

OFFICE OF THE STATE ENGINEER  
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203  
(303) 866-3581

EXST

WELL PERMIT NUMBER	<b>043104</b>	- <u>F</u> -
DIV. 2	CNTY. 8	WD 11 DES. BASIN MD

APPLICANT

Lot: Block: Filing: Subdiv:

CHATEAU CHAPARRAL OWNERS ASSOC  
10795 CO RD 197A  
NATHROP CO 81236  
  
(719)395-8282

APPROVED WELL LOCATION  
CHAFFEE COUNTY

NW 1/4 SW 1/4 Section 13  
Twp 15 S RANGE 78 W 6th P.M.

DISTANCES FROM SECTION LINES

1700 Ft. from South Section Line  
500 Ft. from West Section Line

PERMIT TO USE AN EXISTING WELL.

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT  
CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction and Pump Installation Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 17.
- 3) Denial File No. AD-13184 is reconsidered and application approved to extend the use an existing well, permit no. 21468-F, pursuant to CRS 37-90-137(2) and the decree granted for S & H Well No. 3 in case no. 93CW005, Division 2 Water Court. The operation of this well is subject to the terms and conditions of said decree.
- 4) The maximum pumping rate shall not exceed 20 GPM.
- 5) The combined average annual amount of ground water to be appropriated by this well and S & H Well No. 2 shall not exceed 39.1 acre-feet.
- 6) The use of ground water from this well is limited to providing a water supply for a mobile home park consisting of 320 lots, a lodge, 3 bath house, and irrigation of not more than 1.6 acres of lawn and garden.
- 7) A totalizing flow meter must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (recorded at least annually) and submitted to the Division Engineer upon request.
- 8) The owner shall mark the well in a conspicuous place with well permit number(s), name of the aquifer, and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.
- 9) This well is subject to administration by the Division Engineer in accordance with applicable decrees, statutes, rules, and regulations.

PUMP INSTALLER'S  
COPY

APPROVED  
HCF

*Hal D. Simpson*  
State Engineer

*Bruce E. DeBrie*  
By

Receipt No. 0360913D

DATE ISSUED JAN 07 1994

EXPIRATION DATE JAN 07 1995

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

Case No. 93CW005

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CONSENT TO ENTRY OF RULING OF REFEREE

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CONCERNING THE APPLICATION FOR WATER RIGHTS OF CHATEAU CHAPARRAL  
OWNER'S ASSOCIATION, a Colorado non-profit corporation

IN CHAFFEE COUNTY

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The Twin Lakes Reservoir and Canal Company and the City of Colorado Springs, by and through their attorneys, hereby consent to entry of a Ruling of the Referee and Decree no less restrictive on the applicant than the ruling attached hereto. These opposers shall continue to receive copies of pleadings in this case, including any final proposed ruling submitted to the Referee. These opposers will not participate further in this case except to assure that any proposed ruling or decree submitted to the Referee or the Court in this case is consistent with this consent.

DATED this 15<sup>th</sup> day of November, 1993.

CARLSON, HAMMOND & PADDOCK

By Peter C. Fleming

Mary Mead Hammond, #9851  
Peter C. Fleming, #20805  
1700 Lincoln Street, Suite 3900  
Denver, CO 80203  
(303) 861-9000

Attorneys for the Twin Lakes  
Reservoir and Canal Company and the  
City of Colorado Springs

DISTRICT COURT, WATER DIVISION NO. 2, COLORADO

Case No. 93CW005

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**RULING OF REFEREE**

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CONCERNING THE APPLICATION FOR WATER RIGHTS OF CHATEAU CHAPARRAL  
OWNER'S ASSOCIATION, a Colorado non-profit corporation

IN CHAFFEE COUNTY

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Pursuant to order of referral dated February 2, 1993, the undersigned Water Referee, having investigated the matter of the application on file herein, makes the following findings and ruling thereon:

**FINDINGS OF FACT**

1. The application for approval of amendment to plan for augmentation was filed on February 2, 1993.
2. The name, mailing address and telephone number of applicant are as follows:

Chateau Chaparral Owner's Association  
10795 County Road 197-A  
Nathrop, Colorado 81236  
Attention: Mr. Raphael Spears  
(719) 395-8504

Applicant is the successor-in-interest to the applicant in Case No. W-4183. Applicant seeks to amend the plan for augmentation decreed in Case No. W-4183 on December 19, 1975 to allow lot owners to irrigate a small amount of greenery near their mobile homes and to occupy those mobile homes year-round.

3. The Water Clerk caused publication of such filing as provided by statute; that such publication costs have been paid; that the time for filing statements of opposition expired the last day of April, 1993 and that statements of opposition have been filed by the City of Colorado Springs and by Twin Lakes Reservoir and Canal Company.

4. The applicant is the owner of the following water rights:
  - A.
    1. S & H Well No. 2:  
Amount: 0.044 cfs  
Appropriation date: August 16, 1967  
Adjudication date: March 9, 1973 (Case No. W-1394)
    2. S & H Well No. 3:  
Amount: 0.044 cfs  
Appropriation date: March 5, 1968  
Adjudication date: March 9, 1973 (Case No. W-1395)
  - B. Five (5) shares of the capital stock of the Twin Lakes Reservoir and Canal Company.
5. The structures to be augmented are the two wells located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 13, T15S, R78W, 6th P.M., in Chaffee County, decreed to S & H Travel, Inc. for "commercial use for trailer park" which are described in the preceding paragraph.
6. Applicant's wells are not located within a designated groundwater basin.
7. The plan for augmentation decreed in Case No. W-4183 in 1975 contained the following provisions:
  - A. Chateau Chaparral Unit 1, a recreational vehicle camp site development, is located near Nathrop, Colorado, in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 13, T15S, R78W, 6th P.M., in Chaffee County. Chateau Chaparral Unit 1 comprises approximately 40.14 acres which have been platted into 307 lots for use as recreational vehicle-travel trailer sites.
  - B. Chateau Chaparral lots will be individually owned. (See Chateau Chaparral Condominium Declaration filed of record in Chaffee County at Reception No. 153124, Book 385, Page 775.) Existing facilities at Chateau Chaparral Unit 1 include a lodge with a laundry facility, and two bath houses.
  - C. The covenants contained in the Condominium Declaration for Chateau Chaparral Unit 1 restrict use of the 307 recreational sites to non-permanent recreational and residential camping uses; permanent residential structures are prohibited. The period of use of the

sites which have been sold to date has been predominantly May 1 through October 31.

- D. The water supply for Chateau Chaparral Unit 1 is furnished from sources tributary to Chalk Creek and the Arkansas River through a central system supplied by S & H Well Nos. 2 and 3, which were constructed in 1967 and 1968. Approximately 140 sites will be connected to the central water system; the remaining 167 sites will not have individual connections, and will obtain water at the bath houses. There is no lawn or garden irrigation at the present time. The estimated total annual water requirement for Chateau Chaparral Unit 1, including the lodge and other service facilities and 307 recreational sites, assuming 100% occupancy of the recreational sites during the 6-month season of use, is approximately 9.6 acre-feet.
- E. Sewage service for the lodge, recreational sites, and bath houses is provided through a central system utilizing an aeration lagoon. It is estimated that during the 6-month season of use of the recreational sites at least 50% of the total water diverted through S & H Well Nos. 2 and 3 to supply Chateau Chaparral Unit 1 returns to the stream, and by percolation from the lagoons. During the 6-month off-season, it is estimated that at least 75% of the water diverted for use by the lodge returns to the stream.
- F. The estimated total annual consumptive use by Chateau Chaparral Unit 1 at full development, assuming 100% occupancy of the recreational sites during the 6-month season of use, and an annual water requirement of 9.6 acre-feet, is 4.5 acre-feet.
8. Applicant desires to amend the augmentation plan described in paragraph 7 by permitting the irrigation of shrubbery near the trailer homes on said property, and to increase the total number of trailer home sites to 320 with 160 of those occupied year-round and 160 occupied from November 1 through April 30.
9. Water requirements and water supply under the amended plan will be based on the following uses:
- A. 100% home occupancy from May 1 through October 31 and 50% home occupancy from November 1 through April 30.
- B. Individually connected mobile homes placed on 320 lots.

- C. Average home occupancy of 2 persons per unit.
  - D. Water requirements of 60 gallons per capita per day per occupied unit.
  - E. 1.6 acres of lawn, garden and shrubbery using an average annual water application of 2.5 feet.
  - F. A lodge, and 3 bath houses using an average of 50 gallons per capita per day to serve an average of 50 persons from May 1 through October 31 and 30 persons per day from November 1 through April 30.
  - G. Central water supply and sewage treatment systems including a "polishing pond" installed in 1990.
10. Estimated gross water requirements are included in Tables I and II for May 1 through October 31 and November 1, through April 30, respectively. As demonstrated in the attached tables, the estimated yearly water requirement will be 39.1 acre-feet total for S & H Well Nos. 2 and 3.
11. Water is presently provided to the complex through a central water system supplied by S & H Well Nos. 2 and 3. The wells were decreed for "commercial uses for trailer park." The average rate of diversion from May 1 through October 31 would be about 34 gallons per minute, or 0.08 cfs. Measuring devices approved by the Division Engineer for Water Division No. 2 have been installed on S & H Well Nos. 2 and 3.
12. Inasmuch as water rights associated with the project wells are too junior to provide a dependable water supply, Alliance Corporation, the project developer, acquired 5 shares of the capital stock of the Twin Lakes Reservoir and Canal Company to provide a backup water supply. These shares were incorporated into the original plan for augmentation and provided a basis for use of the wells. These shares have been assigned to the applicant. Research indicates that these shares of stock will provide a dependable water supply, taking into account transit losses of .07% per mile from Twin Lakes Reservoir to the confluence of the Arkansas and Chalk Creek, adequate to augment depletions caused by the uses described in this amended augmentation plan. However, only that amount of water that is actually available and is directly attributable to applicant's 5 shares of Twin Lakes Reservoir and Canal Company stock on an annual basis will be made available for the purposes of this augmentation plan. Applicant will curtail its diversions or limit its occupancy to the extent determined

necessary by the Division Engineer or the Division Engineer's representative if the available water directly attributable to applicant's 5 shares of Twin Lakes Reservoir and Canal Company stock is not sufficient to fully augment the depletions determined for the actual level of occupancy in accordance with the provisions in paragraphs 9 and 14 of this decree.

13. In accordance with the Bylaws of the Twin Lakes Reservoir and Canal Company, the following conditions shall govern the use of the Twin Lakes shares in this plan:
  - A. No later than 30 days after entry of this decree, stock certificates for each share of the stock of the Twin Lakes Reservoir and Canal Company involved in this augmentation plan shall be delivered to the Secretary of the Company to be legended as required by the Bylaws of the Twin Lakes Reservoir and Canal Company.
  - B. No share of stock of the Twin Lakes Reservoir and Canal Company that is included in this augmentation plan shall be sold or transferred, except to a designated successor to the applicant herein that certifies to the Twin Lakes Reservoir and Canal Company that the stock, after transfer, shall continue to be held and used in accordance with the terms and conditions of this augmentation plan, without prior approval of this Court.
  - C. The Twin Lakes Reservoir and Canal Company is not required to make any delivery of water upon the shares of Twin Lakes Reservoir and Canal Company stock included in this augmentation plan except in accordance with the provisions of its Articles of Incorporation and Bylaws, and such delivery shall be subject to all of the restrictions incorporated within those Articles and Bylaws.
  - D. Jurisdiction shall be retained in this Court to approve any proposed sale or transfer of any shares of the Twin Lakes Reservoir and Canal Company stock included in this augmentation plan to any party other than a designated successor of the applicant herein that certifies that the stock shall continue to be held and used in accordance with the terms and conditions of this augmentation plan; such jurisdiction shall be invoked by motion of the applicant with notice to all parties and to the Twin Lakes Reservoir and Canal Company.

The Twin Lakes Reservoir and Canal Company has been notified that these 5 shares of stock are dedicated to this augmentation plan and the stock certificates have been legended by the Twin Lakes Reservoir and Canal Company with the name and court case number of this augmentation plan.

14. Estimated gross water consumption is presented in Tables I and II. An estimated yearly water consumption figure of 5.2 acre-feet is derived by applying the following consumptive use rates:
  - A. In-house lodge and bath house sewage water is discharged into an unlined aeration lagoon approximately 100 feet by 150 feet, or the equivalent of about 0.3 acre. Seepage from the lagoon will return to the river system. Average evaporation losses from the lagoon from May through October will approximate 0.5 acre-feet, assuming net evaporation losses of 1.8<sup>1</sup> acre-feet per acre. Evaporation during the remainder of the year would be offset by precipitation. Average annual precipitation for Buena Vista approximated 10 inches or about 0.8 feet during the years 1972 through 1991.
  - B. Water consumption from lawn irrigation will also equal approximately 1.8 acre-feet per acre.
  - C. In-house lodge and bath house water consumption will approximate 5% of the quantity of water diverted. The 5% value has been generally accepted as a reasonable estimate of water consumption for in-house domestic use on a central sewage disposal system.
15. The Court in Case No. W-4183 found "that pursuant to the operation of the plan for augmentation, including exchange, . . . ground water withdrawals will not result in injury to vested water rights or decreed conditional water rights on Chalk Creek or in the drainage of the Arkansas River." The exchange decreed in Case No. W-4 83 was for the quantity of depletions to Chalk Creek caused by groundwater withdrawals approved in the original augmentation plan. Applicant's expanded uses under the amended augmentation plan will cause greater depletions in this reach. However, there are no other appropriators on Chalk Creek in the affected reach. Any subsequent appropriator diverting water from Chalk Creek in

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<sup>1</sup> Net evaporation is based on average gross evaporation of 2.4 feet less 0.6 feet precipitation.



the affected reach will be junior to applicant's adjudicated wells. Consequently, there is no need for applicant to secure a second priority date of exchange.

16. In order to assure that no injury to vested water rights or decreed conditional water rights will result from groundwater withdrawals to provide a reliable supply of water for Chateau Chaparral Unit 1, and in order to assure that such groundwater withdrawals will not be curtailed in times of shortage, applicant has proposed the following terms and conditions:
  - A. During times of valid calls by water rights senior to applicant's wells, applicant will, at the direction of the Division Engineer for Water Division No. 2, or his representative, augment the flow of the Arkansas River to the extent of applicant's depletions thereof by releasing water from Twin Lakes Reservoir pursuant to its ownership of 5 shares of Twin Lake stock. Waters stored in Twin Lakes Reservoir consist primarily of waters imported into the Arkansas River drainage from transmountain sources outside of Water Division No. 2, so that releases from Twin Lakes Reservoir will have the effect of actually augmenting the flow of the Arkansas River.
  - B. Applicant will be responsible for enforcing the conditions of the plan for augmentation, including exchange, proposed herein. Pursuant to the provisions of the Condominium Declaration for Chateau Chaparral Unit 1, membership in the Owner's Association is mandatory for all lot owners. The water rights and responsibility for management of the development has been transferred to the Owner's Association.
  - C. Applicant shall monitor and report at least biannually such information to the Division Engineer and/or water commissioner as may be determined necessary to administer the plan on forms acceptable to the Division Engineer.
  - D. Applicant shall continue to be responsible to pay assessments and any other expenses necessary to maintain the 5 shares of Twin Lakes stock dedicated under this plan in good standing.
  - E. During the period from November 1 until April 30, applicant shall not permit occupancy to exceed 160 lots.
17. Pursuant to the operation of the plan for augmentation, including exchange, proposed by applicant herein, and by

imposition of the conditions set forth above, groundwater withdrawals to provide a year-round water supply for domestic, watering of foliage, commercial and municipal uses at Chateau Chaparral Unit 1 will not result in material injury to vested water rights or decreed conditional water rights on Chalk Creek or in the drainage of the Arkansas River, and that such groundwater withdrawals need not be curtailed in times of shortage so long as said plan for augmentation, including exchange, is in operation and the conditions contained herein are complied with. The State Engineer shall, pursuant to C.R.S. § 37-92-305(8), curtail all out-of-priority diversion, the depletions from which are not so replaced as to prevent injury to vested water rights. Operation of this amended augmentation plan will not cause injury as long as applicant complies with the terms of this decree.

18. The plan for augmentation, including exchange, proposed by applicant herein will maximize the beneficial use of water and will increase the supply of water available for beneficial use in Water Division No. 2, as contemplated in C.R.S. §§ 37-92-102 and 130(9), C.R.S.

IT IS THEREFORE ORDERED AS FOLLOWS:

19. Applicant's plan for augmentation, including exchange is hereby amended to permit the additional uses, year-round, set forth above.
20. The Court shall retain jurisdiction and the award made herein is subject to reconsideration by the Water Judge on the question of injury to the vested water rights of others for five years after date of the decree entered herein upon filing of a pleading by any person claiming injury, which period is necessary or desirable to preclude or remedy such injury.
21. Copies of this ruling shall be mailed as provided by statute.

Dated and filed with the Water Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

BY THE REFEREE:

\_\_\_\_\_  
Clyde B. Young, Jr.  
Water Referee  
Water Division No. 2  
State of Colorado

TABLE I

WATER USE CALCULATIONS  
(May 1 through October 31)

1. Diversions

- a. In-house  
(320 units)(2 persons/unit)(60 gpcd)(184 days)  
= 7.0656 million gallons = 21.7 acre feet
- b. Irrigation  
= 1.6 acres x 2.5 ft/acre = 4.0 acre feet
- c. Lagoon Evaporation  
= 0.3 acre x 1.8 ft/acre = 0.5 acre feet
- d. Lodge, restaurant, bar and bath house  
= (50 gpcd)(50 persons/day)(184 days)  
= 460,000 gallons = 1.4 acre feet

Total Water Diversions ----- = 27.6 ACRE FEET

2. Water Consumption

- a. In-house  
= 21.7 acre feet x 0.05 = 1.1 acre feet
- b. Irrigation  
= 1.6 acres x 1.8 ft/acre = 2.9 acre feet
- c. Lagoon Evaporation  
= 0.3 acre x 1.8 ft/acre = 0.5 acre feet
- d. Lodge, restaurant, bar and bath house  
= 1.4 acre feet x 0.05 = 0.1 acre feet

TOTAL WATER CONSUMPTION----- = 4.6 ACRE FEET

TABLE II

WATER USE CALCULATIONS  
(November 1 through April 30)

1. Diversions

- a. In-house  
    (160 units)(2 persons/unit)(60 gpcd)(181 days)  
    = 3.4752 million gallons = 10.7 acre feet
- b. Lagoon Evaporation (offset by precipitation)  
    = 0.0 acre feet
- d. Lodge, restaurant, bar and bath house  
    = (50 gpcd)(30 persons/day)(181 days)  
    = 271,500 gallons = 0.8 acre feet

Total Water Diversions ----- = 11.5 ACRE FEET

2. Water Consumption

- a. In-house  
    = 10.7 acre feet x 0.05 = 0.5 acre feet
- b. Irrigation  
    = 1.6 acres x 0.00 ft/acre = 0.0 acre feet
- c. Lagoon Evaporation  
    = 0.3 acre x 0.00 ft/acre = 0.0 acre feet
- d. Lodge, restaurant, bar and bath house  
    = 0.8 acre feet x 0.05 = 0.1 acre feet

TOTAL WATER CONSUMPTION----- = 0.6 ACRE FEET