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J. PATRICK KELLY
EL PASO COUNTY CLERK

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DISTRICT COURT WATER DIV. NO. 2
STATE OF COLORADO

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

MARDELL TRIVISONNO
CLERK

Case No. 97 CW 148

AMENDED FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER JUDGE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF LITTLE LONDON, L.L.C., IN EL PASO COUNTY

THIS MATTER comes before the Water Referee, Water Division No. 2, pursuant to the Court's Order of Referral dated November 3, 1997. The Referee having considered the pleadings and having made such investigations as necessary hereby makes the following **FINDINGS AND RULING OF THE REFEREE:**

1. Name, address and telephone number of Applicant:

Little London, L.L.C.
5160 North Union Blvd.
Colorado Springs, CO 80918-2046
(719) 598-3198

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2. The application herein was filed on October 31, 1997. Timely and adequate notice of the application was given as required by statute. A Statement of Opposition was filed by the City of Colorado Springs. The time for filing statements of opposition has expired and no other person has entered his appearance herein.

3. The Division Engineer for Water Division No. 2 has filed his Consultation Report pursuant to C.R.S. Section 37-92-302 (4). The State Engineer has submitted a determination as to the facts pursuant to C.R.S. Section 37-92-302 (2) on January 9, 1998.

4. The Referee has jurisdiction over the subject matter of this proceeding and over all persons who might be affected hereby, whether or not they have appeared herein.

**FIRST CLAIM
Underground Water Rights**

5. The first claim in this matter is for wells located in El Paso County, Colorado.

6. Names of Wells:

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of this document when received

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- (A) Dawson Aquifer: Highland Park Dawson Wells
- (B) Denver Aquifer: Highland Park Denver Wells
- (C) Arapahoe Aquifer: Highland Park Arapahoe Well
- (D) Laramie-Fox Hills Aquifer: Highland Park Laramie - Fox Hills Well

7. Legal descriptions of locations of wells:

S½ SW¼ and SW¼ SE¼, Section 29, and N½ NW¼ and W½ NE¼, Section 32, Township 12 South, Range 65 West of the 6th P.M., El Paso County. The wells are not located within the boundaries of the designated groundwater basin.

- 8. A. Source of Water: Dawson, Denver, Arapahoe and Laramie - Fox Hills Aquifers.

B. Depth of Wells (estimated):

Highland Park Dawson Wells:	300 feet
Highland Park Denver Wells:	1,220 feet
Highland Park Arapahoe Well:	1,770 feet
Highland Park Laramie-Fox Hills Well:	2,320 feet

The depths for all wells are approximate and will vary according to the actual topographic and geohydrologic conditions existing at the site of well construction. Final depth and completion intervals will be determined from information obtained during well construction.

- 9. A. Date of Appropriation: Not applicable pursuant to §37-92-305(11), C.R.S.
- B. Date Water Applied to Beneficial Use: Not applicable.
- C. How Appropriation Was Initiated: Not applicable.

10. Amounts Claimed:

Highland Park Dawson Wells:	10 gpm, each
Highland Park Denver Wells:	15 gpm, each
Highland Park Arapahoe Well:	100 gpm
Highland Park Laramie-Fox Hills Well:	150 gpm

The rates of flow stated for the wells are estimates only. The Applicant shall have the right to pump the proposed wells at rates in excess of the rates stated above to the extent necessary to obtain its full entitlement of ground water from each aquifer.

11. A. Total Amount of Water Claimed: All previously unappropriated and legally available ground water in the Dawson, Denver, Arapahoe and Laramie - Fox Hills aquifers underlying the land described in paragraph 13, below.
- B. Average Amounts Claimed Annually: There is hereby determined and adjudicated to Applicant the right to withdraw and use all of the ground water in the Dawson, Denver, Arapahoe and Laramie - Fox Hills aquifers underlying 249 acres of land described in paragraph 13 below (the "Subject Land"), over the statutory one hundred year life of the aquifers, pursuant to C.R.S. §37-90-137(4). As determined by the State Engineer pursuant to C.R.S. §37-92-302(2), there is up to 49.8 acre feet of ground water physically available for withdrawal annually from the Dawson aquifer, 123 acre feet of ground water physically available for withdrawal annually from the Denver aquifer, 112 acre feet of ground water physically available for withdrawal annually from the Arapahoe aquifer, and 71 acre feet of ground water physically available for withdrawal annually from the Laramie-Fox Hills aquifer, underlying the Subject Land. There are no prior rights to the ground water pursuant to the provisions of Section 37-90-137 (5) and Section 37-90-137(8)(a) - (f), C.R.S.
- C. As more site specific data on aquifer characteristics is obtained, the total amount of ground water physically available from beneath the Subject Land may be shown to be different from the estimates contained herein. Accordingly, Applicant shall have right to revise its entitlements based upon such new data and to obtain a decree for all previously unappropriated and legally available ground water underlying the Subject Land without the necessity of amending this Ruling and Decree or of republishing the same.
- D. The ground water in the Laramie-Fox Hills aquifer underlying the Subject Land is nontributary ground water as that term is defined in §37-90-103(10.5), 15 C.R.S. (as amended). The withdrawal of the total amount of nontributary ground water underlying the Subject Land will not cause material injury to any other vested water right, and will not, within one hundred years, deplete the flow of a natural surface stream at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal.

- E. Pursuant to the State Engineer's Denver Basin Rules, the ground water underlying the Subject Land in the Dawson, Denver and Arapahoe aquifers is "not nontributary" ground water as that term is used in §37-90-137(9)(c), C.R.S. Applicant is hereby awarded the right to withdraw and use all previously unappropriated and legally available ground water from these the Dawson and Denver Aquifers in accordance with the plan for augmentation decreed herein.
- F. In addition to the wells described in paragraphs 6 and 7 above, Applicant shall have the right to construct additional wells, to recover the total amount of ground water claimed herein. Applicant shall have the right to construct such additional wells as may be necessary in order to fully recover all ground water to which it is entitled.
- G. With respect to the Dawson, Denver and Laramie-Fox Hills Aquifer wells claimed herein, and the Dawson, Denver and Laramie-Fox Hills Aquifer wells decreed in Case No. 95 CW 188, which are decreed to withdraw the Dawson, Denver and Laramie-Fox Hills Aquifer water underlying adjoining land which is also the subject of the Plan for Augmentation in the Second Claim, below, each well in the same aquifer and all additional wells constructed into the same aquifer, are determined to constitute a "well field" as that term is defined in the "Statewide Nontributary Ground Water Rules," 2 C.C.R. 402-7, Rule 4(A)(13).
- H. Subject to paragraph 11.G above, with respect to the quantity of ground water underlying the Subject Land, Applicant shall have the right to withdraw from any combination of the wells in the same aquifer requested herein, including any additional wells, an amount of ground water in excess of the annual amount decreed so long as the sum of the total withdrawals from the wells does not exceed the product of the number of years since the date of issuance of the well permits times the allowed average annual withdrawal volumes for each aquifer.

12. Use:

Applicant shall be entitled to use the ground water that is the subject of this First Claim, together with the ground water that was decreed in Case No. 95 CW 188, to serve the Subject Land plus the adjoining land which is the subject of Case No. 95 CW 188. The water will be used, reused, successively used and otherwise disposed of for all beneficial purposes, including: central water supply system, domestic, industrial, commercial, irrigation, stock water, fire protection, recreation, fish and wildlife purposes, storage, exchange and augmentation. The

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ground water may be produced for immediate application to beneficial use or for storage and subsequent application to beneficial use. Any excess water and return flows will be disposed of separately by the Applicant. Applicant, for itself, its successors and assigns, shall be entitled to totally consume all but 2% of the total amount of nontributary ground water withdrawn annually.

13. Description of Land Overlying Subject Ground Water:

The land overlying the subject ground water in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers consists of approximately 249 acres located in the S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, and N $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$, Section 32, Township 12 South, Range 65 West of the 6th P.M., El Paso County, shown on Parcels 1 and 2 on the map attached as Exhibit A and on the legal description attached as Exhibit B.

14. Well Permits:

- A. Well permit applications for all wells herein and for any additional wells as described in Paragraph 11 will be filed with the State Engineer's Office at such time as Applicant is ready to drill each well. The Court directs that the State Engineer's Office issue such well permits in accordance with this Ruling and Decree.
- B. The Court specifically determines that the rights to ground water determined herein are not "Conditional Water Rights" and Findings of Reasonable Diligence are not required. Pursuant to §37-90-305(11), 15 C.R.S. (as amended), the rights to ground water from the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers are vested property rights, not conditional water rights, and the requirements of §37-92-102(6), 301(4), and 601, 15 C.R.S. (as amended) pertaining to conditional water rights and the requirement for findings of reasonable diligence are inapplicable to rights to such ground water.
- C. The "not nontributary" ground water in the Dawson, Denver and Arapahoe aquifers is, pursuant to §37-90-137(4) and (9), not to be administered pursuant to any doctrine of priority of appropriation. For that reason, none of the policies or purposes of conditional water rights and the filings of reasonable diligence associated with the priority of appropriation are applicable to the rights to the "not nontributary" ground water determined herein. The Court determines as a matter of law that even though the ground water from the "not nontributary" Dawson, Denver and Arapahoe aquifers has not been diverted and applied to beneficial use, it is a vested

property right, and that the requirements of §§37-92-102(6), 301(4), and 601, C.R.S., pertaining to conditional water rights and finding of reasonable diligence are inapplicable to the "not nontributary" ground water. The Court further determines that the failure to obtain periodic findings of reasonable diligence shall not result in a loss, forfeiture, or abandonment of Applicant's rights to "not nontributary" ground water from the Dawson, Denver and Arapahoe aquifers.

However, in the event the "not nontributary" ground water in the Dawson, Denver and Arapahoe aquifers is ever determined to be a conditional water right and that the requirements for findings of reasonable diligence apply to it, then the right to "not nontributary" ground water determined herein, and the right to the nontributary Laramie-Fox Hills aquifer beneath the Subject Land, and the water rights decreed in Case No. 95 CW 188, are hereby found to be part of a unified and integrated water system for purposes of reasonable diligence. The Court determines that diligence in developing any part of the water supply system shall constitute diligence on each conditional water right that is part of that system.

D. Retained Jurisdiction:

The Court shall retain jurisdiction over this case pursuant to §37-92-305(11), C.R.S. as necessary to provide for the adjustment of the annual amount of withdrawal allowed to conform to actual local aquifer characteristics, including determination of actual specific yield and saturated thickness values.

15. Construction of Wells

For all wells, Applicant shall comply with the following conditions:

- A. The entire length of the open bore hole except the surface casing shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources within 60 days of drilling. Applicant may provide a geophysical log from an adjacent well or test hole in accordance with the Statewide Rules and Regulations and acceptable to the State Engineer, which fully penetrates the formation, in satisfaction of the above requirement.
- B. The ground water production shall be limited to the aquifers stated in paragraph 8 herein as defined in the Denver Basin Rules and Regulations.

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Non-perforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of water between other aquifers.

- C. The permit number and name of the aquifer shall be permanently displayed on or near the well at a location easily accessible to water officials.
- D. Applicant shall comply with C.R.S. §37-91-101, *et seq.* and the Rules and Regulations promulgated thereto and with such other requirements for constructing and equipping the wells as the State Engineer may reasonably require.
- E. Applicant shall install a totalizing flow meter on each well. The meter shall be installed according to the manufacturer's recommendations and shall be inspected at least annually, and promptly repaired or recalibrated as needed. If Applicant's meter becomes inoperable, it shall be repaired as soon as possible so that measurements can continue. Permission to operate the well without an operational meter must be obtained from the Division Engineer.
- F. The Applicant shall keep records of the amount of water pumped and perform the calculations necessary to determine whether Applicant is in compliance with this decree. Applicant shall supply the Division Engineer with those records upon request by the Division Engineer.

SECOND CLAIM

Application for Water Storage Right

- 16. The Second Claim in this matter is for a reservoir located in El Paso County, Colorado.
- 17. Name of Reservoir: Highland Park Pond.
- 18. Legal Description
 - A. Location of Dam: SW¼ SE¼, Section 29, Township 12, South, Range 65 West of the 6th P.M., El Paso County, 2,010 feet from the east line and 4,750 feet from the north line.
 - B. Not Applicable.
- 19. Source: Cottonwood Creek, tributary to Monument Creek.
- 20. A. Date of Appropriation: March 9, 1997.

- B. How Appropriation was initiated: by concurrence of construction and intent to put water to beneficial use.
- C. Date water applied to beneficial use: December 14, 1997.
21. Amount claimed:
- A. In acre feet 10, absolute
- B. Not Applicable.
22. Use:
- A. Not Applicable.
- B. Aesthetic and recreational purposes.
23. Surface area of high water line: 1.9 acres.
- A. Maximum height of dam in feet: 9
- B. Length of dam in feet: 250
24. Total active capacity of reservoir in acre feet: 10
Active capacity: 10
Dead Storage: 0
25. Adequate measuring devices, acceptable to the Division Engineer or Water Commissioner and properly maintained may be required for the administration of this water right. The applicant may also be required to provide the Division Engineer and Water Commissioner with stage-area-capacity curves or tables for this reservoir. This reservoir must be equipped with outlet works capable of passing all out-of-priority inflows to the nearest natural water course.

THIRD CLAIM
Plan for Augmentation

26. Names of structures to be augmented:
- A. Highland Park Dawson Wells. See First Claim, above.
- B. Highland Park Denver Wells. See First Claim, above.

- C. Wells DA-1 and DA-2, decreed in Case No. 95 CW 188, Water Division No. 2.
- D. Wells DEN-1 and DEN-2, decreed in Case No. 95 CW 188, Water Division No. 2.
- E. Highland Park Pond. See Second Claim, above.

There are no other water rights diverted from these structures.

27. Water rights to be used for augmentation:

- A. Return flows from not nontributary Dawson and Denver Aquifer water, and also Nontributary Arapahoe and Laramie-Fox Hills Aquifer water, underlying the subject 482 acres of land, claimed under the First Claim, above, and decreed in Case No. 95 CW 188.
- B. Any other water rights available for use by Applicant which have been previously decreed for fully-consumptive use or augmentation purposes.

28. Statement of Plan for Augmentation.

1. Description of the project.

Applicant is proposing to develop approximately 482 acres of land located in the S $\frac{1}{2}$, Section 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, and N $\frac{1}{2}$ and E $\frac{1}{2}$, Section 32, Township 12 South, Range 65 W, 6th P.M., El Paso County, described as Parcels 1, 2 and 3 on the map attached as Exhibit A and legal description attached as Exhibit B. The subject land will be subdivided into approximately 160 lots of approximately 2 $\frac{1}{2}$ acres each, and developed for single-family homes. Water supply will be provided by individual Dawson and Denver Aquifer wells. Wastewater disposal will be provided by individual non-evaporative septic tank and leach field systems. There will be a total of approximately 60 Dawson Aquifer Wells and approximately 100 Denver Aquifer Wells supplying the approximately 160 lots. Highland Park Pond, an existing pond on Cottonwood Creek, with a surface area of 1.9 acres, will be retained for aesthetic and recreational purposes. The pond will be filled by runoff, surface and underground return flows, natural precipitation and pumping of not-nontributary ground water from the Dawson and Denver aquifers and nontributary ground water from the Arapahoe and Laramie-Fox Hills aquifers.

A. Water Requirements.

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Restrictive covenants will limit each of the approximately 160 lots to no more than 5000 square feet of irrigated lawns and gardens. Each lot will therefore require 0.27 acre feet per year for in-house use and 0.29 acre feet per year for irrigation, a total of 0.56 acre feet per year per lot. The total water requirement for the entire approximately 160-lot subdivision will be 89.6 acre feet per year. El Paso County requires a 300-year water supply be demonstrated. Applicant is entitled to 101.8 acre feet per year from the Dawson Aquifer, 49.8 acre feet from the First Claim, above, and 52 acre feet from Case No. 95 CW 188, and 240 acre feet per year from the Denver Aquifer, 123 acre feet from the First Claim, above, and 117 acre feet from Case No. 95 CW 188, for a total of 341.8 acre feet from the Dawson and Denver Aquifers combined, based on a 100-year aquifer life. Therefore, the available water supply from the Dawson and Denver Aquifers far exceeds a 300-year supply.

B. **Consumptive Use.**

In-house water use is estimated to consume 10% of the water used. Irrigation use is estimated to consume 80%. Return flows will be tributary to Cottonwood Creek and Sand Creek. The subject land is not located within the boundaries of a designated groundwater basin. Evaporation from Highland Park Pond will total 5.0 acre feet annually.

C. **Surface Stream Depletions.**

During Dawson well pumping through 300 years of pumping, stream depletions reach 59.8 percent of well pumping. Of this percentage, 98 percent of the depletions occur on Sand Creek and the remaining on Monument Creek. These "actual" depletions are fully augmented by septic system and lawn irrigation return flows from the use of the Dawson and Denver Aquifer water. In the event only the Dawson Aquifer wells are constructed, additional augmentation water will be provided by consumable effluent to be provided from the Cherokee Water District's wastewater treatment plant to Sand Creek, by pumping nontributary Arapahoe and Laramie-Fox Hills groundwater, or any other legally available replacement supply.

During pumping of the proposed Denver aquifer wells, the required replacement is four percent of well pumping. During pumping this obligation is met with septic system and lawn irrigation return flows.

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After pumping ceases, Dawson aquifer stream depletions will decline rapidly due to the nearness of the aquifer/stream contact. Denver aquifer stream depletions will continue for an extended period and Applicant will pump non-tributary Arapahoe and Laramie Fox Hills ground water to meet these ongoing obligations. Applicant has contracted with The Cherokee Water District to purchase 0.5 acre feet per year of consumable effluent to be delivered into Sand Creek from Cherokee's wastewater treatment plant. Additionally, the Court, under retained jurisdiction, shall substitute any other legally available replacement supply providing the water is available in time, place and amount to augment decreed or conditional decreed water rights.

Applicant will replace post-pumping depletions for the shortest of the following periods: the period provided by §37-90-137(9)(c), C.R.S.; the express period specified by the Colorado General Assembly, should it specify one and providing the Applicant obtains water court approval for such modification; the period determined by the State Engineer, should he choose to set such a period and have jurisdiction to do so; the period established through rulings of the Colorado Supreme Court on relevant cases; or until Applicant petitions the Court and, after notice, proves it has complied with any statutory requirement.

E. Property Owners Association.

Upon subdivision of the property, Applicant will create a property owners association which all purchasers of lots in the property will be required to join. Applicant will assign to the property owners association Applicant's interest and rights and responsibilities under this plan for augmentation; Applicant will also dedicate to the property owners association the nontributary Arapahoe and Laramie-Fox Hills Aquifer water underlying the subject property for use in this plan for augmentation. Applicant will also create restrictive covenants upon and running with the property, which will obligate the individual purchasers and the property owners association to carry out the requirements of this plan for augmentation. The covenants will indicate clearly that failure of either the property owners or the property owners association to comply with the terms of this plan for augmentation may result in an order by the Division Engineer's office to curtail or eliminate pumping of the owners' wells. The plan for augmentation and the restrictive covenants will be recorded in the real property records of El Paso County so that a title examination of the property or any part thereof will reveal to all future purchasers the existence of this plan for augmentation and the restrictive covenants. The Arapahoe or Laramie-Fox Hills aquifer water dedicated to the property owners association will not be used, sold, conveyed

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or assigned for any purpose other than to replace depletions under this plan for augmentation.

F. Administration of Plan for Augmentation.

(1) Reporting Frequency.

Applicant or the property owner's association shall report to the Division Engineer for Water Division 2 no later than November 30 of each year on an acceptable accounting form.

(2) Meters.

All well withdrawals from structures described in this decree will be metered and collected by the property owners association, which will summarize and forward the data to the Division Engineer for Water Division 2 by November 30 for each year.

(3) Timing of Replacements.

Applicant agrees to make the replacements required hereunder when required by the Division Engineer for Water Division 2, but no more frequently than monthly.

(4) 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. In the event the property owners association is unable to obtain withdrawal rates needed for each well for the accounting form required above, the owner of the well for which such information is not provided shall be subject to cease and desist orders by the State Engineer.

29. Names and addresses of owners of land on which structures are located:

Wells DA-1, DA-2, DEN-1, DEN-2, A-1, A-2, LFH-1 and LFH-2, Case No. 95 CW 188, Water Division No. 2: Applicant

Highland Park Dawson, Denver, Arapahoe and Laramie-Fox Hills Wells:

David L. Mehlis and Marji B. Mehlis

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2269 Palm Drive
Colorado Springs, CO 80918

Dennis K. Thomas, Trustee
611 Court, Suite 7
Conway, AR 72032

Highland Park Pond:

Dennis K. Thomas, Trustee
611 Court, Suite 7
Conway, AR 72032

- 30. The Court hereby approves Applicant's Plan for Augmentation as set forth in paragraphs 26 through 29, above. Pursuant to C.R.S. §37-92-304(6), the Court shall retain jurisdiction for a period of five (5) years from 50% buildout (construction of 80 homes) for reconsideration on the question of injury to the vested rights of others.

Dated and filed with the Water Clerk this 25th day of October, 1999.

BY THE REFEREE:



acting
Charles F. DiDomenico,
Water Referee, Water Division No. 2 *at time submitted*

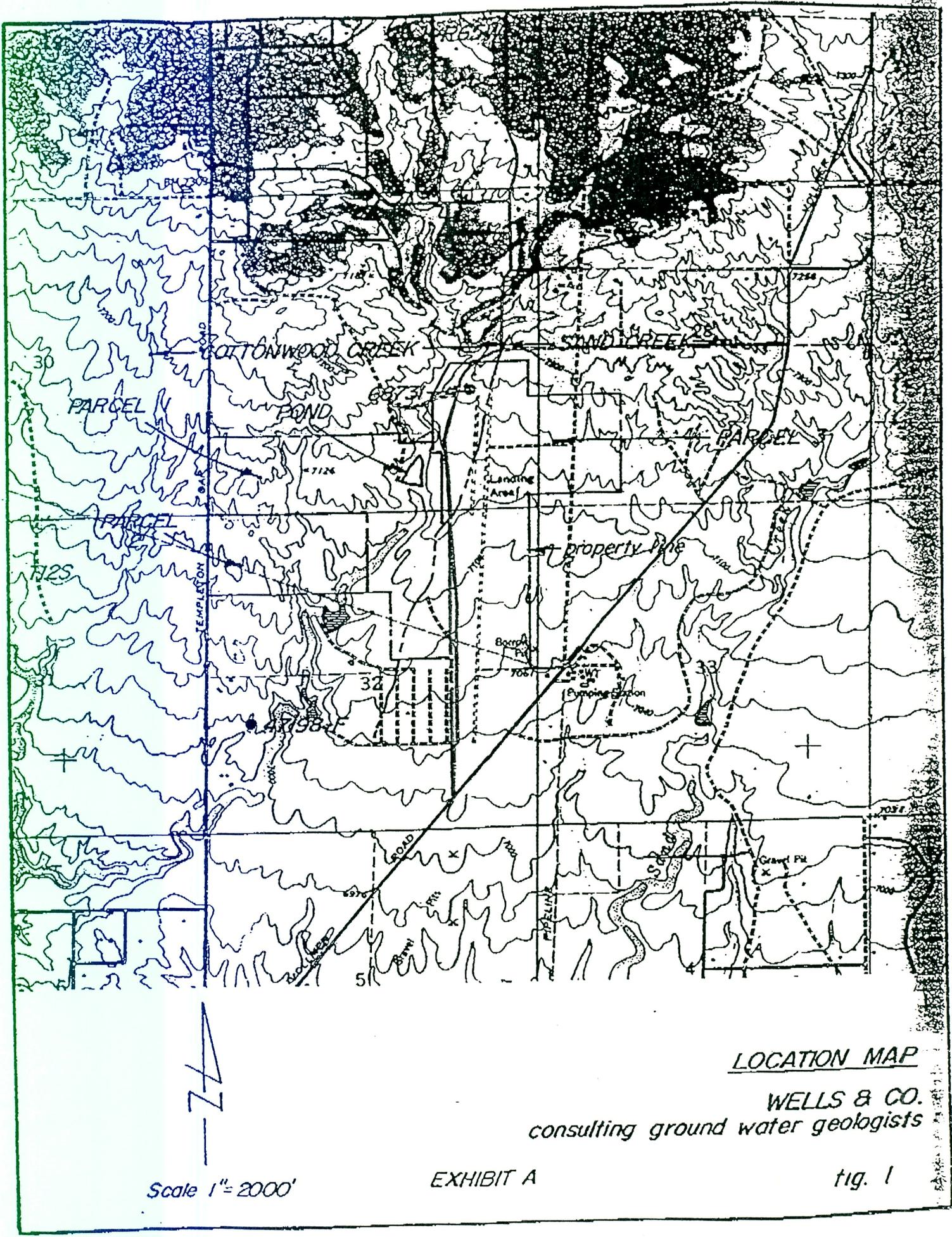
THE COURT hereby finds that no protest to the Findings and Ruling or the Referee has been filed, and the same are hereby made the DECREE OF THE WATER JUDGE.

BY THE COURT:



Water Judge, Water Division No. 2

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Scale 1" = 2000'

LOCATION MAP

WELLS & CO.
consulting ground water geologists

EXHIBIT A

fig. 1

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Exhibit B

LANDOWNERS & PROPERTY OWNED:

Parcel 1 Dennis K. Thomas-Trustee
 611 Court, Suite 7
 Conway, Arkansas 72032
 (501) 513-9199/fax (501) 513-9111

A PARCEL OF LAND BEING SITUATED IN THE NORTH HALF OF SECTION 32 AND THE SOUTH HALF OF SECTION 29, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 32, BEING MONUMENTED BY A PIN AND CAP, L.S. NO. 9646; THENCE ALONG THE WEST LINE OF SAID SECTION 29, N 00 DEGREES 06 MINUTES 03 SECONDS E A DISTANCE OF 1326.17 FEET TO THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, SAID POINT BEING MONUMENTED BY A PIN AND CAP, L.S. NO.17488; THENCE ALONG THE NORTH LINE OF SAID SOUTH HALF N 89 DEGREES 46 MINUTES 59 SECONDS E A DISTANCE OF 2692.85 FEET TO THE NORTHEAST CORNER OF SAID SOUTH HALF, BEING MONUMENTED BY A 3/4 INCH IRON PIPE; THENCE ALONG THE EAST LINE OF SAID SOUTH HALF S 00 DEGREES 13 MINUTES 23 SECONDS E A DISTANCE OF 206.06 FEET, SAID POINT BEING MONUMENTED BY A PIN AND CAP; THENCE S 89 DEGREES 59 MINUTES 26 SECONDS E, A DISTANCE OF 1035.16, SAID POINT BEING MONUMENTED BY A PIN AND CAP, L.S. NO.5497; THENCE S 00 DEGREES 02 MINUTES 54 SECONDS W A DISTANCE OF 609.54 FEET, SAID POINT BEING MONUMENTED BY A PIN AND CAP, L.S. NO.5497; THENCE S 89 DEGREES 48 MINUTES 13 SECONDS E A DISTANCE OF 61.66 FEET, SAID POINT BEING MONUMENTED BY A PIN AND CAP, L.S. NO.5497; THENCE S 02 DEGREES 57 MINUTES 03 SECONDS E A DISTANCE OF 3111.99 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 32, SAID POINT BEING MONUMENTED BY A PIN AND CAP, L.S. NO. 17488; THENCE ALONG SAID SOUTH LINE, S 89 DEGREES 16 MINUTES 40 SECONDS W A DISTANCE OF 878.05 FEET, TO THE SOUTHEAST LINE OF A TRACT OF LAND, AS DESCRIBED IN DEED BOOK 3351 AT PAGE 361 OF THE RECORDS OF EL PASO COUNTY, SAID POINT BEING MONUMENTED BY A PIN AND CAP, L.S. NO.17488; THENCE ALONG THE EAST LINE OF SAID TRACT, N 00 DEGREES 33 MINUTES 53 SECONDS E A DISTANCE OF 1299.76 FEET, TO THE NORTHEAST CORNER OF SAID TRACT, BEING MONUMENTED BY A PIN AND CAP, L.S. NO.1593; THENCE ALONG THE NORTH LINE OF SAID TRACT S 89 36 MINUTES 40 SECONDS W A DISTANCE OF 400.11 FEET, TO THE SOUTHEAST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 32, BEING MONUMENTED BY A 3/4 SECONDS IRON PIPE; THENCE ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 32, S 89 DEGREES 38 MINUTES 38 SECONDS W A DISTANCE OF 2689.71 FEET, TO THE SOUTHWEST CORNER OF SAID NORTH HALF, BEING MONUMENTED BY A PIN AND CAP L.S. NO.9646;

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THENCE ALONG THE WEST LINE OF SAID SECTION 32, N 00 DEGREES 06 MINUTES 03 SECONDS E A DISTANCE OF 1318.29 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONSISTING OF 250 ACRES MORE OR LESS.

Parcel 2 David L. Mehlis and Margie B. Mehlis
 2269 Palm Drive
 Colorado Springs, CO. 80918
 (719) 533-1689

A PARCEL OF LAND IN THE NORTH HALF OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 32, BEING MONUMENTED BY A PIN AND CAP, L.S. NO. 9646; THENCE ALONG THE WEST LINE OF SAID SECTION 32, S 00 DEGREES 06 MINUTES 03 SECONDS W, A DISTANCE OF 1318.29 FEET; THENCE N 89 DEGREES 38 MINUTES 38 SECONDS E, A DISTANCE OF 2643.42; THENCE N 00 DEGREES 06 MINUTES 03 SECONDS E, A DISTANCE 1318.29 FEET; THENCE S 89 DEGREES 38 MINUTES 38 SECONDS W, A DISTANCE OF 2643.42 FEET TO THE POINT OF BEGINNING, CONSISTING OF 80 ACRES MORE OR LESS.

Parcel 3 Little London, LLC
 5160 N. Union Blvd.
 Colorado Springs, CO. 80918
 (719) 598-3198

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 28, THE SOUTHEAST QUARTER OF SECTION 29 AND THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF HOLIDAY HILLS NO.1 AS RECORDED IN PLAT BOOK E-2 AT PAGE 12 (ALL BEARINGS IN THIS DESCRIPTION ARE RELATIVE TO THE NORTH LINE OF SAID HOLIDAY HILLS NO.1, WHICH BEARS S 89 DEGREES 31 MINUTES 30 SECONDS W); THENCE N 02 DEGREES 56 MINUTES 24 SECONDS W, 3128.97 FEET; THENCE S 90 DEGREES 00 MINUTES 00 SECONDS W, 61.34 FEET; THENCE N 00 DEGREES 00 MINUTES 00 SECONDS E, 610.26 FEET; THENCE CONTINUE N 00 DEGREES 00 MINUTES 00 SECONDS E, 459.65 FEET; THENCE S 90 DEGREES 00 MINUTES 00 SECONDS W, 87.56 FEET; THENCE N 00 DEGREES 00 MINUTES 00 SECONDS E, 344.55 FEET; THENCE N 34 DEGREES 54 MINUTES 56 SECONDS E, 563.22 FEET; THENCE N 01 DEGREES 27 MINUTES 34 SECONDS E, 142.00 FEET; THENCE N 89 DEGREES 44 MINUTES 25 SECONDS E, 1194.97 FEET TO A POINT ON THE WEST LINE OF WILDRIDGE SUBDIVISION NO.1, AS RECORDED IN PLAT BOOK H-3 AT PAGE 87;

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THENCE S 00 DEGREES 26 MINUTES 30 SECONDS E, 541.87 FEET; THENCE S 00 DEGREES 24 MINUTES 39 SECONDS E, 325.00 FEET; THENCE N 89 DEGREES 29 MINUTES 04 SECONDS W, 1453.22 FEET; THENCE S 00 DEGREES 07 MINUTES 09 SECONDS E, 1498.91 FEET TO THE NORTHEAST CORNER OF WILDRIDGE SUBDIVISION NO.2, AS RECORDED IN PLAT BOOK J-3 AT PAGE 58; THENCE S 89 DEGREES 46 MINUTES 44 SECONDS W, 234.99 FEET; THENCE S 89 DEGREES 46 MINUTES 49 SECONDS W, 518.76 FEET; THENCE S 89 DEGREES 47 MINUTES 00 SECONDS W, 70.01 FEET; THENCE S 89 DEGREES 47 MINUTES 38 SECONDS W, 506.36 FEET; THENCE S 89 DEGREES 47 MINUTES 15 SECONDS W, 259.79 FEET TO THE NORTHWEST CORNER OF SAID WILDRIDGE SUBDIVISION NO.2; THENCE S 02 DEGREES 33 MINUTES 12 SECONDS W, 481.89 FEET; THENCE S 02 DEGREES 32 MINUTES 41 SECONDS W, 734.36 FEET; THENCE S 02 DEGREES 32 MINUTES 35 SECONDS W, 624.92 FEET; THENCE S 02 DEGREES 34 MINUTES 37 SECONDS W, 616.63 FEET; THENCE S 02 DEGREES 30 MINUTES 41 SECONDS W, 304.93 FEET TO THE SOUTHWEST CORNER OF SAID WILDRIDGE SUBDIVISION NO.2; THENCE N 89 DEGREES 19 MINUTES 02 SECONDS E, 394.84 FEET TO THE NORTHWEST CORNER OF THAT TRACT CONVEYED IN DEED RECORDED IN BOOK 1073 AT PAGE 219 OF THE RECORDS OF EL PASO COUNTY; THENCE S 00 DEGREES 07 MINUTES 32 SECONDS W ALONG THE WEST LINE OF SAID TRACT, 445.79 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF VOLLMER ROAD (60' R.O.W.); THENCE S 41 DEGREES 01 MINUTES 37 SECONDS W ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, 1068.06 FEET; THENCE S 40 DEGREES 16 MINUTES 31 SECONDS W ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, 1000.51 FEET TO THE SOUTHEAST CORNER OF SAID HOLIDAY HILLS NO.1; THENCE N 00 DEGREES 00 MINUTES 29 SECONDS W ALONG THE EAST LINE OF SAID HOLIDAY HILLS NO.1, 660.00 FEET; HOLIDAY HILLS NO.1, 1320.13 FEET TO THE POINT OF BEGINNING.

200074498-18

**AGREEMENT FOR SALE
(AUGMENTATION WATER)**

THIS AGREEMENT is made and entered into this 14th day of July, 1999, by and between Cherokee Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (hereinafter "Cherokee") and Little London, LLC, a Colorado limited liability company.

RECITALS

A. Cherokee provides water and wastewater services to an area of El Paso County known as Cimarron Hills and in conjunction therewith owns and operates a wastewater treatment plant within the Cherokee Metropolitan District.

B. Cherokee discharges effluent into the East Fork of Sand Creek from its wastewater treatment plant, which water is available for augmentation purposes.

C. Little London, LLC has filed an application for adjudication of non-tributary and not non-tributary water, and approval of a plan for augmentation in the District Court, Water Division No. 2 (hereinafter "Application").

D. The Little London, LLC application is for specific wells/structures which are located as shown on "Exhibit A" hereto in El Paso County, Colorado, all as set forth in the Application.

E. Little London, LLC presently calculates that it requires from Cherokee approximately 0.50 acre feet per year of augmentation water; however, more such water may be required in order to obtain court approval of the Application.

F. Little London, LLC desires to buy augmentation water from Cherokee and Cherokee desires to sell the same on the terms and conditions as set forth herein.

NOW, THEREFORE, based upon the mutual considerations and promises contained herein, the parties agree as follows:

1. Sale of Augmentation Water. Cherokee agrees to sell and Little London, LLC agrees to buy augmentation water in the amount of 0.50 of an acre foot per year, or such other amount as required by any decree entered pursuant to the Application, not to exceed 1.0 acre foot per year.

2. Purchase Price. Little London, LLC shall pay to Cherokee a sum equal to Two Thousand Five Hundred Dollars (\$5,000.00 per acre foot of augmentation water

Agreement For Sale (Augmentation Water) between Cherokee Metropolitan District and Little London, LLC, dated July 14, 1999.

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purchased). Payment shall be made within 10 days of the entry of a non-appealable judgement and decree which generally approves the application.

3. Release of Water. So long as water is physically available to Cherokee in its wastewater treatment plant, Cherokee will release water from its wastewater treatment plant for augmentation purposes on an annual basis. It is anticipated that said water will be released on behalf of Little London, LLC at the approximate rate of 3,133 gallons per week. Such releases will be made in a satisfactory manner so that Little London, LLC can meet the augmentation requirements as set forth in any decree entered pursuant to the Application.

4. Augmentation Only. Little London, LLC will have use of the effluent from Cherokee for augmentation purposes only. Nothing herein will be deemed to give Little London, LLC the right of re-use of said water or the right to assign, sell, or transfer said rights. However, said rights may be assigned, sold or transferred in conjunction with the sale of the land presently owned by Little London, L.L.C. and which lands are identified in the Application, in particular they may be assigned, sold or transferred to any property owners' association formed in conjunction with the development of the property.

5. Reversion. It is agreed and understood that this augmentation plan carries with it Little London, LLC's obligation to replace depletions for a considerable period of time after all pumping has ceased. Cherokee shall cause all such depletions to be replaced pursuant to this agreement and any decree entered pursuant to the Application. If the post pumping replacement obligation is ever deemed to have been fully satisfied pursuant to the provisions of such decree, then all rights to this augmentation water shall revert to Cherokee. It is also agreed and understood that, for purposes of enforcement, the owners and/or users of vested water rights on the Arkansas River system shall become third party beneficiaries of the post pumping replacement obligation that is the subject of this agreement. After pumping has ceased, the State Engineer and/or Division Engineer for Water Division No. 2 shall be authorized to act on behalf of those third party beneficiaries to enforce the terms of the agreement and seek specific performance of the agreement if the post pumping replacement obligations of any decree entered pursuant to the Application have not been fully satisfied.

6. Miscellaneous. This agreement shall be interpreted according to the laws of the State of Colorado and any amendment to this agreement must be made in writing and signed by the parties.

Agreement For Sale (Augmentation Water) between Cherokee Metropolitan District and Little London, LLC, dated July 14, 1999.

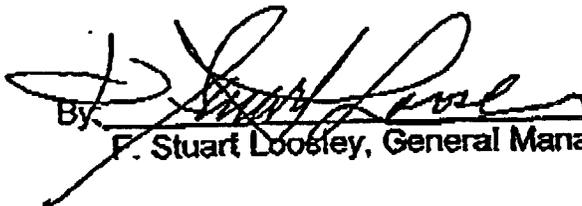
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ENTERED the day and year first above written.

CHEROKEE METROPOLITAN DISTRICT

ATTEST:

By: 
F. Stuart Loosley, General Manager

LITTLE LONDON, LLC

By: 
Douglas H. Barber, Member

Agreement For Sale (Augmentation Water) between Cherokee Metropolitan District and Little London, LLC, dated July 14, 1999.

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"EXHIBIT A"

APPLICABLE WATER RIGHTS CASE NOS: Water Division No. 2, State of Colorado
Case No's. 97 CW 148 and 95 CW 188.

DESCRIPTION OF WELLS/STRUCTURES TO BE AUGMENTED:As to Case No. 97 CW 148:

Highland Park Dawson Wells

Highland Park Denver Wells

Highland Park Pond

ID:3034946309

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As to case No. 95 CW 188:

Wells DA-1 and DA-2

Wells DEN-1 and DEN-2

PROPERTY ON WHICH WELLS WILL BE CONSTRUCTED: The following described parcels contain approximately 481.98 acres, to be known as Highland Park Subdivision. The water rights were decreed in two separate cases, but were included together in the 1997 case for purposes of the water augmentation plan:

As to the water rights decreed in Colorado Case No. 95 CW 188: 232.687 acres, more or less described as follows: A tract of land in the Southwest quarter of Section 28, the Southeast quarter of Section 29 and the Northeast quarter of Section 32, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, more particularly described as follows:

Beginning at the Northeast corner of Holiday Hills No. 1 as recorded in Plat Book E-2 at Page 12 (all bearings in this description are relative to the North line of said Holiday Hills No. 1, which bears S 89°31'30" W); thence N 02°56'24" W, 3128.97 feet; thence S 90°00'00" W, 61.34 feet; thence N 00°00'00" E, 610.26 feet; thence continue N 00°00'00" E, 459.65 feet; thence S 90°00'00" W, 87.56 feet; thence N 00°00'00" E, 344.55 feet; thence N 34°54'56" E, 563.22 feet; thence N 01°27'34" E, 142.00 feet; thence N 89°44'25" E, 1194.97 feet to a point on the west line of Wildridge Subdivision No. 1, as recorded in Plat Book H-3 at Page 87; thence S 00°26'30" E, 541.87 feet;

Agreement For Sale (Augmentation Water) between Cherokee Metropolitan District and Little London, LLC, dated July 14, 1999.

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thence S 00°24'39" E, 325.00 feet; thence N 89°29'04" E, 1453.22 feet; thence S 00°07'09" E, 1498.91 feet to the Northeast corner of Wildridge Subdivision No. 2, as recorded in Plat Book J-3 at Page 58; thence S 89°46'44" W, 234.99 feet; thence S 89°46'49" W, 518.76 feet; thence S 89°47'00" W, 70.01 feet; thence S 89°47'38" W, 506.36 feet; thence S 89°47'15" W, 259.79 feet to the Northwest corner of said Wildridge Subdivision No. 2; thence S 02°33'12" W, 481.89 feet; thence S 02°32'41" W, 734.36 feet; thence S 02°32'35" W, 624.92 feet; thence S 02°34'37" W, 616.63 feet; thence S 02°30'41" W, 304.93 feet to the Southwest corner of said Wildridge Subdivision No. 2; thence N 89°19'02" E, 394.84 feet to the Northwest corner of that tract conveyed in deed recorded in Book 1073 at Page 219 of the records of El Paso County; thence S 00°07'32" W along the West line of said tract, 445.79 feet to a point on the Northwesterly right-of-way line of Vollmer Road (60' R.O.W.); thence S 41°01'37" W along said Northwesterly right-of-way line, 1068.06 feet; thence S 40°16'31" W along said Northwesterly right-of-way line, 1000.51 feet to the Southeast corner of said Holiday Hills No. 1; thence N 00°00'29" W along the East line of said Holiday Hills No. 1, 660.00 feet; thence N 00°00'32" W along the East line of said Holiday Hills No. 1, 1320.13 feet to the point of beginning.

As to the water rights decreed in Colorado Case No. 95 CW 188: 249.11 acres, more or less, described as follows: The North half of the northwest quarter of Section 23, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado and the south half of the southwest quarter of Section 29, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, and a tract in the Southeast quarter of Section 29, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, described as follows: Beginning at the southwest corner of said Southeast quarter of said Section; thence N 00°12'48" E, 1118.66 feet; thence N 90°00'00" E, 1035.19 feet; thence S 00°00'00" E, 610.26 feet; thence N 90°00'00" E 61.34 feet; thence S 02°56'24" E, 480.57 feet to the South line of said Section; thence S 88°32'37" W, on said South line to the point of beginning, and a tract of land in the north half of Section 32, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, more particularly described as follows: Beginning at the Northeast corner of Holiday Hills No. 1 as recorded in Plat Book H-2 at Page 12 (all bearings in this description are relative to the North line of said Holiday Hills No. 1, which bears S 89°31'30" W); thence S 89°31'30" W, 875.85; thence N 00°33'48" E, 1312.95 feet; thence S 89°36'56" W, 400.30 feet to the Southeast corner of the North half of the northwest quarter of Section 32, Township 12 South, Range 65 West of the 6th P.M.; thence N 00°34'26" E, 1313.61 feet to the North quarter corner of said Section; thence Easterly on the North line of said Section 32 to a point which is 1487.16 feet from the Northeast corner of said Section 32; thence S 02°56'24" E, 2648.40 feet to the point of beginning. Land located in the S½ of the SW¼ and SW¼ of the SE¼ of Section 29, and N½ of the NW¼ and the W½ of the NE¼ of Section 32, all in Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado.

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