acre-foot per residence or 15.73 acrefeet per year at full buildout; actual depletions will be calculated on the basis of surveyed irrigated acreage. In addition, consumption of water used to fill and maintain the swimming pools has been assumed to be 100%, so that each pool will cause an average additional consumptive use of 0.045 acre-foot per year, or 0.50 acre-foot for 11 pools. Again, actual depletions will be calculated on the basis of metered diversions for use in the pools.

As homes are constructed at Arrowwood IV, the consumptive use depletions will be calculated according to the following formula:

$0.0314 \times \text{number of homes} + 1.55 \times \text{number of irrigated acres (surveyed)} + \text{metered quantity of water for pool use}$

Consumptive use at full buildout will be approximately 23.16 acre-feet per year.

10. Augmentation Supply. The augmentation supply will be provided from one or more of the following decreed,

non-tributary wells owned or to be developed by Applicant:

(a) Well No. 1-17798-F which was decreed for 121-acre feet of non-tributary water per year from the Dawson Arkose Formation by decree of the District Court in and for Water Division No. 1 in Case No. W-8269-76 on December 10, 1976. This well has been drilled and completed to a depth of approximately 1,000 feet and is located about one-quarter mile northeast of Arrowwood IV in Section 17, Township 11 South, Range 66 West, 6th P.M. at a point 100 feet South and 75 feet West of the Northeast corner of said Section 17.

(b) Well A-D-1, permit no. 22602-F, which has been permitted for 100 acre feet and decreed for a maximum of 149 acre-feet of nontributary water per year from the Denver Formation by decree of the District Court in and for Water Division No. 1 in Case No. 82CW295 on November 23, 1983. The well will be drilled to a depth of approximately 1950 feet and will be located at a point in the NW1/4NE1/4 of Section 20, Township 11 South, Range 66 West, 6th P.M., El Paso County, approximately 40 feet South of the North section line and 2100 feet West of the East section line of said Section 20.

(c) Well A-D-2, permit no. 22603-F, which has been permitted for 57 acre-feet and decreed for a maximum of 87 acre-feet of non-tributary water per year from the Denver Formation by decree of the District Court in and for Water Division No. 1 in Case No. 82CW295 on November 23, 1983. The well will be drilled to a depth of approximately 1950 feet and will be located at a point in the NW1/4SE1/4 of Section 17, Township 11 South, Range 66 West, 6th P.M., at a point approximately 2300 feet North of the South section line and 2010 feet West of the East section line of said Section 17.

The water to be produced from each of these wells has been permitted and decreed as non-tributary water, and Applicant therefore has the right to consume such water totally and to use it for all purposes, including augmentation and replacement.

11. Initial Augmentation Plan. Applicant proposes to augment the depletions resulting from the use of water from the individual Dawson Arkose Aquifer wells by discharging non-tributary water to the surface stream system in an amount calculated to replace those depletions. Initially,

